

Assessment of the National Action Plan (NAP) on Business and Human Rights of THE UNITED KINGDOM (2016)



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INTERNATIONAL CORPORATE
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In May 2016, the government of the United Kingdom launched the second iteration of its National Action Plan (NAP) on business and human rights. In response, the International Corporate Accountability Roundtable (ICAR) and the European Coalition for Corporate Justice (ECCJ) conducted a structured assessment of the U.K. NAP, using the NAPs Checklist developed and published by ICAR and the Danish Institute for Human Rights (DIHR).¹ The NAPs Checklist lays out a set of twenty-five criteria that address both the content of NAPs and the process for developing them.

This assessment is part of a larger effort by ICAR to assess all existing NAPs on business and human rights. In November 2014, ICAR and ECCJ published its first version of a joint report *Assessments of Existing National Action Plans (NAPs) on Business and Human Rights*,² which systematically assessed the published NAPs from the United Kingdom, the Netherlands, Denmark, and Finland. In November 2015, ICAR and ECCJ published an update of this report including the assessments of the Lithuanian and Swedish NAPs. This report was updated a further time in August 2017, in conjunction with both ECCJ and Dejusticia, to include assessments of the Colombian, Norwegian, United States, United Kingdom (second iteration), Italian, and Swiss NAPs.

ASSESSMENT SUMMARY:
UNITED KINGDOM NATIONAL ACTION PLAN

Introduction

In 2013, the United Kingdom (U.K.) became the first State to develop and publish a National Action Plan (NAP) on business and human rights. It is also the first country to release a second iteration of its NAP—published in May 2016. Drafting of the 2016 NAP was jointly owned by the Foreign and Commonwealth Office (FCO) and Department for Business, Innovation and Skills (BIS).

The 2016 U.K. NAP retains the same structure as the 2013 NAP, and follows the three Pillars of the United Nations Guiding Principles on Business and Human Rights (UNGPs). The introductory section of the 2016 NAP provides updates to the development of UNGPs implementation since the first iteration of the U.K. NAP was published. The sections on each pillar of the UNGPs clearly delineates between past actions and future government commitments. The NAP also provides case studies in these sections to illustrate some of the United Kingdom's actions in relation to promoting responsible business conduct.

This summary outlines key updates in terms of process and content, as identified through the attached assessment of the 2016 U.K. NAP. It is hoped that other States that are considering beginning or are in the process of updating a NAP will use this assessment to inform their own processes.

Process

The positive aspects of the 2016 NAP drafting process include: (1) the government entities tasked with overseeing the process were clearly identified; (2) advances in the NAP drafting process were publicly communicated to a certain extent; and (3) numerous consultation events were held to increase the involvement of interested stakeholders. Prior to the release of the 2016 NAP, the United Kingdom conducted a total of nine public consultation events that included government departments, civil society groups, businesses, and academics. The government released a summary document of its consultation processes and facilitated the publication of stakeholder submissions. The United Kingdom also continued with some of the positive commitments expressed in the 2013 NAP, such as promoting numerous international and regional organizations to implement the UNGPs, and prioritizing a number of thematic and sector specific human rights issues.

Unfortunately, similar to the 2013 NAP, the U.K. government did not conduct a national baseline assessment (NBA) in the process of updating its NAP. Without undertaking an NBA, it is difficult for the U.K. government to make fully informed updates to its NAP.

The failure of the 2016 NAP to commit to a future iteration is a weakness that may signal a lesser commitment to the NAP process moving forward. Although the 2016 NAP includes a commitment that the FCO will continue to report on the progress of the NAP's implementation in its Annual Report on Human Rights and Democracy, the U.K. government did not commit to a third iteration of the NAP. While the NAP does state that a steering group comprised of civil society and business representatives will meet periodically to monitor implementation of the NAP, it fails to specify who is currently part of the group or how often it will meet.

