

Tackling s172 and stakeholder reporting – a diagnostic for subsidiaries

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Introduction

Set out below is a 'diagnostic' designed to help the management teams and boards of subsidiary¹ companies navigate the new requirements relating to reporting on Section 172 (1) ('s172') of the Companies Act and stakeholder engagement² ('the Regulations').

Reporting should of course only reflect the processes and procedures that are in place within an organisation, so the new requirements will focus attention on whether and how the directors of subsidiaries are carrying out their duties. Although s172 has been part of the Act for over a decade, the directors of subsidiaries can face a number of challenges that are unique to them when applying and reporting on it. Added to that, the new reporting requirements relating to stakeholder engagement are more specific about what needs to be reported than s172 itself is about directors' duties in relation to their stakeholders – so that some organisations may need to introduce new processes and procedures to form the basis for that aspect of their reporting.

Much depends on the relationship between a subsidiary and its parent company or group, and the extent to which it can rely on, or refer to, parent company or group disclosures. There is no one-size-fits-all answer to this – hence the need for the diagnostic.

About the diagnostic

The first three sections set out the questions and some commentary on them. This is followed by five illustrative examples of the diagnostic being used by different types of subsidiary company. The complete list of diagnostic questions is set out in Appendix 1.

The requirements of the Regulations and s172 have been included in Appendix 2 for reference.

The diagnostic complements a number of other guides and tools published by PwC, details of which can be found in Appendix 3.



¹ Although this diagnostic generally refers to subsidiaries, it could also be applied to entities that are associates or joint ventures.

² The Companies (Miscellaneous Reporting) Regulations 2018 (SI 2018/860).

Diagnostic section 1 – Scope and applicability

Q1 Is the entity incorporated in the UK?

A1

Yes/No

Implication(s): As the requirements discussed in this diagnostic come from the UK Companies Act, only entities incorporated in the UK are caught.

Commentary: The place of incorporation of the parent company or ultimate parent company is not relevant. Non-UK entities may choose to provide the relevant reporting on a voluntary basis.

Nature of entity

The responses to the rest of the questions in this section will depend to a large extent on the nature of the entity.

Holding companies and finance companies will rarely be caught by either aspect of the stakeholder reporting requirements, because they will seldom have over 250 employees and are only likely to exceed one of the three relevant thresholds (balance sheet assets) for reporting on other stakeholders.

Service companies may have many employees and therefore need to do the employee related reporting, but may not meet the other two criteria so that they do not have to report on wider stakeholder related matters.

Trading subsidiaries are the most likely to exceed all the thresholds and therefore to have to do the full suite of reporting.

Note that all of the above types of company will be subject to s172 reporting if they are part of an 'ineligible group' (see Q2). This will mean the board needs to have regard to certain stakeholder considerations regardless of whether the main stakeholder reporting requirements apply. However, where a holding or finance company is caught in this way it is still likely to have relatively few stakeholders – banks and bondholders, for instance, in the case of finance companies.

In summary, an entity by entity analysis is needed.

Q2 Does the entity qualify as medium-sized³ (or smaller) in relation to the financial year?

A2

Yes/No

Implication(s): If the entity qualifies as medium-sized (or smaller) it is exempt from the s172 reporting requirements.

Commentary: The Regulations cross-refer to sections 465–467 of the Companies Act when establishing the applicability of s172 reporting. Therefore, even if they would otherwise be exempt from s172 reporting based on their size, companies that are medium-sized are prevented from taking this exemption because section 467 excludes members of 'ineligible groups' (which includes any group that contains a 'traded company'). This differs from the applicability requirements relating to other stakeholders – see below.

³ See Q4 for the numerical thresholds.

Q3 Was the average number of persons employed by the company to work wholly or mainly in the United Kingdom not more than 250 during the financial year?

A3

Yes/No

Implication(s): If the entity did not exceed this threshold it is exempt from the employee engagement reporting requirements.

Q4 Does the entity satisfy two or more of the following in relation to the financial year:

1. Turnover not more than £36 million.
 2. Balance sheet total not more than £18 million.
 3. Average number of employees not more than 250.
-

A4

Yes/No

Implication(s): If the entity satisfies two or more of the above in relation to the financial year it is exempt from the reporting requirements relating to other stakeholders.

