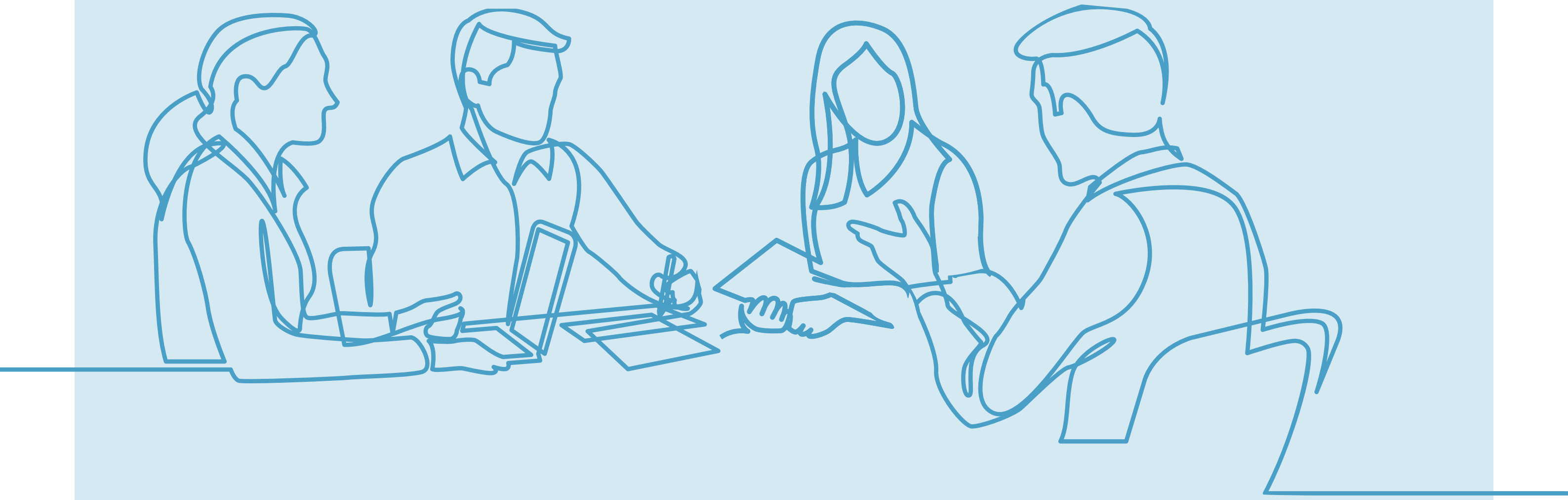
a blueprint for better business

Fairness in Business



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The aim of this paper is to help business leaders challenge themselves and one another on what it means for their business to act fairly, and why it matters.

It is not a set of answers but rather a series of provocations and questions to invite and encourage dialogue about the expectations we want to have - within businesses themselves and in society - about how businesses should behave, and to whom they have a duty to be fair.

Context and scope

A sense of unfairness lies behind the toxic distrust of business that has built up in recent years. Think of the misselling of products or services; aggressively avoiding tax, even if strictly legal; a pay and bonus culture divorced from performance or proportionality; exploitation of low paid workers; late payment of suppliers; avoiding paying the cost of environmental harms; or taking advantage of data capture, weak regulation and weak consumer pressure to maximise profits at the expense of customers. These are all ways in which some businesses have used their asymmetry of power and knowledge to treat people unfairly.

There is also a palpable sense of anger at the perceived systemic unfairness of a market economy where the labour share of income has declined over the long term in the UK,[1] wealth inequality has recently been rising sharply,[2] and where the combination of globalisation, technology and weak anti-trust law is creating strong concentrations of monopolistic power.[3] And alongside the resultant growing global disparities of wealth, we are now facing the consequences of our collective failure so far to effectively address environmental degradation and climate change. This risks creating the most profound unfairness of all, as the distribution of the burdens, in geographical and intergenerational terms, will fall disproportionately on those people least able to bear them.

