

Principles and Guidelines for the Rectification of Non-Payment of Wages

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Executive Summary

In many employment contexts around the world, workers, and particularly migrant workers, face non-payment of wages, including delayed payment, underpayment, and non-payment. As noted by the International Labour Organisation (ILO) in its guidance note on wage protection for migrant workers, “working time and wages are the working conditions that have the most direct and tangible effect on the day-to-day lives of workers and employers.”¹ Impactt’s fieldwork globally has found the same, noting consistently that workers’ top priority is income, no matter the sector or region. Taking action to ensure this income is paid legally and without interference is therefore critical to worker welfare, and critical in order to address debt bondage and forced labour.

Employers are legally responsible for ensuring that wage-related abuses do not occur in their operations. This means they must implement robust wage-payment systems and maintain meaningful dialogue on wages and wage payment with their workforce, as well as engaging with trade unions, or other collective bargaining processes. In contexts where effective trade unions and collective bargaining processes exist, these should always provide the primary vehicle for addressing wage-related issues in collaboration with employers.



However:



- Withholding of wages often takes place in countries or sectors where workers have limited collective bargaining power, where there is limited enforcement and among businesses that either lack the will or capacity to resolve the issues.
- Calculating and implementing repayments owed can be complex and intimidating for those that do not have experience with this. At the same time, it is essential that repayments are made quickly, to eliminate the negative impacts on workers, including potential bonded labour.


Rectifying Non-Payment of Wages in 8 Steps


These guidelines recommend 8 practical steps to ensure that repayments can be carried out quickly and accurately. Best practice steps are recommended on top of those outlined under minimum recommendations, unless otherwise specified.



¹ ILO, [Guidance Note: Wage Protection for Migrant Workers](#), 2023.

OVERVIEW: GUIDELINES FOR RECTIFICATION OF NON-PAYMENT OF WAGES IN 8 STEPS				
Steps	Who?	What action? Minimum Recommendation	What action? Best practice	Timeline
 STEP 1: DETERMINE TYPE OF INVESTIGATION NEEDED	<i>Goal: Investigation type selected is appropriate to the scale and scope of the wage issues identified.</i>			
	Buyers/employers in consultation with third party experts. Investigation should be funded by those who have caused, contributed or are directly linked to the non-payment of wages.	<ul style="list-style-type: none"> Determine what type of investigation is needed in the business context, based on: the severity of issues, intentionality of the employer, and employer transparency and capacity to resolve the issues. This may include investigation by the employer, a buyer, or third party with expertise in wage payment systems and human rights. Any systemic issues related to non-payment of wages, and any wage-related issues at sites with identified human rights abuses or transparency issues should be investigated by an independent third party. 		Within 2 weeks of issue being identified.
 STEP 2: INFORM WORKERS OF THEIR RIGHTS PRIOR TO INVESTIGATION	<i>Goal: Workers are informed about their rights, the investigation process and grievance mechanisms they can use to report any grievances (including wage-related grievances) prior to the investigation and on an ongoing basis.</i>			
	Employer in collaboration with trade unions, worker representatives or other relevant stakeholders	<ul style="list-style-type: none"> Communicate the investigation process to workers and/or their representatives to ensure transparency. Include information about grievance mechanisms and workers' rights to seek remediation through 	<ul style="list-style-type: none"> Actively involve trade unions or worker representatives in the governance of the investigation and remediation process. 	As soon as possible after identification of issue and determination of investigation approach.

		alternative channels.		
 STEP 3: INVESTIGATE WAGES OWED TO WORKERS	<i>Goal: The investigation confirms (a) the existence of wage theft, and/or non-payment of wages (b) whether or not workers are compelled to remain at their employer, and (c) gathers reliable data on wage theft and non-payment of wages for all workers employed.</i>			
	Employer, buyer, third party expert or accredited financial services firm. Investigation should be funded by those who have caused, contributed, or are directly linked to the non-payment of wages.	<ul style="list-style-type: none"> Investigate carrying out a representative sample of worker interviews (including former workers where relevant), management interviews and document review. 	<ul style="list-style-type: none"> For larger workforces and/or where legal and financial complexities exist, use an accredited, internationally recognised financial professional services firm, capable of carrying out forensic financial and legal review of non-payment of wages. 	The investigation should be started as soon as possible and within 1 month of the issue being identified. The total duration will be dependent on the size of the workforce to be interviewed and scale of the problem. It is important to consider practicality and prioritise fast repayment to worker over perfection.
 STEP 4: CALCULATE THE REPAYMENT	<i>Goal: The repayment amount is accurately calculated based on reliably collected data and represents the actual value of money workers should have received, considering interest, inflation, lost opportunity cost and compensation where appropriate.</i>			
	Third party expert or accredited financial services firm	Calculate the repayment amount on an individual basis for each affected worker including:	Additional compensation for damages suffered as a result of wage theft. This can include:	Within 2 weeks from completion of the investigation

AMOUNT		<ul style="list-style-type: none"> The legal minimum wage and entitlements owed to the worker, or the contractually agreed wage rates and entitlements, whichever is higher, factoring in: Actual interest rates paid and inflation year-on-year since the wages should have been received. <p>If an employer carried out the original investigation, a third party must verify the calculations.</p>	<ul style="list-style-type: none"> Liquidated damages to the same amount as the unpaid wages (i.e., double payment) Adjusted payments to reflect living wage rates in place of minimum /contractually agreed wage rates. An additional 2% per year since the non-payment of wages began to reflect lost opportunity cost. 	
 <p>STEP 5: COMMUNICATE PROPOSED PAYMENT PLAN TO WORKERS, NEGOTIATE AND AGREE FINAL PLAN</p>	<p><i>Goal: All current and former workers that are owed wages are included on the list of eligible workers to be paid, informed about the proposed payment amount and given the opportunity to participate in negotiation processes to determine final payment amounts.</i></p>			
	Employers, trade unions, worker representatives	<ul style="list-style-type: none"> Issue a name-list covering all workers entitled to repayment (including all current and former workers affected, at minimum dating back as far as the employer legally retains records; or as dictated by legal 	<ul style="list-style-type: none"> Include all historically affected workers in scope, beyond any local statutes of limitations. Engage with stakeholders including trade unions or worker representative organisations on a regular basis to ensure wage 	Maximum of 1 month negotiation period

		<p>statutes of limitation in the country of employment).</p> <ul style="list-style-type: none"> • Provide formal communications to all workers in their native language (general memo, individually addressed letter, communications sessions). • Invite feedback from workers and their representatives on the proposed plan and finalise. 	<p>related issues do not re-occur.</p>	
 <p>STEP 6: MAKE ALL PAYMENTS IN A TRANSPARENT AND TIMELY MANNER</p>	<p><i>Goal: Workers are repaid their wages as quickly as possible through transparent channels</i></p>			
	<p>Employer (with support from buyers/investors if needed)</p>	<ul style="list-style-type: none"> • Make all payments via bank transfer and provide workers a payslip showing the repayment amount as a separate item. • Complete all payments within 3 months of the date the issue was first discovered. 	<ul style="list-style-type: none"> • Complete all payments as soon as possible and within a maximum of 1 month. 	<p>As quickly as possible, within 3 months maximum</p>

<div></div> <div>STEP 7: IMPLEMENT NEW MANAGEMENT SYSTEMS</div>	<i>Goal: Management systems are created and/or improved to ensure no re-occurrence of issues, prioritising (if applicable) any areas which the investigation found were particularly linked to workers being compelled to remain at their employer.</i>			
Employer (with support from buyers/independent third-party experts if needed)	<ul style="list-style-type: none">• Implement actions recommended by the investigation towards strengthening of management systems as part of step 3.• Prioritise improvement of any management systems that are linked with forced labour practices (i.e., preventing workers from leaving their job).	<ul style="list-style-type: none">• Strengthening management systems is critical to prevent reoccurrence therefore there is no best practice, only a minimum recommendation.	As quickly as possible, but within 3 months after issue first identified	
<div></div> <div>STEP 8: VERIFY PAYMENT AND IMPLEMENTATION OF NEW MANAGEMENT SYSTEMS</div>	<i>Goal: A reputable independent third party verifies that all repayments have been made correctly, without any negative consequences for workers.</i>			
Independent third party	<ul style="list-style-type: none">• Commission an independent 3rd party verification of payments and improved management systems including management and worker interviews, interviews with unions or worker representatives (where present) and document review.	Verification is critical to ensure accurate implementation of the payment plan therefore there is no best practice, only a minimum recommendation.	On completion of payments to workers	

Target audience

The guidelines outlined in this document can be used by employers, buyers, investors, governments, public employment agencies, regulators and enforcement authorities, auditors, NGOs, CSOs, as well as trade unions or worker representatives when designing, implementing, and evaluating efforts to repay unpaid wages. Please see Appendix A for a list of key recommended activities for each stakeholder type.

Defining wage theft and non-payment of wages

ILO standards define wages as “remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations, which are payable in virtue of a written or unwritten contract of employment by an employer to an employed person for work done or to be done or for services rendered or to be rendered” (Convention No. 95, Article 1).

The ILO stipulates workers’ key rights to wages in key conventions including the Protection of Wages Convention, 1949 (No. 95), and the Protection of Wages Recommendation, 1949 (No. 85) alongside other conventions.²

Wage theft is practised in various ways, including delayed payment, underpayment, and non-payment. This includes, for example, “failure to pay overtime, minimum wage violations, employee misclassification, illegal deductions in pay, working off the clock, or not being paid at all.”³ Whilst all withholding of wages is wage theft in theory, these guidelines draw a distinction between deliberate wage theft⁴ and the broader umbrella term “non-payment of wages” (which may or may not be deliberate). Reference to non-payment of wages allows us to be inclusive of all wage related abuses felt by workers, without the need to determine whether such acts are deliberate on the part of the employer. This allows us to include the following scenarios, focussing specifically on worker agency:

1. Workers being compelled to continue working for their employer, due to systemic and deliberate wage theft or withholding of wages which is an indicator of forced labour.⁵

² See Appendix B for an overview of all relevant wage-related conventions.

³ ILO, [Trade Unions Manual to Promote Migrant Workers’ Rights and Foster Fair Labour Migration Governance in Africa](#), 2021.

⁴ For the purposes of this document, wage theft is therefore a sub-category of ‘Non-payment of wages’, please see ‘definitions’ for further details.

⁵ ILO, [Guidance Note: Wage Protection for Migrant Workers](#), 2023.

2. Workers being compelled to continue working for their employer, due to non-payment of wages⁶, the root of which may or may not be necessarily systemic nor deliberate on the part of the employer (yet responsibility remains with the employer to take action). This may or may not be an indicator of forced labour, depending on the circumstances and may be related to:
 - a. Cashflow challenges, which delay wage payments, sometimes for long periods of time.
 - b. Lack of knowledge or understanding of the issue, due to:
 - i. Lack of effective due diligence systems.
 - ii. Lack of understanding of the appropriate laws. In some cases, this may include companies who have made genuine efforts to undertake due diligence to ensure accurate wage payments, but exist in an environment in which such payments, including allowances, benefits, piece rates, overtime rates etc. are highly complex.
 - c. Incorrect payment because of poor record-keeping systems.
3. Workers are not compelled to continue working for their employer due to non-payment of wages, yet non-payment of wages still exists historically and/or management system weaknesses present a risk that such occurrences may continue.

It is important to note that both scenarios 2 and 3 above present important risks:

- From a forced labour perspective, the issue of workers suffering from wage theft or non-payment of wages, coupled with this compelling them to remain at their employer (Scenarios 1 and 2), is more severe than non-payment of wages alone (Scenario 3). Therefore, these guidelines argue that investigation should attempt to identify any issues determined by the investigation to be most linked with compelling workers to remain at the employer, and that such issues should be prioritised in remediation.
- Scenarios 2 and 3 still present a significant of risk forced labour (if not already occurring under scenario 2).
- Scenario 3, despite not being defined as forced labour, nonetheless presents significant moral, business, and legal risk.

Different approaches are needed to address these different scenarios, as covered in these guidelines.

Impactt data on wage theft and non-payment of wages

Globally, an average of 64%⁷ of sites Impactt visited since 2016 had issues relating to non-payment of wages.

⁶ We note that threats or menaces of penalty around non-payment of wages alone can, in many cases, be enough to compel workers to remain at their employer, and therefore may also constitute forced labour. These principles and guidelines focus specifically on non-payment of wages yet acknowledge that any investigation should also explore whether workers experience such threats or menaces of penalty, as detailed in the guidelines.

⁷ Scope – 64% being 127 out of 197 total sites which underwent a worker welfare investigation by Impactt, 2016 to present, in a country where a minimum of 5 sites were investigated. In scope countries were Qatar, China, Malaysia, Singapore, Thailand. Due to the nature of our work, we note that these investigations will have naturally occurred at companies already at higher risk of such issues being present.

Common key wage-related issues⁸ include the following, which may or may not be systemic or deliberate:

- Failure to pay minimum wage or contractually agreed wages.
- Failure to pay the correct wage for work performed (e.g., for piece-rate workers).
- Failure to pay overtime, or to pay it at the correct rates (e.g., for public holidays, work carried out on a day off).
- Failure to pay entitlements such as annual leave or sick leave (either as part of monthly wages, or as cash payments where this is not taken, and workers have a right to encash).
- Failure to pay for all hours spent on work-related activities, such as training, induction, and worker committees (or in certain sectors such as fishing, work happening at port during rest days).
- Payment in arrears, leading to delayed payments of workers where companies go bankrupt or cannot afford to pay wages for a long period of time.
- Systematic delayed payment of wages
- Failure to pay social security, or failure to pay benefits for employment injuries suffered.
- Failure to pay end-of service benefits and/or bonuses, or severance pay.

