

Grievance Mechanisms for Business and Human Rights

18 April, 2013 – 9:00 AM EST



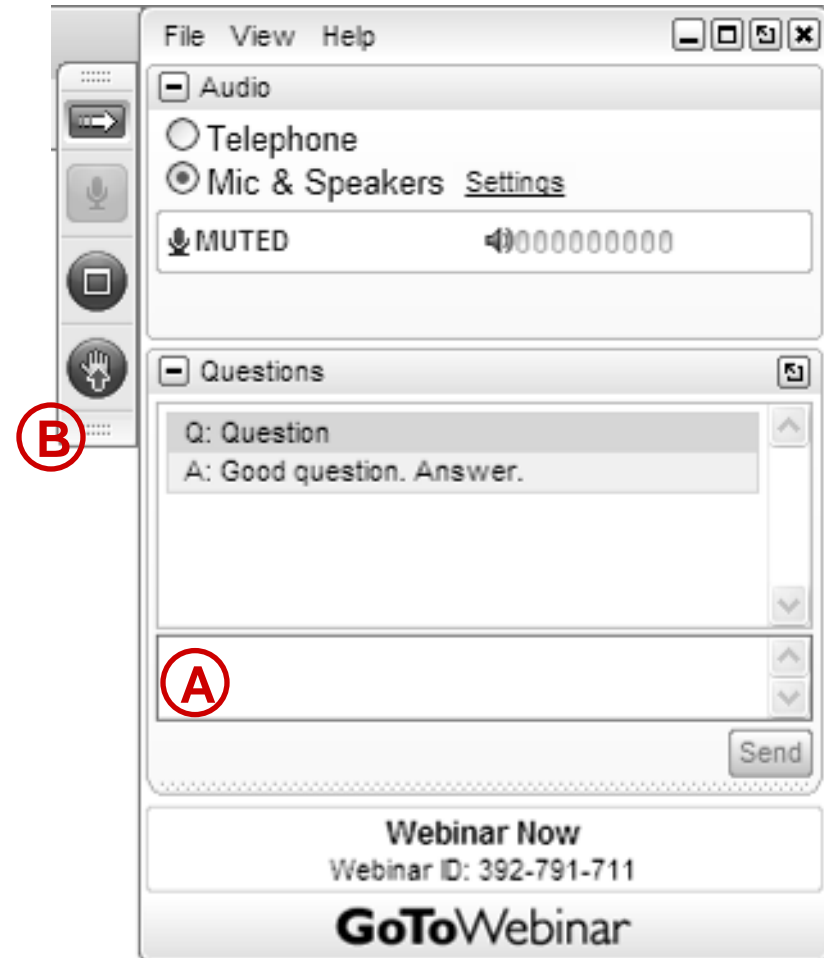
United Nations Global Compact

Questions

Technical Difficulties: If you have technical issues, please let us know by typing a message in the Questions pane (A). You can raise your hand (B) if we do not respond.

Q&A: We will be taking questions on content at the end, but you can send them to us throughout the webinar by using the Questions pane (A). Please specify to whom the question should be directed.

Example: Question for John Doe: What are the Guiding Principles?



United Nations Global Compact

Agenda



Introduction by UNGC: 3 Minutes

Matthew Daly, Human Rights, UN Global Compact



Introduction to Grievance Mechanisms: 10 - 15 Minutes

Caroline Rees, President, CEO and Executive Board Member, Shift

Business Examples: 12 Minutes Each



Inés Andrade, Coordinator of Social Standards, Cerrejón



Lisa Dean, Communities and Social Performance, Rio Tinto

Q & A: Remaining Time



United Nations Global Compact

UN Global Compact Webinar Grievance Mechanisms

Caroline Rees, President

Copyright (c) Shift Project Ltd, 2012. All rights reserved.