One way of characterising the global shift so urgently needed now is to move from an economic system optimised for growth and profit to one optimised for human well-being and a sustainable ecosystem.

Investors can play a major role in advancing this process through their investment decisions and active ownership. Major businesses can help or hinder by the example they set and the influence they wield in shaping legal and regulatory frameworks.

To act fairly is an operational decision, and all businesses, whatever their size, have some agency in helping to shape the future through how they act.

There are of course legal and regulatory constraints on all businesses, which together with strong competitive pressures and the demands of investors can limit freedom of action. But there is usually a degree of choice in how to respond even to those structural pressures. The market is always socially and culturally conditioned and rising expectations of fairness in business, alongside necessary action to address structural problems, can help create more room for better practice.

There are three aspects to acting fairly:

- How decisions are made
- The outcome
- The frame of mind in which decisions are made[4]

Many decisions involve multiple parties with overlapping or competing claims, and balancing these is sometimes very difficult. For this reason, it may be hard in practice for a business to be, or seen to be, fair to everyone. However, what any business can do, at the very least, is avoid being manifestly unfair – that is, clearly and patently unfair - to anyone.[5]

Written in two parts, this note focuses on what businesses can choose to do in practice to promote a fairer society through better business.

- What do we mean by fairness and why does it matter?
- How might business leaders challenge themselves on fairness?

What do we mean by fairness?

Fairness is a universally recognised if contested, concept. We like things to be fair, and we get upset at the first sight of manifest unfairness.

Recent empirical studies suggest:

"children, even young ones, show remarkable sophistication not just in their understanding of and conformity to norms of fairness but also to enforce fairness in others and to flexibly tune fairness to different situations. These exciting developments dovetail with work showing that adults are often fair even when they could be selfish and suggest we need to overhaul the notion that humans are fundamentally out for themselves at the expense of others. Instead, we should adopt the idea that fairness is a key part of our developing minds from as early as they can be studied".[6]

However, while there is this encouraging evidence that a sense of fairness is part of who we are as human beings, nonetheless in different contexts the idea or definition of fairness is contested.

Moreover, each of us can find ourselves internally conflicted with competing thoughts and feelings when confronted by a personal dilemma of how to act fairly.

As we consider how to apply fairness to complex situations, it is helpful to distinguish between three aspects of fairness noted before – how decisions are made, the outcome, and the frame of mind in which they are made.

Fair processes:

We might think a fair decision is simply one that arises from a fair process, as in a fair trial. In business, much of the emphasis on fairness is on process. The question then is about applying the same procedures and criteria consistently, whether there is impartial treatment and behaviour without favouritism.

Fair processes matter, but are not everything. Sometimes when focusing on process and procedures businesses can inadvertently lose sight of the impact on people who are affected by the outcomes.

Fair outcomes:

Here the distribution of benefits or burdens from a decision become critical. We can hold different views in different situations about what a fair outcome is. Considerations of what someone deserves might point one way (e.g. paying people each their due); equality as sameness might point in a different direction (e.g. giving each the same), and considerations of need in yet another way again (e.g. distributing benefits according to need).
All these are potentially valid justifications of a fair decision, and sometimes they will conflict.

The frame of mind in which decisions are made:

What are we in business to deliver, and for whom? What is our purpose? Are we just here to make money? What matters most to us as a business, and which relationships are the most important?

