

Zero Tolerance Protocol

2018



International
Labour
Organization



International
Finance
Corporation
WORLD BANK GROUP



Better Work Enterprise Advisors may uncover serious rights violations when undertaking factory visits for either assessment or advisory purposes. In general, Better Work staff hold information learned through factory visits confidential, and only share information in line with the Terms and Conditions agreed by Better Work and participating factories. However, immediate action must be taken where critical issues, or circumstances that pose an imminent and significant threat to worker health and safety, are found. This note defines which issues will be considered zero tolerance and identifies the procedures that Better Work staff will take when such issues are suspected and/or detected with regard to a participating factory.

Definition of Zero Tolerance Issues

Better Work will consider human rights violations, including child labour, forced labour, corporal punishment, physical abuse, violence, and issues that pose an imminent threat to worker health and safety to be zero tolerance issues. In particular, suspected non-compliance on the following issues from the Compliance Assessment Tool will trigger the protocol identified below:

Child Labourers

- ◆ Workers under the age of 15 (or the minimum age of the country in question)
- ◆ Workers under age 18 subjected to worst forms of child labour (forced labour, prostitution, pornography and illegal activities)

Forced Labour

- ◆ Not allowing workers to leave the workplace at all times, including during overtime in order to force them to work against their will
- ◆ Use of violence or the threat of violence to intimidate workers and force them to work



Corporal punishment, physical abuse, and violence, including sexual violence

- ◆ Corporal punishment, physical abuse

Violence or imminent threat of violence, including sexual violence

Occupational Health and Safety (OSH)

- ◆ Punishment of workers who remove themselves from work situations they believe present an imminent and serious danger to life or health
- ◆ OSH violations that pose an imminent and significant threat to worker health and safety.

Freedom of Association (FOA)

Egregious violations of freedom of association may be determined by Better Work Programme Manager to constitute a zero tolerance issue.

This protocol also applies if any of the above conditions are found in employer-provided housing that is checked as part of a factory visit.

Protocol when Zero Tolerance Issues are identified

1. Enterprise Advisors will immediately report directly to the Better Work Programme Manager any violations or suspected violations of the zero tolerance issues identified above, which they may find while undertaking factory visits. In the event that Enterprise Advisors identify victims of sexual violence, they inform the victims of their options to seek assistance and provide referral information.



2. If the Better Work Programme Manager considers that a violation has occurred, s/he will, within 48 hours, inform the Ministry of Labour (MOL) in writing of the violation. Instances of sexual violence and the identity of victims of sexual violence are disclosed only upon their request.
3. Better Work will request the labour ministry (MOL) to initiate investigations into the matter within 48 hours of being informed to determine whether a violation has occurred.
4. The Better Work Programme Manager will follow up with the MOL within 72 hours of informing the MOL of the violation and request to agree on an action plan. Action Plans will vary dependent on the violation identified and the underlying circumstances, but always include both investigation and remediation. As necessary and appropriate, the ministry may coordinate with other appropriate governmental authorities.
5. Following the initial investigation, the Better Work Programme Manager will work with the MOL to agree on a remediation approach. Remediation Approaches vary depending on the violation identified and the underlying circumstances. See Annexes for examples of recommended remediation approaches:
 - a. Annex 1: Recommended approach for remediating cases of underage workers
 - b. Annex 2: Recommended approach for remediating issues relating to forced labour
 - c. Annex 3: Recommended approach for remediating violence
 - d. Annex 4: Recommended approach for remediating Occupational Safety and Health (OSH)
6. Throughout the investigation and remediation efforts, the well-being of the victim(s) of the violation is safeguarded and any action taken must not in any way place the victim in any further danger or make him or her vulnerable to any retribution.
7. Better Work will request the ministry to inform the programme in writing of the findings of the ministry's investigation and the outcome of remediation.
8. Better Work requests the Ministry of Labour not to disclose information provided to it by Better Work in connection with this Protocol, or to disclose information collected in connection with the implementation of the



Protocol to parties other than Better Work beyond that necessary to implement the Protocol, including carrying out appropriate remediation.

Note: The timeframes stated represent the maximum time frame for action. Where necessary, actions will be completed sooner.

Protocol with Brands

1. Better Work will notify all buyers subscribing to the factory at which the violation took place within 48 hours of identifying the issue. Instances of sexual violence and the identity of victims of sexual violence are disclosed only upon their request.
2. Better Work will notify all buyers subscribing to the factory of the action plan with the Ministry of Labour, within 24 hours of agreeing it with the Ministry.
3. Better Work will seek to involve buyers in remediation efforts, where appropriate, and will keep buyers regularly updated throughout remediation efforts.
4. Better Work will notify all buyers subscribing to the factory and seek their active support, if at any point during remediation efforts the factory is not cooperating or making progress.

