

LAW FIRM BUSINESS AND HUMAN RIGHTS PEER LEARNING PROCESS

LEADING AND EMERGING PRACTICE: CHALLENGES AND OPPORTUNITIES FOR FIRMS IMPLEMENTING THE UN GUIDING PRINCIPLES

Summary Report - March 2019

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ABOUT THE LAW FIRM BUSINESS AND HUMAN RIGHTS PEER LEARNING PROCESS

The **Law Firm Business and Human Rights Peer Learning Process** (the Law Firm Peer Learning Process, or the Process) was launched in 2016.

It seeks to:

1. Establish a **community of practice amongst leading law firms** and practitioners to support knowledge-sharing, peer learning, leadership and innovation, including exploring ongoing challenges and areas where further progress or guidance is needed;
2. Drive **increased engagement by the legal profession** with business and human rights developments, by making public information related to emerging practices, insights and lessons learned and by building on the leadership of the International Bar Association (IBA), individual bar associations and law firms; and
3. Demonstrate **progress to clients, bar associations, professional regulators and other relevant stakeholders** on efforts by the legal profession to embed respect for human rights in practice into their operations and legal advice.

Clarity regarding expectations of lawyers and law firms is increasing rapidly, in no small part due to the ongoing efforts of the IBA, bar associations and law firms. But there is still a long way to go to operationalise expectations regarding law firm respect for human rights across the profession. Participating firms believe that the Process plays an important role here to build on and maintain the momentum in the legal profession when it comes to implementing the UN Guiding Principles on Business and Human Rights.

Peer discussions within the Process to date have focused on:

- A workshop in September 2016 to discuss implementation of the law firms' own responsibility to respect human rights, focusing on (i) policy, strategy and governance; (ii) embedding through training, capacity building and awareness raising; (iii) client risk mapping and client acceptance; and (iv) approaches to supply chain due diligence, including in response to the UK Modern Slavery Act;
- A working session in December 2017 to share updates on progress made, and explore opportunities to continue collaborating through the Process to strengthen each firm's business-related human rights work;
- In-depth interviews in 2018 conducted by the Process facilitators with representatives of a range of functions at each participating firm to discuss progress made since 2016, remaining challenges and opportunities to further advance the work; and
- Most recently, a workshop in October 2018 to progress discussions on five key themes relevant for law firm's implementation of the Guiding Principles, resulting in five confidential, in-depth insights documents for participating firms that describe current practice, lessons learned and progress achieved, as well as key challenges and current priorities. **Participating law firms are publishing this summary report sharing insights from the interviews and October 2018 workshop.**

Participating law firms include:

- Allen & Overy
- Bryan Cave Leighton Paisner
- Clifford Chance
- Eversheds Sutherland
- Freshfields Bruckhaus Deringer
- Herbert Smith Freehills
- Hogan Lovells
- Norton Rose Fulbright
- White & Case

The Process is facilitated by business and human rights advisors Catie Shavin and Anna Triponel

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1. INTRODUCTION

BACKGROUND: OVERVIEW OF THE LAW FIRM BUSINESS AND HUMAN RIGHTS PEER LEARNING PROCESS

The Law Firm Peer Learning Process was launched in 2016 to support leading law firms to advance their own efforts to implement respect for human rights within their firms, to drive increased engagement with these issues across the legal profession, and to demonstrate the progress that is being made by firms committed to meeting their human rights responsibilities. (See box titled 'About the Law Firm Business and Human Rights Peer Learning Process' on p. 2 for more information about the Process).

In October 2018, law firms participating in the Law Firm Peer Learning Process convened for a full-day peer learning workshop to share and explore emerging practices, lessons learned and progress achieved, as well as key challenges and priorities.

These discussions focused on practical approaches to the following key areas of work:

- Building senior-level commitment and coordination;
- Providing training and capacity building;
- Identifying human rights risks during business acceptance;
- Building and exercising leverage in client relationships; and
- Implementing the Modern Slavery Act.

The workshop held in October 2018 built on conversations between participating firms held in 2016 and 2017 as well as interviews conducted by the facilitators with representatives of each firm during 2018. This summary report is based on those discussions. It also captures insights and reflections on each of the five key areas of work described above, as well as examples of emerging practices. It is intended to promote discussion, and share learning and experience. The workshop and interviews were held under the Chatham House Rule (meaning that information shared by the participants could be used, but not attributed to specific individuals or their affiliations), and the content of this summary report reflects that approach.

