

REMEDIATION TOOLKIT

REMEDIATION TOOLKIT INTRODUCTION

This toolkit aims to assist businesses plan for identify and remediate cases of exploitative labour practice in their supply chains. It is primarily focused on Asia Pacific and includes specific information on the applicable laws in key sourcing locations across Asia Pacific. More detail on these laws can be found [here](#).

Why this kit?

Although progress has been made against modern forms of slavery, one startling gap remains. Best estimates are that fewer than one per cent of the 25 million victims of forced labour are receiving assistance. The widespread prevalence of exploitative labour practice in global supply chains is further highlighted in recent [Sedex analysis of more than 100,000 audits](#) in 158 countries. Multiple indicators of forced labour were found in more than 38,000 audits (36 per cent of all audits). Even where grievance channels do exist, there are multiple reasons why victims may not come forward or in some cases, victims actively seek to avoid being identified due to lack of appropriate remedy and unsuitable services.

It is widely acknowledged we are falling short on the third pillar of the Ruggie principles on human rights and business – [Protect, Respect and Remedy](#). As business is increasingly being held accountable for supply chain practices by governments, financial institutions, consumers and most importantly workers, a reactive approach to supply chain incidents is no longer sustainable or economically sound.

This toolkit aims to assist business, plan for, identify and remediate cases of exploitative labour practice in their supply chains. It is based on the following key concepts:

- 1. Effective preparation is crucial.** This will not only help companies respond promptly without having to make decisions in haste but also help to avoid issues in the first place. In doing so, it is recommended that companies assume that problems exist in their supply chains. As noted by one [practitioner](#), “Only by beginning with this assumption ... will businesses establish the mechanisms, tracking technologies, auditing and partnerships to stop it.”
- 2. Companies should be proactive in identifying violations.** In particular, it is essential to understand that workers will not necessarily come forward if they have a complaint, even if grievance mechanisms are in place.
- 3. Disengagement from business relationships should be the last resort.** Companies cannot help workers once they have walked away. Thus, except in most egregious cases, companies are encouraged to work to resolve issues. Companies will need an effective communication policy to explain this position publicly.
- 4. Listen to the workers.** Workers often face choices we may not understand and it is important not to make decisions on their welfare without their input. In particular, we should not assume that exploited migrant workers will want to go home.
- 5. Remedy both cases and causes.** Remediation approaches should address both the case of the violation and the factors which led to the violation occurring (or not being identified sooner). A good data management system might support this process

While this toolkit is intended for individual businesses, the Mekong Club would encourage businesses to consider cooperating with others in non-company specific responses through [Multi-stakeholder monitoring complaints and remedy mechanisms \(MCRMs\)](#). Such mechanisms offer potential economies of scale and may help level the playing field by being available to workers from non-participating companies.

How to use this kit

The likelihood of effective action in remedying labour violations will be increased if steps are taken before problems arise. With this in mind, the toolkit is organised under four main headings: Preparation; Communication; Investigation and Remedy.

This kit was originally developed as a flowchart and has been reproduced as a PDR document on request. It can be read through as a single document, or still used in the manner of a flowchart by clicking on links within each section that will take the reader directly to the next step in the remediation process. Relevant external links are included throughout the document.

PREPARATION

Thorough preparation is critical to effective responses to possible forced labour incidents in supply chains. Preparation can also reduce the likelihood of such incidents occurring in the first place.

This section outlines the major considerations in planning to prevent and, if necessary, respond to forced labour violations.

1. Anticipating risk

Anticipating risk can assist companies to focus their preventive and monitoring resources on potential problem areas. Anticipating risk involves assessing factors both within and outside the company's control, as well as the company's procedures to identify actual and potential problems.

This should lead to an assessment of the supply chain that determines the greatest sources of risk and the specific mitigation actions for each. With this as a foundation, organisations can become progressively more sophisticated in implementing risk management across the supply chain.

Types of risk

There is a general level of risk associated with each product based on its components and the industry sector and location in which it is made. The Mekong Club has developed a [Risk Assessment Map](#) where users can view and download risk reports for more than 150 commodities, together with individual country reports.

Location risks

Not surprisingly, more forced labour indicators are [found](#) in countries predicted to have greater risks of labour rights violations. Forced labour is more prominent in certain countries and regions, cited by the [United Nations Office on Drugs and Crime](#) as including South-East Asia, South Asia, Central Asia, Eastern Europe, Central America and sub-Saharan Africa. Factors contributing to the existence of forced labour may include:

- Restrictions on trade unions/freedom of association
- Visas linked to a specific employer
- Weak labour protection
- Lack of access to justice in case of rights violations
- Ineffective law enforcement
- High levels of corruption
- Internal conflict
- Please see The Mekong Club's [Risk Assessment Map](#) for information on individual country risk.

Sector/product risks

Forced labour is more prominent in some sectors than others. The International Labour Organization (ILO) highlights the following:

- Agriculture, forestry, and fishing
- Construction, manufacturing and utilities
- Mining and logging
- Domestic service and other care and cleaning work
- Prostitution/sex industry
- Garments and textiles under sweatshop conditions
- Hospitality and catering
- Transportation

Please see The Mekong Club's [Risk Assessment Map](#) for information on sector and product risk.

Large numbers of low-skilled or temporary workers and those in industries with high turnover are often vulnerable to exploitation due to the ease with which they can be replaced. They may also be less aware of their legal rights and how to access assistance.

Large number of low-skilled or temporary workers

Unskilled or temporary workers, and those in industries with high turnover, are often vulnerable to exploitation due to the ease with which they can be replaced. They may also be less aware of their legal rights and how to access assistance.

Use of hazardous materials

The consequences of labour violations can be particularly severe where workers are exposed to hazardous materials and dangerous working conditions. Additional attention is therefore required to ensure appropriate labour standards are maintained.

Specific risk indicators

There are several factors that, while not in themselves violations, may indicate increased risk of worker exploitation. These include the involvement of third parties through practices such as use of employment agencies and outsourcing of production.

Large number of migrant workers

Migrant workers tend to be particularly vulnerable to exploitation for reasons including high recruitment-related fees, legal status in the destination country, language barriers, and barriers to exiting exploitative workplaces. [This document](#) from HP is an example of company guidance on issues for migrant workers in supply chains.

Outsourcing/Sub-contracting

Exploitative labour practices, particularly the worst forms, are more common at lower levels of supply chains. While outsourcing or sub-contracting of production by the supplier is not in itself an indicator of forced labour, such practices often place workers outside of regulatory systems. They may therefore be associated with non-compliance with employment regulations, ranging from the use of exploitative piece rate agreements to sweatshop labour.

Use of employment agencies

The contracting of workers through an employment agency rather than directly by the supplier adds another level of risk to the labour process and is the reason that the [Leadership Group on Responsible Recruitment](#) encourages direct employment where possible. Where suppliers contract workers through an employment agency rather than directly, they have less control over worker contracts. Employment agencies often have significant power over workers and may use this power to make unauthorised deductions.

Use of recruitment agencies

Much of the exploitative practice in supply chains occurs in the process of recruitment of migrant workers. Private recruitment agencies have traditionally charged high fees to workers often placing them in debt, effectively binding them to the workplace and leaving them open to further abuse. Recruitment agencies also often work through sub-agents at local levels, who are generally unregulated and rarely held accountable for their role in exploitative practice. The involvement of both formal and informal recruitment agencies, particularly unvetted, is thus a key indicator of risk.

Warning signs

There are a number of signs that can alert companies to the possibility of forced labour, including minor violations not amounting to forced labour, and prior incidents in other locations.

Prior incidents

The presence of incidents of forced labour within the same sector, same country or involving migrants from the same or origin country can be a strong risk indicator, particularly where they suggest systemic problems or abuses. The presence of prior violations should encourage the company to prioritise monitoring of those sites.

Contract irregularities

Contract irregularities include: missing contract terms; lack of written contracts in a language that the workers understand; and contracts that don't comply with, or deliberately circumvent, statutory labour and social security provisions. Companies should also be aware of possible violations relating to the replacing of regular contracts for long-term work by renewable, short term contracts; and inappropriate use of apprenticeships.

Lack of adequate written labour, health and safety policies

Each supplier should have clear written policies on labour, health and safety standards compliant with both local regulations and buyer requirements.

Health and safety violations

Experience shows a strong correlation between indicators of forced labour and other seemingly more minor violations relating to labour, health and safety practices. Examples may include lack of access to adequate food and water, and non-compliance with fire and safety regulations such as access to safe exits.

2. Developing and communicating a clear labour policy

It is important that the company has its own clear and transparent policy framework (position statements, codes of conduct, etc.) on preventing and addressing labour violations within its supply chain and that this policy is systematically reflected throughout the company's operations, including in agreements with suppliers. The policy should be informed by international human rights frameworks and should be periodically reviewed.

Communicating and implementing the policy

Once the policy framework is in place, this should become the foundation on which the company builds a strategy for engagement with internal and external stakeholders. This includes the company's direct employees, its suppliers and their sub-contractors and other business partners. The company needs to communicate the policy and implement processes to ensure the obligations are passed through the supply chain.

Staff across the company will need to familiarise themselves with the policy's vision and principles. Supply chain management will especially need to understand the provisions and consequences of the policy in order to communicate them to new and existing suppliers.

Process for developing policy/Code of Conduct

The development of the policy/code of conduct should be overseen by the CEO or board. The provisions of the Code of Conduct should be worded to avoid ambiguity and include a specific prohibition on indirectly benefitting from, or contributing to, exploitative labour practice. The Fair Labor Association has produced a sample [Workplace Code of Conduct](#) which is available in some twenty languages, including seven South-East Asian languages. Users might also like to refer to the Ethical Trading Initiative's [Base Code](#) on Labour Standards, which is widely used by companies in developing codes of conducts relating to labour issues.

Meeting company legal obligations

Companies now have a range of obligations with regard to their supply chain, including through government legislation and in contractual relationships with their own buyers.

Companies will need to take into account both (1) the labour laws within the countries from which they are sourcing products and (2) applicable laws on supply chain regulation in countries where they operate or are registered.

