



Non-Compliance Classification Guidelines

Audit Process and Methodology:

Annexure E

(2017)

Non-Compliance Classification Guidance on Best Practice, Observations, Major, Minor and Critical Non-Compliances

Auditors will classify non-compliances, observations and good practice examples to indicate the relative importance of each.

Follow-up audits are recommended for critical or major non-compliances or when corrective actions can be evaluated only through interviews and extensive documentation reviews

Categorisation

- » Non-compliance can be categorised as:
 - Minor non-compliance.
 - Major Non-compliance.
 - Critical non-compliance.
- » Auditors can also note Observations and instances of Good Practice.

Classification

Non-compliances and observations will be classified according to:

- » The frequency of the problem and whether the issue is an isolated occurrence.
- » The potential severity of the problem.
- » The probability of recurrence.
- » The management system in place.
- » The response of the management.

Classification		
<i>The auditor must be able to justify his/her classification with detailed evidence.</i>		
A critical non-compliance is:	<ul style="list-style-type: none"> » An issue which presents imminent risk to workers' safety/risk to life and limb or constitutes a significant breach of workers' human rights which is regarded as a zero tolerance issue and/or; » A major non-compliance that has not been addressed or for 	Critical non-compliances include: <ul style="list-style-type: none"> – Inconsistencies between different types of documents and worker testimony. – Employment of Child labour (reported or confirmed through documentation). – Involuntary, indentured, or involuntary prison labour (including forced overtime and absence of payment).

	<p>which no significant improvement has been made by the time of a follow up audit, in spite of supplier commitment to resolve the issue.</p> <p>» An attempt to pervert the course of the audit through fraud, coercion, deception or interference.</p>	<ul style="list-style-type: none"> - Practices of bonded labour, including during the recruitment phase, observed on site where workers are forced to work and unable to leave the workplace. - Workers subjected to physical abuse. - Workers subjected to systemic sexual harassment, abuse or systemic disrespect. - Workers in immediate danger. - Workers not being paid at all or systemically paid under the legal compliance. - Workers subjected to discriminatory practices (e.g. during recruitment, workers are tested for medical conditions not required by law or product safety requirements, e.g. pregnancy, HIV/AIDS, hepatitis etc.). - Union members, union or worker representatives are actively harassed, penalised or discriminated (directly or indirectly) against. - Attempted bribery. - Occupational Health and Safety non compliances that pose immediate and serious harm to workers' health and or safety. - Auditors denied access or obstructed from conducting a proper audit. - Evidence of the deliberate provision of false information to auditors so as to disguise unfair labour conditions. - Housing: Unsafe structural defects posing imminent harm to occupants or unhygienic environmental conditions posing imminent and serious threat to health; or unsafe conditions posing an urgent safety threat, i.e. potential fire hazard, overcrowding etc.
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		<p>Critical non-compliances will trigger an alert notification.</p> <p>Auditors are to notify WIETA should an alert notification of a critical non-compliance be issued within 24 hours of the audit. WIETA will then be in contact with the site to arrange for any appropriate remedial action to be undertaken by the site to immediately remedy the critical non-compliance.</p>
A major non-compliance is:	<p>A breach which represents a danger to workers/ those on-site.</p> <ul style="list-style-type: none"> » A material breach of the WIETA/ law. » A systematic violation of WIETA code requirement/ law. 	
A minor non-compliance is:	<ul style="list-style-type: none"> » An occasional or isolated problem. » An issue which presents a low risk to workers/ those on-site. » A policy issue or misunderstanding where there is no evidence of a material breach. 	
An observation is:	<ul style="list-style-type: none"> » The identification of an opportunity for improvement. » A possible issue which may develop into a non-compliance without further action. » An issue which the auditor has some evidence to indicate may be present, but 	

	is not confirmed by more than one data point.	
A good practice example is:	» An issue that the auditor regards as over and above the standard against which the employment Site was audited.	

The WIETA Classification Guidance on Best Practice, Observations, Major, Minor and Critical Non-Compliances provides guidance on how to categorise different issues a good practice or minor, major or critical non-compliances.