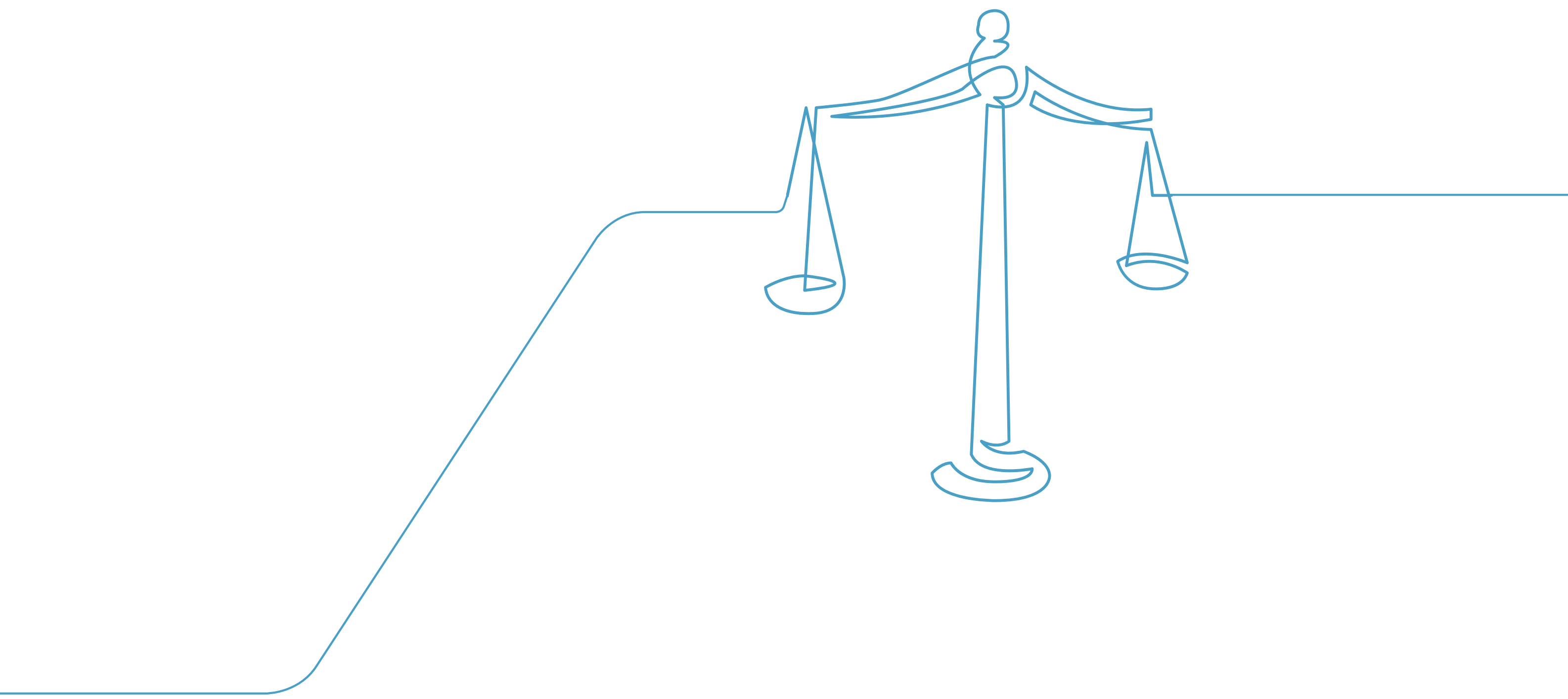
In a closed loop of resources, any decision favouring one group of stakeholders will in effect disadvantage others. Especially when difficult decisions have to be made, such as on relative pay, pension reform, redundancies, or plant or office closures, the frame of mind is crucial as it shapes both the process and the desired outcome.

Why does fairness matter?

- One answer is that acting unfairly undermines the very basis of trust in market relationships on which all profitable activity depends. Therefore, it is ultimately a self-defeating strategy, even if free-riding can enable some to exploit it for a time.
- Another response is that long-term business successes, as the famous Quaker companies of the 19th century demonstrated for many decades, have foundations of honesty and fair dealing.
- A third answer is that acting fairly matters because it is a public expectation, part of the implied contract with society, and to a degree underpinned by law.
- Finally, we might claim that acting fairly matters for its own sake, simply because other people matter and we become more fully human through relationships of mutual trust and care.

