



International  
Code of Conduct  
Association

# Interpretative Guidance

Developing and operating fair and accessible  
company grievance mechanisms that  
offer effective remedies







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# Good practices

## Developing a company grievance mechanism

### Step 1. Planning

#### 1.1 INTERNAL PLANNING AND CONSULTATIONS

##### 1.1.1 ■ Define who needs to be involved in design of the CGM

Once the development of a company grievance mechanism (CGM) has been agreed at management level, it is essential to make sure that it has the support of all concerned personnel within the Company and will be implemented at all levels and in all operations including by subsidiaries and subcontractors. For this reason, Member Companies should consult internally with staff whose work the CGM will affect.

##### Good practices

- **High-level buy-in.** The design process should be supported by management at the highest level. This means that a senior management representative should be kept informed throughout the design process and should preferably be a member of the design team.

*Additional information:* [IPIECA: 13 and 28.](#)<sup>1</sup>

- **Ensure internal consultation and involvement.** Involve relevant staff as much as feasible without stalling the design process. Consult a range of personnel, including human resources, IT professionals (needed for data management systems/databases and protection of data), and legal counsel.
- **Set up a team to design the CGM.** The design team should include at least two core members who ideally represent different Company functions. They can then draw on other Company functions (operations, legal, procurement, etc.). To ensure successful change management and implementation, a senior Company representative should support the CGM's development.

*Additional information:* [IPIECA: 18-20.](#)

##### Why is this important?

- Staff feedback can flag internal concerns early in the process, as well as lessons that staff have learned from previous jobs or experiences.
- Internal consultations will help the Company to understand which staff possess skills and experience that will be relevant and useful to the design team.
- The establishment of a cross-function design team ensures that the CGM is designed and implemented in a legitimate manner that takes relevant experience and lessons learned from different Company functions into account and gives the CGM the support it needs to operate effectively.

<sup>1</sup> Explanatory Note. The acronyms IPIECA, HU, ST, etc. under 'additional information' stand for referenced publications which are listed in Annex 1. The numbers indicate on which page of the publication the information can be found. Every reference is linked to the document online. Click on the link. The key to all references is also found at [Annex 1 – References Guide](#).

### 1.1.2 ■ Consult external stakeholders

Consultations with potential users of the CGM, including external stakeholders, ensure that the CGM is fit for purpose and will facilitate the reporting of complaints.

#### BOX 1. STANDARDS AND PRINCIPLES

##### The Code

Member Companies are required to establish procedures which “[...] shall also *facilitate reporting by persons* with reason to believe that improper or illegal conduct, or a violation of this Code, has occurred or is about to occur, of such conduct, to designated individuals within a Company and, where appropriate, to competent authorities” [\[Code 67a\]](#).

**Other standards and principles:** [UNGP: 31a and h](#).

#### Good practices

- **Prepare for external consultations.** Map relevant external stakeholders. These include individuals or groups who are expected to use the CGM as complainants (see [Section 2.1.1](#)), not least communities, unions and their federations, non-governmental organizations (NGOs), and human rights experts.

*Additional information:* [HU: Guidance point #1](#).

- **Consult external stakeholders.** When consulting stakeholders, Companies should aim to identify and understand what barriers might prevent complainants from using the CGM, what impacts the Company’s operations are likely to have on groups, and what processes stakeholders consider legitimate.

*Additional information:* [ST: 9, 10, 20](#); [CSR: 11](#); [HU: Guidance point #1](#); [PPEC: 13](#).

#### Why is this important?

- A stakeholder map will help Companies to identify the right persons to consult. It may also help a Company to judge whether its operations have already engaged with communities and whether there are opportunities to build on such efforts.
- Consulting relevant external stakeholders helps to ensure that the CGM is adapted to the operating environment, meets the needs of potential complainants, and is perceived as legitimate. It also builds a basic level of trust between the Company and potential complainants, which may facilitate reporting and encourage dialogue later on.



## USEFUL TOOLS AND EXAMPLES

**Example of the impact that conflict with local communities can have in the extractive industry**

*Costs of Company-Community Conflict in the Extractive Sector* (2014), a report by the Harvard Kennedy School's Corporate Social Responsibility Initiative, found that unresolved conflicts with local communities in the extractive industry have had adverse and costly effects on Company operations.

In one instance, an interviewed Company reported that conflict with a local community had caused stoppages and down days that had cost a projected US\$100 million per year.

In other instances, interviewed Company asset managers reported spending 35-50 per cent of their time managing social risks ([CCCC: 19-20](#)).

Companies can mitigate such risks by taking the time to build sustainable relationships with local communities and engaging with them to prevent and address potential conflict ([CCCC: 9](#)).

**1.1.3 ■ Conduct a needs and risk assessment**

When designing a CGM, a Company should use internal and external consultations to assess what its needs are, what the CGM should look like, and what concerns potential complainants are likely to raise. Other elements to consider might include: the operational footprint of the Company; financial, operational or legal risks to the Company's business; reputational risks in light of past or current events; and levels of trust.

**BOX 2. STANDARDS AND PRINCIPLES****The Code**

Member Companies are required to assess possible "risks of injury to Personnel as well as the risks to the local population generated by the activities of [Member] companies and/or Personnel" [[Code 64a](#)].

**Other standards and principles**

**PSC. 1, paragraph 7.2.** "The organization shall establish, implement, and maintain a formal and documented risk assessment process for risk identification, analysis and evaluation, in order to: (a) identify tactical and operational risks [...], (b) systematically analyse risk (likelihood and consequence analysis), (c) determine those risks that have a significant impact on activities, functions, services, products, supply chain, subcontractors, stakeholder relationships, local populations, and the environment (significant impacts and risks), and (d) systematically evaluate and prioritize risk controls and treatments and their related costs."

**ISO 18788, paragraph 3.20.** "[...] [I]dentify, analyse, evaluate and document human rights-related risks and their impacts, in order to manage risk and to mitigate or prevent adverse human rights impacts and legal infractions. [...] This includes an analysis of the severity of actual and potential human rights impacts that the organization may cause or contribute to through its security operations, or which may be linked directly to the organization's operations, projects or services through its business relationships. The [...] process should include consideration of

the operational context, draw on the necessary human rights expertise and involve direct, meaningful engagement with those stakeholders whose rights may be at risk.”

**ISO 28007, paragraph 4.1.2.** “[...] As part of its own risk assessment process, the organization should carry out a meaningful consultation with relevant interested parties and stakeholders, including those directly affected by its operations. It is important for the PMSC to understand that before contracting for their services a ship-owner will have carried out a risk assessment. The PMSC should then determine how this applies to them and demonstrate how it impacts on needs and expectations and its own risk assessment.”

### Good practices

- **Address concerns.** Discuss and address concerns that are raised during the internal consultation process. People may ask, for example, why a formal grievance procedure is necessary when informal resolution or an ethics hotline seems to them sufficient; or they may fear that a CGM will open a flood of complaints, or could harm the Company’s reputation. These are legitimate questions and it is important to explain to personnel that establishing a CGM will enhance overall operational performance and that the volume of complaints is not necessarily a good indicator of CGM performance.

*Additional information:* [IPIECA: 21 and 22.](#)

- **Take into account the Company’s general risk assessment.** Previous risk assessments may include elements that can inform the CGM’s design. For example, they may have identified political, economic, civil or social risks that could impact the Company financially, operationally or legally; or human rights and security risks that could motivate or aggravate complaints. Consider the capacity of the local prosecuting authority and judiciary to provide remedies. Ensure that the CGM respects the rights of both complainants and accused (see [Section 3.1.4](#)).
- **Observe State requirements.** States may set requirements for CGMs. In particular, Companies should identify and respect national legal requirements on data protection, conflict of interest, and confidentiality, and determine whether anonymous complaints are prohibited.

*Additional information:* [IPIECA: 24.](#)

- **Integrate risks factors in the CGM’s design.** Compile the risks and needs, assess the potential impact that each might have on the CGM, and modify the design accordingly. It is important to ensure that the CGM meets requirements in the following areas:
  - Number and type of access points.
  - Coordination across internal functions.
  - Staff resources to handle complaints.
  - The functionality of tracking systems.
  - Awareness-raising strategies.
  - Confidentiality requirements.
  - The involvement of external grievance mechanisms for serious complaints.
  - Internal governance and oversight.

*Additional information:* [IPIECA: 18.](#)

### Why is this important?

- A needs and risk assessment will help to ensure that the CGM is fit to receive and process complaints effectively.
- Recognizing needs and risks at an early stage is cost and resource effective. It also ensures that the CGM's design is tailored to fit the Company and its operational needs.

#### USEFUL TOOLS AND EXAMPLES

For guidance on risk assessment, please refer to the following resources:

- For a complaints risk assessment tool, see [IPIECA: 109-110](#).
- For human rights impact assessment and guidance, see the Danish Institute for Human Rights, at: <https://www.humanrights.dk/business/tools/human-rights-impact-assessment-guidance-and-toolbox>.
- The [Security and Human Rights Hub](#) provides access to a range of documents and tools. At <http://www.securityhumanrightshub.org/content/risk-impact-assessment>.

**Example: mitigating the risk of receiving complaints that are not related to the Company.**

*"We noticed that UN cars are often involved in accidents. The Company therefore decided not to use any white cars which might be confused with UN cars in order to limit the risk of receiving unrelated complaints." (ICoCA Member Company.)*

## 1.2 POSITION THE CGM INTERNALLY AND EXTERNALLY

### 1.2.1 ■ Position the CGM in relation to other company procedures

A CGM should be developed within the Company's 'ecosystem' of remediation procedures. The relationship of CGMs to whistleblowing procedures often causes confusion. It is therefore important to note that these two procedures differ both in their processes and in the Company's obligations. Whistleblowing procedures provide an avenue for personnel and third parties to share concerns about inappropriate or illegal conduct that affects others, internally or externally. These concerns may be notified to the Company or to an external organization contracted by the Company. By comparison, a CGM provides effective remedies and involves a direct dialogue with complainants. This distinction is reflected in PSC.1 and ISO 18788.

## USEFUL TOOLS AND EXAMPLES

	<b>Whistleblowing procedure</b>	<b>Grievance procedure</b>
<b>Scope</b>	Personnel and third parties.	Personnel and third parties.
<b>Communication</b>	Communicate the whistleblowing procedure to personnel and external stakeholders.	Communicate the company grievance procedure to personnel and external stakeholders.
<b>About what</b>	Complaints can be reported which: <ol style="list-style-type: none"> <li>1. Include a suspected wrongdoing.</li> <li>2. Are not necessarily linked to harm or an individual.</li> <li>3. Are in the public interest.</li> </ol>	Complaints can be reported which: <ol style="list-style-type: none"> <li>1. Are linked to a direct harm suffered by a complainant.</li> <li>2. Involve suspected wrongdoing.</li> </ol>
<b>To whom</b>	The employer, the ICoCA in cases of alleged Code violations, the regulator, customers, the police, or the media.	The employer; the ICoCA in cases of alleged Code violations.
<b>Format</b>	For example, an ethics hotline (toll-free phone line) or e-mail address.	For example, a complaint form, an e-mail address, a phone number.
<b>Confidentiality</b>	Complaints may be confidential or anonymous depending on national law.	Complaints are confidential.
<b>Outcome</b>	The Company needs to record, investigate, evaluate, improve and monitor corrective action.	The Company should <ol style="list-style-type: none"> <li>1. Ensure complainants receive access to an effective remedy.</li> <li>2. Record, investigate, evaluate, improve and monitor corrective action.</li> </ol>

The following hypothetical scenario may help to illustrate the comparison. A victim of trafficking uses a Company's whistleblowing phone line to allege that staff are involved in human trafficking, violating paragraph 39 of the Code, which requires that Member Companies do not engage in trafficking in persons. It is in the public interest to halt the alleged illegal conduct. The Company therefore follows its whistleblowing procedure to process and investigate the complaint and takes appropriate measures to protect the victim from retaliation. After investigating the case, the Company reports the discovery to competent authorities and determines and implements corrective actions to prevent any recurrence. In parallel, because the whistleblower has been personally harmed, the Company talks to the victim in order to find an effective remedy in accordance with its CGM. In this case the Company has used both its whistleblowing and CGM procedures to ensure that illegal conduct does not recur and to provide an effective remedy for the victim. By comparison, if an employee or NGO observes such activities but is not directly affected, the Company will only apply the whistleblowing procedure.

### Helpful resources on whistleblowing

[Public concern at work](#). Provides general advice on whistleblowing.

[Government Accountability Project \(GAP\)](#). On protection of corporate whistleblowers.

[Ofgem Whistleblowing Guidance](#). A guide for potential whistleblowers in the UK.

## BOX 3. STANDARDS AND PRINCIPLES

**The Code**

“No provision in this Code should be interpreted as replacing any contractual requirements or specific Company policies or procedures for reporting wrongdoing” [Code 68].

The Code does not establish a specific procedure for whistleblowing, but addresses elements of whistleblower protection by requiring Companies to:

- “Facilitate reporting by persons with reason to believe that improper or illegal conduct, or a violation of this Code has occurred or is about to occur” [Code 67a].
- “Ensure that their Personnel who report wrongdoings in good faith are provided protection against any retaliation for making such reports” [Code 67g].

