

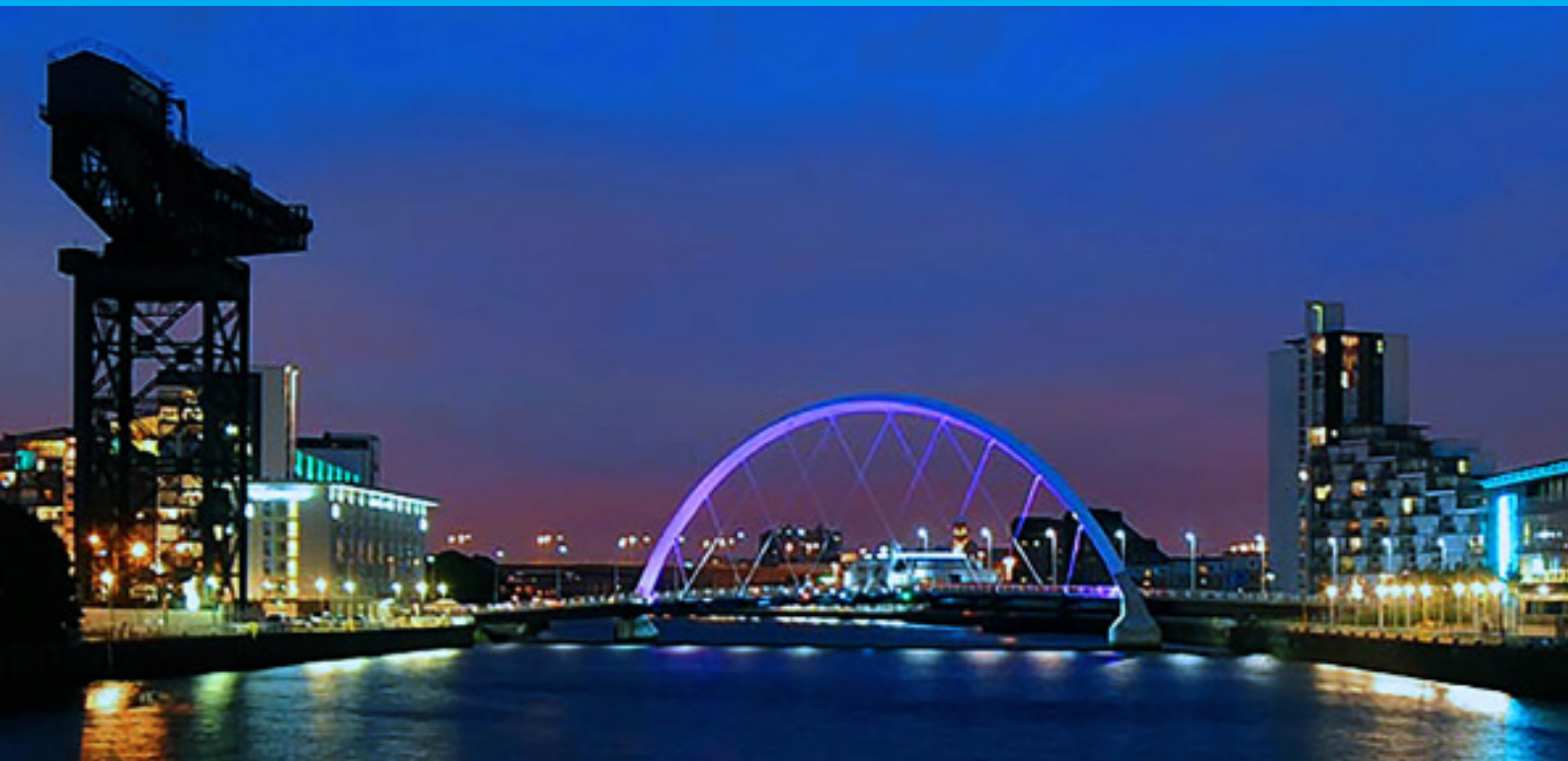


Glasgow  
Council  
for the  
Voluntary  
Sector

## The National Action Plan on Business and Human Rights *Report on the Third Sector Consultation Event*

*Produced by Glasgow Council for the Voluntary Sector, Voluntary Action  
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Helen has been the CEO at GCVS for over 20 years. GCVS is the main development agency and advocate for voluntary and community organisations in Glasgow and one of the largest Council's for the Voluntary Sector in the UK. GCVS is also one of four key partners – (GCVS, Volunteer Glasgow, Glasgow Social Enterprise Network and the Third Sector Forum) – that form Glasgow's Third Sector Interface – the partnership that supports and represents the third sector in Glasgow and through which the Scottish Government engages with the third sector.

