
Access to remedy - operational grievance mechanisms

An issues paper for ETI

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Executive Summary

Where a company has caused direct, negative impacts on workers' human rights through its activities, it should provide remedy to those affected. This forms part of companies' broader responsibility to respect human rights, as spelled out in the United Nations Guiding Principles on Business and Human Rights (UNGPs). The UNGPs encourage enterprises to establish, or participate in, effective operational-level, or company grievance mechanisms to support provision of such remedy. Similarly, industry, multi-stakeholder or other collaborative initiatives based on human rights standards can also provide grievance mechanisms that can be accessed by those impacted by companies' activities. This paper explores operational grievance mechanisms and access to remedy in global supply chains. Drawing upon practical examples and case studies, it discusses central principles with regard to the operation and design of supply chain grievance procedures and identifies key opportunities, challenges, and questions in relation to access to remedy for supply chain workers.

Many companies have a defined grievance policy for their direct employees. Moreover, trade unions and worker representatives can provide additional channels for workers to voice concerns. But what is the role of brands and retailers to provide grievance mechanisms in relation to issues that affect workers in their supply chain? The main responsibility for dealing with grievances of supply chain workers lies with the direct employer – which will be the supplier, or sometimes a contractor to that supplier – and typically, local or workplace-level grievance channels will be the most effective and accessible way for workers to seek redress. However, access to remedy through such routes is often limited in practice, while, at the same time, supply chain workers are among the rightsholder groups most vulnerable to negative impacts on their human rights. This can lead to a significant gap with regard to the provision of remedy for such impacts.

There are a number of ways in which brands and retailers can help bridge this gap and improve access to remedy in global supply chains. This includes the provision of formal, overarching grievance procedures for supply chain workers, as well as working with suppliers to build local grievance handling capacity. In addition, a number of multi-stakeholder initiatives and certification or standard bodies require the existence of workplace-level grievance mechanism in their codes or other governance documents, while others provide a recourse option to workers or their representatives for where grievance resolution at local level has failed or is impossible.

The structure and complexity of global supply chains poses a number of specific challenges to the design and implementation of effective grievance procedures. For example, in order to make sure that available mechanisms are known and accessible, it is important to provide sufficient resource and priority to communication and awareness-raising to ensure grievance channels are known and understood by workers. Moreover, with large companies there may be a range of potential routes that a grievance may be received, including official grievance mechanism contact points, but also ethical trade or human rights teams, corporate affairs, customer hotlines, worker hotlines, stakeholder engagement teams and direct relations with trade unions. It is important to ensure that implementation is based on clear policies detailing how complaints received via different channels are subsequently dealt with, including clearly assigned responsibilities, internal reporting and escalation channels.

A key area for improvement of current and future approaches relates to putting in place systems to assess the *actual* impacts and outcomes of complaints procedures. There are a number of practical barriers, for example in relation to the resources and capacity required to implement a robust monitoring framework, including independent assessments or validation of impact and effectiveness, especially for remedial actions that span a medium- to longer-term period.

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1. Key concepts and scope

The purpose of this paper is to consider the issues and questions related to access to remedy and the establishment and operation of ‘operational grievance mechanisms’ in the context of global supply chains. This is a key part of companies’ responsibility to develop and support remedy for rightsholders whose human rights are adversely affected by business activities, as envisaged by the United Nations Guiding Principles on Business and Human Rights (UNGPs).¹ It is meant to stimulate discussion and debate, rather than be the final word on the subject.

1.1 What do we mean by remedy?

While the UNGPs require companies to take appropriate steps to respect human rights, particularly through adopting policies, carrying out due diligence and taking steps to mitigate any potential negative human rights impacts, they also state that there is a shared responsibility between governments and the private sector to remediate any actual harm.

Remedy and remediation can be defined in various ways: According to the UN Office of the High Commissioner for Human Rights’ (OHCHR) interpretive guide of the UNGPs, “remediation and remedy refer both to the process of providing remedy for an adverse human rights impact and the substantive outcomes that can counteract, or make good, the adverse impact.”²

Remedy as an outcome...

... describes actions that a company takes in order to reverse, or fix, negative impacts on workers. What constitutes an appropriate remedy for a given situation is highly context-specific and deciding on it requires careful consideration of the facts of an individual grievance, the background and local context, as well as the rightsholders’ perspective on what would be appropriate. Unsurprisingly, then, there is limited insight into how effectiveness of remedies can be assessed beyond the examination of individual cases.³ Remedy for human rights can take various forms. In a workplace context, these could include, for instance, **compensation**, payment of money owed (e.g. **back pay**, **overtime pay**), **reversal of an employment decision** (e.g. where a worker was unfairly dismissed), **removal from work and education for underage workers**, or an **apology**. The outcome of a grievance mechanism may also give rise to actions which are not strictly remedy for past harm, but aimed at preventing future similar negative impacts, for example: training of managers; promotion of information about workers’ rights; disclosure of supply chain locations; opening up future promotion opportunities to disadvantaged groups.

Remedy as a process...

¹ UN Office of the High Commissioner for Human Rights (OHCHR), 2011, *UN Guiding Principles on Business and Human Rights*, at: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

² See UN Office of the High Commissioner for Human Rights (OHCHR), 2012, *The corporate responsibility to respect human rights – an interpretive guide*, at: http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf.

³ But for a recent attempt of developing criteria to assess effectiveness of remedies provided by business see Thompson, B., 2017, *Determining criteria to evaluate outcomes of business’ provision of remedy: Applying a human rights-based approach*, *Business & Human Rights Journal*, 2/2017, pp. 55-85.

... refers to the process of providing remedy for an adverse human rights impact. As such, it includes the way in which a company deals with cases where workers' human rights impacts have been negatively impacted, including not only the decisions it takes on remedy, but also the way in which it enables those who have been impacted to seek remedy. Providing or facilitating access to remedy is closely linked to the provision of remedy itself, but it is not the same.⁴

1.2 What do we mean by operational grievance mechanisms and what is their role in relation to remedy?

The UNGPs define operational grievance mechanisms as being “accessible directly to individuals and communities who may be adversely impacted by a business enterprise. They are typically administered by enterprises, alone or in collaboration with others, including relevant stakeholders. They may also be provided through recourse to a mutually acceptable external expert or body. They do not require that those bringing a complaint first access other means of recourse. They can engage the business enterprise directly in assessing the issues and seeking remediation of any harm.”

1.2.1 Company grievance mechanisms

The UNGPs state that in order “to make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.”

In a supply chain context, company grievance mechanism for workers can be broadly split between two types:

- Those which operate at a **direct or workplace** level (i.e. those operated by suppliers) and
- Those which operate across a – sometimes lengthy – **supply chain**, which may cross international borders (i.e. mechanisms operated by buyers).

1.2.2 Multi-stakeholder and sector initiatives

In relation to Multi-Stakeholder Initiatives (MSIs) and sector-based initiatives, the UNGPs include a broad statement that “industry, multi-stakeholder and other collaborative initiatives that are based on respect for human rights-related standards should ensure that effective grievance mechanisms are available”.

Different MSIs have different approaches to grievance mechanisms: Some MSIs provide for the former, some for the latter, some for both and some, like ETI, neither.

1.2.3 Effectiveness criteria for operational grievance mechanisms

Operational-level grievance mechanisms should include a defined process for the reception, assessment and investigation of grievances, as well as for the way in which decisions on remedy are to be made and

⁴ The UN Working Group on the issue of human rights and transnational corporations and other business enterprises discusses these interrelated concepts in its most recent report to the UN General Assembly: UN General Assembly (UNGA), 2017, *Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises*, A/72/162, at: <http://undocs.org/A/72/162>

implemented. These can be captured in a formal policy or procedure, which assigns responsibility for the procedure (or parts thereof) within the business. According to the UNGPs, effective operational level grievance mechanisms should be:



Operational-level grievance mechanisms are one defined way in which companies and other organisations can provide access to remedy for victims of human rights violations. It is, however, not the only way – remedy can also be the result of an informal process or ad-hoc decisions, without going through a formal process of dispute and grievance resolution. In addition, there are state-based judicial and non-judicial processes through which victims can seek redress.⁵

⁵ [Cross-reference to other report]

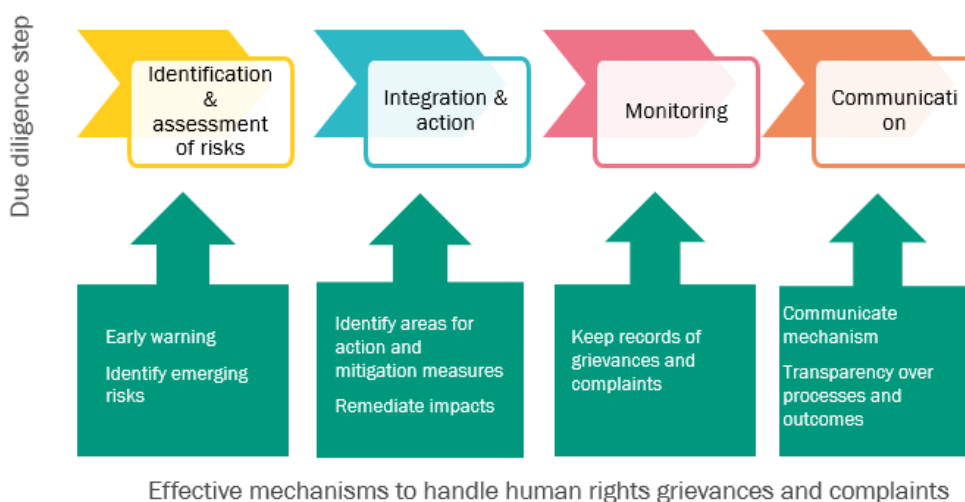
2. Enhancing access to remedy in global supply chains – benefits and drivers

Besides providing remedy to the individual, having an effective process in place to address and remediate human rights grievances can also have important benefits for businesses involved in global supply chains – both suppliers and buyers.⁶

2.1 Early identification and monitoring of human rights risks

Not only can effective grievance mechanisms help prevent human rights violations in the first place, but they also constitute an important source of information on human rights risks. Monitoring the kinds of complaints being raised enables businesses to identify new, emerging or endemic issues early on, as well as to assess the effectiveness of existing mitigation actions and take additional steps if necessary, thus directly feeding into broader human rights due diligence processes.

Ways in which operational grievance mechanisms relate to and feed into human rights due diligence processes



2.2 Early resolution of disputes

Facilitating access to remedy to supply chain workers can also help in resolving issues before they escalate into more lengthy and complex disputes that may come at a high cost, predominantly for the worker but also the supplier, and, ultimately, the buyer. While there is very limited information available on cost-benefit analyses for grievance mechanisms, existing evidence points to significant, potential savings related to

⁶ Guidance by the IFC-World Bank CAO and the UK Equality and Human Rights Commission also discuss potential benefits associated with effective human rights grievance handling (though not limited to supply chain contexts). See Office of the Compliance Advisor / Ombudsman (CAO), 2016, *Grievance Mechanism Toolkit – Purpose, Design and Implementation*, at: <https://www.cao-grm.org/purpose-design-and-implementation#section-3>; Equality and Human Rights Commission (EHRC), 2017, *Handling and resolving human rights complaints about your business*, at: <https://www.equalityhumanrights.com/en/advice-and-guidance/handling-and-resolving-human-rights-complaints-about-your-business>

effective, and early, resolution of disputes. A 2014 study on the extractive sector, for instance, found that costs from disruptions related to community conflicts can range from USD10,000 of USD 50,000 per day during exploration, and rise up to USD20 million a week during operation.⁷

2.3 Meet growing expectations from various stakeholders

There are growing expectations from various stakeholders on the ways in which companies promote access to remedy in their supply chains. Operational grievance mechanisms for supply chain workers are specifically covered by key benchmarking initiatives on corporate sustainability and responsibility, including:

- The **Corporate Human Rights Benchmark** dedicates one of six measurement themes to remedies and grievance mechanisms;⁸
- The **Fashion Transparency Index** includes an assessment of the degree to which brands disclose their supply chain grievance and remediation policies;⁹
- The **Know the Chain Benchmark** includes an indicator on supply chain grievance mechanisms as part of its worker voice category;¹⁰ and
- The **Dow Jones Sustainability Index** has no indicator on grievance mechanisms, but expects companies to report on remediation actions taken, including in relation to their supply chains.¹¹

An analysis by the International Corporate Accountability Roundtable of countries' National Action Plans on the implementation of the UNGPs (NAPs) published to date notes that recent NAPs tend to make more reference to the provision of remedy for corporate human rights impacts.¹² While the researchers note that most NAPs do not provide a great level of detail or specification in terms of commitments by states to improve access to remedy, this development is notable and reflects the increasing level of attention attributed to access to remedy, especially in global supply chains.

⁷ Davis, R. & Franks, D., 2014, *Costs of company-community conflict in the extractive sector*, Harvard Kennedy School Corporate Social Responsibility Initiative, Shift and the University of Queensland, at: https://sites.hks.harvard.edu/m-rcbg/CSRI/research/Costs%20of%20Conflict_Davis%20%20Franks.pdf

⁸ Corporate Human Rights Benchmark (CHRB), 2016, *2016 Pilot Methodology*, at: https://www.corporatebenchmark.org/sites/default/files/2017-03/CHRB_methodology_singles.pdf

⁹ Fashion Revolution, 2017, *Fashion Transparency Index 2017*, at: https://issuu.com/fashionrevolution/docs/fr_fashiontransparencyindex2017?e=25766662/47726047

¹⁰ Methodology for the respective sector benchmarks can be found at Know the Chain, 2016, *Food & Beverage Benchmark Findings Report*, at: https://knowthechain.org/wp-content/plugins/ktc-benchmark/app/public/images/benchmark_reports/KTC_Food_Beverage_Findings_Report_October.pdf and Know The Chain, 2016, *Apparel & Footwear Benchmark Findings Report*, at: https://knowthechain.org/wp-content/plugins/ktc-benchmark/app/public/images/benchmark_reports/KTC_A&F_ExternalReport_Final.pdf

¹¹ RobecoSAM, 2017, *RobecoSAM Corporate Sustainability Assessment 2017 – Methodology and Score Changes Review*, at: http://www.robecosam.com/images/CSA_2017_Annual_Scoring_Methodology_Review.pdf

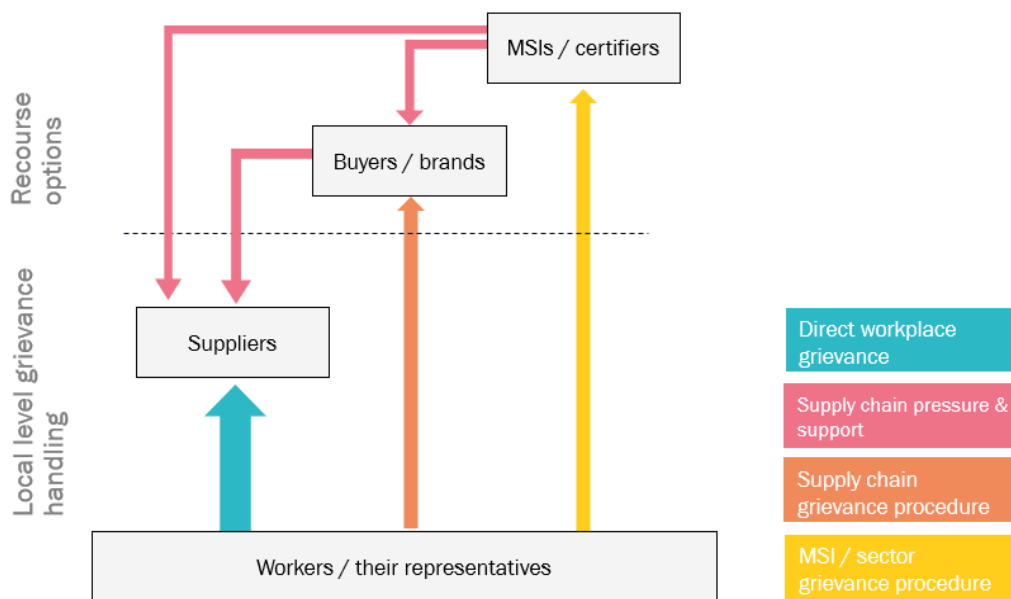
¹² International Corporate Accountability Roundtable (ICAR), 2017, *Assessments of existing National Action Plans (NAPs) on Business and Human Rights*, August 2017 Update, at: <https://static1.squarespace.com/static/583f3fca725e25fcd45aa446/t/599c543ae9bdf40b5b6f055/1503417406364/NAP+Assessment+Aug+2017+FINAL.pdf>

3. Structure and scope of different approaches

There are a number of ways in which companies can provide access to remedy and operational grievance mechanisms for supply chain workers. Often, different mechanisms may be available at different levels.