Country labour laws

There are both moral and legal reasons for companies to ensure that products they buy are produced according to local laws. Click [here](#) for detailed information and analysis of labour laws in six South-East Asian jurisdictions. Recognising the limits of such laws in some countries, many companies treat these as a minimum requirement and base their supplier requirements on internationally recognised [labour standards](#).

Supply chain obligations

Governments around the world are increasingly requiring companies to take action against forced labour in their supply chains. These requirements range from reporting requirements to specific contractual obligations. See the Mekong Club's [Transparency Legislation Tool](#) for more information on modern slavery legislation.

Addressing trade restrictions

The most notable trade restriction at present is the Section 307 of the [US Tariff Act](#), which prohibits importing any product that was mined, produced, or manufactured wholly or in part by forced labour, including forced or indentured child labour. A withhold release order (WRO) can be issued against goods suspected of involving forced labour. Following the closure of a loophole in 2015, this instrument has been increasingly used and importers must demonstrate that they have made "every reasonable effort" to determine both the source of and the type of labour used to produce the merchandise and its components. Affected companies report that this is a significant burden. [This webpage](#) maintained by the US Government includes details of WROs and findings.

Meeting obligations to buyers

The company should be clear on the requirements of its commercial buyers, who will generally have their own supply chain obligations.

Commercial buyers

Forced labour violations in a company's supply chain are also violations in the supply chains of the buyers of the company's affected products. The company will need to consider its responsibilities in the context of both its contractual obligations and its relationship with each buyer.

Government buyers

As well as increased regulation of private sector supply chains, governments are increasingly paying attention to their own procurement practices. Companies in breach of government procurement regulations may find themselves excluded from bidding processes. (See, for example, the [US Foreign Acquisition Regulation \(FAR\)](#)).

Reflecting company values

As well as legal compliance considerations - both current and foreseen - the company policy should reflect company values around adherence to ethical standards and respect for fundamental human rights.

3. Incident management planning

During the planning phase, companies need to identify all steps and connected risks in developing effective incident management solutions, including the appropriate for an incident management team composition. Without the necessary processes in place a violation cannot be properly addressed.

Written investigation guidance

To help ensure a neutral, consistent, and non-discriminatory investigative process, there should be written guidance concerning all aspects of the investigation, including:

- Collection and assessment of evidence.
- Engagement with the relevant workers.
- Proper and respectful interaction with workers, including women and migrant workers.
- Procedures for confidentiality. (source: [IOM](#))

Post-incident communication strategy

Effective internal and external communications is a crucial component of an effective response to forced labour violations. The company should plan for possible incidents by outlining a communication strategy in advance. Guidance is provided in the next section of this toolkit, specifically dedicated to Communications.

Incident management team

The role of the incident management team is to ensure that the company's response to the incident takes account of all relevant factors. Where necessary, the company may engage external personnel to assist, particularly with respect to investigating the incident.

The incident management team must include members covering all relevant aspects of company operations, either a representative of the relevant section or, if no such section exists, a staff member responsible for this area. Where feasible, and where they are clearly not complicit in the incident, inclusion of the factory leader should also be considered. This helps ensure the factory leader fully understands the importance of managing the incident and sends a clear message to employees that it is being taken seriously. Each team member must have a clear view of their role, the goals of the team and the timeframe for resolution.

Trained and mandated team leader

The company should ensure that the incident management team leader is equipped to manage an incident in the supply chain, and oversee the steps of investigation, communication and remedy with the help of qualified personnel (internal and/or external) for each phase. The incident management team leader should have the authority to make decisions on behalf of the company.

Legal guidance

Legal advice may be required in a number of areas including: (1) contractual obligations to buyers (2) legal obligations in relation when a crime has been committed, and (3) false accusations of forced labour.

Procurement considerations

Procurement staff should be involved in the incident management team. Their role is to communicate with suppliers, assess and manage potential disruptions to production during the remediation phase and help ensure that the supplier will continue to comply with its obligations beyond the immediate investigation and remedy phases. Procurement staff can also provide guidance on the importance of the supplier and the amount of leverage the company has over the supplier.

Social responsibility

As well as legal, contractual and supply chain considerations, a company's response will be determined by how it views its social responsibility obligations. The engagement of staff responsible for CSR is therefore essential, particularly as some remedies may have ongoing budgetary obligations that best fall under social responsibility (such as working with suppliers to provide income and educational support for children freed from child labour).

Media relations

As external communication is a crucial component of incident management, the team should include staff responsible for media relations. The team also needs to be clear who has the authority to speak publicly on behalf of the company.

4. Reviewing monitoring processes

There are a number of ways in which incidents within a supply chain might come to notice beyond traditional auditing practices. The company's monitoring process should involve a mix of methods, with clear procedures developed for initiating a response to a reported incident. Random spot audits in the supply chain, for example, may help to evaluate the quality of the monitoring program and identify opportunities for improvement.

Audit

Monitoring audits seek to assess compliance with contractual obligations and identify problems and areas for improvement. Audit methods include filling out questionnaires, payroll analysis, and interviews with workers in the appropriate language.

Audits have shown mixed results in identifying forced labour violations to date and there [is growing discussion](#) of the extent to which social auditors might be held accountable for failure to identify major violations. At the same time, the [Se-dex analysis](#) mentioned in the introduction highlighted that 64 per cent of reviewed social audits identified at least one indicator of possible forced labour and 36 per cent identified at least two. It's important to be clear on what audits can and cannot achieve, and to understand [common shortcomings](#). Companies are encouraged to consider measures to both improve (link to 4.1.1) and complement (link to 4.2) audits.

Strong consideration should be given to unannounced audits. At the same time, companies should consider the demands that multiple audits may place on the supplier. Recognising this, some companies are now agreeing to accept audits done by selected other parties.

Improving audits

Steps that may be taken to improve audits include (1) reviewing and strengthening the lists of questions asked in audits, (2) ensuring auditors have been properly trained in identifying labour issues (3) ensuring that auditors are incentivised to identify labour issues, including by conducting additional investigation where such issues are suspected and (4) increasing provision for worker feedback, both during the audit process (linked to 4.1.2) and on an ongoing basis.

Worker feedback as part of the audit process

When interviewing workers it is important to consider the constraints they may have to speaking freely, including where the company is offering to provide its own interpreter.

zTools now exist to assist in this process such as The Mekong Club's [Apprise Audit](#) app, which allows migrant workers to provide feedback privately and in their own language.

Following up on audit findings

One of the recognised shortcomings of audits is that many oversight systems effectively end there. A more robust approach is required to ensure audit findings are satisfactorily addressed. This includes mapping out an improvement plan and following up to ensure continuous improvement and reduce the chance of repeat findings.

Complementing audits

While there is significant scope for improving the role of audits, additional means of identifying labour violations are also needed. **Monitoring news reports** (also by setting up electronic alerts) can be an effective low cost method for continuous monitoring, within every company's reach. The Mekong Club [adverse media checklist](#) can help companies to limit online searches to the most important keywords.

Grievance mechanisms and beyond

Feedback from workers and their representatives is crucial to monitoring labour conditions in supply chains and identify potential violations. There must be opportunities for feedback through channels that are anonymous and confidential, with a guarantee of no reprisals.

These channels must include grievance mechanisms. Recent reports suggest that few companies have effective grievance mechanisms in place. Even where mechanisms exist, there are multiple reasons why workers may not come forward to report violations including fear of retribution against themselves or family members, lack of knowledge or trust in remediation processes, or support programmes that do not meet their needs, such as the possibility of detention in trafficking "shelters" or mandatory return to their own country.

Companies may consider addressing some of these barriers by, for example, working with civil society organisations to undertake a proactive and ongoing monitoring role independently of auditors. The role of proactive monitoring is discussed further in [this discussion paper](#) on multi-stakeholder remediation mechanisms.

Screening grievances

Companies should consider having a trained group of individuals to review and screen submitted grievances. This might include trade union or worker network representatives, if they are active at the workplace, to ensure that the group represents the diverse interests of the workers, the company, and the industry. Training should include review of grievances, common types of grievances, legal and policy standards, and handling of sensitive information.

5. Reviewing procurement practice

A company's procurement practice can directly affect labour conditions in both positive and negative ways, particularly for products that are seasonal in nature. Requests to meet unrealistic prices, targets and delivery times put pressure on the supplier, as do practices that delay production without changing the delivery date (such as changes in design and late confirmations). Very small orders can also create problems. These practices may lead to production outsourcing/ subcontracting, unstable work conditions, excessive working hours and tension in the workplace.

Aligning procurement practice with Code of Conduct

Companies should ensure that procurement practices are aligned with their Code of Conduct, looking beyond traditional economic parameters and ensuring appropriate monitoring processes. Companies should pay particular attention to prices that appear abnormally low.

Making expectation clear to suppliers

Companies should ensure that procurement practices are aligned with their Code of Conduct, looking beyond traditional economic parameters and ensuring appropriate monitoring processes.

Cascading obligations

The company may require suppliers to demonstrate how they manage the performance of their own first tier and effectively 'cascade' the company's standards to lower tier suppliers, starting with priority areas such as: - no fees to workers - legally compliant contracts - no withholding of documents - child labour prevention - grievance and remedy systems. Companies also need to recognise the possible limitations of such approaches, with the level of oversight likely declining with each step further down the supply chain, as the risk of exploitative practice is increasing.

[illegible]

Clear, effective communication is crucial at all levels and during all parts of the remediation process. This section identifies a wide range of actors that the company may need to communicate with, as well as key considerations for each group. The company should have a clear strategy for both internal and external communications, ensuring that (1) internal action is aligned with external messaging and (2) all internal parties are on the same page, including with regard to who may speak on behalf of the company. Ideally, the company should have outlined the core principles of the strategy in the preparation stage. The strategy will need to include consideration of other entities that may be affected, possible partners, messaging and timing.

1. Considering company's own buyers

Forced labour violations in a company's supply chain are also violations in the supply chains of buyers of the company's affected products. The company will need to consider both its contractual obligations and its wider relationship with each buyer.

Government

Many governments are increasingly focusing on their own procurement practices. A breach of such practices may have implications for the company beyond an individual contract. Companies also need to consider their supply chain reporting obligations; for example under the [UK Modern Slavery Act](#) and the [California Transparency in Supply Chain Act](#). Assistance in putting together a modern slavery statement, is available in the [Mekong Club Modern Slavery Statement Preparation Guide](#).