Nothing in this zero tolerance protocol or relating thereto shall be construed as constituting a waiver of the privileges and immunities of the ILO.



Annex 1: Recommended approach for remediating cases of underage workers

1. The case is immediately referred to the relevant department within the MOL. A full investigation is carried out, and the employer is subject to appropriate sanctions. If necessary, the child's age is confirmed through interviews and documentation. If it is not possible to confirm the worker's age, the worker is presumed to be a child.
2. The child immediately ceases to work at the factory.
3. Key people and institutions whose assistance is required for remediation are identified. Depending on the circumstances, these may include relevant departments within the MOL and other ministries, the employer, the recruitment agent (if any), the worker, the child's family, trade union representatives, buyers, NGOs, and healthcare and counselling service providers.
4. If necessary, a guardian is appointed to represent the best interests of the child. Children of sufficient age and maturity participate in any decisions that may affect them.
5. The child is placed in suitable education/vocational training schemes in accordance with the principle of the best interest of the child, until s/he turns 15.
6. The employer pays any fees associated with the placement of the child in the education/vocational training schemes, and housing costs if the child will not reside with family.
7. The employer provides the child with a monthly compensation payment until s/he turns 15, calculated based on previous earnings.
8. Payment of the compensation payment is made directly to the child or her/his parents/legal guardian and takes place one day after each normal monthly pay-day, or on the day after when this falls on a weekly rest day or a public holiday.
9. Any outstanding disciplinary fines or other monies owed by the child to the employer are forgiven.



10. Monitoring is undertaken to verify that the child is attending the educational courses and receiving the relevant payments.
11. Should the child wish, the employer will re-employ her/him when s/he has turned 15.
12. The employer ensures that the age of all workers will be verified against reliable documents prior to recruitment (including workers recruited through agents).
13. The employer ensures that workers who are between 16 and 18 years of age are not subject to the worst forms of child labour, including hazardous work.
14. Better Work works with the factory during advisory services to ensure that noncompliances relating to child labour are addressed in a sustainable manner, and that all measures taken are in the best interest of the child.



Annex 2: Recommended approach for remediating issues relating to forced labour

1. Appropriate remedial action is taken to assist/protect workers, depending on the violation. For example,
 - ◆ The employer removes restrictions on workers' freedom of movement, and workers are informed about the change in policy
 - ◆ Persons accused of threat or violence in the workplace are suspended immediately pending the outcome of the investigation; persons found to be responsible for threat or violence are disciplined appropriately by the employer (and through government prosecution if appropriate).
2. Egregious cases of worker confinement, or physical or psychological abuse are referred to law enforcement authorities and/or NGOs. For example,
 - ◆ Law enforcement authorities and/or NGOs provide workers a safe place to stay and link them to needed services, including healthcare, counselling, shelter, legal aid and other services; the employer bears the cost of any necessary services, including housing
3. The MOL pursues appropriate enforcement action against the employer, in coordination with other governmental authorities if appropriate under the circumstances.
4. Better Work works with the factory during advisory services to ensure that noncompliances relating to forced labour are addressed in a sustainable manner, and that all measures taken are in the best interest of the victim.



Annex 3: Recommended approach for remediating corporal punishment, physical abuse and violence, including sexual violence

1. Instances of sexual violence and the identity of victims of sexual violence are disclosed only upon the victim's request. If disclosed, confidentiality is maintained to the extent practical and appropriate under the circumstances.
2. Law enforcement authorities are notified (only upon the victim's request).
3. When necessary, law enforcement authorities and/or NGOs provide victims a safe place to stay and link them to needed services, including healthcare, counselling, shelter, legal aid and other services; the employer bears the cost of any necessary services, including housing.
4. The worker is given the option of moving to another section of the factory (away from the perpetrator). Any associated costs are covered by the employer.
5. Persons accused of violence in the workplace are suspended immediately pending the outcome of any investigation; persons found to be responsible for violence are disciplined appropriately by the employer (and through government prosecution if appropriate).
6. The employer ensures that all employees, including management and workers, participate in trainings on workplace violence prevention as well as sexual harassment/sexual violence.
7. The factory adopts a workplace violence policy and a sexual harassment policy, and develops transparent, impartial and reliable grievance mechanisms to effectively address grievances, including those involving corporal punishment, physical abuse, violence and sexual harassment/sexual violence.



Annex 4: Recommended approach for remediating Occupational Safety and Health (OSH)

1. Workers are removed from situations involving serious and imminent risk.
2. The MOL pursues appropriate enforcement action against the factory, in coordination with other appropriate governmental authorities if appropriate.
3. The factory joint worker/management OSH Committee addresses issues of health and safety and recommends correction of unsafe or harmful conditions and practices, and factory rules and procedures to prevent accidents and disease.
4. Better Work works with the factory during advisory services to ensure that non-compliances relating to occupational safety and health are addressed in a sustainable manner.