**Other standards and principles**

**PSC.1, paragraph A.9.4.3.** “[...] Effective whistleblower policies provide individuals with an alternative route other than their direct line management through which to raise their concerns. Therefore, organizations should establish and communicate a whistleblower policy that provides for a clear internal mechanism for anonymously reporting non-conformances and concerns about danger, unethical conduct, or illegality that affects others, internally or externally [...].”

**ISO 18788, paragraph 8.8.4.** “The organization shall establish a whistleblower policy for people working on its behalf, who have a reasonable belief that a non-conformance of this International Standard has occurred, and respect their right to anonymously report the non-conformance internally, as well as externally to appropriate authorities. The organization shall not take any adverse action against any individual for the act of making a report in good faith. The organization shall inform the client of reported violations of law or respect for human rights.” **See also A.8.8.4.**

**ISO 28007, paragraph 5.9. Client complaints, grievance procedures and whistleblowing.** “The organization should establish and maintain accessible procedures to document and address complaints or grievances received from internal or external interested parties and stakeholders (including clients and whistleblowers or witness) [...].”

**Good practices**

- **Map existing systems.** List all internal procedures and processes that provide a channel for receiving and addressing complaints. These may include:
  - A personnel ombudsman or human resources complaint processes.
  - Open door or ‘Speak up’ policies.
  - Trades union or industrial relations processes.
  - Consumer complaint mechanisms.
  - Community grievance mechanisms.
  - Business-to-business contract clauses with dispute resolution provisions.
  - Supplier code of conduct mechanisms.
  - Audit processes (and worker interviews).

- Supply chain hotlines.
- Stakeholder engagement (at site and policy level).
- Ethics or whistleblower hotlines.

*Additional information:* [ST: 4-5](#); [IPIECA: 33](#).

- **Learn from other internal procedures.** Drawing on internal consultations (see Section 1.1.1), evaluate other internal procedures in relation to the CGM, after mapping them.
- **Identify gaps and ensure integration.** Determine how the CGM should relate to other procedures and processes, and identify gaps, to ensure that all forms of complaint have an appropriate avenue.

### Why is this important?

Mapping and analysing all the Company's internal procedures will help to establish a CGM that is independent but complements other Company processes. An independent CGM will inspire trust in stakeholders; good coordination will make procedures more efficient.

## 1.2.2 ■ Determine internal roles and responsibilities

Companies should define the roles and responsibilities of personnel who are tasked to process and investigate complaints, designate who will oversee the process, and make clear the roles of corporate headquarters, field operations and subsidiaries.

### BOX 4. STANDARDS AND PRINCIPLES

#### The Code

Member Companies are required to establish procedures to "[...] report allegations of improper and/or illegal conduct to *designated personnel*, including such acts or omissions that would violate the principles contained in this Code" [[Code 67a](#)].

#### Other standards and principles

**PSC.1, paragraph A.9.5.10.** "When developing complaint and grievance procedures, one or more individuals should be designated with the authority to coordinate the efforts to investigate and resolve any complaints that the organization receives alleging any actions that threaten human life, rights, or safety or are not in conformance with the requirements of the Standard or as required by the client."

**ISO 18788, paragraph 8.8.3.** "The organization shall establish and document procedures for: (b) establishing hierarchical steps for the resolution process."

**ISO 18788, paragraph A.8.8.3.** "When developing complaint and grievance procedures, one or more individuals should be designated with the authority to coordinate the efforts to investigate and resolve any complaints that the organization receives."

**ISO 28007.** This standard does not make reference to internal roles and responsibilities.

## Good Practices

- **Determine the roles of Headquarters (HQ) and field operations.** Determine what types of process are appropriate for HQ and field operations. Companies should establish multiple access points through which complaints may be filed, and decide how they relate to each other. They should also decide under what circumstances, and how, a complaint may be transferred from field operations to HQ. For example, it may be necessary to escalate a grave or complex complaint from operational level to country level and from country level to HQ.

*Additional information:* [ST: 9](#).

### ICoCA Member Companies explain:

" Since we don't have any country offices, all complaints are directly reported to the HQ."

" Client complaints are directly referred to HQ."

" Both HQ and country offices are involved. Each country office has a manager that reports every complaint directly to the HQ."

" We have a more formal process through our website or via phone reaching our HQ directly, and a more informal process locally. The informal local processes are only reported to the HQ if they escalate."

" We have a centralized process: every complaint is reported directly to a person in the ethical committee."

- **Ensure that all subsidiaries implement a CGM.** Coordinate with Company subsidiaries to ensure that all subsidiaries are covered either by the Company's CGM or their own. All CGMs should comply with the Code. Both the Company's and its subsidiaries' CGMs must be flexible enough to meet the needs and particularities of subsidiaries while remaining aligned with the Code and corporate standards.

*Additional information:* [CSR: 15](#).

- **Define the roles and responsibilities of personnel who manage the CGM.** Where complaints can be filed through multiple access points, designate the employee responsible, and the process, for each one (see [Good practices](#) above). The Company should also designate the departments involved, and their roles and responsibilities, in accordance with the company grievance procedure.

*Additional information:* [CSR: 15](#).

- **Appoint a Grievance Officer.** A Grievance Officer should be nominated. He or she should be responsible for the overall process and accountable in the Company for managing the CGM. The Grievance Officer should be trusted by Company personnel and external stakeholders and understand different functions in the Company as well as the diversity of its operations.

*Additional information:* [CSR: 11](#); [ST: 9](#).

- **Ensure personnel are properly trained.** Personnel responsible for implementing the CGM should have the necessary skills and training. The content and the level of training that staff receive should reflect their roles and responsibilities.

*Additional information:* [CAO: 54](#).

- **Ensure the CGM is sufficiently independent.** The CGM should be hierarchically, practically and operationally independent. Hierarchically, the Company may want to set up an independent oversight committee (see [Good Practices](#) below). Practically, the Company should make sure that personnel who implement the

## USEFUL TOOLS AND EXAMPLES

## Examples of terms of reference for Grievance Officers

- Compliance Advisor Ombudsman, *Grievance Mechanism Toolkit: Terms of Reference for a Grievance Officer and Community Liaison Officer*. At: <https://www.cao-grm.org/tools-and-resources>.
- Tool 5: Job Description – Grievance Officer (IPIECA: 115-117).

The following questions and options developed by IPIECA (p. 30) may be of assistance when defining the roles and responsibilities of staff involved in the CGM.

Who is responsible for...	Options
Serving as the custodian for the company grievance procedure?	— CEO. — General Manager.
Accepting a complaint?	— Grievance Officer, Community Liaison Officer. — Third-party access points.
Capturing and recording the complaint in a centralized database?	— Grievance officer. — Administrator.
Providing the acknowledgment slip?	— Grievance Officer. — Community Liaison Officer.
Conducting the initial rapid response?	— Community Liaison Officer.
Assigning the case to a department?	— Grievance Officer. — Community Relations Manager.
Assigning an investigator in the department?	— Head of the assigned department.
Leading the investigation?	— A designated person in the department associated with the complaint (supported by the Liaison Officer).
Keeping the complainant informed during the investigation process?	— Grievance Officer.
Escalating a case internally if investigation timelines are not kept?	— Grievance Officer. — Community Relations Manager.
Ensuring the investigation is completed in the designated time?	— Head of the assigned department.
Proposing a Company response?	— The investigator and the complainant.
Agreeing a Company response?	— Community Liaison Officer (for easy cases). — Head of the associated department. — Grievance Committee.
Discussing the Company response with the complainant?	— Community Liaison Officer.
Triggering a recourse mechanism?	— The complainant.
Closing a complaint if the complainant cannot be found?	— Community Relations Manager combined with the Legal Department.
Representing a case that is escalated to a Court?	— Legal Department or legal counsel.
Paying compensation costs (if applicable)?	— The department associated with grievances. — Central CGM budget.



CGM have access to adequate resources and are self-reliant. Operationally, staff who process complaints and implement the CGM should be independent of complainants. In particular, there should be no connection between the complainant and personnel handling a complaint when the complaint in question involves those members of staff or their department. If necessary, neutral and qualified personnel from another part of the Company should be assigned to process such complaints.<sup>2</sup>

- **Ensure oversight.** Establish independent oversight over the CGM. This might be an oversight board with an independent chair, or a permanent ethics committee. To provide oversight, smaller companies may assign a senior manager, or form a committee that meets on an ad-hoc basis. In all cases, the Company should define the roles and responsibilities of the oversight entity and the circumstances in which it should become involved. Additionally, an escalation procedure should be established (see [Section 2.1.3](#)). This defines the circumstances in which more serious complaints should be escalated upwards, to whom they should be sent, and when they should be considered by the oversight entity. For example, a Grievance Officer may handle complaints that are classified as of 'low' or 'moderate' importance, while cases of 'high' importance may need to be assigned to a senior manager or the oversight entity. It is also advisable to require staff responsible for receiving complaints to report regularly to the oversight entity on all the complaints they have received.

### ICoCA Member Companies explain:

- " We have set up an Ethical Committee which is separate from the operations."
- " The country manager usually handles grievances in conjunction with HR and a member of the Board."
- " An oversight board consisting of staff members oversees the company's grievance process. Every quarter, they receive a report on how many grievances the company has received without mentioning any details."
- " We have an ethics board consisting of two directors, one office manager and one operations coordinator."
- " We have an ethical committee receiving the grievances directly. This ethical committee is not attached to the operational management and the operations department."

### Why is this important?

- Enabling complainants to submit complaints at field operation level and HQ makes a CGM more effective. Access at field operation level is essential, because it is closer to the complainant and makes possible more direct and rapid resolution of a complainant's concern. At the same time, collecting complaints at HQ level, through a hotline or the Company's website, is necessary to ensure oversight, coordination, learning and process improvement.
- A Company cannot assume that allegations against one of its subsidiaries will be handled by the subsidiary's CGM. This is so because, when subsidiaries are responsible for harm, it may be assumed that the parent Company is liable, or that the parent Company's due diligence procedures were not adequate.

<sup>2</sup> The Court of Justice of the European Union has interpreted 'independence' in several cases. The following elements of the Court's interpretation may be helpful: (1) decisions should not be influenced by external intervention or pressure; (2) the parties should enjoy a level playing field; (3) decisions must be objective and disinterested with respect to the outcome; (4) those who investigate and the accused parties must have independent lines of authority; and (5) investigators should have access to their own resources and be self-reliant. See, for example: Case C-506/04, *Graham J. Wilson v. Ordre des avocats du barreau de Luxembourg* (2006); ECR I-08613, *Jordan v United Kingdom* (2003) 37 EHRR 2 at [120]; and Alastair Mowbray, *Duties of Investigation under the European Convention on Human Rights* (2002), 51 ICLQ 437, 440.

When developing a CGM, it is therefore essential to establish clear roles and responsibilities for both the Company and its subsidiaries, and make arrangements for coordination.

- All staff members who are involved in the CGM should have clearly defined roles and responsibilities. This ensures that complaints do not ‘fall between the cracks’ and that, both internally and externally, it is clear from whom information should be requested, to whom questions should be addressed, and who is responsible for setting and keeping timelines.
- Appointing a Grievance Officer ensures that complaints are initially assessed by one person, who then coordinates their referral to the appropriate channel for resolution.
- Installing an oversight entity ensures that the CGM is independent. When complainants are not satisfied with the resolution they have been offered, it may also serve as the entity to which they can appeal.

### 1.2.3 ■ Link the CGM to the external landscape

A CGM is one option for complainants when they seek recourse and remedy. Other options may include state-based judicial and non-judicial mechanisms, including national court systems and community courts. To the extent required by law, Member Companies must report incidents to competent authorities. Non-State-based mechanisms and regional or international human rights mechanisms may offer additional options for recourse, of which the ICoCA is one. Within these systems, CGMs have value because they provide early stage recourse that is close to complainants.

#### BOX 5. STANDARDS AND PRINCIPLES

##### The Code

“[...] Companies will comply, and will require their Personnel to comply, with applicable law which may include international humanitarian law, and human rights law as imposed upon them by applicable national law, as well as all other applicable international and national law” [\[Code 21\]](#).

“[...] Upon completion of the inquiry, the [Member Company] will produce in writing an incident report including the above information, copies of which will be provided to the Client and, to the extent required by law, to the Competent Authorities” [\[Code 63\]](#).

#### Good practices

- **Map available judicial and non-judicial grievance mechanisms.** Map judicial and non-judicial grievance mechanisms in the areas in which the Company operates, including community-based approaches. The following list offers some examples:
  - National, regional and international courts.
  - Community or customary courts.
  - Labour dispute bodies and tribunals.
  - National human rights institutions.
  - OECD National Contact Points.
  - Ombudsmen.
  - Arbitration mechanisms.

- Client grievance mechanisms.
- Mechanisms of international financial institutions.
- Industrial relations processes.
- Grievance mechanisms of multi-stakeholder initiatives such as the ICoCA.

*Additional information:* [ST: 5](#); [IPIECA: 7](#).

