

Considerations for briefing social auditors, compliance teams, trainers & workplace managers



For workers' rights. For better business.

Beyond audit with suggested checklist, indicators, and Q&A

Using the audit process alone to understand whether workers have access to Freedom of Association (FOA), collective bargaining (CB) and elected worker representation and where the union is not present or not allowed under law, can present distinct challenges.

FOA/CB may be difficult to assess on site, as nuances of threats, harassment and intimidation of workers are easily masked and create an environment where workers fear speaking out on issues that concern them. Collective bargaining through independent trade unions, however, should be visible through documented processes and records.

We recommend working with the audit, audit plus, convergence or remedy industry to develop knowledge and skills specifically addressing FOA/ CB and worker representation.

Identifying knowledge and skills

Based on ETI members' experience the following knowledge and skill base is effective in reducing risk to workers accessing the right to FOA and CB:

- Access to research or reports, risk mapping, unionised site mapping and, for example, the ILO complaints mechanism
- Local labour law and regional variances
- Knowledge of how trade unions or worker representative bodies are governed and operated.
- practical understanding and experience of secret ballots, worker dialogue and sectoral, enterprise or global agreements.
- The ability to detect nonverbal cues from interviews (for example, body language, facial expressions).

Reduce the burden of audits

Where a workplace is unionised, there will be evidence of structured industrial relations. The trade unions can help employers achieve more than traditional audit and social compliance approaches, thus reducing frequency or dependence on social audit.

Unions are well placed to work with employers to identify and address poor working practices and non-compliance with labour standards. Unions can play a key part in monitoring labour standards for example by surveying members, identifying systemic problems, and contributing to the effectiveness of policies and procedures.

Improved audit information

Worker interviews are a well-established practice in compliance processes. The factory trade union, as elected representatives of the workforce, are well placed to speak on behalf of all workers in their union and add value to the verification of compliance information.

This resource works in conjunction with the five-step implementation plan on clause two of the base code.

1. Leaflet to download

<https://www.ethicaltrade.org/resources/implementing-freedom-association-five-step-plan>

2. Working with trade unions

<https://www.ethicaltrade.org/resources/foa-worker-representationstep-3-develop-strategy/working-trade-unions>

3. Progressing worker representation

<https://www.ethicaltrade.org/resources/foa-worker-representationstep-3-develop-strategy/progressing-worker-representation>

Indicators, evidence, and next questions

	Evidence or what to look for
Clear policy that describes the right to freely associate and to form or join a trade union.	<p>Policy document with wording aligned to international conventions and local law.</p> <p>How communicated to workers (induction packs, notice boards or leaflets).</p>
Trade union density rate	Record of the percentage or number of workers who have chosen to be a union member – this could be via a “check-off” system of membership payments
Collective bargaining coverage	Record of the CBA including who it covers, for example, permanent workers may belong to a union but temporary or migrant workers are denied the right.
Legal disputes	Legal records for indicators of the type of infringements occurring at a site or perhaps a group of factories owned by the same entity.
Where there is no trade union - the number of elected worker representatives as a percentage of the overall workplace	Records of worker education or awareness of the elected representatives. This should include all classes of workers.
The number of grievances lodged with the internal grievance mechanisms/committees?	Records of grievances will not only identify the type of complaint to identify solved or recurring but also indicative that workers are free to use the system

Questions about FOA, CB and representation – yes and no responses

Questions about worker representation	Yes and no responses
<i>Is there a history of disputes and conflict?</i>	<p>YES: What sort of conflict has there been and how has the issue been resolved? Is this a repeat conflict related to recognition of a worker representative group, breakdown of negotiations related to a bargaining agreement, or employer interference with elected representatives or trade union officials?</p> <p>NO: <i>It would be useful to research media and labour NGO reports and verify the findings with workers and trade union networks off site. Evidence of harmony and open dialogue will be reflected in records of issues raised and resolution, minutes of meetings and worker testimony.</i></p>

