



OECD Guidelines for Multinational Enterprises
National Contact Point Peer Reviews
UNITED KINGDOM



ABOUT THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

The OECD Guidelines are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognised standards. The OECD Guidelines are the only multilaterally agreed and comprehensive code of responsible business conduct that governments have committed to promoting.

ABOUT NCP PEER REVIEWS

Adhering governments to the OECD Guidelines for Multinational Enterprises are required to set up a National Contact Point (NCP) that functions in a visible, accessible, transparent and accountable manner. During the 2011 update of the OECD Guidelines for multinational enterprises, NCPs agreed to reinforce their joint peer learning activities and, in particular, those involving voluntary peer reviews. The peer reviews are conducted by representatives of 2 to 4 other NCPs who assess the NCP under review and provide recommendations. The reviews give NCPs a mapping of their strengths and accomplishments, while also identifying opportunities for improvement. More information can be found online at <https://mneguidelines.oecd.org/ncppeerreviews.htm>.

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Table of Contents

1. SUMMARY AND KEY FINDINGS	2
2. INTRODUCTION	8
3. THE UK NCP AT A GLANCE	10
4. INSTITUTIONAL ARRANGEMENTS	11
5. PROMOTION OF THE GUIDELINES	20
6. SPECIFIC INSTANCES	27
Annex A. Overview of specific instances handled by the UK NCP as the leading NCP	45
Annex B. List of organisations submitting responses to the NCP peer review questionnaire	55
Annex C. List of organisations that participated in the NCP peer review	56
Annex D. Promotional events	57
Annex E. Summary of Joint Parliamentary Committee on Human Rights Report of 2017	63
Annex F. Summary of the internal review of the Steering Board of 2017	65

1. SUMMARY AND KEY FINDINGS

This document is the peer review report of the United Kingdom (UK) National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises (the Guidelines). The implementation procedures of the Guidelines require NCPs to operate in accordance with the core criteria of visibility, accessibility, transparency and accountability. In addition, they recommend that NCPs deal with specific instances in a manner that is impartial, predictable, equitable and compatible with the Guidelines.

This report assesses conformity of the UK NCP (or the NCP) with the core criteria and with the Procedural Guidance contained in the implementation procedures. The peer review of the NCP was conducted by a team made up of reviewers from the NCPs of Spain and Switzerland, along with representatives of the OECD Secretariat. Representatives from the Korean NCP observed the peer review. The peer review included an on-site visit that took place in London, UK on 7-9 November 2018.

The UK NCP developed over the years as one of the leading NCPs. In a spirit of continuous improvement, the UK Government progressively designed a strong and sophisticated structure for the NCP, comprising a well-resourced unit within the Department for International Trade, supported by an independent Steering Board with advisory and oversight functions. Likewise, the UK NCP developed and frequently revised procedures for handling specific instances – including the possibility to have decisions reviewed by the Steering Board – which has led the UK NCP to receive 51 cases since 2002, the highest number of all NCPs. In the last few years, the UK NCP however suffered a decrease in stakeholder confidence and rebuilding this trust will be central in ensuring that the UK NCP can continue to operate effectively and retain its high profile among NCPs.

Key findings and recommendations

Institutional arrangements

The UK NCP is set up as an independent team within the Investment Policy Team of the Department for International Trade (DIT) and is staffed with three officials from the department. NCP officials are in charge of all NCP functions, and comprise a Head of the NCP, one official leading on casework, and one official leading on stakeholder engagement.

The UK NCP is jointly funded by DIT and the Department for International Development (DfID) and is assisted by a Steering Board providing advice and oversight. The Steering Board is composed of four representatives from other government departments (including DfID), three representatives from business, trade unions and civil society stakeholder groups, and one unaffiliated member. The Steering Board is chaired by a senior DIT official. Steering Board Terms of Reference provide that its members will work in a collegiate manner in relation to decision taking, and that the chair draws conclusions based upon discussions.

Since its creation in 2000, the UK NCP was reformed and reviewed a number of times to ensure continuous improvement in the NCP's functioning. Its structure was overhauled in 2007, notably to add a Steering Board with oversight functions, and this structure was again subject to an internal review leading to further improvements in 2017. Stakeholders and the peer review team find the current structure of the UK NCP to be strong and appropriate for discharging the duties laid out in the Guidelines. In particular, the presence of a Steering Board for advice and oversight is considered a major asset by stakeholders. Stakeholders have until recently considered the UK NCP to be one of the leading and best functioning NCPs.

However, the confidence of Stakeholders in the UK NCP has significantly decreased in the last few years, particularly because of disagreements over certain practices in handling specific instances and the inconvenience caused by some significant delays in the treatment of specific instances. This situation is due to a number of events that affected the NCP (change of Department, complete staff renewal in a short time) which, in turn, impacted aspects of its case handling, e.g. causing delays in the treatment of cases. Stakeholders have also indicated not being aware of the NCP structure and the arrangements to make it independent from the rest of DIT. This leads to concerns regarding whether NCP work is affected by wider DIT policies.

Additionally, in the absence of a formal document outlining the mandate, the structure and the functioning of the NCP, NCP practice has led to confusion and inaccurate expectations about the NCP's role as a non-judicial mechanism and platform for dialogue rather than a semi-legal mechanism. For example, the NCP applies a high level of scrutiny and burden of proof at initial assessment stage and issues determinations regarding (non-) observance of the Guidelines by companies. Some stakeholders indicated in this regard that the outcomes they preferred from specific instances were determinations of non-observance rather than mediated agreements or other forward-looking solutions, which are the primary aims of the NCP's process. The NCP should seek to clarify how the handling of specific instances, which comprises various steps – initial assessment, mediation, examination – and different corresponding outcomes – agreement, recommendations, determinations – contributes to the NCP's mandate to act as a non-judicial grievance mechanism and assist parties in dealing with issues related to the implementation of the Guidelines.

Finally, though the Steering Board is widely recognised as a major asset of the NCP, the recent events which have affected the NCP were perceived by stakeholders as a sign that the Steering Board had not been fully effective in providing advice and oversight to the NCP. In particular, the Terms of Reference for the Steering Board are not entirely clear, including to some Steering Board members, regarding the exact extent of advisory and oversight functions, and the kind of information the Steering Board should receive from the UK NCP. Secondly, the dual role of the Chair of the Steering Board, who, as Deputy-Director for Investment Policy, provides managerial support for the NCP staff, created concerns around the independence of the board.

	Findings	Recommendation
1.1	There is a lack of clarity and visibility around the structure and mandate of the UK NCP as a non-judicial grievance mechanism. The implications of its being set up as an independent team within DIT are unclear. In the absence of a legal document setting up the NCP, the fact that its mandate, structure and functioning is not recorded in formal terms of reference contribute to this general lack of clarity and visibility around the NCP structure.	The NCP's mandate, structure and functioning should be clarified, described and communicated in a public document, and an annual report on NCP activities should be published and sent to relevant authorities, including Parliament.
1.2	There is a lack of clarity about the extent of the Steering Board's advice and oversight functions, and what the corresponding 'powers' of the Steering Board are in regard to both. The exercise of these functions is rendered difficult by the limited information made available to the Steering Board.	The terms of reference for the Steering Board should be revised to define more precisely the advice and oversight functions of the Steering Board and the information which is to be made available to it.
1.3	The chairship and secretariat arrangements of the Steering Board potentially limit its independence and reduce the confidence of stakeholders.	The UK NCP should address the concerns relating to the independence of the Steering Board.

Promotion

The UK NCP has been active in its engagement with stakeholders. Over the last three years it organised or participated in around twenty events per year, including recurring events with stakeholder organisations, which is a comparatively high number across the NCP network. Additionally, the UK NCP recently adopted a Stakeholder Engagement Strategy for the period 2018-2023. The strategy sets out objectives aimed at enhancing awareness of the Guidelines and the NCP, as well as engaging with key stakeholders. Earlier in 2018, the UK NCP hired a new staff member to specifically lead on stakeholder engagement, showing its commitment to establish a close relationship with stakeholders and actively engage with them.

These developments are positive steps aimed at ensuring that the NCP is visible, transparent and accessible. However, stakeholders have expressed the need for more active outreach through more regular events and direct engagement with them, either for promotion or for discussing proposals and concerns.

The UK NCP has also been a strong promoter of RBC through its engagement with the OECD proactive agenda, by tracking emerging challenges in cases and by liaising with its constituents and stakeholders. The UK NCP in this regard supported the development of sectoral guidance by the OECD. The UK NCP has also been active in providing outreach support to other NCPs, particularly to new adherents to the Guidelines, and in participating to peer reviews and peer learning events.

The UK NCP's website is informative and its viewings are steadily increasing. It plays a major role in the UK NCP's promotion and information activities. Its structure, navigation and content could however be improved to ensure maximum visibility, accessibility and transparency for stakeholders, but also predictability for parties to specific instances, since the different sets of rules of procedures are mainly accessible via the website. In particular, links should be provided to the national archives website, where older documents are automatically transferred, and an events and latest developments section could be developed. Given the global reach of the UK economy, the UK NCP should also assess the need for key information on its website to be translated in other languages.

The UK NCP benefits from strong structural connections to other parts of government through the presence of representatives of other government departments on its Steering Board. These members are useful relays for the UK NCP's activities, and are assets for policy coherence. However, beyond this, the UK NCP is not well-known across government, and is viewed as mainly active on promotion of RBC abroad, whereas promotion of RBC within the UK is performed by other actors. The UK NCP should ensure that it continues to work and develop relationships with other government departments so as to increase its visibility in the promotion of the Guidelines domestically and overseas as part of the UK government's wider RBC policy.

	Findings	Recommendation
2.1	The UK NCP suffers from a lack of awareness and visibility among key stakeholders beyond the largest organisations. Stakeholders would like the NCP to more directly engage with them.	The UK NCP should strengthen engagement and increase awareness of the Guidelines and the NCP with key stakeholders (including SMEs)
2.2	The UK NCP does not systematically measure knowledge of the Guidelines and the NCP among business and other constituencies.	The UK NCP should systematically measure stakeholder awareness of the Guidelines and the NCP.
2.3	The UK NCP's website is informative but not user-friendly and incomplete, as it does not contain recent developments or events sections, and older documents are automatically transferred to the national archives website. The website is also only available in English.	To the extent possible within the gov.uk template, the UK NCP should improve the structure and navigability of its website. To be more comprehensive, the website should include links to the national archives where relevant and an events and latest developments page. The UK NCP should also assess the need for key information on the website to be available in other languages.
2.4	The UK NCP is well known to departments which have a structural connection to the NCP but insufficiently beyond that circle, which reduces the potential for policy coherence. The UK NCP is also viewed by other government departments as mainly active on promotion of the Guidelines overseas, but less so on promotion within the UK.	With due regard for the allocation of responsibilities set by the UK Government, the NCP should ensure that it continues to work and develop relationships with other government departments and Parliament so as to increase its visibility in the promotion of the Guidelines domestically and overseas as part of the UK government's wider RBC policy. Government members of the Steering Board should also continue to act as representatives of the NCP across government.

Specific instances

The UK NCP has received 51 specific instances since 2002 – the single largest number of all NCPs. In application of the principle of continuous improvement, the UK NCP has elaborated and regularly revised over the years a very advanced set of rules of procedures and guidelines in relation to its handling of specific instances, which is positive in terms of accessibility and predictability. These procedures include publishing all initial assessments and final statements, offering the services of professional mediators paid by the UK NCP, issuing determinations, offering the possibility to have a case reviewed by the Steering Board, and regularly following up on recommendations and agreements.

Stakeholders have generally found that the NCP treated them fairly, and provided appropriate information about the specific instance process. NCP members are perceived as impartial and equitable. However, some stakeholders view the UK NCP's interpretation of the Guidelines' criteria for initial assessment as a challenge. In the future, the UK NCP should interpret such criteria (in particular the 'material and substantiated' criterion) in a broad manner wherever possible. The UK NCP also shared that a challenge it faced was the increasing complexity of cases. While this challenge is common to the entire NCP network, a solution for the UK NCP would be to make more extensive and systematic use of the possibility offered by its rules of procedure to seek advice from governmental or external experts. Additionally, the external mediation services offered by the UK NCP are described as a positive experience by parties. Likewise, the possibility to have a case reviewed by the Steering Board is viewed as an important tool, and has been used to date in eight cases. There however is uncertainty regarding the exact scope of the review: the rules of procedure for the review process state that 'the review can only deal with procedural errors', though what qualifies as a 'procedural error' is open to interpretation. Additionally, stakeholders questioned the current role of the NCP staff in the review process, as they provide an initial recommendation as to whether the review should be performed.

Finally, the UK NCP as well as parties to specific instances have shown great concern for achieving the right balance between transparency and confidentiality, though at times submitting and responding parties have respectively expressed that the NCP should be more or less strict in accepting to keep company submissions confidential to the other party. The UK NCP also does not disclose parties' names until a case has been accepted for further examination, although increasingly information about cases is made public in most cases by third parties, showing that the UK NCP's rules of procedure should be reviewed periodically to ensure they align with the latest developments where necessary.

	Findings	Recommendation
3.1	The UK NCP' interpretation of the Guidelines' criteria for initial assessment was highlighted by some stakeholders as a challenge.	In the future, the UK NCP should interpret the Guidelines criteria for initial assessment (in particular the 'material and substantiated' criterion) in a broad manner wherever possible.
3.2	The expertise on the wide variety of topics covered in the OECD Guidelines directly available to the NCP for the purposes of examining cases is limited by the fact that cases are only handled by staff in the NCP, whereas the complexity of cases is increasing.	The UK NCP should make more extensive and systematic use of the possibility to seek advice from experts in order to assist during the initial assessment stage or the examination stage.
3.3	There is a lack of predictability as to the exact material scope of the 'Review procedure for dealing with complaints' The procedure describes the review as covering 'procedural errors' in the NCP decision-making, but in practice what qualifies as a 'procedural error' is open to interpretation. Additionally, the role of the NCP staff in recommending whether a review should be conducted reduces the perception that the process is fully impartial.	The rules governing the review procedure should more precisely describe the material scope of the review function of the Steering Board, notably by clarifying the notion of 'procedural error'. The questions raised by the role of the NCP staff in the process should also be addressed.
3.4	The UK NCP does not disclose parties' names until a case has been accepted for further examination, although information about cases is made public in most cases, showing that a periodic review of whether rules of procedure still align with the latest developments is necessary.	The UK NCP should continue to regularly review its rules of procedure to ensure that they still align with the latest developments, for example regarding whether to disclose case parties' names as soon as the case is filed.

The United Kingdom is invited to report to the Working Party on Responsible Business Conduct on follow up to all the recommendations within one year of the date of presentation of this report.

2. INTRODUCTION

The implementation procedures of the Guidelines require NCPs to operate in accordance with the core criteria of visibility, accessibility, transparency and accountability. In addition, the guiding principles for specific instances recommend that NCPs deal with specific instances in a manner that is impartial, predictable, equitable and compatible with the Guidelines. This report assesses conformity of the UK NCP with the core criteria and with the Procedural Guidance contained in the implementation procedures.

The United Kingdom adhered to the OECD Declaration on International Investment and Multinational Enterprises (Investment Declaration) in 1976. The OECD Guidelines for Multinational Enterprises (the Guidelines) are part of the Investment Declaration. The Guidelines are recommendations on responsible business conduct (RBC) addressed by governments to multinational enterprises operating in or from adhering countries. The Guidelines have been updated five times since 1976; the most recent revision took place in 2011.

Countries that adhere to the Investment Declaration are required to establish National Contact Points (NCPs). NCPs are set up to further the effectiveness of the Guidelines and adhering countries are required to make human and financial resources available to their NCPs so they can effectively fulfil their responsibilities, taking into account internal budget priorities and practices.¹

NCPs are ‘agencies established by adhering governments to promote and implement the Guidelines. The NCPs assist enterprises and their stakeholders to take appropriate measures to further the implementation of the Guidelines. They also provide a mediation and conciliation platform for resolving practical issues that may arise.’² The Procedural Guidance covers the role and functions of NCPs in four parts: institutional arrangements, information and promotion, implementation in specific instances and reporting. In 2011 the Procedural Guidance was strengthened. In particular, a new provision was added to invite the OECD Investment Committee to facilitate voluntary peer evaluations. In the commentary to the Procedural Guidance, NCPs are encouraged to engage in such evaluations.