Commentary: The Regulations include the above thresholds in relation to other stakeholder reporting rather than referring to sections 465–467 of the Companies Act, so the issue around ineligible groups explained under **Q2** does not apply.

Note also that the number of employees threshold here does not relate only to UK employees, so differs from the one that applies for employee engagement (see **Q3**).



Diagnostic section 2 – Process and procedure

Q5 What have been the most important developments, activities or transactions for the business (of the entity) during the year?

A5 List of matters identified.

Commentary: In many cases, the items on this list will be relatively obvious – examples might be M&A activity or changes to the existing strategy. The ‘principal decisions’ that are referred to in the stakeholder reporting requirements would be a subset of the matters identified here.

Note that a development, activity or transaction elsewhere in the group may have implications for an entity, in that it could affect the recoverability of intercompany balances or even the entity’s going concern status.

Q6 Which aspects of s172 (other than those relating to stakeholders) are most relevant to the matters identified in Q5?

A6 List of aspects identified.

Q7 In what way are stakeholder considerations (including employees and other stakeholders) most relevant to the matters identified in Q5?

A7 List of ways identified.

Q8 Are there any other stakeholders of direct significance to the success of the company that have not already been identified above, and how are they relevant?

A8 Identify any other stakeholders and explain their relevance.

Commentary: Companies and boards must make judgements about the extent to which they need to (or are practically able to) identify and engage with their stakeholders. A business may be important to individuals across society because of its environmental impact or the tax it pays. The Regulations, however, refer to those stakeholders with whom the company has a ‘business relationship’, which implies a relatively direct connection.

Nature of group

The responses to the rest of the questions in this section will often depend on the nature of the group. For instance, where a group is focused on a small range of activities and/or is relatively centralised, it may be reasonable for decision making (and the related s172 and stakeholder considerations) to be handled by the group board. If this is the case the subsidiary board must still be able to demonstrate that they have carried out their duties appropriately. Where a group has a diverse range of activities and/or is closer to a conglomerate structure, it will often be less centralised. In such cases the role of subsidiary boards may be more extensive, reflecting the different strategies and risks of the different entities.

In the FAQs⁴ on the new requirements, BEIS recognised that “*In practice, decisions and policies affecting employees, the environment, suppliers and so on will sometimes be made or set at the group level (with*

⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/755002/The_Companies__Miscellaneous_Reporting__Regulations_2018_QA_-_Publication_Version_2__1_.pdf

directors of each company in the group ensuring when applying those policies that they are meeting their duties to their respective companies)".

Q9 Which of the relevant points identified in Q6–Q8 were addressed by the entity's board and how?

A9 List of factors and how addressed.

Commentary: The group board will usually initiate or originate matters but a well-structured group-level proposal or project will recognise that approval will also be necessary from subsidiary boards – especially where there are sensitivities or risks relating to the subsidiary and/or regulatory requirements (as is often the case in financial services contexts).

Where the group and subsidiary boards consist of the same directors, decision making may be more straightforward in practice, but subsidiary directors must still consider matters from the perspective of each legal entity.

Q10 Where relevant points identified in Q6–Q8 were not addressed by the entity's board, how were they addressed by another board or decision-making body?

A10 List of factors and how addressed.

Reflecting substance and risk

In practice there will be judgements to be made as to whether a subsidiary board has itself had proper regard to its s172 duties, or relied to an inappropriate extent on other parties. These judgements should, however, be approached on a substance over form basis, the key question being whether the board has failed to promote the long-term success of the company or consider the interests of stakeholders by, for instance, not having direct involvement in a decision.

The possibility of applying judgement should not be seen as a low bar. There is very significant interest in whether subsidiary boards are carrying out their duties appropriately in the wake of a number of recent corporate failures⁵ and BEIS has indicated that it is looking to companies to implement the new reporting requirements in a meaningful way – the underlying decision-making processes will therefore also need to be in place.