Participating firms will continue to engage with the community of practice established through the Process in 2019.

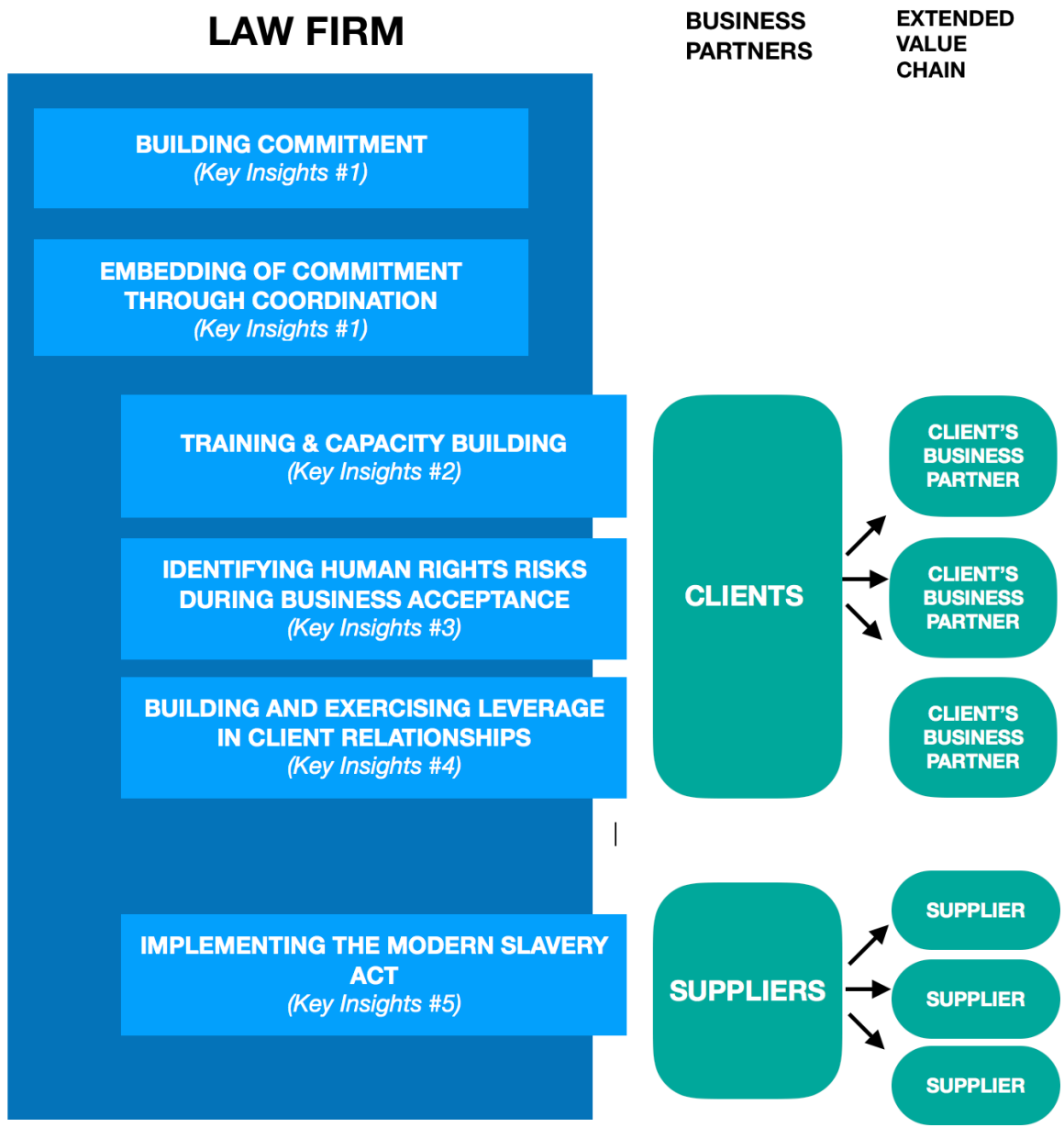
BACKGROUND: WAYS IN WHICH A LAW FIRM CAN BE INVOLVED IN ADVERSE HUMAN RIGHTS IMPACTS

Law firms - like all business enterprises - have a responsibility to respect human rights. Meeting this responsibility goes beyond establishing a business and human rights practice (although developing the expertise to support clients to meet their own responsibilities may be relevant). Rather, firms are expected to make a senior-level commitment to meet their responsibility to respect human rights, implement human rights due diligence processes to assess where they may be causing, contributing to or directly linked to adverse impacts and respond effectively to prevent or address those impacts. In some situations, firms are also expected to take a role in ensuring that affected people have access to remedy.