The objectives of peer reviews as set out in the Core Template for voluntary peer reviews of NCPs³ are to assess that the NCP is functioning in accordance with the core criteria set out in the implementation procedures; to identify the NCP’s strengths and possibilities for improvement; to make recommendations for improvement and to serve as a learning tool for all NCPs involved.

¹ Amendment of the Decision of the Council on the OECD Guidelines for Multinational Enterprises, para I(4)

² OECD Guidelines for Multinational Enterprises (2011), Foreword

³ OECD, Core Template For Voluntary Peer Reviews Of National Contact Points (2015), [DAF/INV/RBC\(2014\)12/FINAL](#)

This report was prepared based on information provided by the NCP and in particular, its responses to the NCP questionnaire set out in the core template⁴ as well as responses to requests for additional information. The report also draws on responses to the stakeholder questionnaire which was completed by nineteen organisations representing enterprises, civil society, trade unions/representative organisations of the workers' own choosing (worker organisations), international organisations, academic institutions and government agencies (see 1. Annex B for a complete list of stakeholders who submitted written feedback) and information provided during the on-site visit.

The peer review of the NCP was conducted by a peer review team made up of reviewers from the NCPs of Spain and Switzerland, along with representatives of the OECD Secretariat. The Korean NCP observed the peer review. The on-site visit to London took place on 7-9 November and included interviews with the NCP, other relevant government representatives and stakeholders. A list of organisations that participated in the on-site visit is set out in Annex C. The peer review team wishes to acknowledge the NCP for the quality of the preparation of the peer review and organisation of the on-site visit, though it notes the relatively low engagement of stakeholders with the peer review process, in particular business stakeholders.

The basis for this peer review is the 2011 version of the Guidelines. The specific instances considered during the peer review date back to 2002. The methodology for the peer review is that set out in the core template.⁵

Economic context

The United Kingdom's economy is dominated by the service sector, representing 80% of GDP. Inward stocks of Foreign Direct Investment were equivalent to 61% of GDP in 2017, with outward stocks representing 62%. The UK economy is less open than the median OECD values in terms of trade, but it stands above the median values for FDI. The main investors in the United Kingdom are the United States, the Netherlands, Luxembourg, Jersey and France and the main inward investment sectors are financial and insurance activities, manufacturing, wholesale and retail activities and mining and quarrying.

The main destinations for outward investment from the United Kingdom are the United States, the Netherlands, Luxembourg, France and Hong-Kong (China), and the most important sector is finance and insurance, followed by manufacturing, mining and quarrying and information and communication activities. The most important partner countries for exports of goods are the United States, Germany, France, the Netherlands and Ireland, while the most important source countries for imports of goods are Germany, China, the United States, the Netherlands and France. The most important destinations for exports of services are the United States, Germany, France, Switzerland and the Netherlands, and the most important sources for imports of services are the United States, Spain, France, Germany and Ireland.

⁴ OECD, Core Template For Voluntary Peer Reviews Of National Contact Points (2015), [DAF/INV/RBC\(2014\)12/FINAL](#)

⁵ OECD, Core Template For Voluntary Peer Reviews Of National Contact Points (2015), [DAF/INV/RBC\(2014\)12/FINAL](#)

3. THE UK NCP AT A GLANCE

Established: 2000

Structure: ‘Monoagency plus’ NCP, supported and overseen by a Steering Board composed of government representatives, representatives of stakeholders and one unaffiliated member.

Location: Department for International Trade (DIT), Trade Policy Directorate, Investment Policy Team.

Staffing: Two full-time staff and one part time member of staff (80%).

Website: <https://www.gov.uk/government/groups/uk-national-contact-point-for-the-organisation-for-economic-co-operation-and-development-guidelines>

Specific instances received: 51

4. INSTITUTIONAL ARRANGEMENTS

Under the Commentary to the Procedural Guidance of the Guidelines:

"Since governments are accorded flexibility in the way they organise NCPs, NCPs should function in a visible, accessible, transparent, and accountable manner."

Legal basis

The UK NCP is not established by a legal instrument. It is made up of a team located within a Government Department. Decisions about how such teams are set up are taken by the senior management of the Department, with Ministerial approval.

NCP Structure

Composition

The NCP has a ‘monoagency plus’ structure meaning that the NCP is composed of representatives of a single ministry and that stakeholders are involved in the work of the NCP on an advisory basis. The UK NCP consists of an independent team of government officials based in the Department for International Trade (DIT), within the Investment Policy Team in the Trade Policy Directorate.

The Investment Policy Team is headed by the Deputy Director of Investment Policy, who is the UK delegate to the OECD Investment Committee, the parent body of the OECD Working Party on Responsible Business Conduct (WPRBC). The NCP staff are employed by DIT. The Minister of State for Trade Policy has portfolio responsibility for the NCP.

The UK NCP was formerly located in the Department for Business, Innovation and Skills (BIS) along with the rest of the Investment Policy Team. In 2016, the new Department of International Trade (DIT) was created to bring together in one department functions that relate to international trade and investment. DIT’s objectives are to :

- Support and encourage UK businesses to drive sustainable international growth
- Ensure the UK remains a leading destination for international investment and maintains its number one position for international investment stock in Europe
- Open markets, building a trade framework with new and existing partners which is free and fair
- Use trade and investment to underpin the government’s agenda for a Global Britain and its ambitions for prosperity, stability and security worldwide⁶

⁶ DIT Single Departmental Plan <https://www.gov.uk/government/publications/department-for-international-trade-single-departmental-plan/department-for-international-trade-single-departmental-plan-may-2018>

The NCP has three permanent staff members, the Head of the NCP and two Senior Policy Advisers. A new Head took up the post in November 2018.

In addition, the NCP draws on specialist legal advice from the Government Legal Department and communications specialists as and when required. The UK NCP is also able to consult colleagues from other government departments, when needed.

Function

The NCP team is responsible for all NCP functions, including: case handling, stakeholder engagement, outreach, promotion of the Guidelines, cross-Government engagement and liaising with the Steering Board of the NCP. The UK NCP operates as an independent team from other policy areas in DIT. Namely all decisions are made independently by the UK NCP team. The Head of the NCP is the UK delegate to the OECD Working Party on Responsible Business Conduct. One Senior Policy Advisor leads on casework, while the second Senior Policy Advisor leads on stakeholder engagement.

Stakeholder inputs to the peer review show differences in the perception of the structure of the UK NCP. Business stakeholders indicated that the NCP's operation at arm's length from the rest of DIT allowed it to be viewed as independent from political interference, and that the structure of the NCP seemed appropriate with regard to the functional equivalence criteria. On the other hand, civil society and trade union stakeholders shared that the structure of the UK NCP was not clearly communicated. In particular, the fact that the NCP is part of the DIT and reports to the Deputy Director for Investment Policy creates concerns for stakeholders about the NCP's impartiality. Stakeholders shared the concern that the DIT's duty to promote British trade and investment abroad may lead the NCP to favour the positions of enterprises on the resolution of specific instances, or that DIT's approach to trade agreements may not take RBC sufficiently into account. It also appears that the exact implications of the NCP being an independent team within DIT are not fully clear given that the NCP sits within the team of the Deputy Director for Investment Policy's, who provides the NCP with managerial support. These stakeholders thus suggested, for instance, that specific instances should be decided by independent experts.

Additionally, in the absence of a formal legal document setting up the NCP, the fact that its mandate, structure and functioning is not recorded in formal terms of reference contributes to this general lack of clarity and visibility around the NCP structure and role as a non-judicial grievance mechanism rather than a semi-legal mechanism. This may result in expectations which do not correspond to the NCP's mandate. For example, some stakeholders indicated that the outcomes they preferred from specific instances were determinations of non-observance contrary to mediated agreements, which is the primary aim of the NCP's process. The NCP should therefore clarify the place and role of these two types of outcomes in helping parties resolve issues raised in specific instances. Additionally, the need for victims to obtain remedy as a result of NCP cases has been highlighted by several civil society stakeholders.

While remediation for victims is indeed part of the issues to be considered by the NCP, and a concern for the entire NCP network, the NCP should also better clarify to actual and potential submitters what exactly it can deliver, notably that it is not in a position to authoritatively order that a company take remedial action, given that it is a non-judicial mechanism.

In order to address this lack of visibility and clarity, the mandate and structure of the NCP should be clarified and communicated. For example, an official document describing the NCP's mandate and structure (including how it relates to the rest of DIT in terms of independence and accountability) could be established and made available to the public. Additionally, writing an annual report on NCP activities, publishing it on the NCP website and sending it to relevant authorities, including Parliament, could also help remedy these deficits. This report could either be done on the basis of the Annual Report to the OECD Investment Committee, or constitute a separate report.

NCP advisory and oversight body

In 2007, following a public consultation, an independent Steering Board was introduced with the role of advising and overseeing the NCP. The Steering Board membership was renewed in 2018.

The Steering Board comprises eight members (four government members and four 'external' members) appointed for a term of three years, renewable up to 10 years, and a Chair (one representative from DIT). Membership is governed by the Steering Board's terms of appointment.⁷ Steering Board members are volunteers and are not paid for their role.

Composition

The Steering Board is chaired by a senior civil servant in the Department for International Trade.

The board also includes representatives from:

- Foreign and Commonwealth Office (FCO);
- Department for International Development (DfID);
- Department for Work and Pensions (DWP);
- Department for Business, Energy and Industrial Strategy (BEIS).

This composition is based on the interest each of these departments have in the promotion and implementation of the OECD Guidelines for Multinational Enterprises. Other departments may participate in board meetings on an ad hoc basis when issues of interest arise.

⁷ See <https://www.gov.uk/government/publications/uk-national-contact-point-steering-board-terms-of-reference-and-role/uk-national-contact-point-ncp-steering-board-terms-of-appointment>.

The steering board also includes:

- A representative of business;
- A representative of trade unions;
- A representative of NGOs;
- An ‘unaffiliated’ member

DIT acts as the secretariat to the Steering Board. In practice NCP staff have acted as the secretariat of the Steering Board. The non-governmental members are chosen for the competences they bring which are relevant to the board’s function and operation, and may act as representatives of their respective constituents.

With the agreement of the Chair, the Steering Board may call upon further experts on themes covered by the Guidelines as appropriate, based on a list maintained by the Steering Board secretariat (i.e. the NCP staff).⁸

The standards applicable to public office-holders in the UK, called the ‘Nolan Principles of Public Life’, apply to the members of the Steering Board.⁹ Members must declare any personal or business interests which may, or may be perceived to, influence their judgment in performing their functions.

The procedure for appointing individuals to the Steering Board is not set out in a formal document, but the procedure is based on similar procedures used elsewhere in the UK government. The Chair is responsible for overseeing the process for appointing new members to the Board.

With regard to members from government, the UK NCP invites the relevant government departments (as listed in the Terms of Reference) to nominate the person in post in the area where their work overlaps with that of the UK NCP.

With regards to the business, trade union and civil society members, the UK NCP writes to the relevant key stakeholders (Confederation of British Industry, International Chamber of Commerce, Trades Union Congress and the Corporate Responsibility Coalition) asking them to each nominate 2 or 3 candidates for the respective Steering Board posts, along with appropriate alternates. The Chair then invites individuals to be considered for the role.

The Chair also invites individuals to be considered for the role of unaffiliated member based on a search across the network of the NCP’s stakeholders. The personal criteria for the role are the same as for the other members, but the unaffiliated member needs to have relevant and broad experience that will complement the existing competencies of the NCP Steering Board, so as to ensure that all its processes can benefit from an additional balanced and objective view.

Once the potential candidates for the non-Government posts have agreed to be put forward for the position, the UK NCP informs the Minister of State for Trade Policy of the selection, who can then provide comments. Subject to these comments, the selection of the candidates is confirmed and the Chair of the Steering Board will make the appointment.

⁸ See the Terms of Reference of the UK NCP, Section 1.

<https://www.gov.uk/government/publications/uk-national-contact-point-steering-board-terms-of-reference-and-role/uk-national-contact-point-uk-ncp-steering-board-terms-of-reference-and-role>.

⁹ See <https://www.gov.uk/government/publications/the-7-principles-of-public-life>.

Function

The responsibilities of the Steering Board are set out in Section 2 of its Terms of Reference¹⁰ as follows:

- To keep its own terms of reference under review;
- To oversee and monitor the effectiveness of the operation of the UK National Contact Point, ensuring correct and fair procedures are followed in line with the established and published UK NCP procedures for dealing with complaints;
- To agree any changes in procedures, and develop further procedures if necessary;
- To consider issues of general and specific application of the OECD Guidelines at the request of UK NCP, for example regarding new or contentious issues, with respect to procedure only;
- To consider requests for review in relation to specific instances examinations, with respect to procedure only;
- To assist and advise the UK NCP in relation to the promotion and awareness raising of the Guidelines;
- To consider issues where clarifications or improvements to the Guidelines are proposed for bringing to the attention of the OECD Investment Committee - the Steering Board may make recommendations to ministers as appropriate in this respect.

The Steering Board does not make decisions on the substance of specific instances.

The Steering Board meets on a quarterly basis, but may hold extraordinary meetings as and when required. Regular attendance is expected from members, and membership may be terminated ‘if erratic attendance begins to interfere with the good running of the steering board.’¹¹

The Steering Board’s Terms of Reference state that ‘Board members will work in a collegiate manner in relation to decision taking. The chair of the Steering Board will draw conclusions based upon discussions.’ The Steering Board operates in an open and transparent manner, in line with the Cabinet Office Code of Conduct for Board Members of Public Bodies.¹² Minutes of Steering Board meetings are published on the UK NCP’s website. Currently, the minutes of the last meeting of the Steering Board are available on the website. However, according to the Steering Board Terms of Reference, if the UK NCP, or any member of the Steering Board, requests that particular issues be treated in a confidential manner, provided the board as a whole agrees, Steering Board members will respect this confidentiality and such issues will not appear in the minutes.

¹⁰ See <https://www.gov.uk/government/publications/uk-national-contact-point-steering-board-terms-of-reference-and-role/uk-national-contact-point-uk-ncp-steering-board-terms-of-reference-and-role>

¹¹ UK NCP Steering Board Terms of Appointment, para. 9.

¹² See <https://www.gov.uk/government/publications/board-members-of-public-bodies-code-of-conduct>.

Review of the UK National Contact Point (UK NCP) Steering Board

In a spirit of continuous improvement, in 2017, an internal review of the UK NCP Steering Board¹³ was commissioned and conducted by an official from DIT. The purpose of the review was to consider the Board's ability to meet its core functions of providing general guidance to the UK NCP and conducting procedural reviews, in particular by examining whether the following were appropriate:

- Composition: including number of members, diversity, type of membership (e.g. advisory, decision-making) and expertise
- Representation: breadth and depth of representation of key stakeholders (e.g. trade unions, civil society, business, government)
- Steering Board procedure: including Secretariat, relationship with UK NCP and working practices to meet core objectives
- Selection process and on-going engagement: consideration of approach to recruiting Board members and options to maintain effective participation.

More information about the internal review is available in Annex F.

The Steering Board – with its advisory and oversight functions – is a key element of the UK NCP's structure, in particular as it monitors the effectiveness of the NCP's operations. The functioning of the Steering Board may still be improved as certain stakeholders and Steering Board members noted that the confidence of stakeholders in the UK NCP had dropped of late. Some stakeholders were of the view that the Steering Board could have helped avoid this situation if it had been more effective in providing advice and oversight to the NCP.

The current members of the Steering Board have however been in place for less than a year (at the time of the on-site visit), and some Board members expressed that they still lacked full visibility on the extent of their advice and oversight functions and corresponding 'powers'. Some members also found it difficult to exercise their functions given that information made available by the NCP is limited by confidentiality considerations.

In this regard, the terms of reference of the Steering Board should be revised to ensure its advisory and oversight functions are clearly defined, as well as the information which is to be made available to it.

