



Northern Ireland Action Plan on Business and Human Rights

As committed to by the Northern Ireland Business and Human Rights Forum

Adopted by Forum members in March 2019

Introduction

In 2019, there is a well-established link between business and human rights, and the mutual benefits involved. With consumers' growing appetite for brands that value corporate social responsibility and demonstrate ethical and sustainable business practices, it is increasingly evident that human rights are good for business. Moreover, many businesses understand that adopting a human rights-based approach is distinct, though complementary, to embracing corporate social responsibility. It is crucial that a distinction is made between the two movements: corporate social responsibility is a choice made by businesses to consider their impact on the rest of society and to adopt more sustainable practices which will benefit all stakeholders economically, socially and environmentally. In contrast, the business and human rights movement concerns corporate accountability and requires businesses to acknowledge their responsibility to protect human rights, and to prevent and mitigate human rights violations. Just as consumers and service users are giving more careful consideration to the products and services they choose to purchase based on the reputation and values of the service provider, there is a duty on businesses and the State to ensure they are respecting and protecting human rights.

It was into this context of an increasing awareness of the interconnectedness of business and human rights that the UN Guiding Principles on Business and Human Rights were born. The UN Guiding Principles (UNGPs) were unanimously endorsed by the UN Human Rights Council in June 2011, and supported by the UK and other governments across the globe. The UNGPs recognise:

- i) States' existing obligations to respect, protect and fulfil human rights and fundamental freedoms;
- ii) The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- iii) The need for rights and obligations to be matched to appropriate and effective remedies when breached.¹

The UNGPs are not legally binding, but expand upon existing standards and incorporate international and domestic law. They are accessible to the State, businesses and the individual rights holder, and set out three pillars to ensure each party is made aware of their responsibilities: **the state duty to protect human rights; the corporate responsibility to respect human rights; and access to remedy.**

¹ UN Guiding Principles on Business and Human Rights (1)
https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

UN Guiding Principles on Business and Human Rights



The following Action Plan acknowledges the influence that businesses – both small and large – have on the daily lives of every individual in Northern Ireland, and seeks to incorporate the UNGPs as a model of good practice on business and human rights in Northern Ireland.

The Forum recognises the current limitations which exist in pursuing an Action Plan, primarily the absence of the NI Executive and NI Assembly. Therefore, this plan will be considered for implementation by members of the Forum and shared with Government departments. It will be promoted to the NI Assembly and NI Executive once it returns. The outline is framed within the three pillars set out in the UNGPs. Within each pillar, the relevant department or sole bearer of responsibility is named in parentheses.

The Forum will monitor the implementation of and progress achieved through the Northern Ireland Action Plan, and will conduct a review in March 2020.

Pillar I: The State Duty to Protect Human Rights

"States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.

"States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations."

Pillar I, Foundational Principles 1 and 2,
UN Guiding Principles on Business and Human Rights

The Northern Ireland Business and Human Rights Forum will work with others to persuade the Northern Ireland Executive, and relevant Government departments, to:

- i) Formally recognise the UN Guiding Principles on Business and Human Rights, and commit to implementing the three pillars in practice, ensuring policy coherence across departments (*NI Executive*)
- ii) Encourage all Government departments to engage the Northern Ireland Business and Human Rights Forum – among other stakeholders – on proposed changes to policy, legislation, regulations and adjudication (*NI Executive*)
- iii) Showcase examples of good practice and case studies from Government departments and businesses, and encourage the adoption of similar approaches in other departments (*NI Executive*)
- iv) Formally recognise and commit to the advancement of the Sustainable Development Goals set out in the 2030 Agenda.² This is particularly important in advance of the UK's Voluntary National Review scheduled for 2019 (*NI Executive*)
- v) Promote responsible business practices at home and overseas, and hold businesses to account on their obligations under the Modern Slavery Act, as well as other international standards (*Department of Justice*)

² [Transforming our world: the 2030 Agenda for Sustainable Development](#) was adopted at the United Nations Sustainable Development Summit in September 2015. The document contains 17 Sustainable Development Goals (SDGs) and 169 targets, which build on the previously established Millennium Development Goals.

- vi) Encourage the implementation of the Procurement Guidance Note on 'Human Rights in Public Procurement'³ by all Government departments and arms-length bodies (*NI Executive*)

Pillar II: The Corporate Responsibility to Respect Human Rights

"Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved."