To do this in practice, firms need to establish governance frameworks to ensure accountability for meeting their policy commitment, ensure coordination across different parts of the firm with a role in this work, and build a rights-respecting culture internally. Importantly, firms also need to invest in training and capacity building. Firms can be involved in human rights impacts affecting their employees, as well as through their relationships with clients and suppliers, and should be taking steps to manage risks across these diverse areas.

This diagram depicts those areas on which discussions within the Process have focused to date. It is not intended as an exhaustive list of those areas firms are expected to consider under the Guiding Principles. (The references to ‘Key Insights’ are for lawyers and other professionals working in the participating firms, so that they know where to look for further information on each area).

DIAGRAM: LAW FIRMS’ PROGRESS EMBEDDING THE GUIDING PRINCIPLES



2. BUILDING SENIOR-LEVEL COMMITMENT AND COORDINATION

Implementing respect for human rights within a law firm is an exercise in driving widespread and sustained organisational change. As such, it is vital to find effective ways to build commitment and ‘tone from the top’ at the most senior levels of the firm. Senior-level commitment is key to ensuring that the work is sufficiently resourced, and to creating a strong basis for building buy-in amongst fee-earners and business services personnel. It also helps create an environment in which leaders (formal and informal) in different parts of the firm are empowered to drive change in their team or office, recognising that implementing respect for human rights can be a significant undertaking that will require leadership across the firm. In addition to being a core element of a company’s efforts to implement respect for human rights, the process to develop a policy commitment to meet the responsibility to respect can provide a key opportunity to engage with and build buy-in amongst senior leaders. In this respect, the process of developing a policy commitment can be as valuable as the end product.

Strengthening coordination and governance across the firm is key to build on leadership commitment and ensure that all parts of the firm (offices, practice groups, teams and individuals) are moving and pulling in the same direction. Establishing processes to enable coordination is particularly important in law firms, where various departments can operate with limited visibility of what others are doing.

The law firms participating in this Process have taken different approaches to building commitment amongst their senior leadership to meet the firm’s human rights responsibilities. The diversity of these approaches reflect that each firm has its own internal culture, set-up and ways of working, and is at a different stage in adopting and embedding the Guiding Principles.

Key areas of practice advanced by firms to strengthen commitment and coordination include:

- **Identifying the ‘delivery’ team – those who primarily drive this work:** Within each firm, efforts to advance respect for human rights internally and externally are driven by a small number of individuals. These individuals lead much of the firm’s work in this area, and are actively involved in efforts to build and maintain commitment, develop strategies, seek approval for policy commitments or interest groups. These ‘delivery teams’ generally develop organically through the interest and energy of their members. They typically comprise those individuals who took an initial interest and decided to play an active role in pushing the firm’s work in this area. Often, these ‘teams’ are not formally recognised – work in this area is undertaken in addition to each individual’s day-to-day role – although they increasingly become formalised.
- **Identifying business and human rights ‘champions’ to help drive change:** Those leading efforts to implement respect for human rights in each law firm have sought to identify ‘champions’ and ‘enablers’ who can help advance the work. Often, these champions are amongst the firm’s senior leaders. However, they can also be found in other parts of the firm; for example, in the General Counsel’s office or the knowledge team.
- **Building and formalising commitment at a senior level:** Most participating firms have built and formalised a commitment to meet the firm’s responsibility to respect human

rights at a senior level. This commitment has generally been achieved through a process that provided those driving the firm's business and human rights work with an opportunity to engage key senior leaders and to build buy-in and support for this work. In some cases, this process has focused on formalising a policy commitment; in others, it has focused on gaining a formal mandate to create an interest group or practice. Importantly, many firms will, over time, pursue both these options. Relevantly, they each present a valuable opportunity to engage senior leadership on business and human rights-related challenges.

