



Questions Boards Should Ask

March 2024

**SOCIAL
PRACTICE**
FORUM

WHY A “QUESTIONS BOARDS SHOULD ASK” DOCUMENT WRITTEN BY PRACTITIONERS?

In the wake of a major environment, social, and governance disaster, people often exclaim, “how could the board not know this?” We, the Social Practice Forum (SPF),¹ a global forum of approximately 100 social practitioners with extensive experience in natural-resource-sector projects, have observed that board members don’t always know the questions they should be asking about social issues. The questions that follow do not raise all the social issues that Boards should deliberate on, but rather focus on key aspects of what has become known as the Social Performance (SP) discipline, as outlined in Figure 1. Social performance is the sum of a company’s interactions, activities, and outcomes, that can affect its stakeholders.²

Boards set the tone for the culture surrounding a company’s social performance, and they influence the extent to which social issues are accepted, valued, and respected. They need to know the questions to ask to ensure that social issues get the attention they require. Drawing on our hands-on experience, and observations from both boardrooms and the field, SPF has prepared a list of questions that boards should be asking. Doing so might prevent many of the problems we see so often, problems that are usually predictable and preventable. The work of SPF and its members focuses on companies that have an impact on social wellbeing. These companies are typically large-scale land users, in industries like mining, energy including renewables, agriculture, and agroforestry.

These questions provide a tool so that a board of directors is better resourced to analyze the social balance sheet of a company or organization, acknowledging the complexity of the social systems it operates in. They have been developed to address the corporate governance responsibilities of directors, not those of executive managers. They are meant for boards of directors, advisory boards, and internal oversight bodies (e.g., an oversight panel established by joint venture partners).

CORPORATE CULTURE AS A DETERMINANT OF A COMPANY’S SOCIAL/REPUTATIONAL RISK EXPOSURE

A company’s social/reputational risk exposure, surprisingly for many managers, is often predictable and largely within the company’s control. Across industries and around the world, community stakeholders, civil society groups, and host governments have been observed to respond similarly to a company’s policies, behaviour, and approach. Certain approaches consistently result in agitation and protest. Others are consistently well received. Manifestations of social risk are context specific; underlying causes are less so.

It is how a company’s policies and approaches are implemented, not the context of its operations, that is the main difference between a company that gets it right and one that doesn’t. In turn, it is corporate culture and, more specifically, the underlying and often implicit assumptions that inform policies and approaches, that determine the how. For example, a company that sees local communities as a risk factor will implement a different engagement approach than one that sees them as an asset. The contrasting outcomes are predictable. Some of the questions in this document are meant to alert board members to prevalent corporate assumptions that may be inconsistent with their organization’s social objectives sometimes articulated in vision statements or public commitments.

¹ The SPF is a not-for-profit professional association established to provide active leadership on social performance. One of the six objectives of the Forum is promoting the integration of social performance practice into business objectives and corporate culture. <https://socialpracticeforum.org>

² SP 101 paper #1 <https://socialpracticeforum.org/resources/>

AREAS FOR CONSIDERATION



We begin with some key questions related to the role and accountability of individual board members, from a SP perspective. These are followed by questions related to corporate culture and specific social legacies (as such legacies often influence corporate culture). Subsequent questions address elements of the social performance management system that a company must have if it is to manage effectively its interactions with, and responses to, its social context. The final questions relate to the social issues and themes that usually provide the greatest social-risk exposure (as depicted in Figure 1).

A consistent theme for each area is ensuring that board members have confidence that adequately resourced, effective processes are in place. The social issues pertinent to a specific company will vary according to the size, location, sector, and project stage of its operations and activities. Not all questions will be relevant to every company, but we encourage thorough consideration of each before deciding that it is inapplicable.

Figure 1 — Activities and focus areas captured under social performance and how they relate to other key functions.





Here are the central questions we advocate as being critical for boards of directors to ask themselves and their companies. Each one is expanded upon with supplemental questions in the appendix.

