

KAGEM OGM 2024 INDEPENDENT MONITOR REPORT

This represents a baseline report from the Independent Monitor for the Operational Grievance Mechanism (“OGM”) that has been established at the Kagem Emerald Mine in Zambia (“Kagem”), majority owned by Gemfields Group Ltd. (“Gemfields”). The Independent Monitor was engaged in March 2023. The Independent Monitor is to provide reports on a regular basis regarding progress in establishing and implementing the OGM, including a short-form public report and a long form report to the company. This report is the first following a visit to the mine in June 2024. The Independent Monitor has received excellent cooperation in preparing this assessment, and Kagem and Gemfields have embraced and actively sought suggestions made during the course of it.

We note that the OGM continues to operate against a complex set of local dynamics, including historical tensions between Kagem and communities immediately surrounding the mine. While local stakeholders and mine personnel concur that the relationship has improved significantly in the last few years, tensions persist. To some extent, there remains lingering dissatisfactions among some community members regarding alleged security-related human rights incidents that were, according to community members, unaddressed for years, and the perceived lack of any meaningful community engagement in one surrounding community. Among the present concerns expressed by stakeholders is that the company does not do enough in terms of community-related programs and stakeholder engagement, particularly as compared to the other major mine in the area, which has led to a significant number of community-related requests to the OGM. Stakeholders also suggested that buses pick-up teachers and nurses when on the way to work, and otherwise help with transportation. In Pilala, access to Kagem dump sites and employment opportunities were a consistently stated concern, along with a closer school and health clinic, and a desire for youth training in such areas as truck operations, and a collaboration with other mines for local employment strategies. Sandowana expressed a desire for repairing the Shombe road, electricity in the schools, additional classroom space, and a closer health clinic.

Most of those issues, including the functional operation of the OGM, are referenced in the below short form report and discussed in more detail in the long form report provided to the company. We consider them core to the ability of the OGM to gain trust and confidence among targeted stakeholders in communities surrounding the mine, and in future evaluations we will consider the extent to which Kagem has sought to address them – through the many recommendations we provide below, or otherwise.

This review is based on an extensive review of documentary materials, a site visit during June 2024 and interviews with a wide range of relevant stakeholders, including experts advising Gemfields and Kagem, senior and junior Kagem and Gemfields personnel (including those involved in operating and overseeing the OGM, as well as mine management), local engineers and contractors, local and international civil society organizations, claimants who have participated in the OGM, community members and leaders (including local chairmen), and one local chief. A variety of steps were taken to maintain the confidentiality of claimants with whom we engaged.

The information we gathered was considered against a template consisting of 36 indicators and 84 sub-indicators, which seek to translate UN Guiding Principles (UNGPs) 22, 29 and 31 into an assessment framework.¹

Background. The OGM was created as part of a suite of efforts undertaken by the company to mitigate and prevent negative human rights impacts to which it is connected. There is a perception among many stakeholders that Kagem has entered a new phase of openness and community engagement, and stakeholders noted that the efforts are making a difference on the ground. However, as noted above, there remain tensions with certain segments of surrounding communities.

The OGM was developed after extensive local stakeholder consultations, and its design is consistent with best practices for OGMs. Grievances are triaged by a dual-hatted OGM team. Human rights-related grievances are to be resolved through mediated dialogue, with accountability embedded in the process. The OGM is overseen by well-qualified professionals, and encompasses all potential negative human rights impacts on external stakeholders and communities, and does not have a substantive limit or focus.

Cases: To date, in excess of 650 contacts have been made to the OGM, with numerous additional questions and concerns lodged using the toll-free line. There are some community grievances, as well as requests for employment and community projects. There have been four cases (all security-related) appropriately classified as potentially severe human rights impacts, though no cases have proceeded through the mediation process, to date. Based on our experience with other OGMs we expected, and continue to expect, a greater number of severe human rights grievances to be lodged. It remains unclear why that number is not higher. We do not believe it is due to ineffective socialization efforts. Although we have recommendations regarding sensitization about the OGM, there has been meaningful OGM socialization, which continues. Trainings repeatedly have occurred in the communities surrounding the mine. Those trainings include discussions of the OGM's human rights focus, and stakeholders uniformly expressed a general understanding of the OGM's purpose. We also do not believe it is due to a fear of retaliation. There are no anonymous claims of severe human rights abuses, which we would expect if retaliation concerns were present, and individuals have not hesitated to raise a variety of other concerns directly to the OGM. Nor have individuals raised claims of severe human rights abuses to local community leaders or chiefs that have not been reported. No other internal or external stakeholder during our consultations expressed awareness of any unreported significant human rights impacts, no such cases have been identified during recent trainings and sensitizations, and no cases were identified during stakeholder engagements during the design phase of the OGM. While the communities surrounding the mine have a level of transience, that still would not explain the lack of cases. This will remain an area of keen focus in future evaluations, particularly regarding socialization efforts under UNGP 31(b).

Analysis: At a high level, the OGM is operating with integrity, dedication, and a seriousness of purpose. We do have ample suggestions for improvements, as outlined below. Those suggestions should not be construed to imply that the OGM is ineffective or faulty, particularly at the relatively early stages of its existence and given the complex local dynamics. In fact,

¹ See Appendix A.

consistent with the objectives of any OGM, members of surrounding communities are aware of the OGM, grievances are relatively easy to lodge and the OGM is being contacted (as evidenced by the number of contacts to date), targeted stakeholders generally expressed comfort lodging grievances, and those grievances generally are considered by the OGM in a constructive manner.

UNGP Criteria	Observations	Recommendations
<p>UNGP 22: The OGM was established as one pathway to remediate adverse human rights impacts.</p>	<ul style="list-style-type: none"> • The OGM was established without any substantive limitations to address instances in which Kagem may have caused, contributed to, or been directly linked to negative human rights impacts. It is one pathway in a larger ecosystem of remedy, and has had a wide variety of contacts from potentially affected stakeholders. There have been limited cases alleging severe negative human rights impacts, for reasons that are unclear but that are consistent with stakeholder consultations during the design phase of the OGM and our consultations, where no unreported severe human rights impacts were identified. • The OGM’s broad focus has already improved relationships with stakeholders to some degree. • The OGM contemplates several forms of remediation for negative impacts, including compensation, counseling, and apologies. Remediation decisions are made through mediation. There have been limited claims alleging severe human rights impacts, and thus it is not clear how such remediation determinations will be made in practice. 	<ul style="list-style-type: none"> • Provide guidance on how the OGM should consider the UNGPs “cause, contribute, directly linked” framework in application.
<p>UNGP 29: Direct accessibility to the OGM is available, with a design to directly remediate impacts without impairing access to other pathways for remediation.</p>	<ul style="list-style-type: none"> • The Individuals can submit claims directly to the OGM through multiple pathways, including a toll free number and grievance boxes. These pathways are being used in practice. Nor is it a requirement that any claimant exhaust other avenues or take additional steps before lodging a claim. The OGM does not preclude access to alternative state-based processes or discourage claimants from accessing them. • The OGM’s procedures expressly contemplate addressing remediation for harms connected to the company. Remediation approaches varying widely depending on the nature of the grievance, though are determined in consultation with claimants pursuant to the OGM’s protocol. Where claimants are able to reach agreement with the company that involve monetary compensation, the quantum is made with reference to Zambian legal standards and an agreement is entered with 	<ul style="list-style-type: none"> • Consider amending the OGM protocol to reflect the individualized determinations that are made, and thus make clear that as part of each determination of remedy, in consultation with the claimant and his/her representatives and considering the relevant risks, non-financial compensation may be prioritized.

