

# Missing the Mark:

Benchmarking Scottish Companies Compliance with the UN Guiding Principles on Business and Human Rights

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## List of Acronyms

<b>CHRB</b>	Corporate Human Rights Benchmark
<b>HRDD</b>	Human Rights Due Diligence
<b>HRIA</b>	Human Rights Impact Assessment
<b>ILO</b>	International Labour Organization
<b>NAP</b>	National Action Plan on Business and Human Rights
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>UDHR</b>	Universal Declaration on Human Rights
<b>UNGPs</b>	United Nations Guiding Principles on Business and Human Rights

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## Key Findings

- While the majority of the Scottish companies assessed had a broad level commitment to respect human rights, an explicit commitment to respect the human rights of workers was very low across the sample.
- Only one company in our sample, Scottish Power, scored over 50%. One third of the companies assessed had no publicly available information that could indicate that any UNGP implementation had taken place.
- All of the Scottish companies evaluated as part of this assessment scored zero on at least one of the core indicators. This means that none of Scotland's largest companies can demonstrate that they fully meet the basic criteria for UNGP implementation.
- The majority of companies evaluated as part of this assessment scored zero across all indicators related to the process of human rights due diligence. This would suggest there is an urgent need for companies to follow through on their human rights commitments and embed processes for the identification and assessment of potential and actual human rights impacts from their business activities<sup>1</sup>.

## Introduction

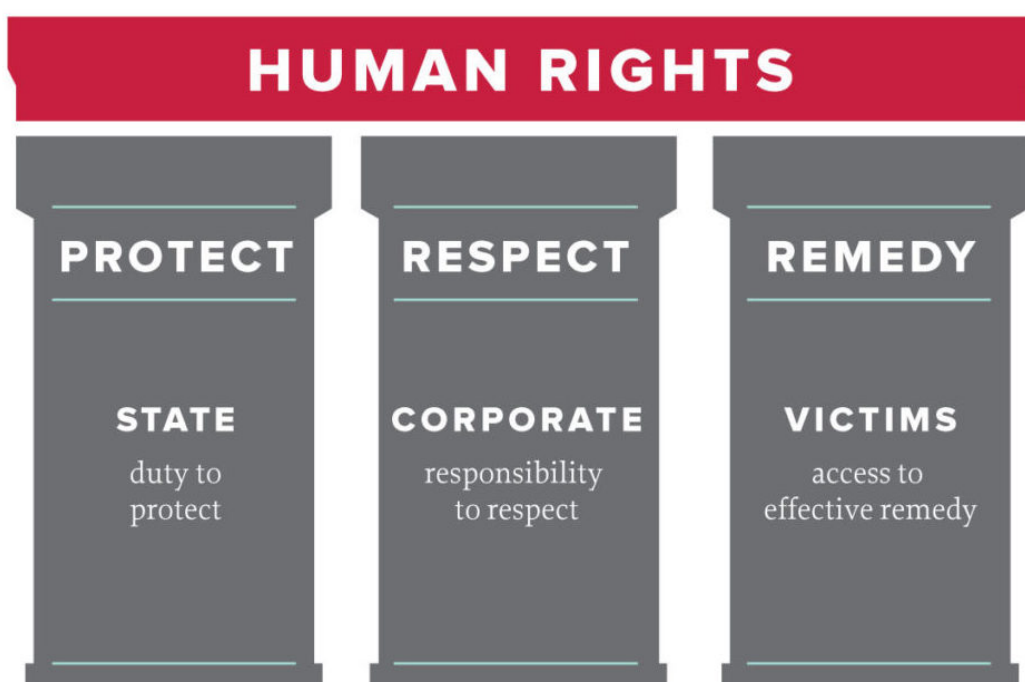
### The Business and Human Rights Context

Human rights are basic standards afforded to every person to ensure dignity and equality.<sup>2</sup>

Business has a profound impact on society and on our human rights. The UN Guiding Principles on Business and Human Rights (UNGPs), adopted by the UN in 2011, provide a globally recognised framework to articulate the baseline for corporate respect for human rights, and to clarify the differing roles of states and corporations in relation to human rights.<sup>3</sup>

The UNGPs rest on three pillars: states' duty to protect human rights, the corporate responsibility to respect human rights, and finally, the third pillar which incorporates both state and corporate responsibility to provide access to remedy for victims of corporate human rights harms.

The first pillar of the UNGPs is grounded in the assumption that States are the primary duty bearers under existing international human rights law, with their obligations defined in a range of treaties and conventions.



