



Company Guidance:

# Worker Voice and Representation



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# In this briefing

Introduction	Meaning	1
	Meaning to investors	2
	Causes	3
	Consequences	5
The current situation	Effect on companies	7
	What is being done	8
	Legal framework	11
	International law	11
National law	12	
Taking action	Do you have sufficient data?	14
	How we can help	17
	Useful resources	18



# What do we mean by worker voice and representation?

Worker voice and representation is the ability of workers to speak out and influence decision-making to realise all fundamental principles and rights at work. It enables workers to defend and claim workplace entitlements and improve working conditions.

Worker voice encompasses the fundamental rights of freedom of association and collective bargaining. Freedom of association enables workers to freely establish and join organisations of their own choosing without prior authorisation or interference by the state, the employer or any other entity. Collective bargaining refers to the voluntary negotiation mechanism through which companies and trade unions determine mutually acceptable terms and conditions of work, including details of pay and working time, and engage in discussions to regulate relations between employers and workers.

Worker voice and representation can also be achieved through the establishment of formal roles in company governance for workers, such as worker representation on the company board of directors or a non-executive director responsible for employee engagement. It also encompasses dialogue between workers and worker organisations with management through regular meetings, feedback surveys, complaints mechanisms and other forums which provide an opportunity for workers to influence decision-making.

A full list of terms and their definitions can be found in the [WDI glossary](#).



# Why does data on worker voice and representation matter to investors?

**“There’s a growing body of evidence which demonstrates that a fulfilled, engaged and motivated workforce is vital to sustainable financial performance. To achieve this, workers need to know that they can speak to, and influence, senior management about issues affecting their working lives. The pandemic has raised awareness of the importance of effective workforce dialogue, but investors remain keen for companies to demonstrate not only that they seek the broader workforce perspective, but also that they have listened to the feedback given and have taken steps to address any concerns.”**

Caroline Escott,  
Senior Investment Manager, Sustainable Ownership

RPMI Railpen

# What shapes companies' worker voice and representation?

## The state has a key role in guaranteeing the rights to freedom of association and collective bargaining<sup>1</sup>

Countries may guarantee these rights by incorporating ILO conventions into their legal systems. These laws are the basis for the rights of workers and employers to form and join organisations of their choosing, the free functioning of unions and the non-interference in the election or duties of union representatives.<sup>2</sup> However, states may also prohibit rights to freedom of association and collective bargaining or collude with companies to restrict trade union rights, often through coercive measures including conducting surveillance and arresting individual trade unionists.<sup>3 4</sup>

Worker voice is stronger in countries with institutions that uphold the rights of workers as important company stakeholders and affirm the rights of trade unions.<sup>5</sup> 18 European member states, along with Norway, have laws which guarantee workers' board-level representation.<sup>6</sup> Workers can influence decision-making in their capacity as senior management, board-level representatives or consultants, and at annual general meetings. In Germany, laws provide for the establishment of works councils that collaborate with management on worker issues including working conditions, leave, termination and relocation.<sup>7</sup>

## The deregulation of labour markets has led to a decline in union density and collective bargaining coverage

The deregulation of labour markets has led to changes in the employer-employee relationship which have inhibited the ability of workers to join unions and engage in collective bargaining.<sup>8</sup> The higher incidence of non-standard forms of employment has increased the coordination costs for unions and made organising industrial action more difficult. Union density and collective bargaining coverage have declined significantly.<sup>9 10</sup> The impact of labour market deregulation on union activity can be seen across the world. In OECD countries, the share of union members has dropped to 16 per cent of workers in 2018 from 33 per cent of workers in 1975, and the share of workers covered by a collective agreement fell to 32 per cent in 2017 from 45 per cent in 1985.<sup>11</sup>

## The design of systems for worker voice influence practical outcomes

Systems for worker voice are based on national legal frameworks and longstanding traditions which effect how firms and workers interact.<sup>12</sup> Systems for collective bargaining, for example, may be organised by firm or by sector and have different mechanisms that determine firm participation, how firms and sectors coordinate, and how collective bargaining agreements are enforced.<sup>13</sup> In supply chains, worker voice depends upon monitoring and enforcement mechanisms, the education of workers on their rights, independent workplace inspections, public disclosure of participating brands and suppliers, and a robust complaints mechanism.<sup>14</sup>

