

ADVISORY NOTE

A Guide to Designing and Implementing Grievance Mechanisms for Development Projects



The Office of the Compliance Advisor/Ombudsman
for the International Finance Corporation (IFC)
Multilateral Investment Guarantee Agency (MIGA)
Members of the World Bank Group



About the CAO

The CAO (Office of the Compliance Advisor/Ombudsman) is an independent post that reports directly to the President of the World Bank Group. The CAO reviews complaints from communities affected by development projects undertaken by the private sector lending and insurance members of the World Bank Group, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA). The CAO works to respond quickly and effectively to complaints through mediated settlements headed by the CAO Ombudsman, or through compliance audits that ensure adherence with relevant policies. The CAO also offers advice and guidance to IFC and MIGA, and to the World Bank Group President, about improving the social and environmental outcomes of IFC and MIGA projects.

**The CAO's mission is to serve as a fair, trusted,
and effective independent recourse mechanism and to
improve the environmental and social accountability of IFC and MIGA.**

For more information about the CAO, please visit www.cao-ombudsman.org

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In its advisory capacity, the CAO provides advice to the President of the World Bank Group and to the management of IFC and MIGA relating to broader environmental and social policies, guidelines, procedures, resources, and systems. This advice is often based on the insights and experience gained from investigations and audits in the CAO's Ombudsman and Compliance roles. The objective in the advisory function, and in preparing this Advisory Note, is to identify and help address systemic issues and potential problems early.

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The Office of the Compliance Advisor/Ombudsman





© 2008 Compliance Advisor/Ombudsman (CAO)
2121 Pennsylvania Avenue NW
Washington, DC, 20433 USA
Telephone: 202-458-1973
Internet: www.cao-ombudsman.org
e-mail: cao-compliance@ifc.org

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Compliance Advisor/Ombudsman (CAO)
2121 Pennsylvania Avenue NW
Washington, DC 20433 USA

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Some Definitions for This Guide

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GRIEVANCE– An issue, concern, problem, or claim (perceived or actual) that an individual or community group wants a company or contractor to address and resolve.

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COMPANY-COMMUNITY GRIEVANCE MECHANISM– A locally based, formalized way to accept, assess, and resolve community complaints concerning the performance or behavior of a company, its contractors, or employees.

Foreword

Grievance mechanisms are increasingly important for development projects where ongoing risks or adverse impacts are anticipated. They serve as a way to meet requirements, prevent and address community concerns, reduce risk, and assist larger processes that create positive social change. Today, many companies employ ad hoc or exclusively internal processes to address grievances. Unfortunately, these systems often produce less than satisfactory outcomes from the perspective of the company and/or the community. Recognizing this, and noting a lack of effective alternatives, companies and communities are becoming more proactive in their efforts to design and build more effective strategies for addressing community grievances.

Yet it is often challenging for companies to design and implement successful grievance mechanisms that suit the project context. Recognizing the challenge, the Office of the Compliance/Advisor Ombudsman (CAO) offers this guide to help groups develop project-level grievance resolution mechanisms. This guide also emphasizes the importance of communication and coordination among companies, communities, and other stakeholders directly affected by large development projects. We have learned from many years of experience that open dialogue and collaborative grievance resolution simply represents good business practice—both in managing for social and environmental risk and in furthering company and community development objectives.

This guide is offered as a companion to Performance Standards and accompanying Guidance Notes published by the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group. These standards set forth a role for grievance mechanisms for projects financed or assisted by IFC and MIGA.

Against the backdrop of the IFC and MIGA Performance Standards, this guide consolidates knowledge and lessons regarding grievance resolution from various sources, including on-the-ground experiences of the CAO, findings from studies on grievance resolution in the workplace and in environmental conflict resolution, and from practical experience in establishing peace accords and procedures in postconflict disputes over land and property. Our methodology also included an extensive review of existing information on grievance mechanisms from the field of conflict resolution.

In addition, we obtained first-hand accounts through interviews with industry personnel, academics, nongovernmental organizations (NGOs), international financial institutions, consultants, and others with experience of grievance mechanisms. These interviews focused on the challenges involved in designing and implementing grievance mechanisms and the practical strategies and steps required for an effective system, regardless of its form.

As grievance resolution mechanisms are increasingly adopted, companies and communities must learn how to design and implement these systems cooperatively and more effectively for their potential to be realized. We hope this guide will equip people interested in initiating a grievance resolution program with the practical steps and tools they need to be successful in efforts to address community concerns and promote improved relationships, fair remedies, and just procedures.



Meg Taylor
Vice President, Compliance Advisor/Ombudsman, CAO
June 2008

Executive Summary

Grievance mechanisms provide a way to reduce risk for projects, offer communities an effective avenue for expressing concerns and achieving remedies, and promote a mutually constructive relationship.

Local people need a trusted way to voice and resolve concerns linked to a development project, and companies need an effective way to address community concerns.¹ A locally based grievance resolution mechanism provides a promising avenue by offering a reliable structure and set of approaches where local people and the company can find effective solutions together.

A well-functioning grievance mechanism:

- Provides a predictable, transparent, and credible process to all parties, resulting in outcomes that are seen as fair, effective, and lasting
- Builds trust as an integral component of broader community relations activities
- Enables more systematic identification of emerging issues and trends, facilitating corrective action and preemptive engagement.

Demand for effective grievance mechanisms is increasingly underpinned by investor policies—such as those of the World Bank Group's International Finance Corporation (IFC)—and international initiatives such as the United Nations Human Rights Council.

This Advisory Note offers practical guidance to assist in the design and implementation of effective project-level grievance mechanisms.²

The Four Phases of Designing and Implementing Grievance Mechanisms

Developing and implementing a grievance mechanism can be broken down into four phases, each with its own set of activities.

- Phase 1. Define scope and determine goals. The design team develops the overarching purpose and goals for the grievance mechanism and makes sure that design decisions flow from its purpose.
- Phase 2. Design. The design team assembles a preliminary plan that outlines the purpose, goals, scope, resolution approaches, structure, and specifics about how the grievance mechanism will function. This preliminary plan is tested and refined through consultation with employees and community members and presented to senior management for their approval.
- Phase 3. Implement. The company and the community work together to introduce, refine, and institutionalize the grievance mechanism.
- Phase 4. Monitor, report, and learn. Information is gathered on the effectiveness of the mechanism in particular and, more generally, on the company's ability to prevent and address grievances. This information is used to refine the system.

These four phases are discussed in detail in chapters 4–7.

Good Practice Markers

Problems are often resolved more easily, cheaply, and efficiently when they are dealt with early and locally.

The experience and research compiled for this guide indicate that there is a core set of practices that mark effective, credible company-community grievance mechanisms. These practices are offered as good practice markers for effective grievance resolution systems.

Refine core company values. To improve their community relations in general and grievance resolution in particular, companies can adopt certain critical values or attitudes. These include:

- Commitment to fairness in both process and outcomes
- Freedom from reprisal for all involved parties—within the company and in the community
- Dedication to building broad internal support for the grievance mechanism across project lines
- Mainstreaming responsibility for addressing grievances throughout the project, rather than isolating it within a single department
- Willingness by senior management to visibly and sincerely champion the grievance system.

Start early in the project cycle. The most successful grievance mechanisms are put in place as early as possible—ideally, during the project feasibility phase—and are modified for later project phases. Problems are often resolved more easily, cheaply, and efficiently when they are dealt with early and locally.

Involve the community in the design. Stakeholders from the community and company should be involved in the grievance mechanism design. Indeed, some experts feel that imposing a company-designed system could be worse than having an ad hoc system. The company should engage community representatives to identify key factors, such as the kinds of disputes that could arise during the project life, how people in the community actually want to raise concerns, the effectiveness of current company procedures for resolving complaints, and the availability of local resources to resolve conflicts. Based upon this assessment, community representatives should help shape both the design and future improvements.

Ensure accessibility. An effective grievance mechanism should be accessible to diverse members of the community, including more vulnerable groups such as women and youth. Multiple points of entry should be available, including face-to-face meetings, written complaints, telephone conversations, or e-mail. Confidentiality and privacy for complainants should be honored where this is seen as important.

Maintain a wide scope of issues. The grievance mechanism should be open to a wide range of concerns: both those based in factual data and those arising from perceptions or misperceptions. Perceived concerns can be as critical to address as actual hazards. The mechanism should also be able to address multi-party and multi-issue complaints.

Develop culturally appropriate procedures. The mechanism should be responsive, respectful, and predictable—clearly laying out an expected timetable for key process milestones. The grievance mechanism should be capable of bridging deep divides, including cultural divides. The design and operation of the grievance mechanism should consider cultural differences, such as communities' preferences for direct or indirect negotiation; attitudes toward competition, cooperation, and conflict; the desire to preserve relationships among complainants; authority, social rank, and status; ways of understanding and interpreting the world; concepts of time management; attitudes toward third parties; and the broader social and institutional environment.

Incorporate a variety of grievance resolution approaches. To accommodate differences in personal and cultural preferences, the grievance mechanism should offer a variety of grievance resolution approaches—not just a single grievance procedure. The complainant should have influence over which approach to select. Some complaints may be managed in an informal way solely by those directly involved, such as a company representative and the complainant. Others may rely on more formal independent redress, such as arbitration using a neutral third party. Some mechanisms may rely on an interest-based approach, such as responding to the stated legitimate and perceived needs of the complainant. Others may rely on a rights-based approach, based on legal, contractual, or other rights. Where possible, local, customary ways of grievance resolution should be evaluated and incorporated into the system.

The grievance mechanism should offer a variety of approaches, not just a single grievance procedure. The complainant should have influence over which approach to select.