Shift

Putting Principles into Practice

Purpose of GMs

- For users:
 - To have a channel to raise concerns
 - Speedy, affordable pathway to remedy
- For companies
 - Early warning of problems
 - Chance to resolve issues before they escalate
 - Demonstrate take stakeholders seriously and build respectful relationships

Design of GMs

- Key driving consideration: how do you ensure they are used?
- Most effectiveness criteria drive towards answering this question:

Legitimacy

Accessibility

Predictability

Equitability

Transparency

Rights-Compatibility

Based on Dialogue and Engagement

Shift

Putting Principles into Practice

Design of GMs

- Last effectiveness criterion:

A source of continuous learning

- Linkage to wider due diligence:
 - Assessing impacts
 - Tracking performance
 - Improvement of policies and processes to address systemic issues

Community GMs

- Identify opportunities for co-design and co-ownership with user groups
- Give attention and time also to internal stakeholder engagement in design
- Understand when and how (local) people access information
- Understand local traditions for addressing disputes
- Think at individual, not just group level

Supply Chain GMs

- Support local processes for local solutions
- Should support, not undercut TU channels
- Don't just demand a GM of suppliers
 - Provide some basic guidance
 - Review as part of audit – quality focus
 - Support better design where possible
 - Consider creative ways to support pooled resources/capacity

Supply Chain GMs

- Consider own role as buyer:
 - Provide accountability
 - Model what you expect of suppliers
 - Provide fall-back channel?
 - Work with/through collectivised mechanism at buyer level?

GM performance

- Jointly identify KPIs where possible
- Use qualitative metrics to interpret quantitative metrics
- Recognise importance of how process is viewed, as well as outcome
- Test for those who don't use it, as well as those who do.
- Look at where else grievances arise, outside GM

Back to purpose

- Avoid:
 - GMs for own sake
 - GMs designed and operated on compliance basis
- Aim for
 - GMs that enhance the quality of relationships
 - GMs you would trust if you were in their shoes

The logo for Shift, featuring the word "Shift" in a bold, italicized sans-serif font. The letters "Sh" and "ft" are white, while the letters "i" and "f" are red. The logo is positioned on a black background that is part of a larger geometric design with diagonal lines and a red horizontal stripe.

Shift

Putting Principles into Practice

shiftproject.org



Cerrejón

Minería responsable

CERREJÓN'S GRIEVANCE MECHANISM

GLOBAL COMPACT WEBINAR

April 18, 2013



Why a Grievance Mechanism?

- It's considered good business for the company. Helps to identify risks and reduce costs.
- Negative impacts on people's or communities' rights can be caused despite the best corporate policies and practices.
- The duty to respect human rights is not only of the State but also of companies and individuals.
- The victims have a right to remedy through judicial and non judicial means.
- Companies have a duty to remedy (compensation) when they produce an impact.
- Applicable international standards recommend its implementation (UN Guiding Principles, IFC, ICMM).
- It is considered company best practice.

WHAT IS IT NOT?

- It is not an extension of the Legal Department.
- It's not called to validate all company activities.
- It is not an *agent* of the communities.
- It does not replace stakeholder engagement nor its social development projects.

2008: Independent Panel requested a more transparent process to address security complaints.

2009:

- Definition and design process. (310 interviews)
- Training of 60 employees as investigators.

2010:

- Meetings to inform and communicate about the mechanism with 3.000 people.
- Launch on September 2010.

2011-2013:

- Response to complaints (coordination among departments).
- Definition of a policy to attend complains on animal deaths caused by the train.
- Administrative and logistical strengthening and adjustments to the software.
- Independent assessment of the Grievance Mechanism.
- A total of 500 cases registered between 2008-2013.



Measurable Principles

UN Guidelines' Effectiveness Criteria (Pple 31)	Our indicators
Legitimate	<ul style="list-style-type: none"> • # of cases registered • # of compensations delivered • # of appeals
Accesible	<ul style="list-style-type: none"> • # of case entry forms • # of case entry forms in Wayuunaiki • # of employees qualified to receive complaints
Predictable	<ul style="list-style-type: none"> • Existence of standardized process • Existence of a Procedure Handbook • Existence of a Software • Information provided to the complainant
Equitable	<ul style="list-style-type: none"> • Information provided to the complainant • Information is gathered jointly • Complainant participation • Access to third party expertise
Transparent	<ul style="list-style-type: none"> • Information provided to the complainant • Rules of procedure are publicly accessible
Source of Continuous Learning	<ul style="list-style-type: none"> • # of lessons learnt. • Adjustment of procedures and software
Rights-Compatible	<ul style="list-style-type: none"> • Identification of rights effected • Impact identification