This list is not exhaustive on how to categorise different issues as good practice, observations or minor, major or critical non-compliances and should be read with the WIETA Benchmark which identifies zero tolerance issues. These examples are for illustration only; auditors should still use their discretion when classifying non-compliances.

WIETA Code and Management Systems

Good Practice

- » Employment site policies and procedures are regularly reviewed, in consultation with internal and external stakeholders, to ensure that they meet WIETA Code and fair labour standards.
- » Management communicates the requirements of WIETA labour standards to subcontractors, and requires them to work to adhere to them.
- » Management have implemented an auditing programme and audited all suppliers, subcontractors and labour providers.

Minor Non-Compliance

- » The employment site's fair labour policies and procedures have not been communicated to workers.
- » There are no relevant written policies or procedures at the employment site, but working practices are in line with international standards.

Major Non-Compliance

- » Management does not keep a list of and the contracts with sub-contractors and suppliers.
- » There are no policies and procedures at the employment site, and conditions are not in line with international standards.

Critical Non-Compliance

- » Management openly flouts the law despite knowledge of their responsibilities.
- » Management attempted to bribe the auditors.
- » False records were provided to the auditors or management refuse to give true records to auditors which amounts to audit fraud.

Forced labour

Good Practice

- » Employee handbooks explain the process for workers to give notice if they wish to leave employment.
- » Workers interviewed are able to describe the process for giving notice.
- » Workers have access to no-interest loans. Where used, workers have agreed loan amounts and repayment terms in writing, have a copy of their agreement, and workers clearly understand the repayment terms and conditions.

Minor Non-Compliance

- » The process for workers to give notice is not effectively communicated in a language workers understand or a mechanism they can access.
- » A handful of personnel files do not contain evidence of workers' written consent to deductions.
- » Monetary deposits are taken from workers (e.g. for accommodation or PPE).

Major Non-Compliance

- » Workers work voluntarily, but are not paid at least the legally applicable wage for all hours worked.
- » The employment site restricts the movement of workers (e.g. workers cannot go to the toilets freely; workers cannot take their rest breaks; gate passes, toilet cards, aggressive prevention of movement, intimidation). This is valid for both the employment site and/or dormitory areas.
- » Unreasonable notice requirements or financial penalties for leaving. (E.g. the final payment for workers who leave employment is withheld for one month before being paid).
- » Deductions not stipulated in law take workers below the legal minimum wage.
- » Workers pay recruitment fees at any stage in the recruitment process.
- » The employment contracts of workers do not reflect the agreed payment and terms in the recruitment process as understood and signed by workers.

Critical Non-Compliance

- » Workers (or any other worker) have no choice about whether they work or not
- » Movement of workers are restricted or curtailed.
- » Violence and/or the threat of violence are used to force workers to work or to work overtime against their will.
- » Workers are working to pay off a debt to their employer and have no choice about their work and/or feel unable to leave.

- » Workers are unable to leave employment because their deposits or other money they are owed are withheld, or because management refuses to give workers their original identity papers or because they are forced to work their against their will
- » Workers are not paid at all.

Child labour

Good Practice

- » The employment site has a robust age verification process, including stringent checks on the validity of documentation and a requirement for two forms of photo ID.
- » Young workers are registered with local authority where required by local legal requirements.
- » Management takes steps to ensure suppliers are aware of child labour policies and carries out regular checks on supplier sites to ensure that there are no children employed.
- » The employment site has a robust young worker management system in place, which ensures that young workers do not work in hazardous positions, at night or longer than they are supposed to as specified by the law.

Minor Non-Compliance

- » A handful of personnel files do not contain a copy of country appropriate age verification documentation.
- » The personnel files of young workers do not contain written consent from a parent or guardian (if required by law).
- » The employment site has no formal policy on child labour.

Major Non-Compliance

- » Management do not know the minimum legal working age in their country and/or how to verify age of workers.
- » The employment site does not have any age verification process when recruiting new workers.