Identify a central point for coordination. A well-publicized and consistently staffed position, held by an individual or team, should be maintained. This central coordinator facilitates the development and implementation of the grievance mechanism, administers some of its resources, monitors internal and external good practice, ensures coordination among access points, and makes certain that the system is responsive to the information it manages.

Maintain and publicize multiple access points. Expanding access beyond those individuals who have the primary responsibility to receive grievances can significantly reduce barriers to entering the system and encourage community members to address problems early and constructively. Individuals serving as access points are most effective if they are trustworthy, trained, knowledgeable, and approachable regardless of the ethnicity, gender, or religion of the complainant.

Report back to the community. The company should provide regular feedback to relevant stakeholders to clarify expectations about what the mechanism does and does not do; to encourage people to use the mechanism; to present results; and to gather feedback to improve the grievance system. Information reported back might include types of cases and how they were resolved, and the way the grievance has influenced company policies, procedures, operations, and the grievance mechanism itself.

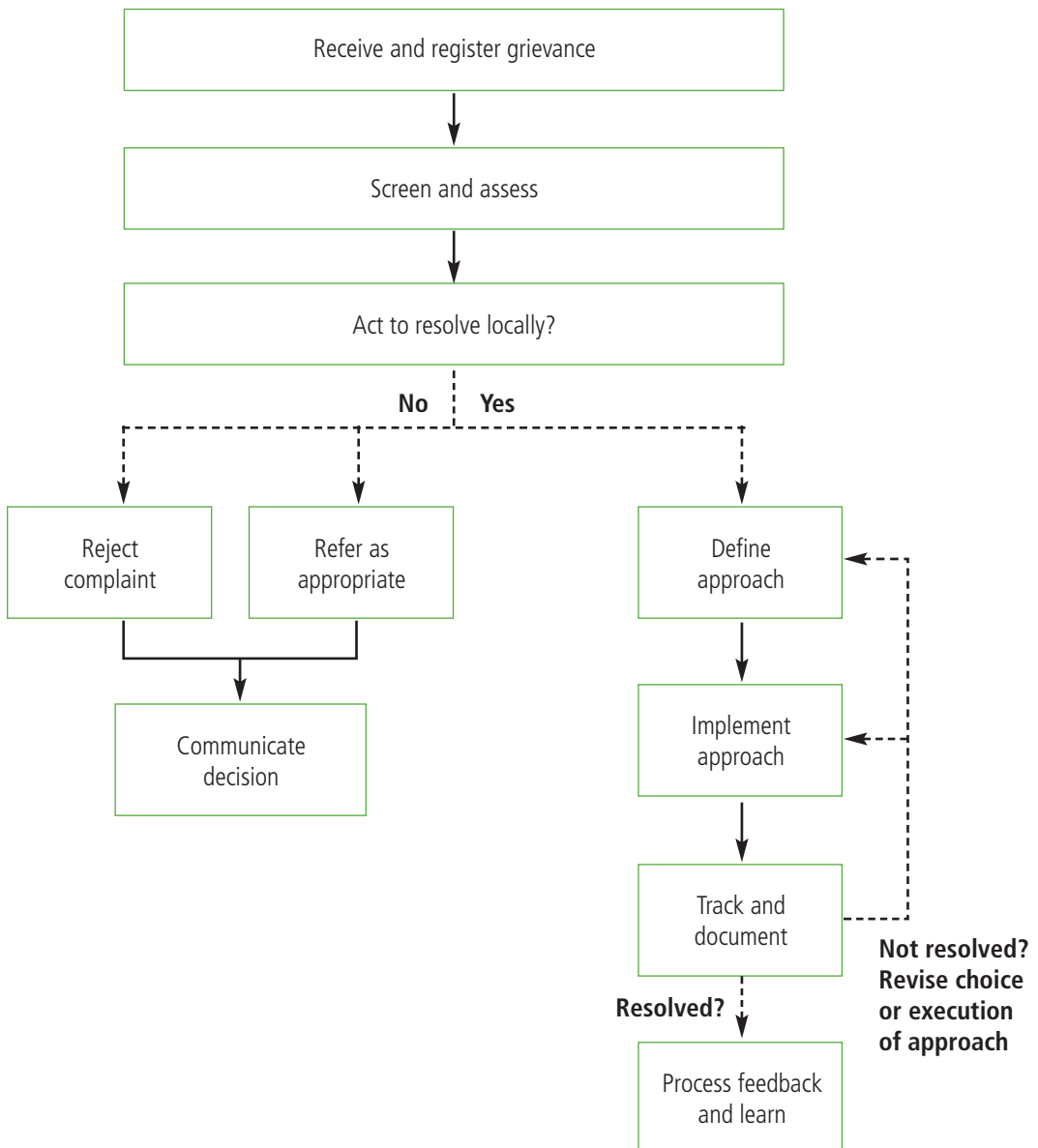
Use a grievance log to monitor cases and improve the organization. In addition to resolving individual or community disputes, the grievance mechanism is an opportunity to promote improvements in the company. A grievance log (or register) can be used to analyze information about grievance and conflict trends, community issues, and project operations to anticipate the kinds of conflicts they might expect in the future, both to ensure that the grievance mechanism is set up to handle such issues and to propose organizational or operational changes. Sometimes, enacting policies or other types of structural change can resolve grievances around a common issue, rather than continuing to settle individual complaints on a case-by-case basis.

Evaluate and improve the system. The company should periodically conduct an internal assessment of the grievance mechanism to evaluate and improve its effectiveness. Important elements of evaluation include: general awareness of the mechanism; whether it is used and by whom; the types of issues addressed; the ability of the mechanism to resolve conflicts early and

constructively; the actual outcomes (impacts on project operations, management systems, and benefits for communities); its efficiency; and, most fundamentally, the ability to accomplish its stated purpose and goals. At certain times, the company should also solicit and include the views of stakeholder representatives to see how the mechanism is proving effective in practice.

A good grievance mechanism should be simple to understand, but not simplistic in its dealings with people and issues. Clarity and a user-friendly approach are certain to yield positive results. An example of a basic grievance mechanism structure is provided in figure 0.1 below.

Figure 0.1. The Typical Steps of a Grievance Mechanism



Part I. Overview

A locally based grievance resolution mechanism offers a reliable structure and set of approaches whereby local people and the company can find effective solutions together.

Chapter 1. The Need for Grievance Mechanisms

Companies are being called upon to lead and work with their host communities to find nontraditional approaches for preventing and addressing community grievances.

Large-scale development projects represent dramatic change for communities (see box 1.1). While change may lead to opportunity for some, it may put others at risk, despite project efforts to be socially and environmentally responsible, and despite genuine attempts to engage communities and create project safeguards. Risk and change work hand in hand to create conditions where community conflicts arise.

Consider the following examples:

- In a small Andean town of clustered adobe dwellings, contractors leave a local restaurant without paying for their lunches. Indignant community members block the road to the project so no vehicles can pass.
- A local resident reports the presence of mercury in her teakettle. She insists it came directly from her kitchen faucet. While this is scientifically impossible, the story makes headlines in the local and national media and escalates ongoing tensions between the company and the local population.
- Villagers undergoing resettlement repeatedly raise complaints with the company, ranging from eligibility criteria and rates of compensation to the location of resettlement sites and quality of services at those sites. The company struggles to find a way to deal with the increasing number of disputes in the face of the growing impacts of resettlement.

Box 1.1. Defining “Community”

For some types of projects, the definition of community is complex. For example, pipeline projects can impact people along a corridor thousands of miles long. In this instance, the “community” may include people of different ethnic groups as well as different countries. The communities along the pipeline may experience short-term impacts during construction, but typically fewer and different impacts during operation. On the other hand, the community surrounding a mining project is more limited spatially. For this example, the community may experience more localized but longer-term impacts.

Companies in the business of developing large-scale projects must find effective ways to fairly and respectfully address community disputes to reduce their risk and protect local people who may become exposed to some form of harm (see table 1.1). A thoughtful response is all the more urgent for companies operating in countries with poor governance structures and an inadequate judiciary. Companies may be particularly at risk when it comes to community grievances in places where the government is not able to mediate between different societal interests. In environments with an inadequate means to voice and resolve grievances, communities may turn to other venues to protest where the risk level for companies is dramatically higher, including the streets, an unpredictable court system, or the international press. Alternatively, they may feel powerless to act, while their grievances—unresolved, ignored, or scorned—accumulate over time, eventually erupting into intractable community opposition (see box 1.2).

Box 1.2. Community Expectations When Grievances Arise

When local people present a grievance, they generally expect to receive one or more of the following:

- Acknowledgment of their problem
- An honest response to questions about company activities
- An apology
- Compensation
- Modification of the conduct that caused the grievance
- Some other fair remedy.

In voicing their concerns, they also expect to be heard and taken seriously. Finally, the company, contractors, or government officials must convince people that they can voice grievances and work to resolve them without retaliation.

To address these challenges, companies are being called upon to lead and work with their host communities to find nonjudicial, dialogue-based approaches for preventing and addressing community grievances.

Traditional Ways Companies Handle Grievances

All companies use some approach to address conflicts with local people, but it is more rare to find a well-constructed, systematic approach. Interviewees for this guide cited three common ways companies handle grievances.

Trust is not a substitute for a grievance mechanism,
and a grievance mechanism is not a substitute for trust.

Blind trust: Rely on reputation to avoid disputes

Proponents of the trust approach advise that a grievance mechanism is not necessary as long as the company has established sufficient trust with the community. Relying upon a purely preventive approach is not recommended, however. Inevitably, complaints arise that trust alone cannot avert. While trust will likely make the resolution process easier, it is not a substitute for a grievance mechanism—and a grievance mechanism is not a substitute for trust.

Ad hoc: Hope for the best

Individual managers apply their own idiosyncratic version of grievance resolution on a case-by-case basis as specific disputes arise. Each case is handled as an individual event, without a basis in conscious policy or established practice. The approach is pragmatic, flexible, and inconsistent. The tactics and techniques used depend upon the specific circumstances of each case. Senior management often is not involved.