Pillar II, Foundational Principle 11, UN Guiding Principles on Business and Human Rights

Members of the Northern Ireland Business and Human Rights Forum commit to, and call upon other businesses operating within Northern Ireland (including Northern Ireland-based businesses operating abroad) to commit to:

- i) Promoting the UN Guiding Principles on Business and Human Rights
- ii) Publishing a Modern Slavery Statement in accordance with the UK Modern Slavery Act which is meaningful and action-oriented⁴
- iii) Recognising that the majority of businesses in Northern Ireland are SMEs, encourage all businesses to ensure their supply chains are transparent and to be held accountable by such mechanisms as Ethical Trading Initiative⁵
- iv) Engaging with human rights reporting mechanisms, such as the UN Guiding Principles Reporting Framework
- v) Developing a human rights-based approach in the publication and adoption of employment policies, for example:
 - a) A gender and wider equality policy;
 - b) A childcare and family-friendly policy;
 - c) A procurement guidance policy;

³ [PGN 03/18 – Human Rights in Public Procurement](#) was developed by the Department of Finance in consultation with the Northern Ireland Human Rights Commission, and describes the legal obligations placed on a contracting authority and contractors to consider human rights when conducting a procurement process.

⁴ The [UK Modern Slavery Act 2015](#) requires businesses with an annual turnover of more than £36million to publish a Modern Slavery Statement.

⁵ [Ethical Trading Initiative](#) (ETI) exists to improve working conditions in global supply chains, using the ETI Base Code which is founded on the conventions of the International Labour Organisation and is an internationally recognised code of labour practice.

and making these documents accessible to employees and the general public

- vi) Conducting human rights due diligence⁶ in order to identify, prevent, mitigate and account for how adverse human rights impacts are addressed. This should include conducting a human rights impact assessment, tracking results and communicating how impacts are addressed
- vii) Promoting awareness of human rights to employees and those impacted by their business activities
- viii) Ensuring access to and promoting awareness of the grievance mechanisms available to employees
- ix) Contributing to and championing examples of best practice in the area of business and human rights, such as through the publication of case studies

The Northern Ireland Human Rights Commission, on behalf of the Forum, will:

- vii) Scope the development of a toolkit on business and human rights for small and medium-sized enterprises to assist the conduct of human rights due diligence
- viii) Provide necessary guidance for the implementation of the Northern Ireland Action Plan.

Pillar III: Access to Remedy

"As part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy."

Pillar III, Foundational Principle 25, UN Guiding Principles on Business and Human Rights

⁶ The UN Guiding Principles (p17) state that human rights due diligence:

- a) *Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;*
- b) *Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;*
- c) *Should be ongoing, recognising that the human rights risks may change over time as the business enterprise's operations and operating context evolve.*

Members of the Northern Ireland Business and Human Rights Forum commit to, and call on Government and other businesses, to:

- i) Ensure grievance mechanisms are accessible to potential victims of human rights violations or abuses – both within Northern Ireland and those impacted by Northern Irish businesses operating overseas (*Businesses/UK Government/NI Executive*)
- ii) Actively promote awareness of grievance mechanisms, by sharing case studies of best practice approaches to access to remedy and delivery of remedy – both within Northern Ireland and those impacted by Northern Irish businesses operating overseas (*Businesses/UK Government/NI Executive*)
- iii) Regularly review existing grievance mechanisms available to potential victims of human rights violations or abuses - both within Northern Ireland and those impacted by Northern Irish businesses operating overseas (*Businesses/UK Government/NI Executive*)

Annex 1

The Northern Ireland Business and Human Rights Forum

The UNGPs give special mention to the important role that national human rights institutions (NHRIs) play in the field of business and human rights. They note that NHRIs are able to help States identify whether relevant laws are aligned with their human rights obligations and are being effectively enforced, as well as providing guidance on human rights to business and other non-State actors.⁷ In an effort to bridge the gap between business and human rights in Northern Ireland, the Northern Ireland Human Rights Commission (NIHRC) established the Northern Ireland Business and Human Rights Forum in 2015. Recognising the role that such a forum could play, the NIHRC sought to create a multi-stakeholder platform which Government, businesses and civil society could use to engage on business and human rights.

The Forum's membership has grown since 2015, and now includes a range of businesses, SMEs, Government departments, public bodies, NGOs and civil society representatives. The NIHRC has ensured that members take ownership of the Forum by delegating the roles of chair and vice-chair to members. The Forum meets quarterly and has focused on a variety of issues relating to business and human rights, including: modern slavery; transparency in supply chains; responsible procurement; the impact of Brexit on equality, human rights and business; ethical trading; sport and human rights; the right to work and persons with disabilities; access to childcare; and poverty in the workplace.

Members of the Northern Ireland Business and Human Rights Forum commit to:

- Promoting human rights through business and working relationships;
- Encouraging the promotion and fulfilment of human rights in the workplace;
- Facilitating the participation of employees and their representatives in measures to promote and fulfil human rights;
- Resolving to listen to, and seek the views of, our stakeholders;
- Sharing good practice and experiences on respecting and protecting human rights.