While the U.K. improved upon the inclusivity of its consultation events prior to drafting the 2016 NAP, it still failed to include impacted communities and disempowered or at-risk stakeholders. Similar to the 2013 NAP process, the government failed to conduct a stakeholder mapping to identify at-risk or disempowered stakeholders, did not publish a clear timeline for stakeholder participation, or provide for capacity building where necessary to facilitate meaningful engagement in the NAP process.

Content

Overall, the 2016 NAP focuses largely on promoting the UNGPs and responsible business conduct, and provides very few commitments in relation to upholding the U.K. government's duty to protect human rights. A strength of the 2016 NAP is that it addresses the full scope of the State's jurisdiction. While the majority of "government commitments" included in the NAP emphasize external human rights concerns, Section 3 (corporate responsibility to respect) and Section 4 (access to remedy) of the NAP also discuss domestic considerations, an improvement from the 2013 NAP. Additionally, the U.K. government strengthened its commitment to working with members of both the International Code of Conduct Association and the Voluntary Principles on Security and Human Rights.

Commitments made in the 2016 NAP vary in specificity and measurability. None of the "government commitments" made in the NAP explicitly specify which government agency or department will be tasked with fulfilling the commitment, or provide a timeline within which they must be carried out. The specificity of expected actions and outcomes varies greatly throughout the NAP. Commitments that are less specific are inherently harder to measure, as there is little guidance on what specific tasks should be carried out, to what extent, and by what time.

Another negative aspect of 2016 NAP is the failure of the government to conduct an in-depth analysis of the types of human rights abuses faced by U.K. citizens or committed by U.K. businesses operating abroad through the creation of a national baseline assessment. The NAP also does not adequately address issues relating to the most vulnerable and excluded groups. The U.K. government's blanket commitment to consider promoting activity to raise awareness and deal with the harmful effects of business on specific vulnerable groups included in both the 2013 and 2016 NAPs does not provide a clear indication of what steps will be or have been taken to improve upon the government's commitment to protecting the rights of these groups.

**ASSESSMENT OF THE UNITED KINGDOM
NATIONAL ACTION PLAN ON BUSINESS AND HUMAN RIGHTS**

1. GOVERNANCE AND RESOURCES	COMMENTS
Leadership and Ownership of NAP Process	
<p>1.1. Commitment to the NAP process.</p>	<p>The U.K. government has shown early and sustained commitment to the NAP process. The United Kingdom was the first country to publish a NAP on business and human rights. It announced its intention to do so in 2011, and released its first iteration in 2013 (“2013 NAP”).³ The 2013 NAP was seen as a “first step” in a longer NAP process, with the content of that NAP committing to continue its development and implementation through, in part, an updated version to be published in 2015.⁴</p> <p>However, the official launch event for the beginning of the update process did not occur until March 2015, and the updated NAP was not published until May 2016 (“2016 NAP”).⁵</p> <p>The process by which the U.K. government conducted its review and assessment of the 2013 NAP and gathered new inputs also signals the government’s commitment to the NAP process. A review process was launched in March 2015 and included consultation with a broad range of stakeholders from business and civil society.⁶ More in relation to the facilitation of stakeholder engagement will be discussed in Section 2 of this assessment. Whilst jointly owned by the Foreign and Commonwealth Office (FCO) and Department for Business, Innovation and Skills (BIS), several government</p>

	<p>departments also contributed inputs.⁷</p> <p>While the 2016 NAP commits the U.K. government to continue to work with stakeholders on effective implementation of the plan and report on the progress of implementing the NAP in the Annual Report on Human Rights and Democracy of the FCO, it does not go as far as to recommit the government to creating a third iteration of the NAP in the future; highlighting a lesser commitment to continuing the NAP process than the U.K. government has had in the past.</p>
<p>1.2. Ensure responsibility for the NAP process is clearly established and communicated.</p>	<p>The responsibility for the 2016 NAP process was clearly placed with the FCO and BIS.⁸</p>
<p>1.3. Ensure an inclusive approach across all areas of government.</p>	<p>According to the FCO, several government departments were involved in the development of the updated NAP, though it is unclear which departments collaborated in the process.⁹</p>
<p>1.4. Devise and publish terms of reference and a timeline for the NAP process.</p>	<p>In the 2013 NAP, the UK government committed to publishing an updated version of the plan “by end 2015.”¹⁰ No additional information was published in relation to terms of reference or a more detailed timeline for the development of the 2016 NAP.</p> <p>In the 2013 NAP, the UK government committed to publishing an updated version of the plan “by end 2015.”¹¹ No additional information was published in relation to terms of reference or a more detailed timeline for the development of the 2016 NAP.</p>

Adequate Resourcing	
1.5. Determine an appropriate budget for the NAP process.	There is no information publicly available on the level of funding or human capital provided for the 2016 NAP process.