Other principles applied (IFC, ICMM):

- Proportional
- Culturally Appropriate
- Effective Protection

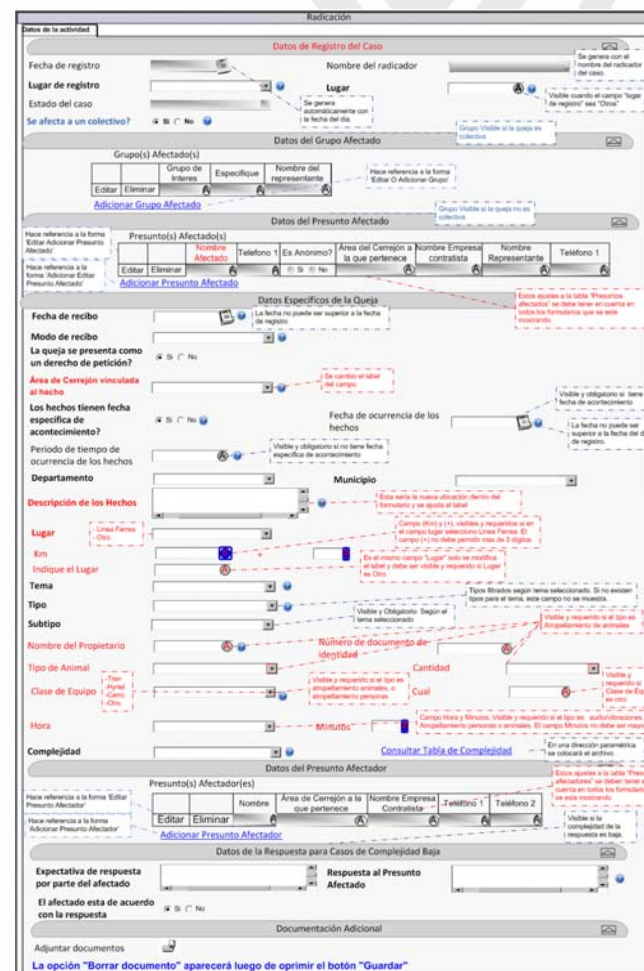
We seek to ensure that the principles are being implemented.

Complaint/Grievance:

A claim presented by employees, contractors or communities in the area of influence of the company related to the violation of a human right as a result of the direct or indirect impact of the company's operation.

- Acting **without replacing** the State.
- Applies to **all areas** of the Company.
- Applies to **100% of the operation** (Mine, railway and Port).
- **Complements** other existing mechanisms: labour, occupation health, ethics, etc.
- Receives complaints from employees, contractors and communities.
- **Decentralized** investigation.
- Investigation: respectful, serious, transparent, timely.
- **Multiple entry points:** phone / e-mail / Cerrejón employees on the ground. In Spanish and in Wayuunaiki.

- **Severity matrix** according to: vulnerability of the affected individual or group, rights allegedly violated, frequency of the situation.
- Definition of **typologies** to classify grievances.
- Definition of a **decision-making** process.
- **Activity cycle**: receive, respond, guide, resolve and draw lessons.