Under Pillar II, the corporate responsibility to respect human rights, companies should avoid infringing on human rights of others in their own activities and address human rights abuses with which they are involved.<sup>4</sup> This responsibility covers all recognised human rights,<sup>5</sup> exists independently of States obligations,<sup>6</sup> and applies to the company's entire value chain, regardless of where the abuse takes place.<sup>7</sup> It also applies regardless of the size of the company or the sector.<sup>8</sup>

To meet these requirements, companies should have in place a policy commitment to meet their responsibility, a human rights due diligence (HRDD) process, and processes to enable mediation of any human rights harms.<sup>9</sup> HRDD must be an ongoing and cyclical process, to account for the dynamic nature of human rights impacts.<sup>10</sup> It is made up of four central steps:

- Identifying and assessing actual human rights impacts
- Integrating and acting on findings
- Tracking responses
- Communicating how impacts are addressed<sup>11</sup>

The UNGPs have proven highly influential in the decade since their conception, becoming instrumental in developing further voluntary and legislative initiatives on business and human rights. For instance, HRDD has been integrated into the OECD Guidelines for Multinational Corporations.<sup>12</sup> Under the UNGPs, states should adopt measures to encourage corporate respect for human rights, and mandatory human rights due diligence has now been enshrined in law in France,<sup>13</sup> the Netherlands,<sup>14</sup> Germany,<sup>15</sup> and Norway.<sup>16</sup> The EU has also recently announced a legislative proposal on mandatory human and environmental rights due diligence.<sup>17</sup> National Action Plans on business and human rights (NAPs) – policy documents in

which governments articulate business and human rights priorities and actions – have also been adopted by a growing number of countries worldwide.<sup>18</sup> Negotiations also continue in relation to a binding international treaty on business and human rights, which is currently in its third draft.<sup>19</sup>

### **The State of Play of Business and Human Rights in Scotland**

The Scottish economy is highly diverse. While the vast majority of private sector businesses operating in Scotland are SMEs, which account for just over 55% of private sector employment, Scotland continues to provide a base for major global companies.<sup>20</sup> Key Scottish industries range from financial services, renewable energies, tourism, and food and drink.<sup>21</sup> Scotland is the most attractive location in the UK outside of London for foreign direct investment.<sup>22</sup> As of 2021, Edinburgh is ranked 5<sup>th</sup> in Europe for its financial services centre.<sup>23</sup> Nevertheless, the combination of Brexit and the effects of the Covid-19 pandemic provide an unpredictable backdrop for Scottish industries, particularly since the EU constitutes the largest market for Scotland’s exports outside of the UK.<sup>24</sup>

Scotland is currently in the process of developing a NAP on business and human rights, independent of the UK NAP (launched in 2013<sup>25</sup> and updated in 2016<sup>26</sup>). To ensure a robust evidentiary foundation for the Scottish NAP, a National Baseline Assessment on Business and Human Rights was also commissioned, comprising of desk-based research, consultation with stakeholders and engagement with business and human rights experts.<sup>27</sup> At a UK-wide level, there have also been calls by civil society and businesses to enact binding human rights and environment due diligence legislation, which would require considerably more effort on the part of corporations than the current Modern Slavery Act (2015).<sup>28</sup>

Despite these developments, we currently have relatively few up to date insights into how Scottish companies are aligning their practices with the UNGPs. It is therefore pertinent that an examination of the current approaches to corporate responsibility for human rights by Scottish businesses is undertaken. To further inform this discussion, this snapshot aims to provide information on top Scottish companies' alignment with the UNGPs. It is hoped that this will provide clarity for policymakers and regulators on future areas of action in relation to business and human rights in Scotland, as well as contributing to the discussion on the utility of benchmarking corporate human rights performance.

## **Methodology**

Our study is based on a methodology created by the Corporate Human Rights Benchmark (CHRB).<sup>29</sup> Since 2016, CHRB has been providing a public, year-on-year comparative snapshot of global companies, and their implementation of the UNGPs. They also provide assessments on key industries such as extractives, apparel and ICT.<sup>30</sup> For the Scottish snapshot, we used CHRB's UNGP Core Indicator Assessment derived from their full methodology.<sup>31</sup> The Core Indicators cover three themes:

Theme A – Governance and Policy (4 indicators)

Theme B – Embedding Respect and HRDD (5 indicators)

Theme C – Remedies and Grievance Mechanisms (3 indicators)

Within the Themes, companies are scored between zero and two across the core indicators – a score of one thus means they meet the very basic criteria of the indicator.



Similar country snapshots using the CHRB Core Indicators have been conducted in Ireland,<sup>32</sup> Germany,<sup>33</sup> Denmark,<sup>34</sup> Finland<sup>35</sup> and Belgium.<sup>36</sup>

The snapshot methodology is based solely publicly available information from policy documents, annual reports and other relevant human rights materials, from within a certain time period. As such, results from the snapshots should be seen as a proxy for corporate human rights performance and not necessarily a measure of a company's overall human rights impacts.<sup>37</sup> The very nature of the scoring methodology and the fact that this is a desktop assessment of a certain point in time, means that the results will include a margin of interpretation. As such, we welcome ongoing dialogue with companies on any updates on recent human rights policies and reports that may not be covered in the time period of this assessment.

