Practical Recommendations

for

Implementation of Remedy Principles

*This paper was commissioned and funded by the Ethical Trading Initiative (ETI), and undertaken by the Research and Communications Group. The views expressed in this report are those of the authors.*

Contents

Introduction 2

1 OGM exemplary characteristics 5

2 Building on positive examples 6

2.1 Independent governance of operational grievance mechanisms (OP5) 6

2.2 OGMs providing active community and site monitoring (OP3) 7

2.3 OGMs operating social audit programmes (OP3) 7

2.4 OGMs and accountability (UP6) 8

2.5 OGMs able to provide cash compensation as a remedy option (OP4) 9

3 Evolving remedy responses 10

3.1 Multi-stakeholder initiatives (OP7) 10

3.2 Procurement impact assessments (OP3) 11

3.3 Pre-emptive evidence capture (OP2) 12

Annex 1: Detailed list of items to be considered in OGM development 13

Figure 2: Operational grievance mechanism generic design 15

Annex 2: Considerations for MSIs in establishing effective OGMs 16

Annex 3: Draft Principles on Access to Remedy for Migrant Workers 18

# Introduction

This document supports the Draft Principles on Access to Remedy for Vulnerable Migrant Workers in providing practical recommendations for collaborative remediation mechanisms and models for the practical implementation of these Principles. It is not intended as a comprehensive implementation guide for the Principles, but rather seeks to highlight practical steps that companies and other stakeholders can take in providing remedy to vulnerable migrant workers.[[1]](#footnote-1)

Noting the details of operational grievance mechanisms (OGMs) which demonstrate measures of success, we explore how access to remedy can be extended beyond what are largely passive complaints mechanisms to include pro-active responses such as site monitoring, social audit and direct remedy in association with the operation of the grievance mechanism. Overall, we suggest that a coordinated endeavour encompassing pro-active monitoring and worker feedback and complaints may begin to provide the comprehensive ongoing engagement with workers and site management needed for effective systemic remedy. We propose to call this type of response Monitoring, Complaints & Remedy (MCR) to emphasise it goes beyond simply making grievance mechanisms available to workers should they have the capacity. motivation, confidence and trust to use them.

The paper comprises three sections. The first covers exemplary characteristics of OGMs, derived from the literature review and accompanying interviews. This is followed by a section that looks at how to build on and expand positive examples. The final section outlines thinking for further evolving current practice on remedy for vulnerable migrant workers. In all the paper contains ten practical recommendations, summarised below and detailed in the main text. These recommendations are cross-referenced to the associated Underlying Principle (UP) or Operational Principle (OP) in the Principles document. These are included as Annex 3 for ease of reference.

**1 OGM exemplary characteristics**

Practical Recommendation 1: The following characteristics should be incorporated into an OGM:

1. Open scope to all calls of all types from all sources
2. Wide sectoral and/or geographic coverage (ideally a high ratio of all potential sites)
3. Depth of reach to all supply chain tiers and actors
4. Publicised intensively to all workers in sites, including during the pre-departure phase for migrant workers
5. Autonomously operated with independent governance (ideally a multi-stakeholder initiative, see Section 3.1)
6. Union participation or other worker representation at governance and operational levels
7. Funded by all participating supply chain sites and sourcing companies
8. Adequately resourced via fair membership and operational fee scales that include allocations for direct remedies
9. Includes a burden of proof policy regarding hard to prove adverse impacts such as fees
10. An accountability mechanism which provides publicly available evidence that the members are meeting their obligations and held to account through sanctioning processes if they do not meet membership conditions.

**2.1 Independent governance of operational grievance mechanisms (OP5)**

Practical Recommendation 2: Operational level grievance mechanisms should be established with the participation of an independent party such as a local or regional union or NGO with specific interests and capabilities in the sector.

**2.2 OGMs providing active community and site monitoring (OP3)**

Practical Recommendation 3: OGMs should utilise community and on site monitoring by endorsed NGOs as a means to encourage disclosure of adverse human rights issues by workers.

**2.3 OGMs operating social audit programmes (OP3)**

Practical Recommendation 4: OGMs should utilise social audit as part of the service provided to their supply chain members as a means to develop better understanding of adverse human rights issues by workers and to achieve better remedy outcomes.

