

# ENSURING RESPECT FOR THE HUMANITARIAN PRINCIPLES: GUIDANCE NOTE FOR SUPPORT PROVIDED FROM THE NORWEGIAN MINISTRY OF FOREIGN AFFAIRS TO NGOs (19.12.16)

## Background

Norway's humanitarian policy<sup>1</sup> emphasises that humanitarian efforts should be based on the principles of humanity, impartiality, independence and neutrality.<sup>2</sup> This requirement is reflected in the latest grant agreements signed between the Norwegian Ministry of Foreign Affairs (the Ministry) and project partners.

Lack of adherence to the humanitarian principles has implications for who receives the aid, and how the aid is perceived and delivered. This in turn can have an impact on whether or not access for humanitarian operations is granted in the future, as well as on the accountability of donors and beneficiaries alike. In today's complex operating environments, adherence to the humanitarian principles can be challenging in practice. While the focus on other types of risks has increased (e.g. fiduciary risks, staff security, reputational risks), the risks relating to non-compliance with the humanitarian principles have not received the same level of attention. A comprehensive approach to risk is therefore needed, given that the different types and levels of risks are interlinked.

The Ministry recognises that organisations differ in their approaches, ideologically, operationally and in other ways. However, this guidance note seeks to ensure a common understanding of what the Ministry expects of NGOs in order to reduce risks relating to non-compliance with the humanitarian principles.<sup>3</sup> It also seeks to contribute to a better understanding of the relevance and practical application of the principles. The primary target audience for this note are NGOs that receive funding for emergency response efforts and humanitarian assistance and, where relevant, their local implementing partners.

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<sup>1</sup> Report No. 40 (2008-2009) to the Storting. Norway's Humanitarian Policy

<sup>2</sup> OCHA definitions: **Humanity:** Human suffering must be addressed wherever it is found. The purpose of humanitarian action is to protect life and health and ensure respect for human beings. **Neutrality:** Humanitarian actors must not take sides in hostilities or engage in controversies of a political, racial, religious or ideological nature. **Impartiality:** Humanitarian action must be carried out on the basis of need alone, giving priority to the most urgent cases of distress and making no distinctions on the basis of nationality, race, gender, religious belief, class or political opinions. **Independence:** Humanitarian action must be autonomous from the political, economic, military or other objectives that any actor may hold with regard to areas where humanitarian action is being implemented.

The humanitarian principles are endorsed in General Assembly resolutions 46/182 (1991) and 58/114 (2004). They are derived from the seven Fundamental Principles of the Red Cross, as proclaimed in 1965 by the 20th International Conference of the Red Cross. The humanitarian principles govern the conduct of humanitarian actors and must not be confused with the principles of international humanitarian law, which are legally binding rules that regulate the conduct of armed conflict and seek to limit its effects. The primary responsibility for ensuring respect for international humanitarian law rests with the parties to the conflict. To some extent, the humanitarian principles and international humanitarian law share a common origin. (See Jean Pictet, Commentary on the Fundamental Principles of the Red Cross).

<sup>3</sup> This guidance note is intended to promote new and better practices, and will therefore lead to new learning opportunities. This means that it should be viewed as a living document that can be refined and adapted in light of the learning opportunities that arise.

The guidance given here is divided into three parts, based on the three phases of the project/programme cycle: the design, planning or proposal phase; the implementation phase; and the monitoring and evaluation phase. There are inevitably certain overlapping elements that are relevant to more than one phase.

Humanitarian organisations often face complex and high-risk operating environments that pose particular challenges for risk management and mitigation, particularly when organisations rely on remote management and other non-standard procedures. In order to deliver principled humanitarian assistance and protection to those who need it most, it is important to take a flexible approach and adapt to the challenges of the particular context.