- **Assess the roles of other grievance mechanisms.** Analyse the roles that different State- and non-State-based judicial and non-judicial grievance mechanisms play, and what forms of resolution they offer. Decide whether one or more offer complainants an extra or alternative option for recourse, and at what stage in the process they might be relevant (taking account of the nature of the complaint). (See [Section 3.1.4](#).) Assess the possible impacts of other systems on the design of the CGM. Update the mapping periodically and whenever operations commence in a new environment.
- **Identify links to community grievance mechanisms.** Companies should find out how communities resolve disputes and perceive and use different grievance mechanisms and approaches to dispute resolution. Based on this analysis, determine what types of customary or traditional approach the Company can draw on in its areas of operation. When working with a community, make sure to provide clear information about the CGM and how a complaint to the Company may be filed.

*Additional information:* [IPIECA: 17](#).

- **Take note of territorial, home, or contracting States' requirements.** Territorial, home, or contracting States may require CGMs to meet certain standards. Understand how these requirements will affect the design of the CGM. Assess too how the CGM will link to judicial processes, for example by establishing what national criteria determine access to judicial procedures. The Company may also be required by law to employ external institutions to settle complaints. Based on its needs assessment, the Company may itself decide to employ credible institutions for this purpose.

*Additional information:* [ST: 5-6](#).

- **Exchange information with other companies.** The Company may want to share information with other companies or clients in the same area, to see if they have useful experience of how to operate appropriate and effective grievance mechanisms in the local context.

*Additional information:* [IPIECA: 17](#).

### Why is this important?

- For several reasons, a CGM may not always be the most appropriate course for a complainant. The nature of the complaint, its content or seriousness, cultural considerations, and whether the CGM is perceived as trustworthy may weigh against its use. Additionally, national regulations may require that other mechanisms should be used first. A CGM should not take the place of formal legal proceedings. For these reasons, it is important to map all potential avenues of recourse, so that the Company and the complainant can identify the most appropriate one.
- By mapping different avenues of recourse, a Company can better identify and understand the various types of assistance and resolution each offers. It may sometimes be appropriate to seek third party expert assistance, for example to

deal with cases of sexual harassment by staff or when the complaint concerns a senior person in the Company, or allegations relate to local tensions. Using other viable forms of complaint resolution appropriately may relieve pressure on the CGM.

- It is also important to be aware of external complaint resolution systems because these may play a considerable role in the community. In some cases, local government bodies, officials, mayors, tribal leaders, client companies, or persons of trust may be more natural access points for complainants. For example, members of a community may be more inclined to complain to local authorities than to complain to the Company. Liaison with such access points is crucial.

## Step 2. Design and outreach

### 2.1 DEFINE THE SCOPE OF THE CGM

#### 2.1.1 ■ Decide who can access the CGM

Companies should define the scope of their CGMs, which implies deciding who can access them.

#### BOX 6. STANDARDS AND PRINCIPLES

##### The Code

Companies are required to establish procedures “to address claims [...] brought by Personnel or by third parties” [Code 66] and “for their Personnel and for third parties to report allegations of improper and/or illegal conduct” [Code 67a].

##### Other standards and principles

**PSC.1, paragraph 9.5.7.** “The organization shall establish procedures to document and address grievances received from internal and external stakeholders (including clients and other affected parties).”

**PSC.1, paragraph A.9.5.10.** “The organization should establish a complaint and grievance procedure whereby any internal or external stakeholder who believes there are potential or actual non-conformances with this Standard or violations of international law, local laws, or human rights may file a grievance.”

**ISO 18788, paragraph 8.8.3.** “The organization shall establish procedures to document and address grievances received from internal and external stakeholders (including clients and other affected parties).”

**ISO 28007, paragraph 5.9.** “The organization should establish and maintain accessible procedures to document and address complaints or grievances received from internal or external interested parties and stakeholders (including clients and whistle-blowers or witness).”

#### Good practices

- **Decide who can access the CGM.** Accept complaints from third parties and personnel and interpret this broadly. ‘Third parties’ refers to all external stakeholders that the CGM is intended to serve, such as communities, clients, civil and military authorities, suppliers, trades unions and their federations, and NGOs. (See also [Annex – Definitions](#).)
- **Consider accepting representation.** Subject to two conditions, accept complaints filed on behalf of an employee or third party who has been allegedly harmed by the Company’s activities. The two conditions are:
  - The representative must have a connection to the individual affected (particularly in cases of death).
  - The affected individual must agree to be represented.

#### Why is this important?

An individual or group who has allegedly been harmed by the Company’s operations may be afraid to file a complaint, may speak a different language, or may be unwilling for other reasons to report a complaint directly to the Company. In such cases, it may be easier for the complainant to file a complaint through a representative.

### 2.1.2 ■ Define whose actions can be the subject of complaints

Defining the scope of a CGM implies determining whose actions can be the subject of a complaint.

#### BOX 7. STANDARDS AND PRINCIPLES

##### The Code

Procedures should “[...] address claims alleging *failure by the Company* to respect the principles contained in this Code brought by Personnel or by third parties” [\[Code 66\]](#).

“[...] Companies will require that their Personnel, and all subcontractors or other parties carrying out Security Services under [...] Company contracts, operate in accordance with the principles contained in [the] Code” [\[Code 16\]](#).

#### Good practices

- **Define whose actions can be the subject of complaints received by the CGM.** Accept complaints resulting from acts or omissions of the Company and its personnel, and (where relevant) address complaints against subsidiaries or subcontractors.
- **Determine a procedure for addressing complaints against subcontractors.** Decide whether complaints against a contractor should be processed by its own CGM and how that process will be coordinated with the Company (see [Section 1.2.2](#)). If the subcontractor processes complaints against it, it may be advisable to monitor the subcontractor’s performance. Monitoring might involve requesting and receiving regular updates on the progress of the case, as well as information on the resolution proposed and its implementation.
- **Make sure that subcontractors acknowledge and understand the complaint process.** Explain the Company’s expectations of a subcontractor who receives complaints, notably complaints that allege that the subcontractor’s staff have violated the Code. The Company’s expectations may be set out in a specific agreement attached to or included in the subcontractor’s contract.

#### Why is this important?

Accepting complaints against subcontractors helps the Company to make itself aware of any discontent surrounding its operations, even if these are not caused directly by the Company’s own activity. It further ensures that any performance issues with respect to subcontractors can be addressed at an early stage. Doing this helps the Company to identify and address risk.

### 2.1.3 ■ Determine which types of complaint the CGM covers

At the minimum, a CGM should address complaints about alleged acts and omissions that violate principles of the Code. As far as possible, it should also accept wider complaints.

## BOX 8. STANDARDS AND PRINCIPLES

**The Code**

CGMs should “[...] address claims alleging failure by the Company to respect the principles contained in this Code [...]” [Code 66] and should be open to receive “allegations of improper and/ or illegal conduct, including such acts or omissions that would violate the principles contained in this Code” [Code 67a].

**Other standards and principles:** [UNGP: 22.](#)

**Good practices**

- **Decide the scope of complaints that will be accepted.** Process complaints about alleged violations of Code principles, and complaints about impacts of the Company’s operations on personnel and external stakeholders. Additionally, define a process for sorting complaints that have genuine grounds from complaints that are false or baseless. This procedure should make clear the grounds on which a complaint will be rejected, what explanation will be given to complainants, and how the effects of false claims will be mitigated. If a complainant does not accept a rejection, consider explaining the reasons for the decision publicly.

*Additional information:* [HU: Guidance point #13](#); [HU: 31.](#)

- **Decide whether the Company will accept complaints that are not directly linked to its operations.** Generally, Companies can only be held accountable for actions for which they are responsible. If a Company receives a complaint that alleges harm linked to its operations (but it is not directly responsible), the Company should nevertheless consider processing it, in order to address all possible adverse impacts, prevent escalation and resolve reasons for grievance.
- **Decide how the Company should process serious complaints.** The Company should clarify how complaints will be categorized as serious or less serious, and who will deal with each category of complaint. A risk matrix, that classifies complaints in terms of higher or lower risk, can prevent decisions from being made arbitrarily. However, a risk matrix with fixed criteria may be unhelpful if complaints evolve. A ‘low level risk’ case can rapidly become a ‘major risk’ case if it is not reviewed quickly or rigorously. Equally, complainants may start to exaggerate relatively minor issues if they perceive that a Company pays more attention to complaints classified as ‘high risk’. It is also important to consider risks to the community, which may be high even if the risk to the Company is low.

*Additional information:* [IPIECA: 49 and 103.](#)

**Why is this important?**

- If a CGM accepts all types of complaints, not only alleged violations of Code principles, it is more likely to capture and address issues or concerns at an early stage, before they escalate. The Company is also more likely to make itself aware of the full range of risks and problems that may arise from its operations. For example, even a vexatious complaint may signal the presence of an underlying legitimate grievance that should be addressed.
- Developing an escalation pathway ensures that graver cases are addressed at the correct level of leadership, and recognizes that some complaints must be moved to other processes (such as courts). (See also [Section 1.2.3](#) and [Section 3.1.4](#) on choosing appropriate systems.)

### 2.1.4 ■ Accept confidential complaints

To minimize risks to the complainant's safety, a Company should accept confidential complaints and develop a process to protect complainants and their identity, family and belongings.

#### BOX 9. STANDARDS AND PRINCIPLES

##### The Code

Member Companies should "investigate allegations [...] with due consideration to confidentiality" [Code 67c] and "ensure that their Personnel who report wrongdoings in good faith are provided protection against any retaliation for making such reports, such as shielding them from unwarranted or otherwise inappropriate disciplinary measures" [Code 67g].

#### Good practices

- **Grant confidentiality in all cases.** A complainant's identity, even if known to the processing team, should remain confidential and should not be shared with the operational divisions of the Company or with any external person. Develop a confidentiality policy that sets out the measures a Company will take and the process it will follow to conceal the identity of complainants and guarantee the confidentiality of their complaints.

*Additional information:* [HU: 24.](#)

- **Define a process to protect complainants and their family and belongings.** Develop a process to identify any risks to complainants and take measures to minimize threats to them or their belongings, or intimidation of family members and witnesses (see [Section 3.2.2](#)). Make sure that the procedure takes account of gender and addresses the needs of vulnerable groups. When preparing this policy, it may be helpful to make use of information contained in previous risk assessments by the Company (see [Section 1.1.3](#)).
- **Decide how to handle anonymous complaints.** Complainants may wish to file complaints anonymously if they fear retaliation. Generally, Companies should be ready to receive anonymous complaints. However, anonymous complaints may lack detail and may be difficult to investigate or resolve. It is therefore advisable to encourage complainants to file a confidential complaint or ask a trusted representative to file a complaint on their behalf. In confidential complaints, the identity of the complainant is known only to the Grievance Officer. This permits the Company to provide meaningful feedback without exposing the complainant's identity. Anonymous complaints can sometimes be processed in an effective and interactive way through online chat boxes, which allow complainants to discuss their concern anonymously.

*Additional information:* [IPIECA: 25.](#)

- **Establish a system for recording information.** Decide what type of information management system the Company will use to track complaints and manage confidential information in compliance with applicable data protection laws. The Company may build on a standardized system that it already uses, or adopt a new one. Appropriate systems include Excel spreadsheets, the storage of sensitive information in a safe, and development of a Companywide information technology (IT) tool. IT tools can automatically record complaints, monitor their status, and issue overdue alerts and general reports. To ensure confidentiality, record the



identity and personal details of complainants separately from information about the subject of their complaint.

*Additional information:* [LPIECA: 85](#).

### Why is this important?

- A complaints process that is conducted publicly can expose the complainant to retaliation or stigma. These risks are likely to occur, for example, when a complainant has been sexually harassed or might receive significant compensation. Protecting the confidentiality of the parties involved, of the allegations, and the outcome, protects the complainant.
- Accepting anonymous complaints may limit how far and how thoroughly a complaint can be investigated. However, where a complainant alleges that he or she has been harmed by the Company's activity, anonymous complaints may provide useful information and allow the Company to take corrective action before a problem escalates.
- Standardizing data management is necessary to ensure confidentiality of information and the efficient functioning of the complaints process.

## 2.2 ENSURE ACCESSIBILITY AND FAIRNESS

### 2.2.1 ■ Ensure the CGM is fair and equitable

Member Companies should process complaints in a fair and equitable manner. This implies that people in communities perceive the distribution of benefits to be reasonable, including their share of them, and that complainants have reasonable access to information, advice and expertise on matters that are of concern to them.

#### BOX 10. STANDARDS AND PRINCIPLES

##### The Code

Member Companies are required to ensure that "[...] *Procedures [are] fair, accessible and offer effective remedies, including recommendations for the prevention of recurrence*" [\[Code 67a\]](#) and should "*investigate allegations promptly, impartially and with due consideration to confidentiality*" [\[Code 67c\]](#).

