

Director Perceptions of Section 172

Research findings

September 2025



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Executive Summary

Overview

The Department for Business and Trade (DBT) commissioned Ipsos to conduct qualitative research with executive directors and company secretaries of large companies to understand their perceptions of Section 172 (s.172)¹ of the Companies Act (2006), the introduction of the requirement to publish a s.172 (1) statement in their annual accounts, and the impact that these have had on company decision making. This report presents the findings from this research.

Methodology

Ipsos conducted interviews with 24 executive directors and company secretaries of large companies over Microsoft Teams between March and June 2025. The research approach and research materials were informed by a review of literature relating to s.172 and eight scoping interviews conducted with stakeholders representing organisations with an interest in s.172 and corporate governance.

Awareness and understanding of s.172

Interviewees were broadly aware of s.172 (1), with those from a legal background displaying a deeper understanding of the duties' purpose. They generally acknowledged s.172 (1)'s principles of considering stakeholder interests and making decisions for the long-term benefit of the company but often had not engaged with the text of s.172 (1) in further detail. This was shown, for example, by the inconsistent understanding of what 'members as a whole' meant in s.172 (1), with some understanding this to include more than company shareholders.

Regardless of their level of understanding of s.172 (1), all interviewees understood that their primary obligation was to run the business for the benefit of the shareholders whilst having regard to a range of stakeholder interests, but that this was ultimately to shareholder interests.

The impact of s.172 (1) on decision making

The findings suggest that S.172 (1) has had minimal impact on the way companies make decisions. Interviewees discussed how the companies that they worked for considered all relevant factors when making decisions, usually through a series of informed discussions. They aimed to understand the impacts, including on relevant stakeholder groups, to reach a decision in the best interest of the company. Consideration of factors was generally driven by what was material to the decision being made, rather than because of s.172 (1). Interviewees outlined how they took a

¹ This research ultimately focussed on section 172 (1). Where relevant throughout the report, we refer to s.172 (1) because findings do not cover s.172 (2) or s.172 (3).

dynamic approach to considering and balancing competing interests of shareholders and stakeholders.

Despite the limited active influence of s.172, it was perceived to have reinforced sound corporate governance practices, and there was no expressed desire to change or remove s.172.

Attitudes towards s.172 (1) reporting requirements

Interviewees understood the reason why the requirement to prepare a s.172 (1) statement had been introduced, but some questioned the practical value in it. While some saw it as an opportunity to present a positive story about company decision making, others felt it was an unnecessary addition to the annual report and questioned whether investors read the statement.

Statement preparation

Statements were generally prepared by the company secretary or, in the case of larger companies, by their team. The statements were reviewed and signed off by the board. In some cases, external auditors reviewed and commented on the statement, though they did not audit the content.

The preparation was flagged as being fairly time consuming for senior executives. The main cost was professional time taken to prepare the statement, including both employees and board members.

Most interviewees did not flag concerns with disclosure of the information in the statement, reporting that they disclose what they feel to be commercially appropriate.

The statements were presented in the annual strategic report, which is required by law. Some interviewees were happy with this location. Some suggested it could be better presented and updated on the company website.

Comparison of interviewee views with statement disclosure

Interviewees were able to accurately articulate what their statement looked like and the extent to which it was written in the spirit intended by the legislation. The statements varied in length and depth of information. Some companies reused their statements annually with minor changes annually.

Impact and value of the s.172 (1) statement

The reporting requirements do not appear to have changed the decisions made by companies, though some interviewees suggested that it had helped to encourage greater considerations of different stakeholders in decision making processes.

Several interviewees suggested the requirements had led to improved information gathering to demonstrate how different stakeholders had been considered. Companies had initially struggled to write their statement as decision making processes were not always captured in a way that

translated easily into a s.172 (1) statement. This had led to some companies changing processes for capturing board decision making to support easier statement writing.

1 Introduction

Section 172 of the Company's Act (2006)(s.172) is legislation that mandates directors to promote the success of their company for the benefit of shareholders while considering a range of stakeholders and other relevant matters in decision-making. It introduced the concept of Enlightened Shareholder Value (ESV), which maintains the primary goal of directors is the success of the company for its shareholders, but recognises that to achieve this, directors need to consider the interests of other stakeholders and matters. This constituted a move away from a narrow focus on short-term profits towards a more sustainable and responsible approach to business.

In response to criticisms of s.172 and calls for greater transparency about how companies consider wider interests in decision making, The Companies (Miscellaneous Reporting) Regulations 2018 (enforced in 2019) was introduced, requiring all large companies to publish a s.172 (1) statement in their annual strategic report. The intended purpose of the statement is to build confidence in how companies are managed by demonstrating the actions taken by the company to consider stakeholders, and how directors have complied with their duties under s.172 to achieve long-term success for the company.

DBT commissioned Ipsos in 2024 to carry out qualitative research with company directors and company secretaries working for large businesses. The research study's aims were to understand:

- how do directors perceive s.172 of the Companies Act 2006 and its impact on company strategy, decision making and long-term value creation;
- directors' views on factors listed in s.172 and whether they believe s.172 effectively promotes enlightened shareholder value;
- whether the s.172 statement has changed how directors carry out their duties as well as the process, time and costs involved with creating this statement;
- whether considering reporting on s.172 influences boardroom decisions, if directors see certain provisions as more important than others, whether s.172 has shifted the focus toward the company's long-term success, and the potential implications of such a shift, if any; and
- how directors' claims compare with what companies report in practice in their published statement.

This research supports the post-implementation review (PIR) of The Companies (Miscellaneous Reporting) Regulations (2018).

The qualitative research was carried out during April – June 2025 with directors and company secretaries of large businesses in the UK who are legally required to publish a s.172 statement in their annual accounts.

This report provides an overview of the findings of the study and presents the methodology and sampling that was used. The report is set out in the following sections:

- section two provides an overview of the policy background;
- section three sets out the methodology for the project, including the sampling approach taken, and how research materials were designed;
- section four sets out the findings from this scoping research and how these have influenced the sampling and research material design;
- sections five and six of the report present the findings of the research into director awareness and perceptions of s.172; how companies use s.172 to make decisions and the impact this legislation has had on consideration of stakeholders, shareholders, and the long-term interests of the company. This is supported by a look at several case studies where directors have explained their approach to decision making within the s.172 framework, and how this was used to manage stakeholder interests and shareholder relations;
- section seven presents the findings of the research into the attitudes towards, and the impact of, s.172 (1) reporting requirements, and the process of delivering the s.172 statements; and
- section eight is the report conclusion.

2 Policy Background

S.172 of the Companies Act (2006) introduced a duty for company directors to promote the success of the company for the benefit of its members. This established the principle of Enlightened Shareholder Value (ESV), which means that while the primary focus is on the shareholders of the company, directors must also consider a broad range of factors that are crucial for the long-term success of the company. This was intended to support a move away from a narrow focus on short-term profits, towards a more sustainable and responsible approach to business. This shift is increasingly supported by investors, who see the value in long-term, sustainable growth and consideration of societal factors².

S.172 is comprised of three elements. The first outlines six specific, non-exhaustive factors that directors must have regard to in their decision making. S.172 (1) reads as follows:

“(1) A director of a company must act in a way he considers, in good faith, would be most likely to promote the success of the company for the benefit of the members as a whole, and in doing so, have regard (amongst other matters) to:

- (a) the likely consequences of any decision in the long term;
- (b) the interests of the company’s employees;
- (c) the need to foster the company’s business relationships with suppliers, customers, and others;
- (d) the impact of the company’s operations on the community and the environment;
- (e) the desirability of the company maintaining a reputation for high standards for business conduct; and
- (f) the need to act fairly between members of the company.”

S.172 (2) outlines how directors can comply with this duty where the purpose of the company exists other than for the benefit of shareholders (for example, charities), while s.172 (3) outlines that this duty can be superseded to act in the interests of creditors of the company. This research report focusses specifically on s.172 (1) of the Companies Act. No charities or similar types of companies were consulted, so it was not possible to explore the impact of s.172 (2). For similar reasons (lack of suitable companies), this research report does not engage with s.172 (3).

Since the introduction of s.172, there has been ongoing debate about the effectiveness of the act. While many directors welcomed the codification of common law into company law and the establishment of shareholder primacy, others have been critical of s.172 on several grounds³⁴:

- **Ambiguous wording:** Vague wording shields directors from accountability, as they only need to show they have considered stakeholders interest, not necessarily acted in their favour.
- **A lack of enforcement:** Directors cannot be legally challenged for breach of s.172 duties by stakeholders; only shareholders have this right.
- **Limited impact on corporate governance:** Academic studies show s.172 has minimal impact on corporate governance.

The Government has been lobbied by the Better Business Act campaign to amend s.172. The campaign proposes that the legislation should go further in requiring companies to align their social and environmental impact with shareholder returns. Other stakeholders have opposed this change, with the view that this would create confusion over director's responsibilities and create litigation risk for companies trying to balance competing priorities.

Additionally there have been calls for greater transparency from companies about how they consider these wider interests in decision making. In 2019, The Companies (Miscellaneous Reporting) Regulations (2018)⁵ introduced a new obligation for all large UK companies to include a statement in their strategic report that sets out how directors have had regard to the matters set out in s.172 (1)(a) – (f) when performing their duties under s.172. This statement is intended to build confidence in how companies are managed and to encourage them to take responsibility for their relationships with stakeholders.

The regulation advises that this statement must describe how the directors have had regard to the matters set out in s.172 (1) when performing their duties. It is not intended as a box ticking exercise for companies to complete; the statement should be authentic, specific and provide a balanced view of the company's approach to s.172. It should include how directors complied with their duties under s.172 and how this supported the business with the objectives of long-term success.

3 Methodology

This section outlines the research approach taken. Further detail about the methodology can be found in Appendices A and B.

3.1.1 Scoping stage

Ipsos conducted a review of existing s.172 literature with the support of Professor Roger Mortimore. Professor Mortimore consulted with fifty-three sources in total. The aim of the review was to identify key arguments and debates around s.172 and reporting requirements. These informed the design of research materials used in interviews with directors. Findings from the literature review were captured in a standardised reporting template for consistent evaluation.

Ipsos also conducted seven scoping interviews with key industry bodies including the Institute of Directors, the Corporate Governance Institute, ShareSoc, Clifford Chance, the International Corporate Governance Network, the Trade Union Congress, and the Better Business Act. These interviews helped to further identify key areas to discuss with company directors.

3.1.2 Sampling & recruitment

Ipsos conducted a total of 24 interviews with directors recruited between February and June 2025. While slightly less than the total number of interviews anticipated (30), a sample of 24 is large enough to be robust and provide confidence in the findings presented in this report.

Respondents were sampled using quotas to ensure directors represented a range of different perspectives. Quotas included sector, company turnover, shareholder structure and tenure of directorship. The final sample contained respondents representing a wide range of sectors, including finance and insurance, wholesale and retail trade, manufacturing, pharmaceuticals, construction and real estate, information and communication, mining, transport, waste and recycling, accommodation and food services, and legal. Participants were recruited with the support of external recruitment partner.

3.1.3 Discussion guide design & s.172 statement review

The discussion guide was designed using findings from the scoping research. The project steering group⁶ also provided input on suggested questions. It was expected that directors would have limited time for the interview and the guide was adapted to these expected time constraints. As it was not possible to cover every line of enquiry in depth, a core set of essential questions was agreed between Ipsos and DBT that directly addressed the research objectives.

⁶ The project steering group included representatives from DBT (Company Law and Corporate Governance Team), FRC, Companies House and the Insolvency Service.

All interviewees were told that the UK government has no plans to change Section 172 (1) but are committed to gathering views of companies to ensure that the policies are working as intended.

After each interview, the companies' s.172 statement was reviewed. The aim was to compare what directors said about their statement in interviews with their disclosures in their published statement. Findings from this activity can be found in Section 7.4 of this report.

3.2 Notes on interpretation

This research focusses specifically on directors of large companies. Quantitative research conducted by DBT has focused on small and medium sized companies.

