



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Northern Ireland Human Rights Commission
submission to the Working Group on Business
and Human Rights on the role of national human
rights institutions in facilitating access to
effective remedy for business-related human
rights abuses**

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Summary

In this submission, the Northern Ireland Human Rights Commission (NIHRC) provides responses to the discussion questions in the 'Call for input by the Working Group on Business and Human Rights on the role of national human rights institutions in facilitating access to effective remedy for business-related human rights abuses', dated 2 May 2019.

Introduction

The Northern Ireland Human Rights Commission (NIHRC) is the national human rights institution (NHRI) of Northern Ireland, and holds an 'A' status level of accreditation under the Global Alliance of National Human Rights Institutions. Established under the Belfast (Good Friday) Agreement and opened in 1999, the NIHRC's statutory functions include:

- Advising the Westminster government, the Northern Ireland Executive and Assembly, and key agencies on legislation and compliance with human rights frameworks
- Our work to promote awareness of human rights through education, training and research
- Our international treaty monitoring work
- Our legal advice work including taking strategic legal cases
- Our engagement with other national human rights institutions in the UK
- Our work as part of the Joint Committee with the Irish Human Rights and Equality Commission

The NIHRC welcomes the call for input by the Working Group on Business and Human Rights on the role of NHRIs in facilitating access to effective remedy for business-related human rights abuses.

The work undertaken by the NIHRC to date fulfils many of the practical functions set out in the Edinburgh Declaration, which contains a commitment by NHRIs to 'promoting enhanced protection against corporate-related human rights abuse, greater accountability and respect for human rights by business actors, access to justice for victims and establishing multi-stakeholder approaches'¹.

¹ 'The Edinburgh Declaration', International Co-ordinating Committee of National Institutions for the promotion and protection of human rights, October 2010.

I. The role and mandate of NHRIs in facilitating access to effective remedy for business-related human rights abuses

1. Does your NHRI have an explicit or implicit mandate to handle complaints concerning alleged business-related human rights abuses? If yes, what methods can be used to facilitate access to remedy for human rights abuses?

1.0 The NIHRC can receive complaints concerning alleged business-related human rights abuses, however it has not handled such a complaint to date.

1.2 The NIHRC operates a weekly advice clinic, which is open to members of the public. If a complaint concerning an alleged business-related human rights abuse was received by the NIHRC, a decision would be made as to whether the NIHRC should provide assistance to the individual by bringing legal proceedings, or by conducting an investigation.

2. What types of remedies can your NHRI offer to individuals or communities affected by business-related human rights abuses? Do you consider those remedies to be effective?

2.0 The Human Rights Act 1998 incorporates the majority of rights contained within the European Convention on Human Rights (ECHR) into UK law. The Human Rights Act makes it unlawful for a public authority to act in a way that is incompatible with human rights under the ECHR, but does not extend to private companies – with the exception of private companies that are providing public services. This limits the possibilities of taking human rights legal actions against businesses and private sector organisations.

3. Does your NHRI have a mandate to investigate, conduct inquiry and adjudicate individual cases of alleged human rights abuses by businesses? If yes, please provide relevant statistics in relation to complaints received and adjudicated.

3.0 Under the Northern Ireland Act 1998 section 69, the NIHRC may give assistance to individuals, 'bring proceedings involving law or practice

relating to the protection of human rights', and 'conduct such investigations as it considers necessary or expedient'². To date, the NIHRC has conducted an investigation into the rights of older people in nursing homes, '[In Defence of Dignity](#)'. This investigation highlighted that the obligations under the Human Rights Act 1998 extend to all nursing homes insofar as they provide care to people who are partly or wholly funded by a Health and Social Care Trust (a public authority).

4. Does your NHRI give any special attention to facilitate access to your complaint mechanisms by vulnerable or marginalized groups? If yes, what measures have been taken in this regard?

- 4.0 As already noted, the NIHRC operates a weekly advice clinic for members of the public. Clinic appointments can be made via telephone or email. To ensure these appointments are accessible to all, individuals are invited to attend the clinic appointment in person – by visiting the NIHRC office – or via telephone, should they have restricted mobility. If the individual requires an interpreter, the NIHRC makes the necessary arrangements to accommodate their needs.
- 5.0 In addition to this weekly advice clinic, the NIHRC conducts community engagements across Northern Ireland. These engagements are conducted across the country to enable the NIHRC to understand the everyday human rights issues affecting people's lives. These are particularly useful in ensuring that individuals living in rural communities or at a distance from the NIHRC office in Belfast are able to voice complaints at a local level. Community engagements have proven a successful format through which to hear from marginalized groups on local issues.
- 6.0 The NIHRC has also conducted a number of investigations involving vulnerable or marginalized groups, including:
- '[Out of Sight, Out of Mind](#)' into Travellers' accommodation in Northern Ireland;
 - '[In Defence of Dignity](#)' into the rights of older persons in nursing homes;
 - '[Racist Hate Crime](#)' into racist hate crime, human rights and