- **Establishing accountability and governance:** Accountability and governance frameworks are key to ensuring that a law firm meets its human rights responsibilities. In practice, firms are taking different approaches to this – in part, reflecting whether the firm has made a policy commitment to respect human rights (which may enliven existing governance mechanisms to ensure compliance with firm policies) and, if not, the extent to which its commitment has been formalised in other ways. Approaches to accountability and governance will also – importantly – reflect a firm's internal structure, accountability mechanisms and culture.
- **Strengthening coordination through a cross-functional group:** A number of law firms have established cross-functional groups that bring together people from different parts of the firm. These groups serve to strengthen internal coordination, and to ensure relevant internal functions, teams and expertise are working together to advance business and human rights-related work; and
- **Raising awareness of the firm's commitments and responsibilities:** Raising awareness across the firm about business and human rights-related challenges generally, and the firm's responsibilities and commitments more specifically, is key to embedding respect for human rights. Participating firms emphasised the importance of awareness-raising activities – as well as regular internal and external communication about the firm's work in this area – to building senior-level commitment and coordination, and generating momentum.

These approaches are not mutually exclusive; firms take a combination of these steps to ensure commitment and coordination is firmly embedded and fit-for-purpose. Importantly, key individuals in the firm frequently play a role across these steps – for example, one individual may be a key 'enabler' or 'champion' at a senior level, be involved in the firm's cross-functional group, and play a role in raising awareness across the firm.

Significant progress to strengthen senior-level commitment and coordination has been achieved by participating firms since the launch of this Process in 2016, and nearly every firm identified as a priority taking this work to the next level. Opportunities to further strengthen commitment and coordination may include mainstreaming the relevance and importance of business and human rights for business lawyers, propagating progress across offices and leveraging greater client demand for services.

3. BUILDING CAPACITY OF LAW FIRM PROFESSIONALS

In addition to good policies and processes, a firm's ability to identify and manage human rights risks effectively depends on its people having the right knowledge and skills. Those working for the firm need to understand the firm's human rights responsibilities, and what

these mean for their own role – and have the know-how to do their part. What each person needs to know can vary widely depending on their role and the types of human rights issues that may arise in their work.

The implementation of training and capacity building initiatives is important to raise awareness and shift mindsets. These initiatives also create powerful opportunities to unlock existing knowledge and expertise – for example by connecting expertise on human rights with practice group knowledge on specific industries or challenges facing clients.

Importantly, training and capacity building – particularly amongst client-facing personnel – is key to identify risks throughout the lifecycle of a matter or client relationship, and to respond effectively and appropriately when such risks are identified. This can help firms manage risk - and deliver added value to clients as well. Lawyers' ability to spot and advise on business-related human rights issues can open up conversations with clients about these issues. In turn, the client may be better-positioned (and more inclined) to request business and human rights-related services from the firm, generating revenue and strengthening the internal business case to advance efforts to embed respect for human rights.

The law firms participating in this Process are using a variety of approaches to provide training and capacity building opportunities for their people – lawyers and, increasingly, business services teams, too. Practitioners consistently identified training and capacity building as a priority area of work.

Key areas of practice advanced by firms to deliver training and capacity building opportunities include:

- **Delivering basic business and human rights training:** Most participating firms have developed basic general training on business and human rights directed at a wide audience across the firm. These training programmes generally provide participants with an overview of key standards, such as the Guiding Principles, some examples of ways in which human rights-related issues can arise in connection with the firm's work (in particular, in client matters) and information about who to contact for more information. Some firms have made this general training mandatory – or plan to in the near future – to ensure everyone has a basic understanding of the firm's human rights responsibilities and its relevant internal policies.
- **Developing region, practice and team-specific offerings:** Most firms have observed that training can have a more direct and quick impact when targeted at and tailored to specific groups – that is, focusing on issues in an office's region or that affect clients of a specific practice group or business services team. Accordingly, a number of firms have been working to diversify their business and human rights training offerings by targeting particular groups within the firm.
- **Leveraging the role of practice support lawyers (PSLs) in key practice groups:** PSLs have a potentially powerful role to play as champions of business and human rights within their practice groups. Some firms have been proactive in leveraging the role of these lawyers to raise awareness, identify trends, develop new thinking and act as a 'local' source of expertise.
- **Producing specific toolkits and guidance to support capacity-building:** Several firms have been working to develop or adapt capacity building tools and guidance materials to support lawyers to advise on business and human rights issues.

- **Establishing interest groups to disseminate information and act as a ‘support network’:** Most firms have established (formally or informally) an interest group to disseminate information about business and human rights-related developments. Some firms have also found that such groups can act as a support network for individuals with questions about how to respond to a particular situation.