2. STAKEHOLDER PARTICIPATION	COMMENTS
Effective Participation by All Relevant Stakeholders	
2.1. Conduct and publish a stakeholder mapping.	The U.K. government did not conduct a stakeholder mapping for the 2016 NAP process. It similarly did not do so during the initial process of developing the 2013 NAP.
2.2. Develop and publish a clear plan and timeline for stakeholder participation.	<p>The U.K. government did not publish a clear plan or timeline for stakeholder participation in either the 2013 or 2016 NAP development processes.</p> <p>Stakeholder participation was facilitated to an extent in the 2016 NAP process. The update process was launched by a large consultation event, attended by eighty individuals from across civil society, business, and academia.¹² The U.K. government held an additional eight public consultation events with various stakeholder groups based on key topics identified during the update process.¹³ Workshop participants were also invited to submit written contributions to the NAP process.¹⁴</p>

2.3. Provide adequate information and capacity-building where needed.	Similar to the 2013 NAP process, the U.K. government did not provide for capacity building in the 2016 NAP process.
2.4. Facilitate participation by disempowered or at-risk stakeholders.	Similar to the 2013 NAP process, the U.K. government did not facilitate participation by disempowered or at-risk stakeholders in the 2016 NAP process. ¹⁵ According to the list of organizations represented at the NAP update workshops, the majority of participants were large civil society organizations, law firms, and business representatives. ¹⁶
2.5. Consider establishing a stakeholder steering group or advisory committee.	Similar to the 2013 NAP process, the U.K. government did not establish a stakeholder steering group or advisory committee in the 2016 NAP process.

3. NATIONAL BASELINE ASSESSMENT (NBA)	COMMENTS
The NBA as the Foundation for the NAP	
3.1. Undertake a NBA as the first step in the NAP process.	Similar to the 2013 NAP process, the U.K. government did not conduct an NBA.
3.2. Allocate the task of developing the NBA to an appropriate body.	Not applicable.
3.3. Fully involve stakeholders in the development of the NBA.	Not applicable.

