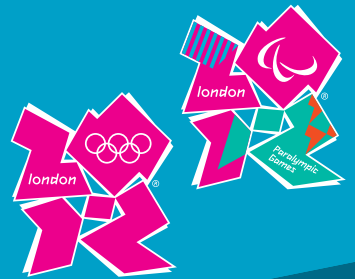


Learning legacy

Lessons learned from planning and staging the London 2012 Games



Establishing a Stakeholder Oversight Group to support a supply chain grievance mechanism

Abstract

Complaints Mechanisms can play a valuable role in helping ensure the implementation of labour standards in supply chains in supplying goods and services to major events. Such mechanisms already play a role for some industry/multi-stakeholder initiative (MSI) groups seeking to resolve breaches of those standards governing membership where local efforts to resolve the issue have failed.

To meet sustainability objectives, the onus should fall first on suppliers to have their own credible grievance mechanisms in place, as part of a mature system of industrial relations consistent with the implementation of freedom of association and collective bargaining compliance principles. However, since it currently lies beyond the capacity of an event organiser to ensure this, in the case of major events like the Olympic and Paralympic Games with high reputational exposure to supply chain labour rights abuses, a credible Complaints Mechanism that provides an additional recourse channel is likely to be essential. Moreover, in these situations, a Stakeholder Oversight Group can play an important role in providing independent assurance that such complaints handling processes are effective and fair in practice^a.

An Oversight Group should include individuals from different stakeholder perspectives (buyer, NGO and trade union at a minimum), and with specific expertise in the issues that may be the subject of complaints. Oversight Group participants should have adequate time and capacity to undertake this role.

An Oversight Group can provide valuable advice on the design of a Complaints Mechanism. A Complaints Mechanism is also integrally related to the broader procurement process. As a result, it can be beneficial for an Oversight Group to provide advice on how a sourcing code's content and implementation may affect the Mechanism's success.

In order for an Oversight Group to provide optimal advice, it should act as a coherent body and meet independently of the Mechanism Managers in order to discuss its views as a group. Where the Group can report publicly on implementation of the Mechanism's processes, it can provide assurance directly to external stakeholders. Where there are limits on public reporting, it is all the more important that members are trusted to be independent. An effective Oversight Group can provide useful incentives for the Mechanism Managers to ensure the processes they implement are rigorous.

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‘Oversight Group was tasked with helping to ensure the effective and fair implementation of the mechanism.’

Introduction

As part of London 2012’s commitment to operating a sustainable Games, the London Organising Committee of the Olympic and Paralympic Games (LOCOG) established a Sustainable Sourcing Code^a, which all its suppliers and licensees were expected to follow. The Code included the labour standards to be complied within manufacturing and service delivery for the 2012 Olympic and Paralympic Games. Recognising the likelihood that complaints would be made about the way some of its commercial partners were implementing the Sustainable Sourcing Code within LOCOG’s supply chain, LOCOG committed to the establishment of a Complaints and Dispute Resolution Mechanism (‘Complaints Mechanism’ or ‘Mechanism’). It was decided that the Mechanism should be aligned with the criteria for effective non-judicial grievance mechanisms set out in the (then draft) UN Guiding Principles on Business and Human Rights^b. LOCOG appointed Ergon Associates, independent experts in labour standards and supply chains, to develop, and later to manage, the Complaints Mechanism (hereafter ‘Mechanism Managers’).

Purpose of the Oversight Group

The design of the Complaints Mechanism included the establishment of an independent oversight group (hereafter ‘Oversight Group’ or ‘Group’). The Oversight Group was tasked with helping to ensure the effective and fair implementation of the mechanism, and to do so by providing ‘advice and expertise on addressing complaints’ and ‘critical reflection on the general operation of the process’. The Group was explicitly not intended to provide an appeals process, nor to determine the outcome of individual complaints. The full Terms of Reference are set out in Box 1 below.