The research began in December 2024, prior to changes in company size thresholds, so the definition for large companies is based on the previous definition. For the purposes of this research, large companies are defined as⁷:

- turnover greater than £36 million;
- balance sheet total greater than £18 million; and
- monthly average number of employees greater than 250.

This report makes no specific recommendations about s.172 beyond those shared by interviewees in the research.

Information about interviewees is shown under each quote. Where it says 'director', this means executive director, as no non-executive directors were interviewed. Some interviewees were both a director and company secretary, which is indicated under quotations as 'director & company secretary'.

The term 'director(s)' is used as an umbrella term for executive directors and company secretaries, unless it is otherwise stated that opinions or views are specific to company secretaries only, or company directors only.

3.3 Limitations

This research report focuses specifically on s.172 (1) of the Companies Act. No large charitable companies or similar types of companies were consulted, so it was not possible to explore the impact of s.172 (2). For similar reasons, this research report does not cover s.172 (3).

Interviewees tended to self-select their participant on the basis that they were involved with s.172 (1) reporting. As a result, they tended to be relatively knowledgeable about s.172. It is important to

⁷ <https://www.icaew.com/technical/corporate-reporting/uk-regulation-for-company-accounts/size-of-a-company>

note that these findings are characteristic of this specific, informed group and may not be representative of the knowledge level held by all directors.

Findings in this report are based on the views of the executive directors and company secretaries that were interviewed. While efforts were made to recruit non-executive directors to participate in the research, none became available for interview. They constitute a missing perspective from this research.

The views of investors and stakeholders could provide further valuable insight on the impacts and uses of s.172 and reporting requirements and could be a useful area to consider for future research.

4 Scoping Research Findings

This section provides a high-level summary of the scoping stage findings.

4.1 Literature review

The literature review examined the academic and legal discourse surrounding s.172. It revealed a central debate over whether s.172 had genuinely increased consideration of stakeholder interests, or reinforced shareholder primacy. The review explored themes such as legal interpretations, impact on behaviour, and implementation of reporting requirements, enforceability of s.172 and the extent to which it has encouraged genuine change. Few studies had been conducted on s.172 statements. This is an area that has been explored in more detail through the interviews with directors.

4.1.1 Origins and purpose of s.172 – meaning of ESV and stakeholder interests

A central element of s.172 is Enlightened Shareholder Value (ESV), which balances shareholder value creation with broader social considerations. Kabour concluded that, while s.172 set behavioural norms for directors, the emphasis remains on SV with consideration of stakeholder interests lacking accountability⁸.

Commentators agreed that s.172 established shareholder primacy but debated whether it represented a step towards genuine stakeholder consideration. Collison et al found those involved with the company law review leading to s.172 agreed that maximising shareholder value is the main objective of a business and a more pluralistic approach was not seriously considered⁹. The concept of stakeholder engagement (related to ESV) is open to interpretation. Kujala described it as a fragmented concept with contested legitimacy, citing studies that often highlight positives like improved corporate reputation while downplaying negatives like tokenism¹⁰.

4.1.2 Legal interpretation & debates about s.172

Legal interpretations of s.172 were widely debated in the literature. There was agreement s.172 reiterates shareholder primacy. For example, Tate¹¹ and PWC¹² concluded that s.172 reinforces existing common law on shareholder primacy, leaving stakeholder interests to director discretion

⁸ Kabour, Reem. 'What Effect Does the Enlightened Shareholder Value Principle in the Companies Act 2006 Have on the Corporate Objective of UK Companies?' IALS Student Law Review 8, no. 2 (Autumn 2021): 13–29.

⁹ Collison, David, Stuart Cross, John Ferguson, David Power, and Lorna Stevenson. 'Shareholder Primacy in UK Corporate Law: An Exploration of the Rationale and Evidence'. London: Certified Accountants Educational Trust, 2011.

https://pureportal.strath.ac.uk/files/13815957/Shareholder_Primary_in_UK_Corporate_Law.doc.

¹⁰ Kujala, Johanna, Sybille Sachs, Heta Leinonen, Anna Heikkinen, and Daniel Laude. 'Stakeholder Engagement: Past, Present, and Future'. Business & Society 61, no. 5 (1 May 2022): 1136–96. <https://doi.org/10.1177/00076503211066595>.

¹¹ Tate, Rachel C. 'Section 172 CA 2006: The Ticket to Stakeholder Value or Simply Tokenism?' Aberdeen Student Law Review 3 (2012): 112–19.

¹² PwC. 'A Review of How Reporting on Stakeholder Engagement in the FTSE 350 Is Developing'. PwC, n.d. www.pwc.co.uk/audit-assurance/assets/pdf/stakeholder-engagement-research.pdf.

with no enforcement. Keay & Iqbal felt there was uncertainty how shareholder interests and mandates (a-f) fit together. They argued s.172 clarified existing law without changing it¹³. While Grier felt its vagueness was an obstacle to enforcement and later argued that shareholder primacy compels profit maximisation¹⁴. Keay & Hao however argued that s.172 as a shift towards stakeholder protection, potentially checking shareholder opportunism¹⁵.

4.1.3 Implementation of s.172

Empirical evidence on whether s.172 has changed director behaviour was limited and suggested minimal impact. Keay & Iqbal found only 17% of directors changed their behaviours after the introduction of s.172. In the same article, Keay & Iqbal analysed reports from eight FTSE 100 retail and found responsible companies had not dramatically changed their aims or reporting after s.172 as they already complied¹⁶. Okoye highlighted that the ORC study found more guidance was needed to bring about behavioural change¹⁷.

4.1.4 S.172(1) reporting requirements

Academics were divided on the impact of the s. 172 reporting requirements. Arsalidou concluded companies were taking the s.172 duty seriously¹⁸. However, Grier¹⁹ and Keay & Iqbal²⁰ were less optimistic, dismissing the value of new reporting requirements.

A 2020 Deloitte study reviewed 25 FTSE 350 company annual reports. All reports included “stakeholder related” mandates (B, C and D) but the inclusion of non-stakeholder related mandates (A, E & F) was more varied. Most did not discuss decision making processes²¹.

4.1.5 Sources of guidance for companies and directors

The review looked at guidance for companies and directors about s.172 and reporting disclosure. GC100 guidance recommended that directors should effectively subordinate stakeholder concerns to the ultimate goal of shareholder success²². PWC guidance on new reporting requirements, suggested that companies revisit duties imposed by s.172 and should consider a broad range of

¹³ Keay, Andrew, and Taskin Iqbal. ‘The Impact of Enlightened Shareholder Value’. *Journal of Business Law*, no. 2019(4)(2019): 304–27.

¹⁴ Grier, Nicholas. ‘Enlightened Shareholder Value: Did Directors Deliver?’ *Juridical Review* 2014, no. 2 (2014): 95–109.

¹⁵ Keay, Andrew, and Zhang Hao. ‘An Analysis of Enlightened Shareholder Value in Light of Ex Post Opportunism and Incomplete Law’. *European Company and Financial Law Review* 8, no. 4 (1 December 2011): 445–75. <https://doi.org/10.1515/ECFR.2011.445>.

¹⁶ Keay & Iqbal, 2019.

¹⁷ Okoye, Ngozi. ‘The BIS Review and Section 172 of the Companies Act 2006: What Manner of Clarity Is Needed?’ *The Company Lawyer* 33, no. 1(1 February 2012): 15–16.

¹⁸ Arsalidou, Demetra. ‘Promoting Long-Term Sustainable Company Growth through Section 172 Reporting and Loyalty-Driven Benefits’. *Journal of Business Law* 5 (2022): 390–406.

¹⁹ Grier, Nicholas. ‘Directors Deliver – Just Not Very Much: Further Reflections on Section 172 of the Companies Act 2006’. *Juridical Review* 2022, no. 4 (16 December 2022): 212–21.

²⁰ Keay & Taskin Iqbal, 2019.

²¹ Deloitte. ‘The New Section 172(1) Statement – Observations from First Reporters’. Deloitte, April 2020.

²² GC100. ‘Guidance on Directors’ Duties: Section 172 and Stakeholder Considerations’, October 2018. <https://www.fromcounsel.com/static/GC100-Guidance-on-s172-and-stakeholder-considerations.pdf>.

matters beyond stakeholder engagement²³. ICAS provided best-practice cases studies for directors²⁴. Loughrey et al suggested that if there was uncertainty about the meaning of s.172, companies are likely to rely on the advice of their lawyers²⁵.

4.1.6 How investors use s.172 (1) statements

The literature indicated that investors paid attention to the matters covered in s.172, suggesting the s.172 (1) statement may have direct business value. FRC Lab, for example, concluded that information about stakeholders and decision-making help investors have confidence that a company is progressing towards long term success. It was found that a clear s.172 statement helped to demonstrate this²⁶. Lelik argued that with the rising importance of ESG in investment decision making, it is vital for companies to demonstrate responsible values. However, they found s.172 was not sufficient to enforce this and argued for reform of the law²⁷.

4.1.7 Enforceability of s.172

A contentious debate in the literature was the enforceability of s.172. as there is no mechanism for redress except civil suits. Ediabonya identified that substantial obstacles exist for successful litigation for breach of s.172 duties, though the author argued enforcement was unnecessary as companies mostly comply²⁸. Grier²⁹ and Keay & Iqbal³⁰ reached similar conclusions, suggested responsible directors have taken s.172 seriously and enforcement efforts should focus on those who ignore it. However, Grier's 2014 analysis found s.172 ineffective at promoting stakeholder interests, citing several (then) recent corporate scandals³¹. The 2023 ClientEarth case against Shell's directors (brought under s.172), which was dismissed, is a prominent example of the unenforceability of s.172. Carnwath cited this case as evidence that s.172 may not have had the practical effect of protecting the interests represented in the six mandatory considerations (a-f)³².

²³ PwC, 2019a.

²⁴ ICAS. 'Case Studies from Directors on Section 172 Duties'. Edinburgh: ICAS, January 2020. <https://www.icas.com/professional-resources/business-and-governance/support-and-guidance/directors-case-studies-on-their-wider-section-172-responsibilities>.

²⁵ Loughrey, Joan, Andrew Keay, and Luca Cerioni. 'Legal Practitioners, Enlightened Shareholder Value and the Shaping of Corporate Governance'. *Journal of Corporate Law Studies* 8, no. 1 (April 2008): 79–111. <https://doi.org/10.1080/14735970.2008.11421523>.

²⁶ FRC Lab. 'Reporting on Stakeholders, Decisions and Section 172'. Financial Reporting Council, July 2021.

²⁷ Lelik, Alpgiray. 'The Need for Amendment of Section 172 of the Companies Act 2006 Due to Game Changer ESG: Double Enlightened Shareholder Value Approach for Sustainable and Purposeful Companies'. *SSRN Electronic Journal*, 2023. <https://doi.org/10.2139/ssrn.4335202>.

²⁸ Ediabonya, Victor. 'The Scope of Director's Duties Under the Provision of Section 172 of the Companies Act of United Kingdom', 2017, 1–6. <https://doi.org/10.2139/ssrn.2982033>.

²⁹ Grier, 2014.

³⁰ Keay & Iqbal, 2019.

³¹ Grier, 2014.

³² Carnwath, Robert. 'ClientEarth v Shell: What Future for Derivative Claims?' London: Grantham Research Institute on Climate Change and the Environment, London School of Economics and Political Science, February 2024. <https://www.lse.ac.uk/granthaminstitute/publication/clientearth-v-shell-what-future-for-derivative-claims/>.

4.2 Scoping interviews

A range of perspectives on s.172 were evident during the scoping interviews. The debates found in the literature review were also present in conversations with corporate governance professionals. For example, how effective s.172 has been in achieving its aims and how directors can interpret s.172 to balance consideration of stakeholders with shareholder primacy. There was no consensus among interviewees, with views spanning the full spectrum from it being a robust and workable framework to it being fundamentally inadequate. Discussions with stakeholders mirrored key debates from the literature review and offered further insight into contemporary thinking on s.172.

4.2.1 Impact of s.172

The general feeling among interviewees was that s.172 has made little practical difference to director behaviour, although this was not necessarily seen as a negative. For some stakeholders, directors and businesses with good corporate governance practices were already acting in a way that was compliant with s.172 before it was introduced, which has meant little has changed for them in practice. This applies to the idea of long-term value creation. Given that many boards were making decisions in the long-term interests of their companies, it was felt that the introduction of s.172 did not require any changes to existing practice.