	<p>independent legal representation provided to the claimant. Concerns related to double compensation are considered efficiently.</p> <ul style="list-style-type: none"> • The OGM protocol prioritizes non-financial compensation over financial compensation, given the risks that may come with awards of financial compensation. These stated concerns are well-founded based on other OGMs in other locations, though in practice every case will be considered and addressed individually, including the risks associated with different forms of remedy. 	
<p>UNGP 31(a): OGMs are legitimate when they generate trust from the stakeholder groups for whose use they are intended, and are accountable for the fair conduct of grievance processes.</p>	<ul style="list-style-type: none"> • OGM personnel are associated with the community relations function of the company, and operate under a dual-hatted approach. When OGM personnel assess grievances, they do so as part of an OGM team that respects confidentiality of claimants and includes other protections. In cases involving severe negative human rights impacts, the team has acted with independence from management and closely followed the OGM's protocols. The OGM protocol also allows complainants to have grievances addressed by an independent third-party if they are dissatisfied with company-led mediation. • There have been more than 650 contacts made to the OGM or lodging questions through its toll-free line. After an initial flurry of contacts, there are now between 4 and 61 contacts per month. There have been some 200 call fails or inquiries about the purpose of the toll-free line. The remaining approximately 450 contacts have included requests for employment, requests for new Kagem-supported community projects unconnected to any negative impacts connected to the company or suggestions for new projects, or similar issues. Most new project requests have related to education, health and infrastructure. Most contacts have been through phone calls, with some 105 from grievance boxes. There is a relatively even split between men and women making contact. • There have been four significant human rights-related grievances, all security-related. None has progressed to the mediation process yet, for varying reasons (e.g., claim outside the time scope of the OGM, inability to contact the claimant, etc.). It is unclear why that number is not higher, as noted above. However, it appears that the OGM is being used and human 	<ul style="list-style-type: none"> • Create a short guidance to assist dual-hatted OGM personnel in performing their operational and OGM functions. • Take steps to try to demonstrate publicly the independence and accountability built into the grievance process. • Consider greater transparency about contacts made to the OGM to help engender greater trust. • Consider assisting Caritas in their training materials by providing success stories, examples of the kinds of claims where remedy will be considered, the types of core OGM issues considered at its creation (such as security-related or forced labor abuses), or metrics that the OGM is actually being used and that grievances are being processed. • Develop a process for handling community-related or group claims. • Include in socialization efforts distinctions between a negative impact connected to company activities, and thus potentially within the scope of the OGM, and other issues, such as employment requests and projects that may simply benefit the communities. • Train Caritas to answer detailed questions about the distinctions between company-related harms and other kinds of claims, and provide Caritas with information about how previous grievances have been handled. • Take steps to confirm that all contacts to the OGM, whether connected to company negative

	<p>rights-related concerns are being raised. No stakeholders indicated awareness of severe negative human rights impacts that had not been reported to the OGM.</p> <ul style="list-style-type: none"> • There have been numerous community-related grievances, some related to potential company impacts, and some more community relations oriented. It is obvious that local communities and their members do not fully understand key distinctions associated with the OGM. Those include distinctions between a negative impact connected to company activities and projects that will help community members enjoy human rights. Nor do they understand distinctions between a grievance and use of the OGM to seek jobs. • Caritas is currently spearheading external stakeholder sensitization efforts. • Claimants can report in multiple ways, and we identified no safety concerns. Grievance boxes are in visible locations, however. 	<p>impacts or otherwise, receive responses and direct engagement.</p> <ul style="list-style-type: none"> • Locate grievance boxes in locations that are not so publicly visible, perhaps in addition to their current locations
<p>UNGP 31(b): OGMs are accessible when they are known to those stakeholder groups for whose use they are intended, and provide reasonable assistance for those who may face particular barriers to access.</p>	<ul style="list-style-type: none"> • The company engaged in a massive effort to socialize the OGM, through an immersive radio campaign (in English and local languages), posters and other means. Since then, two NGOs, DEGHA and now Caritas, have engaged in socialization efforts in individual communities. However, given the community footprint, we are uncertain about the robustness of socialization efforts after the original radio-driven approach. Some groups expressed knowledge about the OGM and how to access it, others stated that it was not known by all or most members within communities, and most did not understand the nature of a “grievance” or the process through which claims were considered. Posters only appear in a few locations around the mine. • The OGM has 3 primary means of access. Claimants can submit a paper grievance in a grievance box at a school or other locations, use the toll free telephone line, or provide a grievance in person to a Kagem representative. In practice, most contacts are made by phone or through the grievance boxes. We believe serious consideration should be given to expanding the number of grievance boxes and access points. Further, there is no physical grievance office where claims can be lodged in person. To the extent one is not being contemplated, given the proximity of the mine to Pilala and Sandowana, regular engagement between 	<ul style="list-style-type: none"> • Apply KPIs to the socialization efforts of Caritas. • Take steps to get a sense of what targeted stakeholders understand and do not understand about the OGM. • Increase the presence of posters in key strategic locations. • Conduct a stakeholder mapping related to local communities, and outline a strategic approach to socialization focusing on key stakeholders and groups. • Undertake efforts to enlist community leaders, NGOs and others to help socialize the OGM within their respective communities, beyond just Caritas. • Consider expanding access points through additional grievance boxes, and identifying additional groups and individuals who can be approached regarding claims. • Consider whether to create a physical grievance office accessible to community members, and if not, evaluate whether in-person engagement between company personnel and Pilala and Sandowan community members and leaders is likely to

	<p>company personnel and the community or community leaders might be worthwhile to solicit additional claims.</p> <ul style="list-style-type: none"> • It is clear that the OGM contemplates several potential barriers for potentially affected stakeholders. These include illiteracy, the inability to use telephones and lodge claims anonymously, and the stigma women may face raising claims around violence and harassment. We note that the OGM contemplates possible legal assistance with claims, further addressing potential barriers that may otherwise hinder claimants from seeking remedy. • The OGM protocol strongly prohibits retaliation, and issues are to be elevated to the Ombudsbody to investigate. We heard no concerns about retaliation. We also have seen no issues regarding confidentiality to date, which has been respected in practice. Although anonymous claims are filed, we believe that claimants may not fully appreciate that, when they file claims, if they desire responses they should include their names, phone numbers and other means of contact to enable more effective investigation of the underlying issues. Those issues now are being addressed during socialization meetings. 	<p>yield additional meaningful grievance.</p> <ul style="list-style-type: none"> • Increase transparency around the types of complaints and their outcomes on a community-by-community and thematic basis. • Continue through socialization to encourage claimants to provide sufficient contact information such that, even if they want to remain anonymous, they can be contacted to provide further information about the underlying issue.
<p>UNGP 31(c): An OGM needs to provide a clear process to set claimants' legitimate expectations, which is met in practice, with maintain flexibility to adapt to differing situations and appropriate resourcing.</p>	<ul style="list-style-type: none"> • The OGM protocol sets out the manner in which claims are handled, supported by schematics and other details that are relatively easy to follow. The severe human rights grievances that have been lodged have been handled consistent with the written processes. The OGM also maintains a case-tracking database that includes some details about contacts made. • Case-filing and tracking can be improved, including with forms or checklists to help create consistency, as can contemporaneous recording of responses or feedback to claimants and grievance closure decisions, is limited. Closer attention to grievances that implicate non-severe human rights-related issues, such as in relation to community-related claim (e.g., dust, noise, or vibrations), also is warranted. Management oversight, to gain confidence that the OGM is functioning consistent with its design and intent, should be enhanced. • The steps associated with the OGM are not shared publicly. Evidence that the processes associated with claim consideration are shared with targeted stakeholders or their 	<ul style="list-style-type: none"> • Create a meaningful case tracking and case filing system. • Consider creating forms to allow for consistent entry of information related to contacts, feedback, engagement and case closure, along with other key aspects of the grievance process. • Review existing cases to identify those alleging non-severe human rights impacts, including impacts to the community. Train OGM personnel on how such cases should be handled, including adherence to existing timelines and processes, and track them separately. • Conduct further socialization to explain the process to claimants in simple terms, which can be reinforced with handouts and similar materials to remind claimants about the OGM's steps. • Provide written instructions to OGM personnel about explaining the OGM processes, and when

