

KISH P & I LOSS PREVENTION CIRCULAR KPI-LP-139-2013
(A Guideline for On-Board Complaint Procedures as required by MLC)

Under MLC Title 5- Compliance and enforcement- Regulation 5.1.5; there should be On-board Complaint Procedures available in order to satisfy the convention requirements. The following notes are set to guide the Ship owners, Operators, Masters, Officers and all Seafarers on merchant ships.

► **Key points:**

To comply with this regulation, every ship to which the regulation applies must have an on-board complaints procedure which must:

- seek to resolve the complaint at the lowest level possible,
- enable a seafarer to complain directly to the master and appropriate external authorities,
- include the right of the seafarer to be accompanied or represented when making a Complaint,
- ensure that the seafarer does not suffer any detriment for making a complaint.



► **General:**

1. The on-board complaints procedure may be used by seafarers to make a complaint relating to any matter that is alleged to constitute a breach of

the requirements of the MLC. This includes a breach of seafarers' rights detailed in the approved labour laws of the administration.

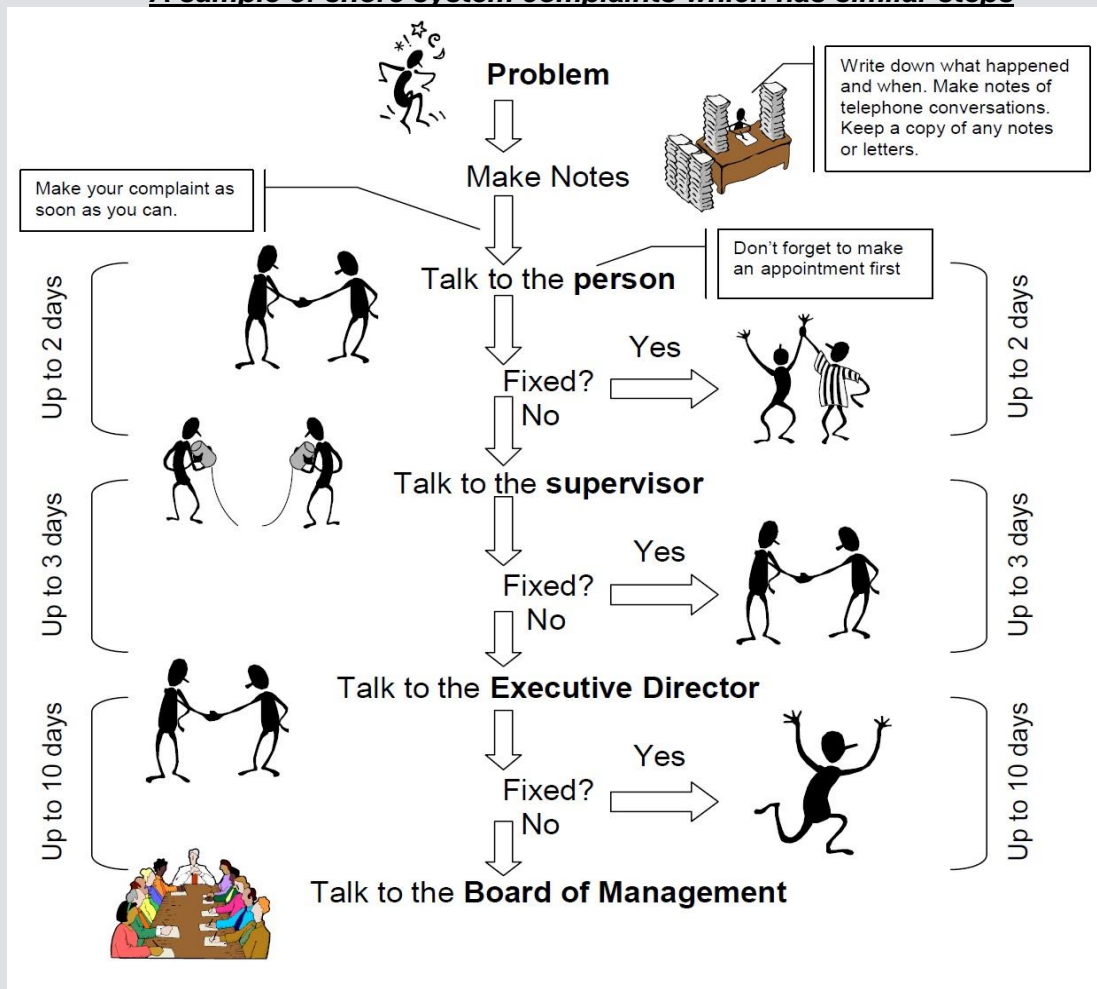
2. The on-board complaints procedure must seek to resolve complaints at the lowest level possible. However in all cases, seafarers must be given the right to complain directly to the master. Where they consider it necessary, the seafarer may be given the right to complain directly to the port State authorities.
3. The provision for and application of an on-board complaints procedure do not prejudice a seafarer's right to seek redress through whichever legal means the seafarer considers appropriate. In all cases, whether or not these procedures are used, a seafarer is entitled to take advice from advisers such as seafarers' representatives or a lawyer.
4. When undertaking MLC inspections, the surveyors will check the on-board complaints procedure for compliance with the regulations and this notice. In addition, surveyors will look for documentary evidence that any complaints made by seafarers have been followed up and resolved in accordance with the procedure.
5. The procedure must include safeguards against the possibility of seafarers and their representatives being subjected to any detriment as a result of making complaints. "Detriment" covers any adverse effect on a seafarer as a result of having made a complaint

