



# **The Copper Mark Grievance Mechanism**

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## 1 Objectives

The Copper Mark is a credible assurance framework to demonstrate the copper industry's responsible production practices and industry contribution to the United Nations SDGs. With the Copper Mark, we can improve the lives of our colleagues and neighbours, strengthen the communities in which we do business, and increase the value we deliver to our customers and their consumers. The Grievance Mechanism is one tool to help achieve these objectives.

The objective of this Grievance Mechanism is to ensure that grievances raised with the Copper Mark are handled in a timely, comprehensive, consistent, transparent, and effective manner. It is intended to allow Copper Mark stakeholders to raise concerns, have these investigated and provide a remedy, in particular where rights are violated.

This document explains the grievance mechanism, including defining the scope of the types of grievances the Copper Mark will review, the process for the review, and the potential outcomes of the grievance. While this is a voluntary process for complainants to engage with, respondents are required to cooperate with the Grievance Mechanism.

Note that the Copper Mark informs the Board of Directors of any new grievance as soon as practicable, and no later than two business days after receiving the grievance. Subject to managing a conflict of interest, the Board of Directors are updated throughout the implementation of the grievance process.

The Copper Mark Grievance Mechanism does not replace or limit access to judicial remedies. Where grievances allege or imply criminal liability, these should be addressed through formal police or governmental processes, not through the Copper Mark. Grievances which concern legal disputes fall outside of the remit of the Copper Mark Grievance Mechanism.

The Copper Mark will undertake a regular review of this document to implement lessons learned and ensure alignment with the UN Guiding Principles and any other relevant legal requirements or developments in best practice, as well as the stated objectives and goals of the Copper Mark.

## 2 Scope

The Copper Mark Grievance Mechanism is designed to resolve issues that arise with or within the context of the Copper Mark. In agreeing to use the Grievance Mechanism, parties also agree to accept that the decisions made under the Grievance Mechanism are binding to:

- The Copper Mark and the Board of Directors
- Copper Mark participants, approved assessors / assessment firms, employees, contractors and others.

Each party has an opportunity for appeal. Following completion of the appeals process, there is no further opportunity to appeal.

While there may be many different types of potential grievances, the scope of the Copper Mark Grievance Mechanism is representative of the Copper Mark's resources, leverage, and control. To that end, two broad types of grievances are admissible:

- **Grievances against the Copper Mark.** Grievances about the implementation of the Copper Mark's policies, procedures and operating processes for which its management and board of directors has direct governance responsibility. This includes grievances against the Copper Mark company, its Board of Directors, staff, contractors and approved assessors.
- **Grievances against a site participating in the Copper Mark.** Grievances against a site which does not conform with or follow the guidance of all applicable Copper Mark policies, procedures and documents, as amended by The Copper Mark from time to time, including but not limited to: The Copper Mark Criteria, The Copper Mark Criteria Guide, The Copper Mark Assurance Process, and The Copper Mark Claims Guide.

### 3 Guiding Principles

The Copper Mark Grievance Mechanism aligns with the United Nations Guiding Principles on Business and Human Rights, and especial Principles 13, 30 and 31<sup>1</sup>. The Copper Mark Grievance Mechanism is publicly accessible and designed to deal with grievances in a manner that is timely, comprehensive, predictable, consistent, transparent and effective. The Copper Mark Grievance Mechanism integrates human rights norms into its processes and in the following guiding principles for dealing with grievances.

- Any person or groups of people may submit a grievance and participate in the processes of the Copper Mark Grievance mechanism, regardless of race, sex, gender, sexual orientation, religion or political opinion.
- Issues between parties should be escalated internally to, and resolved at, the most appropriate level of management.
- Communication is to be open and fluid and parties should have adequate notice to respond and participate in the process.
- Communication is to be timely and decision-making is to be as expeditious as possible.
- Investigators / members of the Panel of Experts are to declare any actual or potential conflicts of interest in accordance with the Copper Mark's Conflicts of Interest policy, [link] be unbiased, and act without prejudice and in good faith.
- The process is to be conducted in a way that is fair to all the parties involved, including reasonable access to sources of information, advice and expertise.