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# 1. Background and Purpose

A national consultation and planning process is underway to develop Scotland's first 'National Action Plan on Business and Human Rights' (NAP). The process is being led by the Scottish Human Rights Commission and is based upon a Baseline Assessment commissioned by the Scottish Government in 2015.

The NAP will impact on the Third Sector and therefore GCVS, VAS and SCOD, along with the SHRC and others felt it important to ensure Third Sector organisations were given an opportunity to comment and contribute to the consultation.

The consultation event took place on Friday 16 June 2017, beginning with 3 presentation inputs to inform participants of the agenda and provide a basis for the discussion groups which followed.

## National Action Plans

National Action Plans (NAPs) are being developed by countries across the globe as a means to deliver the United Nation's 31 Guiding Principles on Business and Human Rights.

The UN Guiding Principles are designed to establish an even playing field for companies who wish to combine commercial success with human rights delivery.

# 2. Summary

3 presentations were delivered:

- Introducing the Scottish NAP - Diego Quiroz, Scottish Human Rights Commission
- The Third Sector Perspective - Helen Macneil, GCVS
- Learning from Others - Carole Ewart

Following these inputs discussion groups took place to give participants an opportunity to further explore the themes, identify potential challenges and opportunities that the Scottish NAP may present.

There was consensus that:

1. Scotland can learn from other countries and adopt best practice examples as a basis for developing a unique NAP that meets Scottish needs;
2. Scotland can learn from the evaluation of existing NAPs, such as the Joint Committee on Human Rights at the UK Parliament, who observed in their March 2017 report that the UK NAP 'is modest in scope and fails to incorporate best practice regarding having measurable objectives';
3. Public procurement has to be used far more effectively; this was reflected in the Joint Committee Report which stated: *'The Government must lead by example and demonstrate the same behaviour it expects from businesses. The guidance on circumstances in which human rights can be considered in public procurement processes is complicated and contradictory. Procurement officers of both central and local government should be able to exclude companies that have no undertaken human rights due diligence from all public service contracts.'*

Concerns about the implementation and evaluation of the NAP arose repeatedly in the wider discussion and there was support for the Joint Committee's recommendation that a government department should take a 'co-ordinating' role to ensure change happens.

The Report also points out that National Human Rights Institutions (NHRIs) 'have important roles to play in upholding human rights in relation to business, and we urge the Government to consider what extra resources they may require to resource this.'

- **Understanding Human Rights was key to the process:** Efforts must be made to help citizens, staff, businesses and organisations across all sectors understand Human Rights, because it is only when there was greater knowledge and shared understanding about Human Rights in Scotland would a NAP be able to be fully adopted and implemented with success.
- **A very public acknowledgement and commitment to the UNGPs and to the NAP was required at the highest level of government:** to ensure the NAP can be a real driver for change. The responsibility for the NAP should sit within the First Minister's Office, and with the Cabinet, and performance should be reported to them regularly.
- **The Scottish Government had a key role in dictating the success or otherwise of the effective uptake of the UNGPs; this should be identified through specific actions for the SG in the NAP**
- **The NAP should be a catalyst and call to action; it should seek to break new ground and challenge the status quo:** to signal a clear shift in 'message' by Government, widely communicated at all levels, that 'human rights respecting is mandatory in Scotland, non-human-rights respecting activity is unacceptable'
- **The Scottish NAP has a key role in creating a positive profile for rights-adopting organisations** and celebrating their success stressing that economic success will in the longer term go hand in hand with compliance.
- **The Third Sector/Civil society should show leadership and give inspiration in adopting the UNGPs, promoting them to others and being vehicles to deliver the NAP**
- **The NAP should develop ambitious and specific targets** for uptake of the UNGPs, and must set clear priorities, targets and timelines.
- **An independent verification process needs to be provided within the NAP:** Implementation should be supervised and scrutinized by a resourced, strategic committee made up of representatives from business, the public and civil society
- **The NAP should prioritise initiatives to support and encourage good practice:** to enable the private, third sector and public sectors to can better connect with service users, and communicate about quality and standards in a supportive environment which is underpinned by a commitment to progress the UNGPs.
- **The NAP should have measures to incentivise good behaviour, and drive out poor practice:** Companies which already comply with the UNGPs should be proactively invited to bid for public sector contracts and procurement opportunities; conversely companies which breach human rights should be excluded from bidding
- **The NAP should prioritise actions within industry sectors where there are already significant human rights concerns** The Health and Social Care and the Construction Sectors should be prioritised within the NAP.
- **The NAP needs to recognize and address current weak procurement practice through better training and improved monitoring, and have systems put in place to address poor performance and breaches of contract.** Scottish Government guidance on the application of human rights considerations to public sector procurement must be made more explicit, and must be adhered to, so that procurement officers do indeed factor human rights conditions into contracts, monitor compliance of contractors to criteria set and promises made, and report breaches of contract.

