

ASSESSING THE EFFECTIVENESS OF COMPANY GRIEVANCE MECHANISMS

CSR Europe's Management of Complaints Assessment (MOC-A) Results



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About this report

This report was written by the staff of CSR Europe with support from Yadaira Orsini from International Alert. It is based on the information gathered in the framework of CSR Europe's Collaborative Project on Sustainable Supply Chains, Business & Human Rights.

The project - guided by CSR Europe's corporate members Hitachi, ArcelorMittal, Vattenfall and Volkswagen, and CSR Europe's German partner organisation, econsense – aims to enhance joint learning on the business implications of the UN Guiding Principles on Business and Human Rights and to support companies in their implementation. One of the specific focus areas is company mechanisms for addressing human rights complaints.

For questions about the report, CSR Europe's project on Business and Human rights or the management of Complaints Assessment (MOC-A), please contact Mariya Stoyanova ms@csreurope.org or visit www.csreurope.org.

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CSR Europe maintains a policy of not acting as a representative of its members, nor does it endorse

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CSR Europe is the leading European business network for Corporate Social Responsibility. Representing over 5000 companies, it is a platform for supporting companies to positively contribute to society. In this context, CSR Europe connects companies to share best practice on CSR, innovate new projects between business and stakeholders, and shape the modern day business and political agenda on sustainability and competitiveness.

CSR Europe addresses societal challenges through the Enterprise 2020 Initiative, which fosters collaboration, innovative practical action and shapes the business contribution to the European Union's Europe 2020 strategy for smart, sustainable and inclusive growth. For more information visit www.csreurope.org

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Executive summary

This report is the outcome of CSR Europe's collaborative work with members on the topic of company grievance mechanisms. It contains a practical interpretation of the eight effectiveness criteria for grievance mechanisms which served as the basis of CSR Europe's Management of Complaints Assessment (MOC-A) tool. The report also presents an overview of the initial findings from deploying the tool with 15 companies from a number of different sectors.

87% of CSR Europe's members report already having a mechanism in place that deals with complaints coming from the workforce and 40% have started addressing complaints from communities in a systematic way. The UN Guiding Principles refer to this process as a "company operational-level grievance mechanism" and spell out eight criteria¹ that indicate its effectiveness.

CSR EUROPE'S MANAGEMENT OF COMPLAINTS ASSESSMENT (MOC-A)

Developed together with companies, experts and stakeholders in the framework of CSR Europe's project on Business and Human Rights, the MOC-A tool is based on the eight effectiveness criteria outlined in the UN Guiding Principles. It clarifies what these criteria practically mean in a business context by translating them into 21 concrete process requirements.

MOC-A is designed to assess the level of effectiveness of company grievance mechanisms and to identify areas for improvement of the process. The tool also serves to collect good practice examples providing companies with the opportunity to learn from peers.

ASSESSING THE EFFECTIVENESS OF COMPANY GRIEVANCE MECHANISMS

In 2012, MOC-A was piloted with 15 multinational companies representing a number of sectors (ICT, materials, mining, oil and gas, logistics, etc.). Some results of the pilot benchmark study on the performance of companies include:

- All interviewed companies have a defined process for addressing complaints with clear roles, responsibilities, procedures and process steps, both at headquarter and at operational level.
- Companies have set up effective processes in relation to some of the criteria, but none of the interviewed companies perform consistently well in relation to all criteria.
- "Rights-compatibility" remains particularly unclear in terms of its practical application within a business context.
- Engaging with stakeholders and prioritizing dialogue as the means to address and resolve issues was identified as an overall area for improvement.

REMAINING CHALLENGES AND NEXT STEPS

From the deployment of the Management of Complaints Assessment (MOC-A) tool, CSR Europe has identified a number of areas to improve on:

- Overcoming cultural differences: For global companies, one of the biggest challenges remains implementing policies at a local level, which have been set up at the corporate level. Most often, it is a question of culture rather than methodology.
- Design: Sufficient effort and time needs to be invested in designing a grievance mechanism. Companies need to consider carefully the mechanism they want to set up.
- Continuous improvement: Companies need to have a channel through which complaints can be recorded and dealt with. The discipline to learn from those issues and avoid them in the future is critical.
- KPIs to measure the performance of grievance mechanisms

1. UN Office of the High Commissioner for Human Rights, Guiding Principles on Business and Human Rights, endorsed by the UN Human Rights Council in 2011 (Principle 31) www.businesshumanrights.org/Documents/UNGGuidingPrinciples.



Introduction

Companies are increasingly expected to take into account how their operations impact the human rights of internal and external stakeholders. The UN Guiding Principles on Business and Human Rights (UNGPs), adopted in 2011, spell out the expectations that in order to fully meet their responsibility to respect human rights, companies need to engage in remediation of impacts they have caused or contributed to.

Remediation can be provided in a number of ways, including negotiations with legitimate worker representatives and trade unions. One way is to "establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted"²

There is indeed a strong business case for addressing issues of concern at an early stage through establishing a company mechanism for receiving and resolving complaints: an effective process ensures a timely resolution, prevents issues from escalating, limits the negative publicity and can serve to improve future processes and policy-making.

In fact, a large percentage of CSR Europe's members reported having a mechanism in place that deals with complaints coming from the workforce (87%) and a number of companies have started addressing complaints from communities in a systematic way (40%)³.

The UNGPs refer to this process as a "company operational-level grievance mechanism" and spell out eight criteria⁴ that indicate the effectiveness of the process.

THE UN GUIDING PRINCIPLES AND GRIEVANCE MECHANISMS

The UN Guiding Principles on Business and Human Rights are built on three pillars: 1) the States' duty to **protect** human rights against abuses committed by third parties; 2) businesses' responsibility to **respect** human rights; and, 3) the need to provide access to a **remedy**, judicial or non-judicial, to affected stakeholders.

As part of the third pillar, the UN Guiding Principles propose a set of operational principles for both State-based and non-State based mechanisms, which can be judicial or non-judicial. Whether State-based or company-based, non-judicial grievance mechanisms are not meant to replace judicial ones but rather to complement them. Non-State based mechanisms

2. UN Office of the High Commissioner for Human Rights, Guiding Principles on Business and Human Rights, endorsed by the UN Human Rights Council in 2011 (Principle 29) www.businesshumanrights.org/Documents/UNGGuidingPrinciples.

3. Information from CSR Europe and Econsense Business and Human Rights Internal Survey, 2012 (36 companies)

4. UN Office of the High Commissioner for Human Rights, Guiding Principles on Business and Human Rights, endorsed by the UN Human Rights Council in 2011 (Principle 31) www.businesshumanrights.org/Documents/UNGGuidingPrinciples.

could be administered by individual businesses, industry associations or multi-stakeholder groups. Company operational-level grievance mechanisms are one example of dialogue-based non-judicial mechanisms (see Figure 1).

Company operational-level grievance mechanisms, referred to in this publication as “company grievance mechanisms” or simply “grievance mechanisms”, are processes set up and administered by companies. They serve to alert companies to identify potential human rights impacts, and once identified, to address them at an early stage and provide remedy where applicable. In addition, complaint mechanisms can support the company’s due diligence process as a means to identify negative impacts and use the learning to avoid and mitigate such impacts in the future by informing revision of processes and policies.

The UNGPs clarify that “operational-level grievance mechanisms can be important complements to wider stakeholder engagement and collective bargaining processes, but cannot substitute for either.”⁵

In fact, in the case of employees and other workers represented by a legitimate trade union, those industrial relations are themselves a form of operational-level grievance mechanism.

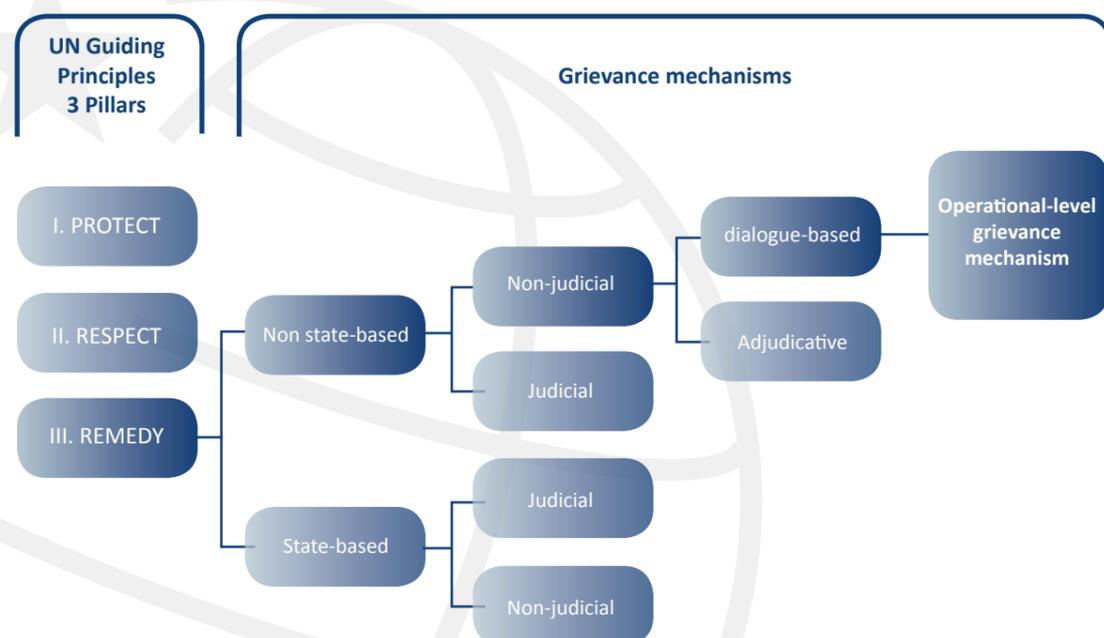
In addition, the UNGPs outline what constitutes an effective grievance mechanism. They spell out eight criteria that can indicate the effectiveness of company mechanisms for addressing complaints.

CSR EUROPE’S MOC-A TOOL

When CSR Europe started addressing the topic of company grievance mechanisms in 2012, as part of its project on Business and Human Rights⁶, it was evident that:

- Little was known about what constitutes an efficient and effective grievance mechanism
- It was not clear what the eight UN effectiveness criteria practically mean in a business context
- Companies expressed a strong need to learn from peers and share examples of good practices

FIGURE 1: THE UN GUIDING PRINCIPLES AND GRIEVANCE MECHANISMS



5. UN Office of the High Commissioner for Human Rights, Guiding Principles on Business and Human Rights, endorsed by the UN Human Rights Council in 2011 (Principle 29) www.businesshumanrights.org/Documents/UNGuidingPrinciples.

