

Ireland's Second National Plan on Business and Human Rights (2024-2027)

The Department of Foreign Affairs and the Department of Enterprise, Trade and Employment are soliciting input from all interested stakeholders to inform the development of a second National Plan on Business and Human Rights.

A new National Plan on Business and Human Rights is intended to build on the first National Plan (2017-2021) and reflect significant developments in the space of business and human rights, particularly at EU level. The new National Plan will align with the commitment in the Programme for Government to 'ensure that the Action Plan [on Business and Human Rights] is further developed to review whether there is a need for greater emphasis on mandatory due diligence'.

This document summarises the outcomes of Ireland's first plan and presents guiding questions for consideration. Written submissions can be sent to bhrconsultation@dfa.ie. The consultation will launch on 27 July 2023 and the deadline for receipt of written submissions is 8 September 2023.

Background – Ireland's first National Plan on Business and Human Rights

Ireland's first [National Plan on Business and Human Rights](#) was launched in 2017 and concluded in 2021. The purpose of the National Plan was to support the implementation of the [UN Guiding Principles on Business and Human Rights](#), a set of guidelines developed by the UN Special Representative on human rights and transnational corporations and other business enterprises. The UN Guiding Principles emphasise the State duty to protect against human rights abuses by third parties, including business enterprises; the corporate responsibility to respect human rights; and the need for greater access by victims to effective remedy.

At the time of publication, Ireland became the 19th State in the world to publish a national plan on business and human rights.

The first National Plan committed to a number of concrete actions, including the publication of a comprehensive [baseline study](#) of the existing legislative and regulatory framework applying to business and human rights in Ireland, the [review of access to remedy in Ireland](#) and the development of [Guidance on Business and Human Rights for Business Enterprises](#). A multi-stakeholder group, with members drawn from government, business and civil society, was established as the 'Business and Human Rights Implementation Group' and given a three-year mandate to oversee implementation of commitments made under the National Plan.

The implementation of the first National Plan was [reviewed](#) in 2021. The review found that 91% of commitments under the Plan were fully implemented or are being implemented on an ongoing basis, with plans to implement the remainder. As part of the review process, the Business and Human Rights Implementation Group made a number of recommendations for the development of a second National Plan, which are appended to this note.

Are there any recommendations from the 2021 Review that our Departments should focus on when developing a second generation plan?

How should the implementation of Ireland's second National Plan be monitored? Is the 'Implementation Group' model a good way forward?

Current context, including legislative and regulatory initiatives

The business and human rights agenda has continued to gather momentum since the conclusion of Ireland's inaugural national plan, and a second generation plan should reflect the significant developments that are unfolding at international and domestic level. There is an increasing expectation – from the public, consumers, shareholders, and governments – for businesses to show that they operate in a responsible manner. These expectations are reflected in the corporate environmental, social and governance agenda, and in various legal and regulatory initiatives that collectively come under the umbrella of Responsible Business.

For example, the new **EU Corporate Sustainability Reporting Directive** will place new obligations on companies to report on environmental, social, governance and human rights matters according to the EU mandatory standards.

The proposed **EU Directive on Corporate Sustainability Due Diligence** will require companies within its scope to adopt due diligence practices throughout their value chains. They will also be required to identify, prevent, end or mitigate adverse impacts caused by their operations on human rights or the environment. Fines may be imposed in cases of non-compliance, and victims of adverse impacts may have the opportunity to sue for damages. The Corporate Sustainability Due Diligence proposal is currently being negotiated at the EU level, with a final Directive not expected before the end of 2023.

The European Commission has also proposed a **Regulation on Ecodesign for Sustainable Products**. This initiative is a significant part of the [European Green Deal](#) and the Commission's [Circular Economy Package](#). The new Regulation aims to reduce the negative life cycle environmental impacts of products, improve the functioning of the internal market and build on existing successful [ecodesign rules](#). It also aims to provide more meaningful information to consumers on the environmental aspects of products.

Following a proposal from the EU Commission, negotiation of a **Regulation** prohibiting products made with **forced labour** in the EU market is underway. This will cover products for domestic consumption, imports and exports. Member States will be responsible for enforcing the ban using a robust, risk-based approach.

Ireland's second National Plan should also align with the Guidelines for Multinational Enterprises created by the Organisation for Economic Cooperation and Development (**OECD**). These voluntary Guidelines set out expectations for Responsible Business conduct across all areas of business responsibility and align with other international standards, including the UN Guiding Principles and the International Labour Organization (ILO) standards.

Finally, at UN level, discussions are ongoing on a proposed legally-binding instrument regulating the activities of transnational corporations in international human rights law.