## Business practices are also fundamental to worker voice<sup>15</sup>

Company compliance with laws and efforts to bargain, organise and participate in meetings (with a reasonable time and venue), and consider proposals all impact on worker voice.<sup>16</sup> Where rights to unions and collective bargaining are illegal or inadequate, companies may choose to establish supply chain codes of practice and internal participatory mechanisms that support worker voice.<sup>17</sup>

Companies may deny genuine collective bargaining by establishing workers' organisations that are not independent, having multiple employers at the same workplace; changing business operations to end collective bargaining structures, and employing contingent workers through sub-contracting, self-employment and temporary employment relationships.<sup>18</sup> <sup>19</sup> These measures create obstacles for collective action by impeding unions and putting greater distance between workers and the company determining working conditions.<sup>20</sup> Companies may also dismiss, demote or discriminate against workers who try to organise other workers or establish unions, or create an environment where workers fear retaliation for speaking out.<sup>21</sup>

The approach of managers to soliciting feedback and adopting suggestions affects the tendency of workers to engage in dialogue with management.<sup>22</sup> Participation in surveys and feedback mechanisms is influenced by workers' concern for negative consequences to work relationships and career progression, and the level of belief that it will lead to meaningful change to working conditions.<sup>23</sup>



# What are the consequences of worker voice and representation for workers?

## **Workers with greater voice and representation have better pay**

Unionised employees in the US earned 13.2 per cent higher wages than non-union employees with the same occupation, gender, race, ethnicity, geographic area, education and years of experience.<sup>24</sup> Unionisation has helped to bring living wages to low-wage jobs in industries such as healthcare and close ethnicity pay gaps.<sup>25</sup>

## **Rights to collective bargaining and board representation improve job stability**

Collective bargaining that includes wage co-ordination across sectors and bargaining units leads to higher employment for all workers, compared to decentralised systems.<sup>26</sup> In Denmark, Sweden and Norway, workers that were represented on company boards during the global financial crisis were better able to negotiate with companies to reduce labour costs and avoid large-scale layoffs.<sup>27</sup>

## **Working conditions are also better where worker voice is present**

Worker voice is associated with decreased exposure to forced labour, violence or abuse and other adverse working conditions.<sup>28</sup> Well-organised employer organisations and trade unions, along with collective bargaining systems with broad coverage, lead to higher quality working environments.<sup>29</sup> Direct and mixed forms of worker voice provide better outcomes for workers, including for work-life balance, skills training, and integration of technology.<sup>30</sup>

## **Workers are safer if they have a voice**

The rate of serious injury of workplaces in the United Kingdom that have trade union health and safety committees is half that of workplaces that do not.<sup>31</sup> There is evidence that trade unions reduce the levels of injury and ill health, promote increased reporting of injuries and near misses, improve organisational health and safety culture and reduce the costs of lost working time to businesses.<sup>32</sup> International studies show that companies with a trade union presence are more likely to have a health and safety committee, conduct management safety audits and provide employees with personal protective equipment.<sup>33</sup>