Critical Non-Compliance

- » The employment site consciously employs child labour (younger than the age of 15) and is complicit in forging documents.
- » Child workers have presented fake ID cards during the recruitment process and employment site failed to spot them.
- » There are one or more children working at the employment site.
- » Young workers engage in hazardous, night or overtime work.

- » The employment site refuses to engage in a proper remediation programme for child labourers.

Freedom of association and the effective recognition of the right to collective bargaining

Good Practice

- » Management pays representatives for the time they spend carrying out their representative functions.
- » Worker representatives are allocated time every month to discuss union matters with union members. This is over and above normal union commitments.
- » Management actively engages in day to day conversations with workers to understand their needs and suggestions.
- » The union (or parallel means) has been effective in defusing disagreement between workers and management. They have successfully negotiated conditions that are over and above legal and industry norms.

Minor Non-Compliance

- » Workers do not have a copy of their union dues deduction agreements but workers report knowing about these deductions and have given their written consent for these deductions to be taken.
- » Management sometimes postpones trade union meetings during peak production periods
- » The employment site does not provide union representatives with adequate facilities for them to carry out their activities.
- » Workers are unaware of how to raise issues with management or they are unaware of who their representatives are.

Major Non-Compliance

- » Information relating to collective bargaining agreements is not circulated to workers.
- » Management does not permit union/committee notices to be posted publicly on notice boards.
- » Management does not restrict the activities of trade union representatives, but do not pay them for reasonable time spent on union activities.
- » Management does not allow regular trade union meetings to be held.
- » The employment site does not comply with collective agreements.
- » Collective Bargaining Agreements are not confirmed in writing.

Critical Non-Compliance

- » Management prevents workers from organising themselves.

- » Membership of trade unions is prohibited and/or workers are prevented from becoming members of a union.
- » Management actively harasses, penalises or discriminates (directly or indirectly) against union members, union or worker representatives.

Discrimination, harassment and abuse

Good Practice

- » Workers' contracts of employment confirm that all workers in the same roles are engaged under the same terms and conditions. (E.g. equal pay for roles of equal value).
- » Full explanations of all policies are available to all workers in relevant language(s).
- » Workers understand the discipline and grievance procedures of the employment site and report that they are fair and easy to access.
- » When observing interaction between workers and workers and management, there is a supportive atmosphere. Workers are supported to improve their performance in a helpful manner.
- » Workers think that promotion is possible and open to all. They can provide examples of where this has happened in the past.

Minor Non-Compliance

- » The employment site does not have written policies on discrimination, harassment, of abuse.
- » Discipline and/or grievance procedures are not communicated to workforce.
- » Management and/or supervisors do not understand/follow the discipline and/or grievance procedures.

Major Non-Compliance

- » Workers feel discriminated against by management and/or other workers.
- » Workers are shouted at by management or management occasionally uses harsh language .
- » Management uses fines as a disciplinary measure.

Critical Non-Compliance

- » There is evidence of sexual, physical or systemic/ gross verbal abuse.
- » Discrimination in recruitment is practiced e.g. .age, caste, disability, ethnic and/or national origin, gender, membership in unions, political affiliation, race, religion, sexual orientation, marital status, family responsibilities, social background.
- » During recruitment, workers are tested for medical conditions not required by law or product safety requirements, e.g. pregnancy, HIV/AIDS, hepatitis etc.
- » Workers are dismissed when they become pregnant.

- » Workers are subject to different treatment and/or terms and conditions and/or different working conditions based on criteria which do not relate to skill or merit e.g. age, caste, disability, ethnic and/or national origin, gender, membership in unions, political affiliation, race, religion, sexual orientation, marital status, family responsibilities, social background or other personal characteristics.

Health and Safety

Good Practice

- » Management takes steps to prevent accidents before they happen. Use H&S information to refine systems and take action to improve overall process.
- » The employment site has a functioning H&S committee with a high proportion of workers, which meets regularly with management and is very effective in managing H&S on site.
- » Health and Safety training is conducted for all new workers, and repeated periodically for all workers to ensure that they are aware of risks, changes to their working environment or new requirements.