In most cases, local solutions – dealing with grievances at workplace-level – will be best suited to this task. There may be situations, however, where local mechanisms are absent or fail to resolve a grievance in an appropriate way. In these instances, there may be a case for supply chain grievances to be raised directly with mechanisms operated by buyers, MSIs or other initiatives. In addition, these organisations may work with suppliers to enhance their ability to handle and resolve staff complaints, or they may formally require suppliers to have workplace grievance mechanisms in place. The figure below presents an overview typology of these different approaches, each of which is discussed in more detail below.

Typology of different approaches to grievance mechanisms and access to remedy in a supply chain setting



3.1 Direct workplace grievance mechanisms

Mechanisms which provide that employees can raise issues directly with their own employer are the most accessible and obvious form of operational grievance mechanisms for workers. In most cases, trying to resolve issues where they arise – that is, in the employment relationship between the worker and the supplier – will be the most appropriate and effective way to facilitate access to remedy. As direct employers, suppliers bear the primary responsibility for addressing labour rights-related grievances of their workforce. Moreover, workers may feel more confident to raise grievances locally, using the channels that they are familiar with. Available evidence, for example from research into human rights grievance handling

in the Indian tea sector, shows that most workers will approach their managers or supervisors on an estate if they are worried or would like to complain.¹³

Grievance mechanisms at workplace level may take one or more of a number of forms. These can include:

- Structured mechanisms where workers lodge grievances and these are dealt with through defined procedures by management;
- Complaints to joint committees constituted between workers and management; or
- Complaint boxes or hotlines.

Not all of the above will provide clear response and potential remedy for workers, which are two of the key characteristics of an effective grievance mechanism. For example, complaint boxes or hotlines usually serve the purpose of identifying issues, not necessarily of following-up on and resolving individual grievances. However, there are situations where there is a defined procedure on how to register and follow-up on concerns reported through worker hotlines.

Suppliers' grievance and complaints procedures for their direct workforce are particularly well-suited to deal with more routine issues, such as a late payment of wages. However, their effectiveness especially in addressing more serious and widespread issues may be challenged by a number of factors, including a lack of knowledge, capacity and willingness on the part of suppliers in addressing complex grievances, a lack of awareness of their rights on the part of workers, as well as power imbalances between workers and management, with workers unable or unwilling to raise issues out of fear of retribution or losing their job.

Site-wide mechanisms – including contractors and agents

Another approach to taking grievances which goes more broadly than just covering the relationship between directly employed workers and their employer is where a site wide mechanism is established. This is most obviously the case in construction-based projects where safety-driven processes are established to allow workers to raise issues about conditions on site, regardless of who formally employs them. This is often easier in the context of safety as national law will often provide that the controlling company on a site is responsible for the safety of all workers – and visitors – to the site either completely or jointly with a worker's employer.

One provision which supports the development of such a mechanism is contained in IFC PS2 (see below for more details) and provides that companies should ensure that workers employed by contractors have access to a grievance mechanism, preferably through their direct employer – the contractor – or, if there is no effective contractor mechanism, the project sponsor / operator.

3.2 Supply chain and other pressure to support direct workplace grievance mechanisms

There are a number of ways in which retailers, brands and other organisations, such as MSIs and certifiers, can encourage suppliers to establish and promote effective grievance mechanisms to deal with negative human rights impacts. While not amounting to grievance mechanisms themselves, such approaches can be

¹³ Macdonald, K. & Balaton-Chrimes, S., 2016, *Human rights grievance-handling in the Indian tea sector*, Corporate Accountability Research, via: <http://corporateaccountabilityresearch.net/njm-project-publications/#njr-reports>

instrumental in addressing practical challenges to effective grievance handling that may exist at workplace level. Typical approaches include:

- Requiring suppliers to put in place grievance procedures that are accessible for workers and report on the number and subject of grievances they receive from their workers; or
- Working with suppliers to build management capacity for the effective handling of worker complaints, as well as to enhance workers' knowledge of their rights in relation to the available grievance channels.

Some codes of conduct and equivalent standards of international retailers and brands include specific requirements that suppliers should put in place grievance mechanisms and, in some cases, report on the outcomes of those grievances. According to Fashion Revolution's 2017 Fashion Transparency Index, 29 out of 100 brands in the benchmark include reference to grievance mechanisms into their supplier code of conduct.¹⁴ Some examples include **Gap Inc, M&S, Nestlé, Mars** and **Sodexo**.¹⁵ In the implementation of their standards, **PVH** – owners of Tommy Hilfiger and Calvin Klein – require auditors to review grievances filed by factory workers as well as whether workers are trained on the supplier's grievance policy.¹⁶

Similarly, some standards include the provision of grievance procedures for workers in their certification criteria. This includes, for instance, the **Sustainable Agriculture Network (SAN) Standard, Utz Codes' of Conducts** for individual, multi-site and group farms or the **Fair Labor Association's (FLA) Code of Conduct and Compliance Benchmark**.¹⁷ SA International's **SA8000 Standard** and accompanying Guidance not only require the establishment of a formal grievance procedure, but also formulate specific expectations on the management and operation of the mechanism.¹⁸

Requiring suppliers to report periodically on the number and subject of human rights-related grievances they receive from their workers can be useful in driving remedial action, but also can be an important

¹⁴ Fashion Revolution, 2017, *Fashion Transparency Index 2017*, at:

https://issuu.com/fashionrevolution/docs/fr_fashiontransparencyindex2017?e=25766662/47726047

¹⁵ See Annex 2 for an overview of the individual provisions. M&S, *Global Sourcing Principles*, at:

<https://corporate.marksandspencer.com/documents/plan-a-our-approach/global-sourcing-principles.pdf>; Gap Inc., *Code of Vendor Conduct*, at:

http://www.gapinc.com/content/dam/gapincsite/documents/CodeofVendorConduct_FINAL.pdf; Nestlé, *Supplier Code*, at:

<https://www.nestle.com/asset-library/documents/library/documents/suppliers/supplier-code-english.pdf>; Mars, *Supplier Code of Conduct*, at:

<http://www.mars.com/docs/default-source/Policies-and-Practices/supplier-code-of-conduct/supplier-code-of-conduct-english.pdf?sfvrsn=4>; Sodexo, *Supplier Code of Conduct*, at:

http://www.sodexo.com/files/live/sites/sdxcom-global/files/PDF/Corporate-responsibility/Sodexo-Supplier-Code-of-Conduct-2017_Guide.pdf.

¹⁶ See Know The Chain, 2017, *How footwear companies and luxury brands tackle forced labour risks in their leather supply chains*, at: https://knowthechain.org/wp-content/uploads/KTC-LeatherLabor-Case-Study_Final.pdf

¹⁷ SAN, *SAN Standard*, at: <http://sanstandard2017.ag/2017standard/certification-documents/>; Utz, *Code of Conduct for Individual and Multi-Site Certification*, at:

https://utz.org/wp-content/uploads/2015/12/EN_UTZ_Core-Code-Individual-v1.1_2015.pdf; Utz, *Code of Conduct for Group and Multi-Group Certification*, at:

https://utz.org/wp-content/uploads/2015/12/EN_UTZ_Core-Code-Group_v1.1_2015.pdf; FLA, *Workplace Code of Conduct and Compliance Benchmarks*, at:

http://www.fairlabor.org/sites/default/files/fla_complete_code_and_benchmarks.pdf.

¹⁸ SA International, *SA8000 International Standard*, at: http://sa-intl.org/data/n_0001/resources/live/SA8000%20Standard%202014.pdf; SA International, *SA8000 Guidance Document*, at:

<http://www.sa-intl.org/index.cfm?fuseaction=document.viewDocument&documentid=563&documentFormatId=1166&vDocLinkOrigin=1&CFID=16124736&CFTOKEN=ea555c0bb50b5534-C8B792F3-1C23-C8EB-80201720919B7DEE>. See also section 5 for more detail.

source of information about human rights impacts linked to a company's supply chain that feeds into broader human rights due diligence processes.

Requirements by international lenders and development finance institutions (DFIs)

Financial lenders standards which require both community and worker grievance mechanisms – for example International Finance Corporation (IFC) requires that all investee companies put in place grievance mechanisms to deal with complaint from direct employees and also communities. In addition, IFC PS2 requires investee companies to ensure that those employed by contractors have access to an appropriate grievance mechanism through ensuring that all contractors have such a mechanism or, where this is not available, by taking complaints directly.¹⁹

Another approach is based on building supplier's capacities to address workplace grievances and improving worker-management dialogue, as well as on enhancing workers' awareness of their rights and understanding of how to use workplace-level grievance procedures. In doing so, brands and retailers can help in addressing some of the practical obstacles to effective remedy at workplace level.

One example of such an approach is the joint work between **Gap Inc.** and the ILO-IFC **Better Work** Programme to enhance workplace cooperation, including grievance handling, in Gap Inc. supplier factories in Bangladesh, Cambodia, Haiti and Jordan. Using a training-of-trainers approach to help workers and managers jointly resolve workplace issues and engage in respectful collaboration, Better Work has been delivering training for Gap Inc. staff on effective workplace cooperation. Building onto this, the second phase of the partnership will focus specifically on improving grievance mechanisms and grievance management at factory-level. To date, the training has been rolled out in more than 30 factories. For Gap Inc., the key benefits of enhanced workplace communications, including around grievances, relate to preventing future labour disputes, more effective resolution of problems, giving a greater voice to workers, and, ultimately, improving productivity and competitiveness of suppliers.²⁰

In the context of its broader efforts to enhance worker voice at supplier factories, **New Look** provided training to suppliers and workers which explicitly covered grievance mechanisms. Training on how to introduce grievance mechanisms in supplier factories has been delivered in a number of sourcing countries, including India and Bangladesh. In Turkey, New Look trialled training on the benefits of good workplace communication, after which five factories were selected to take part in a pilot project to develop and implement action plans aimed at strengthening grievance mechanisms and worker representation.²¹

¹⁹ International Finance Corporation (IFC), *Performance Standard 2 – Labour and Working Conditions*, at: http://www.ifc.org/wps/wcm/connect/2408320049a78e5db7f4f7a8c6a8312a/PS2_English_2012.pdf?MOD=AJPERES

²⁰ Gap Inc., n.d., "Building new collaborations", at: <http://www.gapinc sustainability.com/people/improving-factory-working-conditions/building-new-collaborations>; Better Work, 2017, "Training to improve industrial relations in Gap Inc.'s supply chain", at: <https://betterwork.org/blog/2017/02/07/training-to-improve-industrial-relations-in-gap-inc-s-supply-chain/>.

²¹ New Look, 2013, *New Look Ethical Trade Report 2012-2013*, at: http://www.newlookgroup.com/system/files/uploads/financialdocs/new_look_ethical_trade_report_2013_high_resolution_version.pdf; New Look, 2015, *Ethical Trade Report 2013-2014*, at: <http://www.newlookgroup.com/sites/default/files/attachments/ethical-trade-jan-2015.pdf>

Piloting stakeholder collaboration to enhance grievance management in the electronics sector²²

In 2006, following widespread reports of poor working conditions and anti-union tactics in the electronics sector in Mexico, HP facilitated a collaboration between CEREAL, a workers' rights NGO, and CANIETI, the National Chamber of the Electronics, Telecommunications and Informatics Industry. Aiming to enhance labour conditions in the sector through improved worker-management communication, CEREAL was tasked to provide training and assistance to workers on labour rights issues.

A central element of the collaboration between CANIETI and CEREAL was the operation of a grievance and complaints process, initiated by HP. Managed by CEREAL, the process enabled workers to report issues, which were then raised with factory management and investigated by CEREAL. If no agreement between the workers and the factory could be reached, the complaint was escalated to the industry association, CANIETI, for mediation. If this, too, failed to achieve agreement on remedial actions, international brands sourcing from the factories concerned were notified and asked to work with the factory in an effort to reach a settlement.

The collaboration between CEREAL and CANIETI remains a relevant example of how brands and buyers can use their leverage to mediate between stakeholders, as well as to encourage – otherwise challenging – collaboration between labour advocates and industry representatives on matters of shared interest.

3.3 Supply chain grievance mechanisms

While the first approach of businesses with extended supply chains may be to encourage their suppliers to establish grievance mechanisms and report on outcomes from grievance processes, there are some companies who chose to establish global supply chain grievance mechanisms through which they receive complaints directly from affected parties.²³ Companies who have established such mechanisms include:

- **Adidas;**
- **London Organising Committee of the 2012 Olympic and Paralympic Games (LOCOG);**
- **Wilmar International;**
- **M&S; and**
- **PepsiCo.**

Usually, and in the interest of effective and timely resolution of grievances, supply chain grievance mechanisms are designed as a last resort, or a fall-back option. Some specifically require that local channels be exhausted before a complaint is lodged. **M&S'** Grievance Procedure for Food and Clothing &

²² See Ganson, B., 2014, *Resolving labour issues in the electronics industry in Mexico*, Access Facility Case Story Series No. 2, at: http://accessfacility.org/sites/default/files/ACCESS%20Case%20Story%202%20-%20Resolving%20Labour%20Issues%20in%20the%20Electronics%20Industry%20in%20Mexico_1.pdf; UN Global Compact, 2015, "Addressing grievances in the workplace", Human Rights and Business Dilemmas Forum, at: http://hrbdf.org/case_studies/freedom-of-association/freedom_of_association/addressing_grievances_in_the_workplace.html#.Wdoiy2iWw2w

²³ Additional information, including examples, on principles to take into account when designing a supply chain grievance mechanisms are contained in Annex 1.

Home Supply Chains, for instance, recognising that “localised solutions tend to be most attuned to local culture, the concerns of those whose rights are impacted, and opportunities for sustainable solutions”, states that complaints should only be submitted once “all local and site-based remediation and grievance mechanisms have been exhausted.”²⁴ Others, including the mechanisms established by **Adidas** or **LOCOG**, ask complainants to state whether any action has been taken in relation to their complaint locally, including whether it has been raised directly with the employer.²⁵

The exact nature of companies’ supply chain grievance mechanisms differs depending on the target audience, scope of the procedure, and exact process used to investigate and resolve grievances, and different approaches are discussed in the following sections. One factor which needs to be carefully considered in relation to any such mechanism is the degree to which they can actively contribute to remedy. While drawing the attention of actors high up a supply chain to issues taking place at workplace or field level, several tiers down the supply chain can be a very positive and important approach, the ability of brands or retailers to directly investigate, mediate or remediate the harm in question will face some limitations.