It is worth noting that while the CHRB Core Indicator Assessment tracks disclosure and public policy commitments, it does not track actual behaviour. In this sense, the methodology employed here has the inherent limitation that public corporate disclosures may not always reflect actual corporate practice. Further, it is also worth highlighting that the CHRB introduced an updated version of their methodology in late 2021,<sup>38</sup> after the commencement of this study. This study therefore draws on the earlier version of the CHRB methodology.

### **Selecting a sample of Scottish Companies**

Companies were selected from the top 25 companies listed in the Scottish Business Insider<sup>39</sup> Top 500 Index 2019.<sup>40</sup> The Index is compiled based on a combined ranking of turnover and pre-tax profit.

A number of the top 25 companies were excluded from our analysis, following consultation with CHRB. Respol and the Tesco Group were excluded initially as they were already included in CHRB's benchmarking exercise.<sup>41</sup> In addition, and following guidance from CHRB, Bank of Scotland and Scottish Widows are included as one entry in the analysis as they are both part of Lloyds Banking Group which has a group policy on human rights. A further four companies were excluded as they are headquartered in other countries: Life Technologies is based in California, and Subsea 7, Technip UK and Sky Subscriber Services are all based in England. Two further oil and gas companies were purchased by overseas companies: Chevron North Sea, purchased by Ithaca Energy (a subsidiary of the Delek Group, headquartered in Israel) and Maersk Oil North Sea, purchased by Total (headquartered in France). Overall, 15 companies were included in our analysis (see Table 1).

Data collection and analysis was undertaken between July 2020 and June 2021. As this is a snapshot exercise, only data from within that time period is included. Data was collected from the public websites of each of the companies in our sample. For the purposes of assessment, any document that was considered to be a company policy or report was considered to be relevant. In addition, each company was first contacted via email in July 2020 and informed about the benchmarking exercise and asked to provide any sources deemed relevant for the assessment (i.e., sustainability reports, policy documents, other human rights related disclosures). Each document was assessed against CHRB's UNGP Core Indicators. We followed up with companies again in 2021 to update on progress and any further developments.

## Quality Assessment

In order to limit subjectivity in our analysis and ensure reliability in the application of the CHRB indicators to Scottish companies, the research team attended UNGP Core Benchmark training facilitated by CHRB, prior to the launch of the project. While the benchmarking exercise was undertaken independently of the CHRB, in order to ensure consistency and reliability in the application of our approach, the Scottish dataset was reviewed by a CHRB researcher. Any discrepancies were discussed, and scores were adjusted as necessary.

## Results

### *Theme A: Governance and policy commitments*

Indicators under Theme A aim to assess the extent to which a company formally incorporates its responsibility to respect human rights into publicly available policy commitments. Such commitments provide an indication that “top management considers respect for human rights to be a minimum standard for conducting business”.<sup>42</sup> There are four indicators within

Theme A:

- A.1.1 Commitment to respect human rights
- A.1.2 Commitment to respect the human rights of workers
- A.1.4 Commitment to engage with stakeholders
- A.1.5 Commitment to remedy

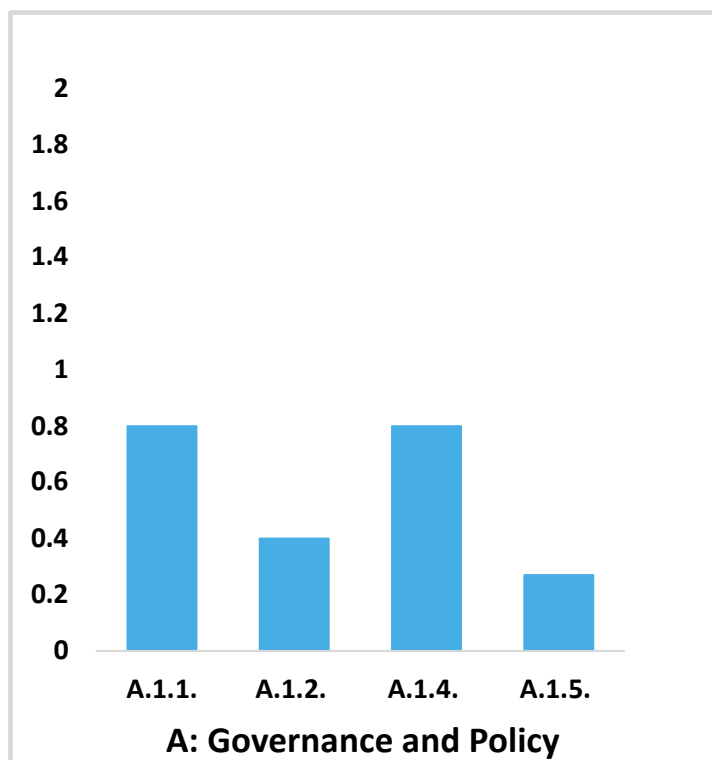
Each indicator in Theme A has a maximum score of 2. The overall average score for Theme A was 2.3 out of a possible score of 8 (29%). The highest score was 6.5/8 (81%) and five companies in the sample received a score of 0/8 (0%).