Some stakeholders and Steering Board members also had concerns regarding the independence of the Steering Board. First, the Chair of the Steering Board is the Deputy Director for Investment Policy. Second, the terms of reference of the Steering Board provide that 'Board members will work in a collegiate manner in relation to decision taking' and that the chair 'will draw conclusions based upon discussions' (in practice, Steering Board members indicated that decision were made by consensus). Finally, the Secretariat of the Steering Board is exercised by the NCP itself. It appears that, even though the Nolan Principles of Public Life apply to members of the Steering Board (see above), the decision-making and secretarial arrangements of the Steering Board potentially limit its independence.

The terms of reference of the Steering Board should thus be revised to address concerns relating to its independence. Examples of revisions suggested by stakeholders or by the internal review of the Steering Board (see Annex 6) could include that the chairship of the Steering Board be exercised either by an independent person, or on a rotating basis, and that decisions be made by consensus. In addition, new terms of reference could provide that the Secretariat be exercised by civil servants not active on the NCP.

Human resources

Stakeholders who have engaged with the NCP over the years have praised the UK NCP staff for their competence, responsiveness and impartiality, although the recent high staff turnover affected the NCP's activities in recent years.

The NCP provides induction for new staff by the existing staff providing background information and training on the Guidelines and the NCP's processes and procedures. In addition, new staff attend the sessions for new NCP officials organised by the OECD Secretariat.

Departing members provide successors with a handover note on their ongoing work to assist with the transition. The UK NCP noted that recent changes to the NCP staff has provided an opportunity to review internal handling processes and to better log information received from parties.

The NCP uses an electronic directory for document storage, which is only accessible to the NCP team to preserve confidentiality.

As indicated above, NCP members, members of the Steering Board, and stakeholders indicated that the high turnover experienced since 2016 had severely impacted on the NCP, leading in particular to some significant delays in the treatment of specific instances (see below, Timeliness section).

Financial resources

The NCP does not have a dedicated budget per se, but is jointly funded by DIT and from a dedicated programme from the Department for International Development (DfID). The Head of the NCP ensures that the team's spending is budgeted for and reported on internally.

In its 2017 annual report to the Investment Committee, the UK NCP reported being able to access funds for organising promotional events, attending NCP meetings at the OECD, attending events organised by other NCPs, attending events organised by other stakeholders, mediator fees. The UK NCP also indicated that funding was available for fact-finding missions but none were necessary.

The UK NCP's current staffing arrangements, considering the assistance provided by the Steering Board, seem sufficient to perform the NCP's various tasks. In addition, the fact that the NCP hires professional mediators from its own budget is widely regarded as a strong asset of the UK NCP procedure of handling specific instances (see below). Some stakeholders however have expressed concerns that the UK NCP lacked adequate resources including a Joint Parliamentary Committee on Human Rights report from 2017 (see below, next section).

Reporting

Regular reporting

The UK NCP reports annually to the OECD Investment Committee, but does not publish these reports on its website. Civil society and trade union stakeholders suggested that publishing and disseminating these annual reports would increase the NCP's transparency. Business stakeholders indicated that the UK NCP could do more to report through intermediary business associations and civil society groups.

The UK NCP reports to Ministers, as well as to Parliament, in an ad hoc manner.

The UK NCP reports to its Steering Board quarterly. The NCP Steering Board receives updates from the NCP on its outreach work and ongoing case work at its quarterly meetings.

The UK NCP reports to the Department for International Development on a quarterly basis. The NCP also reports to senior colleagues within the Department for International Trade on an ongoing basis.

The NCP reports to Parliament through its Minister, by providing copies of its initial assessments, final statements and follow up statements to the Libraries of the Houses of Parliament. Members of Parliament regularly ask in written Parliamentary Questions (PQ) about the OECD Guidelines or issues relevant to them and the work of the NCP, to which the relevant Minister responds. All documents shared with Parliament and answers to PQs are published via the Parliament.uk website.

As indicated above, the regular publication and wide dissemination of an activity report, e.g. to Parliament, would increase the visibility, transparency and accountability of the NCP.

Joint Parliamentary Committee on Human Rights Report of 2017

The NCP also responds to requests from Parliamentary Select Committees for information.¹⁴ Aspects of the NCP's work may be relevant to a number of committees and the NCP contributes to Government responses along with the other relevant departments and agencies. For example, in November 2016, the NCP met with members of the Joint Committee on Human Rights during an inquiry into Human Rights and Business.

¹⁴ The UK NCP clarified that Parliamentary Select Committees are responsible for scrutinising the work of a particular department (e.g. the International Trade Committee) or for scrutinising work across departments on a particular topic (e.g. Human Rights, Public Accounts, Science and Technology). Parliamentary Committees consist of MPs and/or Peers from across Parliament, who have powers to invite and consider evidence from a variety of sources. Government will respond to a Committee's report to indicate whether it accepts the recommendations made and what actions it intends to take, where relevant.

The Joint Committee issued a report¹⁵ and the Government responded.¹⁶ A summary of the conclusions of the inquiry and of the Government’s response is provided in Annex E.

	Findings	Recommendation
1.1	There is a lack of clarity and visibility around the structure and mandate of the UK NCP as a non-judicial grievance mechanism. The implications of its being set up as an independent team within DIT are unclear. In the absence of a legal document setting up the NCP, the fact that its mandate, structure and functioning is not recorded in formal terms of reference contribute to this general lack of clarity and visibility around the NCP structure.	The NCP’s mandate, structure and functioning should be clarified, described and communicated in a public document, and an annual report on NCP activities should be published and sent to relevant authorities, including Parliament.
1.2	There is a lack of clarity about the extent of the Steering Board’s advice and oversight functions, and what the corresponding ‘powers’ of the Steering Board are in regard to both. The exercise of these functions is rendered difficult by the limited information made available to the Steering Board.	The terms of reference for the Steering Board should be revised to define more precisely the advice and oversight functions of the Steering Board and the information which is to be made available to it.
1.3	The chairship and secretariat arrangements of the Steering Board potentially limit its independence and reduce the confidence of stakeholders.	The UK NCP should address the concerns relating to the independence of the Steering Board.

¹⁵ See House of Lords, House of Commons, Joint Committee on Human Rights, ‘Human Rights and Business 2017: Promoting responsibility and ensuring accountability’, Sixth Report of Session 2016–17, 5 April 2017, <https://publications.parliament.uk/pa/jt201617/jtselect/jtrights/443/443.pdf>.

¹⁶ See House of Lords, House of Commons, Joint Committee on Human Rights, ‘Human Rights and Business 2017: Promoting responsibility and ensuring accountability: Government Response to the Committee’s Sixth Report of Session 2016–17’, 12 January 2018, <https://publications.parliament.uk/pa/jt201719/jtselect/jtrights/686/686.pdf>.

5. PROMOTION OF THE GUIDELINES

Promotional plan

The NCP's promotional plan is included as part of its Engagement Strategy for 2018 to 2023, which was designed in consultation with stakeholders. The Engagement Strategy is not public at this stage but was shared with the Steering Board members, who receive an update on the plan at each meeting.

The Engagement Strategy sets out a number of objectives which are all developed in an implementation plan, including specific actions and planned events. Civil society stakeholders suggested in this regard that the UK NCP should increase transparency by publishing on its website the promotional events it is carrying out.

The UK NCP reported that businesses that have indicated an awareness of the Guidelines generally use the Guidelines in developing their RBC policies, and find the UK NCP's work useful. Stakeholders consider that familiarity with the Guidelines is satisfactory among the biggest companies, but not in smaller companies. The UK NCP also recognises that raising the overall awareness of the NCP process to the business community is a challenge, as is assisting them to implement the Guidelines across individual organisations.

The UK NCP does not carry out surveys to measure business awareness of the Guidelines, and prefers more targeted ways to measure changes in awareness levels generally as a response to specific NCP initiatives. Business stakeholders indicated that the adoption of the Engagement Strategy had allowed the UK NCP's promotion efforts to become more effective, while they would appreciate if the Minister were more visible to promote the Guidelines and the role of the NCP.

Steering Board members also play a role in promoting the Guidelines. For example, the current business representative gave a presentation on the OECD Guidelines and the NCP to a visiting delegation from the Faculty of Law, Queen's University, Canada, in 2017.

Some stakeholders commended the UK NCP for its recent promotion efforts such as the hiring of a person dedicated to stakeholder engagement and the elaboration of a Stakeholder Engagement Strategy. The UK NCP however suffers from a lack of awareness and visibility among some key stakeholders, a common issue among NCPs, as indicated for example by the relatively low level of stakeholder submissions to the peer review process. Based on stakeholder input to the peer review, the UK NCP seems little known to companies, although the UK does not systematically measure knowledge of the Guidelines and the NCP among business and other constituencies. All stakeholder groups considered that the Guidelines and the NCP were little known beyond the largest organisations. Some of them stated that they would like the NCP to more directly engage to promote the Guidelines, in addition to discussing suggestions and concerns.

The UK NCP should launch a campaign to step up and publicise its promotion efforts, in accordance with its Stakeholder Strategy which includes continuing dialogue with trade unions and civil society in order to restore trust in its relationship with them as stakeholders. The NCP should also consider putting in place more systematic processes to enhance and measure business awareness of the Guidelines and the NCP. The past and future events and activities planned according to the promotional plan should also be widely publicised and disseminated to ensure the greatest possible exposure.

Information and promotional materials

The UK NCP's promotional strategy contains particular actions regarding information and promotional materials included: considering a name change to make the NCP's role clearer, ensuring its website is accessible and transparent, developing user-friendly material to effectively communicate the role of the UK NCP.

The UK NCP informs stakeholders about the role of the NCP and what can be achieved through its complaints mechanism through the provision of information on its website. The UK NCP also offers to meet with the parties to a complaint at an early stage to explain the process and answer any questions. However, as indicated above, there is a need for the UK NCP to more actively clarify its role and functioning so as to ensure that submitters' expectations regarding the specific instance process are consistent with its mandate to act as a non-judicial mechanism.

Stakeholders generally reported that outreach regarding the Guidelines and the possibility of filing specific instances should be improved, though the information available regarding specific instances on the website was clear. However, the suggestion was also made by stakeholders to develop appealing flyers to be disseminated to stakeholders. Business stakeholders further suggested that copies of the Guidelines and information NCP could be sent unsolicited to enterprises and advisors to enterprises. Business stakeholders indicated that they would like to see more accessible NCP leaflets at industry conferences.

Website

The UK NCP has a website containing the following:

- Contact details for the NCP;
- Details about the complaints handling processes;
- Copies of Initial Assessments, Final Statements, Follow Up Reports and Procedural Reviews on the specific instances that the NCP has handled;
- Information on the structure of the NCP Steering Board;
- Minutes of the last Steering Board meetings;
- Information on the OECD Guidelines including a link to the OECD website.

Data reported by the UK NCP shows an increase in viewing figures over time: in 2016 there were 1121 initial viewings of the website, in 2017 there were 1766, and 3050 in 2018.

As indicated above, only the minutes of the latest meeting of the Steering Board are available on the website. The reason for this lack of document availability is that the UK NCP's website is embedded into the general UK government website (gov.uk), causing all documents to be transferred to the National Archives website after a certain period of time. Stakeholders suggested that the minutes of all past meetings should also be retained on the website to increase transparency.

Additionally, the website does not contain an events section, so that past and future promotional events are not advertised on the website. The website does not reflect the latest developments in the field of RBC, such as the recent adoption of the OECD Due Diligence Guidance for RBC. In general, stakeholders considered that the website was informative but not user-friendly, and that it did not significantly contribute to the NCP's visibility. Trade union and civil society stakeholders also indicated that the website was only available in English and recommended that at least the procedural documents be made available in other languages, so as to increase accessibility. It was finally suggested that the UK NCP should have a social media presence.

Many limitations are inherent to the gov.uk template. However, there is potential for improvement with regard to website structure, navigability and availability of information. In particular, a link should be provided to the National Archives website where older documents can be accessed. An events page and a latest developments page should also be added. Finally, the UK NCP should perform an analysis as to whether providing foreign language versions of key elements of the website would be effective in increasing accessibility and predictability of the specific instance process for non-English-speaking stakeholders.

Promotional events

In its 2017 Annual Report to the OECD Investment Committee, the UK NCP reported organising or co-organising 22 events. Six of these events were aimed at NGOs, five at government representatives, four at business representatives, two at academia, one at trade unions, one at legal professionals, and one at another NCP (Ukraine).

The NCP also participated in five events organised by other organisations. Four of these events were organised by business associations (of which three by UK Finance) and one by the United Nations (the UN Forum on Business and Human Rights).

Recent examples of work with trade associations and NGOs to promote the guidelines to businesses reported by the UK NCP include:

- Training workshop on mediation with the Consensus Building Institute (CBI);
- Hosting a series of annual joint trade association and Institute of Human Rights and Business (IHRB) workshops for the extractive, finance, IT and construction sectors;
- Presentations at RBC events organised by the legal community for their clients;
- Workshops for members of the Institute of Business Ethics (IBE);
- Roundtable events with the UK Finance trade association.

Business stakeholders stated that they appreciated the presentations the UK NCP provided in relation to general RBC and Guidelines principles. It was noted that the UK NCP had also provided events focusing on specific sectors and industries. However, all stakeholders stated that the UK NCP could be more active in its outreach work. Suggestions made by stakeholders included having stands at key business organisation events and corporate responsibility events. Another possibility put forward was becoming a joint partner in corporate promotion events.

Promotion of policy coherence

The Engagement Strategy 2018-2023 includes promoting policy coherence on RBC across government.

The UK NCP has been mentioned in the following UK Government initiatives which address issues relevant to the Guidelines. For example:

The UK National Action Plan to implement the United Nations' Guiding Principles on Business and Human Rights (NAP), which was published in 2013 and last updated in 2016¹⁷, notes the UK Government's commitment for the UK NCP to be part of a non-judicial means to address concerns. The UK NCP played an active part in the development of the NAP, and contributes to the progress reports and work done on the NAP.

- The UK Government's recent Civil Society Strategy includes a mission to support responsible businesses which mentions the existence and the role of the NCP.
- The UK has been at the forefront of introducing measures to address modern slavery. This includes making available material to the business community, which advises them on how to tackle slavery in their supply chain. The Guidance issued under section 54(9) of the Modern Slavery Act 2015 mentions the NCP and its role in the annex on 'The Act in the context of other reporting requirements.'

The NCP has, through the FCO and BEIS, also made the links with relevant international initiatives in the extractive and energy industries, such as the Extractive Industries Transparency Initiative and European Partnership for Responsible Minerals.

The UK NCP and its work is well known in departments which are represented on the Steering Board, but not across government as a whole. In particular, the UK NCP has been associated with the promotion of RBC overseas, but less so with promotion within the UK, where the RBC agenda is advanced by a number of different departments and agencies (e.g. BEIS, the Office of Civil Society, Cabinet Office).

¹⁷ See

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/522805/Good_Business_Implementing_the_UN_Guiding_Principles_on_Business_and_Human_Rights_updated_May_2016.pdf

Some stakeholders indicated that they viewed the participation of government representatives in the Steering Board as an opportunity for policy coherence. Business stakeholders also shared that they would like to see the work of the NCP feature more prominently in relevant human rights policy documents or ministerial speeches about corporate governance and sustainability.

The UK government's RBC policy is not managed by a single department, and with due regard for the allocation of responsibilities regarding RBC set by the UK Government, the UK NCP should ensure that it continues to work and develop relationships with other government departments so as to increase its visibility in the promotion of the Guidelines domestically and overseas as part of the UK government's wider RBC policy. This should be done through outreach according to the promotional plan, through ensuring that the government members of the Steering Board act as relays of the NCP in their activities, and through regular and public reporting to Parliament.

