

MONITORING

This document is one of five concept briefs published by the Worker-driven Social Responsibility (WSR) Network. The briefs are for practitioners who seek to understand and implement the WSR model. Since the concepts and elements described in these briefs must be implemented as an interlocking and self-reinforcing system, the briefs are not intended for use outside of the WSR context. Taken individually, these concepts do not constitute the WSR model, which requires full implementation of all of these elements together. Additionally, the Network is engaged in an ongoing process to further develop and expand the WSR paradigm and as the model expands to new sectors and workplaces, this will inform our understanding of its implementation.

OVERVIEW

Workers are the only actors in the supply chain with a vital and abiding interest in ensuring that their rights are protected. As importantly, only workers are fully aware of the many manifestations of abuse that occur in their workplaces. Indeed, they are the first to know about the vast majority of abuses. Consequently, workers, and their organizations, are uniquely situated to monitor their own rights. The WSR model enables workers to utilize their unique capacity to serve as frontline monitors through each of the following elements:

- Education on workers' rights and redress mechanisms under the Code/Standard. One of the most proven strategies is peer-to-peer education;
- An efficient and accessible worker complaint intake, investigation and resolution procedure that ensures workers are comfortable raising complaints and provides strict protections against retaliation when they do so; and
- A program of comprehensive inspections* and corrective action measures that assess all rele-

vant aspects of a Supplier's operation, conducted by a technically competent monitoring organization in which the workers have confidence and trust.

Suppliers must fully cooperate with all of these monitoring protocols, which are backed by the market consequences established in the WSR Agreements with Signatory Buyers. A violation of transparency or cooperation with any of these protocols by the Supplier could, in and of itself, result in the suspension of the Supplier's eligibility to sell to all Signatory Buyers. Importantly, under a WSR agreement, Buyers also agree to provide financial incentives to Suppliers to support the increased costs associated with coming compliance, following identification of violations through the monitoring or complaint process.

*These briefs use the term "inspection" to refer the set of compliance-monitoring activities set forth in the section below, titled "Inspections and Corrective Actions." This terminology includes the exemplary, wall-to-wall auditing practices developed by the Fair Food Program for US agriculture. The term "audit" is not used in this brief, however, since the widespread use of perfunctory CSR audits has compromised its meaning, particularly in international sectors.

This document addresses the following aspects of a monitoring regime for a WSR Program:

1. Monitoring Organization
2. Complaint Intake, Investigation and Resolution
3. Audits/Inspections and Corrective Actions
4. Information Management and Impact Evaluation

MONITORING ORGANIZATION

WSR Agreements with Signatory Buyers should establish that the worker organization or an organization it designates will be responsible for monitoring Suppliers' compliance with the Code/Standard. The worker organization must then decide whether to keep these technical functions "in house" or to contract with or create a monitoring organization to serve this purpose. There are compelling reasons to consider a standalone monitoring organization, including the specialized skillsets required for drafting reports and corrective plans; securely managing large volumes of sensitive data; and performing financial, legal and other types of compliance analysis. This division of labor also allows the worker organization to focus on the overall development, oversight, and governance of the program supporting the WSR Agreement, as well as allowing it to focus on other functions, including worker education.

Under this arrangement, the worker organization is still able to serve as a quality control backstop to ensure that the monitoring organization is effective. Opportunities for collaboration range from the worker organization sharing its insights into the industry's workplace dynamics to co-designing audit and complaint investigation methods and reviewing findings and proposed corrective action measures and complaint resolutions. The worker organization may also receive and investigate complaints in collaboration with the monitoring organization.

The monitoring organization should develop extensive expertise to monitor the implementation of the Code/Standard and offer 24/7 availability for worker complaint intake. Therefore, most existing monitoring organizations would generally be a poor fit for WSR Programs. First, current industry players' rate structures render their services cost-prohibitive for anything deeper than perfunctory and infrequent auditing with little follow-up on corrective actions. Second, there is extensive evidence that they generally lack meaningful experience detecting and documenting violations of the Code/Standard as well as with the "deep dive" investigative and problem-solving techniques required by WSR. Many of these monitors have developed their experience and business model based on providing services to companies interested in low-cost solutions and motivated largely by fear of bad publicity, and thus do not have expertise in driving sustainable change. Third, their own organizational cultures and ambitions may create conflicts of interest or other tensions within an already complicated landscape of relationships among the worker organization, Suppliers and Buyers.

It must be noted that there are significant start-up costs—in time, money and human resources—for creating a standalone, nonprofit monitoring organization. This should be viewed by the worker organization as a very serious commitment with real opportunity costs. In the final analysis, however, a dedicated monitoring organization—grounded in an objective, fact-finding process and fully attuned to the dynamics of power and partnership that will shape Code/Standard implementation—is a tremendous asset to any WSR Program. It is imperative that the monitoring organization be governed by the worker organization and its allies. While some degree of power-sharing may be necessary given the political circumstances of a given case, it is essential to prevent "capture" of the monitoring organization by the Suppliers or Signatory Buyers. The integrity of the monitoring organization, and its independence from employer interests, is paramount.