Trade customers

Trade customers will have their own supply chain responsibilities and policies, which may or may not be reflected in their contractual agreements with your company. Early communication with customers is important, especially to ensure they are not blindsided by any public reports.

Consumers/Public

A decision will be needed on what and when to communicate to consumers and/or consumer organisations.

2. Partners for collaboration

There are a range of potential partners with whom the company may consider joint action, including fellow businesses sourcing from the same supplier, local agencies able to support workers, intermediary suppliers and customers.

Industry associations

The company should be clear on any obligations it has to an industry association and/or other ethical trading initiative, such as through member Codes of Conduct. It should consider what and when to let the association know about the incident, taking into account these obligations.

Fellow buying companies

Joint action with other businesses sourcing from the same supplier can (1) allow companies to exert greater leverage over suppliers, (2) spread the costs of investigation and follow-up and (3) help ensure a level playing field for all.

Agreeing on joint action

Companies have highlighted a number of challenges in working together to address supplier issues, including (1) potential infringement of anti-trust legislation; and (2) implications around commercially sensitive information. Experience to date suggests that joint action is facilitated where organisations are already working within a joint framework that can act as an intermediary, such as the [Business Social Compliance Initiative](#), the [Ethical Toy Program](#) or the [Responsible Business Alliance](#).

Intermediary suppliers

Where the incident occurs below the first tier of the supply chain, remediation will require working with intermediary suppliers able to exert more direct influence. Intermediary suppliers, particularly those at higher tiers, will likely have their own supply chain obligations as well as contractual obligations to their immediate buyers. The further down the supply chain, the more difficult it can become to ensure concerted action and avoid local vested interest.

Local support agencies

Local support agencies can include NGOs and trade unions, and even the embassies or consulates of foreign workers. Larger international NGOs can often help identify reputable local civil society actors. Such agencies may be able to assist in both the investigation phase and, in particular, remedy. If you uncover an issue and require support to reach out to a relevant local support agency, you can contact the [Mekong Club](#), which has a wide network of trusted contacts across Asia and beyond.

Supplier under investigation

Careful judgement is required as to the extent of transparency with the supplier. Factors to consider will include (1) risk to whistle-blower and/or affected workers, (2) relationship with the supplier, and (3) extent and severity of the breach. Some organisations have addressed sensitivities by presenting investigations in terms of 'a general industry concern' or a special 'focus assessment' rather than a response to a specific incident. See also [non-collaborative supplier](#).

3. Considerations in messaging

Message content

This Toolkit strongly advocates that walking away from the supply relationship should be the last resort. A company cannot protect workers once it has walked away. Only by staying engaged will the company know whether violations are being addressed and changes sustained. Public communication should be aligned with this approach, emphasising that the prime focus is on the safety and welfare of the individuals concerned, in order to secure the best possible outcome.

Dealing with false allegations

This toolkit generally focuses on responding to allegations or reports of violations that are, at least to some extent, valid. At times, however, companies may face allegations that are clearly false. Each case needs to be considered on its merits. Companies consulted in developing this toolkit suggest there may sometimes be limited value in challenging false allegations publicly. (This does not preclude legal action against the accusers.)

Timing

Factors to consider in the timing of any public comment will include: (1) whether the incident is already in the public domain; (2) the likelihood of the incident breaking publicly; and (3) the potential for any public announcement to assist or, more likely, impede the investigation, and place workers in danger. For communication to be effective, the incident should be properly understood before issuing any public statement.

INVESTIGATION

This section of the toolkit refers to civil investigation of suspected labour violations. It outlines the major considerations in conducting investigations into forced labour risks and violations as distinct from social audits. Such an investigation is a thorough examination of actual circumstances relating to the supplier's workforce operational practices and performance. An investigation team does not have legal powers and the investigation should be carried out to civil rather than criminal regulatory standards – that is, the investigation does not have to demonstrate the presence of violations beyond reasonable doubt but rather on the balance of probability.

1. Underlying approach

It is important that all involved in the investigation are clear on the investigation's goals, and the importance of balancing transparency and confidentiality to ensure fair and sustainable outcomes for all. All companies should investigate all allegations coming from both internal and external channels.

Clarity on goals

The investigation should be planned to achieve the following goals:

1. Establish where the supplier's practices and performance are not in line with the local legislation and regulations and the company's code of conduct against forced labour
2. Document important relevant evidence including forced labour victim and witness testimony
3. Determine the cause(s) of the violations
4. Establish the extent of the harm, including financial burden, to the victim(s)

Clarity and transparency on process

The investigation team should follow a clear set of steps in each instance and record the information in a standardised format. At all times in the interview process, safety of the workers is the highest priority. As noted in relation to preparation, there should be written guidance concerning all aspects of the investigation including:

- Collection and assessment of evidence.
- Engagement with the relevant workers.
- Proper and respectful interaction with workers, including women and migrant workers.
- Procedures for confidentiality.

This will help ensure a neutral, consistent, and non-discriminatory investigative process. Further, it may be useful to have separate procedures for small/routine grievances and more complex grievances to allow for more streamlined and efficient investigation.

More discussion on investigation of labour violations can be found in IOM's Operational Guidelines for Businesses on Remediation of Migrant-worker Grievances. More discussion on investigation of violations related to recruitment fees

can be found in Impactt's Principles and Guidelines for the Repayment of Migrant Worker Recruitment Fees and Related Costs.

Confidentiality on content

The investigation team must record information gathered but not divulge the details to any other party. Confidentiality must be maintained to protect workers and victims. The value of evidence does not depend on (all) details of the source being revealed. Reporting should not refer to anything that may identify a person, such as their name or initials, or details relating to age, sex, position, nationality or ethnicity.

2. Overall conduct of investigation

All investigations require the application of a standard process which involves Planning, Execution, Analysis and Reporting (PEAR). During these investigation phases, key tasks must be accomplished in a systematic way, and the course of the investigation adapted to the information obtained to ensure a meaningful outcome. Careful consideration must also be given to the techniques used to obtain evidence from stakeholders.

Investigation planning

An investigation at a supplier's site must be conducted and completed in as short a timeframe as possible. Because of the ongoing commercial relationship between the company and its supplier, it is vital to work quickly to gather evidence. Adequate planning is crucial to investigation success.

Developing an investigation plan

The investigation team should develop an investigation plan before going to the site. At the outset of the planning process, the team will need to consider the value of working with other partners. Other important considerations include:

1. Site selection
2. Gaining supplier consent
3. Timing of the visits
4. Whether these visits should be announced

Collecting background information

The team should seek to get as much information as possible prior to undertaking the site visit. This could include details on the applicable labour laws. The Mekong Club's [labour violation toolkit](#) outlines legal frameworks for selected Asian countries.

Communicating and collaborating with stakeholders

At the outset of the investigation, it is important for the investigation team to be clear who they wish to communicate with, and what they wish to communicate. This includes

consideration of potential partners for collaboration such as fellow source companies, intermediary suppliers and local support agencies (NGOs, trade unions, embassies/consulates of foreign workers). Collaboration with partners may enable access to a broader set of resources, for example to help carry out the investigation.

Selecting investigation sites

Some investigations may require visits to multiple sites. For example, extending an investigation to a supplier's own vendors, such as recruitment agencies would be warranted if recruitment fee violations were apparent. And lower tier product suppliers might warrant investigation in response to public allegations. After identifying potential site(s) to involve in the investigation, the team should consider a preliminary visit to the area to determine access, feasibility, possible challenges and risks.

Establishing an investigation team

An investigative team must involve trained professionals with in-depth knowledge of forced labour whose conduct is based on both skill and ethics. (This includes the involvement in experts in working with children where child labour may be involved.) Their impartiality and objectivity along with their ability to secure information and complete the work in a timely fashion will safeguard the quality of the investigation. The investigation's likely outcome should not determine the way the team carries out its work.

Language considerations

Workers must be interviewed in the language of the interviewee themselves. Interpreters are not ideal, but if there is no alternative, they must NOT be provided by the supplier. Interviewers using interpreters should be alert to signs that the interviewee is uncomfortable with the interpreter. Various apps exist to assist with interviewing workers where no independent interpretation is available, such as the Mekong Club's Apprise Audit platform.

Selecting interviewers

Interviewers should be specially trained in worker interviewing techniques. They require the ability to adapt an interview while it is underway and deal appropriately with serious problems and requests for remedy. It is the role of the interviewer to be tactful in their questioning and make employees feel comfortable engaging in open, candid discussion. The interviewer must keep in mind the possible legal implications for the victims as well as for the perpetrators of forced labour, and the risk of retaliation against workers for any information they share.

Possible investigation risks

General risks to the successful completion of the investigation exist. These impact the company, its investigators, supplier owners, managers, workers, and evidence, from inception to reporting. An understanding of the specific risks for each investigation will inform decisions such as what to communicate to the supplier, how to manage case notes, personal protection and worker safeguards.

Worker-related risks

There are a number of risks that relate specifically to workers, including threats to their safety and the consequences of being identified as victims of trafficking for forced labour, which can lead to mandatory return to their country of origin.

Worker safety

Workers may risk reprisals or intimidation from managers or third parties for providing (or simply appearing to provide) information detrimental to their interests or those of the supplier.

Loss of employment

Workers risk losing their jobs for many reasons, including if they are identified as victims of forced labour violations. This presents risks to both the workers and the investigation. If workers leave the premises for good before or during the investigation, it becomes unlikely that they will receive assistance, and evidence gathering will be compromised.

Trauma

In cases of severe labour violations - such as where workers have experienced or witnessed sexual or other forms of violence, been locked in the workplace for extended periods, or faced long-term sleep deprivation - workers may experience high levels of trauma. Trauma and fear are reasons why victims of forced labour often refuse to co-operate with investigations or take any steps to secure their own rescue. Traumatised workers not only require special assistance but may be incapable or unwilling to provide accurate accounts of their experience. Where there is reason to believe that workers may be suffering from trauma, specialist psycho-social counselling expertise must be engaged, for example through suitable NGOs. [The Mekong Club can be contacted for specific recommendations of NGO partners.](#)

Risks related to investigation team

There may be a number of risks relating to the investigation team, particularly in more severe forms of forced labour, which may involve organised criminal groups and/or corrupt practices.