A separate case study describes the design and implementation of the Complaints Mechanism’s processes and general lessons learned. This case study focuses on how the Oversight Group was constituted, functioned and contributed to the implementation of the Complaints Mechanism. It includes lessons learned with regard to the particular role of an Oversight Group as well as some of the Group’s reflections on lessons from the Complaints Mechanism as a whole. The two case studies should ideally be read together.

^a Since MSIs are ongoing (learning) organisations with multi-stakeholder governance structures a separate Stakeholder Oversight Group is unlikely to be required.

^b The UN Guiding Principles on Business and Human Rights were developed under the mandate of the UN Secretary-General’s Special Representative for Business and Human Rights, Professor John Ruggie, and adopted by the UN in June 2011. Now seen as the authoritative global reference point on business and human rights, they include a set criteria for effective non-judicial grievance mechanisms in Guiding Principle 31.

Box 1: Stakeholder Oversight Group: Terms of Reference

Purpose

1. The Stakeholder Oversight Group's purpose is to help ensure that the Complaints and Dispute Resolution process is being implemented effectively and fairly, and takes account of the perspectives of all interested stakeholders. It will do so by providing advice and expertise on addressing complaints, and by providing critical reflection on the general operation of the process. The Group does not play a role in determining the handling or outcome of individual complaints.
2. The purpose of the group is neither to be directly involved in any complaints during dispute resolution nor to act as an appeal panel.

Responsibilities

The Group will:

3. Meet up to four times per year to receive regular reports from LOCOG on the status of complaints. These will include the number and type of complaints received, how these have been assessed, and the steps taken to resolve them, outcomes, and outstanding issues. Such reports will not usually identify commercial parties or complainants by name.
4. Review the processes being used to handle complaints to ensure their robustness, fairness, effectiveness and timeliness, and make recommendations for improvements.
5. Ensure LOCOG's public reporting of complaints is appropriate and accurate and captures important lessons.
6. Assist LOCOG in evaluating the effectiveness of the Complaints and Dispute Resolution Process to draw lessons for future Organising Committees.

Appointment and composition

7. Group members are appointed by LOCOG for a fixed term until the end of the Paralympic Games. LOCOG has the right to terminate a member's appointment at any time.
8. The Group will appoint a chairperson which could be on a rotational basis. LOCOG will provide secretariat support if necessary.
9. Members receive no fee but are entitled to reclaim reasonable expenses.
10. The Group has a maximum of six members.
11. Members serve in a personal capacity. They must have no affiliation with any organisation with a commercial relationship with LOCOG.
12. Members undertake to maintain confidentiality with regard to information they receive while members of the Group.
13. Members are drawn from a broad range of stakeholder backgrounds and have relevant expertise and experience. These backgrounds may include but are not limited to: supply chain management, social and environmental compliance within a commercial environment, labour rights advocacy, environmental advocacy, dispute resolution, multi-stakeholder initiatives, site-level investigation and remediation.

'It is important for an Oversight Group to represent different stakeholder perspectives.'

Composition of the Oversight Group

The Oversight Group consisted of six members drawn from different backgrounds and stakeholder perspectives. They included individuals with expertise in human/labour rights, in ethical sourcing practices (deliberately selected from NGO, buyer and international organisation perspectives), in commercial procurement, and in the design and functioning of grievance mechanisms. The Oversight Group's Terms of Reference emphasised that members served in their personal capacity, therefore representing their own experience and viewpoints rather than those of their organisations. Some members of the Group knew each other already, though almost none had worked together previously.

Lessons learned in this regard include the following:

- It is important for an Oversight Group to represent different stakeholder perspectives (buyer, NGO and trade union at a minimum), as well as specific expertise in the issues that may be the subject of complaints. Experience in the Group on the design and functioning of grievance mechanisms in supply chain contexts is also relevant. The selection process should ensure individuals have no conflicts of interest, or, if a conflict arises, that there is a process for recusal.
- Additional backgrounds that might be considered for any Oversight Group include a civil society stakeholder from a major sourcing country who can bring a local perspective, and possibly an investor and/or government representative. However, it is

also important to keep the group relatively small if it is to function effectively. Membership of eight or less seems optimal.