3. NATIONAL BASELINE ASSESSMENT (NBA)	COMMENTS
3.4. Publish and disseminate the NBA.	Not applicable.

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
Scope of NAPs	
4.1. A NAP should address the full scope of the UNGPs.	<p>The 2016 NAP addresses all three Pillars of the UNGPs but fails to deal with the UNGPs step by step, explaining how each principle has been implemented and/or will be implemented.</p> <p>As a whole, the 2016 NAP focuses largely on promoting the UNGPs and responsible business conduct and provides very few commitments in relation to upholding the U.K. government’s duty to protect human rights. While the highest number of planned actions is listed under Section 2 (State duty to protect), the majority of these actions are aimed at promoting the corporate responsibility to respect.</p> <p>In terms of substantive content, the following four sub-criteria provide insight into the NAP’s coverage of the full scope of the UNGPs without conducting an extensive analysis of the NAP’s fulfillment of each UNGP. These sub-criteria are: (1) positive or negative incentives for business to conduct due diligence; (2) disclosure of due diligence activities; (3) measures which require due diligence as the basis for compliance with a legal rule; and (4) the regulatory mix (i.e. a</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>combination of voluntary and mandatory measures that the State uses to encourage business to respect human rights).¹⁷ These sub-criteria are not an exhaustive list, but have been supported by other researchers and advocacy groups as indicative of a NAP's adequacy in terms of substantive content:</p> <p>(1) <u>Positive and Negative Incentives for Due Diligence</u></p> <p>While the NAP recognizes that due diligence can help a corporation uphold its responsibility to respect human rights, it does not layout any new positive or negative incentives for conducting due diligence.¹⁸</p> <p>The 2016 NAP does build off earlier commitments to promote due diligence, however, it does not establish new government commitments. In the 2013 NAP, the government committed to “encourage” sector groupings/trade associations to create guidance relevant to human rights in that sector, including on due diligence.¹⁹ In the “actions taken” of Section 2 (State duty to protect), the government states it will “continue to promote the implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected and High-Risk Areas.”²⁰ Similarly, in the case study, <i>Support for Land Tenure and other Property Rights</i>, the government describes how it has jointly developed a “land investment due diligence framework...to guide private sector investments under the New Alliance for Food Security and Nutrition.”²¹</p> <p>(2) <u>Disclosure of Due Diligence Activities</u></p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>The 2016 NAP recognizes that there is “increasing demand for greater formal reporting by companies on their human rights performance, including from regulations such as the EU non-financial reporting directive and the U.K.’s Companies Act and Modern Slavery Act reporting requirements.”²² In relation to new “government commitments” in the NAP, the U.K. government commits to “ensure the provisions of the EU Directive on non-financial disclosure are transposed in the U.K. to ensure greater consistency and comparability of public information on the human rights policies and performance of listed companies in Europe.”²³</p> <p>One of the most promising actions taken by the U.K. government between its two NAP iterations is the introduction of the Modern Slavery Act, which “consolidates and simplifies existing legislation, toughened penalties and safeguards for victims” of human trafficking and slavery.²⁴ Companies covered by the Act are required to produce a “slavery and human trafficking” statement for each financial year setting out what steps they have taken to ensure that slavery and human trafficking is not taking place in its business and supply chains.”²⁵</p> <p>(3) <u>Measures Requiring Due Diligence as the Basis for Compliance with a Legal Rule</u></p> <p>In the “government commitments” sections of the 2016 NAP there are no references to a new requirement of due diligence as a component of</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>compliance with a legal rule. While the government has set up (Modern Slavery Act) and plans to create (transposition of EU directive on non-financial reporting) legal rules which will require the disclosure of information, including in relation to human rights due diligence, these do not necessarily mandate the conducting of due diligence for compliance with these rules.</p> <p>(4) <u>Regulatory Mix</u> The regulatory mix in the updated NAP is unsatisfactory. While the NAP recognizes the positive implications of due diligence on a company’s human rights performance, beyond requiring greater human rights reporting, the NAP does not create incentives or penalties for failing to carry out due diligence. The plan does not create new legal obligations for companies to conduct mandatory due diligence; thus, presenting an unequal regulatory mix.</p>