Ad hoc approaches pose several limitations for companies:

- Transparency is lacking. Complainants do not know where to find assistance with their grievance.
- Successful resolution is too dependent upon the skills of the particular project personnel who happen to receive the complaint.
- The approach is too reactive to address conflicts of any complexity.

- Only a limited number of grievances can be handled, as grievance management is viewed as taking time away from the “real” work of the business.
- The structure impedes the company’s ability to provide equitable, efficient, and consistent responses across the project, since staff resolve complaints independently without knowing how others are addressing similar situations.

Investigate, decide, and announce: Control the process and the outcome

Most companies that have developed a more formal grievance mechanism subscribe to some variation of an “investigate, decide, and announce” approach.

More formal than the ad hoc approach, this model offers an internal, multi-step procedure with specific time frames. Complaints are received through designated channels, and investigated to establish their validity or to determine that the complaint is without basis. If the complaint is deemed eligible for further investigation, it is referred to management for action and a formal company response is prepared and presented to the complainant. If the complainant does not accept the response, there may be an appeals process through successive levels of the company management hierarchy.

Table 1.1. Types of Grievances that Companies Typically Encounter

Type of grievance	Complainant(s)	Examples
Relatively minor and one-time problems related to company operations	An individual or family	A company truck damaging a community member’s fence; a one-time disrespectful encounter between a company employee and a community member
Relatively minor but repetitive problems related to company operations	An individual or family or small group of people	Livestock getting loose because company employees fail to close gates
Relatively minor but repetitive and widespread problems	Multiple individuals, families, or larger groups	Company-related road traffic raising dust that settles on clothes hung out to dry
Significant and larger repetitive problems	Community groups, nongovernmental or community-based organizations, or local governments	Company blasting allegedly causing structural and/or aesthetic damage to buildings
Major claims that company activities have resulted in significant adverse impacts on larger populations of people	Community groups, nongovernmental or community-based organizations, or local governments	Company operations adversely impacting a community’s water supply, making it unsafe for drinking, livestock, and/or irrigation
Major claims over policy or procedural issues	Nongovernmental organizations, community groups or community-based organizations, or local governments	A company’s noncompliance with its own policies; failure to follow guidelines of multilateral lenders for adequate consultation to achieve prior and informed consent; inadequate resettlement and compensation of affected populations

These models also encounter many criticisms. Experience has shown that internally based mechanisms:

- Reinforce power inequities by leaving companies in a position of power and communities in a position of dependency
- Significantly limit procedural choices available for solving the problem
- Emphasize investigations and formal responses based upon internal discussions over face-to-face dialogue and problem solving
- Prevent the complainant from having much influence in crafting a solution
- Omit stakeholders from involvement in the design of the grievance mechanism
- Rely upon individuals without specific training or capacity in grievance resolution to manage the system
- Adapt through trial and error.

A Better Approach: Grievance Resolution Mechanisms

An effective grievance mechanism enhances the ability of a company to justly address community concerns.

Local people need a trusted way to voice and resolve concerns linked to a project's operations (see box 1.3). A locally based grievance resolution mechanism provides a promising avenue by offering a reliable structure and set of approaches where local people and the company can find effective solutions together. A well-functioning grievance mechanism:

- Increases the likelihood that small disputes can be brought to a conclusion relatively quickly before they become deep-seated grievances
- Keeps ownership of the dispute in the hands of local people
- Offers an early, efficient, and less costly way to address concerns
- Promotes a more stable business climate for companies that reduces risk and enhances accountability to the host community.

Box 1.3. A Community Perspective on Grievance Resolution

Communities affected by development projects need a means to have their grievances addressed. They may seek a system that provides access to influence decisions that affect their lives, access to a fair hearing and procedural justice, access to information, and access to a fair remedy—without fear of retaliation.

Communities may also believe that an effective grievance mechanism can result in a more equitable allocation of benefits, costs, and risks during the life of the project. Notably, grievance mechanisms can:

- Give affected communities the leverage to negotiate mutually acceptable agreements under which their concerns can be addressed
- Enhance the ability of a company to justly address community concerns
- Ensure that even the poor and most marginalized get their concerns heard and addressed.

Some suggest that well-designed systems not only resolve individual complaints, but also change project policies and operations for the better.

A well-functioning grievance mechanism can also provide valuable feedback to companies by:

- Serving as an early warning system for wider problems
- Yielding insights from individual grievances that spotlight changes that might be needed to company operations or management systems
- Indicating possible systemic changes that might be needed to ensure that particular grievances do not recur.

Without the feedback loop that a good grievance mechanism can provide, the company may miss crucial opportunities to identify ways to improve operations. (For more on the business case for grievance mechanisms, see box 1.4.)

Box 1.4. The Business Case for Grievance Mechanisms

“There is only one chance to make a good first impression. It’s difficult to get back on track after a project has problems.”

—General Manger, mining project, Peru

The general manager at a large copper mining project under development in Peru makes a powerful case for the practical benefits a grievance mechanism offers a company and the community. A veteran to community complaints and grievances, and with extensive experience working in the conflicted mining sector in Peru, he has seen first hand what conflict can do to a project. He describes the motivation behind their grievance resolution mechanism like this: “It’s part of a process of engaging constructively with communities. We see it as an opportunity to share information. With a more formal system, we can identify issues early that could become big problems in the future. There is only one chance to make a good first impression. It’s difficult to get back on track after a project has problems. We have seen what happened with other mining projects in Peru. Creating a grievance mechanism at the beginning of a project sends a message to the community and NGOs that you want to engage productively. Developing a process early allows you to do a substantial amount of learning that you can apply when the project becomes a full-scale development in the future. . . Much of the work is done by contractors and this is one of the few ways to offer consistency between company and contractor responses, as well as control behavior of contractors. It also is a chance to instill our corporate ethic in our contractors. We think grievance mechanisms also make affected people part of the solution, which is a good practice.”

In addition to serving as a platform to resolve grievances, an effective grievance mechanism can help achieve the following goals:

- Open channels for effective communication
- Demonstrate that a company is concerned about community members and their well-being
- Mitigate or prevent adverse impacts on communities caused by company operations
- Improve trust and respect
- Provide structures for raising, addressing, and resolving issues that reduce imbalances in power
- Promote productive relationships
- Build community acceptance of a company’s “social license” to operate (see box 1.5).

Box 1.5. A Company's "Social License" to Operate

Just as a company must secure permits and licenses from local, regional, and national governments, it must secure a "social license" from the local and wider community to function as a legitimate and respected operator in their midst.^a To obtain a social license, companies are realizing that it is good business practice to take the level of social and environmental performance "beyond compliance" with basic legal requirements; they are finding it necessary to meet and sometimes exceed societal expectations. This, in turn, requires companies to align their operations with local needs, values, and concerns. For an increasing number of companies, grievance mechanisms form an integral part of this effort.

a. Gunningham, Kagan, and Thornton (2004).

IFC and MIGA's Policies and Guidance on Grievance Mechanisms

Recognizing both the community development and the business case for managing grievances, the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA), the private sector components of the World Bank Group, already have policy commitments that contain provisions relating to grievance mechanisms.

IFC and MIGA's Policy and Performance Standards on Social and Environmental Sustainability were introduced to manage social and environmental risks and impacts and to enhance development opportunities of their projects.³ The Performance Standards are the basis of the Equator Principles, adopted worldwide by private sector banks and financial institutions, and also serve as good practice standards for development projects around the world.

With respect to **client requirements**, Performance Standard (PS) 1 presents the most significant reference to grievance mechanisms. The section on Social and Environmental Assessment and Management Systems (pp. 5–6) states: *"The client will respond to communities' concerns related to the project. If the client anticipates ongoing risks to or adverse impacts on affected communities, the client will establish a grievance mechanism to receive and facilitate resolution of the affected communities' concerns and grievances about the client's environmental and social performance."* Further references to grievance mechanisms are associated with the Performance Standards on Labor and Working Conditions (PS2); Community Health, Safety and Security (PS4); Land Acquisition and Involuntary Resettlement (PS5); and Indigenous Peoples (PS7).

With respect to their own **institutional commitments**, IFC and MIGA's Policy on Social and Environmental Sustainability recognizes that both Bank members are held accountable to the Compliance Advisor/Ombudsman (CAO), which is the independent recourse mechanism available to project-affected peoples. The question of how a project-level grievance mechanism interacts with the CAO is dealt with below.

IFC has also prepared a set of Guidance Notes that correspond to each standard to explain requirements.⁴ Box 1.6 summarizes the principles and good practice measures described in the Performance Standards and Guidance Notes.

Taken together, the Policy, Performance Standards, and Guidance Notes of the IFC and MIGA form a robust foundation upon which the rationale and design of project-level grievance mechanisms—as elaborated in this document—rest.

Box 1.6. Principles and Good Practice Measures on Grievance Resolution Derived from IFC and MIGA's Performance Standards and Guidance Notes

IFC and MIGA's Performance Standards and Guidance Notes present various principles and good practice measures on grievance mechanisms:

- Establish a procedure for receiving, recording/documenting, and addressing complaints that is easily accessible, culturally appropriate, and understandable to affected communities.
- Inform the affected communities about the mechanism during the company-community engagement process.
- Consider when and how to seek solutions to complaints in a collaborative manner with the involvement of the affected community.
- Scale the grievance mechanism to the potential risks and adverse impacts of the project.
- Address concerns promptly, using an understandable and transparent process that is readily accessible to all segments of the affected communities—and at no cost and without retribution.
- Ensure full participation of both genders and vulnerable groups.
- Take into consideration customary and traditional methods of dispute resolution when designing the system.
- Assign consistent, experienced, and qualified personnel within the client organization with responsibility for receiving and responding to grievances.
- Establish a redress mechanism so those who feel their grievances have not been adequately addressed have recourse to an external body for reconsideration of their case.
- Document grievances received and responses provided and report back to the community periodically.
- Provide periodic reports on issues that the grievance mechanism has identified as of concern to those communities.
- Be aware of judicial and administrative mechanisms available in the country for resolution of disputes and do not impede access to these mechanisms.