**Table 1**

<b>COMPANY</b>	<b>A.1.1.</b>	<b>A.1.2.</b>	<b>A.1.4.</b>	<b>A.1.5.</b>	<b>Total A (8)</b>
Aggreko	1	0	1	0	2
Arnold Clark	0	0	0	0	0
Chivas Brothers	1	1.5	0	1	3.5
Edrington	0	0	0	0	0
John Menzies	0	0	0	0	0
Lloyds Banking Group (Bank of Scotland and Scottish Widows)	1	0.5	2	1	4.5
Miller Homes	0	0	0	0	0
RBS/NatWest	2	1	2	0	5
Scottish Power	2	1.5	2	1	6.5
Scottish Water	1	0	1	0	2
SSE	2	0.5	2	1	5.5
Stagecoach	0	0	1	0	1
Standard Life Aberdeen	1	1	1	0	3
Weir Group	1	0	0	0	1
William Grant	0	0	0	0	0
<b>AVERAGE scores of individual indicators</b>	0.8	0.4	0.8	0.27	2.3

Table 1 above provides an overview of how the companies in the sample performed in relation to each of the indicators for Theme A. An examination of Table 1 highlights that the majority of companies (56%) had a publicly available policy statement committing to respect human rights (A.1.1), while just over half (53%) of the companies in the sample had made a commitment to engage with stakeholders, including potentially and actually affected stakeholders (A.1.4). Each of these indicators had an overall average score of 0.8/2 (40%).

**Figure 1** – Average indicator scores across Theme A (maximum score 2)



Overall, companies tended to demonstrate less public commitment in relation to respecting the human rights of workers (A.1.2) and commitment to remedy (A.1.5). The overall average scores for each of these indicators was of 0.4/2 (20%) and 0.27/2 (13.5%) respectively, with the vast majority of companies in the sample scoring zero.

*Theme B: Embedding respect and human rights due diligence*

Indicators under Theme B are concerned with embedding policy commitments into company culture and broader management systems in the form of human rights due diligence (HRDD). HRDD is a fundamental expectation of the UNGPs, and companies are expected to must integrate HRDD processes into their operations with sufficient resources and responsibilities

There are six indicators related to Theme B

- B.1.1 Responsibility and resources for day-to-day human rights functions
- B.2.1 Processes and triggers for identifying human rights risks and impacts
- B.2.2 Assessment of risks and impacts identified (salient risks and key industry risks)
- B.2.3 Integrating assessment findings internally and taking appropriate action
- B.2.4 Monitoring and evaluating the effectiveness of actions
- B.2.5 Accounting for how human rights impacts are addressed

Each indicator in Theme B has a maximum score of 2. The overall average score for Theme B was 1.6 out of a possible score of 12 (13.3%). The highest score was 9/12 (75%) and nine companies in the sample received a score of 0/12 (0%).