Conflict of interest

The investigative team must be free of conflicts of interest (actual and perceived). These may occur when members performed prior social audits at the supplier's sites, have a connection with the supplier or its owners outside of the company's commercial relationship, or in any other way which would bring into doubt their ability to perform an unbiased investigation. There may also be conflict of interest issues associated with possible collaboration with other organisations with different motives and/or expectations.

Investigator safety

It is important to keep in mind that investigation team members, particularly local team members, may face risks to personal safety when corrupt/criminal elements are involved in forced labour violations. Experience to date, however, suggests that these risks are considerably less than those faced by workers.

Bribery/corruption

Bribes may be offered to an interviewer or translator to ignore violations, misrepresent information or overlook key documents, threatening the reliability of the investigation. The engagement of trusted staff throughout the process is essential.

Threats to evidence

There is a risk that evidence is tampered with, destroyed, or concealed from the investigation team to subvert the course of the investigation.

Concealment

There is a risk of concealment of evidence (perhaps the victims themselves) from the investigation team, hence the importance of detecting omissions and inconsistencies. Examples of issues that may suggest concealment include workers being absent, recent changes to worksite, more finished goods produced than the site capacity, not enough room/equipment to produce quotas, and even buildings that appearing larger from the outside than inside, which may signify the presence of hidden work spaces.

Contamination

There is a risk of contamination of evidence (perhaps timesheet or overtime records), hence the importance of cross-checking documents and validating data.

Destruction

There is a risk of destruction of evidence (perhaps timesheet or overtime records), hence the importance of detecting missing documents and calculation errors.

Commercial interruption of operations

A supplier may claim – truthfully or not – to be at risk of production disruption because of the investigation. The investigation team should try to assess the validity of these claims, seeking to minimise potential disruptions to the extent possible without unduly compromising the investigation.

Obstructive claims

A supplier may falsely claim to be at risk of disruption to production because of the activities of the investigators. To counter a supplier's attempts to obstruct the investigation, the investigators need to be flexible such as capturing physical evidence as is, rather than analysing it in-situ.

Valid claims

A supplier may claim to be at risk of disruption to production because of the activities of the investigators. The supplier may also perceive risks to the site when third party criminal elements are involved. To deal with any impact to the investigation, the investigators need to be flexible such as by capturing physical evidence as is, rather than analysing it in-situ.

Executing the investigation

Various investigative methods may be applied, combining (1) information from interviews, and (2) audit trails including both paper and electronic documents.

Reconstruction of some records may be necessary to prove a conclusion. The investigation team should use a checklist of risk indicators and possible violations to narrow down the investigation scope and identify how best to gather relevant evidence.

Collecting documents

Collected documents should establish the path of an audit trail, from application to processing to selection to contracts. The document collection process should include documents relating to both current employment conditions and processes of recruitment, particularly with regard to payment of fees.

Documentation on recruitment

Typical documents for review on recruitment include:

- A list of all migrant workers in the facility
- Personnel files for the selected group of migrant workers in the facility, including but not only those whom the investigation is centred on (if known)
- Signed agreements between workers and their recruiter

- Signed contracts between each labour recruiter and the facility
- Copies of facility and labour recruiter policies
- Contracts with sending country labour brokers and agents

Documentation on production

Production records such as data from enterprise resource planning tools can help to highlight inconsistencies. For example, discrepancies between payroll information on working hours and production levels might indicate falsification of timesheets or hidden outsourcing.

Documentation on working conditions

Typical documents for review on employment include:

- A list of all migrant workers in the facility
- Personnel files for the selected group of migrant workers in the facility, including but not only those whom the investigation is centred on (if known)
- Signed contracts between each labour recruiter and the facility
- Timesheet records for the previous 12 consecutive months (or other relevant period)
- Overtime records for the same period
- Payroll records for the same period
- Payslip copies for the same period

Conducting interviews

Interviews should be semi-structured to provide the flexibility to discuss any issues that workers themselves wish to raise. If any forms of modern slavery or imminent danger safety issues are identified and corroborated during the interview, the interviewer has a responsibility to act immediately. If the interviewees discuss problems they are facing, they should be given the opportunity to specify how they would like a particular issue to be managed or resolved.

Interview sampling

The investigation team must identify a group of workers (sample) with a serious focus on interviewing a significant proportion if not all of the workers known or likely to be impacted by forced labour. Worker interview templates can

provide guidance on subject areas to focus on, including: recruitment; pay; treatment at work; accommodation and food; travel; and any other specific problems. Checks should be made in advance to ensure the interview tools to be used are suitable to the facility in question. Impactt's [Principles and Guidelines for the Repayment of Migrant Worker Recruitment Fees and Related Costs](#) includes suggestions on sampling methods to ensure adequate coverage of workers.

Selecting location of interviews

Arrangements must be made for worker interviews to be conducted in a safe supplier location or off-site without the presence of supervisors or managers. Investigators, and especially interviewers on their team, must be adept at selecting how and where to talk with workers.

Observation

A site visit should enable close observation of the supplier's operations. The team should observe how site managers and/or supervisors manage their teams and if workers appear anxious or on edge. During observation of the working processes, the team should look for indications of suspected violations against workers. The observation process may also assist in refining or expanding the list of workers to be interviewed.

Analysis of investigation data

Once evidence has been obtained, the investigation moves into an analysis mode. The investigator should evaluate all the information received and consider its relevance, reliability, reasonableness, completeness, and consistency with other known information. Conflicting information and alternative theories may be considered. Resolving these may depend upon:

- Determining whether an issue is a one-off occurrence, has re-occurred or is systemic; and
- Formulating working hypotheses and eliminating alternatives based on the information available.

Cross-checking

Substantiating the evidence requires triangulating or cross-checking information received against several different sources. Typically this will include information obtained from management interviews, supervisor interviews, worker interviews, workplace observations, and a review of documents and records. The investigator should then follow a process to assess substance over form, refining hypotheses for the purpose of evaluating the issues, determining the causes and, if possible, documenting the impact to victims.

Reporting on the investigation

The investigation report is a formal document describing the investigation team's findings and should include both relevant compliant and non-compliant practice based on objective evidence. It should not contain any information that would allow one to identify any individual worker or specific workstation. The report should contain detailed findings, clearly and concisely reflecting on the sequence of events, supported by factual information and documents.

Corrective Action Plan

If the investigation report has confirmed violations in the company supply chain, a critical next step is for the supplier to develop and implement a Corrective Action Plan (CAP). The CAP should (1) define clear expected results, (2) specify timeframes and (3) include quantitative or qualitative performance indicators can be measure over time to gauge the effectiveness of remediation efforts and identify areas for further refinement. The next section of this toolkit highlights the types of remedies that should be included in a CAP. An example of a Corrective Action Plan can be found [here](#).

Following up on corrective action

Remediation programmes fall short on the follow up phase. The company should clearly define the specific steps it will undertake to monitor timely implementation of corrective action plans, and to ensure that positive changes sustain over time. An example of a report on CAP implementation can be found [here](#).

REMEDY

Greater access by victims to effective remedy, both judicial and non-judicial, is one of the three pillars of the UN Principles on Business and Human Rights. Remedy involves: 1) identifying and stopping all forced labour violations; 2) providing effective remedy for affected workers; and 3) preventing further violations. Forced labour violations, such as the charging of “fees”, illegitimate contracts and retention of identity documents, can be rectified and ideally compensated for the affected workers. Supplier and recruitment agency practices can be improved with a willingness to do so, and be monitored to prevent deterioration of employment and working conditions.

1. Establishing the company's position

Prior to embarking on the remediation process, the company should establish its position, including the extent to which it is prepared to contribute its own budget towards ensuring fair and just solutions for workers, and the amount of budget it has available to do so. This decision should take into account that the company may have inadvertently benefited from labour violations through lower supply prices and in some cases indirectly contributed to violations through procurement procedures.

In resolving worker issues, the perfect should not be the enemy of the good. While the ideal situation involves full compensation for workers for all violations, even amounts of compensation that are modest by rich country standards can be potentially life changing for many workers.

Remedy first principles

Remediation programmes seek to restore the affected person or persons to the situation they would be in had the adverse impact not occurred (where possible) and enable remediation that is proportionate to the significance and scale of the adverse impact. IOM's [publication](#) on worker grievance notes that effective programmes:

- Are grounded in a worker-centered framework that allow companies, CSOs, and industry groups to interact with workers directly to address human rights issues, systematically investigate those issues, and then provide an appropriate resolution that remedies any harm suffered.
- Continue to monitor, evaluate, and analyse the issues that have been raised and the resolutions provided. This allows a company to adjust its systems of risk management, corporate policies, as well as due diligence and compliance programmes to better respond to the realities on the ground.
- Are intended to operate alongside State-based systems and offer a complementary source of relief. Workers should further not be required to waive their access to State-based remedies in order to receive a remedy from a company.

The core consideration in remedy should be the safety, welfare and preferences of the workers concerned. To this end, solutions to violations should, wherever possible, provide workers with a range of options. These should include:

1. Remain in the same workplace under legally compliant conditions, with restitution for past abuse; or
2. Leave immediately from the workplace having been paid what can be established due; and 2.1 Be provided with ticket and assistance to return home; or 2.2 Be assisted in finding alternative employment.

Further, workers should not be required to waive their access to State-based remedies in order to receive a remedy from a company. Indeed, IOM notes that certain grievances, particularly criminal offences such as trafficking, should still be reported to the appropriate State agency. This needs to be done carefully considering there may be risks and adverse consequences for workers (see 9.1.1)

These principles guide the remainder of the remedy section. They do not however, represent the extent of the company's and supplier's obligations to that worker. In particular, workers should be compensated for past loss of earnings due to labour violations. Where the financial implications of this for the supplier threaten the on-going employment of the workers concerned, or other workers, the company could consider assisting the supplier to negotiate a settlement with workers.

Reporting criminal activity to authorities

Where there is evidence that a criminal offence has been committed, or where intervention is required to allow workers to leave an exploitative situation, the case should be reported to authorities. However, this should be done carefully for two reasons.

First, in some cases, authorities may be complicit in exploitative practice. Thus, it will be important to consider where the case is reported, for example, to centralised specialist counter-trafficking units, rather than local law enforcement.