The Performance Standards and Guidance Notes emphasize that a grievance mechanism should help the client understand the community's perception of project risks and impacts so as to adjust its measures and actions to address the community concerns.

How Grievance Mechanisms Fit into Project-level Stakeholder Engagement

Actively anticipating potential problems and initiating preventive strategies and actions should be integral activities for companies and communities.

Stakeholders are persons or groups that are directly or indirectly affected by a project, as well as those that may have interests in a project and/or have the ability to influence its outcome either positively or negatively. **Stakeholder engagement** encompasses a range of activities and interactions between a company and community over the life of a project that are designed to promote transparent, accountable, positive, and mutually beneficial working relationships.

Stakeholder engagement includes identifying and analyzing stakeholders, disclosing information through community consultation, anticipating and preventing conflicts, forming partnerships,

and involving the community in project monitoring. Stakeholder engagement can prevent conflicts by building rapport, positive relationships, and trust between the company and a community. Grievance resolution mechanisms are one component of an effective stakeholder engagement program.

One of the most effective forms of prevention a company can encourage is the active participation of employees at all levels in their host community's civic, social, or religious life (see box 1.7). Such participation can provide a means to build positive personal relationships, establish connections with community groups and leaders, promote open and informal communication and information exchange, and demonstrate concern by the company and its employees for the community's well-being. It can also offer informal access to information about community concerns and provide early warnings about any conflicts in the making. Such alerts are valuable; they give the company plenty of time to prepare an adequate response and address escalating tensions.

Sometimes, prevention through well-formulated stakeholder engagement can be seen as an unnecessary frill in project development. Companies are often reluctant to make necessary expenditures of effort, funds, time, and personnel when it is not clear that they are needed. Neglecting prevention, however, is often detrimental to both companies and communities. Prevention is good management, and benefits typically outweigh costs.

Box 1.7. The Importance of Community Engagement to Avoid Conflicts

"Community engagement is a core strategy to know what our problems are before a grievance arises. Our local staff is involved in local chambers of commerce, church organizations, festival committees, and many other civic activities. [We] also have a foundation—with local people on the board—and they decide where community development funds go. The most proactive mechanisms have been active locally in civic life."

—A company vice president in charge of community relations

How Grievance Mechanisms Fit into the Larger Context of Project Accountability

In addition to being part of an effective stakeholder engagement program, grievance mechanisms also fit into the larger world of corporate accountability that goes beyond the project level. Grievance mechanisms often are used as a first resort. If the grievance cannot be resolved, the complainant may refer to an external party such as the court system or an independent recourse mechanism such as the CAO to hear the case. Various accountability mechanisms exist at the industry, national, regional, and international level.⁵

Nonproject-level accountability mechanisms do have limitations, however:

- The *judiciary*—often the institution of choice for resolving conflicts in some countries—is not trusted by either companies or communities in many parts of the world.
- *Traditional systems of justice* may be preferred by some community members; however, project developers may not fully understand or trust these forums. It is unlikely that companies would be willing to abide by their process or decisions.

- *Independent recourse mechanisms*, such as the CAO or the World Bank's Inspection Panel, can play a valuable role, but are available to complainants only when the financial institution has an interest in the project, and are often subject to several other jurisdictional limitations.

Nonproject recourse mechanisms present a reasonable alternative in some circumstances, but do not replace a working project-level grievance mechanism.



Chapter 2. Understanding Grievance Mechanisms

A grievance mechanism should be in place throughout the entire project cycle.

A project-level grievance mechanism is a locally based, formalized way for a company to accept, assess, and resolve community complaints related to company activities. It offers a package of widely understood and effective procedures for solving problems that are culturally appropriate, in combination with specially trained personnel, and aims to help parties reach speedy, efficient, and acceptable resolutions with dignity, justice, and finality.

The grievance mechanism draws upon conflict resolution resources from several areas—those inside the company, traditional and customary systems, and private systems (mediation, conciliation, arbitration).⁶ These approaches complement one another and act together in a coordinated way.

Sometimes a company representative and a community member sit together informally and work out an agreement on their own. Other times, a trusted third party—possibly a mediator, technical expert, local authority, ombudsman, or wise person—may help the parties talk or suggest ways in which they can resolve their dispute fairly.

A grievance mechanism should be in place throughout the entire project cycle, beginning with the planning phases and continuing through construction and operations, until the end of the project life. While the grievance mechanism may evolve as the project moves through various phases, the dual goals of accountability to stakeholders and risk reduction remain constant.

Some Guiding Principles

Some of the approaches to grievance resolution advocated in this Advisory Note are grounded in principles of mediation and interest-based negotiation common to the field of alternative dispute resolution (ADR). ADR approaches emphasize creating an enabling environment for inclusive decision making and generation of locally owned decisions. Ultimately, ADR approaches focus on empowering parties to participate in a process that is fair, principled, and robust.

There are circumstances when interest-based conciliation approaches are not appropriate or desirable to one or the other party in a dispute. Under these circumstances, arbitration or judicial recourse may be more appropriate after careful consideration. Some observers are concerned that interest-based approaches can encourage one party (usually the weaker) to compromise or negotiate away its fundamental human rights. Clearly, any grievance mechanism incorporating mediation or other interest-based processes must be grounded in a framework of ethics and principles that should not be violated. A report from the UN Special Representative on business and human rights suggests that grievance mechanisms should be:

- *Legitimate*. A mechanism must have clear, transparent, and sufficiently independent governance structures to ensure that no party to a particular grievance process can interfere with the fair conduct of that process.
- *Accessible*. A mechanism must be publicized to those who may wish to access it and provide adequate assistance for aggrieved parties who may face barriers of access, including language, literacy, awareness, finance, distance, or fear of reprisal.

- *Predictable*. A mechanism must provide a clear and known procedure, with time frames for each stage; clarity on the types of process and outcome it can (and cannot) offer; and means of monitoring the implementation of any outcome.
- *Equitable*. A mechanism must ensure that aggrieved parties have reasonable access to sources of information, advice, and expertise necessary to engage in a grievance process on fair and equitable terms.
- *Rights-compatible*. A mechanism must ensure that its outcomes and remedies accord with internationally recognized human rights standards.
- *Transparent*. A mechanism must provide sufficient transparency of process and outcome to meet the public interest concerns at stake and should presume transparency wherever possible. Nonstate mechanisms in particular should be transparent about the receipt of complaints and the key elements of their outcomes.⁷

As one example, in the case of the CAO, the Ombudsman “will not support agreements that would be coercive to one or more parties, are contrary to IFC/MIGA policies, or that would violate domestic laws of the parties or international laws.”⁸

Components of a Grievance Mechanism

Grievance resolution mechanisms include several elements, including some or all of the following:

- *A transparent grievance receipt and registration system* to provide ways for community members to register complaints and confirm they have been received
- *Grievance eligibility assessment* to determine if the issues raised in the complaint fall within the mandate of the grievance mechanism and the complainants have standing
- *Grievance evaluation* to clarify the issues and concerns raised in the complaint, to gather information on how others see the situation, and to identify whether and how the issues might be resolved
- *Several choices for solving problems, with or without the assistance of independent, third parties:*
 - *Internal decision-making processes*, whereby issues are handled by designated company officials, using stated standards and criteria, to develop and propose a company response to the grievance and to allow for an appeals process
 - *Joint problem solving*, in which the company and the complainant engage in direct dialogue
 - *Third-party decision making* to offer a solution when a voluntary agreement is not possible
- *Grievance tracking, monitoring, and reporting to the community*
- *Company-community feedback and information sharing* to strengthen grievance resolution processes
- *Organizational learning* and identification of systemic problems and the need for changes to policies and procedures to prevent recurrent future disputes.

There is no ideal model or one-size-fits-all approach to grievance resolution. Indeed, the best solutions to conflicts are generally achieved through localized mechanisms that take account of the specific issues, cultural context, local customs, and project conditions and scale. Nonetheless, the CAO’s experience—together with research undertaken for this study, which solicited the views of a wide range of practitioners—suggest that these basic components are especially helpful.



Chapter 3. Initiating a Grievance Mechanism

Grievance resolution is everybody's business,
from the company's core business operations,
to production, to environmental management.

Grievance mechanisms start somewhere and with someone. It is common practice for the company's community relations, external affairs, human resources, or legal department to be charged with initiating the effort. These offices, however, are not the backbone for resolving community grievances. Grievance resolution is everybody's business, from the company's core business operations, to production, to environmental management. As one regional director commented: "You need to view inside and outside the fence as part of the same system. Otherwise, Environmental and Operations folks will look at grievance handling as Social's job, dismissing a complaint as something that has nothing to do with them. The reality is that grievances often materialize as a result of perceptions by community members related to environmental and operations issues and performance."

Identify and Engage Key Actors

When starting out, it is important to recruit support and leadership for building the new system: from within the company, from the community, and from a range of stakeholders. To develop needed support:

- *Identify a promoter within the company.*⁹ These individuals are rarely experts on grievance mechanisms. Nonetheless, they are important change agents who:
 - Maintain momentum through the early stages, addressing skepticism and resistance
 - Garner support inside the company and the community
 - Build the business case and articulate it to gain acceptance from senior management
 - Contribute ideas that strengthen how the grievance mechanism will work
 - Critically assess results once the grievance mechanism is up and running.
- *Identify promoters within the community.* It is also important to locate key champions within the community who can help build support for the use of the system and address concerns. The mechanism should ensure that promoters represent the community (such as elected, selected, or traditional leaders), and are not a self-promoting individual or group with a political agenda.
- *Cultivate leadership within the company and community.* Leadership commitment is critical for deciding whether or not to move forward with developing a grievance mechanism. The initiative should not proceed until such support can be raised.