The following are examples of issues which generally indicate systemic and deliberate intent on the part of the employer:

- Unlawful or unfair deductions intended to penalise workers.
- Compulsory 'savings schemes.'
- Manipulation of exchange rates during payment processes that disadvantage workers.
- Skimming. This can take various forms, but examples could include: taking a proportion of worker's wages in cash e.g., on pay day, sometimes justified as a commission for services on the part of a broker or payment intermediary or requesting workers to withdraw cash and pay this to employers/brokers after receiving payment via bank transfer.

As a result of such wage-related abuses, workers are at higher risk of vulnerability to debt bondage or forced labour, as their earnings may be restricted or controlled in such a way that they cannot leave their employment without significant negative repercussions on their livelihood. Wherever workers' wages are withheld, they must be repaid all wages they are owed.

This document sets out recommended principles and guidelines for repayment of worker wages where these have been underpaid, withheld, or illegally or unfairly deducted.

Impactt has developed these guidelines based on its field experience supporting repayment. The guidelines

⁸ ILO, [Guidance Note: Wage Protection for Migrant Workers](#), 2023.

are further based on consultation with over 20 expert stakeholders from international bodies, governmental organisations, international trade unions, multi-stakeholder initiatives, investors, CSOs, consultancies, employers, and multi-national companies.

Key laws, international conventions, and standards

The principles and guidelines outlined in this document are underpinned by:

- The employer’s legal duty in all countries to pay wages in full and on time.
- The ILO’s Protection of Wages Convention, 1949 (No. 95), and Protection of Wages Recommendation, 1949 (No. 85). Ratifying countries undertake to implement the Convention in national law and to report on its application at regular intervals.⁹ If a convention is ratified, it typically comes into force for that country one year after the date of ratification. Only conventions can be subject to ratification.¹⁰ Currently, 99 countries have ratified the Protection of Wages Convention 1949 (No. 95).¹¹ In 2023, the ILO published a Guidance Note on Wage Protection for Migrant Workers¹² which provides definitions and answers common questions in this area, underpinned by key conventions.
- The United Nations Guiding Principles on Business and Human Rights (UNGPs), in particular, UNGP 31: Criteria for Effective Grievance Mechanisms has informed the thematic subsections of the guidelines. According to these principles and guidelines, businesses are responsible for providing remedy where harms or wrongs done to workers are identified.
- The OECD Due Diligence Guidance for Responsible Business Conduct.

The table below provides a summary of key conventions. See Appendix B for further conventions that stipulate protections for workers against wage-related abuses, Appendix C for key definitions, and Appendix D for the UNGP criteria noted above.

Key ILO convention	Summary of key provisions
Protection of Wages Convention, 1949 (No. 95)	<ul style="list-style-type: none">- Deductions from wages are permitted only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award.- Workers must be informed of the conditions under which and extent to which such deductions can be made.- Any deduction from wages to ensure a direct or indirect payment for the purpose of obtaining or retaining employment, made by a worker to an employer or his

⁹ ILO, [Conventions and Recommendations](#).

¹⁰ ILO, [Conventions and Recommendations](#).

¹¹ ILO, [Ratifications of CO95 Protection of Wages Convention, 1949 \(No. 95\)](#).

¹² ILO, [Guidance Note: Wage Protection for Migrant Workers](#), 2023.

	<p>representative or to any intermediary (such as a labour contractor or recruiter), is prohibited.</p> <ul style="list-style-type: none"> - Workers must be informed in an appropriate and easily understandable manner of the conditions of their wages and the particulars of their wages, both before they enter employment, when any changes take place, and at the time of each payment. - Wages must be paid regularly. - Upon end of contract, the final settlement of all wages must be made within a reasonable period of time (or whatever time limits are set out in the law). - The partial payment of wages in the form of allowances in kind may be authorized (by national laws or regulations, collective agreements, or arbitration awards) in "industries of occupations in which payment in the form of such allowances is customary or desirable." Measures must be taken to ensure that such allowances are "appropriate for the personal use and benefit of the worker and his family; and the value attributed to such allowances is fair and reasonable".
Protection of Wages Recommendation, 1949 (No. 85)	<ul style="list-style-type: none"> - All necessary measures to limit deductions should be taken. - Deductions for the reimbursement of loss of or damage to property of the employer, including tools or products, should be authorised only when the worker concerned can be clearly shown to be responsible. The amount of deduction should be fair and not exceed the actual amount of loss and damage. - Wages should be paid at least twice a month for workers whose wages are calculated by the hour, day, or week, and not less than once a month for workers whose remuneration is fixed on a monthly or annual basis. - Workers employed on a piece work or output basis should be paid at least twice a month. - Workers should be informed of rate of wages payable, method of calculation, frequency of payment and conditions of deductions. - Inform workers of gross wages earned, deductions and reasons for them, and net wages for each payment. Employers should keep a record of the same.
The Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)	<ul style="list-style-type: none"> - Workers' wage claims are privileged for payment out of employer's assets. - Wage claims should be protected by an external guarantee institution where employer is insolvent.
The Minimum Wage Fixing Convention, 1970 (No. 131)	<ul style="list-style-type: none"> - Ratifying countries should establish a system of minimum wages and that failure to apply minimum wages shall make the person liable to legal sanction.

How to use the guidelines

These guidelines are intended to support efforts to investigate and remediate non-payment of wages. In most cases, such investigations will be carried out after the issue has been identified through other channels. For example, the issue may initially be identified through a social audit (although audits do not always successfully identify issues related to payment, with the majority of non-payment issues going undetected), worker testimony, whistle-blowing, or other grievance mechanisms or data sources.

These guidelines present eight key aspects of the wage repayment process. For each section, this document outlines a set of “minimum recommendations”, as well as “best practice” approaches where applicable.

These guidelines **do not**:

- Intend to replace statutory investigation and remediation processes, or standard auditing processes. The guidelines may inform the strengthening of such approaches in certain contexts and are intended to supplement these where gaps exist.
- Constitute legal advice (although it may be used to support companies to meet legal requirements in line with local law and ILO conventions related to payment of wages, just as investigation findings may be used to support workers who wish to make a legal claim).
- Cover remediation of forced labour issues as a whole (instead, the guidelines focus on repayment only).

These issues are considered out of scope for these guidelines. However, additional information and resources on these topics are provided in the further reading section at the end of this document.

The following guidelines alone should not be considered a substitute for ongoing efforts to enhance workplace social dialogue between employers and workers. They are remedial only and must be combined with efforts to identify and prevent the withholding of wages (see Key Considerations for further guidance).

Core principles of rectification of non-payment of wages

The following core principles should underpin any activities related to implementation of the repayment guidelines. To guide implementors to act in accordance with international best practices, the principles are aligned with the UNGPs. They 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, through which they can report anonymously and without fear of reprisal or blacklisting.

2. **Ensure worker agency.** Worker agency and participation in the repayment process is critical to any best practice approach. Rather than being passive recipients of payments that have been determined by other stakeholders, workers should be involved across all key stages of the repayment process, including investigation, repayment calculation, and verification. A lack of meaningful worker agency or social dialogue limits the robustness of the repayment process and may therefore significantly limit the overall effectiveness of the intended remedy.
3. **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 the remediation approach taken (and amounts if appropriate) should be publicly disclosed, for example through website postings and/or press release.
4. **Engage workers and other stakeholders in meaningful 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. Workers should know where they can access key information to fully understand the payments they receive monthly.¹³
5. **Ensure oversight, quality, and integrity of the repayment process.** Stakeholders should implement a representative governing body that provides oversight of the repayment process and implements mechanisms to ensure and monitor the quality and integrity of all repayment-related activities (including the prevention of fraud). Where possible or appropriate, third parties should be involved in investigation or verification processes to add credibility, expertise and independence to all aspects of the process. While controls should be in place to avoid significant fraud or abuse of the repayment scheme, these controls should not interfere unduly with eligible workers' ability and incentive to access repayments.
6. **Provide workers with access to alternative channels for remedy.** Workers should always be informed about their rights and any state-based mechanisms through which they can access remedy. Employers can do this through various channels, including inductions, trainings, and on-site posters. Further, beyond wage-related issues, in many cases the investigation into non-payment of wages may also 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.) in such cases. 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.

¹³ Please see 'Key Considerations: Repayment must be complemented with action to prevent future issues' for recommendations of actions to improve management systems and worker awareness of the terms of their pay.

7. **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 workers, to ensure non-repetition of future exploitative practices.

Key considerations

Who should pay?

Payment of wages according to the law is a fundamental responsibility of the employer. Under Principle 22 of the UNGPs, businesses, including buyers, also have a responsibility to “provide for or cooperate in” remediation where they have caused or contributed to adverse impacts on workers, communities, or human rights generally. This entails that:

- The direct employer and/or labour provider, employment agency or payroll intermediary that has “caused” the non-payment of wages is responsible for repaying its employees.
- Buyers that may have “contributed” to the situation, or that are “directly linked”¹⁴ by a business relationship, should:
 - Fund or contribute to funding the investigation (Step 3) and verification (Step 8). Buyers may also fund technical support to implement the remediation process where this is required. Buyers have a responsibility to investigate and contribute to remediation as part of their due diligence process.
 - Cooperate with the employer in ensuring remedy is provided as quickly and effectively as possible. This may include supporting repayment in cases where the employer is unable to pay (e.g., due to company closure or bankruptcy) or is only able to pay over a time period that is longer than the 3-month maximum specified in this document (with the employer then repaying the buyer/investor).

Repayment must not prevent workers from making claims through criminal or civil justice systems or other available mechanisms

When wage-related issues are identified, workers should always be informed about any official governmental channels through which they can access remedy as a first step, especially if these do not involve excessive delays and can provide full compensation. Employers have a duty to provide such information to workers, alongside any action they may or may not be taking to remediate the issues themselves.

¹⁴ The term “direct link” refers to the linkage between the harm and the company’s products, services and operations through another company (the business relationship). However, it must be remembered that causality between the activities of a company and the adverse impact is not a factor in determining strength of linkage.

As noted in the UNGPs commentary: “Operational-level grievance mechanisms can be important complements to wider stakeholder engagement and collective bargaining processes but cannot substitute for either. They should not be used to undermine the role of legitimate trade unions in addressing labour-related disputes, nor to preclude access to judicial or other non-judicial grievance mechanisms.”¹⁵

Employers should ensure that workers understand that receipt of financial repayment does not prevent them from exercising or claiming other rights or damages to which they may be entitled under law. Different jurisdictions and judicial systems assess adequacy and requirements of remediation to situations of forced labour or rights abuses in different ways, according to their laws and precedent. Informing workers of their rights and how they can seek redressal through criminal justice systems or other formal avenues is therefore crucial. Whenever providing information, it is key to include details of who to contact and how.

See Appendix A for key provisions in the ILO’s Protection of Wages Convention, and Appendix C for further important considerations.

Repayment must be complemented with action to prevent future issues

Investment in effective management and wage payment systems is key to ensure not only the sustainability of repayments, but also that reoccurrence of issues is minimised. The ‘best practice’ options for repayment of wages outlined in these guidelines represent a viable and recommended pathway whereby Impactt believes workers will receive the repayment they are entitled to, and employers will be most protected from the risk of future litigation and claims for additional pay-outs by workers alleged to have been subject to situations of forced labour.¹¹

However, for repayments to be sustainable, it is vital that employers, buyers, investors, governments and/or regulators work together to ensure the adoption and implementation of wage payment systems which will effectively prevent wage-related abuses in the future. Faced with a sizeable historic repayment bill for non-payment of wages, it is in an employer’s best financial interests to invest in improved systems to ensure no reoccurrence of issues.

Employers should:

- Clearly prohibit all forms of wage-theft in company policies, making any related practices a dismissible offense. The policy should also prohibit access to worker bank accounts by the employer or labour agents, except for the deposit of wages, and should prohibit any charging of recruitment fees or related costs to workers.
- Provide dedicated training to all staff involved with payment of wages to ensure they have clear understanding on how to ensure pay is properly calculated in line with local and international requirements.

¹⁵ National Action Plans on Business and Human Rights, [Guiding Principle 29](#).

- Provide written employment contracts in a language that workers understand prior to employment, which clearly communicates accurate pay rates (including details on overtime, piece-rates, bonus payments or other relevant information) and how these will be calculated, as well as information on any legal deductions.
- Carry out wage analysis and ensure that all wages meet at least minimum wage requirements, whilst striving to close the gap towards living wages year on year.
- Make all payments by direct credit to an account in the name of the employee, and not through other parties such as agents. Cash payments should be avoided, except where digital alternatives are not available.
- Issue each worker with a payslip that is easy to understand for each pay period, with transparent calculations. The payslip should be issued in a language the worker understands, and with appropriate guidance (explanatory notes or diagrams, regular training, or app-based support). Employers should check the effectiveness of such measures through assessing worker understanding on an ongoing basis. As per paragraph 7 of ILO Recommendation No. 85, workers should be informed of gross wage, deductions (amount and reason) and net wages.
- Implement a robust wage documentation system which captures all wages and benefits owed to workers. This must include documentation of overtime, bonuses and/or end-of service benefits accrued as this is key to many workers' basic wage.
- Implement a robust and easily accessible process for workers to dispute payments and deductions and communicate this to workers in a language they understand.
- Reflect lessons learned throughout the repayment process in revised organisational policies, practices, and procedures to ensure that wage-related abuses do not continue in the future. This may also include blacklisting employment agencies or other payroll intermediaries identified as exploiting workers during the investigation stage.
- Share information on exploitative parties with the ILO, national authorities, and other relevant parties to support industry transparency and reform.
- Prioritise any of the above actions which would most adequately, efficiently, and effectively address the root causes of workers being compelled to remain with their employer, if this is found by investigation to be the case. Repayment will encompass one step of this process, however, many actions outlined above will be essential to ensure no reoccurrence of such issues after initial repayment.
- This should include actions to remove issues where the *threat* of non-payment of wages is being used to compel workers to remain or participate in illegal activity, in addition to where such non-payment is causing such issues.

