



European Bank
for Reconstruction and Development

EBRD Performance Requirement 2

Labour and working conditions

Employee grievance mechanism

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The European Bank for Reconstruction and Development (EBRD) wishes to ensure that the working conditions in the projects that it finances comply with national labour laws and health and safety regulations and international good practice in these areas. The EBRD's specific requirements are summarised in its Performance Requirement (PR2) on labour and working conditions.

1. What is a grievance?

A **grievance** refers to problems and issues that employees experience over the course of their employment. Grievances can cover a broad range of concerns, from potentially illegal actions such as unethical recruitment, workplace discrimination, sexual harassment or victimisation, to concerns about wages, how a poor relationship between two employees has been managed, a complaint about the quality of food in the canteen or a disagreement over holiday arrangements.

EBRD requirements on employee grievance mechanisms (PR2.20)

“The client will provide an effective grievance mechanism for workers (and their organisations, where they exist) to raise workplace concerns. The client will inform the workers of the grievance mechanism at the time of hiring, and make it easily accessible to them.

The mechanism should involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution.

The mechanism should also allow for confidential complaints to be raised and addressed.

The mechanism should not impede access to other judicial or administrative remedies that might be available under law or through existing arbitration or mediation procedures, nor should it substitute for grievance mechanisms provided through workers' unions or collective agreements.”

(In addition, PR2.23 states that a grievance mechanism should also be made available to non-employee workers.)

2. What is a grievance mechanism?

A **grievance mechanism** is a procedure that provides a clear and transparent framework for addressing grievances related to the recruitment process and in the workplace. This typically takes the form of an internal procedure for complaints, followed by consideration and management response and feedback.

Grievance procedures should be **tailored to meet the needs of each organisation**, according to the sector, country, culture and workforce composition. There is no prescribed form for grievance mechanisms.

For example, **grievance procedures may be included in collective agreements**. A clause in an enterprise-level collective agreement that establishes a mechanism for individual employees to bring an employment-related grievance, potentially through their trade union and/or with trade union assistance, is sufficient to meet PR2.20. There is no requirement for a client of the EBRD to supplement this with an additional internal procedure, as long as the mechanism provided through the collective agreement accommodates individual grievances and is accessible to all employees.

What is *not* an effective grievance mechanism?

Relying solely on:

- employee suggestion boxes
- open-door policies
- anonymous complaints processes.

This is not to say that these channels cannot form part of a broader system for grievance management. In fact, having multiple communication channels in place means that workers are more likely to find an avenue that they are comfortable using. However, these mechanisms by themselves are insufficient and do not meet PR2 when used in isolation.

Key principles of an effective grievance mechanism:

Relying solely on:

- transparency
- impartiality
- confidentiality
- accessibility.

3. Outline of a grievance policy and procedure

The following section provides a sample policy and step-by-step procedure for employee grievances which is aligned with PR2 and can be adapted to the particular circumstances of the company.

Sample wording for policy statement to accompany grievance procedure:

- We are committed to a transparent process for workers to express their concerns and file grievances, including anonymous complaints.
- We will ensure that there will be no retaliation or discrimination against those who express grievances, and that any grievances will be treated confidentially.
- Management will treat grievances seriously and take prompt and appropriate action in response.
- Our grievance mechanism does not replace other channels for grievance resolution as defined by law or collective agreements.

Step 1: Dealing with grievances informally

Managers and workers are encouraged to use informal methods of resolving disagreements or disputes.

If employees have a reasonable grievance or complaint regarding their work or the people they work with they should, wherever possible, start by talking it over with their manager. It may be possible to agree a solution informally between worker and manager. This makes it more likely that disputes can be resolved faster and closer to the source of the problem and less likely that they will escalate into intractable problems.

If discussions with line managers fail to resolve the issue, it is still possible to pursue an informal approach without triggering a formal procedure. For example, a human resources (HR) manager could host an informal meeting or discussion.

Grievances from new employees about recruitment practices will typically need to be made to an HR manager, rather than to the recruitment agency itself.



Step 2: Formal grievance

If the matter is serious and/or the employee wishes to raise the matter formally, the employee should set out the grievance in writing to his or her manager. This submission should be factual and avoid language that is insulting or abusive.

Where the grievance is against the employee's manager and the employee feels unable to approach him or her, the employee should address the grievance to another manager or the HR department.

If there is a trade union at the workplace, the employee may wish to ask a union representative for advice and support.

Step 3: Grievance hearing

A designated manager (normally from the HR department and hereafter called the 'grievance manager') will call the employee to a meeting to discuss the employee's grievance within a predetermined period of time after receiving the complaint.

The employee should have the right to be accompanied by a colleague or trade union representative at this meeting on request. After the meeting the grievance manager will give the employee minutes of the meeting signed by both parties and a decision in writing, within a predetermined period of time.

Step 4: Appeal

If the employee is unhappy with the decision about a grievance and wishes to appeal, he or she should let the grievance manager know. The employee will be invited to an appeal meeting within a defined period of time and the appeal will be heard by a more senior manager. (Larger companies often designate an ombudsman, who operates independently from company management, to fulfil the functions of hearing and deciding on appeals, mediation and finding resolution.)

Some companies may choose to establish a grievance committee, representing different functional areas of the company as well as one or more worker representatives in order to help ensure an objective and transparent appeal process.

The employee will normally have the right, on request, to be accompanied by a colleague or trade union representative at this meeting and minutes should be taken. Every effort should be made to secure a resolution in the best interests of the worker(s) and the company. After the meeting the senior manager, ombudsman or grievance committee will give the employee a decision within a predetermined period.

