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Grievance Mechanisms in Supplier Codes of Conduct

B4IG Operational-level Principles & Wording



Business
for **Inclusive**
Growth



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Introduction

According to the **United Nations Guiding Principles (UNGP) on Business and Human Rights**, a grievance mechanism refers to “any routinized, State-based or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought” (UNGPs, 2011). A grievance is any “perceived injustice evoking an individual’s or a group’s sense of entitlement, which may be based on law, contract, explicit or implicit promises, customary practice, or general notions of fairness of aggrieved communities” (Ibid).

State-based judicial and non-judicial grievance mechanisms form the foundation of a wider system of remedy. **In this document, we will be focusing on operational-level grievance mechanisms (OLGM), which are generally administered by companies or multistakeholder organisations.** They perform two main functions: (1) identifying adverse impacts by providing one or more channels to raise concerns and (2) addressing identified grievances early and directly by the company (UNGPs, 2011). Grievance processes can help “strengthen the identification of real and potential adverse impacts by highlighting issues that may not have received sufficient attention, and by providing inputs on how to effectively respond to adverse impacts” (OECD, 2018).

It is to be noted that in this document we refer to Grievance mechanisms as a remedy ecosystem of different channels and steps to resolve adverse impacts. This is distinct from a whistleblowing mechanism focused on warning organisations about illegal or unethical behaviour and protecting the whistle-blowers.

In line with the UNGPs, “in order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:

(a) Legitimate

(b) accessible

(c) predictable

(d) equitable

(e) transparent

(f) rights-compatible

(g) a source of continuous learning

(h) based on engagement & dialogue.”

2 Operational-level Principles

Building on the UN Guiding Principles and on the OECD's Multinational Enterprises Guidelines, as well as businesses' best practices and working sessions between member companies, we have identified seven operational-level principles for Supplier codes of conduct, contracts, or other equivalent documents, to ensure the set-up of effective grievance mechanisms:

- 1. Making a commitment to provide for or cooperate in the remediation of adverse impacts** that the company has caused or contributed to through its operations and supply chain.
- 2. Ensuring accessibility of the mechanisms set in place:** if an operational-level grievance mechanism has been established by the company or its supplier, the structure and role – early warning system, complaint mechanism and/or combined process – should be clearly detailed in different languages.
- 3. Protecting employees and workers** from retaliation, underlining confidentiality and safe storage of data.
- 4. Identifying and addressing grievances in a predictable manner:** the company should commit to handle cases in a defined and timely manner aside from exceptional circumstances, and clearly indicate the step-by-step procedure and responsibilities in the investigation process and remediation phase, with reference to the possible preventive, corrective, and disciplinary actions.
- 5. Involving different stakeholders in the design, implementation and improvement of the grievance mechanisms** – employees, supply chain workers, workers representatives, independent experts, local authorities, etc. –, in order to ensure legitimacy and rights-compatibility and to better understand the immediate and long-term consequences of business activity.
- 6. Guaranteeing access to other remediation options and channels available to stakeholders,** such as judicial, state-based non-judicial, OECD National Contact Points for Responsible Business Conduct, multistakeholder grievance mechanisms, community processes, and collective bargaining. It is important to create access to multiple reporting channels with a minimum of one being confidential in nature.
- 7. Monitoring the efficiency of the company's grievance mechanisms and other remediation processes:** reporting good practices, incorporating stakeholder feedback and updating the mechanisms and internal policies based on identified patterns.

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Proposed wording

Building on the mentioned principles above, we propose the following structure for wording **to be included in the supplier code of conduct, contract, or equivalent document**:

- “In line with the United Nations Guiding Principles (UNGP) on Business and Human Rights and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, we commit to providing for or cooperating in remediation upon identifying adverse impacts caused or contributed to by our business activity.
- **We require our suppliers/business partners (*term to be selected*) to put in place accessible channels to raise concerns. We also require them to cooperate in remediation through operational-level grievance mechanisms (OLGMs) that are either established or outsourced to a third-party organization and through other grievance processes (*available options such as hotlines, third-party audit officers, digital platforms to receive complaints, etc. to be listed*).**
- If an OLGM is established in the supply chain, we underline the need for the supplier to incorporate the UNGP 31 criteria of effectiveness: the grievance mechanism should be **“legitimate, accessible, predictable, equitable, rights-compatible, transparent, and based on dialogue and engagement with a view to seeking agreed solutions.”** In addition, the involvement of a range of stakeholders intended to use it such as workers representatives, independent experts, local authorities, among others is crucial in the design, implementation, and improvement of the grievance mechanisms to ensure its legitimacy.
- **Suppliers/ business partners must make sure that employees and workers are aware of the OLGM’s existence, and that regular information is provided to users** including that the mechanism is free of charge, does not require legal representation, and that assistance can be provided to vulnerable users such as illiterate workers, among others. These must be accessible to all workers using different languages and means adapted to them.