There can be a tension between the structure of a global group, where business units often operate across geographies, and the legal requirements that apply to directors in a single country. Directors of UK subsidiary entities will in such circumstances need to ensure that group structures and their legal responsibilities are appropriately reconciled.

⁵ For instance in the Government response to the 2018 BEIS consultation on Insolvency and corporate governance, page 11 onwards: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/736163/ICG_-_Government_response_doc_-_24_Aug_clean_version__with_Minister_s_photo_and_signature__AC.pdf

Diagnostic section 3 – Reporting format and content

Formal statements

Every entity must have a formal statement relating to each of the requirements to which it is subject, in the required part of the annual report. The questions in this section address the extent to which, for the content of the statements, an entity can refer to the annual report of a parent or other group entity rather than repeat the information.

Q11 Based on the responses to Q9 and Q10, do the disclosures in the parent company/group annual report relating to the matters identified adequately explain how the directors of the entity had regard to s172 and stakeholders?

A11 Yes/No.

Implication(s): If no, **Q12** becomes relevant.

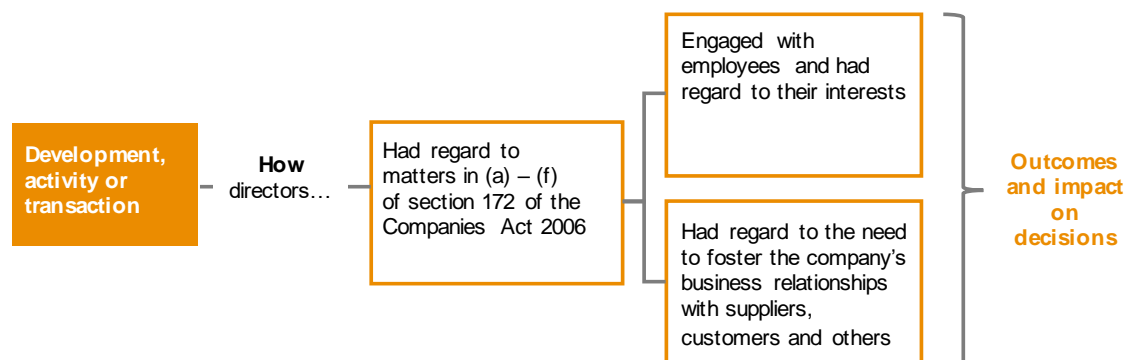
Where a matter is judged to be adequately addressed in the group annual report, the entity can cross-refer to the relevant disclosures. These cross-references must be sufficiently clear and specific and relate to the specific entity.

Commentary: As these requirements apply to subsidiaries as well as parent companies, it would be helpful for those preparing group annual reports to consider the position of subsidiaries when drafting the group disclosures.

Q12 Based on the responses to Q9 and Q10, which factors need to be addressed by the entity in its own annual report?

A12 Identify/list factors and disclose in the appropriate part of the entity annual report.

Figure 1 Summary of the reporting model recommended in this diagnostic



The diagnostic in action – Some illustrative examples

Other than where indicated (Example 3), the hypothetical examples below assume that the group of which the subsidiary forms part is headed by a company with a premium listing on the London Stock Exchange (meaning that it is an ineligible group). Where this is not the case it may not be appropriate to rely on or cross-refer to the disclosures of the parent or group in the ways suggested and therefore the entity would have to make its own disclosures.

The examples are on the basis that each company has already completed **Q1-Q4**, so start from **Q5**.

Example 1	Example 2	Example 3	Example 4	Example 5
The single trading subsidiary of a group	One of five trading subsidiaries of a group – each subsidiary relates to a separate business unit	UK trading subsidiary of an international group which is listed in the US but not in the UK	Intermediate holding company	Service company

Example 1 – The single trading subsidiary of a group

Q5 What have been the most important developments, activities or transactions for the business (of the entity) during the year?

A5 These are the same as those reflected in the annual report of the group. The dividend that the parent company board declared in the year was previously paid up by the subsidiary.

Q6 Which aspects of s172 (other than those relating to stakeholders) are most relevant to the matters identified in Q5?

Q7 In what way are stakeholder considerations (including employees and other stakeholders) most relevant to the matters identified in Q5?