## 3. Report on the Consultation Session

Councillor Susan Aitken, leader of Glasgow City Council, chaired the opening session of the meeting. She explained that she and her colleagues have a long-standing commitment to human rights, as evidenced by their decision to appoint a lead on 'Equalities and Human Rights', Cllr Jennifer Leyden, within the new administration. According to the Equality and Human Rights Commission (EHRC), this is the first post of its kind in Scotland, and possibly the UK.

Cllr Aitken identified the development of a National Action Plan on Business and Human Rights for Scotland (NAP) as an important initiative which required to be delivered from within and across business rather than be viewed as a bolt-on policy. The NAP could influence delivery of the Glasgow City Region Deal – encompassing eight Local Authorities across Glasgow and Clyde Valley and with a fund of £1.13 billion to invest - which would be funding major infrastructure projects, growing life sciences, supporting business innovation<sup>1</sup>, tackling unemployment and would generate billions of pounds of private sector investment.

In concluding, Cllr Aitken welcomed consultation events on the NAP, such as this one with the Third Sector, as being crucial to build knowledge, to learn from people's lived experiences of human rights delivery on the ground, to discuss options and to help agree priorities. It was also the beginning of a process of longer-term engagement and scrutiny for those of us with a shared interest in making the NAP an important and effective tool to strengthen the inclusivity of Scotland's economy.

### 3.1 Presentations

#### Presentation 1 | Introducing the Scottish NAP - Diego Quiroz, SHRC

The consultation process currently underway in Scotland, to develop a NAP is part of a global movement to give effect to the UN's Guiding Principles on Business and Human Rights (UNGPs) which seek to create an even playing field in how businesses operate. A NAP makes an impact by setting targets, agreeing performance timelines and choosing the best monitoring and evaluation framework.

The process in Scotland is being led by the 'Better World Action Group' established under 'Scotland's National Action Plan on Human Rights' that was launched in 2013. In addition to the SHRC, the Group comprises a range of stakeholders including Scottish Government, Scottish Enterprise and Amnesty International.

The 31 UNGPs were adopted in 2011<sup>1</sup> and give effect to three pillars known as the UN's 'Protect, Respect and Remedy Framework'<sup>2</sup>:

**Pillar I:** The state duty to protect against human rights abuses by third parties, including business.

**Pillar II:** The corporate responsibility to respect human rights, that is, to act with due diligence to ensure that businesses avoid infringing on human rights and address any adverse impacts.

**Pillar III:** Access to an effective remedy, judicial and non-judicial, for victims of any business-related human rights abuses.

The UN goes into some depth about how to make the three pillars effective. For example, UNGP 16 states "As the basis for embedding their responsibility to respect human rights, business enterprises should express their commitment to meet this responsibility through a statement of policy".

1. See the publication 'Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy Framework', OHCHR, 2011, [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

2. For more information see <http://www.glasgowcityregion.co.uk/>

In November 2015, the Scottish Government commissioned a 'National Baseline Assessment' (NBA) of what is going on with 'business and human rights' in Scotland and it was published in November 2016 with conclusions and recommendations. This process is based on the NAPs Checklist developed and published by the International Corporate Accountability Roundtable and the Danish Institute for Human Rights. The authors of which stated that Scotland's NBA:

*'provides a systematic evaluation of Scotland's current implementation of the UNGPs. This evaluation will inform the development of a NAP on business and human rights by helping to identify, prioritise and select a range of measures to be included in it. In this respect, Scotland's NBA is the first stage of a wider consultative process and serves as the basis for opening dialogue with a range of stakeholders about Scotland's priorities in relation to business and human rights.'*<sup>3</sup>

We are now in that consultative process on the content of the NBA as well as talking specifically about what should be in the NAP, what its impact should be and how it will be evaluated. In the NBA, one of the observations was that *'...concerns have been raised about the implementation of procurement guidelines. Human rights' is not explicitly addressed in much of the Scottish Government's procurement policy and guidance'* and *'Concerns from stakeholders that the Scottish Government continued to award contracts to companies that have been implicated in blacklisting employees.'*<sup>4</sup> So one of the recommendations was *'Procurement guidance to make more explicit reference to human rights and the UNGPs, and for human rights criteria to be reflected more prominently in the public procurement process.'* I know that this recommendation resonates with many in the Third Sector.

