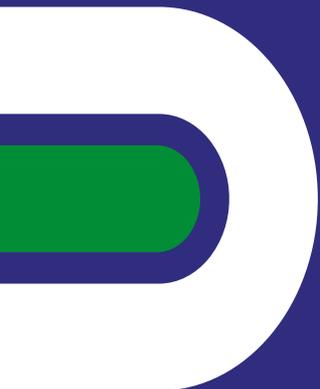


# BUSINESS ETHICS AND SOCIAL SUSTAINABILITY

Break-out session



drive  
sustainability

# ANTI-TRUST

Regarding your company's and/or your competitors' product and services, **it is forbidden:**

- To discuss current or future prices or supply conditions.
- To discuss any increase or decrease in price or change of supply conditions.
- To discuss pricing procedures.
- To discuss standardizing or stabilizing prices or supply conditions.
- To discuss current or future demand.
- To ask competitors why a previous bid was so low, or to describe the basis for a previous bid.
- To discuss profit levels.
- To discuss controlling sales or allocating markets for any product.
- To discuss future design or marketing strategies.
- To discuss credit terms.
- To discuss banning or otherwise restricting legitimate advertising by competitors.
- To discuss allocating customers.
- To discuss volumes.
- To discuss any other subject likely to restrict competition.

Regarding your company's and/or your competitors' selection of their supplier companies, **it is in particular forbidden:**

- To disclose or discuss the identity of suppliers if this identity is a competitively sensitive information.
- To discuss any boycotting of a company because of its pricing or distribution practices.
- To discuss strategies or plans to award business or remove business from a specific company.
- To discuss prices, margins, payment terms, volumes, markets, customers or marketing strategies of suppliers with competitors.

Regarding your company's and/or competitors' trade secrets, **it is forbidden:**

- To discuss trade secrets or confidential information of your company or any other member

# CHATHAM HOUSE RULES

*Please also keep in mind*

- Participants attending the training **may discuss the details** of the discussion in the **outside world**, but **may not discuss who attended or identify what a specific individual said**
- Provides anonymity to speakers and encourages sharing of information;
- Used throughout the world;
- Allows people to speak as individuals, and to express views that may not be those of their organizations;
- Encourages free discussion

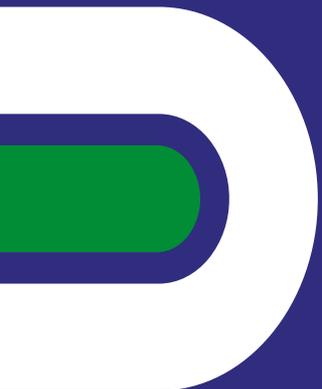
# AGENDA: BUSINESS ETHICS & SOCIAL SUSTAINABILITY

## *Working & leaning together*

<b>10:15 – 10:45</b>	<b>Introduction Break-out session</b>
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<b>Participants regroup</b>	
<b>16:40 – 17:00</b>	<b>Closing</b>

# INTRODUCTION

Expectations towards the industry: Guiding Principles

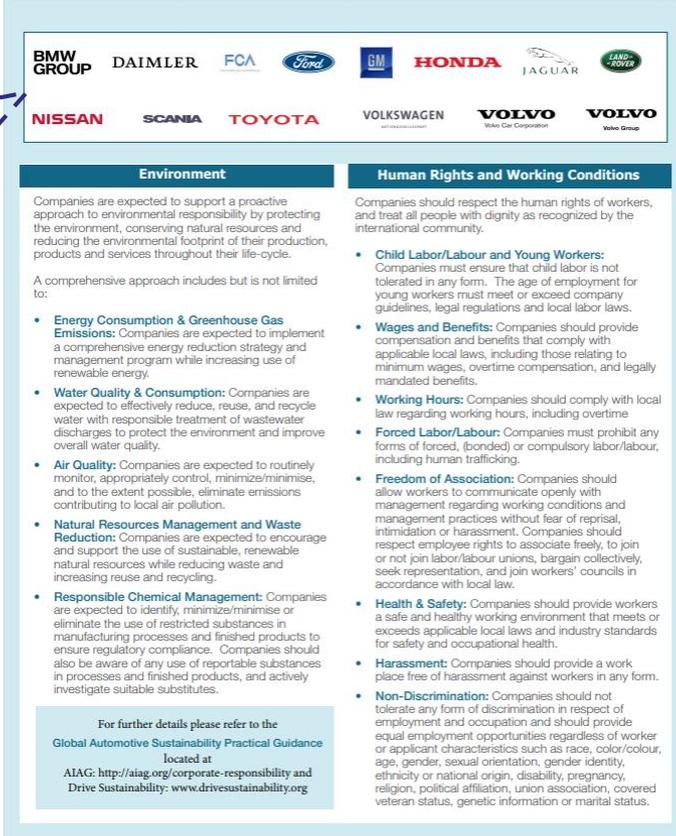


drive  
sustainability

# THE GUIDING PRINCIPLES

## Business Ethics

Companies are expected to uphold the highest standards of integrity and to **operate honestly and equitably** throughout the supply chain in accordance with local laws.



The infographic features a header with logos for BMW Group, Daimler, FCA, Ford, GM, Honda, Jaguar, Land Rover, Nissan, Scania, Toyota, Volkswagen, Volvo, and Volvo Group. Below this, two columns of text detail the 'Environment' and 'Human Rights and Working Conditions' principles. The 'Environment' section includes sub-points on Energy Consumption & Greenhouse Gas Emissions, Water Quality & Consumption, Air Quality, Natural Resources Management and Waste Reduction, and Responsible Chemical Management. The 'Human Rights and Working Conditions' section includes sub-points on Child Labor/Labour and Young Workers, Wages and Benefits, Working Hours, Forced Labor/Labour, Freedom of Association, Health & Safety, and Harassment. A footer box provides a reference to the Global Automotive Sustainability Practical Guidance located at IAAG: <http://iaag.org/corporate-responsibility-and-Drive-Sustainability>.

**Environment**

Companies are expected to support a proactive approach to environmental responsibility by protecting the environment, conserving natural resources and reducing the environmental footprint of their production, products and services throughout their life-cycle.

A comprehensive approach includes but is not limited to:

- **Energy Consumption & Greenhouse Gas Emissions:** Companies are expected to implement a comprehensive energy reduction strategy and management program while increasing use of renewable energy.
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**Human Rights and Working Conditions**

Companies should respect the human rights of workers, and treat all people with dignity as recognized by the international community.

- **Child Labor/Labour and Young Workers:** Companies must ensure that child labor is not tolerated in any form. The age of employment for young workers must meet or exceed company guidelines, legal regulations and local labor laws.
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- **Health & Safety:** Companies should provide workers a safe and healthy working environment that meets or exceeds applicable local laws and industry standards for safety and occupational health.
- **Harassment:** Companies should provide a work place free of harassment against workers in any form.
- **Non-Discrimination:** Companies should not tolerate any form of discrimination in respect of employment and occupation and should provide equal employment opportunities regardless of worker or applicant characteristics such as race, color/colour, age, gender, sexual orientation, gender identity, ethnicity or national origin, disability, pregnancy, religion, political affiliation, union association, covered veteran status, genetic information or marital status.