<sup>1</sup> [https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

- Wherever possible, parties should be entitled to enquire about and respond to the evidence of the other party.
- Decisions should take into account relevant considerations and mitigating circumstances and ignore irrelevant considerations.
- Disassociation by the Copper Mark of any party should only be contemplated after attempts to correct a grievance and all avenues for resolution have been exhausted.

## 4 Filing a Formal Grievance

### Complainants

The complainant is the party submitting a grievance and may be an individual, a group, or a coalition of groups. The Copper Mark accepts grievances from any organisations or individuals who believe they are affected or potentially affected or otherwise hold a stake in the outcome of the grievance.

Such organisations or individuals may include, but are not limited to:

- A site participating in the Copper Mark or worker of a site participating in the Copper Mark
- A Copper Mark approved assessor or independent reviewer
- Supply chain actor
- Community groups neighbouring a Copper Mark Participant's site
- Environmental or development organisations monitoring the effects of copper production
- Indigenous Peoples' representatives whose territorial boundaries border a Copper Mark Participant's concession

### Prior Action

A core principle of this Grievance Mechanism is that where possible, grievances are best handled between the disputing parties who have direct control over the issue.

A complainant should first make all reasonable attempts to resolve the grievance directly with the respondent and to give the respondent an opportunity to respond to and / or address the grievance. Where the grievance is against an organisation, the complainant should attempt to resolve the grievance at the most appropriate decision-making management level.

Prior action is not expected where the complainant has a reasonable fear of retaliation. Prior action is not intended to inhibit access to the Copper Mark Grievance Mechanism.

## Submitting a Grievance

Information on the Copper Mark Grievance Mechanism and how to submit a grievance is available on the [Copper Mark website](#).

Parties filing a formal grievance are asked to provide the following information:

- Basic information about the complainant/complainant's organization except when submitting an anonymous grievance
- Basic information about the respondent/respondent's organization
- Details about the grievance (including details of all relevant stakeholders and a detailed summary of the issues)
- Evidence to support the grievance (this includes verifiable information, records, observations, personal knowledge and/or statements of fact, which can be qualitative or quantitative)
- Expected outcomes, including alternative outcome options to assist with reaching a resolution of the grievance

The Copper Mark may return incomplete complaints, with an explanation of what is needed to constitute a complete submission that can then be further processed.

Grievances may be submitted in the local language of the complainant.

## Anonymity

A complainant seeking anonymity must declare this at the time of filing a formal grievance. A complainant may request one of two types of anonymity:

- **Anonymity from other parties, not including the Copper Mark:** The Copper Mark will take steps to protect the identity of the complainant throughout the process from the respondent, investigators, ad-hoc panels, and any party who is not Copper Mark Staff as far as it is possible to do so. The complainant should be aware that they might ultimately be identifiable from certain information, which is shared with the respondent, although every effort will be made to ensure identifying information is not shared through redaction and other means. However, this may significantly limit what can be shared and therefore the respondent's ability to respond completely to the grievance. While every effort will be made to consider a grievance on the basis of information provided, ultimately it might not be possible for a grievance to be admissible if the complainant does not consent to certain information being shared with the respondent. The respondent and others engaged in the process will be notified of the request for anonymity and advised on how to manage it.
- **Complete anonymity, including from the Copper Mark:** The Copper Mark does not know the identity of the complainant. The complainant should be aware that depending on what information they choose to share with the Copper Mark, they might ultimately be identifiable from that information if it is shared with the respondent, although every effort will be made to ensure identifying information is

not shared. However, this may significantly limit what information can be shared and therefore the respondent's ability to respond completely to the grievance. While every effort will be made to consider a grievance on the basis of information provided, ultimately it might not be possible for a grievance to be admissible if the complainant does not consent to certain information being shared with the respondent.

