

Higg Brand & Retail Module Guidance: Understanding Human Rights Due Diligence

Supporting Your Efforts to Complete the Higg Brand Retail Module (BRM)

The Sustainable Apparel Coalition's Higg Brand Retail Module (Higg BRM) includes a variety of social indicators to help companies assess their human rights due diligence activities. This resource is designed to help you understand what Human Rights Due Diligence is, equip you with resources to support your due diligence efforts, and support your company's efforts to complete your BRM submission.

Key Terms

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. This includes the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights without discrimination.¹

Human rights due diligence is an ongoing risk management process that a company needs to follow to identify, prevent, mitigate and account for how it addresses adverse human rights impacts. It includes four key steps: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed.²

Adverse human rights impacts occur when an action takes away or reduces the ability of a person to enjoy their human rights. For instance, a company that pollutes the water source of a community impacts on the rights to health, water and potentially life of people in that community. Respecting human rights therefore means not to cause harm to the human rights of individuals when an enterprise does business and adequately deal with situations in which harm has been done.³

Salient human rights are rights that are at risk of the most severe negative impacts through a company's activities or business relationships based on severity and likelihood. Because they are dependent on the company's business footprint, they will vary from company to company.⁴

United Nations Guiding Principles on Business and Human Rights (UNGPs) are a set of 31 principles that set out the respective roles of States and companies in ensuring that companies respect human rights in their business activities and through their business relationships. The UNGPs were endorsed by the UN Human Rights Council in 2011.⁵

Grievance mechanisms are channels for individuals to raise concerns or feedback about management practices, or any other issue related to the workplace.

The **Organisation for Economic Co-operation and Development (OECD)** developed the [Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector](#)⁶, published in 2017. This sector-specific guidance helps companies identify and prevent actual and potential impacts—including harm—related to human rights, environment and corruption in the garment and footwear supply chains globally in alignment with the [UNGPs](#) and [OECD Guidelines for Multinational Enterprises](#).

¹ United Nations. "Human Rights." <https://www.un.org/en/sections/issues-depth/human-rights/>

² UN Guiding Principles Reporting Framework. "Glossary—Human Rights Due Diligence." <https://www.ungpreporting.org/resources/glossary/>

³ UN Global Compact. Human Right Due Diligence Info Portal. "Glossary—Adverse human rights impacts." <https://mr-sorgfalt.de/en/glossary/>

⁴ UN Guiding Principles Reporting Framework. "Glossary—Salient Human Rights." <https://www.ungpreporting.org/resources/glossary/>

⁵ UN Global Compact. Human Right Due Diligence Info Portal. "Glossary—United Nations Guiding Principles on Business and Human Rights." <https://mr-sorgfalt.de/en/glossary/>