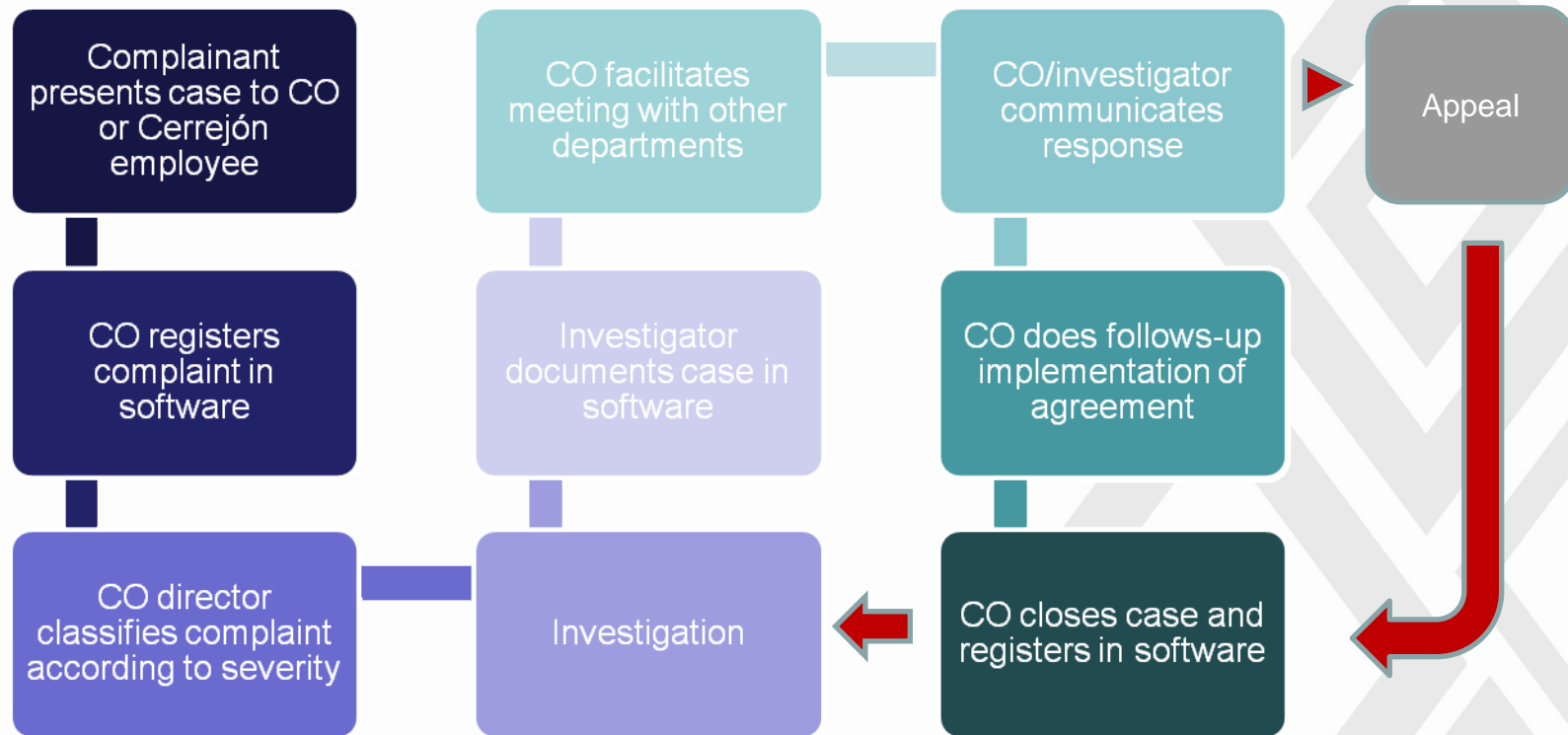
One of the 30 forms the software includes.