Are there any other developments in the sphere of business and human rights that should be considered in the developments of Ireland's second national plan?

Annex 1: Summary of recommendations for a second National Action Plan from the Business and Human Rights Implementation Group

The multi-stakeholder Implementation Group for the inaugural National Plan has recommended that the following be taken into account in developing the second National Action Plan:

Framing recommendations and implementation:

1. Implementation of the UN Guiding Principles on Business and Human Rights be taken forward through a series of time-limited plans (as opposed to 'living documents') which arise from structured policy development processes and can take account of new developments.
2. More specific and directive language should be used in framing commitments.
3. An implementation plan with clear timelines and responsibilities be devised in tandem with the development of the next iteration of the National Plan.
4. The most important policy issues in a specifically Irish context should be identified and prioritised.

Structures and policy coherence:

5. Government should bring together the various related initiatives into one core set of guidelines for Responsible Business Conduct (that includes but goes beyond Human Rights and includes Non-Financial Reporting; Taxonomy; Sustainable Finance; the Global Compact; the SDGs; CSR etc.). These guidelines need to be straightforward, clear and accessible.
6. The next NAP should elaborate more deeply on what policy coherence means.
7. The terms of reference of the implementation group should be revised to modify its role and two structures are established: (i) a multi-stakeholder consultative forum with an implementation oversight role and (ii) an interdepartmental structure charged with implementation which can draw on external expertise as required.
8. Subgroups should be sectoral rather than multi-sectoral.
9. The methodology for convening a group of stakeholders be examined as part of the development of a second National Plan to ensure both proportionality and the harnessing of relevant expertise.
10. In light of policy discussions internationally, including at EU level, the Department of Enterprise, Trade and Employment to continue to play a central role in the development of policy on Business and Human Rights.
11. Consider how the OECD National Contact Point function might be further enhanced, in light of the findings of the ongoing OECD peer review.
12. The membership of the multi-stakeholder group should be extended to include more business voices, including SMEs and social enterprises. The proposed government IDC should also be broadened to include, for example, the Department of Rural and Community Development, which is responsible for social enterprises.

Capturing expert recommendations made to date

13. Consideration should be given to the independent reports completed under the inaugural National Plan (Baseline Assessment; Review of Access to Remedy in Ireland) as well as the recommendations contained in reports of consultations with experts by the Implementation Group (alongside the usual consultative processes with stakeholders and experts in government policy development).

Identifying best practice

14. To date, 26 NAPs have been published globally - best practice among other countries should be considered.

Reflecting the evolving multilateral landscape

15. Substantial consideration should be given to the various initiatives underway in relation to Business and Human Rights/Responsible Business Conduct at the EU, UN and OECD, including:
 - a. EU: the suite of actions on Business and Human Rights contained in the EU Action Plan on Human Rights and Democracy 2020-2024, and EU legislative proposals on sustainable corporate governance;
 - b. UN: the outcomes of the UNGPs 10+ / Next Decade Business and Human Rights project, including the roadmap for “a decade of action on business and human rights”; developments in relation to the proposed Legally Binding Instrument (per HRC resolution 29/9, 2014);
 - c. OECD: the outcome of the Report for the Stocktaking of the OECD Guidelines for Multinational Enterprises and the proposed Recommendation on the role of Government in promoting Responsible Business Conduct.

Capacity building and supports for business enterprises and others

16. A central hub on Responsible Business Conduct should be developed to support businesses through education and capacity building.
17. Greater emphasis should be placed on the different types of companies and their different needs (with particular reference to SMEs).
18. Benchmarking exercises such as the TCD Benchmarking Study should be repeated every 2-3 years to help business enterprises to understand what is required to them.
19. Consideration should be given to incentive-based structures to move businesses forward.
20. The question of how best to roll out guidance to business enterprises should be considered.
21. Semi-states and the Office of Government Procurement need to be exemplars of good practice.
22. The capacity of the university sector to act as knowledge hubs providing supports for businesses should be considered.
23. In respect of Access to Remedy, training for the legal sector, including judges should be considered.

Broader policy considerations

24. Ireland should be a global leader in this policy area, part of our USP should be the state’s sustainability brand.
25. The Government should play a more proactive role in seeking to shape EU initiatives such as the proposed Directive on sustainable corporate governance and should consider moving ahead of EU legislation.
26. Consideration should be given to orientating Irish company law and corporate governance structures to be more stakeholder focused.
27. A policy forum involving all relevant departments and open to relevant stakeholders should be convened during the lifetime of the current Implementation Group.

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