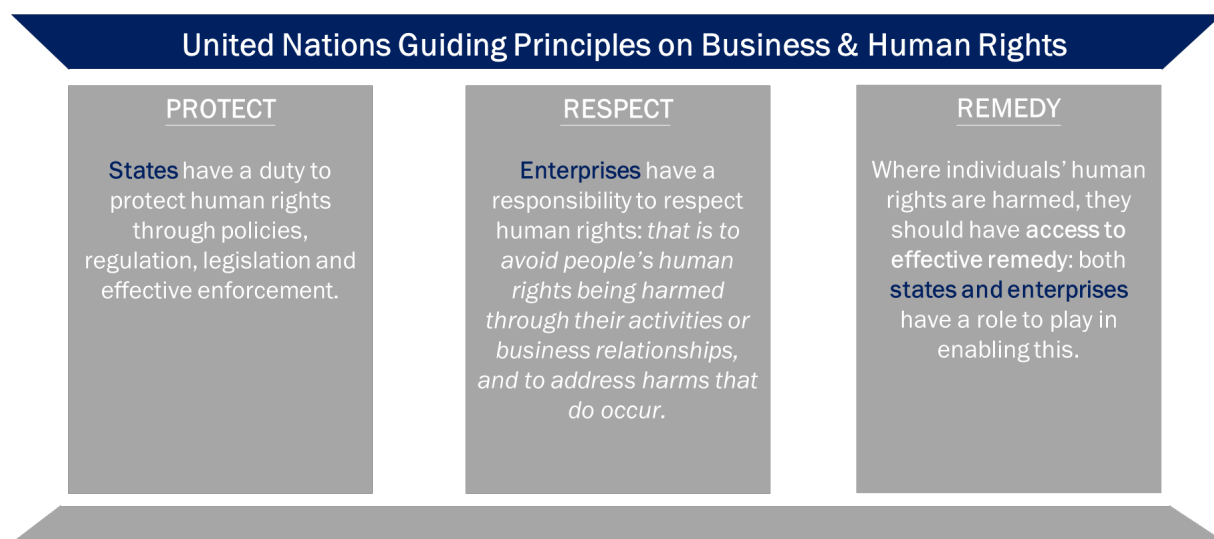
⁶ OECD. "OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector." (2018). https://www.oecd-ilibrary.org/governance/oecd-due-diligence-guidance-for-responsible-supply-chains-in-the-garment-and-footwear-sector_9789264290587-en

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How Companies Can Impact Human Rights & Their Responsibility

Human rights are inherent to all people globally. Companies can affect the rights of their employees, customers, workers in their supply chains and communities in their value chain, which includes their operations and sourcing activities. To learn more about different human rights risks and where they could occur, refer to the [Human Rights Risk \(Overview\)](#). This document defines the different human rights risks included in the How to Higg Brand Retail Module.

The [UNGPs](#) are the authoritative global standard on business and human rights, unanimously endorsed by the UN Human Rights Council in 2011. They establish the “**Protect, Respect and Remedy**” framework establish the roles and responsibilities of states and companies to respect prevent and address **adverse human rights impacts**. They define the baseline expectations of businesses in all situations, regardless of size, industry, service or product delivered, ownership structure, and country of operation.



UNGP Expectations for Business

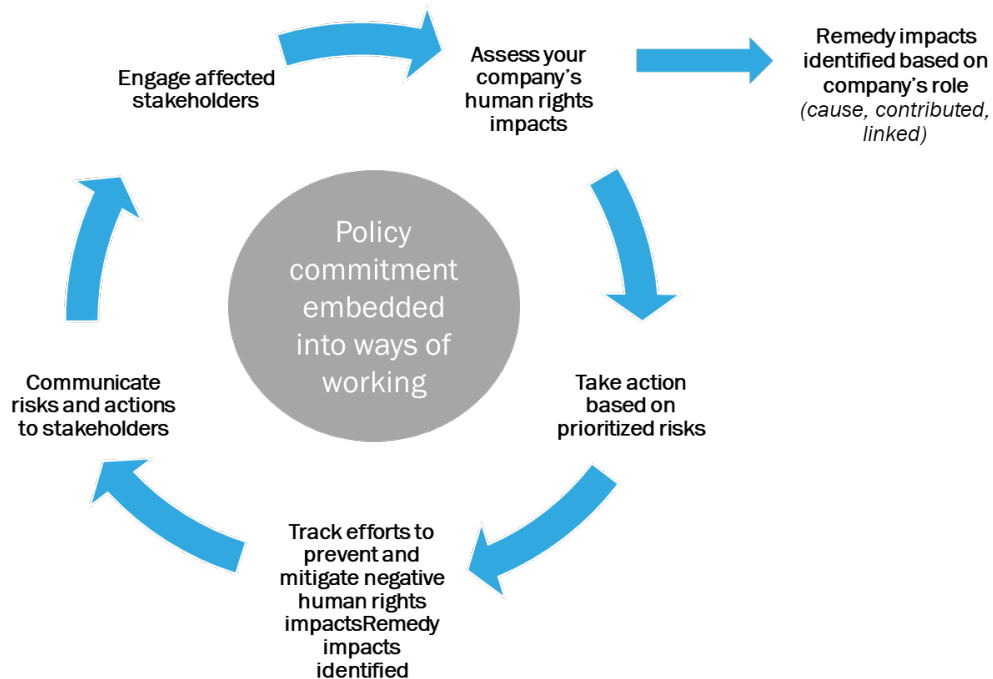
The UNGP's define a framework to incorporate due diligence within a company's ways of working by adopting the following steps:

- A **policy commitment** to respect human rights that is embedded throughout the company's ways of working
- A **human rights due diligence process** to:
 - Assess actual and potential negative impacts (harm) on people
 - Integrate the findings and take action to prevent or mitigate potential impacts
 - Track their performance
 - Communicate about their performance
 - Conduct stakeholder engagement
- **Processes to provide or enable remedy** if the company causes or contributes to adverse human right impacts

Relationship between UNGPs and OECD

The [OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector](#) also supports the apparel and footwear sector's efforts to implement processes to meet the UNGPs and the International Labour Organizations expectations within their supply chains. The guidance defines a systematic and integrated approach, aligned with the UNGPs, to help apparel and footwear companies manage social, environmental and corruption risks and impacts in their supply chain, through proactive and reactive processes, with a focus on progress improvement.

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How Companies Are Expected to Respond to Adverse Impacts

The UNGPs identifies three ways companies can be involved with human rights impacts—**cause, contribution and linkage**--which define how companies are expected to respond.

	Definition	Example	Action Required
Cause	Causes an impact through its own activities	<ul style="list-style-type: none"> • Failure to pay wages to direct employees • Discrimination based on gender. 	<ul style="list-style-type: none"> • Cease the activity that caused the impact • Provide remedy • Take steps to prevent impact from recurring
Contribution	Contributes to an impact either directly or through some outside entity (government, business or other)	<ul style="list-style-type: none"> • Late changes to production orders without adjusting delivery timeline or pricing, which puts pressure to breach labor standards (i.e. work excessive overtime, no overtime wage pay) • The collective amount of effluents released by multiple companies pollute a community's water source restricting access to safe drinking water 	<ul style="list-style-type: none"> • Cease activity and avoid contribution • Provide remedy • Use leverage to mitigate any remaining impact to the greatest extent possible

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Linkage	A company's operations, products or services are linked to a negative human rights impact through a business relationship (or series of relationships)	<ul style="list-style-type: none"> Migrant labor abuse at the raw material level for an upstream commodity involved in the production of a company's product, despite explicit policy against such activities A company sources product through a sourcing agent who selects a production site that uses prison labor. 	<ul style="list-style-type: none"> Has forward-looking responsibility to prevent the impact from recurring No explicit responsibility to provide remedy but can choose to do so
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Prioritize Human Rights Risks and Impacts Based on Severity & Impact

The purpose of a human rights impact assessment is to identify where a company should focus its attention based on salience. Salience is determined based on the **severity** of harm the risk poses to people and the **likelihood** of the event occurring.