3.4 Grievance mechanisms linked to MSIs, sector-wide initiatives and certification bodies

A further approach to grievance mechanisms can be developed where a group of companies and/or other stakeholders have a common sectoral or standard-based agreement.²⁶ Such grievance mechanisms can take one of the following forms:

- Direct complaints to the secretariat of such groups about actions that have taken place in a workplace in a supply chain associated with a member of the group; or
- Complaints about the way in which a member of the MSI or sector partnership have reacted or behaved in relation to specific instances.

Examples of the former include the complaints mechanisms of the **Fair Wear Foundation** (FWF),²⁷ which can be accessed by workers or their representatives in factories supplying FWF members, or the **Fair Labor Association** (FLA),²⁸ who operate a procedure for complaints in relation to workers’ rights in facilities used by FLA affiliates. Examples of the latter include the **Roundtable for Sustainable Palm Oil** (RSPO),²⁹ which has a system in place providing for complaints to be raised against its members or the RSPO system itself. Another example is the complaints mechanism operated by the **Bangladesh Accord**. Focusing specifically

²⁴ M&S, *Grievance Procedure for Clothing and Home and Food Supply Chains*, at: <https://corporate.marksandspencer.com/file.axd?pointerid=db4d4d9ed345425f97dfdf15aa539ce7>

²⁵ See next section for a detailed discussion of both mechanisms.

²⁶ Additional information, including examples, of the design features and structure of such mechanisms is presented in Annex 1.

²⁷ Fair Wear Foundation (FWF), *Complaints Procedure*, at: https://www.fairwear.org/ul/cms/fck-uploaded/documents/fwfpublications_reports/FWFcomplaintsprocedureMarch2014.pdf

²⁸ Fair Labour Association (FLA), *Third Party Complaints Process*, at: <http://www.fairlabor.org/third-party-complaint-process>

²⁹ Roundtable for Sustainable Palm Oil (RSPO), *Complaints and Appeals Procedures*, via: <http://www.rspo.org/members/complaints>

on health and safety, it provides access to remedy for concerns about worker safety at factories covered by the Accord.³⁰

Similar to company-led supply chain grievance mechanisms, procedures by MSIs and certifiers are typically designed as a recourse option or last resort, to be accessed once local approaches have failed to deliver satisfactory agreements on grievances, especially where they deal with complaints against the direct employer. Both FWF's and FLA's complaints procedures, for instance, clearly state that they should only be accessed where dispute resolution at workplace level has failed. The Bangladesh Accord's complaints mechanism, too, specifies that it is designed for "access to remedy for safety concerns which are not being effectively addressed at the factory level."³¹

³⁰ Bangladesh Accord, *Safety Complaints Mechanism*, at: <http://bangladeshaccord.org/safety-complaints-mechanism/>

³¹ Ibid.

4. In practice: Case studies of supply chain grievance mechanisms

4.1 LOCOG Complaints and Dispute Resolution Mechanism

Background

As part of the commitment to deliver sustainable Games, the Organising Committee of the 2012 Olympic and Paralympic Games in London (LOCOG) put in place policies that all its sponsors, suppliers, licensees and contractors (altogether known as the Games' commercial partners) were expected to respect. These were included in the LOCOG's Sustainable Sourcing Code, adopted in 2008³².

LOCOG developed a mechanism to ensure that audits and other processes were put in place to support respect in practice of the Code. However, given the complexity of the various supply chains connected to the Games, and in light of known issues in many of the sourcing countries, it was recognised that a monitoring system would need to be complemented by a complaints mechanism to ensure the effective implementation of the Code, enabling stakeholders to proactively raise concerns related to working conditions and the application of the Code's standards in supply chains.

In 2008, at LOCOG's request, the Playfair 2012 Campaign – coordinated by the UK Trade Union Congress (TUC) and Labour Behind the Label – developed a detailed proposal for a mechanism to address complaints regarding alleged breaches of the Sustainable Sourcing Code, with a particular focus on labour standards.

Design

How the mechanism was developed

Given that, as a temporary organisation, it did not forcibly have the skills and infrastructure necessary to address potentially complex labour rights complaints, LOCOG appointed an independent third party – Ergon Associates – to first develop and, then, operate the Complaints and Dispute Resolution Mechanism (CDRM) in 2009. Taking into account the then draft UN Guiding Principles on Business and Human Rights, the complaints procedure was developed to be in line with the effectiveness criteria for non-judicial, operational grievance mechanisms.

The design of the mechanism was informed by broad stakeholder engagement, including with LOCOG's commercial partners and sponsors, LOCOG staff responsible for licensing of merchandise and procurement, international trade unions, NGOs and labour rights initiatives, as well as the International

³² This case study is primarily based on Bell, S., Cumming, P. & Gibbons, S., 2013, *Complaint and dispute resolution process to deal with breaches of the Sustainable Sourcing Code*, Lessons learned from planning and staging the London 2012 Games, at: <http://learninglegacy.independent.gov.uk/documents/pdfs/sustainability/cs-sustainable-sourcing-code-complaints-mechanism.pdf> & Rees, C., 2013, *Establishing a Stakeholder Oversight Group to support a supply chain grievance mechanism*, Lessons learned from planning and staging the London 2012 Games, at: <http://learninglegacy.independent.gov.uk/documents/pdfs/sustainability/cs-establishing-a-stakeholder-oversight-group.pdf>.

Olympic Committee (IOC). A Stakeholder Oversight Group was established to assist with ensuring the effective and fair implementation of the mechanism.

While taking into account emerging good practice from other grievance and complaints mechanisms, the design of CDRM was closely and carefully modelled to the specific circumstances and challenges of the Games. This included, for example, a detailed analysis of the merchandise licensing and procurement processes in order to determine how the mechanism could be operationalised and, in particular, who would be responsible for what in terms of handling and remediating grievances. In order to ‘test’ how the process could work in practice, stakeholders were consulted about potential compliance challenges and a range of complaints scenarios were developed.

The Ergon / LOCOG team also developed a range of materials and guidance to support the operation of the mechanism. This included, for instance, guidelines for internal investigations, terms of reference for the appointment of independent third-parties and templates for recording corrective actions, as well as guidelines for complainants. People working within the Games and who may be involved in receiving or dealing with complaints – including organiser and buying organisations and commercial staff – were briefed on the process to make sure they understand how it works, and what their role is within it.

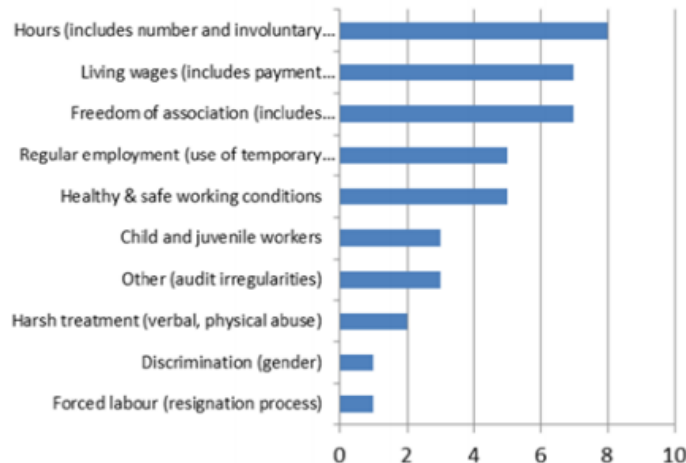
Scope of the mechanism

The CDRM applied to all complaints relating to alleged breaches of the Sustainable Sourcing Code, by LOCOG’s commercial partners or their suppliers. In practice, most of the complaints received by the mechanism related to multiple issues, as well as to multiple worksites. Over the entire duration of the mechanism, 11 in scope complaints were received, which raised 42 separate alleged breaches of the Sustainable Sourcing Code altogether. All of these related to labour rights.

There was no limitation on admissible complaints in terms of geographies, so long as complainants could demonstrate an alleged breach of the Code that related to a commercial partner of the Games. In practice, the majority of complaints was raised in relation to soft toys, garments and footwear production in Asia (China, Indonesia, Philippines) mainly supplying Adidas and soft toy company Golden Bear, with one – ultimately out of scope - complaint concerning a Canadian smelter operated by Rio Tinto.

There was substantial potential impact from the complaints, however, as the workplaces that were the subject of complaints employed some 15,000 workers across four countries.

Overview of alleged breaches of the Sourcing Code raised in complaints



Procedural elements

LOCOG’s complaints procedure was built around the process steps set out below and characterised by a number of innovative features. For instance, it followed the recommendations and the emerging consensus around the UN Guiding Principles and operated an approach to dispute resolution based on dialogue, which, in the interest of ensuring sustainable outcomes, prioritised the identification of actions that both parties can agree to.

LOCOG: Outline of procedural steps of complaints mechanism



Implementation

Who managed the mechanism

The operation of the Complaints and Disputes Resolution Mechanism was semi-outsourced to an independent third-party, London-based specialist business and human rights consultancy Ergon Associates. This decision ensured that there was sufficient capacity and time to deal with sometimes complex complaints, which would have been challenging for LOCOG, especially during the pre-Games and Games-time periods. Under this agreement, Ergon managed the grievance process, with LOCOG retaining the final say regarding how complaints were dealt with and closed.

In order for this approach to be effective, LOCOG took the view that it was important to identify a managing organisation that has the right expertise in terms of labour standards, knowledge of the local context in key sourcing geographies, as well as regarding mediation and facilitation of dialogue. It was also important that the managing organisation enjoys credibility with external stakeholders and commercial partners, is able to maintain operational independence and has the capacity to react flexibly to different and potentially complex and lengthy complaints scenarios.

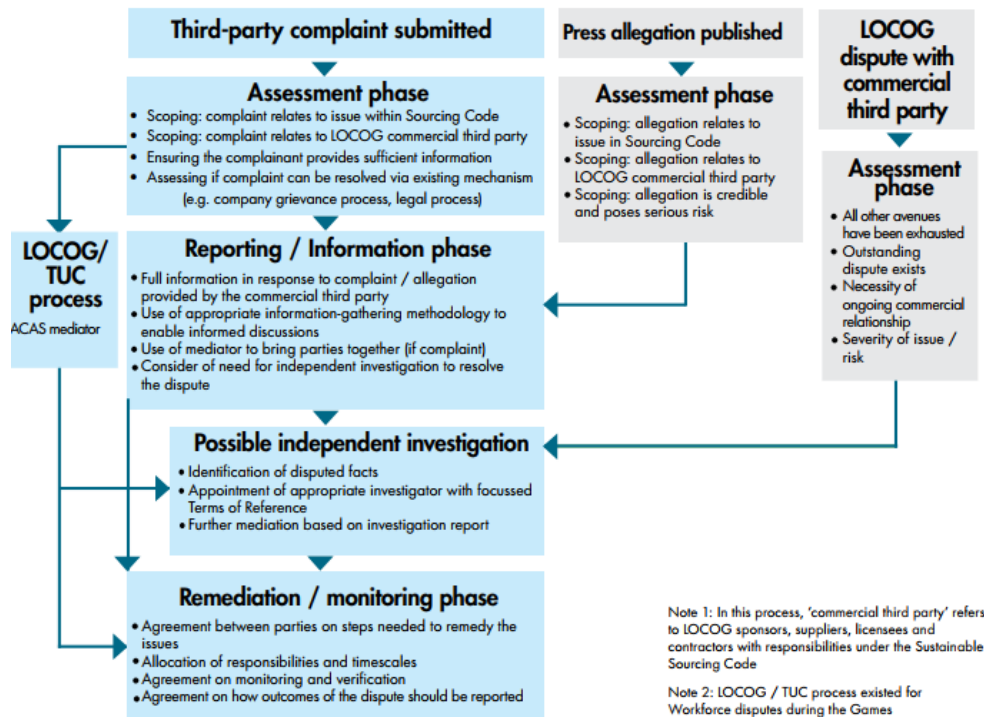
Regular meetings between Ergon, LOGOC and the Stakeholder Oversight Group provided an important opportunity to discuss implementation questions and challenges that emerged in the context of handling specific cases. These included, for instance, issues regarding the role of LOCOG in situations where bilateral dialogue between complaints parties is already taking place, or the way in which allegations raised by NGOs or press reports should be dealt with.

How complaints could be raised

LOCOG's CDRM provided for complaints to be raised by individual workers, as well as by organisations acting on their behalf. In addition, it developed a process for handling with press allegations relating to LOCOG's commercial partners. Out of the 11 complaints brought to the mechanism's attention over the course of its operation, eight were raised by organisations and three by individual workers. Organisations that approached the CDRM included NGOs, as well as international and local trade unions, or NGO-union coalitions. Complaints by individual supply chain workers were all received via a worker hotline system in China.

A clear definition of the basic information required from complainants, including accurate information about the exact location of their workplace, the period to which the complaint related as well as the specific allegations was found to be central for enabling a rapid assessment of admissibility and timely acknowledgement of the complaint. To this end, forms were available for complainants to fill in when submitting their complaint. In the form, complainants had the possibility to state whether they preferred their complaint to be kept confidential.

LOCOG: Overview of complaints handling procedure and different access routes



How complaints were investigated

Where a complaint was found to be within the scope of the mechanism, the commercial partner concerned was asked to respond to the allegations. This could include the provision of up-to-date information from audits, undertaking of their own internal investigations or, where they did not feel in a position to do so, appoint a third party to investigate. The main purpose of the information gathering and internal investigation phase was to identify those issues where there might be agreement between the parties, and therefore the possibility of immediate action, and those where the facts were in dispute and where dialogue between the parties should be focused.

Following the receipt of information from both parties, the mechanism sought to promote discussion and dialogue between the parties. Normally, dialogue would be facilitated by the independent organisation managing the mechanism. However, where necessary, the procedure provided for the appointment of an independent mediator. Mediation was undertaken in three of the nine complaints in scope. Experience from these cases showed that mediation and dialogue can be more effective when they are conducted as close as possible to the location of the complainant. For example, responding to a complaint from trade unions in the Philippines about working conditions at a number of factories supplying Adidas, LOCOG convened a meeting in the Philippines with key stakeholders and parties to the complaint to identify the priority areas for mediation and enable the discussion of proposed actions. This initial meeting led to a broader dialogue between unions, international brands, suppliers and the Philippine authorities, whose impacts went well beyond the immediate scope of the complaint and the duration of the Games.

Where mediation failed to achieve agreement between the parties, or where commercial partners were unable or unwilling to undertake their own investigations, the mechanism provided for an independent third-party investigation to be carried out. In practice, independent on-site investigations were required in three cases. Responding to allegations of poor working conditions at a supplier factory in China, for

instance, LOCOG commissioned an investigation by a specialist social auditor. In Indonesia, it appointed a specialist third-party to shadow an investigation carried out by the commercial partner to verify its rigour.