**2.4 OGMs and accountability (UP6)**

Practical Recommendation 5: OGMs should put in place an accountability mechanism which provides publicly available evidence that the members are meeting their obligations and held to account through sanctioning processes if they violate the initiative’s standards.

**2.5 OGMs able to provide cash compensation as a remedy option (OP4)**

Practical Recommendation 6: The membership dues of companies participating in OGMs should include a portion for dedication to the provision of direct remedy to workers, which might include, but not be limited to, cash compensation to victims at the sole discretion of the OGM.

Practical Recommendation 7: Companies should make provision for compensation funds for victims as circumstances warrant as part of their response to mitigate risks which may contribute to or link them to adverse human rights impacts.

**3.1 Multi-stakeholder initiatives (OP7)**

Practical Recommendation 8: MSIs should take responsibility for establishing and operating OGMs.

**3.2 Procurement impact assessments (UP3)**

Practical Recommendation 9: Research the development of effective large-scale procurement impact assessment mechanisms for various sectors/regions including which organisations might best operate them, how “capacity” could be managed and by what processes companies and their suppliers could submit and receive capacity-related information.

**3.3 Pre-emptive evidence capture (OP2)**

Practical Recommendation 10: Further research be undertaken to develop understanding on the following issues which need to be addressed:

* Availability and communication of services
* Centralised data storage options such as online databases
* Who pays for such services (development and operation)
* The value expected from actual evidence (possible parallels with issues faced by worker voice digital platform data)
* Processes for subsequent access to and use of such data.

These recommendations contribute to a comprehensive response to HR DD, one that needs to include monitoring for impacts and the risks of impacts as well as providing accessible means for complaints to be made.

# 1 OGM exemplary characteristics

Highly active OGMs are somewhat in the “business of remedy” in promptly dealing with many fairly straightforward issues. Characteristics of effective OGMs include:

* Successful OGMs are able to demonstrate a high degree of worker engagement, including with migrants, primarily on the basis of offering a help line, that is a line that is able to provide information, not a complaints and grievance system.
* It is this approach to providing support, along with pro-active on the ground communications and training at suppliers’ sites, which appears to deliver accessible solutions.
* Experience indicates that success comes from recognising labour as a fungible asset and addressing OGMs at a sector level across a significant geographical area [Interview quote]
* Reaching a critical mass in an industry/sector means a significant proportion of supplier sites are engaged in a common OGM solution [Interview point]
* Issara claims success in engaging all tiers of some supply chains thereby gaining better visibility to systemic problems [Literature Review]
* Issara claims success in engaging labour providers thereby enabling access to address recruitment fee issues [Literature Review]

**Practical Recommendation 1:**

Consolidated here are key characteristics of supply chain OGMs which should be incorporated:

1. Open scope to all calls of all types from all sources
2. Wide sectoral and/or geographic coverage (ideally a high ratio of all potential sites)
3. Depth of reach to all supply chain tiers and actors
4. Publicised intensively to all workers in sites, including during the pre-departure phase for migrant workers
5. Autonomously operated with independent governance (ideally a multi-stakeholder initiative, see Section 3.1)
6. Union participation or other worker representation at governance and operational levels
7. Funded by all participating supply chain sites and sourcing companies
8. Adequately resourced via fair membership and operational fee scales that include allocations for direct remedies
9. Includes a burden of proof policy regarding hard to prove adverse impacts such as fees
10. An accountability mechanism which provides publicly available evidence that the members are meeting their obligations and held to account through sanctioning processes if they do not meet membership conditions.

**Steps to take:**

1. Adopt the 10 key characteristics above as the standard for OGMs.
2. Establish budgets for appropriate funding
3. Encourage other participants to embrace the key characteristics.

**Further objectives which should be undertaken by the OGM:**

* Actively pursuing additional coverage into their chosen sector or geographic region.
* Full disclosure of supply chain in scope of the mechanism including licensees, assembly sub-contractors, migrant labour providers and other related businesses.

A detailed list of items to be considered in OGM development, together with an associated schematic can be found in Annex 1.