<p>4.2. A NAP should address the full scope of the State’s jurisdiction.</p>	<p>The 2016 NAP clearly explains the U.K. government’s position in relation to regulating the extraterritorial activities of business enterprises domiciled in its jurisdiction. Other than a few “limited exceptions,” such as under treaty regimes, the government states that there “is no general requirement for States to regulate the extraterritorial activity” of its businesses abroad.²⁶ However, the “U.K. may also choose as a matter of policy in certain circumstances to regulate the overseas conduct of British businesses.”²⁷</p> <p>While the majority of “government commitments” in the 2016 NAP emphasize external human rights concerns, especially in Section 2 (State duty to protect),</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>the 2016 NAP does address issues of domestic concern as well. An improvement from the 2013 U.K. NAP, where the contents were “heavily skewed towards external concerns.”²⁸</p> <p>In the 2016 NAP, all but one of the “government commitments” in Section 2 (State duty to protect) are externally or internationally focused. However, the “government commitments” in Sections 3 (corporate responsibility to respect) and 4 (access to remedy), discuss domestic and external considerations equally.²⁹</p>
<p>4.3. A NAP should address international and regional organizations and standards.</p>	<p>The 2016 NAP discusses how the U.K. has used, will continue to use, or will begin to use international and regional organizations and standards to implement Pillars I and II of the UNGPs.³⁰ This trend is a continuation from the 2013 NAP, where these organizations and norms were also discussed—though to varying extents.</p> <p>The majority of references to international organizations and standards are made in Section 2 (State duty to protect). The U.K. has endorsed a number of international instruments to “motivate different aspects of corporate behavior,” including the eight core ILO conventions and the OECD Guidelines for Multinational Enterprises.³¹ Additionally, the NAP lists a number of “actions taken” by the U.K. government in relation to promoting or implementing international standards, including, in relation to the OECD 2012 Common Approaches, OECD Risk Awareness Tool for Multinational Enterprises, the</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>Voluntary Principles Initiative (VPIs), and ISO28007.³²</p> <p>In relation to future commitments towards implementing the State duty to protect, the NAP commits the U.K. government to working with “government, industry and civil society members of the International Code of Conduct Association to establish an international mechanism to monitor compliance with the code.”³³ Similarly, another commitment in that section states that the government will continue to work with governments, extractive companies, and civil society to “strengthen the implementation, effectiveness, and membership” of the Voluntary Principles on Security and Human Rights.³⁴</p> <p>To a lesser extent, the NAP also discussing international organizations and standards in Section 3 (corporate responsibility to respect), specifically in relation to “actions taken” when discussing support for the UNGPs Reporting Framework and the UN Global Compact.³⁵</p> <p>There is no mention of international organizations or standards in Section 3 (access to remedy).</p>
<p>4.4. A NAP should address thematic and sector-specific human rights issues.</p>	<p>The 2016 NAP discusses a number of thematic and sector-specific “planned actions.” Under Sector 2 (duty to protect), the 2016 NAP continues the U.K.’s focus on the security and human rights industry from the 2013 NAP.³⁶ It commits the government to establish an international mechanism to monitor</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>compliance of the International Code of Conduct for Private Security Service Providers (ICoC) and to work closely with the multi-stakeholder members of the Voluntary Principles on Security and Human Rights Initiative (VPIs) to “promote greater understanding of the Voluntary Principles and strengthen their implementation, effectiveness, and membership.”³⁷</p> <p>The theme of investment agreements is also carried over into the 2016 NAP, where it commits the government to “support the EU commitment to consider the possible human rights impacts of free trade agreements” and take appropriate steps where appropriate to avoid or remedy these impacts.³⁸</p> <p>Additionally, the issue of risks faced by human rights defenders working on issues related to business and human rights is also addressed in both Section 2 (duty to protect) and Section 4 (access to remedy).³⁹ Additional thematic and sector specific issues, such as slavery and human trafficking and cyber security, are also discussed in the “actions taken” sections of the NAP.</p>
Content of NAPs	
<p>4.5. The NAP should include a statement of commitment to the UNGPs.</p>	<p>The 2016 NAP reaffirms the U.K. government’s commitment to the UNGPs. The introductory section of the NAP provides updates to the development of UNGP implementation since the first iteration of the U.K. NAP was published.⁴⁰ The 2016 NAP retained the same structure as the 2013 NAP in being built around the three Pillars of the UNGPs.⁴¹ Additionally, the U.K. government has “developed partnerships with other countries seeking to implement the</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>UNGPs,” including Colombia, Malaysia, South Korea, and a number of EU countries.⁴² The government also pledges to continue to “work with EU partners to implement the UNGPs across member states and internationally.”⁴³</p>
