

LAW FIRM BUSINESS AND HUMAN RIGHTS PEER LEARNING PROCESS

EMERGING PRACTICE, INSIGHTS AND REFLECTIONS
WORKSHOP REPORT – NOVEMBER 2016

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I. INTRODUCTION

A. LAW FIRMS AND BUSINESS AND HUMAN RIGHTS

As business enterprises, law firms have a responsibility to respect human rights as set out in the [UN Guiding Principles on Business and Human Rights](#) (the UN Guiding Principles).

In recent years, a number of efforts, initiatives and projects have explored what law firms' respect for human rights looks like in practice. Most notably, the International Bar Association (the IBA), the global voice of the legal profession, recently released its [Practical Guide on Business and Human Rights for Business Lawyers](#) (the Practical Guide), which is addressed to business lawyers. The IBA has recognised that lawyers increasingly need to take human rights into account in the legal advice provided to clients (both by in-house and external counsel, acting in their individual capacity or as members of a law firm). The IBA has also recognised that the UN Guiding Principles have implications for the management of law firms as business enterprises. The Practical Guide is complemented by a [Reference Annex](#), which offers more detailed commentary for lawyers. Individual bar associations, including those of the United States, England and Wales, France, Japan, Spain, Costa Rica, Namibia and Australia, have also been working to increase the baseline awareness of business and human rights by member firms.

“Corporate counsel made it very clear at the IBA in Vienna [in 2015] that they regard compliance with human rights standards as of the same importance as compliance with hard law, not least because it is often inextricably linked with complications that may have hard law consequences. Many in-house counsel will tell you that failing to acknowledge human rights can be as harmful, or more harmful, than a violation of hard law in terms of damage to reputation or its direct economic impact.” David W. Rivkin, [President of the International Bar Association and Co-leader of Debevoise & Plimpton LLP's Business Integrity Group](#)

In parallel, a number of leading law firms are taking concrete steps to implement their responsibility to respect human rights across their business activities and business relationships. These steps include: developing human rights policy commitments; implementing training programmes to build internal knowledge and awareness; revising business acceptance processes to identify potential human rights risks to people that the firm may need to consider; undertaking human rights due diligence in supply chains; and supporting peer learning and collaborative cross-sectoral dialogue about key issues for the profession.

B. THE LAW FIRM BUSINESS AND HUMAN RIGHTS PEER LEARNING PROCESS

Leading legal practitioners have identified a need to create space for knowledge-sharing, peer learning and collaboration on business and human rights between, as well as within, law firms. This need stems from the breadth and complexity of law firms' responsibility to respect human rights, and the need to work iteratively to build know-how and capability to implement respect in practice.

In 2016, nine firms initiated the **Law Firm Business and Human Rights Peer Learning Process** (the Law Firm Peer Learning Process, or the Process). The sponsors of the Process are Allen & Overy LLP, Berwin Leighton Paisner LLP, Clifford Chance LLP, Debevoise & Plimpton LLP, DLA Piper LLP, Herbert Smith Freehills LLP, Hogan Lovells International LLP, Norton Rose Fulbright LLP and White & Case LLP. The Process is facilitated by Catie Shavin and Anna Triponel, independent advisors with expertise in business and human rights as well as business-to-business peer learning.

The Law Firm Peer Learning Process seeks to:

- Drive increased engagement by the legal profession with business and human rights developments, building on the IBA Practical Guide and Reference Annex, as well as the leadership of individual bar associations and law firms;
- Establish a community of practice amongst leading law firms and practitioners to support knowledge-sharing, peer learning and leadership/innovation;
- Demonstrate progress by the legal profession in implementing respect for human rights in practice, and create a platform for exploring ongoing challenges and areas where further progress and/or guidance is needed; and
- Support the broader legal profession (and their clients) to access and build on emerging practices, insights and lessons learned from leading firms working to implement their responsibility to respect human rights.

The firms involved in this process are proud of the leadership that has already been shown by members of the legal profession – including the IBA, local/national bar associations (notably, the American Bar Association and the Law Society of England & Wales), individual law firms, and practitioners – as well as civil society organizations, such as Advocates for International Development. However, they are keenly aware that the legal profession is still in the early stages of an ongoing broader journey to enable all business enterprises, everywhere, to operate with respect for human rights. Clarity regarding expectations of lawyers and law firms is increasing rapidly, in no small part due to the recent efforts of the IBA. But there is still a long way to go to act on that guidance, and operationalise emerging standards and expectations regarding law firm respect for human rights across the profession. Sponsoring firms believe that the Law Firm Peer Learning Process will play a role here – hopefully one that reinforces and will continue to build on the work of law firms, bar associations, professional regulators, clients, academic lawyers and other stakeholders, not to mention individual leaders within the profession.

C. THE PEER LEARNING WORKSHOP

On 27 September 2016, the Law Firm Peer Learning Process convened a one-day peer learning workshop, hosted by Clifford Chance LLP in London. Sponsoring firms were represented by individuals from diverse functions, including partners and associates from key practice groups, General Counsels and the Heads/Directors of the firms' Risk, International Regulatory and Compliance, Social Responsibility and Pro Bono teams.

Discussion during the workshop focused on the implementation of the law firms' own responsibility to respect human rights and, in particular, the following areas:

- Policy, strategy and governance;
- Embedding through training, capacity building and awareness raising;

- Client risk mapping and client acceptance; and
- Approaches to supply chain due diligence, including in response to the UK Modern Slavery Act.

This report is based in part on the ideas and comments shared at the Peer Learning Workshop, and presents insights and reflections from those discussions, as well as examples of emerging practices. The report is intended to promote discussion, and share learning and experience; it does not seek to prescribe specific actions by either the sponsors of the Process or the wider legal community. The workshop was held under the Chatham House Rule (meaning that information shared made by the participants may be used, but not attributed to specific individuals or their affiliations), and the content of this report reflects that approach.

Participating firms will continue to engage with the community of practice established through the Law Firm Peer Learning Process and will reconvene in 2017.

II. CROSS-CUTTING INSIGHTS AND REFLECTIONS

The UN Guiding Principles seek to avoid harm to people as companies offer their products, conduct their operations and provide their services. At a minimum, business enterprises are asked to take steps to identify, prevent, mitigate and, in some situations, redress adverse human rights impacts on people that may be associated with their business activities or business relationships. Law firms can choose to go beyond respect and seek to also support human rights, for instance through the provision of pro bono services. However, this support does not affect or reduce their baseline responsibility to respect human rights.

In this process, the primary consideration for the policies and processes law firms are putting in place to implement their responsibility to respect should be the avoidance of harm to people. The more severe the potential harm, the higher the burden on the law firm to seek to avoid that harm. It is the risk to people that drives the implementation of the responsibility to respect, rather than the risk to business. At the same time, the two risks increasingly converge for companies and for the law firms advising them.

As clients' and other stakeholders' expectations of law firms increase regarding respect for human rights, it can be helpful for firms to be able to demonstrate how their own policies and processes assist them to manage their own human rights risks, while advising clients to do likewise.