Employers, buyers, and other stakeholders within the value chain must further ensure that **contracts are financed and managed in such a way that timely and correct payment of legal wages can be ensured**. This entails fair purchasing practices and effective labour costing. Such work must be carried out in parallel with any repayment efforts.

Grievance mechanisms

Workers should be provided with effective¹⁶ and easily accessible grievance mechanisms through which they can report any wage (or other employment related) issues. In cases where systemic wage-related issues have been identified, it is likely that such grievance mechanisms, if they do exist, are not effective. Buyers, employers, and other stakeholders should work on implementing effective grievance mechanisms that are trusted by workers at relevant sites to enable faster detection of issues in future. This may include having multiple channels (including anonymous ones) for raising grievances, recognising that workers from different backgrounds may not all feel comfortable raising grievances in the same way.

Support from global trade unions in countries where local trade unions are illegal

As noted above, where active trade unions and collective bargaining processes exist, these should form the primary vehicle for resolving wage-related issues. However, in countries where free or independent trade unions that can represent affected workers do not exist, other representative union structures at the global level may be able to provide support, for example Global Union Federations (GUFs) for certain sectors and enterprises. Such global union federations may have experience with specific worker issues and representation and will have member organisations on which they can draw. Companies are encouraged to reach out to GUFs in the appropriate sector as part of their due diligence approach to discuss the most effective ways to resolve wage-related problems. See Appendix D for contact details of relevant unions.

Legal requirements and criminal justice

Employers have a legal duty to pay wages in accordance with the law. Criminal and civil justice systems (with consequences including imprisonment, loss of business licenses, or financial penalties as prescribed by local laws) should therefore be used against employers that do not take steps to investigate allegations of non-payment of wages once these have been raised, do not provide back-pay for the full amount once calculated, or do not update management systems to avoid reoccurrence. Buyers and other stakeholders may have a legal duty to notify authorities in cases of identified or unresolved wage theft.

It is important to note that legal compliance alone may not necessarily ensure that workers are not compelled to remain with their employer. Due consideration should be given to standards of payment above and beyond the law, where such cases occur, to ensure that workers are never compelled to remain with their employer.

¹⁶ National Action Plans on Business and Human Rights, [Guiding Principle 31](#).

Additionally in such cases, employers should aim to engage with relevant stakeholders including legal experts and policymakers to inform meaningful change in local law.

Repayment does not entail full remediation

Repayment processes as outlined in this document may not lead to complete remediation of and reductions in the risk of debt bondage, forced labour,¹⁷ and indeed any wider labour rights issues arising in workplaces and supply chains. Full remediation of complex and sensitive situations of forced labour, in many cases, will require a much broader range of actions beyond the scope of this document, which focuses on payment-related issues only. For instance, developing and implementing new policies related to other labour rights challenges, targeting systemic company practices, ensuring accountability for illegality and wrongdoing, apologies and guarantees of non-recurrence,¹⁸ as well as addressing more complex harms which forced labour victims may have suffered (e.g., psychological damage, loss of opportunities).

Threat or menace of non-payment of wages alone can also constitute forced labour

According to the ILO's 2022 Global Estimates of Modern Slavery, "the systematic and deliberate withholding of wages" is the most common form of coercion, affecting more than one-third (36 percent) of workers, and used by employers to "compel workers to stay in a job out of fear of losing accrued earnings."¹⁹ It is important to note that threats or menaces of penalty around non-payment of wages alone can, in many cases, be enough to compel workers to remain at their employer, and therefore may also constitute forced labour. These principles and guidelines focus more specifically on non-payment of wages yet acknowledge that any investigation should also explore whether workers experience such threats or menaces of penalty, and that action should be taken to remediate any such cases.

Practicality versus perfection of repayment must be carefully considered

Impactt interviews with thousands of workers show that income matters to workers more than anything else. Ensuring that repayment occurs in a timely manner, with minimal delays, is key to addressing financial insecurity. These guidelines aim to strike a balance by offering various practical options that will enable quick resolution, such as in-house Human Resources (HR) and payroll teams leading repayment efforts where capacity exists, and where there are no underlying transparency concerns. Such efforts may in many cases lead to the most accurate and favourable results for workers, given the knowledge of in-house HR and payroll teams.

¹⁷ ILO, [Indicators of Forced Labour](#).

¹⁸ United Nations, [Guiding Principles on Business and Human Rights](#), 2011.

¹⁹ ILO, [Global Estimates of Modern Slavery, Forced Labour and Forced Marriage](#), 2022, Page 41.

However, in situations where transparency is lacking, HR capacity is low, or regulatory risk or action is present, third-party involvement may be necessary, and may even be required (either by buyers or by government actors such as labour inspectors or regulators) to ensure accuracy and independence of results. In such cases, third party support may be provided by human and labour rights experts, or internationally accredited forensic audit firms, working with in-house HR and payroll teams. All parties should strive to collaborate to deliver results for workers as quickly as possible.

Additionally, the introduction and advertisement of a 'contingency fund' (Step 5: Communicate) can not only ensure that former workers can receive repayment but can also ensure that any imperfections made in repayment to current workers can be corrected in future. This fund should be introduced with ringfenced funding, ready to be paid out to applicants bringing forth a legitimate case for (further) repayment. A committee consisting of company and buyer representatives, and independents, with governing principles should arbitrate any such applications.

The role of technology

Impactt's field experience shows that spending time with workers to build rapport, understand their stories, and listen to the issues they have faced is irreplaceable in investigations. Workers often need assistance in understanding many issues, wage-related or otherwise, via this human interaction. However, technology can also play an important role in complementing this in-person approach, through scaling up data collection in parallel, and/or on an ongoing basis once a sufficient set of narrative, and semi-structured interviews have taken place to identify key forced labour issues. See "[Transformative Technology for Migrant Workers: Opportunities, Challenges and Risks](#)" (2018) for examples of such technology solutions. It is essential to maintain feedback loops with workers when using any technology to collect data in an ongoing manner. This will provide reassurance that such technology is working towards its intended goal.

Use of shared leverage can be key to success

Lack of leverage is a key barrier to repayment in Impactt's experience, and usually relates to a lack of buying power or influence on the employer. Buyers and other stakeholders should therefore explore opportunities to collaborate wherever possible to increase their leverage. The shared goal of all stakeholders should be to collaborate to make repayments as quickly as possible while ensuring that they are made correctly. Leverage may also come from regulatory risk or action.

Guidelines for rectification of non-payment of wages

1. Determine what type of investigation is needed

In many cases, a non-payment of wages issue will be identified during a standard audit, or via worker complaints mechanisms. Further deep-dive investigation will then be needed to confirm the finding, build a deeper understanding of the issue and how it can be resolved. Wage theft and non-payment of wages can

take a wide range of forms across business contexts, with differing levels of severity, intention, and employer transparency and capacity to resolve the issues. The appropriate investigation and follow-up approach should be selected on a case-by-case basis, based on the guidance provided below.

- Wherever possible investigations should be carried out by third parties with expertise in wage payment systems, human rights and forced labour to interview workers, carry out document review and understand the context of any non-payment of wages. Such parties should be selected based on their ability to carry out the investigation independently, transparently, and without conflict of interest. Third party involvement will help to ensure the credibility of investigation findings.
- **Any isolated cases**, in which the buyer and/or third parties that carried out an initial audit have confidence that the employer can investigate and resolve the issue themselves as part of a standard corrective action plan, can be addressed in-house without involvement of third parties. Buyers should verify (or commission verification) to ensure the issue has been fully resolved and all workers have received correct repayment. Such verification can be carried out as part of standard audits. See guidance notes below on requirements for internal staff carrying out investigations.
- **Any isolated cases in which the buyer and/or third parties do not have confidence that the employer can investigate and address the issue themselves** should be investigated by a buyer (for example buyer in-house audit team) and/or third party, and remediation and/or capacity building support should be provided to the employer to resolve the issue as needed. Costs of such capacity building should be covered by the employer, with support from the buyer where appropriate.
- **Any systemic issues** related to non-payment of wages, and any wage-related issues at sites with identified human rights abuses or transparency issues should be investigated by an independent third party or by a regulator.
- **Where transparency concerns exist**, these should first be addressed prior to carrying out an investigation.
- **Prior to the investigation**, the internal staff, buyer audit team, or a third party allocated to carry out the investigation must **obtain assurance of non-retaliation** by the employer's senior management (e.g., through a signed non-retaliation agreement). Further steps should be taken to protect workers in case such agreements are not respected, for example, setting up a grievance mechanism through which workers can report to the investigation team temporarily, gathering worker contact details during interviews to enable follow-up action, and commitment from buyers to remediate any issues faced by workers (including e.g., moving them to alternate employment if needed).

The below table provides examples of scenarios where different approaches will be required. Please also see the 'key considerations' section for a note on 'practicalities versus perfection' relating to the actors involved in this process and the wider context.

Scenario	Transparency/capacity level	Who investigates?	Recommended investigation approach
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Large number of workers are suffering systemic non-payment of wages	Transparency is not an issue; employer does not attempt to conceal practices.	Regulator and labour inspectorate or buyer/third party expert	Buyer carries out an investigation, or commissions a third-party to do so. Close collaboration with in-house HR.
Large number of workers are suffering systemic wage theft or withholding of wages	Employer is manipulating evidence, e.g., through coaching workers or maintaining double books; triangulation of evidence identifies underpayment.	Third party expert	Forensic review cannot be trusted given transparency concerns. Promote transparency by consulting key stakeholders and using available leverage before further steps are taken. Where transparency is confirmed to have improved, carry out a third-party investigation using the methodology outlined in this document.
Isolated cases of workers suffering from wage theft or withholding of wages	Issues are related to individual site management staff, who target workers as a form of intimidation (e.g., payments are delayed for specific workers as punishment, because they made a complaint).	Buyer or third-party expert	Affected workers should be safe guarded immediately (either by buyer or third-party that identified the issue); buyer or third party should investigate this case and work with the employer to identify a solution.
Isolated cases of workers suffering from non-payment of wages, which may be due to employer's poor management systems, lack of knowledge, or lack of effective due diligence	Employer is transparent, cooperative, and capable of resolving the issue by themselves.	Employer	Employer investigates, provides an overview of wages withheld, and implements corrective action plan, buyers or third parties verify effectiveness.
Large number of workers suffering from wage theft which may be due to poor management systems, lack of knowledge, or lack of effective due diligence	Employer is incapable of investigating/resolving issue themselves.	Buyer or third party	Buyer commissions a third party to carry out an investigation and provide capacity-building support to the site to resolve issues.

Cashflow challenges from buyers with delayed payments as a result, causing non-payment of wages.	No transparency issues	Buyer and employer	Buyer and employer collaborate to carry out a root cause analysis to identify how cashflow can be improved to avoid this in future.
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Guidance notes

As noted above, for isolated issues where a) the employer has the capacity to investigate the issue themselves, or b) there are insufficient resources to commission a third party to carry out this work, and where there are no transparency concerns, internal company staff may carry out the investigation. In such cases:

- Staff must have adequate understanding of wage-related requirements under local law and applicable international standards to investigate the issues effectively. This should include establishing a list of all pay-related entitlements to be investigated. If they do not have this expertise (for example if a lack of understanding was a key root cause of the wage issue identified) then steps need to be taken to ensure that investigating staff understand relevant requirements first (for example by consulting local authorities, knowledgeable peers, or other relevant stakeholders). Buyers, in consultation with third parties where needed, should determine whether or not staff have adequate understanding, based on their engagement with them.
- Where possible, staff should be specifically appointed for the purposes of the investigation, from departments that are not involved with the management of payroll. I.e., they must be as independent as possible within the context of the company to avoid power imbalances and potential bias within the investigation process.
- Any staff involved in malpractice or wage theft must not be involved in any way with the investigation.
- Investigation findings and resulting repayments should always be verified by a credible, experienced, and independent third party to ensure reliable processes have been undertaken. Where employers cannot fund third party verifications themselves, they should engage with buyers and investors for support. Buyers can also carry out verifications, where this could build on existing relations and reduce supplier costs, provided the buyer has internal capacity to do so.

2. Inform workers of their rights prior to investigation

Goal	Workers are informed about their rights, the investigation process and grievance mechanisms they can use to report any grievances (including wage-related grievances) prior to the investigation and on an ongoing basis.
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Minimum recommendations

The employer* (in collaboration with the third party or other stakeholders where relevant) should communicate the investigation process to workers and/or their representatives to ensure transparency. All workers should be informed about:

- The purpose, protocol, and proposed procedure for investigation.
- Their rights to seek remediation through alternative channels such as state-based mechanisms or legal action. The employer and other stakeholders should research state-based mechanisms available prior to engaging with workers and should inform workers about these mechanisms and how to access them. If there are any conditions which entail that workers may not be eligible to state-based compensation or support if they seek or receive partial remediation via their employer, they must be informed about this, and be provided relevant information and sufficient time to determine their preferred course of action.
- **In cases where there are significant transparency risks, and/or investigation determines that there is systemic and deliberate wage theft, alternative means to inform workers of their rights should be sought, which do not include the involvement of employer management believed to have been complicit with the wage theft. Communication in such cases could be carried out by e.g., regulators, unions, or other third parties engaged in the process who are trusted by workers.*
- Channels for reporting wage-related grievances (as well as other employment related grievances) going forward, especially where such mechanisms did not previously exist.