The lack of a single answer that is compelling to all-comers reflects deep fissures in our culture and shared understanding of the foundations of justice. Fortunately, there is still sufficient clarity and potency in the word ‘fair’ to make it serviceable as a challenge and spur to action. We all know manifest unfairness when we see it, even if “it’s unfair” is often used simply as an emotive device.

In a society riven by austerity, shocking inequality, growing anger, and resentment, we also know that, beyond just avoiding manifest unfairness, business has a vital and urgent task in doing more to help create a fairer society and a more sustainable world through better business.



How might business leaders challenge themselves on fairness?

If business leaders seek to act fairly and avoid manifest unfairness they might start by challenging themselves and others to consider what they are doing, or not doing. A crucial starting point is simply the recognition that businesses are fundamentally social organisations, a series of human relationships. Because it makes sense to ask of any relationship whether or not it is a fair one, once we view a business this way then the question 'are we acting fairly?' naturally arises with all of those the business engages with. In Blueprint's Framework, this challenge of accepting this human-centered approach is made:

"Each person is a someone, not a something…show respect for the dignity of each person and the whole person; never use people merely as a means to achieving business success. Respecting the whole person includes thinking of people in all their various roles in relation to the business: as employees, customers, suppliers, investors, and citizens. Demonstrating respect means setting a purpose and seeking outcomes that enable each person to reach his or her full potential, not least being able to contribute fully to building relationships and communities both within the workplace and beyond."[7]

This sets a minimum bar to avoid acting in unfair ways that fail to respect the dignity of people. But it also sets a higher aspiration. It recognises that people have the latent desire to commit to a shared worthwhile endeavour, and that openness, generosity, and vulnerability are essential to creating healthy human workplaces. This human-centered approach is gathering pace in a world where, as Colin Mayer argues, it is no longer financial capital that is scarce, but "human, natural and social capitals that are in short supply."[8]

It is a profound shift away from the idea that everything else is subordinated to maximising shareholder value. The economist John Kay, speaking at a Blueprint conference in 2015 said:

"the scales fell from my eyes when I realised it was not the job of a company director to maximise anything. It was their job to balance."

The chairperson of the John Lewis Partnership, Sir Charlie Mayfield, put it this way in an interview with Radio 4's In Business in 2016:

"You get a 'trust deficit' when an inherent conflict arises between the making of profit and the interests of the consumer. At the extreme, these two can be in opposition. So, maximisation of profit is not our goal. We aim to make sufficient profit."[9]

If a fair return to investors is only one vital outcome of a well-run business rather than the purpose, the focus widens to include all those engaged in sustainable value creation. Acting fairly to all then becomes an aim not a constraint. It builds strong relationships that increase employee engagement, customer and supplier loyalty. It grows receptive communities, promotes sustainability and reduces regulatory compliance costs.

The following questions may help challenge underlying assumptions about the frame of mind in relation to profit and sustainable value creation in practice:

- What is the right level of profit for this company?
- In measuring fair profit, do we include the impact we have on people, communities and the environment, and the associated costs and benefits?
- Could our decisions be fairly characterised by a well-informed neutral observer as value extraction rather than value creation?
- Are we attempting to share the value created and captured by the business fairly as between all those who contributed to its success? How do we know?
- Do we engage our investors in dialogue about why we seek to act fairly to all?
- Are we seeking to share the burden of risks in a fair way, recognising the exposure of different parties?
- Do we have the necessary diversity of thought and culture of challenge to act fairly?
- What are we going to give up to become fairer?

Businesses have to focus and prioritise. There will be relationships that are more or less important. But having fair processes, treating people with dignity and respect, consulting and communicating the basis of decisions made distinguish the businesses trying to act fairly.

The quality of the reasons given for a decision and the openness to dialogue and scrutiny is a hallmark of a business confident in its own skin.