**Other standards and principles:** [UNGP: 31a, c, d, e](#).

### Good practices

- **Define timeframes for each step in the process.** It is important to set indicative timelines for each step, to communicate this information to the complainant throughout the process, and to notify the complainant of any deviation with reasons. The receipt of a complaint should be acknowledged in writing, typically within 2 to 7 days.
- **Make sure the process is equitable.** Establish a process to ensure that relevant information is shared with the complainant in a form that he or she finds understandable and appropriate. The communication should take gender considerations into account. For example, a female complainant may wish to talk about her complaint to a woman; or to be represented by someone who acts on her behalf. On grounds of equitability, the Company may need to accept that a counsellor or NGO advises the complainant throughout the complaints process, or that access to legal counsel should be facilitated. Equitability also implies that

all parties should enjoy equal access to information (as far as reasonable). For example, when findings are discussed or reports issued, complainants should have the same access to this information as the Company.

*Additional information:* [GR: 30 and 31](#); [CSR: 17](#); [IPECA: 49](#).

- **Grant the right to be accompanied.** At all steps of the process, complainants should be allowed to bring someone to support and advise them. This may be a family member or friend, (legal) counsel or a representative from a trades union.

*Additional information:* [IPECA: 50](#).

- **Establish an appeal process.** The Company should allow complainants to appeal the resolution of their complaints, internally or through an external mechanism (see [Section 4.1.2](#)). The process should make clear under what circumstances a complainant can appeal to the entity assigned to provide oversight (see [Section 1.2.2](#)) or to other entities identified when external grievance mechanism were mapped (see [Section 1.2.3](#)). In its appeal process, the Company may also make use of external approaches, such as alternative dispute resolution (ADR), a form of dispute resolution without recourse to courts. ADR offers a range of approaches, including negotiation, and cooperative problem-solving in which only the parties to the dispute participate. (See the [roles the ICoCA](#) may play.) Negotiation involves external individuals or organisations that can help to facilitate the resolution of a complaint, for example by arbitration. If a complaint is referred to arbitration, a trusted external individual or organisation makes a non-binding recommendation or imposes a binding settlement, under the terms of an agreement reached beforehand by both the Company and the complainant.

*Additional information:* [IPECA: 55 and 57](#).

### Why is this important?

- If the Company communicates and publishes indicative timelines for each step, the process becomes predictable to complainants, which builds trust. It also makes the process more transparent, thereby helping to satisfy any public interest concerns.
- The Company almost always has more resources and better access to information than a complainant. Communicating clearly and regularly is therefore essential if the complainant is to understand the complaint process and its potential outcomes. Failure to communicate or respond can itself become a grievance.
- Make sure that the CGM is understandable. This not only ensures that complainants can use it but helps new staff responsible for processing complaints to implement the procedure.
- Allowing complainants to be accompanied by a representative, family member or friend increases their confidence and trust, and also avoids (perceptions of) unfairness.
- Granting a right of appeal gives both the Company and the complainant certainty that they have explored all options available for resolution. Providing appeal options, particularly external ones, makes it less likely that the CGM will be perceived to be biased in favour of the Company. The involvement of external mechanisms may also increase the legitimacy of the Company's complaints process.

## 2.2.2 ■ Make the CGM accessible

A CGM can only be effective if the people it is intended to serve know about it, trust it and are able to use it. Member Companies should therefore provide a variety of ways by which people can submit complaints. For the same reasons, Companies should minimize obstacles that might prevent people from using the CGM.

## BOX 11. STANDARDS AND PRINCIPLES

**The Code**

Member Companies are required to ensure that procedures are “[...] fair, *accessible* and offer effective remedies, including recommendations for the prevention of recurrence” [\[Code 67a\]](#).

They should also “publish details of their grievance mechanism on a publicly accessible website” [\[Code 67b\]](#).

**Other standards and principles:** [UNGP: 31b](#).

**Good practices**

- **Diversify access.** Companies should make sure that a complainant can file his or her complaint via several routes, at least one of which should be independent of Company management. Especially if the Company operates across a large geographical area, establish access points with third parties who are permanently present in the area (local government officials, NGOs, other locally trusted institutions such as libraries with internet connections and computers). It may be advisable to set up an access point where complainants can hold face to face meetings. Once defined, publicize these access points.

*Additional information:* [HU: Guidance point #5](#); [IPIECA: 35, 43 and 44](#).

## BOX 12. EXAMPLES OF ACCESS POINT

Inter alia, complainants may communicate their concerns:

- In face-to-face in meetings with company staff.
- Through a Company office.
- By email.
- By letter.
- Online through the Company website.
- Via an intranet system.
- Via a dedicated telephone number (hotline).
- Through third parties (such as NGOs, trades unions and their federations).
- Through complaint boxes in public locations (libraries with internet, etc.).
- Community houses.

For **maritime private security companies** it may be difficult to create multiple access points, because their work may affect dispersed communities, such as fishermen, along extensive coastlines. In such cases, trusted proxies may receive complaints, such as:

- Fishing associations.
- Local fish off-loading stations or harbours.
- Local maritime radio communication services.

- **Minimize barriers to access.** Identify barriers that could prevent people from using the CGM. For example, the information about CGMs on Company websites is frequently hard to find. Companies should publish information that is easily accessible and clearly explains key elements of the complaint process, including how to file a complaint.

#### BOX 13. EXAMPLES OF BARRIERS TO ACCESS

Barriers to access include:

- Fear of reprisal.
- Language. (Does the complainant have the option to speak his or her language?)
- Gender. (Do women feel comfortable approaching the CGM's access points?)
- Literacy. (Does the CGM enable illiterate complainants to file a complaint?)
- Cost. (Can poor complainants afford to file a complaint?)
- Location of Company offices. (Can complainants travel easily to the Company's office?)
- Internet access. (Do people in the community own computers with internet access?)
- Cultural appropriateness. (Can third parties file complaints on a complainant's behalf?)
- Vulnerable groups. (Are access points designed for use by children, the elderly and people with a disability?)

The CGM should identify and resolve potential barriers. For example, if language is a barrier, translate relevant information about the CGM into a language that complainants understand. The Company may want to train a communication officer or advisor to communicate with members of local communities in their languages.

*Additional information:* [PPEC: 15](#); [CSR: 12](#); [HU: 21](#); [CSR: 12](#).

#### Why is this important?

- Complainants need multiple access points so that they can file their complaints in ways that are simple and convenient for them. Companies should bear in mind that some complainants may mistrust the Company or feel too intimidated to approach the Company directly.

#### 2.2.3 ■ Raise awareness

Making the CGM accessible does not always guarantee that those who are expected to use it will be aware of its existence. This too impedes access. Once the CGM has been designed and set up, it should be publicized on the Company's website and actively advertised, to raise awareness, describe the process, and explain how complainants can register their concerns. This information should be made available to staff, local communities, local authorities, NGOs and all other relevant persons in the Company's areas of operation.

## BOX 14. STANDARDS AND PRINCIPLES

**The Code**

Member Companies are required to ensure that procedures are “[...] fair, *accessible* and offer effective remedies, including recommendations for the prevention of recurrence” [\[Code 67a\]](#).

**Other standards and principles**

[UNGP: 31c.](#)

**PSC.1, para. 9.5.7.** “Procedures shall be communicated to internal and external stakeholders to facilitate reporting by individuals of potential and actual non-conformances with this Standard, or violations of international law, local laws or human rights.”

**PSC.1, para. A.9.4.2.** “The organization should establish and communicate to relevant stakeholders internal and external complaints and grievances procedures. The procedures should assure privacy and confidentiality and be tailored to the culture, language, education and technology requirements of the target audience. Procedures should be established for creating a reporting mechanism for anonymous and non-anonymous complaints and grievances.”

**PSC.1, para. A.9.5.10.** “The organization should adopt and publish its grievance procedures providing for prompt and equitable resolution of complaints.”

**ISO 18788, para. 7.4.4.** “Complaint and grievance procedures shall be communicated to internal and external stakeholders. Procedures shall be publicly available on a website and minimize obstacles to access caused by language, educational level, or fear of reprisal, as well as consider needs for confidentiality and privacy.”

**Good practices**

- **Integrate the CGM internally.** The CGM should be integrated into initial and recurrent staff training, posted on the Company intranet, and included in manuals and any other documents or devices used for training. Staff should be briefed on the methods and tools used to protect complainants, witnesses and sources of information.
- **Advertise the CGM externally.** Publicize the existence of the CGM externally and extensively, using a range of appropriate channels. Include locations where people who might use the CGM meet or congregate. Make use of posters, flyers, contact cards, face-to-face meetings, newsletters and social media. Information distributed should be adapted to the context and the audience for which it is intended. This means that communication with employees and contractors may be more technical than with clients or communities. Communications should be adapted to the Company’s operations and to clients’ requirements. For example, if a Company is contracted to carry out operations in which it must keep a low profile, it may need to communicate more through word of mouth than by advertising.

*Additional information:* [CSR: 12.](#)

## BOX 15. EXAMPLES: ADVERTISING A CGM

**How to advertise the CGM**

- Publish information on the Company's website.
  - Meet with local communities or tribes.
  - Give local staff contact cards to distribute in their communities.
  - Publish a project bulletin that explains the CGM.
  - Reference the CGM in contracts or the terms of reference of suppliers and subcontractors.
  - Encourage drivers and those managing convoys to raise awareness among local communities impacted by Company movements.
  - Put up posters in local languages that show what a complaint is and is not.
- **Employ locals.** Local employees can raise awareness about the CGM in their communities and give feedback on the impact of Company operations.
  - **Set expectations.** Explain how and where people can access the CGM, describe each step of the process from start to finish, and list indicative timelines. It may also be helpful to explain what the CGM is not, what it is not able to provide, and complaints it will not address. Discuss the procedure with internal and external stakeholders to obtain buy-in, test the process, and review it. After testing, obtain feedback from external stakeholders and staff through surveys and meetings. This can help to improve the Company's complaints process and will also build trust and legitimacy.

*Additional information:* [IPIECA: 37](#); [CSR: 13](#).

- **Sustain the effort.** Maintaining multiple access points is an ongoing effort which does not stop when the CGM has been launched. It is advisable to put systems in place to publicize the CGM after its initial promotion, because people may forget about it until they need it. Make sure that people can find essential information easily. Internally, consider conducting surveys to assess how much staff know about the CGM. Issue newsletters on a regular basis.

*Additional information:* [PPEC: 16](#).

**Why is this important?**

- Making the CGM accessible to staff has two goals: (1) to ensure that staff know where to direct their complaints; and (2) to educate staff in how to handle complaints filed by third parties.
- If potential complainants do not know the CGM exists, they cannot access it.
- Local employees are more familiar with communities that live in the areas of a Company's operations and are therefore well placed to promote the mechanism.
- If the steps and timelines of a CGM are explained, the CGM becomes more predictable, and it is easier for the Company to manage expectations and avoid disappointment.

# Good practices

## Operating a company grievance mechanism

### Step 3. Processing a complaint

#### 3.1 REGISTER, ACKNOWLEDGE AND ASSESS

##### 3.1.1 ■ Register the complaint

Once received, a complaint must be logged in the Company records.

#### BOX 16. STANDARDS AND PRINCIPLES

##### The Code

Member Companies should “keep records about any such allegations, findings or disciplinary measures [...]” [Code 67d].

**Other standards and principles:** [UNGP: 31g](#).

#### Good practices

- **Register all complaints.** Every complaint received should be registered (see [Section 2.1.4](#) on a potential system and format for recording complaints), including those that do not fall under the scope of the CGM or are otherwise unacceptable. It is advisable to treat every complaint seriously, and every complainant with respect.

*Additional information:* [HU: Guidance points #13 and #14](#).

- **Centralize information.** A complaint may arrive and be handled at project or country level (see [Section 1.2.2](#)). This may permit the complaint to be addressed close to the source and the process to move more quickly. However, even if they are processed at local level, all incidents should be communicated to HQ.
- **Preserve confidentiality.** Record complaints in a manner that respects the confidentiality of the complainant and avoids any risks to his or her safety (see [Section 2.1.4](#)). If the complainant has not explicitly requested confidentiality, or the conditions under which information was gathered are unclear, keep the identity of the complainant and information associated with the case confidential until specific consent is given.

*Additional information:* [OHCHR: 8](#).

#### Why is this important?

- Recording every complaint received and treating it seriously ensures that no complaint is lost or improperly rejected. For example, even if a complaint appears to be unfounded at first sight, it may signal an underlying legitimate concern that ought to be addressed.
- A CGM should be a source of continuous learning. A register of complaints can be analysed in terms of frequency, pattern and causes. The results may help policy formation and prevent the recurrence of harm (see [Section 4.2.3](#)).
- Communicating all information to HQ ensures that no information is lost and that coordination between different offices is efficient.

- Recording complaints is necessary in case a Company is asked to make records available to a competent authority or cooperate with official investigations (see [Section 3.1.4](#)).

#### USEFUL TOOLS AND EXAMPLES

##### **Example: recording separately the identity and personal details of complainants.**

If the details of an incident are logged in a notebook, personal data about the complainant should be recorded on a separate sheet of paper. A code should be assigned to the person, and should appear above the start of information recorded in the notebook ([OHCHR: 8](#)).

### 3.1.2 ■ Acknowledge receipt of the complaint

When a Company has received and registered a complaint, it should send a formal acknowledgement to the complainant promptly, assuring him or her that the case is in the system and will be treated promptly.

