

Position Paper: Remedy under the UNGPs for AP2 as a responsible investor

Remediation is a critical component of responsible business conduct, providing a path for those harmed by adverse human rights impacts to seek redress and for enterprises to address and learn from such incidents. Ensuring effective remediation not only supports affected individuals but also reinforces the integrity of human rights due diligence and risk management frameworks.

Responsibilities of remedy according to the UNGPs

The United Nations Guiding Principles on Business and Human Rights (UNGPs) articulate responsibilities for enterprises regarding remedy. Companies may be involved in adverse human rights impacts in three principal ways: by causing, contributing to, or being directly linked to such impacts through business relationships.

- **Causing Adverse Impact:** Where a business directly causes harm, it should take necessary steps to cease or prevent the impact and provide for or cooperate in remediation through legitimate processes (UNGPs, Principle 19).
- **Contributing to Adverse Impact:** If a company's actions contribute to harm, it is responsible for ceasing or preventing its contribution, using leverage to mitigate remaining impacts, and providing for or cooperating in remediation (UNGPs, Principle 19).
- **Direct Linkage to Impact:** When a company is directly linked to adverse impacts by a business relationship, it should use leverage to prevent or mitigate the harm, but is not required to provide remediation itself, though it may play a role in enabling remedy (UNGPs, Principle 22).

The UNGPs further emphasize the establishment or participation in effective grievance mechanisms to enable early identification and resolution of adverse impacts (UNGPs, Principle 29). For such mechanisms to serve their purpose, they must be trusted, accessible, and functional for those affected (UNGPs, Principle 31).

AP2's position as an asset owner and Challenges of distance from Harm

As an asset owner, AP2's principal exposure to salient human rights harm arises through its investments. Salient human rights impacts are those which are most severe for people, and which should be dealt with first. Often, AP2 is structurally remote from the actual operations where negative human rights impacts may occur - these may be deep within portfolio companies' value chains or within entities over which AP2 has limited or no direct influence.

This means that AP2 typically is in a linkage situation rather than as a direct cause or contributor to harm. Accordingly, the responsibility for providing any remedy rests with the company causing or contributing to the adverse impact. Nonetheless, AP2's position does not absolve it

of responsibility; rather, it highlights the importance of using available leverage to promote and enable remediation.

Mechanisms by which AP2 enables remediation

When being directly linked to potential and actual harm, AP2 adopts both proactive and reactive approaches to support remediation.

Proactive Work: Strengthening systems and building leverage

- **Proactive Dialogues:** AP2 engages in proactive dialogues with portfolio companies assessed as being at heightened risk for human rights breaches. Discussions focus on the companies' preparedness for remedy, with grievance and remediation readiness formalised as key performance indicators.
- **Building Leverage:** AP2 seeks to increase its leverage over portfolio companies through escalation processes (e.g., letters to boards, investor collaborations, shareholder proposals, voting, and as a last resort, exclusion from the portfolio). AP2 also assists capacity-building for companies and managers on grievance and remediation mechanisms.
- **External Managers:** For investments managed externally, AP2 incorporates requirements aligned with the UNGPs and other responsible investment guidelines. Due diligence questionnaires and annual sustainability assessments include questions on grievance and remediation, and AP2 benchmarks and follows up with external managers based on these criteria.

Reactive Work: Addressing actual harms

- **Reactive Dialogues:** The Council on Ethics of the Swedish AP Funds, in which AP2 participates, conducts regular screenings of portfolio companies for human rights breaches. When adverse impacts are flagged, dialogues are initiated with the companies, aiming to ensure remedy and reduce recurrence risk. These dialogues are supported by third-party service providers and may span several years.
- **Assessment and Monitoring:** The effectiveness of company remediation is assessed on various criteria, including the public availability and application of remediation processes, stakeholder engagement, and preventive measures to avoid repetition of harm.

Internal responsibilities

The structural remoteness, that financial institutions often face, does not mean that they may never contribute to or cause adverse impacts. An analysis needs to be done in each case to determine the nature and degree of involvement if negative impacts happen. AP2 intends to remedy situations where AP2 has caused an adverse human rights impact. If AP2 has contributed to an adverse human rights impact, AP2 intends to contribute to remedy. Having a robust Human Rights Due Diligence in place is essential to mitigate the risk of contributing and causing harm to people.

AP2 maintains an internal grievance mechanism in accordance with the Swedish Whistleblower Law, enabling employees and consultants to report concerns anonymously and ensuring appropriate follow-up.

Limitations and accessibility of external grievance mechanisms

AP2 has opted not to establish an external grievance mechanism for rightsholders far down its value chain, due to practical limitations regarding accessibility and effectiveness. Stakeholders often don't know which financial actors are involved, and remedies depend on those responsible to actively engage in the process.

Instead, AP2 relies on active participation in investor networks, engagement with unions and non-governmental organizations, and monitoring of human rights issues that have been identified to stay informed and responsive. Nevertheless, complaints can be communicated directly to AP2 via email and are logged and acted upon accordingly.

Conclusion

Remediation is an essential pillar of the UNGPs. The principles set out differentiated responsibilities for remedy based on a company's involvement in harm. While AP2's role as an asset owner frequently positions it as being directly linked to human rights impacts, it nonetheless can and should use its leverage to promote and enable effective remediation throughout its investments. AP2's approach combines proactive system-building, reactive engagement, and internal alignment with international standards to fulfil its obligations.