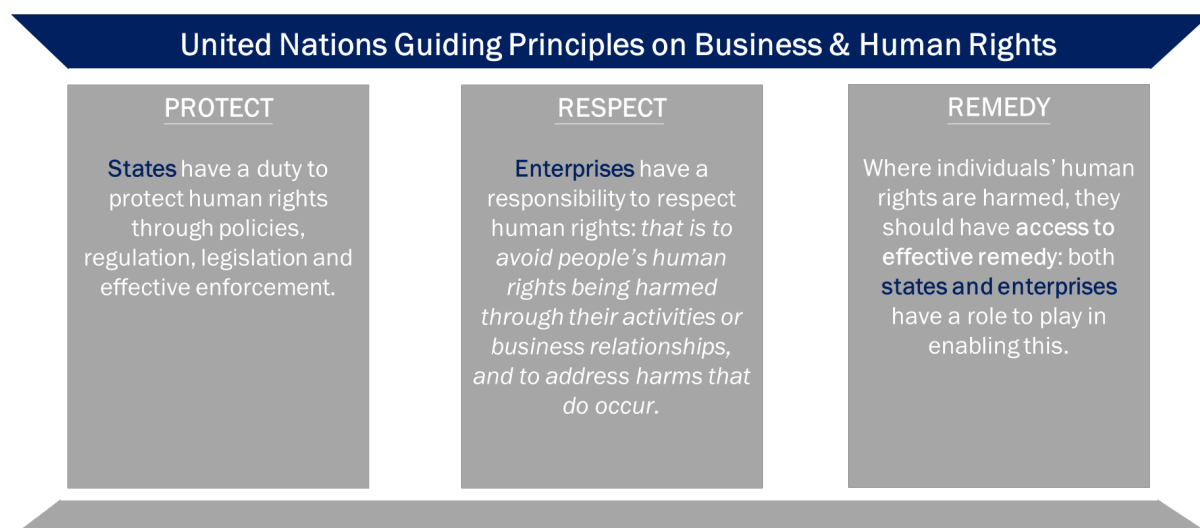
Severity is determined define by its scale, scope and remediability. Risk to people is distinct in two ways:

- The severity of the impact on people not the business;
- Severity should have greater weighting when prioritizing risk than likelihood.

Topic	Definition	Severity	
		Potentially less severe	More Severe
Scale	How grave or serious the impact would be	A worker is working 62 hours a week	All workers are working 80 hours a week
Scope	How widespread the impact would be (i.e. how many people would be affected)	One or two people	A whole community
Remediability	How hard it would be to put right the resulting harm	Workers are not receiving full legal benefits but the company can repay the amount in full and implement processes to prevent recurrences	A worker's arm is amputated due to an accident caused by poor machine safety

Likelihood is predicting how likely the impact may exist or occur in the company's operations and supply chain. This involves considering the countries the company is operating in and sourcing from (business footprint), and the capacity of the company's business partners to effectively manage human rights risks.

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Remedy & Implementing Effective Grievance Mechanisms

Beyond providing or enabling remedy in response to identified adverse impacts, companies—and States—are expected to provide individuals access to effective remedy. Grievance mechanisms are widely used to provide access to effective remedy. They are channels, which can be operated by companies, states, third-parties, to provide individuals, workers, communities and/or civil society organisations a platform to raise concerns for review and redress. The benefit of providing grievance mechanisms at the workplace is that it allows management to identify and address potential and emerging issues before they escalate.

Grievance mechanisms only meet their intended purpose of providing access to effective remedy if implemented properly and used by the intended users. To address barriers that discourage usage, the UNGPs define eight characteristics of an effective grievance process. These are listed in the table below with actionable steps of how to apply these steps.

Criteria	Definition
Legitimate	Enables trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes
Accessible	Known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face barriers to access
Predictable	Provides 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
Equitable	Seeks 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
Transparent	Keeps parties to a grievance informed about its progress, and providing enough information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake
Rights Compatible	Ensures that outcomes and remedies accord with internationally recognized human rights
A source of continuous learning	Draws on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms
Based on engagement and dialogue	Consults 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

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Understanding how to Embed the UNGPs in Your Business

The UNGPs define eight steps that companies are expected to embed within their management systems within their operations and supply chain activities to prevent and address negative human rights impacts—their due diligence. Investors and legislation are encouraging more public disclosure of corporate due diligence as part of their license to operate. The following table provides guidance for what is entailed in each step and additional resources to learn more.

Companies are recommended to refer to the [OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector](#) as it provides companies with guidance to embed and implement the below eight steps.

