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# Board Briefing

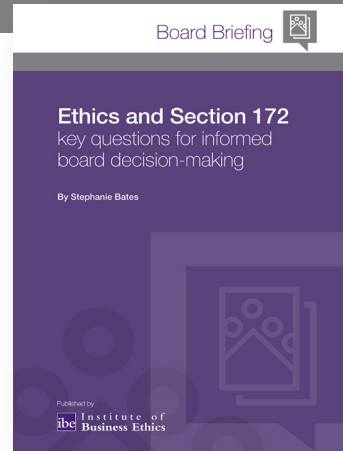


Publication Date | February 2020

## Ethics and Section 172

### Key questions for informed board decision-making

By Stephanie Bates, LLP



“

.....  
*Companies need to reflect their values in decision-making and report on what they have done to define and embed appropriate standards of conduct.*  
.....

**This board briefing offers practical guidance to help directors reflect on how they are fulfilling their duty under Section 172 (S172) and how they might report on this in their new Section 172(1) Statement. All UK companies qualifying as large under the Companies Act 2006 must include the statement in their strategic report for a financial year due in 2020.**

*Ethics and Section 172* unpicks the six elements of S172 and presents a dozen key questions for a director to consider, as well as a practical framework for good decision-making, based on ethical values.

The new reporting requirements have not changed the legal duty of directors to “act in the way that they consider, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole”. However, they are designed to encourage companies to be more open about who their stakeholders are and how the interests of those stakeholders have been taken into consideration in board decision-making.

It is hoped that the reporting requirements will also encourage companies to review how they engage with their employees and other key stakeholders, and to consider new ways of doing so.



**Readership:**  
All directors, executive and non-executive, as well as company secretaries of companies to which the new reporting requirements apply and those who advise boards.



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# Doing the right thing... ...makes for better business

**Companies do not operate in a vacuum; they are an integral part of a delicately balanced system, and maintaining a healthy and vibrant system is in everyone's best interests.**

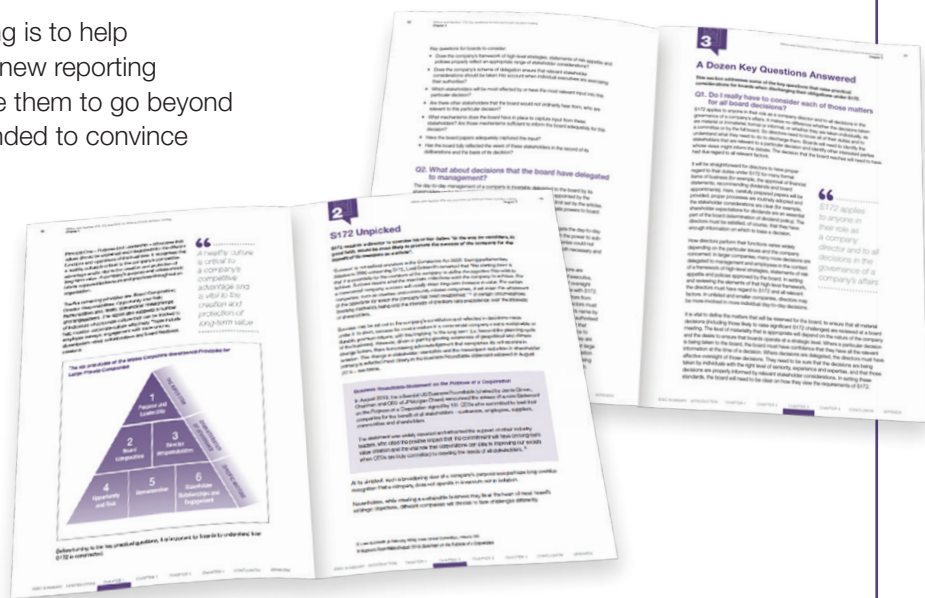
The aim of this Board Briefing is to help companies benefit from the new reporting obligation, and to encourage them to go beyond legal requirements. It is intended to convince companies to reflect their values in decision-making and report on what they have done to define and embed appropriate standards of conduct across the organisation.

The best run companies, which already take stakeholder interests into account, will only have to report on their

existing board practices. However, the IBE sees the additional focus on S172 as an opportunity for all companies to review how board decisions are currently reached and whether changes might improve the quality and integrity of those decisions, as well as facilitating effective reporting.

The additional focus on S172, in the IBE's view, is an opportunity for all companies to review how directors have discharged their duties having had regard to their broader stakeholder community. The reporting requirements will also help to build transparency and authenticity and encourage meaningful reporting to stakeholders. By answering key questions, it is intended that boards can be well informed in their decision-making, for the benefit of both their business and the societies in which they operate.

The hope is to discourage a box-ticking approach and instead encourage companies to see this as an opportunity for boards to demonstrate how they meet the requirements placed upon them. Trust in many of the key institutions that underpin society has declined, and there are significant variances in levels of trust in companies by geography and sector. The increased openness and transparency that the new reporting requirements encourage provides an opportunity for well-run companies to differentiate and enhance their reputation with key stakeholders.



“ This is an opportunity for all companies to review how board decisions are currently reached and whether changes might improve the quality and integrity of those decisions ”

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## Foreword from IBE

There has been little focus on directors' duties since Section 172 of the *Companies Act 2006* (S172) became law. However, the banking crisis of 2008 and subsequent corporate failures have led to corporate governance, and directors' duties in particular, being revisited.

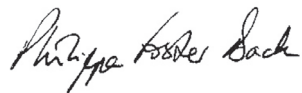
The Government's approach has included an emphasis on culture and values to underpin corporate purpose and strategy. S172 broadens a director's view in running a company with the key requirement to "*have regard (amongst other matters) to*", which is particularly important now that large companies are required to report on S172.

This Board Briefing addresses the ethical dimension and what directors, individually and collectively, need to think about and report on. Linking company values to decision-making and S172 considerations helps businesses to become more successful and durable, while having a more positive impact on society.

I am grateful to our author Stephanie Bates for taking on this task and to others who have helped finalise it, following the sad death of our colleague Peter Montagnon.

This is the first publication funded by the IBE Supporters' Fund and we are grateful to the companies listed below. We hope others will be encouraged to contribute to this fund.

We hope you will find this seventh publication in our Board Briefing Series of value and, as ever, we would welcome your feedback.



**Philippa Foster Back** CBE  
Director, Institute of Business Ethics



### IBE Supporters' Fund

The IBE would like to thank the following organisations for their generous financial support of IBE publications.

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**IBE Board Briefings** aim to support board members and those who advise them by drawing their attention to and suggesting ways to approach particular ethical issues.

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# What we do

The Institute of Business Ethics, whose purpose is to promote high standards of business behaviour based on ethical values, is an important partner to any business wanting to preserve its long-term reputation by doing business in the right way.

All organisations need to demonstrate they are trustworthy in order to operate effectively and sustainably. Reputations are not based solely on the delivery of products and services, but on how an organisation values its stakeholders. Having a reputation for acting with honesty and ethics will not only differentiate an organisation, it will make it more successful.

For over 30 years, the IBE has advised organisations on how to strengthen their ethical culture by sharing knowledge and good practice, resulting in relationships with employees and stakeholders that are based on trust.

We achieve this by:

- Acting as a critical friend to organisations we work with
- Advising senior business leaders and those with responsibility for developing and embedding corporate ethics policies
- Supporting the development of these policies through networking events, regular publications, research and benchmarking as well as training
- Providing guidance to staff through bespoke training and decision-making tools
- Educating the next generation of business leaders in schools and universities.

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.... makes for better business ”