- 1 As a board member, what is my role and how am I accountable for the company's management of social risks and issues?
- 2 Are we, as a board of directors, confident that the business's corporate culture, strategy, and management systems support the mainstreaming of social issues into the way business is conducted?
- 3 Do we have an understanding of the legacies and the present and potential human rights impacts, that the company needs to address? Is the company adequately using its leverage to positively influence human rights when required?
- 4 Do we receive adequate, proactive social risk management and reporting from management?
- 5 Are we confident that the company's governance, reporting, and continuous improvement systems are contributing to the integration of social issues?
- 6 Do we see evidence of participatory approaches and robust relationships with communities and external stakeholders, and are we, as a board, having stakeholder dialogues and taking on external feedback on a regular basis?
- 7 Are we confident that community health, safety, and security issues are being proactively managed?
- 8 Do we, as a board, support and track the company's commitment to encouraging local employment and adhering to international good labour practices?
- 9 Do we, as a board, support and track the company's commitment to encouraging local procurement and to addressing supply and value chain issues in a timely way?
- 10 Are we confident that land acquisition and resettlement practices adhere to international standards and deliver best practice?
- 11 Are we confident that the company understands and respects the rights and interests of Indigenous and land-connected people, across the diversity of views within those communities?
- 12 Are we confident that the company understands its potential impacts on cultural heritage, both tangible and intangible, and that it is implementing measures to avoid or mitigate those impacts (including clearly defined no-go areas)?
- 13 Are we confident that the company's social investment and associated programmes contribute meaningfully to the development aspirations of host communities and wider stakeholder groups?

REFERENCES & THANKS



Ospina, M (2015) “Questions to Boards and CEOs”, Working Paper, with contribution from Thomson, I.

Equality and Human Rights Commission. *Business and Human Rights: A five step guide for company boards*. Published May 2016, accessible at: https://www.equalityhumanrights.com/sites/default/files/business_and_human_rights_web.pdf

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REVISION HISTORY



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A pre-release version was made available in July 2022 to get preliminary feedback on the questions and how to present them. This is version 3, released in March 2024.

As the **Social Practice Forum** aims to provide practical tools to further integrate social performance considerations into business decisions, we welcome feedback on this document or any suggestions that would increase the ability of board members to make better informed decisions. Based on feedback, and shifting societal expectations, we will periodically look to issue updates to these questions.



1. AS A BOARD MEMBER, WHAT IS MY ROLE AND HOW AM I ACCOUNTABLE FOR THE COMPANY'S MANAGEMENT OF SOCIAL RISKS AND ISSUES?

Whether or not a director has a background in social issues or direct responsibility for it, it is incumbent on all directors to pay attention to social issues, in the same way that they must be accountable for financial decisions and actions. Board members are increasingly being held to account in their personal capacity, in both the court of public opinion and courts of law. As liability rules and insurance risks keep growing, so will the collective and personal liability of directors.

As a board member and director,

- What are the questions I need to ask to ensure that I am both meeting my fiduciary responsibilities, and doing right by the company's stakeholders?
- How do I, as a board member, determine how the company is performing from a social perspective? What is the factual basis for my assessment? Does the company actively consider the trade-off, from a social perspective, between its long-term interests and its short-term objectives?

2. ARE WE CONFIDENT THAT THE BUSINESS'S CORPORATE CULTURE, STRATEGY, AND MANAGEMENT SYSTEMS SUPPORT THE MAINSTREAMING OF SOCIAL ISSUES INTO THE WAY BUSINESS IS CONDUCTED?

The board is crucial in setting the tone for the company's culture and in ensuring that the company takes a long-term view.

From our exposure to the company as board members,

- Are we confident that the company has put in place the necessary social frameworks, policies, positions, and standards, applicable for it and the regions it operates in? Are they based on internationally recognized standards (e.g., the International Finance Corporation (IFC) Performance Standards, the Convention on the Elimination of all forms of Discrimination Against Women, and the United Nations Guiding Principles for Business and Human Rights)?
- Are we confident that negotiations with states, communities, non-government organizations (NGOs), and Indigenous and land-connected peoples are concluded in a way that all sides see as fair and equitable, (as opposed to the company being successful at the expense of other parties), thus increasing long-term stability? How often does the company reassess agreements to ensure that they remain successful and appropriate to the changing external dynamic?
- Do we know if the importance of social issues is well recognised, and that activities will be reviewed or stopped if social experts or local stakeholders (e.g., NGOs, local government, or local committees) identify a sufficiently material likely risk?