“over the years, we’ve seen a lot of debate about stakeholder right... whenever one makes a decision, there is somebody who is pleased by that decision and there is somebody who is less pleased...I think the great benefit of s.172 is that there is a clear responsibility and you have to take other things into account... its absolutely critical the company has one master...” Stakeholder interview

However, some argued that s.172 had not encouraged sufficient consideration of stakeholder interests, or that s.172 allowed directors to justify token engagement with stakeholders. There was scepticism that the legislation has meaningfully shifted corporate decision-making towards the principles of ESV or a greater focus on long-term success.

“We need to go further and reflect in section 172 the fact that running a modern company nowadays is more complex than just narrowly focussing on shareholder interests...I think that whether it’s impacted on behaviour to a significant degree is a moot point. We see plenty of examples where companies primary focus is on shareholder interests and there’s little evidence that stakeholder perspectives or their interests have been significantly taken account of in key decisions. And often directors will justify that when challenged by saying... we have a fiduciary duty to our shareholders... so they’re implicitly referring to section 172 and their interpretation of it to justify that.” Stakeholder interview

Some expressed the sentiment that powerful market pressures, executive remuneration structures tied to short-term performance, and entrenched corporate cultures often override the nuanced obligations of s.172.

4.2.2 S.172 (1) reporting requirements

When discussing the mandatory s.172 reporting requirements, views were similarly mixed. On one hand, the reporting was seen positively by some as a valuable mechanism for disclosing decision making. In this light, it serves as a formal, annual reminder to the board of their obligations and provides a structured opportunity to demonstrate good governance to investors and other stakeholders. However, a more widely held and critical view was that the reporting is often just a compliance, ‘tick-box’ exercise, filled with generic wording instead of leading to any meaningful change.

4.2.3 Reform of s.172

The prospect of reforming s.172 proved to be a primary point of contention, which divided interviewees. It was a relatively even split between those in favour of reform, and those in favour of keeping s.172 as it is.

A significant group voiced strong opposition to any reform, arguing that the s.172’s core value lies in the legal certainty provided by shareholder primacy. They described it as helpful for decision-making, preventing directorial duties from becoming an unmanageable balancing act between competing stakeholder interests and thereby reducing litigation risk. How the act is currently worded gives directors’ flexibility to act how they feel is in the best interests of the company, without being overly prescriptive about how they should consider the interests of different stakeholder groups. They felt that reform is not necessary on the basis s.172 works fine currently, but also reiterated that they did not favour a lowering of standards either.

Conversely, some interviewees advocated for reform, arguing that s.172 is no longer fit for purpose in a modern business environment. They contended that the duty to simply “have regard to” stakeholder interests is too weak and this ambiguous wording can be used to justify interpretations of s.172 that prioritise value creation for shareholders over meaningful consideration of stakeholders. One interviewee cited the fact that shareholder dividends had grown three times faster than wages between 2008 and 2019 as evidence for this. Some believed that the legislation must be updated to give greater weight to critical factors such as climate impact and employee well-being, moving beyond the current model. One example given was how the term ‘employees’ did not cover the changing nature of employment models adopted in the UK, such as those used by delivery services:

“[s.172] uses “employees” but that doesn’t extend to other workers contributing to the company. This has quite serious impacts on company operations and has contributed to the rise, use and under-reporting of precarious employment models.... The majority of [some] revenue for some companies is coming from workers who are not directly employed.... Over the last fifteen years, the quality of employment has got worse in terms of precarious work and stagnant wages. Is that a credit to the shareholders who elect directors? It’s [s.172] not working well...” Stakeholder interview.

5 Awareness and understanding of s.172(1)

Summary of findings

All company directors and secretaries had some awareness of s.172. Those with legal backgrounds typically had better awareness than non-legally qualified directors.

Directors understood their primary duty was to run the company for the benefit of shareholders with secondary consideration given to the interests of stakeholders. They also understood that decisions should be made in the long-term interests of the company.

There was some confusion about the meaning of ‘members as a whole’, with some directors believing this to extend to more than just shareholders of the company.

In terms of stakeholders, no conscious priority was given to any factors listed within s.172 (1), although factors (b) employees, (c) suppliers and customers, and (d) the community and environment were spontaneously mentioned most often. Directors understood they were required to consider a range of interests when making decisions.

5.1 Introduction

This section sets out the findings of the qualitative research focusing on the level of awareness and understanding interviewees had of their duties under s.172 (1) and what value they believe it has. Similarities and differences between interviewee groupings, such as large, listed companies in comparison to private companies or between different companies working in regulated and non-regulated sectors have also been explored.

5.2 Awareness & understanding of s.172 (1)

All company secretaries and directors interviewed claimed to have at least some awareness of s.172 (1), although the level of awareness and understanding tended to be higher amongst directors with a legal background, which was more typical in larger listed companies.

The recruitment approach may have influenced how knowledgeable directors interviewed were about s.172 (1). Most interviewees had responsibility or involvement in delivering the s.172 (1) statement and consequently had at least a general awareness of s.172 (1). As highlighted in the quote below, responsibility for specific issues such as s.172 (1) tended to sit with specific members of the board. This aligns with findings from the scoping interviews, where stakeholders explained how directors will have more interest and involvement in specific issues. It is likely that most directors have limited specific understanding of s.172 (1) but are aware of a general duty to consider stakeholder interests and make decisions for the long-term benefit of the company.

“I’m a lawyer. So probably unlike directors with a non-legal background, I have read Section 172 multiple times... so unlike non-legally qualified directors, I understand Section 172 very well. It’s also my job, and that’s why it’s probably different from statutory directors who aren’t legally qualified, who I would be surprised if many of them gave more than a few minutes thought to those statutory duties... and assume someone else will deal with it.” Company secretary, family-run company, manufacturing sector

At a minimum, all company directors could articulate a basic definition of s.172 (1) that demonstrated they understood the underlying principles. For example, it was common to hear interviewees talk about vague related terms like “being fair” or talking about the importance of following good governance practices.

“My understanding is... it’s a charter brought in to make sure that directors behave in a certain way... essentially making sure that the interests of the business are being put first.” Executive Director, publicly listed company, finance, and insurance sector

Many interviewees had a legal background or were responsible for corporate governance in their capacity as company secretary (in many cases, the company secretary also had a legal background), and consequently, were able to offer much more sophisticated understandings of s.172 (1)³³. For example, they could go beyond simple definitions to explain the purpose of s.172 (1) and how that related to or was reflected within their company. However, regardless of how well understood s.172 (1) was, all directors took their duties seriously and believed that they made decisions that were for the best interest of the company long term.

“I understand the general elements we are trying to achieve within Section 172, and how we achieve this within [company name].” Executive Director, publicly listed company, waste, and recycling sector

Broadly, it was well understood that s.172 (1) established a primary duty for directors to run the business for the benefit of the shareholders and a secondary duty to consider stakeholder interests. Stakeholder interests are balanced against the duty to shareholders and the duty to run the company to ensure success in the long term.

“I was always under the impression that effectively, the company board was expected to look particularly to the best interests of shareholders but in doing that, then also be aware of the impact of any decision on the broader stakeholder base.” Executive Director, publicly listed company, waste, and recycling sector

³³ It was more common for directors and company secretaries of large, listed companies interviewed for this research to have a legal background, although some non-listed company directors also had legal backgrounds.

However, some directors demonstrated they had a more advance understanding of s.172 (1), explaining that it codified existing case law and discussing concepts like shareholder primacy.

“Basically, it’s a very welcome codification of what had been case law before... It is setting explicit duties and standards for directors about how they operate the company with regard to the whole stakeholder group and not just naked self-interest in personal profit... this includes long term versus short term considerations, operational considerations, community ones, employees and so on.” Executive director, private company, legal sector

Directors were asked what they understood the term ‘members as a whole’ to mean and provided a range of responses that suggests that the terminology ‘members’ is not universally understood to mean ‘shareholders.’ A majority correctly understood that this referred purely to shareholders, but some offered definitions of ‘members’ that included a mix of shareholders, and / or stakeholders in the business.

“I would say shareholders... because members for us would definitely be shareholders, and everybody else will be stakeholders...” Executive director and company secretary, publicly listed company, wholesale, retail, and trade sector.

“I think... it’s your employees for definite... there’s also other stakeholders as well... you’ve got your clients and the broad community you serve. So, I’d even consider our clients as being members, because... we provide services to them.” Executive director, publicly listed company, finance, and insurance sector

It was well understood that s.172 (1) means that companies should not be run based on short term profitability or revenue maximisation and requires directors to make decisions for the long-term success of the company. However, there was recognition that for some businesses, short termism was built into their business cycles. A director involved with mining and retail felt they needed to make short term decisions at times, while a few directors recalled shareholders pressurising them to make decisions that would be beneficial for them in the short-term.

“Mining is a very cyclical business and...sometimes those long-term goals and interests have to be reined in a bit, and you’re very much focussed on the short term because you have to because the company is... focussed on sort of near-term critical issues.” Executive director & company secretary, publicly listed company, mining sector

Some directors discussed how s.172 (1) has increased awareness of corporate governance, providing a minimum standard for conduct that ensures directors run business effectively and to a high standard. While not explicitly an aim of s.172 some directors appeared to not be opposed to using primary legislation to raise awareness of corporate governance standards.

However, the extent to which s.172 has driven corporate governance standards is questionable, given criticisms of its enforceability alongside directors’ perceptions that s.172 (1) has little

influence over decision making. It is debatable whether directors would be as receptive to a more enforceable version of s.172 (1) on the grounds of ‘improving corporate governance standards.’

“It’s to ensure strong corporate governance standards really, which offers some kind of protection to everyone... if all companies have to do this above a certain size, then it raises the bar.” Executive director, publicly listed company, finance, and insurance sector

Directors did not routinely prioritise any factors within s.172 (1) over others as a matter of policy. Which stakeholders or other factors are considered is determined by the decisions being made – if the factors listed in s.172 (1) are not material to a decision being made, they won’t be actively considered. As noted in the explanatory notes of s.172, the factors listed in s.172 (1) are non-exhaustive. Most directors interviewed generally focussed on the specific factors listed such as (b) employees, (c) supplier and customers, and (d) the community and environment, although there was some awareness that this wasn’t a checklist and was indicative of the types of consideration that should be made. Some directors discussed how it is not possible to always hold all stakeholders in equal regard but understood that was within the bounds permitted by s.172 (1) as they were ultimately making a decision that was for the long-term benefit of the company.

“All the time... those sub bullets within Section 172 conflict with each other. That’s normal... something may be in the best interest of the business but not the employee. Something may be not good for the environment or for a vendor but otherwise good for the business...” Executive director and company secretary, private company, pharmaceutical sector.

Although directors did not explicitly prioritise the factors within s.172 (1), some factors received more spontaneous mentions than others. These include employees, supplier and customers, and community and environment.

“This is sort of obvious... if you look after customers and employees, and supplier, you’re probably going to be behaving in the best interests of your members.” Executive director, publicly listed company, transport sector

When directors were asked what ‘members as a whole’ meant, they gave a range of responses that suggest that the terminology ‘members’ is not universally understood to mean ‘shareholders.’ A majority thought this referred purely to shareholders, but some offered definitions of ‘members’ that included a mix of shareholders, and / or stakeholders in the business.

“I would say shareholders... because members for us would definitely be shareholders, and everybody else will be stakeholders...” Executive director and company secretary, publicly listed company, wholesale, retail, and trade sector.

"I think... it's your employees for definite... there also other stakeholders as well... you've got your clients and the broad community you serve. So, I'd even consider our clients as being members, because... we provide services to them." Executive director, publicly listed company, finance and insurance sector

However, one director pushed back on the relevance of understanding specific terminology within s.172 (1). They claimed improving the clarity of legislation wording would not change director behaviour. Therefore, although specific aspects of s.172 (1) are more top of mind than others, this is less important than the underlying intentions of a director to fulfil their responsibilities to run the business effectively.