<p><i>Is there a published policy on freedom of association and collective bargaining for the supplier/site?</i></p>	<p>YES: How is this measured, monitored and governed? Is there detail of the recognised trade union and are workers' rights referenced in the supplier's annual or CR reports?</p> <p><i>NO: Invest in awareness-raising and supplier training on the benefits of allowing workers to freely associate, along with the business value of independently elected representatives.</i></p>
<p><i>Does the supplier/producer raise awareness of labour rights and protections?</i></p>	<p>YES: Establish how is this done (posters, e-applications, pocket cards etc) and request evidence.</p> <p><i>NO: Identify opportunities to highlight the benefits of workers knowing their rights and protections. Invest in encouraging and educating suppliers on the types of media and resources available.</i></p>
<p><i>Have workers contributed ideas and solutions to production practices that have improved the workplace?</i></p>	<p>YES: How has this been communicated? Is there a process for dialogue?</p> <p><i>NO: Suggest a survey of workers to explore processes or conditions to introduce the idea of worker participation and consultation on site.</i></p>
<p><i>Do managers and workers meet to discuss workplace policy and practice?</i></p>	<p>YES: How often and is this formal or informal – is there a record trail for evidence purposes? What sort of topics are covered and do workers contribute to the agenda?</p> <p><i>NO: Consider introducing the supplier to initiatives and programmes. Share your findings from other sites and initiatives.</i></p>
<p><i>Are there worker forums or committees on site?</i></p>	<p>YES: How are they constituted? What do they discuss? Who decides what is to be discussed? Are the workers selected by management or elect by the workers? Is there a mechanism or process on site to train workers on workplace practices – such as health and safety practices and policies?</p> <p><i>NO: Encourage the practice of elected rather than selected worker reps. How do workers engage or raise issues with management or supervisors? Consider encouraging a mechanism or process on site to train workers on workplace practices – such as health and safety practices and policies?</i></p>
<p><i>Does the supplier/producer have a trade union agreement or if unions are not present, a relationship with elected worker representatives?</i></p>	<p>YES: There should be an audit trail for:</p> <ul style="list-style-type: none"> • Name and affiliations of the trade union • Whether the representatives were elected or selected • Frequency of elections • Worker education process

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- Whether there has been a secret ballot or a “show of hands”
 - Number of representatives per worker
 - Gender balance
 - Number of workers who voted.

NO: Consider introducing and encouraging education and awareness-raising around workers’ rights, in order to promote workers’ right to freely associate and choose peers to represent their concerns.

Are workers free to form or join a trade union of their choice?

YES: Does this cover ALL workers or only certain categories – e.g. women, men, contract, seasonal, migrant workers.

- The percentage of workers belonging to the union
- The name of the union
- Affiliations: independent, national or sector federation, or global union federation.

NO: Consider entry point mapping to establish why this is the case and develop a communication strategy to open dialogue with the factory management.

Is there a collective bargaining agreement?

YES: How is this communicated to the workers?

- When is it negotiated?
- What period does it cover?
- Whom does it cover?
- What percentage of workers are covered by the CBA?
- What is the scope of the agreement (pay, terms and conditions, dispute resolution etc)?

NO: If there is an elected trade union on site but no agreement, it could indicate a fraudulent claim. Investigate further with, affiliations to local trade union groups, national TU centres, the ITUC, other global union federations and local labour NGOs

How often do you hold meetings with trade unions or worker committee representatives in your workplace?

YES: What type of issues are discussed and is there a documented continuous improvement process and a record of decisions made?

NO: If there is no regular meeting, there will be scope to introduce the idea of regular meetings. Including worker representatives, invest in developing an agenda for meetings and explain the importance of notes and decision records for audit purposes.

Do worker representatives have paid time off for union duties?

YES: This will be verified through conversations with the representatives and should be included in the bargaining agreement.

NO: The business case for worker representatives will be pertinent to this discussion. It would also be useful to determine roles and responsibilities – this will give an indication of the time worker representatives may require for their duties.

Do worker representatives receive training?

YES: What sort of training – for example, does it cover local labour law, grievance procedures or health and safety? Practical skills on time management, dispute resolution, and presentation may also be included.

Training may also be available from a recognised trade union or worker committee support group.

NO: In respect of maturing industrial relations, it would be an investment to develop the skills of elected workers so that they can represent members effectively.

Where there are no representatives, there is also a case for developing overall training on basic issues such as election processes, setting agendas or health and safety.

YES: If the audit trail of agendas, collective bargaining agreements or minutes of meetings confirms that meetings are held, it may be useful to establish if they are free from interference or surveillance from managers and supervisors.

NO: It would be good to establish from the worker representatives why this is the case, where meetings are held, how documented and if this is their choice.

Are union meetings held during working hours and on the premises?

If there is an indication of fear or harassment, this should be raised with the supplier in a sensitive way, and an action plan established to remediate.

Have worker representatives brought forward solutions that have been implemented and monitored? (For example, suggestions to address absenteeism, manage change, or improve safety or productivity).

YES: Gather data on the effectiveness of worker representation and the value they bring to your supplier's business. The findings can be used to promote good practice among other suppliers.

NO: Are there opportunities to involve worker representatives in future discussions? Opportunities could include new production methods, changes to local regulation or even restructuring.

Number of disciplinaries or grievances raised by workers in the last 12 months?

YES: How many of these were resolved? How do workers raise a grievance or concern?

NO: If a pattern of grievances emerges or no action is taken, investment in developing a corrective action plan that involves workers and their representatives should be proposed.

Has there been any industrial action over the last 12 months?

YES: Is there a process in place to avoid action? What was the cause? How was it resolved?

NO: If there is a record of industrial action with no resolution, there must be an investigation into the matter and an investment made in remediation or dispute resolution, involving worker representatives or trade unions.