<p>4.6. A NAP should comprise action points that are specific, measurable, achievable, relevant, and time-specific.</p>	<p>Overall, the 2016 NAP fails to provide action points that are specific, measurable, and time-specific. None of the “government commitments” provided for in the NAP explicitly specify which government agency or department will be tasked with fulfilling the commitment. Similarly, none of the commitments provide a timeframe within which they must be carried out. More positively, none of the “government commitments” appear to be irrelevant to the issue of promoting and implementing the UNGPs.</p> <p>The NAP commitments vary in relation to specificity and measurability. For example, some new commitments are relatively clear in establishing specific actions to be undertaken and their objectives. For example, under Section 2 (State duty to protect), the government commits to work with the “International Code of Conduct Association to establish an international mechanism to monitor compliance with the Code.”⁴⁴ Similarly, under Section 3 (Corporate responsibility to respect), the government commits to ensuring that the EU Directive on non-financial reporting is transposed in the UK.”⁴⁵ In both of these instances, it is clear what the government is committing to do and the overall objective of the commitment--making compliance with the commitment easily measurable.</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>However, other planned actions are much less detailed, making measurability more difficult. For example, under Section 3 (corporate responsibility to respect), the government commits to “facilitating dialogue between business people, parliamentarians and civil society on the implementation of the business and human rights agenda.” This section also commits the government to “continue to work through our embassies and high commissions to support human rights defenders.” Both of these points are difficult to measure given the ambiguity of what successful “facilitation” or “support” means in practice.</p> <p>A more detailed planned action for the “facilitation of dialogue” could have laid out a number of actions that the government will take to achieve the overarching goal of dialogue, such as setting up recurring meetings or a permanent multi-stakeholder group and detailing how civil society and business can participate. Similarly, the NAP could have outlined the steps it will take to supporting human rights defenders, such as, for example, providing dedicating funding or establishing contact points within embassies for dealing with issues faced by human rights defenders. Without establishing a clear expectation of what these actions will look like in practice, it is difficult to track implementation and progress.</p> <p>Other future commitments suffer from a different type of lack of specificity—ambiguity relating to what successful implementation looks like. For example, in Section 2 (State duty to protect), the government states it will “consider new project activity on raising awareness and tackling negative impacts of business activity...by tasking our diplomatic missions in countries where these are</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>concerns.”⁴⁶ Similarly, in Section 3 (corporate responsibility to respect), the government commits to “instruct our diplomatic missions to work with host governments [etc.]...so we can help inform companies of the human rights risk they face.” While compliance is easily measured by whether or not the government instructed embassies to do these things, whether or not the intended outcome is achieved is much more difficult to assess without giving more context to the purpose and intent of these commitments.</p>
<p>Priorities for NAPS</p>	
<p>4.7. A NAP should prioritize for action the most serious business-related human rights abuses.</p>	<p>As a result of the failure to conduct an NBA, any prioritization of human rights abuses was not informed by a in depth analysis of the types of human rights abuses faced by U.K. citizens or committed by U.K. businesses operating abroad.</p> <p>Although the 2016 NAP appears to maintain the 2013 NAP’s focus on a few high-risk sectors, such as private security contracting; this focus does not necessarily reflect an in-depth analysis of U.K. business’ greatest human rights impacts in the U.K. or abroad.⁴⁷</p>
<p>4.8. In line with the HRBA, the NAP should focus on the most vulnerable and excluded groups.</p>	<p>The U.K. NAP does not adequately address issues related to the most vulnerable and excluded groups. There are only three “government commitments” that discuss vulnerable or excluded groups.</p> <p>For example, Section 2, paragraph 18 (viii) and subpoint iii of Section 4 under “government commitments” both commit the U.K. government to supporting</p>