Some practical dilemmas:

Q How should a company act fairly when the long term success of the company demands cuts and closures?

Q In the event of a closure, how does a company ensure affected employees are fully consulted, mitigating measures taken and help given to communities affected?

Q How should international companies reconcile different pay rates and benefits for expatriate and local workers doing the same job?

Q How should a company seek to reconcile a desire to retain terms and conditions where there are strong competitive pressures, and a competitive risk of retaining a higher cost base?

Q How should companies recover the cost of internalising higher environmental standards and how do they decide what is a fair distribution of burdens?

Q How do companies reconcile the insatiable desire in the developed world for cheap goods with paying low wages in the developing world?

Q If fair pay usually means the going rate for the job, is it unfair to pay the CEO the going rate for their job?

Some questions to consider:

These questions - which are illustrative, not exhaustive - might test and expose underlying assumptions about the true importance of fairness in how decisions are made, combining focus and an awareness of potential unfairness.

On employees and pay:

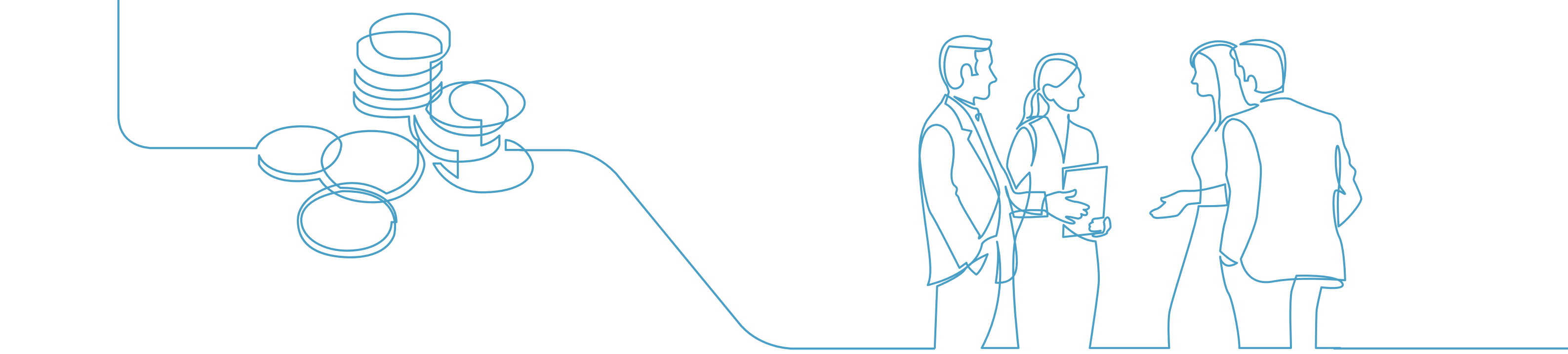
- Are we paying at least the living wage everywhere and working to ensure our suppliers are too?
- Do the gaps in pay between the top and the average worker, and between the top and the lowest paid, create a justified sense of unfairness in our business?
- How can we build greater fairness into both the process and outcomes relating to pay so all feel they are rewarded fairly for their contribution to the success of the company?
- Does the REMco consider fairness and engage in dialogue with employees in the decisions made on executive pay and explain their rationale?
- Are we outsourcing unfairness by not employing directly, or tolerating unfair practices in contractors or the supply chain?

In relation to customers:

- Are we producing goods that are truly good and services that truly serve at fair prices?
- Are we acting with generosity by sharing information and vulnerability by allowing people to make informed choices?
- Do our customers think they work harder than we do to sort out our mistakes?
- Are we using the increase in knowledge through data and AI to manipulate our customers and treat them unfairly?

In relation to suppliers:

- Do we treat our own suppliers in the same way we would like to be treated if we were that supplier?
- Do we expect our suppliers to uphold the same standards of fairness as we do ourselves?
- How do we hold our suppliers to account?