Establish a Design Team

Building a core design team is especially
important for large, controversial projects.

The design team serves as a strategy team, sounding board, designer, and promoter. The team normally provides technical and political capability to move the process forward, enhances acceptance during the initial introduction, and ensures that implementation is effective.

Building a core design team is especially important for large, controversial projects.

Effective design teams:

- Comprise individuals of mixed levels and functions from the company (such as operations, environmental affairs, community relations, legal affairs, contractors). Staffing the design team from just one function such as community relations or human resources is unwise.
- Include a balanced group of representatives from the community, representing the range of constituencies and demographics that will be using the grievance mechanism, while keeping the team small enough to be responsive.
- Are representative and manageable in terms of their size (8 to 12 members).
- Rely upon clear terms of reference and a work plan that outlines team goals, roles and responsibilities, level of decision-making authority, reporting lines, tasks, time frame, and products.
- Use the services of a professional design consultant or facilitator with experience in developing community/company grievance mechanisms to help the team get started.

Understand the Current Environment

The first task for the design team is to conduct an assessment of the types of grievance that are likely to arise, local capacity to handle grievances, and, if the project is already operating, the nature of any community grievances that have been presented so far.

This type of assessment forms an integral part of any stakeholder identification and engagement planning process. Much of the necessary information could be available in project documents, such as the Social and Environmental Impact Assessment (SEIA), or in the archives of the project sponsor or various government agencies.

Some specific questions related to grievance mechanisms may not have been addressed by previous work. To fill these gaps, the assessment process should involve a range of approaches, including interviewing and consulting with the community and company, and reviewing documents. When approaching a community, the design team must respect cultural sensitivities. Based on data collection and analysis, the design team can develop an overarching goal and direction for the grievance mechanism that recognizes the needs of both the community and the company and that responds to the question of what you want the grievance mechanism to accomplish. The analysis also guides the team in its decision about which specific design features to select to ensure compatibility with context and culture.

Stakeholder feedback is part of any design team's education. To address doubts, gather valuable input, and build support, those leading the initiative should develop a plan for gathering input from local company and community people at the front end of the planning process, as follows:

- Before designing the grievance mechanism, reach out to a broad group of stakeholders (employees, contractors, managers, community leaders, local officials) through public meetings or a series of focus groups.
- Use outreach meetings to receive information and understand people's doubts, objections, expectations, and perceptions related to a grievance mechanism.
- Help people understand why the system is being put in place, what it will look like in broad terms, and how it might benefit local people and those connected to the company.
- Use such conversations to gather valuable input about traditional ways that members in the community handle conflict. Identify some of the cultural differences the complaints system will need to address if people are to use it.

- Survey existing dispute resolution capacity in the community and consider how it might play a role in the grievance resolution mechanism.

An effective outreach process engages all stakeholders to: help shape what the grievance resolution mechanism looks like; increase transparency by presenting the company's preliminary thinking about the grievance resolution mechanism (why the company wants to put one in place and ways in which it will benefit local people); and build understanding and support for the initiative among diverse stakeholders.

Assessing a project that is new (a greenfield project) will identify different issues than a project that has been in operation for some time.

Greenfield Projects

An assessment for a greenfield project will often be simpler than for an existing project because no grievances have yet occurred (see box 3.1).

Box 3.1. Information Needed to Develop a Grievance Mechanism for Greenfield Projects

Characterize existing community systems for handling grievances and locate local dispute resolution capacity.

- How does the community typically handle conflicts? (Consider traditional systems based on clan, religious, or other customary institutions; government systems, such as an office of human rights; or privately created systems, such as centers for mediation, arbitration, or conciliation.)
- Are trusted institutions within the community engaged in resolving grievances, and might they play a role in the grievance mechanism?

Evaluate dynamics working for or against the introduction of a grievance mechanism inside and outside the company.

- Are there existing mechanisms that could be viewed as competing?
- Does the company have the support of senior management?
- Does the company work with contractors to establish procedures consistent with its own?

Existing Projects

When a project has been operating for some time, the company, contractors, and the community may be resistant to switching from their current way of handling disputes to using a formal grievance mechanism. On one hand, company employees may protest that a more formal approach to managing complaints will undermine a supervisor's authority, increase workload, or open the floodgates to complaints from local people and increase the risk of litigation. On the other hand, community members may be wary that such an initiative is little more than a public relations scheme. Both groups will have doubts about the ability of the mechanism to prevent retaliation.

An information-gathering exercise can help identify concerns and suggest ways to develop and implement a grievance mechanism that will be accepted and used by stakeholders (see box 3.2).

Box 3.2. Information Needed to Develop a Grievance Mechanism for Existing Projects

Characterize grievances, key actors, causes, and costs.

- What are the current types of grievances related to company operations? What additional issues do people anticipate? What are possible causes of these grievances? How often do they seem to arise?
- Whom do the community members blame for the issues (the company, one particular employee, a subcontractor, or others)?
- Whom do the issues being raised typically affect? Individuals? Whole families or communities?
- Why are these grievances arising?
- Are there structural problems that could be changed to reduce conflict, such as different policies, rules, roles, decision-making processes, communication systems, or a better division of labor?
- What are the costs of these conflicts for the company and the community? (Costs should be discussed not only in monetary terms but also in broad terms, such as relationship costs, time, and reputation.) How severe is the impact?
- Who will use the grievance mechanism? How do users differ? Are they from different ethnic, tribal, language, or religious groups? Do they have different levels of education? Are some rural and some urban? Are some women and some men? Based on any of these differences, do they maintain different assumptions about conflict and its resolution that will affect how they feel about a new grievance resolution mechanism?
- Who will have standing to bring a complaint (local individuals, local community groups, local or national NGOs, international NGOs, local governments, regional-national governments)?

Characterize the current system for handling complaints.

- How are complaints handled now? Identify formal, informal, and ad hoc approaches inside the company for addressing grievances.
- Are there mechanisms for early intervention or resolution so cases do not escalate?
- How well are any of these systems working? Are the existing channels for dealing with community complaints able to handle future grievances?
- Why are particular procedures being used or not used?
- Where are the gaps?
- What are the existing barriers for those who might want to complain?

Identify existing preventive measures.

- What form of stakeholder engagement does the company have in place?
- How does the company communicate with the community?
- Does the company have methods for anticipating potential conflicts?

Characterize existing community systems for handling grievances and locate local dispute resolution capacity.

- How does the community typically handle conflicts? (Consider traditional systems based on clan, religious, or other customary institutions; government systems such as an office of human rights; or privately created systems such as centers for mediation, arbitration, or conciliation.)
- Are trusted institutions within the community engaged in resolving grievances, and might they play a role in the grievance mechanism?

Evaluate dynamics working for or against the introduction of a grievance mechanism inside and outside the company.

- Are there existing mechanisms that could be viewed as competing?
- Does the company have the support of senior management?
- Have both contract employees and others been consulted and is there a plan to win their support?

Once the information has been gathered, it is important to consider what to do with the results. For example, is this the time to check back with senior management? Is it valuable to report back to the community and the company, to build support and acceptance of the analysis, diagnosis, and broad purpose? Does the design team have the authority to proceed directly to the design stage?

This is also the time for the design team to build its own capacity and knowledge about grievance mechanisms. Design teams should become familiar with:

- Models and features of effective grievance mechanisms
- Good practice markers employed by the company, industry, and financiers (see the Executive Summary)
- Common pitfalls to avoid
- What other projects are doing. Consider making on-site visits or holding interviews with companies and their community stakeholders where a grievance mechanism has been implemented.

Once these and related tasks have been accomplished, it is time for the design team to develop a detailed design.



Part II. Developing and Implementing Effective Grievance Mechanisms

There is no ideal model or one-size-fits-all approach to grievance resolution. The best solutions to conflicts are generally achieved through localized mechanisms that take account of the specific issues, cultural context, local customs, and project conditions and scale.

Chapter 4. Define Scope and Determine Goals (Phase 1)

Phase 1. Define Scope and Determine Goals

- Define the scope of grievances to be handled
- Determine the purpose and goals

In this phase, the design team determines the scope of grievances to be handled by the system and the purpose and goals. These elements form the foundation upon which the grievance mechanism will be assembled. They are crafted from the subjective assumptions and values of team members and a more objective analysis presented in the situation assessment.

Define the Scope of Grievances

Using the information gathered through the situation assessment, the design team's next step is to review the type of grievances that are likely to arise or, in the case of an operating project, that have arisen so far. Generally, grievance mechanisms should be open to a wide range of concerns: both those based in factual data and those arising from perceptions or misperceptions. Perceived concerns can be as critical to address as actual hazards. They often arise when people do not have adequate information. The mechanism should also be able to address multi-party and multi-issue complaints. The design team then prioritizes those types of complaints that the mechanism will primarily target.



Define the Purpose and Goals

If a design team cannot reach consensus on a statement of purpose—or if it does so superficially—its future work may be in jeopardy.

The design and implementation of a grievance mechanism must respond directly to the purpose and goals defined. In turn, the purpose and goals must respond to some fundamental questions: “Why is a grievance mechanism being established?” “What do we hope to achieve in both the short term and the long term?”

