



Procedure for submitting and processing complaints regarding the OECD Guidelines

1. Preamble

The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (OECD Guidelines or the Guidelines) contain recommendations jointly addressed by governments to multinational enterprises. The recommendations provide non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognised standards. Finland is committed to promoting compliance with the OECD Guidelines. The Guidelines are supported by National Contact Points (NCPs) for Responsible Business Conduct, bodies established by adhering governments. The NCPs promote and implement the Guidelines. The NCPs also serve as a forum for mediation and settlement in the application of the Guidelines to complaints.

A party may submit a complaint ("specific instance" in the Guidelines) regarding the Guidelines when it wishes to establish whether a multinational enterprise has adhered to the Guidelines. Such a complaint will be processed in Finland by, as the NCP, the Ministry of Economic Affairs and Employment together with the Committee on Corporate Social Responsibility (Government Decree 591/2008, section 1)¹. At the Ministry's request, the Committee will provide a statement on whether the company has adhered to the Guidelines or not. Figure 1 illustrates the complaint processing procedure.

¹ The current composition of the Committee is available here: <https://tem.fi/en/committee-on-corporate-social-responsibility>.

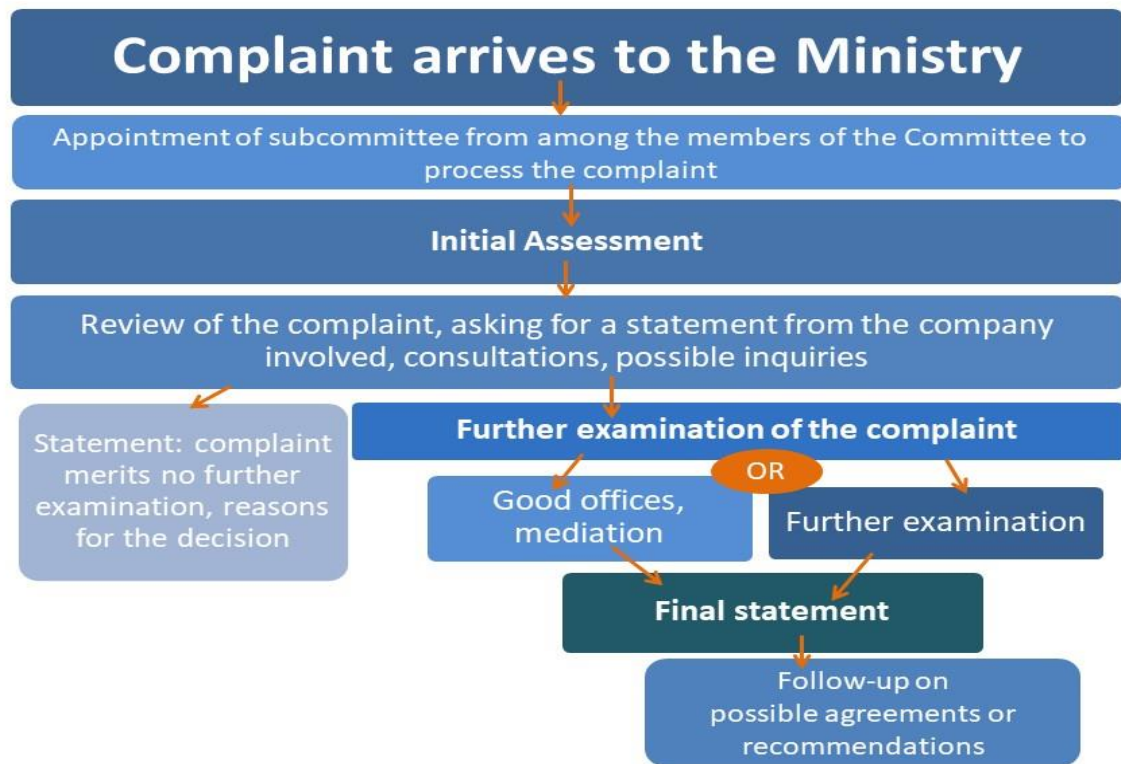


Figure 1. Processing of a complaint at the Finnish National Contact Point.