What were the outcomes

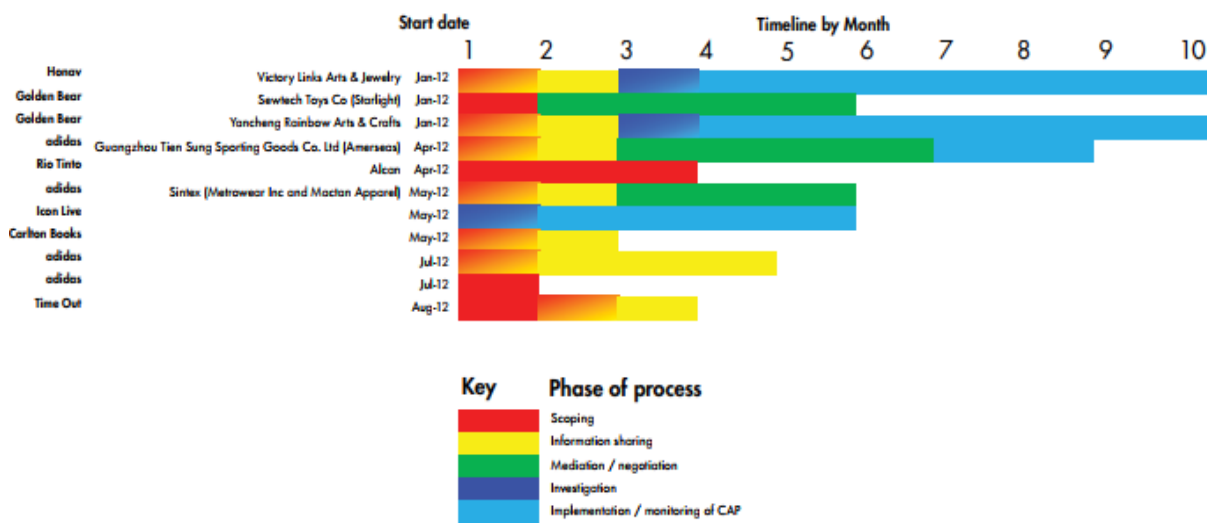
The CDRM aimed to promote agreement on solutions. In practice, a total of 74 corrective and remedial actions was agreed across all nine complaints the mechanism handled, with payment of a living wage being the issue where agreement was most contested.

Ensuring that agreed actions are also implemented was a key concern of the mechanism, especially given that implementation of many actions would extend beyond the existence of the CDRM. Therefore, it emphasised the role of brands and buyers in maintaining oversight over the implementation of remedial actions by suppliers, as well as the ways in which local NGOs or other organisations could assist with monitoring implementation in practice.

Resources and time

Complaints dealt with by the CDRM differed greatly in terms of time and resource needed for handling them. Mediation, as well as implementation of agreed actions, took up significant time and resource.

LOCOG: Complaints process timeline by complaint



Involvement of stakeholders

Different stakeholders played an important role throughout the design, but also the implementation of the CDRM:

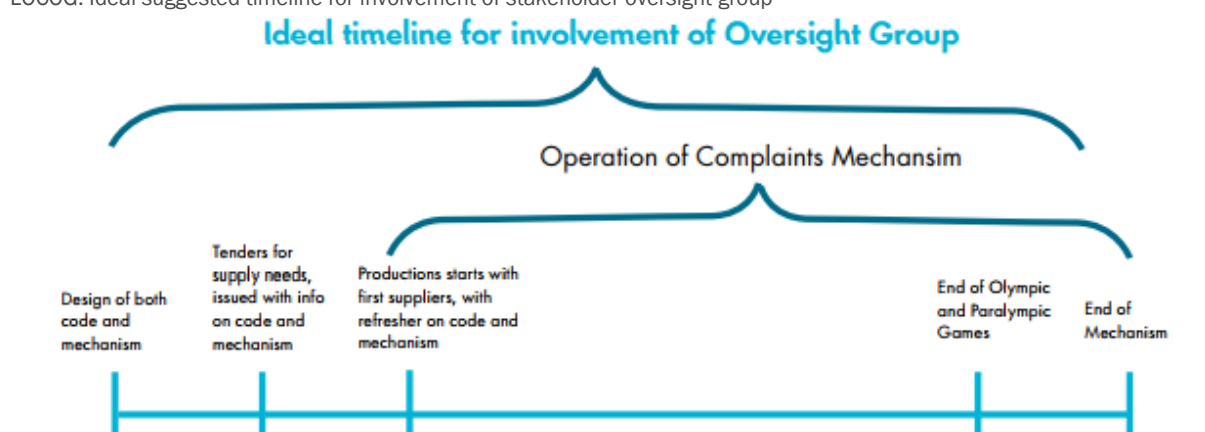
- The UK Trade Union Congress, together with campaign group Labour Behind the Label developed the first proposal for a complaints procedure.
- A broad stakeholder engagement was carried out as part of the design stage of the mechanism. This included engagement directly with LOCOG’s commercial partners and sponsors, LOCOG staff responsible for licensing and procurement, international trade unions, civil society organisations, relevant multi-stakeholder initiatives with a focus on labour rights, as well as the International Olympic Committee (IOC).

- The Stakeholder Oversight Group, consisting of six members representing different backgrounds and stakeholder perspectives, was tasked with assisting the team operating the CDRM, and especially in ensuring its fair and effective implementation.
- Extensive stakeholder consultation was particularly beneficial during the design of the CDRM. Not only did it help identify relevant experiences and learnings, but it was also instrumental in generating buy-in and raising awareness of the procedure's existence.

The Stakeholder Oversight Group, in particular, played a central role both in providing advice and in integrating stakeholder perspectives into the implementation of the complaints mechanism. The Group met up to four times a year to receive update reports from LOCOG on the status of complaints, review the complaints handling process and make recommendations for its improvement or on specific questions raised with the Group and to review LOCOG's public reporting on complaints.

The Stakeholder Oversight Group also assisted LOCOG in reviewing the effectiveness of the CDRM with a view to identifying lessons that could be shared with future organising committees. These include the composition of any similar group, which needs to ensure that members have sufficient time and capacity to fulfil their role, as well as to keep the overall group size at a level that enables it to function effectively.

LOCOG: Ideal suggested timeline for involvement of stakeholder oversight group



Stakeholder engagement was also essential in making the mechanism known to those who are intended to use it. One of the key learnings of the implementation of the mechanism related to the importance of briefing commercial partners and, where possible, suppliers early about their roles and responsibilities not only in relation to the Sustainable Sourcing Code, but also the mechanism to ensure it is known throughout the supply chain. In addition, posters in local languages were produced and international trade unions and NGOs encouraged to raise awareness of the mechanism's existence within their networks.

Lastly, experiences from LOCOG's grievance mechanism also underlined the importance of buyers and brands to cooperate. It was recognised that, where a supplier may be reluctant to respond or act on allegations, identifying and engaging other customers of the same supplier can be a key instrument to build broader leverage.

4.2 Adidas Third Party Complaints Procedure

Background

Adidas' complaints mechanism was developed in 2013, integrating learnings in terms of procedures, language and format from the third-party complaints mechanism set up by the Organising Committee of the London 2012 Olympic and Paralympic Games (LOCOG). It builds upon a grievance procedure for workers that had been in place at Adidas for more than a decade, expanding its scope and revising its policies³³.

In the context of the London Olympic and Paralympic Games 2012, Adidas, as a key licensee and supplier, was directly required to follow LOCOG's Source Code requirements, which included addressing complaints lodged by international and local labour rights groups under the framework of the LOCOG grievance mechanism.

Design

Scope of the mechanism

The Adidas complaints procedure can be accessed by any individual organisation directly affected by an issue, as well as by organisations with a formal mandate to represent those affected. Complainants must have access to first-hand information about the circumstances of the complaint. Organisations submitting a complaint have to be viewed as legitimate representatives of those affected.

Adidas' Third-Party Complaints Procedure specifically deals with human rights-related issues. It defines as a complaint a report of

“(a) a violation by a supplier, licensee, agent or contractor of an element of the Workplace Standards relevant to that supplier, contractor or service provider, or

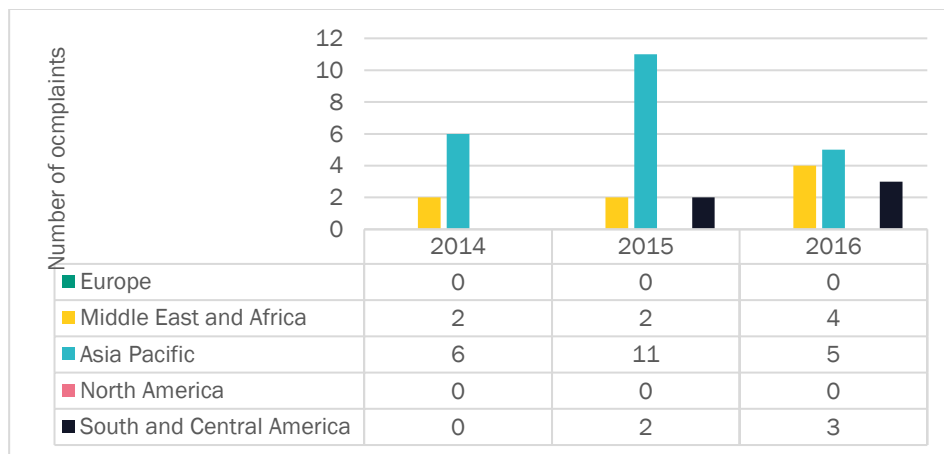
³³ This case study is based on Adidas, *Third Party Complaints Process*, at: https://www.adidas-group.com/media/filer_public/3a/a8/3aa87bcf-9af9-477b-a2a5-100530e46b19/adidas_group_complaint_process_october_2014.pdf; Adidas, 2015, *2014 Case analysis: Adidas Group third-party complaints*, at: https://www.adidas-group.com/media/filer_public/08/12/081211f3-75ee-4315-88dc-5e1b101e3b91/3rdpartycomplaint_system_overview_and_analysis_yr2014.pdf; Adidas, 2016, 2015 Case analysis: *Adidas Group third-party complaints*, at: https://www.adidas-group.com/media/filer_public/34/e6/34e64ed7-ce04-448b-b0df-dd36d5de1e40/3rdpartycomplaint_system_overview_and_analysis_yr2015.pdf; Adidas, 2017, 2016 Case analysis: *Adidas Group third-party complaints*, at: https://www.adidas-group.com/media/filer_public/7d/d0/7dd029ef-0a46-4027-aab1-5670a3e53861/3rdpartycomplaint_system_overview_and_analysis_yr2016.pdf; Adidas, 2016, *Summary of human rights complaints handled by the Adidas Group in 2015*, at: https://www.adidas-group.com/media/filer_public/38/e3/38e3dc79-3e7d-4613-b636-dcfc7fe8dd91/summary_of_human_rights_complaints_handled_by_the_adidas_group_2015.pdf; Adidas, 2017, *Summary of third party complaints handled by the Adidas Group in 2016*, at: https://www.adidas-group.com/media/filer_public/a1/db/a1db897b-4a50-4b6f-8b1d-e37a78a6a9b8/summary_of_human_rights_complaints_handled_by_adidas_group_in_2016.pdf; Adidas, 2015, “How we bring factory management and workers closer together”, at: <http://blog.adidas-group.com/2015/04/how-we-bring-factory-management-and-workers-closer-together/>; Reuters, 2017, “Adidas' slavery buster hopes technology can give workers a voice”, 24 May, at: <https://www.reuters.com/article/us-slavery-adidas-technology/adidas-slavery-buster-hopes-technology-can-give-workers-a-voice-idUSKBN18KOY8>; Lukas, K., Linder, B., Kutrzeba, A. & Sprenger, C., 2016, *Corporate Accountability – The Role and Impact of Non-Judicial Grievance Mechanisms*, Elgar Publishing; Adidas, 2015, “How we bring factory management and workers closer together”, at: <http://blog.adidas-group.com/2015/04/how-we-bring-factory-management-and-workers-closer-together/>

(b) any breach of an international human rights norm, whether related to an external service provider, supplier, or to adidas’ Group’s own business operations, where these affect an outside party.”

The scope of Adidas’ complaints procedure is broader than the company’s supply chain and also includes other, and often complex, business relationships, such as licensing arrangements or agents. It is important to note that a separate mechanism overseen by the Group’s legal and compliance teams exists to deal with grievances about Adidas’ own operations that are not in relation to human rights.

There are no limitations in terms of geographies, products and services, or parts of the supply chain that complaints can relate to. In practice, the majority of complaints are raised in relation to issues in the Asia-Pacific region as well as the Middle East and North Africa.

Adidas: Third party complaints received by year and by geographic coverage



Procedural elements

Adidas’ approach to complaints handling is based on an initial assessment of the complaint and supporting evidence, an ensuing, in-depth investigation, and the development of appropriate remedial actions. The key process steps are:

- Reception
 - Acknowledgement of receipt of complaint
- Assessment
 - Assessment of whether complaint can be accepted as legitimately necessary, request additional information / clarifications
 - Identification of parties to the complaint
 - Notification of complainant of assessment outcome (i.e. acceptance / rejection of complaint, incl. reasons for rejection)
- Investigation
 - Briefing of parties to the complaint on process

- Investigation carried out by Group Social and Environmental Affairs (SEA), independent third party or independent mediator / ombudsman
- Information-gathering (e.g. review of supplier information and policies, stakeholder engagement)
- Communication of findings to parties to the parties of the complaint
- Remediation
 - Remediation of negative impacts by Adidas (where there is a direct link), or encouraging the entity causing the impact to take remedial action
 - Non-interference with judicial proceedings, no adjudication
- Monitoring, communication
 - Development of monitoring framework to ensure that remedial actions are implemented within agreed timescale
 - Communication of complaints summary to the parties
 - Publication of complaint summary as part of Adidas' annual reporting on complaints

How outcomes are monitored

For individual cases, the development and agreement between the parties to a complaint of a monitoring framework to track the effective implementation of any remedial actions forms part of the complaints process. This includes not only deciding how implementation will be monitored and measured, but also agreeing a timeframe within which remedial actions are to be implemented. Normally, responsibility for the monitoring of the implementation of agreed outcomes lies with Adidas' SEA function. However, it may decide to appoint a credible third party with this task. In 2015, for instance, alleged inadequacies regarding social security contributions and freedom of association issues at a footwear supplier factory in China were brought to Adidas' attention by an international NGO. Remedial actions, including the back-payments of social security contributions, were already underway and monitored by Adidas. In addition, the implementation of remedial actions was also independently reviewed by the FLA.

In addition, there are systems in place to monitor Adidas' activities with regard to human rights grievances of supply chain workers more broadly. Expanding access to the worker hotline system, for instance, is one of Adidas' defined corporate sustainability targets and the company reports on the progress made in its annual sustainability reports. In 2016, access to hotlines was increased by 10%.

Adidas reports annually on the number and characteristics of the complaints received under the Third-Party Complaints Procedure. This includes information on the number of complaints that were closed successfully, as well as the number of cases that could not be resolved. It also publishes a summary of all complaints received in a year on its homepage, including information on the complainant, factory concerned, nature and outcomes of the complaint.