- It is important that all Oversight Group participants should have adequate time and capacity to undertake this role, including the capacity to respond to questions arising between formal meetings. Time expectations should be made clear at the point of inviting members to join the Group and members should commit to meeting these requirements.

Functioning of the Oversight Group

The Oversight Group was provided in advance of meetings with written updates on the complaints that had been received and the status of their progress through the mechanism's various steps. Parties to the complaints were named, but were subject to confidentiality under the Oversight Group's Terms of Reference.

As the Terms of Reference made clear, it was beyond the Oversight Group's mandate to act as an appeals panel or otherwise determine the outcome of specific complaints. Instead, its focus was on the effective, efficient and fair application of the processes foreseen within the mechanism. It also acted as a sounding board and advisory body on challenges and issues encountered by the Mechanism Managers. The Managers therefore provided a list of process-oriented questions and/or issues for discussion to the Oversight Group ahead of each meeting. While the questions were framed in general terms, they were typically rooted in specific situations that had arisen and process choices that had been, or needed to be, made (see Box 2 for examples).

‘Information was shared openly in response to the Oversight Group’s questions, enabling the Group to build a fuller picture of how the Complaints Mechanism was functioning.’

Box 2: Examples of the issues raised with the Oversight Group include:

- What role the mechanism should play when an issue is raised by a press allegation or NGO campaigning report rather than by an actual complainant.
- In situations where workers have moved on from the factory where complaints had been raised, whether to focus energies for remediation or restitution of past wrongs or on forward looking, sustainable improvements.
- What the right balance is between letting commercial partners take a lead in investigating and remedying complaints; monitoring and verifying the adequacy of commercial partners’ processes; and requiring external investigation.
- Whether public reporting by LOCOG on individual complaints should be undertaken at the completion of the resolution process or during the process.
- How ‘hands-off’ LOCOG should be when bilateral dialogue was taking place between parties to a complaint.

During meetings, the Oversight Group asked a range of questions of the Mechanism Managers and LOCOG staff to ascertain further facts, where needed, and provided their views on the questions that had been presented to them (see Box 3 for examples). The group typically raised additional questions or concerns about the implementation of the Complaints Mechanism’s processes, leading to in-depth discussions with all meeting participants.

Box 3: Examples of the issues raised by the Oversight Group include:

- The urgency of establishing the worker hotline, supported by training on their rights and on the Complaints Mechanism, in order to enable workers to raise complaints while LOCOG still had leverage to secure remediation (see separate micro-report on operation of the hotline).
- What safeguards were in place to ensure that workers who used the hotline were protected against retaliation.
- How LOCOG and the Mechanism Managers would determine what ‘effective remedy’ looked like in practice.
- Whether and how LOCOG could maximise its leverage to ensure that corrective action plans were implemented and the improvements sustained.
- To what extent the Oversight Group should have an independent voice on its own role.

Information was shared openly in response to the Oversight Group’s questions, enabling the Group to build a fuller picture of how the Complaints Mechanism was functioning in the context of the Sustainable Sourcing Code. Where information was not available, LOCOG or the Mechanism Managers provided clarifications in follow-ups to the meeting. LOCOG kept the Oversight Group informed when public statements were made about the handling of complaints or when major reports or media coverage raised issues relevant to the mechanism.

'It can be beneficial for a Complaints Mechanism's Oversight Group to provide advice on how the Code's content and implementation may affect the Mechanism's success.'

