

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
INVESTMENT COMMITTEE**

Meeting of the Network of National Contact Points for Responsible Business Conduct

DETAILED OUTLINE - MANUAL FOR NCPS NEW TO THE ROLE

27 June 2017

This detailed outline for a manual for NCPs has been developed for discussion at the 27 June 2017 meeting of the Network of National Contact Points for Responsible Business Conduct. The manual would be aimed at individuals that are new to the NCP role. It is designed to be supplemented with examples of current practice by NCPs. A revised draft will be prepared on the basis of additions and comments received from Delegates during the meeting and in writing following the meeting.

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Introduction

1. This manual provides guidance for governments on how to set up and ensure the functioning of a National Contact Point (NCP). It is designed to provide some helpful background and ideas, including information on current practice from across NCPs which will be helpful for individual representatives.
2. In Annex 1 of this document there is a collection of all official texts relating to NCPs as set out in the OECD Guidelines for Multinational Enterprises (the Guidelines).
3. This manual is designed to provide some practical background that may be of benefit to representatives that are new to the NCP role. It is a tool for use by NCP representatives in their everyday work.

What are the OECD Guidelines for Multinational Enterprises (the Guidelines)?

4. The Guidelines are a set of recommendations for responsible business conduct (RBC) covering all areas of business responsibility. They clarify the expectations governments have of multinational enterprises by defining what responsible business conduct is and what multinational enterprises should do to act responsibly.
5. Each chapter of the Guidelines presents government expectations for responsible business conduct across a range of topics: Disclosure, Human Rights, Employment and Industrial Relations, Environment, Combating Bribery, Bribe Solicitation and Extortion, Consumer Interests, Science and Technology, and Competition and Taxation.
6. As at June 2017, 47 countries have adhered to the Guidelines, including 35 OECD members and 12 non-OECD members¹. Each of those countries has the legal obligation to set up an NCP and to provide human and financial resources for the office.

Your role as a National Contact Point (NCP)

7. NCPs have a double mandate to fill:
 - a. Promote the OECD Guidelines and handle enquiries
 - b. Help resolve issues (“specific instances”) that arise if the Guidelines are not followed

¹ See: <https://mneguidelines.oecd.org/ncps/> for the complete list of NCPs

8. In addition, NCPs:

- Actively promote the use of the OECD Due Diligence Guidance publications by enterprises operating in or from their country
- Report regularly to the OECD Investment Committee: NCPs provide an annual report on their activities, based on a questionnaire sent by the OECD Secretariat. NCPs also send updates to the OECD Secretariat regarding specific instances for inclusion in the OECD public database (see “Handling Specific Instances” below).
- Engage in learning activities with other members of the NCP community: NCPs are encouraged to participate in peer-learning events, peer reviews and other activities for sharing experience with other NCPs (see “Learning and experience sharing” below).

The NCP Community

9. NCPs form a large and diverse community. All NCPs have access to an internal website managed by the OECD which acts as a communication tool between NCPs.² NCPs are also supported by the following:

- The OECD Secretariat serves as a technical resource for NCPs. The OECD Secretariat provides support for NCPs, for example by developing tools and guidance to NCP members, coordinating bi-annual NCP meetings and publishing reports, such as the Annual Report on the Guidelines.
- Three stakeholder groups known as “institutional stakeholders”. They are the Business and Industry Advisory Committee (BIAC), the Trade Union Advisory Committee (TUAC) (“the advisory bodies”) and OECD Watch, an international network of approximately 100 civil society organisations. The role of the institutional stakeholders is to share the views of those they represent. They also make suggestions for improvements to the NCP system by publishing reports and surveys.

Setting up an NCP

10. Each adhering country decides on the location, structure and composition of its NCP, provided the NCP meets the "core criteria" of being visible, accessible, transparent and accountable. Some NCPs are located within one or more ministries; some are tripartite in their structure bringing government, trade union and business representatives around the table while others are made up of independent experts supported by secretariat staff within the government.