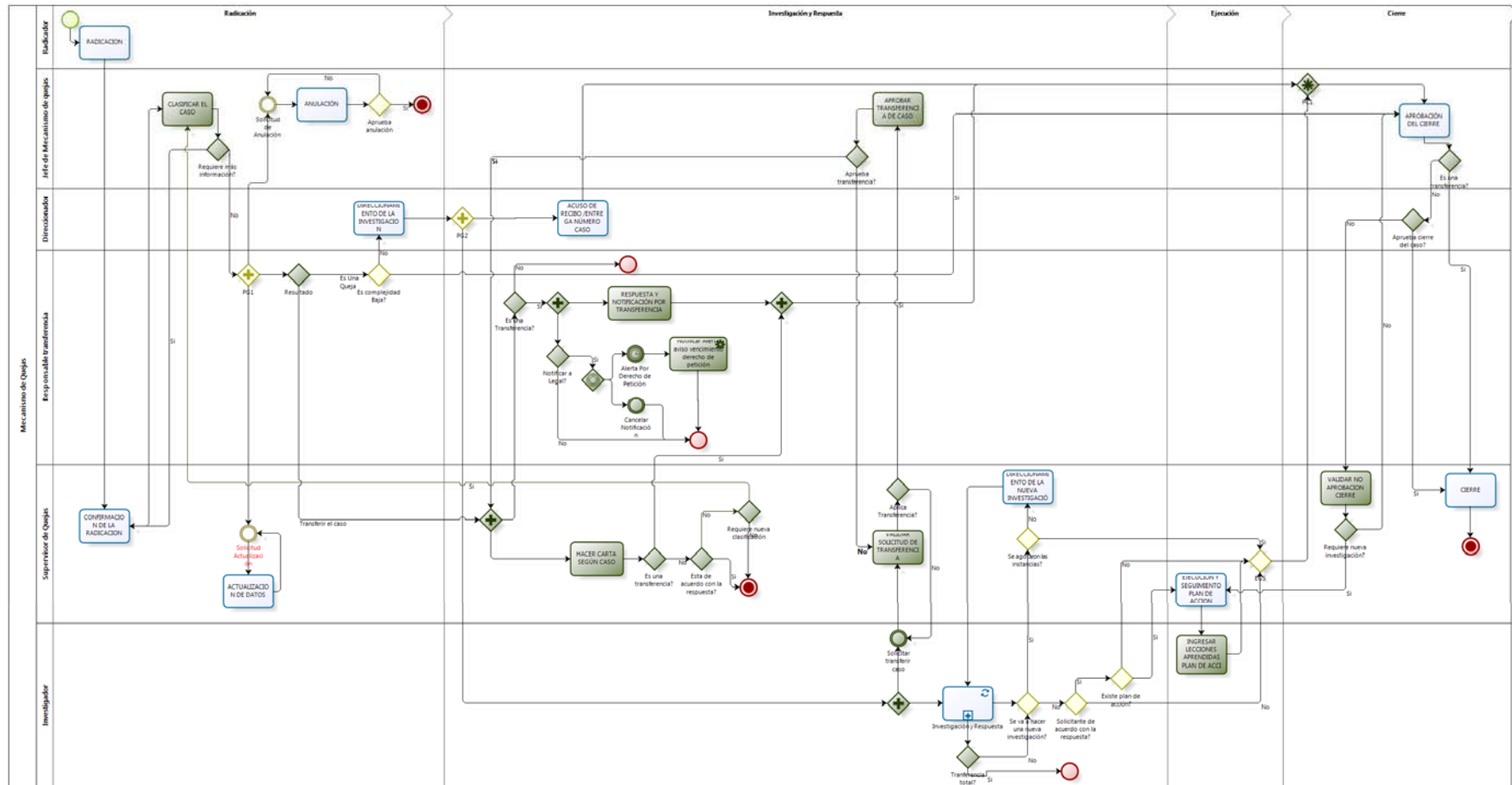
Cerrejón

Minería responsable

Process



CO assigns new investigator



- Tendency of the community to privilege this mechanism over others or to try to resolve historical problems with it.
- Difficulty in perceptions and demands of the community beyond our responsibility.
- Decentralized investigation presented difficulties: deficient performance of some investigators and difficulties in obtaining information from other departments.
- Difficulties resolving workplace harassment cases that have a subjective component and a specific mechanism defined by Law to address them.
- Radiating Un Guiding Principles into other mechanisms.
- Limited resources.
- The role of the Complaints Office is still not fully understood in all company areas.
- Difficulty of establishing typologies.



On substance

- Some cases of unfounded claims.
- Valuable stakeholder engagement tool.
- Useful in preventing problems from escalating.
- Approx. 5 cases have resulted in legal action after closure.
- Helps to improve knowledge on impacts.
- Community expectations increase.