Best practice

- Actively involve trade unions or worker representatives in the governance of the investigation and rectification process. Workers should be equal decision-makers in deciding on the appropriate process, including the selection of third parties and/or internal staff who will investigate the issue, alongside the employer and other stakeholders.

3. Investigate wages owed to workers

Goal	The investigation confirms (a) the existence of wage theft, and/or non-payment of wages (b) whether or not workers are compelled to remain at their employer, and (c) gathers reliable data on wage theft and non-payment of wages for all workers employed.
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Minimum recommendations

Explore opportunities to create buyer-group efficiencies, and leverage further down the line

Lack of leverage is a key barrier to repayment in Impactt's experience, and usually relates to a lack of buying power or influence on the employer. Buyers and other stakeholders should explore opportunities to collaborate wherever possible to (a) increase their leverage in accessing the site(s) in question, and (b) increase leverage in requiring ultimate repayment, (c) share costs of the process between themselves, and (d) share learnings throughout the process.

Investigation

Regardless of whether the employer, buyer or a third party carries out the investigation, the investigation should include the following components:

- A. Preparation
- B. Evidence gathering:
 - i. Worker interviews
 - ii. Management interviews
 - iii. Document/wage payment systems review
 - iv. Other relevant data sources (e.g., in the case of fishing, AIS/VMS data)
- C. Triangulation of evidence, conclusions, and recommendations

These components are essential, both for informing the calculation of repayment amounts, and for identifying recommendations to prevent future reoccurrence. The below sets out key information that should be gathered through these channels.

Investigation timelines will vary case by case and will depend on the severity of the issues identified, the number of workers to be interviewed, and documents to be reviewed.

It should be noted that the investigation into wages may form just one part of a wider investigation into labour rights issues at the company and inform a broader set of recommendations.

Objectives of the investigation

The investigation should identify:

- Whether non-payment of wages, withholding of wages, or wage theft are present at the company.
- Which different types of wage theft are present at the company.

- Which current and former workers were affected by each type of wage theft, and across what time period.
- Which actors were involved in wage theft practices (including internal and external actors).
- Why these practices occurred (root causes).
- Whether each wage theft issue was systemic or isolated (noting that there may be multiple types of wage-theft issues at a company, some of which may be systemic, and others isolated, in turn affecting appropriate repayment calculation methodologies for each).
- Whether workers are compelled to remain at their employer due to wage theft or non-payment of wages.
- Where workers are compelled to remain at their employer due to the *threat* of wage theft or non-payment of wages.

A. Preparation

The investigator should prepare for the investigation by carrying out desk research to understand:

- Existing local and transnational statutory regulations regarding wage payments, benefits, and any locally legal deductions.
- (Where relevant) Customer Codes of Conduct, or contracts with employers, specifying expectations around wages.

B. Evidence gathering

Worker interviews

Nature of interviews

Worker interviews must be carried out in workers' native language in a confidential setting by trusted, experienced interviewers.

- Interviewers should be diverse, enabling interviews to be gender-sensitive where appropriate.
- Where no staff with relevant language skills are available, ensure an experienced interpreter, familiar with the subject-matter is present, or that a worker is permitted to bring a friend to interpret or be present during the interview.
- Worker anonymity should be protected at all times. Where this is not possible, for example for workplaces with very few workers, additional safe-guarding steps need to be taken prior to the assessment. See Step 1, on non-retaliation for further information.

Worker interviews must gather data on:

- Whether or not workers feel compelled to remain at their employer, and whether this links to issue(s) of non-payment of

wages (threatened or realised). If it does, identify if any particular non-payment of wages issues are more causally linked to this than others, in order to prioritise subsequent remedial action.

- All aspects of potential non-payment of wages. Regardless of which specific issue was identified during an initial audit or complaint, we recommend carrying out a full review to check that no potential wage-related issues are left unidentified. This means checking with workers:
 - Base wage (is this at least minimum wage and does it match the wage agreed in contract?).
 - Overtime rates (are overtime hours correctly recorded, checked, confirmed by workers, and paid?).
 - Other payment rates (e.g., piece-rate – are these correctly paid?).
 - Payment for all work-related activities (including training, induction, worker committees).
 - Payment of social security in relevant countries (which may in some cases be multiple).
 - Payment for entitlements (e.g., annual leave, sick leave, end-of-service gratuities and/or bonuses (see former workers below for further guidance on this)).
 - Deductions (what kind, for what, how these are documented); note deductions could also relate to recruitment fees and related costs, see Impactt Guidelines on this topic [here](#).
 - Frequency of payments and whether any payments are made in arrears (forming a type of bond, e.g., overtime is paid one month after regular wages are paid for the previous months).
 - Nature of payments (bank transfer, cash, in kind, a combination of the above).
 - Any cases of delayed wage payments – where these are identified as present, understand how often this happened and how quickly it was resolved.
 - Any cases where wages were paid but workers were asked to return all or some of the money.
 - Whether they have signed any documents agreeing to deductions or payments to the company or other external stakeholders (e.g., recruitment agencies or brokers involved in employment).
 - Any other wage-related issues relevant to the context or previous audit findings.
- Interest rates paid by workers on any wage advances or loans provided by the employer or any other types of payment. The investigation must establish interest already paid and interest still to be paid.
- The frequency of occurrence for each issue noted above, and across what period it occurred. This will inform calculations and document review (see below).

Sampling

- Based on the premise that all workers are legally owed any withheld wages they are entitled to, all workers that may potentially be affected (100%) should be interviewed.
- However, in some cases (e.g., large workforces) limited resources to investigate may require interviewing a representative sample of workers instead.
- Stratified random sampling is the recommended approach for deep-dive investigations into non-payment of wages. This is a method of sampling that involves the division of a population into smaller sub-groups known as strata.²⁰ In stratified random sampling, the strata are formed based on members' shared attributes or characteristics such as nationality, gender, job role/level of experience, contract type (e.g., fixed wage or piece-rate), or other grouping relevant to the employment context. This approach is recommended because it enables collection of robust and reliable quantitative data based on a representative sample. This provides a key input to negotiations on non-payment of wages reimbursements, as the sample is structured to take account of a full range of demographic groups.
- This approach deepens and expands analytical capabilities: e.g., calculating average amounts (where averages rather than individual amounts are used) within strata rather than groups (thereby mitigating outliers), interrogating variance within and between strata.
- The sample should also include former workers where appropriate (see below).
- Standard audit methodologies recommend sample sizes which are, based on Impactt's field experience, typically too low for non-payment of wages investigations. A more in-depth investigation into non-payment of wages requires a larger sample size, due to the range of possible forms wage theft may have taken across different demographic groups, to obtain a high level of statistical significance of the results. Sample sizes should follow the following guidelines:
- A deep-dive investigation into non-payment of wages should include: at minimum the square root* of the workforce, as well as:
 - Where a site is small (e.g., 40 workers or less) – 100% of the workers should be interviewed to achieve the most accurate results.
 - Where greater than 10 workers are in a 'group' (hourly rate workers, piece rate workers, gender, migrant workers, and any other criteria that may be relevant to the dataset), a minimum of 10 workers should be interviewed from that group. If the square root of the group is higher than 10, then take the square root instead. Many workers may fall into multiple categories.
 - Taking all sampling criteria into account, the sample size may often be higher than the square root of workers on site.
 - Example sampling, using some non-exhaustive worker categories, is provided below.

²⁰ Investopedia, [How Stratified Random Sampling Works](#), 2023.

- **It is important to note that a forensic investigation conducted by an accredited, internationally recognised financial professional services firm, capable of carrying out forensic financial and legal review of non-payment of wages may take its own separate sampling approach to that outlined above, as part of a follow-up investigation as laid out in this section, in 'Best Practice'*
- *Example 1 (see table below). There are 157 workers at the site. The square root of 157 is 13, which gives the minimum total number of workers to be interviewed if you have a homogenous workforce (e.g., all male migrant workers, on the same hourly rate contract). However, it is more likely that the workforce will be made up of diverse sub-groups which may influence the type of pay received.*
- *In the example for site 1, the workforce has a total of 120 hourly rate workers, 37 piece rate workers, 45 women, and 140 migrant workers. To sample in a way that will reflect this diversity, we recommend taking the square root of the total number from each sub-group to generate the total sample size. In this example, the total number of workers to be interviewed is therefore a minimum of 36. The calculation is as follows:*
 - *Total hourly rate workers employed: 120 (square root = 11)*
 - *Total piece rate workers employed: 37 (square root = 6)*
 - *Total number of women employed: 45 (square root = 7)*
 - *Total number of migrant workers employed: 140 (square root = 12)*
 - *11 + 6 + 7 + 12 = 36 workers*

Total no. of workers employed excluding management	Square root (interview minimum)	Total hourly rate workers employed	No of hourly rate workers to be interviewed*	Total piece rate workers employed	No of piece rate workers to be interviewed*	Total number of women employed	No of women to be interviewed*	Total number of migrant workers	No of migrant workers to be interviewed*	Total workers to be interviewed
Site 1: 157 workers total	13	120	11	37	6	45	7	140	12	36
Site 2: 1856 workers total	43	1525	39	331	36	89	10	0	0	85
Site 3: 37 workers total	N/A, below 40	35	All	2	All	8	All	37	All	37
Site 4: 8890 workers total	94	4451	67	4439	67	6563	81	8890	94	309

Inclusion of former workers in the investigation

Where an initial audit indicates that the practice of wage theft is systemic and has been going on for a long period of time, this entails that former workers are likely to have been affected and are likely eligible for repayment too. In such cases inclusion of former workers in the investigation is important and will reduce legal risks of facing class action at a later stage. It should not be assumed that former workers experienced the same wage-theft practices as current workers, since these practices may have changed (becoming more or less severe) over time.

- In some cases, it may be challenging to contact former workers, as records of employment are not always kept, contact details may have changed, they may have re-migrated or may be difficult to reach for other reasons. Employers, buyers, and/or third parties carrying out the investigation must make a reasonable effort to contact any formerly employed workers in scope to inform them about the investigation and invite them to participate. This can be done by:
 - Contacting former workers directly to invite them to participate in interviews. As general good practice, Employers should strive to keep a record of former worker contact details (e.g., this can be requested during a workers' exit interview) to enable communication regarding any possible employment related matters.
 - Asking existing workers to make former employees that they may still be in contact with aware of the investigation.

Management interviews

Management interviews should be carried out with any staff or other external stakeholders that have been involved in the payment process, or decision-making around this process. Internal staff may include payroll, HR, or staff with responsibility for managing time-keeping systems and technology (e.g., worker clock-in/out technologies). External stakeholders may include private employment agencies, payroll intermediaries, sub-contractors, or recruitment agencies that have been involved in wage payment and or taken illegal payments from workers. The key objectives for these interviews are to understand:

- What systems are currently in place to manage wage payments?
- Whether wage theft occurred, and if so, whether the evidence triangulated throughout the assessment suggests this was a) intentional and b) known to senior management.
- What are the key gaps in these systems that are causing issues? (e.g., are these human errors, system failures, or are wage systems being tampered with by staff?).
- Which actors were involved in wage theft practices? (including internal and external actors).
- What are the root causes of these practices? (e.g., lack of due diligence, untrained staff, inadequate payment of service fees to employment agencies causing them to make deductions from workers, etc.).

- In the operating context of the company, how could these issues be sustainably resolved?
- In case internal staff face allegations or are found guilty of malpractice: what disciplinary processes are in place to address this?

Document Review

Data gathered through worker and management interviews should be triangulated through document review and other sources if available during the investigation. Where available, documents reviewed should include:

- Payroll covering all current and former workers employed (going back at least as far as required by local statutes of limitation, or as far back as record-keeping allows, whichever is greater).
- For a sample (at least the same size, or greater, than the worker interview sample) of current and former workers across relevant demographic groups identified:
 - Employment contracts (or where absent, offer letters) specifying wage rates.
 - Payslips.
 - Bank transaction records that verify whether anyone other than the worker has accessed their accounts.
 - Any other relevant documentation (e.g., loan or deduction agreements, documentation related to debts, interest information, disciplinary records, performance records).
- Company policies regarding wages (e.g., wage bands across job roles), benefits, and any permitted financial deductions.
- Documentation detailing any management systems related to payroll. In particular, investigations should explore any policies or procedures at risk of compelling workers to remain at their employer, in tandem with (and guided by) worker testimony.
- Data from national monitoring mechanisms for wages and benefits in the country (where these exist and can be made available by the relevant authorities).

Important: While documents can provide valuable data in many cases, there are various contexts in which wage payments are either poorly or incorrectly documented, or not documented at all.

- In some cases, this may be due to a lack of effective wage payment systems in place, whilst in others it may be linked with fraudulent activity.
- Examples of fraudulent activity might include employers not recording actual deductions made, or carrying out electronic wage transfers, but then requiring that workers return money in cash. As noted above, where transparency issues are identified, these must be addressed before the investigation can be carried out or continued.

- In contexts where these issues exist, worker testimony should be considered as primary evidence despite lack of receipts or documented evidence. Worker testimony in such cases can be triangulated in the wider context of the assessment; for example, noting that worker testimony can be strengthened through confirmation of other forced labour indicators at the site (e.g., worker intimidation). Additionally, in cases where such testimony must be used as primary evidence, the overall sample size of workers should be doubled to provide a larger evidence base.

In addition to document review, cross-check data against as many sources as possible, including:

- Discussions with local and international experts (including but not limited to trade unions, NGOs, CSOs, former workers and community leaders for instance) who may have detailed knowledge and insight on common wage abuses in the country/sector context.
- Media articles on common wage-theft practices in certain contexts, regions.