Proactive agenda

The NCP tracks emerging challenges through regularly liaising with its constituents and stakeholders (including via its Steering Board), as well as other NCPs. For example, the UK NCP engaged several times in the last year with UK Finance (a sector organisation) as part of the new OECD Guidance on Responsible Business Conduct for General Corporate Lending and Securities Underwriting. The UK NCP also tracks trends or emerging issues through the comparatively large number of specific instances it receives (see below). For instance, a series of final statements by the UK NCP in cases concerning mineral supply in the Democratic Republic of Congo helped pave the way for the development of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.¹⁸

The UK NCP also supports the OECD's RBC work programme and promoting sector guidance. For instance, as well as its engagement with UK Finance, the UK NCP promoted RBC in the garment sector after the Rana Plaza collapse, including through working with Primark's Ethical Trade and Sustainability team and hosting an awareness raising workshop in Bangalore with suppliers to western companies. Business stakeholders noted that the NCP provides information to stakeholders and seeks their input regarding proactive agenda projects.

The NCP also takes a positive approach to supporting the WPRBC's development of new guidelines. The Head of the UK NCP took part in the multi-stakeholder groups for the financial sector work and the OECD Due Diligence Guidance for Responsible Business Conduct, and facilitated contribution from UK stakeholders to the development of such guidance.

¹⁸ See OECD (2015), *Implementing the OECD Guidelines for Multinational Enterprises: The National Contact Points from 2000 to 2015*, p. 79.

Requests for information

The UK NCP receives requests for information from a range of sources, and answers most of these by directing them to the relevant information already publicly available on the NCP or the OECD's website.

Details on how information can be requested from the NCP are on its website. The NCP receives most requests by e-mail and aims to respond within 10 working days in line with standard departmental practice. Stakeholders generally found the UK NCP staff to be responsive to requests.

Cooperation amongst NCPs

The NCP is active in providing outreach support to other NCPs. Over the past 6-7 years, the UK NCP reported participating in many global events relating to peer learning and capacity building and in meetings and events organised by the WPRBC and the NCP network. For example, in 2014 the UK NCP supported Colombia's NCP in its hosting of a peer learning and capacity-building session for Latin American NCPs.¹⁹ The UK NCP received positive feedback on its contributions. Examples of such support activities reported by the UK NCP include:

- The NCP mentoring programme in Colombia (2012-2013);
- Workshops on the Guidelines and NCP network for officials in the Indian and Myanmar governments (Dec. 2012 and Aug. 2013);
- Joint Conferences with the Brazilian and Norwegian NCPs (Jan. 2013, Oct. 2013, Jan. 2014);
- Training sessions for central European NCPs (Sept. 2013);
- Advice on setting up an oversight bodies with the Ukrainian NCP (Oct. 2017).

The UK has also participated as a reviewer in six out of the 13 NCP peer reviews completed so far, namely those of Japan, Norway, Denmark, Switzerland, Chile and Canada.

The support of the UK NCP to other NCPs has been sought by the OECD Secretariat and directly from NCPs. The UK NCP views these requests as a sign that it is considered a model for best practice.

The UK NCP regularly attends and contributes to the OECD's Global Forum on Responsible Business Conduct. At the most recent Global Forum, the UK NCP supported its unaffiliated Steering Board member in making contact with members of other NCP advisory and supervisory Boards. This informal meeting has led to the creation of a 'virtual' contact group through which such representatives can share experiences and learn from each other.

¹⁹ See OECD (2015), *Implementing the OECD Guidelines for Multinational Enterprises: The National Contact Points from 2000 to 2015*, p. 88.

	Findings	Recommendation
2.1	The UK NCP suffers from a lack of awareness and visibility among key stakeholders beyond the largest organisations. Stakeholders would like the NCP to more directly engage with them.	The UK NCP should strengthen engagement and increase awareness of the Guidelines and the NCP with key stakeholders (including SMEs)
2.2	The UK NCP does not systematically measure knowledge of the Guidelines and the NCP among business and other constituencies.	The UK NCP should systematically measure stakeholder awareness of the Guidelines and the NCP.
2.3	The UK NCP's website is informative but not user-friendly and incomplete, as it does not contain recent developments or events sections, and as older documents are automatically transferred to the national archives website. The website is also only available in English.	To the extent possible within the gov.uk template, the UK NCP should improve the structure and navigability of its website. To be more comprehensive, the website should include links to the national archives where relevant and an events and latest developments page. The UK NCP should also assess the need for key information on the website to be available in other languages.
2.4	The UK NCP is well known to departments which have a structural connection to the NCP but insufficiently beyond that circle, which reduces the potential for policy coherence. The UK NCP is also viewed by other government departments as mainly active on promotion of the Guidelines overseas, but less so on promotion within the UK.	With due regard for the allocation of responsibilities set by the UK Government, the UK NCP should ensure that it continues to work and develop relationships with other government departments and Parliament so as to increase its visibility in the promotion of the Guidelines domestically and overseas as part of the UK government's wider RBC policy. Government members of the Steering Board should also continue to act as representatives of the NCP across government.

6. SPECIFIC INSTANCES

Overview

The UK NCP has received a total of 51 specific instances (since 2002). This is the largest number among all NCPs, testifying to the high profile of the UK NCP. Among these cases, it accepted 33 cases (three of which are not yet concluded), and 17 cases have not been accepted. One case is in the initial assessment phase. The UK NCP has undertaken mediation in fourteen cases, of which ten resulted in an agreement.²⁰

The sectors most represented across the cases handled by the UK NCP are:

- Manufacturing (13 cases);
- Mining and quarrying (8 cases);
- Wholesale and retail trade (8 cases);
- Financial and insurance activities (4 cases);
- Information and communication (4 cases).

Rules of procedure

The UK NCP produced its ‘Procedures for dealing with complaints brought under the OECD Guidelines for Multinational Enterprises’²¹ (the RoP) in 2008, and updated them subsequently in 2009, twice in 2011, 2013 and 2014. The current version (January 2014) is published on the UK NCP’s website.

The RoP use the term ‘complaint’ for the submission of a specific instance and identify three stages of the procedure:

- Stage 1: From receipt of complaint to Initial Assessment;
- Stage 2: From acceptance of a case to conclusion of mediation or, if mediation is refused or fails, fact finding;
- Stage 3: Drafting and publication of Final Statement.

Stakeholders found that the NCP’s procedures and approach were clearly explained on the website, thereby making the UK NCP accessible.

²⁰ The information on specific instances handled by the NCP is current as at the date of the on-site visit (8 November 2018).

²¹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/270577/bis-14-518-procedural-guidance.pdf

Submission

The RoP clarify that ‘any interested party’ may file a complaint, even ‘on behalf of other parties’ (para. 2.3.1). In addition, the RoP also specify that ‘complainants should have a close interest in the case and be in a position to supply information about it’ (para. 2.3.2).

The RoP do not specify the form or content of a complaint, but the NCP has produced a separate Guidance on bringing a complaint under the OECD Guidelines for multinational enterprises²² in the form of a questionnaire containing a number of questions aimed at substantiating the case.

The RoP explain the key steps made by the NCP upon receipt of a case, namely (Section 3.1):

- Acknowledgment of receipt within 10 days and contact the company to invite it to respond within 20 days (in exceptional circumstances, the NCP may dispense with eliciting a response from the company, see para. 3.1.5);
- If necessary, ask the complainant for further information or clarifications;
- Meet with parties separately to explain the NCP process and answer questions;
- Make a draft initial assessment and ask parties for comments before publication.

Additionally, the NCP may take the following steps as appropriate (Section 3.2):

- Ask parties for further information;
- Seek an opinion from the Steering Board or other known persons or organisations to clarify factual or background information.

In general, the UK NCP’s procedures and guidance are very advanced, and the level of detail and transparency have been welcomed by stakeholders as inspiring confidence in the system. The principle of continuous improvement is also visibly at play in the development of the UK NCP’s procedures. This is true for the general ‘Procedures for dealing with complaints brought under the OECD guidelines for multinational enterprises’, which have been updated five times since they were first published in 2009, but also of the UK NCP’s efforts to publish specific documents clarifying specific elements of the process, such as parallel proceedings, procedural reviews, or mediation (see below).

The Steering Board recently considered the UK NCP’s approach to allowing parties to submit cases in languages other than English, which would improve accessibility.

Initial assessment

The RoP specify the grounds on which the NCP will decide whether or not to accept the complaint (copying the criteria from the Procedural Guidance) and explains that acceptance of the complaint does not mean that the NCP considers that the Guidelines have been breached (Section 3.5).

²² <https://www.gov.uk/government/publications/complaint-form-for-national-contact-points-ncp-initial-assessment>

Likewise, the RoP specify the meaning and consequences of the NCP rejecting the complaint (Section 3.6) and of parties reaching an agreement before the issuance of the initial assessment.

Of the 51 cases received, the UK NCP decided not to accept 17 cases for further examination (one case is at the initial assessment stage). In deciding not to accept cases for further examination, the following reasons were provided:

- The issues were not substantiated in respect of the company's obligations under the Guidelines;²³
- An agreement had taken place between the parties, rendering the intervention of the NCP unnecessary;²⁴
- There was insufficient evidence to substantiate the complaint;²⁵
- Another NCP was competent;²⁶
- There is no link between the companies named in the complaint and the activities described in the complaint.²⁷

Between 2002 and 2010, the UK NCP received 25 cases and accepted 22. Since the revision of the Guidelines in 2011 (with the inclusion of the chapter on Human Rights) and until the time of the on-site visit, the UK NCP received 26 cases and published 25 initial assessments, accepting 11 cases for further examination.

The UK NCP rules of procedure are aligned with the Procedural Guidance of the Guidelines in respect of criteria for the initial assessment of whether to accept a case for further examination. In particular, they prescribe that, 'in making its Initial Assessment of a Specific Instance the NCP will consider the stated grounds of the complaint and the information it has received about the complaint, taking into account: [...] whether the issue(s) is(are) material and substantiated [...].' (para. 3.4.1.)²⁸

²³ Business relationships in Russia (2012); Business relationships in Russia [bis] (2012); Business relationships in Russia [ter] (2012); Racial discrimination in the United Arab Emirates (2013); Telecommunications service provided to a US defence agency (2013); Alleged disclosure breaches of the Guidelines in the UK (2013); Alleged general policy breaches of the Guidelines in the UK (2013); Telecommunications service supplied in co-operation with intelligence agencies (2014); Telecommunications service supplied to US defence agency (2014); Human rights issues involving a UK defence equipment company and the sale of munitions to the Government of Saudi Arabia (2016).

²⁴ Redundancies due to a plant closure in the UK (2006).

²⁵ Mining in the Democratic Republic of Congo (2003); Trade union representation in Bangladesh (2005); Environmentally harmful products in the UK (2011); Health and safety on cruise ships (2012).

²⁶ Security sector issues in Guantanamo Bay, Cuba (2014).

²⁷ Telecommunications service provided to a US defence agency (2013).

²⁸ See correspondingly the Commentary to the Procedural Guidance, para. 25: 'In making an initial assessment [...] the NCP will need to determine whether the issue is *bona fide* and relevant to the implementation of the Guidelines. In this context, the NCP will taken into account [...] whether the issue is material and substantiated [...].'

The UK NCP has received the highest number of cases in the entire network and continues to receive new cases. Civil society and trade union stakeholders however consider that, in practice, the UK NCP's level of scrutiny and burden of proof for performing initial assessment is too high and suggested that in order for the NCP to meet the core criteria of predictability and accessibility, the threshold for accepting complaints should be plausibility, and that only clearly frivolous cases should be rejected.

It indeed appears that the interpretation made by the UK NCP of the 'material and substantiated' criterion in its initial assessments since 2011 is strict compared to general practice in this regard, according to which, in order for a case to pass the test of materiality and substantiation, 'complainants must establish a clear link with the Guidelines, explain why there was non-observance of the Guidelines, as well as understand who the relevant parties are and their relationship to the issues [...]'.²⁹ Comparatively, some initial assessments published by the UK NCP already contain an examination of the merits of the submitter's case.

The UK NCP should in the future interpret the Guidelines criteria for initial assessment (in particular the 'material and substantiated' criterion) in a broad manner wherever possible.

Good offices

Stage 2 of the procedure consists of mediation between the parties or examination of the complaint by the NCP. In this regard, the RoP clarify that an agreed outcome is the preferred result of a specific instance, and that the NCP will offer mediation for that purpose, though mediation is voluntary. If the parties refuse to undertake mediation or if mediation fails, the NCP will examine the complaint (Section 4.1).

Parties can opt for mediation organised by themselves or by the NCP. In the first case, parties will agree on the mediator amongst themselves (Section 4.5). In the second case, the NCP will hire a professional mediator with the agreement of the parties, and draft terms of reference (Section 4.2). The mediator and the parties will then establish what can and cannot be shared outside of the mediation sessions. If the mediation succeeds, the content of the mediation sessions are kept confidential. The NCP will restrict its reporting to note whether mediation was successful or unsuccessful. However, at the parties' discretion, the NCP can be directed to include additional details or to comment on the mediated outcome.

The RoP (Sections 4.2 and 4.3) also specify the role of the mediator, the responsibilities of the parties to engage in the process in good faith and the three stages of the mediation process, namely:

- Meeting with the parties separately;
- Meeting with the parties together;
- Drafting the mediation agreement and the summary.

²⁹ OECD (2015), *Implementing the OECD Guidelines for Multinational Enterprises: The National Contact Points from 2000 to 2015*, p. 49.

In the event the parties request to mediate the case outside the NCP process, the RoP provide that the NCP will suspend the case and ask for updates every two months in order to determine whether to re-open or close the case (Section 4.5).

When mediation is refused or is unsuccessful, the RoP specify that the UK NCP will examine the complaint with the aim of assessing whether the complaint is justified (Section 4.6). At the outset of this process, the RoP specify that the UK NCP will give an indication of the steps it will follow, which it may modify by notifying the parties in writing.

The examination process may include:

- Collecting of further information from parties;
- Seeking advice from third parties (government departments, UK diplomatic missions, business associations, NGOs or other agencies) or independent opinion;
- Meeting with the parties;
- Exceptionally, a field visit.

Based on the information gathered, the NCP will make a decision as to whether the Guidelines have been breached. Civil society stakeholders commended the UK NCP for this practice.

The UK NCP decided that 33 out of 51 cases it received merited further examination. Out of these:

- In nine cases, mediation was not offered;
 - In one of these cases, the reason for not offering mediation was that the views of the parties were irreconcilable and mediation would not assist;³⁰
 - In one of these cases, the reason for not offering mediation was that the complainant was a UN Panel of Experts whose mandate had expired;³¹
 - In two of these cases, the reason for not offering mediation was that the parties had reached agreement outside of the NCP;³²
 - In one of these cases, the reason for not offering mediation was that there was no appropriate way forward as the company was not in a position to reopen the closed factory at issue;³³
 - In one of these cases, the reason for not offering mediation and closing the case was the lack of information received from the submitter;³⁴

³⁰ Mining in the Democratic Republic of Congo (2003).

³¹ Military supplies in the Democratic Republic of Congo (2003).

³² Employment issues related to a factory closure in India (2006); Environmental impacts in Mozambique (2010).

³³ Lack of union consultation over closure of a manufacturing plant in the UK (2006).

³⁴ Privatisation of industry in Zambia (2003).

- In three of these cases, no reason was given for not offering mediation.³⁵
- In seven cases, mediation was offered but declined by one of the parties;³⁶
- In four cases, mediation was offered and accepted, but the parties failed to reach an agreement;³⁷
- In ten cases, mediation was offered and accepted, and the parties reached an agreement;³⁸
- In one case, mediation was offered, and the case is still pending.³⁹

Parties to cases generally expressed satisfaction with the way the UK NCP's good offices process was explained to them, and were pleased with the professional independent mediation services when these were offered to them. They indicated that mediators ensured that parties were treated fairly and equitably. Some submitters however shared that their preferred expectation in submitting a case was a determination that the company breached the Guidelines rather than a mediated outcome or a recommendation, which are the primary aims of the NCP's process.

The following challenges were pointed out by stakeholders and case parties:

Reaching agreement on terms of reference for the mediation;

Ensuring confidentiality of mediation or other meetings, especially when these are held by tele- or videoconference. Business stakeholders indicated that lack of confidence regarding confidentiality could act as a disincentive to engage with the specific instance process;

Ensuring equality of arms between parties of different sizes and means, in particular the fact that effective participation in the specific instance process in complex cases often makes it necessary to secure costly legal help.