	<p>representatives during socialization efforts can be enhanced.</p> <ul style="list-style-type: none"> • There are some indicative timelines, including notifying claimants within 5 days whether their claims are eligible for consideration, and providing an update to claimants whose cases fall under the OGM 5 days after that; no timelines are provided for claims that do not fall under the OGM. • At this juncture, we have no concerns that the OGM has the capacity to handle the grievances being lodged. The personnel overseeing the OGM are experienced, and the OGM has access to a range of well-regarded international and local experts. • The OGM protocol allows for flexibility, avoiding adjudicative or binary approaches, but allowing grievances to be resolved in a manner most suitable to the circumstances. That includes mediated dialogue. • Performance tracking of the OGM can be enhanced, including with additional detail and contemporaneous notations in the case tracking system to allow for an evaluation of consistency against the protocol. 	<p>OGM personnel provide such explanations, document that in the files.</p> <ul style="list-style-type: none"> • Consider indicative timelines regarding follow-up on claims that fall outside the OGM, and develop an approach to track those cases. • Consider closer management oversight and review related to the operation of the OGM consistent with its protocol.
<p>UNGP 31(d): OGMs are equitable when they seek 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.</p>	<ul style="list-style-type: none"> • The OGM’s protocol aims to provide stakeholders with sufficient information to progress their claims, including sharing information developed during any fact-investigation. It further provides that the OGM should keep the complainant updated on expected next steps. It also recognizes that claims may be advanced with support of a variety of external actors, including NGOs. We caution the OGM to watch for self-appointed community leaders seeking to profit from making false promises to claimants about their ability to deliver results from the OGM, as has appeared in other OGMs. • The OGM contemplates that complainants can seek assistance in submitting a grievance through a local NGO partner (at the company’s cost), or the Community Liaison Team. The protocol also contemplates mediated resolution and independent internal reviews, including by an Ombudsperson. Where agreements are not reached, or claims are not connected to the company, the company will help direct the complainant to other suitable fora, such as the police, courts or traditional dispute mediation mechanisms. In practice, the most likely alternative pathway is local courts. 	<ul style="list-style-type: none"> • Consider whether alternative pathways to remedy might exist besides the courts of Zambia.

	<ul style="list-style-type: none"> • Regarding additional experts, the OGM contemplates providing access to mental or physical health services, psychological counsellors, as well as independent counsel for claimants where appropriate (including in the context of settlement agreements). 	
<p>UNGP 31(e): OGMs are transparent when they keep parties to a grievance informed about its progress, and provide sufficient information about the mechanism’s performance to build confidence in its effectiveness and meet any public interest at stake.</p>	<ul style="list-style-type: none"> • Under the OGM’s protocol, parties who use the mechanism are to be informed quickly (within 5 days) whether their lodged concern is eligible for consideration. Affected stakeholders and their representatives consistently report that the OGM has been non-responsive after claims have been submitted. OGM personnel insist otherwise. There are some misperceptions. The OGM has been unable to respond to complaints that lack identifying information. Some stakeholders also appears to interchange the term “lack of any response” and the term “lack of a positive response.” However, a number of claims appear not to have had individual responses from the OGM. These include community-related claims. OGM personnel might respond to those kinds of claims through community meetings, as opposed to individual responses, where complainants may or may not be present. • Other stakeholders, including those seeking individual assistance unrelated to negative impacts, insist that they have received no response at all. We are unable to ascertain with confidence that responses have been provided. There also appear to be miscommunications around alleged commitments. Whereas company personnel apparently agreed to consider or review an issue, community members reported understanding the promise as more concrete. • The OGM protocol notes the importance of public reporting, and references that public data points for disclosure might include number of cases received, resolved, unresolved, average time cases it has taken to be resolved and case categories. There is limited public reporting regarding the OGM’s performance, however. This report will be somewhat helpful in that respect. • In a vein related to, but not directly part of, the OGM, stakeholders consistently reported a lack of understanding about the status of community projects against their timelines. • Management receives weekly reports about grievances and the OGM itself, and regular communication with senior company 	<ul style="list-style-type: none"> • Take concrete steps to respond to and update each claimant when a grievance has been received, and do so in a timely fashion, even for community-related impacts and claims outside the scope of the OGM. Document those communications in the file. • Develop a considered approach to apprising each claimant about the result of community-related grievances, and not just groups in the community or community leaders. • Take care not to make statements that may be perceived as commitments, and document the nature of communications in the file to create a contemporaneous record and allow for review. • For extremely common issues that are not alleging negative impacts caused or contributed to by Kagem or its value chain, develop a consistent response. • Consider using metrics and success stories as part of sensitization to help counter the narrative that there are no responses or positive outcomes when grievances are filed. • Increase public reporting on the progress and operation of the OGM, including a description of the OGM protocol or the protocol itself.

	<p>personnel at Gemfields about cases, outcomes and potential enhancements.</p>	
<p>UNGP 31(f): OGMs are rights compatible when they provide outcomes and remedies that accord with internationally recognized human rights.</p>	<ul style="list-style-type: none"> • Under the OGM protocol, remediation is tailored to the needs of individual claimants, in consultation with the claimants. Remedies contemplated include restitution, rehabilitation, satisfaction, and commitments to non-repetition. • The OGM has access to a range of experts, including an investigations expert, a mediation expert, a UNGPs expert, an Ombudsbody, and the Independent Monitor. • There are mixed responses in terms of perceived fairness, mostly related to perceived lack of responsiveness. There have been no legal disputes, campaigns, or media reports indicating that the process is flawed or that remedy was inadequate. • There is nothing in the design of the OGM, or how it functions, that prohibit individuals from pursuing claims through other channels. As noted above, the protocol also contemplates informing claimants of their rights to pursue cases through other channels, which OGM personnel state happens in practice. 	<ul style="list-style-type: none"> • Document in the file for each claimant when they have been advised about alternative pathways to address their claims
<p>UNGP 31(g): OGMs should serve as a source of continuous learning, including obtaining and considering feedback from affected stakeholders and identifying patterns and trends from grievances.</p>	<ul style="list-style-type: none"> • There is a general lack of proactively soliciting feedback, and assessing feedback that has been received. OGM personnel provide regular reports to Kagem management on the contacts that have been made, which are discussed with mine leadership. Some patterns are identified, though there have been limited changes to the OGM as a result (understandable given the limited claims alleging individual negative human rights impacts and the early stage of the OGM). • We have not seen evidence that the OGM has developed KPIs or metrics. 	<ul style="list-style-type: none"> • Develop a process to solicit and record feedback from individuals submitting claims. • Increase the number of metrics tracked in terms of contacts, and consider how the patterns of complaints and their resolution may inform changes to the mechanism. • Engage in a systematic analysis to identify relevant KPIs and future Independent Monitor reports can evaluate those KPIs, their appropriateness and to the extent to which they have been achieved.
<p>UNGP 31(h): Whether the OGM was developed based on collaboration with the affected stakeholders for which it was designed, with collaboration continuing over time.</p>	<ul style="list-style-type: none"> • The OGM’s design was developed following extensive stakeholder engagement with a variety of affected stakeholders and their representatives, as well as local leaders, with the design developed in consideration of the feedback. Since then, feedback regarding the operation of the OGM has occurred through Caritas, community leaders and others. OGM personnel do not appear to be actively soliciting feedback on a proactive basis, at least regularly. Nor do the files reflect such 	<ul style="list-style-type: none"> • Actively seek feedback on the OGM during stakeholder engagement meetings, and develop a procedure for seeking the perspectives of affected stakeholders who have submitted relevant claims.

	<p>conversations taking place with claimants. When feedback is received, it appears that OGM personnel may not always actively consider it, as evidenced by the persistent complaints about lack of responsiveness.</p> <ul style="list-style-type: none">• The Grievance Protocol contemplates informal dispute resolution when a grievance is lodged.	
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APPENDIX A

Assessment Template: Indicators, Tests and Evidence

EVALUATION OF THE OPERATIONAL LEVEL GRIEVANCE MECHANISM: PRINCIPLES, INDICATORS AND ASSESSMENT TESTS

Introduction

To assist in evaluating the Operational Level Grievance Mechanism (OGM), we have prepared the following assessment template. The template consists of certain indicators, assessment tests, and the type of evidence to review for each test. The indicators themselves were designed to correlate to the UN Guiding Principles on Business and Human Rights (UNGPs), and in particular UNGP 31, relating to the effectiveness criteria for non-judicial grievance mechanisms. In developing the indicators, we considered the UN Guiding Principles Assurance Guidance,² Shift's Doing Business with Respect for Human Rights Guide,³ CSR Europe's Management of Complaints Assessment Results,⁴ the International Commission of Jurist's Effective Operational-level Grievance Mechanisms,⁵ assessment resources associated with leading multi-stakeholder initiatives,⁶ and the indicators used for other grievance mechanism evaluation exercises. We also conferred with Triple R Alliance (TRA), and reviewed indicators that TRA and its expert personnel have developed and used.