Minor Non-Compliance

Fire/Emergency Evacuation:

- » Evacuation plans are not posted for workers to see.
- » Incomplete/absent records from fire evacuation drills in factory and/or accommodation.
- » Fire extinguishers are not installed at correct height/other non-functional requirements are not met.

Housekeeping:

- » Poor or inadequate lighting in production or other areas.
- » Inadequate and/or unhygienic facilities for washing and/or drying hands.
- » No testing of water potability.
- » Isolated failures to carry out medical examinations.
- » No electrical Certificate of Compliance.

Accommodation / Canteen:

- » Isolated failures in maintenance in accommodation.
- » Insufficient seating in canteen/dining area.

Major Non-Compliance

Chemical Handling:

- » No training on safe use and/or safe handling of chemicals.
- » Unsafe practice when handling chemicals.

- » No process in place to ensure vulnerable workers such as young workers or pregnant workers are protected from possible exposure to hazardous chemicals.
- » Women are not working with or in vicinity of chemicals.

PPE:

- » Management do not provide the correct PPE to workers.
- » Workers do not have or do not always wear the correct PPE for the work, chemicals and machines that they are using.

Fire/Evacuation:

- » Emergency escape routes are not clearly signalled.

Housekeeping:

- » Inadequate extraction in areas where chemicals are used.
- » Extremely bad ventilation, air conditioning or lighting in any part of the production area.
- » Toilets are not hygienic and/or are not cleaned on at least a daily basis.

Canteen:

- » Canteen and/or food storage is unhygienic.
- » Canteen/kitchen employees have not had appropriate health checks and/or obtained appropriate hygiene certificates.

First aid:

- » First Aid boxes not freely accessible and/or not appropriately/adequately stocked.
- » There is no member of staff trained in administering basic first aid.

Training:

- » Lack of appropriate training on safe use of equipment or handling of loads.
- » No senior manager designated with responsibility for health and safety.

Critical Non-Compliance

Fire/Emergency Evacuation:

- » There are less than 2 accessible, unlocked and unblocked fire exits on each floor.

PPE/Machinery:

- » Machinery / equipment do not have the required safety guards and pose a direct threat to workers' lives or limbs.
- » The employment site requires non-refundable monetary deposits from workers to get their job, protective equipment, training or other items.

Canteen:

- » Accommodation is unsafe and poses immediate risk to workers' lives or limb.

Housekeeping:

- » Dangerous storage of production materials causing any risks to workers' lives or health.
- » No access to potable water.
- » No access to toilet facilities.
- » Hazardous electrical installations.

Others:

- » Premises are not structurally safe.
- » Any violation that poses immediate harm to workers' health and/or safety.

Wages, benefits and terms of employment

Good Practice

- » Workers are paid regularly, at least once per month and in line with their contract of employment.
- » Work outside normal hours (e.g. at night or at weekend) is paid a premium over and above local law and/or industry requirements.
- » Workers are paid above legal requirements and industry standards.
- » Workers are able to significantly increase their earning potential through a production bonus or other bonus scheme.
- » All workers have a signed copy of their contract of employment and this reflects how their terms and conditions operate in the place of employment.
- » The contract is written in their native language and details their regular hours, remuneration, notice period and all other applicable terms and conditions.

Minor Non-Compliance

- » Workers are dependent on overtime pay to achieve total take-home pay that allows them to meet their basic needs and provides some discretionary income.
- » Workers have a copy of their contract, but do not understand some of the key applicable terms and condition.
- » All of the classes of the employment contract does not meet the basic legal requirements, however the site's practice is in line with the basic legal requirements.
- » Individual payroll records are missing or incomplete (assuming this is due to human error rather than falsification or hiding of records).
- » Workers report that mistakes in their pay packages are common, but they are rectified quickly.

Major Non-Compliance

- » Workers on probation or trainees are kept in these positions for prolonged periods to prevent them being paid the same as their permanent or qualified counterparts.