² Northern Ireland Act 1998 9 (c. 47), s. 69

- the criminal justice system in Northern Ireland;
- ['Emergency Health Care'](#) into emergency health care and mental health in Northern Ireland;
- ['The Prison Within'](#) into the imprisonment of women at Hydebank Wood in Northern Ireland.

5. What gender-sensitive and gender-responsive measures your NHRI take in dealing with cases of alleged business-related human rights abuses?

7.0 N/A.

6. What other measures does your NHRI undertake to facilitate access to remedy indirectly for business-related human rights abuses (e.g. raising awareness about rights and remedial mechanisms, assessing effectiveness of other grievance mechanisms, and recommending reform of the national legal system to strengthen access to remedy)?

8.0 The NIHRC established the [Northern Ireland Business and Human Rights Forum](#) in 2015, as a multi-stakeholder platform to facilitate the exchange of knowledge and good practice between businesses, government, departments and civil society. The work of the Forum is member-led, with reference to the UN Guiding Principles on Business and Human Rights. The Forum meets three times each year to discuss human rights issues in relation to business in Northern Ireland, and members are given access to expert speakers covering issues such as: transparency in supply chains, modern slavery, in-work poverty, the impact of Brexit on business and human rights, and access to childcare. Through the Forum, the NIHRC directly engages with businesses, government and civil society to raise awareness about rights and access to remedy. Representatives of the business sector hold the roles of chair and vice-chair, empowering them to become ambassadors for business and human rights. The NIHRC regularly updates members on global developments – such as the UN Forum on Business and Human Rights, which is attended annually by the NIHRC - and progress made by both the UK and Irish Governments on their National Action Plans on Business and Human Rights. The UK National Action Plan states that 'Devolved Administrations may develop their own action

plans or strategies³. Forum members drafted a [Northern Ireland Action Plan on Business and Human Rights](#), and adopted this in March 2019. The Action Plan is modelled on the UN Guiding Principles and sets out a list of commitments made by members to embed human rights in their business practice. Forum members recognised the current limitations that exist in pursuing an Action Plan, primarily the absence of the Northern Ireland Executive and Northern Ireland Assembly. As such, the Action Plan will be implemented by members, and promoted to the Northern Ireland Assembly and Executive when they return. The Forum also contains members who are actively campaigning for a legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises. The NIHRC continues to expanding Forum membership, and has committed in its annual [Business Plan](#) to enhance human rights standards in business and procurement through the Forum.

- 9.0 The NIHRC has worked with the Construction & Procurement Delivery team at the Northern Ireland Department of Finance to develop a Procurement Guidance Note on '[Human Rights in Public Procurement](#)', which was published in December 2018. The guidance sets out the legal obligations for contractors to consider human rights when conducting procurement processes, and includes measures to prevent and mitigate human rights violations. The NIHRC has also provided human rights training to staff within the Department of Finance, and has plans to extend this training to additional staff members. The NIHRC will also assist the Department of Finance to implement its Procurement Guidance Note.
- 10.0 The NIHRC regularly engages with events relating to business and human rights in Northern Ireland. This includes: attending the UN Forum on Business and Human Rights each year; presentations by the Chief Executive to conferences such as the Chief Executives Forum; and addressing delegates at conferences hosted by the International Labor Organization and the Ethical Trading Initiative.
- 11.0 The NIHRC's Annual Statement contains a section on business and human rights, in which an update is provided on the UK National Action Plan, the Northern Ireland Business and Human Rights Forum,

³ 'Good Business: Implementing the UN Guiding Principles on Business and Human Rights', UK Government, May 2016.

and Public Procurement. In its 2018 Annual Statement, the NIHRC recommended that:

'...measures giving effect to the UN Guiding Principles on Business and Human Rights should provide for the effective participation of all relevant stakeholders in NI. The Commission further recommends that the NI Executive consider adopting a National Action Plan on Business and Human Rights specific to NI.'⁴

Each year, the NIHRC holds a public event to mark the launch of its Annual Statement, which is also accessible via the NIHRC website.

