

The OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises were updated in May 2011 and are recommendations jointly addressed by governments to multinational enterprises. They provide principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognised standards. Observance of the Guidelines by multinational enterprises is voluntary and is not intended to override local laws and legislation.

The Government of Jersey is committed to promoting the use of the Guidelines and their effective and consistent implementation. The common aim of governments adhering to the Guidelines is to encourage the positive contributions that multinational enterprises can make to economic, environmental and social progress. Through business cooperation and support, the Guidelines can positively influence business conduct and, ultimately sustainable progress.

Jersey, as an adhering country, has set up a National Contact Point. An important part of the Jersey National Contact Point role is to raise awareness of the Guidelines to the business community, employee organisations, non-governmental organisations and other stakeholders. Accordingly, this has included liaising with Jersey's financial services promotional body, Jersey Finance Limited (<https://www.jerseyfinance.je/>) and other Jersey trade associations. Promoting appropriate business conduct by multinational enterprises is an important and growing challenge as their operations often straddle many countries and cultural, legal and regulatory environments.

A copy of the Guidelines can be found [here](#).

Jersey National Contact Point

The Jersey National Contact Point ("JNCP") provides a forum for discussion with stakeholders, including multinational enterprises, businesses, non-government organisations, and other government departments and agencies, on matters relating to the Guidelines.

Complaints may also be raised with the Jersey National Contact Point if a Jersey multinational enterprise is believed to have breached the Guidelines.

The Jersey National Contact Point is:

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JE4 8QT

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How to Make a Complaint about a multi-national business

The OECD Guidelines' grievance mechanism is known as the "Specific Instance" process. A Specific Instance raises a complaint to the designated National Contact Point about conduct by a multi-national enterprise that is alleged to be inconsistent with the recommendations contained in the Guidelines. A party filing a Specific Instance may act on behalf of other identified and concerned Parties

Key Definitions

"Company" refers to the multinational enterprise against which the complaint is made.

"Guidelines" refers to the OECD Guidelines for Multinational Enterprises.

"Parties" refers to the complainant or complainants and the enterprise being complained against.

"Specific Instance" means a complaint that is submitted to the JNCP concerning a Company's alleged breaches of the Guidelines. The terms "specific instance" and "complaint" are synonymous.

The stages involved in handling complaints

There are three key stages to the JNCP's process for handling Specific Instances:

Stage 1 – Initial Assessment: consideration of whether the issue raised merits further examination

Stage 2 – Offer good offices: assistance to the Parties in their efforts to resolve the issues raised

Stage 3 – Issuance of a Statement or Report: the results of the procedures are to be made public

There may be a fourth stage - to report on follow up action – in cases where a mediated agreement provides for this, or where a Statement or Report has recommended follow up action.

Timetable

For each Specific Instance, the JNCP will aim to complete the the Stage 1 within three months and State 2 within 9 months thereafter. The JNCP shall also strive to issue its Statement or Report (Stage 3) within three months of after conclusion of Stages 1 and 2.

Some degree of flexibility may be needed in relation to the timetable; for example, because of circumstances outside the JNCP's control. In these circumstances the JNCP will notify the Parties, explain the reason and set out a revised timetable.

The JNCP is committed to the prompt resolution of each Specific Instance. Parties are urged to provide information promptly in order to adhere to the timetable. Failure to do so could result in the JNCP making its decision in the absence of that information.

Who can make a complaint?

Any “interested party” can file a complaint. The complainant may be, for example, a business community affected by a Company’s activities, a worker organisation, or a non-government organisation.

The complainant filing a Specific Instance may act on behalf of other identified and concerned Parties. Generally, issues should be dealt with by the NCP of the country in which the issues have arisen. Therefore, the JNCP generally acts on Specific Instances that make allegations related to issues arising in Jersey or regarding the activities of Jersey headquartered companies operating in countries which have not established an NCP.

The JNCP will consider all complaints it receives provided the complaint and all relevant documents are submitted in English. However, the JNCP will need to receive detailed information from the complainant in order to deal with the complaint. Therefore, complainants should have a close interest in the case and be in a position to supply information about it.