**Table 2**

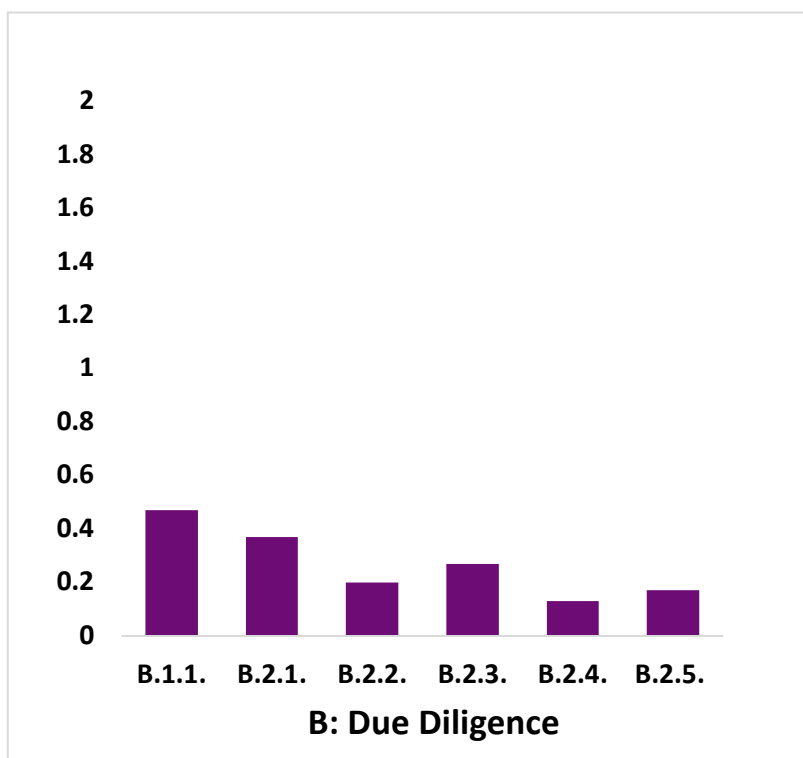
<b>COMPANY</b>	<b>B.1.1</b>	<b>B.2.1.</b>	<b>B.2.2.</b>	<b>B.2.3.</b>	<b>B.2.4.</b>	<b>B.2.5</b>	<b>Total B (12)</b>
Aggreko	0	0	0	0	0	0	0
Arnold Clark	0	0	0	0	0	0	0
Chivas Brothers	1.5	1	0	0	1	0.5	4
Edrington	0	0	0	0	0	0	0
John Menzies	0	0	0	0	0	0	0
Lloyds Banking Group (Bank of Scotland and Scottish Widows)	1.5	0	0	0	0	0	1.5
Miller Homes	0	0	0	0	0	0	0
RBS/NatWest	1.5	0	0	0	0	0	1.5
Scottish Power	0	2	2	2	1	2	9
Scottish Water	0	0	0	0	0	0	0
SSE	1	1	0	0	0	0	2
Stagecoach	0	0	0	0	0	0	0
Standard Life Aberdeen	1.5	1.5	1	2	0	0	6
Weir Group	0	0	0	0	0	0	0
William Grant	0	0	0	0	0	0	0
<b>AVERAGE scores of individual indicators</b>	0.47	0.37	0.2	0.27	0.13	0.17	1.6

Table 2 (above) provides an overview of how the companies in the sample performed in relation to each of the indicators for Theme B. An examination of Table 2 highlights that only five companies outlined senior level responsibility for human rights (B.1.1), with an average

score for this indicator of 0.47/2 (23.5%). Four companies identified human rights risks and impacts (B.2.2, average score 0.37/2 or 18.5%), two companies assessed and identified salient human rights risks and impacts (B.2.2, average score 0.2/2 or 10%) and two companies took action to mitigate human right risks and impacts (B.2.3, average score 0.27/2 or 13.5%),

In terms of tracking and evaluating their action in response to human rights risks (B.2.4), only two companies in the sample took such action (average score, 0.13/2 or 6.5%), while two companies in the sample communicated externally on how they address human rights impacts (B.2.5, average score 0.17/2 or 8.5%).

**Figure 2** – Average indicator scores across Theme B (maximum score 2)



As outlined in the UNGPs, human rights due diligence is a process for operationalizing the corporate commitment to human rights in practice. That the vast majority of companies in

the sample score zero across all indicators would suggest that there is a need for companies to follow through on their commitments and embed processes for the identification and assessment of potential and actual human rights impacts from their business activities. Without such processes, companies are unable to take measures to mitigate their impact, track the effectiveness of any measures they take, or communicate to relevant stakeholders about how human rights impacts are being addressed.

### *Theme C: Remedies and grievance mechanisms*

Indicators under Theme C address the extent to which companies provide remedy in addressing actual adverse impacts on human rights. Under the UNGPs, if a company identifies that it has caused, or contributed to, negative human rights impacts then it should provide for remediation through legitimate processes. For example, a company might establish effective operational-level grievance mechanisms for stakeholders who may be negatively impacted by their activities.

There are three indicators under Theme C

- C.1 Grievance channels/mechanisms to receive complaints or concerns from workers;
- C.2 Grievance channels/mechanisms to receive complaints or concerns from external individuals and communities
- C.7 Remedying adverse impacts and incorporating lessons learned

Each indicator in Theme C has a maximum score of 2. The overall average score for Theme C was 1.1 out of a possible score of 6 (18.3%). The highest score was 3.5/6 (58.3%) and five companies in the sample received a score of 0/6 (0%).