Implementation

Who is responsible for managing the mechanism

The overall responsibility for supply chain grievances submitted under the Third-Party Complaints Procedure lies with the Social and Environmental Affairs (SEA) function. The SEA function receives complaints, assesses admissibility and liaises with the complainant and the subject of the complaint. It also leads the investigation into a reported issue, which may include appointing an independent third-party to examine

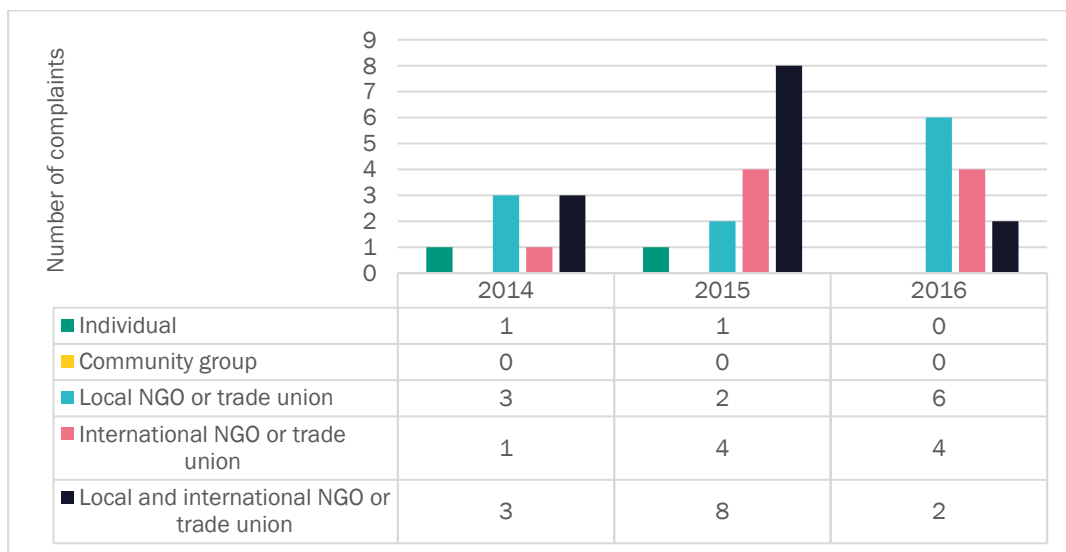
and manage the case. For complaints concerning Adidas’ own operations or the conduct of direct employees, responsibility lies with the Group’s Regional Compliance Officers.

How complaints can be submitted

The main way for workers at Adidas supplier factories to report issues is via hotline numbers, which are displayed in the factories, dormitories or other relevant areas and noticeboards. Having been initially established at a footwear supplier in Indonesia in 2012, the hotline system has since been rolled out across a number of Adidas’ major sourcing countries, now reaching some 300,000 workers in China, Indonesia, Vietnam and Cambodia. The general oversight of the worker hotline system lies with Adidas’ Social and Environmental Affairs (SEA) function. However, in some countries, Adidas rely on local and NGO partners to operate the hotline system (see below). In addition, complaints can be lodged via email, fax, or mail. The Complaint can be in the complainants’ own language. Contact details for the submission of grievances are provided in the grievance procedure.

In practice, most complaints are submitted by organisations, rather than individuals. In 2016, for instance, local NGOs and trade unions submitted six out of the total of 12 complaints, four came from international NGOs and trade unions, and two were submitted jointly by organisations at local and international level.

Adidas: Third party complaints by year and complainant



The complaints procedure also contains guidance regarding the kind of information Adidas requires, as well as the information it recommends to be provided in order for the company to be able to assess and process reported grievances. This includes the name of the entity concerned, the name of the workplace concerned and how it is linked to Adidas, a description that is as-detailed-as-possible of the nature of the alleged human rights violation, as well as the complainants’ contact details.

While Adidas encourages workers to provide their name and contact information when submitting a grievance, the grievance procedure provides for the submission of anonymous complaints. In addition, Adidas will not disclose the identity of workers who have submitted a complaint about their working conditions to their employer where this would put them at risk of victimisation. To this end, and to protect workers’ privacy, confidentiality agreements have also been signed with the organisations operating the worker hotline. The complaints procedure also references the Group’s Anti-Retaliation Policy, under which

alleged cases of retaliation against supply chain workers for raising a grievance can be investigated separately.

How complaints are investigated

The procedure acknowledges that the time necessary to handle and resolve complaints may differ, depending on the scale, complexity and geographical origin of a complaint. Therefore, Adidas does not define a fixed timetable for the handling of complaints but commits to do so “in the quickest possible timeframe”. It also provides for flexibility with regard to the way in which complaints are investigated. For example, the investigation may involve the consultation of stakeholders or be carried out by a third-party. Rather than defining a fixed methodology, the policy demands that certain principles are met. This includes ensuring that “the process produces information that enables a fully-informed discussion of the complaint”, as well as striving for “the process and information-gathering methodology to be transparent and credible”.

Adidas’ annual summary of human rights complaints shows what this means in practice. For 2015, for instance, it includes one case where Adidas cooperated with the complaints procedure of the Fair Labor Association (FLA) to investigate a serious allegation in relation to one supplier, one in which remediation plans into alleged anti-union discrimination at a local factory were developed jointly between Adidas’ SEA function and the factory’s parent company, and a case in which Adidas acted as a mediator between workers and a factory it had no business with at the time of the complaint.

What are the outcomes

In terms of outcomes, the procedure provides for appropriate remedial action to be taken, either by Adidas (where there is a direct link between the company and the harm caused) or by encouraging the entity responsible for the negative impact to take action. For example, an Adidas’ investigation found that four union representatives had been unfairly dismissed from a Cambodian factory in 2014 and they were reinstated with back pay as a result of the procedure.

The policy clearly states that Adidas cannot adjudicate between the parties to a complaint or determine the outcome in cases that, due to their complexity or specific characteristics, may need to be decided upon by the appropriate judicial mechanism. At the same time, however, Adidas reserves the right to act in response to the outcome of a complaint within its contractual rights. For example, Adidas may decide to reduce orders, send warning letters or cease the relationship with a supplier in accordance with the terms of the relevant contract or agreement, as a result of a human rights complaint against that supplier. Disqualification of a supplier, for instance, is a last resort measure Adidas reserves to take in response to the supplier’s failure to remediate ‘zero tolerance’ issues, such as prison labour, life-threatening health and safety issues or repeated or systematic abuse.

Outcomes of the investigation and any actions taken by Adidas in response are generally communicated to both parties of the complaint, unless the complainant chose to remain anonymous. If the complainants are not satisfied with the outcome, the SEA function will review the case and refer it to the company’s General Counsel or Chief Compliance Officer for a final decision. The procedure also provides information and contact details for alternative non-judicial ways to seek redress (namely the Fair Labor Association’s Complaints Procedure and the German OECD National Contact Point) for situations where no satisfactory outcome can be reached.

Involvement of stakeholders

Different stakeholders have been and are involved in the design and operation of Adidas’ Third Party Complaints Procedure.

In China and Bangladesh, for example, Adidas partners with local labour NGOs to provide channels for workers to raise human rights issues. In China, the China Labour Support Network (CLSN) and Handshake, two labour rights NGOs, manage Adidas' hotline system, receive workers' grievances and immediately report back any critical issue to Adidas for further follow-up. In addition, the NGOs offer counselling services to workers and ensure they are aware of their rights under national law.

In Bangladesh, Adidas has engaged an all-woman NGO to interact directly with workers to enable them to raise issues where otherwise they may not feel comfortable doing so. This approach is particularly relevant given the fact that gender-based discrimination, including sexual harassment, are issues that are common in apparel and footwear companies in the country, but often underreported due to a lack of trusted grievance channels.

Stakeholders, including government agencies and civil society, may also be consulted as part of an investigation into a complaint.

5. Implementation issues

5.1 Communication about existence of the mechanism

One of the ways in which grievance mechanisms can fail to be effective from the outset is as a result of insufficient communication about the existence of the mechanism to potentially affected rightsholders and workers. In both design and implementation of the mechanism it is important to provide sufficient resource and priority to communication and awareness-raising to ensure grievance channels are known and understood by workers.

It is important to bear in mind that “there is a distinction between a mechanism being publicised and being known.”³⁴ In order for communication and outreach activities to be successful, information about a grievance mechanism needs to actually reach the mechanism’s intended users. It is good practice to translate the policy and information on a grievance procedure into the language(s) spoken by workers. This applies to supply chain grievance mechanisms operated by buyers and MSIs (**Adidas** and **FLA**, for instance, published summaries of their complaints procedure in ten and seven different languages respectively), but may also be relevant to some supplier-level mechanisms.

Tesco’s pilot project to develop grievance mechanisms at a number of supplier farms in South Africa, for example, recognised the need to translate the procedure into the different languages spoken by the seasonal, migrant workforce, as well as to develop pictograms making the process accessible for those who may not read or write.³⁵

In relation to workplace grievance procedures it is important that all workers are informed about the existence of the grievance mechanism and how it should be used during their induction as well as through written terms and conditions of employment provided to them on the commencement of their employment. Where there are noticeboards and other places for the communication and sharing of information in the workplace, these should include clear reference to the grievance mechanism, preferably with contact details.

Some retailers’ or brands’ codes of conducts and certifiers’ standards specifically require suppliers to ensure that mechanisms are communicated to workers. **Sodexo**, for instance, expects suppliers to “ensure that the workplaces have clearly communicated grievance mechanisms (...).”³⁶ For farms wishing to get certified under **Utz**’ standard, they have to make sure that their grievance procedure “is communicated to workers at the time of hiring.”³⁷

³⁴ Rees, C., 2011, *Piloting Principles for Effective Company-Stakeholder Grievance Mechanisms: A Report of Lessons Learned*, Harvard Kennedy School Corporate Social Responsibility Initiative, at: https://sites.hks.harvard.edu/m-rcbg/CSRI/publications/report_46_GM_pilots.pdf

³⁵ Ibid.

³⁶ Sodexo, *Supplier Code of Conduct*, at: http://www.sodexo.com/files/live/sites/sdxcom-global/files/PDF/Corporate-responsibility/Sodexo-Supplier-Code-of-Conduct-2017_Guide.pdf; M&S, *Global Sourcing Principles*, at: <https://corporate.marksandspencer.com/documents/plan-a-our-approach/global-sourcing-principles.pdf>

³⁷ Utz, *Code of Conduct for Individual and Multi-Site Certification*, at: https://utz.org/wp-content/uploads/2015/12/EN_UTZ_Core-Code-Individual-v1.1_2015.pdf; Utz, *Code of Conduct for Group and Multi-Group Certification*, at: https://utz.org/wp-content/uploads/2015/12/EN_UTZ_Core-Code-Group_v1.1_2015.pdf.

Communication of grievance procedures in unionised workplaces

In workplaces where there is a recognised trade union operating, any grievance mechanism should be designed in a way which complements the existing collective labour relations structure. The existence and use of the mechanism should be clearly communicated through the trade union. This should include collaborative efforts to include information about the mechanism and its use through the union's own communications with its members.³⁸

In many ways, communication about the existence of broader supply chain or collaborative grievance mechanisms is much more difficult. This is most obviously because there are a range of potential workplaces and rightsholder communities, and those who advocate on their behalf, that need to be made aware of the existence of mechanism and the routes through which affected parties can lodge complaints.

Marginalised or vulnerable groups of workers may face particular challenges in accessing information about available remedial mechanisms as well as in accessing the mechanism itself that should be taken into account where grievance procedures are targeting such workers.³⁹ Recent research on human rights grievance handling in the **Indian tea sector** highlighted that many workers were unaware of available grievance mechanism, especially those operated at international level by buyers or certifiers. Even where workers knew about their existence and would have the technological means of accessing them (i.e. access to an email account or a mobile phone) they would be unlikely to make a complaint through impersonal and remote channels. There is a key role to play for local stakeholders, especially NGOs and trade unions, in bridging these gaps, and for buyers' and certifiers' grievance procedures to more proactively engage and build such networks.⁴⁰

There may also be different supply chain grievance mechanisms which potentially apply to the same workplace. A series of ten phone numbers on a factory wall which set out the grievance contact point for ten customers of the factory may be less effective than developing the grievance mechanism which the factory itself should operate. In this context, a significant issue to bear in mind is that of transparency of supply chains and the disclosure of production locations. Both in the context of supply chain business, but also financial institutions, the effectiveness and reach of operational and broader-reach grievance mechanisms is significantly enhanced where there is disclosure of where the workplace is that is actually likely to be impacting on workers' rights.

³⁸ A more detailed discussion of the interplay between industrial relations and (non-judicial and company-level) dispute resolution mechanisms in the footwear and apparel industry in Indonesia is provided in Connor, T., Delaney, A. * Rennie, S., 2016, *Non-judicial mechanisms in global footwear and apparel supply chains*, Corporate Accountability Research, via: <http://corporateaccountabilityresearch.net/njm-project-publications/#njr-reports>. Some practical guidance is provided in Verité, 2011, *Fair Hiring Toolkit – Evaluating the Effectiveness of Grievance Mechanisms*, at: <http://helpwanted.verite.org/node/736/lightbox2>. See also [cross reference to other paper]

³⁹ The ETI's vulnerable workers toolkit provides more information as well as practical guidance and tools: ETI, 2016, *Addressing worker vulnerability in agricultural and food supply chains*, via: <https://www.ethicaltrade.org/resources/addressing-worker-vulnerability-in-agricultural-and-food-supply-chains-vulnerable-workers>

⁴⁰ Macdonald, K. & Balaton-Chrimes, S., 2016, *Human rights grievance-handling in the Indian tea sector*, Corporate Accountability Research, via: <http://corporateaccountabilityresearch.net/njm-project-publications/#njr-reports>. For a discussion of the particular challenges relating to the provision of access to remedy for homeworkers in India see Delaney, A., 2016, *Barriers to grievance: Leather footwear workers in Tamil Nadu, South India*, Corporate Accountability Research, via: <http://corporateaccountabilityresearch.net/njm-report-xii-leather-footwear-homeworkers>

5.2 Different ways of initiating a mechanism

Typically, there are three types of people or organisations that may raise worker grievances in supply chain contexts in practice. These are:

- Workers that are negatively affected by the activities of a supplier, for instance in cases of unpaid overtime compensation or suspected gender discrimination; and
- Trade unions and other representatives of workers that are negatively affected by the activities of a supplier; and
- Other organisations acting or raising issues on behalf of the workers affected, such as local NGOs or associations.

Depending on the mechanism being used, there may be different ways for them to lodge a complaint with a company. In relation to direct workplace grievance mechanisms, the normal way will be, first, through informal means directly to a supervisor, which should always be backed up by a way of lodging grievances formally through channels to a person of sufficient seniority within the company. There should be a clear communication of who receives complaints and also those people should have a defined understanding of what they do with the complaints when they receive them and what the expectations are of them in terms of communication internally and externally.

More difficult, again, is the application of grievance mechanisms which apply to a wider supply chain. With large companies there may be a range of potential routes that a grievance may be received, including official grievance mechanism contact points, but also ethical trade or human rights teams, corporate affairs, customer hotlines, worker hotlines, stakeholder engagement teams and direct relations with trade unions. Again, it is important to ensure that there are clear policies in place detailing how complaints received via different channels are subsequently dealt with, including clearly assigned responsibilities, internal reporting and escalation channels.

Criteria for the effective management of grievance procedures

Handling human rights-related complaints is not an easy task and requires certain personal competences and skills. In this regard, the guidance accompanying the SA8000 standard makes useful recommendations to organisations wishing to get certified regarding the role and skillset of those tasked with handling complaints:

“Complaint management and resolution is important in any organisation and must be recognized as such by senior management. The people who are designated to handle and receive feedback are the most important factor in ensuring that the complaint management system is effective. These people must be trained and empowered to make decisions or have access to people who can make decisions. Complainants are more likely to be satisfied with the complaint management system if the person dealing with their feedback is competent, objective, responsive, and efficient. This is an important area where the SA8000 worker representative(s) should be consulted.”⁴¹

⁴¹ SA International, *Guidance Document for Social Accountability 8000*, at: <http://www.sa-intl.org/index.cfm?fuseaction=document.viewDocument&documentid=563&documentFormatId=1166&vDocLinkOrigin=1&CFID=16124736&CFTOKEN=ea555c0bb50b5534-C8B792F3-1C23-C8EB-80201720919B7DEE>

What this will look like in practice is highly dependent on the individual company's operating and business context, as well as internal organisation. At **Adidas**, for example, the Social and Environmental Affairs department is responsible for overseeing the supply chain complaints procedure,⁴² while **Wilmar International's** grievance mechanism for supply chain workers is managed by a full-time Grievance Coordinator and overseen by a dedicated Grievance Unit, established by the Sustainability department.⁴³ **PepsiCo's** supply chain grievance policy, in turn, does not assign responsibility to a fixed department, but states that "an internal PepsiCo resource will oversee the process, and a grievance working group including representatives from our procurement, human rights, sustainable agriculture and public policy teams will advise regarding any substantive decisions during the process."⁴⁴ In other companies, again, it may be the compliance or legal function playing a more prominent role in the management of human rights grievances and complaints.