"It could be drafted differently or clearly with less sub-bullets... it wouldn't change how directors run the business... it doesn't make any difference." Executive director & company secretary, private company, wholesale, retail, and trade sector

When asked what 'have regard to' meant, directors correctly defined this as meaning they must consider stakeholders without necessarily having to act in their favour when making decisions, so long as they are acting in the best interests of the company in the long term.

"So, there's a broad range of factors there... they don't override the duty to act in the best interests of the company." Company secretary, publicly listed company, finance, and insurance

Likewise, directors also showed good understanding of the term 'good faith'. It was considered to mean balanced and transparent consideration of stakeholder interests (including through stakeholder engagement) to make decisions that, as far as possible, are in the best interests of everyone, rather than creating win-lose scenarios. Directors also mentioned that it suggested an honest and sincere intention to comply, set expectations for principled director decision making, meant managing conflict effectively, and required not putting self-interest ahead of consideration of the impact of actions on other stakeholders.

"Making decisions in the interests of both parties, as opposed to one winning, one losing." Executive director, private company, finance, and insurance sector

6 Influence and Impact of s.172(1)

Summary of findings

Many of the interviewees suggested that they automatically consider how decisions affect stakeholders and shareholders, and whether the decisions will benefit the company in the long term. These considerations were not necessarily driven by s.172.

S.172 was more likely to be considered when boards make difficult decisions, to ensure they have fully complied with all their duties and fully justify the decisions.

Directors generally prioritised decisions that were beneficial for the company in the long term. However, in some cases interviewees suggested that there were pressures for example from shareholders to make short term decisions.

S.172 appeared to have minimal influence over decision making in comparison to other more legally, or financially consequential legislation and duties. Interviewees from regulated industries, for example, referred to other rules and laws that take precedence to s.172 when making decisions. The lack of legal enforcement of s.172 make it easier to deprioritise.

Although lacking enforceability, directors agreed s.172 principles aligned with good governance and felt it would be illogical to act in any other way. Despite the perceived lack of influence s.172 has, directors believed they complied with the spirit of the legislation.

6.1 Introduction

This section sets out the findings of the qualitative research on the influence and impact that s.172 (1) has had on company decision making. It explores how companies use s.172 (1) when making decisions, whether s.172 (1) has influenced company decision making processes and the impact on the final decisions made. It also explores whether s.172 (1) has resulted in greater focus on long-term over short-term success. While there is brief mention of the impact of s.172 (1) reporting requirements on the application of s.172 (1) internally, findings relating to s.172 (1) reporting requirements are presented in Section 7.

6.2 How do companies use s.172 (1) when making decisions?

Board papers and supporting materials were stated as a critical source of information used by directors to inform decisions. In most cases interviewees said s.172 (1) was not explicitly referred to in the board papers, although a small number of directors suggested it was a consideration in how they had structured their board papers.

When issues or decisions reach the board for consideration, a range of factors, stakeholders and other matters were generally considered. Ultimately, the role of directors is to determine whether they feel they have been provided with sufficient information to make the decision presented. If they feel there is a deficiency in the information available, they ask for more information to be gathered about the impacts of the decision. This means that there may be multiple iterations

before decisions are finally made by boards. Which factors are considered are not influenced by s.172 (1), but by an understanding that directors must be well informed about the impact of their decisions to show due diligence.

"I would say nobody sits there and says, 'Section 172 says this, we must do it'. Decisions are looked at much more holistically. By the time something comes into the boardroom... it's evolved and iterated over a period of time... it's a much more engaged conversation and discussion and debate around the direction of a decision... and that may change over time until you eventually reach a set position." Company secretary, publicly listed company, finance, and insurance sector

Company secretaries interviewed tended to be responsible for collating the board papers and aimed to structure board papers to consider a full range of factors to ensure compliance with s.172 (1).

"...that's part of my role as company secretary: to ensure that I feel that the papers are fulsome and presenting all the issues that the directors need to be thinking about." Company secretary, publicly listed company, wholesale, and retail trade sector

They may be supported by colleagues with responsibility for specific areas of the business or who have knowledge relevant to a decision being made. In a most cases, s.172 (1) did not drive the need to consider a full range of factors, but some directors felt it can act as a useful reminder of what to bear in mind. In a small number of cases, secretaries and directors discussed how board papers had integrated elements of s.172 (1) into their structure, or appended s.172 (1) (or text highlighting the need to consider a range of stakeholder types) to the back of the board papers.

"We don't necessarily specifically reference Section 172. It's more embedded into the information that's given for decision making rather than being... 'now we're going to talk about Section 172.'" Executive director and company secretary, publicly listed company, real estate sector

"We append a checklist to the back of every display paper that outlines what the subsections of 172 and the impacts of this decision on them." Company secretary, publicly listed company, real estate sector

S.172 (1) was more likely to be explicitly mentioned when important or significant decisions are being made. If the decision has the potential to generate public interest, or for listed companies making decisions that could affect the stock price, such as during a merger or acquisition process, the company secretary or company counsel will specifically encourage directors to make sure they have considered the full range of factors in s.172 (1) (amongst their other duties) to ensure they can justify a decision based on the requirements expected of them as directors.

“If your board was doing something that obviously was going to be very controversial... that’s when you might pull it out [s.172] and be like, let’s just be one hundred percent sure we’ve fulfilled every possible duty that we should be fulfilling.” Executive director and company secretary, private company, pharmaceutical sector

Some directors explained that s.172 (1) can be used during strategy creation and reviews, providing a useful guide to ensure consideration of stakeholder groups and other matters. By creating strategy aligned with s.172 (1), they support decision making that is compliant with s.172 (1). However, strategies are not specifically structure around s.172 (1), don’t reference s.172 (1), and are primarily driven by other considerations, like financial objectives. One director suggested that strategies are usually based around achieving long term growth, which ensures s.172 (1) duties are fulfilled without explicit consideration of s.172 (1) during strategy development.

“At the beginning of the annual strategy meeting, we give them [directors] a one pager... we write down what 172 says to remind them of their duties and the factors they should consider when they are making decisions, because that’s the real big piece in terms of strategy.” Executive director and company secretary, publicly listed company, pharmaceutical sector.

However, use or mentions of s.172 (1) in relation to strategy development were not widespread, and some explicitly said s.172 (1) wasn’t a factor at all in setting company strategy.

“In terms of setting the strategy, we’ve not used it [s.172] ... to guide any discussion on strategy.” Executive director, publicly listed company, transport sector

6.3 Managing competing interests

Directors and company secretaries gave examples of how they try to balance the interests of stakeholders and shareholders while making decisions for the long-term benefit of the company. These examples show how there is dynamic consideration of interests in decision making. Even if decisions may not always benefit certain stakeholders or even shareholders, directors felt secure, confident and justified making difficult decisions for the long-term benefit of the company.

In some circumstances, interviewees suggested certain stakeholders may be prioritised over others, or shareholder interests may be prioritised over stakeholder interests because of a robust decision-making process. Effort was made to consider all factors and stakeholders, and possible consequences and impacts of decisions on them, while balancing these against shareholder interests. Directors generally felt they chose the option that is likely to benefit the company long term, rather than defaulting to the option that is likely to benefit shareholders in the short term.

“They [the board] have a really good understanding of the various stakeholders that as a business we need to consider. There will be times where the shareholder gets hit harder than others.... Every year, every month, every board meeting, there is this pendulum between stakeholder management and who trumps the other, depending on what the issue of the day is.” Company secretary, publicly listed company, finance, and insurance sector

The case studies below provide examples of how different boards had balanced the interests of shareholders and different stakeholders.

Case study 1 – Managing employee pay increases and shareholder dividends

In this example, a company director discussed the subject of capital allocation and how they determine when to prioritise shareholder or stakeholder (employee) interests. However, this example may indicate a slight over-preference towards shareholders – they admit that cost-of-living is still subject to inflation now, but they felt it was more important to prioritise an increase to shareholder dividends, when previously, the high cost-of-living was justification for giving employees a one-off lump sum to ease financial pressures.

“Last year... we had to decide whether we increase salaries for our people or whether we increase the dividend for our shareholders.

We decided that this year it was correct to return more money to shareholder than to give people pay rises. So, we ended up giving a 1% pay rise to our people that did not go down well when inflation is running at three percent, and we gave our investors a nine percent increase in dividends.

So, they made that decision for all the right reasons. The investors had just spent nine hundred million on an acquisition, and we thought it was the right thing to do to reward them for that huge investment that they made.

Whereas in previous years it was the other way around. So, during COVID, when there was a cost-of-living crisis, we gave our people... four or five thousand pounds one off for employees earning less than fifty thousand points.

So, every year, every month, every board meeting, there is a pendulum between stakeholder management and who sort of trumps the other, depending on what the issue of the day is.”

Company secretary, listed company, finance and insurance sector

Case study 2 – Applying s.172 to mergers and acquisitions

A company secretary of a wholesale and retail trade company discussed how operating in a declining market meant financial considerations were more important in decision making. They discussed how this market pressure had led them to revert to disposals, which meant they had been involved in a merger and acquisition process with the company. Because the bids received were close in value, on this occasion, the company was able to take a more principled stand and accept a slightly lower bid that was a better fit with the companies' values. However, the secretary felt had the bid been substantially higher, they would be forced to accept it, even if the bidders' values and intentions were not aligned with company values.

“While financial performance and economic decisions take primacy in 99% of the cases in a M and A disposal situation, the board did take into account the other Section 172 factors and gave greater weighting over and above some of the financial considerations.

When you have competing bidders, we consider ourselves a... values driven employer and therefore we were very mindful of two competing bidders. One was private equity; another was kind of a management buyout (MBO) style arrangement. And whilst the MBO might not have been on such economically advantageous terms, we felt it was for the longevity of the business and...therefore supplier relationships, customer relationships, colleagues...

We did recommend the competing bid even though it was slightly lower. If there was a material divergence in the bid values, fundamentally money would talk in that case."

Company secretary, publicly listed company, wholesale, and retail trade sector

Case study 3 – Shareholder relations in a biotech startup

In the example below, a director and company secretary of a biotech company (that was previously classed as a startup) highlighted the challenges that they faced managing more involved shareholders. This includes the kinds of pressures that they may place on the directors around company valuations for the purposes of fundraising. The director also highlighted how s.172 (1) and reporting requirements assume a level of maturity from large companies that may not always be present in start-ups. While businesses may meet the definition of a large company, doing so at speed means they may not have mature corporate governance structures in place. In the context of working for a business that had grown quickly, the director felt that S.172 assumes a level of maturity that could be challenging for businesses in their position. They had no solutions to offer, but felt it was worth recognising.

"I think director conflicts are very common, particularly in the startup space.... It's very common in the biotech space for investors to appoint board directors and that kind of leads to an ongoing conflict situation to manage. Mostly investor interests should align with company interests but maybe not always... but the overriding obligation to act in the best interest of the company is a powerful way of controlling those conflicts.

Every startup goes on a journey, where typically at the beginning your shareholders are very involved. You might have founder shareholders, you may only have a small number of shareholders, you're doing private fundraising and then you grow your shareholder base and reduce their involvement in executive matters. At some point... you have total separation between shareholder and executive matters. And the shareholders are more in the investor relations space than executive space.

For example, we still have two investor appointed shareholders on the board... our board is about nine or ten... so that proportion I would say is a particular challenge for us. Biotech is a capital hungry industry because it takes a long time to develop drugs... because the company wants to fundraise at the highest possible price and investors want to fundraise at the lowest possible price. The company may want to raise a lot of money and investors don't want to be diluted."

Director and company secretary, listed company, pharmaceutical sector

6.4 Impact of s.172 (1)

The research findings suggest that in most cases s.172 (1) has had minimal to no influence on board decision making on the companies that the interviewees worked for.

“Do we officiously apply Section 172? I’d say no because it happens by osmosis.”

Company secretary, publicly listed company, wholesale, and retail trade sector

In most cases there was limited to no explicit consideration of s.172 (1), and those who said it had any influence felt this was done in a very subtle way. As outlined in section 5.4, directors felt that because s.172 (1) was consistent with good corporate governance and business practices that they followed in their capacity as directors, they were unconsciously compliant with this duty.

