



RESPONSIBLE BUSINESS CONDUCT IN A GLOBAL WORLD

– Is your company ready?



The Danish Mediation and Complaints-Handling
Institution for Responsible Business Conduct



The OECD Guidelines for Multinational Enterprises

Where does the responsibility of the individual company begin in a global context, and where does it end? The OECD Guidelines help companies get clarity on this and other issues in relation to responsible business conduct.

Globalisation creates opportunities, but a number of social, ethical, environmental and financial challenges follow in its wake. Companies, organisations and authorities risk causing, contributing or being linked to, for example, adverse impacts on the environment or human and labour rights when doing business in the global marketplace. Companies need to be aware that adverse impacts can occur not only as a result of their own activities but also more indirectly in relation to business partners e.g. in the supply chain.

The common aim of the OECD Guidelines is twofold: to encourage the positive contributions that companies can make to economic, environmental and social progress and to minimise the adverse impacts arising from business-related activity.

The Guidelines cover the following areas:

- Disclosure
- Human rights
- Employment and industrial relations
- Environment
- Anti-corruption
- Consumer interests
- Science and technology
- Competition
- Tax

The high expectations on responsible business conduct create a need for a common set of principles and recommendations to guide companies as well as other parties. The OECD Guidelines should be regarded as such a framework that helps adjust expectations. At the end of the day, the purpose is to create a better foundation for sustainable global development.

Who can submit a complaint?

Anyone can submit a complaint. The complaint must relate to a non-compliance with the OECD Guidelines for Multinational Enterprises.

A complaint must comply with a number of requirements in order to be considered by the Mediation and Complaints-Handling Institution.

The complaint must be in writing, it cannot be anonymous, and the event must have taken place within the last five years.

The complaint must be supported by facts. This means that the complaint must contain a description of what happened and the company's role in the incident. The complaint must relate to an area covered by the OECD Guidelines. However, it is up to the Institution to decide whether the complaint falls within the scope of the Guidelines.

The complaint must be supported by relevant documentation. The documentation must be as specific and precise as possible. It is not enough to refer to a documentary or newspaper article, but such items can form part of the documentation.

The Institution can also review matters at its own instigation if it finds that there are reasons for doing so.

Who can be the subject of a complaint?

Private and public companies, organisations and authorities can be the subject of complaints.

There must be a clear connection between the respondent company/authority/organisation and the relevant non-compliance for a complaint to be considered by the Mediation and Complaints-Handling Institution. The OECD Guidelines stipulate the scope of the responsi-

bility of the individual company and what the company can reasonably be expected to do.

First and foremost, the companies are expected to avoid causing or contributing to adverse impacts on matters covered by the OECD Guidelines, through their own activities, and cease or prevent such impacts when they occur.

When a company has not caused or contributed to the adverse impact, but the impact is nevertheless directly linked to its operations, products or services, the company is expected to use its leverage, acting alone or in cooperation with other entities, to influence the entity causing the adverse impact, to prevent or mitigate that impact.

Reasons for establishing the Institution

The Institution deals with potential non-compliances of the OECD Guidelines. The Institution is responsible for raising awareness of the Guidelines.

The Mediation and Complaints-Handling Institution for Responsible Business Conduct was established to deal with cases concerning non-compliance with the OECD Guidelines for Multinational Enterprises. The purpose is to ensure maximum compliance with the Guidelines.

The Institution is a non-judicial mechanism that enables companies, organisations and

public authorities to resolve disputes regarding adverse impacts linked to their activities on matters covered by the Guidelines. It should be possible for parties who feel aggrieved by Danish companies, organisations or public authorities to raise a claim for non-compliance with the Guidelines.

Such claims involve complex issues that are often difficult to resolve; firstly because adverse impacts often take place far from Denmark, and secondly because they may involve the conduct of sub-suppliers, for example, and matters on which the individual company has little influence. The OECD Guidelines constitute an important authoritative focal point that can help all parties resolve their disputes in a satisfactory manner.

Case handling step by step

The complaint follows a number of steps, within an indicative timeframe, from assessment to mediation or investigation and statement by the Institution.

Initial Assessment

When the Institution receives a complaint, the complaint is assessed to determine, in particular, whether it complies with formal requirements: the complaint cannot be anonymous. It must be accompanied by a description of the non-compliance and corresponding documentation, including the respondent company's role. The Institution evaluates whether the complaint falls within the scope of the Guidelines. The Institution then either rejects the complaint or decides to consider it further.

weeks

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Due diligence

What can companies do to avoid complaints? Due diligence is a key concept in the OECD Guidelines that all parties ought to be familiar with.

According to the OECD Guidelines, companies should carry out risk-based due diligence to identify, prevent and mitigate actual and potential adverse impacts and account for how these impacts are addressed.

Due diligence is a process and not a specific standard that companies have to live up to. It requires companies to know and describe the risk

of adverse impacts covered by the Guidelines and on that basis take steps to address the risk. The fundamentals of the concept are familiar to companies working on a daily basis with risk management and management systems. For such companies, due diligence mainly involves implementing the routines in additional areas.

