

UN GUIDING PRINCIPLES

REPORTING FRAMEWORK

Assurance Guidance on Human Rights Performance and Reporting

an aide-memoire for

EXTERNAL
ASSURANCE PROVIDERS

EXTERNAL

FOREWORD

Today, companies around the world are increasingly taking action to respect the fundamental dignity of people affected by their business. This expectation, that companies respect human rights, has become the global standard. It is set out in the UN Guiding Principles on Business and Human Rights, which I authored and which were unanimously endorsed by the UN Human Rights Council in 2011.

2015 saw the launch of the UN Guiding Principles Reporting Framework – the first comprehensive framework for companies to report on their implementation of the Guiding Principles. I have been gratified to see the Reporting Framework being applied already by so many businesses to improve both their human rights performance and their reporting.

Of course, the critical question for companies and their stakeholders is what difference this is making in people's lives. As companies improve how they report on their efforts to reduce human rights risks and impacts, they need ways of providing assurance to investors and other stakeholders that this information fairly reflects reality.

This aide-memoire, and the guidance and indicators on which it is based, equip assurance providers to play their central role in meeting this need. It complements the professional standards that practitioners follow with essential subject matter guidance specific to human rights.

Implementing respect for human rights is not a compliance exercise or a simple question of 'do no harm'; nor is it something to be completed by mere words in policies or phrases in a report. It is about a way of doing business from the top to the bottom of an organization, with the understanding that profits must not come at the expense of people's most basic human dignity.

External assurance has a vital role to play in giving the readers of company reports confidence in the credibility of what is disclosed about human rights risks and performance. It can help companies progress from a tick-box approach towards practices embedded in culture. This guidance should be the go-to tool for practitioners as they deliver this critical service.

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ABOUT

This document provides an aide-memoire for practitioners engaged in the external assurance of companies' disclosure about their human rights performance. We recommend that all users also read the complete assurance guidance, together with the accompanying assurance indicators, which are available at www.ungpreporting.org/assurance. Both documents reflect the standards set out in the UN Guiding Principles on Business and Human Rights. This guidance will, ideally (though not exclusively), be used for the assurance of human rights reporting that is aligned with the UN Guiding Principles Reporting Framework.

ACKNOWLEDGEMENTS

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The project team from Shift and Mazars would like to express their gratitude to all the individuals who participated in consultations that were held across the world and which informed the development of this guidance. Particular thanks go to the internal auditors, expert assessors and external assurance practitioners who attended round-table discussions and provided comments on the ideas and iterative drafts of the guidance, and to the Institute of Internal Auditors for their valuable support, advice and collaboration.

A PROFESSIONAL COMPETENCIES

ISAE 3000 and AT-101 set the competencies required of regulated professional services firms with respect to the assurance of non-financial information, depending on jurisdiction. They may, in addition, choose to apply the AA1000AS standard, which is frequently used by other assurance providers. This guidance emphasizes those competencies that are likely to be particularly relevant for the performance of a human rights engagement.

1 Independence and impartiality

Existing assurance standards address the requirement for assurance providers to act with independence and impartiality, which is essential to the credibility of any assurance engagement. These principles gain particular importance in the context of human rights assurance processes, given a history of 'social audit' and certification processes in relation to human rights (particularly labour rights) that have at times been heavily criticized, including for a perceived lack of independence on the part of those carrying them out.

2 Specific human rights expertise

Given that the subject matter of human rights is wide-ranging, assurance providers should understand the limits of their knowledge and expertise and ensure that relevant expertise is included in the assurance team from other sources where necessary.

Areas of competence that will typically be relevant, in addition to expertise in assurance processes, are:

- expertise in internationally recognized human rights standards
- expertise in the UN Guiding Principles on Business and Human Rights
- expertise in human rights risk assessment
- expertise in human rights issues typically relevant to the company's industry and operating contexts
- expertise in processes for engaging stakeholders, including vulnerable groups and other stakeholders affected by the company's business

3 Reliance on third-party expert evidence

It may be beneficial, from a practical, expertise, cost and efficiency perspective, for an assurance provider to place reliance on the work of others. Such work would form part of the documentary evidence contributing to the judgments included in the expert conclusions. It is important that the engagement team have the skill and competence to:

- assess the objectivity, independence and skills of the other party that undertakes such work and assess whether they are appropriate
- assess the objectives and scope of the other party's work and whether they are compatible with those of the current engagement
- evaluate the assumptions that the third party makes and the methods they use in obtaining their source evidence

4 Stakeholder engagement

Assurance providers will need the expertise to critically review the company's understanding of who its stakeholders are with regard to human rights risks and impacts. They also need particular skill sets to engage with stakeholders, most notably with those who may be, or have been, impacted through the company's operations or value chain, as well as expertise in the geographical and cultural contexts where the engagement will be conducted.