² The NCP Community website is available at: <https://community.oecd.org/community/invnep>

11. NCPs also use structures such as oversight or advisory bodies to involve perspectives of other ministries or civil society representatives (see Box 1). *[Current practice examples on structure to be added]*

Box 1: Oversight and advisory bodies

The involvement of different ministries and of stakeholders in the NCP activity is in some cases formalised through the establishment of advisory and oversight bodies. Advisory bodies can be consulted by the NCP on a range of activities and issues on which it provides advice, while oversight bodies have a monitoring role, for example on whether the NCP has followed its own rules of procedures.

12. When setting up the NCP, it is important to ensure that its structure will allow it to:

- Deal with issues related to each of the Guidelines chapters. This could require representatives from other ministries or outside experts who are trained on the topics of the Guidelines;
- Handle issues and make decisions in an impartial manner avoiding any conflicts of interest;
- Retain the confidence of social partners, other stakeholders and the public.

Funding the NCP

13. Governments have the obligation to provide financial and human resources to the NCP so that it can carry out its functions. Each government decides on the financial structure of the NCP. Because financial constraints have been noted as a key challenge by some NCPs and stakeholders, ensuring adequate resources deserves attention. The NCP budget allocation would normally cover the following:

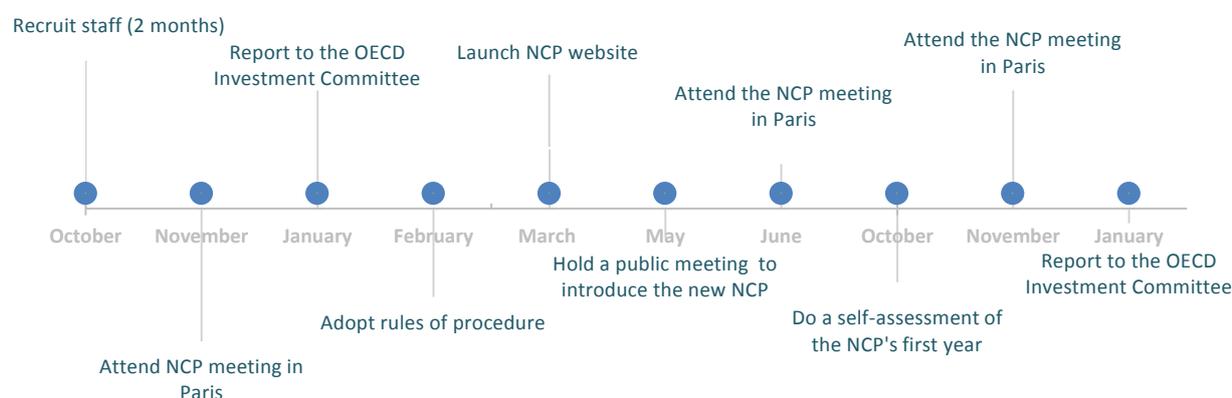
- Staff: NCPs may have both full-time and part-time staff members. At least one representative should be the main contact person for the NCP publicly.
- Promotion: eg website creation and maintenance, translations of the OECD Guidelines and brochure into the local language, developing and printing publications, holding promotional events involving stakeholders, promoting the guidelines within government to ensure policy coherence, participating in events organised by others where the NCP can actively promote the guidelines and make the NCP known;
- Specific instances: Offering good offices (mediation and conciliation services), translating documents, organising meetings with the parties, making enquiries;

- Travel costs to the bi-annual meetings of NCPs at the OECD and to meetings organised by other NCPs or other relevant capacity building events.

Project timeline for setting up an NCP (example)

14. An indicative timeline is presented below in Figure 1 to guide governments on what the first phase of setting up an NCP may look like.

Figure 1



Core criteria

15. As mentioned above, in fulfilling their mandate, NCPs should ensure that they work in a **visible, accessible, transparent and accountable** manner. The core criteria can be recalled using the acronym **VATA**. Some examples of ways in which the criteria can be addressed are set out below. [*Current practice examples to be added*]

- **Visibility:** Governments setting up an NCP inform relevant stakeholders of the role of the NCP this includes publishing information about the NCP, on a website for example, and promoting the NCP through outreach events.
- **Accessibility:** Businesses, NGOs, trade unions and members of the public should have easy access to the NCP. NCPs provide contact information and answer inquiries for information and the NCP makes itself available to deal with specific issues in a timely manner.
- **Transparency:** The activities of the NCP should be transparent. In some cases, NCPs set confidentiality criteria related to the proceedings of a specific instance. The conclusion of the case is to be made public.
- **Accountability:** one aspect of accountability is communicating on activities. Several NCPs report within their own governments and all are required to report annually to the OECD Investment Committee.