This decision is final within the terms of the company's internal grievance mechanism; however, in some legal systems the employee or their chosen representative may refer the complaint or grievance to the labour ministry or inspectorate (or other appropriate administrative body) for resolution and/or redress, as specified by national employment law.

Special case: Grievance mechanism for sexual harassment

Companies may choose to have a standalone policy and procedure for sexual harassment.

Confidentiality, discretion and non-retribution are particularly important for these cases, as well as the ability to lodge grievances anonymously. Victims of sexual harassment may feel too intimidated to lodge a grievance in person.

Gender should be taken into consideration and it is good practice to have a male and female staff member available to receive and process grievances, so that employees can choose to whom they wish to speak.

An effective sexual harassment complaints procedure:

- conveys the message that the employer takes all cases of harassment seriously and is able to prevent harassment
- enables the complainant to report harassment to the most appropriate point of contact – preferably anonymously – from a choice of management liaison points and, wherever possible, to enable the complainant to report harassment to a female supervisor or manager
- ensures that complaints are dealt with consistently and within a specified period of time
- alerts an employer to patterns of unacceptable conduct
- highlights the need for prevention strategies in particular areas.

4. Guidance on implementing the grievance procedure

<p>The process is transparent, impartial and confidential</p>	<p>Every complaint should be treated seriously and dealt with consistently, in an impartial, confidential and transparent manner. This helps to establish the legitimacy of the mechanism among workers and ensures that it will be used.</p> <p>While the procedure may specify that a grievance should first be made to the employees' line manager, there should also be the option of first raising a grievance with an alternative manager, for example, an HR manager.</p> <p>The ultimate oversight of grievance resolution procedures should rest with a single senior manager of staff (not with junior staff). The name of this individual should be communicated to workers. Having the appropriate level of management involved makes it clear that the organisation takes worker grievances seriously.</p>
<p>Staff and management are informed and aware</p>	<p>All staff should be made aware of the grievance mechanism at the time that they are hired. Details of how it operates – including an up-to-date list of contact points – should be readily accessible (for example, in staff handbooks and on notice boards).</p> <p>All communications about the grievance mechanism should be in a language that workers understand.</p>
<p>Concerns are addressed promptly</p>	<p>Procedures should allow for time to investigate grievances fully, but should aim for swift resolutions. The longer a grievance is allowed to continue, the harder it can be for both sides to get back to normal afterwards. Time limits should be set for each stage of the process, for example, a maximum time between a grievance being raised and the setting up of a meeting to investigate it.</p>
<p>Records are kept</p>	<p>Once a grievance has been raised formally, it is important that proper written records are kept, to aid transparency and allow for any review of the process or decision to be undertaken. If possible, the original complaint should be in writing. The employer's response should also be recorded. Any actions taken, along with the reasons for these, should also be recorded, for example, a grievance hearing and finding. Minutes of all meetings should be taken and signed by both parties.</p> <p>Documentation should respect workers' rights to privacy and data protection.</p>
<p>The mechanism is sensitive to the needs of all workers, including vulnerable groups</p>	<p>Employees that may feel particularly vulnerable (such as ethnic or religious minorities, migrant workers, younger workers, employees with disabilities) should not be deterred from lodging a grievance. Therefore, the process for lodging grievances should be confidential in order to allow employees to raise a grievance without anyone else knowing.</p> <p>It is also good practice to have both a male and a female staff member available for receiving and processing grievances so that employees can choose whom to speak to.</p> <p>Where there are language barriers, it may be necessary to provide written materials in different languages and also to engage interpreters. Interpreters should be perceived by both sides as being impartial.</p>
<p>Role of worker representatives</p>	<p>Normally, collective grievances and disputes should be handled using the same approach as that used for individual complaints and grievances; where there are existing arrangements for collective grievances or dispute resolution, any new procedures should build on this agreed framework.</p> <p>If there is a worker organisation (normally a trade union) that files the grievance or represents the worker filing the grievance, that organisation should have the right to be notified and be present at all steps of the procedure.</p> <p>Where the procedure has been agreed with trade unions, it may be possible to commit to measures to avoid industrial action until the procedure has been completed.</p>
<p>Access to judicial remedy</p>	<p>The employee should understand that he or she has a right to recourse to judicial or administrative channels (such as an employment tribunal, labour court or labour inspectorate).</p>

5. Grievance mechanism for non-employee workers

The client must ensure that the employees of subcontractors have access to a grievance mechanism. The grievance mechanisms of subcontractors should be based on the same principles as those set out in this document and should be made available to all workers, even those who are employed on a short-term or temporary part-time basis.

To comply with the terms of PR2, clients are obliged to “ensure that non-employee workers have access to an effective grievance mechanism that meets the requirements of PR2. In cases where the third party is unable to provide a grievance mechanism, the client will provide an effective grievance mechanism to serve workers engaged by the third party”.

Based on this principle, EBRD clients should:

- **Take steps to ensure that grievance mechanisms are provided by contractors.** This may include placing contractual obligations on contractors to introduce and operate grievance mechanisms, and also regular monitoring of the functioning and outcomes of such mechanisms.
- **Consider establishing a mechanism that extends to contract workers.** In circumstances where the client thinks that contractors are either unable to provide grievance mechanisms or that the procedures established are inadequate, the client must establish a means to receive grievances directly from workers. Where such a mechanism is established, the client should ensure that the responsibility for responding to the worker grievance, and dealing with the issues underlying it, rests with the contractor, who has ultimate responsibility as the direct employer of the workers in question.