We believe that in the context of our instruction as Independent Monitor, utilizing a template will allow for sustainable, repeatable and predictable outcomes, enhance transparency and predictability, and enable greater confidence by external stakeholders in the integrity and legitimacy of the independent assessment.

It is important to understand that the assessment template is not a "test" intended to specifically determine whether an OGM is effective or ineffective. The template will not yield passing or failing grades. Rather, it is a tool to help evaluate how an OGM may be designed or improved, the kind of documentation it might seek to generate and collect to allow for auditability and review, how it is perceived by a range of stakeholders, the way that it considers and reports information internally and externally, and other steps. Accordingly, evidence that is lacking for certain tests does not mean the OGM is weak or inadequate. It may mean that certain documents were simply not collected, or that responses from affected stakeholders are shaded by a desire for or disappointment with certain outcomes. Even a determination that certain indicators are not met is not necessarily indicative of a "problem." It may simply mean, for instance, that the indicators are not particularly relevant at that time or in that circumstance. In other words, the template is merely a device to translate the UNGPs into actionable steps "for designing, revising or assessing a non-judicial grievance mechanism" in an organized and coherent manner, and thus facilitate the kind of benchmarking that the Commentary to UNGP 31 expressly contemplates.

²<https://www.ungpreporting.org/assurance/#:~:text=The%20UNGP%20Assurance%20Guidance%20is,among%20other%20non%2Dfinancial%20reporting.>

³ <https://shiftproject.org/resource/doing-business-with-respect-for-human-rights/>

⁴ <https://static1.squarespace.com/static/5df776f6866c14507f2df68a/t/5e666810b7c6ef5fcd9bf296/1583769622168/MOC-A+Report.pdf>

⁵ <https://www.icj.org/wp-content/uploads/2019/11/Universal-Grievance-Mechanisms-Publications-Reports-Thematic-reports-2019-ENG.pdf>

⁶ See <https://www.voluntaryprinciples.org/resource/auditing-implementation-of-the-voluntary-principles-on-security-and-human-rights/>; <https://globalnetworkinitiative.org/wp-content/uploads/2018/08/Implementation-Guidelines-for-the-GNI-Principles.pdf>; <https://www.fairlabor.org/accountability/assessments/>.

Assessment Template: Indicators, Tests and Evidence

GUIDING PRINCIPLE 22		
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.		
INDICATOR	EVIDENCE RELATED TO INDICATOR	EVIDENCE REVIEWED
The OGM was established by the company as one pathway to remediate adverse human rights impacts which it has caused or to which it has contributed.	<ul style="list-style-type: none"> The OGM's formation documents, or other information, identifies that the company established the OGM to remediate negative human rights impacts to which the company is connected. Where individuals have been harmed at least in part due to actions, decisions or omissions of the company, there is evidence that the OGM has provided, contributed to or otherwise assisted in enabling remediation. 	<ul style="list-style-type: none"> Review the OGM's formation documents or other materials consistent with its formation to identify the purposes for which it was created. Review 5 or more grievance files to identify intake forms and investigative reports to determine (i) whether the company reasonably determined that it did or did not cause or contribute to negative impact,⁷ and (ii) if so, how remediation was determined. Interview (a) OGM personnel and (b) 3 or more claimants in which remedy was provided to confirm: (i) that the OGM in fact evaluated grievances, (ii) that there was a negative impact and the company reasonably caused or contributed to it, (iii) the OGM discussed remediation approaches with claimants, and (iv) that remediation was provided.
GUIDING PRINCIPLE 29		
To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.		
INDICATOR	EVIDENCE RELATED TO INDICATOR	EVIDENCE REVIEWED
Individuals who believe they have been adversely impacted by the company are able to access the OGM directly to raise their concerns, without first seeking other means of recourse.	<ul style="list-style-type: none"> OGM procedures allow access to any individual or group potentially adversely impacted by the company's actions, decisions or omissions. There is no evidence that the OGM requires that groups directly at risk of human rights impacts due to the company's actions, decisions or omissions ("affected individuals") file grievances through third parties or alternative processes. There is no evidence that the OGM requires "exhaustion" of alternative pathways of remediation. There is evidence of individuals or groups raising complaints to the OGM directly. 	<ul style="list-style-type: none"> Confirm the total number of grievances filed, to validate usage of the OGM. Review the OGM terms of reference to confirm that they allow any individual or group to file claims without first seeking other means of recourse. Interview (a) OGM personnel and (b) 3 or more claimants to confirm that claims have been filed immediately and directly without first seeking other means of recourse.

⁷ Cause in this sense is whether the company's activities on their own without other stakeholders were sufficient to cause a negative human rights impact. OHCHR Letter to Banktrack (2017), pg. 5. Contribution generally occurs in one of two ways: (1) via a third party, or (2) when acting in conjunction with another entity. The first type of contribution occurs when business takes an action or decision that "creates strong incentives for the third party to abuse human rights" or "where a company facilitates or enables such abuse." OECD Guidance, at 70; The UN Guiding Principles on Business and Human Rights and conflict affected areas: obligations and business responsibilities, at 973. In the second type, contribution can take place when a business activity leads to negative collective or cumulative impacts, such as drawing water from a well with other businesses that leaves little left for local residents or farmers (collective) or a relatively minor impact that over time leads to a significant impact (cumulative). IBA Guidance (2016), at pg. 20-21.

<p>The OGM is designed to directly address remediation for any harms caused or contributed to by the company.</p>	<ul style="list-style-type: none"> • The OGM has clear procedures through which it systematically considers how it may provide, contribute to or otherwise enable remediation for individuals who have been harmed by the company's actions or decisions. • There is evidence that OGM remediation efforts have been or are being implemented. 	<ul style="list-style-type: none"> • Review OGM procedures for claim consideration to identify whether its processes clearly set forth how it will (i) receive, (ii) evaluate, and (iii) remediate claims. • Interview (a) OGM personnel and (b) 3 or more claimants whose grievances have been remediated to confirm that the OGM procedures for (i) receiving, (ii) evaluating, and (iii) providing remediation have been followed.
<p>The OGM does not impair access to other pathways to remediation (e.g., judicial or non-judicial accountability mechanisms).</p>	<ul style="list-style-type: none"> • OGM procedures specifically address non-hindrances of claimants seeking remediation through other pathways. • There is no evidence that in practice the OGM requires claimants to waive their right to access other pathways to remediation. • There is no evidence that individuals were pressured or coerced by the company or OGM personnel to seek remedy through other pathways. 	<ul style="list-style-type: none"> • Review the OGM procedures to confirm that it addresses non-hindrances of claimants seeking other remedy pathways. • Interview (a) OGM personnel and (b) 3 or more claimants to confirm that (i) the OGM does not require claimants to waive any rights to seek remediation through other pathways, and (ii) there has been no pressure on claimants or potential claimants to forego other remedy pathways.
<p>GUIDING PRINCIPLE 31(A) Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes.</p>		
<p>INDICATOR</p>	<p>EVIDENCE RELATED TO INDICATOR</p>	<p>EVIDENCE REVIEWED</p>
<p>The OGM was designed to include elements of independence and accountability, including those that prevent parties to the grievance from interfering with its fair conduct.</p>	<ul style="list-style-type: none"> • OGM procedures specifically address accountability and independence. • The OGM's Tier 2 administrators, and any OGM oversight panel, are independent of the company in practice and perception. • There is evidence that senior management and individuals with responsibility for the company's human rights performance understand the company's responsibility to enable effective remediation where the company causes or contributes to negative human rights impacts. 	<ul style="list-style-type: none"> • Review the OGM procedures to confirm how they address (i) accountability, (ii) independence and (iii) non-interference. • Interview (a) OGM personnel, and (b) 3 or more claimants to establish their perspective on the independence of the OGM administrators and oversight panel. • Interview (a) the GM and senior leadership of the company, (b) company human rights personnel, (c) OGM personnel, and (d) personnel with oversight responsibilities for the OGM to: confirm their understanding of the company's responsibility to cooperate in or provide remediation.
<p>The OGM is perceived as fair and legitimate by affected individuals and the local community.</p>	<ul style="list-style-type: none"> • Mindful of concerns regarding individuals who may not have received the remedy they had hoped for, confirm that there is no evidence that affected individuals reasonably believe the OGM is unfair regarding (a) its independence, (b) its handling of claims, (c) the steps taken to resolve grievances, or (d) its outcomes. • There is no evidence that affected individuals believe the OGM will fail to 	<ul style="list-style-type: none"> • To assess potential grievance patterns, identify total number of grievances and appeals filed by: (i) month, (ii) nature and date of claim, (iii) gender, and (iv) channel through which the claim was filed. • Interview OGM personnel and at least (a) 3 or more claimants, (b) 3 or more non-claimant community members, and (c) 3 or more members of local vulnerable populations to determine the views of affected individuals regarding the OGM's fairness, respect and effectiveness, including