Promoting the OECD Guidelines for Multinational Enterprises and the NCP

16. The NCP is responsible for ensuring that companies and other stakeholders are aware of the Guidelines and understand how they can observe them. Promoting the guidelines serves several purposes, including:

- To help enterprises understand the expectations of governments and institutional stakeholders in terms of responsible business conduct;
- To enable enterprises to observe the Guidelines and create internal policies aligned with the Guidelines;
- To enable enterprises to lead operations in a way that encourages responsible behaviour;
- To raise awareness of grievance mechanism aspect of the NCP mandate.

17. The Guidelines should be promoted to enterprises, civil society, trade unions and the public, among others. Each year, the NCP can plan its promotional activities for the coming year. This promotional plan should answer the following questions:

- What are the overall objectives of the year in terms of promotion?
- Who will the NCP target to promote the Guidelines and the NCP (business, civil society, local/regional governments, universities)?
- How will it promote the Guidelines and the NCP? Which tools will the NCP use (meetings, events, radio intervention, brochures)?
- What financial and human resources are needed to implement this plan?
- How will the impact of promotional activities be measured?

[Current practice examples on promotional plans to be added]

18. Before developing the promotional plan, it may be useful to assess the degree of awareness of the Guidelines, by conducting surveys for example. Having a website can help NCPs meet the core criteria. They are the most obvious place for the NCP to communicate about the OECD Guidelines, its role and procedures and are the natural entry point to contact an NCP, submit a case and raise enquiries. Annex 3 presents the recommended basic requirements for NCP websites. ***[Current practice examples on use of surveys to be added]***

Handling specific instances

What is a specific instance?

19. The NCP mechanism is unique. Anyone who believes that a multinational enterprise is not following the Guidelines can submit a case (known as a “specific instance”) to the relevant NCP. A database of all specific instances reported by NCPs to the OECD Secretariat is available here: <http://mneguidelines.oecd.org/database/>.

20. Specific instances are not legal processes and NCPs are not judicial bodies. Rather, the NCP decides whether to offer its "good offices" (dialogue, mediation and conciliation) to the parties to help them reach an agreement.

How to handle a specific instance

21. NCPs develop “rules of procedures” explaining publicly how they handle specific instances. A support document on *How to develop rules of procedure for handling specific instances*³ was developed by NCPs in 2016. *[Current practice examples to be added]*

22. The rules of procedure cover each phase of the specific instance process:

- **Phase 1 - Initial assessment** to determine whether the issues raised merit further examination. (see annex 5 for a list of questions related to the initial assessment)
- **Phase 2 - Offer of good offices:** NCPs help parties resolve the issues by providing assistance such as mediation or conciliation. To provide support on offering good offices, an NCP Mediation Manual⁴ was developed by NCPs in 2012.
- **Phase 3 – Closing the specific instance** by issuing a public final statement. The NCP makes the final statement publically available and reports to the OECD each time a specific instance is closed using the reporting template⁵. NCPs should feel free to contact the OECD Secretariat for support in the drafting of final statements. (see annex 6 for a list of questions related to the final statement)

³ Support document: How to develop rules of procedure for handling specific instances (2016)

⁴ NCP Mediation Manual (2012), available at http://cbuilding.org/sites/default/files/CBI_NCP_Mediation_Manual_July2012.pdf

⁵ The reporting template can be found [here](#) on the NCP Network.

Engaging with stakeholders

23. A number of NCPs involve stakeholders in their activities. Stakeholders may be formally integrated in the NCP, meaning that they are either members of the NCP or represented on advisory or oversight bodies. Other collaboration opportunities can take place during regular stakeholder meetings, which are organised by NCPs to meet with trade unions, NGOs and the business community.