C. Triangulation of evidence, conclusions, and recommendations

Following evidence gathering, the investigation should triangulate evidence to conclude on the existence of wage theft, withholding of wages and/or non-payment of wages. If confirmed, conclusions should also be made on:

- Prevalence, including length of time and number of workers and former workers affected.
- Severity, including
 - (a) total quantum of wage theft, withholding of wages and/or non-payment of wages.
 - (b) whether workers are compelled to remain at their employer.
 - (c) aggravating factors such as breaches of working time/rest regulations in the course of wage theft.
- Effectiveness of management systems. In particular, gaps which exist in such systems which enabled issues to occur, with a distinction made for any management systems (and related non-payment of wages) which may be linked to workers being compelled to remain at their employer, based on worker testimony. These should be flagged to be prioritised for critical action.

Recommendations should be split into:

- Critical actions on repayment (see subsequent guideline), improvement in management systems²¹, and actions to remove practices of using threats or menaces of penalty to compel workers to remain at their employer. These must be prioritised to ensure (where applicable) the remediation of forced labour.

²¹ Please see 'Key Considerations: Repayment must be complemented with action to prevent future issues.'

- Further actions on repayment and improvement in management systems to ensure both remediation and prevention of the total quantum of non-payment of wages.

Best practice

- 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 non-payment of wages should be used. This may follow on from an initial investigation in which 3rd party experts in wage-payment systems, human rights and forced labour were unable to accurately quantify the amount of wages which were unpaid.
- Please note, where the initial third party expert found suspicion or evidence of active wage theft or withholding of wages featuring transparency concerns (see 'Identify Investigation Approach' section above), then this step is not recommended, as forensic review of the available documentation cannot be trusted given transparency concerns. Instead, the third party experts should seek appropriate consultation with key stakeholders regarding next steps, including whether any leverage exists (or can be created or improved) to encourage the site to improve transparency. Where transparency is confirmed to have improved through further investigation, the further steps laid out here may be followed.

4. Calculate the repayment amount

Goal

The repayment amount is accurately calculated based on reliably collected data and represents the actual value of money workers should have received, considering interest, inflation, lost opportunity cost and compensation where appropriate.

Key considerations

- Payment calculations should factor in:
 - *All non-payment of wages.* The calculated amount should cover any non-payment of wages for the entire duration of each workers employment including all wages (including overtime), benefits (including annual leave pay, sick pay, and any other allowances or entitlements) and end-of-service benefits or termination pay (if applicable).
 - *Interest.* Worker payments of any interest rates (e.g., on employer advance payments of wages or loans) should be included in the calculation.
 - *Inflation.* The compound year-on-year inflation (in wage-payment currency) since the wages should have been received should be factored into all cases. The inflation should be calculated in the currency in which salaries were paid; note that this is likely to be higher in certain country contexts.

- *Lost opportunity cost.* An additional 2% per annum, year-on-year since the non-payment of wages began, to represent lost opportunity costs.
- *Financial compensation for damages/harm suffered (in cases where appropriate) (see best practice).*
- *Legal and policy frameworks* governing employment, financial compensation, and wage calculations in the country, where these exist. Customer company policies may also set requirements for repayment. We recommend selecting the compensation amount that is most beneficial to workers.

Factoring in the above should ensure that the value of the repayment received by workers is the same as that which has been withheld and is at minimum aligned with requirements of local legislation. It should be noted that, in addition to this, companies may be required to pay a fine for non-compliance with minimum wage regulations.²²

Minimum recommendations

- Individual approach: Wherever possible, non-payment of wages should be calculated on an individual basis, for each affected worker. This approach will provide the greatest protection against future legal claims, since it will offer repayment closest to what each worker is actually owed.
- Cohort approach: In cases where it is not possible to calculate a separate amount for each worker (for example for large workforces with very limited documentation), repayments can be based on the average (either mean or median – whichever is more advantageous to workers) for each identified sub-group of workers over the relevant time period (e.g. by nationality, gender, job role/level of experience, contract type (e.g. fixed wage or piece-rate), or other grouping relevant to the specific employment context.
- The minimum amount calculated should reflect:
 - The legal minimum wage and entitlements owed to the worker, or the contractually agreed wage rates and entitlements, whichever is higher, and should factor in:
 - Interest rates paid and inflation year-on-year since the wages should have been received.
 - Payment of lost opportunity cost. We recommend factoring in an additional 2% per annum, year-on-year since the non-payment of wages began, to represent at least a portion of lost opportunity cost. Lost opportunity cost is the cost incurred by not enjoying the benefit associated with the best alternative. For example, if workers were unable to remit wages home during their employment, there is a lost opportunity cost from the potential ways they could have used that income.

²² UK Government, [National Minimum Wage: policy on enforcement, prosecutions and naming employers who break national minimum wage law](#), 2022
 - For example, in the UK, this includes a 200% fine alongside restitution to employees.

- As noted above, if internal staff are investigating and calculating non-payment of wage amounts, amounts should always be verified by third party experts (or buyers where this is not feasible) due to legal complexities around pay and hours.

Best practice

The ILO Committee of Experts notes that in the context of systematic delayed payment of wages, the application of Convention No. 95 also comprises “the means to redress the injury caused, including not only the full payment of the amounts due, but also fair compensation for the losses incurred by the delayed payment.”²³

Best practice entails adding compensation for damages suffered as a result of wage theft to the calculations noted under minimum recommendations above. This could take any or all of the following forms:

- Compensation in the form of liquidated damages²⁴. Under US law, employers may be ordered by the courts to pay an amount that is equal to the amount of unpaid wages or overtime as “liquidated damages”. For example, if the calculations noted under above establish that a worker is owed 2,000 USD in wages, then that worker will be paid a total of 4,000 USD if liquidated damages are added.
- Adjust repayment amounts to reflect living wage rates in place of the minimum base wage and/or the contractually agreed wage rates noted under minimum recommendations above. See the Global Living Wage Coalition for existing data on living wages across different countries and industries, calculated using the Anker methodology.²⁵ See Appendix B for the definition of a Living Wage.

5. Communicate proposed payment plan to workers, negotiate and agree final plan

Goal

All current and former workers that are owed wages are included on the list of eligible workers to be paid, informed about the proposed payment amount, and given the opportunity to participate in negotiation processes to determine final payment amounts.

Key considerations

Receipt of correct wages is each workers’ legal right, therefore all workers whose wages were withheld should be eligible for repayment. In some cases, however, certain national statutes of limitation may apply. Minimum recommendations for this section are therefore based on a minimum compliance with legal statutes in the country of employment, whilst best practice recommends inclusion of all workers, regardless of statutes of

²³ ILO, [Protection of Wages: Standards and Safeguards Relating to the Payment of Labour Remuneration](#), 2003, Page 368.

²⁴ Law and the Workforce, [DOL and Liquidated Damages](#), 2021.

²⁵ Global Living Wage Coalition, [The Anker Methodology for Estimating a Living Wage](#).

limitation. All workers should have an opportunity to negotiate or challenge the proposed repayments, therefore this is a minimum recommendation.

Minimum recommendations

Issue a name-list and proposed payment plan

Based on the information gathered under Steps 1 - 4 the employer (in collaboration with or verified by the third party where applicable) should issue a name-list (covering all eligible workers, detailing their full name and the amount calculated as being owed to each) and a payment plan (detailing the proposed payment protocols, method, and timeline).

At minimum, the name list should include all workers that are entitled to repayment under relevant legal statutes of limitation in the country where the employer operates. This should include:

- All current workers affected.
- Any former workers affected, either in their totality, or within applicable legal statutes of limitation where existing in the country of employment. At a minimum, this should include affected former workers for as far back as the employer legally retains records.
- All local and migrant workers affected, regardless of their migration or employment status.
- All directly and indirectly employed workers that have been affected (including sub-contracted, outsourced, temporary or part-time workers).

See guidance notes below for further information on inclusion of these sub-groups.

Engage with workers and their representatives to review the plan

Employers should engage with workers to negotiate and agree the payment plan in an effective and open manner. Depending on the payment approach proposed (i.e., individual, or average amounts) this may include engagement with workers individually, in groups, or through elected workplace representatives, or trade unions.

Where no legitimate and/or credible form of worker representation exists, third parties with expertise in negotiation and worker engagement, and/or local civil society organisations that are trusted/selected by workers (and that have relevant practical expertise) may support this process.

As part of this process, stakeholders should:

- Provide formal communication to all workers regarding the proposed payment including:
 - A general memo in their own language which indicates why the payments are being made. This should explain why the issue of wage theft/non-payment of wages occurred and provide an apology on behalf of the employer as far as possible.

- An individually addressed letter in workers' own language clearly communicating:
 - The investigation process that was followed.
 - The proposed payment amount and how it was calculated (including information on interest rates).
 - The proposed method, protocol, and timeline for repayments.
- Organise communications sessions explaining the above verbally to all workers. This is particularly important for workers who cannot read. These sessions must:
 - Be carried out in an appropriate location and in the workers' own language.
 - Communicate the helpline (see below) and its purpose.
 - Make clear to workers that receipt of financial repayment under any of the models presented here does not prevent them from exercising or claiming other rights or damages to which they may be entitled to under law.
- Invite feedback from workers and their representatives on the proposed payment plan:
 - Provide multiple channels for provision of feedback, such as individually visiting the HR office, via worker representatives, via anonymous comments boxes or existing grievance mechanisms, via the communications sessions noted above, etc.
 - Proactively engage with trade unions or worker representatives where these exist, for example by setting up a working group, or workshops to enable discussion.
 - Where migrant workers are present, ensure they are provided with translation support to communicate their feedback.
 - Provide workers or their representatives with sufficient time (e.g., 2 to 3 weeks) to review the proposal and share feedback or ask questions.
 - Note: There may be more than one worker representative organisation involved. The relative interests of different groups should be considered and reflected fairly in negotiations.
- Where internal resources or expertise are limited or unavailable, contract an independent third party helpline or utilise other independent methods to enable workers to report any issues related to payment. The helpline must be available in workers' languages and ideally be operated by people trusted by workers. Awareness-raising sessions must be carried out to make workers aware of the helpline and how to use it. A log of issues raised, and their resolution must be kept, including confirmation that worker unions/representatives have knowledge of these issues. This helpline can have its purpose

extended to become a more general external grievance line where appropriate.

Determine a final payment plan

- Based on negotiations with workers and their representatives, issue a final payment plan, including revised payment amounts, methods, and protocols, aligned with feedback received.
- Communicate the final payment plan to all workers using the methods outlined above. Ensure that communications are provided to any workers that are not receiving repayment as well with a clear explanation of the reason for this and channels for further appeal and/or other mechanisms for remedy (e.g., state-based) they could pursue.
- Enable individual workers and/or their representatives to negotiate or appeal the proposed payment amounts following internationally recognised processes for appeals (see for example [IOM's Operational Guidelines for Businesses on Remediation of Migrant-worker Grievances](#), which can be applied to local and migrant workers).
 - Workers not included in the list should also have access to an appeals mechanism at this time, to challenge their lack of inclusion if they believe they are entitled to repayment.
- If the workers and employer can't agree on the repayment amount, both parties can seek support from external parties to reach an agreement, and relevant stakeholders including buyers should input to provide appropriate channels.

Best practice

- As above, but all historically affected workers (regardless of how long ago they left the company) should be included on the list, beyond any local statutes of limitations.
- Continue to engage with a wide range of stakeholders including trade unions and or other worker/representative organisations on a regular basis to ensure wage related issues (and other workplace issues) do not re-occur.

Guidance notes

Current workers

In some cases, current workers may wish to leave while non-payment of wages investigations or repayment negotiations are ongoing. All workers must:

- Remain free to resign without a) losing their entitlement to repayment, or b) facing blacklisting by employers or agents. Where there is any penalty/risk of losing access to repayment by resigning, workers can effectively be placed in a condition of bonded or forced labour. Where workers leave before repayments are made, the employer should record their payment details in home country, so that payments can be made once the investigation, calculation and negotiation period has been completed.

- Remain entitled to the repayment regardless of the circumstances. For example, a worker that faces disciplinary action should still be entitled to repayment.
- Remain entitled to seek remediation through state-based or other grievance mechanisms.
- Not be forced to sign any waivers preventing them from seeking other forms of remedy following repayment.

Former workers

If applicable, data on wage practices related to former workers should have been gathered during the investigation stage (Step 3). In cases where it was not possible to interview affected former workers, a “date of first diagnosis” should be identified to establish former workers’ eligibility. For example, where the investigation finds that specific management systems, or staff members carried out underpayment over a certain period of time, this may create a “date of first diagnosis” to determine the eligibility of former worker applicants.

The employer (in collaboration with other implementing actors where relevant) should:

- Develop a clear protocol for confirming former workers’ eligibility for repayment. This should include actions to confirm eligible workers’ identities and determine whether and how much the former workers were underpaid. This can be carried out with the support of expert third parties where needed.
- Proactively reach out to all affected former workers to inform them of their right to repayment. Channels for reaching out include:
 - Contacting former workers directly.
 - Setting up a dedicated anonymous helpline in worker languages, which they can call to access information about the Contingency Fund and their eligibility (this is especially recommended where large workforces are affected).
 - Asking existing workers to make any eligible former employees aware of their entitlement (and sharing helpline or employer contact details with them).
 - Publicly communicating workers’ right to claim repayment via various media (e.g., videos, leaflets, posters), and channels such as newspapers, radio, or social media, in both destination and origin countries (where migrant workers are involved).
 - Collaborating with relevant governments, trade unions or civil society organisations where available to trace individual workers. Workers’ respective embassies or consulates may also support.
 - Where applicable, and as a last resort, recruitment agencies that originally recruited workers may also be consulted, to check if they still hold contact details and/or are aware of workers’ whereabouts. This should be done as a last resort to limit the potential risk of retaliation (or attempted confiscation of funds) from recruitment agencies.