Successful management of social issues requires that they be integrated into the company's core business, into the way it manages itself, as opposed to making them an add on.

From our exposure to the company, as board members, are we confident that:

- The company's purpose and strategy are clearly defined with respect to incorporating social issues and stakeholder needs?
- The company has put in place fit-for-purpose strategies that address the social issues, and thereby mitigate the social risks, that it faces in varying operating contexts?
- The company has the right people, with appropriate skills, competencies, and behaviors to manage social issues?
- The company is directing adequate financial resources and management attention to social issues?
- Management is only making time-bound and specific promises that it can keep, and is following through on its commitments?
- The company is well informed about legislative and regulatory changes, nationally and internationally, that may influence the social aspects of its business model?

3. DO WE HAVE AN UNDERSTANDING OF THE LEGACIES, AND THE PRESENT AND POTENTIAL HUMAN RIGHTS IMPACTS, THAT THE COMPANY NEEDS TO ADDRESS?

A company's social performance doesn't begin with a blank slate. History and past relationships, both at a country and a project level, often deeply influence current attitudes, expectations, and behaviours.

- Do we, as the board, know about material social legacy issues, and the differential impacts on women and men, and on vulnerable groups? Do we know what is being done to address them over time?
- Have past social issues or conflicts that the company experienced in other contexts, shaped how it now deals with social risks, either positively or negatively?
- Is an ongoing human rights due diligence approach applied, aimed at addressing identified salient issues? Does it take into consideration past actions that may pre-date the current company's involvement, as well as current activities?
- In conflict affected settings does management understand the company's influence and responsibilities and undertake heightened human rights due diligence?
- Has the company briefed us on legacies and new human rights risk exposures that we may be inheriting through our business actions (e.g., through mergers and acquisitions)?
- Do we, as the board, receive insight and analysis regarding the social impacts of divestment decisions and ongoing responsibilities in the medium to long term?
- Does the company's closure and rehabilitation planning keep pace with society's expectations?
- How well is management considering the long term? Does the company have the systems and resources to manage issues and remain prepared for catastrophic events over the very long term (100-plus years)?

Human rights are fundamentally about doing no harm. They are about putting people at the center of the analysis. If something impacts individuals, you are probably dealing with human rights.

As board members,

- Do we understand legal, investor, and societal expectations concerning the responsibility of business to respect human rights? Do we understand what is required to do that?
- What is the company doing to make respect for human rights a part of how it does business?
- How does the company know what negative impacts it may have on people's human rights?
- What steps is the company taking to reduce and mitigate its risks to people and to ensure appropriate remedy, where appropriate?
- How does the company engage with stakeholders to help it understand and address human rights risks?
- Does the company explain which human rights issues it reports on and why?

4. DO WE RECEIVE ADEQUATE, PROACTIVE SOCIAL RISK MANAGEMENT AND REPORTING FROM MANAGEMENT?

Proactive risk management and processes present challenges and opportunities through to the most senior levels of the company. They act as important safeguards to address issues in a timely way and to harness opportunities.

As a board, are we confident that:

- There is a commonly understood definition of what constitutes a material/significant social issue or risk?
- Information related to social risk flows up the chain of command, enabling informed decision-making?
- A defined escalation protocol exists to advise us of significant social issues, risks and incidents?
- There are adequately defined red lines, in terms of residual social risk or consequence, that the company will not cross, and that we review them regularly?
- A social-risk lens informs business decisions? This includes project design, evaluation, and approval, as well as climate adaptation measures, change management, closure, internal reward structures, and competency management.
- Management is considering both inbound social risks (i.e., threats and opportunities to the company) and outbound social risks (i.e., threats and opportunities posed by the company)?

5. ARE WE CONFIDENT THAT THE COMPANY'S GOVERNANCE, REPORTING, AND CONTINUOUS IMPROVEMENT SYSTEMS ARE CONTRIBUTING TO THE INTEGRATION OF SOCIAL ISSUES?

Governance and reporting act as safeguards against unwelcome surprises, contribute to clarity around roles and responsibilities, and to mainstreaming of issues into management systems, processes, and reporting. Continuous improvement is essential as society's expectations change and the company needs to keep up, if not lead.