Lessons learned in this regard include the following:

- It is important for any Oversight Group to operate as a coherent body. There are typically benefits to having a single, appointed chairperson from the start of the process, with the time and commitment to coordinate the group and the ability to follow up between meetings.
- It is necessary for any Oversight Group to receive sufficient information well in advance of its meetings for members to prepare themselves and seek clarifications, in order that meetings can be as effective and efficient as possible.
- An Oversight Group should meet on its own, prior to each meeting with the Mechanism Managers, in order to agree among the membership – to the extent possible – on responses to questions being raised with them and on additional issues they wish to see discussed.

Understanding a Complaints Mechanism and its Oversight Group in the broader procurement process

The tender for design of the Complaints Mechanism was issued in early 2010 and the process was agreed in December 2010. Various members of the Oversight Group were consulted during the design of the Complaints Mechanism in an individual capacity. The Oversight Group itself was established in late 2011 and held its first meeting in December 2011, together with LOCOG and the Mechanism

Managers in December 2011. There were meetings on a further five occasions: in February, March, May and July 2012, as well as a post-event meeting in September 2012. Once constituted, the Oversight Group sought also to understand the wider context of the procurement process, in parallel with focusing on how specific individual complaints were being handled.

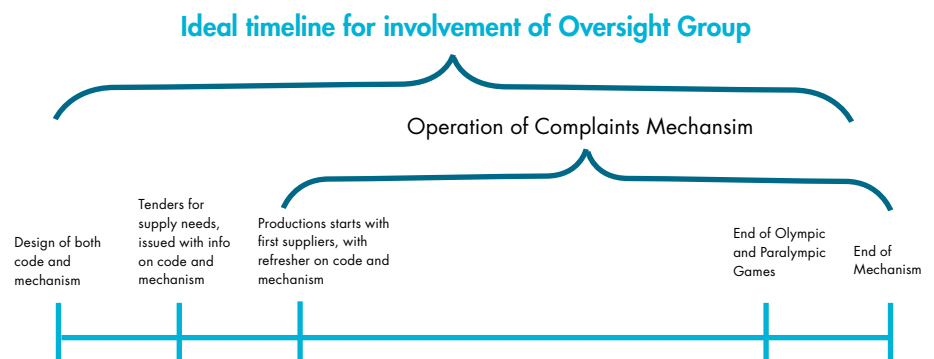
Lessons learned in this regard include:

- An Oversight Group can provide valuable advice not simply on implementation of a Complaints Mechanism, but also on its design. It is therefore helpful for it to be constituted from the start of that process.
- A Complaints Mechanism is typically both a self-standing system and integrally related to the broader procurement process. The design and implementation of a Sourcing Code can therefore influence the effectiveness of a Complaints Mechanism in a variety of ways (See Box 4 below). As a result, it can be beneficial for a Complaints Mechanism's Oversight Group to provide advice on how the Code's content and implementation may affect the Mechanism's success (see Figure 1).
- In all cases, it is important for an Oversight Group to become familiar with the complexities of the broader sourcing processes, so they have a shared and adequate understanding of the context in which they and the mechanism are working and how processes within the broader 'system' may impact each other.

Box 4: Examples of aspects of the implementation of a Sourcing Code that have direct relevance for the functioning of the associated complaints mechanism:

- Decisions to release the names of suppliers enable workers, trade unions and NGOs to know that the Complaints Mechanism will apply to some production in these locations.
- Early briefing of suppliers about their roles and responsibilities for implementing not just the Code but also the mechanism can help ensure workers are informed of their rights, how to access the mechanism, and how the mechanism is intended to work.
- Identifying sourcing countries with weak domestic mechanisms for the protection and remedy of labour rights will highlight priority areas for increased awareness-raising about the Complaints Mechanism.
- The inclusion within a Sourcing Code of requirements for suppliers to have their own Complaints Mechanisms for workers, together with criteria or guidance for ensuring they are effective, can reduce pressure on a buyer-level mechanism by providing workers with more immediate, local avenues for addressing their concerns.
- In time-sensitive situations, such as temporary sourcing relationships, early efforts to raise awareness about a Sourcing Code and Complaints Mechanism among workers and civil society can ensure they have access to the Mechanism while the buyer still has leverage to secure remediation.
- Certain types and patterns of complaints may suggest that procurement decisions themselves are contributing to breaches of a Sourcing Code (for example, as a result of last-minute changes to orders, without changes to timelines or price, which may incentivise excess hours or unpaid overtime).