Cost and other resource constraints may limit the ability of assurance providers to engage extensively with a company's stakeholders as part of the assurance process – in particular, affected stakeholder groups who may be remote from the company's headquarters. Where this occurs, an assessment will need to be made of the impact of the limitation on the assurance that can be provided. At a minimum, engagement with some informed, policy-level stakeholders from NGO, trade union, academic or other expert backgrounds will be important wherever possible.

B FACTORS OF HEIGHTENED IMPORTANCE FOR HUMAN RIGHTS ASSURANCE

There are several factors related to the planning and conduct of a human rights assurance engagement that gain heightened importance due to the particular nature of this subject matter.

1 Suitability of the scope of the assurance process

If the requesting party seeks to limit the scope of the assurance engagement, the assurance provider will need to assess whether that limitation would be so far-reaching as to render their conclusions potentially meaningless or misleading. In such cases, it is more likely that they would be unable to accept such an engagement.

Situations raising a risk of this kind might include:

- The company's reporting focuses only on one part of the business when it is clear that salient human rights issues arising elsewhere are excluded.
- The company has only reported on one set of human rights issues (such as health and safety) to the exclusion of others.
- The company prohibits the assurance provider from communicating with certain stakeholders.

2 Time to gather evidence

The qualitative nature of much of the evidence needed to assure a company's human rights reporting depends, in particular, on evidence obtained through observation, inspection, surveys and interviews, and is likely to result in the following:

- more time needed not only to gather and collate the evidence, but also to plan the engagement given increased levels of communication and engagement
- more wide-ranging engagement with stakeholders outside the company than is generally the case for other types of assurance
- enhanced discussions with the company's management and, where applicable, relevant Board member(s) to ensure that there is sufficient time and resources to obtain the evidence necessary to draw robust conclusions

3 Conflicts between local laws and international standards

Assurance providers should be alert to discrepancies between applicable national laws and international human rights standards and ensure that it is the higher standards – typically, the international standards – that set the reference point for the engagement.

To the extent that a company has not reported on relevant conflicts between national laws and international human rights standards, and where this is deemed material, the assurance provider may consider it necessary to refer to this in their expert conclusions.

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4 Professional scepticism and judgment

Professional scepticism and judgment are key attributes of any assurance provider and are defined in the overriding standards under which practitioners operate. Given the qualitative nature of much human rights information, assurance processes in this field inevitably involve high levels of individual judgment, making these skills particularly important to arrive at robust expert conclusions by:

- testing qualitative and subjective information, and
- seeking corroboration of key assertions

5 Review of salient human rights issues

The UN Guiding Principles make clear that where companies need to prioritize their efforts to address human rights risks:

- They should prioritize those impacts on people's human rights that would be most severe: the company's salient human rights issues, as set out in the UN Guiding Principles Reporting Framework.
- Their formal reporting should focus on operations and operating contexts that pose risks of severe human rights impacts.

Assurance providers should, therefore, assess whether the human rights issues reported could reasonably be considered its salient human rights issues. Doing so will enable the provider to:

- form a view of whether the scope of the engagement is appropriate
- identify any potential weaknesses in the company's existing risk assessment processes that require further scrutiny
- identify any human rights risks and impacts that may be under-recognized and require further scrutiny

6 Engagement with external stakeholders

Broadly speaking, there are three types of stakeholder most relevant to human rights issues:

- directly affected stakeholders (and their legitimate representatives)
- proxies for affected stakeholders
- human rights experts

Due attention should be paid to the different types of insight that different stakeholders can offer. When interviewing stakeholders, the internal auditor should:

- provide sufficient protection to interviewees such that information they share cannot be attributed back to them unless they freely and expressly agree otherwise
- be clear about their role when interviewing stakeholders; that it is about obtaining evidence, not expressing a conclusion on the company other than in its final report or statement

The AA1000 Stakeholder Engagement Standard contains valuable additional guidance on engagement with external stakeholders.