2. How to submit a complaint

A complaint (specific instance) is submitted in writing to the Ministry of Economic Affairs and Employment, PO Box 32, FI-00023 GOVERNMENT or by email to Kirjaamo.tem(at)gov.fi². It is requested that a copy of the complaint also be sent by email to ncp-finland.tem(at)gov.fi. There are no specific instructions regarding the format of the complaint, but it should indicate at a minimum which company it concerns, a description of the actions of the company in question, and which chapter or chapters of the Guidelines the company has not adhered to. Furthermore, with regard to possible evidence, there should be a statement as to which issues the evidence is intended to give further information on. To expedite the process, the National Contact Point recommends the completion of the form to be found [here](#)³.

A complaint may be submitted on behalf of several different parties. If necessary, the NCP may use videoconferencing and Finnish mission networks to organise hearings with the parties, but the NCP will not reimburse any travel expenses. If a complaint refers to issues or events prior to the renewed Guidelines adopted on 8 June 2023, the NCP will apply the OECD Guidelines in force at the time in question ([previous update in 2011](#)).

The languages for the complaint process are Finnish, Swedish, or English.

In addition to the national procedures, the processing of complaints is governed by the Procedures for the processing of complaints of the [OECD Guidelines](#), pp. 58-62 and their Commentaries, pp. 63-74.

² When the complaint is sent by email to the Ministry's registry office, the registry office will send an automatic acknowledgement of receipt.

³ The form is also available here: <https://tem.fi/en/handling-specific-instances-of-the-oecd-guidelines-for-multinational-enterprises>.

3. General principles

During examination of the complaint, the NCP may, if necessary, seek the advice of relevant authorities and consult external experts. The NCP will act with transparency and make the parties to the complaint aware of all relevant facts and arguments brought to the NCP by other parties. In accordance with the consultation principle, parties will be given the opportunity to comment on any statements or clarifications provided by another party or clarifications obtained by the NCP externally.

If necessary, the NCP will consult with the NCPs of any other adhering country or countries. The NCP will seek information on similar complaints from the OECD Secretariat or guidance from the Working Party on Responsible Business Conduct (WPRBC) if it has doubt about the interpretation of the Guidelines.

The NCP will inform the parties involved of its meeting schedule.

The obligation of the NCP to address risks of reprisals against parties to a complaint is set out in paragraph 9 on complaints (specific instances) of the Procedures of the OECD Guidelines, p. 61.

4. Initial assessment

When the Ministry of Economic Affairs and Employment has received a complaint, the NCP will determine whether the complaint merits further examination (initial assessment) and will make a decision regarding it.

The assessment includes a review of the complaint, a request for a statement from the company involved, communication with the various parties and, if necessary, consulting with other NCPs. In connection with the assessment, the NCP may make further inquiries, in other words it may request information from the parties involved, the Finnish embassy network or possible other NCPs.

In making its assessment, the NCP will take into account:

- whether the Finnish NCP is the appropriate party to process the complaint;
- the identity of the party concerned and its interest in the matter;
- whether the issue is material (i.e. relevant to the implementation of the Guidelines) and substantiated (i.e. supported by sufficient and credible information);
- whether the company is covered by the Guidelines;
- whether there seems to be a link between the company's activities and the issue raised;
- the extent to which applicable law and/or parallel proceedings limit the NCP's ability to contribute to the resolution of the issue and/or the implementation of the Guidelines, in light of paragraph 35 (p. 70) of the Commentary on the Procedures of the OECD Guidelines and;
- whether the examination of the complaint would contribute to the purposes and effectiveness the OECD Guidelines.

Certain complaints (specific instances) may concern the NCPs of several adhering countries. In such situations, the NCP that received the complaint will inform and coordinate with all other concerned NCPs. The NCPs will accordingly select the lead and supporting NCPs for processing the case and adopt coordination arrangements. Arrangements to identify the lead and supporting NCPs should be completed within two months of receipt of the complaint. Generally, the NCP of the country in which the issues related to the complaint have arisen will be the lead NCP.⁴ The lead NCP is responsible for all aspects of the complaint process and its case-handling procedures will be applicable to the process.

⁴ For more detail, see the Commentary on the Procedures of the OECD Guidelines, paragraphs 30–32, p. 69.

The Finnish NCP will assess on a case-by-case basis whether to participate in the handling of complaints concerning matters that fall within the jurisdiction of more than one NCP. The NCP may also process issues that have taken place in a non-adherent country.