A6 & A7 This analysis has also been done at the group level and reflected in the group strategic and directors' reports.

Q8 Are there any other stakeholders of direct significance to the success of the company that have not already been identified above, and how are they relevant?

A8 No others identified.

Q9 Which of the relevant points identified in Q6–Q8 were addressed by the entity's board and how?

A9 All of the relevant points, including the payment of the dividend, were addressed by the entity's board; its meetings are 'embedded' in the meetings of the parent company as all of the parent company directors are also directors of the entity.

Q10 Where relevant points identified in Q6–Q8 were not addressed by the entity’s board, how were they addressed by another board or decision-making body?

A10 Not applicable.

Q11 Based on the responses to Q9 and Q10, do the disclosures in the parent company/group annual report relating to the matters identified adequately explain how the directors of the entity had regard to s172 and stakeholders?

A11 Yes, they do. The embedded structure referred to above means that the directors of the entity considered s172 and stakeholder engagement from its point of view, as well as from the group standpoint.

Q12 Based on the responses to Q9 and Q10, which factors need to be addressed by the entity in its own annual report?

A12 None. The disclosures in the entity will cross-refer to those in the group’s annual report, and explain the reasons (based on the above) for doing so.

Illustrative wording where the entity annual report refers to group disclosures

[In the strategic report]

Section 172 (1) statement

From the perspective of the board, as a result of the group governance structure [whereby the entity board is embedded within the group board], the matters that it is responsible for considering under Section 172 (1) of the Companies Act 2006 (‘s172’) have been considered to an appropriate extent by the group board in relation both to the group and to this entity. The board has also considered relevant matters where appropriate. To the extent necessary for an understanding of the development, performance and position of the entity, an explanation of how the group board has considered the matters set out in s172 (for the group and for the entity) is set out on page x of the group’s annual report, which does not form part of this report.

[In the directors’ report]

Stakeholder statements

Employees

From the perspective of the board, as a result of the group governance structure [whereby the entity board is embedded within the group board], the group board has taken the lead in carrying out the duties of a board in respect of the company’s employees, including engaging with them, having regard to their interests and the effect of that regard (including on the principal decisions taken by the company during the financial year). The board of the company has also considered relevant matters where appropriate. An explanation of how the group board has carried out these responsibilities (for the group and for the entity) is set out on page y of the group’s annual report, which does not form part of this report.

Other stakeholders

Similarly, from the perspective of the board, as a result of the group governance structure [whereby the entity board is embedded within the group board], the group board has taken the lead in carrying out the duties of a board in respect of the company’s other stakeholders. The board of the company has also considered relevant matters where appropriate. An explanation of how the directors on the group board have had regard to the need to foster the company’s business relationships with suppliers, customers and others, and the effect of that regard, including on the principal decisions taken by the company during the financial year, is set out (for the group and for the entity) on page z of the group’s annual report, which does not form part of this report.

Example 2 – One of five trading subsidiaries of a group – each subsidiary relates to a separate business unit of the group

Q5 What have been the most important developments, activities or transactions for the business (of the entity) during the year?

A5 These are as set out in the discussion of business unit X in the group strategic report, other than the decision to close the factory in location A which was not regarded as strategically material to the group.

Q6 Which aspects of s172 (other than those relating to stakeholders) are most relevant to the matters identified in Q5?

A6 The analysis at the group level considered all relevant factors for the business unit, in particular... [explain how the group strategic and directors' reports addressed the application of s172 and stakeholder engagement to the business unit/entity].

The directors additionally considered the following matters in relation to the factory closure:

- The strategic plan for the next five years, which supported this change in capital allocation.
- The need to offer the workforce alternative roles within the group or assistance with finding new employment.

Q7 In what way are stakeholder considerations (including employees and other stakeholders) most relevant to the matters identified in Q5?

A7 See A6.

Q8 Are there any other stakeholders of direct significance to the success of the company that have not already been identified above, and how are they relevant?

A8 The group operates a separate distribution centre near location A and the board continues to foster good relationships with the local authority by... The commitment of the entity and group to location A was emphasised in the planning applications for the expansion of the existing warehouse.