Second, there are possible consequences for victims including (1) risks to personal security and (2) mandatory placement in trafficking victim support programmes which may involve detention in government "shelters" and/or mandatory return to country or origin. With these concerns in mind,

it is recommended that companies consult with trusted local organisations to identify the most appropriate channels for reporting criminal activity. For more information, please contact the [Mekong Club](#).

Identifying a team leader

The process of developing, presenting, negotiating and implementing a remediation Corrective Action Plan is likely best directed by an experienced, specialist leader. This is not a role for an auditor or the investigation team.

The remediation expert should have the ability to represent both company and worker interests, yet not lose sight of the fact that the principal actors in providing effective remedy are the supplier and its management team. You can contact the [Mekong Club](#) for recommendations for expert partners to support with this.

Overview of the remediation process

A sound remediation process must involve compliance with a documented (standard) process. Assisting victims initially involves gathering information from those affected on what it would take to rectify the harms. This may be a particularly sensitive process which may only be carried out properly after suitable attestation from the supplier not to engage in reprisals or termination (see Investigation section).

Correction of the situation for the victims may involve restitution, compensation, rehabilitation and satisfaction. If possible, each case should be documented separately and discussed in confidence to negotiate an agreed settlement. If this is not possible, especially for larger groups, an alternative may be to negotiate a collective settlement on their behalf.

The company and its supplier may contribute to programmes and projects to assist victims through finding alternative employment, vocational training and other suitable measures.

The company should also clearly acknowledge victims' rights to pursue other forms of remedial action, including, but not limited to, representation by a third party such as a civil society group, non-governmental organisation or lawyer in the negotiation and/or repayment processes.

Non-collaborative supplier

One of the issues in remedying violations in a company’s supply chain is the distribution of responsibility, particularly when expectations are unclear. As [mentioned earlier](#) in this toolkit buyers should adopt Codes of Conduct that clarify their expectations of suppliers and extend the supplier responsibility to downstream suppliers and subcontractors. This should include clear processes for addressing violations, as well as for mitigating the impacts of termination/cancellation of supply. Effective due diligence and ongoing engagement with the supplier can also help identify problems early, assist with resolution and in turn potentially limit the resources needed for remedy.

These steps may not always be sufficient however, if suppliers do not have the willingness or capacity to commit to remedy, such as when they claim not to be able to afford the costs of remediation beyond strict legal obligations (as may happen with recruitment fees in particular). In such cases, there is no one solution, although companies are encouraged to work on the principle of ongoing engagement, and consider cost-sharing arrangements where possible. Beyond this, the Mekong Club’s remediation discussion forum provides an opportunity for sharing information and approaches on specific cases faced by companies.

2. Addressing specific violations

The following part of the toolkit looks at specific responses to labour violations. These labour violations are in line with the [ILO indicators](#) of forced labour, with the exception of the boxes marked "other labour violations".

These other violations may not in themselves constitute forced labour but: 1) contribute to unsafe or unfair labour conditions; and/or 2) are indicators of forced labour risk.

Recruitment fees

Recruitment fee violations involve: 1) the charging of fees where this is expressly prohibited; or 2) the over-charging of approved recruitment fees. Areas to consider include: job recruitment and placement fees; fees to intermediary brokers; transportation from home to workplace and accommodation en route (including "warehousing" of workers); passports, visas and work permits; medical fees; administrative fees; making work-finding services conditional on applicants paying for other services and/or goods; training fees; and other "administrative fees".

For more information on eliminating recruitment fees, [see this document by the UN Global Compact and Verité](#).

Considerations

Recruitment fees are charges levied on migrants during the recruitment process. Much of the exploitative practice in supply chains occurs in the process of recruitment for workers, a process whereby workers frequently pay high recruitment fees, for which they must borrow money and begin a journey of mounting debts. This debt effectively binds them to the workplace and leaves them open to further abuse, including contract substitution and underpayment.

The charging of fees has historically been permitted due to the large number of migrants seeking work and their willingness to pay to obtain it. As such, fees often bear little relation to the services actually provided by actors involved in the recruitment process.

The ability of recruitment agencies to pass any of their costs onto workers through fees also promotes significant inefficiency within the sector, often rewarding agencies for worker turnover (churn) and encouraging placement of those who

can pay the highest fees ahead of those who are most suitable for the work. A more efficient and professional recruitment sector may therefore offer the potential for efficiency gains for employers.

See also [bonded labour/debt bondage](#).

Policy

There is an increasing consensus internationally in favour of the ["employer pays" principle](#) in which all recruitment costs are met by the employer, not the worker. The legal position on recruitment and placement fees varies by country, the Mekong Club's [labour violation toolkit](#) outlines country-by-country legal frameworks.

The regulations on other fees relating to recruitment are less clear and there is evidence that recruiters are inflating other placement fees charged to migrants to work around new regulations on the recruitment fees.

The ability to reclaim illegal recruitment fees from those who charged them is heavily dependent on their connection with the supplier. A supplier with a direct and on-going relationship with the offending recruiter is likely to have a strong negotiating position, whereas, it is unlikely that fees can be recovered from informal local brokers not reliant on future involvement with this particular supplier. Such local brokers may in some cases also be in a position to retaliate against the worker or their family.

At intermediary levels, such as the recruiting agency in the sending country, influence will depend on the recruiter's relationship with the receiving country recruiter; and in some cases the attitude of the sending government, who may decide to take action against the recruiter.

Remedial action

If an audit or investigation proved the supplier was complicit in the charging of prohibited fees or made a loan or advance to cover prohibited fees, or they admit this, first principles apply. In line with first principles, workers should have the option to:

1. Remain in the same workplace under legally compliant conditions, with restitution for past abuse; or

2. Leave immediately from the workplace having been paid what can be established due; and

2.1 Be provided with ticket and assistance to return home; or

2.2 Be assisted in finding alternative employment.

The starting point for remediation should be the repayment to the migrant worker of all illegal and excessive fees, along with associated interest, whether usurious or otherwise. Two NGOs provide recent guidance on this issue. Issara outlines [four emerging best practices](#) on fees repayment, while Impactt has developed [specific guidance](#) on remediation of recruitment fees, which greatly expands from this starting point and suggests that all companies consider repaying all recruitment fees to workers who paid them, based on the date of first diagnosis of the problem, and independently of whether such fees were illegal at the time, and regardless of a worker's length of service, current debt status and production of receipts.

Immediate

The supplier should require the recruiter to immediately desist from charging fees and repay any prohibited fees charged to employees, effectively cancelling any loans and associated interest. If a labour recruiter charged prohibited fees or made a loan or advance to cover prohibited fees and an audit or investigation proved the supplier had knowledge of the arrangement, the supplier is still responsible. In each case, the supplier should provide all employees who wish to leave with their full wages due and transportation home if they request. (Some workers may only have remained in the employment to pay off the illegal debt).

If a labour recruiter has charged prohibited or excessive fees, and an audit or investigation finds the supplier had no explicit knowledge of the arrangement, the supplier should require the recruiter to desist from the charging of recruitment fees and to repay the outstanding amounts. Although the supplier may not have had knowledge of the fees, they may have benefited through unduly low recruitment costs and may consider contributing to the cost of the settlement. If the recruiter refuses to rectify the situation, the supplier should discontinue its relationship with recruiter within 30 days. Where the migrant paid fees to an entity other than the recruiter, please see options under long-term remedy.

Long term

The supplier should reinforce to the recruitment agency (or, if the agency has been replaced, the new agency), its policy on charging of fees and discuss any possible cost implications. If the company does not yet have a "no fees to workers" policy, consideration may be given to adopting one.

Where workers are in debt due to fees to an intermediary that is outside the influence of either the supplier or the recruiter, the company and supplier may consider (1) providing legal support to assist the workers have this debt declared invalid and/or (2) reporting the intermediary to law enforcement authorities and following up to ascertain whether action has been taken. Such decisions should be taken in consultation with the affected workers, as there may be repercussions from such actions for them or their families.

The supplier should ensure that all workers receive training on their rights under the law and codes of conduct, including channels for grievances. This should be assessed as part of future audits.

Contract and work permit issues (including contract substitution)

Contract issues fall into three broad categories:

1. Failure to provide a written contract to the worker in a language they understand (or to ensure an illiterate person understands their contract terms);
2. Failure to provide contracts that are compliant with laws and company policy in terms of wages and legally mandated benefits; and
3. Contract substitution, for example, when a migrant worker arrives at the destination. Contract substitution with lower terms is a violation even where the new contract is legally compliant.

This category of violations also includes failure to provide work permits.

Considerations

Employers and recruiters may engage a range of methods to avoid meeting their legal obligations with respect to contracting workers. Often these take advantage of worker willingness to accept sub-standard contracts due to lack of information on their entitlements, failure to understand the contract (which may be in another language), or inability to turn down the job due to economic hardship, or debts or expectations associated with the labour migration process.

Contract substitution is common among migrant workers, often on arrival in the destination country. Having invested considerable time and money in arriving at that point, the worker is often not in a position to refuse. Contract substitution is thus a major red flag indicator of forced or bonded labour.

Another contract-related issue concerns work permits. The lack of a formal work permit is both a risk factor for workers and an indication that the supplier is not complying with the law, which may be a sign of other violations. Without a valid work permit, workers are very unlikely to report any abuses to authorities and may themselves be subject to legal action and deportation.

Policy

Domestic regulatory responses for the countries specifically covered by toolkit are mixed. Written contracts are not always mandatory by law, as outlined in the Mekong Club's [labour violation toolkit](#). While contract substitution is only clearly a legal breach of labour law in two countries, an entity engaged in contract substitution is likely to be in breach of other laws, such as those concerning human trafficking.

Companies should strive to achieve internationally recognised good practice on contracting including with respect to provision of written contracts in a form and language the worker understands.

Remedial action

Where workers are on contracts that are not legally compliant, first principles apply. Contract substitution and lack of work permits are particularly serious breaches and should be addressed as such. In line with first principles, workers should have the option to:

1. Remain in the same workplace under legally compliant conditions, with restitution for past abuse; or
2. Leave immediately from the workplace having been paid what can be established due; and
 - 2.1 Be provided with ticket and assistance to return home; or
 - 2.2 Be assisted in finding alternative employment.