Real progress has been achieved to implement training and capacity-building on business and human rights across participating firms since the launch of this Process in 2016 – and all firms identify expanding training and capacity opportunities as a key priority going forward. Opportunities to further strengthen training and capacity may include strengthening the business case to prioritise training on business and human rights, deepening practice-group specific training and developing ways to assess the effectiveness of training.

4. IDENTIFYING HUMAN RIGHTS RISKS DURING BUSINESS ACCEPTANCE

Identifying and managing human rights risks in client relationships can be challenging and, where risks are identified, presents situations that require thoughtful and sensitive management. However, efforts to identify risks in client relationships are not just about good risk management. They also offer a powerful opportunity to engage with clients about their responsibilities and their stakeholders’ expectations, and to deliver additional value by supporting them to strengthen how they manage these risks themselves.

Integrating human rights considerations into new business acceptance processes is key to supporting the firm to identify risks at the outset of a new relationship or matter. It may also contribute to a better understanding of other risks that the firm is obliged to demonstrate that it is identifying and managing, such as corruption or money laundering risks. By identifying human rights risks early, the firm is able to take steps to discuss these with the client, and – if necessary – modify the terms of engagement to enable the firm to meet its human rights responsibilities (for example by ensuring the scope is adequate to advise on the human rights-related issues, or by incorporating an appropriate exit clause) and potentially support the client to do the same through an expanded scope or subsequent work at a future point.

Many law firms participating in this Process have begun to integrate human rights considerations into client and new matter onboarding processes. Where these considerations have been formally integrated into business acceptance processes, there is some level of consistency across approaches. However, firms are taking more diverse approaches to developing databases and other tools to assess risks in client relationships, and to provide training to key teams involved in these processes. Accessing reliable and consistent metrics and information can be challenging.

Key areas of practice advanced by firms to identify human rights risks during client onboarding include:

- **Integrating human rights considerations into business acceptance processes:** Business acceptance processes provide a key opportunity to identify any human rights risks the firm may be connected to through a new matter or client, and to take steps early to ensure these can be managed effectively (if the work is accepted). All firms have

business acceptance processes, and amongst those participating in this Process, a number have now formally integrated human rights considerations into these.

- **Developing client risk calculators:** To assist business acceptance teams to identify any human rights risks that may be associated with new matters or clients, a number of firms have developed client risk calculators or other tools and guidance materials.
- **Building client acceptance teams' and lawyers' capacity to identify and respond to issues that arise during a matter:** Firms' efforts to strengthen processes to identify human rights risks through business acceptance processes commonly include the provision of training and capacity building opportunities to those involved in these processes. Some firms observed that, where human rights considerations have not been formally incorporated into business acceptance processes, human rights training for business acceptance teams has been key to enabling these issues to be identified through existing ethics or reputational checks and building deeper sectoral understanding of human rights risks, particularly for areas which are aligned with the firm's strategy and client base.

Meaningful progress to more effectively identify risks during business acceptance has been made by many participating firms since the launch of this Process in 2016. Consolidating this progress and strengthening the capacity of relevant teams will be key for firms to feel confident that human rights risks are being identified and managed in a timely and effective manner. Opportunities to further strengthen the identification of risks during business acceptance may include building clarity and confidence about how to respond to risks in client relationships and broadening human rights training and awareness-raising. As firms' experience integrating human rights into business acceptance grows, more will be learnt about what information is needed, what considerations really matter, and how to balance competing considerations or areas of tension. This experience should help firms refine emerging tools, processes and algorithms – and with them, the effectiveness of their business acceptance processes.

5. LAW FIRMS BUILDING LEVERAGE IN CLIENT RELATIONSHIPS

Law firms can be involved in adverse human rights impacts in a number of ways; specifically, by causing, contributing to or being directly linked with the adverse impact.

