

Human Rights Defenders' Fact Sheet

United Nations Guiding Principles on Business and Human Rights

Human Rights Policy Statements

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1. Corporate Responsibility to Respect Human Rights

- 1.1 The United Nations Guiding Principles on Business and Human Rights ("**UNGPs**") are a global, non-legally-binding standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity.¹
- 1.2 The corporate responsibility to respect human rights, as set out in the second pillar² of the UNGPs, is a standard of conduct for business enterprises. The UNGPs make clear that business enterprises should have in place
 - (A) a Human Rights Policy Statement demonstrating commitment to respect human rights ("**Statement**");
 - (B) a human rights due diligence procedure; and
 - (C) processes to enable the remediation of any adverse human rights impacts that the business enterprise causes or to which it contributes.
- 1.3 This Fact Sheet focuses on the requirement for a Human Rights Policy Statement. Please refer to separate Fact Sheets for information on human rights due diligence, grievance mechanisms and remediation, and leverage.

2. Human Rights Policy Statement

- 2.1 Guiding Principle 16 of the UNGPs states that business enterprises should adopt a Statement that sets out their human rights responsibilities.
- 2.2 The Statement should:
 - (A) be approved at the most senior level of the business enterprise;
 - (B) be informed by relevant internal and/or external expertise;
 - (C) stipulate the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services;

¹ For further information on the UNGPs see: https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

² The pillars are sometimes referred to as "chapters".

- (D) be publicly-available, and communicated internally and externally to all personnel, business partners and other relevant parties; and
 - (E) be reflected in operational policies and procedures necessary to embed it throughout the business enterprise.
- 2.3 The Statement may take any form, provided that it sets out the enterprise's responsibilities, commitments and expectations.
- 2.4 The Statement should be communicated to: organisations with which the enterprise has contractual relationships; staff and others directly linked to the enterprise's operations (which may include, for example, investors, civil society and communities, unwilling creditors or other potentially affected stakeholders, whose participation shall be guaranteed, and the identification of whom shall be under constant review). External communication can be effected by posting the Statement on the internet, through negotiations, contractual terms, training, written guidance, translation of documents and oral communication to communities that may be negatively affected.
- 2.5 Importantly, the Statement should be embedded from the top of the business enterprise through all of its functions, and it should identify who has operational responsibility, and ultimate accountability for, the Statement's implementation.
- 2.6 Accordingly, the Statement should be reflected in the procedures and policies that govern the enterprise's wider business activities and relationships. This may involve, for example, financial and performance incentives for personnel and procurement practices where human rights are at stake. The Statement should also be supported by training.

3. **Evaluating the Statement**

- 3.1 Human rights defenders ("HRDs") can assess the strength of a Statement by taking the following steps:
- (A) checking that the business enterprise has made its Statement publicly-available and, if this is not the case, write to the business enterprise to request a copy of the Statement.
 - (B) checking whether the Statement identifies which board member and department is responsible for human rights and, if not, write to the business enterprise to request this information.
 - (C) contacting business partners and other parties directly linked to the operation of the business enterprise to establish whether they are aware of the Statement.
 - (D) checking other documents published by the business enterprise, including corporate social responsibility reports, and checking whether human rights clauses are incorporated into contracts to establish whether the Statement is reflected in the policies and procedures of the business enterprise.
 - (E) checking whether the Statement refers to internationally-recognised human rights standards that are relevant to the circumstances in which the business enterprise operates. For example, consider whether the ILO Convention 169 on Indigenous and

Tribal Peoples³, OECD Guidance for Multinational Enterprises⁴ and/or the Equator Principles⁵ should be referred to; and

(F) enquiring as to whether the business enterprise is using the UNGP reporting framework to assess compliance with the UNGPs, or whether it is using alternative indicators for this purpose.