# 2 Building on positive examples

## 2.1 Independent governance of operational grievance mechanisms (OP5)

How an OGM functions depends primarily on who, that is, which organisation, is running it. A review of existing OGMs reveals a number of potential issues:

* When those who may be responsible for adverse human rights impacts are expected to remedy them, there is a conflict of interest with regard to the control of a mechanism.
* Lack of oversight by an arms’ length third party of any company based OGM, without other recourse, produces a closed-loop situation where complaints and remedy can be constantly disregarded.
* There is a large asymmetry of power between employers and, in particular, lower-skilled workers. This asymmetry is to some extent universal but particularly marked in many lower income countries and for many migrant workers.
* In relation to scale, the operational oversight of effective OGMs across multiple diverse sectors and regions would be a daunting task for companies with suppliers which rely on proprietary systems.
* Conversely, suppliers and workers could not deal with multiple (competing) sourcing companies’ OGMs in place at each site.
* Typical guidance on the implementation of OGMs for sourcing companies includes design of systems which are appropriate to the context. While understanding of context is fundamental to success, the same fundamental processes must occur for proper treatment of grievances across these different contexts (see Figure 1 in Annex 2).

**Practical Recommendation 2:**

Operational level grievance mechanisms should be established with the participation of an independent party such as a local or regional union or NGO with specific interests and capabilities in the sector.

**Steps to take:**

1. Identify and assess existing independent OGM mechanisms for suitability to participate
2. Work with existing MSIs or trade alliances to identify opportunities for independent OGMs
3. Consider options for engaging with unions
4. Establish new OGMs in partnership with suitable NGO organisations.

## 2.2 OGMs providing active community and site monitoring (OP3)

OGMs could have the expertise and operational capability to perform associated due diligence roles to better facilitate access to remedy in workplaces using pro-active means which do not simply wait for workers to complain. Examples include:

* Electronics Watch, an NGO working with public sector buyers of ICT primarily in Europe, operates a group of independent NGOs with trained and experienced staff who specialise in visiting workplaces in the ICT industry in many countries. (<http://electronicswatch.org/en/worker-driven-monitoring_2548297>) These teams perform site inspections and worker engagement during their unannounced visits.
* Labor Voices (<https://www.laborvoices.com/>) connects directly with workers across different supply chains to offer visibility into working conditions inside suppliers’ sites and provides a two-way communication channel between workers and site management. Users learn about it via community marketing campaigns, with less than 5% of users learning about this through in-factory introductions.

**Practical Recommendation 3:**

OGMs should utilise community and on site monitoring by endorsed NGOs as a means to encourage disclosure of adverse human rights issues by workers.

**Steps to take:**

1. Companies should facilitate access to supply chain sites by endorsed NGOs under the terms of supplier codes of conduct and purchase orders
2. Identify suitable local organisations to conduct such monitoring
3. Evaluate and build capacity to perform required roles
4. Engage suitable NGOs formally to conduct monitoring in association with the OGM.

## 2.3 OGMs operating social audit programmes (OP3)

OGMs could have the expertise and operational capability to perform due diligence roles by undertaking their own social auditing programmes. Key considerations include:

* Social audit programmes to date have in general proved highly ineffective in identifying labour violations in general and violations affecting migrant workers in particular. Issues acting as barriers to identification include a lack of appropriate training for auditors, limited time to engage with workers, limited incentives to identify issues due to the nature of working relationships, language difficulties, and forms of control by employers.
* The implementation of large scale social audit programmes with corresponding corrective action plans (CAP) is daunting for many companies and management of the resulting non-conformance and corrective action plans may be neglected due to their volume.
* Management of delisted supplier sites for which orders are not supposed to be raised until their CAP status changes to listed again adds additional effort.
* Some OGMs manage their own social audit programme, enabling them to have control over the purpose, scope and delivery of audit efforts and providing improvements in execution from a close association with in-house knowledge of existing working conditions. [OGM interview]
* These OGMs benefit from an ethical approach to audits as organisations tailored to identifying and providing remedy.

**Practical Recommendation 4:**

OGMs should utilise social audit as part of the service provided to their supply chain members as a means to develop better understanding of adverse human rights impacts by workers and to achieve better remedy outcomes.