12.0 If an individual raises a query related to business and human rights during the NIHRC's weekly advice clinic, staff direct the individual to the relevant body equipped to provide an avenue for access to remedy. Staff also highlight the aforementioned work of the NIHRC in relation to business and human rights.

7. How does your NHRI collaborate with other judicial or non-judicial remedial mechanisms (e.g. courts, labour tribunals, National Contact Points, and operational level grievance mechanisms) in dealing with complaints concerning business-related human rights abuse?

13.0 To date, the NIHRC has not handled a complaint concerning business-related human rights abuse.

8. Can your NHRI deal with alleged business-related human rights abuses with a transnational or cross-border dimension (e.g. through informal visits and exchange of information or a cooperation arrangement with counterparts in other States)?

14.0 The NIHRC is part of a Joint Committee with the Irish Human Rights and Equality Commission, established under the Belfast (Good Friday) Agreement. This provides a cross-border platform for knowledge exchange between the two NHRIs, enabling the NIHRC to share its work on business and human rights. The NIHRC is one of a few NHRIs globally with a mandate to operate in partnership with

⁴ 'The 2018 Annual Statement: Human Rights in Northern Ireland', Northern Ireland Human Rights Commission, December 2018.

another NHRI across two sovereign jurisdictions. To date, the NIHRC has not dealt with alleged business-related human rights abuses with a transnational or cross-border dimension.

9. Is your NHRI involved in any initiatives to stimulate effective multi-stakeholder grievance mechanisms to strengthen access to remedy for business-related human rights abuses?

15.0 See 8.0, which details the Northern Ireland Business and Human Rights Forum.

10. Where a National Action Plan on Business and Human Rights exists (or is under development), does it provide a role for NHRIs in relation to access to remedy in case of business-related human rights abuses?

16.0 The [UK National Action Plan on Business and Human Rights](#) (updated May 2016) does not provide a role for NHRIs in relation to access to remedy in case of business-related human rights abuses. However, the document acknowledges the establishment of the Northern Ireland Business and Human Rights Forum and cites the NIHRC's publication of its 2013 report on '[Public Procurement and Human Rights in Northern Ireland](#)'.

II. Challenges and limitations faced by NHRIs in facilitating access to effective remedy for business-related human rights abuses

1. What are the most critical challenges and limitations (e.g., legal, practical, or financial) that your NHRI has experienced in facilitating access to effective remedy in business-related human rights abuses? How could these challenges or limitations be overcome?

17.0 N/A.

2. What additional challenges has your NHRI faced in dealing with complaints with a transnational dimension (e.g. exploitation of migrant workers, or cross-border environmental pollution)?

18.0 N/A.

- 3. How has your NHRI dealt with complaints involving multiple victims?**

19.0 N/A.

- 4. What has been the experience of your NHRI in dealing with complaints concerning parent and subsidiary companies or the supply chain of a company?**

20.0 N/A.

III. Good practices, innovations and recommendations to strengthen the role of NHRIs in facilitating access to effective remedy for business-related human rights abuses

- 1. Can you share any good practice examples in which your NHRI was able to facilitate, directly or indirectly, effective remedies for business-related human rights abuses?**

21.0 As noted before, the NIHRC has not handled a complaint concerning alleged business-related human rights abuse to date. Examples of good practice regarding the NIHRC's other work on business and human rights can be found in 8.0 – 12.0.

- 2. Are there good practice examples of your NHRI supporting the work of civil society and human rights defenders (including women human rights defenders) working to secure access to effective remedy for business-related human rights abuses?**

22.0 N/A.

- 3. Can you identify any innovative steps taken by your NHRI in overcoming various challenges and limitations faced in dealing with complaints concerning business-related human rights abuses?**

23.0 N/A.

4. What measures should be taken to strengthen the mandate, role and capacity of NHRIs in facilitating access to remedy for business-related human rights abuses?

24.0 One such measure may be to broaden the mandate of NHRIs to become complaints-handling mechanisms. To facilitate this, NHRIs would require additional funding to expand their capacity – both to increase their number of staff and to upskill staff to develop their level of expertise on business and human rights.

5. How could NHRIs collaborate with regional and international human rights monitoring mechanisms (including the Universal Periodic Review) to facilitate access to remedy for business-related human rights abuses?

25.0 NHRIs should highlight business and human rights issues in their state or jurisdiction in their submissions to regional and international human rights monitoring mechanisms such as the Universal Periodic Review. NHRIs should also engage with the UN Working Group on Business and Human Rights, actively monitor regional and international developments in business and human rights, and seek opportunities to publish submissions to relevant consultations.

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