Being able to show that the firm has made a commitment to respect human rights, and is implementing that commitment through management policies and processes, helps demonstrate that the firm is meeting expectations. Evidence of this is increasingly requested by clients, who themselves are focusing on implementation of the responsibility to respect human rights and who view law firms as part of their own supply chains. Making a policy commitment that aligns clearly to key authoritative standards, including the UN Guiding Principles, can assist firms to meet the standards required of them by clients and to demonstrate that they operate to standards equivalent to those of their clients. Demonstrating efforts to implement respect for human rights can also strengthen a firm's advisory work in this area, enabling it to draw on its own experience and insights concerning the practical challenges of operationalising emerging expectations regarding business respect for human rights.

Firms can demonstrate their efforts to implement respect for human rights in a number of ways, including by: making policy commitments or statements; revising business acceptance procedures to identify possible human rights issues; building lawyers' capability to spot and address human rights issues; requiring employees and lawyers to comply with the firm's human rights policy; strengthening processes to manage human rights issues in business (including supplier) relationships; public reporting, such as in a corporate responsibility report or in a Communication on Progress submitted to the UN Global Compact; and participating in sectoral initiatives to develop industry awareness / guidance, such as that led by the Law Society of England and Wales.

Several law firms have been asked by clients to provide evidence of their policy commitment to respect human rights, or to commit to comply with the clients' own Code of Conduct.

The legal profession is changing. As the business case for companies to respect human rights becomes stronger and more compelling, so too does that for the law firms that advise these companies.

Recognition that risks to people are risks to business has strengthened significantly in recent years, changing the operating reality for business and their needs from professional advisors. Demand for advice on legal and non-legal risks associated with involvement in adverse human rights impacts has been steadily rising in recent years, and clients increasingly expect that their lawyers also be aware of so-called “soft law” considerations related to business and human rights, including growing stakeholder expectations regarding the implementation of human rights due diligence processes. Legislative initiatives such as the [EU Non-Financial Reporting Directive \(2014/95/EU\)](#), the [UK Modern Slavery Act 2015](#), the [French bill related to human rights due diligence](#) and the [Swiss Responsible Business Initiative](#) reflect the emerging trend towards a “hardening” of standards and expectations, and underscore the need for lawyers to be aware of business and human rights developments. Clients now expect their legal advisors to be trusted advisors/“wise counsellors” who are able to advise not only on the content and application of the law, but also on the context and sector(s) within which the client operates.

One lawyer successfully made the case internally to devote resources to business and human rights by drawing attention to client alerts on business and human rights produced by a competitor firm.

“In addition to being technical experts, lawyers are also often called upon to be wise counsellors to their clients. In this role, the first question the lawyers ask about a particular course of action is ‘is it legal?’ but the last questions are: ‘is it right?’ and ‘what should we do?’” [Ben W. Heineman, Jr., William F. Lee and David B. Wilkins](#)

It is becoming easier for practitioners to drive this work forward within their firms. They can now point to the evolving legal landscape, demand from clients and work conducted by leading firms to demonstrate the need to understand the implications of the UN Guiding Principles for the management of, and the content of advisory services provided by, law firms. For example, leading firms are establishing business and human rights practice areas, publishing client alerts and making human rights policy commitments.

In addition to their own responsibility to respect human rights, law firms are well-placed to assist clients to deal with these issues and meet emerging standards as part of their advisory services. However, more work is needed to clearly communicate the value-add that lawyers can offer here.

Lawyers have an important role to play in helping their clients respect human rights. They can provide advice about options to structure transactions in a way that identifies and seeks to minimise the risks of harming people. They can provide advice that considers risks and delivers options in circumstances where legal compliance on its own would be insufficient to ensure respect for human rights. They can advise on ways to resolve disputes that assist clients provide access to remedy for affected people while avoiding lengthy, disruptive and costly litigation. In short, lawyers are unique in being able to explore and provide legal solutions that assist clients in their respect for human rights. Further, that advice may be protected by legal privilege.

However, the benefits lawyers can provide to corporate clients is not always clearly communicated. Corporate clients may not be aware of the differences between the capabilities of law firms in this field as

compared with other professional services providers. Law firms need to be able to clearly articulate how they can assist clients with their respect for human rights. The challenges in doing so may be compounded by the way in which work and responsibilities are distributed within law firms and companies. Within firms, the lawyers aware of the value add they can bring to client engagements may not in practice be the ones advising on higher-risk transactions. Within companies, where teams other than those leading on human rights work instruct external counsel, opportunities to seek advice on human rights issues may be overlooked, particularly if coordination between functions/teams on human rights issues is not yet in place or has gaps. By building the capability of individual lawyers to advise on business and human rights as part of their day-to-day work, firms may be able to better support clients to understand how they can add value.

The General Counsel of a mining company voiced concern to one law firm that law firms were at present not equipped to advise on the human rights impacts of their business transactions, which had led the company to engage an accounting firm for this work.

Individual leadership within law firms has been the primary factor in driving engagement with business and human rights. Broader engagement around respect for human rights must now build on this leadership and become embedded more deeply within law firms.

Law firms that are taking concrete steps to implement the UN Guiding Principles are generally doing so because of the leadership and commitment of individual champions within the firm. The position of these champions within firms varies; in some they are fee-earners from litigation and dispute resolution, environment and planning, or corporate advisory teams. In others, they may be in the risk and compliance team, amongst the firm's own in-house counsel, or within the pro bono / CSR group. In some firms, these champions have successfully demonstrated to senior leadership as well as diverse practice areas the opportunities and risks presented by emerging expectations and standards concerning business-related human rights impacts. Each law firm is on a unique journey to embed human rights into its operations, shaped to some extent by where internal leadership on these issues first emerged.

To more deeply integrate respect for human rights into a firm's policies and processes, and across practice groups and functions, it is necessary to build connections, collaboration and coordination across teams, and break down any silos within the firm. Establishing who needs to be involved in this work, and assigning responsibility to key individuals or functions, can be a helpful early step. Some firms find it useful to establish cross-functional working groups to support internal coordination, or to create a business and human rights focal point, within the firm. Where efforts to embed human rights result from a lack of familiarity and confidence across the firm, it can be helpful to consider long-term strategic goals to implement respect for human rights, then identify small tactical steps that can be taken to integrate respect into the firm's ways of working whilst building the comfort and confidence, and structural maturity and capacity, to progress these goals more comprehensively and systematically.

A key challenge is to promote stronger uptake of business and human rights by a wider range of law firms, and amongst lawyers across different legal traditions and located in non-Anglophone countries.

The process for developing the IBA Practical Guide underscored that it is common and accepted for lawyers in a number of common law jurisdictions to incorporate commercial considerations – including, for example, observations about industry best practice or non-legal (such as reputational) risk – into client advice work.

This can be less common in other legal traditions and jurisdictions. This can be due to a range of reasons, including related to the flexibility of professional rules, the role of national bars and the scope of professional indemnity insurance.