**Steps to take:**

1. Companies should facilitate access to supply chain sites by OGM endorsed social auditors under the terms of supplier codes of conduct and purchase orders
2. Develop internal social audit capabilities
3. Utilise internal social audit capabilities in supplier verification, routine audits and investigations
4. Synchronise audit scope with known site issues from OGM operations

## 2.4 OGMs and accountability (UP6)

We have not yet been able to learn enough about the nature of long-term remediation achieved by OGMs and how effective they might be in achieving systemic remedy. The governance structures of some organisations operating OGMs have a transactional focus perhaps not inherently suited to working on systemic issues. Forms of accountability were demonstrated in the following ways:

* One MSI operated OGM routinely sanctions its supplier members with exclusion from the programme, publicising members’ current status and also providing an appeal process. [Literature review, interview]
* One MSI operated OGM has a brand verification process by which its sourcing members are objectively assessed against set criteria to determine if improvements are required or suspension is warranted. [Literature review, interview]

**Practical Recommendation 5:**

OGMs should put in place an accountability mechanism which provides publicly available evidence that the members are meeting their obligations and held to account through sanctioning processes if they violate the initiative’s standards.

**Steps to take:**

1. Develop policies to reflect this commitment.

## 2.5 OGMs able to provide cash compensation as a remedy option (OP4)

Achieving effective remedy requires a variety of options and must take full consideration of the concerns of the aggrieved parties, including a need for ongoing employment and a reluctance to undergo mandatory return home should this be part of the end outcome. Cash compensation may offer particular flexibility. Examples include:

* One OGM has the capability to dispense untied cash compensation at its discretion, enabling it to provide, when needed, direct financial remedy to victims. [Literature review]
* Some episodic remediation undertakings adopt approaches which do not require an onus of proof to be met by the claimants on the nature and scale of the complaint [Literature review]

An approach might be applied to migrant workers who have paid recruitment fees or other situations of unpaid wages for all workers. Such claims would be raised as grievances with an OGM. This includes: (1) where claimants do not have suitable documented evidence; and (2) that there is enough general evidence to be able to make a reasonable assessment of the validity and size of claims without claimants meeting an onus of proof test; and (3) claimants would not be required to directly confront the issue with their employer to obtain compensation.

**Practical Recommendation 6:**

The membership dues of companies participating in OGMs should include a portion for dedication to the provision of direct remedy to workers, which might include, but not be limited to, cash compensation to victims at the sole discretion of the OGM.

**Practical Recommendation 7:**

Companies should make provision for compensation funds for victims as circumstances warrant as part of their response to mitigate risks which may contribute to or link them to adverse human rights impacts.

**Steps to take:**

1. Develop policies to reflect this commitment
2. Establish a funding model that enables OGM members to contribute in a representative manner
3. Incorporate funding costs into annual membership fees.

# 3 Evolving remedy responses

## 3.1 Multi-stakeholder initiatives (OP7)

MSIs perform key roles in enabling collaboration at all levels of the responses to human rights issues in supply chains and delivering specific forms of remedy relevant to their own purposes and objectives. Membership of an MSI places members once-removed from concerns of independence and perceptions of the risks of anti-competitive behaviour, as well as offering additional leverage with both suppliers and governments. As collaborative undertakings, MSIs are in a position to pool funding for better use of resources and evidence suggests that with such collective funding there may be sufficient trust in its independence. In addition, attempts to implement remediation objectives do not usually seek to operationalise mechanisms within their control which might provide greater access to remedy for the workers “covered” by their sphere of activity.

Collaboration itself is best performed at scale, yet there are only a few significant focussed collaborations in specific sectors, and they often have exclusions limiting memberships to large companies.There are a number of considerations for MSIs in developing effective operational grievance mechanisms. These are outlined in Annex 2.

**Practical Recommendation 8:**

MSIs should take responsibility for establishing and operating OGMs.

**Steps to take:**

This might include global supply chain sourcing companies and/or related trade associations, civil society and/or non-governmental organisations, workers’ representatives including committees and/or trade unions, migrants’ representatives or migrant rights organisations/advocates (for a specific affected community of workers, if not part of the civil society or non-governmental organisations), supplier businesses and/or related trade associations, government bodies and diplomatic representatives.