6. For more information on CSR Europe’s project on business and human rights, please visit <http://www.csreurope.org/business-and-human-rights#.Un46Dfnktc4>

In order to address these gaps and support companies in understanding the UNGPs expectations in practice, CSR Europe developed its Management of Complaints Assessment (MOC-A). The tool serves to provide companies with:

- Understanding of the concrete process requirements stemming out of the eight UN effectiveness criteria for company grievance mechanisms;
- Assessment of how the company performs against the criteria, pointing at areas for improvement
- Compilation of good practices of other companies to draw on

In its pilot phase, the MOC-A tool was deployed with 15 companies. In addition to an indication of the current level of maturity against the eight UN effectiveness criteria, the tool has allowed for collection of information on the trends of the organisational set up of company grievance mechanisms.

PURPOSE AND SCOPE OF THIS REPORT

This report is the outcome of CSR Europe’s practical work with companies on the topic of grievance mechanisms that address complaints from employees and communities impacted by business operations.

This report aims to equip companies with a “practical reference” and to give an indication of the process requirements for an effective company grievance mechanism through providing:

- **A practical interpretation of the eight effectiveness criteria** for grievance mechanisms laid out in Principle 31 of the UN Guiding Principles for Business and Human Rights. This interpretation has served as the basis for the CSR Europe’s MOC-A tool.
- **An overview of the initial findings of the Management of Complaints Assessment (MOC-A)**, including an indication of performance against the eight effectiveness criteria and an overview of the different ways to set up a company grievance mechanism.

It is important to note that CSR Europe’s work

and, subsequently this report, focuses on the effectiveness of the process of addressing complaints as opposed to the effectiveness of the outcomes. There is a clear link between process and outcome, whereby an effective mechanism may be expected to contribute to fair and optimal resolution of grievances. Nevertheless, it is beyond the scope of this report to examine the nature of remedy provided.

STRUCTURE

This report is structured in two complementary parts:

1. Eight criteria for effective company grievance mechanisms

This section aims to “translate” the eight criteria into business language. The criteria are broken down into a total of 21 process requirements, and each of them is practically explained and illustrated through examples of company practices.

2. Assessing the effectiveness of company grievance mechanisms

Based on the effectiveness criteria, CSR Europe has developed a Management of Complaints Assessment (MOC-A) tool, which allows for the benchmarking of companies’ processes in dealing with complaints. Some results of the tools are also presented in this section, providing insights on the main trends in company practice based on interviews with 15 large multinational companies from different sectors.

NOTE for the reader: Use of language

The terms “grievance”, “complaint”, “issue”, “concern” as well as the corresponding “operational-level grievance mechanism” and “complaints mechanism” are used indiscriminately throughout this paper. They relate respectively to dissatisfactions raised by either an employee or members of a community and the mechanism within a company to address those. Unless a specific distinction is made, “operational-level grievance mechanisms” are referred to as “grievance mechanisms” for brevity.

I. Eight criteria for effective company grievance mechanisms

The Guiding Principles have suggested a set of eight effectiveness criteria applicable to a company operational-level grievance mechanism. The criteria ensure that a grievance mechanism is effective if it is:

1. Legitimate
2. Accessible
3. Predictable
4. Equitable
5. Transparent
6. Rights-compatible
7. A source of continuous learning
8. Based on engagement and dialogue

Many of the issues in the effectiveness criteria overlap. Hence, it is important to clearly distinguish between what each criterion means and what the best way for businesses to implement it is. This requires “translating” the effectiveness criteria into more practical guidelines for businesses.

Taking as a basis the definition of the eight effectiveness criteria for grievance mechanisms contained in Principle 31 of the UN Guiding Principles, each criterion is defined through a series of process requirements. In total, 21 process requirements have been identified (Table 1).

To “translate” the eight criteria into 21 process requirements in this report, CSR Europe worked with a grievance mechanisms expert from International Alert and later refined its findings based on consultations with key actors from the European Commission, NGOs, trade unions, the OECD, and CSR Europe member companies⁷.

This section contains a definition of each process requirement, followed by one example of how a company has applied it, including some of the results obtained. Some of the examples were provided by grievance mechanisms experts, others were collected by CSR Europe during the development of its Management of Complaints Assessment (MOC-A) tool.

The examples are not meant to be prescriptive or comprehensive, but rather to present the experience of companies in addressing issues relevant to the effectiveness criteria.



⁷ CSR Europe Stakeholder Dialogue on Business and Human Rights, 20 March 2013.

TABLE 1: CRITERIA AND PROCESS REQUIREMENTS FOR EFFECTIVE COMPANY GRIEVANCE MECHANISMS

Criteria:	Definition:	Process requirement:
1. Legitimate	<i>"Enabling trust from stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes."</i>	<p>1.1 Establish a defined process to address grievances with clear lines of accountability</p> <p>1.2 Conduct consultations with key stakeholders for the design, revision and monitoring of the mechanism</p>
2. Accessible	<i>"Being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access."</i>	<p>2.1 Actively provide information on the existence and functioning of the mechanism in a way that is adapted to the context and audience for whose use it is intended</p> <p>2.2 Address the barriers stakeholders may have in accessing the mechanism by providing multiple access points that are well adapted to the operational context</p> <p>2.3 Provide assistance to access the mechanism for those that may face particular barriers to access</p> <p>2.4 Have an explicit commitment to protect the user from reprisals</p>
3. Predictable	<i>"Providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation."</i>	<p>3.1 Establish both at headquarter and operational levels a defined process with clear roles, responsibilities, procedures, and process steps including monitoring implementation</p> <p>3.2 Establish a clear timeframe for each step or stage of the process</p> <p>3.3 Define the types of complaints that fall under the scope of the mechanism as well as the available outcomes</p>
4. Equitable	<i>"Seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms."</i>	<p>4.1 Be open to share relevant information in a way that can be easily understood</p> <p>4.2 Facilitate the means through which the affected stakeholders can have access to advice or expertise</p>
5. Transparent	<i>"Keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness to meet any public interest at stake."</i>	<p>5.1 Keep users of the mechanism informed throughout the process</p> <p>5.2 Report internally and externally on the performance of the mechanism</p>
6. Rights-Compatible	<i>"Ensuring that outcomes and remedies accord with internationally recognized human rights."</i>	<p>6.1 Assess any complaint on its possible human rights impact</p> <p>6.2 Ensure that outcomes do not infringe on the rights of the complainant</p> <p>6.3 Adopt the higher standard in case of conflict between national legislation and international norms on human rights</p>
7. Source of Continuous Learning	<i>"Drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms."</i>	<p>7.1 Keep a centralised record of complaints</p> <p>7.2 Monitor and assess the performance of the mechanism on a regular basis</p> <p>7.3 Integrate key lessons learnt</p>
8. Based on Engagement and Dialogue	<i>"Consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances."</i>	<p>8.1 Establish a system for feedback collection from users</p> <p>8.2 Prioritise engagement and dialogue as the means to address and resolve grievances</p>

1. LEGITIMATE

"Enabling trust from other stakeholder groups for whose use they are intended and being accountable for the fair conduct of grievance processes"

Legitimacy stems from the recognition of a grievance mechanism as valid by its users and its acceptance and use as the regular channel to raise grievances or concerns. This implies that users trust the mechanism and its outcomes.

A legitimate grievance mechanism cannot require complainants to forego seeking other forms of non-judicial or judicial remedy. In addition, the purpose of the process should be explicitly to provide timely resolution and the process should be authorised to provide remedy where appropriate.

1.1 Establish a defined process to address grievances with clear lines of accountability

In order for the grievance mechanism to be trusted, it also needs to be – and to be perceived as – objective in terms of having a clearly defined process. This includes a clear indication of who is responsible and accountable in the company for managing grievances and what the procedure is through which stakeholders' concerns will be addressed.

Example (mining sector)

After years of managing complaints from stakeholders on an ad hoc basis, where the relevant department would take the lead and responsibility with no other area being involved, a mining company decided to formalise its process. The reasons behind such decision included:

- Lack of clarity on roles and responsibilities, which led to internal conflicts among departments who were involved in a specific case;
- Longer times taken to respond to cases, which was reflected by the low level of satisfaction of users;
- Lack of traceability of the relevant documentation of the cases.

In developing a formal process, the company created a "grievance office" within its social performance department to centralise all complaints and redirect them to the relevant areas.

Prior to establishing the grievance office, if an environmental complaint were made to the company, it would be received, recorded and managed by the environmental department on its own. With the new structure, the complaint would now be received and recorded by the grievance office and it would redirect it to the environmental department which would then have to manage it.

The office also centralises all the information related to each case, including evidence, correspondence between parties, reports and any other relevant supporting documentation. It is also responsible for monitoring and closing the complaint.

The process of establishing the grievance office took the company approximately one year, after which a piloting phase took place. The company is now reviewing how its current procedure can be better adapted to incorporate the findings of the pilot exercise (which also took one year).

1.2 Conduct consultations with key stakeholders for the design, revision and monitoring of the mechanism

Consulting key stakeholders such as employees, clients or communities in the design, monitoring and/or evaluation of a grievance mechanism will allow the company to create trust around the process. It will also lead to a more fair and responsive process, where stakeholders can contribute to the improvement of the grievance mechanism.

Example (mining sector)

As part of its annual human rights plan, a mining company conducts two visits a year to stakeholders, who it has identified as critical (includes government

authorities, community leaders and NGOs at local and national levels) in order to present how the mechanism works and if they have any particular recommendations to improve the process. Such recommendations are then analysed internally and if applied, the company reports back to the stakeholder which made them, in order to show how their concerns and/or suggestions were taken into consideration.

Holding these meetings has helped the company assess how the mechanism is perceived by users and make any adjustments where needed. It has also provided the company with a platform for continued dialogue and engagement with stakeholders, such as human rights NGOs, which would otherwise not engage with the company.



2. ACCESSIBLE

“Being known to all stakeholders groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access”

The mechanism should be easily approachable, used and understood by any stakeholder who wishes to raise a concern, regardless of language, gender, disability, literacy level or any other issue that may impede affected stakeholders to access remedy.

2.1 Actively provide information on the existence and functioning of the mechanism in a way that is adapted to the context and audience for whose use it is intended

In making the grievance mechanism known to the user, the company should explain its purpose and how it works. The promotion of the mechanism should also consider the differences in audiences when developing the communication strategy. Communication with employees and contractors can be more technical and detailed as opposed to communication with clients or communities, which should be more general and less technical. For instance, while in the first case an effective means can be the intranet, for clients or communities a more effective means can be a hotline or face-to-face communication.

Training could also provide staff with the opportunity to identify any special requirements that vulnerable groups, such as people with disabilities, may have, and where these were identified, reasonable arrangements could be made to cater for these special requirements.