If a design team cannot reach consensus on a statement of purpose—or if it does so superficially—its future work may be in jeopardy. Consensus sometimes can be difficult to reach, however, because diverse stakeholders come to the “design table” with very different life experiences, values, and assumptions about grievance mechanisms. These differences may create tension during discussions about a mechanism’s fundamental purpose and goals. While all can appreciate that a primary goal revolves around resolving specific grievances in a manner that meets both company and community needs, it is important to uncover more unconscious assumptions related to the system’s purpose to ensure agreement and commitment by all.



Discussions about the purpose of the grievance mechanism go to the very heart of matters underlying power relationships between a company and a community.

Discussions about the system's purpose go to the very heart of matters underlying power relationships between a company and a community. It is hard to imagine a comprehensive approach to understanding conflict between companies and communities that does not address how power is wielded and distributed. If these discussions fail to occur, grievance mechanisms run the risk of becoming just another tool by which the company wields power. Consequently, in articulating the purpose and goals for the grievance mechanism, questions such as the following should be considered:

- Will the grievance mechanism be oriented primarily around concerns of the community or around joint concerns of the company and community?
- Is the grievance mechanism oriented toward identifying root causes of conflict and addressing them through systemic change or is it exclusively focused on the resolution of individual complaints?
- Is the grievance mechanism primarily oriented toward company investigation and internal redress or toward a more comprehensive set of options for resolution and the provision of justice?
- How can the grievance mechanism be structured in a way that does not reinforce power inequities?



Chapter 5. Design (Phase 2)

Phase 2. Design

- Prepare a preliminary design
- Choose ways to receive, register, assess, and respond to grievances
- Select grievance resolution approaches
- Design a means to track and monitor grievances
- Develop the grievance mechanism infrastructure
- Review and refine the design.

Prepare a Preliminary Design

The way a grievance resolution mechanism is designed is as important as what form it finally takes, because the process establishes credibility and trust.

In this phase, the design team develops a plan or blueprint for what the grievance mechanism will look like. In its simplest form, a grievance mechanism can be broken down into the following primary components (see figure 5.1).

- Receive and register a complaint.
- Screen and assess the complaint.
- Formulate a response.
- Select a resolution approach.
- Implement the approach.
- Settle the issues.
- Track and evaluate results.
- Learn from the experience and communicate back to all parties involved.

Choose Ways to Receive, Register, Screen, Assess, and Respond to Grievances

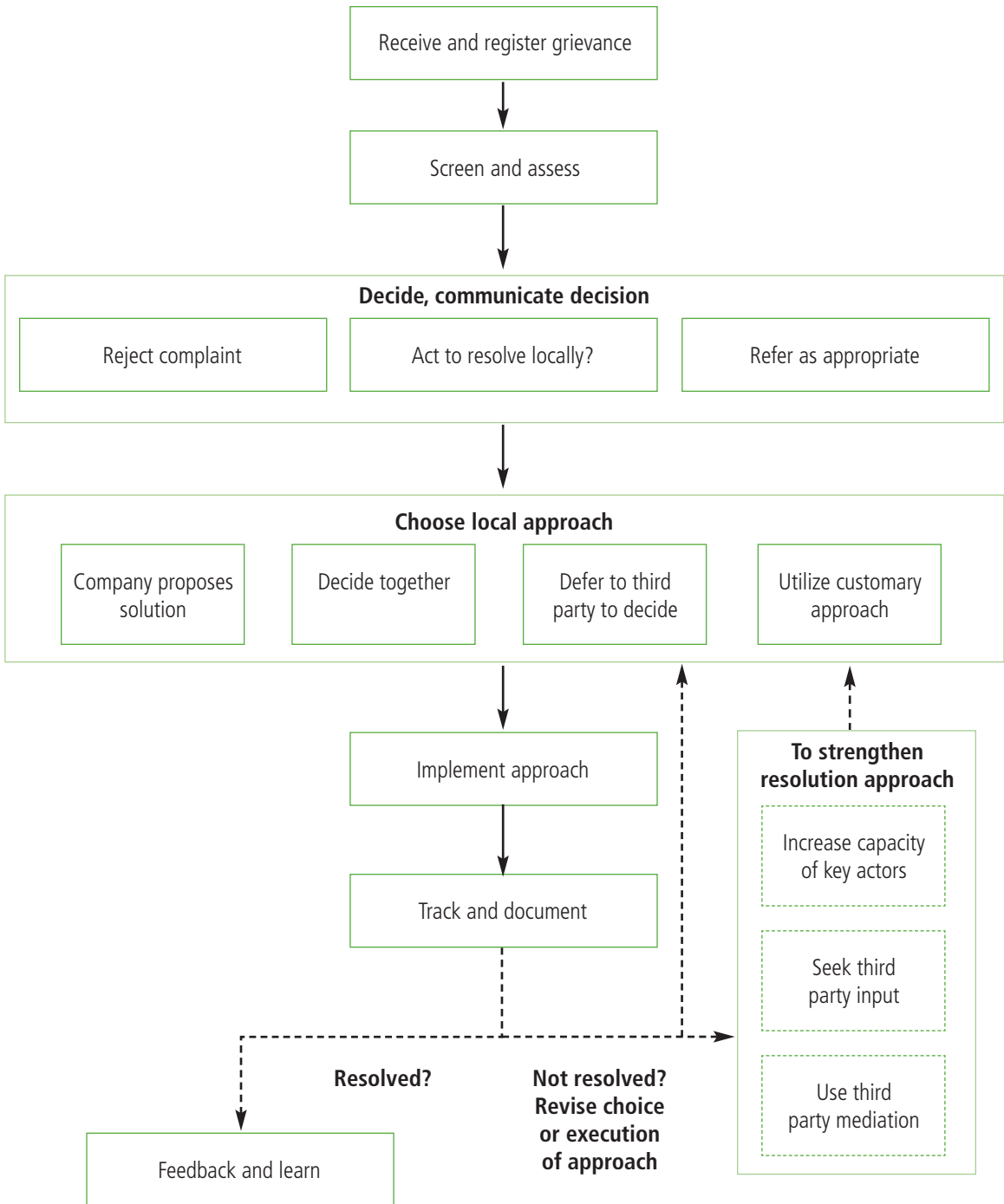
Receive and Register a Complaint

Receiving and registering complaints is a simple process where local people can inform the company about concerns directly and, if necessary, anonymously or through third parties. Reception procedures are most effective if they are convenient, culturally appropriate, simple to understand, and easy to use (see box 5.1).

Box 5.1. Culturally Appropriate Grievance Receipt and Registration

In some cultures, senior managers may be the most appropriate people to solicit and accept community complaints. As the general manager of a gold mine explains, “Rural Mongolia is an oral, face-to-face type of culture. Attending to relationship is crucial. Here, relationships go a long way toward project understanding and to addressing problems. Our procedures are simple and straightforward and ones that invest a lot of face time. Much of the face time is that of the general director, who is out meeting and greeting on a regular basis.”

Figure 5.1. A Grievance Mechanism with Multiple Local Approaches to Resolving Complaints



The grievance receipt and registration process should provide the following:

Multiple channels should be available to gather and forward local people's concerns.¹⁰ A network of people (community leaders, government officials, community organizations, contractors, company environmental and operations employees, community liaison officers) should be accessible. At least one member of the network should be independent of the company. Those designated to accept complaints, whether written or oral, record them on a simple form, which is forwarded to the central point of contact at the company for further action (see box 5.2).¹¹

Box 5.2. The Importance of Maintaining Multiple Channels to Receive Grievances

"In our current system, anyone (field team, land team, community liaison officers, etc.) can take a grievance. It can be in the form of a letter from people, or they can use our company form. The local population can call the community liaison officer (CLO) directly. Alternatively, an operation's worker or field team can make a call to the CLO and ask them to visit the complainants, etc. It is crucial to make sure the field teams are aware of process, know how to refer to the CLOs, and know how to take a complaint themselves."

—A company representative from a pipeline company

Diverse methods that are culturally appropriate should be used, including self-identified, confidential, or anonymous procedures (professional letter writers, suggestion boxes, mail-in forms, toll-free telephone, electronic submission through a company's Web site).

A *central point of contact* should be available to receive complaints and log them into a central register.

Designated complaint-resolution staff, consisting of both male and female employees, should accept complaints, provide relevant information on the process, discuss the complainants' situations with them, and explore possible approaches for resolution.

Processes for acknowledging the receipt of a grievance and informing the complainant about the time frame in which a response can be expected should also be in place.

Once a complaint has been received, it should be recorded in the complaints log or data system.

Screen for Eligibility

It is advisable to give complainants the benefit of the doubt and engage in a conversation before deciding to reject a complaint.

This step determines whether a complaint is eligible for the grievance mechanism. Design teams should develop a screening procedure based upon a few simple eligibility criteria that do not involve judging the substantive merit of the complaint.

Eligible complaints may include those where:

- The complaint pertains to the project
- The issues raised in the complaint fall within the scope of issues the grievance mechanism is authorized to address
- The complainant has standing to file.

Ineligible complaints may include those where:

- The complaint is clearly not project-related
- The nature of the issue is outside the mandate of the grievance mechanism
- The complainant has no standing to file
- Other company or community procedures are more appropriate to address the issue.

If the complaint is rejected, the complainant is informed of the decision and the reasons for the rejection.

It is advisable to give complainants the benefit of the doubt and engage in a conversation before deciding to reject a complaint. Complainants often provide incomplete information. The company needs to make an effort to truly understand the grievance before responding. In addition, some companies have found that even where cases appear frivolous or seem to be unlinked to project operations, the potential issues underlying these complaints may still need to be explored, as they could indicate some underlying concern with the project, such as lack of trust. In such cases, it may be advisable to proceed with an assessment before determining whether the complaint is inadmissible. Some practitioners observe that making a commitment to investigate all complaints submitted, and to be seen as taking responsibility even when there is not a clear link between the complaint and the operation, can increase trust in the project. If eligible, the complainant should be notified, and the grievance should be processed and proceed to an assessment. Box 5.3 presents a checklist to keep in mind for handling procedures at this stage.

