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## Legal Health Check

### Information for legal partners

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#### Introduction to A4ID

Advocates for International Development (A4ID) is a non-profit organisation that uses the law and the skills of lawyers towards sustainable development. Through its international pro bono broker service, A4ID facilitates free legal advice and assistance to organisations seeking to eradicate global poverty. The A4ID Legal Health Check is one way that lawyers from A4ID legal partners can support the work of these development organisations.

A4ID currently has over 50,000 lawyers in its global network through its partnerships with law firms, corporate legal teams and barristers' chambers. Pro bono legal projects for almost 600 NGOs, social enterprises and developing country governments have had an impact in over 114 countries. A4ID's weekly pro bono opportunities range from small pieces of advice to large multi-jurisdictional projects. It also runs an annual training programme and evening seminars on the intersection of law and international development. A4ID undertakes policy and thought leadership work to further the impact of the legal profession in the eradication of poverty.

#### Introduction to the A4ID Legal Health Check

'Health Checks' exist in many contexts, providing a snapshot of the condition of an individual or organisation. A Legal Health Check usually refers to a process by which lawyers undertake an assessment of a client's potential legal needs.

A4ID staff lawyers work with all its development partners to examine and scope their legal needs. The A4ID Legal Health Check is an extension of this process, offering a more in-depth assessment to those organisations willing and able to participate. A team of lawyers from A4ID legal partners undertakes the Legal Health Check on a pro bono basis. The lawyers use a questionnaire developed by A4ID to understand the condition of the organisation. Through analysing the information received in response, and through discussions with the organisation, the lawyers identify which legal issues the organisation needs to address. Their assessment is captured in a written report for the organisation, which the development organisation can then work through over time.

The Legal Health Check is free for A4ID development partners. However, it does require a significant investment of time to properly engage with the lawyers and respond to their questions. For this reason, A4ID seeks to ensure that all organisations requesting the Legal Health Check have the capacity to participate. The organisation's input should ultimately pay dividends by preventing issues manifesting into costly and time-intensive problems. Further, it will result in a structured document setting out the ongoing legal needs of the organisation which can be used as a benchmark for the future. In short, getting things right at the outset will help to ensure the organisation is sustainable both in the immediate and longer term.

Charlie Hay, Director of Sustainability at AfriKids UK, said of their experience with the A4ID Legal Health Check:

'The impact of the legal health check with AfriKids UK extends to our operations in Ghana, the process and end product serving as a hallmark of best practice which can be replicated worldwide, something it has been difficult for us to find. This comprehensive, multidisciplinary review provides mutual benefits: a wider impact for the law firm's involvement (a great return for their investment) as well as more widely-informed, practical solutions for the charity to implement than ad hoc pro bono projects are often able to offer. The Legal Health Check enables a dialogue that solves the problem of lawyers not knowing how best they can help charities, and charities not knowing what to ask for!'

Jo Weiss, Head of Social Responsibility at White & Case, the firm which helped A4ID pilot the Legal Health Check, said:

'It's exciting to have a pro bono matter that can potentially involve all of our practice areas, which can be done in any of our offices, and which goes to the core of a charity's legal needs and helps them to proactively address their most important legal issues.'

## How to get involved

A4ID legal partners that wish to participate in the legal health check should send the following information to A4ID:

1. The main office they would like to involve in conducting their first legal health check – this will be the location of the head office or main registration of the development organisation
2. Any other offices they would ideally like to have involved (if any) – where possible, A4ID will seek to find a development organisation that also has a registration/presence in those jurisdictions
3. Any types of organisations for which they would not be willing to undertake a legal health check (e.g. on the basis of their scope of work, religious affiliation, size, location, nature of registration including whether the organisation needs to be a non-profit/charity) – A4ID will only select organisations for a legal health check that would otherwise be suitable to be one of its development partners, have a good track record of engagement with A4ID and have the capacity to participate in the Legal Health Check process.

A4ID will then seek to identify a suitable organisation to participate in a legal partner's first Legal Health Check. Opportunities for subsequent Legal Health Checks will be listed on the usual weekly A4ID emails listing pro bono requests.

Usually, the legal partner will be from the jurisdiction in which the development partner has its head office or main registration. If this is not possible, the organisation may be offered a limited Health Check by lawyers from another jurisdiction similar to that where the Development Partner is based. For large organisations, multiple health checks on an office or national basis may be required, using different teams of lawyers (from the same or different legal partners).

A lawyer of at least 6 years' experience (usually a Senior Associate or Partner) must be actively involved in the team conducting a Legal Health Check. A Partner must take overall responsibility for the matter on behalf of the firm.