Under the first option, the supplier should immediately place workers on contracts that are legally compliant, in the case of contract substitution on no worse terms than those originally offered. Under all options, the supplier should compensate workers for any lost earnings or additional costs incurred as a result of previous non-compliance.

Immediate

If an audit or investigation uncovers contracts that are not legally compliant, the supplier must ensure that all workers are issued with legally compliant written contracts in a language they understand within 30 days. The supplier should compensate workers for any lost earnings as a consequence of the previous contract being non-compliant.

If the terms and conditions of the new written contract include an amendment that is for materially worse terms and the worker does not consent to the change they should be provided the choice to (1) terminate their contract without penalty and be assisted to find other work, or (2) be provided return transportation to their home.

Where there is proof of contract substitution by - or with knowledge of - the recruiter, the supplier should discontinue its relationship with the recruiter as soon as it has ensured that there will be no repercussions for the concerned workers. The supplier should report unscrupulous recruiters to the relevant authorities in their country of operations.

Long term

The supplier should strengthen its systems to ensure that foreign contract workers receive full disclosure during the recruitment process, sign their employment contracts in their home countries, and can return home for any reason and at any time without fear of reprisal and without extraordinary debt.

If individuals (managers/supervisors/shift leaders/foremen) were acting on their own without supplier management's knowledge, the supplier must take appropriate action with these individuals, which could include training, suspension or termination. The supplier should ensure that all workers receive training on their rights under the law and codes of conduct, including channels for grievances. This should be assessed as part of future audits.

Special case: work permits

Where workers do not have a valid work permit, the supplier must take immediate steps to obtain a permit for each worker. Where this is not possible, workers should be allowed to leave immediately the workplace having been paid what can be established due, and be offered the choice of (1) a ticket and assistance to return home; or (2) assistance in obtaining a work permit for alternative employment.

If the latter is not possible, the supplier should provide each worker with compensation in the form of one month's salary per year worked, plus a ticket and assistance to return home.

Payment and overtime issues

Payment issue violations include: withholding or delay or wages; payment of wages below the fair and legal rate, including through use of piece work; non-payment or under-payment of overtime (including as a disciplinary measure or for failure to meet quotas); and payment of wages in non-legal tender. The failure to provide detailed, legible payslips, and the use of compulsory overtime are also categorised under payment issues.

Payment violations are often closely related to contract issues and illegal deductions and may — where appropriate — be considered together.

Considerations

Employers and recruiters may engage a range of methods to avoid meeting their legal obligations with respect to payment of workers. A common exploitative practice is for employers to delay payment for several months, before having workers arrested and deported. This has sometimes happened even where the workers have their legal papers in order. The developers of this toolkit have also met workers who reported that co-workers had disappeared after approaching management to ask for their delayed pay.

Employers have also been known to have workers work back-to-back shifts in different factories, which allows each factory to report different workers for each shift and avoid payment of overtime. Workers, particularly migrant workers, may accept violations through lack of knowledge, lack of functioning compliance and grievance mechanisms, or because they are trying to save money as quickly as they can (thus, for example, accepting overtime work at base rates).

In setting limits on overtime, it is important to take worker views into account. Promises of high levels of overtime are often used to attract workers eager to maximise their earning potential. Thus, limits on working hours below national legal limits, though well-intended, are often problematic for both workers and ethically-minded employers.

Policy

Domestic regulatory responses are generally very clear and specific with regard to prohibiting payment violations, including non-payment, delayed payment, and failure to pay

overtime. However, only one of the six jurisdictions covered by the toolkit's legal review specifically requires the issuing of detailed payslips to all workers. In this regard, companies should follow international labour standards and require this. Further, in cases of payment disputes, the supplier should not be advantaged by a failure to provide payslips, with the burden of proof being on the supplier, not the workers.

Violations related to overtime may result in part from the company's own actions for sourcing and ordering, with corresponding supplier actions being compulsory or excessive overtime. If so, the company must take responsibility itself and address this in policy and practice. This is best accomplished as part of the high-priority activities a company should undertake as a preparatory step for addressing the possibility of a forced labour supply chain incident.

Remedial action

Where workers have not been paid all that they are owed, first principles apply. In line with first principles, workers should have the option to:

1. Remain in the same workplace under legally compliant conditions, with restitution for past abuse; or
2. Leave immediately from the workplace having been paid what can be established due; and
 - 2.1 Be provided with ticket and assistance to return home; or
 - 2.2 Be assisted in finding alternative employment.

The key steps in remediation involve ensuring that workers are paid what they are due, and taking steps to avoid a recurrence of these payment issues. Practices involving compulsory overtime should cease and the company should review any aspects of its procurement practices that are contributing to the need for such practices.

Immediate

If an audit or investigation uncovers that the supplier has been underpaying the workers, the supplier should immediately correct the problem and pay back to the workers the difference between what they should have paid and what they have been paid.

If an audit or investigation uncovers that the supplier has been forcing the workers to work overtime and/or underpaying them for overtime work, the supplier should immediately correct the problem and pay back to the workers the difference between what they should have paid and what they have been paid.

Long term

If individuals (managers/supervisors/shift leaders/foremen) were acting on their own without supplier management's knowledge, the supplier must take appropriate action with these individuals, which could include training, suspension or termination. If these violations came from management, the company should provide the supplier a short window of time to end all such practices.

Where detailed payslips are not being routinely provided to workers, a system should be implemented to do so.

The supplier should ensure that all workers receive training on their rights under the law and codes of conduct, including channels for grievances. This should be assessed as part of future audits. The company should review any of its own procurement practices that may be contributing to overtime violations.

Illegal deductions

Illegal or inappropriate deductions from wages include: deductions as punishment; deductions for costs that should be met by the employer such as uniforms, tools, equipment and basic needs such as water; deductions for fee repayment; and deductions for items such as food, transport, and accommodation without express consent or at an excessive rate.

This category of violations also covers situations where the bank account receiving the worker's pay is not in the worker's sole personal control. While not a deduction in itself, third party access to a worker's bank account is a major red flag indicator for forced labour and trafficking.

Considerations

Wage deductions are sometimes used by employers, their representatives, or labour intermediaries – such as recruiters or labour brokers – to reduce the costs of labour. Illegal deductions from workers' wages are explicitly prohibited by ILO conventions. Employees shall be paid for all time worked, with no deductions for disciplinary purposes (other than for actual time not worked), illness or other absence within contract entitlements, or early contract termination.

Where pay is docked in response to workers arriving late or leaving early, the amount deducted may not exceed that which the worker would have earned had they worked. No deductions may be made for equipment or tools to be used by employees in doing their jobs, or for personal protective equipment.

Policy

Domestic regulations generally ban unauthorised deductions and place clear limits on deductions that may be made for material damage to an employer's assets. It should be kept in mind that some workers may have remained in their position only because the wage deductions placed them in a financial situation that meant they were unable to leave.

In some cases, particularly for migrant workers, provision of housing, food and other necessities by the employer may be the best option for all involved. However, compulsory charging for overpriced or sub-standard accommodation and food is a commonly reported way for employers and/or recruiters to exploit workers.

Remedial action

First principles apply. In line with first principles, workers should have the option to:

1. Remain in the same workplace under legally compliant conditions, with restitution for past abuse; or
2. Leave immediately from the workplace having been paid what can be established due; and
 - 2.1 Be provided with ticket and assistance to return home; or
 - 2.2 Be assisted in finding alternative employment.

Remedial action should focus on stopping involuntary wage deductions and returning previous excessive or illegal deductions to the workers. It should also ensure that services for which deductions are made are well-provided, at appropriate cost and optional to workers. For example, deductions for meals should support nutritious, ample and hygienically prepared meals.

Immediate

If an audit or investigation uncovers any on-going involuntary/illegal deductions for food, accommodation or other services, the supplier, employment/recruitment agency or other offending party must immediately stop these deductions. Where past wage deductions have been illegal or excessive, these deductions should be returned to workers by the offending party.

Suppliers should also ensure that worker wages are paid into an account in the worker's sole personal control to reduce the possibility of deductions by recruiters or other third parties.

Long term

The company should ensure that supplier policy expressly forbids compulsory deductions from wages (including by employment agencies and recruiters) and that all relevant management and staff are aware of this policy. Where accommodation and food are offered as part of the package, the supplier should ensure that they are appropriately priced and are of sufficient quality, and that workers are aware these are optional.

Where suppliers are now paying costs previously paid by workers for items such as safety equipment, future audits should ensure that this has not resulted in reduced quality. Where deductions are authorised, workers' payslips should clearly detail these deductions.

The supplier should ensure that all workers receive training on their rights under the law and codes of conduct, including channels for grievances. This should be assessed as part of future audits.

Withholding of passports or other documents

This area covers the following violations:

1. Document retention without express consent or legal requirement
2. Workers do not have access to documents if retained or secured
3. Other documents taken as security, e.g. land titles

Considerations

Confiscation of passports and documents constitutes an abusive practice, whether undertaken by an employer, recruitment agency, or the government. It is one of the main drivers of forced labour, preventing workers from returning home voluntarily or seek alternative work, trapping them in low-paid jobs where they might face further exploitation and abuse due to their inability to leave.

Retention of documents is thus often linked to other forced labour violations, for example being used to ensure that workers repay debts incurred through the charging of illegal or excessive recruitment fees. Lack of access to documentation can also make migrant workers vulnerable to abuse by authorities, including summary deportation.

There are some countries in which the law requires employers to hold worker passports, and employers sometimes hold passports at the request of workers due to security considerations. Workers must, however, have unrestricted access to their personal documents including passports.

Policy

Withholding of passports and other documents is specifically prohibited in four of the six jurisdictions covered in the legal review associated with this toolkit. In order to safeguard employee freedom of movement, companies should require suppliers to uphold internationally recognised good practice in this regard.

Suppliers, recruitment agents and other third parties should not be allowed to hold original foreign migrant worker's identification documents, passports, travel papers, or other personal documents.

There are only three exceptions: (1) a very short term need upon arrival in the receiving country for the documents to be made available to government officials for processing of work permits and visas or for renewals, after which the documents must be promptly returned to the workers; (2) if document retention by the employer is required by law - few countries, and none of those covered by the legal review, fall under this exception; and (3) where employees specifically request that the employer holds their documents for safekeeping. In this case employees must have ready access to these documents.