Q9 Which of the relevant points identified in Q6–Q8 were addressed by the entity's board and how?

A8 The entity board considered all the relevant matters, including those relating to the factory closure. A detailed plan for this was drawn up by management and approved by the board...

Q10 Where relevant points identified in Q6–Q8 were not addressed by the entity's board, how were they addressed by another board or decision-making body?

A10 Not applicable.

Q11 Based on the responses to Q9 and Q10, do the disclosures in the parent company/group annual report relating to the matters identified adequately explain how the directors of the entity had regard to s172 and stakeholders?

A11 Yes, they do. The entity board is the operating board for the business unit.

Q12 Based on the responses to Q9 and Q10, which factors need to be addressed by the entity in its own annual report?

A12 Other than in relation to the factory closure, the disclosures in the entity will cross-refer to those in the group's annual report and explain the reasons (given above) for doing so. The matters considered in relation to the factory closure will be disclosed in the entity annual report.

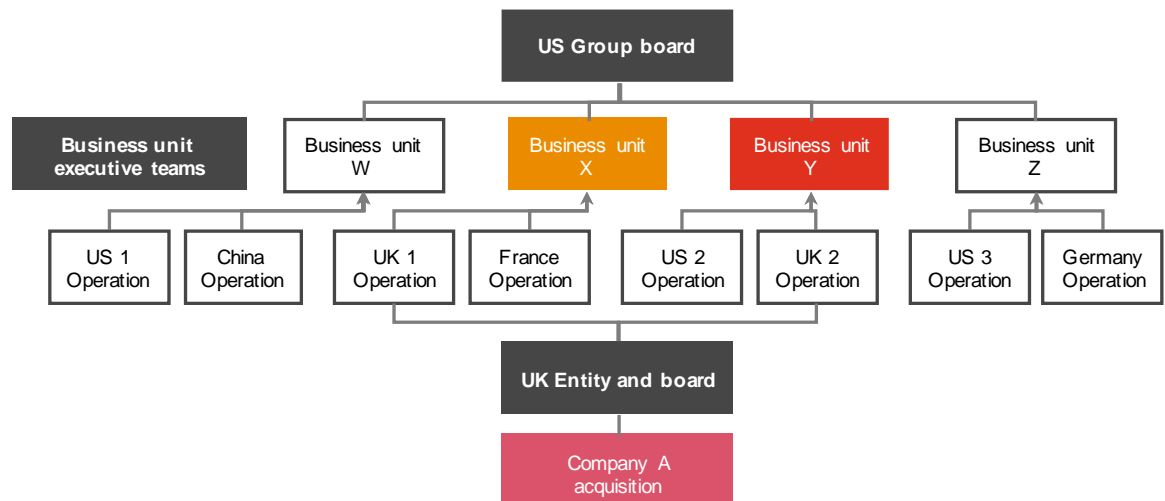
Example 3 – UK trading subsidiary of an international group which is listed in the US but not in the UK – business units are global and the UK entity accounts include only the transactions of the UK elements of two of the group’s four business units

Q5 What have been the most important developments, activities or transactions for the business (of the entity) during the year?

A5 The acquisition of company A by the group’s business unit X was completed by the UK entity during the year and is addressed in the group annual report. The other main developments disclosed in the reviews of business units X and Y in the group annual report were:

- The renewal of the three-year strategy of business unit X, which was drawn up by the business unit executive team (which consists of representatives from around the group) and approved by the group board
- The signing of the contract to supply infrastructure to country B by business unit Y; again this was initiated by the business unit executive team and approved by the group board

Figure 2 Group structure diagram



Q6 Which aspects of s172 (other than those relating to stakeholders) are most relevant to the matters identified in Q5?

A6 Due to the plan to merge company A into the X business unit to achieve post-acquisition synergies, the most relevant aspects are the long-term consequences of the acquisition decision, the impact on the employees of the acquired company and the X business unit, and the impact on the local community around company A’s headquarters...

The new strategy also has major implications for the medium to long term shape of the business unit more generally... [explain].

The deal signed with country B is consistent with the risk appetite of the group but has the potential to affect the reputation of the UK entity and the group without careful management because the UK will be providing engineering expertise to the project...