Under the Guiding Principles, a law firm is expected to build and use leverage with its business partners in situations where it has contributed to or is directly linked to an adverse impact - for example, through legal services it has provided to a client. To assess the nature of a firm's involvement in a specific human rights impact, and to decide on an appropriate and effective response, it will be important to consider the context in which the impact occurred - or is occurring - and the connection (if any) between the firm and the adverse impact.¹

Beyond considering leverage to meet the expectations of the UN Guiding Principles, clients increasingly expect that their law firms' advice equip them with insights regarding how they can manage both their legal and human rights risks. This applies to lawyers

¹ See Guiding Principle 13 of the UN Guiding Principles on Business and Human Rights for more information about how business enterprises can be involved in human rights impacts and the steps they are expected to take to address the risk of involvement.

practising in all types of practice groups, including those in corporate, commercial or real estate as well as those in litigation. Clients have their own responsibilities under the UN Guiding Principles, and are increasingly subject to litigation risks, reputational risks and operational risks where they themselves are involved in adverse human rights impacts. Hence, the increased focus upon their firms to consciously consider how the advice provided may support respect for human rights.

The concept of leverage was discussed at length during the development of the IBA Practical Guide on Business and Human Rights for Business Lawyers (the IBA Practical Guide), as well as the accompanying Reference Annex to the IBA Practical Guide (the IBA Reference Annex).² In particular, exercising leverage does not mean “imposing a responsibility on the lawyer to act in a manner that is external to its existing professional responsibility and the client’s best interests. ... Instead, advising on human rights and how to address them can add significant value to the exercise of those responsibilities.”³ In other words, leverage is not about compelling a client to take a position it does not want to take; rather it is about exploring with the client how to make the business case for respecting human rights.

“As a wise counsellor or trusted advisor, a lawyer may be asked to provide relevant context in order not only to answer the question of what is legal, but also, what is right and fair in the context of the business’ medium to long term interests and sustainability, and what should be done.”

IBA Reference Annex

“Human rights due diligence (and the reporting and remedial elements in particular) can pose dilemmas for business lawyers whose job it is to identify, analyse and advise on the management of legal risk. However, the best lawyers analyse legal risk, not in the abstract, but take full account of the client company’s background commercial and reputational issues, and in a manner that is consistent with the company’s “responsibility to respect”. They take into account the understanding that risks of human rights impacts also involve risks to the business enterprise.”

UN Working Group on Business and Human Rights (July 2018)

² International Bar Association, IBA Practical Guide on Business and Human Rights for Business Lawyers, available at <https://www.ibanet.org/LPRU/Business-and-Human-Rights-Documents.aspx>; see also International Bar Association, Reference Annex to the IBA Practical Guide on Business and Human Rights for Business Lawyers, available at <https://www.ibanet.org/LPRU/Reference-Annex-to-the-IBA-Practical-Guide.aspx>.

³ IBA Reference Annex at p. 43.

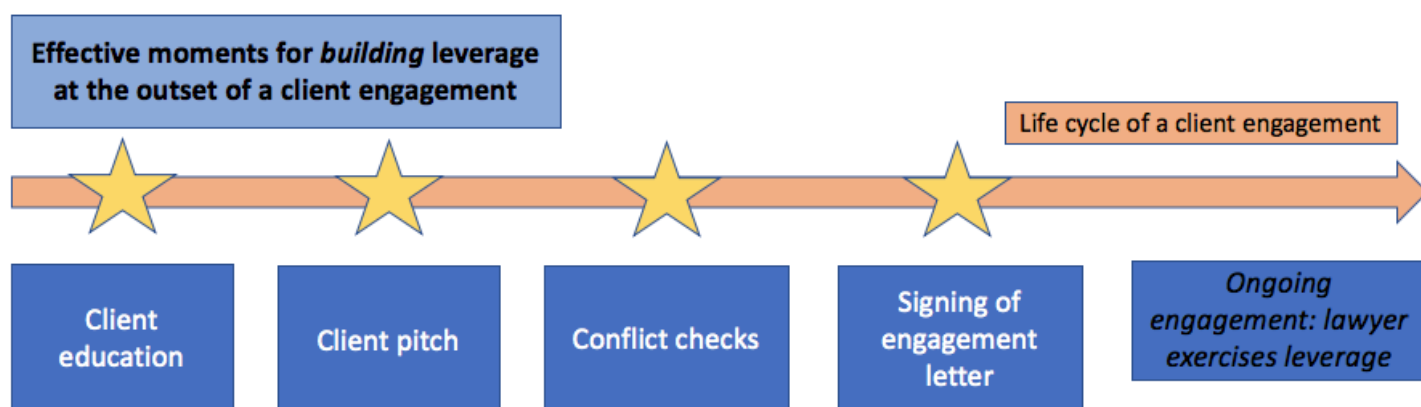
“Essentially, leverage is about lawyers providing perspectives to their clients that enable them to have a holistic rights-respecting view of how they will proceed; that enable them to take a balanced view of what is in their best interest. The decisions ultimately lie in the hands of the clients, but we help them see how respect for human rights provides relevant context to the legal advice they seek.”