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7 Limited versus reasonable assurance

The extent of work required to achieve a ‘reasonable’ or ‘high’ level of assurance may sometimes be judged too costly, resulting in a decision to seek ‘limited’/‘moderate’ assurance instead.

Nevertheless:

- All information on which assurance is to be provided must, in principle, be capable of reasonable/high assurance, even if the lower level is requested/provided.
- Achieving the higher level of assurance should remain the ultimate objective, over time – in particular, for companies with significant human rights risks.
- In making a cost–benefit decision on which level of assurance to adopt, the views of the users of the assurance report, such as the investors, should be taken into account.
- Reasonable assurance is likely to be achievable already in certain areas of companies’ human rights reporting, such as information related to Parts A and B of the UN Guiding Principles Reporting Framework, which address the governance of the company’s human rights policy and the identification of its salient human rights issues.

8 Retention of evidence

Since human rights assurance processes are likely to involve greater levels of interviews, observation and inspection than is the case for many other subjects, particular attention needs to be paid to how this will be documented. The assurance provider should ensure that they have appropriate means by which to retain this evidence in a manner that:

- respects individuals’ confidentiality
- meets their human right to privacy and related legal requirements
- recognizes also that such evidence may need to be accessible to an independent reviewer covered under the terms of the assurance engagement or by regulatory or legal provisions

9 Subsequent events

Human rights assurance may require a longer period between the end of the evidence-gathering phase and the completion of the expert conclusions than other assurance processes. Prior to approval of the expert conclusions, the assurance provider should take steps to ensure that:

- no further evidence has arisen that would alter the expert conclusions, and that
- no severe negative impacts have taken place which, if omitted from the expert conclusions, could render them misleading

If the company requesting the assurance identifies additional severe negative impacts after the reporting period but before their report is published, then they should add this to the report. If the assurance provider identifies a severe impact that has not been disclosed, they should discuss with the company its inclusion in their report. If the company does not wish to include it, the assurance provider should consider qualifying their conclusions.



EXPERT CONCLUSIONS

Company reporting in line with the UN Guiding Principles Reporting Framework

The UN Guiding Principles Reporting Framework sets a basic threshold for companies to use the Reporting Framework, which consists of:

- responding to the two overarching questions under Part A (Governance of respect for human rights)
- stating what the company's salient human rights issues are, how they were determined and any additional severe impacts that occurred in the reporting period outside of the salient issues, under Part B (Defining the focus of reporting)
- responding to the six overarching questions under Part C (Management of salient human rights issues)

It will be relevant and helpful for the assurance provider to indicate whether the company has met this minimum threshold for reporting on how it respects human rights in line with the UN Guiding Principles.

CONTENT OF EXPERT CONCLUSIONS

ISAE 3000 and AT-101 set out a number of requirements regarding the content of expert conclusions. In addition to such requirements, it is recommended that the expert conclusion from a human rights assurance process include the following among its principal headings:

- ➔ **The competencies of the assurance providers** conducting the audit/assessment process
- ➔ **The stakeholders/stakeholder groups engaged** in the course of the process
- ➔ **The salience of the human rights issue(s) reviewed** – that is, whether they are human rights at risk of severe impacts
- ➔ **The appropriateness and effectiveness of the company's policies, processes and practices** described in its public reporting
- ➔ **Areas of particular progress** in the company's reporting
- ➔ **Areas of weakness** in the company's reporting
- ➔ **Recommendations for improvement**

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an initiative of:

Shift

Shift is the leading center of expertise on the UN Guiding Principles on Business and Human Rights. Shift's global team facilitates dialogue, builds capacity and develops new approaches with companies, government, civil society organizations and international institutions to bring about a world in which business gets done with respect for people's fundamental welfare and dignity. Shift is a non-profit, mission-driven organization.

Shift was established following the 2011 unanimous endorsement of the Guiding Principles by the UN Human Rights Council, which marked the successful conclusion of the mandate of the Special Representative of the UN Secretary-General for Business and Human Rights, Professor John Ruggie. Shift's founders were part of Professor Ruggie's core advisory team that helped develop the Guiding Principles. Professor Ruggie is the Chair of Shift's Board of Trustees.

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