

Standing Against Harmful Business Practices

How to File a Complaint Using the OECD Guidelines: Factsheet for Indigenous Peoples

Indigenous Peoples around the world are increasingly affected by business activities such as mining, agriculture, infrastructure, and logging. These projects often damage the environment and violate Indigenous Peoples' rights.

The Organisation for Economic Co-operation and Development (OECD) offers a non-judicial complaint system that allows communities to raise concerns when companies cause harm.

This factsheet provides answers to key questions to help you understand how the complaint system works, and how your community can use it to defend its rights and territories.

What is the OECD?

The Organisation for Economic Co-operation and Development (OECD) is an international organization made up of governments that work together to create policies and standards on economic growth, sustainability, and social wellbeing. Photo: No Spiritual Surrender



What are the OECD Guidelines?

The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD Guidelines) are recommendations from governments to companies on how to act responsibly. They cover areas such as human rights—including Indigenous Peoples' rights—the environment and climate change, corruption, transparency, and taxation. In addition to the 38 OECD member countries, 14 non-member countries also follow and promote the Guidelines.

Photo: Pexels, VladChetan

How do governments promote the Guidelines?

Governments that follow the OECD Guidelines must establish a **National Contact Point (NCP)** to promote the Guidelines and address complaints against companies alleged not to have failed to meet the standards. Photo: Chanda Callao / Peopleofredmountain



What happens if multinational enterprises do not respect the OECD Guidelines?

If a multinational enterprise does not respect the Guidelines, Indigenous Peoples, communities, or organizations can file a complaint with the NCP. The NCP may then facilitate dialogue and mediation to address the harm. Failing to follow the Guidelines can damage a company's reputation, erode trust with investors, suppliers, and partners, and lead to financial losses, such as losing investors or business opportunities. Photo: Shutterstock

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What are the strengths and limitations of NCP complaint mechanisms?

> Strengths

Open to all complainants: Indigenous Peoples, communities, individuals, and organizations, can file complaints.

Broad scope: Covers all sectors, multinational company models, and a wide range of issues, often going beyond what national laws address.

Wide geographical reach: The Guidelines can apply to companies and harms anywhere in the world.

Collaborative solutions: Encourages dialogue and agreement, allowing for creative outcomes that typical legal processes may not offer.

> Weaknesses

Voluntary participation: NCP processes are non-judicial and voluntary. NCPs can encourage, but not require, companies to participate.

No enforcement power: Outcomes are not legally binding. NCPs cannot force companies to take action or implement outcomes.

Uneven performance: NCPs differ widely in structure, resources, and quality, meaning the chances of a strong outcome vary by country.

Uncertain outcomes: Success depends largely on whether the company is willing to engage. There is no guarantee of agreement or meaningful change.

What are the potential outcomes of a complaint?



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The results of an NCP complaint can vary widely. In a small number of cases, the parties reach an agreement and the company may provide remedies or take steps to prevent future harm. However, the vast majority of complaints do not lead to an agreement.

Even without an agreement, a well-planned complaint can still bring important outcomes that support your broader defense strategy. For example:

- > The NCP may issue a final statement confirming the company's misconduct, which you can use to **increase pressure**.
- > The complaint can **draw public attention**, strengthen global civil society networks, or prompt actions by other businesses, governments, or policymakers.
- > It may **support legal cases**, influence investors, or help push for stronger regulations.

Even if the complaint does not directly achieve remedies, it can still help drive local and wider change over time.



Who can file a complaint?

Any person or organization with an interest in the matter, whether directly impacted or not, can file a complaint. This includes individuals, Indigenous Peoples and communities, federations, associations, NGOs, workers, trade unions, or labor unions.



Against whom can you file a complaint?

A complaint can be filed against any multinational company (and more than one company at the same time) linked to the harm. This includes not only the company directly causing the harm, but also parent companies, subsidiaries, suppliers, buyers, investors, joint ventures, or advisors involved in the business activity. However, the company must either be **headquartered** in, or **operating** in, a **country that follows the OECD Guidelines**.



What can complaints be about?

Complaints must address harms related to any of the topics covered by the Guidelines, such as environmental damage, threats to cultural heritage, or failure to uphold Free, Prior, and Informed Consent (FPIC). The Guidelines' standards cover most harms that result from irresponsible business conduct.



Where can you file a complaint?

You can submit a complaint to the NCP in the country where the harm occurred (if that country follows the Guidelines), or to the NCP in the country where the company is headquartered (if that country follows the Guidelines), or to both, depending on the situation.