Allegations published in media or NGO reports

Some mechanisms provide for a grievance procedure to be initiated not only where workers (or others in their behalf) report an issue, but also in situations where alleged breaches of relevant human rights and labour standards are identified from press or NGO reports. This is the case for LOCOG's Complaints and Dispute Resolution Mechanism, as well as for Wilmar International's supply chain grievance procedure.⁴⁵

For such instances, mechanisms usually contain an additional decision-making process to decide whether an allegation made is in scope for the mechanism. This takes into account aspects such as

- Whether the report contains alleged breach of the reference policy;
- Whether this alleged breach relates to a supplier of the company; and
- Whether the allegation is serious and credible enough to warrant an investigation.

5.3 Identifying desired and possible outcomes

Outcomes of supply chain grievance procedures normally either, or both, of two forms:

- Remedial actions, aimed at fixing, alleviating or reversing a negative impact suffered by individual workers, such as, for example, financial compensation, back-payment or reinstatement; and
- Systematic actions, aimed at improving overall conditions and preventing the same or similar impacts from reoccurring, such as training for managers and supervisors or enhanced management systems.

⁴² Adidas, *Third Party Complaint Process*, at https://www.adidas-group.com/media/filer_public/3a/a8/3aa87bcf-9af9-477b-a2a5-100530e46b19/adidas_group_complaint_process_october_2014.pdf

⁴³ Wilmar International, *Grievance Procedure for the Implementation of Wilmar's No Deforestation, No Peat, No Exploitation Policy*, at: <http://www.wilmar-international.com/sustainability/wp-content/uploads/2017/03/Grievance-Procedure-Updated.pdf>

⁴⁴ PepsiCo, *Grievance Mechanism for Our Agricultural Supply Chain*, at: <http://www.pepsico.com/docs/album/policies-doc/agricultural-supply-chain-grievance-mechanism-summary.pdf>

⁴⁵ Wilmar International, *Grievance Procedure for the Implementation of Wilmar's No Deforestation, No Peat, No Exploitation Policy*, at: <http://www.wilmar-international.com/sustainability/wp-content/uploads/2017/03/Grievance-Procedure-Updated.pdf>

In this context, a key step in effective grievance handling relates to the early identification of two issues: what is the complainant's desired outcome from the process and what is possible (and, equally, what is not possible) under the framework of the mechanism or process. An early communication with complainants to scope what they are seeking from the mechanism is very important. It not only seeks to match request against potential remedy, but also serves to ensure that expectations of what is possible under the mechanism are clear.

Unsurprisingly, the outcomes delivered by supply chain grievance mechanisms are highly dependent on the characteristics of specific cases. Given the often complex nature of labour-related complaints, in most cases, there will be several corrective and remedial actions taken in response to a complaint. **LOGOG's** supply chain complaints mechanism, for example, achieved agreement on a total of 74 actions across the nine complaints the mechanism handled over the course of its existence. In addition to actions directly related to the impact – either in a remedial or a preventative way – many buyers that operate supply chain grievance mechanisms also reserve the right of suspending, amending or terminating their contractual relationship with a supplier, where they fail to demonstrate willingness to engage in the grievance process or to implement agreed actions.

Principles for effective remedy

In its latest report to the UN General Assembly, the UN Working Group on the issue of human rights and transnational corporations and other business enterprises expanded on the question of what constitutes effective remedy, suggesting the effective provision of remedy be characterised by the following principles:

- Remedy should be responsive to the experiences and expectations of rightsholders;
- Key constitutive elements of effectiveness (such as accessibility, affordability, adequacy and timeliness) should be determined with reference to the needs of the rightsholders;
- Rightsholders should not have to fear victimisation in the process of seeking remedy;
- There should be a range of remedies available;
- Remedial mechanisms should be at the service of rightsholders and not treat rightsholders merely as recipients of remedy;
- Effectiveness of a remedy should be judged integrating the perspective of those affected (while being aware of the fact that rightsholders may have low expectations);
- Those administering remedial mechanisms should take proactive measures to redress asymmetrical relationship and power imbalances between rightsholder and enterprise;
- Rightsholders should have access to information about rights, state and company responsibilities, all available mechanisms and trade-offs between them; and
- Access to remedy should be without discrimination.⁴⁶

⁴⁶ UN General Assembly (UNGA), 2017, *Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises*, A/72/162, at: <http://undocs.org/A/72/162>. See also Verité, 2011, *Fair Hiring Toolkit – Evaluating the Effectiveness of Grievance Mechanisms*, at: <http://helpwanted.verite.org/node/736/lightbox2>

A key principle for effective outcomes to consider from a human rights perspective is that remedial mechanisms should in no circumstances result in further harm to the individual seeking remedy.

5.4 Defining the best approach to a grievance

Based on a clear identification of the issues which are the subject of the complaint, it is crucial to identify the best approach to handling a grievance. Moving quickly and directly to a formal investigation and quasi legal adjudication can tend to be driven by a desire to 'prove and deny', but often does little to promote remedy, as it will tend to polarise issues and fix opinions. Given that such mechanisms often operate in an area which is not legally binding, it is important to bear in mind that there is nothing that can force action unless all parties agree to the approach and outcomes.

There may be different approaches available within the same mechanism, depending on the specific complaint. It may be that a satisfactory solution between the parties to a complaint can be found early on in the process, making a more thorough investigation unnecessary. In other cases, reaching agreement can be more challenging and may require a mediation approach.

The Complaints and Dispute Resolution Mechanism of the **London Olympic Games**, for example, aimed to identify those issues where there might be agreement between the parties and potential for immediate actions early on, so that subsequent, facilitated dialogue could be focused on those areas that were in dispute. Where such dialogue did not succeed in facilitating agreement, the procedure provided for the appointment of an independent mediator. In total, mediation was undertaken in three of the nine complaints in scope.

A typology of different approaches to processing grievances

There are a number of different ways in which grievances can be handled and examined. They vary in terms of formality of the process, resource needed, as well as the type of outcomes achieved and can be broadly categorised as:

- **Information facilitation:** The gathering of information on grievances, with any further action on that information largely left to is end-users
- **Negotiation:** Direct dialogue between the parties to the grievance with the aim of resolving the grievance through mutual agreement.
- **Mediation / conciliation:** Direct or indirect dialogue between the parties assisted by an external, neutral / objective facilitator with the aim of resolving the grievance through mutual agreement. The facilitator may take a more or less active and intrusive role in the dialogue process.
- **Arbitration:** A process by which neutral arbitrators selected by the parties to a dispute hear the positions of the parties, conduct some form of questioning or wider investigation and arrive at a judgement on the course of action to be taken in settling the grievance or dispute, often, though not always, with binding effect on the parties;
- **Investigation:** A process of gathering information and views about a grievance or disputed situation in order to produce an assessment of the facts; and
- **Adjudication:** The formation of a judgment on the rights and wrongs of parties in a situation of dispute and on any remedies needed, which may be binding on the parties or lead to some

form of sanction. Usually the culmination of an investigation, adjudication is distinct from arbitration in that it does not require agreement by the parties on who will adjudicate, nor does it involve a formal process of hearings.”⁴⁷

5.5 Monitoring and assessing impacts and effectiveness

It is increasingly recognised as good practice for a company to report on the number and nature of supply chain grievances it receives, as well as of their progress and status. Both **Adidas** and **Wilmar International** publish detailed case logs on the nature and status of complaints received on their website.⁴⁸ Similarly, a number of standards and certifiers, including **RSPO** and **FLA**, maintain online case trackers with additional information on complaints.⁴⁹ **FLA**, in its final reports issued upon closure of complaints, includes a section on the status of remedial actions at the time of file closure. Increasingly, companies include KPIs on the number and nature of supply chain grievances in their annual human rights or sustainability reporting, with examples including **PVH** and **Wilmar International**.⁵⁰

How to read KPIs on grievances

It is important to note that an increase in the number of grievances received can be an indicator of well-functioning grievance procedures, including reporting on human rights grievances. Having established a grievance mechanism at a local tea factory in Kenya to help address widespread sexual harassment of female workers, Unilever, for example, highlight in their 2015 Human Rights Report that “an increase in the number of grievances was an essential indicator of our progress, demonstrating growing trust in the effectiveness of the grievance mechanism.”⁵¹

At the same time, challenges remain when it comes to putting in place systems to assess the *actual* impacts and outcomes of complaints procedures. There are a number of practical barriers, for example in relation to the resources and capacity required to implement a robust monitoring framework, including independent assessments or validation of impact and effectiveness, especially for remedial actions that span a medium- to longer-term period. In supply chain context, the entity handling the complaint (e.g. a brand, a retailer or a certifier) and the entity that is subject to the complaint (a supplier) may be several

⁴⁷ Rees, C. & Vermijs, D., 2008, *Mapping Grievance Mechanisms in the Business and Human Rights Arena*, Harvard Kennedy School Corporate Social Responsibility Initiative, at https://sites.hks.harvard.edu/mrcbg/CSRI/publications/Report_28_Mapping.pdf

⁴⁸ Adidas, n.d., *Disclosure of third party complaints received by Adidas*, via: <https://www.adidas-group.com/en/nachhaltigkeit/compliance/menschenrechte/#/uk-modern-slavery-act/policies-and-guidance/>; Wilmar, n.d., *Grievance list with progress updates*, via: <http://www.wilmar-international.com/sustainability/grievance-procedure/grievance-list-with-progress-updates/>

⁴⁹ See Fair Labor Association (FLA), *Third Party Complaint Tracking Chart*, at: <http://www.fairlabor.org/third-party-complaint-tracking-chart>; Roundtable on Sustainable Palm Oil (RSPO), *Status of Complaints*, at: <https://www.rspo.org/members/status-of-complaints>

⁵⁰ PVH, 2016, *CR Report 2015*, at: https://www.pvh.com/~media/PVH/Files/corporate-responsibility/2015_cr_report.ashx; Wilmar International, 2017, *Sustainability Report 2016*, at: <http://www.wilmar-international.com/sustainability/wp-content/uploads/2017/08/Wilmar-SR-2016-Final.pdf>

⁵¹ Unilever, 2015, *Human Rights Report 2015*, at: https://www.unilever.com/Images/unilever-human-rights-report-2015_tcm244-437226_en.pdf.

tiers removed from one another. This raises potential issues with regard to visibility and leverage, especially as the timeframe for remediation may, in some cases, outlive the commercial relationship with the supplier.

Moreover, understanding outcomes for workers is complicated by the fact that it may be impossible to locate the workers at the origin of complaints, especially given that effects of some remedial action can only be assessed in the longer-term. Perhaps unsurprisingly, given these difficulties, few supply chain grievance procedures have a defined system in place to follow-up with complainants once the actual complaint has been closed. One exception here is the **Fair Wear Foundation**, which, as part of its final evaluation of complaints, also follows up with complainants directly to gather their views on the procedure's outcomes. In cases where it is impossible to re-establish contact with the complainant, FWF may instead attempt to seek input from additional workers or worker representatives to see whether generally applicable improvements made as a result of the complaints process are satisfactory.⁵²

Identifying ways in which impacts and effectiveness of supply chain grievance mechanisms can be more systematically assessed, including through engagement with rightsholders themselves, is an area where there is clearly room for improvement in current and future approaches. This was recognised, for instance, in a 2014, comprehensive review of the **RSPO's** complaints system, which highlighted the need for a more stringent monitoring procedure and noted that, "unless RSPO members voluntarily report on complaints during audits, there is no way to assess the (...) satisfaction of complaints parties with the resolution process and outcomes."⁵³

⁵² FWF, *Complaints Procedure*, at: https://www.fairwear.org/ul/cms/fck-uploaded/documents/fwpublications_reports/FWFcomplaintsprocedureMarch2014.pdf. See the FWF, *Resources (Complaints) page* for details on follow up with workers in individual cases, at: <https://www.fairwear.org/resources/?type=complaints&sort=latest>

⁵³ Jonas, H., 2014, *A review of the Complaints System of the Roundtable on Sustainable Palm Oil*, Natural Justice & BC Initiative, via: <https://www.rspo.org/news-and-events/announcements/a-review-of-complaints-system-of-the-rspo-final-report>

6. Key discussion questions and strategic considerations

6.1 On different types of approaches

- How can workplace-level grievance mechanisms and procedures managed by buyers, MSIs and certifiers be more effectively linked?
- How can better understanding of the typology of mechanisms and their relationship be better understood and communicated?
- How can the role of trade unions and collective dispute resolution mechanism be better understood and, where appropriate, integrated into grievance frameworks?
- What is the role of ETI and its members in enhancing supplier capacity to handle workplace grievances in an effective and fair way? Is there any scope for joint capacity-building approaches or consistent requirements on grievance procedures?

6.2 On the implementation of mechanisms

- How can ETI, as well as its members, help communicate available grievance channels more effectively to workers, including marginalised and vulnerable groups? How can ETI best leverage its tripartite structure in this context?
- What are good practice examples on the provision of effective remedy? How can ETI and its member companies position itself as key contributors in this debate?
- How can effective mediation and dialogue be fostered in relation to complex grievance mechanisms?
- How can different brands and retailers better coordinate their efforts in providing grievance channels to supply chain workers? Where to focus attention and how to avoid overlap?
- What is the scope for using resources more efficiently by collaborating with others, inside and outside ETI?
- Does there need to be a change to core ETI governance documents – the base Code and Principles of Implementation – to include reference to require grievance mechanisms from suppliers and also for members to establish such mechanisms?

6.3 On the design of mechanisms

- How can the basic building blocks and key elements for different mechanisms be better captured and disseminated?
- How can the effectiveness and impact of grievance procedures be more systematically addressed? What scope is there to build in cost-benefit analyses from the outset?
- How can worker voice and representation be properly integrated into a mechanism at the outset and design?
- How can existing approaches by ETI member companies, especially whistleblower and worker hotlines, be used and integrated into grievance procedures for supply chain workers?
- How can learnings from designing supply chain grievance mechanisms be more effectively shared among ETI members (and potentially beyond)?
- How can needs for transparency and privacy be effectively balanced? What are the benefits of providing for supply chain complaints to be submitted anonymously, what are the challenges?
- How do the outcomes of grievances get properly captured and disseminated? To whom?

7. Bibliography

7.1 Information and policies on mechanisms by companies, MSIs and certifiers

Adidas, 2015, “How we bring factory management and workers closer together”, at: <http://blog.adidas-group.com/2015/04/how-we-bring-factory-management-and-workers-closer-together/>

Adidas, 2015, *2014 Case analysis: Adidas Group third-party complaints*, at: https://www.adidas-group.com/media/filer_public/08/12/081211f3-75ee-4315-88dc-5e1b101e3b91/3rdpartycomplaint_system_overview_and_analysis_yr2014.pdf.

Adidas, 2016, *2015 Case analysis: Adidas Group third-party complaints*, at: https://www.adidas-group.com/media/filer_public/34/e6/34e64ed7-ce04-448b-b0df-dd36d5de1e40/3rdpartycomplaint_system_overview_and_analysis_yr2015.pdf.