Example (manufacturing sector)

When an internal grievance mechanism was launched in a manufacturing company, an official training session was given to all employees on how to access and use the system, both from the intranet and remote access. The hour-long training was facilitated by the mechanism’s coordinator. The company also included this training in the weekly induction meetings given to every new employee as well as in its intranet site as an online module available for employees and contractors.

Example (oil & gas sector)

As part of the dissemination of its social management plan to local communities and authorities, an oil company decided to include information on its grievance mechanism. For the company it was important to:

- Have a preventive approach and act as early as possible considering the project would begin its construction phase soon.
- Take advantage of an existing activity such as the dissemination of the social plan, which was legally mandatory, to introduce the grievance mechanism.
- Build on the existing community engagement and keep dialogue channels open with other stakeholders, such as human rights NGOs, that would not engage with the company otherwise.

More specifically, the company explained to community members where the access points were, what the process consisted of and the approximate time it would take. The presentation also included the types of grievances the mechanism would not be able to address in order to manage users’ expectations. They distributed this information in brochures and used local radio stations that communities listened to in order to further promote the mechanism and the ways to use it.

2.2 Address the barriers stakeholders may have to accessing the mechanism by providing multiple access points that are well adapted to the operational context

Access to a grievance mechanism can be limited due to a number of obstacles or barriers that potential users can face. “Barriers to access may include a lack of awareness of the mechanism, language, literacy, costs, physical location and fears or reprisal”. Such barriers can be overcome by providing multiple access points adapted to the specific context/culture.

Access points can include hotlines, online services, suggestion boxes, meetings, face-to-face communication and an intranet system, among others. Grievances can even be raised outside the company’s structure via a third party.

Some access points are more effective than others, depending on the context and audience for whose use they are intended. For instance, though many companies have online systems to lodge a complaint, some communities may not have full access to the internet or may prefer more direct channels. Employees may have corporate hotlines they can call but they might feel their grievance would be better addressed at the country office. Being able to choose from a wide range of access points would make the mechanism more accessible.

Example (mining sector)

A mining company operating in an area with a presence of indigenous peoples translated all its materials on its grievance mechanism to their native language. The material explained the steps that followed once a complaint was filed, the approximate time each step would take and provided a list of telephone numbers and email addresses they could call or write to in case they wished to lodge a grievance.

The communication material included brochures, posters that were placed in key employee and community areas (such as office entrances, cafeterias and dining rooms, and schools) and wallet-sized cards with contact details were given to each local employee.

The company also hired a local as part of its social department to support both communities and local employees who wished to raise a concern or grievance in their native tongue. This person was based in the field, which helped employees and other users gain direct access to the mechanism.

2.3 Provide assistance to access the mechanism for those that may face particular barriers to access

Providing assistance to potential users can help guarantee the accessibility of the mechanism. This could be especially necessary in cases where, due to barriers such as culture, gender, disability, literacy, cost, length of the procedure, etc., potential users would not be able to submit a complaint.

Example (food sector)

As part of its first annual monitoring of the grievance mechanism established the previous year, a female social worker responsible for recording grievances in a banana exportation company was struck by statistics that showed that only 2% of the cases were raised by women. Knowing the context where they operated, which was described by many women workers as a “patriarchal culture”, she deduced that something was not right with the numbers, considering that women comprised 80% of their workforce.

The social worker expressed her concerns with the social performance manager and he authorised her to hold meetings with women only in order to find out more about their grievances. The women expressed not having “enough freedom to raise certain issues when men were in the same room”. Many of the grievances that were voiced included issues on sexual harassment and intimidation by male employees as well as low wages in comparison with men.

2.4 Have an explicit commitment to protect the user from reprisals

Affected stakeholders may choose not to use grievance mechanisms because they are concerned about the consequences. This is especially critical for users such as employees or union members within a company. Reprisals can range from harassment, to losing a job or contract or even threats.

Today, it is standard practice for many companies to have anonymous channels to raise complaints or grievances.

In addition, having an explicit commitment which defines the type of behaviour that is not tolerated and its consequences, can serve to overcome such potential barriers to access.

Example (electronics sector)

In addition to other channels, an electronics company set up a hotline for employees to report grievances in an anonymous way. The hotline is available 24 hours a day and can be accessed by any employee in any of the company’s operations worldwide. Complaints are reported directly to the corporate offices.

According to the company, though the majority of grievances are received by other means such as letters and emails, the ones reported through the hotline are usually on “more sensitive” issues, such as sexual or labour harassment, for users that wish to remain anonymous. The company also gives the possibility for a third party to raise a complaint in place of the affected individual. In this case, the company follows up with the third party along the process.

In addition, retaliation is explicitly mentioned within the company’s business conduct and ethics: “At company x, we do not tolerate retaliation. Company x emphatically communicates company x’s stance against retaliation so that employees know they are protected from harm after reporting in good faith—even if the report is ultimately unsubstantiated. If retaliation is found to have occurred, strong disciplinary action—up to and including termination—will be taken.”

3. PREDICTABLE

“Providing a clear and known procedure with an indicative timeframe for each stage, and clarity on the types of process and outcome available and means of monitoring implementation”

Users should be able to understand what to expect from the process (the steps, the timeline, which types of grievances are within the scope of the mechanism, the contact points in the company) and that the mechanism is not founded on, or subject to, individual preferences or interests within the company. Having a formal process also enables monitoring by any stakeholder at any stage.

3.1 Establish both at the headquarter and operational levels, a defined process with clear roles, responsibilities, procedures, and process steps including monitoring implementation

Developing clear standards and procedures that define what the steps or stages of addressing a grievance are, its timeframes and scope contributes to the consistency of the process and builds trust in the mechanism. In a predictable grievance mechanism users know what to expect from the process and are able to follow up on its outcomes.

While defining who is accountable in the company for managing the overall mechanism is key, it is also necessary to define the potential roles and responsibilities of other departments that may be involved in the process.

Grievance mechanisms developed at corporate levels should be flexible enough to be adapted to the needs and particularities of subsidiaries, while remaining consistent with corporate standards.

Example (mining sector)

A multinational company had developed as part of its corporate policies a standard on stakeholder engagement, which required all its operations to put in place a grievance mechanism. A subsidiary that had developed its own grievance mechanism following the corporate standard decided to modernise the current process and developed software to make it automatic and easier to use, particularly for the software’s administrator(s).

The process was made operational through a company procedure that was led by the Social Responsibility department. The procedure includes a section on roles and responsibilities and a flowchart that establishes the steps to be taken when responding to a grievance, which in turn serves as a roadmap for the software.

The software includes additional steps to be taken if the grievance escalates. For instance, if the situation requires it, the software will notify and involve vice presidents and even the CEO, when normally it only involves the relevant managers and supervisors.

The company has also set up a mechanism to follow up whether the agreed procedures and principles have been implemented; and whether the complaint or grievance has been resolved successfully. This monitoring mechanism allows stakeholders to appeal where they are not satisfied with the outcome of the investigation or with the proposed resolution.



3.2 Establish a clear timeframe for each step or stage of the process

Once a grievance procedure has been developed, a timeframe should also be established for clarity on how long each step may take and what the expected time required to make a resolution is.

At the same time, the mechanism also needs to be flexible enough to allow for necessary adaptations and an extension of the timeline. For many companies, the flexibility of a mechanism can depend on the room for manoeuvre that the company can have.

Established timeframes can be more difficult to adhere to when: a grievance escalates; an agreement between the parties is not reached, or the resolution of the grievance depends on third parties such as government authorities.

In cases where more time is needed to address a complaint, the updated timeline as well as the reason for that extension need to be communicated to the complainant. This will allow companies to be flexible without giving complainants the impression that timelines can be disposed of.

Example (mining sector – continued)

In such software, the company established timelines for each phase of the process:

- 14 days for first response (from the date the complaint was registered in the system);
- 1 month for internal investigation, contacting third parties where required, establishing and implementing corrective actions;
- 1 week for final response to the complainant after the process was concluded

In recognising that some grievances may take longer to resolve, the software includes an option that allows a concrete step to be extended when required, prior permission of the software's administrator(s).

3.3 Define the types of complaints that fall under the scope of the mechanism, as well as the available outcomes

A predictable mechanism should also establish what type of grievances fall under its scope, as well as the available outcomes. This can make the process more expeditious and facilitate a statistical analysis of the process. It will also allow users to have more clarity on the process and to manage their expectations as to what the mechanism can actually undertake and deliver.

Example (mining sector)

A mining company defined five types of admissible grievances: environmental; social; security and human rights; damages to private property; and labour related. One of the issues discussed when establishing the categories was whether or not ethical issues (those defined in the company's ethical code of conduct) were to be admitted in the system. The company decided it was not convenient to do so in light of the official channel that already existed to manage such cases which were under the responsibility of the human resources department.



4. EQUITABLE

“Seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise needed to engage in a grievance process on fair, informed and respectful terms”.

As the UN Guiding Principles state, there is usually an imbalance between the parties involved in a grievance, with affected stakeholders generally having fewer resources than a company. Failure to redress such an imbalance can lead to perceptions that the process is not legitimate or fair, therefore affecting the performance and giving way for grievances to be raised repeatedly. “The equitability principle seeks to redress real or perceived imbalances by placing responsibility on the company to help level the playing field”⁸.

4.1 Be open to share relevant information in a way that can be easily understood

Being open to share relevant information with the intended users of the mechanism can serve to make the process more equitable. Information should be provided in a language/ format that can be easily understood by the potential users, which may entail avoiding terms that are too technical.

Example (flower sector)

A national company dedicated to the flower exportation business decided to provide training to its largely female workforce on human rights, with a focus on gender and labour rights. The company had been recently accused by a local human rights NGO of not respecting the labour legislation that protected women workers.

The company signed an agreement with a think tank specialised in union rights to develop a training course on labour rights and gender. It also included a section on the company's grievance mechanism. The morning-long course was delivered to all employees.

As a result, critical issues were raised by the workers to the company, most of which involved payment of extra hours, maternity leave and access to social security.

4.2 Facilitate the means through which the affected stakeholders can have access to advice or expertise

It is in a company's best interest to have a strong and prepared counterpart to ensure that the dialogue can take place on an equal basis and sustainable solutions are reached. Where this is not the case, it is more likely that complainants will challenge the outcome of the process.

In the case of mechanisms for employees and other workers represented by trade unions, access to advice and expertise can be promoted through involving the appropriate trade unions.

Example (mining sector)

A multinational mining company was negotiating a resettlement process with a local community that raised a number of concerns with regards to the company's operations. Grievances included the lack of information provided to communities on national and international legislation on resettlements and company failure to meet social investment commitments they had made.

The parties reached a deadlock as communities felt that they were at a disadvantage compared to the company and its negotiating team. As a result, the company brought in a local NGO to provide expertise and technical assistance to the community and become its advisor throughout the negotiation process. The local NGO accepted the proposal with the condition that, despite being funded by the company, it would be accountable only to the communities.