When we, as a board, engage with the company,

- Is there clear accountability for social issues at the top of the organization? How is social performance integrated with the employment, health, safety, and related functions?
- Are remuneration and short- and long-term incentive schemes both linked to social performance and free of competing disincentives to their implementation? Are social targets reported to the remuneration committee?
- Is there evidence that metrics are in place for social performance activities, at both the corporate level and the asset level, and that these tie in with the risks and opportunities faced by the business?
- Is there line of sight between earnings, financial results and social performance?

When we reflect on our board, as directors,

- Is it clear which director takes the lead on these issues? Do we have, or do we need a sub-committee with dedicated attention to social performance issues?
- Do we, as board members, have the necessary skills to consider current and emerging social performance issues?
- Are we comfortable with the status of the company with respect to sustainability disclosures and integrated reporting, and their external verification?

6. DO WE SEE EVIDENCE OF PARTICIPATORY APPROACHES AND ROBUST RELATIONSHIPS WITH COMMUNITIES AND EXTERNAL STAKEHOLDERS, AND ARE WE, AS A BOARD, HAVING STAKEHOLDER DIALOGUES AND TAKING ON EXTERNAL FEEDBACK ON A REGULAR BASIS?

Community and stakeholder support and involvement is crucial for project success. Feedback loops, including receiving bad news, are critical to ensure that the business is in touch with on- the-ground sentiments and can proactively respond to shifting realities.

As a board, are we confident that:

- We are receiving enough different perspectives, including diversity, equity and inclusion considerations, to make informed decisions? How do we know that we have a good understanding of societal perspectives? To what extent is this view informed by stakeholders outside the company's management structure?
- We have direct access, as needed, to both the accountable managers responsible for social issues and local stakeholders external to the company?
- The company has third-party oversight or review of the social aspects of its operations? Are stakeholders directly involved in any such activity? Are the findings communicated to us?
- Management is clearly outlining the actions it takes to address stakeholder concerns and takes into account community preferences and aspirations?
- Stakeholders would support the company and its operations if it faced a major issue with the government or a regulator (e.g., on taxation or environmental performance)?
- We have a good sense of evolving societal expectations and changes in the external environment that could impact the company?
- The company's grievance management and redress mechanism is effective, operations are using it to avoid conflict and address issues?
- The company routinely reports to us about grievance management including the performance of contractors?
- There is clear oversight of the company's partnerships and agreements?

7. ARE WE CONFIDENT THAT COMMUNITY HEALTH, SAFETY, AND SECURITY ISSUES ARE BEING PROACTIVELY MANAGED?

Community health, safety, and security issues can quickly become significant issues. If they are not properly and proactively managed, they can lead to lasting material harm.

As a Board, are we confident that:

- All major hazards have been identified and are being managed by the company and its joint venture partners to minimize risk to employees and community members?
- Adequate community emergency response plans are in place and are regularly updated and tested?
- The company's operational security is managed in keeping with the Voluntary Principles on Security and Human Rights? Has the company considered becoming a signatory to that process?
- Industry specific guidelines, like the Global Industry Standard on Tailings Management (GISTM), have been fully integrated into the business?

8. DO WE, AS A BOARD, SUPPORT AND TRACK THE COMPANY'S COMMITMENT TO ENCOURAGING LOCAL EMPLOYMENT AND TO ADHERING TO INTERNATIONAL GOOD LABOUR PRACTICES?

Local employment is a key contributor to development and is increasingly a flashpoint for community tensions when not perceived to be adequately addressed.

Local labour policies and practices should be in line with international good practice.

As a board,

- Do we receive reports on performance against global and operational targets for local employment, including by contractors?
- Do we understand the company's labour policies and practices (as benchmarked against international good practice)?
- Do we receive reports on gender and broader diversity initiatives at the company's operations, including involvement in decision-making processes, programs for retention, career development, training, or other incentives for diversity and meaningful inclusion?
- Are we confident that the necessary requirements for contractors and supply chain partners are in place to prevent issues such as child and forced labour, and modern slavery?