### **Certain categories of workers find it more difficult to obtain and assert rights to worker voice**

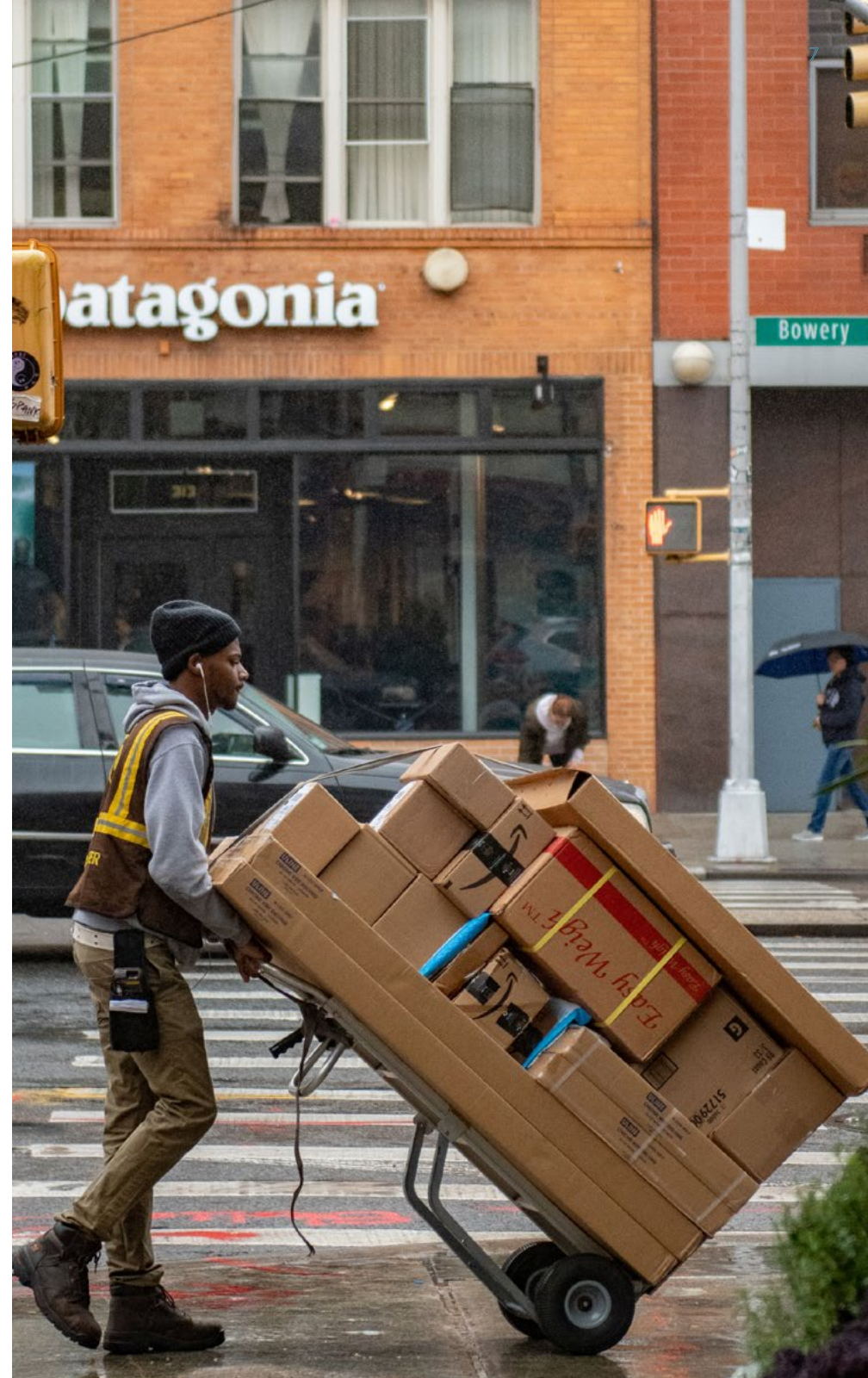
Workers in export-processing zones (EPZs) and agricultural sector workers, along with migrant, domestic, and informal sector workers, all face challenges in establishing and exercising rights to freedom of association and collective bargaining. Female workers are overrepresented in all these categories.<sup>34</sup> EPZs routinely deny workers the rights to freedom of association and collective bargaining in order to encourage foreign direct investment.<sup>35</sup> In rural areas, unionisation is typically very low and worker organisations are often weak and fragmented.<sup>36</sup> Migrant workers typically lack confidence in unions, face language and culture barriers, and engage in temporary employment or work at non-unionised workplaces.<sup>37</sup> Domestic workers are often isolated, dependent on employers and without the same legal protections as other workers.<sup>38</sup> Informal sector employers are often not compliant with government regulations and trade unions have difficulty in asserting rights to collective bargaining or accessing workplaces.<sup>39</sup>



# How can worker voice and representation affect companies?

Worker voice and representation practices that may be harmful to workers can have significant impacts on companies' performance and risk exposure. These include:

- Lower productivity and business performance<sup>40 41 42</sup>
- Lower dividend payments<sup>43</sup>
- Lower turnover and skill retention, and higher costs<sup>44 45</sup>
- Decreased competitiveness and impaired decision-making<sup>46 47 48</sup>
- Reputational damage<sup>49 50</sup>
- Reduced ability to identify human rights risks<sup>51</sup>
- Loss of worker trust<sup>52</sup>

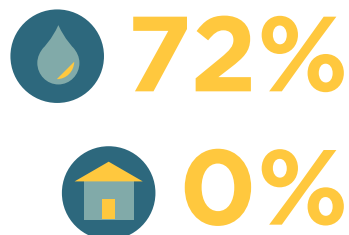


# What are businesses doing about worker voice and representation?

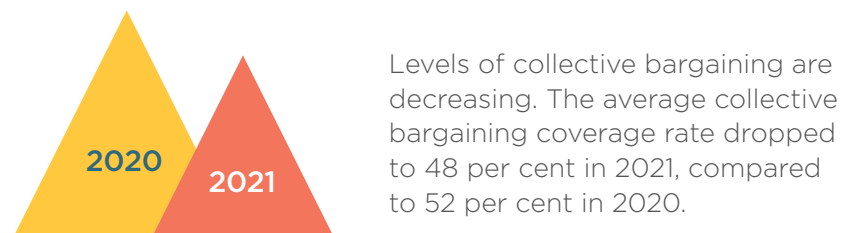
Data from the 2021 cycle of the WDI provides an insight into how companies are addressing worker voice and representation:



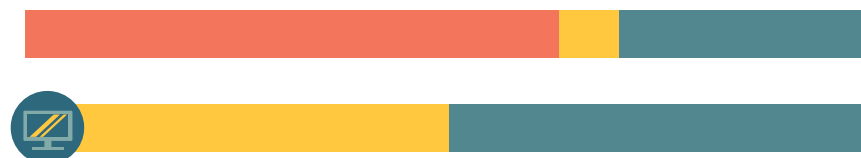
There are significant differences in collective bargaining agreement coverage rate by sector. Utilities companies had the highest average collective bargaining agreement coverage rate by far (72 per cent) while real estate had the lowest (0 per cent).



They also had one of the lowest average levels of collective bargaining agreement coverage (19 per cent compared to 59 per cent for companies from all other countries).



70 per cent of companies explained how they secure the rights of non-employee direct operations workers to collective bargaining, up from 63 per cent last year.



IT companies are the least likely to provide this data, with only half of companies able to do so.



# Positive steps in company practices

## Companies are increasing worker representation on boards

In 2019, outsourcing company Capita became the first FTSE 250 company in the UK to appoint workers on its board of directors in the past 30 years, appointing two employees to take on full boardroom non-executive duties on top of their current day jobs.<sup>53</sup> Mears Group, FirstGroup and Sports Direct all successfully established a worker-director on their boards by the end of 2019.<sup>54</sup>

## Companies are improving working conditions in response to collective bargaining

In June 2022, Canadian jet manufacturer Bombardier agreed a 6.5 per cent wage rise and a new 5-year collective agreement with Montreal-based workers, which included a guarantee that no work would be outsourced over the next five years and that some subcontracted work would be brought in house.<sup>55</sup> In May 2022, GSK agreed to pay a 10.5 per cent cost of living award to manufacturing workers in 6 UK factories as a result of collective bargaining process with the unions representing them.<sup>56</sup>

## Companies are encouraging unions in supply chains

In 2014, global brands including Nike, Adidas, Puma and New Balance worked with Indonesian unions and factory owners to reach an agreement on The Freedom of Association Protocol, which established specific standards of freedom of association in participating factories, and grievance resolution procedures for violations of those standards. It applies to approximately 300,000 factory workers in Java's industrial areas, most of whom are women.<sup>57</sup>





# Areas for improvement in company practices

## Companies, particularly in the US, are running intense anti-union campaigns

American companies invest heavily in anti-union campaigns, with a total expenditure of US\$340 million per year on consultants to present anti-union propaganda to workers.<sup>58</sup> These campaigns spread anti-union messages in an attempt to intimidate workers, reduce trust in unions and create a sense of futility in union action.<sup>59</sup>

Amazon has implemented a series of measures to discourage its workers from joining a union. To date, workers have only succeeded in establishing one union in the US.<sup>60</sup> Amazon has banned words such as 'union', 'fire', 'compensation', and 'slave labour' on its internal messaging app to prevent discussion or criticism of working conditions by its workforce.<sup>61 62</sup> Its anti-union messages are delivered through a variety of means, including text messages, TV monitors at the workplace, and anti-union flyers in toilet stalls.<sup>63</sup> Starbucks management deter unionisation through one-on-one and captive audience meetings, temporary and permanent store closures, and text messages.<sup>64</sup>

## Companies are establishing worker organisations that restrict worker voice

To provide the appearance of freedom of association, companies may sponsor and control worker associations. These are known as 'yellow unions', 'white unions' (in Latin America), 'pocket unions', or 'paper unions'. They appear to be representational structures but are not worker-led or chosen and may even exist at the national level.<sup>65</sup> Orpea, the second largest nursing home operator in Europe, replaced French unions with its own in-house yellow union in order to restrict worker efforts to negotiate for improved working conditions.<sup>66</sup>