Learning and experience-sharing

24. There are many opportunities for NCPs to engage in learning and experience sharing. The OECD maintains an online closed site for NCPs, the “NCP Network”, hosts regular posts about NCP activities and other relevant information. In addition, the OECD Secretariat sends regular newsletters with the calendar of events and other relevant information to NCPs.

NCP meetings at the OECD

25. NCPs meet twice a year at NCP meetings that are organised at the OECD in Paris. These meetings take place in June and in November/December. On these occasions, NCPs discuss topics that are relevant to the NCP community. Institutional stakeholders are invited to share views in parts of the meeting. NCP meetings are co-chaired by one NCP and the Chair of the Working Party on RBC.

26. NCPs send at least one representative to the NCP meetings at the OECD. Structured peer learning activities have also been organised at these meetings on topics such as ensuring good communication, balancing transparency and confidentiality, conducting initial assessments. The variety of practices and shared experiences in these meetings help identify and share best practices.

Peer learnings

27. In addition to the NCP meetings, NCPs regularly engage in and host peer-learning events. These meetings provide an opportunity for NCPs to share their experiences, identify achievements and challenges, and reflect on directions for future NCP activity.

28. Peer-learning can also be done through informal communication between NCPs. When handling a specific instance, an NCP may wish to learn from another NCP with experience of similar issues. A list of NCP contact details is provided on the OECD website.

Peer reviews

29. Peer reviews are a tool widely used across the OECD and other international organisations. It consists of an examination of one country's performance or practices in a particular area by other countries. NCP peer reviews are a helpful mechanism for highlighting achievements of individual NCPs, identifying areas in need of improvement and setting out specific recommendations in a public report which can then be followed up on. An NCP can communicate its intention to volunteer to undergo a peer review or take part in a review team either through the annual report to the OECD or by contacting the OECD Secretariat.

General support

30. A number of key resources are available to NCPs as set out in Annex 2. The OECD Secretariat remains available to support NCPs in their work.

Annex 1: Texts relating to the functioning of NCPs from the OECD Guidelines for Multinational Enterprises

This Annex contains extracts of legal texts relating to NCPs.

- Part 1 includes extracts referring to adhering countries' obligation to set up a National Contact Point, as well as the functions and core criteria for functional equivalence and procedural guidance.
- Part 2 contains extracts referring to NCPs, but not directly related to their functions.

The extracts are taken from the following documents:

- The Declaration on International Investment and Multinational Enterprises: The OECD Guidelines for Multinational Enterprises (the Guidelines) were adopted in 1976 as part of the OECD Declaration on International Investment and Multinational Enterprises (the Investment Declaration). Since then the Guidelines have been subject to review on five occasions to ensure they keep pace with the changing international environment. The most recent revision took place in 2011. Today the Guidelines represent a global framework for responsible business conduct covering all areas of business responsibility including disclosure, human rights, employment and industrial relations, environment, anti-corruption, competition and taxation.
- The Council Decision on the OECD Guidelines for Multinational Enterprises: All governments adhering to the Investment Declaration are also required to adhere to the Decision of the Council on the Guidelines for Multinational Enterprises. This Decision contains the obligation for adherents to set up a National Contact Point (NCP) to further the effectiveness of the Guidelines, and make human and financial resources available to their NCP to fulfil their responsibilities. The Council Decision contains the Procedural Guidance which sets out the role of the National Contact Points and the role of the Investment Committee and Working Party on Responsible Business Conduct.
- Commentary on the OECD Guidelines for Multinational Enterprises: The Commentary on the Implementation Procedures was adopted by the Investment Committee to elaborate on the roles of the Investment Committee and National Contact Points.