4. SCOPE, CONTENT, AND PRIORITIES	COMMENTS
	<p>and promoting the work of human rights defenders working on issues related to business and human rights.⁴⁸</p> <p>The 2016 NAP also reiterates a prior commitment in the 2013 NAP in relation to vulnerable and excluded groups.⁴⁹ Section 2, paragraph 18 (vi) states that the U.K. will consider promoting “new project activity” to raise awareness and deal with the harmful effects of business, “including on the human rights of groups like indigenous peoples, women, national or ethnic minorities, religious and linguistic minorities, children, persons with disabilities, and migrant workers and their families, by tasking our diplomatic missions in countries where these are concerns.”⁵⁰ While the government is recommitting itself in this regard, it is unclear from the content of the 2016 NAP, what steps, if any, were taken in the interim in relation to this commitment.</p>

5. TRANSPARENCY	COMMENTS
Full Transparency With All Stakeholders	
<p>5.1. The NBA and any other significant analyses and submissions informing the NAP should be published.</p>	<p>No NBA was conducted or published. The U.K. government did release a summary of the NAP update process, including “headline messages” received from its consultation workshops.⁵¹ The government also invited stakeholders who wished to make their submissions public to submit them to the Business and Human Rights Resource Center, which maintained a dedicated webpage to host these submissions.⁵²</p>

6. ACCOUNTABILITY AND FOLLOW-UP	COMMENTS
Holding Duty-Bearers Accountable for Implementation	
<p>6.1. NAPs should identify who is responsible for implementation of individual action points and overall follow-up.</p>	<p>The 2016 NAP does not clearly identify which government agency or department will be responsible for implementing the various government commitments. None of the new commitments specify which sections of government will be in charge of implementation.</p> <p>Certain government actions are identified in the “actions taken” sections as having been the lead agency in implementation of past NAP commitments.</p> <p>Overall follow-up and monitoring for the NAP appears to be in the hands of the FCO, as each year the Annual Report on Human Rights and Democracy (created by the FCO) will include information on the NAP’s progress.⁵³ Monitoring will also be conducted by the cross-Whitehall Steering Group—representatives of civil society, government, and business—who will meet periodically.⁵⁴ However, the NAP does not specify who is currently part of the group or more specifically how often it will meet.</p>
<p>6.2. NAPs should lay out a framework for monitoring of and reporting on implementation.</p>	<p>The 2016 NAP lays out a framework for implementation and further development.⁵⁵ According to the NAP, the U.K. government will “continue to monitor” NAP creation and implementation globally and the development of best practice, and use this information to “inform future policy developments.”⁵⁶</p>

6. ACCOUNTABILITY AND FOLLOW-UP	COMMENTS
	<p>The 2016 NAP commits the “cross-Whitehall Steering Group,” comprised of business and civil society representatives, to “meet[] periodically” to monitor implementation of the NAP and the government to continue its yearly reporting on the progress of the NAP in the Annual Report on Human Rights and Democracy of the Foreign and Commonwealth Office.⁵⁷</p> <p>However, the 2016 NAP does not make an explicit commitment to a future iteration, which could be a sign of weakening dedication to the NAP process.</p>

ENDNOTES

¹ DANISH INSTITUTE FOR HUMAN RIGHTS & INTERNATIONAL CORPORATE ACCOUNTABILITY ROUNDTABLE, NATIONAL ACTION PLANS ON BUSINESS AND HUMAN RIGHTS: A TOOLKIT FOR THE DEVELOPMENT, IMPLEMENTATION, AND REVIEW OF STATE COMMITMENTS ON BUSINESS AND HUMAN RIGHTS (2014) [*hereinafter* NAPs TOOLKIT].

² INTERNATIONAL CORPORATE ACCOUNTABILITY ROUNDTABLE & EUROPEAN COALITION FOR CORPORATE JUSTICE, ASSESSMENTS OF EXISTING NATIONAL ACTION PLANS (NAPs) ON BUSINESS AND HUMAN RIGHTS, NOVEMBER 2015 UPDATE (2015).

³ FOREIGN AND COMMONWEALTH OFFICE, GOOD BUSINESS: IMPLEMENTING THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS (2013), *available at*

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236901/BHR_Action_Plan_-_final_online_version_1_.pdf [*hereinafter* 2013 NAP].

⁴ *Id.* at section 5.

⁵ FOREIGN AND COMMONWEALTH OFFICE, GOOD BUSINESS: IMPLEMENTING THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS (2016), *available at*

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good_Business_Implementing_the_UN_Guiding_Principles_on_Business_and_Human_Rights_updated_May_2016.pdf [*hereinafter* 2016 UK NAP].

⁶ UK Department for Business, Innovation and Skills & UK Foreign and Commonwealth Office, “Updating the UK National Action Plan on Business and Human Rights: Headline Messages from Workshops Held in w/c 29 June,”

BUSINESS AND HUMAN RIGHTS RESOURCE CENTER (2015) *available at* <https://business-humanrights.org/sites/default/files/documents/UK%20National%20Action%20Plan%20-%20feedback%20from%20action%20plan%20update%20workshops%20June-July%202015.pdf>

[*hereinafter* NAP Update Headline Messages].