Another reason for the challenges associated with increasing uptake may be that the majority of key standards and resources are available in official translations in only a small number of languages. Further, some key concepts in business and human rights standards, such as “leverage” and “salience” are not necessarily easily understood in some languages. Accordingly, it can be challenging for some lawyers to advise effectively on emerging expectations in this area. More needs to be done to support the appropriate and thoughtful translations of key guidance documents and other resources that are now being developed for law firms, lawyers and clients in this area.

Progressing engagement by the legal profession with business and human rights issues should be regarded as pre-competitive. Collaboration across law firms is needed to progress this work and achieve positive outcomes for clients and the people their businesses could impact, such as workers and neighbouring communities.

Leading firms and practitioners recognise that there is space – and need – for collaboration across law firms to progress efforts to implement respect for human rights within law firms globally. There are areas of lawyers’ work on business and human rights that are competitive, such as advice provided to clients. However, many aspects of the firms’ own efforts to meet their human rights responsibilities – such as building awareness and knowledge, shifting mind-sets to create rights-respecting cultures, developing processes to undertake due diligence throughout supply chains, and working to identify and share common generic challenges from a professional perspective with industry bodies – are pre-competitive. Indeed, the greater the awareness amongst clients that law firms can add value to their business in this way, the higher the chances that law firms will be asked to consider business and human rights in the advice provided. Accordingly, firms sense that collaboration and cooperation can help drive progress across the legal profession and lift the bar generally. These efforts can also bring significant benefits to individual law firms, with increased awareness and understanding of business and human rights issues and standards inside the firm enabling business clients to be better supported in their management of human rights issues associated with their business activities and relationships, thereby strengthening the lawyer-client relationship.

III. POLICY, STRATEGY AND GOVERNANCE

A. OVERVIEW

Developing a policy commitment to respect human rights, creating a human rights strategy and establishing robust governance frameworks are important steps in a firm's efforts to embed respect for human rights in its activities and business relationships. These steps can also be key to enabling and supporting the process of organisational change needed to shift mind-sets, and build know-how and capability internally to deliver on a firm's commitments and responsibilities.

B. KEY QUESTIONS FOR LAW FIRMS

Questions discussed by the firms during the workshop, and which emerged from firms' experience implementing respect for human rights within their organisations (including by drawing on the IBA Practical Guide), include:

- What does leadership on human rights "look like" in your firm, and how have you approached building leadership, coordination and collaboration across your organisation – including amongst partners, other fee-earners and non-fee earning teams?
- How has your firm approached the need to make a policy commitment to respect human rights, who has been involved in these conversations and what has driven internal engagement on this?
- What is the role of human rights strategy in driving implementation of your firm's human rights commitments and responsibilities, and how has your organisation approached developing and implementing such a strategy?
- What governance structures are in place within your organisation to ensure continuous progress in the implementation of the firm's commitments and responsibilities? To what extent did these build on existing mechanisms? What would you like to strengthen in future?
- How has your firm's approach to policy, strategy and governance been driven by internal and external developments? Do these policies, strategies and governance frameworks in turn inform how your firm responds to external developments and pressures?

C. EMERGING PRACTICE, INSIGHTS AND REFLECTIONS

Policy commitments play an important role in shaping a law firm's approach to human rights. A number of legal practitioners whose firms have made human rights policy commitments noted that these policies help articulate the firm's values and provide guidance as to how those values should guide the firm's lawyers and other employees in their work. These practitioners also observed that such policy commitments help convey senior-level commitment to the firm's responsibility to respect human rights, which can in turn be a powerful lever to shift mind-sets and build commitment at other levels within the firm.

Policy commitments to respect human rights cannot be adopted in a silo, but must be accompanied by a strong “tone from the top” and be supported by a holistic strategy on human rights. Practitioners emphasised the importance of developing a holistic strategy, which includes the adoption of a policy commitment to respect human rights coupled with a process of reflection on the steps that need to be taken to ensure that the firm meets its commitment to respect human rights. This may include reflection on relevant governance frameworks, awareness-raising and training needs, as well as risk management processes and other human rights due diligence processes. A human rights policy can help tie these strands together.

Clifford Chance has developed and published on its website a [human rights policy](#) that expresses the firm’s agreement to support and respect internationally recognised human rights, stating this to be part of its commitment to the UN Global Compact and consistent with the UN Guiding Principles.

In one firm, practitioners driving work on human rights have developed overarching strategic goals, and are “building a pie” by integrating human rights into key tactical areas (such as client acceptance processes and the firm’s Code of Conduct), with a view to proposing an explicit human rights policy commitment once the architecture is in place and colleagues have developed a sense of comfort with the firm’s ability to meet expectations in this area.

Implementing respect for human rights is a journey of organisational change. Practitioners recognised that embedding respect for human rights throughout an organization is an ongoing process. It can be helpful for law firms to start to move forward the various aspects of embedding to build sufficient confidence to develop and publish a policy commitment. Being opportunistic about the entry point, and thinking about how that can be leveraged and built on (for example, through awareness raising, education and sensitisation on key concepts), can lay the foundation for broadening engagement and future work. For example, the need for firms to set their commitment and strategy in response to the Modern Slavery Act provides an entry point for wider discussion about the firm’s approach to human rights.

Law firms are taking different approaches to making a human rights policy commitment. Some firms have opted to drive their work through a simple overarching statement expressing the firm’s commitment to respect human rights, which is followed by more extensive work to implement that commitment. This can be particularly effective where there is strong leadership at the board level on business and human rights. Other firms have sought to clearly determine what a commitment to respect human rights means in practical terms for the firm before adopting a more detailed policy. For example, these firms are taking steps to reflect on actions that would be required to integrate human rights into the firm’s risk mapping and client acceptance procedures, as well as to build the capacity of its various practice groups, prior to developing a policy commitment. These questions – regarding how much to progress on embedding respect for human rights prior to making a policy commitment – reflect questions that companies in other business sectors also ask themselves. Practitioners suggested that there is likely no right answer; rather, it is important that firms make the decision that best fits their human rights journey, culture and existing ways of working.

DLA Piper’s [2015 UNGC Communication on Progress](#) states that the firm has expressed its commitment to respecting and supporting international human rights throughout its business operations and ensuring that it is not complicit in human rights abuses through a Human Rights & Modern Slavery Policy statement. The policy is stated to be consistent with the International Bill of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work and the UN Guiding Principles.

External pressure on law firms to adopt human rights policy commitments has been increasing over the past year. In particular, clients are increasingly asking their law firms for evidence of commitment to human rights. As clients are themselves compiling their own policy commitments and engaging in work to determine what this means in practice for their business, they are increasingly interested to determine how their business partners including their legal advisors approach the topic. In addition, the UK's 2015 Modern Slavery Act is driving further attention to the subject of policy, with law firms considering how to meet the expectations of a modern slavery policy, within the broader context of a human rights policy commitment.

A number of firms have noted that clients are increasingly requesting evidence of a human rights policy commitment in their Requests for Proposals from law firms.