As companies come in all shapes and sizes - including some which are publicly owned, and hybrid companies owned by several different public authorities, there is also a conversation about *who* the NAP applies to.

The Scottish NAP will be judged on its content and impact. Success is defined by the change it achieves rather than being merely a 'tick box' exercise. We should seize the opportunity to work with all those companies which already publish a human rights policy as they recognise it is a way to manage risk, avoid reputational damage as well as 'doing the right thing' makes commercial sense. What is clear from international practice is that for the 'vision' to become real requires determination, co-ordination and a robust monitoring and evaluation framework.

The next steps in the process is to hold workshops with business and trade unions, will provide us with a better understanding of the gaps in Scotland. After this, a drafting group will be formed to write down the NAP, which will be circulated again to all interested parties for further discussion and publication.

## **Presentation 2 | The Third Sector Perspective - Helen Macneil, GCVS**

How organisations operate, whether owned by the public sector or by the private sector is a key area of interest for GCVS, given its role as the main development agency and advocate for voluntary and community organisations in Glasgow. GCVS has 600+ member organisations; many of them directly focused on helping people manage the impact of poverty, disadvantage, discrimination and neglect. They see at first hand the impact which poor employment practices and poor service provision has on their communities. The extent of 'in-work poverty' in Scotland is now well-known; research has shown that poverty is not confined to those on benefits, it also happens in families where people are working in the public sector as well as in the private and third sector.

The UNGPs offer us a framework to tackle the systemic failures that cause poverty and the consequent disadvantage, lack of opportunity and social exclusion.

In deciding to co-host this consultation event, GCVS, VAS and SCoD wanted to ensure the voice of the wider Third Sector was heard and would exert influence on the contents of the NAP. The Third Sector has a long history of commitment to the UNGPs, stretching back to its participation in the

3. Scotland's National Baseline Assessment on Business and Human Rights, para 1, available at <https://www.snaprights.info/action-areas/better-world/business-and-human-rights>

4. NBA Executive Summary, Page 5

global conference in October 2010 hosted at the Scottish Parliament, which resulted in the Edinburgh Declaration.<sup>5</sup>

We are all keen to liaise with trade unions, whom we know will be consulted later in the year, and with others in civil society to build consensus on some key 'asks', such as fair work, decent pay and the use of public procurement proactively, to reward those employers who respect the UNGPs and sideline those companies who ignore their human rights responsibilities.

For clarity, the Third Sector is in no way hostile to private sector companies, who are valued for their role in employing hundreds of thousands of people across Scotland. We want to work in close partnership with the private sector and with the Scottish Government to ensure the message hits home that the promotion of business and respect for human rights go hand-in-hand, and that company success is not hindered but rather is enhanced by human rights compliance.

The NAP presents many opportunities to make a significant difference in Scotland: we want to see the employer who pays decent wages rewarded with public sector contracts; to see housing providers building homes which meet people's access needs, and to see those who build them having their employment rights respected; we want to see contracts to deliver public services being required to include provision to meet the accessibility needs of disabled people and the communication needs of the 1 million people in Scotland who are deaf or hard of hearing; and to see contracts for social care given only to those organisations and companies which can deliver dignity, fairness and respect to individual service users and can pay their staff fairly.

For those concerned that a Scottish NAP will be a toothless tiger, we need to remind ourselves that we have the power to make it effective and that we can and must capitalise upon the commitments of over 300 companies that already have human rights policy statements. We also need to promote what the UNGPs say and ensure they are not ignored. For example, UNGP 6 declares that "States should promote respect for human rights by business enterprises with which they conduct commercial transactions." The vehicle to fulfill that duty is already available through existing public procurement processes; it is not dependent on the NAP being agreed.

The Scottish NAP is a solution to the problems we have identified rather than being a new strand of work. We need to integrate the Scottish NAP into our existing work:

- In our purchasing and commissioning we need to believe in our capacity to make a difference in employment rights in this country and globally.
- As procurers of services and goods we need to select UNGP supporting companies.
- In our work with partners we need to spread the word about the UNGPs and get explicit support for the NAP.
- We need to work with the public sector to ensure the public pound is spent in ways that deliver human rights.