As regards different stakeholder groups:

- Do we regularly look at fairness across all our stakeholder relationships and focus on areas of greatest concern to the business?
- Do we justify our behaviour if only to ourselves by saying we are not as bad as our competitors?
- Do we have a role assigned to each board director to understand the expectations of each stakeholder group needed to run our business?
- Have we reviewed past decisions to see who we may have unintentionally disadvantaged and whether there is an unconscious stakeholder bias in our decision taking?
- Do we ask each stakeholder group how fair they think we have been in the past year and what more we could do?
- Does our corporate board see itself as exercising "Trusteeship on behalf of multiple parties rather than the agency for any particular stakeholder group."?[10]
- Do we find ways to see ourselves as others see us before we act?

On being a guardian for future generations:

- Does our business represent the unheard voice of future generations and the natural world?
- Are these silent stakeholders effectively and constantly "heard" in decision taking in a way that does justice to both?
- Do we as a business put sustainability at the heart of decision taking?

Some of these questions underline how much the quality of dialogue and engagement internally and externally matters to a perception of fairness.

In an era where we lack the countervailing powers of strong unions and strong government, the potential especially for large companies to use their asymmetry of power and knowledge to exploit is great.

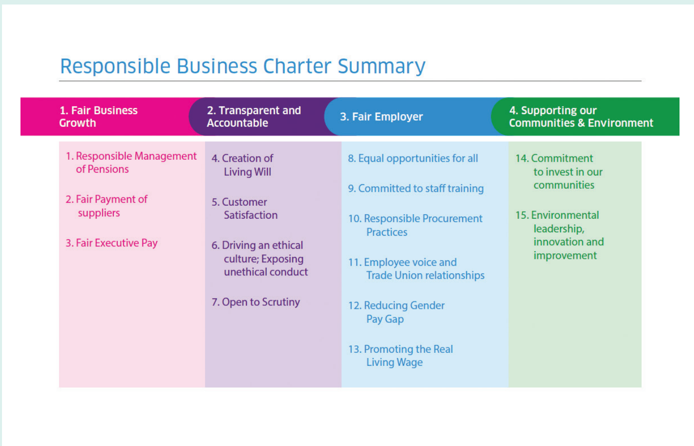
Knowing this, thoughtful business leaders seeking to act fairly will want to put in place new forms of effective accountability and dialogue. They will also want to use their agency to collaborate with others in the same sector and advocate for regulatory or legal reform which benefits society as a whole rather than protects self-interest.[11]

On accountability and structural reform:

- Are the structures we have in place for employee involvement in decision taking fair and effective?
- Should we have elected employee representatives on our board?
- Do we encourage and support union membership or other forms of collective bargaining?
- Are our external stakeholder forums genuinely effective?
- Do we have an effective independent review mechanism? (the new Scrutiny Board established by Engie in the UK is an interesting innovation – see panel)
- Where sectoral issues arise inhibiting freedom of acting fairly do we seek to collaborate with competitors to improve regulation and common standards for the benefit of all?
- Are we using our agency to be honest and open about deeper structural aspects of law or the capital markets which may inhibit fairness in business?

An example from business:

ENGIE has established a new Responsible Business Charter and independent Scrutiny Board in the UK, further underlining the company's commitment to operate to the highest economic, social and environmental standards whilst building public trust. The Charter supports the company purpose to improve lives through better working and living environments. Uniquely, ENGIE will be held to account for the effective delivery of its Charter by an independent Scrutiny Board.[12]



On being a good corporate citizen:

- Do we interact with the communities our business is part of?
- Do we seek opportunities through the core business to serve the broadest community by creating new job opportunities, innovative goods and services, new markets?
- What can we do to work in partnership with local authorities and the third sector in addressing complex social problems? [13]

Fairness commissions in different parts of the UK in recent years have sought with varying success to engage the private sector. They noted the challenge of getting past corporate gatekeepers in large companies to engage with key individuals within the business.[14] (see panel below)