Under such conditions, the community felt more confident to resume negotiations. For the company, despite the initial lack of trust with the NGO, the outcome has also been positive as out of the 31 families that lived in the community, only 8 have not yet been resettled. Negotiations continue.

5. TRANSPARENT

“Keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism’s performance to build confidence in its effectiveness and meet any public interest at stake”.

The above statement shows that there are two dimensions to this criterion: one that applies directly to the parties involved and another that applies to a more general public interest. Here, the question of confidentiality vis-à-vis transparency needs to be brought to the discussion. As seen, grievance mechanisms should find a balance between issues that are strictly confidential and those that can be shared openly.

5.1 Keep users of the mechanism informed throughout the process

Providing regular information and updates on the process to complainants not only enhances trust in the mechanism itself but also in those responsible for it. It is also a useful way to keep users informed about the progress of their cases and of showing respect to the complainant’s concerns.

Example (energy sector)

When developing its grievance mechanism, a company defined the steps where official communication was to be delivered to the complainant. Such moments included when the case was recorded, when an action plan was decided and when the grievance was solved or closed. The company also decided that if the process was taking longer than expected, they would also need to communicate this to the complainant.

The company did not want to give the impression that they did not take the complainant’s case seriously, especially since they had been accused in the past of not addressing stakeholder concerns. Such accusations could be traced back to the fact that the company managed complaints on an ad hoc

basis without a procedure to inform users regularly. Under that arrangement, complainants only received a communication once the company had addressed the case, which was usually months after the grievance was sent.

5.2 Report internally and externally on the performance of the mechanism

Companies are encouraged to report on the overall performance of the grievance mechanism both internally and externally. This could be done through official statistics, though more detailed information could also be shared on specific cases. If there is no prior agreement between the parties on the type of information that could be reported, confidentiality should be respected.

Expectations on external reporting go beyond providing information on the number of grievances received to include information on substance, such as the results obtained and the level of satisfaction of the complainants. External reporting needs to take into account what is reasonable to report and what kind of information could be useful for the (potential) users of the mechanism.

Example (materials sector)

A company in the materials sector provides internal and external information on the performance of the mechanism. Internally it reports detailed information on the grievances raised to the CSR Committee. The Committee analyses the general trends and uses the findings to revise company policy and practice. Externally it provides information in its Sustainability/ CSR Report on the number of complaints and general information on grievances.

6. RIGHTS-COMPATIBLE

“Ensuring outcomes and remedies accord with internationally recognised human rights”.

A grievance mechanism is rights-compatible when its process and outcomes are respectful of internationally recognised human rights and when it enables the exercise of rights of individuals or groups without affecting the rights of others. In addition, when a grievance affects the life, integrity, dignity or well-being of an individual or group, a rights-compatible mechanism should be based on inclusion, fairness, participation, empowerment, transparency and be attentive to vulnerable populations⁹.

In the case of employee grievance mechanisms, the process should not interfere with or substitute in any way the industrial relations or have the effect, intentionally or inadvertently, of discouraging workers from exercising their human rights to form or join trade unions and to bargain collectively.

6.1 Assess any complaint on its possible human rights impact

Traditionally, grievances have been seen in terms of company impact. However, today there is a call to understand that grievances can “raise human rights concerns.”¹⁰

Although not all grievances raise human rights concerns, the mechanism should be able to identify when a complaint related to company impact gives rise to a specific human rights issue. This will help companies identify issues that need to be escalated because they already entail or carry risk of human rights violations.

It may be useful to have a matrix that helps companies identify what kinds of grievances might be associated with human rights issues as well as the company’s impact.

Example (hydroelectric sector)

In its grievance procedure, a company in the hydroelectric sector defined a human rights complaint as “the expression of dissatisfaction made to the company, originated in perceptions of potential abuses of human rights, by its stakeholders in relation to company products or services as well as performance. The complaint can come from the failure to deliver a commitment or an unmet expectation”. The company goes on to state that “for a complaint to be considered as a human rights one, there should at minimum be a clear violation of the law and in consequence, to the national constitution (...) which contemplates all international treaties on human rights”.

In addition, the company developed a matrix to match grievances with potential violations of human rights. The matrix lists the categories of human rights, provides potential situations where those rights can be violated and then includes severity categories to determine whether such situations may constitute a minor, serious or grave violation. The list of human rights categories consist of:

- Life and integrity
- Freedom
- Labour
- Rights of ethnic groups
- Environment (those typified as environmental crimes under the national legislation)
- Property
- Information and participation

The company’s interest was to distinguish as clearly as possible how a grievance can become a human rights issue in order to avoid having distorted statistics while ensuring that those human rights issues that needed to be made visible were not overlooked.

9. Corporate Social Responsibility Initiative - John F. Kennedy School of Government (Harvard University), “Rights-Compatible Grievance Mechanisms, a Guidance Tool for Companies and Their Stakeholders”, January 2008, p. 7.

10. UN Office of the High Commissioner for Human Rights, Guiding Principles on Business and Human Rights, endorsed by the UN Human Rights Council in 2011, www.businesshumanrights.org/Documents/UNGuidingPrinciples

6.2 Ensure that outcomes and remedies do not infringe the rights of the complainant.

The outcomes of a particular complaint should be in line with the human rights of the complainant. For example, a company shouldn't reinstate a worker but refuse back pay after a wrongful dismissal; nor agree to relocate a community but to a place with less access to clean water.

In addition, outcomes should not infringe on the rights of others that may be impacted by the particular outcome. Companies are encouraged to take a holistic approach, meaning that resolutions should constitute the best alternative for all parties involved and should not undermine or replace internationally recognised human rights.

When addressing issues through complaints mechanism, companies need to ensure that the process does not undermine the role of legitimate trade unions in addressing labour-related issues.

Example (pharmaceutical sector)

A pharmaceutical company had been facing labour conflicts with its workers for over three years. Workers were invoking their right to association as a means to address labour issues such as low wages and improvement of health and safety standards. When the pressure mounted and workers announced a strike, the company CEO announced that they would put a grievance mechanism in place immediately to start addressing the issues that the workers were raising.

The workers considered this to be a violation of their right to form or join a trade union, which were the channels through which workers could raise such issues and find a negotiated agreement with the company. In addition, the workers felt their concerns would not be fully addressed by a "simple grievance mechanism" and that it was a way for the company to defuse the situation and deny their right to associate. The workers refused the CEO's offer and instead went on strike for two weeks until the company decided to support their unionisation.

6.3 Adopt the higher standard in case of conflict between national legislation and international norms on human rights

According to the UN Guiding Principles: "In all contexts, business enterprises should:

- A. Comply with all applicable laws and respect internationally recognised human rights, wherever they operate;
- B. Seek ways to honour the principles of internationally recognised human rights when faced with conflicting requirements;
- C. Treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate."¹⁰

In some contexts, companies may find that the level of development of national legislation on human rights can be lower than existing international norms. In such cases, companies are expected to adopt the higher standard, if this is not prohibited by local law.

Example (mining sector)

A multinational mining company faced a resettlement process with a local community that resulted in violent clashes between police forces evicting families and community members that refused to leave the area. Houses were burnt down and people were injured. In the aftermath of the event, the company concluded that the lack of national legislation on resettlement processes was among the reasons for such a turnout of events.

Faced with another resettlement process in another community, the company decided to go with the World Bank guidelines on *Involuntary Resettlement in Developing Projects*¹¹, which are more comprehensive than the national legislation they had initially followed. The guidelines begin to define the types of projects that cause involuntary resettlements and provide general principles on which resettlement policies should rest so that companies have concrete recommendations on building a resettlement plan.

7. A SOURCE OF CONTINUOUS LEARNING

"Drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms."

Implementing a grievance mechanism is not a static process. Based on the records of the complaints received and resolved, the mechanism is evaluated and monitored, and lessons are drawn on a regular basis. These lessons become valuable inputs not only for improving the functioning of the mechanism but also for adjusting company policies and practice more broadly.

The objective is also to use the lessons learnt in order to prevent grievances from reoccurring. An effective grievance mechanism can support the company's due diligence process – it can serve to identify negative impacts on human rights in order to prevent or mitigate such impacts.

7.1 Keep a centralised record of complaints

Keeping a record of the complaints received and resolved, as well as the implemented resolution is a prerequisite for monitoring the process (including the possibility for a review or audit by internal or external stakeholders). A company-wide system to record complaints raised at both the HQ and local level can serve to inform internal analyses on the performance of the mechanism and can be linked with a set of indicators to measure effectiveness.

Example (mining sector)

A mining company has set as mandatory requirement to all country offices to report all complaints and grievances through an online company-wide system. Headquarters provide each local office with a recording template and guidelines for assessing and classifying grievances in the system as Minor, Moderate or Serious, as per the definitions provided by the headquarters. The task is performed by a designated complaints coordinator at the local level.

Among the items considered in the assessment is the significance of impacts, determined by considering the magnitude/severity, extent, duration and probability of the issue. For example the company defines "highly significant impacts" as those that are diverse, irreversible and/or unprecedented. In contrast "low significance/insignificant impacts" are those that are generally site-specific, largely reversible, and – in relation to adverse impacts – readily addressed by mitigation.

The company reports that keeping a centralised record has enabled it to:

- Address the underlying reasons for concerns raised;
- Report externally;
- Identify and document internally what the company is doing and consolidate efforts where necessary, also ensuring valuable organisational memory;
- Create a "baseline" of all current social performance management efforts, including key strengths and weaknesses.

7.2 Monitor and assess the performance of the mechanism on a regular basis

In order to guarantee that the process is working and that it is responding to the needs of the company and its users, monitoring the mechanism's performance should be a regular task. Consulting stakeholders is one way to do this. However, internal monitoring activities also need to be carried out.

Assessing the performance of the mechanism can be based on a qualitative evaluation, but it can also be done through a set of indicators, such as the number of grievances received and solved, timeliness of response, level of user satisfaction, among others. However, it is important to read those metrics in the context in which they arise in order to avoid misinterpretations. For example, a low number of grievances received could indicate a lack of issues, but could also be attributed to the mechanism not being easily accessible or known to its intended users.

10. UN Office of the High Commissioner for Human Rights, Guiding Principles on Business and Human Rights, endorsed by the UN Human Rights Council in 2011, www.businesshumanrights.org/Documents/UNGuidingPrinciples

11. World Bank Operational Policy 4.12 on Involuntary Resettlement, <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064610~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>

Example (mining sector)

A mining company identified the key performance indicators (KPIs) of its grievance mechanism in collaboration with both staff and external stakeholders. The aim was to better understand how it can demonstrate that it knows and is able to show that the mechanism is perceived as legitimate, accessible, transparent, etc.