In Scotland, even in the not-for-profit and charitable sector, we have a lot of purchasing power and we need to better exercise that power as a force for change that is good. For example, we can integrate the UNGPs in the work and business operations of registered charities:

- The 192 Registered Social Landlords and their 148 subsidiaries;
- The 64 ALEOs registered as charities with OSCR, with a joint income of over £550million<sup>6</sup>.
- The 24,063 registered charities monitored by the Scottish Charity Regulator (OSCR), which handle "over £12.5 billion a year"<sup>7</sup> - given that the criteria for being a charity in Scotland includes "the advancement of human rights".

We also need to promote good practice through publicly owned and managed companies and

5. Visit the UN website at [http://www.ohchr.org.uk/Documents/AboutUs/NHRI/Edinburgh\\_Declaration\\_en.pdf](http://www.ohchr.org.uk/Documents/AboutUs/NHRI/Edinburgh_Declaration_en.pdf)

6. ALEOs, January 2015, Office of the Scottish Charities Regulator, <https://www.oscr.org.uk/media/1778/2015-01-09-os-cr-aleo-report.pdf>

7. Visit Office of the Scottish Charities Regulator [www.oscr.org.uk](http://www.oscr.org.uk)

8. 'Meeting the Charity Test Guidance for applicants and existing charities', August 2015, Office of the Scottish Charities Regulator, [www.oscr.org.uk/media/23452/v51\\_meeting-the-charity-test-guidance\\_final\\_published.pdf](http://www.oscr.org.uk/media/23452/v51_meeting-the-charity-test-guidance_final_published.pdf)



organisations. For example, leisure trust ALEOs can ensure that sports equipment is not made by child labour. Our councils, health boards, and other statutory sector agencies, our universities and colleges have enormous buying power and influence to be brought to bear on this agenda.

In conclusion, the Third Sector has an important role in actively supporting the work of the Scottish Government and the SHRC to write, deliver and evaluate a Scottish NAP. We will all gain as a result.

### **Presentation 3 | Learning from Others - Carole Ewart**

The U.K. Government has led this Business and Human Rights NAP process internationally: the U.K. was the first country to adopt a NAP, and in 2016 it updated it. Columbia, Denmark, Italy, France, Lithuania, Finland, Germany, The Netherlands, Norway, Sweden, Switzerland and USA have now all adopted a NAP, and other countries in the process of developing one now include Mexico, Poland, Kenya and Australia and of course Scotland.

By scrutinizing existing and developing NAPs, we can learn about what processes work, and really recognize the importance of the Third Sector - as human rights defenders, in drafting content which addresses real problems and aids evaluation, and by reporting impact on the ground. We can also learn about the reaction of business and of governments – is the NAP side-lined or is it mainstreamed? To give some international examples:

In Switzerland the NAP communicates what the government expects of business enterprises, raises awareness among and facilitates cooperation with the corporate sector, and also improves the consistency of government action. The NAP acknowledges the need to adopt measures to resolve conflicts in government policy and strategies between foreign trade and human rights protection objectives. The NAP does not create any new and legally binding measures but does acknowledge the 'Protect, Respect and Remedy' framework requires a new concept of corporate social and environmental responsibility. To monitor implementation, the Federal Department of Foreign Affairs (FDFA) and the Federal Department of Economic Affairs, Education and Research (EAER) will join with the various stakeholder groups to set up a six-strong multi-stakeholder Monitoring Group.

In the USA the development process was concluded by President Obama who launched the NAP in December 2016. The process prioritised consultations with stakeholders from around the country, coordinated 12+ federal agencies and was informed by best practice. The NAP provides a framework for government to increase its commitment to coordinate with partners in the private sector and with stakeholders.

For example in partnership with business, trade unions, foreign governments and other stakeholders, it supports open and accountable business practices that demonstrate principled governance, respect for human rights, and a commitment to transparency.

The NAP sets out ways U.S. companies can promote positive change within the communities in which they operate, which bolsters 'the American brand'. Categories for action include:

1. Continue to refine the ways in which the US Government purchases and finances responsibly;
2. Work with companies, civil society, and foreign governments to share best practices and support high standards;
3. Highlight the success stories of leading companies; and
4. Seek to provide effective mechanisms to address negative impacts when they occur.

Countries are also getting together to drive up practice. For example, 'The Corporate Human Rights Benchmark', a project supported by the Netherlands, ranks the world's largest companies in terms of their performance on human rights. It is embraced by a coalition of investors representing 5.3 trillion dollars. There is now a growing body of evidence that more and more investors are judging companies on their human rights performance. A key part of the jigsaw on evaluating compliance and delivery requires a 'multi-stakeholder approach' particularly knowing what is happening on the ground.