The process through which a policy is developed can be as important as the final product. Some practitioners recognised that the process through which a policy is developed, which generally includes conversations with senior leaders and relevant teams, can be particularly valuable in building awareness, buy-in and commitment to meeting the firm's responsibilities. These conversations can also help identify who within the firm needs to be involved in, or have ownership of, efforts to implement respect for human rights, what the firm's key or salient human rights risks are, and what the baseline level of awareness and knowledge of business and human rights developments is within the firm.

One firm has assigned responsibility for overseeing the implementation of its human rights policy commitment to its Corporate Responsibility team, which is overseen by the firm's Executive Leadership Committee. This Corporate Responsibility team coordinates with all relevant fee-earning and support functions on the necessary actions to take.

Clear buy-in to the firm's human rights strategy can support the implementation of effective governance frameworks. Law firms report taking different approaches to governance of their human rights work. However, building the role of senior leadership, ensuring accountability for implementing specific aspects of the human rights policy commitment and leveraging "organic" support from more junior levels were all recognised to be useful. Practitioners spoke to the importance of feedback

loops between efforts to raise awareness and build commitment to the firm's human rights responsibilities and the effectiveness of governance frameworks to ensure those responsibilities are met.

Embedding human rights more deeply into the firm may present solutions to resourcing challenges. Practitioners noted that, particularly where leadership and expertise on business and human rights has emerged amongst fee-earning practitioners, securing resources and time to progress implementation of the firm's policy commitment can be challenging. This reinforces the value of efforts to build capability on business and human rights across the firm, including in internal risk management teams, to find resource-efficient solutions whilst simultaneously ensuring that accountability is optimally located within the firm.

For relevant information from the IBA, see Sections 2.3.1 and 6.1 of the [IBA Practical Guide on Business and Human Rights for Business Lawyers](#) and Section 6.3.1 of the [Reference Annex to the IBA Practical Guide](#).

IV. EMBEDDING THROUGH TRAINING, CAPACITY BUILDING AND AWARENESS RAISING

A. OVERVIEW

Operationalizing a policy commitment to respect human rights will require taking steps to embed this policy throughout the firm. In particular, law firms have taken diverse approaches to raising awareness, training and capacity-building within their firms. These include seeking to increase the baseline level of awareness and knowledge amongst all personnel, and building the in-depth knowledge and capability of key individuals and functions.

B. KEY QUESTIONS FOR LAW FIRMS

Questions discussed by the firms during the workshop, and which emerged from firms' experience implementing respect for human rights within their organisations (including by drawing on the IBA Practical Guide), include:

- How have you approached thinking through who needs what knowledge/skills to ensure the firm delivers on its human rights responsibilities? Does your organisation's approach distinguish between fee-earning and non-fee-earning teams? Does your organisation's approach distinguish between practice groups? Does your organisation take the geographical location of its offices into account in its approach?
- How has your organisation approached providing training to staff on the firm's human rights responsibilities and commitments? Have you developed tools or other resources to support this? Where can individuals go for further information or guidance?
- What approaches or conversations have achieved notable impact in your core training programmes? For example, has it been useful to use real-life dilemmas to build interest, commitment and collaboration between teams?
- Does your firm seek to build capacity beyond core training programmes? If so, why and how does this take place?
- What other types of external or other professional skills /expertise have you identified as relevant to building capability in this area? Where have you readily located them?
- What are the main challenges you have encountered when seeking to raise awareness, provide training and build capability? How have you sought to overcome these? By contrast, what enablers or opportunities have arisen?

C. EMERGING PRACTICE, INSIGHTS AND REFLECTIONS

It is increasingly difficult from a commercial standpoint for law firms not to build lawyers' capabilities on business and human rights. Legal practitioners recognised that there is a clear risk for law firms where their lawyers, who are on the front line advising clients, are unaware of the risks that could result from the firm's (or a client's) involvement in adverse human rights impacts. Equipping lawyers to identify and address business and human rights-related issues that may arise with their clients can assist the firm to manage these risks, and preserving the firm's strong reputation with clients and other stakeholders. Ensuring lawyers are equipped to spot business and human right issues in the course of client work also enables the firm to identify and make informed decisions about how to respond to situations where such issues arise.

In addition, a growing number of clients expect their external lawyers to be aware of, and able to advise on, business and human rights issues. These issues are now often core to understanding the commercial context in which a client operates, and understanding these can support firms to better support their clients and their own business. They also recognised that, where lawyers do not have this knowledge, they may not be equipped to advise on all issues that are relevant to promoting the clients' best interests. For example, clients may be refused financing or listing on a stock exchange if they are not meeting key standards and expectations in the area of business and human rights. Concerns have been expressed that, in future, clients may consider malpractice lawsuits against firms that failed to incorporate business and human rights considerations where that was needed for the specific advice sought. Practitioners further recognised the possibility that bar associations/professional conduct regulators may in future change their rules to ensure lawyers integrate these considerations into their services. The question is becoming less *whether* law firms should equip lawyers to consider human rights in their legal advice, and more *how* to do so.

In one law firm, a network of professional support lawyers (PSLs) are developing a know-how repository on business and human rights. It will include relevant templates and a number of different examples of how to weave business and human rights considerations into advice provided to clients.

Efforts to raise awareness, provide training and build capability can achieve diverse aims. These efforts can grow awareness of the firm's human rights responsibilities and expectations of firms as business enterprises. They can assist lawyers to feel empowered to weave consideration for human rights into the legal counsel provided, and know how to do so. Fundamentally, these efforts can help shift mind-sets by building interest in, and commitment to, the firm's own human rights responsibilities, and contribute to a broader culture change in the firm.

Some law firms have added baseline training on business and human rights to their mandatory training requirements for all lawyers – a similar approach to mandatory training requirements on anti-corruption and ethics. Another law firm has provided training to interested lawyers, and is rolling that training out to all new trainees and joiner lawyers over time.

Law firms are taking diverse approaches to increase business and human rights-related capability amongst lawyers and support functions. In addition to providing formal training opportunities (such as e-learning programmes and in-person training sessions), practitioners reported that their firms are creating opportunities to enable lawyers to learn "on the job", by working on business and human rights matters, either for relevant pro bono clients or for corporate clients, at times in a non-billable manner. Law firms are also developing toolkits, resources and other information that is made readily available to their lawyers. For example, lawyers are increasingly encouraged to prepare articles and present publicly on these issues, and convey information internally on actual cases that

are relevant to business and human rights. Practitioners also noted efforts to build capability in non-fee-earning teams on business and human rights. One practitioner observed that conversations about real-time dilemmas between risk team members and fee earners with business and human rights expertise proved valuable in building knowledge and skills, as well as interest in and commitment to the firm's responsibilities.

Law firms are taking different approaches to selecting their target audience for business and human rights training opportunities.