Adidas, 2016, *Summary of human rights complaints handled by the Adidas Group in 2015*, at: https://www.adidas-group.com/media/filer_public/38/e3/38e3dc79-3e7d-4613-b636-dcfc7fe8dd91/summary_of_human_rights_complaints_handled_by_the_adidas_group_2015.pdf.

Adidas, 2017, *2016 Case analysis: Adidas Group third-party complaints*, at: https://www.adidas-group.com/media/filer_public/7d/d0/7dd029ef-0a46-4027-aab1-5670a3e53861/3rdpartycomplaint_system_overview_and_analysis_yr2016.pdf.

Adidas, 2017, *Summary of third party complaints handled by the Adidas Group in 2016*, at: https://www.adidas-group.com/media/filer_public/a1/db/a1db897b-4a50-4b6f-8b1d-e37a78a6a9b8/summary_of_human_rights_complaints_handled_by_adidas_group_in_2016.pdf.

Adidas, n.d., *Disclosure of third party complaints received by Adidas*, via: <https://www.adidas-group.com/en/nachhaltigkeit/compliance/menschenrechte/#/uk-modern-slavery-act/policies-and-guidance/>.

Adidas, *Third Party Complaints Process for Breaches to the Adidas Group Workplace Standards or Violations of International Human Rights Norms*, at: https://www.adidas-group.com/media/filer_public/3a/a8/3aa87bcf-9af9-477b-a2a5-100530e46b19/adidas_group_complaint_process_october_2014.pdf.

Bangladesh Accord, *Safety Complaints Mechanism*, at: <http://bangladeshaccord.org/safety-complaints-mechanism/>.

Fair Labor Association (FLA), *Third Party Complaints Process*, at: <http://www.fairlabor.org/third-party-complaint-process>.

Fair Labor Association (FLA), *Workplace Code of Conduct and Compliance Benchmarks*, at: http://www.fairlabor.org/sites/default/files/fla_complete_code_and_benchmarks.pdf.

Fair Labor Association (FLA), *Third Party Complaint Tracking Chart*, at: <http://www.fairlabor.org/third-party-complaint-tracking-chart>.

Fair Wear Foundation (FWF), *Complaints Procedure*, at: https://www.fairwear.org/ul/cms/fck-uploaded/documents/fwfpublishations_reports/FWFcomplaintsprocedureMarch2014.pdf.

Gap Inc., *Code of Vendor Conduct*, at:

http://www.gapinc.com/content/dam/gapincsite/documents/CodeofVendorConduct_FINAL.pdf.

Gap Inc., n.d., “Building new collaborations”, at: <http://www.gapincustainability.com/people/improving-factory-working-conditions/building-new-collaborations>.

M&S, *Global Sourcing Principles*, at: <https://corporate.marksandspencer.com/documents/plan-a-our-approach/global-sourcing-principles.pdf>.

M&S, *Grievance Procedure for Clothing and Home and Food Supply Chains*, at:

<https://corporate.marksandspencer.com/file.axd?pointerid=db4d4d9ed345425f97dfdf15aa539ce7>.

Mars, *Supplier Code of Conduct*, at: <http://www.mars.com/docs/default-source/Policies-and-Practices/supplier-code-of-conduct/supplier-code-of-conduct-english.pdf?sfvrsn=4>.

Nestlé, *Supplier Code*, at: <https://www.nestle.com/asset-library/documents/library/documents/suppliers/supplier-code-english.pdf>.

New Look, 2013, *New Look Ethical Trade Report 2012-2013*, at:

http://www.newlookgroup.com/system/files/uploads/financialdocs/new_look_ethical_trade_report_2013_high_res_version.pdf.

New Look, 2015, *Ethical Trade Report 2013-2014*, at:

<http://www.newlookgroup.com/sites/default/files/attachments/ethical-trade-jan-2015.pdf>.

PepsiCo, *Grievance Mechanism for Our Agricultural Supply Chain*, at:

<http://www.pepsico.com/docs/album/policies-doc/agricultural-supply-chain-grievance-mechanism-summary.pdf>.

PVH, 2016, *CR Report 2015*, at: https://www.pvh.com/~media/PVH/Files/corporate-responsibility/2015_cr_report.ashx.

Roundtable for Sustainable Palm Oil (RSPO), *Complaints and Appeals Procedures*, via:

<http://www.rspo.org/members/complaints>.

Roundtable on Sustainable Palm Oil (RSPO), *Status of Complaints*, at:

<https://www.rspo.org/members/status-of-complaints>.

SA International, *SA8000 Guidance Document*, at: [http://www.sa-](http://www.sa-intl.org/index.cfm?fuseaction=document.viewDocument&documentid=563&documentFormatId=1166&vD)

[intl.org/index.cfm?fuseaction=document.viewDocument&documentid=563&documentFormatId=1166&vD](http://www.sa-intl.org/index.cfm?fuseaction=document.viewDocument&documentid=563&documentFormatId=1166&vD)
[ocLinkOrigin=1&CFID=16124736&CFTOKEN=ea555c0bb50b5534-C8B792F3-1C23-C8EB-80201720919B7DEE](http://www.sa-intl.org/index.cfm?fuseaction=document.viewDocument&documentid=563&documentFormatId=1166&vD).

SA International, *SA8000 International Standard*, at: [http://sa-](http://sa-intl.org/data/n_0001/resources/live/SA8000%20Standard%202014.pdf)

[intl.org/data/n_0001/resources/live/SA8000%20Standard%202014.pdf](http://sa-intl.org/data/n_0001/resources/live/SA8000%20Standard%202014.pdf).

Sodexo, *Supplier Code of Conduct*, at: [http://www.sodexo.com/files/live/sites/sdxcom-](http://www.sodexo.com/files/live/sites/sdxcom-global/files/PDF/Corporate-responsibility/Sodexo-Supplier-Code-of-Conduct-2017_Guide.pdf)

[global/files/PDF/Corporate-responsibility/Sodexo-Supplier-Code-of-Conduct-2017_Guide.pdf](http://www.sodexo.com/files/live/sites/sdxcom-global/files/PDF/Corporate-responsibility/Sodexo-Supplier-Code-of-Conduct-2017_Guide.pdf).

Sustainable Agriculture Network (SAN), *SAN Standard*, at:

<http://sanstandard2017.ag/2017standard/certification-documents/>.

Unilever, 2015, *Human Rights Report 2015*, at: https://www.unilever.com/Images/unilever-human-rights-report-2015_tcm244-437226_en.pdf.

Utz, *Code of Conduct for Group and Multi-Group Certification*, at: https://utz.org/wp-content/uploads/2015/12/EN_UTZ_Core-Code-Group_v1.1_2015.pdf.

Utz, *Code of Conduct for Individual and Multi-Site Certification*, at: https://utz.org/wp-content/uploads/2015/12/EN_UTZ_Core-Code-Individual-v1.1_2015.pdf.

Wilmar International, 2017, *Sustainability Report 2016*, at: <http://www.wilmar-international.com/sustainability/wp-content/uploads/2017/08/Wilmar-SR-2016-Final.pdf>.

Wilmar International, *Grievance Procedure for the Implementation of Wilmar's No Deforestation, No Peat, No Exploitation Policy*, at: <http://www.wilmar-international.com/sustainability/wp-content/uploads/2017/03/Grievance-Procedure-Updated.pdf>.

Wilmar International, n.d., *Grievance list with progress updates*, via: <http://www.wilmar-international.com/sustainability/grievance-procedure/grievance-list-with-progress-updates/>.

7.2 Books, articles and reports

Bell, S., Cumming, P. & Gibbons, S., 2013, *Complaint and dispute resolution process to deal with breaches of the Sustainable Sourcing Code*, Lessons learned from planning and staging the London 2012 Games, at: <http://learninglegacy.independent.gov.uk/documents/pdfs/sustainability/cs-sustainable-sourcing-code-complaints-mechanism.pdf>.

Better Work, 2017, "Training to improve industrial relations in Gap Inc.'s supply chain", at: <https://betterwork.org/blog/2017/02/07/training-to-improve-industrial-relations-in-gap-inc-s-supply-chain/>.

Connor, T., Delaney, A. & Rennie, S., 2016, *Non-judicial mechanisms in global footwear and apparel supply chains*, Corporate Accountability Research, via: <http://corporateaccountabilityresearch.net/njm-project-publications/#njr-reports>.

Corporate Human Rights Benchmark (CHRB), 2016, *2016 Pilot Methodology*, at: https://www.corporatebenchmark.org/sites/default/files/2017-03/CHRB_methodology_singles.pdf

Davis, R. & Franks, D., 2014, *Costs of company-community conflict in the extractive sector*, Harvard Kennedy School Corporate Social Responsibility Initiative, Shift and the University of Queensland, at: https://sites.hks.harvard.edu/m-rcbg/CSRI/research/Costs%20of%20Conflict_Davis%20%20Franks.pdf.

Delaney, A., 2016, *Barriers to grievance: Leather footwear workers in Tamil Nadu, South India*, Corporate Accountability Research, via: <http://corporateaccountabilityresearch.net/njm-report-xii-leather-footwear-homeworkers>.

Equality and Human Rights Commission (EHRC), 2017, *Handling and resolving human rights complaints about your business*, at: <https://www.equalityhumanrights.com/en/advice-and-guidance/handling-and-resolving-human-rights-complaints-about-your-business>

ETI, 2016, *Addressing worker vulnerability in agricultural and food supply chains*, via: <https://www.ethicaltrade.org/resources/addressing-worker-vulnerability-in-agricultural-and-food-supply-chains-vulnerable-workers>.

Fashion Revolution, 2017, *Fashion Transparency Index 2017*, at:

https://issuu.com/fashionrevolution/docs/fr_fashiontransparencyindex2017?e=25766662/47726047.

Ganson, B., 2014, *Resolving labour issues in the electronics industry in Mexico*, Access Facility Case Story Series No. 2, at:

http://accessfacility.org/sites/default/files/ACCESS%20Case%20Story%20%20-%20Resolving%20Labour%20Issues%20in%20the%20Electronics%20Industry%20in%20Mexico_1.pdf.

International Corporate Accountability Roundtable (ICAR), 2017, *Assessments of existing National Action Plans (NAPs) on Business and Human Rights*, August 2017 Update, at:

<https://static1.squarespace.com/static/583f3fca725e25fcd45aa446/t/599c543ae9bdfd40b5b6f055/1503417406364/NAP+Assessment+Aug+2017+FINAL.pdf>.

International Finance Corporation (IFC), *Performance Standard 2 – Labour and Working Conditions*, at:

http://www.ifc.org/wps/wcm/connect/2408320049a78e5db7f4f7a8c6a8312a/PS2_English_2012.pdf?MOD=AJPERES.

Jonas, H., 2014, *A review of the Complaints System of the Roundtable on Sustainable Palm Oil*, Natural Justice & BC Initiative, via: <https://www.rspo.org/news-and-events/announcements/a-review-of-complaints-system-of-the-rspo-final-report>.

Know The Chain, 2016, *Apparel & Footwear Benchmark Findings Report*, at: https://knowthechain.org/wp-content/plugins/ktc-benchmark/app/public/images/benchmark_reports/KTC_A&F_ExternalReport_Final.pdf.

Know The Chain, 2016, *Food & Beverage Benchmark Findings Report*, at: https://knowthechain.org/wp-content/plugins/ktc-benchmark/app/public/images/benchmark_reports/KTC_Food_Beverage_Findings_Report_October.pdf.

Know The Chain, 2017, *How footwear companies and luxury brands tackle forced labour risks in their leather supply chains*, at: https://knowthechain.org/wp-content/uploads/KTC-LeatherLabor-Case-Study_Final.pdf.

Kotze, H., 2014, *Farmworker Grievances in the Western Cape, South Africa*, ACCESS Facility Case Study Series No. 3, at:

<http://accessfacility.org/sites/default/files/Farmworker%20Grievances%20Western%20Cape%20South%20Africa.pdf>.

Lukas, K., Linder, B., Kutrzeba, A. & Sprenger, C., 2016, *Corporate Accountability – The Role and Impact of Non-Judicial Grievance Mechanisms*, Elgar Publishing.

Macdonald, K. & Balaton-Chrimes, S., 2016, *Human rights grievance-handling in the Indian tea sector*, Corporate Accountability Research, via: <http://corporateaccountabilityresearch.net/njm-project-publications/#njr-reports>.

Office of the Compliance Advisor / Ombudsman (CAO), 2016, *Grievance Mechanism Toolkit – Purpose, Design and Implementation*, at: <https://www.cao-grm.org/purpose-design-and-implementation#section-3>.

Rees, C. & Vermijs, D., 2008, *Mapping Grievance Mechanisms in the Business and Human Rights Arena*, Harvard Kennedy School Corporate Social Responsibility Initiative, at https://sites.hks.harvard.edu/m-rcbg/CSRI/publications/Report_28_Mapping.pdf.

Rees, C., 2011, *Piloting Principles for Effective Company-Stakeholder Grievance Mechanisms: A Report of Lessons Learned*, Harvard Kennedy School Corporate Social Responsibility Initiative, at: https://sites.hks.harvard.edu/m-rcbg/CSRI/publications/report_46_GM_pilots.pdf.

Rees, C., 2013, *Establishing a Stakeholder Oversight Group to support a supply chain grievance mechanism*, Lessons learned from planning and staging the London 2012 Games, at: <http://learninglegacy.independent.gov.uk/documents/pdfs/sustainability/cs-establishing-a-stakeholder-oversight-group.pdf>.

Reuters, 2017, "Adidas' slavery buster hopes technology can give workers a voice", 24 May, at: <https://www.reuters.com/article/us-slavery-adidas-technology/adidas-slavery-buster-hopes-technology-can-give-workers-a-voice-idUSKBN18K0Y8>.

RobecoSAM, 2017, *RobecoSAM Corporate Sustainability Assessment 2017 – Methodology and Score Changes Review*, at: http://www.robecosam.com/images/CSA_2017_Annual_Scoring_Methodology_Review.pdf.

Thompson, B., 2017, *Determining criteria to evaluate outcomes of business' provision of remedy: Applying a human rights-based approach*, Business & Human Rights Journal, 2/2017, pp. 55-85.

UN General Assembly (UNGA), 2017, *Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises*, A/72/162, at: <http://undocs.org/A/72/162>.

UN Global Compact, 2015, "Addressing grievances in the workplace", Human Rights and Business Dilemmas Forum, at: http://hrbdf.org/case_studies/freedom-of-association/freedom_of_association/addressing_grievances_in_the_workplace.html#.Wdojy2jWw2w.

UN Office of the High Commissioner for Human Rights (OHCHR), 2011, *UN Guiding Principles on Business and Human Rights*, at: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

UN Office of the High Commissioner for Human Rights (OHCHR), 2012, *The corporate responsibility to respect human rights – an interpretive guide*, at: http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf.

Verité, 2011, *Fair Hiring Toolkit – Evaluating the Effectiveness of Grievance Mechanisms*, at: <http://helpwanted.verite.org/node/736/lightbox2>.

Annexes

Annex 1: Design principles for grievance mechanisms in the context of supply chains

Experience from existing approaches shows that there are a number of factors that should be taken into account in the design of operational grievance mechanisms in order to ensure they provide effective access to remedy for supply chain workers. The following discusses the most important aspects in more detail, focusing primarily on approaches by international brands and retailers, but also integrating learnings from grievance procedures operated by MSIs and other organisations.