On Process

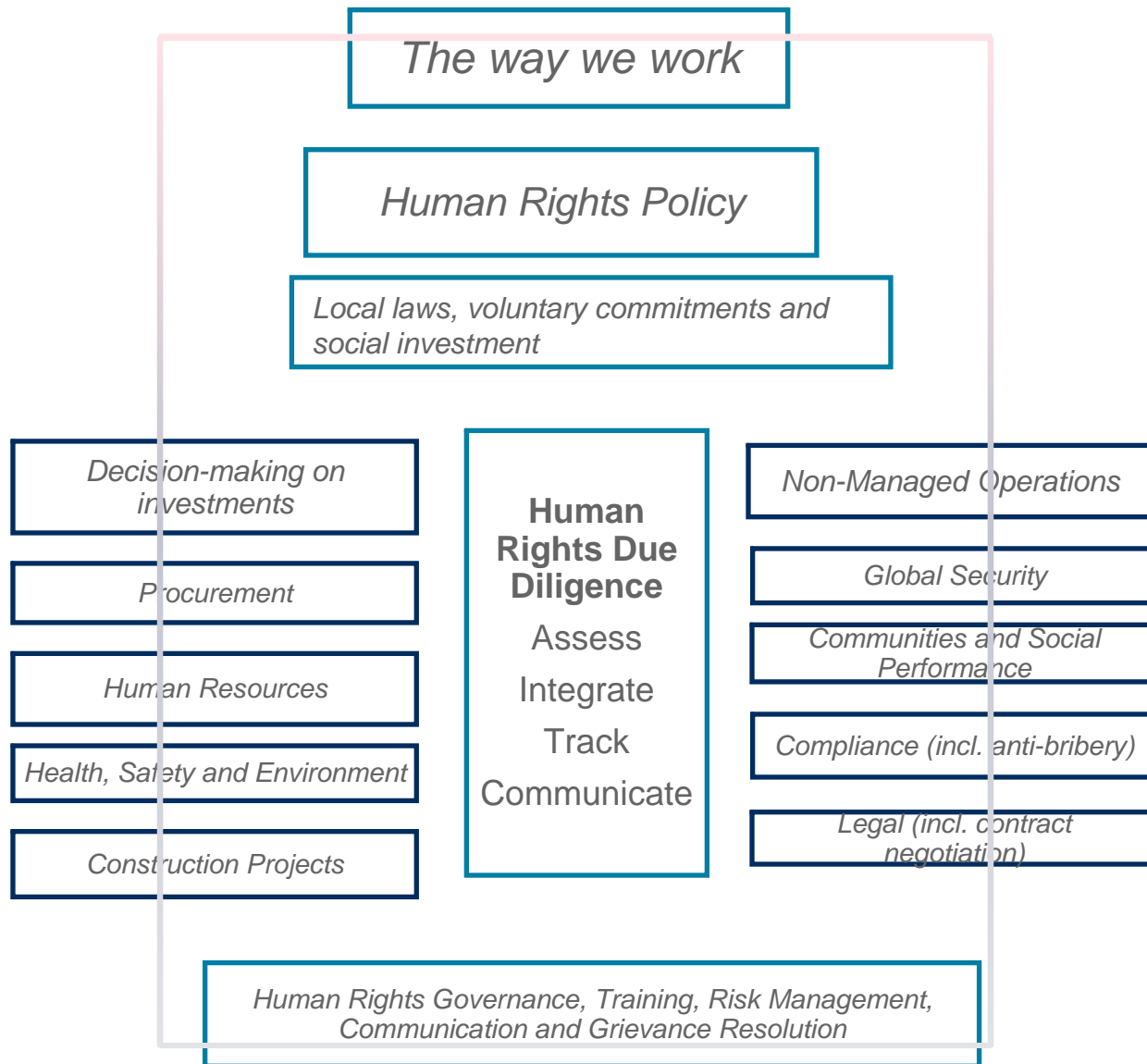
- Needs high-level management support.
- Needs the commitment of all areas of the company.
- Budget.
- Time (implementation and learning).
- Sufficient and committed human resources with high sensibility for social issues and human rights
- Clear definitions: principles, criteria, governance, scope, procedures and responsibilities
- Needs impact assessments and clear company policies.
- Complements the engagement undertaken by the CSR Department.
- Has enabled integral solutions and coordinated responses.
- Has contributed to position Cerrejón as a company committed with the implementation of international standards.