9. DO WE, AS A BOARD, SUPPORT AND TRACK THE COMPANY'S COMMITMENT TO ENCOURAGING LOCAL PROCUREMENT AND TO ADDRESSING SUPPLY AND VALUE CHAIN ISSUES IN A TIMELY WAY?

Local procurement is an important way for companies to contribute to local and regional economic development. Communities expect it and governments are increasingly legislating it.

Companies can find themselves accused of human rights abuses because of issues in their supply and value chains (e.g., issues of health and safety or child or forced labor among suppliers or contractors).

As a board, do we:

- Feel confident that the company has mapped its supply and value chain risks and is mitigating the social and human rights risk related to suppliers and contractors?
- Receive reports on local procurement spending and supplier development? Is performance measured against local and global company targets?
- Understand the company's supply and value chain policies and practices (as benchmarked against international good practice)?

10. ARE WE CONFIDENT THAT LAND ACQUISITION AND RESETTLEMENT PRACTICES ADHERE TO INTERNATIONAL STANDARDS AND BEST PRACTICE?

Land acquisition and resettlement is a high-risk and emotional activity, regardless of how many people are involved.

As a board,

- For newly proposed land acquisition and resettlement, do we understand what alternatives have been considered to minimize resettlement and what standards the company is using?
- For existing land acquisition and resettlement, do we understand the resettlement that is being undertaken, the standards the company is using, and whether there are independent reviews, including where host governments lead land acquisition and/or resettlement efforts?
- Are we aware of legacy resettlement issues? If so, how is the company addressing these?

11. ARE WE CONFIDENT THAT THE COMPANY UNDERSTANDS AND RESPECTS THE RIGHTS AND INTERESTS OF INDIGENOUS AND LAND-CONNECTED PEOPLE, ACROSS THE DIVERSITY OF VIEWS WITHIN THOSE COMMUNITIES?

Wherever a project has potential impacts, it is fundamentally important to understand the rights and interests of Indigenous and land-connected people across the diversity of views within those communities.

As a board,

- Do we know which of the company's sites affect, or could affect, Indigenous or land-connected people? What are the differential effects across the diversity of those within these communities?
- Are we confident in the company's approach to securing the free, prior, and informed consent of Indigenous people?
- Do we know if the company's approach is consistent with the requirements of the United Nations Declaration on the Rights of Indigenous Peoples and ILO 169?

12. ARE WE CONFIDENT THAT THE COMPANY UNDERSTANDS ITS POTENTIAL IMPACTS ON CULTURAL HERITAGE, BOTH TANGIBLE AND INTANGIBLE, AND THAT IT IS IMPLEMENTING MEASURES TO AVOID OR MITIGATE THOSE IMPACTS (INCLUDING CLEARLY DEFINED NO-GO AREAS)?

It is crucial to understand a project's potential impacts on both tangible and intangible cultural heritage, and the measures needed to avoid or mitigate those impacts. Clear definition of no-go areas is essential.

As a board,

- Are we aware of sites with significant cultural heritage value that the company's activities may affect?
- Are we confident as to the adequacy of the standards and procedures that the company uses to assess cultural heritage?
- Do we know when the company's sites last reviewed their cultural heritage registers?
- Are we consulted, well in advance, about any plans to damage or destroy sites with cultural heritage value?
- Do we know how female and male community members feel about any proposed damage to or destruction of cultural heritage?

13. ARE WE CONFIDENT THAT THE COMPANY'S SOCIAL INVESTMENT AND ASSOCIATED PROGRAMS CONTRIBUTE MEANINGFULLY TO THE DEVELOPMENT ASPIRATIONS OF HOST COMMUNITIES AND WIDER STAKEHOLDER GROUPS?

Social investment is an important voluntary activity through which the company can, working with its stakeholders, contribute meaningfully to collective development aspirations. Social investment should be considered as additional to efforts mitigating a project's negative impacts.

As a board,

- Do we understand the criteria that the company uses to define social investment and what it provides support for and why?
- Are we confident that the social investment strategy reflects community feedback, co-design, and priority needs, and that both female and male recipients, and vulnerable groups, are involved in shaping social investment programs and how it avoids creating dependencies?
- Do we have clarity on how these programs are encouraging independent economic development to support their transition at project closure?