Internationally we know that civil society organisations work as human rights defenders, cataloguing and challenging human rights abuses. Individuals and organisations are standing up for human rights and companies are now lending weight and support to their activities because they are a valuable source of intelligence about what is happening in local areas.

i. In 2013, Andy Hall, a researcher for a Finnish NGO exposed terrible abuses in the pineapple and tuna industries in Thailand. The Thai company Natural Fruit, failed to improve the situation for its workers and sued Andy Hall. The Finnish supermarket chain S Group had already stopped sourcing from Natural Fruit, because it had refused independent audits. When Andy appeared in court, S Group came to Thailand to testify in his defence. Two industry associations in Thailand paid Andy's bail so he awaited his trial in freedom. All the companies concerned recognized the value in having an active civil society which helped organisations know exactly what is going on in their supply chains.

ii. In Angola, journalist Rafael Marques documented torture, killings and forced displacement linked to the country's booming diamond mines. Marques was prosecuted on 24 charges but Tiffany's and other prominent diamond traders urged the authorities to drop the charges, presenting his reporting as being 'fundamental' to the industry's global operation.

Conversely in 2016 at least 281 people were killed worldwide, often for protesting peacefully against new business projects in their communities. Companies are often complicit in the persecution of these human rights defenders.

In conclusion, the Scottish NAP should reward companies that respect the UNGPs and should refuse to spend public money on those which abuse human rights at home and abroad. There will be mistakes but we need a NAP which minimises that risk.

Voluntary organisations in Scotland are 'human rights defenders' - although they do not usually use that language. By standing up for people's rights third sector organisations can often make themselves unpopular, but the sector's role and its work as advocates and campaigners needs to be recognised and valued within the NAP. Through a NAP we can agree a set of values, underpinned by the UNGP framework, which acknowledges the valuable role and contribution of the Third Sector.

## 3.2 Groups Discussions

Participants were asked to discuss two questions with colleagues at their table:

- How could the UNGPs help your work?
- What should be in the Scottish NAP?

Group discussions achieved a great deal of consensus. Participants agreed that the UNGPs enable action on specifics rather than vision and values which are 'soft' arguments with no force behind them.

There were concerns that the NAP would become another tick box exercise with marginal impact, when in fact its real role was to provide a solid framework which can help make Scotland fairer by, using current spending to respect and protect human rights and offering a remedy when things go wrong.

There was agreement that Scotland should look to learn from Northern Ireland, where the UNGPs seem to have been better integrated into procurement rules and processes, and that there needed to be serious discussion and consideration on why Scotland has not yet taken active steps to use procurement better to deliver national policy priorities.

### How could the UNGPs help your work?

There was a wide range of relevant feedback to this question, all of which we believe is important to acknowledge when considering how best to develop Scotland's NAP on Business and Human Rights to **8**

ensure it is successful:

- 1. People do not know about their human rights or how these apply to everyday life in Scotland.** Whether as a citizen, or an employee, you need to know about human rights to give the UNGPs full effect. So, in preparation for the launch of the NAP, there must be an awareness raising campaign to help people understand their rights.
- 2. The UNGPs remind us of the standards we should expect in Scotland from service delivering companies.** This is useful in helping us overcome some of the challenges for human rights delivery in health and social care services, one of which is that the Third Sector often just accepts what is happening because 'money is tight'.
- 3. The UNGPs offer a framework to improve many of the human rights issues that exist within social housing.** This is particularly relevant in light of recent events at Grenfell Tower, where the use of poor quality, dangerous but cheap construction materials resulted in a failure to protect people's right to life.
- 4. Public procurement is not fulfilling its potential to change business practice.** This is a very clear wasted opportunity, and means we are failing to ensure the public pound is securing maximum impact in making Scotland fairer - a key Government objective.
- 5. A failure to integrate human rights into the tendering process/documentation.** From a third sector perspective, this was partly explained by the complicated process which procurement organisations were required to follow, and partly by very evident lack of knowledge of human rights in practice by procurement specialists writing the tenders.

The complexity of the system should, however, not diminish the effectiveness of spending the public pound in ways which promote the UNGPs. These are practical, technical and process issues, which could and must be fixed, by providing mandatory training and specific guidance to procurement professionals, and by having tender documents sense-checked through independent scrutiny by experts for equality and human rights compliance before they are issued, and when they are scored.