1. Identify where OGM mechanisms are required and assess the need
2. Work with existing MSIs or trade alliances to identify opportunities to develop OGMs
3. Establish new MSIs in partnership with suitable NGOs and other organisations

## 3.2 Procurement impact assessments (OP3)

Procurement activity is widely considered to be one of the main company activities which might cause or contribute to adverse human rights impacts in the workforces of suppliers. Certain situations can disrupt a well-planned purchasing process – poor practices which do not provide suitable lead times, unforeseen changes and other sourcing companies procuring from the same supplier. Avoiding these situations is likely to assist sourcing companies in their efforts to prevent or mitigate adverse human rights impacts.

Procurement impact assessments could be undertaken internally by measuring company product demands against the known capacities of the suppliers upon whom orders are to be placed. Sourcing companies need to have an accurate understanding of their suppliers’ production capacities to be confident of deliveries. These exercises could be accomplished reasonably easily with appropriate systems investments not out of the reach of most companies.

Efforts by sourcing companies to routinely share order information in an anonymised way would enable each to determine the current commitments and capacity of suppliers prior to placing orders. This could be a pro-active means to perform effective procurement impact assessments.

Many industries share historic demand information in order to determine key metrics and have adopted well-established mechanisms provided by reputable third parties and these models could be replicated. Establishing such mechanisms with appropriate independence, transparency and confidentiality might be facilitated by established current providers or others with a specific interest in supply chain human rights e.g. social audit companies.

Small companies or suppliers could and should participate. It might not cost much to be part of a large efficient program and would carry no particular additional burdens for those smaller companies wary of overcommitting scarce resources. We expect any further evaluation of this concept would examine legal liabilities which might arise from such information sharing or other anti-competitive concerns.

**Practical Recommendation 9:**

Research the development of effective large-scale procurement impact assessment mechanisms for various sectors/regions including which organisations might best operate them, how “capacity” could be managed and by what processes companies and their suppliers could submit and receive capacity-related information.

**Steps to take:**

1. Examine supplier capacity information in detail
2. Assess the company’s prior ordering history
3. Identify potential over-capacity events which may have occurred
4. Engage with suppliers to develop an understanding of the impacts
5. Put into place changes to procurement processes to address future instances
6. Encourage adoption of this approach with other brands
7. Engage trade associations to address development of a sectoral solution

## 3.3 Pre-emptive evidence capture (OP2)

There are opportunities to capture different sorts of documentation and personal information at various points on the recruitment timeline and physical journey a migrant undertakes to work away from home. The intention behind capturing evidence of this nature would be to make it available later should there be a subsequent moment where verification against actual working conditions could be conducted or, if having raised a grievance, a migrant might use it to assist resolution of that grievance with suitable remedy. There may also be an opportunity to embed such practices into the routine operations of an OGM by engaging workers to participate in evidence capture when they make contact for other reasons.

Such evidence may include government issued identification, visas, permits, insurance policies, agreements, and other information as well as photos taken by the migrant themselves. Up until the point of employment receipts for any expenses incurred or even a handwritten note to the effect of what has been paid could be captured in addition to any employment paperwork such as a contract. During employment, timesheets, payslips and other working related information might also be captured.

This is an undeveloped aspect of the HR DD response. A number of initiatives test or pilot concept solutions in the area of what needs to be in place prior to an incident:

* The Mekong Club eMIN project <https://www.eminproject.com/>
* IOM <https://www.iom.int/migapp>
* Fair Work Ombudsman (FWO) Australia <https://www.fairwork.gov.au/how-we-will-help/how-we-help-you/record-my-hours-app>

**Practical Recommendation 10:**

Further research be undertaken to develop understanding on the following issues which need to be addressed:

* Availability and communication of services
* Centralised data storage options such as online databases
* Who pays for such services (development and operation)
* The value expected from actual evidence (possible parallels with issues faced by worker voice digital platform data)
* Processes for subsequent access to and use of such data.