Some firms require all lawyers to acquire a baseline knowledge of business and human rights; some seek to build the capacity of interested lawyers first, before turning to the remaining lawyers; and some focus training efforts first on those practice groups with the highest likelihood of providing advice to clients involved in adverse human rights impacts. Practitioners discussed the advantages and disadvantages of each approach. Making business and human rights training compulsory ensures that everyone has some knowledge of these issues, and some capacity to spot them in their work. Incorporating this into existing compulsory training programmes can be an effective and efficient way to progress implementation of the firm's policy commitment. Where training is only provided to those who are interested, it is possible that it will only be attended by more junior lawyers (who now tend to have a strong interest in these areas) and/or lawyers not working in higher-risk areas. At the same time, building a community of practice of interested lawyers before requiring training be completed can help drive effective engagement within the firm and build momentum over time.

One law firm coordinates its training programme from its responsible business team. The programme is facilitated by a consultant with extensive knowledge of the law firm who assists in building this out to all practice groups.

A law firm that has implemented mandatory training for all fee earners noted that it had received strong positive feedback from nearly all participants across roles/seniority levels. Training participants also expressed interest in further training modules, to enable them to build deeper knowledge and more in-depth skills to address these issues.

Practitioners reflected that it can be helpful to combine these approaches. It is important that this area not be seen as the realm of one practice group in particular. It can be helpful for the training to be coordinated at a central level, bringing in a range of practice groups, and to include appropriate information on key relevant issues for fee earners based on the work that they do and the clients that they advise. A mandate from the firm's

General Counsel can also encourage participation in training programmes, and emphasise the risks to the firm that may result from failure to spot and respond to business and human rights issues.

It can be helpful to tie business and human rights training to career progression paths, and to reinforce how it helps maintain the firm's reputation.

Lawyers are typically very busy, and have limited time for, or incentives to attend, training unless its relevance to their role is clear. Practitioners emphasized that it is important to reinforce why it is important that all lawyers pay attention to human rights in the course of their client work, and provide incentives for them to do so. This connects with the overarching need for firms to provide ample training and support to lawyers about the high ethical standards they need to exercise in client work generally - which includes being familiar with business and human rights-related concepts and the corporate responsibility to respect human rights.

One law firm incorporates its business and human rights training in lawyers' performance reviews, to ensure lawyers understand its importance for the firm and their own professional careers. Another law firm explicitly connects its business and human rights training to maintaining the positive reputation of the firm with its clients and other stakeholders.

It is critical that the content of training initiatives be tailored to the target participants. Practitioners emphasised that lawyers need to understand how these issues connect to their daily legal practice and what they are expected to do. Training should focus on providing lawyers with the necessary “tools of the trade”, and practical guidance on how human rights connect to their clients and how to proceed when issues are identified. Before designing training programmes, it can be important to first engage with different teams and practice areas to understand what is needed. It can also be helpful to tailor training to different levels of seniority; for example, it may be useful to build junior lawyers’ capability to undertake risk-spotting exercises, whilst more senior practitioners may benefit from training on how to position themselves as “trusted advisors” with clients. Practitioners agreed that the use of real-life case studies and examples can be particularly valuable – especially if they concern situations that the firm itself has confronted. Another approach involves “shadowing” an ongoing transaction, and asking training participants to assess whether there are any human rights issues, and suggest how they could be addressed. These practical approaches can assist lawyers to strike a good balance between using tools/checklists and developing thought processes to identify and address issues, to avoid adopting a “tick-box” approach.

One practitioner noted that, after a case study-based training session, a lawyer at the firm reflected that an opportunity had been missed in respect of a past retainer because they had not spotted an issue.

It may be helpful to develop collective approaches to training and awareness-raising within the legal profession. Practitioners reflected that, as all firms with similar client bases and practices would benefit from increasing their lawyers’ awareness and know-how on business and human rights issues, it might be sensible to explore further opportunities for collective approaches to training and capacity-building. For example, basic/general training could be incorporated into the Professional Skills Course (PSC), which is required for all those seeking to be admitted as a solicitor of England and Wales. It would be particularly helpful for this

training to be set at a baseline level relevant for all law firms, rather than targeted to specific practice groups. Such a training initiative could build on the IBA’s Practical Guide, which has benefited from input from the Law Society of England and Wales. Law firms could explore this with the Solicitors Regulation Authority and the Law Society. Similar opportunities could be explored in other jurisdictions. Such initiatives could build on and scale the impact of existing courses that provide training on business and human rights.

Incorporating business and human rights issues into university law degrees/programmes may also be helpful. Practitioners observed that there may be steps that firms could take to increase knowledge of business and human rights issues by graduate law students. This would help build a baseline of knowledge amongst all lawyers as to how their advice could be connected to adverse human rights impacts, and the human rights responsibilities of both law firms and client companies. Firms’ knowledge of business and human rights, and the stance that they take on responsible business, is now increasingly used as a selling point in graduate recruitment.

One law firm has been raising awareness of how business and human rights connects to the legal profession at a law school. This has resulted in attracting trainee lawyers interested in these issues to that law firm.

For relevant information from the IBA, see Section 6.1 of the [IBA Practical Guide on Business and Human Rights for Business Lawyers](#) and Section 6.3.1 of the [Reference Annex to the IBA Practical Guide](#).

V. CLIENT RISK MAPPING & CLIENT ACCEPTANCE

A. OVERVIEW

For law firms, efforts to assess human rights impacts can include assessing the risks that a particular mandate may pose to human rights. This could involve looking at the risks of negatively impacting people that may be connected to the firm's advice on a specific matter, and considering the potential harm to people that could result from that advice. This is distinct from traditional risk management, in that risks are viewed from the perspective of the person impacted, were the impact to occur. At the same time, as noted above, risks to people increasingly become risks to the business as well. In particular, in the area of client risk mapping, having a better understanding at the outset about the environment in which the client is operating and the human rights risks that may emerge in the course of the engagement can assist the firm in managing its own risks.

Law firms already conduct risk mapping on their clients for a range of reasons, and a number are seeking to integrate human rights impact assessments into these existing pre-engagement screening processes. In parallel, some firms are seeking to position themselves as wise counsellors at the start of new client relationships, for instance through the wording of the client engagement letters and through the initial pitch meetings, to enable them to raise human rights-related concerns with clients in the course of the engagement. However, there are some very real practical realities regarding how one prioritises effort amongst large numbers of client relationships, obtains sufficient information to understand the nature of any risks, and makes decisions where considerations are not clear-cut and/or may change over time. Where information is limited at the point at which a mandate is accepted, there is also a need to consider how to monitor human rights risks on an ongoing basis.

B. KEY QUESTIONS FOR LAW FIRMS

Questions discussed by the firms during the workshop, and which emerged from firms' experience implementing respect for human rights within their organisations (including by drawing on the IBA Practical Guide), include:

- How do you perceive your firm's responsibilities as regards client involvement in adverse human rights impacts? What is it that a firm may need to "do" to meet its responsibility?
- How has your firm approached integrating human rights into client acceptance and risk mapping processes? In what ways do existing processes need to be adapted to identify, assess and manage the risk of linkage to impacts with which clients are involved?
- How has your firm sought to monitor potential risk throughout the life of the retainer, in order to address changing circumstances?
- How has your firm sought to position itself as a wise counsellor to its clients at the outset? Has your law firm revised its client engagement letters, and if so, how? Has your firm sought to integrate respect for human rights into initial conversations with clients and, if so, which ones and how?