To ensure that the company learns from its experiences, the Complaints Office presents grievance-related data on a monthly basis to the operational Review Committee, which consists of all heads of departments. These data include reporting on the outstanding cases (and why they are outstanding) and the number of delayed information-gathering responses by departments and other data, which would encourage managers to follow the standard operating procedure diligently.

7.3 Integrate key lessons learnt

Companies are encouraged to identify lessons learnt when addressing grievances and to look for patterns in order to have a better sense of how the mechanism can be improved. In addition, integrating key learnings may also entail a broader process of revision and adaptation of company policies, procedures and practices.

Key lessons learnt could be integrated through a reactive approach, where changes or adaptations take place as the result of a particular incident that triggered a response. Alternatively, companies can take a more proactive approach and introduce revisions as part of an established review or monitoring process.

Example (oil & gas sector)

After a major oil spill in an area located far from the area of operation, local community representatives filed a complaint to the company. The complaint was on the oil spill itself but also on how long it took the company to actually receive the information and respond to it. By the time the company had actually addressed the situation, irreparable damage was

done to the community's infrastructure and water sources. The company alleged that this was the result of the long distances; however this response was not satisfactory for the community.

As a result, the company put in place an emergency-response policy for oil spills as part of its crisis management standard. This way it made sure to attend oil spills in a timely manner, especially those that took place in remote or difficult to access areas.

The company created a hotline specifically for anyone who wished to report a spill and put in place an emergency response team that would be dedicated almost exclusively to attend such cases. The policy also includes an early warning system for communities or employees to report any abnormalities seen in the oil pipeline. The policy is managed by the department in charge of oil production but it also has the support of the environmental and social departments.

Since its creation in 2010, the system has received over 30 reports, out of which 5 have been actual oil spills. The remaining 25 were cases that were classified as early warnings. As a result of this new policy, the company has been able to not only attend to oil spills in a timely manner but also prevent them from occurring.

**8. BASED ON ENGAGEMENT AND DIALOGUE**

“Consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances”.

Engagement and dialogue are at the core of an effective operational-level grievance mechanism. They are also a means through which legitimacy, continuous improvement, transparency and trust can be achieved.

At the same time, it is important to ensure that grievance mechanisms do not substitute for other channels of engagement, such as industrial relations or collective bargaining (for internal mechanisms), and stakeholder engagement (for external mechanisms).

8.1 Establish a system for feedback collection from users

Besides consulting stakeholders, engaging directly with users in order to obtain their feedback once the process has been concluded is also a way through which the mechanism can be improved.

Example (oil & gas sector)

At the end of each process where a grievance is addressed, a national oil company conducts a survey with the user in order to assess the level of satisfaction with the outcome and the process of managing the complaint. The user is required to evaluate the following issues: timelines of response, quality of attention received, quality of information provided and satisfaction with the outcome. If the user is not satisfied with two or more of the issues mentioned before, the grievance and compliance officers evaluate if such a response justifies opening a new process.

8.2 Prioritise engagement and dialogue as the means to address and resolve grievances

Engaging and effectively using dialogue implies much more than meeting with the complainant to collect information. Rather than adopting a unilateral company decision as a means to resolve a grievance, companies are encouraged to use a more collaborative approach and arrive at joint solutions. The approach should be tailored to the specific audience the mechanism targets.

Dialogue could be achieved through providing neutral third party mediation when the complainant and the company cannot reach an agreement. Having an employee skilled in facilitation can also help advance the negotiation process.

Example (electronics sector)

After raising a number of labour related grievances and not reaching an agreement, a workers' union was ready to take an electronics company to court. Concerned with the impacts such a move could have, the company decided to take another route. It organised a commission that gathered internal and external parties, all chosen in common agreement with the union, in order to investigate the grievances and provide recommendations for the company. The commission then produced a report, which was then examined by both the company and the union.

For both parties it was clear that the production of the report did not close the issues and that a continuous dialogue needed to take place. As a result, a “dialogue table on labour rights” was installed as a mechanism to continue the dialogue on the issues mentioned in the report but also to address new grievances or concerns that may arise. The dialogue table exists until this day.

FURTHER CONSIDERATIONS

THE QUESTION OF FLEXIBILITY

Grievance mechanisms should be flexible. Even though they have to be predictable and provide a defined process and timetable, they also need to be able to adapt to changes that may arise when dealing with a particular case.

Flexibility can apply to:

- **Timeframes:** sometimes addressing a grievance may take a longer time to resolve than what was originally established. For instance, when a third party such as a government must intervene, or when investigations may take longer times.
- **Process:** in some cases, evaluations or feedback of grievance mechanisms' performance can point to the need for an adjustment of the process through which a grievance is received, classified or addressed.
- **Policies and standards:** as addressing a grievance can sometimes require a change in company policy, there is also a need for company structures to be able to respond to cases where a policy, standard or procedure should be revised and adjusted.

Having a flexible grievance mechanism is part of a company's ability to respond to stakeholder needs or concerns and to promote continuous improvement.

BALANCING TRANSPARENCY AND CONFIDENTIALITY

When designing a grievance mechanism, companies may need to address the tension that can arise between transparency and confidentiality.

Transparency is related to issues such as:

- Agreeing to common rules for the process
- Disclosure of information and
- Reporting on the process and its outcomes

On the other hand, confidentiality is needed in building a safe space for engagement and may become critical for:

- Protecting the privacy of the user(s)
- Guaranteeing an environment free of retaliation

While users of the mechanism may request transparency, the process may require confidentiality. The key is to find a balance between the two.

Some companies have found that solving this tension requires an agreement between the aggrieved and the company as to what can and cannot be disclosed. This agreement is usually established early on in the process and on a case-by-case basis.

DEVELOPING AN EXTERNAL GRIEVANCE MECHANISM: INTEGRATE OR SEPARATE?

When designing an external grievance mechanism, companies often encounter the question of whether they should integrate it to their existing internal systems or whether they should create a separate mechanism.

The decision is made based on factors such as costs, extension and phase of the operations, level of company exposure, etc. A good starting point is to review what the company already has in place and determine how it can build upon that.

There are, however, two risks when making such a decision: to create a new mechanism that might be so elaborate that it can become impractical and non-operational; or to adapt an existent mechanism that does not provide a platform broad enough to include external grievances.

Example (mining sector)

As an example of the first case, a mining company decided to create a grievance office that centralised all grievances directed to the company through the three different channels it had available: the official grievance access points, a channel created in the collective bargaining with the union; the ethics office that receives cases of potential violations of the code of conduct; and a third party review process that the company had begun three years before as a result of international accusations of human rights violations involving the company. Under the new arrangement, the administrators of the mechanism are often confused as to how to classify the grievances received through the various channels as some of them can overlap (for example, on labour related grievances).

Example (materials sector)

In the second case, a national cement company was designing an external grievance mechanism using its internal system as a platform, which defined grievances as violations of the code of conduct and ethics. It became clear to the company that this platform would not be appropriate for external grievances as the range of issues received from external stakeholders was very different from those raised within the company. As a result, the company opted for establishing a parallel process for grievances from external stakeholders that was linked to the internal mechanism.



2. Assessing the effectiveness of company grievance mechanisms with CSR Europe's MOC-A tool

On the basis of the 21 process requirements for effective grievance mechanisms laid out in the previous section, CSR Europe has developed the Management of Complaints Assessment (MOC-A) tool. MOC-A is designed to assess the level of effectiveness of company grievance mechanisms and to identify areas for improvement of the process. The tool also serves to collect good practice examples providing companies with the opportunity to learn from peers.

In its pilot phase, the MOC-A tool was deployed with 15 companies. In addition to an indication of the current level of maturity against the effectiveness criteria, the tool has allowed for collecting information on the trends of the organisational set up of company grievance mechanisms.

This section outlines some of the results of the MOC-A tool. It begins by briefly introducing the methodology of the assessment, gives an indication of the performance against the eight effectiveness criteria and concludes with an overview of the different ways some of the interviewed companies have chosen to set up their mechanisms for addressing complaints.

1. ASSESSMENT METHODOLOGY

CSR Europe's MOC-A tool provides an assessment against the eight criteria for effective grievance mechanisms, the respective 21 process requirements and against peers that have undertaken the assessment.

The assessment is **based on a series of interviews** with the function responsible for the mechanism in question. At times more than one function can participate, including departments involved in the process of reaching and implementing a resolution.

The interviews are conducted following a **series of questions linked to the effectiveness criteria** and their process requirements. To ensure optimal results, the flow of the conversation follows the steps of a company process of addressing complaints:

1. How the mechanism was designed
2. How is it made known
3. What is the process of dealing with each individual complaint received
4. How are results communicated internally and externally, and
5. How is the process monitored and revised

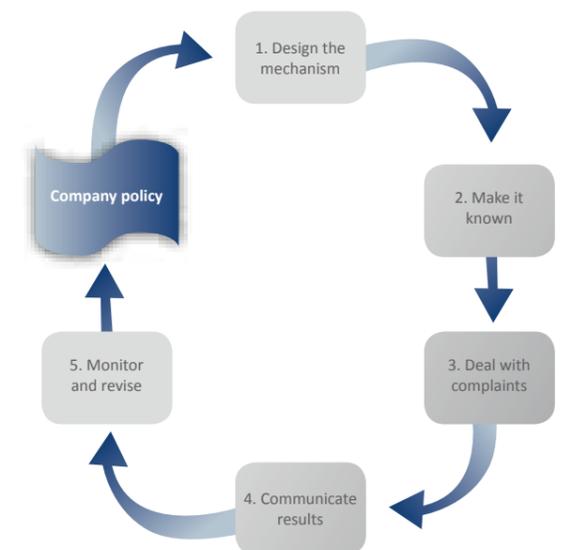
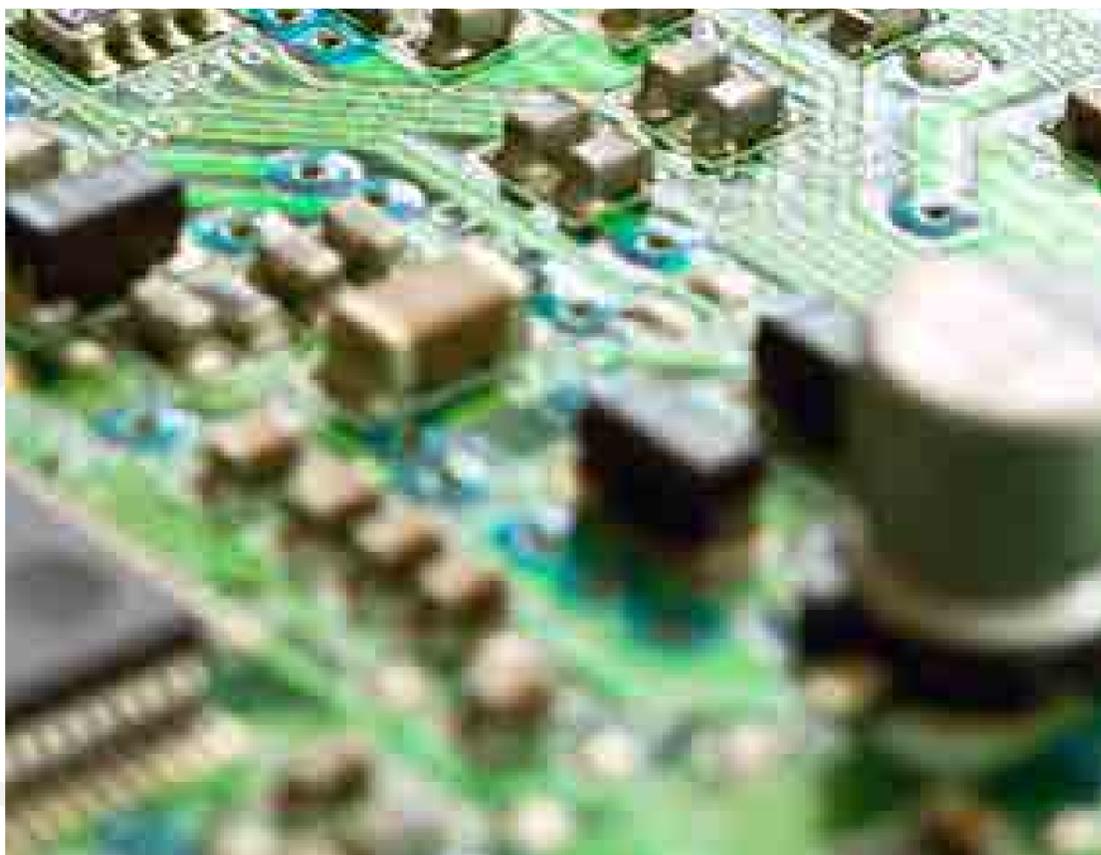