# THE PRACTICAL GUIDANCE

*Business Ethics - A comprehensive approach includes but is not limited to:*

---



**Responsible Sourcing of Materials**



**Anti-Corruption, Financial Responsibility/Accurate Records, Disclosure of Information**



**Protection of personal data and Identity, Non-Retaliation**



**Fair Competition/Anti-Trust, Conflicts of Interest, Export Controls and Economic Sanctions**

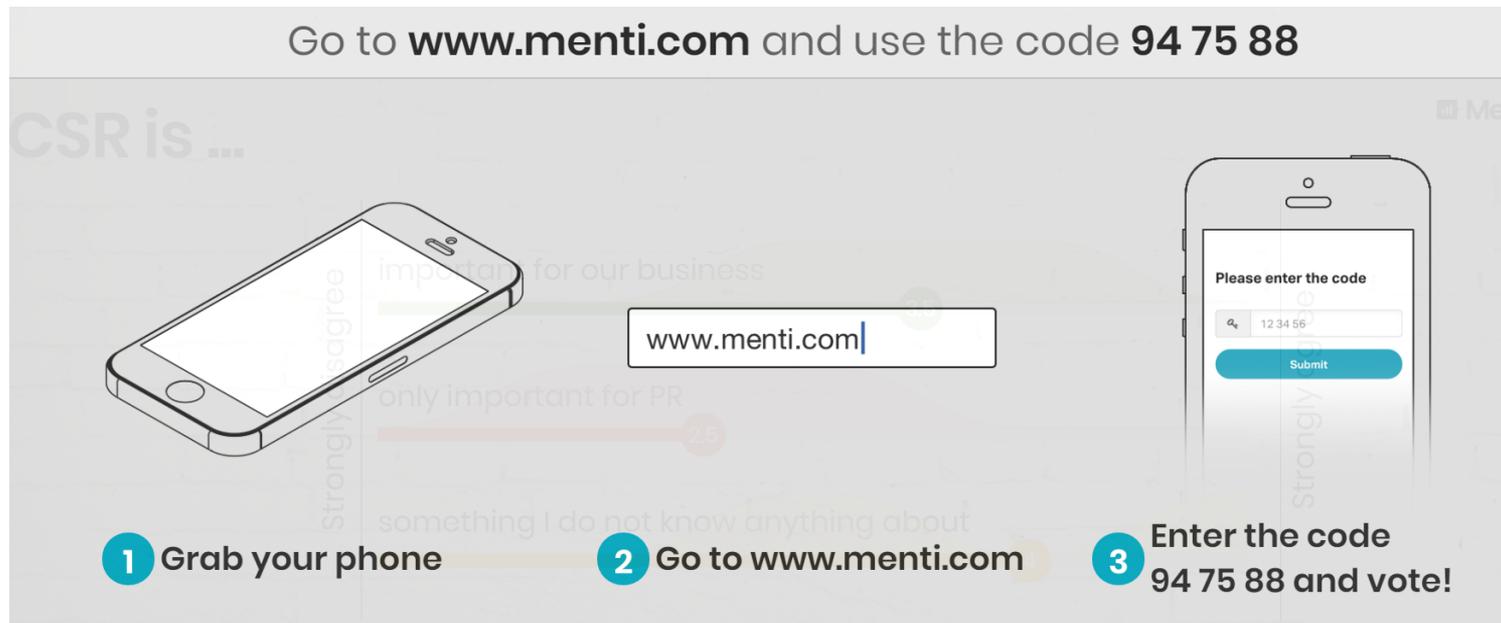


**Counterfeit Parts, Intellectual Property**

# POLLING EXERCISE

On which topic of the Guiding Principles/Practical Guidance would you like to receive more information?

Go to **www.menti.com** and use the code **94 75 88**



The diagram illustrates the process of participating in a Menti poll. It features three numbered steps: 1. Grab your phone, 2. Go to [www.menti.com](http://www.menti.com), and 3. Enter the code 94 75 88 and vote!. A central box contains the URL [www.menti.com](http://www.menti.com). To the right, a smartphone screen displays the Menti poll interface with the text 'Please enter the code', a search bar containing '12 34 56', and a 'Submit' button. The background of the diagram shows a blurred Menti poll slide with the text 'CSR is ...' and various poll options.

- 1 Grab your phone
- 2 Go to [www.menti.com](http://www.menti.com)
- 3 Enter the code 94 75 88 and vote!

# EXAMPLE: ANTI-CORRUPTION

## What is corruption?



**Corruption is a criminal offense!**



Corruption is defined as the **abuse of entrusted power for private gain**



Corruption does not only relate to **public officials**, but also to giving and receiving bribes in **commercial practice**



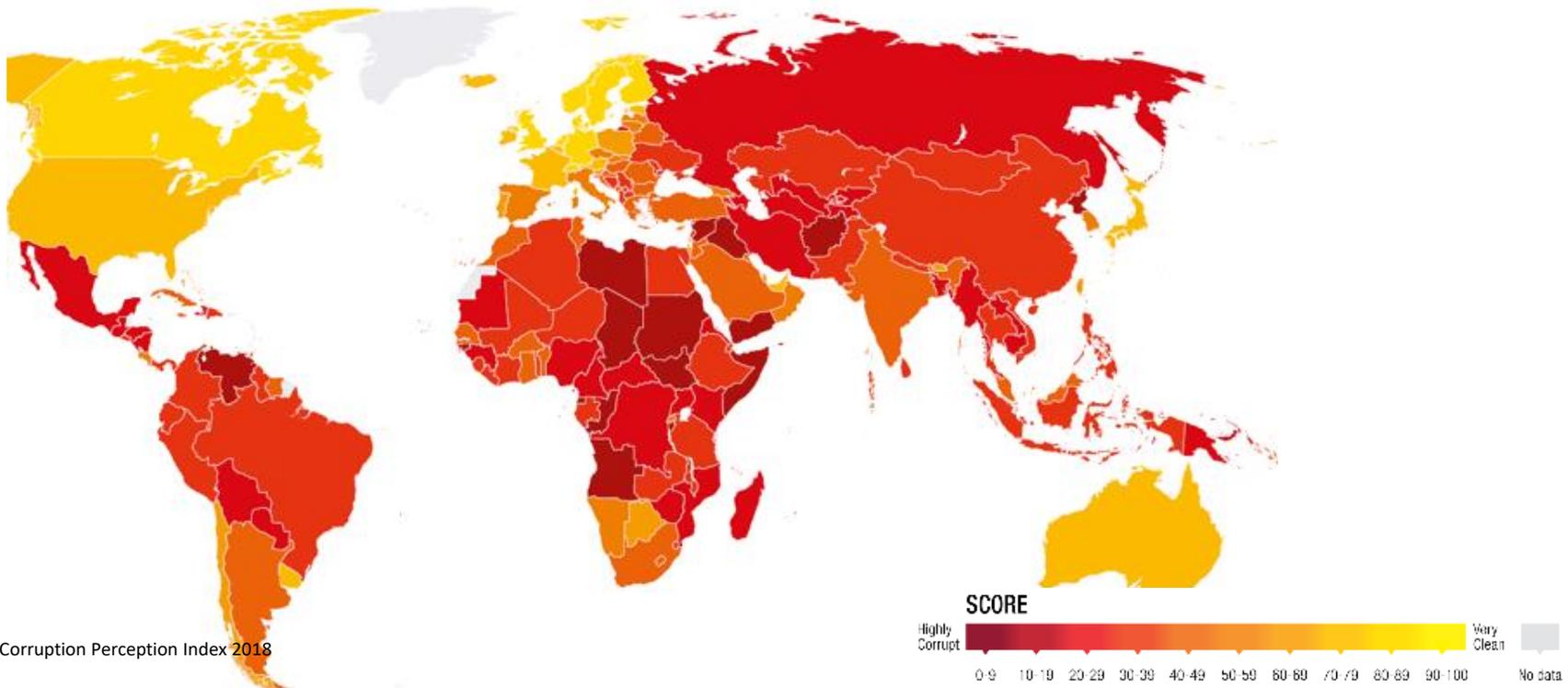
Corruption is **illegal worldwide**

# EXAMPLE: ANTI-CORRUPTION

## Conducting business in some countries may have increased compliance risks

- More than 2/3 of countries score below 50 on this year's CPI
- In particular, growth markets show below average scores
- This fact reveals the continued failure of most countries to significantly control corruption

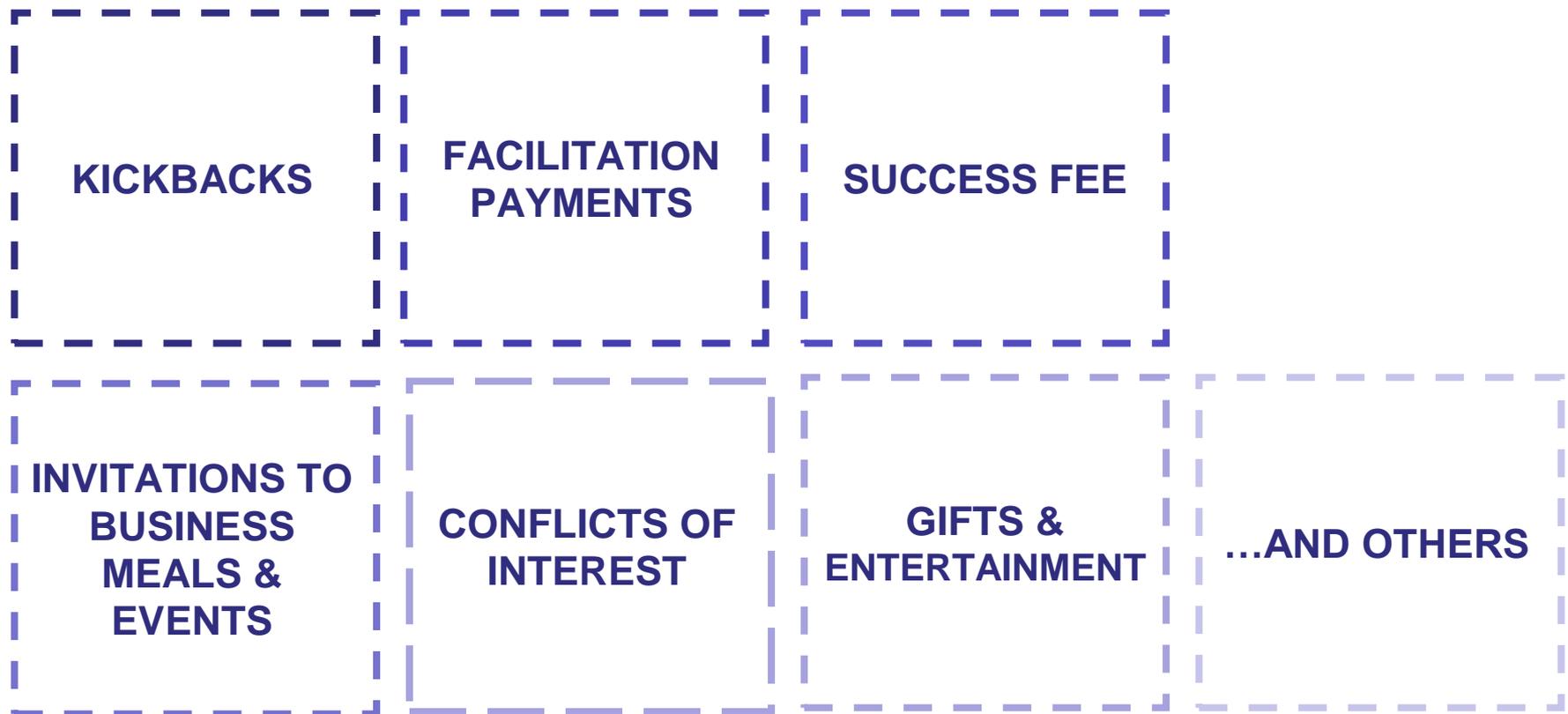
## Worldwide business – worldwide corruption risks<sup>1</sup>



# EXAMPLE: ANTI-CORRUPTION

Corruption can appear in different forms

Some of the forms are:



# Compliance Management System

A good compliance management system is key in curbing corruption!