Figure 1: Ideal timeline for involvement of Oversight Group



‘The creation of a Complaints Mechanism linked to the implementation of a Sourcing Code by suppliers can provide a meaningful channel through which legitimate complaints can be addressed and remedial measures taken.’

Providing a measure of accountability

Taken as a whole, the role of the Oversight Group was to provide a level of accountability to the Complaints Mechanism, by furnishing independent, multi-stakeholder feedback to help ensure that the complaints-handling process was being implemented effectively and fairly.

Lessons learned in this regard include:

- In principle, the existence and work of an Oversight Group should provide some assurance to other interested stakeholders in society about the quality of the processes being implemented. To do so, its members must be trusted to be independent.
- Where the Group can report publicly on implementation of the Mechanism’s processes, it can provide assurance directly. Where there are limits on how publicly it can attest to the role it is playing, it will be all the more important that Oversight Group members are trusted by external stakeholders to be independent, expert and representative of critical stakeholder perspectives.
- For any organisation charged with managing a Complaints Mechanism, the discipline of reporting on its progress in addressing complaints to an Oversight Group can constitute a useful incentive to ensure rigour of process.

Identifying lessons from the operation of the Complaints Mechanism

The Oversight Group was able to gain valuable insights into the operation of the LOCOG Complaints and Dispute Resolution Mechanism in practice. While its advice was focused initially on broad issues of process, as the Mechanism’s practices became more embedded and routinised it was able to focus on more specific questions. Throughout the process, this resulted in a series of constructive and productive exchanges with both the Mechanism Managers and LOCOG,

which highlighted a number of general lessons. The parallel case study on the Complaints and Dispute Resolution Mechanism as a whole reflects many of these. Particularly significant lessons from the perspective of the Oversight Group include:

- The creation of a Complaints Mechanism linked to the implementation of a Sourcing Code by suppliers can provide a meaningful channel through which legitimate complaints can be addressed and remedial measures taken.
- A mechanism’s contribution may be most needed in contexts where legitimate industrial relations processes or state-based remedial mechanisms are non-existent or unable to address the complaints raised, for whatever reason.
- A mechanism’s successes rely on the rigour with which its processes are implemented by its managers. Particularly important in this regard are:
 - The Mechanism Managers’ actual and perceived independence.
 - Their ability therefore to facilitate or mediate between parties.
 - Efforts to ensure that any indication of a complaint (including through media or campaign reports) is pursued, to encourage it being brought into the mechanism in a timely manner.
 - Efforts made to contact impacted workers to maximise the ability to provide them with remedy, quite apart from forward-looking improvements in practice.
- A worker hotline, combined with awareness raising and training about its existence, can provide an important channel for workers to raise complaints, and must include adequate follow-up and support for the remediation of legitimate complaints to be seen as effective and therefore gain trust.
- Mechanisms implemented at the level of buyers should be a fall-back point of recourse rather than first resort, with the focus being on ensuring complaints are

‘While the onus should fall first on suppliers to have their own grievance mechanisms in place, a recourse channel to an event organiser may add value.’