#### BOX 17. STANDARDS AND PRINCIPLES

##### **The Code**

Member Companies should “investigate allegations promptly, impartially and with due consideration to confidentiality” [[Code 67c](#)] and ensure “[...] that matters raised are examined and acted upon without undue delay” [[Code 67g](#)].

**Other standards and principles:** [UNGP: 31c](#).

#### **Good practices**

- **Acknowledge complaints promptly.** When a complaint has been received, acknowledge it promptly (for indicative timelines see [Section 2.2.1](#)). Indicate when the next steps in the process are likely to be taken, and provide information about the Company’s confidentiality policy. This information should be conveyed in language that is culturally appropriate, discreet (does not compromise the complainant), and adapted to the complainant’s situation. For example, if a complainant is illiterate, arrange for the communication to be read so that the complainant is properly informed.

*Additional information:* [HU: 24](#); [PPEC: 18](#).

- **Keep the complainant informed throughout the process.** Take steps to update the complainant regularly throughout the process, even if it is only to report that the process is on schedule. If there are delays, inform the complainant and explain why they have occurred.

*Additional information:* [GHF: 59](#); [HU: Guidance point #12](#).

#### **Why is this important?**

- Prompt acknowledgement, frequent communication, and status updates reassure the complainant that he or she has not been ignored. They help the complainant to understand what to expect from the process and to avoid misunderstandings.



- CGMs should be predictable. Providing information and timelines to the complainant at each step promotes this objective.

#### USEFUL TOOLS AND EXAMPLES

##### Examples: forms of acknowledgment.

- Send a letter. (A sample letter of acknowledgement is available at: <https://www.cao-grm.org/tools-and-resources.>)
- Call.
- Visit the complainant in person.
- Send a copy of the complaint form.

##### Example: incentives to respond promptly.

If staff assigned to investigate a complaint do not respond inside a deadline, an automatic notification can be sent to senior management. This creates an incentive for the department concerned and shows that management takes complaint-handling seriously [PPEC: 18].

### 3.1.3 ■ Assess the complaint

After registering and acknowledging a complaint, the Company should assess its nature. Determining the nature of a complaint involves evaluating risks to the Company and risks to the complainant, deciding who needs to be informed, and deciding who will manage the investigation and subsequent actions.

#### Good practices

- **Assess whether the complaint qualifies under the CGM.** Assess as rapidly as possible (ideally within 24–48 hours) whether the complaint falls within the scope of the CGM (see [Section 2.1](#)).

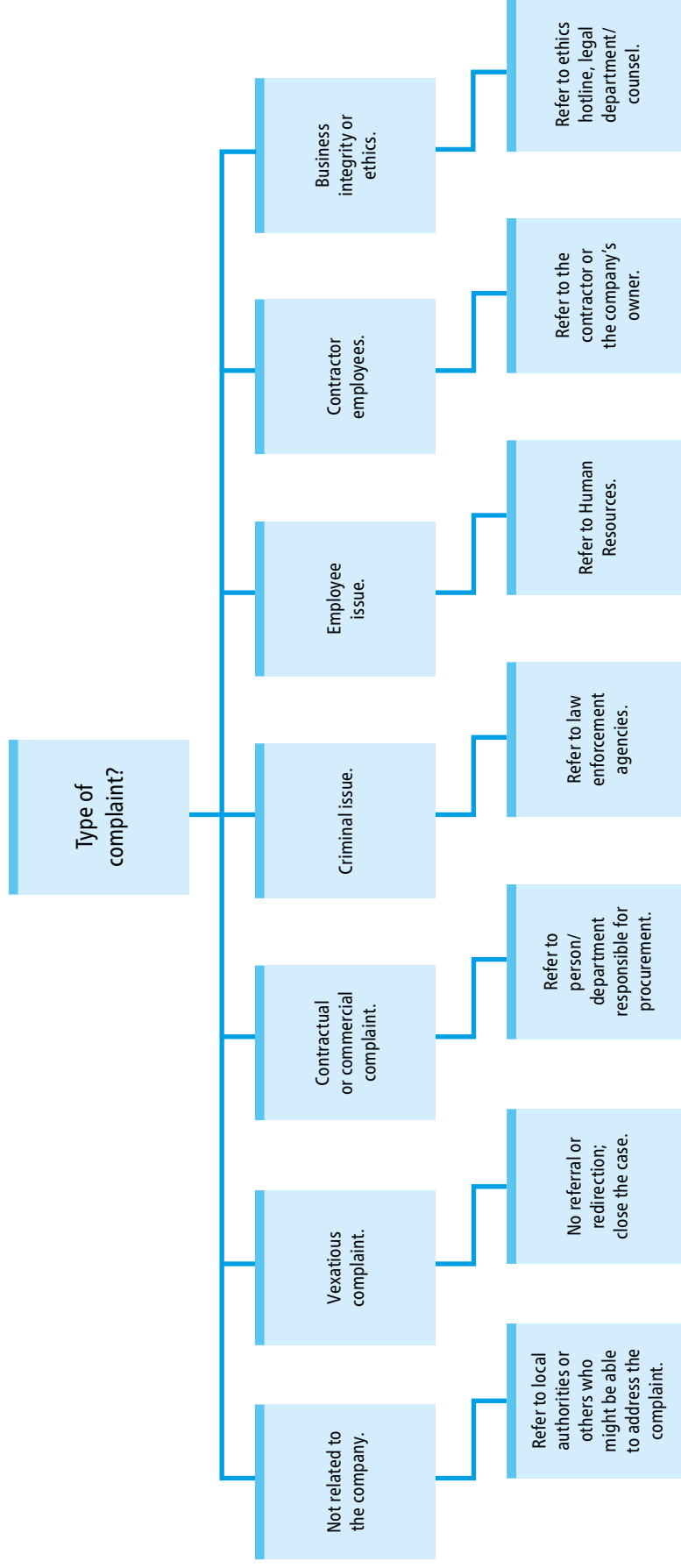
*Additional information:* [IPIECA: 47 and 48.](#)

- **Decide whether to refer.** If a complaint falls outside the scope of the CGM, other ways of handling it can be considered. If the complaint is grave and complex, it may be escalated internally (see [Section 2.1.3](#) and use of a risk matrix). The figure below, developed by IPIECA, shows potential paths of referral. Use the mapping conducted while the CGM was in development (see [Section 1.2.1](#) and [Section 1.2.3](#)) to assess whether it is necessary or appropriate to refer the complaint to another grievance mechanism in the operational area. Consider the possibility of using traditional and customary mechanisms. For complaints alleging criminal activity, assess whether it is necessary to refer the complaint to a competent authority (see [Section 3.1.4](#)). In some national systems, a private security regulatory authority may have a mechanism that deals with complaints of a more administrative nature; it may also require Companies to report incidents.

#### Why is this important?

- Assessing as rapidly as possible whether a complaint falls within the scope of the CGM ensures that every complaint is processed efficiently and that an appropriate course of action is identified. Rapid assessment may also permit small issues to be addressed at once, preventing them from escalating and removing the need for an investigation.

Figure 1. Assessing the type of complaint and appropriate course of action



### 3.1.4 ■ Consider reporting to competent authorities

In certain situations a Company is legally obliged to report a complaint to a competent authority, for example to the private security regulatory authority or, where a case includes criminal allegations, the national authority which has criminal jurisdiction. A 'competent authority' is any person, national authority, or regional or international organization that has legally delegated authority, capacity, or power to perform a designated function. When certain tasks, actions or responsibilities have been delegated to an authority, only that authority is 'competent' to implement them. This Guidance advises that competent authorities should be determined on a case by case basis, guided by the good practices stated below. An evaluation should make sure that the authority in question is able to provide an effective remedy.

#### BOX 18. STANDARDS AND PRINCIPLES

##### The Code

A competent authority is "any state or intergovernmental organization which has jurisdiction over the activities and/or person in question and 'Competent Authorities' shall be interpreted accordingly" [\[Code Section B\]](#).

"[Member Companies] shall also facilitate reporting by persons with reason to believe that improper or illegal conduct, or a violation of this Code, has occurred or is about to occur [...] where appropriate, to competent authorities" [\[Code 67a\]](#).

They are also required to "report, and will require their Personnel to report, known or reasonable suspicion of the commission of any of the acts identified in paragraph 22 of this Code to the Client and one or more of the following: the Competent Authorities in the country where the act took place, the country of nationality of the victim, or the country of nationality of the perpetrator" [\[Code 24\]](#).

A process should be defined to make records available to a competent authority if requested, "[...] except where prohibited or protected by applicable law" [\[Code 67d\]](#).

##### Other standards and principles

**PSC.1, para. 9.5.7.** "Grievances alleging criminal acts, violations of human rights, or imminent danger to individuals shall be dealt with immediately by the organization, and other authorities as appropriate."

**ISO 18788, para. 8.8.3.** "The organization shall establish and document procedures for f) communications with appropriate authorities. Grievances alleging criminal acts, violations of human rights, or imminent danger to individuals shall be dealt with immediately by the organization and other authorities, as appropriate."

**ISO 18788, para. A.8.8.3.** "The procedures should include but are not limited to k) notification of appropriate authorities."

**ISO 28007, para. 5.9.** "Procedures to document and report improper or illegal conduct either internally or by third parties to competent authorities."

## Good practices

- **Assess the obligation to report to authorities.** Following the assessment above (see [Section 3.1.3](#)), decide whether the Company is obliged to report the complaint to an authority. Base this decision on the following considerations:
  - **Escalation process.** Though every decision must take account of context, the Grievance Officer should not alone decide whether to refer a complaint to competent authorities. Senior management should evaluate whether it is necessary to escalate a complaint to the oversight board or another entity which can provide oversight (see [Section 1.2.2](#)).
  - **Timeliness.** It is vital to make this assessment promptly, to prevent further harm to the complainant.

### BOX 19. OBLIGATION TO REPORT INCIDENTS TO ADMINISTRATIVE AUTHORITIES

In addition to the judicial authorities, in some States a specific institutional body or department is responsible for private security regulation and oversight. This body may require Companies to notify it of all incidents and complaints, or specific types of incident or complaint. Establish whether the authority of the Company's territorial or home State imposes obligations and, if so, what they are.

- **Assess which authorities are competent to provide an effective remedy.** In addition to the assessment above, identify authorities that are competent to provide an effective remedy. When making this assessment, the checks below may be helpful.
  - **Map the options.** Competent Authorities exist at local, national, and international level. Use the map of external grievance mechanisms prepared while developing the CGM (see [Section 1.2.3](#)) to map options. It may be helpful to map the options in the Company's home State, contracting State and territorial State separately.
  - **Risk-assessment.** For each of the options identified, assess the risks for the Company. This analysis may be informed by the Company's general risk-assessment, any operational risk assessments specific to the area of operation, and the needs and risk assessment conducted while the CGM was in development (see [Section 1.1.3](#)).
  - **Protection of complainants.** For each option identified, assess risks for the complainant or for other individuals linked to the complaint, and consider how those risks can be mitigated. Plan protection measures accordingly. (See [Section 2.1.4](#) and [Section 3.2.2](#).)
  - **Access to a remedy.** Assess whether the complainant can obtain a remedy (and, if so, what kind of remedy) if the complaint is referred to one or more of the competent authorities identified. Decide whether the remedies available meet the complainant's and the Company's expectations of an effective remedy.

## Why is this important?

- In complex environments, it may be difficult to ensure an effective remedy by referring a complaint to a competent authority. It is essential to evaluate the options and risks to the Company and complainant very carefully before deciding to refer a complaint.

## 3.2 INVESTIGATE THE COMPLAINT AND COLLECT EVIDENCE

### 3.2.1 ■ Identify the person in charge

Complaints should be assigned to responsible staff who are competent to investigate, especially in cases that are serious or complex. Staff assigned to investigate must be objective and impartial, without bias in favour of either party to the complaint process. They must ensure that investigations are independent of the Company's operations as well as the parties involved.

#### BOX 20. STANDARDS AND PRINCIPLES

##### The Code

Member Companies should "investigate allegations promptly, *impartially* and with due consideration to confidentiality" [Code 67c].

#### Good practices

- **Assign a focal point.** Assign a staff member to be the focal point responsible for investigating the complaint. The focal point coordinates the collection of information externally and internally and tracks the investigation's progress. Select other relevant staff to assist with the investigation, taking account of its nature and the Company grievance procedure's definition of roles and responsibilities (see [Section 1.2.2](#)). If confidentiality is a serious concern, consider asking the complainant to agree to the composition of the investigation team. The Company should ensure that investigating staff are impartial and not directly linked to any Company operations associated with the case (see [Section 1.2.2](#)).

*Additional information:* [HU: Guidance point #11](#); [IPIECA: 51](#).

- **Decide whether escalation is required.** Determine who will decide the eventual outcome and propose a resolution (see [Section 2.1.3](#)). This may not be the same person in all cases. The choice will depend on the severity of the case, and questions of sensitivity, efficiency and timing. For example, if the case may result in litigation, the Company may decide to involve legal counsel.
- **Train staff.** All staff assigned to investigate a complaint should be trained. They should understand the operational context, be aware of potential risks of harm to the complainant, and exercise good judgment, caution and sensitivity in all their interactions.