What are the risks of filing a complaint?

Filing a complaint can bring positive change, but it also involves risks. The NCP might reject the case or decide that the company did not breach the Guidelines. Your community could face threats or pressure from the company or other actors. Some NCPs may also limit public campaigning during the process. Indigenous Peoples should weigh these risks, decide whether filing is worth it, and make plans for safety and support beforehand.



How transparent is the complaint process?

Transparency is a key standard for NCPs under the OECD Guidelines, which encourage openness between the parties and towards the public. However, some information—like personal identities, legitimate business secrets, and details from mediation not already public—will usually remain confidential. You can generally announce that you filed a complaint and give updates on the process, but you must follow the NCP's **confidentiality rules**. **Public campaigning** can be a powerful way to raise awareness, but it needs to respect these rules. Plan your campaign from the start to fit the NCP's requirements. The NCP will at least publish a final statement on the complaint.



What are the steps to file a complaint?

- 1. Decide whether to file** – Assess if the OECD Guidelines apply to the harm your community is facing and if filing supports your broader strategy and goals.
- 2. Prepare and file the complaint** – Gather evidence showing the harm and how it relates to the companies involved. Write a strong, well-documented complaint and submit it to the relevant NCP(s), listing all parties you wish to include as complainants.
- 3. Coordination (if applicable)** – If multiple NCPs are involved, they will coordinate to decide which takes the lead and should consult you on your preferences.
- 4. Initial assessment phase** – The lead NCP reviews the complaint and decides whether to accept it based on the core admissibility criteria.
- 5. Mediation phase** – If accepted, the NCP offers to facilitate dialogue, usually through mediation, to help the parties reach agreement.
- 6. Final statement phase** – The NCP issues a final statement summarizing the process and outcome, which may include recommendations or determinations on whether the company breached the Guidelines.
- 7. Follow-up phase** – The NCP generally follows up to monitor implementation or any agreements or recommendations.

How can you strengthen your case?

Because agreements and remedies are rare, filing an NCP complaint should be seen as **part of a broader strategy for justice**. It works best when combined with other actions—such as media outreach, legal efforts, and support from allies. Consider **joining forces with other affected communities** to highlight systemic patterns of harm and draw greater attention from media, companies, and governments. **Engage partners** among local or international NGOs, unions, and investors to strengthen your capacity and influence. You can also **seek support** from embassies and other government representatives, scientists, national human rights commissions, UN bodies, and legal experts. Before acting, think through your long-term goals and plan how the complaint fits into your wider advocacy strategy.

Are there special considerations for Indigenous Peoples?

For Indigenous Peoples, the OECD complaint system can be a useful tool — but it also brings special challenges and risks that require careful preparation.

Key points include:

- > **Protecting collective rights** – Indigenous Peoples have collective rights to their lands, cultures, and ways of life. In your complaint, explain how the harm affects your community's collective survival, identity, and self-determination. Remember that not all governments recognize or understand collective rights.
- > **Free, Prior and Informed Consent (FPIC)** – Violations of FPIC—when companies start activities on your land without genuine consultation and consent—constitute a breach of the OECD Guidelines and the rights they aim to protect. If your FPIC rights were not respected, highlight this clearly in your complaint.
- > **Transparency, language, and communication** – Companies or NCPs may propose confidentiality rules or communication limits that interfere with how you engage your community. They also may not address your language needs. Be clear about your language and communication requirements, and avoid agreeing to restrictions that harm your ability to consult your community or carry out public campaigning.
- > **Risks of reprisals** – Speaking out can lead to retaliation, including threats, intimidation, or attempts to divide your community. Assess these risks carefully, prepare a safety plan, and consider asking the NCP for confidentiality protections before filing.
- > **Respect for Indigenous governance** – The NCP process is based on Western dispute resolution models that may not align with Indigenous ways. Ask the NCP to respect your governance systems—for example, by allowing time for collective decision-making and consultations with traditional leaders. At the same time, help your community set realistic expectations about the level of justice or reconciliation that may come through mediation.

Learn more about the NCP complaint mechanisms:

Learn more about the NCP complaint systems in the detailed handbook:
"Standing Against Harmful Business Practices. A Practical Guide to the OECD Complaint System for Indigenous Peoples."



OECD Watch: Provides detailed information on the OECD Guidelines and a step-by-step instruction on how to file a complaint, templates and evaluation of different NCP performance.



NCP complaints database:
Provides access to information to all complaints that have been submitted to NCPs.