In accordance with the OECD guidelines, the NCP should seek to conclude an initial assessment within three months of receiving the complaint.⁵ If the Finnish NCP is designated as the lead NCP for processing a case concerning several NCPs, it will seek to conclude an initial assessment within three months of its selection as lead NCP.

If the NCP decides that the issues raised in the complaint do not warrant further examination, the NCP will publish a statement containing a description of the issues raised, the views of the parties involved, the assessments made by the NCP and the involvement of the parties in the procedure, and the justification for the NCP's decision.

If, on the other hand, the NCP decides that the complaint warrants further examination, examination of the complaint will continue. In this event, too, the decision on the preliminary assessment will be published. A decision of the NCP that a case warrants further examination does not imply that, in the opinion of the NCP, the company has violated the Guidelines.

5. Further examination of the complaint and final statement

5.1. Good offices and mediation

If the NCP decides that the complaint warrants further examination, the NCP will initially offer its good offices. The purpose of the procedure is to provide both sides with a platform for dialogue and to help resolve the issues raised.

The role of the NCP includes creating conditions for dialogue and agreement between parties. While facilitating dialogue, the NCP should explain the provisions of the Guidelines relevant to the issues raised as a way to support parties in reaching an agreement compatible with the Guidelines. The goal is a commitment by the company to further the implementation of the Guidelines in the future and, where relevant, address, in accordance with the Guidelines, adverse impacts that may have occurred.

As part of making available good offices, and where relevant to the issues at hand, the NCP will offer, or facilitate access to, consensual and non-adversarial processes, such as mediation or conciliation, to assist the parties in resolving issues at hand. Mediation requires the agreement of the parties and their commitment to participate in good faith. If mediation is the option chosen, the NCP may choose to carry out the mediation itself or, depending on the case, engage external mediators in consultation with the parties.

After consultation with the parties, the NCP should establish a reasonable timeframe for discussions between the parties. If the parties fail to reach an agreement within this timeframe, the NCP should consult with the parties on the value of continuing its assistance to the parties. If no agreement is reached and the NCP comes to the conclusion that the continuation of the procedure is not likely to be productive or a party or parties refuse mediation, the NCP will continue to examine the complaint.

5.2. Examination of the complaint

The examination of the complaint consists of two parts. First the NCP will form an view on which issues the complaint is based and on which issues the parties agree and disagree. Once the NCP has formed

⁵ For more detail, see the Commentary on the Procedures of the OECD Guidelines, paragraphs 51 and 52, p. 73.

a view on these points, it will examine in more detail the claims made in the case, the responses to them and any evidence, and will form a final view to resolve the matter raised.

The parties may supplement their statements throughout this phase, for example by supplementing, clarifying or correcting them. Supplements to the complaint should, however, be kept within the scope of the original complaint. This means that in the middle of the examination process a party cannot plead with entirely new issues; the supplements to the complaint must be connected to the issues presented in the original complaint. If the parties do supplement their statements, it is requested that the information be sent both to the registry of the Ministry of Economic Affairs and Employment and to the email address mentioned above. The NCP will inform parties of the date by which supplements must be submitted to the NCP.

5.3.Final statement

At the end of the examination process, the NCP will publish a final statement.

When the parties have reached agreement on the issues raised, the statement should at a minimum describe the issues raised, the parties' respective positions, the steps taken by the NCP in assisting the parties, and when agreement was reached. Information on the content of the agreement will only be included insofar as the parties involved agree thereto. If the parties involved reach agreement on the issues raised, the parties should address in their agreement how and to what extent the content of the agreement is to be made publicly available. In its statement, the NCP may make recommendations on the implementation of the Guidelines, even if there is agreement or partial agreement between the parties.

The NCP will publish a statement on the case after further examination of the complaint when the parties cannot reach an agreement or when a party is unwilling to participate in the proceedings. The opinion should contain the view of the NCP as to whether or not, in the light of the evidence presented, the company acted in breach of the Guidelines. The statement may also include recommendations for the company on the implementation of the Guidelines.

The statement should describe the issues raised, the reasons why the NCP decided that the issues raised warranted further examination and the steps taken by the NCP in assisting the parties, including information on parties' engagement in the proceedings. Where appropriate, the statement may also include the reasons why no agreement was reached.

