ESG
LAW FIRM MANAGEMENT

ESG can no longer be side-lined

Aragon St-Charles, global ESG officer at **Dentons** explores the case for the operationalisation of ESG in law firms

Historically, much of the responsibility for what is now termed "ESG" in a law firm sat under corporate social responsibility (CSR) and included pro bono initiatives, community engagement and sustainability. Law firms seeking to communicate their positive impact on their communities would produce beautifully branded reports each year outlining their CSR as a public relations exercise. CSR was more of a **nice-to-have** and not something that was firmly rooted in the business operations of the firm.

While CSR has largely been dropped from the business lexicon and been replaced by ESG, too often the responsibility for ESG within law firms still falls to traditional CSR teams, marketing departments or law firm partners who are also responsible for maintaining their own legal practice. This internal organisational structure was sufficient in the past when a law firm's commitment to being ethically and socially responsible was self-imposed. However, this structure can no longer keep pace with the demands of a fast-changing and increasingly complex ESG landscape and, further, the increasing demands from clients and other stakeholders.

Driving forces

Organisations now face increased scrutiny around their ESG strategies and actions and more questioning from stakeholders. **According to a survey** of 4,600 individual investors, nine in 10 investors do not have faith in the ESG claims made by companies, and stakeholders are demanding that organizations take more action on ESG. At the same time, increased legislative and statutory reporting requirements that vary by jurisdiction, supply chain risks and **allegations of greenwashing** present both reputational and financial risks to organisations.

The UK government has recently proposed **mandatory climate-related financial disclosures** for large companies and financial institutions and the **EU's Corporate and Sustainability Reporting Directive** has already been passed into law. The last decade has also seen a sharp rise in the number of ESG-related lawsuits and according to **Bloomberg Law**, in the US, the trend for ESG issues to appear on federal court complaints has been increasing year-on-year and is likely to continue in 2023 and beyond. Clearly, the stakes for ESG missteps are expanding and with a rising risk landscape, it is only natural that organizations are not only heavily focused on ESG issues – but more importantly, getting it right. Indeed, 65.8% of chief legal officers in the **2021 ACC Chief Legal Officers Survey** believe their focus on ESG will continue to accelerate.

As the stakes rise for companies, so too do they rise for law firms. Law firms will not only need to advise their clients on how to comply with regulations but will also need to ensure that their own operations are measured against ESG goals. Law firms are increasingly being **scrutinised by clients** who want to ensure that their legal suppliers, as part of their supply chain, have robust internal ESG policies and strong sustainability credentials as those ultimately impact the client's reporting requirements and metrics. In fact, according to a 2021 survey by the **Law Firm Sustainability Network**, 87% of law firms have been asked to provide information on the firm's sustainability efforts as part of a request for proposal, illustrating that a law firm's ESG commitments are an increasingly important factor in clients' decision-making processes around legal suppliers. Getting it right and digging deep into these issues can be the difference between gaining or losing a client engagement.

But it is not only clients that are demanding more from their law firms when it comes to ESG. A law firm's commitment to ESG is also increasingly paramount in the war for talent, particularly for younger generations who want to work with firms that make it a priority. Potential recruits are now **consistently asking more questions about ESG during the hiring process**. Further, a **Thomson Reuters Institute Report** found that associates now believe that they can hold leadership to account for any inconsistencies between stated ESG policies and day-to-day decision-making. This results in ESG no longer being a standalone subject for law firms, but one that is increasingly integrated in the myriad of business matters that law firm leaders are faced with.

Operationalising ESG

But what do all these pressures mean for a law firm's internal ESG structure and why is operationalising the ESG function so critical?

ESG can no longer be a sidebar issue for law firms. It cuts across all practice areas and business services teams, from finance, to human resources, procurement, IT and operations and needs to be structured in a way that allows for it to be embedded into every business function to ensure a whole-firm approach to ESG efforts. In practice, this means ensuring that functional business service leadership teams understand the importance of ESG within their standard operating procedures and protocols, have individuals who are nominated to lead that team's ESG efforts and a committee that ensures that ESG processes that have been put in place are being properly followed. As an example, technology is an area that can have a fairly significant impact on carbon emissions, and so technology leadership can work towards having an internal team that has sustainable technology developments as part of their remit, is responsible for promoting sustainable technology policies around procurement and deployment, energy-star hardware, end-of-life policies that include recycling and circularity, virtual services that run on renewable energy, and asking service providers to ensure the same. These are all things that can, and should, be managed at a functional level, with decision-making incorporating ESG principles throughout those teams.

Corporate real estate is another area where operations leaders can demonstrate a keen awareness of just how much our buildings and offices contribute to not just our GHG emissions, but also the health and wellbeing of our people. Building smart, green, appropriately sized, collaborative, multi-functional, inclusive offices is something that again, can and should be driven at an operational level, and simply be part of the 'operational handbook' for designing new office space. When ESG becomes another factor that we keep working towards excellence for, as part of our standard operating model rather than something separate to it, then firms will reap the rewards of operationalising ESG.

ESG should have its own business service team that works to coordinate, monitor and report on the ESG efforts across all functional business services areas. The ESG function needs to have significant operations experience, acting as a leader to guide and coordinate the efforts of all business functions under a singular strategy, which will ensure both accurate reporting and that the law firm is meeting its stated commitments. With global regulation rapidly developing in this area, and a plethora of frameworks all jostling to be the next 'industry standard', then making sure that law firms have the right data gathering and reporting frameworks in place is becoming increasingly crucial. Embedding ESG within operations allows firms to use standardization to ensure reporting compliance, even when different regions may have slightly different areas of focus depending on their region's regulatory regime. In most cases, there is a broad cross-over between the frameworks, but the use of bespoke ESG reporting systems is likely to become an increasingly helpful for firms to navigate the metrics needed for their voluntary or statutory reporting requirements.

ESG should be seen as a driver of operational efficiency and excellence, rather than an addendum to the business. This is what it means to operationalise ESG within a law firm. ESG leaders should have significant business operations experience and an understanding of the key drivers of revenue in a law firm. They should work with the other business services leaders to identify areas where ESG can be integrated into each business services' operations and develop clear actionable strategies for doing so. Once these steps are enacted, monitoring and reporting on ESG performance is critical to ensure law firms are meeting their stated goals and objectives. This includes tracking ESG metrics, such as carbon emissions, waste reduction and diversity and inclusion, and reporting on these metrics to clients and stakeholders.

As the stakes rise for law firms, law firm leaders should look to make ESG a strategic imperative for their firms and elevate its management to a separate ESG team who can work to embed it deeply, and profitably, into the firm's business operations. The failure to do so could be a significant missed opportunity and have lasting and costly consequences.