Company-supported worker associations, such as the 'Solidarismo' which are common in the pineapple and banana-growing regions of Costa Rica and Honduras, may have representation on permanent

company committees and sign direct agreements on behalf of the workforce on wage, piece rates and health and safety. While these associations do meet some worker needs, they do not challenge companies on wages and working conditions, address grievances or defend individual or collective workers' rights.<sup>67</sup>

## Companies are not protecting workers' rights in union elections

US Employers were charged with violating workers' legal rights in 42 per cent of all National Labor Relations Board-supervised elections, illegally firing workers in 20 per cent of elections, and illegally coercing, threatening, or retaliating against workers for union support in 29 per cent of elections.<sup>68</sup>

## Companies are failing to report on collective bargaining coverage

Only 6 per cent of FTSE350 companies in the United Kingdom disclosed data on collective bargaining coverage, despite twice as many listing labour disruptions as a principal business risk.<sup>69</sup>

## Companies have used the COVID-19 pandemic as cover to target trade unions

In garment industry supply chains, there has been discriminatory targeting of labour activists, dismissals and blacklisting of workers who speak up against violations of their rights. During the COVID-19 pandemic, worker layoffs have disproportionately affected unionised workers and labour activists. In nine factories across India, Bangladesh, Myanmar and Cambodia supplying major fashion brands, 4,870 unionised garment workers were targeted for dismissal.<sup>70</sup> In taking these actions, companies are not abiding by their own policies on freedom of association or providing workers with a path to address issues with working conditions.

# What is the legal framework for worker voice and representation?

## International law

- ▶ [Article 23 of the Universal Declaration of Human Rights](#)
- ▶ [Article 22 of the International Covenant on Civil and Political Rights](#)
- ▶ [Article 8 of the International Covenant on Economic, Social and Cultural Rights](#)
- ▶ [The ILO Constitution](#)
- ▶ [The first principle of the ILO Declaration of Philadelphia](#)
- ▶ [Article 2 of the ILO Declaration on Fundamental Principles and Rights at Work](#)
- ▶ [ILO Freedom of Association and Protection of the Right to Organise Convention No. 87](#)
- ▶ [ILO Right to Organise and Collective Bargaining Convention No. 98](#)
- ▶ [ILO Declaration on Social Justice for a Fair Globalization](#)
- ▶ [ILO Collective Bargaining Recommendation No. 163](#)
- ▶ [ILO Workers' Representatives Convention No. 135](#)
- ▶ [ILO Workers' Representatives Recommendation No. 143](#)
- ▶ [ILO Collective Bargaining Convention No. 154](#)
- ▶ [ILO Communications within the Undertaking Recommendation No. 129](#)
- ▶ [Article 11 of the European Convention on Human Rights](#)

## Key developments in national law

The following provides an overview of some of the legislative developments relating to workforce composition across the world. For a more comprehensive understanding of the legal framework in different jurisdictions, always consult local legal experts.



**In the UK,** the Trade Union Act legalised trade unions and protected members from criminal prosecution. The Act also established a legal standing for trade union agreements and protections for unions from over funds and company or judicial interference.



**In Germany,** The Codetermination Act required all companies with over 2000 employees to establish supervisory boards with half of the members as worker representatives.



**In Turkey,** Act No. 6356 on Trade Unions and Collective Labour Agreements established the principles and procedures for trade unions, collective labour agreements, the settlement of disputes and strikes and lockouts.

1871

1926

1976

2001

2012



**In the US,** The Railway Labor Act guaranteed workers the right to organise and choose their own union leaders without company interference.



**In the EU,** The European Company Statute (established through European Council Regulation (EC) No 2157/2001 and European Council Directive 2001/86/EC) helped safeguard worker representation at board level and provide mechanisms for negotiations between workers and management on workforce issues.





**In the UK,** The UK Corporate Governance Code required companies to engage with the workforce by either appointing a director from the workforce, establishing a formal workforce advisory panel, or designating a non-executive director for workforce issues. Companies that do not comply must provide a full and meaningful explanation to shareholders.



**In France,** The PACTE Act (action plan for the growth and transformation of companies) reinforces employee representation on the board of directors or supervisory boards of companies with over 1,000 employees in France or 5,000 total employees in France and abroad. It reduces the total number of directors required for the appointment of two employee directors from twelve to eight, and for the appointment of one employee director from less than twelve to less than eight.

2017

2018

2019

2022



**In Belgium,** the Act on Feasible and Flexible Work established the possibility for sectoral collective bargaining agreements to permit temporary contracts of unlimited terms, which allows workers to engage in 360 voluntary overtime hours per year.