Companies working with due diligence processes are much better equipped to handle current and potential adverse impacts. They also minimise the risk of becoming the subject of a complaint. Companies, organisations as well as authorities are expected to exercise due diligence. It is recognised, however, that the nature and extent of due diligence, will be affected by factors such as the size of the company, context of its operations, the severity of its adverse impacts etc.

months

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Opportunity for independent resolution

When a complaint is approved for further consideration, the Institution encourages the parties to resolve the matter themselves by engaging in dialogue. If the parties succeed in resolving the matter on their own, the Institution has no further involvement. The parties merely have to inform the Institution within a fixed time frame whether they have found a solution. Matters resolved between the parties are not subject to any form of publication by the Institution.

months

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Preliminary investigation

If the parties fail to resolve the matter themselves, the Institution investigates the matter further. The preliminary requirements to the complaint still apply, but the Institution looks at the matter in the light of recent developments. New information may have become available, and the Institution takes on a more active role. The Institution decides whether to consider the matter further and perhaps offer to mediate between the parties. The Institution publishes its decision on its website.

Dialogue and mediation

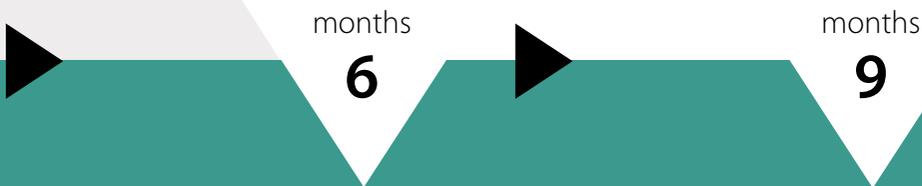
Complaints concerning non-compliance with the OECD Guidelines often involve complex issues. Dialogue and mediation are an important part of the solution.

Complaints about companies often relate to complex issues to which there are no easy answers. This makes it more difficult to find satisfactory solutions, but does not make it less important. The dialogue between the parties therefore plays a key role. Dialogue is often the

most constructive and effective way of identifying satisfactory solutions to complex dilemmas and issues.

The Mediation and Complaints-Handling Institution endeavours to create a framework for mediation, dialogue and conflict resolution in a global context. This is evident in the initial phase when the parties are encouraged to resolve the matter themselves and also plays an important role when the Institution offers to mediate between the parties.

The ongoing dialogue with stakeholders can also be viewed as part of the company's risk management. A pro-active dialogue helps the company identify and handle issues before they become more serious and difficult to handle.



Mediation

The Institution offers mediation if the parties fail to resolve the matter themselves, and the preliminary investigation shows that there are reasons to consider the matter further. Mediation is voluntarily and merely an offer. If the parties accept the offer for mediation, the Institution helps create a constructive and meaningful dialogue between the parties. If a solution is reached through mediation, the Institution publishes the result of the mediation.

Actual investigation

The Institution undertakes an actual investigation if a solution is not reached through mediation; if the parties do not wish to pursue mediation, or if the Institution does not consider the matter suitable for mediation, for example in the case of gross infringements. On the basis of the investigation, the Institution publishes a statement that may clear the responding party or contain criticism of its conduct and recommendations for improvement.

Who are the members of the Institution?

The Mediation and Complaints-Handling Institution for Responsible Business Conduct consists of five members:

Chairman

Mads Øvlisen

Adjunct professor at Copenhagen Business School and adviser to the UN Global Compact

Linda Nielsen

Professor, Dr. jur.
University of Copenhagen

Kim Haggren

Director of Business Law and CSR,
Confederation of Danish Industry

Jens Erik Ohrt

Consultant in the Danish Confederation of Trade Unions (LO)

Karin Buhmann

Professor, dr. scient. adm. & phd.
Copenhagen Business School

Transparency and statements

The Institution endeavours to create maximum transparency. This transparency should, however, not constitute an obstacle to what the Institution is trying to achieve: to find satisfactory solutions to non-compliances with the OECD Guidelines. For the responding party, the matter often involves sensitive and difficult issues. Confidentiality is another aspect that has to be taken into account. It is important to strike a balance that is acceptable to both parties. Transparency about the results achieved by the

Institution is a fundamental requirement. The Institution therefore publishes statements once a matter has been finalised. There is less transparency while a matter is under consideration. Matters successfully resolved between the parties are not published.



The Danish OECD Contact Point

The OECD Guidelines for Multinational Enterprises oblige OECD countries to establish National Contact Points. More than 40 countries have adhered to the OECD Guidelines. The Mediation and Complaints-Handling Institution for Responsible Business Conduct was established by law and is the Danish OECD Contact Point. The Danish Business Authority's secretariat serves as secretariat for the Institution.



Contact

The Mediation and Complaints-Handling Institution for Responsible Business Conduct

The Danish Business Authority
Langelinie Allé 17
DK-2100 Copenhagen

Tel +45 35 29 10 00
E-mail post@businessconduct.dk

www.businessconduct.dk

