

# 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:

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

## Definition

*"[A grievance mechanism] ...is a core component of the UN Guiding Principles (UNGPs) which to take appropriate steps to prevent investigate, punish and redress business-related human rights abuses."*

## Facts:

- Accessing remedy is a core part of the human rights system. Yet, victims of human rights abuses involving business often do not receive remedy.<sup>2</sup>

## 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.



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.

## What is a grievance mechanism?

- A grievance procedure is a set of steps performed when a complaint is raised.

<sup>1</sup> United Nations Human Rights Office of High Commissioner, 2023. Access to remedy – working group on business and human rights.

<https://www.ohchr.org/en/special-procedures/wg-business/access-remedy#:~:text=Access%20to%20effective%20remedy%20is,their%20territory%20and%20For%20jurisdiction.>

<sup>2</sup> United Nations Human Rights Office of the High Commissioner, 2016. Initiative on enhancing accountability and access to remedy in cases of business involvement in human rights abuses. [www.ohchr.org](http://www.ohchr.org)



- 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.
- All grievances must be recorded in a designated grievance log book.
- If the informal attempt to resolve the issue is not successful, 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.

### Steps in a grievance procedure

- Procedures may start with an attempt to informally resolve the issue and documented.
- If this is not appropriate or successful, a formal grievance should be made.
- 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 discuss with the grievance raiser and 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:

- [Recommendation 130 Examination of Grievances, 1967](#)
- [OHCHR: Access to Remedy for Business-Related Human Rights Abuses](#)



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- 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.
- [Earthworm Foundation's Respect for Workers Principles](#)

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