[to be completed]

Annex 2: Key resources

- OECD Guidelines for Multinational Enterprises Website: <http://mneguidelines.oecd.org>
 - [Guidelines](#)
 - [Sector guidance](#)
 - [National Contact Points](#)
 - [Database of specific instances](#)
 - [NCP peer reviews](#)
- NCP Network: <https://community.oecd.org/community/invnpc>
 - [NCP contact details](#)
 - [NCP events calendar](#)
 - [Reporting a specific instance to the OECD Secretariat](#)
- Support documents:
 - [NCP Mediation Manual](#)
 - Writing rules of procedure for handling specific instances (link to be added)
- Institutional stakeholders:
 - Business and Industry Advisory Committee to the OECD: <http://biac.org/focus-areas/biac-work-on-the-guidelines-for-multinational-enterprises/>
 - OECD Watch: <http://www.oecdwatch.org/>
 - Trade Union Advisory Committee to the OECD : <http://www.tuaoecdmneguidelines.org/>
- Articles of the Chair of the Working Party on Responsible Business Conduct:
[Friends of the OECD Guidelines for Multinational Enterprises](#)

Annex 3: Ideas for NCP website content

Core criteria	Content
Visibility	<ul style="list-style-type: none"> • Easy to access website • Explanation of the Guidelines and link to the Guidelines • Due diligence guidance documents • Explanation of the role of the NCP • Link to OECD webpage
Accessibility	<ul style="list-style-type: none"> • Up-to-date contact details (email and telephone number) • Explanation of how to submit a specific instance • Rules of procedure for handling specific instances
Transparency	<ul style="list-style-type: none"> • Final statements made available online • Names of NCP members • Annual report

Annex 4: Example form for submitting a specific instance

This form has been developed as an optional tool for NCPs.

As at June 2017 there are 8 NCPs with standard submission forms available on their websites. This template form has been developed on the basis of these resources.

A. About the submitter:

1.	Name of the organisation or the individual	
2.	Telephone number	Click here to enter text.
3.	Postal address	Click here to enter text.
4.	Email address	Click here to enter text.
5.	Website (if available)	Click here to enter text.
6.	Contact person 1	
	Name	Click here to enter text.
	Position	Click here to enter text.
	Telephone	Click here to enter text.
	Email address	Click here to enter text.
7.	Contact person 2	
	Name	Click here to enter text.
	Position	Click here to enter text.
	Telephone	Click here to enter text.
	Email address	Click here to enter text.
8.	Are you bringing the submission on behalf of others (e.g. on behalf of a local union or community)?	Click here to enter text.
9.	If yes, explain your interest in this case and mandate or reason for bringing the case.	Click here to enter text.

B. About the company:

1.	Please indicate the identity and location of the company this submission relates to and explain why you brought the case to this NCP	Click here to enter text.
2.	Please select the relevant company structure from the list (private company, listed, state-owned, etc)	Click here to enter text.

C. About the specific instance:

1.	Which chapters of the OECD Guidelines does the submission relate to?	Click here to enter text.
2.	In which country/countries/territory did the adverse impact/harm occur?	Click here to enter text.
3.	Please describe the situation and how the issues relate to relevant chapters of the OECD Guidelines	Click here to enter text.
4.	Please provide/list documentation, reports,	Click here to enter text.

	testimonies or other types of supporting material to support the submission.	
5.	Is the submission relevant to NCPs in other countries and if so, which countries? And why?	Click here to enter text.
6.	What do you hope to achieve by?	Click here to enter text.
7.	What is your desired outcome(s) of mediation?	Click here to enter text.
8.	What actions do you think the organisation should take to resolve the problem?	Click here to enter text.

D. Contact with the organisation

1.	Has your organisation been in contact with the organisation named in the submission? If so, please give an account of how this was done and the outcome of the contact. <i>Please provide any documentation such as minutes of meetings, etc. as an attachment to this form.</i>	Click here to enter text.
2.	Has this submission been brought to the attention of other forums or other NCPs? If so, give an account of any measures that have been taken on the basis of this. <i>Please provide any documentation such as minutes of meetings, etc. as an attachment to this form.</i>	Click here to enter text.

E. Other proceedings

1.	Have there been other attempts to resolve the situation? Please explain.	Click here to enter text.
2.	If yes, what were the outcomes of the attempts to resolve the situation?	Click here to enter text.
3.	How did the organisation respond to the outcomes of these proceedings?	Click here to enter text.