	<p>engage with them respectfully while handling complaints.</p> <ul style="list-style-type: none"> • Mindful of concerns regarding individuals who may not have received the remedy they had hoped for, confirm there is no evidence that affected individuals reasonably believe the OGM is unfair or illegitimate regarding (a) its independence, (b) its handling of claims, (c) the steps taken to resolve grievances, or (d) its outcomes. • There is no evidence that affected individuals believe the OGM will fail to engage with them respectfully while handling complaints. • There is evidence that affected individuals feel OGM is (a) free of bias, (b) free of discrimination, (c) culturally appropriate for the groups concerns, and (d) able to provide meaningful remediation in light of the perceived harms suffered. • There is evidence that feedback from potentially affected stakeholders was integrated into the OGM's framework. 	<p>specifically: its perceived (i) independence, (ii) treatment of claimants with fairness and respect, (iii) handling of claims, (iv) steps to resolve claims, (v) outcomes, (vi) bias, (vii) local cultural expertise, (viii) freedom from discrimination, and (ix) ability to deliver meaningful remediation.</p>
<p>Reasonable efforts are taken to ensure the safety and security of individuals who access the mechanism.</p>	<ul style="list-style-type: none"> • OGM procedures specifically address or consider the physical security of individuals who seek to access it. • There is no evidence that individuals who have accessed the OGM have been subjected to physical threats or violence. • There is no evidence that individuals have refrained from accessing the OGM out of fear of retribution. 	<ul style="list-style-type: none"> • Review the OGM procedures and other relevant documentation to confirm that the physical security concerns of claimants are addressed. • Interview OGM personnel, and at least (a) 3 or more claimants, (b) 3 or more non-claimant community members, and (c) 3 or more members of local vulnerable populations to confirm that they are not aware of (i) threats of retaliation from the company, employees or community members, or (ii) individuals declining to access the OGM out of fear for their safety.
<p>GUIDING PRINCIPLE 31(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.</p>		
<p>INDICATOR</p>	<p>EVIDENCE RELATED TO INDICATOR</p>	<p>EVIDENCE REVIEWED</p>
<p>The OGM has been promoted to individuals and communities where affected individuals are likely to learn of it, in a manner that accounts for local culture, literacy, language and need, with information sufficiently widely disseminated to reach materially all potential adversely impacted stakeholders.</p>	<ul style="list-style-type: none"> • There is a plan to promote the OGM to individuals or communities who may be negatively impacted by company decisions, actions or omissions. • There is evidence of OGM promotion and consultations in all local communities where affected individuals are believed to reside or work, or other locations designed to alert affected individuals to the OGM. • There is evidence that those promotional activities and consultations took place in a 	<ul style="list-style-type: none"> • Review any promotion or consultation plans developed for the OGM. • Review promotional materials developed for the OGM, such as flyers, posters, advertisements, and similar materials, and where and how they have been placed and/or disseminated. • Review documentation reflecting any community consultations that have occurred, including (i) the number of consultations, (ii) their location, length and dates, (iii) the language in which they took place, (iv) the

	<p>manner desired to maximize the likelihood that affected individuals would understand the information conveyed.</p>	<p>number of community participants who attended, and (v) any presentations or scripts.</p> <ul style="list-style-type: none"> • Interview 3 or more claimants about the consultations and promotional activities to validate their understanding of the information that was conveyed.
<p>The OGM has multiple channels for accessing it, is easy to use, and is adapted to account for local cultural norms and language at every material step.</p>	<ul style="list-style-type: none"> • OGM procedures specifically contemplate multiple means of lodging a grievance, and take into account local language concerns and the ways through which affected individuals may lodge claims. • There is evidence that affected individuals believe the OGM is easy to access, understand and use. 	<ul style="list-style-type: none"> • (a) Review the OGM procedures and (b) interview OGM personnel to confirm that: (i) there are multiple channels for reporting, (ii) reporting can occur in all relevant local languages, and (iii) the OGM procedures account for local cultural and contextual considerations.
<p>The OGM has been designed and implemented to account for direct and indirect costs, and physical and nonphysical hardships, that may prevent effective access or enhance harms experienced.</p>	<ul style="list-style-type: none"> • The design of the OGM specifically and consciously addresses potential barriers that may exist for affected individuals based on consultations, related past activities, the experiences of other OGMs, and similar factors. 	<ul style="list-style-type: none"> • Interview individuals involved in the design of the OGM to identify how they considered potential barriers to affected individuals, and how they were addressed. • Review the OGM procedures to confirm that it contemplates and addresses reasonably anticipated potential barriers for affected individuals.
<p>The design of the OGM has considered the potential (and perceived potential) for retaliation against affected individuals, and affected stakeholders do not believe there will be retaliation against them for accessing the OGM or receiving remedy under it.</p>	<ul style="list-style-type: none"> • The OGM includes a clear commitment against retaliation, supported by procedures designed to mitigate any risks of retaliation for accessing the OGM. • There is no evidence that affected individuals were intimidated out of using the OGM. • The OGM procedures include confidentiality to all claimants, and makes clear to claimants if, why and when confidentiality may not be provided. • There is no evidence of retaliation against claimants who have accessed the OGM. 	<ul style="list-style-type: none"> • Review the OGM procedures to confirm the commitment against retaliation and identify how it is implemented. • Review the OGM procedures to (i) confirm its commitment to confidentiality, (ii) identify how that commitment is implemented, and (iii) identify how explanations are to be provided to claimants where confidentiality may not be ensured. • Interview (a) OGM personnel, (b) 3 or more claimants, and (c) community representatives to confirm there have been no (i) reported/perceived claims of intimidation or retaliation, or (ii) known instances of individuals afraid to use the OGM.
<p>The physical location of the OGM and its operating hours are conducive to accessing it.</p>	<ul style="list-style-type: none"> • The OGM is located outside of the company's property. • There is evidence that the OGM is open during time periods when stakeholders with differing commitments can access it. • There is no evidence stakeholders cannot access the OGM because of its physical location or hours of operation. 	<ul style="list-style-type: none"> • Confirm the location of the OGM and its operating hours, and verify that its location and operating hours are reasonably conducive to accessing it in light of the local context and needs of affected individuals. • Interview OGM participants and at least (a) 3 or more claimants, (b) 3 or more non-claimant community members, and (c) 3 or more members of local vulnerable populations to confirm that they are unaware of affected individuals being unable or deterred from accessing the OGM because of its location or hours.