## 5 Grievance Process

The flowchart below provides an overview of the Copper Mark grievance processes. Each of the numbered boxes is discussed further below.

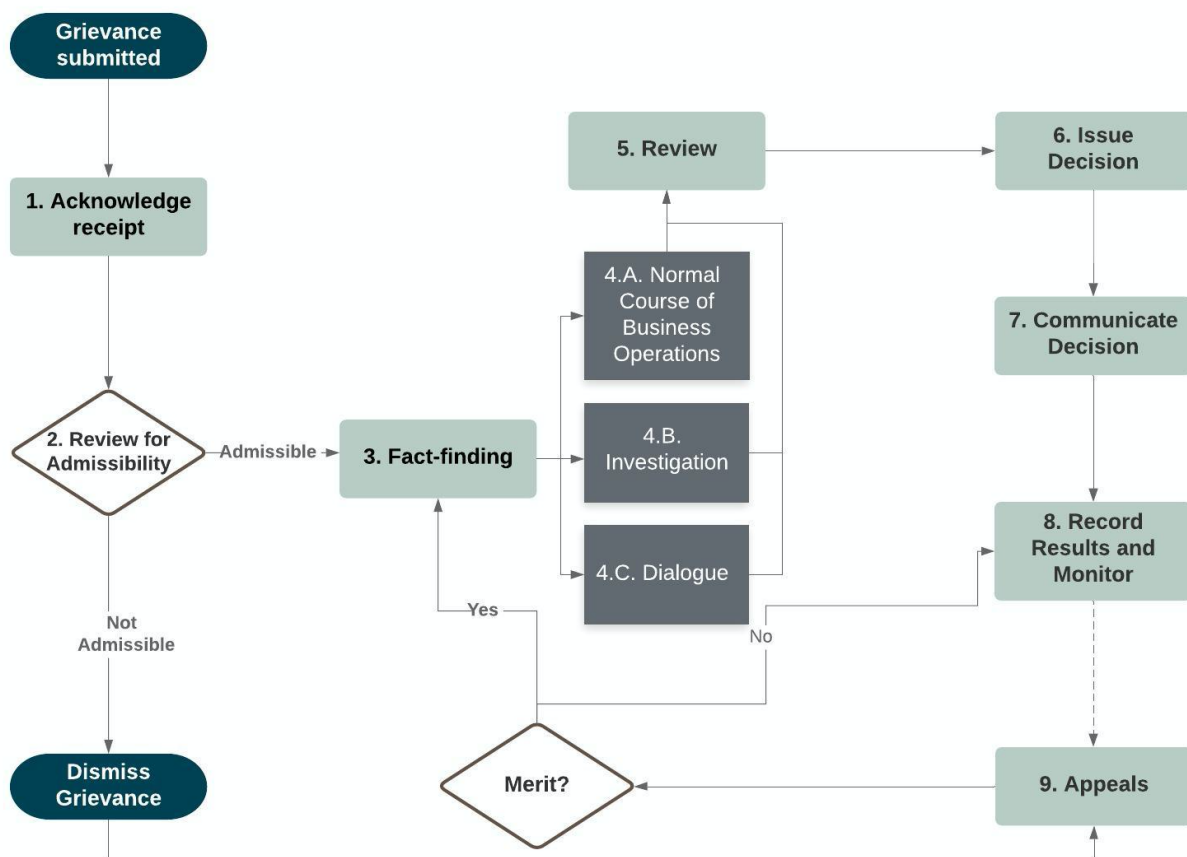


Figure 1: Grievance Process Flow

### 1. Acknowledge Receipt

The Copper Mark will acknowledge receipt of the grievance to the complainant within 10 business days. The Copper Mark will log the grievance and save all relevant materials.