*Additional information:* [IPIECA: 51](#).

#### Why is this important?

- If staff are not well trained, investigations cannot be conducted efficiently and in a manner that respects the process and provides protection to the complainant.

### 3.2.2 ■ Ensure that complainants, their family, and their belongings are protected

Complainants and witnesses may put themselves or their families and belongings at risk when they report an incident. Companies should ensure that such risks are mitigated before and during investigations.

## BOX 21. STANDARDS AND PRINCIPLES

**The Code**

Member Companies should “investigate allegations [...] with due consideration to confidentiality” [Code 67c] and should “not participate in or tolerate from their Personnel, the impeding of witnesses, testimony or investigations” [Code 67e].

Companies should also ensure that “[...] Personnel who report wrongdoings in good faith are provided protection against any retaliation for making such reports, such as shielding them from unwarranted or otherwise inappropriate disciplinary measures” [Code 67g].

**Good practices**

- **Assess the risks to the complainant.** The investigative team should consider carefully what kinds of action might expose the identity of the complainant and put him or her at risk of retaliation. Also consider the risks to any other individual involved. The following questions, adapted from a list developed by the Office of the United Nations High Commissioner for Human Rights, may help to guide this assessment.

Principles	Questions
<b>Respect confidentiality</b>	Has the complainant explicitly requested confidentiality?
<b>Do no harm</b>	What are the potential risks of harm, i.e. threats or reprisals?
<b>Do not raise expectations</b>	Are staff in charge of investigating aware of what they can effectively do and not do? What are the limits of the Company’s capacity to guarantee protection?
<b>Interact with the complainant</b>	How does the complainant perceive the threats that he or she, and others, face? Have you taken into account the knowledge and views of cooperating persons?
<b>Understand the operational context</b>	Do investigating staff know and understand the local, regional and national context of the country in which the company is operating?
<b>Monitor the situation</b>	Do staff regularly assess the level of threat and risk of harm to complainants throughout the investigation process? Do they gather relevant information that can affect the safety and well-being of cooperating persons? Do they adjust the company’s protection strategy on that basis?

*Additional information:* [OHCHR: 7-10.](#)

- **Plan and implement protection measures.** Determine which sources of information (for example victims and witnesses) should be prioritized and what preventive or protective measures should be taken (if required) to minimize identified risks. Evaluate the capacity of the Company to respond, and implement the measures. If the Company decides to contact the complainant, select the safest and most appropriate method of communication and the level of discretion necessary.

*Additional information:* [GHF: 63.](#)

- **Inform the complainant of the Company’s confidentiality procedures.** When contact has been established, the Company should inform victims, witnesses and other relevant persons about the Company’s confidentiality policy (see [Section](#)

[2.1.4](#)). This should be done before other information is requested or provided. All information gathered during the investigation process, including personal information that might identify the complainant, should remain confidential. Running an investigation while guaranteeing confidentiality can be challenging. For example, it may be difficult to keep a case and the identity of the complainant secret if he or she lives in a small, close-knit community in which everyone is known. In these circumstances, use trusted third parties who are not from the community.

*Additional information:* [OHCHR: 11-16](#); [PPEC: 73](#).

- **Be sensitive to logistical arrangements.** When choosing the venues of meetings and other arrangements for dialogue between the parties, take care to ensure that complainants do not feel intimidated, disempowered, or aggrieved for other reasons.

*Additional information:* [HU: Guidance point #18](#).

- **Restrict information to a small group of staff.** Restrict knowledge of the complaint to the very small circle of staff who are mandated to investigate it. Take into account the assessed level of risk to the complainant.

### Why is this important?

- Without adequate guarantees of protection, complainants may be afraid to file complaints, limiting their access to remedy and undermining the purpose of the CGM.
- Poorly selected venues or logistical arrangements may intimidate a complainant or expose him or her to reprisals. Either outcome will make dialogue more difficult and less trustful.
- Assigning a small group of staff to investigations, and restricting information to that group, reduces a claimant's exposure to risk.

## 3.2.3 ■ Establish and document the circumstances of the complaint

A Company should make every effort to investigate cases promptly, based on timelines set out in the Company's grievance procedure (see [Section 2.2.1](#)).

### BOX 22. STANDARDS AND PRINCIPLES

#### The Code

Member Companies should "investigate allegations promptly [and] impartially" [[Code 67c](#)] and "matters raised [should be] examined and acted upon without undue delay" [[Code 67g](#)].

#### Other standards and principles

**PSC.1, para. 9.5.7.** "The organization shall investigate allegations expeditiously and impartially, with due consideration to confidentiality and restrictions imposed by local law."

**ISO 18788, para. 8.8.3.** "The organization shall investigate allegations expeditiously and impartially, with due consideration to confidentiality and restrictions imposed by local law."

**ISO 28007, para. 5.9c.** "An efficient investigative process of the grievance which includes means of regular communication with the complainant, and procedures to cooperate with any official external investigation."

**Good practices**

- **Establish facts and documentation.** Begin the investigation by verifying the complainant's description of the issue. Then examine the circumstances of the case, involving all relevant parties. Be mindful that clear facts are not always available. The Company should log all the information that is gathered.
- **Ensure coordination, with the complainant and within the investigation team.** Ideally, the investigation process should include face-to-face meetings with the complainant, to verify information and communicate updates about the status of the complaints process. These meetings can be convened by the Grievance Officer or the responsible person or team assigned to investigate. Ensure that the investigating team coordinate closely and that relevant information is shared.

*Additional information:* [IPIECA: 51](#).

- **Build confidence.** Take steps to build confidence. Make sure that venues for meetings are safe and trusted by the complainant. Allow complainants to bring a friend or family member to meetings (see [Section 2.2.1](#)).

*Additional information:* [IPIECA: 50](#).

**Why is this important?**

- Measures to build confidence are particularly important when complainants feel there is a power imbalance. Using independent third parties as technical experts or facilitators may demonstrate to complainants that the Company is willing to explore other options.



## Step 4. Effective remedy, waiver and right to appeal

### 4.1 ENSURE AN EFFECTIVE REMEDY

#### 4.1.1 ■ Determine an effective remedy

An effective remedy is a resolution of a complaint, that both parties find appropriate and that addresses the harm alleged. Determining what an effective remedy is depends on the cultural context, the circumstances of the complaint, and the type of violation or harm. The effectiveness of a remedy is also influenced by the quality of the complaints process, including the quality of the information supplied by and to the complainant and witnesses, the protection measures implemented, the investigation process, and implementation of the final resolution.

#### BOX 23. STANDARDS AND PRINCIPLES

##### The Code

Member Companies are required to ensure that procedures are “[...] fair, accessible and *offer effective remedies*, including recommendations for the prevention of recurrence” [\[Code 67a\]](#).

Companies are required to “take appropriate disciplinary action, which could include termination of employment in case of a finding of such violations or unlawful behaviour” [\[Code 67f\]](#).

**Other standards and principles:** [UNGP: 31f and h.](#)

#### Good practices

- **Discuss solutions with the complainant.** Be open to any outcome that is acceptable to all parties. Ask the complainant what he or she believes would be an appropriate remedy and discuss options. The complaints process needs to be transparent so that the complainant can make an informed decision. Avoid situations in which a complainant has no option but to take the remedy offered.

*Additional information:* [HU: Guidance point #19.](#)

#### ICoCA Member Companies explain:

“The accuser is normally asked ‘what do you want to happen to resolve the issue?’ Where reasonable, that is likely to be the outcome.”

“We want to find the best solution to the problem and first ask the complainant about his/her proposed solution.”

- **Determine the resolution of the complaint.** In practice, financial compensation is often the remedy adopted because both complainants and Companies perceive that compensation provides the most convenient form of resolution. For similar reasons, punitive sanctions are also a common outcome. However, forms of effective remedy include dialogues, an acknowledgement, replacement of goods, an apology, restitution, rehabilitation, and training or other forms of non-financial compensation. Sometimes the prevention of harm through injunctions or guarantees of non-repetition is the most appropriate resolution.

To test whether a remedy is likely to be effective, the Company may want to ask the following questions:

- Does the proposed remedy resolve the complaint?
- Will complainants be better off than they were before the complaint was submitted?

*Additional information:* [GHF: 69](#).

### ICoCA Member Companies explain:

“ The remedies implemented depend on local customs and the value of items. For example, injuring a camel can be seen as a crime by local communities and will cause a criminal investigation. In such cases determining the appropriate remedy is challenging. If we provide financial compensation we may risk getting ambushed or provoking accidents to receive financial compensation. We need to balance the risk in such cases and determine the appropriate resolution for us and for the harmed individuals.”

“ We assess the remedies the Company will provide based on the criteria of the Company's reputation, i.e. the relation with our employees, the country, the clients of the Company, as well as business continuity.”

- **Ensure the remedy is compatible with human rights.** Make sure that the resolution proposed is in accordance with internationally recognized human rights. Solutions should not infringe the rights of others who might be affected by a particular outcome either. For example, a Company should not refuse back pay to an employee who was wrongfully dismissed; under no circumstances should a Company return a perpetrator to an authority or jurisdiction where he or she might be tortured.

*Additional information:* [CSR: 19 to 20](#).

### Why is this important?

- When the Company discusses potential options for resolution with the complainant, it increases the transparency of the complaints process and the complainant's trust.
- A resolution should constitute the best alternative both for the Company and the complainant and should not contradict or infringe internationally recognized human rights.

## 4.1.2 ■ Provide a right to appeal

If a complainant is not satisfied with the outcome of a complaint process, he or she should be able to appeal. Appeals should be based on the appeal process defined in the Company grievance procedure (see [Section 2.2.1](#)). A Company should identify an agreed pathway that meets the expectation of the complainant for a fair and accessible process and is in accordance with human rights.

### BOX 24. STANDARDS AND PRINCIPLES

#### The Code

Member Companies are required to ensure that “[...] *Procedures [are] fair, accessible and offer effective remedies, including recommendations for the prevention of recurrence*” [[Code 67a](#)].

**Other standards and principles:** [UNGP: 31c and d](#).

## Good practices

- **Inform the complainant that he or she is entitled to appeal.** Explain the appeals process to the complainant, including the circumstances in which he or she can appeal to the entity assigned to provide oversight (see [Section 1.2.2](#)) or an external mechanism (see [Section 1.2.3](#)).

*Additional information:* [IPIECA: 57](#); [CSR: 15](#).

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“In our area of operation there is an external organization where employees can go and complain if they are not satisfied at work. This is an entity offering conciliatory services for concerns or issues personnel may have with their employer.” (ICoCA Member Company)

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- **Consider involving external assistance.** Determine if external assistance may be needed and, if so, which approach is most suitable for all parties to the complaints process (see [Section 2.2.1](#)). For example, it may be necessary to consult an expert to determine the accuracy of certain claims; or the Company may want a mediator to assist it to find a mutually acceptable solution (see the [roles the ICoCA](#) can play).

*Additional information:* [IPIECA: 57](#).

## Why is this important?

- An effective CGM must be predictable. To achieve this goal, it is necessary to explain the appeals process to complainants and make sure that they understand the process and its potential outcomes.
- Timely and appropriate use of external assistance can help a Company to agree an effective and appropriate remedy. This does not mean that the Company ‘surrenders control to outsiders’. The outcome may be an agreement to disagree. Only an arbitration process results in a binding decision.

## 4.2 CLOSE THE COMPLAINTS PROCESS

### 4.2.1 ■ Assess the need for a waiver

Some Companies request complainants to sign a waiver when they agree a settlement, to ensure that the outcome is final (“at some point the process has to end”). A complainant who signs a waiver agrees to accept the proposed remedy or settlement and to seek no further recourse or remedy at a later date. The complainant waives the right to pursue a further claim for compensation and may be asked to sign a commitment to secrecy.

Practitioners disagree on whether such a waiver can be imposed. Some argue that complainants should always be allowed to challenge a settlement. Most importantly, a Company needs to make sure that the complaints process is sound, from beginning to end, and before and after the waiver.

#### BOX 25. STANDARDS AND PRINCIPLES

Current international standards and practice do not prohibit waivers. However, [Principle 29](#) of the Guiding Principles on Business and Human Rights ([UNGPs](#)) states that CGMs should not be used to preclude access to judicial or non-judicial grievance mechanisms. Even though the Code does not mention waivers specifically, a Member Company should ensure that recourse to a waiver does not violate the Code’s requirement for fair procedures offering effective remedies [[Code 67a](#)].

## Good practices

- **Decide whether a waiver is appropriate.** Determine in each case whether a waiver is necessary and, if it is, on what grounds. The ability of the Company to provide a complaints process of the highest quality, ensuring equality of arms, should decisively influence this decision (see also [Section 2.2.1](#)). ‘Equality of arms’ means that each party is given a reasonable opportunity to present his or her case in conditions that do not place the complainant at a substantial disadvantage vis-à-vis the Company.<sup>3</sup> Note that it may be more challenging to implement a waiver when the complainant is a community rather than an individual. Furthermore, if a waiver infringes any human right (for example, the right to a fair trial or access to an impartial court), a court may deem it void.