Q7 In what way are stakeholder considerations (including employees and other stakeholders) most relevant to the matters identified in Q5?

A7 In line with the group’s open and consultative culture, business unit X’s management engaged with its employees throughout the acquisition process and continues to be directly involved at the key sites. The non-

executive director from the group board who has been designated to engage with the workforce has also visited and met with the local workforce forums.

Q8 Are there any other stakeholders of direct significance to the success of the company that have not already been identified above, and how are they relevant?

A8 The entity employs all the personnel working in the UK, and one of the directors is a trustee of the UK pension scheme. The UK entity is also a significant tax payer, as well as forming part of the group's overall tax strategy.

Q9 Which of the relevant points identified in Q6–Q8 were addressed by the entity's board and how?

A9 See **A5** above. The UK entity board considered and approved the acquisition of company A in full.

The renewal of the strategy for business unit X was led by the executive team of the global business unit. This included a UK representative who is also a director of the UK statutory entity and the UK board was briefed on and fed back on the strategy before it was finalised and approved by the group board.

The decision to enter into the country B contract was also taken at a global business unit and group level. The UK board has considered the implications of the contract, including under the UK Bribery Act.

The UK entity board takes direct responsibility for safeguarding the interests of employees and the company's obligations to the pension scheme. Regular updates are provided to the board on the implications of the group tax strategy for the UK entity's tax position, and the relationship with HMRC.

Q10 Where relevant points identified in Q6–Q8 were not addressed by the entity's board, how were they addressed by another board or decision-making body?

A10 Response **A9** explains the extent to which the relevant points were addressed by the entity's board and by other decision-making bodies. All relevant aspects of s172 and stakeholder engagement are considered to have been addressed appropriately in the UK.

Q11 Based on the responses to Q9 and Q10, do the disclosures in the parent company/group annual report relating to the matters identified adequately explain how the directors of the entity had regard to s172 and stakeholders?

A11 No, given the nature and scale of the group and its business unit structure.

Q12 Based on the responses to Q9 and Q10, which factors need to be addressed by the entity in its own annual report?

A12 The UK annual report will address each of the matters set out above, including the extent of the UK entity board's involvement.

Example 4 – Intermediate holding company (only s172 applies based on responses to Q1-Q4 of the diagnostic)

Q5 What have been the most important developments, activities or transactions for the business (of the entity) during the year?

A5 The write down of the investment in company C, following the impairment of the goodwill on the acquisition at the group level; the disposal of the investment in company D to X Partners; and the pass through of the dividend from company E to the ultimate parent company of the group.

Q6 Which aspects of s172 (other than those relating to stakeholders) are most relevant to the matters identified in Q5?

A6 Although the transaction was led at the group level, the board considered the nature of X Partners to check that it appeared an appropriate owner of the company D business, given the potential implications for the company's employees and the consequent impact on the reputation of the entity for sound business practice.

Q7 In what way are stakeholder considerations (including employees and other stakeholders) most relevant to the matters identified in Q5?

A7 See **A6**. The entity's other stakeholders are principally (indirectly) those of the group.

Q8 Are there any other stakeholders of direct significance to the success of the company that have not already been identified above, and how are they relevant?

A8 No – see **A7**. The entity board is not responsible for considering stakeholders that are considered more directly by other group entities.

Q9 Which of the relevant points identified in Q6–Q8 were addressed by the entity's board and how?

A9 The disposal agreement for company D and the pass through of the dividend were formally approved by the entity board (the latter after considering the group exercise to calculate distributable profits).

The entity board only considered the write down of the investment in company C retrospectively when signing off the entity statutory accounts, but the board was satisfied that a detailed exercise had been carried out on the related goodwill by the group audit committee.

Q10 Where relevant points identified in Q6–Q8 were not addressed by the entity's board, how were they addressed by another board or decision-making body?

A10 Not applicable – see responses above.

Q11 Based on the responses to Q9 and Q10, do the disclosures in the parent company/group annual report relating to the matters identified adequately explain how the directors of the entity had regard to s172 and stakeholders?

A11 No – see **A12**.