- In some cases, workers who have left employment do not have the means or resources to stay in the country to continue engaging in dispute or claims processes although they wish to do so. Where former workers wish to engage in negotiations, they should be enabled to do so through remote participation (online engagement).
- In some cases, government agencies may carry out the steps listed above where employers are unable.

Sub-contracted workers

- For sub-contracted, outsourced, temporary, or part-time workers, the direct employer of these workers (i.e., a private employment agency) is responsible for repaying their workers' wages. However, the employer as the "end-user" can also take the lead in ensuring repayment is undertaken in a timely manner even if this may mean paying some or all of required repayments initially to workers and receiving payment back from their private employment agencies and/or enforcing contractual obligations against these private employment agencies.

Set up a 'contingency fund'

The introduction and advertisement of a 'contingency fund' can not only ensure that former workers can receive repayment but can also ensure that any imperfections made in repayment to current workers can be corrected in future. This fund should be introduced with ringfenced funding, ready to be paid out to applicants bringing forth a legitimate case for (further) repayment. A committee consisting of company and buyer representatives, and independents, with governing principles should arbitrate any such applications.

This fund should be set up by the employer. The ringfenced amount should be based on the calculations made under Step 3, whilst noting that workers who were not interviewed as part of the investigation may have paid different amounts and may therefore require additional compensation. Alternatively, as noted above, other stakeholders such as relevant government agencies, buyers, or others could set up this fund to enable swift repayment while the employer is unable.

6. Make all repayments in a transparent and timely manner

Goal	Workers are repaid their wages as quickly as possible through transparent channels.
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Minimum recommendations

Payment method

- All payments should be made via bank transfer to enable transparency.
- All workers should receive a payslip in their own language which shows the repayment amount as a separate item.

- The employer should cover banking transaction costs for any workers who leave or have already left employment and receive the payments in their home country. Workers who continue to work for the employer may be expected to remit the money home alongside regular wages at their own expense.
- It is important to check any potential tax implications of providing payments to workers (lump sum or otherwise) – as they may not yet be classed as tax-exempt. Arrangements should be made to ensure any such tax requirements are offset by the employer if they are required to ensure the worker receives the full intended amount.

Payment timeline: 3 months

- For current workers, complete all repayments within 3 months from the date the issue was first discovered, allowing a maximum of 1 month (within the total 3-month period) for negotiation of repayment amounts with stakeholders where relevant. Negotiations may be carried out directly between employers and trade unions/worker organisations, or with involvement from third parties.
- Where non-payment of wages has been determined to be significant during the investigation stage (e.g., amounting to one months' wages or more) buyers and/or other stakeholders should seek to provide livelihood support to affected workers (for example, providing funds to cover food and accommodation during the period that payments are pending).
- For former workers, repayment windows may be longer depending on complexities of e.g., advertising application windows, assessing applications, and processing foreign transactions. However, a maximum window of 3 months between receipt of each individual application and repayment should still apply.
- Buyers and/or any third parties that were involved with the remediation process should monitor the amount of time taken to complete payment and follow-up urgently if agreed payment timelines are not met.

Best practice

Payment timeline: maximum 1 month

- Repay all workers through lump sum payment as soon as possible and within a maximum of one month to remediate the risk of debt bondage and/or forced labour as quickly as possible.
- Where lump sum payments are made, financial advice should be made available to workers to manage any vulnerabilities they may be exposed to as a result.
- As long as workers remain uncompensated, the burden on them continues to compound. A recalculation of the repayment amount may therefore be required if repayments are made over an extended period of time.

7. Implement new management systems

Goal

Management systems are created and/or improved to ensure no re-occurrence of issues, prioritising (if applicable) any areas which the investigation found were particularly linked to workers being compelled to remain at their employer.

Minimum recommendations

- The employer must work to implement the actions recommended by the investigation team as part of 'Guideline 3: Investigate.'
- A corrective action plan should be created to outline actions, assign responsibility, and provide dates for completion.
- Where necessary, an expert third party may be engaged to assist in the implementation of new management systems and should work to ensure that such systems are adequate and effective.
- Where workers were found to be compelled to remain with their employer, due to threats or due to realised non-payment of wages, then improvement in management systems which have the most direct impact on correcting this issue must be prioritised as an urgent first step.
- Please see 'Key Considerations: Repayment must be complemented with action to prevent future issues' for examples of what may be included in these recommendations, as good practice.

Best practice

Improving management systems around wage payment issues moving forward is critical to ensure there is no reoccurrence of issues which may leave workers without fair pay and may compel them to remain with their employer. Therefore, there is no best practice for this category, only a minimum recommendation.

8. Verify payment and implementation of new management systems

Goal

A reputable independent third party verifies that all repayments have been made correctly, without any negative consequences for workers.

Minimum recommendations

- An independent 3rd party verification of payments to workers must be conducted. This must include management and worker interviews, interviews with unions or other worker representatives (where present) and document review.

- Where non-payment of wages issues were isolated, effective remedy can also be measured during standard follow-up audits.
- Verifications must check:
 - That all workers (including workers that have returned to their home/home country) have received all payments owed and are being paid in full and on time.
 - That workers are no longer in debt of any kind relating to their recruitment or employment.
 - That all workers understand what the payments are for.
 - Workers' satisfaction with the remedy provided.
 - That documents are not being falsified.
 - Progress on implementation of management system improvements, ensuring adequate responsibility and dates for completion are provided.
- Consult with worker unions and representatives, where they exist, on an ongoing basis.
- Where in-person access to workers is limited, remote verification methodologies can be utilised (i.e., speaking with workers via Zoom, WhatsApp, Skype, etc.)

Best practice

Verification that payments have been made correctly, and associated management systems improved, is critical to ensure a robust and legitimate repayment process. Therefore, there is no best practice for this category, only a minimum recommendation.

Appendix A - Workers' rights to wages

The International Labour Organization (ILO) stipulates that workers possess key rights to wages and has established international standards on wage protection and non-payment of wages through its conventions. The key convention is the Protection of Wages Convention, 1949 (No. 95), supplemented with the Protection of Wages Recommendation, 1949 (No. 85). This is further supplemented by wage provisions in several other conventions outlined below.

ILO instruments containing standards related to the protection of wages	Number of ratifications (as at 13/12/2002)
I. Fundamental Conventions	
Equal Remuneration Convention, 1951 (No. 100), Art 1; General Survey, 72 <i>ILC</i> , 1986, Report III (Part 4B)	156
II. Wage-related Conventions and Recommendations	
Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), and Recommendation (No. 30); General Survey, 79 <i>ILC</i> , 1992, Report III (Part 4B)	103
Minimum Wage-Fixing Machinery (Agriculture) Convention, 1951 (No. 99) and Recommendation (No. 89); General Survey, 79 <i>ILC</i> , 1992, Report III (Part 4B)	52
Minimum Wage-Fixing Convention, 1970 (No. 131) and Recommendation (No. 135); General Survey, 79 <i>ILC</i> , 1992, Report III (Part 4B)	44
Labour Clauses (Public Contracts) Convention, 1949 (No. 94) and Recommendation (No. 84)	59
Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173) and Recommendation (No.180)	14
III. Other instruments	
Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64), Art. 5(2)(e)	31
Work in Fishing Convention, 2007 (No. 188), Arts 23 -24	20
Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82), Arts. 15-17	4
Migration for Employment Convention (Revised), 1949 (No. 97) and Recommendation (Revised) (No. 86), Arts. 6(1)(a), 9; Annex II, Art. 6(1)(b); General Survey, 87 <i>ILC</i> , 1999, Report III (Part 1B)	42
Plantations Convention, 1958 (No. 110), Part IV, Arts. 26-35	12
Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), Arts. 11-13	32

Appendix B – Key definitions

Wages: means remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations, which are payable in virtue of a written or unwritten contract of employment by an employer to an employed person for work done or to be done or for services rendered or to be rendered.²⁶

Living Wage: The remuneration received for a standard workweek by a worker in a particular place sufficient to afford a decent standard of living for the worker and her or his family. Elements of a decent standard of living include food, water, housing, education, health care, transportation, clothing, and other essential needs including provision for unexpected events.²⁷

Wage theft: Means broadly, any instance where one does not receive the benefit one has earned, including pay at the correct rates for the correct hours (including overtime), but also other benefits and allowances²⁸. In the context of these Principles and Guidelines, Impactt uses this term to refer to cases where there is deliberate intent by an employer to provide inaccurate pay.

Non-payment of wages: Non-payment of wages is used by Impactt within the context of this paper to encompass the whole spectrum of missing wages which may be occurring due to wages which have not been paid by an employer, for any reason. This includes wage theft as a sub-category, and refers to all other cases, including those where it may be unclear as to whether an employer is carrying this out deliberately or not. Ensuring that emphasis is placed on the effect on the worker, rather than deliberate intent of an employer, can help to focus investigative efforts to understand where any wages are missing, for any reason.

Further definitions

Debt bondage: The status or condition arising from a pledge by a debtor of his or her personal services or those of a person under his or her control as security for a debt if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined²⁹.

Employer: A person or an entity that engages employees or workers, either directly or indirectly.

End of service benefits: Payments made at the termination of a worker's contract or service, the amount often determined by the workers' length of tenure and / or current wage level at the point of termination. These include redundancy pay, when termination occurs due to economic restructuring of the company, and

²⁶ CO95, [Protection of Wages Convention](#), 1949 (No 95), Article 1.

²⁷ Global Living Wage Coalition, [What is a Living Wage?](#).

²⁸ Forbes, [How to Spot Wage Theft and What To Do if it Happens to You](#), 2022.

²⁹ United Nations, [Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery](#), 1956.

severance pay in the case of individual dismissal, resignation, or retirement.³⁰

Forced labour: work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself/herself voluntarily.³¹

Human trafficking: The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Trafficking in persons can take place within the borders of one State or may have a transnational character.³²

Labour recruiter: The term labour recruiter refers to both public employment services and to private employment agencies and all other intermediaries or subagents that offer labour recruitment and placement services. Labour recruiters can take many forms, whether for profit or non-profit, or operating within or outside legal and regulatory frameworks.³³ Private employment agencies fall within the definition of labour recruiters. For the purpose of this document, the term of private employment agency refers to the agencies that provide recruitment and employment services in the destination country.

Mean: The average in a set of numbers, obtained by dividing the total of a set of figures by the number of figures.

Median: The value that represents the point at which there are as many instances above as there are below.

Mode: Number which appears most often in a set of numbers.

Migrant worker: A “migrant worker” is defined in the ILO instruments as a person who migrates or has migrated from one country to another with a view to being employed other than on his own account, and includes any person regularly admitted as a migrant for employment. Here we also apply the term to any workers that are travelling or migrating within their own country of birth or residency. The same mechanisms and approach should be applied in such cases.

Minimum wage: the minimum amount of remuneration that an employer is required to pay wage earners for the work performed during a given period, which cannot be reduced by collective agreement or an individual contract.³⁴

Overtime: Overtime refers to all hours worked in excess of the normal hours (i.e., the standard hours for a

³⁰ ILO, [Redundancy and Severance Pay](#).

³¹ CO29, [Forced Labour Convention](#), 1930 (No 29).

³² United Nations, [Trafficking in Persons](#), 2014.

³³ ILO, [General Principles and Operational Guidelines for Fair Recruitment](#).

³⁴ ILO, [How to Define a Minimum Wage?](#)

single day or shift e.g., eight hours). The threshold used for identification of overtime varies depending on institutional settings. The threshold can be set, for example, by the contractual working time, usual working time or statutory working time.³⁵

Payments in arrears: The practice of delaying, diverting or otherwise withholding wages.³⁶

Piece rate: Piece rate pay occurs when workers are paid by the unit performed (e.g., the number of tee shirts or bricks produced) instead of being paid on the basis of time spent on the job.³⁷

Private Employment Agency: For the purpose of this document, the term of private employment agency refers to the agencies that provide recruitment and employment services in the destination country.

Public Employment Agency: Refers to Government agencies servicing job-seeking clients.

Social security: The ILO defines social security as the protection that a society provides to individuals and households to ensure access to health care and to guarantee income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity, or loss of a breadwinner. It is a system of contribution-based health, pension, and unemployment protection, along with tax-financed social benefits.³⁸ ILO conventions define nine branches of social security: medical care; sickness benefit; unemployment benefit; old-age benefit; employment injury benefit; family benefit; maternity benefit; invalidity benefit; and survivor's benefit. Employers' responsibilities for social security contributions and employees' entitlements to benefits vary by institutional setting.

Subcontractor: a person or business (operating as a registered entity) which has a contract (as an "independent contractor and not an employee") with a contractor (labour recruiter) to provide some portion of the work or services on a project which the contractor has agreed to perform. The subcontractor is paid by the contractor for the services provided.³⁹

Unfair deductions: "Unfair" refers to deductions not meeting two out of three of the ILO's three main wage deduction principles, and several additional aspects. The first ILO principle defines unlawful deductions: Deductions of any type, to be lawful, need an appropriate legal basis—national laws or regulations, collective agreements or arbitration awards; individual agreement is not sufficient. However, it can be possible for a deduction to be lawful but also unfair. Unfair wage deductions do not meet the criteria of the second and third principles: All authorized deductions must be limited so that the net amount of wages should be

³⁵ ILO, [Overtime](#), 2004.

³⁶ ILO, [General Survey of the Reports Concerning the Protection of Wages Convention \(No 95\) and the Protection of Wages Recommendation \(No 85\)](#), 1949.

³⁷ ILO, [What is a Minimum Wage?](#)

³⁸ ILO, [Facts on Social Security](#).