How can I set up appropriate and risk-based Compliance structures?



Implementation



- 1 Compliance **Organization**
- 2 Compliance **Risk Assessment/Ongoing Monitoring**
- 3 **Code of Conduct**
- 4 Compliance **Business Partner Due Diligence**
- 5 **Whistleblower System, Investigation and Sanction Processes**
- 6 **Board Oversight** of Compliance and Risk Issues

Whilst the following elements can be considered for the design of own Compliance structures,

- the specific design and content of the Compliance elements and
- their individual significance within the Compliance structures

is determined and implemented by the operational management of the company through its own responsibility and based on its individual risk analysis



# Compliance Management System

## How can I set up a policy/code of ethics?

### Preparation

- Consider mission, values, vision of the company
- Define the place and the role of the code
- Prepare benchmarks
- Research of norms and legislation

Approval on establishing  
the policy/code

### Execution

- Consult internally with the relevant departments, e.g. HR, compliance officer, in certain cases perhaps the CEO
- Stakeholder feedback
- Contact communication to discuss the layout of the code and the communications strategy
- Escalate the document and the ideas to the necessary decision-making fora

Approval on  
the policy/code

### Implementation

- With the approval of the board, create the final policy/code
- Start communication within the company. Trainings, e-learnings are common ways to roll-out such an instruments and don't forget refresher trainings.

# Compliance Management System



## How can I set up a policy/code of ethics?

### Issue: *Anti-corruption*

- Surveys show an increased prevalence of economic crime such as corruption from 30% in 2016 to 40% in 2018 and a loss of 4% GDP.
- In 2018, stricter amendments to legislation were passed.
- Pro-active actions by businesses are needed to minimize corruption and human rights related risks



Business Conduct/  
Misconduct



Asset Misappropriation



Bribery and Corruption



\*The top three most pervasive economic crimes in Malaysia

### Solution:

- Digi runs their business by setting the highest standards of conduct.
- This is done through setting their values and establishing a **Code of Conduct**, an **Anti-Corruption Policy** and **No Gift Policy** as well as setting up an **Integrity Hotline**
- The Codes and Policies are mandatory for all employees adherence.
- An Ethics and Compliance Officer oversees Business Integrity, including Anti-Corruption, issues, and reports directly to the CEO.
- Ethics trainings were conducted included e-learning / classroom courses
- Digi is also a member of the **Business Integrity Alliance (BIA)** and has an established **Supplier Code of Conduct** for supplier adherence to basic sustainability requirements.
- In 2017, monthly employee training was delivered on the Code of Conduct

### Results:

- In 2018, Digi was ranked #3 in ASEAN for Business Integrity in a study conducted by the National University of Singapore (NUS) and the Asean CSR Network (ACN)
- This resulted in a 30% increase on Ethics and Compliance issues compared to 2016 and zero fines related to anti-corruption.

# Compliance Management System

How can I set up my own Business Partner Management to ensure compliance?

The implementation of the following four pillars is recommended:



# Compliance Management System

## Checklist



Develop a code of ethics including anti-corruption

---

Train your employees on anti-corruption, money laundering, data protection, anti-trust law, etc.

---

Appoint a responsible person for compliance obligations

---

Document compliance with law and statutes in your transactions

---

Set-up an effective Whistleblower System

---

# THE GUIDING PRINCIPLES

## Human Rights and Working Conditions

Companies should **respect the human rights of workers, and treat all people with dignity** as recognized by the international community.

The infographic features logos for BMW Group, Daimler, FCA, Ford, GM, Honda, Jaguar, Land Rover, Nissan, Scania, Toyota, Volkswagen, Volvo, and Volvo (Volvo Group). It is divided into two main sections: Environment and Human Rights and Working Conditions.

**Environment**

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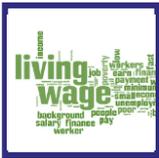
# THE PRACTICAL GUIDANCE

*Human Rights and Working Conditions - A comprehensive approach includes but is not limited to:*

---



**Child Labor/Labour and Young Workers, Forced Labor/Labour**



**Wages and Benefits, Working Hours**



**Freedom of Association**



**Health & Safety**

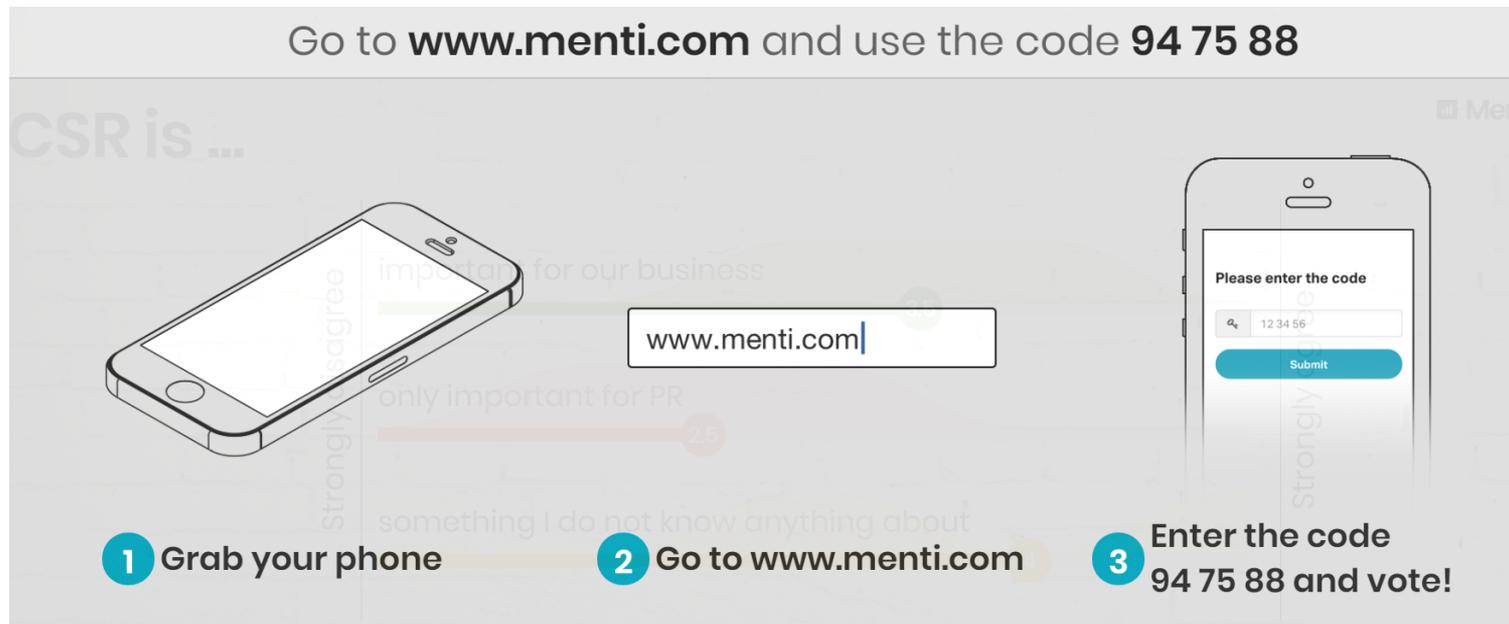


**Harassment, Non-Discrimination**

# POLLING EXERCISE

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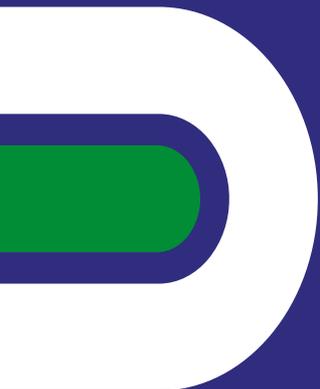
# AGENDA: BUSINESS ETHICS & SOCIAL SUSTAINABILITY