FIGURE 2: STEPS FOR EFFECTIVE GRIEVANCE MECHANISM
 The answers are then linked back to the process requirements for effective grievance mechanisms (see Table 2)

The interviews focus on the **internal process of addressing complaints coming both from employees and from communities affected by business operations.** Complaints from other stakeholders, such as shareholders, customers, etc., are excluded from the scope of this collection of practices due to the fact that they are usually addressed through other channels.

Based on the compiled information, **company practice relating to each of the 21 process requirements is classified as either “beginner”, “advanced” or “effective.”** The “effective” category follows the definitions outlined in the previous section, while the two preceding categories were developed to reflect the range of company practice identified through interviews with companies.



Based on this classification, **companies are assigned a score ranging from 0 to 5 on their performance under each of the process requirements.** 0 indicates a lack of company practice or no answer given; 4 indicates effectiveness and is assigned when the company practice fully meets the process requirement defined in the previous pages. 5 is assigned for the highest level of maturity in cases where companies have developed a specific tool or the process was built in as part of the mechanism.

TABLE 2: LINKING THE EFFECTIVENESS CRITERIA AND PROCESS STEPS FOR ADDRESSING COMPLAINTS

Criteria:	Process requirement:	1. Design the mechanism	2. Make it known	3. Deal with complaints	4. Communicate results	5. Monitor and revise
1. Legitimate	2.1 Establish a defined process to address grievances with clear lines of accountability	✓		✓		
	2.2 Conduct consultations with key stakeholders for the design, revision and monitoring of the mechanism					✓
2. Accessible	2.1 Actively provide information on the existence and functioning of the mechanism in a way that is adapted to the context and audience for whose use it is intended		✓			
	2.2 Address the barriers stakeholders may have in accessing the mechanism by providing multiple access points that are well adapted to the operational context			✓		
	2.3 Provide assistance to access the mechanism for those that may face particular barriers to access		✓	✓		
	2.4 Have an explicit commitment to protect the user from reprisals		✓	✓		
3. Predictable	3.1 Establish both at Headquarter and operational levels a defined process with clear roles, responsibilities, procedures, and process steps including monitoring implementation	✓				
	3.2 Establish a clear timeframe for each step or stage of the process			✓		
	3.3 Define the types of complaints that fall under the scope of the mechanism as well as the available outcomes	✓				
4. Equitable	4.1 Be open to share relevant information in a way that can be easily understood		✓	✓		
	4.2 Facilitate the means through which the affected stakeholders can have access to advice or expertise		✓	✓		
5. Transparent	5.1 Keep users of the mechanism informed throughout the process			✓		
	5.2 Report internally and externally on the performance of the mechanism				✓	✓
6. Rights-Compatible	6.1 Assess any complaint on its possible human rights impact			✓	✓	
	6.2 Ensure that outcomes do not infringe on the rights of the complainant			✓		
	6.3 Adopt the higher standard in case of conflict between national legislation and international norms on human rights			✓		
7. Source of Continuous Learning	7.1 Keep a centralized records of complaints	✓				✓
	7.2 Monitor and assess the performance of the mechanism on a regular basis					✓
	7.3 Integrate key learnings					✓
8. Based on Engagement and Dialogue	8.1 Establish a system for feedback collection from users	✓				✓
	8.2 Prioritize engagement and dialogue as the means to address and resolve grievances					✓

2. INITIAL RESULTS ON PROCESS EFFECTIVENESS

The management of complaint assessment was piloted with 15 multinational companies representing a number of sectors (ICT, materials, mining, oil and gas, logistics, etc.).

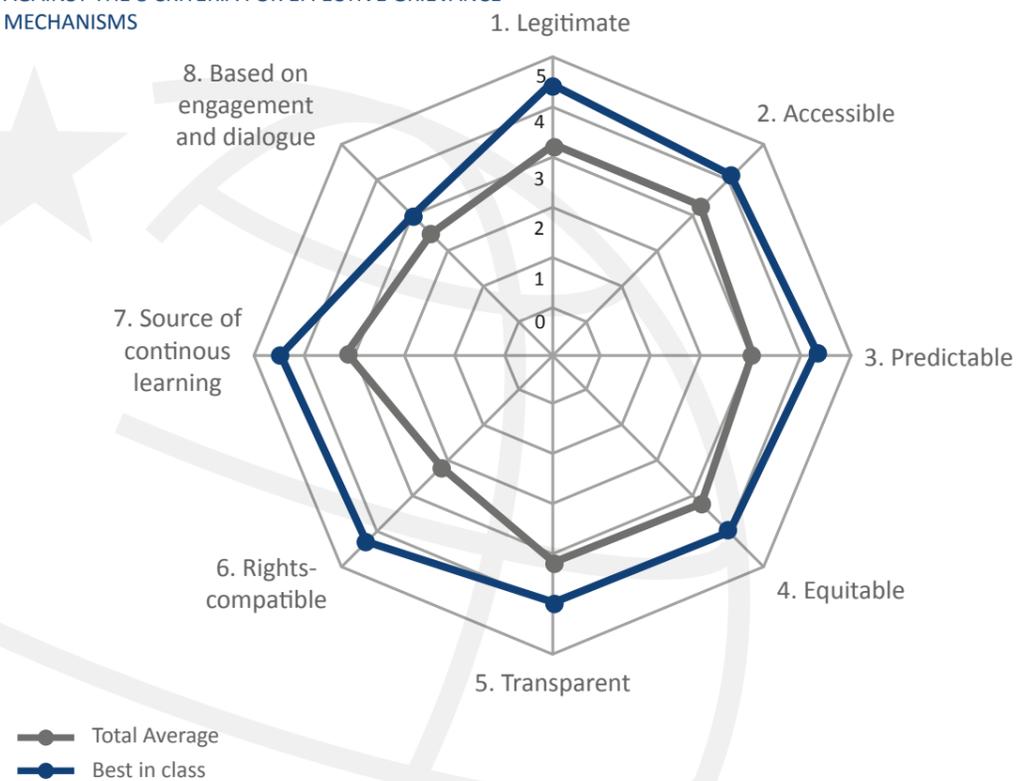
Some results of the pilot benchmark study on the performance of companies are mapped out in the figures below. Figure 3 shows a general overview of the average performance against each of the effectiveness criteria, and Figure 4 gives a more detailed overview of the performance against the process requirements that make up each criteria.

Based on the analysis of the practice of these companies, a number of common strong points as well as overall gaps and remaining challenges could be identified:

1. All interviewed companies have set up a defined process for addressing complaints with clear roles, responsibilities, procedures and process steps, both at headquarter and at operational level. This is one of the prerequisites for “predictability”. This is the process requirement for which all interviewed companies meet the level of “effectiveness”.

2. On average, companies are yet to meet all the eight criteria for effective grievance mechanism outlined in the UN Guiding Principles. Some companies have set up effective processes in relation to some of the criteria, but none of the interviewed companies performs consistently well in relation to all criteria.

FIGURE 3: PERFORMANCE OF 15 COMPANIES AGAINST THE 8 CRITERIA FOR EFFECTIVE GRIEVANCE MECHANISMS



3. “Rights-compatibility” remains particularly unclear in terms of its practical application within a business context. Complaints are rarely classed as human rights concerns, which relates to the wider issue for global companies of overcoming cultural differences across regions and strengthening the internal communication on international standards and human rights. Some companies have addressed this issue by setting a set of common principles such as a Human Rights Policy as the first step, and then educating employees across the organisation about it by establishing a formal awareness-raising program and training sessions.

4. Companies generally report having processes in place to ensure that the mechanism is accessible to its users, especially in terms of providing multiple access points and setting explicit commitments to protect from reprisals for raising a complaint.

When setting up the mechanism, companies need to consider the points of access for submitting complaints. Usually submitting a complaint can be done through using a dedicated hotline or an e-mail address, etc. In general, companies recognise the need to provide access points that are well-adapted to the particular type of mechanism, as well as to the particular cultural context of the operating environment. This serves to overcome barriers such as language, culture, literacy, etc. A number of the interviewed companies also provide assistance to users to access the mechanism, such as providing interpretations in local languages or recording complaints verbally where communities share a mostly verbal culture of communication.

There is not enough information, however, on how these measures in practice contribute to the overall accessibility. Failing to address barriers relating to culture or gender, for example, or to ensure that the non-reprisals commitments are translated into processes and procedures, can make communities and workers reluctant to use the company grievance mechanism.

5. Transparency is driven by the high number of companies that keep a centralised record and report on the performance of the mechanism. At the same time, details are seldom presented in external reports and it is seldom monitored how grievances are resolved at an operational level.

Externally, companies tend to report the existence of the mechanism on their website and include general information on how it performs in their annual CSR reports, such as the number of complaints received. However, for the most part no details are provided on the types of grievances received, the time it took to resolve them or the level of satisfaction of the complainants. One of the interviewed companies, has publicly released detailed information on how its mechanism functions, including case studies of some of the grievances received.