Box 5.3. A Checklist for Grievance Handling Procedures

- | | |
|---|---|
| ✓ | Assessment procedures (who conducts the assessment and how is the assessment conducted) |
| ✓ | Procedures to identify appropriate people in the company to whom a specific concern should be forwarded |
| ✓ | Procedures to determine the appropriate resolution process (in consultation with complainant) |
| ✓ | Procedures for making decisions on proposed settlements |
| ✓ | Appropriate time frames for each step in the grievance resolution process (including screening, assessment, and resolution) |
| ✓ | Notification procedures to the complainant about eligibility, assessment results, proposed settlement, and the like. |

Assess the Grievance

During the assessment, the team gathers information about the case and key issues and concerns and helps determine whether and how the complaint might be resolved.

* Tips

1. Determine who will conduct the assessment. Typically, the complaints coordinator performs this task or directs it to an appropriate staff or department (production, procurement, environment, community relations, human resources) for assessment.
2. Encourage a company member to engage directly with the complainants to gain a first-hand understanding of the nature of the complaint.
3. Clarify the parties, issues, views, and options involved:
 - Identify the parties involved
 - Clarify issues and concerns raised by the complaint
 - Gather views of other stakeholders, including those of the company
 - Determine initial options that parties have considered and explore various approaches for settlement.
4. Classify the complaint in terms of its seriousness (high, medium, or low). Seriousness includes the potential to impact both the company and the community. Issues to consider include the gravity of the allegation, the potential impact on an individual's or a group's welfare and safety, or the public profile of the issue. A complaint's seriousness is linked to who in the company needs to know about it and whether senior management is advised.
5. Rather than resorting to a purely unilateral "investigate, decide, and announce" strategy, engage more directly with the complainant in the assessment process, and involve the complainant in influencing the resolution process to be selected, as well as settlement options.

Formulate a Response

The system for responding to the complainant should specify *who* communicates and *how*. In some cases, it may be appropriate that feedback is provided by the staff member responsible for assessment, accompanied by the coordinator of the complaints procedure. The site manager may participate in feedback, depending upon the seriousness of the complaint.

* Tips

1. The complaint coordinator and/or relevant department may prepare the response. The response should consider the complainants' views about the *process* for settlement, as well as provide a specific remedy. The response may suggest an approach for how to settle the issues, or it may offer a preliminary settlement.
2. To present and discuss the response to the complainant, consider holding a meeting with the complaint coordinator, relevant company manager, and the complainant. If a direct meeting is not possible, consider meeting with a neutral third party serving as facilitator. The group would also discuss appropriate next steps during this meeting. If the proposal is a settlement offer and it is accepted, the complaint is resolved successfully and there is no need to proceed to the next step of selecting a resolution approach. If the complainant is not happy with the response about a resolution process or substance, the group should try to reach an agreement that would be mutually acceptable.

3. If the case is complex and a resolution time frame cannot be met, provide an interim response—an oral or written communication—that informs the person of the delay, explains the reasons, and offers a revised date for next steps.

Select Grievance Resolution Approaches

“Ninety percent of complaints should
be handled in face-to-face meetings.”

—Regional Director for Environment and Social Responsibility
of a multinational corporation

The grievance mechanism should offer a variety of grievance resolution approaches to accommodate differences in personal and cultural preferences—not just a single grievance procedure. Where possible, customary ways of grievance resolution should be evaluated and incorporated into the system. It is also important that the complainant has influence on the way a problem will be handled.

Four Grievance Resolution Approaches

In general, there are four basic approaches design teams should consider when evaluating what array of resolution approaches to offer:

1. The company proposes a solution.
2. The community and company decide together.
3. The company and community defer to a third party to decide.
4. The company and community utilize traditional or customary practices.

The approaches vary in how the authority to make decisions is addressed. Each approach may involve only the parties to the dispute, or may be facilitated by an independent third party without decision-making authority, such as a mediator.

Approach 1. The company proposes a solution

Use when:

- The complaint is straightforward, the issue is clear, and the solution is obvious.
- People in the company can resolve the issue alone, to the satisfaction of the complainant, based on their knowledge and authority.
- A considered and respectful company proposal is more likely to be acceptable to the complainant.

In this approach, the company proposes a solution and offers it to the complainant. The company and community jointly decide if the solution is acceptable, and, hence, share decision-making authority.

Companies perceive several advantages:

- A more rapid response
- Use of fewer company personnel and material resources
- Some control of resolution procedures and outcomes.

* Tips

1. Review information collected through the initial assessment process and make a settlement proposal that the company hopes the complainant will accept. The appropriate department/manager can conduct this step. The proposal should be based on consistent standards and criteria so that similar complaints receive similar remedies.
2. Present the company's proposal to the complainant. The way the proposal is presented may be as important as what is in the proposal. Measures that help increase the acceptability of responses include:
 - A rationale for the decision, and presentation of any data that were used to reach a conclusion (for example, value of land, crop, or animals; costs to repair a road).
 - An opportunity during the company decision-making process for the complainant to verbally present his, her, or their case to a company representative. The representative should listen to and acknowledge the complainant's statement to help reach emotional closure and restore positive relations between the complainant and the company.
 - Timely delivery of a response and rapid restitution once a decision has been made.
 - Delivery of the company's response in writing and, when appropriate, a visit by a company representative to explain the decision in person.
3. If the complainant rejects the proposal, offer the option of a joint decision process (as described in Approach 2). If this approach is not acceptable, the grievance may be referred to an external mechanism for assessment or adjudication.

Approach 2. The community and company decide together

Use when:

- An ongoing relationship and a face-to-face resolution process matter.
- The case is more complex and several diverse stakeholders are involved.
- Local community members distrust a company proposal.
- The response from a "company proposes a solution" procedure is not acceptable.
- Talking together is required to promote more accurate communication, share information, or develop mutually acceptable solutions.
- There are procedural, psychological, and substantive interests for both parties that lend themselves to such an approach.

With the potential to resolve perhaps 90 percent of all grievances, "decide together" should be the centerpiece of any grievance mechanism's resolution options.

"Decide together" approaches are probably the most accessible, natural, and unthreatening ways for communities and companies to resolve differences. With the potential to resolve perhaps 90 percent of all grievances, "decide together" should be the centerpiece of any grievance mechanism's resolution options.

Under this option, company representatives and complainants share decision-making authority and jointly engage in a problem-solving approach to reach a resolution of the grievance by themselves. The process may involve only the company and complainant, or may be facilitated by a neutral third

party without decision-making authority, such as a mediator. The advantages include the following:

- Those *directly involved* can address the complaint early, rapidly, and informally.
- Ownership of the dispute and its solution rests with the parties—those who are most qualified to know the issues and who have the most to gain from an equitable resolution.
- Parties can devise solutions that do not feel like a compromise.
- The process can improve relationships as well as address substantive concerns in a principled and creative way, leaving both sides better off.
- Problem solving approaches are often less adversarial, faster, more flexible, and less costly in economic and noneconomic terms.

“Decide together” may be a more formal process that involves a mediator to help the parties reach an agreement. Alternatively, it may be an informal process employed almost immediately when a grievance arises at the place of origin (see box 5.4). There are several common “decide together” approaches that can be used separately or in combination.

Box 5.4. On-the-Spot Resolution

Many grievances can be resolved early and rapidly on the spot, in an informal process of investigation and resolution. One mine manager, for example, recalled how “a truck had parked in a farmer’s field without authorization. The farmer accused the truck driver of causing damage to his crops. Immediately, our community relations department identified the responsible contractor, went out to the farmer’s field, brought the farmer into the conversation, and invited a local authority representative, whose role was to observe and pass judgment, in a sense, about the complaint. Together, in the middle of the farmer’s field, the group sorted out the problem and the community relations officer made a decision on the spot that the contractor was at fault and agreed to compensate for the damages.”

Listening. Good listening is fundamental to every grievance resolution approach. It provides a greater sense of fairness and addresses a basic need of anyone with a grievance—to be heard by people who count. Simply listening supportively, thinking through a problem, discussing and seeking ways to reduce tension, and perhaps looking into a problem informally may adequately address a grievance.

Information sharing. Facilitating access to information can help clarify facts or misperceptions. For example, a community member may have questions regarding a company’s operations, its environmental and social performance, or its impacts. Or they may want to provide someone in authority with information about a perceived safety problem.

Dialogue and negotiation. This can be one of the most effective approaches to resolve a grievance, particularly if dialogue is initiated early and the parties are interested in an approach that will meet their interests and concerns. The complainant and appropriate company representatives may choose to speak on their own, in the presence of a trusted person invited by the complainant, or in the presence of designated observers, such as respected members from the community who serve as witnesses to the grievance resolution process.

Joint fact-finding. This may be an appropriate approach when critical information to resolve a complaint is missing, the accuracy of information is being questioned, or a conflict about data is exacerbated by a long history of disagreement and lack of trust among the parties. The company and complainant share control of the process and jointly frame the questions to be studied, define the process for gathering information, select experts to conduct the

research, decide how the information will be analyzed, and determine how the results will be used. In this way, the company and complainant learn together and jointly decide how to use the results of any investigation. In cases where there are significant power imbalances or major differences in people's technical backgrounds, ways will need to be found to equalize access to expertise and close gaps in knowledge.

Finding a "bridge." Dispatching trusted messengers between the parties can be helpful when parties are more comfortable talking through a third person rather than sitting together, when direct confrontation would damage the relationship, when saving face is critical, or when it is culturally more acceptable to deal with an issue through indirect means.