3.2 Asking questions regarding the Statement can also be a useful first step towards raising awareness within business enterprise and to encourage it to improve its Statement. When taking these practical steps, HRDs may also decide to inform UN Special Procedures, the British Embassy and/or the Business and Human Rights Resource Centre. This will help raise awareness of the deficiencies in the Statement published by the business enterprise.

3.3 If necessary, HRDs should engage the UK Government or British Embassy to contact the business enterprise on its behalf.

4. **Encouraging Business Enterprises to Produce and Develop Statements**

4.1 The adequacy of the Statement shall be determined by the active roles of HRD's, civil society and communities. HRDs may have already approached the business enterprise while assessing the strength of its Statement. In addition to asking questions about the Statement, it may be helpful for HRDs to communicate to the business enterprise the benefits of publishing a Statement and/or the extent of the legal requirement to do so.⁶

4.2 **Are there any legal requirements for enterprises to produce a Statement and to report on human rights?**

4.3 The UNGPs are non-binding on enterprises, but they have been increasingly embedded into the national laws of many states. HRDs should consider whether national law requires business enterprises to produce a statement regarding human rights and whether the policy statement of the enterprise meets national requirements. All companies have a legal requirement to abide by domestic law.

4.4 There may be legal sanctions for failing to produce a public report. For example, Directive 2014/95/EU on disclosure of non-financial and diversity information by certain large undertakings and groups⁷ requires certain large EU companies to report publicly on their human rights policies and due diligence process. The Modern Slavery Act 2015, which applies to certain commercial organisations that carry on business in the United Kingdom⁸, also requires certain businesses to produce slavery and human trafficking statements setting out the steps that they have taken to ensure that there is no modern slavery in their own businesses and supply chains.

4.5 **Are enterprises aware of the positive impacts of respecting human rights and the importance of a Statement in achieving this?**

4.6 There are many benefits associated with good human rights practice. These include:

³ For further information [on ILO Convention 169], see Fact Sheet on Free, Prior and Informed Consent.

⁴ <http://www.oecd.org/daf/inv/mne/48004323.pdf>

⁵ <https://equator-principles.com/wp-content/uploads/2020/05/The-Equator-Principles-July-2020-v2.pdf>

⁶ Peace Brigades International can also help to encourage business enterprises to produce and develop Statements.

⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0095&from=EN> See also paragraph 5.2 of Fact Sheet on the National Action Plan for the United Kingdom.

⁸ <https://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>. See also paragraph 2.1 of Fact Sheet on the National Action Plan for the United Kingdom.

- (A) attracting investment;
- (B) increasing brand value;
- (C) attracting/maintaining customers and business partners;
- (D) improving relations with state entities and pressure groups; and
- (E) improving employee retention.

4.7 In addition, the development of a Statement can:

- (A) provide a basis for embedding the responsibility to respect human rights through all business functions;
- (B) respond to relevant stakeholder expectations;
- (C) identify policy gaps and initiate a process that alerts the business to new areas of human rights risks;
- (D) elaborate on the business' commitment to support human rights;
- (E) build increased trust with external stakeholders and kick-start the process of understanding and addressing their concerns;
- (F) foster development of in-house learning, management capacity and leadership on human rights abuses; and
- (G) demonstrate good business practice.

4.8 The UN Global Compact Guide on how to develop a Human Rights Policy⁹ expands upon the benefits to companies associated with respecting human rights and creating a Statement.

5. **What Happens When a Business Enterprise Fails to Adhere to a Published Statement or Equivalent?**

5.1 The publication of a Statement may create a legitimate expectation that a business enterprise will put in place certain safeguards or comply with certain guidelines. There is a possibility that a business, which has published a policy in good faith and fails subsequently to live up to expectations, may face an increased litigation risk.¹⁰ Such businesses are also likely to experience adverse publicity.

⁹https://d306pr3pise04h.cloudfront.net/docs/issues_doc%2Fhuman_rights%2FResources%2FHR_Policy_Guide_2nd_Edition.pdf

¹⁰ Legal advice in the relevant jurisdiction should be sought in such situations.