- What are the main challenges you have encountered when seeking to develop the law firm’s risk mapping and client acceptance procedures in the area of human rights? How have you sought to overcome these? By contrast, what enablers or opportunities have arisen?

C. EMERGING PRACTICE, INSIGHTS AND REFLECTIONS

Ensuring individuals and organisations have access to legal advice and representation remains fundamental. Practitioners recognise, and are very cognisant of, the fundamental importance of ensuring efforts to implement respect for human rights – particularly as regards client relationships – are consistent with, and do not undermine, access to independent legal advice and representation.

“... in line with the provisions of the UN Basic Principles on the Role of Lawyers as resolved by the UN General Assembly in its ‘Human rights in the administration of justice’ resolution of 18 December 1990 (Basic Principles), nothing in the Guidance for Bar Associations or in the IBA Practical Guide for Business Lawyers ... shall be interpreted as reducing respect for the fundamental human rights of effective access to legal services provided by an independent legal profession to all in need of such services, including that all lawyers should always be able to fulfil their duties and responsibilities and enjoy the guarantees provided for by the Basic Principles, consistent with their legal and professional responsibilities.” [IBA Council Resolution on the IBA Practical Guide on Business and Human Rights for Business Lawyers](#)

Firms have different processes and systems in place to map client risk and to accept new clients and new matters. Practitioners observed that these different processes and systems can reflect diverse ways of doing things, as well as different stages of maturity of processes and systems. Differences between firms can also reflect differences in regulatory requirements and drivers. For example, firms operating in England and Wales are required to have processes in place to assess client risk in the area of money laundering, and may be leveraging these existing processes to integrate a human rights lens into efforts to map client risk.

Discussing the scope of engagement and how human rights may be integrated into it from the outset can help position lawyers as trusted advisors/wise counsellors. Practitioners recognised that incorporating a human rights lens into client risk mapping and client acceptance processes can help identify issues upfront, and assist law firms to provide more robust advice to clients, and strengthen the lawyer-client relationship. The UN Guiding Principles provide useful guidance on how to identify such human rights issues effectively, and investing more in these due diligence exercises upfront can enhance advice provided to clients. Practitioners also noted that the process of developing the IBA Practical Guide uncovered potential sensitivities for lawyers bringing human rights considerations into their advisory services for a range of reasons, including concerns about potential liability to the client and insurance coverage. The IBA Practical Guide states that lawyers can advise on business and human rights matters in the course of providing legal counsel when they position themselves as a wise counsellor. It can be particularly helpful for some law firms, and in particular for firms subject to relevant regulatory constraints on the role of the lawyer and those situated in countries with less awareness of the UN Guiding Principles, to discuss these issues at the outset with clients to ensure that there is a mandate to consider human rights issues in the course of the representation.

A number of law firms are deliberately framing all decisions on business acceptance relevant to human rights through the framework provided by the UN Guiding Principles.

In one law firm, the General Counsel brings in partners responsible for business and human rights, and they decide together on the best course of action in situations where human rights risks are identified. In another, a business and human rights expert will soon be seconded to the firm's risk team to build its capability in this area. This is firmly seen as "part and parcel" of delivering on the firm's commitment to respect human rights.

A number of law firms already conduct risk mapping on their clients in a range of areas, such as money laundering, anti-bribery and conflict of interest concerns. These existing processes provide a useful foundation for the integration of processes to identify human rights-related risks. These processes also enable firms to identify and manage reputational risks, including those that may flow from perceived involvement in human rights issues.

It is important that human rights considerations be woven into existing systems in a seamless manner. Practitioners

observed that there needs to be reflection on where existing processes may be sufficient, and where they need to be strengthened. Assessing human rights risks entails assessing risks to potentially affected people resulting from the representation (contrasting with existing risk processes, that focus on risk to the firm), as well as assessing the landscape in which this advice sits. Law firms have sought to ensure that the risk management team has access to relevant tools that can assist them to identify human rights risks associated with a matter. It can be helpful for decisions to be taken in collaboration with those most attuned to how these issues can play out.

It can be helpful to build the risk team's capability to use the UN Guiding Principles as a reference point.

Some law firms are using the UN Guiding Principles to guide them when confronted with the need to take decisions about new matters. The UN Guiding Principles provide a useful reference point as they help determine what the law firm's responsibility may be and the actions the law firm might be wise to consider. Firms are seeking to systematise this thought process into decision-making processes and into the law firm's ability to establish and use leverage where work is accepted. In addition to looking at the law firm's connection to the possible impact, some risk teams are assessing the client's incentives to respect human rights, whether there is anything that can give the firm comfort about how the client might act, and the actions that the firm could take in the client engagement to help ensure respect for human rights.

One law firm has created an integrity mapping approach that includes jurisdictions identified as at a heightened level of risk, as well as particular client sectors, mapped against other issue indices, such as those developed for sanctions and money laundering. Another law firm complements its internal risk mapping work with conversations with the lawyers on the other side of the corporate transaction to understand how they assessed the human rights risks involved and how they got comfort to proceed.

The risk team requires access to a range of different resources to make good decisions on business acceptance. Particular challenges arise in this field regarding access to relevant information and language capabilities. Needed information can be hard to find, and may only be available in certain languages. Practitioners report that members of the risk management team can spend significant periods of time seeking information from diverse stakeholders, including fee earners, local institutions and civil society organizations, as well as translating local press articles. Inputs from fee earners who will work on the matter can be particularly helpful, as they tend to have local knowledge about the client and the transaction that is not in the public domain and can help feed into the assessment of how the client engagement could impact human rights. It can also be important that the risk team is able to assess the integrity of information, and evaluate information that is politically motivated and/or inaccurate. Some database tools can help in this regard. Another avenue of information relates to the client's own human rights work. For instance, the law firm may be able to request to see the client's human rights due diligence relevant to a specific matter, to better understand the risks identified already by the client. Where clients do not wish to share such information, the law firm may need to consider other questions it could ask to understand this reluctance on the part of the client, and locate alternative sources of information. Practitioners observed that decisions may need to be made to balance the resource-intensive nature of this work with the level of risk involved.

One law firm revised its client acceptance procedures for non-dispute engagements to provide that clients needed to “respect human rights”. If they were deemed not to, the fee earner taking on the matter should liaise with the client acceptance team to determine appropriate measures to help protect the law firm’s reputation. The client acceptance team did not receive any requests for information from fee earners on this provision, suggesting fee earners did not understand what this provision meant in practice, which flagged the need for further awareness-raising on this process.

There is a distinction to be drawn between acceptance of a client and of a matter. Practitioners reflected that both may need to be reviewed, although the decision on whether and how to proceed with the representation will likely ultimately be based on the matter involved. Due diligence on a prospective client may fail to uncover human rights issues, but these may become apparent during the course of the transaction/dispute – and vice versa. Practitioners reflected on the utility of ensuring that there is a process to review business acceptance decisions in the context of future retainers for particular clients.