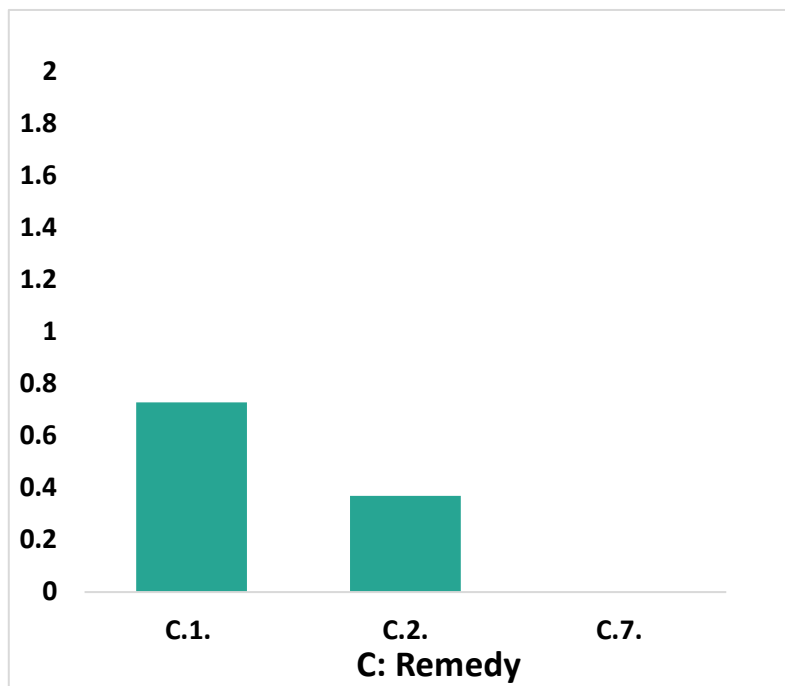
**Table 3**

COMPANY	C.1.	C.2.	C.7.	Total C (6)
Aggreko	1	0	0	1
Arnold Clark	0	0	0	0
Chivas Brothers	1	1	0	2
Edrington	0	0	0	0
John Menzies	0	0	0	0
Lloyds Banking Group (Bank of Scotland and Scottish Widows)	1.5	1	0	2.5
Miller Homes	0	0	0	0
RBS/NatWest	1	0	0	1
Scottish Power	2	1.5	0	3.5
Scottish Water	1	0	0	1
SSE	1.5	0	0	1.5
Stagecoach	0	1	0	1
Standard Life Aberdeen	1	1	0	2
Weir Group	1	0	0	1
William Grant	0	0	0	0
<b>AVERAGE scores of individual indicators</b>	<b>0.73</b>	<b>0.37</b>	<b>0</b>	<b>1.1</b>

Table 3 (above) provides an overview of how the companies in the sample performed in relation to each of the indicators for Theme C.

An examination of Table 3 highlights that nine companies had established grievance mechanisms to receive complaints or concerns from workers (C.1), with an average score for this indicator of 0.73/2 (36.5%). Five companies had established grievance mechanisms to receive complaints or concerns from external individuals and communities (C.2, average score 0.37/2 or 18.5%), while zero companies had established mechanisms for remedying adverse impacts or incorporating lessons learned.

**Figure 3** – Average indicator scores across Theme C (maximum score 2)



Theme C had the lowest average across all of the CHRB criteria. While companies in the sample generally provided grievance mechanisms for workers, there was much less evidence of equivalent mechanisms for external individuals or communities. This would suggest something of a blind spot when it comes to potentially negative impacts on external stakeholders. Further, the lack of mechanisms for providing remediation across all of the companies in the sample is a concern; if a company fails to actively engage in the remediation of impacts it has caused, it cannot fully meet its responsibility to respect human rights.

## **Conclusions**

Scotland is a relatively “rich and prosperous nation” that “rank[s] highly on indicators of economic prosperity and compare[s] well to other advanced economies”.<sup>43</sup> Furthermore, it benefits from considerable natural resources, “a skilled workforce and key strengths in

sectors such as food and drink, tourism, energy and financial and professional services”.<sup>44</sup>

Given this context, Scotland’s industry and economy, especially the major multinational companies that are based in Scotland, have the potential to impact on individuals and their human rights, both nationally and across the world.

