

For employers

Instructions and recommendations concerning on-board complaint procedure

Employer's obligation to establish an operating model

The employer (shipping company, ship management operator or manning agent) may choose whether the operating model for the complaint procedure shall only be used for dealing with possible breaches of the provisions of the Maritime Labour Convention or whether the same operating model shall also be used more extensively for addressing any problems, ambiguities or disputes within the shipping company. An example of a complaint form that meets the requirements of the Maritime Labour Convention is provided in Appendix II. The employer may modify the complaint form to be compliant with its existing operating model and its scope of use.

Form of the operating model

The operating model for the complaint procedure may be based on a paper form to be filled in or an electronic system, for example. As the employer is obliged, when concluding an employment contract with an employee, to instruct the employee on how the complaint procedure has been organised on board the ship, it is recommended that the employer draw up a flow chart or similar to illustrate the procedure, for example. When the stages of the procedure are clearly defined and all parties are aware of them, the handling of possible complaints will run smoothly.

Requirements concerning the contents of the operating model

At least the following provisions of the Maritime Labour Convention must be taken into account when preparing and implementing the operating model:

1. Seafarers may lodge a complaint on any matter that is alleged to constitute a breach of the requirements of the Maritime Labour Convention and they have the right to do so.
2. Seafarers must have an opportunity to lodge a complaint anonymously.
3. If the applicable collective agreement contains more detailed provisions concerning the handling of complaints, they must be observed primarily. The operating model described in these guidelines can always be applied in connection with complaints concerning the rights and obligations under the Maritime Labour Convention.
4. A complaint should be resolved at the lowest organisational level possible on board the ship, for example in the following order: a) immediate supervisor, b) head of department and c) the ship's master. Seafarers always have the right to complain directly to the master of the ship. If necessary, a seafarer may also complain directly to the master's supervisor, the employer's representative or the occupational safety and health authority or the maritime authority.
5. In order to avoid victimisation, there should always be a person designated by the employer on board the ship tasked with providing the seafarers, on a confidential basis, with impartial advice on the complaint procedure and the lodging of a complaint and also otherwise assisting them in exercising their right to complain. This person should have the right to be

present, at the request of the complainant seafarer, at any meetings or hearings where the complaint is being dealt with. The name of such a person or persons on board must be mentioned in the instructions describing the operating model.

6. Seafarers also have the right to request and choose another seafarer employed on board to act as their assistant. The assistant must have the right to be present at the meetings or hearings where the complaint is dealt with, if the seafarer so requests.
7. Complaints must be handled confidentially and without undue delay. The handling of a complaint should be completed within one year after the complaint was brought to the knowledge of the employer's representative. The handling of a complaint must not cause the seafarer any loss of rights (such as limitation) or prevent or delay the use of other legal remedies.
8. All complaints and the related discussions must be recorded and the seafarer concerned must be provided with copies of the documents generated during the procedure. All complaints and their handling must be recorded irrespective of whether the complaint has been filed anonymously or not.
9. The complainant must be protected against victimisation.
10. All seafarers must be provided with a copy of the instructions describing the operating model for the complaint procedure used by the employer on board the ship and containing the necessary contact information.

Obligation to provide employees with instructions

Under the Maritime Labour Convention and the Seafarers' Employment Contracts Act, the employer is obliged to provide an employee with instructions regarding the on-board complaint procedure when concluding an employment contract with the employee. The instructions must include the contact information specified below. The instructions can be appended to the employment contract, for example.

- A. Name of the person on board the ship who can, on a confidential basis, provide seafarers with impartial advice on board the ship (if designated)
- B. Contact information of the person responsible for the complaint procedure ashore C.
Occupational safety and health authority and maritime authority

Regional State Administrative Agency/Occupational Safety and Health

Email: [mlc\(at\)avi.fi](mailto:mlc(at)avi.fi)

Telephone: + 358 295 016 620

Finnish Transport and Communications Agency Traficom:

Email: [merenkulun.valvonta \(at\) traficom.fi](mailto:merenkulun.valvonta(at)traficom.fi)

Telephone: +358 295 347 500

- D. In addition, the contact information must include the contact details of the competent authority in the flag state and, where different, in the seafarers' country of residence.

Sources

Seafarers' Employment Contracts Act (75/2011)

Occupational Safety and Health Act (738/2002)

Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006)

Maritime Labour Convention (MLC, Regulation 5.1.5 and Standard A5.1.5)