Process participant

The law firms participating in the Process are taking similar approaches to building and exercising leverage, implementing the guidance provided in the Guiding Principles.

Key areas for which there has been progress when it comes to building leverage with clients include:

- **Identifying client engagements to build and exercise leverage as a priority:** Firms are guided by a number of considerations that help them identify those client engagements that are most likely to be directly linked to or contribute to impacts that are particularly severe. They are using a range of mechanisms to respond to these questions and determine which engagements to prioritise. The person or entity conducting this assessment process differs depending on the firm, and — at times — it is conducted in collaboration with other departments in the firm or, where appropriate, external assistance. This has led firms to identify specific practice areas and lawyers upon which to focus their leverage efforts. Although the priority list differs depending on the firm, it typically includes lawyers practising in higher risk groups (such as energy, employment, M&A and litigation) and/or in higher risk jurisdictions.
- **Considering the most effective points in time during a client relationship or engagement for a law firm to build its leverage:** Although there are various moments throughout the lifecycle of a client engagement where exercising leverage will be important, law firms have identified that the most effective way to build leverage is to do so at the outset of a client relationship and/or relevant engagement. In order to do this, it is critical for coordination to take place between those that play a role in building the firm’s leverage at the outset of a client engagement (i.e., those working in business development and client acceptance) and those that advise the client throughout the



course of the relationship. Law firms have identified four opportunities to build their leverage at the outset of a client relationship.

1. Firms have sought to build prospective clients' knowledge of what it means for a law firm to advise with consideration for human rights risks through a range of educational opportunities.
 2. Firms have built their prospective clients' awareness that the firm could provide guidance on human rights risks by integrating this into the firm's pitch to clients.
 3. By further adding this area to the client on-boarding processes or conflict checks, firms signal to clients that this is an important area and that they will be providing advice accordingly.
 4. Finally, a number of firms are revising their engagement letters so that they capture the possibility for the firm of providing advice that will enable the company to identify and address its human rights-related risks as part of the legal advice provided.
- **Finding ways for their lawyers to exercise leverage:** As stated in the IBA Reference Annex, a lawyer acting as a wise counsellor “may be asked to provide relevant context in order not only to answer the question of what is legal, but also, what is right and fair in the context of the business’ medium to long term interests and sustainability, and what should be done.”⁴ Lawyers can seek to exercise leverage in a range of ways — “leverage is a very flexible concept.”⁵ The ways in which leverage can be exercised will differ widely depending on the engagement. There are a range of different ways in which leverage can be exercised by lawyers. Further, there is a particular burden on lawyers to consider how they can provide advice that does not facilitate or incentivise harm — whilst meeting their professional obligations to clients. Training plays a key role when it comes to law firms and leverage.

Moving forward, law firms identified a number of barriers to building and exercising leverage, including limitations of lawyer knowledge, confidentiality constraints, timing, mandate considerations and team dynamics. Law firms also identified a key opportunity which involves coordinating efforts to share lessons learned amongst law firms regarding the effective building and exercise of leverage.

6. LAW FIRMS IMPLEMENTING THE MODERN SLAVERY ACT

Law firms are implementing the Modern Slavery Act (MSA) because it is a matter of legal compliance. At the same time, the approach they take is also increasingly driven by client interest: clients are eager to see how firms advising them on the Modern Slavery Act are themselves tackling the issue. Clients increasingly ask questions of their firms, such as whether the firm has a human rights policy and whether the firm complies with the MSA. Some clients are more pro-active and seek conversations with their firms. In one case, a client ranked the law firm's statement against other firm's statements and used this ranking to approach the firm and ask questions about its approach to procurement. Even where the client has not specifically asked questions about the firm's approach to the

⁴ IBA Reference Annex at 32.

⁵ IBA Reference Annex at 43.

MSA, firms remarked that it can be helpful to mention their work implementing the MSA during the pitch process.

All law firms concurred that the introduction of this new regulatory requirement is acting as a powerful catalyst for systematic and thoughtful action that goes beyond the immediate requirements of the new law (i.e., the publication of a modern slavery statement). Indeed, when positioned strategically in the firm, the law can lead to strengthening underlying procurement-related as well as broader human rights management systems.