In recognition of this, Scotland’s National Performance Framework includes an explicit human rights outcome:

*“We respect, protect and fulfil human rights and live free from discrimination.”<sup>45</sup>*

Similarly, Scotland’s National Strategy for Economic Transformation outlines the intention to:

*“Establish a Centre of Expertise in Equality and Human Rights within Scottish Government, advancing our understanding and embedding equality and human rights within the economic policy-making process, as agreed in the Economy Recovery Implementation Plan.”<sup>46</sup>*

Scotland’s National Action Plan further includes an explicit commitment to business and human rights:

*“The Scottish and UK Governments, Scottish businesses and the Scottish Human Rights Commission will pursue the development of an action plan to implement the UN Guiding Principles on Business and Human Rights by Scotland and raise awareness among Scottish companies of their human rights responsibilities.”<sup>47</sup>*

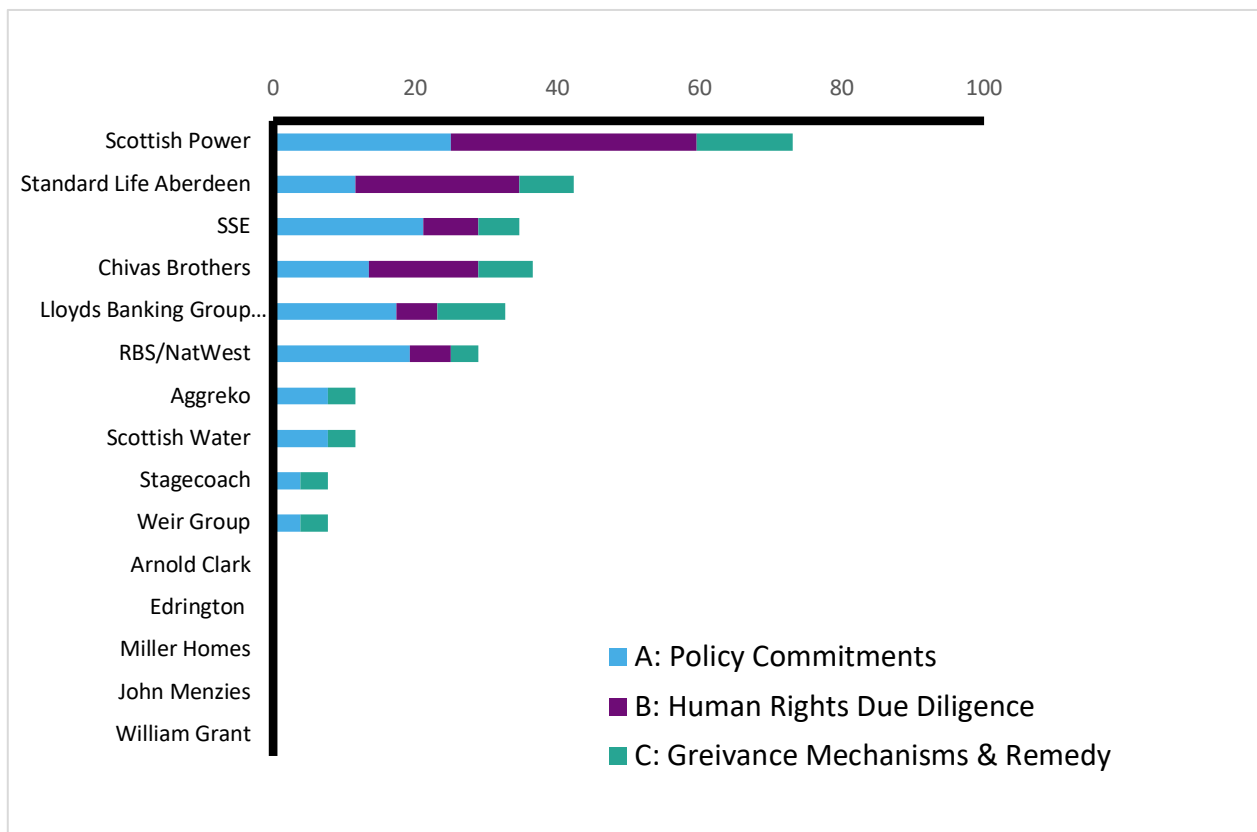
Despite these objectives, findings from this report suggest that considerable efforts are required in order to increase human rights awareness, policy commitment and the implementation of governance and remedy mechanisms amongst Scottish companies. Only one company in our sample, Scottish Power, scored over 50% in relation to the CHRB core indicators (see Table 4 and Figure 4). Worryingly, one third of the companies assessed (5/15) had no publicly available information that could indicate that any UNGP implementation had taken place.

There are some tentatively promising signs that Scottish companies are introducing policy commitments on human rights. However, similar to the other country-wide assessments using CHRB indicators, translating human rights commitments into practice through due diligence processes remains underdeveloped for the majority of companies. Companies consistently failed to provide evidence for grievance mechanisms or remedy, with no company able to sufficiently demonstrate how they remedied adverse impacts and incorporated any lessons learned. While there may be some Scottish companies who are beginning to take their human rights responsibilities seriously, the results from this assessment paints a concerning picture. Initial commitment to human rights – however enthusiastic – requires concrete and continual action on the part of companies.