The Forum recognises the UN Guiding Principles on Business and Human Rights, and further commit to respect the protections enshrined in other international covenants, including, inter alia:

- The Universal Declaration of Human Rights
- The International Covenant on Civil and Political Rights

⁷ UN Guiding Principles on Business and Human Rights, Principle 3 (6)

- The International Covenant on Economic, Social and Cultural Rights
- The European Convention on Human Rights
- The European Social Charter
- The International Labour Organisation's Declaration on Fundamental Principles and Rights at Work

To become a member of the Forum, or to request further information, please contact Zara Porter at: zara.porter@nihrc.org

Annex 2

National Action Plans

Origins

The development of National Action Plans (NAPs) by governments was encouraged by both the UN Working Group on Business and Human Rights, and by the European Union in its Action Plan on Human Rights and Democracy 2015-2019. This document advised member states to 'develop and implement NAPs on the implementation of the UN Guiding Principles...share experience and best practices in the development of NAPs.'⁸

Developments in the UK and Ireland

The UK Government became the first government to launch a NAP with the publication of its 'Good Business: Implementing the UN Guiding Principles on Business and Human Rights' in 2013. This document marked the beginning of the UK's work on implementing the UN Guiding Principles, and structured its objectives using the three pillars as reference points. The UK NAP contained a commitment to publish an updated NAP by the end of 2015, and an update was subsequently launched in May 2016.

Within the NAP, the UK Government committed to reporting on the NAP's progress each year in its Annual Report on Human Rights and Democracy of the Foreign and Commonwealth Office. Notably, the most recent 2017 Annual Report was the first report since 2013 not to make reference to the NAP. This 2017 Annual Report did, however, recall work being conducted by the UK Government to aid other governments in the process of drafting and implementing NAPs, and it is evident that a more international focus has been adopted.

⁸ Council Conclusions on the Action Plan on Human Rights and Democracy 2015-2019, Council of the EU. (17) https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/council_conclusions_on_the_action_plan_on_human_rights_and_democracy_2015_-_2019.pdf

In 2014, the Government of Ireland also decided to develop a NAP. In 2017, the Department of Foreign Affairs and Trade launched the National Plan on Business and Human Rights 2017-2020 for Ireland. Launched one year after the UK Government's second NAP, Ireland's National Plan contained various commitments – among them, the establishment of a Business and Human Rights Implementation Group – but progress in fulfilling the commitments made by both the UK and Ireland has been relatively slow. The Business and Human Rights Implementation Group, committed to within Ireland's NAP, held its inaugural meeting on 16 January 2019 in Dublin.

Northern Ireland and Scotland

The Northern Ireland Business and Human Rights Forum has followed the development of and progress made by both the UK and Ireland's NAPs, and decided in its 2018-19 Work Plan to explore a similar tool for Northern Ireland. The UK NAP, 'Good Business – Implementing the UN Guiding Principles on Business and Human Rights', states that 'Devolved Administrations may develop their own action plans or strategies in support of this plan, and in line with the commitment to implement the UNGPs.'⁹ Furthermore, it gives recognition to the Northern Ireland Business and Human Rights Forum, and its purpose to 'share good practice and as a means of engaging with the UK National Action Plan.'¹⁰

To date, Scotland is the only Devolved Administration to begin developing its own action plan in support of the UK NAP. The Scottish Human Rights Commission led the development of Scotland's National Action Plan for Human Rights (SNAP), which pre-dated the UK NAP and was published in 2013. SNAP looked at human rights in a broader sense, rather than focusing specifically on the UNGPs. The document set out a commitment to develop an Action Plan on business and human rights, recognising the 'need for a coordinated plan of action to implement the UN Guiding Principles by Scotland, building on the UK's Action Plan in this area.'¹¹ SNAP stated that such an action plan on business and human rights would also 'raise awareness among Scottish companies of their human rights responsibilities.'¹² Scotland's Action Plan on business and human rights is currently under development by a Drafting Group of representatives from the Scottish and UK Governments, Scottish businesses and the Scottish Human Rights Commission. A draft was due to be made available for public consultation ahead of the NAP's launch in Autumn 2018.¹³ As of January 2019, a draft NAP was yet to materialise.

⁹ Good Business – Implementing the UN Guiding Principles on Business and Human Rights (5) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good_Business_Implementing_the_UN_Guiding_Principles_on_Business_and_Human_Rights_updated_May_2016.pdf

¹⁰ IBID

¹¹ Scotland's National Action Plan for Human Rights: 2013-2017, (46) <http://www.snaprights.info/wp-content/uploads/2016/01/SNAPpdfWeb.pdf>

¹² IBID (47)

¹³ <http://www.snaprights.info/action-areas/better-world/business-and-human-rights>

In June 2017, the NIHRC submitted an oral statement to the 35th Session of the UN Human Rights Council on a report by the UN Working Group on Business and Human Rights, on behalf of the three UK NHRIs. This oral statement highlighted that 'the process of updating the UK's NAP provided limited opportunities for stakeholder consultation, and no consultation in the devolved jurisdictions', as well as noting that the Scottish Human Rights Commission had 'adopted a participatory approach' in the development of Scotland's Action Plan on business and human rights.¹⁴

¹⁴ Joint response from UK NHRIs on Business & Human Rights to the UN Human Rights Council
<https://www.youtube.com/watch?v=h-nBSvT5xvU>