## 2. Review for Admissibility

Grievances will be dismissed as inadmissible if:

- It is not within the scope of the Copper Mark Grievance Mechanism (see Section 2 Scope above);
- Events on which it is based occurred more than 5 years prior to the complaint;
- It is a legal matter required to be handled through the legal system.
- It is trivial, vexatious or appears to have been generated to gain a competitive advantage;
- It is not supported by compelling, objective evidence. Save for exceptional circumstances, grievances cannot be investigated where they are based on hearsay alone.

The Copper Mark will inform the complainant of the admissibility decision within 10 business days from when it acknowledged receipt of the grievance.

Where an admissible grievance involves a third party, the Copper Mark will also inform that party about the grievance at this time, unless there is fear of retaliation by the complainant.

If a grievance is deemed inadmissible, the grievance will be dismissed. Complainants may appeal a dismissed grievance through the appeals process discussed below.

## 3. Fact-finding

The Copper Mark will appoint a responsible person from its own staff to conduct the initial fact-finding in relation to the grievance (the “Responsible Person”). If the grievance concerns a member of the Copper Mark staff, then a member of the Copper Mark Board of Directors will be appointed as the Responsible Person.

The Responsible Person will engage with the parties to conduct an initial review of the facts, including seeking a response from the respondent.

In some circumstances, the Copper Mark may decide that it is appropriate to convene a process that would allow similar grievances to be grouped and addressed together.

Based on the information provided, the Responsible Person will determine the appropriate course of action. The Copper Mark will communicate on the next steps with the parties within 10 business days of determining admissibility.

## 4. Action

Below are the three courses of action that can result from the initial fact-finding:

### *A. Normal Course of Business Operations*

Grievances may be addressed through the normal course of the Copper Mark’s business operations such as through the Assurance Process, workgroup meetings, the



Advisory Council or Board meetings. The Responsible Person should ensure that grievances are addressed appropriately in the normal course of the Copper Mark's business operations.

### *B. Investigation*

The Copper Mark will appoint an investigator to determine the facts, clarify the circumstances, or otherwise further examine the grievance to reach a decision. The investigator may be Copper Mark staff, representatives from the Copper Mark governance bodies, an independent third-party individual or firm, or a Copper Mark approved assessor/assessment firm. Individuals or organizations with a perceived or actual conflict of interest will be excluded from consideration. For example, if the respondent to the grievance is the Copper Mark, an independent third-party would be appointed to be the investigator.

A copy of The Copper Mark Conflict of Interests policy can be viewed here: [\[link\]](#)

The investigator will report the facts surrounding the grievance by reviewing evidence from all parties. Evidence may be in the form of documents, remote interviews or correspondence and site visits or assessments. Such assessments would be carried out separately from the Assurance Process. The parties shall provide to the investigator the means, resources and authority necessary to execute the investigation in a timely, comprehensive, consistent, transparent, and effective manner.

The investigator will provide the Copper Mark with a written report of the findings.

### *C. Dialogue*

Where grievances can best be resolved through dialogue between the parties, the Copper Mark will initiate such a process. Both parties must agree to participate in and accept the results of the dialogue.

The Copper Mark will keep a record of the outcome of the dialogue.

## 5. Review

Each course of action will result in a review and ultimately inform the decision for the grievance:

- Grievances that go through A. Normal Course of Business Operations will be decided by the appropriate body within the Copper Mark structure (i.e. through the Assessment Process, working group, Advisory Council, or Board of Directors). This body will review the grievance, supporting evidence, fact-finding information, staff recommendations, and other appropriate information. This body should report back to the Responsible Person in order to inform the decision.

- Grievances that go through B. Investigation will be reviewed by the Responsible Person. The Responsible Person will use the investigator's written report from the investigation to inform the decision.
- Grievances that go through C. Dialogue will not require further review unless the dialogue fails to result in resolution of the grievance.