Step	Guidance	Additional Resources
Commit	<p>Make a policy commitment to respect human rights. A policy statement should:</p> <ul style="list-style-type: none"> • Provide clarity to staff and external stakeholders about what the company expects regarding human rights. • Be tailored to the company’s business model, industry and human rights risks. • Be developed in consultation with relevant experts and stakeholders. • Be approved at the most senior level of the business • Be communicated to internal and external stakeholders • Be made publicly available 	<ul style="list-style-type: none"> • Shift, Oxfam and Global Compact Network Netherlands—Doing Business with Respect for Human Rights: A Guidance Tool for Companies: Designed to equip companies with practical advice and real-life examples that help to translate the UNGPs into action • United Nations Global Compact—A guide for business: Guide on How to Develop a Human Rights Policy:
Embed	<p>Embed the commitment throughout the company’s ways of working.</p> <ul style="list-style-type: none"> • Define roles and responsibility for the policy within the company • Develop procedures to support implementation of the policies, including revising existing procedures if necessary • Create accountability throughout all senior levels of the company and functions • Conduct training within the company to help everyone understand expectations • Conduct specialized training with key roles responsible for implementing the policy • Integrate into the company’s rewards and incentives programs to prevent the company from incentivizing the wrong behavior • Integrate in interactions with internal and external stakeholders 	<ul style="list-style-type: none"> • Shift—Embed: Shift’s resource library on the UNGPs • Shift, Oxfam and Global Compact Network Netherlands—Doing Business with Respect for Human Rights: A Guidance Tool for Companies: Designed to equip companies with practical advice and real-life examples that help to translate the UNGPs into action
Human Rights	Assess	<p>Assess your company’s human rights impacts—focusing on the risk to people not the business</p> <ul style="list-style-type: none"> • Shift—Business and Human Rights Impacts: Identifying and Prioritizing

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Due Diligence		<ul style="list-style-type: none"> • Conduct desk research for countries and sectors relevant to the company’s operations and sourcing • Incorporate the perspectives of individuals or groups who could be impacted using tools like worker surveys, supplier self-assessment questionnaires and NGO support to engage in local communities • Prioritize human rights impacts based on 1) Severity, which the UNGPs define by their scale, scope and their remediability; and 2) Likelihood, how likely is the impact to exist or to occur in the company’s operations • Assessments should be ongoing and not a one-time activity 	<p>Human Rights Risks: Key lessons learned from a workshop facilitated by Shift on identifying and prioritizing human rights risks</p> <ul style="list-style-type: none"> • Global Compact Network Germany—Assessing Human Rights Risks and Impacts: Insight into the different company approaches to assess human rights risks and impacts of their business activities and relationships
Integrate & Act		<p>Take action based on prioritized risks</p> <ul style="list-style-type: none"> • Take necessary actions to prevent and mitigate specific human rights identified during assessments • Required action is based on if a company caused, contributed to or are linked to the impact (see above table for reference) • Use leverage—ability to effect change in a wrongful practice of a third party that causes harm—where an impact was caused by collective action of multiple parties—including the company—or when linked to operations, products or services through a business relationship 	<ul style="list-style-type: none"> • Human Rights and Business Dilemmas Forum: Designed by the UN Global Compact and Verisk Maplecroft to support efforts made by businesses to respect human rights in their operations and supply chains
Track		<p>Track efforts to prevent and mitigate negative human rights impacts to assess the effectiveness of the company’s approach and make improvements</p> <ul style="list-style-type: none"> • Develop key performance indicators, also called targets, to track and report on their human rights performance – this should include prioritized risks • Good targets should be normalized, include a baseline and be able to demonstrate progress • Define qualitative and quantitative indicators, which can include audit reports, worker surveys, reviewing submitted grievances, reports from internal or external experts • Consult internal and external stakeholders to help determine how to improve current efforts 	<ul style="list-style-type: none"> • Human Rights Compliance Assessment Quick Check: Includes approximately 10% of all the questions contained in the entire HRCA database and relates to some of the most essential human rights issues a company must consider in relation to its activities