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# IMPROVEMENT PLAN EXERCISE

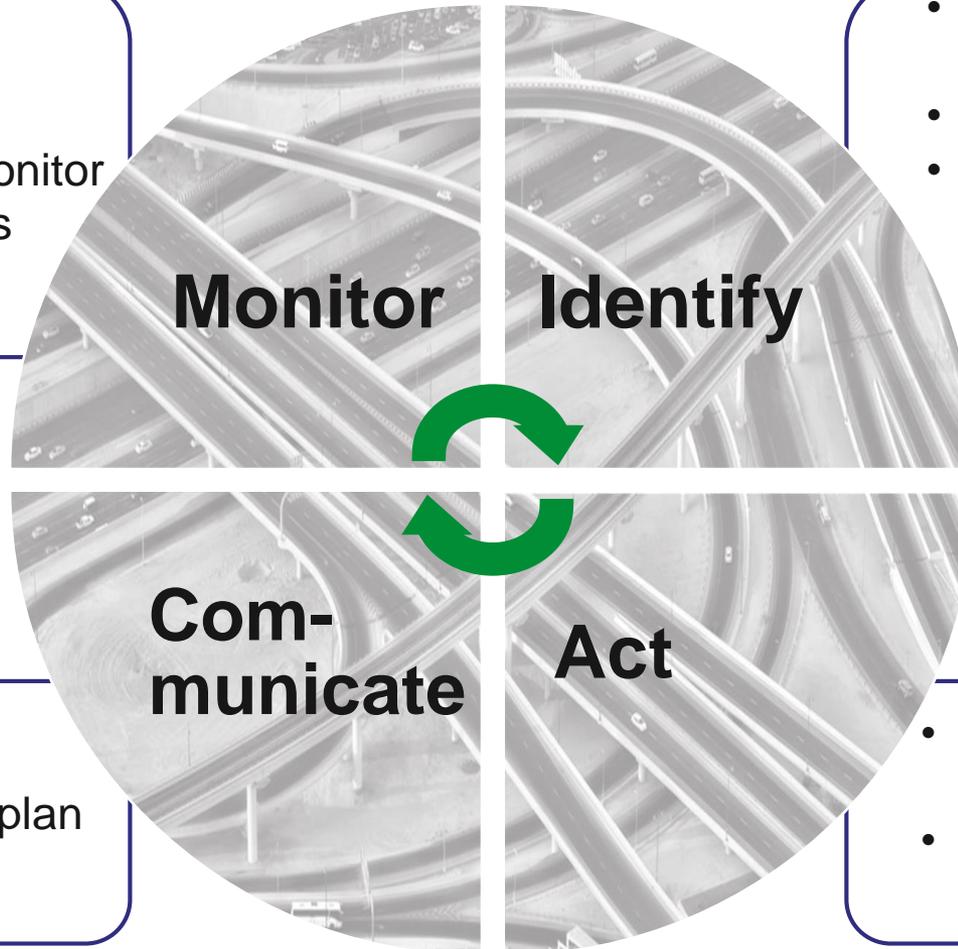
Identifying key local challenges



# THE IMPROVEMENT PLAN

## *How to make an improvement plan*

- Establish a strategy to monitor improvements



- Designate responsibilities
- Root causes analysis
- Identify and agree workable corrective and preventive actions

- Regularly communicate improvement plan status to key stakeholders

- Allocate realistic budget
- Set aggressive & reasonable timeline

# GROUP EXERCISE – 1 H 30

*Your group task for the day*

<u>KEY CHALLENGES</u> <u>(SELECT 3)</u>	<u>ROOT CAUSES (SELECT</u> <u>3 PER CHALLENGE)</u>	<u>PLANNED</u> <u>CORRECTIVE AND</u> <u>PREVENTIVE ACTIONS</u> <u>(SELECT 2 PER ROOT</u> <u>CAUSE)</u>	<u>BUDGET</u>	<u>PERSON IN</u> <u>CHARGE</u>	<u>TIMELINE</u>

# GROUP EXERCISE – 1 H 30

*Format*

## 40 min Brainstorming session

- Each table brainstorms:
  - What are the biggest challenges & issues you face/d in regards to business ethics, human rights and working conditions?
  - Where do you need support?
- Each table creates top 3 list of challenges they want to address in improvement plan

## 50 min Group discussion & analysis

- Each table presents 3 top challenges
- Trainer presents data analysis on biggest challenges
- Comparison / discussion

# WHAT DOES THE DATA SAY

*The biggest local sustainability issues are:*

## Anti-corruption

*“According to Transparency International Malaysia, corruption had cost the country about 4% of its gross domestic product (GDP) value each year since 2013<sup>1</sup>”*

### *Short-term*

- ✓ Economic, environmental and social impacts

### *Long-term*

- ✓ Stagnated economic growth
- ✓ Irreversible pollution on environment and public health impacts

# WHAT DOES THE DATA SAY

*The biggest local sustainability issues are:*

## Non-financial information disclosure

### *Short-term*

- ✓ Lacking transparency
- ✓ Lack of commitment from leadership

### *Long-term*

- ✓ Lacking accountability on impact of operations
- ✓ Lacking monitoring and comparability of data

*Although as high as 97% of the Top 100 Malaysian Companies by revenue had a Sustainability Statement in 2017; however, only ONE company made it to the Top 100 highest Sustainability Performing Companies in Asia.*

# WHAT DOES THE DATA SAY

*The biggest local sustainability issues are:*

## Non-discrimination

*Malaysia and Brunei are two of 13 nations that have not signed the ICERD<sup>2</sup>. Singapore has ratified it with a clause that allows them to exempt migrant worker related considerations.*

### *Short-term*

- ✓ National lack of commitment to labourer rights
- ✓ Migrant workers lack basic human rights

### *Long-term*

- ✓ Lack of ability to attract skilled local and foreign labour
- ✓ Impact on industry productivity and efficiency

<sup>2</sup>International Convention on the Elimination of all Forms of Racial Discrimination, a UN Human Rights Convention

# WHAT DOES THE DATA SAY

*The biggest local sustainability issues are:*

**Migrant workers / forced labour**

*To be discussed later today with Andy Hall  
(Independent Migrant Worker Rights Specialist)*

# GROUP DISCUSSION

## *Theory VS Reality*

- What is your opinion when you compare the results of your previous discussion and the data we collected before this training?
- What is/should be your final top 3 list of issues & biggest non-compliances?

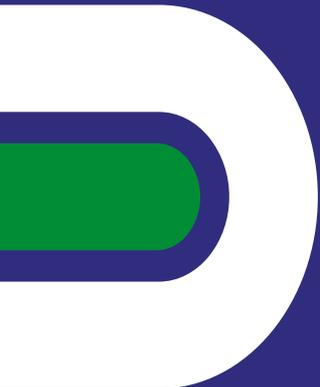
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# IMPROVEMENT PLAN EXERCISE