An ad-hoc Panel of Experts will review and issue a decision on the grievance in three circumstances:

- The Responsible Person is unable to make a decision based on the investigation
- Dialogue fails to result in resolution of the grievance
- One of the parties appeals the decision, discussed in the appeals section below

In these cases, the Panel of Experts will carry out a fresh review of the grievance and all corresponding documentation received to date.

The Panel of Experts consists of the Executive Director (or a member of the Board of Directors where the Executive Director is the subject of the grievance), Copper Mark legal counsel, and an independent expert agreed upon by the complainant and the respondent. In the event that the parties cannot agree, the Board of Directors will appoint the independent expert. Care will be taken to ensure these individuals are not involved in the earlier stages of considering the grievance to avoid any actual or potential issues of fairness or independence.

## 6. Issue Decision

The Copper Mark Grievance Mechanism supports a spirit of resolution and continual improvement. While there are a range of potential outcomes, the Copper Mark will encourage voluntary dialogue as well as corrective or improvement action where rights have been violated.

Based on the review, the Copper Mark may issue a decision to:

- Dismiss the grievance
- Require an improvement plan / corrective action
- Encourage / provide a remedy to be determined in consultation with the complainant taking into account the limitations on the Copper Mark's ability to enforce compliance
- Require the respondent to remove the Copper Mark logo, and/or remove any claim about its association with the Copper Mark
- Suspend or disassociate and remove the Copper Mark Participant, approved assessor or assessment firm from the Copper Mark Assurance Framework
- If not identified when considering whether the grievance is admissible, recommend that the complainant considers raising the grievance to another body

that is better suited to handle the complaint, for example local ombudsman or legal tribunal

The Copper Mark will share the decision and inform the parties of their right to appeal the decision. The grievance may be considered resolved at this point.

## 7. Communicate Decision

The Copper Mark will issue a written response to the parties within 10 business days of issuing the decision. The written response will detail the process taken to come to the decision, the involvement of other parties in the decision (such as appointed third parties or the ad-hoc Panel), the date of the decision and other information related to the grievance that the Copper Mark considers relevant.

## 8. Record Results and Monitor

The Copper Mark will monitor the situation related to the grievance, in collaboration with the complainant and the respondent, where applicable, to ensure any agreements reached between the parties is implemented. The Copper Mark will apply an appropriate format for monitoring that might include, but is not limited to, a formal review of the situation after six months or a year, request for formal status updates from the parties, or ad hoc outreach and engagement of the parties by the Copper Mark. In the case of a Copper Mark Participant, monitoring may be integrated in the Copper Mark Assurance Process, in-particular Step 4 (Improvement Plan) and Step 5 (Re-assessment). If so, this will be explained to the Copper Mark Participant when the decision is communicated in the written response.

The Copper Mark will document and save records of the formal submitted grievance, the process followed to resolve the grievance, all decisions made in relation to the grievance resolution process, any transactions between the parties and all other written materials for a period of 5 years unless there is a legal or regulatory requirement to retain the information for a longer period.

The Copper Mark will present a summary of all grievances and their subsequent actions to the Copper Mark board of directors on a quarterly basis. The Copper Mark will publicly report annually an aggregated summary of grievances including appropriate metrics and with due consideration to confidentiality.

## 9. Appeal

Appeals should be filed within 10 business days of the Copper Mark decision or dismissal. The appellant must submit justification for a re-consideration of the decision based on:

- Procedural appeal: The Copper Mark Grievance Mechanism was not followed and therefore the grievance should be reconsidered.

- Substantive appeal: additional information or evidence is available for consideration together with an explanation of why this information was not available when the grievance was originally considered.

The Copper Mark has 10 business days to determine if the appeal has merit.

If the appeal is admissible, the grievance process will begin again, this time with the Panel of Experts as the group that determines the course of action and makes a final decision. The Panel of Experts shall review the original grievance and all corresponding documentation. The Panel of Experts may also consider additional evidence. If so, the Panel of Expert will give the other party an opportunity to respond to the additional evidence. The Panel of Experts must agree unanimously on the decision.