**Steps to take:**

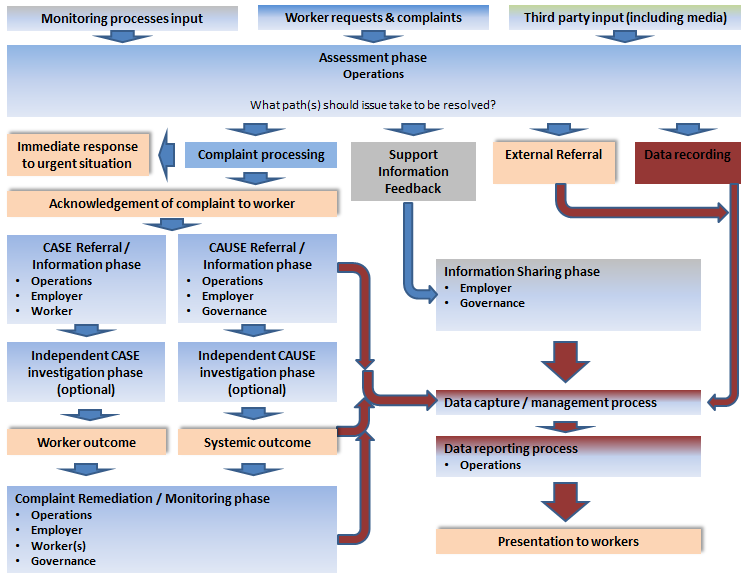
None at this time.

## Annex 1: Detailed list of items to be considered in OGM development

1. Design and development process
   1. Collective participation in design
   2. Design addresses the required operational characteristics and processes documented below
   3. Development, implementation and maintenance may be undertaken by a specialist third party provider with expert resources in the technical aspects of the solution contracted to provide implementation and ongoing maintenance. This might include a stand-alone technology company, a diversified social audit service provider or the like.
   4. Policy development
2. Operational characteristics (solution design)
   1. Country/region + industry/sector.
   2. Sites active / market coverage (% representation of potential universe).
   3. Supply chain tiers (depth).
   4. Supply chain actors (recruiters).
   5. Workers covered (direct/agency/ancillary) (temporary/short term) (migrants): there should be no restrictions at all on who can access an OGM. Provide one or more ways to access an OGM. This approach makes it much more likely that all workers feel they can equally access the system.
   6. Transactions: OGM staffing is able to ramp up to handle significant volumes and seasonal fluctuations.
   7. Languages offered: to suit all potential OGM callers/complainants to provide accessibility for all workers.
   8. Staff employed need to be trained support workers. Alongside this is the need to represent various demographics in the support team staff i.e. women especially and other distinct groups.
3. Operational practices (process design taking into account UNGP Principle 31 criteria)
   1. Pro-active activities such as worker training, advertising, worker committees, worker handouts, etc. are crucial to initial engagement of workers in the OGM and to build confidence and trust in using it for problems. Publicise the mechanism and its supporting resources.
   2. Engagement methods are typically passive although participation may include worker polling
   3. Access rules are not applied at all so there are no restrictions on when workers can access the OGM. Access is available as close to the location of any adverse impacts as possible.
   4. OGM staff training and delegated responsibility to have the authority to triage incoming requests promptly and professionally. Treat every complainant with respect. Carefully identify parties to the issue.
   5. Input assessment process to make straightforward decisions on scope and substantive nature with prompt reference to a supervisory authority for serious or complex requests. Treat every complaint seriously. This assumes live telephone calls are being made, which is not always the case - so there needs to be a response standard for other forms of access.
   6. Confidentiality.
   7. Recognise and address the risks of retaliation and other negative impacts on workers and their families, particularly where anonymity is not possible.
   8. Communicate transparently about the process as it advances. There are key transparency points such as complaint registration, proposal of a course of action, outcome and means to redact data relating to workers’ identities and work sites which ensure maintenance of confidentiality. Keep complainants informed. Record and be open about outcomes.
   9. Agree a timeframe in which dialogue takes precedence if relevant (seeks to suspend other actions such as litigation although this then creates an opportunity for the respondent to win by delaying, or perhaps to just stop campaigning against them).
   10. Resolution process provides remedy options independent of employer influence (information, mediation, arbitration, restitution, compensation, repatriation, direct assistance, other options). Encourage direct, informed and constructive engagement. Ensure sensitivity in logistical arrangements. Agree on provisions for implemented agreed outcomes.
   11. Dispute resolution process for escalations and appeals.
4. Reporting / performance assessment / effectiveness rating
   1. OGM process measures.
   2. Remedy outcomes measures. Agree and monitor KPIs.
   3. Worker satisfaction and worker demographics including migrant workers assisted.
   4. Integrate lessons learned into company systems. Revise the mechanism as appropriate in line with experience.
   5. Other reporting metrics: cost per grievance; systemic issues remedied.