In practice, revising client/matter acceptance procedures may be insufficient alone to promote awareness.

Practitioners observed that such revisions may need to be accompanied by broader awareness raising measures to enable that those implementing the new client/matter acceptance procedures, as well as those responsible for the ongoing relationship with the client, to understand what is required. Firm-wide training and capability-building efforts can be an important way to enable all lawyers to be “on the look-out” for these issues in the course of their client work, which in turn can play a significant role in assisting the firm manage its human rights-related risks.

A number of law firms use the opportunity of the engagement letter negotiation to determine the client’s perspective on risk, including human rights risks, and clarify the services that the client is paying for in the matter. One law firm has revised its engagement letter to specifically state whether human rights issues will be covered as part of the legal advice or not. The client is also asked to advise the firm of any human rights-related issues it becomes aware of in the course of the representation.

Changes to risk mapping can be accompanied by changes to the engagement letter signed between the law firm and the client. Practitioners reflected that engagement letters can

provide an opportunity to gather further relevant information on a matter and for the firm to communicate clearly the extent to which it proposes to integrate business and human rights considerations into the services it provides. They can also provide an opportunity to convey to the client the ongoing nature of human rights risks, and establish expectations that the client inform the firm of any relevant changes. Where the situation changes in the course of the matter, in a way that would require additional law firm time, a discussion can take place with the client on whether they would like the law firm to consider this area. If the client does not, the law firm may need to decide whether to offer some advice in a non-billable manner, advise the client to bring in additional expertise for this, or take other actions – depending on the severity of the potential impacts.

Practitioners noted that an example of a helpful provision can be found in standard terms of engagement with financial institutions. These contracts commonly incorporate a requirement that external firms escalate major reputational issues to the institution's legal department. This provision is intended to prevent the business side of the financial institution from seeking to move the deal forward, regardless of reputation, without engaging with the institution's in-house counsel. It provides some protection to the company, and can be helpful for firms by enabling them escalate issues they uncover in the course of a matter.

Ongoing monitoring of risks connected to the matter can be important. Practitioners observed that, in practice, human rights-related issues may more commonly be identified in the course of a representation, than before work commences. Once the risk management team, in conjunction with the relevant partner, has accepted the client-matter on behalf of the firm, it may be up to the fee earner to continue to assess risks that may arise in the course of the representation. Tasking fee earners with reverting back to the risk management team to discuss how to proceed can be hugely challenging for law firms. It is time intensive to do, and presents a resource challenge. To support this, a number of measures can be implemented. For example, training can be provided to fee earners whose client-matters are particularly high risk to ensure that they can communicate with risk management where issues arise.

One practitioner suggested that a human rights feedback loop can be added in the form of particular indicators. The risk management team can inform the fee-earners about specific triggers that would require follow up conversations with the risk management team. These triggers would be based on changes in engagement that have been known to heighten the risks when it comes to human rights impacts.

A post-transaction review can also be particularly helpful. Practitioners observed that risk management teams, in conjunction with the legal team, can review certain higher-risk transactions to assess whether issues had been raised, whether the channel of communication between the fee earner and the risk management team had been effectively used, and how possible issues had been addressed by the legal team. This can be helpful for the firm's learning, and can feed into revisions to relevant processes. It can also support future training, by providing useful case studies.

There are some instances where client work may be rejected by the law firm on human rights grounds, in particular, where there are concerns that the firm may become involved in adverse impacts (through contribution or direct linkage) as a result of the mandate. Whilst both of these concepts are areas where further discussion is required. Indeed, practitioners observed that it is expected that firms avoid contributing to adverse human rights impacts through the advice they provide to clients, and address any impacts that they may have contributed to. Where law firms find that they could be directly linked to negative impacts through their advice, they are asked to build and exercise leverage (i.e., influence) to prevent or mitigate these impacts.

In practice, rejection of client work on business and human rights grounds is the exception, not the rule. Practitioners noted that there is typically a confluence of factors that will lead to the law firm rejecting a potential client or matter. These factors do not generally relate to human rights alone, but will also bring in other risk factors, for example, those related to reputation and/or corruption. The more tangible benefit of integrating human rights considerations into client risk mapping is to identify where the firm should focus its leverage efforts. In practice, firms may find that they have more opportunity to positively influence human rights by accepting the transaction and working with the client to minimise risks to human rights over time.

Existing incentive structures can create challenges in this area: it is easier to embed business and human rights considerations into a law firm when it may lead to additional client engagements than where it may lead to rejecting billable work. Since law firms are relatively flat organisations, the integration of human rights considerations into client engagement decisions may lead to one partner rejecting work on human rights grounds whilst another partner accepts it. Accordingly, effective centralised management of client acceptance processes is important. Practitioners observed that an effective way of ensuring that this forms part of a partner's assessment would be to build it into the remuneration and incentive structure. It was suggested that partners could be rewarded for making decisions that are aligned with the firm's values, risk mitigation objectives and the expectations set out in the UN Guiding Principles. For instance, bonuses could depend, not only on billable hours, but also on the ability to assess human rights risks and protect the firm.

The use of leverage in client relationships requires more thinking and dialogue within the legal profession. Practitioners reflected that the appropriate management of human rights risks in client relationships is potentially one of the most significant challenges for law firms in terms of meeting their responsibility to respect human rights, and also potentially the area where they can make the most meaningful impact on outcomes for potentially affected people. However, it is an area of work that must be approached carefully and with due consideration to the role lawyers play in society, as well as their professional duties and obligations. That said, practitioners feel that there is now sufficient sophistication and maturity in the area of business and human rights within the legal profession to progress thinking and dialogue on these issues and these efforts should continue to be supported by leadership across the profession and by its professional bodies, regulators and leading law schools and professional education providers.

For relevant information from the IBA, see Section 6.1 of the [IBA Practical Guide on Business and Human Rights for Business Lawyers](#) and Sections 6.3.2.1 and 6.3.2.2 of the [Reference Annex to the IBA Practical Guide](#).

VI. SUPPLY CHAIN DUE DILIGENCE AND THE MODERN SLAVERY ACT

A. OVERVIEW

The recent increased profile of forced labour-related issues and the introduction of the UK Modern Slavery Act in 2015 has focused attention on, and created some urgency around, the need for firms – and other businesses – to be able to know and show how they are managing human rights in their supply chains.

B. KEY QUESTIONS FOR LAW FIRMS

Questions discussed by the firms during the workshop, and which emerged from firms' experience implementing respect for human rights within their organisations (including by drawing on the IBA Practical Guide), include:

- What processes does your firm have in place to identify and manage human rights risks in its supply chains? To what extent have you been able to adapt existing processes? Have new processes been needed?
- How do you ensure coordination, consistency and coherence across different offices?
- How does your firm approach prioritising energy and efforts amongst suppliers? Are concepts like "salience" used, or useful, in thinking about prioritisation? Is there useful learning in other parts of the business community to support your firm's supply chain work?
- How has your firm responded to the Modern Slavery Act? What steps have been taken to understand existing measures and prepare the firm's first statement?
- Is the Modern Slavery Act driving increased focus on human rights risks in your firm's supply chain? Have you set ambitions for future progress and action in this area?
- What are the main challenges you have encountered when seeking to strengthen the law firm's human rights approach in its supply chains? How have you sought to overcome these? By contrast, what enablers or opportunities have arisen?