- 6. There is no consistent, effective follow up and monitoring of service delivery by procurement professionals** in relation to equalities and to human rights, to confirm that contractors are compliant. Because of this, there is neither an incentive for organisations who win contracts to comply with conditions, nor any sanctions for non-compliance. Good practice is not rewarded, and bad practice has no negative repercussions, so the status quo remains.

Proper investment will be needed to resource robust contract monitoring, and to identify and root out bad practice.

- 7. The public sector needs to focus more on its supply chain, and act as a champion and driving force for the UNGPs.** Participants identified that public agencies were not currently considered to be using their buying power effectively enough, or raising awareness sufficiently of the implications and impact of using purchasing and procurement as a tool for reducing inequality.

Public sector agencies needed to engage in more sophisticated dialogue about what and how they purchased goods and services - with their Board Members, Councillors and with staff who make purchasing decisions, with the businesses with whom they transact, and with the general public and communities they serve. They needed to invest in an informational and educational process to improve knowledge and understanding of the positive and negative impact and consequences of purchasing choices made.

- 8. Under-funding of some key services – e.g. care services - is becoming a serious problem which is resulting in clear breaches of human rights which need to be addressed.** The number

of companies bidding for contracts appeared to be reducing, as funding for care reduced, and/or client numbers increased; there was significant anecdotal evidence that reduced provision, e.g. 15 minute care visits – was impacting negatively on peoples' human rights. Attendees gave examples of a number of Third Sector organisations who no longer tendered for work because they could not deliver services safely, and to a rights respecting standard, for the money on offer.

It was noted that significant cross-party political will and public support was required, to change a prevailing culture of silence and complicity, and that the only way to force change was for budgets to be human rights proofed and monitored. High level politicians needed to have the courage to address the need for difficult choices to be made : to fund some activities and services more, and others less. The human rights agenda should help make those choices more transparent and defensible

## What should be in the Scottish NAP?

A wide range of suggestions and ideas emerged, about what the Scottish NAP should contain and focus on, to make it as effective and impactful as possible:

- 1. There needed to be a very public acknowledgement and commitment to the UNGPs - and to the NAP - at the highest level of government, to ensure the NAP could be a real driver for change.** The process should be led and promoted by the First Minister and the whole Cabinet, and be reported in at that level; this will be needed to achieve both culture and practice change.

Some participants felt this should be facilitated through the development a 'Customer Charter' which set out commitments around human rights that would need to be upheld across the private, public and third sectors

- 2. The Scottish Government has a key role in dictating the success or otherwise of the effective uptake of the UNGPs; this should be identified through specific actions for the SG in the NAP.** Issues relating to human rights and business cut across Government departments. The Scottish Government must lead by example, demonstrating the same behaviour it expects from businesses e.g. ensuring compliance with the NAP in its own procurement supply chains, and upskilling its staff to guard against them prioritising business concerns over human rights.
- 3. The NAP should be a catalyst and call to action; it should seek to break new ground and challenge the status quo.** Six years after the Christie Report, the proposed shift in public service delivery to a person-centred approach and to early intervention and prevention had not been achieved. Participants felt that current resistance to change in the public sector would create major problems for the integration of the UNGPs, unless it was now addressed head-on by Government.

The NAP needed to signal a clear shift in 'message' by Government, which needed to be widely communicated at all levels, with the focus shifting to: 'human-rights respecting is mandatory in Scotland, non-human-rights respecting activity is unacceptable', and have this as a key benchmark and measurement.

- Some participants felt that Co-Production in service design and Participatory Budgeting - taken up by the Scottish Parliament Finance Committee in respect of 'equalities' but not yet incorporating human rights – could provide in part a solution to this issue.
- Others felt that only strong leadership by the FM, the Government and all political parties, backed up by civil society, and sitting alongside a major PR campaign, could combat current inertia and lack of focus.

- 4. The Scottish NAP has a key role in creating profile for rights adopting organisations and celebrating their success:** The NAP has to address head-on the negative perceptions that in the current financial climate, and with still further cuts in funding for public services forecast, reduced quality of public services is inevitable. Instead it needs to identify and highlight that high quality is affordable, and that pursuing UNGPS is economically sound and deliverable.

The point needs to be stressed very strongly that adopting the UNGPs will not hold organisations back, and that economic success will in the longer term go hand in hand with compliance. This is something that interests key decision makers in the public sector. It can be proved by profiling the very many successful organisations – in the UK and across the world - which already adopt them, and are flourishing.