<p>The OGM has a process to provide reasonable assistance for affected individuals to effectively access the OGM, if needed.</p>	<ul style="list-style-type: none"> • OGM procedures contain identified steps to provide assistance to affected individuals who may face barriers, and a process through which affected individuals may request assistance. 	<ul style="list-style-type: none"> • Review the OGM procedures to identify how (i) barriers to access are anticipated and addressed, and (ii) affected individuals may request assistance. • Interview OGM participants to confirm how barriers to access have been addressed in practice, including any specific instances in which – despite the OGM’s design - barriers still had to be addressed.
<p>GUIDING PRINCIPLE 31(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.</p>		
<p>INDICATOR</p>	<p>EVIDENCE RELATED TO INDICATOR</p>	<p>EVIDENCE REVIEWED</p>
<p>The OGM was designed with clear steps for each material stage in the process, as well as safeguards specific to serious or sensitive grievances, with relevant timeframes.</p>	<ul style="list-style-type: none"> • OGM procedures are written in simple and plain language and: (a) address how complaints will be processed, (b) allocate responsibilities and accountabilities for handling complaints, (c) provide reasonable timeframes for addressing complaints, and (d) are designed to enable transparency for claimants about how their complaints are being handled. • OGM procedures provide for: (a) engagement with the claimant in a manner that enables a fair and respectful process, (b) support to the claimant whenever necessary to enable a fair and respectful process, and (c) steps to address issues that raise severe human rights impacts or represent significant disputes. • There is evidence that (a) these procedures have been implemented, (b) complaints typically are processed within prescribed time limits, (c) proposed solutions have been shared with claimants, and (d) solutions are compatible with human rights standards. 	<ul style="list-style-type: none"> • Review the OGM procedures to confirm they are written in simple and plain language, and identify (i) how complaints will be processed, (ii) how responsibilities and accountabilities for handling complaints are assigned, (iii) the contemplated timelines associated with each OGM step, and (iv) how claimants will be informed of the progress of their claims. • Review the OGM procedures to confirm that they address (i) fair and respectful treatment of claimants, (ii) support for claimants when appropriate to enable a fair process, and (iii) how severe human rights impacts or significant disputes will be treated in the OGM. • Interview (a) OGM personnel and (b) 3 or more claimants to establish their views on whether: (i) claimants have been treated with respect, (ii) support has been provided where necessary, (iii) severe human rights impacts or significant disputes are addressed as contemplated in the procedures, (iv) the indicative timelines are generally followed, (v) claimants are regularly informed of the progress of their claims, (vi) proposed remediation is developed through engagement and collaboration with claimants, and (vii) remediation is compatible with human rights standards.
<p>The material steps in accessing and seeking remedy under the OGM, as well as potential outcomes and indicative time frames, have been communicated to affected individuals in a manner they could easily understand.</p>	<ul style="list-style-type: none"> • There is a process to communicate to claimants the material steps in accessing and seeking remedy under the OGM, including potential outcomes and indicative time frames, which is followed in practice. • There is evidence that affected individuals (a) know how to submit a complaint should they wish to do so, (b) are able to access at least one channel to submit a grievance given their language, literacy, 	<ul style="list-style-type: none"> • (a) Review the OGM procedures addressing communication about (i) the OGM’s material steps, (ii) potential outcomes, and (iii) indicative time frames to stakeholders, and confirm those procedures are followed in interviews with (b) OGM personnel and (b) 3 or more claimants. • Interview 3 or more claimants to confirm they (i) understood how to submit a claim, (ii) could effectively access a complaint channel, (iii) did not perceive barriers to filing a claim,

	<p>geographical and cultural needs, (c) do not perceive any barriers to raising complaints should they wish to do so, (d) understand how complaints will be addressed, and (e) understand any limitations on the remedy that the process can provide.</p>	<p>(iv) understood the process to submit claims, and (v) understood at the outset the potential outcomes (including limitations on the nature, form or quantum of remedy).</p>
<p>The OGM is sufficiently resourced to address the volume of concerns consistent with the indicative timeframes, and with sufficient internal expertise to address the range of grievances anticipated.</p>	<ul style="list-style-type: none"> • The company has provided sufficient resources to enable the effective operation of the OGM, given its nature and volume of its cases. • There is no evidence that the OGM has (a) materially failed to meet its indicative time-frames, (b) altered its published processes because of resource constraints, or (c) altered the remedy it has provided because of budgetary concerns. • The funding of the OGM has sufficient indicators of independence to avoid the (a) risk and (b) perception that the grievance process and outcomes are influenced by its funders. • The OGM is managed by individuals with appropriate training in (a) engaging with victims and vulnerable individuals, (b) handling sensitive complaints, (c) the specific types of complaints likely to arise, and (d) data protection. 	<ul style="list-style-type: none"> • Review OGM procedures to identify indicative timeframes. • Review the OGM operating budget to determine its reasonableness in light of the scope of its contemplated operations. • Review (a) any terms of reference associated with OGM funding to identify steps to promote OGM independence, and (b) any indicators or steps supporting that independence. • Review (a) any information made public to try to generate confidence about the OGM's independence, and (b) documents reflecting how that information has been disclosed to claimants and affected individuals. • Interview 3 or more claimants to evaluate the extent to which they believe the OGM is independent of its funder. • (a) Review any changes to OGM procedures, and (b) interview OGM personnel to understand the rationale for the changes and confirm they were not made because of budgetary reasons. • (a) Review the OGM procedures related to how the nature and quantum of remedy is determined, and then (b) review 5 or more case files and (c) interview OGM personnel to: confirm that remedy was (i) provided consistent with the contemplated processes and (ii) not limited or adjusted because of budgetary concerns. • Review (i) the total caseload of the OGM, (ii) the number of dedicated personnel, (iii) the average length of time a case takes to progress as measured against the indicative timelines, (iv) the number of cases that fell within and outside the indicative timelines, (v) the cases that have taken the longest and shortest to resolve and the reasons, (vi) and the thoroughness of fact-finding and review. • Interview OGM personnel to confirm that they have experience and training regarding: (i) human rights, (ii) engaging with victims and vulnerable individuals, (iii) handling issues of personal sensitivity, (iv) the types of claims

		the OGM has received, and (v) data protection.
The OGM maintained sufficient flexibility to adapt its processes to situations as needed to respect rights, including those of vulnerable populations or groups requiring assistance to access the OGM.	<ul style="list-style-type: none"> The procedures of the OGM are sufficiently flexible to allow for adjustment based on the specific facts of each case and the circumstances of each claimant. 	<ul style="list-style-type: none"> (a) Review the OGM procedures to verify they allow for adaptation in light of specific case concerns, and (b) interview OGM personnel to understand how those procedures are implemented in practice, with specific examples where it has occurred.
The OGM was designed to allow for monitoring and review of effectiveness of each key step, to identify gaps between the process as designed and as implemented.	<ul style="list-style-type: none"> There is a process to (a) evaluate the consistency between the OGM's design and practice at each key step, (b) evaluate the effectiveness of each key step, including through feedback from those who have brought complaints, and (c) modify any step depending on the evaluation, including in relation to: (i) submitting and reviewing cases, (ii) engaging with claimants about the case once filed, (iii) investigating claims, (iv) providing claimants with the results of the investigation, (v) engaging with claimants about remediation, and (vi) providing or enabling remediation. There is evidence that complaints involving severe human rights impacts or significant disputes over outcomes have been escalated, consistent with the design of the mechanism. 	<ul style="list-style-type: none"> (a) Review the process to evaluate the consistency between the OGM's design and implementation at each key step, (b) review the process to evaluate the effectiveness of each key OGM step, which should include feedback from claimants who have submitted grievances, and (c) interview OGM personnel to confirm that adjustments to the OGM have been made based on (a) and (b). (a) Review the OGM procedures to confirm they contemplate escalation of cases involving severe harm, and (b) review 3 or more case files involving allegations of severe human rights impacts to confirm their escalation consistent with the OGM's design.
GUIDING PRINCIPLE 31(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.	
INDICATOR	EVIDENCE RELATED TO INDICATOR	EVIDENCE REVIEWED
The OGM was designed to provide affected individuals with equal access to information collected during any fact-finding process, and implemented consistent with that design.	<ul style="list-style-type: none"> The OGM has specific processes that enable affected individuals to receive the same results of fact-finding efforts that the OGM may receive, and there is evidence that they receive that information in practice. 	<ul style="list-style-type: none"> Review the OGM procedures to confirm that stakeholders are to receive the results of any fact-finding efforts. (a) Interview OGM personnel, (b) review 5 or more case files, and (c) interview 3 or more claimants to confirm that claimants receive the results of any OGM fact-finding efforts.
The OGM provides information to affected individuals about alternative pathways to remedy.	<ul style="list-style-type: none"> There is evidence that all claimants and affected individuals have access to at least one alternative judicial or non-judicial pathway to remedy besides the OGM, which is perceived as credible and fair. There is evidence that the OGM provides potential claimants with information about other pathways inside or outside the company. 	<ul style="list-style-type: none"> (a) Interview OGM personnel, and (b) engage with local experts, to confirm that alternative pathways exist for remedy that (i) are reasonably trusted and (ii) do not impose undue barriers on claimants. Review OGM procedures and documentation to confirm that claimants receive information about alternative remedy pathways.