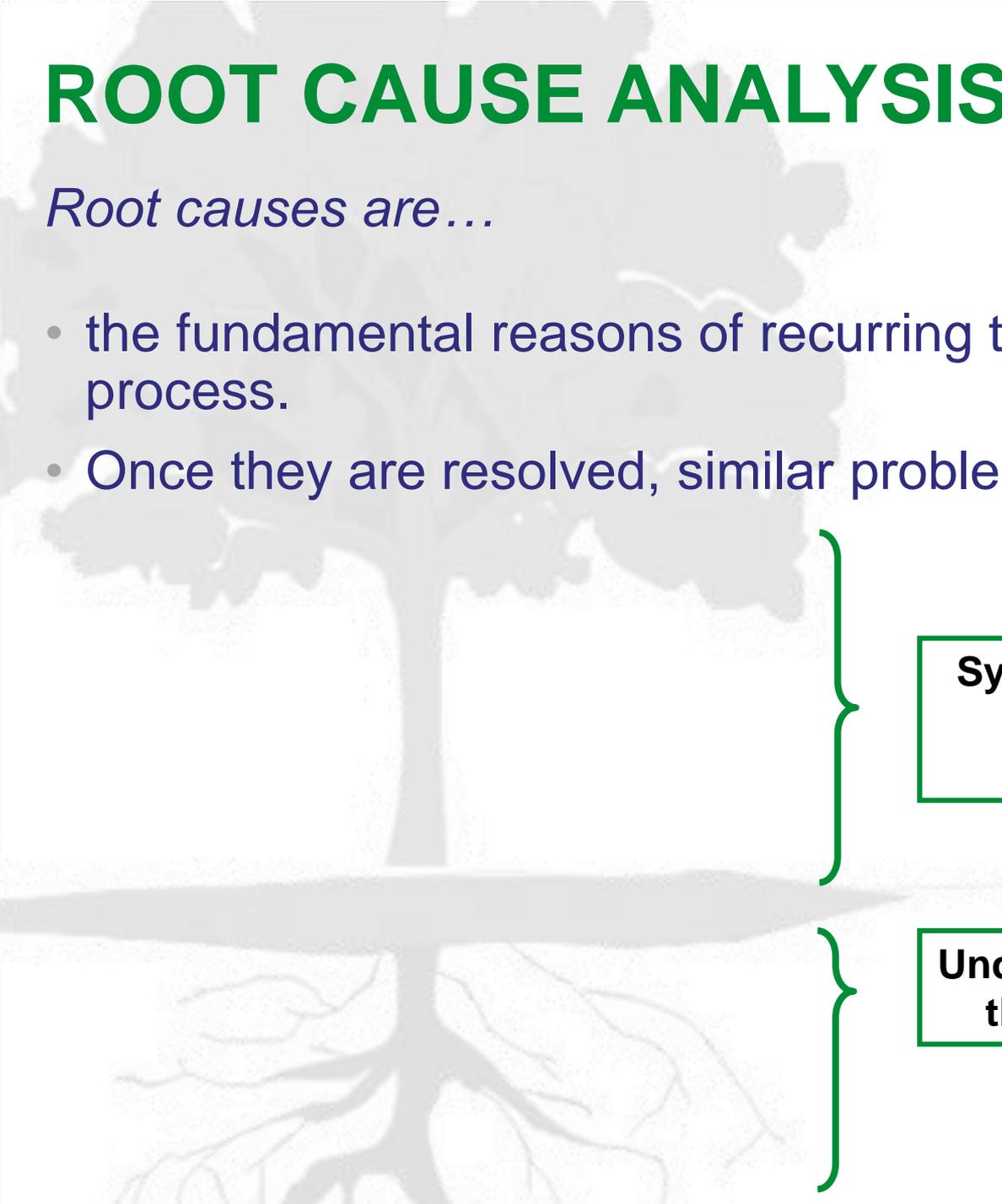
Root causes and actions



# ROOT CAUSE ANALYSIS

*Root causes are...*

- the fundamental reasons of recurring trouble or failure of a process.
- Once they are resolved, similar problems won't reoccur.



**Symptoms of problems are  
above the ground and  
obvious**

**Underlying causes are below  
the ground and obscure**

# METHODOLOGY: ROOT CAUSE ANALYSIS

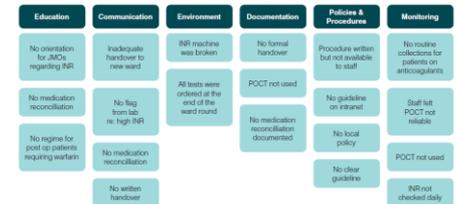
## 5 Whys



## Fishbone methodology



## Affinity diagrams



# ROOT CAUSE ANALYSIS

## 5 Whys

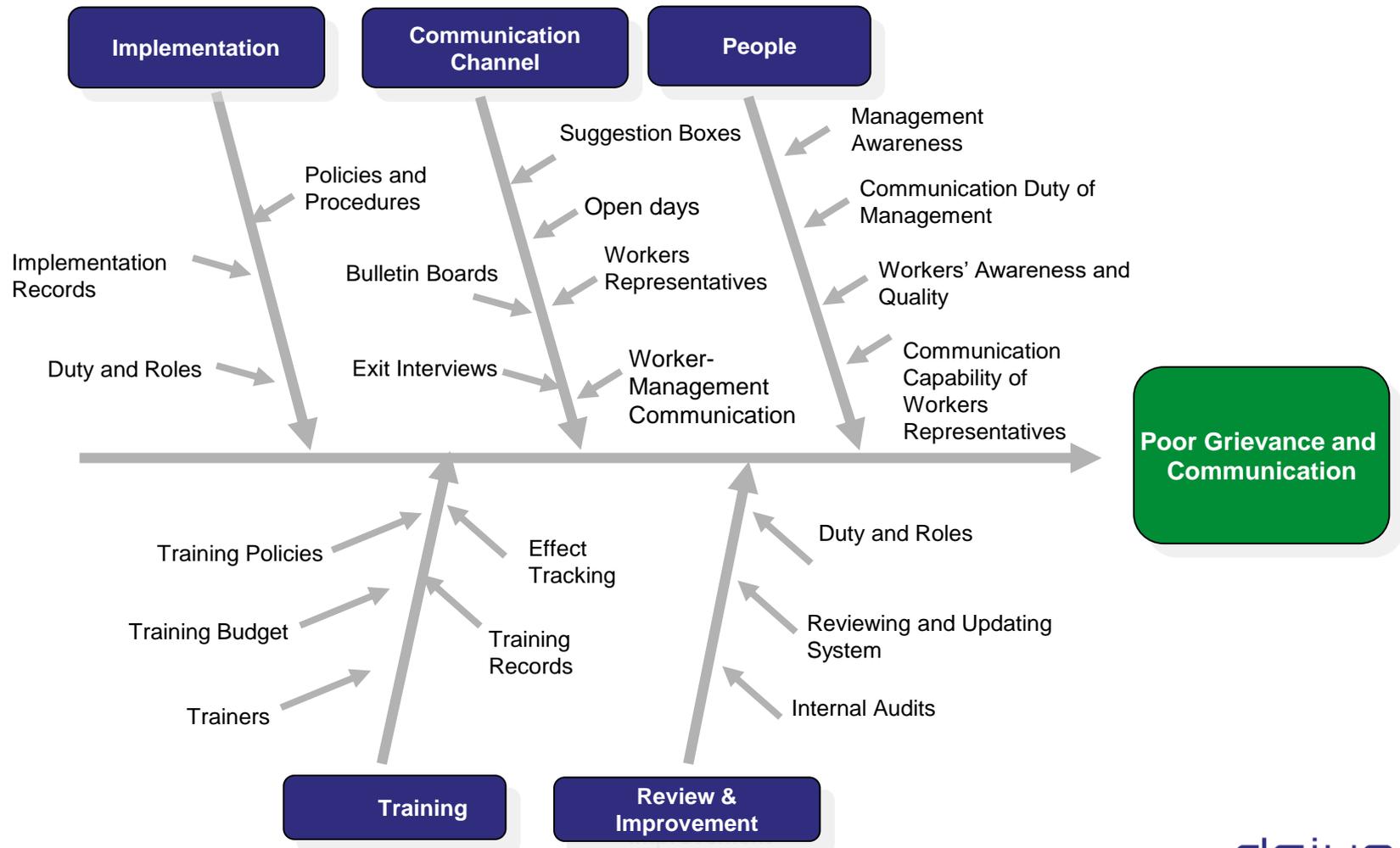
### *Case Study: Workers don't wear personal protective equipment*

---

- **Q1: Why are workers dissatisfied?**  
→ Because their concerns are not heard and addressed by the management e.g. unofficial pressure to do unpaid overtime.
- **Q2: Why are concerns not heard and addressed by the management?**  
→ Because communication between workers and management is generally less direct and raising such concerns to the management is not part of the culture.
- **Q3: Why isn't the local corporate culture changing its ways?**  
→ Because there is no program and target to drive such cultural change.
- **Q4: Why hasn't a program and target been set?**  
→ Because worker satisfaction and communication are not set as key performance indicators and therefore are not prioritized by management
- **Q5: Why isn't upper management setting such KPIs?**  
→ Because they lacked awareness of the issue before the employee satisfaction survey revealed that this communication channel is being missed.

# ROOT CAUSE ANALYSIS

## *Fishbone methodology*



# ROOT CAUSE ANALYSIS

Affinity diagrams: Root cause classification

*...generate, organize, and consolidate information*

---



**Lack of awareness**



**Lack of management  
commitment**



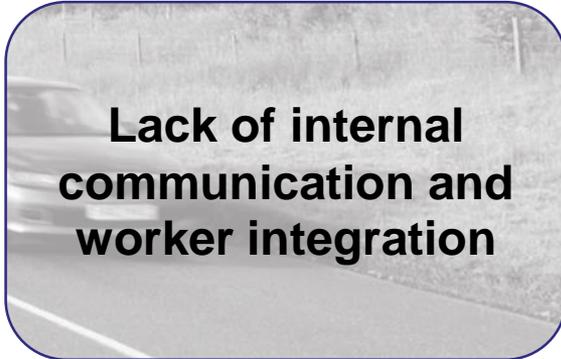
**Lack of procedure of  
policy**



**External cause**



**Cost**



**Lack of internal  
communication and  
worker integration**

# PLANNED ACTIONS

## *Corrective and preventive actions*

### Corrective action

---



#### Short-term

- Immediate remediation to remove / address the non-compliances

### Preventive action

---



#### Long-term

- Address root cause issue
- Ensure issue does not reoccur
- Long-term implementation
- Focused on management systems

---

# Lunch Break

12:45 – 13:30



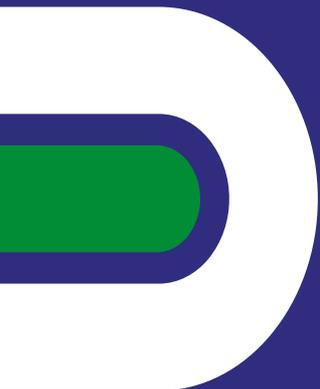
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16:40 – 17:00	Closing

# IMPROVEMENT PLAN EXERCISE

Root causes and actions (cont.)