The NCP should strive to issue a final statement within three months of the conclusion of the procedure. As a general principle, the NCP should strive to conclude the procedure within 12 months (14 months if coordination to determine a lead NCP is needed) from receipt of the complaint.

Whenever delays are to be expected or experienced in the handling of a complaint, the NCP should keep the parties informed in a timely manner, so that the proceedings remain predictable. The NCP may decide to issue public updates on the status of the handling of the case.

The decision containing the final statement will be forwarded to the OECD Investment Committee and the WPRBC for information.

5.4.Follow-up

The NCP will carry out follow up on agreements it facilitates or recommendations it makes where relevant. Follow up may, for example, not be relevant in situations where parties decline such follow up or agree that the issues have been fully resolved. Any follow up and the deadlines for doing so should be mentioned in the final statement.

Follow up may involve, for example, requests for updates from the parties, or one or more meetings between the NCP and the parties (either separately or together) to assess progress on the implementation of the commitments undertaken according to the agreement or the NCP's recommendations. The NCP should publish follow up statements after conducting its follow-up.

6. NCP decision-making in processing complaints

On the proposal of the Committee on Corporate Social Responsibility (CSR Committee), the Ministry of Economic Affairs and Employment appoints, on a case-by-case basis, a subcommittee consisting of members and/or deputy members of the Committee to process the complaint. The subcommittee typically consists of a representative from employer organisations, a representative from employee unions, a representative from civil society, and representatives from different Ministries, the latter depending on the case at hand (see also chapter “Responsibilities in processing complaints”). The subcommittee prepares for the CSR Committee a proposal on taking the complaint for further examination. The subcommittee is responsible for any mediation and for further examination. Based on the subcommittee’s work, the CSR Committee prepares its view for a final statement. The Ministry of Economic Affairs and Employment makes the final decision on the matter after receiving the Committee’s view. Ministry officials will act as the secretariat in the processing of the complaint.

In the event that it is apparent that the complaint will not proceed to further examination, the Committee may process the complaint directly without the appointment of a subcommittee. This may be appropriate, for example, when the complaint does not have linkage to the OECD Guidelines or when the Finnish NCP is not the appropriate body to process the complaint.

7. Confidentiality in processing complaints

In accordance with the Guidelines, as a general principle, the NCP should act in a transparent, impartial, equitable and predictable manner. However, procedural efficiency requires that confidentiality be appropriately ensured when complaints are processed. The NCP acknowledges the need to protect sensitive business information and other confidential information in the processing of complaints. Confidentiality is governed by national legislation in accordance with the OECD Guidelines, namely the Act on the Openness of Government Activities (621/1999).

If a party wishes to keep something confidential, the party itself must indicate which sections of the material it delivers to the Ministry and the Committee are to be treated confidentially and explain why. The delivered material cannot be marked confidential in its entirety; the other party must, as a rule, be informed of all material delivered to the NCP. In accordance with the OECD Guidelines, the NCPs should, wherever possible, avoid basing fundamental aspects of its decisions on information that is not available to both parties.

In particular, the NCP will inform parties, particularly at the outset of the process, that they may not disclose at any time facts and arguments shared during the proceedings by the other party or by the NCP itself (including where relevant an external mediator or conciliator) that is not already in the public domain without the consent of the other party or the NCP respectively. The parties and the NCP may, however, communicate publicly and to third parties on the existence of the complaint, except where otherwise agreed between the parties and the NCP. Furthermore, the parties may communicate publicly about the stage of the process as described in Section I.C.1.-5 of the Procedures of the OECD Guidelines and publish their own initial submission.

8. Responsibilities in processing complaints

When the CSR Committee acts as the NCP and processes complaints, its members serve under personal liability for official acts (Government Decree on the Committee on Corporate Social Responsibility, section 3 subsection 5). The liability for official acts of members of the Committee means that, when serving as members of the Committee, they must comply with general administrative acts and, among other things, the provisions on confidentiality, duty of care, and disqualification based on them.

In processing complaints, members form their views independently, without consulting their own organisation, and handle the information concerning complaints on a confidential basis. Members must also assess whether they have a conflict of interest. If a member has a conflict of interest, they must recuse themselves and cannot participate in the processing of the complaint.

The NCP will make every effort to process complaints as quickly as possible. The NCP operates in a visible, accessible, transparent, accountable, impartial and equitable, and predictable manner. The NCP must operate in accordance with the OECD Guidelines.