**Table 4 – Companies ranked by overall scores and percentage bands**

COMPANY	A: Policy Commitments	B: Human Rights Due Diligence	C: Grievance Mechanisms & Remedy	%	% BAND
Scottish Power	25	35	13	73	70-80
Standard Life Aberdeen	12	23	8	42	40-50
SSE	21	8	6	35	30-40
Chivas Brothers	13	15	8	37	30-40
Lloyds Banking Group (Bank of Scotland/Scottish Widows)	17	6	10	33	30-40
RBS/NatWest	19	6	4	29	20-30
Aggreko	8	0	4	12	10-20
Scottish Water	8	0	4	12	10-20
Stagecoach	4	0	4	8	0-10
Weir Group	4	0	4	8	0-10
Arnold Clark	0	0	0	0	0-10
Edrington	0	0	0	0	0-10
Miller Homes	0	0	0	0	0-10
John Menzies	0	0	0	0	0-10
William Grant	0	0	0	0	0-10

**Figure 4 – Company scores by Theme (A, B & C)**



Looking to the future, it is imperative that all Scottish companies make human rights a priority and immediately begin to more comprehensively implement the UNGPs to develop human rights capacity and systems. To enable this, the Scottish Government must also meet their existing international obligations to protect against business-related human rights abuses, by identifying and addressing regulatory and policy gaps, and provide effective guidance to business.

To this end, the Scottish Government must take measures to develop human rights awareness among Scottish business as well as training and guidance on the implementation of the UNGPs. Such measures could be incorporated within the Scottish National Action Plan on

Business and Human Rights, currently being developed, alongside a commitment to undertake regular benchmarking in order to establish a mechanism for assessing compliance over time.

## References

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<sup>1</sup> The analysis presented in this report is based on publicly available corporate disclosures between July 2020 and June 2021. As only data from within that time period is included, it is possible that some of the companies in our sample have since updated their policies and disclosure.

<sup>2</sup> UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III).

<sup>3</sup> UN Human Rights Council (2011) 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework'. A/HRC/17/31.

<sup>4</sup> Ibid, Principle 11.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid, Commentary on Principle 11.

<sup>7</sup> Ibid, Principle 13.

<sup>8</sup> Ibid, Principle 14.

<sup>9</sup> Ibid, Principle 15.

<sup>10</sup> Office of the High Commissioner for Human Rights (2020) 'Mandatory Human Rights Due Diligence – Key Considerations'. Available at: [https://www.ohchr.org/Documents/Issues/Business/MandatoryHR\\_Due\\_Diligence\\_Key\\_Considerations.pdf](https://www.ohchr.org/Documents/Issues/Business/MandatoryHR_Due_Diligence_Key_Considerations.pdf).

<sup>11</sup> UN Guiding Principles, Principle 17.

<sup>12</sup> OECD (2018) 'Due Diligence Guidance for Responsible Business Conduct'. Available at: <https://www.oecd.org/investment/due-diligence-guidance-for-responsible-business-conduct.htm>.

<sup>13</sup> Loi no. 2017-399 du 27 Mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre.

<sup>14</sup> The Netherlands Child Labour Due Diligence Act 2019, Staatsblad 2019, 401.

<sup>15</sup> Act on Corporate Due Diligence Obligations in Supply Chains, BGBl I 2021, 2959. Official English translation at <https://www.bmas.de/SharedDocs/Downloads/DE/Internationales/act-corporate-due-diligence-obligations-supply-chains.pdf>

<sup>16</sup> Prop 150.L (2020-2021) Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold (åpenhetsloven)

<sup>17</sup> European Commission (2022) 'Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937', COM(2022) 71 final. Available at: [https://ec.europa.eu/info/sites/default/files/1\\_1\\_183885\\_prop\\_dir\\_susta\\_en.pdf](https://ec.europa.eu/info/sites/default/files/1_1_183885_prop_dir_susta_en.pdf).

<sup>18</sup> For overview of the development of NAPs see: Global NAPs, 'National Action Plans for Business and Human Rights'. Available at: <https://globalnaps.org/>; See also: Methven O'Brien, C., Ferguson, J. and McVey M. (2021), 'National Action Plans in Business and Human Rights: An Experimentalist Governance Analysis' *Human Rights Review*. Available at: <https://doi.org/10.1007/s12142-021-00637-x>.

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<sup>19</sup> Open-Ended Intergovernmental Working Group (2021) 'Legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises: Third revised draft 17 August 2021.' Available at: <https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session6/LBI3rdDRAFT.pdf>.

<sup>20</sup> Scottish Government (2021) 'Business in Scotland 2021'. Available at: <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2021/11/businesses-in-scotland-2021/documents/businesses-in-scotland-2021/businesses-in-scotland-2021/govscot%3Adocument/Businesses%2Bin%2BScotland%2B2021.pdf>

<sup>21</sup> Ibid

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