# REMINDER

## *Morning session conclusion*

- Top 3 challenges, issues, non-compliances
- Where do you need support
- Root cause analysis methodology

# GROUP EXERCISE – 1 H 45

*Improvement plan column 2 + 3*

<u>KEY CHALLENGES</u> <u>(SELECT 3)</u>	<u>ROOT CAUSES (SELECT</u> <u>3 PER CHALLENGE)</u>	<u>PLANNED</u> <u>CORRECTIVE AND</u> <u>PREVENTIVE ACTIONS</u> <u>(SELECT 2 PER ROOT</u> <u>CAUSE)</u>	<u>BUDGET</u>	<u>PERSON IN</u> <u>CHARGE</u>	<u>TIMELINE</u>

# GROUP EXERCISE – 2 H

## *Format*

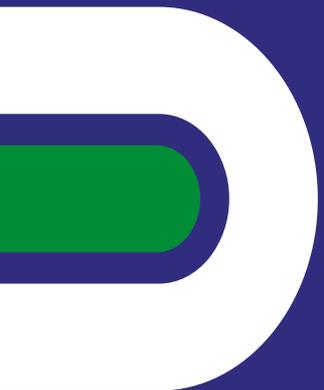
### **30 min Brainstorming session**

- Each table brainstorms:
  - root causes and actions/countermeasures for each challenge
  - Participants share practical experience on how to deal with issues, what works, what does not work etc
- Each table creates top 3 list of root causes for each challenge
- Each table identifies two actions per root cause

### **90 min Group discussion and case study presentations**

- Each table presents root causes and challenges
- Trainer presents best practices, case studies and solutions check-list to address challenges
- Presentation by Andy Hall on migrant worker issues
- Comparison / discussion

# Case Studies



# Case Study 1: Infineon



*Focus topic: Anti-Corruption*

**Issue:** Corruptive practices in Malaysia have an economic, social and environmental impact and must be eliminated.

At Infineon, an international brand with an established business in the Malaysian automotive industry, integrity in practice was placed as a priority due to **Global Parent Company** market listing requirements in Germany and the USA.

*This case study highlights the methods of practice in Business Ethics and how they manage their Compliance Management System relating to Business Integrity.*

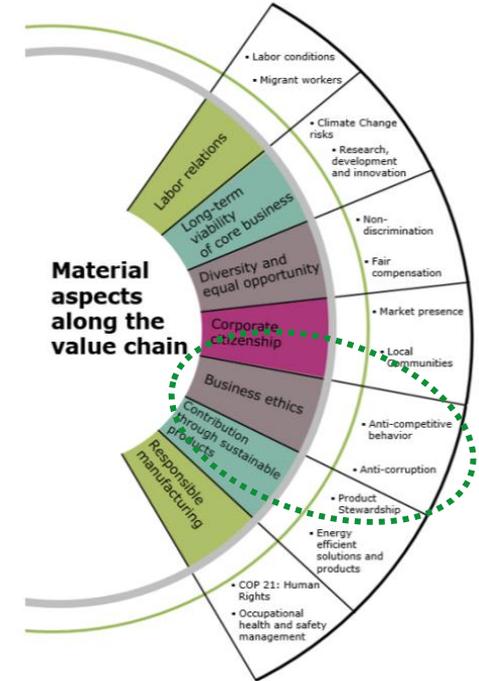
# Case Study 1: Infineon



*Focus topic: Anti-Corruption*

## Root Cause Analysis:

- **Political & Business Culture** – The normative business operations procedures in Malaysia had been linked to cronyism and corruption, with kick-backs being handed to politicians for permits to be obtained.
- **Governance and Enforcement** – Due to high-level corruption among public agencies, governance and enforcement from a bottom-up approach was difficult to manage.
- **Lacking Transparency** – The business environment in Malaysia (among many other countries) lacks transparency in both the public and private realms.
- **Fear of reprisal** – the lack of clear grievance mechanism structures as well as lacking employee rights / protection for ‘reporter’s of business integrity violations.



# Case Study 1: Infineon



*Focus topic: Anti-Corruption*

**Corrective Actions:** Commitment from leadership within the organisation and establishing policy documents such as the Legal Compliance Code

## **Preventive Actions:**

- **Code of Ethics & Conduct** – The Business Conduct Guidelines (BCG) was established and rolled out to all global organisations.
- **Grievance Mechanism** – an Integrity Hotline was established, in which non-compliance to Business Conduct Guidelines can be reported, investigated and tracked.
- **Compliance Management System (CMS)** – A company-wide roll-out of an IDW PS 980 standard-based CMS to track compliance to business ethics related incidents took place in 2014.
- **Annual Sustainability Targets** – each year, achievements are reported and next-year targets are set for sustainability items, including Business Ethics, which focus on preventive actions such as policy reviews and employee training.

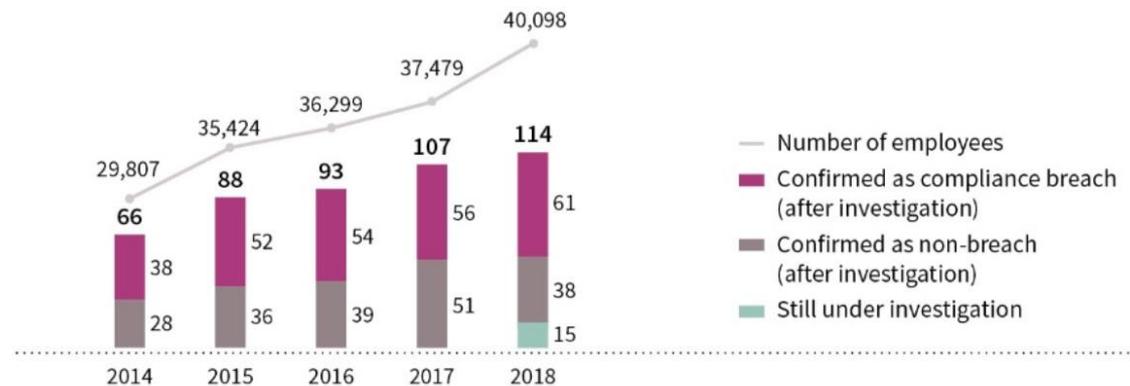
# Case Study 1: Infineon



## Focus topic: Anti-Corruption

**Results:** Increased reporting of non-compliance issues; however, the results of investigation indicates lower corruptive and ethical violations, but greater reporting of human rights related cases.

Reports of possible compliance breaches



## Lessons learned:

- **Greater accountability:** on employees of all levels in maintaining compliance to business ethics requirements
- **Positive corporate reputation:** recognition through association with international organisation memberships

# Case Study 2: Ford Motor Company



## *Focus topic: Disclosure of Information*

**Issue:** Questionable integrity of business operations due to non-mandatory reporting of non-financial information by most national legislation or listing requirement.

*This case study highlights the method undertaken by Ford to manage their Suppliers; in order to inculcate a culture of non-financial information disclosure for their material topics.*

## **Root Cause Analysis:**

- **Lacking transparency** - without a requirement to disclose non-financial business practices related to ethics, environment and social elements, organisations can opt to 'hide' potentially illegal business practices.
- **Lack of enforcement and corruptive practices of government agencies** - impedes whistleblowing reports and action from being taken.
- **Gaps in data / lacking quality data** - without mandatory and enforced requirements to disclose, there is no obligation for honest and comprehensive reporting, leading to potential reporting which may not lack accuracy.

# Case Study 2: Ford Motor Company



*Focus topic: Disclosure of Information*

## Corrective Actions:

- **Sustainability reporting\*** by Ford has progressed to become comprehensive and grown to include data from their supply chain
- **Requiring local suppliers to adhere to requirements** relating to and based on established and internationally recognised reporting frameworks can assist in promoting sustainability

## Preventive Actions:

- **Review of company policy** – relevant policies should capture global good practice requirements.
- **Establish Supplier Code of Conduct** – ensuring adherence to human rights and business ethics procurement throughout the supply chain.
- **Communication and training** - Relevant stakeholders such as the Board, management and employees should be given training on important best practices relating to their fields to increase ownership of new policy implementation. Communicating targets and achievements is encouraged to monitor progress.
- **Governance structure and accountability** - establish proper governance structure and accountability of the Board and top management to ensure that implementation of policies relating to improved sustainability is followed.

*\*In Malaysia, it has become mandatory for public-listed companies to disclose non-financial information, therefore local suppliers can benefit from understanding potential benefits.*

# Case Study 2: Ford Motor Company



*Focus topic: Disclosure of Information*

## Results:

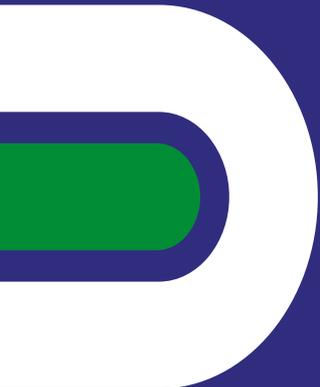
- After 18 years of reporting, Ford has established their own reporting tools and reporting mechanisms and is able to influence their suppliers to follow suit.
- Ford ranked within the top 100 Corporate Responsibility Ranking, as well as gained recognition as the first Ethical Automaking Company in 2011.

## Lessons learned:

- **Increased organisational transparency:** Comprehensive sustainability reporting provides comparable data sets for brands to be compared with each other, as well as their own organisational goals.
- **Higher levels of accountability:** Mitigation plans and explanations are required for negative results as well as failed achievement of targets, ensuring greater corporate responsibility.
- **Ease of enforcement:** Regulators can examine data from reports and move to holding business accountable in achieving national targets on related issues.
- **Brand reputation:** The reputation of a business can be at stake due to association with sustainability results, such as increased reputation and recognition in relation to positive sustainability initiatives and results.