Remedial action

The offending party (supplier, employment agency, recruiter) should return all worker identity documents. The exceptions are: (1) in the few countries where document retention is required by law; and (2) where employees specifically request that the employer holds their documents for safekeeping. In this case, employees must have ready access to these documents, for example through access to their own storage locker.

Employers who face sanctions if workers leave their employment must still comply with the requirement to return worker identity documents.

Immediate

If an audit or investigation proved the supplier or recruiter has possession of workers' identity or travel documents, or they admit this, the supplier should return all workers' identity documents. The supplier is responsible for ensuring that each foreign migrant worker is provided with an individual, secure, lockable storage locker or lock box for their documents and other personal valuables.

It is recommended that suppliers keep photocopies of all foreign migrant worker identification documents in a secure location, or if they are holding the originals, provide copies to the workers. This is particularly important for obtaining replacement documents in the event a worker was to lose his or her originals, or have them stolen, or if a worker is detained by local authorities.

If the employer or recruiter is holding a land title or other type of document as security, this document must immediately be returned.

Long term

If individuals (managers/supervisors/shift leaders/foremen) were acting on their own without supplier management's knowledge, the supplier must take appropriate action with these individuals, which could include training, suspension or termination.

For suppliers who currently hold or allow recruitment agents to hold worker passports, stopping this practice may represent a significant change for the foreign migrant worker population. To facilitate the transition, they should consider providing the foreign migrant workers with a brief training so that they understand why the site is changing its policy including:

Why their passports are being returned to them;

- Depending on the country, the legal reasons they should carry their identification with them whenever they leave the worksite or accommodation grounds;
- The importance of keeping their documentation safe and secure, including how to keep track of the key or combination for their storage area; and
- Their broader labour rights under the law and codes of conduct, including channels for grievances.

Deprivation of liberty

Deprivation of liberty is among the most severe forced labour violations. This category of violations includes restriction of movement from workplace and accommodation, as well as use of military and other public security forces to guard premises.

Considerations

The deprivation of liberty is a criminal act. It is invariably linked to a wide range of other violations, which allow the perpetrator to profit from this action. Such violations include debt bondage and underpayment of wages. While forced labour cases usually involve less direct means of control, there are documented examples of workers being locked in worksites and accommodation or held under armed guard.

Factory audits have also uncovered hidden rooms in otherwise compliant factories with forced and underage workers. More commonly, deprivation of liberty is found in sweatshops to which work has been outsourced, highlighting the risks involved in outsourcing labour. Employers can also restrict movement by withholding of passports, identification cards and other documents.

Workers who have been subject to restrictions on movement, particularly over a long period of time, may be highly traumatised and be in need of specialized support from a local support agency.

Policy

Deprivation of liberty is a criminal offence in all six jurisdictions directly covered by this toolkit. In most jurisdictions, workers who have been deprived of their liberty will be eligible for a range of assistance as victims of trafficking. However, workers may not wish to access official services, which often involve mandatory return to their country of origin, and sometimes being kept for extended periods of time in shelters they are not permitted to leave.

Remedial action

Any restrictions on movement on workers must cease immediately. As a starting point, first principles apply and the company should also look to link with victim support agencies to provide services to affected workers, based on each worker's

informed choice. Where workers have been unable to leave their workplace or accommodation under any circumstances this is a criminal offence and the authorities will need to be involved.

Extreme care will need to be taken, however, to ensure the involved authorities are not complicit in the offence. Action should be taken in consultation with trusted NGOs and/or international organisations. The [Mekong Club](#) can provide guidance on reputable local support agencies.

Immediate

If an audit or investigation has found indicators of restriction of movement, the company should, in consultation with local actors, act to ensure the immediate release of all workers.

Companies will need to consider issues such as accommodation and food for workers, particularly where large numbers are involved. To this end, companies should work with and provide funding for local support agencies such as NGOs to provide victims with a safe place to stay and link them to needed services. Workers should be offered access to medical and psycho-social support, as well as assistance with obtaining legal redress. Workers should also be offered any necessary administrative assistance to obtain recognition of legal identity and citizenship as needed.

Ideally, workers should be provided with the choice of (1) a ticket and assistance to return home; or (2) assistance in finding alternative employment. If compensation is unlikely, and complicity of the supplier makes a financial contribution unlikely, consideration should be given to providing workers with a small [cash grant](#) to help in re-establishing their lives.

Long term

The company should determine who — management, supervisors, shift leaders, etc. — were involved in restricting workers' freedom of movement or communication and investigate these individuals' actions. If individuals were acting on their own without management knowledge, the supplier should take appropriate action with these individuals, which could include termination.

If these restrictions came from management, the company should terminate the relationship with the supplier or

provide the supplier a short window of time to end all such practices (depending on the severity of the breach).

The supplier should ensure that all workers receive training on their rights under the law and codes of conduct, including channels for grievances. This should be assessed as part of future audits.

Intimidation, threats, violence, and discrimination (including gender-based violations)

Violations relating to intimidation, threats, violence and discrimination include: the threat or use of physical violence or psychological abuse; the threat of exposure to authorities and/or deportation; and sexual harassment. This category also covers discriminatory treatment of any type - such as between national and foreign workers - and the abuse of health conditions, through mandatory testing and/or termination for pregnancy, HIV/AIDS etc.

Considerations

In many countries, the power dynamics between management and workers are extremely uneven, particularly where foreign workers are involved. This may be reflected in a range of abusive management practices that embarrass, humiliate, intimidate, and/or alarm employees. Such practices may include abuse or discrimination based on race, sex, culture, age, sexual orientation, language, HIV status, pregnancy status and/or religious beliefs. Protecting the rights of women to safe workplaces - free from gender-based violence, reprisals, and intimidation - is particularly important for women in developing countries who too often face sexual harassment and unsafe working conditions while trying to earn a living for themselves and their families.

Policy

Acts of violence, including gender-based violence, are illegal in all jurisdictions and should be treated as such. Depending on the severity of the act, victims of violence should be allowed discretion as to whether to report this to authorities. For threats, verbal abuse and discrimination, the response should be informed by an analysis of the underlying factors, for example, whether workers were being wilfully intimidated not to report on other violations, or whether the action had its roots in issues around work pressure, cultural understanding and communication difficulties across different languages.

Remedial action

In general, first principles apply. Workers should be provided with the opportunity to:

1. Remain in the same workplace under legally compliant conditions, with settlements for past abuse.
2. Leave immediately the workplace having been paid what can be established due, and
 - 2.1 Be provided with ticket and assistance to return home; or
 - 2.2 Be assisted in finding alternative employment.

Beyond this, the appropriate action to remedy violations with regard to intimidation, threats, violence and discrimination will depend on the nature and severity of the breach. Acts of violence and systematic intimidation are serious crimes that may point to other forms of violations. Victims of these crimes should be offered specialised assistance (see [deprivation of liberty](#)). Less serious violations may reflect poor management practice and communication difficulties.

Immediate

If an audit or investigation has found evidence of intimidation, threats, violence or discrimination, companies should initiate discussions with victims with a view to finding appropriate remedy, including ensuring the right to decide if they wish to remain in their current employment or would like assistance in finding an alternative.

Workers should be offered access to medical and psycho-social support as well as legal assistance. If compensation is unlikely, consideration should be given to providing workers with a small [cash grant](#) to help in re-establishing their lives.

Long term

In any situation of violence, intimidation, threat or discrimination, the company should determine who — management, supervisors, shift leaders, etc. — are involved in these violations. Management should take appropriate action with those involved, which could include training, suspension or termination. If management were complicit, the company should terminate the relationship with the supplier or provide the supplier a short window of time to end all such practices (depending on the severity of the breach).

Suppliers should ensure the managers and recruiters are aware of company policy with respect to treatment of work-

ers, and the unacceptability of all forms of discrimination, including that related to health status. The supplier should hold meetings with managers/recruiters to clarify expectations and ensure a worker feedback system is in place to monitor the on-going situation. The supplier should ensure that all workers receive training on their rights under the law and codes of conduct, including channels for grievances. This should be assessed as part of future audits.

Child labour

Child labour involves the use of children not of working age or the placing of older children in work environments that are not suitable for minors. The international response to child labour issues is comparatively well developed, and this section thus provides only a general overview. More information and links to resources can be found [here](#).

Considerations

Although much progress has been made, an estimated 160 million children continue to be engaged in child labour throughout the world. Further, there are significant concerns about the effects of the Covid-19 pandemic, with ILO and UNICEF predicting that [child labour could rise by a further 8.9 million](#) in 2022 due to the poverty effects of the crisis.

Addressing child labour is particularly complex as the child's family may be totally or heavily dependent on the income of the child for their survival.

Any remediation steps should take account of the impact on the well-being of the children concerned, so that children do not end up in similar or worse forms of child labour. Removing a child from the workplace without proper consideration may expose them to other rights violations or further entrench the child and their family in poverty.

Policy

Child labour is banned in most countries, including all directly covered by this toolkit's legal review. Companies should seek to align policies on child labour with national and international laws on the worst forms of child labour, upholding international standards where national legislation is less stringent. All standards should be equally applicable to girls and boys.

Remedial action

Remedial action must go beyond the removal of the child from employment to address the factors that led the child to be in that situation in the first place. It cannot be assumed that simply removing the child from the workplace will automatically place them in a better situation.

Immediate

If an audit or investigation proved the supplier is using child labour, or they admit this, a special case applies. If management was complicit in the violation, the supplier should demonstrate its commitment to rectifying the situation by bearing the cost of the remedial action. Companies and suppliers should work with, and provide funding for, local organisations that can assist in developing sustainable solutions for the child and, as necessary the family.

Where children are working in extremely hazardous contexts, companies should require their immediate removal, and address any medical or psycho-social concerns, while alleviating any major hardship on their families.

If the child has been living away from his or her family, the child must be reunited with the family after ensuring that the family can provide a protective environment, and provide the needed support. The company should work with local partners to (1) assist children below school leaving age to return to school and (2) assist the child's family to generate a stable income, such as through negotiating for the child worker to be replaced by an adult family member, or accessing local income-generating activities. Other steps could include tracking the child until he or she is of age to work and committing the supplier to provide the child with decent work at that time.