*Additional information:* [IPIECA: 59](#).

- **Make sure that the complainant understands a waiver’s significance and scope.** If a waiver is an option, the Company should ensure that the complainant has the knowledge he or she needs to give (or refuse) informed consent to it. The complainant should understand the process and how the remedy that accompanies the waiver compares to other potential remedies.<sup>4</sup> Discuss the issue with the complainant, if possible in a shared language; provide access to independent legal counsel if necessary; select an appropriate person to explain the waiver; and convey the information in a manner appropriate to the situation of the complainant. The Company should document this process, in case the waiver is disputed at a later date.
- **Make sure that consent is freely given.** The Company should make sure that the complainant is not exposed to risks or pressures that might cause him or to sign the waiver under coercion or unwillingly.<sup>5</sup>

## Why is this important?

- The quality of the complaints process and the complainant’s satisfaction with it may influence his or her decision to sign a waiver. If the process has been conducted in a respectful manner, the complainant may be prepared to accept the outcome because he or she has been treated with respect and dignity. In such a situation, a waiver may no longer be necessary even if the complaint’s resolution does not fully satisfy the complainant.
- A complainant must fully understand what a waiver is, its content, and the consequences of signing it. In the absence of this understanding, he or she is not in a position to take an informed decision about which form of resolution is appropriate.
- If a complainant is threatened or coerced into signing a waiver, the waiver is invalid and will not provide an effective remedy.

### 4.2.2 ■ Close the case

A remedy is only considered effective when the case is closed after a resolution has been implemented and the complainant has fully understood the consequences.

<sup>3</sup> For further information, see European Court of Human Rights (ECtHR), *Kress v. France*, appl. no. 39594/98, Judgment of 7 June 2001, para. 72.

<sup>4</sup> The following judgments of the European Court of Human Rights may be helpful for further information: ECtHR, *Oberschlick v. Austria*, Appl. no. 11662/85, Judgment of 21 May 1991; ECtHR, *Pfeifer and Plankl v. Austria*, Appl. no. 10802/84, Judgment of 25 February 1992; ECtHR, *Poitrimol v. France*, Appl. no. 14032/88, Judgment of 23 November 1993.

<sup>5</sup> See European Court of Human Rights, *Deweert v. Belgium*, Appl. no. 6903/75, Judgment of 27 February 1980, para. 49.

## BOX 26. STANDARDS AND PRINCIPLES

**The Code**

Member Companies are required to ensure that “[...] Procedures [are] fair, accessible and *offer effective remedies*, including recommendations for the prevention of recurrence” [\[Code 67a\]](#).

**Good practices**

- **Agree with the complainant what ‘closing the case’ implies.** In order to avoid misunderstandings, explain to the complainant what the Company considers to be the conclusion of a complaint process (see [Section 4.1.1](#), [Section 4.1.2](#), and [Section 4.2.1](#)). If a waiver is not appropriate or is refused, ask the complainant to sign a form ‘acknowledging’ that the Company has closed the complaint. Make sure that the form states that the complainant acknowledges that the process is closed (and does not state that the complainant accepts the outcome and settlement). Consider including checkboxes that invite the complainant to signal the level of his or her degree of satisfaction with the outcome and the degree to which the process was undertaken in a respectful manner.

*Additional information:* [IPIECA: 58](#).

- **Implement the resolution before closing the case.** The complaints process can only be closed after the resolution has been implemented, to avoid leaving the complainant without remedy. Follow up any problems that arise during implementation and make any adjustments necessary to ensure that the remedy is effective.

*Additional information:* [IPIECA: 58](#).

- **Track and record complaints.** Based on the Company’s log of complaints received (see [Section 2.1.4](#) and [Section 3.1.1](#)), document all outcomes, findings, and measures taken and track all complaints to ensure they are properly recorded. Consider documenting the outcomes of every complaint received, even if an agreement with the complainant was not reached.

*Additional information:* [IPIECA: 57](#); [CSR: 21](#).

**Why is this important?**

- Closing a case before completely implementing its resolution may leave a complainant without remedy.
- Recording and tracking complaints provides useful insights, into areas of high risk and into the Company’s impacts, and creates valuable institutional memory.

**4.2.3 ■ Evaluation and lessons learnt**

To ensure that a CGM is effective, that lessons are learned, and that grievances and harms do not recur, a Company should continuously record and analyse relevant data, and act on the findings.

## BOX 27. STANDARDS AND PRINCIPLES

**The Code**

Member Companies are required to ensure that “[...] Procedures [are] fair, accessible and *offer effective remedies*, including recommendations for the prevention of recurrence” [\[Code 67a\]](#).

And to “keep records about any such allegations, findings or disciplinary measures” [\[Code 67d\]](#).

**Other standards and principles:** [UNGP: 31e and g](#).

**Good practices**

- **Decide reporting requirements.** The Company should identify what information it wants to gather, which indicators it will use to evaluate CGM performance, and the criteria that it will employ to evaluate the CGM’s strengths and weaknesses. For example, the Company may want to know how many complaints have been received, how many have been settled, and whether the number of appeals has fallen. Be careful when interpreting certain indicators. For example, a decrease in the number of complaints might reflect an improvement in performance, but might also mean that the CGM has become less accessible or that potential complainants have been intimidated into silence. It may be sensible to start with a few indicators and gradually scale up as experience increases.

*Additional information:* [HU: Guidance point #22](#); [IPIECA: 36 to 38](#).

- **Monitor performance.** Based on the information gathered, identify any lessons from the complaints process that suggest the Company’s operations have systemic problems that need to be addressed. Seek feedback on the complaints process from complainants and other stakeholders. Consider conducting satisfaction surveys, listening to the community in social gatherings, requesting feedback during meetings with stakeholders, and placing feedback forms in strategic locations. Analyse the feedback received and make any adjustments necessary. Consider how lessons learnt from the analysis might be transferred to other functions in the Company and to subsidiaries.

*Additional information:* [CAO: 57](#); [HU: Guidance points #23 and #24](#); [IPIECA: 37 and 59](#); [CSR: 21 and 23](#).

- **Report internally and externally on the performance of the CGM.** While keeping details of complaints confidential, publish reports about, and lessons learned from, the complaints process. Internally, decide what information needs to be reported to the oversight entity and to Company personnel, in what form and how frequently (see [Section 1.2.2](#)). Externally, decide what information can be published and what information would assist potential complainants. Some Companies might be concerned that publishing how many complaints they receive might harm their reputation – or, alternatively, that reporting few complaints might harm the CGM’s credibility. It may be helpful to publish general information, such as overall response times and satisfaction rates.

*Additional information:* [HU: Guidance point #21](#); [IPIECA: 37 and 89](#); [CSR: 18](#); [GHF: 61](#).

**Why is this important?**

- Recording and monitoring the complaints process to identify any systemic concerns can prevent recurrent complaints and enable early detection of problems. In addition, it permits a Company to assess the effectiveness of its CGM and steadily improve it.
- Obtaining feedback from complainants through surveys helps a Company to identify any residual risks that complainants face and ideas for improving the complaints process.
- Publicizing key data may help to avoid the recurrence of unfounded claims, enabling the Company to focus on legitimate ones. Being transparent about the CGM's performance also builds confidence in its effectiveness.

**ICoCA Member Companies explain:**

" We established a system where selected KPIs [key performance indicators] are displayed to staff in their offices and compared to those of other offices. Through that, employees can observe themselves where their own office stands trying to continuously improve their performance."

" As complaints received through the CGM address risks to the Company, it enables us to act and improve."

" It is important to provide an effective remedy to people, but also to keep improving your operations."

# Annex

## A.1 References guide

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<a href="#">OHCHR</a>	OHCHR (2011): <i>Manual on Human Rights Monitoring. Chapter 14: Protection of Victims, Witnesses and Other Cooperating Persons</i> .
<a href="#">PPEC</a>	Rees, Caroline (2011): <i>Piloting Principles for Effective Company-Stakeholder Grievance Mechanisms: A Report of Lessons Learned</i> . CSR Initiative, Harvard Kennedy School, Cambridge.
PSC.1	<i>Management System for Quality of Private Security Company Operations – Requirements with Guidance</i> (ANSI/ASIS PSC.1 Standard, 2012).
<a href="#">ST</a>	Shift (2014): <i>Remediation, Grievance Mechanisms and the Corporate Responsibility to Respect Human Rights</i> . Shift Workshop Report No. 5.
<a href="#">UNGP</a>	Office of the United Nations High Commissioner for Human Rights (2011): <i>Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework</i> .



## A.2 Definitions

<b>Company grievance procedure/ Company grievance mechanism (CGM)</b>	A procedure developed by the Company to address complaints that allege improper or illegal conduct by personnel, including acts or omissions that violate principles contained in the Code.
<b>Competent authority</b>	Any state or intergovernmental organization which has jurisdiction over the activities and/or persons in question and 'Competent Authorities' shall be interpreted accordingly ( <a href="#">Code: Section B</a> ).
<b>Complaint</b>	Allegations of improper or illegal conduct that has occurred or is about to occur as a result of the acts of a Company or its personnel, including acts or omissions that violate principles contained in the Code.
<b>Complainant</b>	An individual, a group of individuals or an organization that has filed a complaint. Complainants may include individuals who have been allegedly harmed by a Company's activity, or an individual or organization that has filed a complaint on behalf of an individual who has been allegedly harmed by a Company's activity, or an individual or organization that has observed an alleged violation of the Code or wrongdoing by a Company.
<b>Complex environments</b>	Any areas experiencing or recovering from unrest or instability, whether due to natural disasters or armed conflicts, where the rule of law has been substantially undermined, and in which the capacity of the state authority to handle the situation is diminished, limited, or non-existent ( <a href="#">Code: Section B</a> ).
<b>Contracting State</b>	The 'contracting State' of a PSC is a State that directly contracts the services of that PSC, including, as appropriate, when the PSC subcontracts with another PSC ( <a href="#">MD: 10</a> ).
<b>Home State</b>	A 'home State' is the State of nationality of a PSC, that is to say, where a PSC is registered or incorporated. If the State where a PSC is incorporated is not the State where it has its principal place of management, then the State where the PSC has its principal place of management is the home State ( <a href="#">MD: 10</a> ).
<b>Grave or serious complaints</b>	A complaint is serious or grave when it is complex, or alleges criminal activity, or alleges that grave harm has been caused.
<b>Personnel</b>	Persons working for a PSC, whether as employees or under a contract, including its staff, managers and directors. For the avoidance of doubt, persons are considered to be personnel if they are connected to a PSC through an employment contract (fixed term, permanent or open-ended) or a contract of assignment (whether renewable or not), or if they are independent contractors, or temporary workers, or interns (whether paid or unpaid), regardless of the specific designation used by the Company concerned ( <a href="#">Code: Section B</a> ).
<b>Private security company (PSC)</b>	Any Company whose business activities include the provision of security services on its own behalf or on behalf of another, irrespective of how the Company describes itself ( <a href="#">Code: Section B</a> ).

<b>Security services</b>	Guarding and protection of persons and objects, such as convoys, facilities, designated sites, property or other places (whether armed or unarmed), or any other activity for which the personnel of Companies are required to carry or operate a weapon in the performance of their duties ( <a href="#">Code: Section B</a> ).
<b>Subcontractor</b>	Any external Company that provides security services on behalf of another PSC.
<b>Subsidiary</b>	A PSC that is controlled by a parent Company. A parent Company exerts control by holding the majority of the votes in the highest decision-making body of a PSC; by holding the right to appoint or remove a majority of the members of the highest executive or management body of a PSC; or is able to exert a controlling influence over the PSC pursuant to the articles of incorporation, foundation charter, a contractual agreement, or similar instrument, or by any other means.
<b>Territorial State</b>	'Territorial States' are States on whose territory PSCs operate ( <a href="#">MD: 10</a> ). They may also be referred to as 'host States'.
<b>Third party</b>	External individuals, or a group of external individuals, whom the CGM is intended to serve. Third parties include communities, clients, civil and military authorities, suppliers, trades unions and their federations, and non-governmental organizations.

## A.3 The ICoCA's Complaints function

The ICoCA receives and processes complaints of alleged violations of the Code by its Member Companies. When a complainant seeks support, the ICoCA facilitates access to fair and accessible grievance procedures that may offer an effective remedy, including by providing the complainant with access to ICoCA's own good offices. For Member Companies, the Association offers guidance on establishing and maintaining fair and accessible grievance procedures in compliance with the Code.

Two types of complaint may be reported to the Association:

1. Complaints from an individual or his or her representative alleging harm caused by an alleged Code violation by an ICoCA Member Company.
2. Complaints by an individual, by his or her representative, or by a group of individuals or representatives, who have reason to believe a violation of the Code by an ICoCA Member Company has occurred or is about to occur.