# Focus on: migrant workers, modern day slavery and forced labour practices

*Andy Hall (Independent Migrant Worker Rights Specialist)*

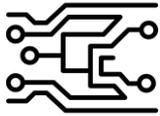


drive  
sustainability

# Migrant Workers in Malaysia

## *Key issues and risks for migrant workers in Malaysia*

- **Migrant workers significant proportion of workforce in labour intensive automobile and automobile component production process including in:**



Electronics (lighting, batteries, air conditioning etc.)



Rubber (tyres etc.)



Plastic



Glass



Other metals / materials used in production processes

# Migrant Workers in Malaysia

## *Key issues and risks for migrant workers in Malaysia*

- **Challenges faced by migrant workers involve brokers, recruitment or outsourcing agents, government officials and/or employers including:**
  - Unethical recruitment processes (debt bondage, forced labour)
  - Indirect hiring, subcontracting or outsourcing (since 2019 unlawful)
  - Document confiscation, inability to resign or change employer, inability to regularise immigration status (forced labour)
  - Basic rights violations *both* at work (excessive/forced overtime, limited rest days, excessive deductions) and at home (accommodation standards/costs)
  - Limited social dialogue (translator/communication challenges) and lack of worker knowledge of rights
  - Corruption and abuse of power by origin and destination country officials (police, immigration, embassy, labour officials)

# Migrant Workers in Malaysia

## *Malaysia and Migrant Workers in the News Recently*

- **The Guardian (Dec 2018) – Claims that NHS Rubber Gloves Made By Forced Labour in Malaysia Spark Inquiries**
- **The Telegraph (Jan 2019) – Revealed: Malaysian Condom Supplier to NHS and British High Street Accused of Shameful Working Conditions**

## Claims that NHS rubber gloves made by forced labour spark inquiries

UK and Malaysia investigations launched after Guardian reports allegations that firms are exploiting workers

- Read more: **NHS rubber gloves made in Malaysian factories accused of forced labour**



▲ The Top Glove factory in Setia Alam, Selangor, Malaysia. Photograph: Bloomberg/Bloomberg via Getty Images

# Addressing Migrant Worker Issues in Malaysia

## *Need for due diligence, remediation and prevention*

- **“Due diligence”** in mapping all existing supply chains and production processes for at risk migrant workers
  - *Both materials and labour provision supply chains*
  - *Focus on entire migration process impacting on migrant workers: recruitment, pre-departure, post-arrival, working period, return*
- **Remediation** of violations
  - Addressing existing modern day slavery/forced labour through:
    - Repayment of recruitment fees and related costs
    - Returning personal documents to workers (passports, ID cards)
    - Direct hiring of workers, communicating unfettered ability to resign
  - Addressing plethora of other labour and human rights abuses
- **Prevention**
  - Migrant/foreign worker policy (n.b. electronics industry)
  - Ethical (zero cost) recruitment policy and pilot projects
  - Enhanced workplace social dialogue and rights education

# Case Study 3: Cal-Comp Electronics



*Focus topic: forced labour (human rights/working conditions)*

## Issue:

- Workers at Cal-Comp Electronics (HP, Western Digital and Seagate supplier) at risk of forced labour through debt bondage, worked as subcontracted labourers, personal documents confiscated and subject to other rights violations
- Migrant workers from Myanmar at Cal-Comp Electronics (Thailand) paid up to 1,500,000 Kyat (€860) in recruitment-related fees and expenses, equivalent to 30-90 days wages.
- Violations of Myanmar legal standards, buyer codes of conducts and international standards concerning ethical recruitment and migrant worker management

**N.B. Automotive Guiding Principles (Practical Guidance) - workers not required to pay recruitment fees or related fees of any type for employment, document confiscation is prohibited**

# Case Study 3: Cal-Comp Electronics



*Focus topic: forced labour (human rights/working conditions)*

## Root Cause:

- **Use of third-parties for recruitment and employment:** Lack of control over hiring practices of recruitment agencies and/or employment practices of labour suppliers, lack of transparency, lack of employer understanding concerning all related practices
- **Coercion:** Workers coerced to report to auditors and third parties during and after recruitment only a fraction of what they paid to work at Cal-Comp.
- **Lack of policy and enforcement:** No public commitment to a migrant worker policy, ethical recruitment policy, direct hiring policy and/or then communication of these policies to workers and suppliers.

# Case Study 3: Cal-Comp Electronics



*Focus topic: forced labour (human rights/working conditions)*

## Corrective Actions: in the short term

(see [http://electronicswatch.org/en/call-to-industry-to-prevent-forced-labour-risks\\_2556050](http://electronicswatch.org/en/call-to-industry-to-prevent-forced-labour-risks_2556050) for details)

- **Reimburse all new migrant workers** recruited in Myanmar
  - Workers reimbursed in accordance with Myanmar law at a rate of only 150,000 Kyat
  - Note Electronics Watch recommendation: workers should be reimbursed at an average rate of 1,000,000 Kyat (€575) immediately upon their arrival at Cal-Comp, until Cal-Comp has developed and implemented a verified and genuine ethical or zero-cost recruitment policy.
- **Reimburse veteran migrant workers** recruited in Myanmar the difference between any amount already reimbursed and 1,000,000 Kyat (€575) (*Electronics Watch recommendation*).
- **Commit** immediately and publicly to a policy of ethical and/or zero cost migrant worker recruitment.

# Case Study 3: Cal-Comp Electronics



*Focus topic: forced labour (human rights/working conditions)*

## Preventive Actions: In the long-term

### Policy

#### Adopt migrant worker policy and ethical and/or zero cost recruitment policy

- Commit publicly to an inclusive migrant worker policy (incl. ethical recruitment, no document confiscation etc.)
- Commit publicly to a policy of ethical and/or zero cost recruitment whereby recruitment agents do not charge workers fees and Cal-Comp pays migrant workers' total recruitment-related service fees and expenses in advance, whether incurred in Thailand or in the country of origin

### Communication

#### Communicate & provide training on policy to workers

- Communicate a migrant worker policy and policy on ethical and/or zero cost recruitment to all workers
- Clearly and unequivocally communicate to all workers that they should report in full any recruitment-related fees and costs to any auditor or third party that may inquire, and assure each worker that they will not risk their jobs by doing so

### Recruitment

#### Establish written agreements with agencies or internal recruitment process

- Written agreements with recruitment agents stating that Cal-Comp is responsible for all recruitment-related service fees, specifying the amount that the recruitment agents will obtain for costs/fees including a reasonable and sustainable profit for the agents to develop their business
- Ensure that under no circumstance personal documents such as passports are taken from migrant workers
- Cease using the services of consistently non-compliant recruitment agencies
- Work with migration experts to develop relations with new and promising recruitment agencies in origin countries
- Incentivise good practices, for example through long-term contracts and improved payment terms for responsible agencies
- Directly manage recruitment-related activities where possible e.g. in Thailand without the use of Thai agencies

# Case Study 3: Cal-Comp Electronics



*Focus topic: forced labour (human rights/working conditions)*

## Preventive Actions: In the long-term

### Investigation & Audit

#### Use third party to investigate and audit

- Together with a third party, launch an internal investigation into potential misconduct by any of its staff or agents involved in abusive recruitment-related practices. Officials proven to have been involved in misconduct should be appropriately sanctioned to avoid continued unethical migrant worker recruitment practices (n.b. “kick-back” phenomenon).
- Investigative findings should be shared with buyers and independent monitors.
- Join where appropriate a recognized third party auditing system for the extended labour/recruitment supply chain.

### Transparency

#### Ensure transparency and open channels of communication

- Establish a recognized, anonymous and easily accessible grievance mechanism for workers.
- Provide buyers evidence of payment of recruitment costs, thereby creating transparency on costing for cost sharing and an agreement that can be audited and contractually enforced.