Long term

If individuals (managers/supervisors/shift leaders/foremen) were acting on their own without supplier management's knowledge, the supplier must take appropriate action with these individuals, which could include training, suspension or termination.

If the supplier is unwilling to contribute the major share of the required resources for remedy, consideration should be given to terminating the supplier contract.

Bonded labour/debt bondage

In legal terms, bonded labour or debt bondage is where a person is required to work to pay off a debt owed by themselves or another person. In some cases, this "debt" is inter-generational. The term debt bondage is increasingly used in an expanded sense to cover situations where workers have a level of debt that effectively binds them to the workplace. This category of violations includes measures used to artificially inflate such a debt through unethical or unclear loan terms, usurious interest rates, inheritable debt, and debt incurred through the charging for unauthorised or excessive fees relating to recruitment and/or employment.

Considerations

Bonded labour or debt bondage is, according to Anti-Slavery International, the most common form of forced labour. Debt bondage occurs when a person is forced to work to pay off a debt. This practice itself is illegal under international law, but is made more harmful through practices that inflate such a debt. With no other means to pay off this debt, workers cannot realistically leave the workplace. Once in this situation, workers are in a situation of extreme vulnerability.

Debt bondage is therefore strongly associated with other forms of exploitative labour practice that serve to: (1) create the debt (excessive recruitment and placement fees); (2) maintain the debt (high interest rates, illegal deductions and underpayment); and (3) enforce the debt (withholding of documents and deprivation of liberty).

In particular, worker debt is an inevitable consequence of high worker recruitment fees. In order to meet these fees, workers will generally take a loan from the employer or recruitment agency but may also use loan sharks. Alternatively, migrant workers may rely on the sale of family assets such as land, creating an 'emotional' debt that places huge pressure on them not to return home empty-handed.

Policy

Debt bondage is only specifically prohibited in one of the six jurisdictions covered by this toolkit's legal review. However, debt bondage would generally be considered a form of human trafficking, which is criminalised in all of these jurisdictions and the vast majority of countries around the world. Remediation depends primarily on adopting a best

practice approach because of the difficulty reaching foreign parties and the associated implications to victims' families in the country of origin. Long term remedies are required to achieve a satisfactory outcome. Policies need to be aligned with those for other labour violations, particularly prohibited and excessive fees.

Remedial action

The starting point for remediation should be the elimination of all debt incurred through the result of illegal or excessive fees. The ability to reclaim illegal recruitment fees from those who charged them is heavily dependent on their connection with the supplier. A supplier with a direct and on-going relationship with the offending recruiter is likely to have a strong negotiating position, whereas it is unlikely that fees can be recovered from informal local brokers not reliant on future involvement in this particular recruitment chain, and potentially able to retaliate against the worker or their family.

At intermediary levels, such as the recruiting agency in the sending country, influence will depend on the recruiter's relationship with the receiving country recruiter and in some case the attitude of the sending government, who may take action against the recruiter. See also [recruitment fees](#).

Immediate

If an audit or investigation has found evidence of debt bondage, the company should determine the source of workers' initial debt. If the initial debt was to the supplier, the company should require the supplier to cancel this debt. If the initial debt was to a labour recruiter, the company should investigate whether the supplier had knowledge of the debt arrangement.

Companies should work with and provide funding for local groups especially NGOs to provide victims a safe place to stay and link them to needed services. Workers should be offered access to medical and psycho-social support, as well as assistance with obtaining legal redress.

Ideally, workers should be provided with the choice of (1) a ticket and assistance to return home, or (2) assistance in finding alternative employment. Workers should also be offered any necessary administrative assistance to obtain recognition of legal identity and citizenship as needed.

If compensation is unlikely, and complicity of the supplier makes a financial contribution unlikely, consideration should be given to providing workers with a small [cash grant](#) to help in re-establishing their lives.

Long term

The company should determine who — management, supervisors, shift leaders, etc. — were complicit in the debt bondage. If individuals were acting on their own without management knowledge, the supplier should take appropriate action with these individuals. If these restrictions came from management, the company should terminate the relationship with the supplier or provide the supplier a short window of time to end all such practices (depending on the severity of the breach).

Companies should assess their own practices to identify any that may have contributed to worker debt, such as the allowing the practice of charging (excessive) recruitment fees to workers. The supplier should ensure that all workers receive training on their rights under the law and codes of conduct, including channels for grievances. This should be assessed as part of future audits.

In some cases, the debt may be legitimate. For example, some suppliers offer loans to employee as part of an employee care program. In such cases, the policy should clarify that wage advances and loans to employees should not be used as a means to bind workers to employment. Deductions from wages made for the repayment of a loan should not exceed the limits prescribed by national law. Workers should be informed of the terms and conditions surrounding the granting and repayment of advances and loans.

Related labour violations

This flowchart does not specifically address health and safety issues not directly related to forced labour. However, the tragic consequences of poor health and safety standards have been well documented, varying from individual deaths due to heat exhaustion and dehydration to mass deaths as a result of major fires and building collapses.

While not all such incidences are predictable, many are associated with indications of health and safety risks such as: types and rates of injury, occupational diseases, lost days, and absenteeism, and total number of work-related fatalities.

Experience further highlights how worksite violations rarely standalone - forced labour violations are more likely to be found in worksites with poor health and safety records. Companies should thus take all necessary steps to address these issues. In addition, the supplier should ensure that all workers receive training on their rights under the law and codes of conduct, including channels for grievances. This should be assessed as part of future audits.

3. Monitoring and review (re-preparation) to prevent future incidents

After taking action to resolve identified labour violations, companies are encouraged to analyse the factors that led to each violation and any delays in identifying these violations. This analysis may encourage changes in areas such as company policy, internal and external communication of this policy, risk assessment, auditing scope, and procurement practices.

Monitoring systems, including worker feedback and grievance mechanisms, might also be reviewed and if necessary strengthened (or put in place if they do not already exist). As part of an on-going learning and improvement process, companies are encouraged to review and update the systems they have in place to address issues covered in the Preparation part of this toolkit.

APPENDIX:

CHILD LABOUR OVERVIEW

What is child labour?

The term “child labour” is work that deprives children of their childhood, and is harmful to physical and mental development. It refers to work that (1) is mentally, physically, socially or morally dangerous and harmful to children; and/or (2) interferes with their schooling.

The “**worst forms of child labour**” involve children being enslaved, separated from their families, exposed to serious hazards and illnesses and/or left to fend for themselves on the streets of large cities – often at a very early age.

More information is available at the [ILO](#).

What is the current situation?

Although much progress has been made, an estimated 160 million children continue to be engaged in child labour throughout the world, leading the UN to declare 2021 as the [International Year for the Elimination of Child Labour](#). Further, there are significant concerns about the effects of the Covid-19 pandemic, with ILO and UNICEF predicting that [child labour could rise by a further 8.9 million](#) in 2022 due to the poverty effects of the crisis.

What are the special considerations in remediating child labour cases?

Children may be driven into work for various reasons. Most often, child labour occurs when families face financial challenges or uncertainty – whether due to poverty, sudden illness of a caregiver, or job loss of a primary wage earner.

Addressing child labour is particularly complex as the child’s family – including their siblings – may be totally or heavily dependent on the income of the child for their survival.

Any remediation steps should take account of the impact on the well-being of the children concerned, so that children do not end up in similar or worse forms of child labour. Removing a child from the workplace without proper consideration may expose them to other rights violations or further entrench the child and their family in poverty.

ADDITIONAL RESOURCES

The Global Child Forum provides [guidance and best practice examples](#) of child labour policies using a child centred approach.

ILO and the International Organization of Employers have developed a [child labour guidance tool for business](#).

ILO’s website also includes a series of [questions and answers on business and child labour](#).

UNICEF has undertaken a [mapping](#) of child labour risks in global supply chains involving apparel, electronics and agricultural sectors.

ADDITIONAL RESOURCES

Additional Mekong Club tools

The Mekong Club, Liberty Asia [Adverse media search for Enhanced Screening](#).
The Mekong Club, [Modern Slavery Statement Preparation Tool](#).
The Mekong Club, [Risk Assessment Map](#).
The Mekong Club, [Transparency in Supply Chain Compliance \(TISC\) Tool](#).

Human rights and due diligence principles

[United Nations Guiding Principles on Business and Human Rights](#) (also known as Ruggie Principles).
UN High Commissioner for Human Rights, [Improving accountability and access to remedy for victims of business-related human rights abuse through non-State-based grievance mechanisms](#).
[EU Guidance on due diligence for EU businesses to address the risk of forced labour in their operations and supply chains](#).

Remedy specific principles and guidelines

IOM, [Operational Guidelines for Businesses on Remediation of Migrant-worker Grievances](#).
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The Danish Institute for Human Rights, [The UNGP Criteria for Effective Grievance Mechanisms](#).

Labour rights

Business & Human Rights Resource Centre, [Labour Rights](#).
Clean Clothes Campaign, [What conventions and core labour standards does the International Labour Organisation \(ILO\) protect?](#).
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Forced labour/modern slavery indicators

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Kamala D. Harris, Attorney General California Department of Justice (2015), [The California Transparency in Supply Chains Act - A Resource Guide](#).
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REUTERS (2021), [INSIGHT - An audit gave the all-clear. Others alleged slavery](#).

Supply chain risk

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Thomson Reuters Foundation (2020), [Migrants jobless and trapped under Thai coronavirus lockdown](#).
Thomson Reuters Foundation (2021), [Migrant workers face tough quarantine in Thailand as COVID-19 cases surge](#).

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UN Global Compact, Verité, [Eliminating Recruitment Fees Charged to Migrant Workers](#).
ILO (2016), [Ways forward in recruitment of low-skilled migrant workers in the Asia-Arab States corridor](#).

Remediation follow-up

Impactt (2021), [Top Glove Verification Report](#).

Support for victims

Issara, [Freedom of Choice Empowerment Fund](#).

Other reading

KnowTheChain (2021), [2020/2021 Benchmark](#).
RB’s Human Rights Action Plan (HRAP), [Human Rights Impact Assessment – Durex and Enfa value chains in Thailand](#).
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