The law firms participating in the Process are taking a range of different approaches to implementing the MSA. The following areas have been considered by law firms. The following does not seek to capture all of the law firms' practice - rather, it captures the areas where one or several firms have taken action that could be viewed as particularly forward-looking:

- **Modern Slavery Policy:** Leading law firms are setting clear expectations of suppliers in stand-alone policies and conveying expectations that extend beyond modern slavery to cover decent working conditions more generally.
- **Embedding the policy: senior commitment:** Leading law firms are using the sign-off process for their modern slavery statement as an important opportunity to build and maintain senior-level commitment to the firm's broader work on human rights. They view the sign-off process as an opportunity to create dialogue amongst the firm as to what modern slavery and human rights more broadly means for the firm. They are further seeking to apply the MSA reporting requirement across all offices, regardless of whether they are technically captured by the law or not.
- **Embedding the policy: governance:** Leading law firms are creating opportunities for the development of a cross-functional approach to modern slavery, including through the establishment of appropriate governance structures. They are assigning responsibility for tackling modern slavery in the firm's own operations and supply chains to specific individuals in the firm. They are further seeking to integrate independent and expert voices on modern slavery into their approach.
- **Embedding the policy - training:** Leading law firms are creating tailored training for those who will be negotiating and signing the contracts that are at higher risk of modern slavery.
- **Human rights due diligence - assessing risks:** Leading law firms are seeking to extend their assessment efforts beyond their strategic and high-spend suppliers to cover those suppliers that are at greatest risk of modern slavery. They are working to achieve an effective balance between local ownership and central oversight of modern slavery risks to address their de-centralised approach to procurement. This includes strengthening the local offices' assessment efforts, for instance by conducting deeper dives into a higher-risk office's procurement activities or conducting meaningful conversations with suppliers. They are extracting learnings from how leading companies are revising their processes to identify modern slavery and integrate these learnings into their own practices. Further, some firms are seeking to identify modern slavery risks in their own operations as well, for instance related to interns, work experience programmes and working hours as well as the firm's own use of recruitment agencies. They are focusing their pro bono efforts so that they support the firm with additional insights into modern slavery and human rights that the firm can build on to strengthen their human rights due diligence. Finally, some leading firms are seeking to create a

systematised connection between those working on the firm's approach to modern slavery, and those advising leading companies on modern slavery statements.

- **Human rights due diligence - acting on risks:** Leading law firms are seeking to build strong relationships with suppliers around decent working conditions premised on constructive engagement and the mutual sharing of lessons learned. They are starting to consider what leverage could look like if combined with other buyers (which could be other law firms, client or other businesses). Finally, a number are using the threat of disengagement in a meaningful manner to push for improved working conditions.
- **Human rights due diligence - tracking:** Leading law firms are seeking to develop indicators that will drive meaningful actions and efforts and enable them to track progress in reducing their risk of involvement in modern slavery over time.
- **Human rights due diligence - communicating and engaging with stakeholders:** Some firms have engaged with external stakeholders in the course of their due diligence, such as experts or consultants who have views from the ground and are aware of the risks of modern slavery. At this stage, firms do not feel equipped to go beyond this to direct engagement with potentially impacted stakeholders. Firms are primarily relying on their modern slavery statements to communicate their approaches to stakeholders. Some firms are also crafting specific opportunities to engage and be transparent about their approach, including conferences with clients and the sharing of lessons learned amongst the group of UN Global Compact companies.
- **Remedy:** Firms do not yet have experience related to addressing remedy for modern slavery incidents, but a number state that they are aware of the need to consider their role in ensuring affected people have access to remedy.

Firms recognise that they operate in a number of high risk sectors when it comes to modern slavery. However, given the nature of their business, they typically have less experience with managing modern slavery issues than many of their clients. The challenge for firms has been to adopt a forward-looking approach that extends beyond the existence of a policy and a contract to meaningful engagement with suppliers to improve working conditions over time. This is newer for many firms than it has been for their clients with expansive supply chains. A critical component therefore relates to internal coordination and the strengthening of the working relationship between the firm's internal team and its client-facing team advising on the MSA.

ANNEX A: RELEVANT RESOURCES AND MATERIALS

[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.

[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.

[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 material 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.

[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 Counsels regarding the key challenges and opportunities they are facing in the area of sustainability.