Between 2010 and 2015 Fairness Commissions and similar bodies were established in 23 places across the UK. Each commission set out to tackle inequality and poverty at a local level in a context of national government spending cuts. 'Achievements of commissions to date include: raising thousands of people from minimum wage to living wage, exposing and limiting the activities of payday loan companies, boosting membership of credit unions, improving accessibility of advice services, and changing the practices of private landlords on tenancy agreements and housing quality'

Engaging businesses and keeping them involved in implementing recommendations was a significant challenge for many Commissions identified by a review conducted by the New Economics Foundation in 2015 and again by a Carnegie UK Trust report in 2017.

'A recurring theme...was finding successful approaches to mobilise the business community behind Fairness Commissions. Participants were highly conscious of the challenge and prize of securing 'buy in' from the private sector, particularly for acting on employment issues and living standards through such means as implementing a living wage. Common obstacles cited included bypassing corporate 'gatekeepers' in order to engage those key individuals within the business with the authority to act on the aims of the Commission.'[15]

A summary of key points to consider

1. When it comes to acting fairly three things matter: how the decision is made, in what frame of mind and with what result

2. Thinking of a business as a series of relationships helps in recognising the importance of fairness to all stakeholders

3. Businesses need to work hard to understand the wider impact of decisions (including the opportunity cost) before they are made and to listen and consult accordingly

4. Treating stakeholders fairly demands ensuring appropriate representation and engagement, including by the board

5. Businesses should be willing to give reasons and create effective forums for the scrutiny of decisions

6. Where structural problems impede acting fairly, business can use their agency to advocate change that benefits society rather than protecting self-interest

7. Even if it is not possible to be fair to everyone, a business can avoid being manifestly unfair to anyone

Conclusion

Because business can be such a powerful force for change, it matters how business leaders approach this question of fairness. Unfair businesses will give rise to a harsher, more volatile and less fair world.

> ***"Blueprint challenges companies to be a force for good and contribute to a better society. Such a system is fundamentally about delivering a basic social contract comprised of relative equality of outcomes; equality of opportunity; and fairness across generations."***

Mark Carney,
Governor of the Bank
of England, July 2018

It is difficult, sometimes perhaps impossible, to be fair to all. This is what makes thinking about all inevitable outcomes critical. Fairness is something people feel. It is in every single interaction, every gesture. Creating a dialogue between stakeholders, bringing people into the discussion for public scrutiny all help to contribute to a feeling of fairness. Thinking about what we don't do – or what happens when we choose not to make a decision – is as important as the decisions we do decide to make.

Fairness is operational and is the lifeblood of a purpose-led business. The desire to act fairly is also a deeper invitation to go beyond the avoidance of manifest unfairness and the requirements of contracts, to create strong relationships that produce loyal customers, reliable suppliers and greater discretionary effort to spur innovation, and improved products and services. It helps turns what might otherwise be a mere financial vehicle into a vibrant community of people that can do lasting good, while delivering sustainable financial returns.

About Blueprint

A Blueprint for Better Business is an independent charity which works as a catalyst to help businesses be guided and inspired by a purpose that benefits society. We are funded by charitable foundations and individuals and do not accept funding from business. Our work is about stimulating and energising a different way of thinking and behaving in business, rather than about compliance, kite-marks or regulation.