### Beyond compliance

#### Worker benefits and grievance mechanisms

- Housing, health exams and transportation allowances covered to reduce vulnerability of workers
- Develop social dialogue mechanisms to promote more effective communication and/or genuine worker voice
- Work with civil society or third parties to promote more sensitive/appropriate “worker driven” social monitoring

# Case Study 3: Cal-Comp Electronics



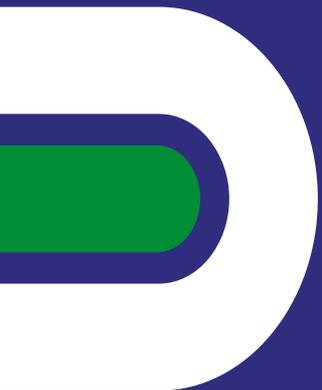
*Focus topic: forced labour (human rights/working conditions)*

**Results:** Migrant workers at Cal Comp no longer as exploited as previously found to be the case, worker debt bondage has in some cases been lessened

## Lessons learned:

- Even though a company uses recruitment agencies and labour suppliers, it remains responsible for employees and the situation they find themselves in
- The company also needs to consider recruitment fees previously paid by their migrant workers in remediating the situation (non-discrimination)
- Planning in advance for labour surges, given the timeline for the legal process (90 days to acquire permits) or to allow “ethical” recruitment processes, critical in managing risks and staying compliant
- Standard (even specialised) audits challenged in uncovering forced labour and debt bondage conditions of migrant workers subject to unethical recruitment requiring a specialised or “worker driven social monitoring” approach
- Migrant worker management and ethical recruitment issues extremely complex and sensitive

# Solutions check-list



# Business Ethics: Solutions to meet expectations

- ✓ **Conduct due diligence** to understand the source of the raw materials, don't knowingly provide products containing raw materials that contribute to human rights abuses and ethics violations
- ✓ Use validated conflict free smelters and refiners for procurement of tin, tungsten, tantalum and gold – responsible minerals sourcing
- ✓ **Develop policies and procedures** to explicitly prohibit corrupt practices
- ✓ **Train employees to identify** warning signs and establish controls to reduce likelihood of corrupt practices, conflicts of interests
- ✓ Clearly and accurately record financial transactions in books and records
- ✓ Comply with data privacy laws on personal data (consumer & employee)
- ✓ Abstain from any type of anticompetitive business practice, including cartel arrangements, abuse of economic dependence

# Human Rights & Working Conditions: Solutions to meet expectations

## *Child Labour and Young Workers*

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- ✓ Use age verification systems, require proper documentation upon hiring
- ✓ Closely observe special restrictions when young workers are employed: e.g. do not permit young workers to perform hazardous or night work

## *Forced Labour*

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- ✓ **No restrictions** for workers to voluntarily end their employment, such as excessive notice periods
- ✓ Security must **not be allowed to intimidate or restrict the movement** of workers
- ✓ Overtime must be strictly voluntary
- ✓ Just and **equal treatment of migrant workers**, despite local regulations
- ✓ The factory must not retain workers' (including migrant workers) **original personal documents or deposit money**

# Human Rights & Working Conditions: Solutions to meet expectations

## *Wages and Benefits*

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- ✓ Pay contractually-agreed wages, no vouchers or goods, in timely manner and use in-factory bank machines to pay wages
- ✓ Do **not use recruiting agents** for migrant workers (to end debt bondage)
- ✓ Do not reduce wages for disciplinary reasons
- ✓ Ensure sub-contracted workers receive legally required wages/benefits
- ✓ Ensure proper maternity benefits are provided

## *Working Hours*

---

- ✓ Use a **time-keeping system** and mandate days off
- ✓ **Comply with applicable laws** on working hours/overtime compensation
- ✓ Indicate processes for worker overtime
- ✓ Ensure that all **overtime is voluntary**



# Human Rights & Working Conditions: Solutions to meet expectations



## ***Freedom of Association***

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- ✓ Establish methods to communicate concerns: Direct and anonymous (e.g., suggestion boxes)
- ✓ Use communication cascades
- ✓ Promote independently elected health and safety committees
- ✓ Make sure employees receive copies of signed collective bargaining agreements



## ***Harassment and non-Discrimination***

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- ✓ Prohibit pregnancy testing
- ✓ Pay attention to specific activities where discrimination needs to be prohibited: Hiring, Salary, Advancement, Discipline, Termination
- ✓ Maintain specific policies prohibiting harassment

# Human Rights & Working Conditions: Solutions to meet expectations



## *General*

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- ✓ Establish 2-way communications channels between management and employees in order to identify risk, pain points, and nascent dissatisfaction
- ✓ Some possible solutions:
  - ✓ Employee satisfaction survey
  - ✓ Internal innovation / idea collection (Kaizen-type)
  - ✓ Besides formal employee representation draw up a network of ambassadors, who can help address specific problems, inform and motivate the workforce
  - ✓ Create opportunities where employees can meet management to discuss their problems
  - ✓ Reward achievement
  - ✓ Show example: management to show that they abide by rules, as well

# GROUP DISCUSSION

*Complete your list of actions: Which new actions can you add to your list?*

Corrective action

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**Short-term**

- Immediate remediation to remove / address the non-compliances

Preventive action

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**Long-term**

- Address root cause issue
- Ensure issue does not reoccur
- Long-term implementation
- Focused on management systems

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# Coffee Break

15 min



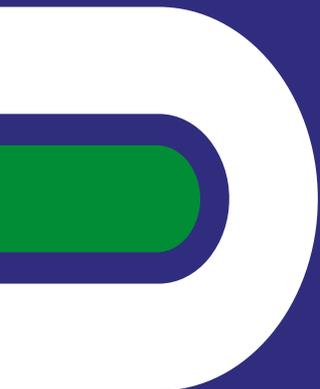
# AGENDA: BUSINESS ETHICS & SOCIAL SUSTAINABILITY

## *Working & leaning together*

10:15 – 10:45	Introduction Break-out session
10:45 – 12:15	Improvement plan exercise: Identifying key local challenges
12:15 – 12:45	Improvement plan exercise: Root causes and actions
12:45 – 13:30	Lunch
13:30 – 15:30	Improvement plan exercise: Root causes and actions (cont.)
15:30 – 15:45	Coffee break
<b>15:45 – 16:30</b>	<b>Improvement plan exercise: Budget, responsibilities and timeline</b>
Participants regroup	
16:40 – 17:00	Closing

# IMPROVEMENT PLAN EXERCISE

Budget, responsibilities and timeline



drive  
sustainability

# GROUP EXERCISE – 1 H

*Improvement plan column 4 - 6*

<u>KEY CHALLENGES</u> <u>(SELECT 3)</u>	<u>ROOT CAUSES (SELECT</u> <u>3 PER CHALLENGE)</u>	<u>PLANNED</u> <u>CORRECTIVE AND</u> <u>PREVENTIVE ACTIONS</u> <u>(SELECT 2 PER ROOT</u> <u>CAUSE)</u>	<u>BUDGET</u>	<u>PERSON IN</u> <u>CHARGE</u>	<u>TIMELINE</u>

# GROUP EXERCISE – 1 H

*Format*

## 5 min Improvement plan best practice

- Trainer presents best practice improvement plan

## 20 min Brainstorming session

- Each table brainstorms:
  - Budget, person in charge, timeline for each action

## 20 min Group discussion

- Each table selects one challenge and presents full improvement plan for it
- Trainer gives feedback
- Closing and conclusion

# Improvement Plan Best Practice

## *Case: Migrant Workers at Flextronics, Malaysia*

### **Issue:**

- High-recruitment fees for migrant workers
- Long-hours, unpaid overtime and low wages
- Contracted prohibition to join trade unions and employer keeping worker's passports

**Project definition:** withheld

### **Root Cause analysis:**

- Lack of legislative protection and high levels of corruption in law enforcement agencies
- Lacking knowledge of rights and language barriers
- Lack of clear grievance mechanism and protection of whistleblowers/fear of retaliation

**Root Cause identification:** Lack of human rights

# Improvement Plan Best Practice

## *Case: Migrant Workers at Flextronics, Malaysia*

### **Solution analysis:**

- Commitment from headquarters to provide pressure on local businesses.
- Additionally, Apple, one of the brands that Flextronics supplies parts for mounted pressure on their vendors to yield to basic human rights requirements for all labourers, regardless of nationality.

### **Corrective actions:**

- Ensure company policy and conduct address internationally accepted human rights and labour related requirements.
- Increase directly hired labour

### **Preventive actions:**

- Establish Human Rights Management System to track and monitor the supply chain
- Do not engage migrant-hiring brokers
- Set supply chain standards for vendors to follow.
- Implementation of Employee Relations Team Programs to contribute to the elimination of all forms of forced and compulsory labor in Singapore, Indonesia and with the largest effort in Malaysia

# Improvement Plan Best Practice

## *Case: Migrant Workers at Flextronics, Malaysia*

### **Implementation plan:**

- Person in charge: Leadership, management and employees (all levels)
- Timeline: *unknown*
- Budget: *unknown*
- Success measurement / KPIs:
  - ✓ Relevant corporate policies related to business ethics, labour and human rights, as well as equal opportunities
  - ✓ Track and monitor human rights management system
  - ✓ Total training sessions or hours for established corporate policies and codes
  - ✓ Number of audits on all Flex manufacturing plants
  - ✓ Direct hire of foreign migrant labour directly where possible (no 'middle' broker)
  - ✓ KPI target on reducing the number of human rights infractions (e.g. linked to a human rights management system)

# Improvement Plan Best Practice

## *Case: Migrant Workers at Flextronics, Malaysia*

### **Results:**

- Increased training hours for employees by close to 20%.
- Close to 100% of all employees had undergone Code of Conduct training in 2018.
- Creation of the Diversity and Inclusivity Policy, which highlights equal employment opportunity.
- To date, 51% of all Flex plants have been audited

### **Lessons learned:**

- Increased recognition on initiatives relating to business ethics and labour.
- Increased productivity of employees.
- Increased diversity in the workforce.
- .

# GROUP DISCUSSION

- What is your feedback after doing the exercise?
- Did you encounter any difficulties?
- What are 3 words that summarize the discussion at your table?

# CLOSING

Please regroup with other session