Q12 Based on the responses to Q9 and Q10, which factors need to be addressed by the entity in its own annual report?

A12 Although all three of the main developments in the entity during the year related to group-level initiatives, the entity will disclose how its board considered the write down and disposal transactions to demonstrate appropriate governance.

The group annual report contains extensive disclosure on distributable reserves and the dividend policy so this will not be specifically addressed by the entity. It is a Companies Act requirement for the dividend to be approved in any case.

Example 5 – Service company

Q5 What have been the most important developments, activities or transactions for the business (of the entity) during the year?

A5 The employees of the Z business, which was acquired by the group during the year, were transferred to the company.

Q6 Which aspects of s172 (other than those relating to stakeholders) are most relevant to the matters identified in Q5?

A6 Primarily the interests of Z business's employees, including the harmonisation of their terms and conditions with those of other group businesses.

Q7 In what way are stakeholder considerations (including employees and other stakeholders) most relevant to the matters identified in Q5?

A7 See **A6**. In its reporting the company will address the requirements of s172 generally and of employee engagement reporting in respect of its UK employees.

Q8 Are there any other stakeholders of direct significance to the success of the company that have not already been identified above, and how are they relevant?

A8 The purpose of the entity within the wider group is always a potential subject of debate, and has been linked in the media with schemes to reduce the group's overall tax bill. These considerations are not matters for the entity board, however.

Q9 Which of the relevant points identified in Q6–Q8 were addressed by the entity's board and how?

A9 The entity's role in the group is primarily to administer and implement decisions made at the group board level in relation to the workforce. The entity board recognised that it could play a more active role in this than has been the case in the past and put in place regular board meetings and operational monitoring in [June] of the year being reported on.

Q10 Where relevant points identified in Q6–Q8 were not addressed by the entity's board, how were they addressed by another board or decision-making body?

A10 Not applicable, given the scope of the entity's board explained above.

Q11 Based on the responses to Q9 and Q10, do the disclosures in the parent company/group annual report relating to the matters identified adequately explain how the directors of the entity had regard to s172 and stakeholders?

A11 The group annual report contains extensive disclosure on the workforce and on the acquisition of the Z business and will be cross-referred to, but it is appropriate to note the changes to the governance processes at the entity level in the entity's directors' report.

Q12 Based on the responses to Q9 and Q10, which factors need to be addressed by the entity in its own annual report?

See **A11**.

Parent companies and consolidation

The BEIS FAQs deal with how the s172 reporting requirements should be applied by parent companies and on consolidation:

Q12. If a subsidiary company meets the qualifying conditions, but not the parent, but the parent prepares consolidated group accounts, does the parent company need to publish a section 172(1) statement as part of the group strategic report?

Yes – the parent qualifies through the process of consolidation, but this does not remove the separate requirement for the subsidiary to report on how its own directors have had regard to section 172(1)

This approach to reporting by groups and their subsidiaries is not new. Qualifying subsidiaries already have to prepare their own strategic report, even where the parent company is required to prepare a 'group strategic report' under s414A(3).

Q13. What is the position when both the parent company and the subsidiary are below the qualifying conditions but, through the consolidation, the parent company meets the threshold for preparing a section 172(1) statement?

The parent company is required to prepare a section 172(1) statement which may, where appropriate, give greater emphasis to the matters that are significant to the undertakings including in the consolidation taken as whole. The subsidiary does not need to report because it is below the relevant threshold.

The FAQs do not explicitly address stakeholder engagement reporting by parent companies and on consolidation but we believe that the same principles should be applied.

Website reporting – s172 only

The s172 statement of a quoted company will be part of the annual report which those companies are required to make available on their website.

As BEIS notes in its FAQs: "Unquoted companies ... are not required to publish their annual report on a website and must make arrangements to ensure that the section 172(1) statement is available on a website. This does not need to be the company's own website – it can be one maintained by or on behalf of the company (such as the website of a parent company) provided it identifies the company in question".



Appendix 1 – List of diagnostic questions

Scope and applicability

Q1 Is the entity incorporated in the UK?

Q2 Does the entity qualify as medium-sized (or smaller) in relation to the financial year?