5. **Civil society should show leadership and give inspiration** Publicly owned companies, ALEOs, and companies operated by civil society should lead the way in adopting the UNGPs and be vehicles to deliver the NAP. They should write up and promote their experiences to inspire others to follow their actions.
6. **An independent verification process needs to be provided within the NAP**, which assesses and verifies how well private and third sector contractors are complying with UNGPs. This would demonstrate quality and impact, and would help build trust across sectors, and with the general public.
7. **The NAP should develop ambitious and specific targets for uptake of the UNGPs**, and make provision for sufficient resources to be allocated to allow for these targets to be evaluated. The Third Sector has an important scrutiny and challenge role in assessing the impact of the NAP.
  - Implementation should be supervised and scrutinized by a resourced, strategic committee made up of representatives from business, the public and civil society.
8. **The NAP should prioritise initiatives to support and encourage good practice.** The private sector and to a lesser extent the third sector are now providing services which historically used to be the remit of the public sector to provide. This has led to a culture of competition, and less public dialogue and public information about services quality and standards. Sharing of provision across sectors is likely to continue, so safe space needs to be created where the private, third sector and public sectors can better connect with service users, and communicate about quality and standards in a supportive environment which is underpinned by a commitment to progress the UNGPs.
9. **The NAP should have measures to incentivise good behaviour, and drive out poor practice.** Companies which already comply with the UNGPs should be proactively invited to bid for public sector contracts and procurement opportunities; conversely companies which breach human rights should be excluded from
10. **The NAP should prioritise actions within industry sectors where there are already significant human rights concerns** e.g. health and social care provision, and the construction sector in general, and specifically where contractors are building or renovating homes.
11. **The NAP needs to recognise and address current weak procurement practice through better training and improved monitoring, and have systems put in place to address poor performance and breaches of contract.** Scottish Government guidance on the application of human rights considerations to public sector procurement must be made more explicit, and must be adhered to, so that procurement officers do indeed factor human rights conditions into contracts, monitor compliance of contractors to criteria set and promises made, and report breaches of contract
  - The Scottish Government and public sector should exclude companies from all public sector contracts that have not undertaken appropriate and effective human rights due diligence.
  - Companies that have been found to have been responsible for abuses, or where a settlement indicates that there have been human rights abuses, should also be excluded from public sector contracts for a defined and meaningful period.

## 4. Concluding Reflections from the Third Sector

The UK Joint Committee on Human Rights report has proved very useful in providing direction on what makes a NAP successful so its 85-page report is timely and welcome in influencing the Scottish process.

Several of its most useful recommendations require UK wide action so there needs to be a link up with the Scottish and UK NAPs.

In addition, many of the Report's recommendations resonate with the Third Sector's concerns and can easily translate to the Scottish experience.

Participants agreed the consultation event provided a clearer sense of what the Third Sector can get out of this process and should lead to discussions within their organisations about what steps can be taken when you procure goods and services, to reward organisations and companies that support the UNGPs.

Whether purchasing as an individual organisation or as a consortium, regardless of the size of the purchase, asking the right questions was very important. By generating discussion and raising awareness within networks, as a sector we can collectively generate a ripple of activity that will make a difference to human rights in Scotland, the UK and globally.

There was agreement that resources, information and expertise are needed to progress the NAP within the Third Sector and to enable organisations to give effect to the UNGPs. Stakeholder engagement and independent scrutiny of the NAP would also require extra resources.

The Scottish NBA suggested 'Develop a webpage dedicated to business and human rights aimed at Scottish businesses', however it may be more appropriate to add in sections that are useful to the Third Sector too.

At the UK level, it is the Government that has driven the NAP but in Scotland a Committee has up till now had this role. To secure buy in and change practice it is important that there is high-level government action and so it was agreed that delivery of the NAP should sit in the First Minister's Office.

It was noted that the FM has a long established and articulate commitment to human rights. There was an important role also identified for Committees of the Scottish Parliament to get involved with ensuring the implementation of the UNGPs as well as scrutiny of the Scottish NAP

The NAP must be a combination of tools: regulations, self-imposed codes of conduct, economic incentives and action plans. The Scottish Government should not lose sight of what is obligatory, as well as what is recommended as good practice.

Whilst initiatives taken by the corporate sector are welcome, the Scottish and UK governments must adopt appropriate regulatory and policy initiatives which are enforced and evaluated for impact, and must itself 'walk the walk' and demonstrate its own commitment if it is to persuade others to do so.

## 5. Next Steps

This report is intended for circulation to Scotland's Third Sector who are invited to endorse the contents and comment directly to SHRC at [hello@scottishhumanrights.com](mailto:hello@scottishhumanrights.com).