⁷ Baroness Anelay of St. Johns, *UK National Action Plan on Business and Human Rights: May 2016 Update* (May 12, 2016), <https://www.theyworkforyou.com/wms/?id=2016-05-12.HLWS700.h>.

⁸ *Id.*

⁹ *Id.*

¹⁰ 2013 NAP, *supra* note 1, at section 5.

¹¹ 2013 NAP, *supra* note 1, at section 5.

¹² NAP Update Headline Messages, *supra* note 4.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ INTERNATIONAL CORPORATE ACCOUNTABILITY ROUNDTABLE & EUROPEAN COALITION FOR CORPORATE JUSTICE, ASSESSMENTS OF EXISTING NATIONAL ACTION PLANS (NAPs) ON BUSINESS AND HUMAN RIGHTS, NOVEMBER 2015 UPDATE 27 (2015) [*hereinafter* ICAR-ECCJ 2015 Assessments]; NAP Update Headline Messages, *supra* note 4.

¹⁶ *Id.*

¹⁷ These sub-criteria are laid out in Kristin Jesnes, Statens plikt til å beskytte menneskerettighetene: En analyse av nasjonale handlingsplaner for oppfølging av FNs veiledende prinsipper for menneskerettigheter og næringsliv, (The State Duty to Protect: An Analysis of National Action Plans on Business and Human Rights). Fafo-notat 2014:15 (2014), <http://www.fafo.no/~fafo/images/pub/2014/10202.pdf> (currently only available in Norwegian).

¹⁸ 2016 UK NAP, *supra* note 3, at 3.

¹⁹ 2013 NAP, *supra* note 1, at section 3.

²⁰ 2016 UK NAP, *supra* note 3, at 8.

²¹ *Id.* at 13.

²² *Id.* at 17.

²³ *Id.* at 16.

²⁴ *Id.* at 8.

²⁵ *Id.*

²⁶ *Id.* at 6.

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- ²⁷ *Id.*
- ²⁸ ICAR-ECCJ 2015 Assessments, *supra* note 12, at 31.
- ²⁹ 2016 UK NAP, *supra* note 3, at 16-17; 22.
- ³⁰ *Id.* at 7-11.
- ³¹ *Id.* at 7.
- ³² *Id.* at 8-9.
- ³³ *Id.* at 10.
- ³⁴ *Id.*
- ³⁵ *Id.* at 16.
- ³⁶ ICAR-ECCJ 2015 Assessments, *supra* note 12, at 32.
- ³⁷ 2016 UK NAP, *supra* note 3, at 10.
- ³⁸ *Id.* at 11.
- ³⁹ *Id.* at 11, 22.
- ⁴⁰ *Id.* at 2-4.
- ⁴¹ *Id.* at 4.
- ⁴² *Id.* at 9.
- ⁴³ *Id.* at 10.
- ⁴⁴ *Id.*
- ⁴⁵ *Id.* at 16.
- ⁴⁶ *Id.* at 11.
- ⁴⁷ *Id.* at 10.
- ⁴⁸ *Id.* at 11, 22.
- ⁴⁹ 2013 NAP, *supra* note 1, at section 2.
- ⁵⁰ 2016 UK NAP, *supra* note 3, at 11.
- ⁵¹ NAP Update Headline Messages, *supra* note 4.
- ⁵² *Submissions: UK Nat'l Action Plan review process (2015)*, BUSINESS AND HUMAN RIGHTS RESOURCE CENTRE, <https://business-humanrights.org/en/submissions-uk-natl-action-plan-review-process-2015> (last visited May 11, 2017).
- ⁵³ 2016 UK NAP, *supra* note 3, at 24.
- ⁵⁴ *Id.*
- ⁵⁵ *Id.*
- ⁵⁶ *Id.*
- ⁵⁷ *Id.*