



# **DRAFT PRINCIPLES AND GUIDELINES FOR THE REPAYMENT OF MISSING WAGES**

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**Version 4**

## DRAFT PRINCIPLES AND GUIDELINES FOR THE REPAYMENT OF MISSING WAGES

**Purpose:-** Where workers are known or suspected to have missing wages (including unlawful or unfair deductions), either recent or historic, these guidelines and principles outline Impactt’s professional opinion on steps to ensure fair remedy.

These guidelines **do not**:

- Constitute legal advice.
- Cover remediation of forced labour as a whole (instead, the guidelines focus on repayment of missing wages only).
- Provide guidance on how to prevent practices related to the withholding of wages.
- Address accountability – how actors that withhold wages from workers should be brought to justice.

The following of these guidelines alone should not be a replacement for ongoing efforts to enhance workplace social dialogue between employers and workers.

Step*	Minimum Recommendation	Best Practice
1. Investigate the withheld wages owing to workers	<ol style="list-style-type: none"> <li>1. Use 3<sup>rd</sup> party experts in human rights &amp; forced labour to interview workers and understand the context of any missing wages. For context of worker sampling (percentage, and method), please see Impactt’s <i>Principles and Guidelines on Repayment of Recruitment Fees and Costs</i></li> <li>2. With support from the 3<sup>rd</sup> party where necessary, use the findings to conduct effective, open and informed engagement with a representative cross-section of effected workers via worker unions and worker representatives. Where possible this can help lead to a collective agreement of the appropriate amounts of missing wages for each relevant demographic</li> <li>3. Where missing wages are straightforward, these 3<sup>rd</sup> party experts may be able to quantify amount of wages missing, by worker demographic.</li> </ol>	For larger workforces, and/or where legal and financial complexities exist, an accredited, internationally recognised financial professional services firm, capable of carrying out forensic financial and legal review of missing wages should be used. This may follow on from an initial investigation in which 3 <sup>rd</sup> party experts in human rights & forced labour were unable to accurately quantify the amount of wages missing.
2. Identify eligibility for repayment	All current and former workers should be eligible, regardless of their reasons for leaving the company. Worker engagement identified	

	<p>within 'step 1' can help to inform the makeup of these groups.</p> <p>A ringfenced 'contingency fund' should be set up for former workers to apply to for repayment.</p>	
3. Calculate the repayment amount	<p>Calculate the repayment amount for each individual worker based on the amount of wages owed. Where this is not feasible (for example where very limited documentation is available) the repayment amount can be calculated using an average for each identified sub-group of workers (e.g. by nationality, gender, or other relevant group), factoring in inflation year-on-year, since the missing wages should have been received.</p>	<p>Calculate the repayment amount for each individual worker based on the amount of wages owed. Where this is not feasible (for example where very limited documentation is available) the repayment amount can be calculated using an average for each identified sub-group of workers (e.g. by nationality, gender, or other relevant group), factoring in inflation and lost opportunity cost (at 2%) year-on-year, since the missing wages should have been received.</p>
4. Confirm the timeline for repayment	<p>Complete all repayments within 3 – 9 months, allowing a maximum of 3 months for negotiation with stakeholders where relevant</p>	<p>Make all repayments in one lump sum payment within 1 month</p>
5. Engage and communicate with migrant workers	<p>Invite migrant workers to engage further in the repayment process. Provide all workers with clear information about the payment amount, protocol, timeline, and grievance and appeals mechanisms available, using a variety of channels including: a general memo, personal letter, communications sessions, pay slip, and other communication channels (e.g. worker committee).</p>	<p>Provide all workers with clear information as outlined under the minimum recommendations, and engage with trade unions or other representatives trusted by workers to ensure workers have various channels for raising concerns and providing formal inputs on the repayment plan.</p>
6. Verify payment	<p>Commission a credible, experienced and independent third party to carry out regular verification of payments to check that workers are paid fully and on time.</p>	<p>Engage in ongoing monitoring activities beyond regular verifications, for example through engagement with trade unions or other forms of worker representation, to check how the payment process is going, and make ongoing improvements based on feedback received.</p>

*\*These 6 steps deliberately mirror those within 'Impactt's Principles and Guidelines for Repayment of Recruitment Fees & Costs' in following the chronological order for recommended remediation.*

## **Appendix A – Core Principles of Repayment of Missing Wages**

The following core principles should underpin any activities related to implementation of the repayment guidelines. The principles are aligned with the UNGPs to guide implementors to act in accordance with international best practice, and are also outlined within our 'Core Principles of Repayment' within our 'Principles and Guidelines for Repayment of Recruitment Fees & Costs'

1. **Protect workers.** All stakeholders involved in the repayment process must take steps to ensure that all workers and their families are protected from harm and retaliation throughout the repayment process. This includes putting in place non-retaliation policies and agreements, training investigators to be responsive to workers' needs, and providing workers with access to transparent, equitable and legitimate grievance mechanisms.
2. **Commit to transparency and disclosure.** All stakeholders should engage transparently in all aspects of the repayment process and disclose relevant information required for repayment-related activities. Payments should be made in a transparent manner (i.e. via bank transfers) and payment amounts should be publicly disclosed.
3. **Engage in meaningful multi-stakeholder collaboration.** All stakeholders should collaborate in good faith towards the common goal of providing effective repayment of withheld wages to workers as quickly and effectively as possible. The repayment plan should be developed collaboratively, ensuring engagement with and inputs from workers, their representatives, and other stakeholders including employers, labour recruiters, buyers, investors, and CSOs. Worker agency and participation in the repayment process should be at the centre of any best practice approach.
4. **Ensure oversight, quality and integrity of the repayment process.** Stakeholders should implement a governing body that provides oversight of the repayment process and should implement mechanisms to ensure and monitor the quality and integrity of all repayment-related activities. Where possible or appropriate, third parties should be involved to add credibility, expertise and independence to all aspects of the process.
5. **Provide workers with access to alternate channels for remedy.** In many cases the investigation into withheld wages may identify other issues which require a wider range of remedy to be provided. Provide workers with referrals to other support services (e.g. medical, legal, psychosocial etc.). Where the repayment process identifies corrupt or criminal activity, stakeholders should collaborate to pursue criminal justice. This includes supporting workers to pursue additional compensation through state-based mechanisms where possible and appropriate.
6. **Integrate shared learning.** Lessons learned throughout the repayment process should be shared among all stakeholders involved and used to strengthen company policies and practices related to employment and regular and accurate payment of migrant workers, to ensure non-repetition of future exploitative practices.

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