## **6 Confidentiality**

Where necessary to protect the privacy and integrity of the parties involved, the Copper Mark may keep the grievance and subsequent actions and decisions confidential.

Parties that submit grievances and request anonymity will not be identified in presentations of grievances to the Copper Mark Board of Directors.

## **7 Costs of the Grievance Process**

The Copper Mark aims to keep the costs of the grievance process as low as possible for all parties. While the Copper Mark's internal staff costs will be absorbed by the Copper Mark, external costs can also arise. Such external costs might include those related to undertaking an investigation into the nature of the grievance, commissioning independent expertise, legal fees, or an appeal process through an ad-hoc Panel of Experts.

The Copper Mark may cover all reasonable costs where costs would prohibit the complainant from utilizing the Grievance Mechanism, for example when the complainant is an individual, community group, or NGO.

## **8 Use of Copper Mark Logo and Claims**

At any point in the grievance process, the Copper Mark may require that use of the Coper Mark logo, claim about its association with the Copper Mark or any other public affiliation with the Copper Mark be suspended while investigations and resolutions continue.

## **9 Personal Data**

As part of considering and managing a grievance, the Copper Mark will be collecting personal data (which may include special category or sensitive data). This will be processed in accordance with the Copper Mark's Privacy Notice.

## 10 Legal Disclaimer

The processes outlined in this mechanism are not intended to replace, contravene or otherwise alter the requirements of any applicable international, national, state or local governmental statutes, laws, regulations, ordinances, or other requirements.

## 11 Glossary

**Complainant:** the party submitting a grievance.

**Grievance:** widely understood to be a perceived injustice, which may be based on law, contract, explicit or implicit promises, customary practice, or general notions of fairness<sup>2</sup>. The term “grievance” for this document is intended to have similar meaning as the terms “complaint,” “dispute,” “challenge,” “conflict,” and any similar term connoting an issue or potential/actual adverse impact that the complainant does not feel have been properly addressed or remedied through prior action or dissatisfaction with some aspect of The Copper Mark.

**Grievance Mechanism:** Formal complaint process that can be used confidentially or anonymously by individuals, workers, communities and/or civil society organizations that are being negatively affected by certain business activities and operations.

**Investigator:** Copper Mark staff, representatives from the Copper Mark governance bodies, an independent third-party individual or firm, or a Copper Mark approved assessor / assessment firm appointed by the Copper Mark to carry out an investigation of the facts of the grievance.

**Panel of Experts:** The panel of experts consists of the Executive Director (or a member of the Board of Directors where the Executive Director is the subject of the grievance), Copper Mark legal counsel, and an independent expert agreed upon by the complainant and the respondent. In the event that the parties cannot agree, the Board of Directors will appoint the independent expert.

**Parties:** the entities participating in the grievance mechanism including the complainant, the respondent, and the Copper Mark.

**Prior Action:** reasonable attempts between the parties to resolve the grievance before it is submitted to the Copper Mark.

**Respondent:** the party who is the subject of the grievance.

**Stakeholder:** An individual or organization that has an interest in or is likely to affect or be affected by a Participant’s activities. Stakeholders can be individuals, interest groups, government agencies or corporate entities. They may include politicians, commercial and industrial enterprises, labour unions, academics, religious groups, national social and environmental groups, public sector agencies, the media and communities.

**The Copper Mark:** The Copper Mark is the trading name of the U.K incorporated not-for-profit company that owns and governs the trademark-protected certification mark and logo also known as “The Copper Mark.”

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<sup>2</sup> [https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf) Principle 25, page 27

## 12 Reference Documents

- [ASI Complaints Mechanism, Version 1.0, November 2015](#)
- [RSPO's Dispute Settlement Facility \(DSF\)](#)
- [United Nations Guiding Principles on Business and Human Rights](#)