Arguing the business case for respecting human rights

Human Rights Update

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The business case for respecting human rights is becoming increasingly evident. Not only does it fulfill a business’ responsibility to be an ethical actor in society, it is also an integral part of sound risk management, good governance and value creation. In a globalised world, businesses can be held accountable by consumers, regulators and investors for involvement in adverse human rights impacts. A business that takes a proactive approach to respecting human rights will be more likely to enjoy sustainable development, stakeholder trust and a strong reputation.

Many businesses have recognised that respecting human rights can help them to, among other things:

- minimise legal and financial risks
- avoid negative publicity and in turn avoid undermining brand value and reputation
- avoid supply chain disruption
- attract ethically concerned investors and consumers

The United Nations Guiding Principles on Business and Human Rights

According to the United Nations 2011 Guiding Principles on Business and Human Rights (Guiding Principles) businesses have a responsibility to respect human rights. “Respect” requires businesses to assess their human rights impacts and address any human rights issues in their purview. The Guiding Principles encourage businesses to achieve this by:

- having a policy commitment to human rights
- conducting human rights due diligence
- providing a remedy for human rights breaches

Although the Guiding Principles are not binding, they provide the global benchmark for corporate respect for human rights. They are widely subscribed to by business and endorsed by a number of international organisations and multilateral institutions, including the OECD in its Guidelines for Multinational Enterprises, the Council of Europe and the International Finance Corporation. An Economist Intelligence Unit report, co-sponsored by DLA Piper, shows a large majority of businesses executives recognise the importance of respecting human rights.

On a global scale, businesses are increasingly being required to account for their involvement in adverse human rights impacts. In Europe, Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 obliges businesses with more than 500 employees to report on human rights impacts. In the United Kingdom, the
Modern Slavery Act 2015 (see also the Transparency in Supply Chains Act 2010, California) has extraterritorial application and has had the effect of making businesses inquire further into their supply chains.

**Human rights policy**

The Guiding Principles recommend businesses adopt a human rights policy that provides a clear statement of their human rights responsibilities to employees, stakeholders and suppliers. This policy should be publically available and have the support of the most senior levels of management.

**Human rights due diligence**

Human rights due diligence is a key aspect of risk management. It involves:

- identifying and assessing human rights impacts of the business
- integrating and acting on findings
- tracking responses and monitoring effectiveness
- communicating how impacts are addressed

**Providing a remedy**

Businesses can offer operational level grievance mechanisms, which allow persons to safely report human rights breaches. By following the above steps, businesses will accord with best practice in respecting human rights.

**Spotlight issue: supply chains**

Businesses can be held accountable for human rights breaches in their supply chains such as inadequate working conditions or environmental disasters, but ensuring compliance by suppliers with the Guiding Principles may prove difficult. Nevertheless, it is important that businesses seek to manage the risks in their supply chains by engaging with suppliers on the issue. A recent report by Ernst & Young and the United Nations Global Compact shows that global businesses are investing in creating sustainable supply chains, not only as an aspect of risk management, but also for market differentiation and consumer confidence. The Ethics & Compliance Initiative recommends in its 2016 Global Business Ethics Survey that businesses develop a common code of conduct across their various operating locations, and for compliance with the law and the human rights standards to be used as part of the criteria to select third-party partners.

**How can we help?**

DLA Piper can assist you with developing human rights policies and conducting human rights due diligence. For further information, please contact Gowri Kangeson.

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