Transparency and Confidentiality

Transparency is recognised as a general principle for the conduct of NCPs in their dealings with the public. However, paragraph C-4 of the Procedural Guidance for NCPs recognises that there are specific circumstances where confidentiality is important. The JNCP will take appropriate steps to protect sensitive business information. Equally, other information, such as the identity of individuals involved in the procedures, will be kept confidential in the interests of the effective implementation of the Guidelines. It is understood that proceedings include the facts and arguments brought forward by the Parties. Nonetheless, it remains important to strike a balance between transparency and confidentiality in order to build confidence in the Guidelines procedures and to promote their effective implementation. Thus, while paragraph C-4 of the Procedural Guidance for NCPs broadly outlines that the proceedings associated with implementation will normally be confidential, the results will normally be transparent.

Parties should be aware that information and documents provided to the JNCP will be subject to the operation of the *Freedom of Information (Jersey) Law 2011* (FOI Law), and could be released under

the provisions of that Act. The information and documents provided will also be subject to the *Data Protection (Jersey) Law 2005*.

Stage 1: Initial Assessment

Issues arising in Jersey

The JNCP's assessment of Specific Instances is evidence-based, and Parties are encouraged to substantiate their claims with facts. Specific Instances falling outside the scope of the Guidelines or complaints that are not substantiated will not be considered.

The Initial Assessment does not determine whether the Company has acted consistently with the Guidelines, but rather is a process to determine whether the issues raised are *bona fide* and *merit* further consideration by the JNCP. Where necessary, the JNCP will seek the guidance of the OECD Investment Committee regarding the interpretation of the Guidelines in particular circumstances. Per the Guidelines the JNCP will take into account the following during their Initial Assessment:

- Identity of the party and its interest in the matter
- Whether the issue is material and substantiated
- Likely link between the enterprise's activities and the issue raised
- Relevance of applicable law and procedures, including court rulings
- Treatment of similar issues in other domestic or international proceedings
- Contribution of the specific issue to the purposes and effectiveness of the Guidelines

Issues arising in another country

To complain about the activity of a multi-national business that happened in another country, you will need to contact the National Contact Point of that country.

If that country does not adhere to the Guidelines and does not have a National Contact Point, you will need to raise the issue with the National Contact Point of the country where the business is headquartered.

Stage 2: Good Offices

If the complaint is accepted as warranting further examination, the JNCP shall offer 'good offices' to help the Parties resolve the issues. For this purpose, the JNCP will consult with these Parties and where relevant:

- a. seek advice from relevant authorities, and/or representatives of the business community, worker organisations, other nongovernmental organisations, and relevant experts;
- b. consult the NCP in the other country or countries concerned;
- c. seek the guidance of the Committee if it has doubt about the interpretation of the Guidelines in particular circumstances;
- d. offer, and with the agreement of the Parties involved, facilitate access to consensual and non-adversarial means, such as conciliation or mediation, to assist the Parties in dealing with the issues. A list of accredited mediators practicing in Jersey can be found [here](#).

Stage 3: Issuance of a Statement or Report

If a complaint is rejected at the end of the Initial Assessment (Stage 1), the JNCP will release a Statement that describes the issues raised and the reasons for their decision.

Where the Parties have reached agreement on the issues raised during State 2, a Report shall be prepared. The Report at a minimum should described the issues raised, the procedures the JNCP initiated in assiting the Parties and when agreement was reached.

If the Parties cannot reach agreement or are unwilling to participate in the procedures (Stage 2), the JNCP shall issue a Statement. This Statement will describe the issued raised, the reasons why the JNCP decided that the issues raised merited further examination and the procedures the JNCP initiated in assisting the Parties. The JNCP will make recommendations on the implementation of the Guidelines as appropriate, which will be included in the Statement.

Once the JNCP has drafted its Statement or Report, it will be sent to the Parties for checking. The JNCP may then incorporate any necessary factual changes before sending the finalised Statement or Report to the Parties, together with information of how they can seek a review by the Oversight Committee if they consider that the process set out in this guidance has not been properly followed.