that is not manifestly vexatious or maliciously made.

6. All seafarers have the right to be provided with a copy of the on-board complaints procedure applicable on the ship.
7. The procedure shall also include contact information for the certifying authority for the ship, for the national authorities; for the

seafarers' country of residence; for any seafarers working on board, and the name of the person (or persons) on board the ship who can provide confidential, impartial advice on their complaint and generally assist them in following the complaint procedure.

A sample of shore system complaints which has similar steps



► The requirements for an on-board complaints procedure are as follows:

- ✓ Under regulation an on-board complaints procedure must seek to ensure resolution at the lowest level possible. In

addition, the procedure must be prepared while having regard to the desirability of the following criteria:

1. Normally, complaints should be addressed to the head of the

seafarer's department or to their superior officer.

2. The head of department or superior officer should be required to attempt to resolve the matter within a prescribed time limit appropriate to the seriousness of the issue
3. If either the head of department or the superior officer cannot resolve the complaint to the satisfaction of the seafarer, or the seafarer considers that the complaint is not being dealt with within the time limit laid down, the seafarer should be able to refer the matter to the master who should handle the matter personally.
 - ✓ All complaints and associated decisions must be recorded and copies provided to the seafarer.
 - ✓ If a complaint cannot be resolved on board within an agreed time limit, the matter must be referred ashore to the ship-owner in consultation with the seafarer concerned or any person they may appoint as their representative. The ship-owner must provide a right to appeal if the seafarer remains unsatisfied with the outcome.
 - ✓ Seafarers must have the right at all times to be accompanied or to be represented by another seafarer of their choice.
 - ✓ IF THE FLAG REQUIREMENTS STIPULATE; the seafarers might have the right to make complaints directly to the master, the ship-owner,

the flag and to port state authorities.

► **Supplementary guidance:**

The on-board complaints procedure may be set out in an applicable collective agreement.

This will be acceptable provided that the procedure does not contain any provisions that conflict with the flag requirements or other legislation safeguarding seafarer's rights in this respect.

If the ship has a small crew, it may be difficult to provide someone on board who is able to give impartial advice to the seafarer. In such cases, the flag administration will consider alternative arrangements, specified in the complaints procedure, which provide the same safeguard to the seafarer.

It is also recognised that, where a seafarer is employed by the ship-owner's customer, the next step after the immediate Head of Department on board may be a third party ashore.

Alternative arrangements of this nature should be recorded in the DMLC Part II. The seafarers affected should have a copy of their own company complaints procedure as well as the Ship-owner's complaints procedure in force on board the ship.

When developing an on-board complaints procedure, ship owners should be guided by the "Code of Conduct" or other "Disciplinary and grievance procedures" available.