COMPLAINT INTAKE, INVESTIGATION AND RESOLUTION

When workers encounter a potential Code/Standard violation, WSR provides them protected access—with strict consequences for retaliation—to a fast, effective and proven complaint process. The complaint procedure is essential to pro-actively manage risks before they become bigger problems or violations of the Code/Standard, and Suppliers who truly embrace WSR understand this benefit. Traditional audits are, at best, a snapshot of working conditions during a brief window of time, while an effective complaint resolution mechanism functions like a continuous video feed from the workplace, providing an open channel for workers (and sometimes sympathetic supervisors) to bring Code/Standard violations to the attention of investigators without fear of retaliation. An effective complaint system not only serves to identify and remedy violations after the fact, but to prevent abuses before they happen as well, as employers who would violate their workers' rights are made aware that violations will not go undetected and their consequences may well be greater than any possible benefits they might derive from the abuse.

It is important that workers can lodge complaints in the most accessible way, either directly or through their organizations. One best practice is for the monitoring organization to staff a toll-free hotline that is answered by a trained and culturally and linguistically competent investigator, 24 hours a day, 7 days a week. This ensures that workers who are bringing forward complaints, often with initial reticence, speak with individuals who have deep knowledge of the Code/Standard, industry actors and practices, and proper complaint intake techniques. (This stands in sharp contrast to the generally ineffective outsourced call center model used for most company whistleblower services.) Com-

plaints are then investigated and resolved by the monitoring organization with an emphasis on risk prevention. The cooperation of the Supplier is necessary to resolve the complaint and the Buyer may be required to intervene with the Supplier in order to obtain such cooperation. When communicating with the Supplier and/or Buyer about a complaint, the monitoring organization should protect the worker's confidentiality. If the worker's confidentiality cannot be protected (for example, in the case of a complaint in which the violation in question is so specific that the identity of the complainant will be obvious to the Supplier) the monitoring organization should explain this risk to the worker before sharing any information with the Buyer or Supplier to determine if the worker wants to move forward with the complaint (though the Program's strict provisions against retaliation should provide workers the confidence needed to carry through with the complaint process, and this has in fact been the case once a clear track record of protecting complainants has been established).

The education program can build awareness of and encourage workers to utilize the complaint procedure. However, a WSR complaint procedure is ultimately judged by workers based on the speed and efficacy of its resolutions and by the Program's ability to protect workers from retaliation. The need for prompt resolutions is an often-overlooked aspect of a successful system because resolutions that linger for weeks or months, even if ultimately favorable, may leave workers feeling powerless in the interim, thus undermining the system itself and might even exacerbate the (alleged) issue(s) underlying the complaint. Whenever possible and appropriate, complaint resolutions include an educational component, consisting of meetings with relevant

supervisors, so that workers can see that complaints are heard and addressed, without retaliation, and supervisor conduct can be effectively modified. To ensure that improvements are sustained over time, the monitoring organization should maintain ongoing communications with workers and verify

as needed that compliance is continued. All steps in the complaint process should be documented in the monitoring organization's database, resulting in an invaluable compilation of information on the conduct of individuals and company practices.

INSPECTIONS AND CORRECTIVE ACTIONS

When combined with effective worker education and a protected complaint procedure, independent inspections can identify and address Code/Standard violations that take place outside the workers' direct experience. To be effective, WSR inspections must go well beyond the generally superficial methods commonly used in corporate social responsibility programs and instead include meaningful interviews of a percentage of workers sufficient to establish a comprehensive picture of workplace dynamics, as well as unfettered access to management personnel and documents.

The monitoring organization must design an inspection program that assesses the implementation of each provision of the Code/Standard, not just a handful of high-level standards. Inspection protocols should then be developed to help ensure in-depth worker, supervisor and management interviews; these protocols can be complemented with the inclusion of each Suppliers'—and even individual supervisors'—histories of compliance, including issues raised through the complaint procedure. In this manner, the complaint procedure helps further inform the audit process by flagging areas of past risk or non-compliance. Inspections may also include on-site review of the company's payroll and other records to ensure that workers are properly compensated, are working no more than the number of hours mandated by law or the Code/Standard, have access to potable water and toilets and, if applicable, that any WSR Premium is accurately passed through by the Supplier and distributed as a line-item bonus on workers' paychecks. Under WSR, inspections may involve multiple site visits across several weeks. Following the conclusion of



an inspection, the monitoring organization generates a report for the Supplier that identifies areas of non-compliance and potential risks and then drafts a corrective action plan, which serves as a detailed roadmap to full compliance and as the launch point for the next round of inspections.

Responsibility for the complaint procedure and audit program means that the monitoring organization must be able to secure financial resources sufficient to the level of staffing required. Furthermore, auditors and complaint investigators must be trained on proper investigative techniques, including interviews, documentation and recognition of fact patterns to ensure that the monitoring organization maintains credibility and objectivity in its findings.

INFORMATION MANAGEMENT AND IMPACT EVALUATION

Over time, the monitoring organization will develop a specialized and continuously deepening information base concerning relevant industry actors and practices. This database should include information provided by the Signatory Buyers and information generated by the WSR program's monitoring activities. This empowers investigators with the information they need to do their job effectively. This also requires the monitoring organization to create effective information management systems for record-keeping that can safeguard confidential information. An integrated database, for example, can generate a variety of invaluable reports on the complaint procedure, including breakdowns by Code/Standard provision,

outcome, time elapsed until resolution, etc. Uses for this data can range from tracking a company's or supervisor's violation history to internal, macro-level evaluations of the monitoring organization itself. This data is also necessary for the generation of regular public-facing information including Supplier-level data as well as aggregated (annual, biannual or quarterly) reports on the state of the Program. Furthermore, tracking complaints from *outside* the Program (i.e., from workers at a non-participating Supplier) may help inform and provide a factual basis and context for the future expansion (e.g. by adding new Signatory Buyers) of the Program to include those other Suppliers.