**In the EU,** the European Parliament and European Council adopted Directive 2019/237 on the minimum standards for protections of persons who report breaches of EU law, also known as the 'whistle-blowing directive'. Denmark, Croatia, France, Portugal and Sweden are among the states to transpose the directive into national law.



**In Ukraine,** Draft Law 5371 was passed in parliament, legalising zero-hours contracts and removing collective bargaining rights from employees of small and medium-sized enterprises.

# Does your company have sufficient data?

The following questions, based on the indicators in the WDI, provide a basis for companies when considering if they have sufficient data to respond to challenges relating to worker voice and representation.

## Getting started

The essential foundations companies need to begin tackling these issues

## Next steps

Providing the insights required to make more substantial progress

## Leading practice

Demonstrating leadership and providing the tools for comprehensive, innovative responses

## Getting started

Can your company describe the process for consulting with workers, their representative bodies and trade unions, as applicable, and other steps to secure workers' rights to freedom of association and collective bargaining?

Yes      Somewhat      No

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Can your company provide the percentage (%) of employees covered by collective bargaining agreements for all locations in the direct operations?

Yes      No

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Does your company secure the rights of non-employee direct operations workers to collective bargaining?

Yes      No

Can your company describe the mechanism(s) for enabling workers' participation in corporate decision making, such as worker representation on the Board, having a Non-Executive Director with responsibility for employee engagement, town hall meetings etc?

Yes      Somewhat      No

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Does your company obtain worker feedback? Can your company provide the percentage (%) of employees who participated in your company's most recent engagement survey and the level of satisfaction indicated?

Yes      No



## Next steps

Can your company provide the percentage (%) of employees covered by collective bargaining agreements by each of your company's significant operating locations?

Yes      Somewhat      No

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Has your company identified any risks or restrictions to employees' right to freedom of association or collective bargaining in any of its direct operations?

Yes      No

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If yes, can your company identify the main risks or restrictions and provide an example of action taken to address them, including through engagement with workers and/or worker representative bodies, as applicable?

Yes      No

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If no, can your company provide an example of action taken to prevent risks or restrictions, including through engagement with workers and/or worker representative bodies, as applicable?

Yes      No

## Leading practice

Can your company provide one example of how workers have influenced decision making on an issue of substance in the reporting period?

Yes      Somewhat      No



# How can the WDI help companies with worker voice and representation?

The first step to being able to meaningfully address worker voice and representation is understanding how and where these issues are impacting the company's workforce.

Taking part in the WDI helps companies identify where there are gaps in their data and provides a framework to address this, as well as allowing them to benchmark their data collection against peers. Companies that disclose to the WDI can provide more comprehensive data on worker voice and representation, moving from being able to complete an average of 50 per cent of this section of the survey in the first year, to 63 per cent in the second year, to 84 per cent in the fourth year. Taking part in the WDI survey also helps your company communicate what you are doing to protect and provide for your workforce and showcases your commitment to transparency.

The WDI also offers a year-round engagement programme that gives companies the opportunity to hear about best practice, share challenges, and learn from investors and their peers.

Based on expert input and constructive discussion, this range of sessions enables companies to take the insights they gained from participating in the WDI and use them to identify innovative solutions to challenges they may be facing. Beyond that, it prepares companies for any legislative changes that may develop in the markets they operate in.



# Resources

## International Trade Union Confederation

[“The UN Guiding Principles on Business and Human Rights and the Human Rights of Workers to Form or Join Trade Unions and to Bargain Collectively”](#)

Sets out the implications for the UN Framework for Business and Human Rights and the Guiding Principles on Business and Human Rights on freedom of association and collective bargaining for business enterprises.

## Ethical Trading Initiative

[“Freedom of Association in Company Supply Chains”](#)

Provides practical help to companies in identifying and understanding the impacts of their operations on the fundamental rights of freedom of association and collective bargaining

## Trades Union Congress

[“Workers’ voice in corporate governance: A European perspective”](#)

Examines the differences and similarities in provisions on worker representation in corporate governance in different European countries, as well as EU Regulations and Directives.

## Harvard Business Review

[“Can Your Employees Really Speak Freely”](#)

Looks at how leaders can create a workplace culture that encourages workers to speak out.

## Insights from WDI Investor Signatories

Schroders

[Director Dialogue: what is worker voice and how can investors assess it?](#)





# Endnotes

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