1. Examples of themes: Rights of association, Gender-based violence, workers’ rights violation, recruitment fees, etc.

- We acknowledge that employees and workers require a clear overview of the nature of the grievance mechanism that is available, its role, and its approach to fully trust and use it, when required. In this step, **suppliers/business partners need to detail the procedure in a clear and concise manner, providing information on the time frame for each stage, and possible outcomes as follows:** (*companies to include specificities related to the OLG M for supply chain workers*). Suppliers/ business partners must actively communicate on grievance mechanisms to guarantee accessibility.
- To guarantee proper handling of grievances, we recommend that **suppliers/business partners pre-categorise the themes¹ that fall under the scope and to guide how each one can be handled** by the team that is tasked with this. It is to be noted that for all cases, and in the event that a grievance concerns several categories, the team that handles the case may be flexible and adapt to the circumstances. This process is to ensure higher severity grievances can be escalated quickly, but also so that trend analysis can be undertaken to feed into risk assessment to guide the team to take appropriate steps.
- Suppliers/business partners must **ensure that procedures for confidential complaint reporting are in place to protect workers** who raise concerns in good faith from retaliation.
- Concerns that have been raised **will be addressed by suppliers/business partners in a timely manner a** (*precise number of weeks/months could be included on average*) **with a clear description of the responsibilities** in the investigation process and the remedy stage, indicating the preventive, corrective, and disciplinary actions that have been articulated based on existing standards, precedent cases, and employees/workers' needs.
- Suppliers/business partners will seek to restore, to the extent possible, the affected individuals to the state they would have been in had the adverse impact not occurred. This would be through appropriate remedy in the form of **restitution** (*restoring to the original states before the violation occurred*), **compensation** (*return of economic damage such as loss of earnings, opportunities, etc.*), **rehabilitation** (*medical care, social and legal services*), **guarantee of non-repetition, and satisfaction** (*public apology, administrative sanctions, etc.*). The outcomes and remedies will be in accordance with internationally recognized human rights.

- Suppliers/business partners are requested to consider grievance mechanisms as a tool to also identify patterns to mitigate and prevent future human rights violations. Where possible, for transparency reasons, we require suppliers to disclose indicators information (*detailed in Annex*) on grievance mechanisms internally and publicly. **Suppliers/ business partners should track the impact of the grievance mechanisms and monitor access and efficiency.**
- We acknowledge that **operational-level grievance mechanisms do not act as substitutes, but rather as complementary processes** to state-based and non-state-based judicial claims and channels and support the usage of other processes as needed. As part of its commitment to having a legitimate grievance mechanism, *[Supplier / business partner]* will guarantee to *[Enterprise]* that it will **accept offers of assistance by an OECD National Contact Point for RBC and participate in good faith in NCP assisted mediation** that resolves the OECD Guidelines issues raised in a specific instance.
- Suppliers/business partners are expected to include the same provisions in their own supplier codes of conduct, contracts etc. to the extent possible.

Annex

Examples of information that can be disclosed:

The draft disclosure requirement under the EU CSRD ESRS S1 Own Workforces and ESRS 2 Value Chain includes requisites on “grievance mechanisms”, as follows:

- Information on the total number of incidents of discrimination, including harassment, reported in the reporting period.
- The number of complaints filed through channels for people in the undertaking’s own workforce to raise concerns (including grievance mechanisms) and, where applicable, to the National Contact Points for OECD Multinational Enterprises.
- The total amount of material fines, penalties, and compensation for damages as a result of the incidents and complaints disclosed.
- Information on the general approach and processes for remedy, and whether it is effective.
- Any specific channels that the company has in place for workers to raise their concerns or needs directly or through third-party mechanisms.
- Information on how the company tracks and monitors issues raised and addressed and how it ensures the effectiveness of the channels, including through involvement of stakeholders.

Global Reporting Initiative (GRI) proposes that organisations describe:

- “Whether and how the intended users are informed about the grievance mechanisms and remediation processes;
- Whether and how the intended users are trained to use the grievance mechanisms and remediation processes;
- The accessibility of the grievance mechanisms and remediation processes, such as the number of hours per day or days per week they are accessible, and their availability in different languages;
- How the organization seeks to ensure it respects users’ human rights and protects them against reprisals (i.e., non-retaliation for raising complaints or concerns);
- how satisfied users are with the grievance mechanisms and remediation processes, and with the resulting outcomes, as well as how the organization assesses user satisfaction;
- The number and types of grievances filed during the reporting period, and the percentage of grievances that were addressed and resolved, including the percentage that were resolved through remediation;
- The number of grievances filed during the reporting period that are repeated or recurring;
- Changes made to the grievance mechanisms and remediation processes in response to lessons learned about their effectiveness.”

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