UN Global Compact Webinar: Grievance Mechanisms for Business and Human Rights

Lisa Dean, Communities and Social Performance, Rio Tinto
18 April 2013



Snapshot of Rio Tinto's Human Rights Approach



System of complaints handling

- Recognize need for access to effective remedy for business-related human rights abuses.
- Have developed, and are continuing to evolve, multi-faceted system of remedy to address adverse human rights impacts to which we have caused or contributed.
- System of remedy in line with key voluntary commitments including OECD Guidelines for Multinational Enterprises, UN Global Compact and Voluntary Principles on Security and Human Rights.
- System of remedy includes:
 - *Employees and suppliers/contractors*: SpeakOUT
 - *Community members*: complaints, disputes and grievance processes
- We seek to cooperate with state and non-state based non-judicial grievance mechanisms including OECD National Contact Points and National Human Rights Institutions etc.
- We respect the right of affected parties to seek to make use of legal remedies.

Communities and Social Performance: complaints, disputes and grievances processes

Community complaints, disputes and grievances Guidance Note

- Founded in Communities Policy and Communities Standard.
- All businesses (i.e. sites) must have a community complaints, disputes and grievances procedure in line with criteria of effectiveness for non-judicial grievance mechanisms in UN Guiding Principles on Business and Human Rights. This includes being **publically available**, **locally appropriate** and **easily accessible** to all community members.
- Further guidance recently provided through “Why Human Rights Matter” guide for Communities’ practitioners.



Definitions of complaints, disputes and grievances

- **Complaints:** notifications provided by a community member, group or institution to the business.
- **Disputes:** complaints that have not been accepted as valid by one party or the other and have escalated into disagreements between the parties.
- **Grievances:** complaints or disputes that have escalated to the point where they require third party intervention or adjudication to resolve.



How to successfully manage complaints, disputes and grievances?

- Act immediately – work to resolve complaints and disputes early to avoid escalation.
- Most complaints can be resolved quickly and satisfactorily by:
 - Dealing with complaints in person;
 - Apologising for inadvertent breaches;
 - Rectifying root causes;
 - Assuring complainants of future preventative action.
- Internal processes should not undermine legal mechanisms or attempt to address criminal, labour law and commercial matters.



How to successfully manage complaints, disputes and grievances?

A very good understanding of community beliefs, values and attitudes relating to complaints and dispute resolution is essential, including through:

- Community consultation and participation in resolution processes;
- Participation of relevant 'at risk' or vulnerable groups.



Lessons



- Process is as important as substance.
- Different forms of remedy may be appropriate, especially given cultural and societal factors: i.e. apologies, compensation, preventative action, reconciliation ceremonies, improvement/establishment of community development programmes.
- Internal coherence necessary to implement agreed remedy – i.e. Communities' practitioners need to work effectively with site level managers.
- External collaboration also important – i.e. working with other actors such as civil society, government, community leaders to ensure remedy adequately delivered and process remains sustainable.

Case study: Weipa, Australia

Weipa community feedback system

- A formalised process for local community to provide both positive and negative feedback including adverse human rights impacts.
- Multi contact points to ensure accessibility; advertised to promote local awareness.
- Feedback to be logged; investigation team to determine root causes and identify any actions required.
- Feedback procedure includes provisions for engagement and dialogue with affected persons.

Integrating complaints, disputes and grievance resolution into operations and management

- Communities and Social Performance team on site involves relevant functions in any complaints resolution, to improve across-site accountability.

*Nb full case study available as one of 12 case studies included in Why Human Rights Matter Guide



Thank You

Thank you for joining us today.

Presentation slides and a recording of the webinar
will be available on the UNGC website.

If you have any additional questions, please contact:

Matthew Daly: daly@unglobalcompact.org



United Nations Global Compact