³⁹ Iris Ethical Recruitment, [Iris Standard](#).

sufficient to ensure a decent living income for workers and their families, and all relevant information regarding the grounds and extent of wage deductions must be communicated in advance to workers. Also, the ILO notes wages deducted for loss or damage of employer's property "should be fair and should not exceed the actual amount of loss or damage" and workers should be given reasonable opportunity to show why the deduction should not be made.⁴⁰ For the purpose of this document "unfair" also refers to wage deductions for disciplinary reasons as prohibited in international best practice such as the ETI Base Code.⁴¹

Third parties

Involvement of third parties can bring added credibility, expertise and independence to the repayment process. This is particularly important in contexts where employers or companies do not have the relevant internal experience to carry out such work. Third parties may include accredited auditing bodies, international organisations (IOs), NGOs, CSOs, and other types of community-based organisations (CBOs, trade unions, as well as subject-matter experts. Any third parties engaged throughout the repayment process should:

- Be familiar and experienced in carrying out investigations into non-payment of wages.
- Be independent, i.e., not affiliated with any investors, buyers, employers, labour recruiters, or others that may have a vested interest in the outcome of the investigation and other repayment related activities.
- Be able to demonstrate steps taken to mitigate any potential conflicts of interest.

⁴⁰ RO85, [Protection of Wages Recommendation](#), (No 85), 1949.

⁴¹ Ethical Trading Initiative, [Base Code](#), Clause 5.

Appendix C – Roles and Responsibilities

This table provides further detail on the roles and responsibilities of different stakeholders within the process.

Who?	Responsibilities
Buyers/business enterprises	<p>Prevention</p> <ul style="list-style-type: none"> • Comply with national laws related to wages and human rights. • Put in place policies and processes appropriate to the company size and circumstances, including: a) a policy commitment to meet their responsibility to protect human rights, b) a human rights due diligence process to identify, prevent, mitigate, and account for how they address their impacts on human rights and c) processes to enable the remediation of any adverse human rights impacts they cause or to which they may contribute. <p>Remediation</p> <ul style="list-style-type: none"> • Provide for or cooperate in remediation through legitimate processes. • Fund investigation (Step 3), technical support to implement remediation (i.e., third party support, where needed) and verification. • Contribute to funding repayment of wages where this is identified as appropriate to the case. • Support the employer to implement effective management systems to prevent reoccurrence.
Employers, including public employment agencies	<p>Prevention</p> <ul style="list-style-type: none"> • Implement effective management systems which ensure issues related to wages do not re-occur. See section on this topic under “key considerations” within Impactt’s full version of these guidelines. <p>Remediation</p> <ul style="list-style-type: none"> • Carry out investigations (if agreed with buyers and other relevant parties under Step 1) or cooperate in investigations (if carried out by third party), providing all information requested in a timely and transparent manner. • Fund the repayment of any wages that have not been paid, based on investigation findings.
Employers’ organisations	<p>Prevention</p> <ul style="list-style-type: none"> • Train companies on national laws and international standards regarding wage protection. • Provide practical guidance on setting up grievance mechanisms. • Provide opportunities for dialogue and exchange between companies. <p>Remediation</p> <ul style="list-style-type: none"> • Pool member contributions in order to provide a fund for workers who have not been paid, including as part of a co-financing arrangement with the government.⁴²

⁴² One possible idea is that employers could deposit the equivalent of the first month’s wages into an account from which compensation could be paid should tripartite or bipartite institutions so determine. Similar initiatives exist, such as in Germany, where the employers’ associations require payments from any enterprise for such a purpose, with the share depending on the total sum of wages of all socially insured employees, including quarterly advance payments and one final payment. ILO, [Guidance Note: Wage Protection for Migrant Workers](#), 2023.

Third parties (experts, auditors)	<p>Prevention</p> <ul style="list-style-type: none"> • Provide capacity building support to employers where required to strengthen their wage management systems. <p>Remediation</p> <ul style="list-style-type: none"> • Carry out or collaborate in investigations (if agreed with buyers and other relevant parties under Step 1). For example, in some cases, third parties may be brought in to carry out specific tasks such as worker interviews. • Provide expertise on methodologies for investigating and repaying wages, in line with the guidelines in this document. • Provide implementation support. • Verify whether payment efforts meet the requirements outlined in these guidelines.
Trade Unions	<p>As per the ILO's Guidance note on protection of wages, trade unions can:</p> <ul style="list-style-type: none"> • Monitor the implementation of wage provisions negotiated in collective agreements and support wage recovery through direct engagement with the employer. • Help individual and groups of workers, particularly those in informal employment and insecure forms of work – to recover unpaid wages through administrative and judicial mechanisms. <p>In contexts where effective trade unions and collective bargaining processes exist, these should always provide the primary vehicle for addressing wage-related issues in collaboration with employers. Where local unions are not present or effective, global trade union stakeholders can support the process by:</p> <ul style="list-style-type: none"> • Representing and/or supporting workers during each step of the process outlined, in particular steps 2 (informing workers of their rights), and 5 (negotiate proposed payment plan with workers) • Providing guidance to other stakeholders (such as third parties/NGOs) that can provide this support.
Worker representatives	<p>Prevention</p> <ul style="list-style-type: none"> • Engage regularly with workers and the employer to understand whether existing wage mechanisms are implemented correctly, and request action to be taken in case any issues arise. <p>Remediation</p> <ul style="list-style-type: none"> • Represent and support workers during each step of the process outlined, in particular steps 2 (informing workers of their rights), and 5 (negotiate proposed payment plan with workers).
NGOs/CSOs	<p>Prevention</p> <ul style="list-style-type: none"> • Engage with a wide range of stakeholders to raise awareness of wage-related issues and how these can be prevented and addressed in a way that aligns with workers interests. <p>Remediation</p> <ul style="list-style-type: none"> • Support workers during each step of the process outlined, in particular steps 2 (informing workers of their rights), and 5 (negotiate proposed payment plan

	<p>with workers).</p> <ul style="list-style-type: none"> • <i>(When applicable)</i> Provide expertise on methodology for investigation and repaying wages, in line with the guidelines in this document.
Labour inspectorate	<p>Prevention</p> <ul style="list-style-type: none"> • Carry out labour inspections, with a strong focus on proper payment of wages alongside other labour related issues. <p>Remediation</p> <ul style="list-style-type: none"> • Use the principles and guidelines to inform investigation and repayment approaches.
Governments/regulators	<p>Prevention</p> <ul style="list-style-type: none"> • Define within national legislation the persons responsible for compliance and prescribe adequate penalties or other appropriate remedies for any violations (ILO Convention No. 95, Article 15). • Build strong supervision and inspection mechanisms, including through the labour inspectorate. • Impose effective sanctions in the event of infringements⁴³; and • Build an accessible and effective judicial system (ILO 2003, para. 462).⁴⁴ • In developing wage protection systems, ensure the full consultation, and as far as possible, the direct participation, on an equal basis, of the social partners. • Take effective measures to ensure that workers are informed of their wage conditions before they enter employment and when any changes take place (as per Article 14 of ILO Convention No. 95) • Devote sufficient resources to the collection of statistics on wages and other relevant data. • Promote the importance of employers paying wages according to the law and disseminate guidance on how to a) implement effective wage management systems, and b) manage repayment where issues are identified. • Develop rights-based and gender-responsive bilateral labour migration agreements between countries of origin and destination to ensure labour protection, including in the context of wages. <p>Remediation</p> <ul style="list-style-type: none"> • Fund payments of money owed to workers in the short-term where employers are unable to do so and recover this from the employer.

⁴³ For example, governments in some countries can detain vessels until the employer has repaid the amount owed.

⁴⁴ With respect to sanctions, the ILO Committee of Experts "places particular emphasis on the need for truly dissuasive penalties, such as harsh monetary fines, so that employers no longer find it preferable to pay what may be no more than a symbolic fine rather than releasing wage funds on time. ILO, [Protection of Wages: Standards and Safeguards Relating to the Payment of Labour Remuneration](#), 2003, Page 371.

Judiciary	<ul style="list-style-type: none"> • Improve access to justice-related mechanisms for workers, by⁴⁵: <ul style="list-style-type: none"> ○ Extending access to mechanisms for workers (including migrant workers, regardless of their legal status) ○ Providing legal aid and translation and interpretation services ○ Introducing mobile courts for hard-to-reach sectors or workers ○ Allowing workers to pursue cases even if they have returned home.
Investors	<p>Prevention</p> <ul style="list-style-type: none"> • Require companies in which they invest to comply with all aspects of the applicable law relating to payment of wages and provide evidence of compliance. <p>Remediation</p> <ul style="list-style-type: none"> • Use the guidelines to engage with the companies in which they invest and ask questions about how wage-related issues are being resolved. Push for a higher standard of remediation (in line with these guidelines) wherever possible. • When issues are raised relating to non-payment of wages in a company in which they invest, insist on the highest standard of remediation in line with these guidelines.

⁴⁵ Further examples of emerging good practices can be found in Farbenblum and Berg, [Migrant Workers' Access to Justice for Wage Theft: A Global Study of Promising Initiatives](#), 2021.

Appendix D - UNGP 31: ‘Criteria for effective grievance mechanisms’ and how this relates to these guidelines

In line with the UN Guiding Principles on Business and Human Rights (UNGPs), companies are required to ensure that victims of human rights abuses have access to effective remedy. Effective remedy means putting right the harms caused to people, including financial harms to workers in the form of wage theft.

Impactt assesses the effectiveness of a remediation plan against the following criteria:

- 1. Legitimacy – i.e., the amount is calculated through a credible and/or independent investigation.
- 2. Accessibility – i.e., all workers entitled to remediation are in scope of the remediation plan.
- 3. Equitable and fair – i.e., repayment amounts are calculated in a fair and trustworthy manner.
- 4. Transparent – i.e., all parties have received clear information throughout the process.
- 5. Compatible with internationally recognised human rights – i.e., amounts are compatible with existing benchmarks on wage repayments and paid according to a timeline which does not perpetuate bonded labour.
- 6. Based on engagement and dialogue with the groups remedy is meant for – i.e., workers have been engaged in the process.

These principles cover 6 of 8 criteria outlined under the UNGPs for judging the effectiveness of grievance mechanisms.

Impactt measures outcomes using one of the two remaining criteria:

- 7. Predictable – i.e., on verification, does it turn out that the plan has been implemented successfully.

Impactt urge companies to use the final criteria:

- 8. A source of continuous learning, in their ongoing efforts towards implement effective wage management systems, as they continue to engage with workers and other actors to understand how to improve their systems.

Source: The UNGP Criteria for Effective Grievance Mechanisms

Legitimate	In that they are fair and trustworthy;
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Accessible	To all those they are designed for
Predictable	In terms of process and available outcomes (remedies
Equitable	Meaning fair and even access to information, advice, and expertise for both sides of a complaint
Transparent	About the process and progress of grievances
Compatible	With internationally recognised human rights
A source of continuous learning	For the company
Based on engagement and dialogue	With the groups they are meant for

Appendix E – Union Contact Details

Union	Industry coverage	Contact details
International Transport Workers' Federation (ITF)	Most transport-based industries including work on ships, ports, railways, road freight, passenger transport, inland waterways, fisheries, tourism, and civil aviation.	mail@itf.org.uk fishsupport@itf.org.uk seafsupport@itf.org.uk

If your organisation wishes to list its contact details here, please reach out to info@impacttlimited.com

Appendix F – Case Studies

CASE STUDY 1: AGRICULTURAL CONTEXT

- A large workforce of over 9,000 workers is employed on agricultural plantations spread across multiple provinces spanning thousands of square miles. The workforce consists primarily of undocumented migrant workers.
- An initial assessment has been carried out by a buyer, across 2 days, speaking with a handful of workers. The majority of workers reported that they had not been paid their wages owed for several weeks, and/or reported that they had been paid, but did not receive specific premiums owed or promised.
- Payment is made via 'piece rate' agreements, related to harvesting weights/quantities, paid in cash. Payslips are provided in the local language and are not translated. Contracts are not a legal requirement, and the majority of workers do not have these in place. There is no formal system for recording payments made, all payments are made in cash, and managed by the plantation managers.
- Unions exist, but these unions did not report knowledge of issues with wage payment.