FIVE PRINCIPLES OF A PURPOSE DRIVEN BUSINESS

HONEST AND FAIR WITH CUSTOMERS AND SUPPLIERS

- Seeks to build lasting relationships with customers and suppliers
- Deals honestly with customers, providing good and safe products and services
- Treats suppliers fairly, pays promptly what it owes and expects its suppliers to do the same
- Openly shares its knowledge to enable customers and suppliers to make better informed choices

A GOOD CITIZEN

- Considers each person affected by its decisions as if he or she were a member of each decision-maker's own community
- Seeks and provides access to opportunities for less privileged people
- Makes a full and fair contribution to society by structuring its business and operations to pay promptly all taxes that are properly due

HAS A PURPOSE WHICH DELIVERS LONG-TERM SUSTAINABLE PERFORMANCE

- Operates true to a purpose that serves society, respects the dignity of people and so generates a fair return for responsible investors
- Enables and welcomes public scrutiny of the alignment between stated purpose and actual performance

A RESPONSIBLE AND RESPONSIVE EMPLOYER

- Treats everyone with dignity and provides fair pay for all
- Enables and welcomes constructive dialogue about its behaviour in keeping true to its purpose
- Fosters innovation, leadership and personal accountability
- Protects and nurtures all who work for it to ensure people also learn, contribute and thrive

A GUARDIAN FOR FUTURE GENERATIONS

- Honours its duty to protect the natural world and conserve finite resources
- Contributes knowledge and experience to promote better regulation for the benefit of society as a whole rather than protecting self interest
- Invests in developing skills, knowledge and understanding in wider society to encourage informed citizenship

The Five Principles offer a picture of how a business might look if it is genuinely led by a purpose that benefits society. The Principles were rigorously developed through a year-long collaboration with a wide range of businesses, NGOs, investors, academics, different faiths and others in 2013.

Footnotes

1. ONS estimating the impact of the self-employed on the labour share. Interestingly the overall decline in labour share of income was greatest between 1960 and the 1990s and has been more stable since.
2. Resolution Foundation report, 18th June 2017, noted that following a reduction in UK wealth inequality between the mid-1990s and mid-2000s the process has gone into reverse in the last decade, with 1 in 10 adults now owning around 50% of UK wealth.
3. The Economist, 17 November 2018, Patrick Foulis special report "the Age of Giants" in which he comments "Described this way, America's economy has become a capitalist dystopia, a system of extraction by entrenched giants. Europe shows signs of the same sickness. Growing protectionism and increased digitisation may make things worse."
4. On Justice, JR Lucas, Oxford: Clarendon Press, 1980, Chapter 1
5. The manifest unfairness of a decision may not be immediately obvious. One test is whether any reasonable person, given all the relevant facts, would describe either how the decision was made or its result as patently and avoidably unfair.
6. Scientific American, 23rd August 2017, Prof Katherine Mcauliffe, Prof Peter Blake "Do Kids have a fundamental sense of fairness?" See also studies of the Ultimatum game which indicates pro-social attributes of most adults, now increasingly being researched in neuro science
7. Blueprint Framework, http://www.blueprintforbusiness.org/framework2/
8. Prosperity: Better Business Makes the Greater Good, Colin Mayer, Oxford University Press, 2018
9. BBC Radio 4, 10th January 2016, In Business The Business of Trust, https://www.bbc.co.uk/programmes/b06tvm7c

10 Prosperity: Better Business Makes the Greater Good, Colin Mayer, Oxford University Press, 2018

11. Blueprint Principles on page 15, "Guardian for future generations"
12. Engie, Responsible Business: https://www.engie.co.uk/responsiblebusiness/
13. Blueprint Principles on page 15
14. New Economics Foundation (NEF), Lyall, S, Fairness Commissions: Understanding how Local Governments can have an Impact on Inequality and Poverty; online 2015
15. Carnegie UK Trust, 21st June 2017, report Fairness Commissions from Shetland to Southampton: The Role of Fairness Commissions in the Enabling State

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If you would like any more information about Blueprint or the Five Principles please contact:
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You can also follow us on Twitter
@Blueprint4biz

Blueprint would like to thank everyone who has been involved in creating and editing this paper and the discussions that preceded it.

This paper was published ahead of Blueprint's 'How not to run an unfair business' panel held at the RSA on 5th March 2019, chaired by Matthew Taylor, speakers included Onora O'Neill, Justin King, and Jane Corbett.

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