Lawyers from in-house teams at companies and barristers may participate in the legal health check in conjunction with a law firm, provided the law firm and the development organisation are happy with this. All lawyers participating must be employed by an A4ID legal partner (or in the case of barristers, members of A4ID individually or through their chambers).

### The Process

After matching an appropriate development organisation and legal partner, the lawyers engage in a five stage process to complete the Legal Health Check:

#### Stage 1: Initial Consultation

The legal partner arranges an initial meeting (or, if not possible, phone call) with the development partner (30-45 minutes) to discuss the key features of the organisation and gain a better understanding of what the organisation does. The discussion should centre on the work and nature of the organisation, its size and complexity, where it works and any other important characteristics. The scope of the Legal Health Check is also confirmed at this stage. The legal partner asks the development partner to locate relevant documents or other evidence.

#### Stage 2: Questionnaire

Following the initial consultation, the legal partner sends a questionnaire to the development partner. A4ID will provide a standard form questionnaire to the legal partner to use as a basis, but the legal partner should take into account the initial consultation in deciding which parts of the questionnaire are most and least relevant, making amendments or omissions accordingly. The questionnaire asks for relevant supporting evidence where appropriate. The idea at this stage is to get as full a picture of the organisation as possible, and it is likely that most of the questions will be relevant to most development partners.

#### Stage 3: Preliminary Analysis

On receipt of the completed questionnaire, the lawyers review the provided answers to make an initial assessment of the legal strengths and weaknesses of the organisation, highlighting areas of need. They should also address any obvious inaccuracies or omissions in the completed questionnaire at this point, requesting further evidence where necessary.

#### Stage 4: In-depth Fact-finding

After initial clarifications, a longer in-person meeting (or, if not possible, phone call) should be scheduled between the legal partner and development partner to go through the questionnaire more fully, allowing time for the legal partner to ask questions and better understand the organisation's needs. This is likely to take 1-3 hours depending on the size and complexity of the organisation (possibly longer for large organisations and multijurisdictional legal health checks). The meeting should take place at the development partner's premises whenever possible. A quick examination of some documents may take place at the meeting itself if the legal partner feels it is required to understand the development partner's needs, but ideally this will have been provided with the questionnaire. Any outstanding areas of obscurity should be addressed at this stage. After this meeting the legal partner should feel fully equipped to engage in an assessment of the organisation's legal condition.

## Stage 5: Report

To complete the Legal Health Check, the legal partner will prepare a written report to the development partner. This report will be based on a template provided by A4ID to the legal partner, broken down into areas of interest for the development partner. As with the questionnaire, any irrelevant areas should be omitted from the legal partner's report.

At the beginning of the report, the legal partner should clearly identify any specific legal issues that need to be addressed. The legal partner should try to rank issues in order of urgency and importance, explaining why each issue needs addressing and highlighting relevant deadlines.

In addition to underlining discrete issues of importance, the legal partner should provide some general considerations for the development partner. This will not involve providing specific advice but will help the development partner to know what basic questions its board or management might consider thinking about moving forward. It should help the development partner to self-assess areas of need before contacting A4ID for follow up work.

In its conclusion, the report should highlight areas for the development partner that appear particularly strong or weak from a legal perspective. It should give a brief summary as to the legal 'health' of the organisation which can be easily and quickly digested.

A4ID will also be provided with the final report and help the organisation find pro bono support for the issues identified. The legal partner that undertook the Legal Health Check will have the first opportunity to take on any of the matters arising.

It is likely the whole process will take a minimum of 3 months, possibly significantly longer depending on how quickly the development partner is able to respond to the questionnaire and how complex the organisation is.

### **Further assistance from A4ID**

A4ID is currently integrating the Legal Health Check process into its database and developing some tools to improve the efficiency of the process. For example, the new system will help to streamline the process of sending and receiving the questionnaire. This will enable the data to be captured more effectively and in time allow A4ID to identify legal needs across the international development sector. More details about using this system will be available in due course.

### **What type of legal issues will be explored?**

The Legal Health Check will involve exploring in depth the everyday functioning of the organisation and any related legal issues. Examples of the kinds of topics covered and questions asked by a standard Legal Health Check are as follows:

- General organisational characteristics
- Structure and governance
- Employment contracts and policies, including health, safety and security
- Contracts and partnership agreements
- Property issues
- Assets
- Liabilities and Funding
- Tax issues
- Intellectual property
- Use of the law in programmes or advocacy work
- Disputes and dispute resolution
- Risk management
- Compliance issues – e.g. anti-corruption, bribery
- Specific industry regulations
- Systems for monitoring legal issues

### **For more information and to participate**

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