- » Workers are fired and re-hired, or kept on temporary or agency contracts in order to avoid providing them with employment rights under the relevant national law.
- » The employment site requires monetary deposits from workers to get their job, protective equipment, training or other items.
- » Workers were not provided with a copy of their contract of employment or are not clear on what their terms and conditions are.
- » Wage slips do not detail rates payable, number of hours worked (standard and overtime) and any deductions.
- » Wage slips are not in a language workers understand.
- » Legal overtime premiums are not paid to workers.
- » Workers are not participating in all benefits schemes required by law.
- » Late payment of wages for some or all workers.
- » Workers report that mistakes in their pay packet are common, and they are difficult to rectify and/or it takes a long time.
- » Workers are underpaid for the time that they have worked (i.e. overtime).

Critical Non-Compliance

- » Workers are paid under the minimum legislated wage.
- » Workers have unauthorised or illegal deductions made from their wages.
- » Money is deducted from workers for payment of social insurance premiums, but the company does not pay the premiums into the workers' fund.
- » Workers are not paid at all.
- » There is verifiable evidence that records have been falsified.

Working hours

Good Practice

- » The employment site has a robust system for recording working hours and uses this information to monitor and control overtime.
- » Workers always receive the legally mandated number of rest days in a period.
- » Workers are able to earn above minimum and/or industry standards whilst hours are controlled within legal requirements.
- » Though there are still challenges with controlling overtime within legal limits, management are improving productivity and HR systems to begin to reduce working hours.

Minor Non-Compliance

- » Rest days are occasionally cancelled due to production back-logs.
- » There are minor gaps in time records.
- » There is no clear policy on overtime working.
- » Overtime exceeds 12 hours per week, or relevant legal limit, in isolated cases.

Major Non-Compliance

- » Workers ability to take paid leave is restricted or non-existent.
- » Workers do not receive the legally mandated breaks during their working shift.
- » Workers are required to use a toilet card system or other restrictions are imposed on them in order to take a toilet or other kind of break.
- » Working hours (including all applicable overtime) regularly exceed the legal limit or the code of conduct maximum (whichever provides the greater protection).
- » Workers are not able to take public or national holidays off work and are not provided with compensatory rest.

Critical Non-Compliance

- » Management refuses access to true hours records.
- » There is verifiable evidence that records have been falsified.
- » Overtime is compulsory.
- » Workers work excessive hours that pose a direct risk to their health and safety.
- » Workers do not consistently receive at least one rest day in seven.

Worker Housing

Good Practice

- » Housing exceeds all minimum requirements.
- » Structure and internal area well and regularly maintained.
- » Gardens and communal areas well maintained.
- » Communal recreation facilities introduced and maintained.
- » Good housing maintenance monitoring system overseen by occupants in place.

Minor Non Compliance

- » There is no formal agreement with the worker around maintenance of housing.
- » There is no housing maintenance plan in place.
- » Minor maintenance matters not addressed.
- » All inspection and licenses are up to date and recoded.
- » Lack of Electrical Certificate of Compliance.

Major Non Compliance

- » The house / accommodation does not meet the minimum Code and legal requirements for structural and all other safety requirements.
- » Major maintenance not being addressed.
- » Deductions made for houses less than 30 square meters.
- » Deductions are made for all family members within the house.
- » Deductions made for houses with no access to water, electricity or clean sanitation.
- » The housing densities exceed requirements for personal space and overcrowding imposes health and safety risks for occupants.
- » Individuals do not have own sleeping bed and adequate required space.
- » Fire precautions for the housing are not in place i.e., drills and emergency plans, fire-fighting equipment.
- » Communal accommodation areas not separated by gender.
- » Cooking and sanitation areas not separated.

Critical Non Compliance

- » The worker housing/accommodation is not structurally safe and could cause harm to workers and their families.
- » Illegal and hazardous electrical installations.
- » No access to potable water and clean sanitation facilities.
- » The production area and sleeping areas are together.
- » Surrounding areas are hazardous and cause potential negative impact on health, hygiene and safety.

- » Incidences of direct or indirect illegal evictions are recorded. Direct eviction can occur through occupiers being removed from the accommodation and indirect evidence can occur through cutting of water and/or electricity supply to the accommodation.