“No impact. Because the principles of Section 172 are the right principle for how any business should be run, and because that’s the case, it’s what we’re already doing. So, it’s not influenced it...” Executive director, publicly listed company, waste, and recycling sector.

This point is illustrated by the quote below from a company secretary saying that they do not constantly remind directors what the legislation says, and directors almost innately want the best of the business. They suggest that culture is a way of subtly influencing directors to be compliant with s.172 (1).

“It’s not a case of... I’m there constantly reminding the directors that this is what the legislation says. It’s more about – and obviously, the directors are there trying to achieve success for the business – achieving success in the right way. Having the right culture. Directors... have a very good understanding of how a business should act and compliance with Section 172 comes within that general understanding.”

Company secretary, listed company, manufacturing sector.

All interviewees recognised the importance of s.172 (1) and what it is trying to achieve, but other more consequential duties, regulations, obligations, and motivations for action mean s.172 (1) is usually not the most important consideration for directors and boards. Directors recognise the importance of good corporate governance generally and take their jobs seriously. They expressly agreed they aim to act in compliance with all duties and regulations, including s.172 (1).

“We take corporate governance pretty seriously, and we have a review of all our policies and procedures and our Governance on an annual basis. This [s.172] is part of it.” Executive director, private family owner company, accommodation, and food services sector

There are multiple pieces of legislation, regulations, and duties that companies and their boards of directors must ensure compliance with, many of which are of much greater importance than s.172 (1). For example, directors of financial companies listed a range of regulations from the FCA, Bank of England and the London Stock Exchange Rules (amongst many others) that are significantly more important for them to comply with when making decisions.

“...when you’re a regulated business like we are... we have rules that are given to us by the FCA which are... more stringent and more complex.” Executive director, publicly listed company, finance, and insurance sector

Operational and customer safety was critical for waste, manufacturing, pharmaceutical, and transport companies, while pharmaceutical and aviation companies operate within strictly regulated sectors.

“From a director requirement – governance and making sure the business operates properly. The most important thing for us is that everyone goes home safely...” Executive director, publicly listed company, waste, and recycling sector.

Other directors highlighted how addressing and mitigating risks to the company, and increasing turnover and profitability were influential decision-making factors. There are also other parts of the Companies Act that directors must comply with. How companies operate and make decisions is the sum of numerous regulations, duties, laws, and responsibilities. S.172 (1) is one of many, and usually, not the most important. This resulted in directors explaining how s.172 (1) fits with their companies’ operations, rather than explaining how s.172 (1) had influenced operations. This suggests that directors placed more emphasis on demonstrating compliance rather than making changes to decision making or consideration of stakeholder interests in line with the underlying intention of the regulation.

“We’d argue we were doing it [s.172] already. So, I don’t think there’s anything per se that would we’d say we’ve done because we know we have to because of that law.” Executive director and company secretary, private family-owned company, construction sector

Legal repercussions of failing to demonstrate compliance and execution of their duties were very influential in the way directors prioritise considerations when making decisions. As highlighted in the literature review, a key issue with s.172 (1) is a lack of enforceability and accountability for directors who fail to uphold this duty. No UK board of directors has ever been prosecuted for failing to uphold their s.172 (1) duties, which was something highlighted by some directors interviewed.

Some directors stated that if directors and companies wanted to act in a way that was not consistent with s.172 (1), they could. For example, a construction company we spoke with discussed how a petrochemical facility in their city continued to produce polluting emissions despite fines and wondered how that could be consistent with s.172 (1). Another director we spoke with worked for a mining company involved in human rights abuses in another country, showing how companies can still engage in poor behaviour without repercussions for directors under s.172 (1). It is important to note that there are other measures (such as the Modern Slavery Act) that exist to address these specific issues.

Failing to comply with other regulations – for example, FCA regulations in the financial sector – could have serious reputational, financial, and existential implications for a business, meaning they are higher up the list of director considerations compared to a piece of legislation like s.172 (1), under which no director has ever been prosecuted. The lack of legal consequence for failing to uphold s.172 (1) duties, and the lack of accountability to stakeholders, is likely a primary contributing factor in the relatively limited consideration given to s.172 (1)³⁴.

“I know personally there is a petrochemical plant... in [local area] and... every couple of weeks we see massive flames coming from this petrol reprocessing plant because it is ineffective. They have to basically burn off as or the place will explode... So, I would say whoever is operating that is not operating in the best interests of the community and environment... but the guys who are running that place frankly don’t give a.... If you bring out legislation that no one prosecutes, then what is the point of bringing that legislation out?” Executive director, family run company, construction sector.

However, some directors highlighted it would be illogical not to comply with s.172 or follow the principles it sets out, as they suggested they guide good company decision making. As highlighted in the literature review, some directors felt the focus should be given to companies and directors who ignored s.172 (1) or who adopted poor corporate governance.

If other legislation and rules were more important for directors, it did not mean they completely disregarded the role s.172 (1) can play in supporting corporate governance.

“I think our regulator requests will always trump 172, but I would say ten out of ten times they actually work together really well... in our world, consumer duty for our clients is our number one regulatory risk right now. Consumer duty is all about treating you customers fairly. 172 is doing exactly the same thing, it’s saying to the board, ‘make sure that you know your customers’... I’ve not come across where a regulator has said something and it has gone completely against the Companies Act.” Company secretary, publicly listed company, finance, and insurance sector.

Despite directors and company secretaries suggesting s.172 (1) has minimal impact, there was limited negativity towards s.172 (1) or a desire to remove or change it. In fact, one director suggested that any change to remove shareholder primacy would potentially make the UK a less attractive place to invest.

³⁴ In the interviews, directors were asked “How influential are discussions related to Section 172 requirements compared to other legal requirements when boards make strategic decisions?”. No directors said that s.172 was more influential than other legal requirements. They emphasised their priority was the most legally consequential legal requirements for their business. For example, those in finance sectors stressed that complying with financial regulations was their top priority.

“I do like having it [s.172] in legislation because for me the purpose that it serves is if the directors are ever sued... then the directors are protected from that... So, I wouldn't want to lose Section 172.... I do think shareholders should retain primacy. It's their company, it's their money... within the realms of what is legal, I think directors should be allowed to put the interests of shareholders first... And I also think if that it was changed, it would... make being a UK company a much less attractive place to invest for global investors because you can put your money in another jurisdiction where your interest as a shareholder will be at the top of the list.” Executive director and company secretary, publicly listed company, pharmaceutical sector

Fundamentally, directors felt that they complied with s.172 (1) in spirit without always specifically being aware how their actions ensured compliance. Directors believe that, as good corporate governance professionals, they will always consider a range of factors when making decisions, without being specifically motivated by s.172 (1), and to act in any other way would be bad for business. As one director interview said about s.172 (1):

“If you're in business and successful, these are the things you should do... if you try to screw employees, they won't work for you. The same goes for suppliers, you need relationships with suppliers. You don't need a paragraph of legislation to say that's how you should work... if directors were to act that way, a company would fail in months.” Executive director, private company, construction sector

Similarly, directors did not feel that s.172 (1) had encouraged a shift towards long term decision making. Directors felt that good directors and company boards had always, and were continuing, to make decisions for the long-term benefit of the company. Although circumstances and other factors influenced the time horizon of some decision making, directors generally felt it would be counter-productive to run the company for short-term interests, and s.172 (1) was not the primary factor driving that understanding of decision making. One director interviewed, for example, remembered the introduction of s.172 (1) and felt that the emphasis on long-term decision making had not changed, while others have not perceived a trend towards greater consideration of long-term decision making beyond what they already do. Running businesses for the long-term, for example, is an intrinsic part of directing a family run business, as directors feel a strong sense of inter-generational stewardship for their company.

“Their [family owners] driving philosophy is not inconsistent with Section 172 because actually what they care about is the business being about for the long term, being able to pass it on to the next generation... So, there's strong alignment between what they want as family owners and their conduct as directors of the business.” Company secretary, family-owned company, manufacturing sector

However, directors explained some circumstances where it was not always possible to make long term decisions. A director and company secretary of a mining company said that their industry is based around more short-term cycles, which can affect long-term goals and interests:

“Sometimes those long-term goals and interests have to be reined in a bit and you’re much more focussed on the short term... you have to be because the company is... focussed on near-term critical issues.” Executive director & company secretary, publicly listed company, mining sector

In the case study below, a director explained how shareholder short-termism can come into conflict with the long-term interests of the company, and how they navigate this as a company director. The director described their role as managing shareholder expectations, particularly when their short-term requirements conflict with, or don’t support, the company’s long-term strategy.

Managing shareholder interests for the long-term benefit of the company

“My job is to ensure sustainability and safeguard to the business long term. I’ll go back and challenge the shareholders if their approach seems short-termism and not aligned with the long-term strategy of the business. Through dialogue and making sure what we are working on is transparent, we achieve common alignment. You will have periods of friction, so the dialogue becomes more frequent and robust.”

The director explained that short-term shareholders objectives for their business tend to be financial targets, such as increasing cash or improving working capital by reducing expenditure, for example, by reducing the number of suppliers they work with, changing how they are paid, and changing the frequency of payment. The director recognised that their business plays an important role within their sector, meaning how they choose to work with suppliers has consequences for the supplier market. This gave the board confidence to push back against shareholder demands in this instance.

“If you want to... promote local communities and have social value, you want to work with smaller enterprises. It’s hard for them to have long term liquidity, so we have shorter payment terms.” Director, publicly listed company, waste, and recycling sector

7 Section 172(1) Reporting Requirements

Summary findings

In terms of attitudes, many directors and company secretaries were indifferent or negative about the requirement to report on s.172 (1). Some questioned the value of the statement (e.g. they were not clear if, and doubted whether, investors read them) and if it was really needed. Some were supportive of the statement and recognised its benefits.

The reporting requirements do not appear to have changed the decisions made by companies though some interviewees suggested that it had helped to encourage greater considerations of different stakeholders in decision making processes.

A few directors and company secretaries suggested the reporting requirements had led to improved information gathering to demonstrate how different stakeholders had been considered.

Statements are generally prepared by the company secretary and in the case of larger companies by their team. The statements are reviewed and signed off by the board. In some cases, external auditors review and comment on the statement, though they do not audit the content.

The statements were presented in the annual strategic report. Some interviewees were happy with this location, while some suggested it could be better presented and updated on the company website (instead of in the report).

The preparation was flagged as being fairly time consuming particularly for senior executives. The costs were identified as the time spent by staff including board members.

Most directors and company secretaries did not flag concerns with disclosure of the information that had been included in their statement.

7.1 Introduction

This section focuses on s.172 (1) reporting requirements, exploring the views towards the requirements and the impact that they have had. The reporting requirements are set out in The Companies (Miscellaneous Reporting) Regulations 2018. It states that *“a strategic report for a financial year of a company must include a statement (a “section 172(1) statement”) which describes how directors have had regard to the matters set out in the section 172 (1)(a) to (f) when performing their duty under section 172”*.

7.2 Perceptions of s.172 (1) reporting requirements

The directors that participated in the research were asked about their thoughts on having to prepare and disclose a s.172 (1) statement. Interviewees generally understood the intention behind the introduction of the s.172 (1) statement and were supportive of its aims but questioned its impact. The majority of directors were either indifferent or negative about the requirement to

report on s.172 (1), although some were positive or had come to view the requirement positively over time.

Benefits raised during the interviews included improving transparency and creating the opportunity for companies to demonstrate how they have considered stakeholders, providing value for investors by creating insight into company values beyond value creation, increasing shareholder confidence in director decision making and the companies general direction, as well as raising standards of corporate governance, and encouraging greater consideration of stakeholders in decision making.

One director of a listed food and drink company said it was an opportunity to show the company's positive actions beyond just increasing profit for shareholders and felt showing this had become more important to a range of stakeholders, including customers and employees.

"It does give us a chance to put the company in a good light and show the good things we're doing. And I think that's becoming more and more important for customers who are more concerned about these issues and also employees from a recruitment perspective and from a banking perspective." Director, accommodation and food services

Another suggested that it was good from an investor point of view but was sceptical about whether the statements drove change.