Approaches for investigation and remediation

Step	Key considerations in this context
1. Determine type of investigation needed	Based on the severity of issues, the size of the company, and the potential transparency issues, an independent third party should be used to conduct a deep-dive investigation. The buyer or buyer group concerned should fund the investigation, to ensure no financial barriers to its completion.
2. Inform workers of their rights prior to investigation	The buyers, and third-party expert(s), should discuss the issues found already to determine which stakeholders should be actively involved in this step, based on findings from prior investigation. This should consider: <ol style="list-style-type: none"> Whether the union is adequately representing the affected workers. Whether company management or supervisors may have been complicit in wage related abuses/incentivised to retain the status quo. Where this is the case, other stakeholders may be better placed to relay rights to the workforce.
3. Investigate wages owed to workers	The third-party experts in human rights should conduct a further investigation into the issues raised, sampling as per the 'sampling' section, Step 3, of the full version of this document, paying particular attention to: <ol style="list-style-type: none"> Travel plans and language skills required to reach the most remote locations, in person, to achieve a representative sample of all workers. This should include ongoing 2-way communications systems with workers beyond the interviews, to allow security/safety check-ins on any retaliation with workers based in remote areas. Whether issues affect all workers (regardless of immigration status, role or location), or a particular subset. Whether lack of contracts and/or passports are causing or exacerbating any forced labour situations which may exist The awareness of, and trust in, the union, and in supervisors, by all workers

	<ul style="list-style-type: none"> e. The lack of documentation (passports, contracts, payment systems) and how this affects workers in practice. f. Triangulation of the payment management system, including weighing scales/technique, how this translates into piece rates, how this is communicated and verified with workers, how this is recorded by management. g. The presence and complexity of a CBA, and the related need for an accredited international services firm to support in calculations. h. A balance of 'practicality versus perfection' to ensure this process is not excessively long and costly, aiding in pragmatic and timely repayment to workers. This should identify patterns in underpayment, weighing manipulation or supervisor exploitation of existing systems, among worker groups to improve efficiencies in the calculations process and ensure a speedy repayment.
4. Calculate repayment amount	<p>With support from an accredited internationally recognized professional services firm, calculations for repayment may be established by category of worker, considering:</p> <ul style="list-style-type: none"> a. Differences in owed wages vary by plantation and by supervisor, and any nuances vs CBA and legal entitlements. b. Nuances relating to specific plantations, supervisors or individuals based on individual situations, where applicable. For example, where individual weighing machines, or indeed supervisors, may cause particular discrepancies.
5. Communicate proposed payment plan to workers, negotiate and agree final plan	<p>Communications should carefully consider:</p> <ul style="list-style-type: none"> a. Accessibility of the most remote and vulnerable workers to feedback processes b. Adequate translation into native dialects, including verbally where workers are illiterate. c. Inclusion or exclusion of supervisors and/or unions, dependent on results of the Step 3 investigation
6. Make all repayments in a transparent and timely manner	<p>Where it is not possible to make bank transfers, cash payment must consider:</p> <ul style="list-style-type: none"> a. Safety of workers involved, considering the cash they will receive and vulnerability to targeting by thieves. b. Adequate record keeping to allow Step 8 verification
7. Implement new management systems	<p>Introduction of new management systems should carefully consider:</p> <ul style="list-style-type: none"> a. Prioritisation of system improvements which will most directly remove risk of workers being compelled to remain with their employer. This may include aspects beyond the payment system itself, including a regularization programme to obtain passports, in tandem with local officials, the standardization of contracts with copies for workers in their own language and support programmes for creation of new, representative unions. b. Where necessary, (e.g., where unions are not representative of vulnerable workers), introduction of effective grievance mechanisms which workers have awareness of, and trust in. c. Improvements to payment systems to increase accuracy, reliability, and verifiability.

8. Verify payment	<p>Verification should consider the same key aspects noted above, namely remoteness of workers, in addition to:</p> <ol style="list-style-type: none"> Any threats or security issues related to cash repayments. Effectiveness of new management systems in practice, (e.g., regularization programmes and contracts) in preventing re-occurrence of workers being compelled to remain at the employer
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CASE STUDY 2: MANUFACTURING CONTEXT

- A manufacturing factory employs around 150 workers, of whom 70% are migrant and 30% local. Migrant workers are represented by a freely elected worker committee, as they are not permitted to join unions in this country.
- The products manufactured by this factory are seasonal, so there are peak production periods where excessive overtime is very common.
- During a buyer audit, 5 workers reported that they worked significant overtime hours in the last three months (on regular days as well as rest days and public holidays), but that these were not all paid correctly. They said that this issue only happened in the last few months, and that prior to that, payments had always been correct. They also shared that one of their colleagues resigned several months ago but has still not received her annual leave entitlements.
- The factory is generally transparent and when this finding was raised during the closing meeting of the audit, they recognised that they have faced some challenges in accurately recording and paying overtime recently due to a new system they have implemented. They agree to investigate this issue immediately and are eager to address any issues identified.

Approaches for investigation and remediation

Step	Key considerations in this context
1. Determine type of investigation needed	Given the transparency and open attitude of this company, alongside the indication that this issue is limited to a specific period and across a small workforce, the employer can investigate this issue and report findings and proposed actions back to the buyer. Buyers or third parties should carry out verification (see Step 8) to ensure the issue has been effectively addressed.
2. Inform workers of their rights prior to investigation	<ol style="list-style-type: none"> The employer should engage with workers to communicate the proposed investigation process to workers in a language they understand and gather their feedback on it, alongside the proposed timeline for resolving the issues (i.e., repaying any outstanding wages), and information on rights to seek remediation through other means if necessary. Given that migrant workers cannot join unions, adequate consideration should be given to ensuring this group receives this communication through means other than unions, including through worker representatives where possible.

3. Investigate wages owed to workers	<p>The employer should investigate the issues raised, sampling as per guidelines in 'sampling' section, Step 3, of the full version of this document, paying particular attention to:</p> <ol style="list-style-type: none"> Making sure the legal requirements on different types of overtime rates are understood, and consulting local authorities if any clarification is needed. Asking the sampled workers detailed questions on the hours worked across the 3-month period, and checking whether they believe this issue affected any other dates in previous months/years (this will provide an alternative data source to the official timesheet records, where these hours may have been entered incorrectly). Reviewing any other data sources which may provide insight into actual hours workers (e.g., referencing production records (volume) against data on hours taken to produce that volume, attendance records against rest days and public holidays). Reviewing errors in the time-recording system and how these can be resolved.
4. Calculate repayment amount	<p>Based on the data gathered and triangulated, calculate:</p> <ul style="list-style-type: none"> The total amount of overtime that should have been paid across the 3-month period to each worker, and the amount actually paid (resulting in the required repayment amount) The specific overtime categories that add up to this total, including standard overtime and premium overtime rates (e.g., additional hours worked outside of standard overtime hours/or legally mandated overtime premiums), overtime on public holidays and rest days. On the basis of evidence triangulated from worker interviews, management interview and document review, the assessor must come to a conclusion about the total payments owed. In the absence of reliable documentation, or in the case of doubt, worker testimony at scale should be prioritised in order to define payment amounts.
5. Communicate proposed payment plan to workers, negotiate and agree final plan	<p>Communications, carried out with support from worker representatives in languages that workers understand should include:</p> <ol style="list-style-type: none"> An overall explanation of the errors and how they occurred, and the proposed repayment approach. A letter communicating the proposed repayment amount to each worker including a breakdown of the different categories of overtime pay owed across the 3-month period, presented in a format that is easy to understand; workers should have the opportunity to review this letter, with support from their worker representative, and to discuss with HR any areas of disagreement.
6. Make all repayments in a transparent and timely manner	<ol style="list-style-type: none"> Pay out the annual leave entitlements to the worker who resigned immediately and provide an explanation and apology for this delay. Pay all outstanding overtime as agreed as quickly as possible, and within a maximum of 3 months.

7. Implement new management systems	<p>a. Address the specific issues identified within the company's timekeeping system and resolve these. If this issue takes time to resolve, implement an interim measure which better documents hours worked, and provides an alternative record, for example, having supervisors manually log hours worked at the end of each day with worker sign-off.</p> <p>b. Address the specific issues causing delayed payment of entitlements.</p>
8. Verify payment	<p>Buyers and/or third parties should verify that all overtime wages have been repaid correctly, paying particular attention to:</p> <p>a. Covering both workers that reported the original issue, and other workers in the verification sample.</p> <p>b. Verifying that errors in payment were limited to the 3-month period highlighted by workers in the original audit (this can be done through spot-checks on documents covering e.g., two randomly selected months within the previous 12 months, and asking questions about work patterns during those months during worker interviews.</p> <p>c. These parties will also benefit from consistent and continuous communication and verification with the employer as it conducts the prior steps to ensure due diligence throughout the process.</p>

CASE STUDY 3: FISHING VESSELS

- A buyer has audited a vessel employing a crew of 5 fishers. The vessel is one within a fleet of seven vessels owned and operated by the same company. The buyer only sources from two of the seven vessels.
- During the vessel audit, one worker reported that none of the crew have been paid in the past 6 months. He said that they are all very afraid of the consequences of reporting this, and that he did not want to speak to the auditor for long because he was afraid. The vessel left port the day after the audit, returning three weeks later.
- Workers also reported that he and several others have been employed on the vessel for three years, and that before wage-payments stopped entirely, wages were paid incorrectly, not reflecting the correct rates agreed per catch.
- The worker also reported that the captain made deductions from wages to cover food costs on board and charged 20% interest on loans (which were in fact advance wage payments).
- There is no connectivity on the vessel apart from the satellite phone held by the captain. Workers phones are kept in lockers, but they do not have reception most of the time.

Approaches for investigation and remediation

Step	Key considerations in this context
1. Determine type of investigation needed	<p>a. Based on the severity of issues, and significant danger to the crew, the buyer must carefully consider how to involve government and civil society stakeholders, with the consent of the workforce, prioritising the safety of the crew.</p>

	<ul style="list-style-type: none"> b. At the same time, the buyers should request an investigation to take place as soon as the vessel returns to port. An independent third party with experience in this sector should conduct a deep-dive investigation, and this should be carefully communicated to ensure the sensitive situation does not negatively impact workers.
2. Inform workers of their rights prior to investigation	<ul style="list-style-type: none"> a. Investigators should inform the fishers of the investigation process and safeguards that are in place (see step 3 below), as well as their rights to access other external grievance mechanisms. b. Investigators should recommend that fishers contact the International Transport Workers' Federation (ITF) immediately to lodge the complaint as soon as they come back to port. If issues are resolved through the buyer investigation and follow-up, then the complaint can later be withdrawn. Timely lodging of the complaint is key, because in some countries it is only possible to recover wages for a specific time-period after submission of the complaint. E.g., in some countries this entails wages can only be recovered for a period of 3-6 months prior to the date the complaint was made.
3. Investigate wages owed to workers	<p>The third-party investigators should investigate the specific wages owed, alongside other forced labour indicators likely to be present on this vessel). It is important to pay particular attention to:</p> <ul style="list-style-type: none"> a. <i>Accessibility of the vessels:</i> given that vessels may stop at port for only a few days, investigators must be flexible and able to interview workers at short notice. Where possible, use leverage of authorities and/or buyers to hold the vessel at port until issues related to wage payments have been addressed. b. <i>Location of interviews:</i> interviews should be carried out in a location where workers feel safe, away from the vessel and port area where they can be observed. c. <i>Anonymity and safeguards.</i> Given the small crew size, it is almost impossible to guarantee workers' anonymity. It is important to speak to all 5 workers, however, safeguards also need to be put in place to enable workers to report any retaliation post-investigation. This could include providing investigators phone numbers to the workers, and providing a satellite phone for them to take with them when they go back out to sea to be able to report any retaliation. However, within this context, given known abuse on this vessel, providing immediate access to remedy may be more appropriate (see below). d. <i>Immediate options for remedy:</i> As these workers are in a situation of debt bondage and have communicated that they are afraid of the captain, investigators must be prepared to support workers to leave the vessel immediately and access support through referral networks on land. Supporting security personnel and/or support of local police where appropriate may also be considered where this may be required to assist in safe passage. Buyers should fund provision of immediate support needs that may be required, e.g., temporary accommodation, food/travel stipend, cost of repatriation back to their home country should workers wish to go back, or support to get alternative employment (e.g., with other companies or vessels within buyers' supply chains).

4. Calculate repayment amount	<p>Calculate the wages owed to each individual worker, considering:</p> <ul style="list-style-type: none"> • <i>Informal and undocumented pay agreements</i> will make it difficult to determine what was agreed, and therefore how much is owed. Use worker testimony as the primary source of data on this point and refer to minimum wage thresholds within collective bargaining agreements covering similar industries/countries, as well as common rates used within the region/industry (where data is available) as a benchmark for defining minimum thresholds. • <i>Provide compensation</i>: given the severe hardship in this case, the best practice approach regarding compensation in the guidelines should be followed (e.g., compensation in the form of liquidated damages, see Step 4 of the detailed guidelines for information). • That all debts (including interest on loans) should be cleared, given these were incurred as a result of abusive wage-payment practices.
5. Communicate proposed payment plan to workers, negotiate and agree final plan	<p>Following the investigation process, keep in close contact with the affected workers to monitor whether immediate remediation needs have been effectively met. When communicating the proposed payment plan, consider:</p> <ul style="list-style-type: none"> • That if some workers opt for immediate repatriation, communication, negotiation, and agreement of the final plan may need to be done remotely.
6. Make all repayments in a transparent and timely manner	<p>Where it is not possible to make bank transfers directly to workers, bank transfers to nominated family members can be considered. If cash payment is used, this must consider:</p> <ol style="list-style-type: none"> a. Safety of workers involved, considering the cash they will receive and vulnerability to targeting by thieves. b. Adequate record keeping for Step 8 verification
7. Implement new management systems	<p>Buyers sourcing from this vessel must attempt to engage vessel management to implement new management systems, given that another six vessels exist within this fleet, where similar practices are likely present. Key activities related to wages will likely include:</p> <ul style="list-style-type: none"> • Transitioning to a digital payment system, based on predictable and fully transparent wage rates for all workers. • Hiring a dedicated team of qualified and certified Human Resources professionals, including a Worker Welfare Officer, who can manage the recruitment, onboarding, payment, grievances and working and living conditions on the fleet. • Ceasing any illegal and unethical payment practices including: illegal salary deductions, requiring migrant workers to pay deposits before returning to their home country on annual leave, charging interest on loans, imposing financial penalties for breaking a contract prior to its end term. • Developing a formal system, administered by the HR team, for no-interest wage advances, in alignment with ILO Convention 188 which allows fleet owners to provide fishers with advances against their wages under prescribed conditions.

8. Verify payment	<p>Verification should consider the same key aspects noted above, in addition to:</p> <ul style="list-style-type: none"> a. Completeness of repayments to both workers who remained, and any which opted to leave. b. Any threats or security issues related to repayments. c. Effectiveness of new management systems in preventing re-occurrence of workers being compelled to remain at the employer through withholding of wages
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