### **Design/planning/proposal phase**

- **Conflict analysis:** As part of their analysis of the context, organisations should consider how the proposed intervention and the context are likely to affect each other, including whether the proposed project could have a negative impact on potential or ongoing conflicts (e.g. by fuelling conflict, increasing tensions between different groups, or facilitating violations of human rights or of international humanitarian law), and how any conflict could influence the proposed project. Organisations must employ a ‘Do No Harm’ approach. Many organisations have developed tools and other materials to ensure conflict-sensitive planning and programming, and these should be used where relevant.
- **Beneficiary selection:** The humanitarian principles should be at the core of the process to select beneficiaries and target communities, and ensure an appropriate humanitarian response. The humanitarian imperative should come first, and aid priorities should be made on the basis of need. The procedures for selection should be outlined in the proposal, and the necessary documentation ensured (e.g. through needs assessments, description of measures taken to ensure respect for the humanitarian principles in the selection process, etc.).
- **Partner assessment:** When the Ministry’s partner organisation implement through local partners, these partners should be systematically assessed at the planning/proposal stage. Any risks relating to the humanitarian principles, such as how the proposed partner is perceived at the local level, and the local implementing partner’s political, ethnic, religious and other affiliations, should be outlined in the proposal in the same way as other risks relating to the partnership (such as mismanagement of funds etc.). Related to this, it is also important to consider the local partner’s own procedures, for example for recruitment of staff, selection of target groups and other measures to ensure adherence to the humanitarian principles.
- **Risk management systems and strategies:** Risk management strategies should propose mitigating actions for all identified risks, including risks relating to the context/conflict and the partner assessment, as described above. Training of local partners and follow-up of their work should be included in this (see the paragraph below on partner relations).

- **Deviation from standard procedures:** In situations where the ability of a partner to apply its own standard operating procedures is constrained, this should be discussed with the Ministry at the planning stage (or at the earliest possible stage during implementation). Alternative procedures should be explicitly agreed on and included in the proposal/contract.

## Implementation phase

- **Partner relations:** Care should be taken to understand if and how local partners assess risks, and how these risks may be reduced through cooperation. Trust between partners is essential, but transparent measures need to be in place for managing the relevant risks and for strengthening the capacity of local partners to manage risk (e.g. through training, support and follow-up). Different measures will probably be required for humanitarian aid and longer-term development projects. Depending on the terms of the contract, these may include identifying what kind of project decisions the local partner can make independently, and what kind of approval and documentation procedures should be in place, for example for deviations from the project agreement and other relevant project decisions. Appropriate monitoring systems should be established, including, if relevant, alternative procedures for specific situations such as remote management. In cases where there is limited access to the areas of operations, it is important to strike a balance between prioritising the implementation of activities by local partners and the need to maintain close communication and carry out context-appropriate monitoring (e.g. by organising partnership meetings in safe/accessible areas).
- **‘Red lines’:** Partners should consider drawing up ‘red lines’ that are not to be crossed, so as to clearly identify at which point project activities should be discontinued. ‘Red lines’ should be locally defined and adapted to the context in question, in cooperation with local implementing partners where relevant. ‘Red lines’ will differ from organisation to organisation, but will include diversion of Ministry-funded aid so that the project no longer addresses the needs of the original target population (e.g. through interference in the project by a party to the conflict), or because the Ministry’s partner organisation has lost access and/or is no longer able to monitor project activities in accordance with the proposal. The red lines should be communicated to and understood by all relevant staff and by local implementing partners. They should also be communicated to the contact person at the Ministry/Embassy.
- **Reporting of incidents:** The Ministry recognises that there will be many grey areas relating to red lines, and partners are therefore encouraged to maintain a close dialogue with the Ministry, including Norwegian embassies that are involved, where relevant. The Ministry/Embassy contact person should be alerted as early as possible if there are any potential incidents. This dialogue can initially take place on a local and/or informal level, with more formal communication if or when incidents are confirmed. ‘Incidents’ include red line situations as those described above, but may also include conflict-related destruction of relevant infrastructure, abduction of or violence towards staff (including implementing partners’ staff), suspicion of diversion of aid, and suspicion of theft – all of which are beyond the control of the humanitarian organisation.

- **External communication:** In external communication, both locally and at headquarter level, the possible impact and risks of this communication for the local partner and project beneficiaries should be kept in mind.

### **Monitoring and evaluation phase**

- Monitoring systems should be able to capture changes in the context that might impact on the organisation's ability to deliver aid in accordance with the humanitarian principles. This could include information relating to access to key operational areas and target groups, the local perception of partners, triangulation of data received from partners, incident reporting etc. Indicators that show to what extent the project is being implemented according to plan, and whether strategies to mitigate possible risks have been effective or whether mitigation gaps remain, should, where relevant, include elements relating to the humanitarian principles.
- Risk management and mitigation strategies, including in relation to the humanitarian principles, should be assessed as part of any internal or external reviews or evaluations of the project.
- In order to inform future projects and cooperation, other (formal or informal) learning opportunities should be created with a view to analysing risks to the delivery of principled humanitarian aid and possible ways to address these risks. This could include exchanges of experience with other humanitarian organisations, in addition to dialogue (e.g. through individual or joint meetings) with the Ministry.