Getting internal and external stakeholder views and buy in

While it is important that companies establishing a grievance mechanism take responsibility for the decisions about its structure and operation, the input of both internal and external stakeholders during the design phase is crucial. Not only does this make it more likely that the mechanism is accessible, and hence able to provide remedy for impacted workers. It also takes into account that various internal company and business partners need to have faith in and understanding of the mechanism if it is to stand a chance of working. Likewise, as the UN Working Group puts it, “remedial mechanisms (...) should not treat rightsholders merely as recipients of remedy”,⁵⁴ but attempt to integrate their perspectives already when considering the design of a mechanism. In practice, this could mean consulting workers themselves, as well as seeking input from worker representatives, local trade union or labour rights NGOs.

One approach to getting stakeholder buy-in is to carry out a series of consultations around core design elements of the mechanism, but there are various other approaches that could work. For example, one of the most innovative features of the **London Olympic Games’** grievance mechanism was the way in which stakeholders were engaged systematically throughout its design and operation. The design of the mechanism was informed by widespread stakeholder consultations, and a Stakeholder Oversight Group was appointed to provide real-time review during the operation of the mechanism.⁵⁵ Piloting the development of grievance mechanisms at farm level in the Western Cape region in South Africa, **Tesco** engaged extensively with local stakeholders, including suppliers, unions and NGOs, through an Oversight Stakeholder Body established to advise on the development, form and function of the mechanism’s design. Providing an opportunity for exchange and discussion early on, as well as gathering stakeholder feedback on key aspects of the planned mechanism was instrumental in building legitimacy and enabling trust in the procedure.⁵⁶

⁵⁴ UN General Assembly (UNGA), 2017, *Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises*, A/72/162, at: <http://undocs.org/A/72/162>.

⁵⁵ Rees, C., 2013, *Establishing a Stakeholder Oversight Group to support a supply chain grievance mechanism, Lessons learned from planning and staging the London 2012 Games*, at: <http://learninglegacy.independent.gov.uk/documents/pdfs/sustainability/cs-establishing-a-stakeholder-oversight-group.pdf>; Bell, S., Cumming, P. & Gibbons, S., 2013, *Complaint and dispute resolution process to deal with breaches of the Sustainable Sourcing Code*, Lessons learned from planning and staging the London 2012 Games, at: <http://learninglegacy.independent.gov.uk/documents/pdfs/sustainability/cs-sustainable-sourcing-code-complaints-mechanism.pdf>

⁵⁶ Kotze, H., 2014, *Farmworker Grievances in the Western Cape, South Africa*, ACCESS Facility Case Study Series No. 3, at: <http://accessfacility.org/sites/default/files/Farmworker%20Grievances%20Western%20Cape%20South%20Africa.pdf>; Rees, C., 2011, *Piloting Principles for Effective Company-Stakeholder Grievance Mechanisms: A Report of*

Integrating stakeholder perspectives in the design of a mechanism

A broad stakeholder consultation exercise was carried out as part of the design stage of **LOCOG's** supply chain complaints procedure. This included engagement with:

- LOCOG's commercial partners;
- LOCOG staff responsible for licensing and procurement;
- International trade unions;
- Civil society organisations;
- Multi-stakeholder initiatives with a focus on labour rights; and
- The International Olympic Committee (IOC).

The Oversight Stakeholder Body assisting the design of a pilot grievance mechanism for South African farm workers, facilitated by **Tesco**, included representatives of:

- Industry associations, namely Fruit SA;
- Local trade unions, namely the Food and Allied Workers Union and the Building Wood and Allied Workers Union of South Africa;
- Local NGOs, namely the Centre for Rural Legal Studies and the Women on Farms Project; and
- Government, namely the Department of Agriculture.

At the same time, experiences in the Western Cape, in particular, also showed some of the dilemmas that approaches built on broad stakeholder engagement and buy-in may need to reckon with, including issues around coordination of the Oversight Stakeholder Group and constraints on the availability of Group members.⁵⁷ Similarly, one of the key learnings drawn from LOCOG's Stakeholder Oversight Group was that, in order for it to function effectively, the size of the group should be kept relatively small and members should have the capacity (including time) needed to undertake their role.⁵⁸

Procedural elements of an operational grievance mechanism

Given the variable nature of potential supply chain grievance mechanisms, there are not - nor should there be - templated procedural elements which can be applied automatically. The specific design and characteristics of an operational-level grievance mechanism will reflect the individual operating context and differ depending on, *inter alia*:

- Who they are designed for, and what type of issues they cover (scope and audience);

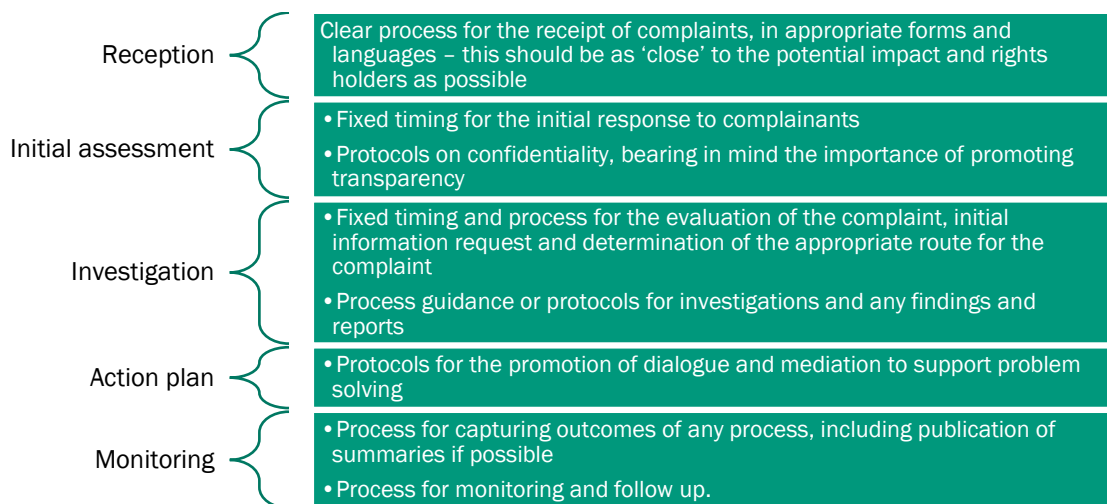
Lessons Learned, Harvard Kennedy School Corporate Social Responsibility Initiative, at: https://sites.hks.harvard.edu/m-rcbg/CSRI/publications/report_46_GM_pilots.pdf

⁵⁷ Ibid.

⁵⁸ Rees, C., 2013, *Establishing a Stakeholder Oversight Group to support a supply chain grievance mechanism*, Lessons learned from planning and staging the London 2012 Games, at: <http://learninglegacy.independent.gov.uk/documents/pdfs/sustainability/cs-establishing-a-stakeholder-oversight-group.pdf>

- How they go about resolving grievances (process);
- What kind of outcomes, or remedies, are available (remedies); and
- Who is responsible for the management and operation of the mechanism (ownership).

However, in designing a mechanism, experience from existing approaches reveal the following as some of the key procedural elements and pre-requisites for any effective mechanism:



Examples of how these elements play out in practice are discussed in the next section.

Resource, capacity and the role of independent third parties

An important question in relation to the design of an operational grievance mechanism for supply chain workers is in relation to the role of third parties. While there is no requirement that an operational grievance mechanism should be completely independent from the organisation running it, it is important that the mechanism has sufficient design components to support the confidence of complainants and parties to any process that complaints will be dealt with in a way that maintains trust and builds confidence.

At the same time, completely outsourcing the management of grievances is not always either desirable or possible. In order to take responsibility for their actions and resulting impacts on workers’ rights, companies need to be involved in the management and responses to grievances. Moreover, it is important to bear in mind that operational grievance mechanisms are not independent judicial procedures, but a device to manage complaints and, where appropriate, determine remedy.

However, there are some elements of a grievance mechanism which can benefit from being managed by independent or arms-length third parties, or through the input or oversight of independent parties. These can include:

- Independent management of investigation of complaints;
- Independent third-party mediation of disputes to seek mutually agreeable solutions; and
- Involvement of stakeholders and third parties in supporting and advising on the operation of the mechanism in general, or specifically in complex cases.

In addition, operating a supply chain grievance mechanism on a day-to-day basis may require quite significant capacity and resources. While some companies, such as **Wilmar International**, have a full-time, designated Grievance Coordinator, in other cases, organisational and capacity constraints may mandate outsourcing of the management of a complaints mechanism – or parts thereof – to a third-party. **LOCOG**, for instance, was, by its nature, a temporary organisation and did not necessarily have the skills, infrastructure and time needed to handle complex supply chain grievances, especially during the pre-Games and Games period. In this case, outsourcing the development and operation of the mechanism to a specialist consultancy, with LOCOG retaining oversight as well as the final say over the way in which complaints were dealt with and closed, proved to be the most efficient approach.

Monitoring and reporting

An important part of an effective mechanism lies in what happens after a complaint has been closed off and there are agreed actions to take place to provide, or support, remedy. There are different ways in which the implementation of agreed actions can be monitored. These include:

- Direct monitoring by the entity examining the complaint and running the complaints mechanism;
- Appointment of a third party to monitor implementation of agreed actions; and
- Requiring regular reports on implementation by the entity against which the complaint was lodged to the entity who received the complaint.

For example, a company running a supply chain grievance mechanism may take a direct role in monitoring implementation of corrective actions or decide to appoint a third-party to do so on their behalf. This is an approach used by **Adidas**, whose Social and Environmental Affairs department is responsible for monitoring implementation of remedial actions agreed as outcomes of a third-party complaint.⁵⁹ Under the **Fair Wear Foundation's** complaints procedure, in turn, member companies are responsible to follow up on complaints with their suppliers and to monitor that agreed improvements are implemented, as well as to report back on complaints handling to FWF on a regular basis.⁶⁰

Keeping the rightsholder central and informed

Throughout the process – however defined – it is important to try to keep the worker who has raised the complaint informed of the progress and to check in on any changes or specific information which may impact on potential outcomes. This should be done through a series of regular communications, either in defined intervals, at key stages of the complaints handling process, or both. It is good practice to contact the complainant and inform them of the status and progress of their grievance, at a minimum, at the following stages:

- Upon reception of a complaint by a supply chain worker, to acknowledge receipt and describe how the complaint will be dealt with;
- Following initial assessment of the complaint, to communicate whether the complaint is admitted and / or whether additional information is required;

⁵⁹ Adidas, *Third Party Complaints Process*, at: https://www.adidas-group.com/media/filer_public/3a/a8/3aa87bcf-9af9-477b-a2a5-100530e46b19/adidas_group_complaint_process_october_2014.pdf

⁶⁰ Fair Wear Foundation (FWF), *Complaints Procedure*, at: https://www.fairwear.org/ul/cms/fck-uploaded/documents/fwfpublications_reports/FWFcomplaintsprocedureMarch2014.pdf

- Seek through formal or informal mediation to see whether the issues can be resolved by agreement
- Throughout the investigation or examination of the complaint to provide regular updates on its progress;
- Decide on whether any specific action is required for remediation or whether further mediation is appropriate
- Upon the development of corrective and remedial actions, to seek the complainant's perspective and, ideally, agreement;
- After the conclusion of the actual complaints process, to gather their views on whether any agreed actions are effectively being implemented.

Annex 2: Examples of code of conduct requirements

M&S Global Sourcing Principles

“Workplace grievances:

Suppliers must provide a grievance mechanism for workers (and their organisations, where they exist) to raise workplace concerns. This grievance mechanism must involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution. The mechanism must also allow for anonymous complaints to be raised and addressed. The existence and scope of this mechanism must be clearly communicated to all workers and their representatives, and all workers must have equal access.”

Gap Inc. Code of Vendor Conduct

“GRIEVANCE CHANNELS AND RETALIATION

The facility shall ensure that workers have means to report grievances to management, including a channel that provides for confidentiality and anonymity. The facility shall also ensure workers can bring to management’s attention grievances through means other than their immediate supervisor. The grievance system shall include addressing grievances in a timely manner and documenting grievances and management action on grievances.

The facility shall provide for a system for addressing disputes in the workplace, whether between co-workers or between workers and supervisor or manager. The facility shall ensure that such grievance channels and mechanisms for resolving disputes and grievances provide for protection from retaliation.”

Mars Supplier Code of Conduct

Guidelines on abuse, harassment and disciplinary action: “Supplier will establish written and/or verbal procedures for handling grievances from workers concerning workplace conditions and treatment.”

Guidelines on freedom of association and collective bargaining: “Supplier provides confidential and anonymous means for employees to raise grievances and records this process.”

Sodexo Supplier Code of Conduct and Supplier Guide

Principle on implementation: "(...) Suppliers shall establish processes or mechanisms where employees can raise issues of concern without fear of reprisals or negative repercussions."

Guidelines on grievance procedure:

"Suppliers should (...)

- Ensure that the workplaces have clearly communicated grievance mechanisms that enable employees to raise issues of concern to management without fear of reprisals or negative repercussions. Where possible, employees should have more than one channel for raising concerns.
- Ensure that any such mechanisms are legitimate, accessible, predictable, equitable, transparent, sources of continuous learning, based on engagement and dialogue and respectful of human rights. Special attention should be paid to needs of special groups including migrant workers and women."

Annex 3: Tools and resources

| What | What's in it |
|--|--|
| CAO Grievance Mechanism Toolkit | <ul style="list-style-type: none"> • Practical guide for implementing grievance mechanisms in different sectors • Focus on community grievance mechanisms, but relevant insights for worker grievance mechanisms • Discussion of the business case and list of useful tools and resources |
| EHRC Guide to Human Rights Complaints Handling | <ul style="list-style-type: none"> • Guidance on handling human rights complaints by workers, as well as customers and communities within the UK • Contains case studies and checklist for implementation and review of company approaches |
| ETI Vulnerable Workers Toolkit | <ul style="list-style-type: none"> • Toolkit to assist suppliers in enhancing protection of vulnerable workers • Contains guidance and specific considerations on workplace grievance mechanisms for vulnerable groups of workers |
| Access Facility database of company mechanisms | <ul style="list-style-type: none"> • Database of existing company grievance mechanisms, incl. for supply chain workers and direct workforce • Searchable by keyword, industry or type of mechanism |
| Access Facility case studies | <ul style="list-style-type: none"> • Series of concise case studies discussing learnings from different company approaches to grievance mechanisms, incl. in supply chain contexts |
| SOMO Human Rights and Grievance Mechanisms Portal | <ul style="list-style-type: none"> • Collection of tools and resources on grievance mechanisms • Designed primarily for those wishing to lodge a complaint, but with insights and resources that are also relevant for those operating / designing grievance procedures |
| UN Global Compact Webinar on Grievance Mechanisms for Business and Human Rights | <ul style="list-style-type: none"> • Webinar (transcript and recording) on role of operational-level grievance mechanisms • Key considerations when designing a mechanism for it to be effective in practice and case study examples |
| Verité Fair Hiring Toolkit – Establishing Effective Grievance Mechanisms & Protection for Whistleblowers | <ul style="list-style-type: none"> • Practical toolkit developed to assist suppliers enhance employment and labour practices of migrant workers • Contains specific module on grievance mechanisms, incl. different forms of workplace grievance mechanisms, their relation to trade unions and worker committees, and tools for the evaluation of effectiveness |
| CSR Europe Assessing the Effectiveness of Company Grievance Mechanisms | <ul style="list-style-type: none"> • Synthesis report discussing effectiveness criteria for operational grievance mechanism (incl. workplace procedures) using examples from corporate practice |
| Acas Disciplines and Grievances at Work Guide | <ul style="list-style-type: none"> • Guidance on how to handle a grievance submitted by a worker (key considerations transferable to non-UK context) |