### Figure 2: Operational grievance mechanism generic design

*Generic schematic of operational grievance mechanism (individual case and systemic cause remedies)*



## Annex 2: Considerations for MSIs in establishing effective OGMs

*Composition*

* Governance membership made up of the representative stakeholder group that can both participate in the creation and take an oversight role in its functioning (categories of membership) should represent ideally all aspects of the cause, assessment and remediation of adverse human rights impacts in supply chains, including affected communities.
* A decision-making body comprised of a properly constituted Board of Directors from the governance membership (from three to 20) with a designated (and ideally independent) Chair.
* A decision-making process which enables representative participation from each category of the governance membership ideally with a requirement for consensus or a suitable equally weighted voting process.

*Scope*

* Remits/scopes of work should cover a full range of human rights issues related to global supply chains (as advised in UNGP framework).
* Standards/codes of conduct for members based closely on international human rights laws and norms.
* MSIs charter should enable the use of governance members’ leverage as a potent means to make systemic changes across sectors, regions, supply chain tiers or with specific actors.
* MSIs charter should enable continuous brand engagement on all admissible complaints
* MSIs charter should enable open membership to all sizes of sourcing companies as a means to demonstrate HR DD with limited resources by collaborating financially
* MSIs charter should enable designation of a single, expert, professional principal operator for any trading-like or operational initiatives with oversight of and ultimate responsibility for handling that activity.

*Accountability and transparency*

* A self-monitoring process in the form of an external complaints mechanism by which members could apply for review of the actions of other members.
* An accountability mechanism which provides publicly available evidence that the members are meeting their obligations and held to account through sanctioning processes if they violate the initiative’s standards.
* Governance membership confidentiality requirements which provide all governance members with confidence that information disclosed in the performance of their duties for the initiative and its objectives will remain private.
* Information sharing amongst governance members, to other non-participating external stakeholders and to the public in general is a requirement for overall transparency.

*Funding*

* What the MSI provides will be a crucial determinant and whilst operating an OGM with operators, managers and technological solutions is a reasonable starting point, much more can be accomplished.
* Specifically, it is crucial to ask those members participating in, and potentially benefitting from, operation of OGMs to share the costs fairly.
* How much for individual companies in the supply chain?
* Ensure that funds for expert or advisory services are able to be provided when required.
* Delivering what complainants may reasonably require in the form of remedy necessitates having a remedy policy on the use of financial compensation when needed. This would enable the OGM to directly dispense cash payouts as part of case determinations, without further recourse to its members.

## Annex 3: Draft Principles on Access to Remedy for Migrant Workers

Underlying Principles[[2]](#footnote-2)

1. All workers have labour rights based on international standards, including migrants without regard to immigration and work status.
2. Access to remedy should be available to all workers, including migrants without regard to immigration and work permit status.
3. Prevention measures should be the first goal of any monitoring, complaints and remedy programme.
4. Remedy for migrant workers should seek to honour the principles of internationally recognised human rights.
5. Migrant workers should be engaged in the development of monitoring and complaints mechanisms and implementation of remedy.
6. The response to a grievance should provide remedy for adverse human rights impacts and address causal factors even when they arise externally.
7. Business initiatives should complement, and not undermine, State-based judicial and non-judicial structures as appropriate.

Operational Principles

1. Workers should be informed about their rights and options for accessing remedy.
2. Company responsibility for remediation should incorporate the migrant worker recruitment phase.
3. Remedy strategies should incorporate proactive monitoring to encourage worker feedback (on working conditions) including (complaints) on adverse human rights impacts.
4. Operational level grievance mechanisms should have clear policies publicly available on both grievance and remedy.
5. Remediation processes should involve a trusted independent party.
6. Operational level grievance mechanisms should encompass multiple workplaces where adverse impacts may occur.
7. Multi-stakeholder engagement should be actively pursued to maximise trust, capability, efficiency and leverage.

1. The document is based on the Literature Review and Discussion Paper documents previously prepared in draft form for ETI review. It reworks and further develops the material from the Discussion Paper into an accessible format for consumption by those organisations (companies, unions and NGOs) which might participate in forthcoming workshops held by ETI on the Draft Principles. [↑](#footnote-ref-1)
2. Based on the version submitted to ETI by RCG on 10 April 2019. [↑](#footnote-ref-2)