"I think it's good... from an investor point of view, to show that the company is doing more than just generating profit... On the one hand, it [preparing a statement] can be a good thing. It makes businesses think about what they need to do. For me – these are principles of how we operate. It [preparing a statement] becomes more of a bureaucratic activity, more documentation that doesn't drive change underneath ...I would like to see the accounts get smaller." Director, publicly listed company, waste, and recycling sector

A director of a listed real estate company said they had become more positive towards it over time because they believe it effectively brings together governance, strategy, purpose, and values, particularly when a company prioritises balancing the needs of all stakeholders.

"The annual report, for me, if I was going to be looking for another job, I would pick up an annual report and I would read it and that would give me an idea of what the company is like... It's showing what the board's values are and what the company's values are. So, I think it's important to make sure that that's publicly available."
Executive director & company secretary, wholesale and retail trade

Some directors questioned whether the statement was really needed, suggesting they did not see value in it. It was described by one director as a 'box-ticking exercise' while another said it should be removed.

"But that's the one challenge that I give back to you is... all this regulation that keeps coming out... what's the value add here? Who actually benefits from all this? We spent hours on this sort of stuff but, you know, the buck and the bang... I struggle with that quite a lot." Company secretary, publicly listed company, finance and insurance sector

"I don't see very much challenge from the outside world to these statements... I'm not totally convinced that it's actually having as much impact as it might." Executive director & company secretary, publicly listed company, mining sector

Some interviewees questioned whether investors or stakeholders read the s.172 (1) statement. Some suggested the value of the statement was ultimately derived by those who use it. They would need to be consulted to understand whether they have found it useful or not.

7.3 Preparation of s.172 (1) statement

S.172 statements are prepared as part of the annual company reporting process. The key steps in developing and signing off the s.172 (1) statement were:

- gathering information which in some cases was collected throughout the year for example via board reports, and reports from engagement with stakeholder groups. This would include examples of where the board had considered different stakeholders in decision making or where they had engaged with or supported particular stakeholders;
- compilation of the statement by the company secretary or their team;
- the board would then review the draft, provide their input and feedback on the chosen examples and the draft statement;
- reviewing and commenting by independent auditors. Although there is no requirement to have the statement independently audited, some directors and company secretaries said they had auditors review their statements; and
- final sign off by the board.

Some interviewees provided more detail about how they engaged stakeholders. Stakeholder engagement was usually mentioned in relation to employee, customer, or supplier engagement activities. Employees were usually engaged through surveys, townhall events, and through line management. Customers and suppliers were typically engaged through satisfaction surveys and other research. There was no suggestion that the introduction of s.172(1) reporting requirements had changed how businesses engaged with stakeholders or encouraged them to conduct fresh stakeholder engagement to inform reporting.

In some cases, the s.172(1) statement would be reviewed and commented on by independent auditors when it is shared with them as part of the wider annual report. External auditors were used by some of the larger companies (particularly listed firms) for review and comment on the

statement. Larger companies were generally more likely to have a legal counsel that would have more knowledge of s.172 requirements than smaller companies.

In rare cases, the person preparing the statement did it on their own, but most had at least some input from others.

7.3.1 Level of effort and time required to produce a s.172 statement

A full spectrum of level of effort on the report were revealed during the interviews and in our review of the statements. Larger, especially listed, companies seemed to take the statement seriously and put in a lot of effort to prepare thoughtful statements. A minority indicated low effort and were in a 'boiler plate' format for compliance and ease. Most went beyond confirming compliance, but the level of detail provided varied.

The time taken to gather the information and prepare the statement was flagged as the main challenge to preparing the statement. Particularly the need to allocate senior executives time to it. However, some interviewees suggested the time taken to write the statement wasn't significant in comparison to the wider annual report requirements. For example, one director said their statement took up 3 pages of a 600-page report, while another said it was 3 pages of a 60-page report.

"It's just hard work because you need, you need data...So it is not a one-dimensional jigsaw, it's three dimensions because the more you do it, the more questions come up and you can't disclose something that doesn't have any rationale. It needs the rationale to sort of make it make sense. Otherwise, it's just, it's just a number doesn't mean anything...It's just internal time." Company secretary, publicly listed company, finance, and insurance sector

Some interviewees suggested that it was initially more time consuming, but with experience, they have become much quicker and more efficient producing it.

One interviewee from a large, listed construction business, discussed the challenges of providing more detail that had been recommended by their auditor. They said that major investments in buildings costing nearly a billion pounds happen infrequently, which they felt was the main consequential disclosure their business would need to share in a s.172 statement. Thus, they felt they often had to try and force other information into their s.172 statement at the recommendation of auditor. This interviewee along with a few others, flagged the difficulty of finding new things to say each year when their businesses made few decisions that they felt were worth disclosing.

Many interviewees however did not bring up any challenges in preparing the statement.

"It's not particularly challenging... if you've got good records and you organize yourself well, then it shouldn't be challenging. If you're under resourced, it might be more challenging." Executive director and company secretary, publicly listed company, mining sector

"I think the only time you would find it a challenge is if you're doing something wrong, trying to hide." Executive director, publicly listed company, finance, and insurance sector

The main concern raised about the statement was linked to broader criticisms about the size of annual reports. Some felt they should just be a purely financial statement, and adding more information was not necessary/made it harder to identify key financial information.

7.3.2 Costs of preparing the statement

Many of the interviewees suggested the cost was predominantly staff time incurred which was wrapped up with the wider annual reporting. Some suggested that it was costly particularly due to the senior executive time involved. Others suggested that it was not very costly at all.

"One of the challenges...is it costs a lot...the opportunity cost of having Senior executives spending...hours reviewing documents..." Executive director, private company, legal sector

"I would say minimal to zero. Because you're already obviously producing your... report and all that goes with that. So, the incremental cost of having the Section 172 statement or not is pretty minimal." Company secretary, publicly listed company, pharmaceutical sector

One director suggested that the costs were low because their statement was not data-rich, making it an inexpensive compliance obligation.

7.3.3 Disclosure

Most interviewees did not raise concerns with disclosure of the information that was in their statement. Companies choose to disclose information they believed was material and would not reveal anything they believed was commercially sensitive. One director of a large, listed company interviewed said that any major decisions they made were announced publicly throughout the year, so felt that their s.172 disclosures would not be a surprise to investors that read them.

"Anything that we've done that's significant, we would have announced it or report on it... so I'm not entirely sure that its [s.172] an entirely necessary disclosure." Company secretary, publicly listed company, pharmaceutical sector

A few interviewees flagged the challenge of being in a competitive industry but suggested that what was shared was not commercially sensitive.

"Obviously we're in quite a competitive industry. There are things in there that we're doing that we're disclosing that we probably wouldn't have disclosed if we didn't do this...But I don't think there's anything, there's nothing too secret in there..." Executive director, private company, accommodation, and food service sector

7.4 Comparison of director views and statement disclosures

As part of this study, the s.172 (1) statements for the relevant companies were reviewed using a structured grid that considered location, compliance, accessibility and visibility, content and the depth of information provided. The review explored whether the statements offered a statement of compliance or detailed examples of s.172 (1) application in board decisions. We compared the statements' content with directors' interview responses to gauge alignment with their perceptions and practices, providing valuable insights into their corporate governance approaches.

The statements from the companies were positioned within the Strategic Report. These documents were easily retrievable via a simple Google search or through Companies House, ensuring ease of access for both stakeholders and the public. However, locating statements for subsidiaries was more challenging, often requiring additional searching due to their less prominent placement on Companies House.

Many interviewees were content with the statement being in the annual strategic report or did not see a reason to change this. However, others felt the statement could be taken out and placed on the company website like modern slavery and gender pay gap reporting.

Most statements were categorised under a section specifically labelled as 'Section 172(1) Statement'. Some companies used alternative headings such as 'Directors' statement of compliance with the duty to promote the success of the Company' or 'Our approach to engagement'. While these alternative headings occasionally made locating the sections slightly more challenging, they often made the information more accessible to those less familiar with s.172 (1). The clarity of key information varied significantly, with many statements methodically structured to address all s.172 (1) factors, although the level of detail varied widely among companies. Companies with more detailed statements often had better accessibility, using tables, diagrams, and text boxes to clearly explain the factors, and signpost to other parts of the report.

Most statements were structured around the s.172 (1) considerations. The length of the statements varied significantly, from as short as six lines to as extensive as nine pages. Shorter statements generally just confirmed compliance, with minimal information on fulfilling s.172 (1) obligations, and not being written in the intended spirit of s.172 (1). In contrast, longer statements included detailed examples illustrating the application of s.172 (1) in real board decisions, showcasing how different stakeholders were considered and impacted by these decisions. Longer, detailed statements frequently included cross-references, effectively integrating with the rest of the annual report to provide a holistic view. A notable example of effective cross-referencing was demonstrated by one company, which included a table listing the s.172 (1) factors, each with multiple references to other report sections for more detailed coverage.

The alignment analysis between interviewee statements and their respective companies' s.172 (1) statements revealed consistency in most cases. For instance, one interviewee admitted to limited familiarity with s.172 (1), a sentiment reflected in their company's succinct statement.

One of the most comprehensive examples comes from an interview where the interviewee clearly displayed a deep understanding of s. 172 (1). They discussed the structured integration of stakeholder considerations within board meetings, echoing the company's formal statement outlining the strategic incorporation of stakeholder interests into corporate governance frameworks. The interview contains discussion of examples, such as pension buy-ins, and the procedural embedding of s.172 (1) into board papers, highlighting the practical application of these principles, mirroring the statement's emphasis on long-term strategic alignment and stakeholder engagement. Furthermore, both the interviewee and the statement emphasised the importance of regulatory compliance and transparency, illustrating a comprehensive approach to meeting legislative obligations while encouraging sustainable value creation.

The most considered statements showed signs that FRC guidance³⁵ had been followed, with varying degrees of information provided about decisions and actions taken, and how these fit with the aims of the business (and with promoting the long-term success of the company for the benefit of shareholder and stakeholders alike).

7.5 Impact of the s.172 (1) statement requirements on company behaviour

The reporting requirements do not appear to have changed the decisions made by companies with the majority of interviewees stating that it had not affected their decision making. A small number of interviewees suggested it had either helped them to consider different stakeholders more in decision making processes or helped to encourage more discussion and broader more balanced considerations. Additionally, a few directors suggested the requirements had led to improved information gathering to demonstrate how different stakeholders had been considered.

Some interviewees suggested that the introduction of the s.172 (1) statement requirement had not changed how their company operates, as they believed they already operated in a manner that was consistent with s.172 (1). For example, one interviewee suggested that the statement “...allows one to consolidate what was already standard practice” (Executive director, private company, finance, and insurance sector).

A small number of interviewees, however, did suggest that the requirement to prepare the statement has altered decision-making, for example by providing a framework for considering stakeholder interests in pivotal decisions.

³⁵ <https://www.frc.org.uk/library/digital-reporting/esg/reporting-on-stakeholders-decisions-and-section-172/>

"There's no question at all that it was very helpful...to have to be able to draw up and say...Let's assess ourselves explicitly against the things that we need to consider...making it embedded in day-to-day operations of business...if it becomes a tool...which helps you to make the decisions." Executive director, private company, legal sector

One interviewee noted that the requirement to prepare a s.172 (1) statement has prompted a greater consideration of stakeholder interests during discussions and decision-making, even if it did not fundamentally alter the final decisions.

"We do use the fact that we are going to be reporting on it sometimes to remind the board... ensure that the... discussion and the decision making is broader and more balanced... It's probably helped to improve our decision making in our discussions. Has it changed the decisions that have been made? Probably not." Executive director and company secretary, publicly listed company, mining sector

Another interviewee suggested the introduction of the statement had helped encourage conversation on the considerations of stakeholders, and some had suggested it was in line with increased thinking more generally about the purpose of businesses, taking into account wider considerations such as social good.