F. For information

1.	How did you hear about the NCP?	Click here to enter text.
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Annex 5: Specific instance initial assessment – key questions

I. Summary

Brief summary of the specific instance including main issues raised and main outcomes.

II. Submission

Description of the submission:

- When was the submission filed?
- When did parties receive a confirmation of receipt of the submission?
- Who are the submitters (names/types of organisations)?
- Who are the companies involved (names/types of companies)?
- What issue(s) did the submitter raise in their submission?
 - What chapters of the Guidelines have allegedly not been observed?
 - What were the actions taken by the company
 - What impacts are involved?
- What were the stated objectives of the submitters?
- What kind of support did the submitters request from the NCP?

III. Company response

Description of company response to the submission (where applicable)

IV. Initial assessment

Description of initial assessment:

- How did the NCP assess the submission against the criteria in the Procedural Guidance of the OECD Guidelines (Commentary, para 25):
 - the identity of the party concerned and its interest in the matter.
 - whether the issue is material and substantiated.
 - whether there seems to be a link between the enterprise's activities and the issue raised in the specific instance.
 - the relevance of applicable law and procedures, including court rulings.
 - how similar issues have been, or are being, treated in other domestic or international proceedings.
 - whether the consideration of the specific issue would contribute to the purposes and effectiveness of the *Guidelines*.
- How did the NCP assess the submission against any other criteria? If yes, what was the outcome of that assessment?
- What is the outcome of initial assessment?
- When were parties notified of the outcome of the initial assessment?

V. Next steps

Description of the process:

- What sort of processes has been offered to the parties?
- How were other NCPs involved (where applicable)?

Annex 6: Specific instance final statement – key questions

I. Summary

Brief summary of specific instance including main issues raised and main outcomes.

II. Submission

Description of the submission:

- When was the submission filed?
- Who are the submitters (names/types of organizations)?
- Who are the companies involved (names/types of companies)?
- What issue(s) did the submitter raise in their submission?
 - What chapters of the Guidelines have allegedly not been observed?
 - What were the actions taken by the company and resulting impacts are at issue?
- What were the stated objectives of the submitters?
- What kind of support did the submitters request from the NCP?

III. Company response

Description of company response to the submission (where applicable)

IV. Initial assessment

Description of initial assessment:

- What was the outcome of initial assessment?
- Where not described in a separate initial assessment statement, how did the NCP assess the submission against the criteria in the Procedural Guidance of the OECD Guidelines (Commentary, para 25):
 - the identity of the party concerned and its interest in the matter.
 - whether the issue is material and substantiated.
 - whether there seems to be a link between the enterprise's activities and the issue raised in the specific instance.
 - the relevance of applicable law and procedures, including court rulings.
 - how similar issues have been, or are being, treated in other domestic or international proceedings.
 - whether the consideration of the specific issue would contribute to the purposes and effectiveness of the *Guidelines*.
- Where not described in a separate initial assessment statement, did the NCP assess the submission against any other criteria? If yes, what was the outcome of that assessment?

V. Process

Description of the process:

- When did parties receive a confirmation of receipt of the submission?
- When were parties notified of the outcome of the initial assessment?
- What processes did the parties request/agree to?
- When did the parties meet?
- How were other NCPs involved (where applicable)

VI. Outcome

Description of the outcome:

- Was there agreement between the parties?
 - If yes, what did the parties agree to? (Where parties agree to allow disclosure).
 - If no, why did parties fail to reach an agreement (e.g. unwillingness on the part of one party to engage, unable to come to common position despite engagement, etc.) ?

- Were there other positive outcomes from the process?
 - Changes to company policy/procedures?
 - Improved relations between the parties?
 - Some provision of remedy (apology, restitution, compensation, satisfaction and guarantees of non-repetition)?

- Were both parties satisfied with the outcome or the specific instance proceeding? Why or why not?

VII. NCP Conclusions

Description of NCP's reactions to the specific instance:

- What recommendations could be made to the company to better observe the recommendations of the Guidelines?
- Where relevant, did the company fail to observe the Guidelines? Why or why not?
- Did the parties participate in specific instance process in good faith?
- Will the NCP engage in follow up with respect to the specific instance?
 - If so how and when?