6. Engaging with stakeholders and prioritising dialogue as the means to address and resolve issues was identified as an overall area for improvement. Although there is no consistency in terms of concrete practice, complaint procedures tend to include steps that are intended to keep the complainants informed and to engage them in the process, **such as the possibility to meet to receive more information.** Some companies engage in further dialogue with the complainant by providing facilitation. It should be noted that all employee-based mechanisms that were examined provide the option of facilitation if required to reach a resolution, although none of these companies report having resorted to actual use of a facilitator. In contrast, two companies have built facilitation into their systems for addressing community grievances and they report frequent use.

Collecting feedback on the process and outcomes, however, remains scarce at best. Some companies point to the fact that the complainant can bring up the issue again if not satisfied. Few companies formally collect feedback through a survey.

Engaging with external stakeholders is equally important in establishing the “legitimacy” of the grievance procedure. A number of companies stress the need to have more formal and informal mechanisms to facilitate engagement with NGOs and other external stakeholders and to give a better understanding on how they can become part of the solution. Using mediation to reach a resolution and establishing a formal channel to collect feedback are also areas that show room for improvement.

7. Monitoring performance and integrating key lessons is an area that is often approached on ad-hoc basis rather than in a systematic way.

About two thirds of the interviewed companies report monitoring the performance of their grievance mechanism. They do so to a varying degree – some companies report performing qualitative evaluation, others check the consistency with previous years, for others monitoring is done at a local level and the challenge is to be able to centralise the information at the HQ level in order to identify trends. Two companies report having quantitative indicators which relate to the number of received and resolved complaints. Overall, companies express the strong need to work towards developing Key Performance Indicators (KPIs) to monitor the performance of the process they have established.

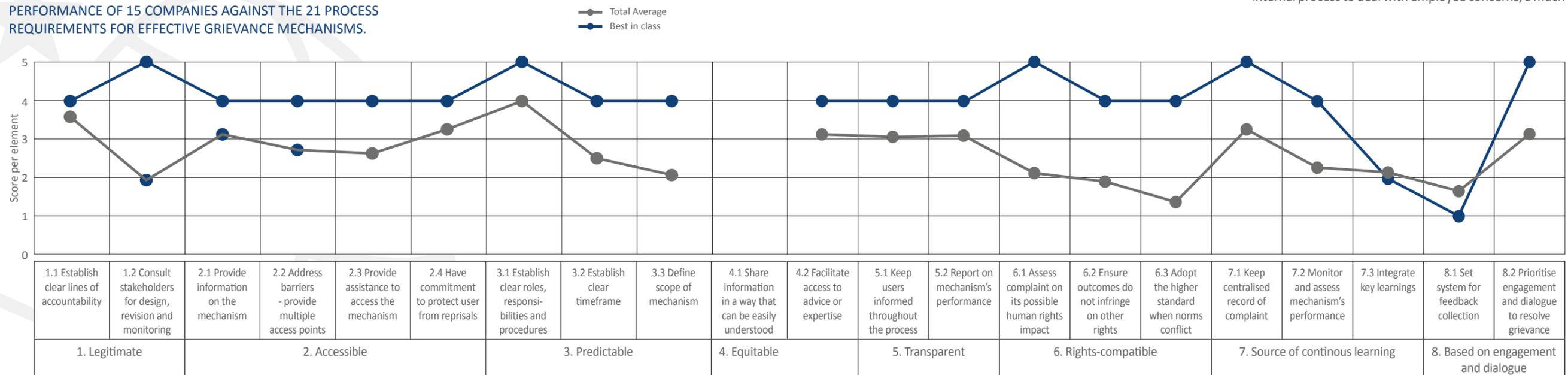
Half of the companies interviewed do not have a process in place to integrate key lessons learnt; in some of those cases this is attributed to the fact that the mechanism has been set up recently. The rest of the companies integrate what they have learnt selectively either taking a trial-and-error approach or prompted by a particularly important case. A very small number of companies (3) use key experiences to guide the revision of company policy or practice. Examples include modifying the grievance mechanism itself or using key lessons learnt to instigate a revision of the Code of Conduct, a

compensation policy towards communities or training on security and human rights. One company reports using the findings of each case to update its risk register.

8. The majority of the companies interviewed report relying on internal expertise when developing their grievance mechanism. About one third mention having involved external stakeholders/ experts in the process. More than half of the companies report consulting either internally or externally when designing the mechanism. Typically the consultation process involves relevant departments or country offices that can advise on the design of the mechanism. Companies also report consulting internally with selected employees in order to create internal buy-in for the mechanism.

Less consultation takes place with the intended users of the mechanisms. In particular, companies report consulting with the intended users of the mechanism when setting up a channel for community grievances, but less so when setting up internal reporting channels. That finding could be partially attributed to the fact that internal mechanisms are usually based on company codes or policies, which are the result of previous consultations.

FIGURE 4: PERFORMANCE OF 15 COMPANIES AGAINST THE 21 PROCESS REQUIREMENTS FOR EFFECTIVE GRIEVANCE MECHANISMS.



3. FURTHER FINDINGS: DIFFERENT TYPES OF GRIEVANCE MECHANISMS

In addition to an indication of the current level of maturity against the eight effectiveness criteria, deployment of the MOC-A tool has allowed for collecting information on the trends of the organisational set up of company grievance mechanisms.

Each company has a unique mechanism in place that is adapted to the particular conditions and operating environment in which the company finds itself. Nevertheless, similarities in the set up can be identified according to:

1. Target group: whether the mechanism is designed to address complaints from employees, communities or both
2. Level of centralisation: whether the mechanism is centralised at HQ level, is designed and used at local level, or is somewhere in between. (Table 2)

The different types of grievance mechanisms, based on the information gathered from 15 companies, are outlined below.

TABLE 3: TYPES OF GRIEVANCE MECHANISMS

Types of grievance mechanisms	(2) Level of centralisation		
	Centralized	Centralized/ Local	Local
(1) Target group: Employees	✓		✓
Employees + Communities		✓	
Communities			✓

1. TYPES OF MECHANISMS BASED ON TARGET GROUP

A major differentiator in the way a company designs and runs a grievance mechanism relates to the target group to which the mechanism is orientated. Based on whether the mechanism deals with complaints from employees, community members or is open to both, there are differences in terms of the process owner, access points to raise a complaint, the way the mechanism is made known, etc.

While companies typically have a well-established internal process to deal with employee concerns, a much

smaller number of the interviewed companies have opted to design an additional specialised channel for community grievances. Yet fewer companies choose to address both target groups with the same mechanism.

• MECHANISMS FOR EMPLOYEES (INTERNAL)

Internal grievance mechanisms give employees the option to use an alternative channel to raise an issue if it is not appropriate to report directly to the immediate supervisor. Complaints received through this type of mechanism are based on internal codes and policies, e.g. Code of Conduct, Code of Ethics, HR policy, etc. The complaints seen as human rights concerns are typically related to harassment and discrimination.

Employee grievance mechanisms are promoted through internal channels, such as intranets, websites, employee handbooks, fliers/posters in the workplace, and employee training. These mechanisms are usually designed to address fear of reprisal by allowing complaints to be submitted anonymously and by including an explicit commitment in company codes and procedures. Complaints are typically raised via the intranet, an e-mail address, a hotline, the directly responsible contact in HR, etc. Overall, decisions are made following internal procedures and the complainants tend not to be actively involved in the process.

• MECHANISMS FOR BOTH EMPLOYEES AND COMMUNITIES (UNIVERSAL)

A small number of companies have set up a mechanism that is open to anybody (both employees and community members) to raise a complaint. Having a wide target audience entails designing a channel that would be universally accessible and being able to screen and handle various different types of complaints.

Some of the companies employing this type of mechanism include information on its functioning in the contracts of employees and suppliers. In addition, information on how to access the grievance mechanism is actively promoted through internal and external communication materials (e.g. brochures and leaflets) and local media (e.g. radio and TV programmes).

The access points tend to be a hotline and/or an e-mail or postal address, which can be used by both employee

and community members.

• MECHANISMS FOR COMMUNITIES (EXTERNAL)

Another set of companies have chosen to set up two different channels to address complaints from the different target groups – an internal mechanism for dealing with employee concerns and an external channel for community grievances. The dedicated channels to receive and address complaints from communities that may be affected by business operations are generally set up in the framework of community engagement activities. External grievance mechanisms can be coordinated under the activities of community relations or CSR departments. They usually employ a country-based approach and tailor the process to the characteristics of the particular operational setting. Potential barriers such as local traditions and languages tend to be addressed through establishing culturally appropriate access points, such as collecting grievances verbally at local community meetings.

Information on the existence and functioning of the mechanism tends to be actively promoted through community meetings, communication materials in the local language and/or engagement with local organisations. Some companies have incorporated external facilitation into their mechanisms and an emphasis is often placed on engagement and dialogue with the communities to reach a resolution.

2. TYPES OF MECHANISMS BASED ON LEVEL OF CENTRALISATION

Based on whether it is centralised at HQ level or designed and used at local level, three different types of mechanisms have been identified:

• CENTRALISED:

This type of mechanism is designed and overseen at the headquarter level. A particular department or cross-functional body is identified as the process owner who is responsible for registering the complaint, conducting the investigation and evaluation of the grievance, making the decision and keeping the complainant informed throughout the process. In some cases, investigation can be carried out together with other departments.

Companies have opted for this type of centralised process when setting up a mechanism for dealing with

employee complaints. Responsibility has been found to rest either with the Human Resources or Compliance departments, or to be handled by a cross-functional complaints committee (Figure 5).

FIGURE 5: CENTRALISED TYPE OF MECHANISM



Example (materials sector)

A company from the materials sector has set up a system whereby complaints can be submitted via e-mail or telephone to a dedicated Committee who is the process owner. The Committee consists of three functionaries – the heads of Corporate Relations and Internal Auditing and a Social Worker, and meets at least 3-4 times a year, usually after an issue has been raised. The Committee will meet even if there are no cases to discuss.

When a complaint is received, it is recorded by tape recorder and then forwarded to each member of the Committee, who investigate and evaluate the case, and reach a unanimous decision. The outcome is reported to the complainant (if submission was not anonymous) and is reported to the board of directors. In addition, the Independent Committee issues a short summary report on the number of cases received and a breakdown of the topics of grievances, which is distributed internally within the company.