<p>The OGM (Tier 2) will provide claimants access to independent expert advice as required (including in relation to severe impacts and in connection with settlement agreements).</p>	<ul style="list-style-type: none"> • There is evidence that any advisors the OGM provides (a) act independently of the OGM or the company and in the best interests of the claimant, and (b) can be chosen by and are acceptable to the individuals they are supporting. • There is evidence that affected individuals (a) are aware of the availability of any resources that the OGM, the company or third parties may offer them in connection with their grievance, (b) have confidence that any advisors will act (and have acted, where relevant) independently of the company and in their interests, and (c) have felt that advisors (where used) helped them in the process. 	<ul style="list-style-type: none"> • Review the OGM procedures for providing independent assistance, including (i) when it may be required, (ii) how individuals are selected to provide the assistance, (iii) the role of the claimant in selecting an advisor, and (iv) how the independence of any external advisor is maintained. • Review (a) 5 or more case files, (b) any agreements with independent advisors, and (c) interview OGM personnel, 3 or more claimants and one or more independent advisor to: (i) identify the extent to which independent assistance has been provided to claimants in connection with their claims, (ii) confirm that any contracts or agreements with providers include clauses reflecting their independence and duty to the claimant, (iii) confirm advisors consider themselves to owe a duty to the claimants, (iv) verify that any advisors were acceptable to the claimants, (v) verify that the claimants considered any advisors to be independent, and (vi) verify the claimants believed the advisors were helpful in understanding or advancing their claims.
<p>The OGM includes independent processes to mitigate perceived power imbalances, and has the flexibility to implement additional measures if a perceived power imbalance exists.</p>	<ul style="list-style-type: none"> • There is evidence that the design of the OGM considered how local power imbalances might take place, and that processes specifically address those potential imbalances. • The OGM has sufficiently flexibility in its design to address "real time" perceived power imbalances that were not originally contemplated. 	<ul style="list-style-type: none"> • Interview individuals associated with the design of the OGM to understand the potential local power imbalances identified, and how they were addressed. • Review the OGM procedures to confirm that (i) steps to address local power imbalances have been integrated, (ii) the OGM has flexibility to adapt to address those imbalances, and (iii) OGM personnel are aware of the potential imbalances and authorized to react as needed.
<p>GUIDING PRINCIPLE 31(E)</p>	<p>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</p>	
<p>INDICATOR</p>	<p>EVIDENCE RELATED TO INDICATOR</p>	<p>EVIDENCE REVIEWED</p>
<p>The OGM was designed to provide, and provides in practice, regular updates to claimants about the status and progress of their claims.</p>	<ul style="list-style-type: none"> • A process exists to provide claimants with periodic updates regarding their claims from the time of their submission until resolution. • There is evidence that the process is followed in practice. • There is no evidence that claimants feel uninformed about the status and progress of their claims. 	<ul style="list-style-type: none"> • Review the OGM procedures to identify how they contemplate providing claimants with updates about their claims, throughout the process. • Interview (a) OGM personnel and (b) 3 or more claimants to confirm that the OGM's stated process regarding claimant notification is followed in practice. • Interview 3 or more claimants to confirm they have felt reasonably informed about the status of their claims throughout the process.

<p>The OGM was designed to provide, and regularly provides, public reports of its performance (whether through KPIs and metrics, case studies, and/or handling certain cases), while respecting claimant confidentiality.</p>	<ul style="list-style-type: none"> • A process exists to support the collection and publication of meaningful data, metrics or performance against KPIs regarding the OGM's performance. • (a) Evidence exists that the process to provide public information about the OGM is being followed, (b) reported examples of actions taken by the company to provide or enable remedy for actual human rights impacts are accurately represented, including with regard to any context that is relevant to understand the actions taken, (c) examples of remedy for any particularly severe impacts with which the company has been involved are included (subject to legitimate legal or other constraints as recognized under Reporting Principle G of the UN Guiding Principles Reporting Framework), and (d) the examples provided are balanced and broadly representative of the company's performance. • (a) Assessments of the OGM, including by the Independent Monitor, are made public in a form that fairly represents the findings, and (b) any lessons or recommendations from the review have been or are being implemented, or the decision not to implement them has been clearly explained. 	<ul style="list-style-type: none"> • Identify a process used to collect information to evaluate and publicize the OGM's performance, which may include data, metrics, or performance against KPIs. • (a) Interview OGM personnel to confirm that the process to collect and publicize information about the OGM is being implemented, (b) review the data, metrics or information collected under this process and confirm (i) it is meaningful to evaluate the OGM's implementation and (ii) it is used as part of public reporting. • (a) Review any publicly reported cases or anecdotes about the OGM, (b) review data and (c) conduct interviews of OGM personnel (and relevant claimants if needed) to confirm: (i) the accuracy of OGM disclosures, and (ii) that they are representative of the cases or issues before the OGM and/or the OGM's performance. • Cases of severe negative impacts are disclosed consistent with Reporting Principle G of the UN Guiding Principles reporting Framework and are accurate, subject to reasonable constraints. • The OGM makes public (i) its metrics and KPIs, along with (ii) relevant substantive information, (iii) as well as lessons learned and how they have been integrated, in order to allow stakeholders to evaluate the performance of the OGM.
<p>The OGM provides internal reporting consistent with relevant international reporting standards under the UNGPs.</p>	<ul style="list-style-type: none"> • There is (a) regular internal reporting to key internal individuals, including OGM administrators, the company and others connected to or overseeing the OGM, (b) that includes relevant metrics, as well as substantive information (such as case studies, survey results, and stakeholder reports), sufficient to evaluate the OGM against UNGP 31 in its implementation. 	<ul style="list-style-type: none"> • Review documentation confirming the regular internal reporting of information about the OGM's operations to individuals overseeing the OGM, which includes relevant metrics and data relevant to OGM KPIs, as well as substantive issues, concerns, or patterns, which permits effective oversight of the OGM.
<p>GUIDING PRINCIPLE 31(F) Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights</p>		
<p>INDICATOR</p>	<p>EVIDENCE RELATED TO INDICATOR</p>	<p>EVIDENCE REVIEWED</p>
<p>The OGM was designed to provide, and does provide, outcomes and remedies consistent with international norms, as appropriately applied in the local context.</p>	<ul style="list-style-type: none"> • There is evidence that the OGM was designed to provide (and does provide) remedies aimed at restoring affected individuals to the status preceding the harm that was done, through restitution, compensation, rehabilitation, satisfaction, and/or guarantees of non-repetition.⁸ 	<ul style="list-style-type: none"> • Review the design of the OGM to identify contemplated remedies, and validate that the design is consistent with restoration, through restitution, compensation, rehabilitation, satisfaction, and/or guarantees of non-repetition.

⁸ **Restitution** is intended to restore, to the extent possible, whatever has been lost (position in the community, property, liberty, etc.), and restore the victim to the state preceding the harm that took place. **Compensation** is appropriate in those cases where damage can be economically assessed.