³⁵ Privatisation of the copper industry in Zambia (2002); Oil infrastructure project in Azerbaijan, Georgia and Turkey (2003); Due diligence failures when transporting minerals from the DRC (2005).

³⁶ Non-disclosure issues in the United Kingdom (2005); Non-disclosure issues in the United Kingdom [bis] (2005); Non-disclosure issues in the United Kingdom [ter] (2005); Failure to respect employee's right to representation in Malaysia (2007); Environmental impacts of a planned bauxite mine in India (2008); Displacement of local populations and environmental degradation in Bangladesh (2012); Alleged general policy breaches in Israel and the Palestinian Authority (2013).

³⁷ Lack of supply chain due diligence in the Democratic Republic of Congo (2007); Supplying of surveillance equipment in Bahrain (2013); Eurasian Natural Resources Corporation (ENRC) and the NGOs Rights and Accountability in Development (RAID) and Action Contre l'Impunité pour les Droits Humains (ACIDH) (2013); Alleged impacts on local populations of an oil and gas facility in Kazakhstan (2013).

³⁸ Labour rights violations in various countries (2006); Failure to respect employees' rights in India (2007); Dismissal of workers in Pakistan (2008); Status of temporary workers in Pakistan (2009); Union related issues in Algeria (2009); Forced labour in Uzbekistan (2010); Forced labour in Uzbekistan [bis] (2010); Lead production in the UK (2011); Impacts of oil exploration in an area of the Virunga National Park in the DRC (2013); Human rights abuses in Bahrain (2014).

³⁹ Bahrain Institute for Rights and Democracy (BIRD) against HPower Group Limited (HPG), Company A and Company B (2018).

This was cited as a challenge by stakeholders, which indicated that submitters often had to secure pro bono legal help to achieve a positive outcome.

The policy of the UK NCP not to require halting NGO campaigns against the company while good offices are ongoing was welcomed by civil society stakeholders (see below, Campaigning section).

Box 1. Impacts of oil exploration in an area of the Virunga National Park in the DRC

In October 2013, the UK NCP received a specific instance from the NGO WWF International alleging that SOCO International PLC's oil exploration activities in an area of the Virunga National Park in the Democratic Republic of the Congo (DRC) was in conflict with international agreements – particularly regarding the Park's status as a World Heritage site – and DRC law and posed risks to the local environment and local communities. SOCO denied the allegations, noting that its activities were limited to feasibility studies and did not involve actual exploration.

In its initial assessment released in February 2014, the UK NCP examined whether the alleged breaches of the Guidelines are material and substantiated. In doing so, it decided that Chapter II (General Policies) had not been breached, whereas issues relating to Chapter IV (Human Rights) and VI (Environment) merited further examination.

The parties accepted the UK NCP's offer to assist in mediation and conciliation on the Chapter IV and VI issues. The UK NCP appointed a mediator and the parties reached an agreement in June 2014, which the UK NCP briefly summarised in a public final statement concluding the case.

This specific instance resulted in direct remedy, and parties praised the UK NCP for its responsiveness and assistance throughout the process. Challenges were however identified, such as the exclusion of the Chapter II issues from the examination phase and the establishment of terms of reference for the mediation. The impact of the collateral campaign by WWF on the mediation process was also discussed. Both parties credited the mediator for his contribution to reaching the agreement.

Some stakeholders noted that they trusted NCP officials to be impartial and equitable. Others felt that impartiality and equitability would be better ensured if the UK NCP applied a stricter standard to evaluate what constitutes 'sensitive business information' not to be disclosed to the submitters. They also stressed that the NCP should ensure that both parties have access to the information at the basis of its decisions. Companies in turn shared that they would have liked more guarantees that information shared by the company would be kept confidential, especially when the complaint is taking place in the context of a wider campaign.

The members of the UK NCP will generally act alone in handling specific instances, unless the Steering Board becomes involved through a request for review. The Rules of Procedure (para. 4.6.4.), state that the UK NCP may 'seek advice from other relevant government departments, UK diplomatic missions or overseas DFID offices, business associations, NGOs or other agencies. If appropriate it will seek informed independent opinion.' The UK NCP has previously contacted government colleagues to gain a better understanding of regional issues relevant to a case and for specialist advice in relation to technical issues.

Some stakeholders, parties to cases, Steering Board members and the 2017 Joint Parliamentary Committee report argued that, since cases are primarily only handled by staff in the NCP, direct expertise on the issues at hand may not be readily available to the NCP staff member handling the case, which in turn may pose difficulties and create delays when the NCP is faced with very complex and heavily documented cases. The NCP itself indicated that the increasing complexity of cases was a challenge.

Box 2. Human rights abuses in Bahrain

In June 2014, the UK NCP received a specific instance from the NGO Americans for Democracy and Human Rights in Bahrain (ADHRB) alleging that four companies related to Formula One races had breached Chapter II (General Policies) and IV (Human Rights) of the Guidelines by holding Grand Prix races in Bahrain in 2012, 2013 and 2014, thereby helping present a favourable image of Bahrain despite human rights abuses and giving rise to additional violations by security forces during the races.

In its initial assessment released in October 2014, the NCP concluded that the specific instance merited further examination in respect of one of the four companies where the issues related to due diligence and stakeholder engagement. It concluded that issues relating to avoiding or addressing adverse human rights impacts by the companies did not merit further examination.

The parties accepted the UK NCP's offer to assist in mediation and conciliation in relation to these issues. The UK NCP appointed a mediator and the parties reached a confidential agreement in April 2015. The UK NCP reported about the agreement in a public final statement concluding the case.

This case resulted in changes to company policy and parties were satisfied with the assistance received from the NCP and the explanations given about the process. Challenges were identified, in particular that the process was very resource-intensive, and e.g. required the assistance of a pro bono lawyer for some parties, and the absence of follow up to verify the application of the confidential agreement. Ensuring confidentiality of the process was also identified as a challenge, notably the need to ensure secure telecommunications when mediation meetings were held remotely.

Given the increasing complexity of the cases its receives, the UK NCP should make more extensive and more systematic use of the possibility to call on the resources of experts in order to assist during the initial assessment stage or the examination stage.⁴⁰ In order to streamline the process of seeking information, a formal system could be put in place, e.g. based on a list of government or external experts on themes covered by the Guidelines, which would be available if needed for the purposes of the initial assessment and examination of specific instances.⁴¹

⁴⁰ The involvement of experts mandated by the UK NCP during mediation would be precluded by the fact that the UK NCP does not intervene at that stage and that specific confidentiality rules agreed by the parties apply.

⁴¹ This could mirror the possibility available to the Steering Board to call upon experts to assist in its activities (see above, para. 45).

The UK NCP should continue to ensure that governmental or external experts involved in the specific instance process are made aware of, and comply with, the confidentiality requirements of the specific instance process.

Reporting on specific instances

Initial assessments

The RoP specify the content of initial assessment reports (Section 3.8), namely:

- The names of the parties
- If the complaint is accepted (if it is rejected, the assessment will not name parties without their agreement);
- The substance of the complaint – including reference to those Guidelines alleged to have been breached;
- A statement of the precise nature of the complaint;
- A summary of the process the NCP has followed to date;
- The reasons for accepting or rejecting issues for further examination;
- A statement that acceptance of issues for further consideration does not mean that the NCP has determined at this stage that the Guidelines have been breached; and
- An outline of the next stages in the process.

The UK NCP shares a draft of its initial assessments with the parties, who have 10 working days to comment. The NCP has discretion on whether to accept any comment received. The NCP then publishes the initial assessment on its website 10 working days after notifying the parties to allow a review request to be made (see below). Stakeholders commended the UK NCP for publishing its Initial Assessments, which ensures a transparent and equitable process.

Final statements

The RoP specify the content of final statements (Section 5.1), namely:

- Details of the allegations and those chapters/paragraphs of the Guidelines that it is alleged have been breached;
- Details of the parties involved i.e. complainant and the company;
- A summary of the process the NCP has followed;
- The outcomes of any mediation, or a summary, in a statement agreed between the parties and including any follow up arrangements agreed by parties;
- The results of examination (if any), which will include an argued rationale behind each conclusion including a clear statement as to whether or not the company is in breach of the Guidelines;
- Where appropriate, the NCP will make specific recommendations to the company so that its conduct may be brought into line with the Guidelines;

- A date by which both parties will be asked to submit to the NCP an update on measurable progress towards meeting the recommendations (if any); and
- Where the NCP has found examples of good company practice consistent with the Guidelines this information will also be included.

The NCP shares the draft final statement with the parties for factual checking, with a 10 working days deadline for response. The NCP has discretion to include any factual correction. The parties are then sent the final version with information on how to submit a request for review (see below). If no review is requested, the final statement is published on the NCP website and communicated to the Minister, the House of Commons and House of Lords Libraries, and the Chair of the relevant Select Committee. In order to increase transparency and visibility, some stakeholders suggested that, in addition to publishing the initial and final statements on the NCP's website, press releases could also be issued.

Review

The UK NCP offers parties the possibility to ask the Steering Board to review its decisions on procedural grounds or when they consider that they have not been treated fairly by the NCP. The procedure to do so is set out in the 'Review Procedure for Dealing with Complaints Brought under the OECD Guidelines for Multinational Enterprises'⁴² (references to sections and paragraphs in this sub-section refer to the Review Procedure).

A review is only open to the parties to a case, against an initial assessment rejecting a case, or against a final statement concluding the case. It must be filed in writing within 10 working days of receiving the decision. The party then has 10 additional working days to substantiate its request, and the Steering Board will decide within 50 days. During that time, publication of the document is withheld (Section 2).

The Review Procedure contains provisions to ensure the impartiality of the Steering Board. In essence, any Board member actively involved in the decision-making process for the complaint will not participate in the review. Additionally, Board members must notify the Secretariat of any interest in the matter and either withdraw or have the Secretariat ask the parties if they would like the Board member to be removed from examining the review request. If any party wishes so, the Board member is removed.

The procedure provides that, upon receipt of a request for review, the NCP will promptly circulate a copy of the request to each member of the Steering Board, together with a copy of the NCP's final decision. However, whenever it considers that a request is ineligible, frivolous or vexatious, the NCP will recommend that the Steering Board refuse it. This recommendation becomes final unless three or more members of the Steering Board raise an objection, in which case the review proceeds (Section 4). The 2017 review of the Steering Board suggested that, in case of an NCP's recommendation to refuse the request for review, two objections should suffice not to adopt the recommendation. The UK NCP rejected this

42

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/31804/11-654-review-procedure-uk-national-contact-point.pdf

suggestion to ensure that such decisions are made by a representative cross-section of the Steering Board.

When a review proceeds, the Steering Board collects information and invites comments from the NCP and the parties. A Review Committee formed for that purpose in the Steering Board then makes a recommendation of decision to the full Steering Board. This recommendation is adopted unless three Steering Board members of the Steering Board which are not members of the committee raise an objection, in which case the review is examined by the full Board at its next meeting (Section 6).

If the Steering Board considers that the request is ill founded, the final statement can be published. If the Steering Board considers that the request is well founded, it can remand it to the NCP with instructions on how to rectify the irregularities. The will then re-open the case in accordance with the instructions of the Board, correct the deficiencies and, if necessary, reconsider its final statement. The Board may also acknowledge the deficiencies and make recommendations for the future. The Steering Board Decision does not replace the NCP's decision (Section 7). Review decisions are published on the NCP website, unless the NCP considers there are good reasons not to do so (Section 8).

To date three requests for review of a draft initial assessment, and four requests for review of a draft final statement, have been accepted by the Board. Two requests relating to draft final statements were partly accepted and recommendations made,⁴³ while the others were rejected in full.⁴⁴ The NCP recommended that the Steering Board refuse a request for review in one case,⁴⁵ which the Board did not challenge.

Stakeholders find the review process to be an important and unique strength of the UK NCP case-handling procedures. The rules applicable to this process specify that it 'is intended to identify procedural errors in the NCP decision-making' which is further defined as 'fail[ure] to comply with the NCP Published Procedure' (para. 3.2.1) and 'fail[ure] to treat [the submitter] with appropriate fairness in the circumstances of the case' (para. 3.2.2). Review statements restate these criteria as they describe the role of the Steering Board in examining requests for review, and the Steering Board did indeed reject a number of requests for touching upon issues of substance.⁴⁶

⁴³ Oil infrastructure project in Azerbaijan, Georgia and Turkey (2003); Displacement of local populations and environmental degradation in Bangladesh (2012).

⁴⁴ Health and safety on cruise ships (2012); Telecommunications service provided to a US defence agency (2013); Eurasian Natural Resources Corporation (ENRC) and the NGOs Rights and Accountability in Development (RAID) and Action Contre l'Impunité pour les Droits Humains (ACIDH) (2013); Alleged impacts on local populations of an oil and gas facility in Kazakhstan (2013); Disclosure issue involving a UK investment company holding shares in an energy company in Cameroon (2015).

⁴⁵ Alleged general policy breaches in Israel and the Palestinian Authority (2013).

⁴⁶ See e.g. '[Review of the UK NCP final statement: RAID complaint against ENRC](#)', pp. 7-8 (relating to the case '[Eurasian Natural Resources Corporation \(ENRC\) and the NGOs Rights and Accountability in Development \(RAID\) and Action Contre l'Impunité pour les Droits Humains \(ACIDH\)](#)' (2013)').

In practice, it appears that what qualifies as a ‘procedural error’ is open to interpretation. Steering Board members described how in the process of conducting a review, an examination of whether the UK NCP correctly applied the Guidelines was also considered. The Steering Board also stated in one review statement that ‘conclusions based on a mistaken appreciation of human rights might amount to a procedural failure.’⁴⁷ Civil society stakeholders were of the opinion that this procedure should allow a full review (procedural and substantive) of the case.

Additionally, stakeholders shared concerns regarding the role played by the UK NCP in recommending that the Steering Board refuse a request for review in the event it finds it ineligible, frivolous or vexatious, as the involvement of the UK NCP in the decision whether to review its own decisions may affect its impartiality.

The rules governing the review should thus be amended to more precisely describe the material scope of the review function of the Steering Board, and to address the impartiality questions raised by the involvement of the UK NCP in the review process of its own decisions. This recommendation had already been made by the 2017 independent review of the Steering Board (see above).

Follow-up

The RoP specify that, where a final statement includes recommendations to the company, it will also specify a date by which the parties are asked to provide the NCP with a substantiated update on implementation (Section 6.1).

The NCP then drafts a follow up statement based on this information and shares it with the parties with a 10 working days deadline for providing factual comments, which the NCP is at discretion to include. The follow up statement is then published on the website and shared with the Minister.

The UK NCP may also issue a follow up statement when an agreement between the parties provides for it.

Feedback

The UK NCP does not formally request feedback from parties to specific instances, but is currently considering whether and how to introduce a formal request for feedback from parties on how it has handled their case.

⁴⁷ See e.g. ‘Findings by the review committee of the UK National Contact Point (UK NCP) for the OECD’s Guidelines for Multinational Enterprises in a complaint against the KPO Consortium (KPO)’, para. 17 (relating to the case ‘Alleged impacts on local populations of an oil and gas facility in Kazakhstan (2013)’).

Timeliness

The RoP contains a timetable committing the UK NCP to completing each case within one year of reception, aiming to complete Stage 1 in three months, Stage 2 in six months, and Stage 3 in three months, as specified in the Commentary to the Guidelines. Some flexibility can however be needed in the completion of a case, in which case the UK NCP will send a revised timetable and provide reasons to the parties.

Of the 17 cases not accepted for further examination at the time of the on-site visit, one was concluded in less than three months.⁴⁸ Five were concluded in more than six months,⁴⁹ including one which was concluded in four years and eleven months.⁵⁰ Data regarding the time frame for concluding one case is not available.⁵¹

In eleven of the 33 cases accepted for further examination at the time of the on-site visit, the UK NCP did not publish an initial assessment.⁵² The UK NCP's first initial assessment was published on 15 July 2007. Among the 22 initial assessments published by the UK NCP, three were issued within three months of submission,⁵³ six were issued between three and four months of submission,⁵⁴ nine were issued between four and six months of submission;⁵⁵

⁴⁸ Telecommunications service supplied to US defence agency (2014).