• CENTRALISED/ LOCAL:

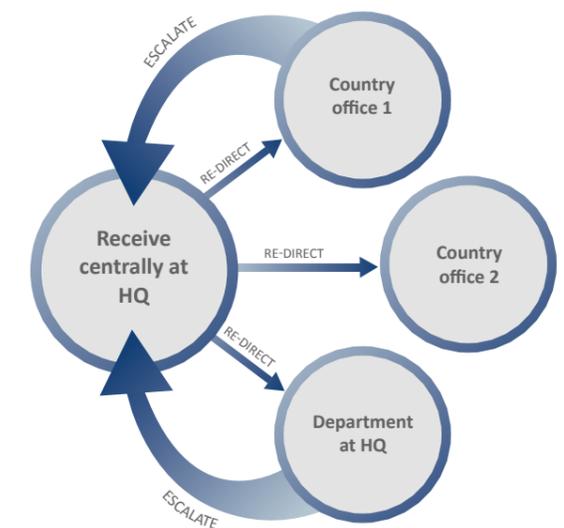
Under this type of mechanism all complaints are received centrally by dedicated staff at the headquarters level. The complaints received are registered and redirected to the relevant department or country office, which takes ownership of the process. The investigation, analysis and subsequent action are carried out by the relevant department/country office.

Companies have chosen to set up this type of channel

to handle complaints coming from both employees and communities. The centralised way of receiving grievances allows companies to identify the most appropriate process owner who can then handle the complaint taking the issue's context into account. In general, headquarters provide guidelines to the country offices and periodic training on how to conduct effective investigations, as well as guidelines on escalation, according to which serious issues are dealt with at the corporate level.

The centralised receipt of grievances also allows for keeping a centralised record of complaints.

FIGURE 6: CENTRALISED/ LOCAL TYPE OF MECHANISM



Example (ICT sector)

An ICT company has a channel through which complaints can be submitted by anybody, including company employees and community members. A designated person at the Ethics and Compliance office is in charge of the daily monitoring of the company's complaints hotline, sending a confirmation of receipt to the complainants and registering the grievance into the database.

The officer screens the complaint and redirects it to the relevant department. There are guidelines on where the complaint should be referred to: if related to policy violation, including discrimination or harassment it is dealt with by the Ethics & Compliance office; if related to

business issues it is redirected to the appropriate business unit; if related to pay, overtime, performance review it is referred to the HR department; if related to a particular country, it is sent to the country team concerned.

The majority of concerns raised get reviewed by a country-specific team. The process varies from country to country but all local teams are set in the same way, comprising of HR, legal and finance functions. The Ethics and Compliance office provides support to the country level in the form of a guidebook on how to investigate complaints and periodically organises training on how to conduct an effective investigation. Regional offices can also provide support to the country office.

Once redirected to the country level, the complaint is handled by the country team, who conducts the investigation, reaches the decision and informs the complainant of the outcome. If the issue is deemed serious, the country office redirects the complaint back to the corporate team.

• LOCAL

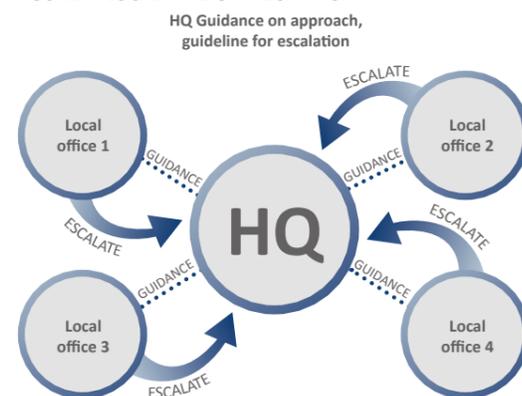
Half of the interviewed companies have set up different local mechanisms for addressing complaints in each market where they operate. The process is developed locally, which gives the company the **flexibility** to take into account the local conditions and the types of complaints specific to each operating environment.

This type of mechanism's structure is broadly determined by guidelines from the headquarters which give general recommendations/ instructions to the local operations, including a matrix for escalation. At the local level, each market is tasked with setting up a mechanism to match the conditions of its operating environment.

This type of mechanism is employed for community complaints by all the interviewed companies from the heavy industries (materials, mining). It can be attributed to the deep footprint these sectors have on local communities, which creates the need for engagement with local stakeholders in a culturally-appropriate way. Companies provide guidelines and encourage sensitivity to issues that may need prompt escalation to HQ, but also give markets the flexibility to use the most pragmatic and realistic set-up.

On the other hand, when this local approach is taken for employee concerns, in most cases there is no HQ guidance or supervision.

FIGURE 7: LOCAL TYPE OF MECHANISM



Example (food & beverage sector)

A company from the food & beverage sector has set up a grievance mechanism for employees where their headquarters provide guidance on the correct approach and an escalation matrix of issues and all markets use the same technology and external provider. Their headquarters have issued a handbook with a compilation of non-compliance best practices. The system is not centralised and is set up for each market – all issues are dealt with locally. Certain complaints with a high degree of severity have to be escalated to the corporate level right away – for this purpose their headquarters has provided markets with escalations guidelines.

At the group level the system is handled and accessed by the Head of Group Compliance who reports to the Executive Board. At the market level, the functional owner is usually the dedicated compliance officer of that market who reports to the legal officer. However, each market can appoint the person who is considered the most appropriate.

When a complaint is received through the system, the external provider transcribes and translates the complaint into English and then forwards it to a specified person inside the company who is in charge of dealing with complaints. Each market can appoint different internal department for that purpose, which investigates the complaint and reaches a resolution. Each country office is required to communicate the number of complaints received and the figures are recorded at the HQ level. The rest of the data is kept at the local/unit level.

3. Conclusions and next steps

Global companies tend to have established channels to address complaints from their workforce and to a lesser extent, from communities impacted by their operations. The organisational setup of these grievance mechanisms varies greatly; each company has designed a mechanism that meets the needs of its particular operating environment. Hence, a company's mechanism to address complaints must take into account the specific business context to be effective.

At the same time, it is clear from the interviews conducted that companies are at different levels of maturity in implementing an effective process for addressing complaints. By breaking down the eight effectiveness criteria outlined in the UN Guiding Principles into 21 specific process requirements, the MOC-A tool developed by CSR Europe allows for the analysis of company practices in order to identify gaps in their approach and point to solutions applied by other companies.

Overcoming cultural differences: For global companies, one of the biggest challenges remains implementing policies at a local level, which have been set up at the corporate level. Adapting processes to the specific conditions across countries with different cultural, social and economic conditions could be especially challenging in cases where the global company standard may be different to what is accepted in that country. This leads to dilemmas such as how to analyse complaints in the same way all over the world. Most often, it is a question of culture rather than methodology. Some of the ways companies have tried to tackle this issue is by designing guidelines and training local staff on how to analyse complaints, while at the same time leaving a certain "margin of appreciation" to the local officer dealing with the issue. "Local solutions are essential."

Design: A number of companies report that it is challenging to design a mechanism at corporate level and roll it out across the company. One company remarked that a market-by-market implementation approach works but takes a considerable amount of time to implement. What is more, sufficient effort and time needs to be invested in designing a grievance mechanism and companies need to consider carefully the mechanism they want to set up. It is challenging

to understand what specific information is needed to design the mechanism, but the effort investment eventually "pays off."

Continuous improvement: Companies need to have a channel through which complaints can be recorded and dealt with, but what is more important is the discipline to learn from those issues and avoid them in the future. In order to do that, internal expertise is required.

Measuring performance: Setting out KPIs to measure the performance of grievance mechanisms is what all companies point to as a current challenge. In addition, there is a distinct need for a tool that would allow companies to measure their performance in managing complaints firstly against the expectations outlined in the UN Guiding Principles and secondly against the practice of other companies from the same sector and/or companies employing the same type of grievance mechanism. This would allow for the systematic identification of gaps and areas that required further improvement.

CSR EUROPE'S NEXT STEPS

CSR Europe plans to continue its work in this area further by gathering more information on company practice in addressing complaints. The management of Complaints Assessment (MOC-A) tool is available to all interested companies.

CSR Europe's MOC-A tool offers:

Assessment of process for dealing with complaints coming from the workforce and/ or communities impacted by business operations:

- How effective is your process?
- How do you perform in relation to peers?
- Where are your gaps?

Individual company MOC-A benchmark:

- Based on two interviews conducted by CSR Europe
- Companies receive an individual assessment report, as well as a compilation of anonymous examples of peer practice.
- Information is kept strictly confidential throughout the process
- Open to all interested companies and is free of charge to all CSR Europe members

CSR Europe will continue to work to further improve the MOC-A tool and refine the process requirements to better identify what constitutes an effective grievance mechanism. Expanding the scope of the

assessment to include a sector-based analysis as well as benchmarking company performance according to the type of mechanism employed would create a better understanding of the specific challenges facing each company and of what areas to focus on.

At the same time, more work needs to be done to provide examples of business practices that act as solutions on which companies can draw as a point of reference. Such examples could be of particular use in the under-examined criterion of "rights-compatibility" though all criteria would benefit greatly from a larger database of solutions.

FURTHER RESOURCES ON GRIEVANCE MECHANISMS:

- ACCESS Facility: www.accessfacility.org/
- CSR Initiative, Harvard Kennedy School, "Rights-Compatible Grievance Mechanisms": www.hks.harvard.edu/m-rcbg/CSRI/publications/Workingpaper_41_Rights-Compatible%20Grievance%20Mechanisms_May2008FNL.pdf
- IFC, "Good Practice Note: Addressing Grievances from Project-Affected Communities": www1.ifc.org/wps/wcm/connect/cbe7b18048855348ae6cfe6a6515bb18/IFC%2BGrievance%2BMechanisms.pdf?MOD=AJPERES&CACHEID=cbe7b18048855348ae6cfe6a6515bb18
- IFC, MIGA, Compliance Advisor Ombudsman: www.cao-ombudsman.org/
- International Federation for Human Rights (FIDH), "Corporate Accountability for Human Rights Abuses": www.fidh.org/IMG/pdf/guide_entreprises_uk-intro.pdf
- International Institute for Environment and Development (IIED), "Dispute or Dialogue? Community Perspectives on Company-led Grievance Mechanisms": <http://pubs.iied.org/pdfs/16529IIED.pdf>
- IPIECA, "Operational level grievance mechanisms: Good practice survey": www.ipieca.org/publication/operational-level-grievance-mechanisms-good-practice-survey
- National Human Rights Institutions: <http://nhri.ohchr.org/EN/Pages/default.aspx>
- OECD National Contact Points: www.oecd.org/daf/internationalinvestment/guidelinesformultinationalenterprises/nationalcontactpointsfortheoecdguidelinesformultinationalenterprises.htm
- UN SRSG, Addendum to the UN Guiding Principles, "Piloting principles for effective company/stakeholder grievance mechanisms: A report of lessons learned" (May 2011, A/HRC/17/31/Add.1), (undertaken by the CSR Initiative, Harvard Kennedy School): www.ohchr.org/Documents/Issues/Business/A-HRC-17-31-Add



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