- handled effectively at the level of suppliers. The role of the buyer can be to incentivise engagement and remediation by the supplier.
- Buyer-level mechanisms may be particularly valuable in the context of industry or multi-stakeholder organisations where buyers can combine their leverage to incentivise local solutions, or for companies operating in a high-risk context where local mechanisms are absent or inadequate. It is in these contexts that a multi-stakeholder Oversight Group is mostly likely to add value and support the credibility of the mechanism.
 - For event organisers with high reputational exposure in a focused period of time, such recourse mechanisms can also provide an essential additional incentive for suppliers to avoid complaints arising and to address them locally when they do so.
 - An event organiser’s leverage to incentivise remedy and improve practices among its suppliers is at a peak at the start of its engagement with suppliers and wanes from shortly before the point of production through to the event itself, with a dramatic drop-off in the final stages of the event when most products have already been supplied. For a Complaints Mechanism to work optimally in this context, it therefore needs to be fully functional and known about as early as possible in the process, so that complaints can be brought while leverage remains.
 - Moreover, in cases where labour rights challenges are entirely predictable – such as excess overtime or unacceptably low wages in certain countries or product lines – more systemic approaches to address them should be undertaken when leverage is high, rather than waiting for them to manifest through complaints when leverage may be low.
 - It is important to consider how continuing leverage may be built into complaints handling and remediation processes. For example, where a supplier has contracts with other known buyers (especially those placing regular

orders) or with a future event organiser, greater and ongoing leverage may exist and should be used to positive effect.

- Indicators should be identified and built into any Complaints Mechanism to assess its effectiveness over time in quantitative and qualitative terms (eg percentages of complaints resolved through dialogue and engagement; feedback on users’ satisfaction with the process), as well as to identify the effects on the implementation of labour rights and good working conditions.

Recommendations

The following are the key recommendations that emerge from this pilot in the Games context of establishing a Complaints Mechanism for supply chain workers and an Oversight Group to advise on its processes:

- Complaints Mechanisms can play a valuable role in helping ensure the implementation of labour standards in supply chains providing goods and services for major sporting events, by providing a channel for workers to raise their concerns, and enabling early and effective remediation, before issues escalate.
- While the onus should fall first on suppliers to have their own grievance mechanisms in place, a recourse channel to an event organiser may add value. It will particularly do so where supplier mechanisms are absent or too weak to provide safe and adequate recourse for workers; and where the buyer, in this case a high profile event organiser, is particularly exposed to linkages with labour rights abuses in its supply chain.
- Such a mechanism may have wider applicability and merits examination by industry stakeholders.
- All Olympic Games and Paralympic Games should have a Complaints Mechanism linked to the implementation of a sourcing code to enable workers and their representatives to raise complaints about non-compliance. This should be a standard requirement set by the International Olympic

'It should be standard to all such mechanisms that they have an independent body that can exercise oversight of the effective implementation of the processes involved.'

- Committee and International Paralympic Committee. Other major sporting events should have similar requirements.
- It should be standard to all such mechanisms that they have an independent body that can exercise oversight of the effective implementation of the processes involved, bringing key stakeholder perspectives to the task.
 - An Oversight Group should be involved not just from when complaints begin to be registered but from the earlier stages of designing and implementing the Sourcing Code and the Complaints Mechanism, to provide input on how these may influence the effectiveness of the mechanism in practice.
 - An Oversight Group should act as a coherent body, receive information sufficiently in advance of meetings to prepare, and be able to meet independently of the Mechanism Managers in order to discuss its views as a group.
 - The provision of effective Complaints Mechanisms should be considered not just in the context of supply chain management, but in the broader context of the potential social and environmental impacts linked to an event's, or a company's, products, services and operations – including, for example, those related to the activities of construction and other contractors, to impacts on communities around the venue, and to event staff. In the case of a major event, these mechanisms should most appropriately be provided by, or in conjunction with, relevant state agencies.

Reference

- 1 London Organising Committee of the Olympic Games and Paralympic Games. Sustainable Sourcing Code, 3rd edition. London; 2011.

Acknowledgements

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Scoping and project management of the LOCOG Sustainability Learning Legacy Programme was provided by Action Sustainability CIC. Funded equally by Action Sustainability CIC and Defra.

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