⁴⁹ Redundancies due to a plant closure in the UK (2006); Health and safety on cruise ships (2012); Alleged general policy breaches of the Guidelines in the UK (2013); Alleged disclosure breaches of the Guidelines in the UK (2013); and Disclosure issue involving a UK investment company holding shares in an energy company in Cameroon (2015).

⁵⁰ Trade union representation in Bangladesh (2005).

⁵¹ Mining in the Democratic Republic of Congo (2003).

⁵² Privatisation of the copper industry in Zambia (2002); Oil infrastructure project in Azerbaijan, Georgia and Turkey (2003); Privatisation of industry in Zambia (2003); Military supplies in the Democratic Republic of Congo (2003); Mining in the Democratic Republic of Congo (2003); Non-disclosure issues in the United Kingdom (2005); Non-disclosure issues in the United Kingdom [bis] (2005); Non-disclosure issues in the United Kingdom [ter] (2005); Due diligence failures when transporting minerals from the DRC (2005); Lack of union consultation over closure of a manufacturing plant in the UK (2006); Lack of supply chain due diligence in the Democratic Republic of Congo (2007).

⁵³ Dismissal of workers in Pakistan (2008); Lead production in the UK (2011); Complaint from IUF against BAT (2016).

⁵⁴ Failure to respect employee's right to representation in Malaysia (2007); Environmental impacts of a planned bauxite mine in India (2008); Status of temporary workers in Pakistan (2009); Environmental impacts in Mozambique (2010); Forced labour in Uzbekistan (2010); Forced labour in Uzbekistan [bis] (2010).

⁵⁵ Failure to respect employees' rights in India (2007); Union related issues in Algeria (2009); Displacement of local populations and environmental degradation in Bangladesh (2012); Supplying of surveillance equipment in Bahrain (2013); Eurasian Natural Resources Corporation (ENRC) and the NGOs Rights and Accountability in Development (RAID) and Action Contre l'Impunité pour les Droits Humains (ACIDH) (2013); Alleged impacts on local populations of an oil and gas facility in Kazakhstan (2013); Impacts of oil exploration in an area of the Virunga National Park in the DRC

two were issued between six and 10 months of submission,⁵⁶ and two were issued over one year after submission.⁵⁷

One case submitted on 13 February 2018 is in the initial assessment phase.

Of the 30 concluded cases accepted for further examination, eight were concluded within a year,⁵⁸ eight cases took between one and two years,⁵⁹ eight cases took between two and five years⁶⁰; and five cases took over five years.⁶¹ Data regarding the time frame for concluding one case is not available.⁶²

While recognising that specific instance cases are becoming increasingly complex, several stakeholder groups and parties to specific instances, as well as members of the Steering Board shared concerns regarding some important delays suffered by some cases, in particular in recent years. This is the result of the above mentioned turnover issues, and both the Steering Board and the UK NCP have indicated that they would make timely and transparent conclusion of outstanding specific instances a priority.

(2013); Alleged general policy breaches in Israel and the Palestinian Authority (2013); Human rights abuses in Bahrain (2014).

⁵⁶ Employment issues related to a factory closure in India (2006); Bahrain Institute for Rights and Democracy (BIRD) against HPower Group Limited (HPG), Company A and Company B (2018).

⁵⁷ Labour rights violations in various countries (2006); Complaint from UKLFI against PwC (2017).

⁵⁸ Dismissal of workers in Pakistan (2008); Environmental impacts of a planned bauxite mine in India (2008); Status of temporary workers in Pakistan (2009); Forced labour in Uzbekistan (2010); Forced labour in Uzbekistan [bis] (2010); Lead production in the UK (2011); Impacts of oil exploration in an area of the Virunga National Park in the DRC (2013); and Human rights abuses in Bahrain (2014).

⁵⁹ Mining in the Democratic Republic of Congo (2003); Lack of union consultation over closure of a manufacturing plant in the UK (2006); Employment issues related to a factory closure in India (2006); Lack of supply chain due diligence in the Democratic Republic of Congo (2007); Environmental impacts in Mozambique (2010); Displacement of local populations and environmental degradation in Bangladesh (2012); Supplying of surveillance equipment in Bahrain (2013); Alleged general policy breaches in Israel and the Palestinian Authority (2013).

⁶⁰ Privatisation of industry in Zambia (2003); Due diligence failures when transporting minerals from the DRC (2005); Labour rights violations in various countries (2006); Failure to respect employees' rights in India (2007); Failure to respect employee's right to representation in Malaysia (2007); Union related issues in Algeria (2009); Eurasian Natural Resources Corporation (ENRC) and the NGOs Rights and Accountability in Development (RAID) and Action Contre l'Impunité pour les Droits Humains (ACIDH) (2013); Alleged impacts on local populations of an oil and gas facility in Kazakhstan (2013)

⁶¹ Privatisation of the copper industry in Zambia (2002); Oil infrastructure project in Azerbaijan, Georgia and Turkey (2003); Non-disclosure issues in the United Kingdom (2005), Non-disclosure issues in the United Kingdom [bis] (2005); Non-disclosure issues in the United Kingdom [ter] (2005).

⁶² Military supplies in the Democratic Republic of Congo (2003).

Box 3. Alleged impacts on local populations of an oil and gas facility in Kazakhstan

In July 2013, the UK, US and Italian NCPs received a specific instance from the NGO Crude Accountability and others alleging that KPO Consortium had breached Chapter II (General Policies), III (Disclosure) and IV (Human Rights) of the Guidelines in relation to environmental impacts of an oil and gas facility in Kazakhstan. The UK NCP took the lead.

In its initial assessment, the NCP concluded that the specific instance merited further examination with respect to the issue of the two individual households legally entitled to resettlement, while the issue of the resettlement of the entire village was not accepted.

The parties accepted the UK NCP's offer to assist in mediation and conciliation in relation to these issues. The UK NCP appointed a mediator but the parties failed to reach an agreement. The UK NCP thus examined the issues and released a final statement in November 2017 finding that KPO had not observed Chapter II of the Guidelines by failing to address impacts it is linked to by a business relationship. The UK NCP made recommendations in this regard to KPO, asking that all actions be completed by May 2018. The UK NCP did not find that KPO had breached Chapter IV of the Guidelines. In September/October 2016, the submitter filed a request to review the draft final statement, which was rejected in June 2017. The UK NCP plans to release a follow up statement in May 2019.

The parties appreciated the opportunity to mediate this issue, but identified a number of challenges in relation to the handling of the case by the NCP, in particular regarding the limitation of the scope of issues accepted by the NCP in its initial assessment (i.e. impacts on two households caused by a business relationship of KPO) and the outcome of the review process. The length of the process (close to five years) and the inability of the NCP to keep control of the timetable when faced with complex issues and a heavily legalised process was also discussed.

Confidentiality and transparency

The specific instance process is governed by the principle that all information provided to it will be shared with all parties to the case, unless a good case is made to the NCP that specific information should not be shared (e.g. because of legal restrictions or for reasons of personal safety). This applies to information shared in writing or orally during meetings (all meetings are recorded in minutes as per the RoP). Information so provided should however not be circulated or made public (Section 2.5). Trade union stakeholders reported that transparency in communications with parties by the UK NCP inspires trust and confidence in the process.

The RoP contains provisions regulating confidentiality and transparency at each stage of the process, in addition to information on the handling of personal data.

During Stage 1, the NCP does not name the parties unless and until it has decided to accept the case or unless the parties agree to it, and will not confirm having received a case until publication of the initial assessment (Section 3.9).

During Stage 2, the RoP provide that the mediation process should remain informal and confidential, so that mediation sessions are not minuted. An independent professional mediator is engaged and paid by the NCP to handle the mediation sessions, and the NCP is not involved with any of the proceedings at this stage. Parties are required to keep discussions confidential, except to seek advice from their respective organisations, which should then in turn observe confidentiality. Mediators will also observe confidentiality, including in how they report on progress to the NCP (Section 4.4).

During Stage 3, the requirement of confidentiality is lifted after the publication of the final statement, though the materials and information shared by the other party must remain confidential (Section 5.5).

The NCP's practice of not disclosing parties' names before acceptance of the case may affect the transparency of the NCP. Moreover, this practice may no longer match the reality, in which cases are rapidly disclosed to the press by one of the parties or by third parties. In other cases, parties themselves have requested that their names be included in the final statement.⁶³

This shows that practices and preferences regarding specific instances may evolve quickly and that the UK NCP may no longer be able to keep control of the information available on cases. Therefore, the UK NCP and the Steering Board should periodically review the rules of procedures to ensure that they still align with the latest developments, for example regarding whether to disclose case parties' names from the outset.

Campaigning

While some complaints received have been standalone, most occur within the context of a longer running dispute between the parties or in the context of a public campaign on wider issues. Such campaigns might be specific to the behaviour of the respondent, or about wider practices in the sector, or be related to the political context or government regime.

Campaigning posed difficulties to the NCP's work when complaints relate not to the company's direct impacts, but to links they have with States or other non-MNE third parties who are alleged to have breached the standards in the Guidelines. Where a complaint has been brought against a company in the context of a public campaign on a wider issue, the UK NCP has reported considering the substance of the complaint against the company itself in reaching a decision about whether there are matters that merit further examination. Where other issues raised by the complainant are identified as not relevant to the OECD Guidelines, they are recorded in the initial assessment.

As indicated above, the RoP are silent regarding campaigning while the case is ongoing, leaving it to the parties to reach agreement on this as they negotiate the terms of reference of mediation. Civil society and trade union stakeholders indicated that such policy struck an appropriate balance between confidentiality and transparency.

⁶³ See Business Relationships in Russia [bis] (2012).

Parallel proceedings

Parallel legal proceedings have in some cases delayed the process, as parties refused to engage in a process involving the voluntary sharing of information or mediation while legal proceedings were ongoing. The NCP policy is that any parallel actions should not affect the investigation of a specific instance. The UK NCP's approach to parallel proceedings is set out in a specific procedural document entitled 'Approach of the UK National Contact Point to Specific Instances in which there are Parallel Proceedings.'⁶⁴

The guiding principle is that the UK NCP will suspend a complaint only where it is necessary in order to avoid serious prejudice to a party to parallel proceedings and appropriate in all the circumstances. Such suspension may only result from an application by a party to the complaint. Before suspending a complaint, the UK NCP will expect the parties to give serious consideration to the benefits of conciliation/mediation which can lead to a quicker and more cost effective solution to the issues raised.

The NCP will progress any aspects of a complaint that it concludes are not necessary to suspend. This means an element of the complaint may be suspended while the remainder is taken forward under the UK NCP procedure.

Trade union stakeholders considered that the UK NCP approach to parallel proceedings was progressive and a positive factor.

Cooperation with other NCPs

The NCP regularly co-operates and liaises with other NCPs in handling complaints submitted to several NCPs. Where the company has links to other OECD countries, the UK NCP reported routinely consulting the relevant NCPs to agree who should be the lead NCP. In cases where it has been agreed that the UK will be the lead NCP, the UK NCP keeps the other NCPs updated on the progress and seeks advice as appropriate. Conversely, the UK NCP reported providing support or advice where another NCP has been designated the lead on a case.

Requests for clarification

The NCP has not consulted the Investment Committee or the Working Party on Responsible Business Conduct but reported that it would consider approaching them for advice in the appropriate circumstances.

64

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/31717/11-652-approach-national-contact-point-parallel-proceedings.pdf

	Findings	Recommendation
3.1	The UK NCP' interpretation of the Guidelines' criteria for initial assessment was highlighted by some stakeholders as a challenge.	In the future, the UK NCP should interpret the Guidelines criteria for initial assessment (in particular the 'material and substantiated' criterion) in a broad manner wherever possible.
3.2	The expertise on the wide variety of topics covered in the OECD Guidelines directly available to the NCP for the purposes of examining cases is limited by the fact that cases are only handled by staff in the NCP, whereas the complexity of cases is increasing.	The UK NCP should make more extensive and systematic use of the possibility to seek advice from experts in order to assist during the initial assessment stage or the examination stage.
3.3	There is a lack of predictability as to the exact material scope of the 'Review procedure for dealing with complaints' The procedure describes the review as covering 'procedural errors' in the NCP decision-making, but in practice what qualifies as a 'procedural error' is open to interpretation. Additionally, the role of the UK NCP in recommending whether a review should be conducted reduces the perception that the process is fully impartial.	The rules governing the review procedure should more precisely describe the material scope of the review function of the Steering Board, notably by clarifying the notion of 'procedural error'. The questions raised by the role of the UK NCP in the process should also be addressed.
3.4	The UK NCP does not disclose parties' names until a case has been accepted for further examination, although information about cases is made public in most cases, showing that a periodic review of whether rules of procedure still align with the latest developments is necessary.	The UK NCP should continue to regularly review its rules of procedure to ensure that they still align with the latest developments, for example regarding whether to disclose case parties' names as soon as the case is filed.

Annex A. Overview of specific instances handled by the UK NCP as the leading NCP

Table A.1. Overview of specific instances handled by the UK NCP as the leading NCP

No.	Enterprise	Submitter	Host Country	Chapter of the Guidelines	Date submitted	Date of: IA Closure	Outcome	Description	Follow up?	Review?
1	Anglo American plc	Rights and Accountability in Development (RAID)	Zambia	policies, Employment & Industrial relations and Competition	21 February 2002	No IA 1 May 2008	Concluded No mediation offered No agreement	The UK NCP did not make any recommendations. However, the NCP noted that both parties engaged in constructive dialogue which resulted in the clarification of the details drawn out by the case.		No
2	BTC Corporation	NGOs	Azerbaijan Georgia and Turkey	General policies, Concepts & Principles, Disclosure and Environment	29 April 2003	No IA 9 March 2011	Concluded No mediation offered No agreement	The UK NCP concluded that the company had not failed to comply with the Guidelines regarding the negotiation and constraints of the BCT legal framework. However it found that BCT had failed to address compensation and grievance concerns. The UK NCP recommended that the company address and respond to reports of alleged intimidation.	Yes	Yes Accepted
3	National Grid Transco	Citizens for a Better Environment (CBE)	Zambia	Employment & Industrial relations, Consumer Interests, Competition and Taxation	1 July 2003	No IA 5 July 2005	Concluded No mediation offered No agreement	A lack of information from the complainant resulted in the case being closed.		
4	De Beers	UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth	Democratic Republic of Congo	No chapters cited, but the UN Panel cited that the enterprise was in breach of its own best practice principles.	1 October 2003	2004	Not accepted	The UK NCP concluded that the allegations could not be substantiated due to the limited evidence provided by the complainant.		

No.	Enterprise	Submitter	Host Country	Chapter of the Guidelines	Date submitted	Date of: IA Closure	Outcome	Description	Follow up?	Review?
5	Avient	UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth	Democratic Republic of Congo	No chapters cited, but the UN Panel cited that the enterprise was in breach of its own best practice principles.	1 October 2003	No IA 2004	Concluded No mediation offered No agreement	The UK NCP provided limited recommendations given that the complainant submitted limited evidence to substantiate the case. No mediation could be offered since the mandate of the Panel of Experts had expired in October 2013.		
6	Oryx Natural Resources	RAID / UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms	Democratic Republic of Congo	General Policies and Disclosure	1 October 2003	No IA 1 June 2005	Concluded No mediation offered No agreement	The UK NCP was unable to form a conclusion due to the differences of opinion expressed by the parties. However, the UK NCP stated the need by the company to: 1) contribute to economic, social and environmental progress with a view to achieving sustainable development; 2) respect human rights; 3) abstain from any improper involvement in local political activities.		
7	BAE Systems PLC	Corner House Research	United Kingdom	Bribery, Bribe Solicitation and Extortion	4 April 2005	No IA 5 November 2010	Concluded Mediation offered, declined No agreement	The NCP was unable to determine if the company had breached the Guidelines. The complaint was concluded on this basis.		
8	Airbus SAS	Corner House Research	United Kingdom	Bribery, Bribe Solicitation and Extortion	4 April 2005	No IA 22 November 2010	Concluded Mediation offered, declined No agreement	The NCP was unable to determine if the company had breached the Guidelines. The complaint was concluded on this basis.		
9	Rolls-Royce Group PLC	Corner House Research	United Kingdom	Bribery, Bribe Solicitation and Extortion	4 April 2005	No IA 5 November 2010	Concluded Mediation offered, declined No agreement	The UK NCP was unable to reach any finding. The NCP did not provide any recommendations to the company. The complaint was concluded on this basis.		