C. EMERGING PRACTICE, INSIGHTS AND REFLECTIONS

A number of questions are arising for firms as they seek to identify human rights risks in their supply chain. Key decisions discussed by practitioners include how to prioritise amongst numerous suppliers across different geographies, the extent to which human rights due diligence can, or should, go beyond first tier suppliers, and the extent to which it is appropriate to trust that large suppliers with stronger reputations are managing human rights risks effectively.

Firms can face a number of practical challenges when conducting this work. Practitioners observed that law firms are comparatively small customers for many of their suppliers, and accordingly have little leverage to effect change in suppliers' practices when acting alone. Where potential issues are identified, it can be difficult to find an alternative supplier that the firm is confident better manages human rights issues. Some firms noted that it can be difficult to get internal buy-in for the resources involved in this work, because the risks are sometimes perceived by colleagues as being relatively low.

Firms are using contractual terms to establish expectations and leverage in supplier relationships, and working to integrate expectations into relationships. Some practitioners noted that their firm is renegotiating supplier contracts to incorporate expectations regarding, and accountability for, human rights risks. They are also engaging with direct suppliers to better understand risks, and to obtain more visibility of second tier suppliers.

While the Modern Slavery Act has been helpful in increasing attention to modern slavery, it can also distract energy and resources from adopting a holistic approach to human rights. Practitioners observed that the Modern Slavery Act has had a significant impact in terms of driving awareness of and focus on human rights-related work. However, they also observed that this legislation is driving a prioritisation of forced labour over other human rights risks. The notion of salience is key here, and law firms need to be thinking about where they could impact people in the most severe way. Modern slavery may, or may not, form part of the firm's salient human rights risks. It will be important for firms to consider their priorities based on risks to people rather than based on external drivers. These higher risks of forced labour may arise in parts of the firm's supply chain in which they have less leverage. Practitioners also noted the importance of communicating clearly with colleagues to ensure that the firm complies with (and, where possible, leverages the opportunities offered by) the Modern Slavery Act, without distracting attention from other areas of work related to the firm's implementation of its responsibility to respect human rights.

One firm requires anyone involved in procurement to be trained on the integration of human rights into procurement decision-making. This includes anyone with authorisation rights, from the Managing Partner through to individuals in the procurement team. The procurement function is trained to select suppliers in accordance with this training.

One law firm has developed a methodology for assessing human rights risks in its supply chain through which it assesses impact risk, sectoral risk and country risk. Using this methodology, the firm is able to map risks and assign a grade to each supplier. Suppliers identified as having at least a medium level of risk go through a further assessment process, and have their contracts renegotiated.

A number of internal functions may need to be involved in responses to the Modern Slavery Act. Practitioners reported that this work is being progressed with the involvement of diverse functions within their firms. It is common for this work to be led by the General Counsel's office, to ensure compliance with the legislative requirements. But procurement, reporting, marketing, facilities, human resources and public/international policy teams also tend to be involved, as do the firm's key leaders or experts on business and human rights issues.

For relevant information from the IBA, see Section 6.1 of the [IBA Practical Guide on Business and Human Rights for Business Lawyers](#) and Sections 6.3.2.1 and 6.3.2.2 of the [Reference Annex to the IBA Practical Guide](#).

ANNEX A: RELEVANT RESOURCES AND MATERIALS

KEY STANDARDS

[The UN Guiding Principles on Business and Human Rights \(OHCHR, 2011\)](#)

The UN Guiding Principles provides the global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity. Relevantly, it sets an expectation that all business enterprises (including law firms) respect human rights, and provides guidance on how that expectation may be met.

[UN Guiding Principles Reporting Framework \(Shift and Mazars\)](#)

The UN Guiding Principles Reporting Framework provides guidance for businesses on how to report on human rights issues in line with their responsibility to respect human rights. The concise set of questions the Reporting Framework provides can also be used to assess and strengthen efforts businesses (including law firms) are making to ensure effective governance of human rights responsibilities and commitments, as well as effective human rights due diligence and remedy procedures.

KEY GUIDANCE MATERIALS

[IBA Practical Guide on Business and Human Rights for Business Lawyers \(IBA, May 2016\) and Reference Annex \(IBA, November 2016\)](#)

A document that provides business lawyers with a compact summary of the relevance of business and human rights. The Reference Annex is a companion document, which provides further detail and information on the points made in the Practical Guide and which will remain as a living document for future reference, development and assistance for legal professionals.

[The UN Guiding Principles on Business and Human Rights: A Guide for the Legal Profession \(A4ID, 2013\)](#)

A guidance document for the legal profession that addresses law firms' implementation of their human rights responsibilities in client relationships, and presents the results of an analysis of the relationship between the UN Guiding Principles and codes of professional conduct for the legal profession.

COMMENTARIES, ARTICLES AND OTHER RESOURCES

[Ben W. Heineman, Jr., William F. Lee and David B. Wilkins, *Lawyers as Professionals and as Citizens: Key Roles and Responsibilities in the 21st Century* \(Harvard Law School Centre on the Legal Profession, 2014\)](#)

An essay that presents a vision of the responsibilities of lawyers as both professionals and as citizens at the beginning of the 21st century. It seeks to define and give content to four ethical responsibilities the authors believe are of signal importance to lawyers in their fundamental roles as expert technicians, wise counsellors, and effective leaders.

[Respecting business and human rights: IBA's guidance on applying the UN Guiding Principles \(Triponel, Practical Law, 2016\)](#)

An article that considers the IBA's Practical Guide on applying the UN Guiding Principles to the legal profession, and provides information on steps that law firms can take to be seen as counsellors on business and human rights issues.

[Business and human rights – moral support \(Law Society Gazette, March 2016\)](#)

An article that explores the relevance for law firms of developments in the area of business and human rights, the connection between business and human rights ‘know how’ and value delivered to clients, as well as emerging practice amongst leading firms in both advisory work and internal efforts to implement respect for human rights.

[Law firms to draw up first human rights policies by end of year \(IBA Global Insight, July 2013\)](#)

An article that explores the reasons why law firms develop human rights policies, the ‘state of play’ as regards corporate lawyers and the business and human rights space, and the challenges potentially associated with balancing lawyers’ professional duties and the UN Guiding Principles.

[Guide for General Counsel on Corporate Sustainability \(Linklaters LLP and United Nations Global Compact, 2015\)](#)

A guide which explores the evolving role of General Counsel and provides guidance to General Counsel and in-house lawyers on how to drive corporate sustainability from the legal department. It also provides observations made by General Counsel regarding the key challenges and opportunities they are facing in the area of sustainability.