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	Communicate	<p>Communicate risks and actions to address them</p> <ul style="list-style-type: none"> • Communicate to stakeholders-- shareholders, investors, governments, human rights experts and employees— about risks or dangers related to the company’s operations that could directly affect them and actions being taken to prevent and mitigate • Use channels that will effectively reach each stakeholder group • Formally communicate efforts to prevent and address negative human rights risks to demonstrate the effectiveness of their efforts through external reporting • If a company’s operations or supply chain involve severe human rights risks, these should be included in public reporting (e.g. Modern Slavery Act statement, annual reports, human right reports) 	<ul style="list-style-type: none"> • UN Guiding Principles Reporting Framework: Comprehensive guidance for companies to report on human rights issues • GRI 412—Human Rights Assessment 2016: Leading best practice for corporate non-financial reporting. GRI 412 defines the standard approach for human rights reporting.
	Engage	<p>Engage affected stakeholders and consider their perspectives as part of decision-making</p> <ul style="list-style-type: none"> • Stakeholder engagement should be: <ul style="list-style-type: none"> ○ Based on dialogue, which means a two-way exchange ○ An ongoing process to build a mutually beneficial relationship ○ Focused on potentially affected stakeholders ○ Focused on stakeholders’ concerns • The Guiding Principles reference the importance of consulting with affected stakeholders at several key moments: <ul style="list-style-type: none"> ○ Identifying and assessing actual and potential human rights impacts; ○ Tracking and reporting on company efforts to prevent and manage those impacts; ○ Designing effective grievance mechanisms and remediation processes. • Affected stakeholders may include: <ul style="list-style-type: none"> ○ Internal employees ○ Business partners (suppliers, manufacturers, agents, wholesale companies, retailers) ○ Consumers ○ NGOs ○ Regulators/Policy Makers/Government Bodies ○ Trade Unions/Industry Groups 	<ul style="list-style-type: none"> • Shift—Bringing a Human Rights Lens to Stakeholder Engagement: Guidance on the UNGP’s expectations for “meaningful stakeholder engagement”

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	<ul style="list-style-type: none"> ○ Academic Institutions 	
Remediate	<p>Remedy impacts identified</p> <ul style="list-style-type: none"> • Restore individuals or groups that have been harmed by a business activities to the situation they would have been in had the impact not occurred <ul style="list-style-type: none"> ○ Remediation includes and is not limited to “apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive sanctions (whether criminal or administrative, such as fines) • Implement processes to assess the effectiveness of remedy provided to help improve systems to prevent recurrences <p><u>Grievance mechanisms</u></p> <ul style="list-style-type: none"> • Grievance mechanisms can support the provision of remedy to create a channel where grievances can be raised and addressed • Companies should implement grievance mechanisms and/or require business partners to provide them to support the provision of remedy to create a channel where grievances can be raised and addressed • Companies and business partners should have policies and procedures to ensure retaliation is prohibited, confidentiality is preserved and there are no negative consequences towards employees who report grievances. • Develop key performance indicators for monitoring the grievance mechanism, which can include: <ul style="list-style-type: none"> ○ Number of complaints received, ○ Percent of complaints received broken down by stakeholder type (e.g. employee, worker, community member) ○ Categorization of complaint by type and severity ○ Rate of resolution complaints ○ Parties responsible for investigation and management 	<ul style="list-style-type: none"> • Shift—Remediation, Grievance Mechanisms, and the Corporate Responsibility to Respect Human Rights: Defines what companies are expected to do to provide remedy when human rights impacts have already occurred, whether in their own operations or in their value chains, in line with the Guiding Principles. • CSR Europe—Assessing the Effectiveness of Company Grievance Mechanisms: practical interpretation of the eight effectiveness criteria for grievance mechanisms

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- Map grievance mechanisms your company has in place to identify coverage gaps where stakeholders do not have access to grievance mechanisms
- Review all identified grievance mechanisms to assess the effectiveness using the effective grievance mechanism criteria defined in the UNGPs
- Improve grievance mechanisms to align with UNGP effectiveness criteria