No.	Enterprise	Submitter	Host Country	Chapter of the Guidelines	Date submitted	Date of: IA Closure	Outcome	Description	Follow up?	Review?
10	DAS Air	RAID	Democratic Republic of Congo	General Policies and Concepts & Principles.	28 April 2005	No IA 21 July 2008	Concluded No mediation offered No agreement	<p>The UK NCP concluded that the enterprise had not been consistent with certain sections of the Guidelines.</p> <p>The UK NCP brought to the attention of the enterprise the appropriate international conventions on standards for civil aviation as well as the UN resolution (1592) which outlines the conduct that states and organisations should adopt when working in the DRC region. The UK NCP also drew the enterprise's attention to the OECD risk awareness tool for companies working in weak governance zones.</p>		
11	A UK Company	A Trade Union	Bangladesh	Employment & Industrial Relations.	6 December 2005	24 November 2010	Not accepted	The case was not accepted by the UK NCP on the grounds that there was insufficient evidence to substantiate the complaint.		
12	PSA Peugeot Citroen	Amicus and T&G	United Kingdom	Employment & Industrial Relations.	28 July 2006	No IA 1 February 2008	Concluded No mediation offered No agreement	<p>The UK NCP found that the enterprise had been consistent in how it provided appropriate notice and financial compensation for staff in relation to the closure of its production plant.</p> <p>However, the UK NCP also found that the enterprise had not met sections of the Guidelines in relation to early stage consultation over the closure of the plant.</p>		
13	A UK Company	A Trade Union	United Kingdom	Employment & Industrial Relations.	2 October 2006	June 2007	Not accepted	The UK NCP helped to facilitate the exchange of information between the parties which led to a successful agreement between the parties. The UK NCP was not required to provide any further action because of this.		
14	Unilever PLC	IUF	India	Concept & Principles and Employment & Industrial Relations.	3 October 2006	15 July 2007 28 August 2008	Concluded No mediation offered Agreement outside NCP	<p>The UK and Netherlands received this case as a joint complaint. After the details of the case were reviewed, it was agreed that the UK NCP would be the lead NCP on the complaint</p> <p>However, a mediated agreement took place between the parties outside of the NCP process and the UK NCP concluded the complaint on this basis.</p>	Yes	

No.	Enterprise	Submitter	Host Country	Chapter of the Guidelines	Date submitted	Date of: IA Closure	Outcome	Description	Follow up?	Review?
15	G4S	Union Network	Democratic Republic of the Congo, Malawi, Mozambique, Nepal	General Policies and Employment & Industrial Relations.	12 December 2006	March 2008 12 December 2008	Concluded Mediation offered, accepted Agreement	The UK NCP facilitated a mediation between the parties and a voluntary agreement was reached. The complaint was concluded on this basis.		
16	Afrimex UK Ltd	Global Witness	Democratic Republic of Congo	General Policies, Employment & Industrial Relations and Combating Bribery.	20 July 2007	No IA 28 August 2008	Concluded Mediation offered, accepted No agreement	The UK NCP concluded that the enterprise had not been consistent with the sections of the Guidelines indicated by the complainant with the exception of the section on Combating Bribery. The UK NCP also made a number of recommendations in its Final Statement on how the enterprise could improve its practices.		
17	Unilever PLC	IUF	India	General Policies and Employment & Industrial Relations.	19 October 2007	10 April 2008 18 October 2010	Concluded Mediation offered, accepted Agreement	The UK NCP facilitated a mediation between the parties and a voluntary agreement was reached. The complaint was concluded on this basis.		
18	British American Tobacco	Malaysian Trades Union Congress (MTUC)	Malaysia	Employment & Industrial Relations.	11 December 2007	9 April 2008 4 March 2011	Concluded Mediation offered, declined No agreement	The UK NCP concluded that the enterprise had not been consistent with the sections of the Guidelines indicated by the complainant. The UK NCP made a recommendation to the enterprise that it should establish a permanent process of dialogue with its employees regarding matters of mutual concern.	Yes	
19	Unilever PLC	IUF	Pakistan	General Policies and Employment & Industrial Relations.	19 October 2008	15 December 2008 13 August 2009	Concluded Mediation offered, accepted Agreement	The UK NCP facilitated a mediation between the parties and a voluntary agreement was reached. The complaint was concluded on this basis.		

No.	Enterprise	Submitter	Host Country	Chapter of the Guidelines	Date submitted	Date of: IA Closure	Outcome	Description	Follow up?	Review?
20	Vedanta Resources	Survival International	India	General Policies and Environment	19 December 2008	27 March 2009 25 September 2009	Concluded Mediation offered, declined No agreement	The UK NCP concluded that the enterprise had not been consistent with the Guidelines. The UK NCP also made a number of recommendations in its Final Statement on how the enterprise could improve its practices.		
21	Unilever PLC	IUF	Pakistan	General Policies and Employment & Industrial Relations.	6 March 2009	9 June 2009 20 November 2009	Concluded Mediation offered, accepted Agreement	The UK NCP made arrangements for mediation / conciliation to take place between the parties. The parties agreed to a mutually agreed outcome as a result of conciliation and full mediation was not required. The complaint was concluded on this basis.		
22	Compass Group	IUF	Algeria	Employment & Industrial Relations.	14 December 2009	28 April 2010 1 February 2012	Concluded Mediation offered, accepted Agreement	The UK NCP made arrangements for mediation / conciliation to take place between the parties. Following a number of mediation sessions the parties were able to reach a settlement. The complaint was concluded on this basis.		
23	BHP Billiton PLC	Justiça Ambiental (JA)	Mozambique	General Policies, Disclosure and Environment	18 October 2010	2 February 2011 13 September 2012	Concluded No mediation offered Agreement outside of NCP	The UK NCP concluded that the enterprise had not breached the Guidelines. The UK NCP did however encourage the enterprise to have a better process of engagement with the local communities.		
24	Cargill Cotton Ltd	European Centre for Constitutional and Human Rights (ECCHR)	Uzbekistan	General Policies and Employment & Industrial Relations.	1 December 2010	8 March 2011 11 July 2011	Concluded Mediation offered, accepted Agreement	The UK NCP made arrangements for mediation / conciliation to take place between the parties. However, a mutually agreed solution was arrived at by the parties through conciliation.		
25	ICT Cotton Ltd	European Centre for Constitutional and Human Rights (ECCHR)	Uzbekistan	General Policies and Employment & Industrial Relations.	7 December 2010	8 March 2011 11 July 2011	Concluded Mediation offered, accepted Agreement	The UK NCP made arrangements for mediation / conciliation to take place between the parties. However, a mutually agreed solution was arrived at by the parties through conciliation.		

No.	Enterprise	Submitter	Host Country	Chapter of the Guidelines	Date submitted	Date of: IA Closure	Outcome	Description	Follow up?	Review?
26	Xtrata	LEAD Group	United Kingdom	Environment	27 August 2011	16 September 2011 21 May 2012	Concluded Mediation offered, accepted Agreement	The UK NCP facilitated a mediation between the parties and a voluntary agreement was reached. The complaint was concluded on this basis.		
27	A UK Company	An NGO	United Kingdom	Environment	23/12/2011	14/05/2012	Not accepted	The case was not accepted by the UK NCP on the grounds that it did not merit further consideration and that there was insufficient evidence to substantiate parts of the complaint.		
28	A UK Company	An individual	United Kingdom	General Policies and Human Rights	16 January 2012	30 August 2012	Not accepted	The UK NCP concluded that there was insufficient evidence to substantiate the complaint.		Yes Rejected
29	A UK bank A	An NGO	Russia	General Policies and Human Rights	31 July 2012	21 December 2012	Not accepted	The UK NCP concluded that the issues were not substantiated in respect of UK Bank A's obligations under the Guidelines.		
30	A UK bank B	An NGO	Russia	General Policies and Human Rights	31 July 2012	21 December 2012	Not accepted	The UK NCP concluded that the issues were not substantiated in respect of UK Bank B's obligations under the Guidelines.		
31	A UK bank C	An NGO	Russia	General Policies and Human Rights	31 July 2012	21 December 2012	Not accepted	The UK NCP concluded that the issues were not substantiated in respect of UK Bank C's obligations under the Guidelines.		
32	GCM Resources Plc	International Accountability Project (IAP) and World Development Movement (WDM)	Bangladesh	General Policies and Human Rights	21 December 2012	14 June 2013 1 November 2014	Concluded Mediation offered, declined No agreement	The UK NCP concluded that there was a partial breach of the General Polices by the enterprise. The UK NCP also made a number of recommendations in its Final Statement on how the enterprise could improve its practices.	Yes	Yes Partly accepted
33	A UK Company	An individual	United Arab Emirates	Employment & Industrial Relations and Human Rights	1 February 2013	21 May 2013	Not accepted	The UK NCP concluded that the issues were not substantiated in respect of the enterprise's obligations to the individual under the Guidelines.		

No.	Enterprise	Submitter	Host Country	Chapter of the Guidelines	Date submitted	Date of: IA Closure	Outcome	Description	Follow up?	Review?
34	Gamma International UK	Privacy International	Bahrain	General Policies and Human Rights	1 February 2013	21 June 2013 1 December 2014	Concluded Mediation offered, accepted No agreement	<p>The UK NCP concluded that the enterprise had not been consistent with the Guidelines.</p> <p>The UK NCP also concluded that the enterprise's approach had not been consistent with the Guidelines.</p> <p>The UK NCP also made a number of recommendations in its Final Statement on how the enterprise could improve its practices.</p>	Yes	
35	Eurasian Natural Resources Corporation (ENRC)	Rights Accountability and Development (RAID)	Democratic Republic of Congo	General Policies and Human Rights	3 May 2013	2 October 2013 1 February 2016	Concluded Mediation offered, accepted No agreement	<p>The UK NCP concluded that the enterprise had not been consistent with the Guidelines.</p> <p>The UK NCP also made a number of recommendations in its Final Statement on how the enterprise could improve its practices.</p>	Yes	Yes Rejected
36	KPO	Crude Accountability	Kazakhstan	General Policies and Human Rights	17 July 2013	December 2013 13 December 2017	Concluded Mediation offered, accepted No agreement	<p>The UK NCP made arrangements for mediation / conciliation to take place between the parties.</p> <p>However, this proved to be unsuccessful. The UK NCP conducted an examination of the complaint and concluded that the enterprise had not been consistent with the Guidelines.</p> <p>The UK NCP also made a number of recommendations in its Final Statement on how the enterprise could improve its practices.</p>		Yes Rejected
37	BT	Reprieve	Yemen	General Policies and Human Rights	15 July 2013	1 October 2013	Not accepted	<p>The UK NCP concluded that the allegations were not material and the complaint could not be substantiated.</p>		Yes Rejected

No.	Enterprise	Submitter	Host Country	Chapter of the Guidelines	Date submitted	Date of: IA Closure	Outcome	Description	Follow up?	Review?
38	SOCO	WWF	Democratic Republic of Congo	General Policies, Human Rights and Environment	7 October 2013	14 February 2014 15 July 2014	Concluded Mediation offered, accepted Agreement	<p>The UK NCP concluded that the enterprise had not been consistent with the Guidelines.</p> <p>The UK NCP subsequently made arrangements for mediation to take place between the parties.</p> <p>The parties reached a mutual agreement as a result of the mediation. The complaint was concluded on this basis.</p>		
39	6 UK Companies	An NGO	United Kingdom	General Policies	4 November 2013	11 July 2014	Not accepted	The UK NCP concluded that the issues were not substantiated in respect of the enterprises' obligations under the Guidelines.		
40	G4S	Lawyers for Palestinian Human Rights (LPHR)	The Occupied Palestinian Territories	General Policies and Human Rights	27 November 2013	22 May 2014 09 June 2015	Concluded Mediation offered, declined No agreement	<p>The UK NCP offered to provide mediation services for the parties. Although the submitter accepted the offer the enterprise declined on the basis of contractual confidentiality.</p> <p>The UK NCP conducted a Final Assessment and concluded that up to September 2011 the enterprise had been consistent with its obligations under the Guidelines.</p> <p>After September 2011 however, the UK NCP concluded that the enterprises conduct was technically inconsistent with the Guidelines.</p> <p>The UK NCP also made a number of recommendations in its Final Statement on how the enterprise could improve its practices.</p>	Yes	
41	A UK Company	UK NGO and a US labour union	United Kingdom	Disclosure and Taxation	27 November 2013	16 June 2014	Not accepted	The UK NCP concluded the allegations made by the submitter did merit further consideration, but that it could not be the party to do so.		

No.	Enterprise	Submitter	Host Country	Chapter of the Guidelines	Date submitted	Date of: IA Closure	Outcome	Description	Follow up?	Review?
42	Beta D3 Limited in Bahrain Delta 3 (UK) Limited Formula One Management Limited (FOM) Formula One World Championship Limited (FOWC)	Americans for Democracy and Human Rights in Bahrain	Bahrain	General Policies and Human Rights	11 June 2014	22 October 2014 1 May 2015	Concluded Mediation offered, accepted Agreement	The UK NCP made arrangements for mediation / conciliation to take place between the parties. The parties reached a mutual agreement as a result of the mediation. The complaint was concluded on this basis.		
43	British Telecommunications PLC	Reprieve	United Kingdom	General Policies and Human Rights	19 August 2014	2 January 2015	Not accepted	The specific instance was not accepted for further examination by the UK NCP.		
44	British Telecommunications PLC	Reprieve	United Kingdom	General Policies and Human Rights	19 August 2014	2 January 2015	Not accepted	The specific instance was not accepted for further examination by the UK NCP.		
45	A UK Company	An NGO	Cuba	Human Rights	27 August 2014	1 December 2014	Not accepted	The UK NCP concluded the allegations made by the submitter did merit further consideration but not by the UK NCP. The UK NCP did however recommend that the submitter submit a request to the US NCP.		
46	A UK Company	An Individual	Cameroon	General Policies and Disclosure	14 July 2015	1 June 2016	Not accepted	The specific instance was not accepted for further examination by the UK NCP.		Yes Rejected
47	British American Tobacco	IUF	United States	General Policies and Human Rights	6 June 2016	10 August 2016 Pending	Accepted Mediation offered	Pending		
48	A UK Company	Two NGOs	Saudi Arabia	Human Rights	6 June 2016	14 October 2016	Not accepted	The UK NCP concluded that the complaint could not be substantiated.		
49	PwC PLC	UK Lawyers for Israel	The Occupied Palestinian Territories	General policies, Disclosure and Human Rights	27 January 2017	15 June 2018 Pending	Accepted Mediation offered	Pending		

No.	Enterprise	Submitter	Host Country	Chapter of the Guidelines	Date submitted	Date of: IA Closure	Outcome	Description	Follow up?	Review?
50	HPower Group Limited (HPG), Company A and Company B	Bahrain Institute for Rights and Democracy (BIRD)	United Kingdom	General policies Human Rights	24 April 2018	7 November 2018 Pending	Accepted Mediation offered		Pending	
51	Victoria Oil & Gas	Ndogpassi I, II and III Residents Association (AHN), and Logmayangui Good Neighbours Circle	Cameroon	General Policies, Disclosure Human Rights, Employment and Industrial relations, Environment	13 February 2018	20 December 2018 Pending	Accepted Mediation offered		Pending	

Annex B. List of organisations submitting responses to the NCP peer review questionnaire

Table B.1. List of organisations submitting responses to the NCP peer review questionnaire