		<ul style="list-style-type: none"> Review 5 or more case files to identify the nature of remedy provided, and evaluate that remedy against international human rights standards.
The OGM has access to experts in international human rights and local culture in considering appropriate outcomes and remedies.	<ul style="list-style-type: none"> Experts have been identified and engaged to provide advice, if requested, on appropriate outcomes. 	<ul style="list-style-type: none"> Review the experts who have been or may be consulted to provide advice on appropriate outcomes, and understand why they have or have not been contacted in the context of evaluating outcomes and remedies.
Claimants believe that the outcomes and remedies they received are equitable and proportionate in light of the specific harms as reflected in their claims.	<ul style="list-style-type: none"> There is evidence that recipients of remedy consider that the remedy provided was equitable. There is evidence in instances where claimants/recipients do not consider the remedy acceptable or effective, that they found the process itself to be fair and respectful. There are no legal disputes, campaigns, credible media or other reports indicating that recipients consider remedy to have been substantially inadequate. 	<ul style="list-style-type: none"> Review 5 or more case files to (a) confirm that where remedy was provided it was reasonably proportionate to the harm and the evidence, and (b) identify documentation verifying that claimants at the time of remedy were content with it. Interview 3 or more claimants to confirm that they believed the remedy they received was (i) fair, and/or (ii) that the process was fair regardless of the remedy provided. Review media reports, legal claims, NGO reports and other public source material to identify whether recipients have expressed concerns regarding the remedy provided.
The OGM does not impair the rights of claimants to seek accountability through other mechanisms.	<ul style="list-style-type: none"> The OGM contains processes that specifically do not inhibit individuals from pursuing claims through other channels, should they so choose Claimants are made aware, through written documentation and oral explanations, of their right to pursue claims through other channels. 	<ul style="list-style-type: none"> Review the OGM procedures to confirm that individuals may, at any time, pursue claims through other channels and the OGM places no restrictions on seeking remedy through other pathways. Review OGM-related documentation regarding information provided to claimants, and interview (a) OGM personnel and (b) 3 or more claimants, to confirm that claimants are advised of their right to pursue claims through other channels.
GUIDING PRINCIPLE 31(G)	A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms.	
INDICATOR	EVIDENCE RELATED TO INDICATOR	EVIDENCE REVIEWED
Feedback on experience with the OGM is solicited from users on an ongoing basis, including in regard to predictability, accessibility,	<ul style="list-style-type: none"> There is evidence that the OGM engages with claimants, including those with finalized claims, to gain insights into their 	<ul style="list-style-type: none"> Interview (a) OGM personnel and (b) 3 or more claimants to discuss claimant engagement with the OGM in relation to the their experiences, including specifically

These cases include: “(a) Physical or mental harm; (b) Lost opportunities, including employment, education, and social benefits; (c) Material damages and loss of earnings, including loss of earning potential; (d) Moral damage; and (e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.” Compensation can take the form of money or other fungible trade-offs. **Rehabilitation** covers medical or psychological care and social or legal services needed to restore the victim. **Satisfaction** includes such measures as a cessation of the violations; an acknowledgment of the harm done, including verification of the facts and public disclosure of the truth; public apologies from those responsible, including acceptance of responsibility; and sanctions against those responsible for the harm. **Guarantees of non-repetition** include a number of measures to prevent further abuses. These include investigation into crimes that result in human rights violations, and prosecution for those responsible for causing harm, while respecting the right to a fair trial. Changes in policies, procedures, laws, and oversight may also be necessary to ensure non-repetition.

<p>transparency, equitability, and remedy, with responses considered for potential adjustments.</p>	<p>experiences in light of the UNGP 31 criteria.</p> <ul style="list-style-type: none"> • There is evidence that the results of those consultations are continuously considered in evaluating the OGM procedures. 	<p>regarding their (i) trust, (ii) the ease of access and barriers, (iii) local awareness of OGM, and (iv) remedy</p> <ul style="list-style-type: none"> • Interview OGM personnel to (i) identify specific examples of claimant feedback integrated into the OGM procedures or operations, and (ii) confirm that there is continuous engagement with claimants around the OGM's operational effectiveness.
<p>The OGM was designed to, and in fact does, identify patterns, trends, and key learnings for (a) its own potential improvement, and (b) the prevention of future harms at the company.</p>	<ul style="list-style-type: none"> • The OGM has a process for identifying trends and patterns in complaints and their outcomes, which is capable of identifying relevant information regarding improvement of the OGM and preventing future company-related harms. • Information or data used to identify trends is relevant and reliable. • Trends or patterns identified are (a) fairly assessed, (b) fairly articulated, and (c) placed in the context necessary to understand their implications. 	<ul style="list-style-type: none"> • Interview OGM personnel to (i) confirm that they are seeking to collect data to identify trends related to OGM steps, claims and outcomes, as well as company operations, (ii) understand how that data is being collected and those trends are being tracked and considered, (iii) confirm that the trends are relevant to the OGM's and company's operations. • (a) Review metrics or KPIs retained by the OGM regarding the nature and demographics of claims and claimants, (b) validate the sources of that information to confirm the reliability and reasonable completeness of the data tracked, and (c) interview OGM personnel to understand the rationale behind tracking those specific areas.
<p>Patterns, trends and lessons from the OGM were (a) considered and/or acted upon to improve the mechanism, and (b) shared with the company to prevent future harms.</p>	<ul style="list-style-type: none"> • If facts, trends or patterns from complaints or claimant feedback clearly indicate a need to introduce or change OGM policies, processes or practices, there is evidence that the OGM (a) has acted upon those lessons, and (b) has shared the lessons with any relevant third parties. • If facts, trends or patterns in complaints received or claimant feedback may be relevant to the company's operations, activities or decisions, the OGM has shared that information with the company. • Any lessons the OGM has drawn from analyzing the pattern of complaints or feedback received are based on (a) a robust analysis of the trends and patterns identified, and (b) any additional information necessary to draw informed conclusions. 	<ul style="list-style-type: none"> • Interview OGM personnel to identify specific instances in which facts, trends or patterns have been integrated into the OGM procedures and/or provided to the company to improve its processes. • Interview OGM personnel to confirm (a) that perceived lessons from evaluating the pattern of complaints and feedback received are (i) valid, (ii) reasonable, and (iii) meaningful in light of the OGM's operations, and (b) that the OGM has sought additional information where needed to help reach such conclusions.
<p>The OGM established context-appropriate KPIs that were tracked and fairly measured.</p>	<ul style="list-style-type: none"> • The OGM has established and tracks performance against KPIs to demonstrate its robustness and effectiveness. • The KPIs established by the OGM are meaningful in light of its goals and ambitions, its operating context, and international human rights norms. 	<ul style="list-style-type: none"> • (a) Interview OGM personnel to identify how the OGM's KPIs were developed, and (b) review the OGM's KPIs, to: confirm that they explicitly or implicitly encompass (i) a good faith commitment to implementing the OGM as designed, (ii) OGM performance against the goals it has set and UNGP 31, (iii) the

		local environment, and (iv) human rights norms.
GUIDING PRINCIPLE 31(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.	
INDICATOR	EVIDENCE RELATED TO INDICATOR	EVIDENCE REVIEWED
The mechanism was designed following meaningful engagement with affected individuals, their representatives, and community groups about the grievance process and outcomes, with their perspectives integrated.	<ul style="list-style-type: none"> • There is evidence that engagement with a range of stakeholders occurred before the OGM was launched, and there is evidence that the feedback was integrated into the design. 	<ul style="list-style-type: none"> • Review (i) any consultation plans for the design of the OGM, and (ii) documentation reflecting stakeholder consultation in the design of the mechanism. • Interview individuals involved in the design of the OGM to identify the nature of feedback provided by stakeholders and how it was implemented, including specific examples.
The OGM solicits and receives regular feedback from affected individuals, their representatives and community members on its performance.	<ul style="list-style-type: none"> • The OGM has procedures for ongoing engagement with stakeholders, and there is evidence that such engagement occurs. 	<ul style="list-style-type: none"> • Interview (a) OGM personnel, (b) 3 or more claimants, (c) 1-2 claimant representatives, and (d) non-claimant community members to confirm engagement between stakeholders and the OGM, including in relation to (i) the OGM's performance, and/or (ii) how feedback is integrated into the OGM's operations. • Review OGM procedures to identify how feedback from affected individuals is integrated into the OGM's operations.
The mechanism was designed to, and in fact does, focus resolution of grievances on dialogue and joint problem solving.	<ul style="list-style-type: none"> • The OGM procedures focus on grievance resolution through dialogue and engagement, and there is evidence that grievances in fact are resolved consensually and through collaboration as opposed to unilateral OGM determinations. 	<ul style="list-style-type: none"> • Review the OGM procedures to confirm that the process through which grievances are resolved is through engagement and dialogue. • Identify the percentage of grievances resolved and appealed. • Interview (a) OGM personnel and (b) 3 or more claimants whose grievances were resolved to: (i) identify the process through which the grievances were resolved, and (ii) confirm that it was through collaboration and consensus.