Q3 Was the average number of persons employed by the company to work wholly or mainly in the United Kingdom not more than 250 during the financial year?

Q4 Does the entity satisfy two or more of the following in relation to the financial year:

1. Turnover not more than £36 million.
2. Balance sheet total not more than £18 million.
3. Number of employees not more than 250.

Process and procedure

Q5 What have been the most important developments, activities or transactions for the business (of the entity) during the year?

Q6 Which aspects of s172 (other than those relating to stakeholders) are most relevant to the matters identified in Q5?

Q7 In what way are stakeholder considerations (including employees and other stakeholders) most relevant to the matters identified in Q5?

Q8 Are there any other stakeholders of direct significance to the success of the company that have not already been identified above, and how are they relevant?

Q9 Which of the relevant points identified in Q6–Q8 were addressed by the entity's board and how?

Q10 Where relevant points identified in Q6–Q8 were not addressed by the entity's board, how were they addressed by another board or decision-making body?

Reporting format and content

Q11 Based on the responses to Q9 and Q10, do the disclosures in the parent company/group annual report relating to the matters identified adequately explain how the directors of the entity had regard to s172 and stakeholders?

Q12 Based on the responses to Q9 and Q10, which factors need to be addressed by the entity in its own annual report?

Appendix 2 – Extracts from the Regulations (and section 172 (1))

Companies Act s414CZA

Section 172(1) statement

(1) A strategic report for a financial year of a company must include a statement (a “section 172(1) statement”) which describes how the directors have had regard to the matters set out in section 172(1)(a) to (f) when performing their duty under section 172.

Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008, Part 4

Employee engagement statement

...the directors’ report for a financial year must contain a statement:

- a. Describing the action that has been taken during the financial year to introduce, maintain or develop arrangements aimed at:
 - i. Providing employees systematically with information on matters of concern to them as employees,
 - ii. Consulting employees or their representatives on a regular basis so that the views of employees can be taken into account in making decisions which are likely to affect their interests,
 - iii. Encouraging the involvement of employees in the company’s performance through an employees’ share scheme or by some other means, and
 - iv. Achieving a common awareness on the part of all employees of the financial and economic factors affecting the performance of the company, and
- b. Summarising:
 - i. How the directors have engaged with employees, and
 - ii. How the directors have had regard to employee interests, and the effect of that regard, including on the principal decisions taken by the company during the financial year.”

Statement on engagement with suppliers, customers and others in a business relationship with the company

The directors’ report for the financial year must contain a statement summarising how the directors have had regard to the need to foster the company’s business relationships with suppliers, customers and others, and the effect of that regard, including on the principal decisions taken by the company during the financial year.

Appendix 3 – Links to other publications and contacts

Further information



Reporting on Section 172

Ahead of the new reporting requirements applying, we have identified a number of emerging issues from our latest annual review of FTSE 350 reporting.



Tackling s.172 reporting – A brief guide for boards

Section 172 ('s.172') was one of the most debated aspects of the major revision to the Companies Act in 2006. It has subsequently slipped down the order of priority for many boards, but the concept of 'enlightened shareholder value' that s.172 introduced is now once again a high-profile issue.

This brief guide is primarily intended to provide boards of FTSE 350 companies with a starting point for tackling s.172 under both the Companies Act and the 2018 Code, and includes a number of specific tips for boards to consider.



A review of how reporting on stakeholder engagement in the FTSE 350 is developing

We look at the readiness of FTSE 350 companies for reporting on the stakeholder agenda and stakeholder engagement in particular. As well as being directly relevant to the new stakeholder engagement requirements it will also be important for the non-financial reporting regulations and section 172 statement.



The shape of things to come – Tackling the corporate governance report under the 2018 Code

One of the main goals of the 2018 UK Corporate Governance Code (the 2018 Code) is to move companies away from boilerplate lists of roles and responsibilities, rehashing the content of the Code, towards a more meaningful form of reporting on corporate governance, including how the board has considered s172. This paper provides some suggestions for what this new style of reporting might look like in practice, with the aim of helping companies and boards with reporting against the new Code in their own circumstances.

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