1.	UK Export Finance	Government
2.	Department for Work and Pensions	Government and Steering Board
3.	Foreign & Commonwealth Office	Government and Steering Board
4.	Government Equalities Office	Government
5.	International Institute for Environment and Development	Steering Board
6.	Leigh Day	Steering Board (formerly)
7.	Earth Security Group	Business
8.	Formula 1	Business
9.	International Chamber of Commerce (on behalf of BIAC)	Business
10.	IUF	Trade Union
11.	Trade Union Congress	Trade Union
12.	TUAC	Trade Union
13.	Amnesty International	Civil society
14.	Corporate Responsibility Coalition (CORE)	Civil society
15.	Crude Accountability	Civil Society
16.	Lawyers for Palestinian Human Rights	Civil society
17.	OECD Watch	Civil society
18.	Rights and Accountability in Development	Civil society
19.	British Institute for International and Comparative Law	Academia

Annex C. List of organisations that participated in the NCP peer review

Table C.1. List of organisations that participated in the NCP peer review

1.	Government Legal Department (DIT)	Government
2.	Office for Civil Society	Government
3.	UK Export Finance	Government
4.	Department for Business, Energy and Industrial Strategy	Government and Steering Board
5.	Department for International Development	Government and Steering Board
6.	Department for International Trade	Government and Steering Board
7.	Foreign & Commonwealth Office	Government and Steering Board
8.	NGO representative	Steering Board
9.	Independent Individual	Steering Board
	Trade Union representative	Steering Board
10.	Independent individual	Steering Board (formerly)
11.	Anglo American	Business
12.	Formula 1	Business
13.	International Chamber of Commerce	Business
14.	KPO Consortium	Business
15.	SOCO	Business
16.	UK Finance	Business
17.	IUF	Trade Union
18.	Trades Union Congress	Trade Union and Steering Board
19.	TUAC	Trade Union
20.	Americans for Democracy and Human Rights in Bahrain	Civil society
21.	Amnesty International	Civil society
22.	Corporate Responsibility Coalition (CORE)	Civil society
23.	Crude Accountability	Civil society
24.	Ethical Trading Initiative	Civil society
25.	Institute for Human Rights and Business	Civil society
26.	OECD Watch	Civil society
27.	Rights and Accountability in Development	Civil society
28.	World Wildlife Fund	Civil society
29.	Centre for Effective Dispute Resolution	Mediation services

Annex D. Promotional events

Table D.1. 2016 NCP-organised and co-organised events to promote the Guidelines and/or the NCP

Title	Date	Location	Type of event	Size of audience	Organised or co-organised?	Targeted audience	Theme
NCP Cases	Jan 16	London	Meeting	<10	Co-organised	Government	NCP Case work
NCP Cases	Jan 16	London	Meeting	<10	Co-organised	NGOs	NCP Case work
Working together	Jan 16	London	Meeting	<10	Co-organised	NGOs	Major CSR issues
NCP peer learning	Feb 16	Brazil	Meeting	10-50	Co-organised	South American NCPs	Peer training
OECD Guidelines & UK NCP	Apr 16	London	Meeting	<10	Co-organised	Textile & Garment MNE	Ethical business & OECD Guidelines
OECD Guidelines & Construction Sector	Apr 16	London	Conference	50-100	Co-organised	Business, NGOs, Trade Unions, Government & Academia	Application of the Guidelines on the Construction Sector
NGO Bilateral	Apr 16	London	Meeting	<10	Co-organised	NGOs	Structure of UK NCP and Steering Board
Business and CSR	Jul 16	London	Meeting	<10	Co-organised	Japanese Business representatives	OECD Guidelines and structure of UK NCP
OECD Guidelines & UK NCP	Sep 16	London	Meeting	<10	Co-organised	Government	OECD Guidelines and structure of UK NCP and its Case work

Table D.2. 2016 Presentations by the NCP to promote the Guidelines and/or the NCP in events organised by others

Title	Date	Location	Type of event	Size of audience	Targeted audience	Organiser(s)	Type of intervention	Theme of the intervention
Business & HR	Feb 16	London	Meeting	10-50	Academia and Government	Government	Presentation	OECD Guideline & UK NCP promotion
Extractive	Feb 16	London	Meeting	<10	UK Extractive Business	Extractive MNE	Presentation	OECD Guideline & UK NCP promotion
Business Breakfast	Apr 16	Vienna	Webinar	10-50	Austrian Businesses	NCP	Presentation	OECD Guideline & UK NCP promotion
OECD Guidelines & UK NCP	May 16	London	Meeting	<10	UK Business	Publishing MNE	Presentation	OECD Guideline & UK NCP promotion
New NCP Breakfast meeting	Jun 16	Paris	Meeting	10-50	NCPs	OECD	Presentation	UK NCP structure
NGO Bilateral	Jun 16	Paris	Meeting	<10	NGO	NGO	Discussion	UK NCP joint working with NGOs
Business & Human Rights meeting	Jul 16	London	Meeting	10-50	Business	IT MNE	Presentation	OECD Guideline & UK NCP promotion
NCP Peer Learning	Sep 16	Rome	Meeting	10-50	NCPs	Italian NCP	Presentation and Q&A	Initial Assessments in cases
Swiss NCP Peer Review	Nov 16	Bern	Meeting	<10	NCPs	OECD	Discussion	UK NCP Casework

Table D.3. 2017 NCP-organised and co-organised events to promote the Guidelines and/or the NCP

Title	Date (dd/mm/yyyy)	Location	Type of event	Size of audience	Organised or co-organised?	Targeted audience	Theme
Queens University, Ontario, Canada	May 17	London	Meeting	10-50	Co-organised	Academia	OECD Guidelines, NCP activity
UK Export Finance	Jun 17	London	Meeting	<10	Organised	Government representatives	Updates on the NCP's work
Government Procurement Services	Jul17	London	Conference	10-50	Co-organised	Government representatives	OECD Guidelines, NCP activity
Ukrainian NCP	Oct 17	London	Meeting	<10	Organised	NCP	UK NCP processes and policy
TUAC, Trade Union	Oct 17	London	Meeting	<10	Organised	Trade unions	NCP activity
Anglo American, Business Sector	Oct 17	London	Meeting	<10	Organised	Business representatives	OECD Guidelines, NCP activity
CORE, NGO	Oct 17	London	Meeting	<10	Organised	NGO	NCP activity
OECD Watch, NGO	Oct 17	Geneva	Meeting	<10	Organised	NGO	NCP activity
Ergon Consulting	Oct 17	London	Meeting	<10	Co-organised	Independent consultant	To discuss the operation of the NCP
Earth Security Group	Oct 17	London	Meeting	<10	Organised	Independent consultant	To discuss the operation of the NCP, with a particular focus on the promotion of the Guidelines in the banking sector.
Unilever	Nov 17	London	Meeting	<10	Organised	Business representatives	Past co-operation with the NCP and potential future engagement
SHIFT, NGO	Nov 17	London	Meeting	<10	Organised	NGO	NCP governance and activity
UK Finance	Nov 17	London	Meeting	<10	Organised	Business sector representatives	Promotion opportunities in the banking sector
Ethical Trading Initiative	Nov 17	London	Meeting	<10	Organised	NGO	NCP governance and activity
Global Business Initiative on Human Rights	Nov 17	London	Meeting	<10	Organised	Academic / Independent consultant	NCP governance and activity
The Foreign and Commonwealth Office	Ongoing	London	Meeting	<10	Organised	Government representatives	NCP activity
Department for International Development	Ongoing	London	Meeting	<10	Organised	Government representatives	NCP activity

Table D.4. 2017 Presentations by the NCP to promote the Guidelines and/or the NCP in events organised by others

Title	Date	Location	Type of event	Size of audience	Targeted audience	Organiser(s)	Type of intervention	Theme of the intervention
Thun Group	Jun 17	Bern, Switzerland	Conference	10-50	Business representatives	Thun Group / Swiss NCP	Conference to discuss OECD policy and NCP processes	Finance and banking
UN Forum	Nov 17	Geneva	Conference	>100	NGOs, Government representatives	United Nations	Conference to discuss OECD policy and NCP processes	Business and Human Rights

Table D.5. 2018 NCP-organised and co-organised events to promote the Guidelines and/or the NCP

Title	Date	Location	Type of event	Size of audience	Organised or co-organised?	Targeted audience	Theme
The Foreign and Commonwealth Office	Ongoing	London	Meeting	<10	Organised	Government representatives	NCP activity
Department for International Development	Ongoing	London	Meeting	<10	Organised	Government representatives	NCP activity
UK Export Finance	Ongoing	London	Meeting	<10	Organised	Government representatives	NCP activity
Amnesty International	Jan 2018	London	Meeting	<10	Organised	NGO	NCP activity
German Embassy (UK)	Jan 2018	London	Meeting	<10	Organised	Government	to discuss National Action Plans
BLP law	Feb 2018	London	Meeting	<10	Organised	Legal	NCP activity
Rights and Accountability in Development	Feb 2018	London	Meeting	<10	Organised	NGO	NCP activity
Royal Institute for Chartered Surveyors	Jul 2018	London	Meeting	<10	Organised	Business	NCP activity
Ethical Trading Initiative	Aug 2018	London	Meeting	<10	Organised	NGO	NCP activity
Trade Union Congress	Aug 2018	London	Meeting	<10	Organised	Trade Union	NCP activity
Amnesty International, Rights and Accountability in Development, CORE	Oct 2018	Geneva	Meeting	<10	Organised	NGO	Click here to enter text.
Cross Government	Oct 2018	London	Meeting	<10	Organised	Government	Policy Coherence
UK Finance	Sep 2018	London	Meeting	10-50	Co-organised	Business	Finance and banking
UN Forum Business & Human Rights	Nov2018	Geneva	Meeting	<10	Organised	NGOs	NCP activity

Table D.6. 2018 Presentations by the NCP to promote the Guidelines and/or the NCP in events organised by others

Title	Date	Location	Type of event	Size of audience	Targeted audience	Organiser(s)	Type of intervention	Theme of the intervention
UK Finance: Roundtable on RBC	Jun 2018	London	Conference	10-50	Businesses	UK Finance	Roundtable on Responsible Business Conduct in the Financial Sector: Supporting an Effective Approach to Business and Human Rights	Finance and banking
UK Finance: Roundtable on RBC	Sep 2018	London	Conference	10-50	Business	UK Finance	Responsible Business Conduct: UK Finance roundtable	Finance and banking
Responsible Business Workshop	Oct 2018	London	Conference	10-50	Civil society organisations	Department for International Development	Click here to enter text.	Click here to enter text.
Government Steering Group: Business and Human Rights	Jun 2018	London	Meeting	10-50	Other government departments	Department for Business, Energy & Industrial Strategy / Foreign & Commonwealth Office	Roundtable to discuss policy development and coherence.	RBC
Government Steering Group: Business and Human Rights	Oct 2018	London	Meeting	10-50	Other government departments	Department for Business, Energy & Industrial Strategy / Foreign & Commonwealth Office	Roundtable to discuss policy development and coherence.	RBC

Annex E. Summary of Joint Parliamentary Committee on Human Rights Report of 2017

In 2016 and 2017, the Joint Parliamentary Committee on Human Rights led an inquiry into Human Rights and Business. The Joint Committee issued a report⁶⁵ and the Government responded.⁶⁶ The inquiry considered progress made by the UK Government in implementing the United Nations Guiding Principles on Business and Human Rights, by means of the National Action Plan that was published in 2013 and revised in May 2016. The NCP is one of a number of UK Government initiatives and bodies that are included in the National Action Plan. As part of this inquiry, the report reviewed the UK NCP in the chapter dedicated to access to justice. The report identified the following issues in relation to the UK NCP:

- Setting the threshold for evidence too high;
- Lack of expertise among NCP staff;
- NCP has a low profile and is inaccessible;
- No enforcement powers so lack of consequences for businesses;
- Lack of resources.⁶⁷

In order to address these issues, the Joint Committee made the following recommendations in the report:

1. ‘We urge the Government to address concerns about the NCP as a matter of urgency. It should create an independent steering board for the NCP, with power to review decisions, to lend it greater expertise.’
2. In order for the Government to support, and not undermine, decisions of the NCP, we recommend that the Government gives clear guidance to procurement officers that large public sector contracts, export credit, and other financial benefits should not be awarded to companies who have received negative final statements from the NCP and who have not made effective and timely efforts to address any issues raised.

⁶⁵ See House of Lords, House of Commons, Joint Committee on Human Rights, ‘Human Rights and Business 2017: Promoting responsibility and ensuring accountability’, Sixth Report of Session 2016–17, 5 April 2017, <https://publications.parliament.uk/pa/jt201617/jtselect/jtrights/443/443.pdf> (hereinafter the ‘Joint Committee report’)

⁶⁶ See House of Lords, House of Commons, Joint Committee on Human Rights, ‘Human Rights and Business 2017: Promoting responsibility and ensuring accountability: Government Response to the Committee’s Sixth Report of Session 2016–17’, 12 January 2018, <https://publications.parliament.uk/pa/jt201719/jtselect/jtrights/686/686.pdf>.

⁶⁷ Joint Committee report, pp. 63–65.

3. We recommend that the Government provide extra resources for the NCP, so that it can raise its profile and be seen as a viable mechanism for victims to gain access justice in a non-legal forum.
4. The Government should itself publicise adverse decisions by the NCP, for instance via written ministerial statements, to assist in raising the profile of decisions.
5. We encourage the NCP to raise its profile by engaging more with parliamentarians, given that MPs in particular often advocate on their constituents' behalf.⁶⁸

In summary, the UK government responded as follows to the recommendations above:

1. The NCP is already overseen by an independent Steering Board with power to review NCP decisions on procedural grounds.
2. The Government does not believe that the proposed guidance is required because, in respect of public procurement, the Public Contracts Regulations specify the legally permissible grounds for exclusion, and do not include compliance with the OECD Guidelines. In respect of Export Credit, UK Export Finance already considers any relevant NCP information in its due diligence.
3. The government agrees that the UK NCP should continue to raise its profile and that of the Guidelines and will continue to ensure that the UK NCP is properly resourced, in particular to handle specific instances effectively.
4. The government notes that NCP decisions are already widely disseminated (website, Parliament libraries, and other government departments). It is open to considering how to disseminate statements to a larger audience, though noting that the NCP works independently from the rest of government.
5. The government will consider how to integrate engagement with parliamentarians into any process to increase general awareness of the NCP.

⁶⁸ *Id.*, p. 65.

Annex F. Summary of the internal review of the Steering Board of 2017

In 2017, an internal review of the UK NCP Steering Board⁶⁹ was commissioned and conducted by an official from DIT

In terms of composition and representation, the review found that the current size of the Steering Board was appropriate, though its composition had become less representative following a government reorganisation which had the effect of relocating most government members of the Board into the Department of International Trade. In 2018, a new Board was formed with representatives from more diverse departments (see above).

The impartiality of the NCP as the secretariat of the Steering Board was also questioned as part of this review. DIT responded that it considered that the UK NCP members, as civil servants, are able to carry out this function impartially, in line with the civil service values.

In terms of the selection process, which is based on consultation with stakeholders, the review found that a more transparent set of requirements should be applied. The UK NCP accepted this finding by annexing a list of ‘personal criteria’ to the letter inviting stakeholders to nominate Steering Board members. Additionally, the review recommended clarifying the maximum term of a Steering Board member’s tenure, which the NCP accepted and set at 10 years.

The findings of the review and actions taken in response, along with the terms of reference and the list of persons interviewed are available on the UK NCP’s website.⁷⁰ The review was not intended to be a public exercise, and therefore no final report of the review was prepared, which is the reason why only the findings are published on the website. Civil society stakeholders indicated that a full published report would have enhanced the transparency of this process.

⁶⁹ See <https://www.gov.uk/government/publications/review-of-the-uk-national-contact-point-uk-ncp-steering-board/review-of-the-uk-national-contact-point-uk-ncp-steering-board>.

⁷⁰ <https://www.gov.uk/government/publications/review-of-the-uk-national-contact-point-uk-ncp-steering-board/review-of-the-uk-national-contact-point-uk-ncp-steering-board>

National Contact Point Peer Reviews: United Kingdom

Adhering governments to the OECD Guidelines for Multinational Enterprises are required to set up a National Contact Point (NCP) that functions in a visible, accessible, transparent and accountable manner.

This report contains a peer review of the UK NCP, mapping its strengths and accomplishments and also identifying opportunities for improvement.

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