

Access to remedy



Principle:

Workers at all levels have access to judicial remedy and to credible grievance mechanisms, without fear of recrimination or dismissal.



Key message:

Access to remedy is a core part of international human rights systems.

Definition

The “means to recover a right or to prevent or obtain redress for a wrong.”¹

What is remedy and why is it important?

- Remedy is the process of setting right a wrong.
- It is an important part of treating workers fairly, tackling discrimination and addressing labour rights abuses.
- Grievance and remedy procedures are critical for ensuring that complaints are recognised, addressed and compensated.
- Remedy can help create positive and productive work environments by removing sources of grievance.
- It may also help identify where some employees have acted illegally, and protect companies from legal action.
- It may include apologies, financial and non-financial compensation, disciplinary action, or other ways of recompensing damages.

What is a grievance mechanism?

- A grievance procedure is a set of steps performed when a complaint is raised.
- It is key to providing workers access to remedy. It occurs before compensation or other remediation is decided.
- All legitimate grievances must be taken seriously and a ‘suggestions box’ alone is not sufficient.
- Workers should be able to raise grievances with their direct supervisor or alternative senior staff.
- The grievance procedure should involve workers’ representatives or unions if available.
- An attempt should be made to resolve the issue through informal discussion before the issue is escalated.

Facts

- Accessing remedy is a core part of the human rights system²
- Yet, victims of human rights abuses involving business often do not receive remedy²



Workers’ representatives or unions are important for ensuring that workers’ interests are protected



Workers should be able to submit grievances with a range of site management, not just their supervisor

Continued...

Access to remedy



- If the informal attempt to resolve the issue is not successful, the grievance should be documented and the formal procedure should be implemented.
- If no resolution is found, the complainant has the right to appeal. This appeal should be processed by a more senior level of management.

How to decide on what remedy is appropriate

- If a grievance is substantiated after investigation, remediation should be proposed or negotiated with workers and their representatives.
- The worker and their representative must agree with the proposed remediation. The remedy should reflect the wants and needs of the parties involved.
- However, any punishment imposed must follow a clear disciplinary procedure.
- After remedy is provided, the site management should follow up with all parties involved to ensure that grievances are fully addressed.

What is expected at sites?

- A clear access to remedy and grievance policy stating how workers can access judicial remedy, and how they are protected from deportation, dismissal or other forms of punishment.
- Grievance and remedy procedures ensuring anonymity for the complainant.
- Training for workers and site management on their rights and responsibilities as described within the access to remedy and grievance policy.
- Grievance and response records.
- Systems for monitoring and analysing grievances for continual improvement.

Training for workers and site management

- Both site management and workers must be aware of their right to access fair grievance procedures.
- Site management should be trained to deal with workers' grievances and non-discrimination.
- Workers should be trained in their rights to access grievance procedures and remedy, their responsibilities when submitting grievances, and who to contact and how.
- They must be able to contact senior management or HR if they believe their grievance is not being handled fairly.

Steps in a grievance procedure

- Procedures may start with an attempt to informally resolve the issue.
- If this is not appropriate or successful, a formal grievance should be made and documented.
- A formal grievance can be written or orally communicated but should be documented within a grievance record.
- This should be reviewed by management (not involved in the grievance) and workers' representatives or unions.
- This may be followed by an investigation of the grievance.
- The management should review the formal grievance, and any materials produced in the investigation.
- The management should then issue a formal response to the grievance, including any remediation.
- The worker and their representatives or unions then review the response and formally accept it if they agree.
- If it is not agreed, they can choose to appeal against the decision.
- Appeals should be addressed by more senior levels in a company. The process should be repeated until the grievance is resolved or remedy is agreed upon.
- Regardless of if remedy is provided, the site should follow up with all parties involved to ensure the issue has been fully resolved.

Additional information and resources

- [Respect for diversity factsheet](#)
- [Ethical recruitment factsheet](#)
- [Wages and working hours factsheet](#)
- [Freedom of association and collective bargaining factsheet](#)
- [Sample - grievance policy](#)
- [Sample - grievance and remedy procedure](#)
- [Sample - grievance and response records](#)

1. Merriam-Webster, 2016. remedy. www.merriam-webster.com

2. United Nations Office of the High Commission, 2016. Initiative on enhancing accountability and access to remedy in cases of business involvement in human rights abuses. www.ohchr.org