"What's new is us having a conversation about it. Us talking about it. You know, companies almost either selling themselves better, justifying it or evidencing it. I think that's the main difference." Company secretary, publicly listed company, finance, and insurance sector

However, for other interviewees, s.172 (1) was often viewed as more of a compliance exercise than a genuine shift in organisational culture. An interviewee stated:

"It came out in 2006. We were thinking about this because obviously I've been in the company since 2001. We were thinking about that in 2005. So, has a company's ethos changed since that came out? The answer is no. All we do is we have to report it now." Executive director, family-owned company, construction sector

Some interviewees suggested that they thought the statement is a good idea in principle, but its value is diminished by it becoming "just another thing to do" for compliance" (executive director, private company, legal sector).

Whether or not the interviewee worked for a UK listed company did not appear to lead them to a particular viewpoint on the requirement to report on s.172 (1). Some suggested they thought it was a good idea, and others questioned its value. A small number did however suggest that the requirement to report on s.172 (1) had positively impacted how stakeholders were taken into account in board decision making.

Some companies discussed how initially they found the statement challenging because they did not capture information about the decision-making process in a way that could be readily and

easily reflected in a s.172 (1) statement. Some interviewees explained that their decision-making processes are iterative and done in complex ways – there is not a single neat decision to reflect in a s.172 (1) statement. Some of these companies have responded by changing how they capture decision making in, for example, the minutes of board meetings, to make it easier to write their s.172 (1) statement. However, others suggested this was merely a change in information collection practices, and not indicative of s.172 (1) statements driving decision making.

Some of the interviewees provided recommendations on how they thought the reporting be made more useful. Suggestions included:

- the need to embed s.172 principles into the day-to-day operations and decision-making of the business it increases its value, making it truly effective and valuable. This would avoid producing a statement becoming a compliance exercise;
- the need for guidance on preparing the statement;
- the simplification and strengthening of s.172 (1) reporting, focusing on quality over quantity;
- the development a concise, standardised two-page template and advocate for trade bodies, rather than consultants or advisors, to lead the development of the template; and
- some suggested that s.172 (1) could have a more prominent place such as on the company website to make it more accessible to a wider audience.

8 Conclusion

This report has provided the detailed findings of the qualitative research with executive directors and company secretaries of large companies to understand their perceptions of s.172 (1) of the Companies Act (2006). It also explores their views on the requirement to publish a s.172 (1) statement in their annual accounts, and to understand the impact that it has had on company decision making.

There appears to be a high level of awareness amongst directors about their duties under s.172. They understand that good decision making should be considerate of stakeholder interests as well as shareholders and believe that companies should be run for the long term rather than the short term. However, many directors do not see s.172 as having influenced this behaviour. Some felt this is how they had always acted, and that s.172 had not changed this, while many felt that these principles were applied because they are the right ones for running a successful business and not because s.172 requires it. Directors recognised the importance of what s.172 is trying to achieve and maintaining compliance. The majority had no desire to remove s.172 or change it.

Many of the interviewees suggested that s.172 had minimal to no influence on their board decisions. It was also raised by an interviewee that s.172 would only be specifically referred to in the case of high-profile decisions where there is a greater need to demonstrate due diligence to shareholders. For example, during a merger and acquisition process. Some interviewees however reflected that s.172 had been integrated into decision making processes (through board papers for example).

Directors were more likely to change their behaviour and decision-making processes to comply with legislation and duties that have legal ramifications. The lack of legal enforcement and accountability of directors to stakeholders means s.172 is regarded with lower priority and minimises its actual influence on decision making. As directors pointed out and was highlighted in the literature review, companies can operate in ways that are not compliant with s.172, without suffering any legal consequences under s.172.

While the introduction of s.172 (1) reporting requirements were intended to try and increase transparency around board decision making, many directors questioned the need to produce a s.172 statement. Some interviewees flagged that preparing a s.172 (1) statement was an additional time requirement. Some felt that the preparation of the statement was more challenging at first, when the requirement was new and unfamiliar, but it had become less time consuming as they became more familiar with it over time. Some interviewees did not feel that reporting requirements were particularly onerous and had been integrated into the standard annual report process. However, they questioned the value of the statement and were unsure whether shareholders read it or found it valuable. Understanding the views of investors and other stakeholders on s.172 and the reporting requirements is an area that could be explored through further research.

Some interviewees suggested that the introduction of the statement had enabled them to tell a positive story about their company, which could be beneficial to be able to demonstrate this to investors, or that it had encouraged them to think more about stakeholders when making decisions. However, many interviewees did not feel the introduction of the reporting requirement had resulted in a change to their business decision making. Companies find ways to make their actions fit within the framework of s.172 for reporting purposes, rather than changing their behaviour because of s.172 and reporting how that happened.

Many suggested that the value of the statement was not fully maximised. A small number provided recommendations on how the value of it could be increase. For example, the simplification and strengthening of s.172 reporting, focusing on quality over quantity, and provision of guidance and a template.

Appendix A: Methodology

Research Approach

A qualitative research approach has been used for this study to make the best use of the time with directors of large companies. It offered the opportunity to probe in more detail on specific aspects of company governance and decision making and how these have been influenced by s.172 and reporting requirements.

Alongside this qualitative research piece, DBT conducted a separate online survey with small and medium sized enterprises (SMEs) in partnership with Companies House. The survey was designed by DBT with input from Ipsos to ensure some continuity across research materials, which would enable easier comparative analysis at the completion of fieldwork.

Scoping stage

To support the design of research materials and the recruitment approach, Ipsos conducted a review of existing literature regarding s.172 and reporting requirements and interviewed expert corporate governance stakeholders. This helped to identify key topics for the research, informing questions for company directors. It also validated and challenged assumptions about the proposed approach to researching company directors. Findings from these activities were presented to the project steering group in January 2025, gaining their support for key research topics and proposed approaches to sampling and recruitment approach.

The review was conducted by Professor Roger Mortimore, an experienced academic in the field of public opinion research and political analysis. He reviewed fifty-three sources in total, including journal articles and abstracts, reports and publications for legal and financial organisations, and guidance on s.172 reporting published by a range of organisations including FRC.

Documents and sources identified were summarised in a standardised collection template agreed with DBT. The template captured:

- the source and key themes / topics;
- any relevant findings related to s.172;
- how the source interpreted director duties under s.172;
- perspectives on the impact of s.172 (and the perceived impact on long term shareholder value creation);
- effects of s.172 on board decision making and behaviours (including relationships with investors and shareholders);
- criticisms and challenges of s.172; and

- any comparisons with similar legislation internationally.

The criteria listed above were used to assess the quality of the source and the relevance of it for further analysis regarding s.172. This ensured the final literature review contained high quality, up to date research on s.172 (1) and reporting requirements.

Ipsos conducted seven, one hour-long scoping interviews via MS Teams with key industry bodies including the Institute of Directors, the Corporate Governance Institute, ShareSoc, Clifford Chance, the International Corporate Governance Network, the Trade Union Congress, and the Better Business Act. The purpose was twofold:

- to gain insight into a range of perspectives on the key issues surrounding s.172 and the introduction of reporting requirements; and
- to test assumptions about the research approach and draw on stakeholder experience to determine the most effective way to reach and interview company directors.

Ipsos agreed a discussion guide with DBT, which comprised questions aimed at broadening understanding of s.172 and reporting requirements, including key current topics, issues or areas of debate, and questions that aimed to understand the best way to conduct the research with company directors. For example, the research team anticipated that contacting directors of large businesses would be challenging and wanted to understand what the most effective way of contacting directors might be. All scoping interviews were conducted in December 2024.

All contacts were provided by DBT and were chosen to reflect a range of views and perspectives on s.172. The organisations consulted at this stage included: Better Business Act, Chartered Governance Institute, Clifford Chance, GC100, Institute of Directors, International Corporate Governance Network, Sharesoc, and the Trade Union Congress.

Sampling and recruitment for interviews with directors

Upon completion of the scoping stage, a sample strategy was agreed for recruiting and interviewing directors. The sampling approach taken for this project was opportunity sampling, meaning we primarily sampled directors who were willing and available to participate in the research. This approach was primarily led by the expectation (and reality) that it would be difficult to recruit directors of large companies, due to their availability and the role of gatekeepers.

Ipsos worked with a third-party recruitment company (i-Thoughts) to recruit company directors for the project. i-Thoughts has access to large databases of professional contacts and networks of recruiters which could be leveraged to identify suitable directors to participate in the research.

Whilst it was not possible to establish firm recruitment quotas beyond the core requirement that the participants be active company directors or secretaries of a large business, the final sample nonetheless achieved a good range of participants across various industries and roles. Ipsos and DBT agreed a light-touch sample frame to use for recruitment, with quotas designed to ensure a

range of viewpoints were represented in the final sample. Generally, once a willing and suitable director was found who wanted to participate, they were accepted for interview.

Ipsos and DBT agreed to aim for 30 interviews with company directors and company secretaries. Recruitment began in February 2025 and concluded in June 2025, with a total of 24 directors recruited. While slightly less than the total number of interviews anticipated, a sample of 24 is large enough to be robust and provide confidence in the findings presented in this report.

Several sampling criteria were established. These included the specific role of the interviewee, such as executive director or company secretary, and their tenure within the organisation, to ensure we had a good split and gather insights from varying levels of experience. Company characteristics were also central, with criteria for annual turnover, industrial sector, and whether the company was listed or not. The sampling sought to achieve a diverse range of directors to support analysis of the influence of different governance and ownership models, considering factors like shareholder structure, the presence of activist shareholders, and whether the company operated within a regulated industry. The sector breakdown is as follows:

- Finance & Insurance: 5
- Wholesale & Retail Trade: 4
- Manufacturing: 2
- Pharmaceutical: 2
- Construction: 2
- Real estate activities: 2
- Information and communication: 2
- Mining: 1
- Waste and recycling: 1
- Transport: 1
- Legal: 1
- Accommodation and food services: 1

The original recruitment strategy also intended to include participants from two specific groups: non-executive directors (NEDs) and charities. Unfortunately, despite our efforts, it was not possible to recruit any individuals from either of these categories. The absence of representatives from charities is a gap, as it means s.172 (2) could not be explored within this research.

Discussion guide design

The discussion guide was designed to directly address the research objectives, and its development was a multi-stage process. The guide was built upon the initial literature review and scoping interviews. The literature review was used to inform the main areas of inquiry, helped to identify key concepts, and ensured the terminology used was correct. Following this, findings of the scoping interviews were used to make the language more practical for interviewees, test the clarity of the questions, and ensure it was focused on the right topics.

Once a draft guide was developed, it was subjected to review by the project's steering group. This group's role was to provide expert oversight, ensuring the questions remained tightly focused on the core research objectives. Their feedback was crucial for refining the flow of the interview, challenging any ambiguous phrasing, and confirming that the guide was well-positioned to gather the specific data needed to answer the primary research questions.

As interviews were with senior leaders of large companies, potential time constraints also influenced the design of the guide. To maximise the insight from the interviews, certain key questions in the discussion guide were prioritised, as it was not feasible to cover every line of enquiry. A core set of essential questions was agreed between Ipsos and DBT that directly addressed the research objectives, while a secondary set of questions were available to be asked if time permitted. This structure gave the interviewer a clear framework to follow, ensuring the most important information was captured in every interview. In practice, interviewees were generous with their time, with most interviews extending to a full hour. This led to more thorough discussions, where we could cover both the main questions and other important topics.

It is important to note that all research interviewees were explicitly told that the UK government does not currently plan to make any changes to Section 172 (1) but are committed to gathering views of companies to ensure that the policies are working as intended.

Comparison of company statements with director disclosures

Ipsos conducted a systematic review of the s.172 (1) statements of the companies that the interviewees worked for and compared them with how directors had described them in the interview. The purpose of this exercise was to understand the level of effort companies put into the preparation of a statement, and the value they assigned to the preparation of a statement, and whether this was reflected in the statement the company had produced. The exercise also considered the quality of statements and whether they showed signs of having followed the Financial Reporting Councils (FRC) guidance³⁶ on producing s.172 (1) statements.

³⁶ <https://www.frc.org.uk/library/digital-reporting/esg/reporting-on-stakeholders-decisions-and-section-172/>

Ipsos used an analysis grid, which captured key information about compliance (did they have a statement), location (where was the statement and was it easy to find), and quality (did the statement go beyond confirming compliance with s.172). Findings from this activity can be found in Section 6.4 of this report.