In either case, the Association initiates a process in response to the complaint:

1. Where an individual or his or her representative alleges harm caused by an alleged Code violation, the Association will work with the complainant and the ICoCA Member Company to facilitate access to a fair and accessible grievance procedure that may offer an effective remedy. This may include the ICoCA Member Company's grievance mechanism, the good offices of the Association, mediation services, or alternative mechanisms. At all times, the interests and priorities of the complainant will guide the choice of resolution. This process is guided by the [\*ICoCA Article 13 Procedures for Receiving and Processing Complaints\*](#).
2. Where an individual or group, or their representatives, have reason to believe that a violation of the Code by an ICoCA Member Company has occurred or is about to occur, the Association will address the complaint with the Member Company. Such complaints may be brought by any group or individual whether or not harm has occurred. Complaints may be made anonymously or by whistle-blowers, or by any other individuals or groups who have reason to believe a violation of the Code by an ICoCA Member Company has occurred or is about to occur. This process is guided by the [\*ICoCA Article 12 Procedures for Reporting, Monitoring and Assessing Performance and Compliance\*](#).

The Association may apply either or both of the Article 12 and Article 13 Procedures depending on the nature of the complaint and the parties involved.

### What to expect after registering a complaint

The process is guided by either or both the Article 12 and Article 13 Procedures, depending on the nature of the complaint and the parties involved. It includes the following steps:

- The ICoCA will review the complaint received to ensure the criteria listed above have been met and that information is complete.
- If the complaint form is incomplete or lacks essential information, the ICoCA will return the complaint to the complainant (where it can do so). The complainant may correct the form and re-submit the complaint.
- Unfounded or frivolous complaints, complaints related to contractual or personnel disputes, and complaints that do not meet the criteria listed above, will not be accepted by the ICoCA. Complainants will be notified as to why the complaint cannot be considered.

- If the complaint involves allegations of criminal activity, the Association may report the allegation to one or more competent authorities with jurisdiction to investigate and prosecute the crime(s) in question. In order to avoid serious prejudice to any such investigations or proceedings or parties to them, the Association may suspend or limit the complaints process until criminal investigation or proceedings have been concluded.
- The ICoCA will review all other claims to determine the nature of the complaint:
  1. Complaints seeking a remedy for an alleged Code violation will be accepted for processing. Complainants will receive a description of applicable confidentiality rules, and information on processing and timelines. The information explains the role of the ICoCA in facilitating access to a fair and accessible grievance procedure that may offer an effective remedy, such as the Member Company's grievance mechanism, ICoCA's good offices, mediation, or alternative grievance procedures.

### **Processing timeline**

Within 30 days<sup>6</sup> of receiving a complaint accepted for processing, the ICoCA will inform the complainant whether or not the ICoCA Member Company's mechanism is assessed to be viable, describe options that are available if the complainant decides to pursue the claim, and set out next steps.

### **Transparency**

Once a complaint alleging harm is accepted for processing, the ICoCA publishes summary information on its website without naming the parties. Published information includes when a complaint was filed, the status of the complaint, and the general nature of the alleged Code violations. While the complaint is being processed, the parties involved are kept informed, but details of the case are not made public. At the conclusion of the case, ICoCA will make the results of the process available in a public report or statement that includes the name of the affected Member Company.

2. Complaints in which the complainant alleges that he or she has reason to believe that a violation of the Code by an ICoCA Member Company has occurred or is about to occur will be addressed with the Member Company in accordance with the Article 12 Procedures for Reporting, Monitoring and Assessing Performance and Compliance.

For further information please see paragraphs 66 through 68 of the Code and Article 13 of the [Articles of Association](#) as well as the [Association's website](#).

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<sup>6</sup> This time may be extended, as required, where the complainant or his or her representative fails, for good reason, to respond promptly to requests from the Secretariat for additional information.

## A.4 Why a Company Grievance Mechanism?

### Compliance with national law, international principles and standards

A Company is required by the Code to establish a CGM, and also requested to do so by numerous international principles and standards and some national laws.<sup>7</sup> The United Nations Guiding Principles on Business and Human Rights (UNGPs), whose approach the Code endorses and with which it is aligned, set out the responsibilities for all businesses to respect human rights and provide a remedy whenever rights are violated as a consequence of their actions.

#### BOX 28. PRINCIPLE 22 OF THE UNGPS

“Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.”

According to the UNGPs, Companies should establish or participate in effective grievance mechanisms accessible to individuals and communities that are adversely impacted by their operations (UNGP 29). To guide Companies when they establish these mechanisms, and assist them to measure their usefulness and performance, the UNGPs provide eight effectiveness criteria (UNGP 31),<sup>8</sup> which are widely recognized as appropriate indicators to use when evaluating the performance of grievance mechanisms.

<sup>7</sup> For further background on the human rights responsibilities of Companies, see: <https://business-humanrights.org/en/business-human-rights-a-brief-introduction>.

<sup>8</sup> An example of application of these criteria can be found in *Community Grievance Mechanisms in the Oil and Gas Industry. A Manual for Implementing Operational-Level Grievance Mechanisms and Designing Corporate Frameworks* (IPIECA: 9).

## BOX 30. EFFECTIVENESS CRITERIA – UNGP 31.

**31. In order to ensure their effectiveness, non-judicial grievance mechanisms, both State-based and non-State-based, should be:**

- (a) **Legitimate:** enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- (b) **Accessible:** being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- (c) **Predictable:** providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- (d) **Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- (e) **Transparent:** keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- (f) **Rights-compatible:** ensuring that outcomes and remedies accord with internationally recognized human rights;
- (g) A source of **continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;

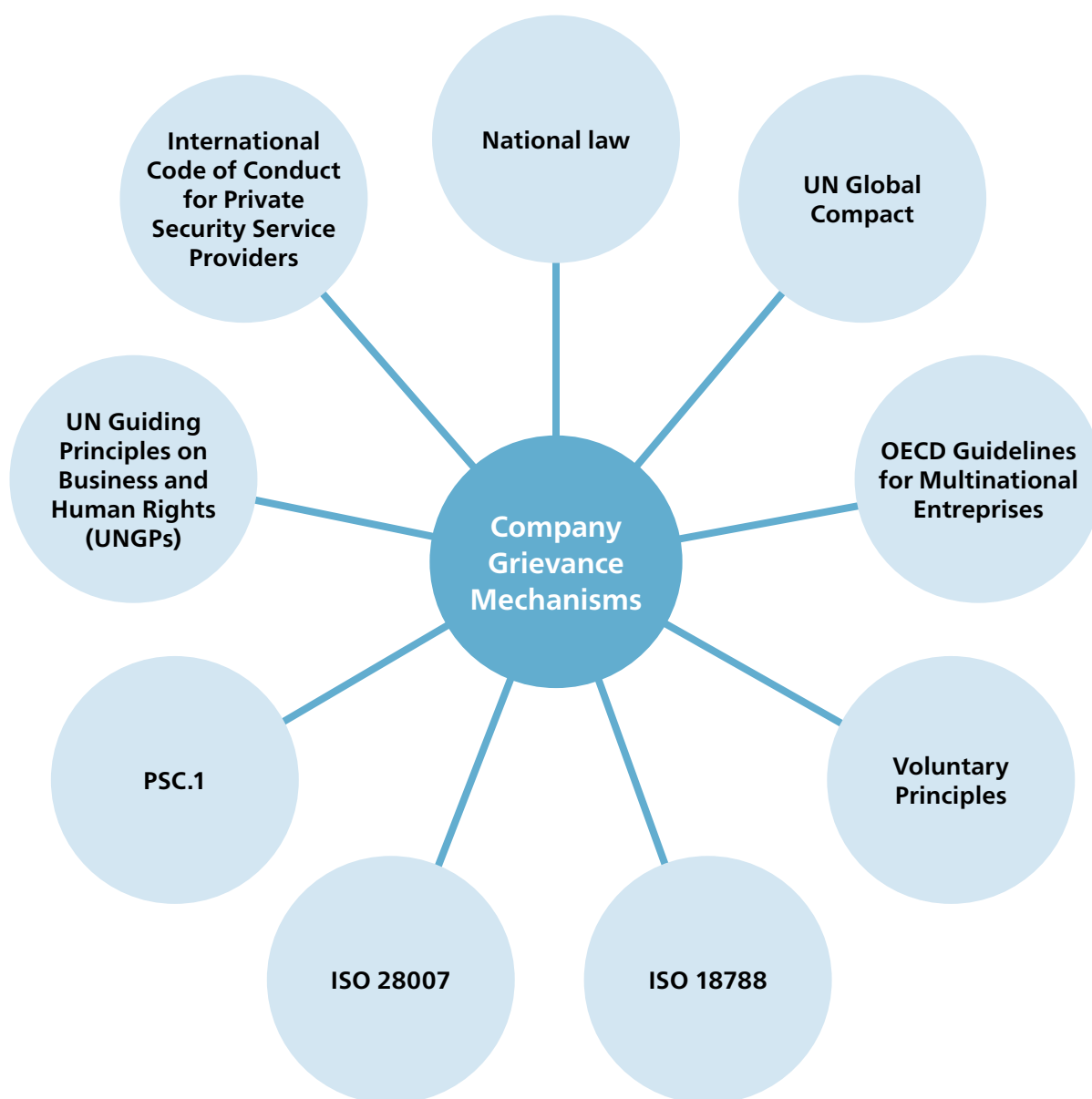
**Operational-level mechanisms should also be:**

- (h) Based on **engagement and dialogue:** consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.

Moreover, Companies that establish a CGM also comply with other international principles and standards, including the UN Global Compact, the OECD Guidelines for Multinational Enterprises, the Voluntary Principles, and the ICoCA recognized standards PSC.1, ISO 18788 and ISO 28007, which all require Companies to participate in or have CGMs in place.

Companies are urged to consult the national laws of territorial, contracting or home States for additional regulations and requirements.

**Figure 2. An established CGM complies with national laws and international principles and standards<sup>9</sup>**



<sup>9</sup> For further information, see, for example: [UN Global Compact Principle 1](#); the [OECD Guidelines for Multinational Enterprises IV. Human Rights, para. 6](#); [Voluntary Principles](#) – Interactions between Companies and Private Security: Principle 5; [ISO 18788](#) - para. 8.8.3. and para. A.8.8.3; [ISO 28007](#) - para. 5.9; and [PSC.1](#) - para. 9.5.7 and para. 9.5.10.

## The business case

In addition to meeting Member Company obligations under the Code, national law and other international principles and standards, operating a CGM brings several commercial advantages.

**Learning and prevention.** A CGM enables systematic learning and continuous performance improvement by gathering data on the impact of Company operations on communities, personnel and other relevant stakeholders. It forms part of a Company's general risk assessment and may reveal potential failures or inefficiencies in Company operations as well as opportunities to prevent harm or disputes.

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*"Internal complaints often come down to misunderstandings or miscommunications caused by language; it is better to address these complaints at their root and within a company system." (ICoCA Member Company)*

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**Cost effectiveness.** A CGM with a clear procedure can facilitate efficient dispute resolution. Early identification of concerns may prevent protracted and costly dispute resolution processes, or litigation, and diminish Company liability. A CGM may also reduce the time personnel spend managing or resolving disputes and conflicts.

**External relations.** Effective CGMs strengthen trust among individuals, communities and other relevant stakeholders and may enhance relations with the public in areas where Companies operate. They help Companies to understand and anticipate concerns that may arise. They also offer Companies a natural way to engage regularly with stakeholders, including human rights non-governmental organizations, human rights experts, and communities, with whom they may not otherwise or normally engage.

**Staff investment.** Lingering or unaddressed employee grievances may lead to high personnel turnover, low morale, illness or injury, and strikes. This may result in higher costs for the Company and may delay or disrupt operations.

**Fulfilment of client obligations and national or international standards.** A CGM may also assist Companies to fulfil requirements of clients, human rights obligations, and various national and international standards. The ICoCA-recognized standards PSC.1, ISO 18788 and ISO 28007, for example, all require Companies to develop and implement CGMs.

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*"We welcome reports of non-conformances, large or small, as they help us improve our operations." (ICoCA Member Company)*

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**Limiting dispute escalation.** A CGM allows early identification of adverse operational impacts and potential harms and permits Companies to address and mitigate concerns. For example, a CGM can prevent disputes or minor conflicts from escalating into litigation, protests, security incidents, or regulatory challenges that could result in harm to persons, or delay operations.

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*"We developed our grievance procedure with a strong focus on our business – we wanted something which is cost-effective." (ICoCA Member Company)*

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## A.5 Acknowledgments

This Guidance was developed by the ICoCA in cooperation with [the Geneva Centre for the Democratic Control of Armed Forces \(DCAF\)](#). The ICoCA would like to express its sincere gratitude to DCAF for its generous support.

### About DCAF

DCAF is an international foundation whose mission is to assist the international community in pursuing good governance and reform of the security sector. The Centre provides in-country advisory support and practical assistance programmes, develops and promotes norms and standards, conducts tailored policy research, and identifies good practices and recommendations to promote democratic security sector governance. DCAF is the strategic partner of Switzerland in its role as co-convenor of the Montreux Document<sup>10</sup> and is the Montreux Document Forum Secretariat.

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<sup>10</sup> 'Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict'. At: <http://www.mdforum.ch/en/montreux-document>.



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