

Research Project: CSR and Accountability in Key Contexts – CSR and the City.

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Background: Financial and legal services, which form the core of the 'City' spheres of the economy, have come under intense scrutiny during the time that BRASS has been in existence following some high profile cases such as Enron and the '*Bank Bail Out*'. Although financial and legal service companies are not usually considered to be at the front line of environmental and social sustainability, their role as intermediaries and facilitators of business activities can give them a significant influence on environmental sustainability issues and the sustainability of local economies, particularly in rural areas.

Aims & objectives:

- To understand the role that key 'City' professions including accountants, bankers and lawyers play as stakeholders in promoting more sustainable and socially responsible behaviour amongst businesses (including within their own sectors);
- To review, and derive lessons from, past incidences of irresponsible and fraudulent behaviour amongst financial services stakeholders;
- To analyse the behaviour of financial services firms in contributing to the '*Credit Crunch*' of 2008/09, and the degree to which irresponsible, unsustainable and potentially illegal behaviour exacerbated the crisis;
- To study the contribution that professional service firms can make to the sustainability of particular communities by looking at the role that law firms play within rural economies;

About the research:

This project has included a number of elements considering governance and accountability within the financial services sector including projects looking at:

- a review of the history of financial scandals, fraud and 'creative' accounting that puts the recent financial crises and scandals in a historical context;
- the legal implications of the '*Bank Bail Out*' in the wake of the 2008/2009 Credit Crunch and the role that excessive remuneration played in creating the crisis. This included an analysis of the potential for the regulation of executive pay both before and after the failure of a company and the legal strategies available as general control mechanisms to create incentives against the development of over-generous compensation schemes. It also investigated the accountability of bankers and the ability of the law to hold directors responsible for their excesses both through disqualification under Section 8 of the Directors Act in the general case, and by amending the provision of the Banking Act for banks in particular.
- an exploration of the role of rationality in institutional investor behaviour, and whether 'soft laws' to influence investment such as the Stewardship Code will struggle to achieve their aims of promoting greater consideration of CSR amongst investors because of a failure to take into account behavioural influences on investment decisions (which links also to the work on SRI see A41);
- the influence of financial services stakeholders on the management of the natural environment. In particular this sought to explore the extent to which bank lending could be viewed either legally or morally as responsible for any environmental damage that borrowing companies cause;
- financial services governance in the Gulf States and amongst certain developing nations.

The work covering the legal profession has included:

- an examination of the implications of the liberalisation of the legal profession in Europe, and the extent the potential for market failure in the provision of commercial legal services to corporate clients warrants more regulation and/or self-regulation to promote greater social responsibility;
- a study conducted on behalf of the Law Society of Wales on the contribution of law services firms to local economies (see A27);

Results and outputs: The research into the banking crisis and the accountability of bank directors revealed that the strong likelihood that the government would step in to ‘bail out’ and UK bank threatened with collapse effectively insulates bank directors from potential disqualification for reckless trading under the Company Directors Disqualification Act, because this requires that the business becomes bankrupt. The combination of this removal of personal risk, highly generous remuneration schemes that reward risk-taking, and a lack of personal financial penalties linked to failures helps to explain previous bank crises and make future occurrences more likely. Although the 2009 Banking Act has changed the provisions on insolvency and administration to discourage reckless banking, more could be done to ensure that reckless bankers are held to account for their actions in future.

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Impacts achieved/potential for impact: The analysis of the shortcomings of current law in terms of discouraging reckless practice amongst bank directors made an important contribution to the debate on the subject. The recommendations coming out of the Parliamentary Commission on Banking Standards and the comments of the Business Secretary in July 2013 are very much in line with the recommendations within the BRASS papers on the subject (Arsalidou, 2010, 2011 & 2013). The book on Creative Accounting, Fraud and Financial Scandals (Jones, 2010), was very well received by the financial and accounting community, and welcomed as the first comprehensive and globalised work on this important topic. It was however a difficult contribution to make due to the potential legal implications of analysing and commenting on some of the most significant examples of irresponsible management in recent years. The analysis of the liberalisation of law services in Europe was developed in partnership with the City of London Law Society, and the work on the role of law practices in rural economies was commissioned by the Law Society of Wales and has implications for the future of the profession both in Wales and other UK rural regions in terms of planning future provision of services and developing career paths for younger lawyers to replace the retiring generations in rural practices (see A27).