Appendix B: Breakdown of Final Sample Achieved

Table 1 Breakdown of final sample achieved.

Sampling Criteria	Breakdown of Achieved Sample
Type of director	Executive director: 9 Company secretary: 7 Executive director and company secretary: 8
Tenure	0-4 years: 1 5-9 years: 7 10-14 years: 2 15+ years: 14
Turnover	£36m < £50M: 2 £100m < £250m: 3 £250m < £500m: 3 £500m < £1bn: 2 £1bn+: 14
Sector	Finance & Insurance: 5 Wholesale & Retail Trade: 4 Manufacturing: 2 Pharmaceutical: 2 Construction: 2 Real estate activities: 2 Information and communication: 2 Mining: 1 Waste and recycling: 1 Transport: 1 Legal: 1 Accommodation and food services: 1
Listed / Not Listed	Publicly listed: 17

Sampling Criteria	Breakdown of Achieved Sample
Shareholder Structure	Private: 7
	Family owned / partially family owned: 4.
	One or more large minority shareholders: 7
	No majority shareholder: 9
	Wholly owned subsidiary within a group: 2
	Private equity owned: 2
Regulated Industries	7 (Finance, legal, waste and recycling)
Activist Shareholders	Yes: 5
	No/Don't know 19

Appendix C: Discussion Guide

Before the interview

If available, read the organisations S172 statement and complete the analysis framework.

Introduction (3 minutes)

Thank you for agreeing to take part in this interview. My name is [name], and I am a researcher at Ipsos. We are conducting this research on behalf of The Department for Business and Trade (DBT). Thank you for agreeing to participate in this important research.

DBT have commissioned Ipsos to undertake a project to understand how directors [if appropriate: and company secretaries] perceive Section 172 (s.172) of the Companies Act 2006 and its effects on company strategy, decision-making, and long-term value creation as well as the impact on companies of having to prepare and disclose a s.172 statement.

The Government does not have plans to amend Section 172. This research is not a pre-cursor to any tangible, material changes to Section 172 of the companies act.

This research will feed directly into the current post-implementation of the Companies (Miscellaneous Reporting) Regulations 2018 (which implemented the requirement for large companies to produce a s.172(1) statement) and ongoing reviews of company law and reporting, contributing to the broader evidence base in this area.

We may ask you some detailed questions about Section 172. This is not a quiz. We are not looking for right or wrong answers. Our intention is not to judge your knowledge of corporate governance or your performance as a company director / company secretary. We simply want to know your views and perspectives on Section 172 and how your organisation approaches corporate governance.

We encourage you speak as freely as you wish about how your organisation approaches decision making and corporate governance, but we understand if there are any commercially sensitive subjects that you may not wish to disclose. Please let us know if that is the case – you are not required to answer any questions you do not want to.

The interview should last around 45 minutes [we can do 30 minutes, offer as appropriate]. The legal basis for processing your data is your consent to participate. Your participation in this interview is voluntary and you can change your mind about your participation at any time.

Anything we talk today will not be attributed to you or your organisation. When we report our findings, participant responses are always aggregated so you will not be individually identifiable. We may use some direct quotes in our reporting, but you will remain anonymous.

[Ask if the interviewee has any questions about the study]

We would like to audio record this interview for analysis purposes, to help us accurately collect information. The recordings will be securely stored and retained by Ipsos and will be securely destroyed after the completion of the project.

[Ask for permission to record the interview – record on OBS and use headset]

Note for moderator:

- Tailor questions throughout based on whether the interviewee is a company director or company secretary (note suggested word/text replacements throughout)
- Tailor questions throughout based on the participants level of knowledge of S172 (note suggested word/text replacements).
- **Questions in bold are key questions that should be asked, especially if the participant can only speak for 30 minutes.**

Ask as many of the other questions as possible within the time available and based on what the most useful thing would be to ask that particular interviewee.

Participant background & knowledge of corporate governance (5 minutes)

Objectives of this section:

- Understand organisational context and participant's activities as director
- How aware are Directors of their duties under S172? [Moderator note: please tailor question wording accordingly based on the level of the participants understanding of S172]

Timing: 5 minutes

	Question
1	Could you please tell me about your role on the board of directors and some of the main activities of your organisation/company?
2	How well would you say you understand Section 172 of the Companies Act [if company director: and your duty as a Director under Section 172]?
3	Before I ask you any further questions, would you like me give you a reminder of Section 172(1)? Show definition on screen if needed:

A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to:

1. the likely consequences of any decision in the long term
2. the interests of the company's employees,
3. the need to foster the company's business relationships with suppliers, customers and others,
4. the impact of the company's operations on the community and the environment,
5. the desirability of the company maintaining a reputation for high standards of business conduct, and
6. the need to act fairly as between members of the company.

You can ask for a reminder of this text again at any point in the interview.

Perceptions of S.172 (7 minutes)

Objectives of this section:

- How do directors perceive S172?
- How has S172 influenced company decision making?

[Moderator: If participant has limited awareness of S172, ask them to respond to these questions to the best of their abilities. Offer to display the wording of S172 on screen if that helps discussions.]

Timing: 7 minutes

#	Question
4	Based on your knowledge and understanding of Section 172, what would you say is the intended purpose/objective of Section 172?
4a	How were you initially made aware of your Section 172 duties as a director? How do you keep up to date with your duties under Section 172?
5	There are a few terms listed within Section 172 I'd like to specifically ask you about. What comes to mind when thinking about the following terms? 'have regard to' 'good faith'

	'members as a whole'
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Impact of S.172 on board decision making (15 minutes)

Objectives of this section:

- How has S172 influenced company decision making, if at all?
- How does the company consider other interests and stakeholders in decision making?
- How are interests/factors in S172 understood and prioritised in decision making?
- Evidence of shift towards long term decision making that can be attributed to S172

Timing: 15 minutes

#	Question
6	How do the directors in your company have regard to the interests of other stakeholders, while acting in the interest of shareholders? Probe: how are the specific interests/stakeholders listed in S172 considered? E.g what is the process for considering employees? Suppliers? How are executive directors held to account on those decisions by non-executive directors?
7	Could you give us an example where S.172 affected a decision you/the directors made? <i>If participant has low awareness of S.172: Could you give us an example where you needed to make a decision but had to consider other interests like the reputation of the company, what would be in long term benefit of the company, suppliers customers, employees or the environment?</i> <i>(If needed): For example, have you ever needed to make a decision that may not necessarily have been in the best interests of employees, like redundancies but was in the best interest of shareholders?</i>
8	How do the directors of your company gather information to inform strategic decisions related to Section 172? Probe: understand who gathers information and how it is collected/gathered. For example, do they have a formalised process for engaging stakeholders like employees or customers? What sources do they use?

9	How influential are discussions related to Section 172 requirements compared to other legal requirements when boards make strategic decisions? <i>(If needed): For example, you might have environmental governance requirements or climate reporting disclosures that you think rather than having regard to the environment under Section 172.</i>
10	What impact has Section 172 had on prioritising a long term view in your company/business? <i>By long term we mean prioritising the long term sustainability and success of the company over short term gains, such as increases in share prices.</i>
11	Have there been any occasions where your duty under s172 has come into conflict with other director duties? Could you provide an example?
12	<i>If sit on non-UK boards:</i> You mentioned you also sit on non-UK boards, how does the UK's requirements around Section 172 compare internationally? Has anything from the UK's Section 172 requirements been adopted internationally?
13	To what extent do the principles of S172 either directly or indirectly encourage investment into companies, a greater competitive advantage or more innovation?

Section 172(1) Reporting & Statements (15 minutes)

Objective of this section:

- Director perceptions of S172 reporting
- To what extent the introduction of the S172 statement has altered their conduct
- How directors engage with stakeholders in preparing their S172 statement and the associated cost implications
- Thought process behind disclosures and impact on decision making

Timings (15 minutes)

#	Question
14	The Companies (Miscellaneous Reporting) Regulations (2018) made it a requirement of all companies over a certain size to include a section 172(1) statement in their strategic report

	for the financial year, which describes how directors have had regard to the matters set out in section 172(1)(a-f) when performing their duty. Could you please describe your involvement in the preparation of this statement?
15	Can you talk us through the process for putting together the S.172 statement?
16	How do you gather information from within your organisation to inform your S172 statement? Is this done throughout the year as decisions are made or done as an end of year exercise?
17	Do you consult any other guidance, for example FRC guidance, when writing your Section 172 statement? <i>Probe: do they mention FRC – if not, why not?</i>
17	Do you receive any assurance over the Section 172 statement as a specific item within the annual report? <i>Probe: why do they get assurance – is this a demand from investors? Or why not – is it only because of cost?</i>
18	As far as possible, can you outline the individuals and roles involved with the preparation and disclosure of this statement on behalf of your company? <i>Probe: who are all the parties involved, how long it takes, any other cost implications – we’d like to go beyond them saying something to the effect that ‘the board signs it off’ or providing superficial detail.</i>
19	What are the challenges, if any, associated with preparation and disclosure of your company’s S172 statement? For example, were there any concerns about the level of detail disclosed?
20	What would you say are the main drivers of cost associated with preparing and disclosing the S172 statement?
21	What are your thoughts on the value of having to prepare and disclose a Section 172 statement?

	<i>Probe: what is the value for investors / for the company / for any other stakeholders. Is it onerous/time consuming? Is it a box ticking exercise? Do investors demand more information?</i>
22	Has the introduction of the S172 statement altered your decision making in any way? <i>The fact you disclose how you comply with S172 – has this encouraged more thinking about how you comply with S172? Does public disclosure increase accountability and/or action? Do investors question what you disclose in your Section 172 statement?</i>
23	When we reviewed your S712 statement ahead of this conversation, we noticed that it dedicated more focus to [name factors from statement review] factors. Is there are reason there is more of a focus on these factors?
24	What are your views on where the statement is located in the annual report? [the regulations require that it is included in the strategic report] <i>Moderator: its included in the strategic report because its deemed material information for investors. We want to know if interviewees agree that it is material information and is best placed in the strategic report.</i>

Wrap up (1 minute)

Thank you for sharing your thoughts and views with me today. Before we conclude:

Is there anything else you would like to add about Section 172 or Section 172 reporting?

The recruiter will be in touch to arrange the charity donation / incentive.

Thank and close.

Our standards and accreditations

Ipsos' standards and accreditations provide our clients with the peace of mind that they can always depend on us to deliver reliable, sustainable findings. Our focus on quality and continuous improvement means we have embedded a "right first time" approach throughout our organisation.



ISO 20252

This is the international specific standard for market, opinion and social research, including insights and data analytics. Ipsos UK was the first company in the world to gain this accreditation.



Market Research Society (MRS) Company Partnership

By being an MRS Company Partner, Ipsos UK endorse and support the core MRS brand values of professionalism, research excellence and business effectiveness, and commit to comply with the MRS Code of Conduct throughout the organisation & we were the first company to sign our organisation up to the requirements & self-regulation of the MRS Code; more than 350 companies have followed our lead.



ISO 9001

International general company standard with a focus on continual improvement through quality management systems. In 1994 we became one of the early adopters of the ISO 9001 business standard.



ISO 27001

International standard for information security designed to ensure the selection of adequate and proportionate security controls. Ipsos UK was the first research company in the UK to be awarded this in August 2008.



The UK General Data Protection Regulation (UK GDPR) and the UK Data Protection Act 2018 (DPA)

Ipsos UK is required to comply with the UK General Data Protection Regulation (GDPR) and the UK Data Protection Act (DPA). These cover the processing of personal data and the protection of privacy.



HMG Cyber Essentials

Cyber Essentials defines a set of controls which, when properly implemented, provide organisations with basic protection from the most prevalent forms of threat coming from the internet. This is a government-backed, key deliverable of the UK's National Cyber Security Programme. Ipsos UK was assessed and validated for certification in 2016.



Fair Data

Ipsos UK is signed up as a "Fair Data" company by agreeing to adhere to twelve core principles. The principles support and complement other standards such as ISOs, and the requirements of data protection legislation.

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