Tips

1. When using dialogue, negotiation, joint fact-finding, or a bridge:
 - Ensure that the appropriate individuals from the company and from the complainant's side are participating in the talks
 - Draw out each person's view of the situation
 - Define the issues people want to talk about
 - Identify each party's highest priority concerns and needs
 - Explore a variety of ideas and options for addressing a complaint
 - Incorporate customary ways for resolving disputes.

2. More complicated, contentious cases may require extensive planning, a more formal approach, and a trusted party (potentially an outside mediator) to organize and conduct the talks.

Approach 3. The company and community defer to a third party to decide

Use when:

- "Decide together" procedures are not acceptable to one or more parties.
- There are disputes of fact or conflicts about data.
- The parties have been unable to reach a voluntary settlement through other procedures.

On occasion, companies and complainants are unable to resolve a problem on their own. In such cases, the parties hand decision-making authority over to an independent, neutral party. The neutral party may be a trusted individual or group in the community, a respected technical expert, or an independent arbitrator.

Compared to typical court decisions, this approach offers several advantages:

- Simpler and less legalistic procedure
- Expedited decisions
- Lower costs
- Choice regarding who hears and decides a case
- More predictability, accessibility, impartiality, and transparency than may be available from legal institutions.

There are three main approaches that can be used: arbitration, fact-finding, and use of an existing external mechanism. These approaches tend to be more formal and rights-based.

Arbitration. Arbitration is a private, voluntary, and adjudicative process for resolving complaints. It involves joint submission of a complaint by concerned parties to a mutually acceptable and impartial intermediary—an arbitrator—that may be an individual or a group, such as a panel. After parties present their views, the intermediary makes a decision. Compliance with laws, policies, standards, rules, regulations, procedures, past agreements, or common practice may serve as the basis for decisions.

In a typical arbitration case, the parties engaging in the process would decide if the decision is binding (the parties promise at the beginning of the process to implement the intermediary's decision) or nonbinding (the intermediary's decision is a recommendation to the company and the community, and can be appealed in court or to some higher authority). When arbitration is incorporated as part of a grievance mechanism, however, there is a serious risk to the credibility of the mechanism if binding decisions cut off a complainant's right to judicial recourse. As such, some mechanisms have allowed that arbitration will be nonbinding on the complainant but binding on the company.

In addition, often arbitration cases require that both parties share the cost equally, making this option out of reach for many complainants that would use a grievance mechanism. Therefore, grievance mechanisms should consider using public, no-cost arbitration mechanisms or letting the company pay the full cost if no-cost solutions are not available. Some grievance mechanisms allow complainants to take issues directly to arbitration without resorting to a "decide together" approach.

Fact-finding. A company and complainant may initiate a fact-finding process to obtain an independent assessment of the nature of a grievance and of relevant company practices (see box 5.5). The independent intermediary selected controls the process, investigates the problem, identifies causes, makes findings, and develops recommendations on steps and terms for the settlement of the claim. The fact finder's process is less formal than arbitration and does not require a hearing. The fact finder has the right to pursue his or her own leads and to receive testimony and facts outside the presence of the opposing party. The fact-finding report may serve as a basis for further negotiation, a company response, an offer of settlement, or a final decision by senior managers.

Fact-finding is recommended when it is important to use third party expertise to resolve a data dispute using a process that is less formal and without the need for a hearing. Like arbitration, fact-finding by a third party can be binding or nonbinding, depending on the decision of the parties. If the result of fact-finding is to be binding, parties decide on this outcome before beginning the process. As with arbitration, care should be taken if the parties decide to make the outcome binding. Nonbinding fact-finding can be both powerful and compelling. If parties agree on the process and intermediary, there is often strong social pressure to voluntarily comply with its outcome.

It is important to survey local resources and enhance rather than undermine their authority or duplicate what already exists.

Existing external mechanisms. When the parties are unable to reach decisions voluntarily, design teams should explore possible resources in the form of trusted local governmental and civil society institutions that may be able to provide independent decisions and recommendations. This point underscores the importance of surveying local resources and enhancing rather than undermining their authority or duplicating what already exists.

While the concept of independent redress is appealing, the practicalities of developing such mechanisms at the project level are extremely challenging (see box 5.6).

Box 5.5. Lessons in Fact-finding

The experience of a mining company in Africa illustrates the importance of designing fact-finding exercises carefully. The company and the district administrator of the local government had received several hundred complaints about blasting related to the mine. The company recognized the need to deal with this cluster of conflicts and met with the administrator to discuss an approach. The administrator suggested that both the community and the company hire separate experts. A mining company official recalled: "They hired a group and we hired a group and we planned to compare notes once the fact-finding processes had been completed. Although there is not a significant substantive difference between the findings, we now realize we should have been much more transparent about who our expert was; why we hired that person; the process we would use to share information about results; the process for what to do with the results if they differed; etc. We should have been much clearer about the path forward. Instead, we agreed with the community to submit our findings to the chief administrator, who would receive and distribute both documents and convene the parties. We neglected to think through with the community how we would proceed together if our separate fact finders disagreed. Now we each are going to receive documents with some contradictory conclusions. We have no process for dealing with the differences and the chief administrator feels a bit caught in the middle."

Box 5.6. Challenges in Developing Independent Redress Mechanisms

The local context can make locating or developing an independent recourse mechanism particularly challenging. One company official described a situation where over 100 distinct communities were involved. She put it this way: "In a distrusting society that is ethnically mixed, a panel that everyone would see as fair and independent is not feasible. No one would ever agree on the composition or the outcomes. If such a commission said no, the complainants would go elsewhere. We find that it is impossible to have an independent panel all would accept. If you could have a credible panel that could render decisions parties would accept, this would be useful. I can't see how to do this here. From my experience, this is asking a lot." In this case, it would be difficult if not impossible to make an agreement with only one panel.

Realizing that an independent panel would not work, the same company entered into an agreement with a local NGO to run a grievance mechanism for the company. The NGO fielded a team that visited each village, took grievances, logged them, and then passed them on to the company. It was felt that this would add some transparency and credibility to the overall system. The company would then address the grievance as they thought appropriate, and inform the NGO of the outcome. When the NGO felt the company had come up with the "wrong" answer, the grievance was returned to the company for further internal discussions. If still unable to come to an agreement with the NGO, the company would discuss that particular grievance with an independent monitoring panel focused on land and compensation issues. There was only one issue (that related to 15 grievances) that the company ended up discussing with the independent monitors. The cases were resolved quickly thereafter.

While the NGO mechanism provided third-party verification of substantive resolution and case closure, it also lengthened the process and complicated the system. The company believes the NGO's participation was worthwhile for many reasons: notably, it helped relieve the workload of the land team, which had become so overwhelmed with resolving grievances that there was no one left in the field to take any new ones! The company was able to provide an independent verification mechanism—but with an additional layer of complication.

Approach 4. The company and community use traditional and customary practices

Use when:

- “Imported” procedures are unfamiliar, inaccessible, or culturally incompatible with local customary practices of a community.
- Alternative traditional means are available that can be adapted in a way that is mutually acceptable to both the complainant and the company.

All societies have internal ways of handling their differences. Local people may go to secular or religious leaders to resolve their disputes with one another. They may use traditional problem-solving or judicial procedures and may employ local standards and criteria to guide decisions. In some communities, traditional dispute resolution procedures are more acceptable than any external ones provided by governments or “foreign” parties, such as a company.

Those responsible for designing a grievance mechanism should inventory local and customary approaches for solving conflicts and consider how to adapt traditional dispute resolution mechanisms to deal with community-company grievances (see box 5.7). Initially, companies may be uncomfortable seeking resolution assistance from traditional or customary approaches. Local people and procedures, however, have elements that can complement or augment company grievance mechanisms. Consider the following options:

Observers, witnesses, and testifiers. Many traditional cultures in Africa, Southeast Asia, and Latin America utilize respected community members as observers and witnesses in efforts to resolve disputes. Their presence legitimizes the process, verifies fairness, and assures that agreements comply with widely accepted community values and norms. Several companies interviewed for this guide actively engaged community elders, chiefs, or widely respected and trusted community members as witnesses in initiatives to resolve community-company complaints. Their participation has significantly increased the acceptability of settlements, both for complainants and for concerned members of the wider community.

Advisors. Members of traditional communities often seek advice from respected or wise members on how their differences can best be resolved. Disputants often ask for recommendations that comply with community norms and restore harmonious relationships. Several companies in Africa and Latin America have sought out respected community members for advice on how they can settle complaints in a culturally sensitive and responsive manner. Others have either created functional equivalents of councils of elders, which are composed of several respected community leaders or officials, or turned to existing local institutions to provide credible advice on reasonable procedures, standards, and criteria for settlements. For example, the Defensoría del Pueblo in Peru and the councils of chiefs in Ghana have served this capacity effectively.

Mediators. Almost all cultures utilize some form of mediation to help people resolve differences. In some cultures, intermediaries focus on repairing damaged relationships, opening communication between parties, or providing procedural assistance to further more effective problem solving. In a large number of cultures, mediators also provide wise counsel or specific recommendations to parties on possible settlements. Once again, companies may not be comfortable using traditional intermediaries to resolve company-community grievances, especially if the process involves giving advice or making critical judgments on company actions or the behavior of its personnel or contractors. Nevertheless, use of local and respected community leaders, such as mediators, to resolve specific kinds of issues or to work internally within community groups to help reach agreements may be useful in furthering grievance resolution efforts.

Box 5.7. Drawing on Customary Ways of Resolving Grievances

A mining company in Peru described the value of drawing on customary ways of addressing grievances. The General Manager explained: “We looked at the Rondas Campesinas (a grassroots civil defense organization for rural farming communities), that have a system in place to address grievances. We didn’t use every feature of their system, but we tried to build on some of what they did. Our purpose was two-fold: to fit our grievance mechanism into an existing system where we could, so that as a newcomer you are not perceived to be in conflict with traditional ways of doing things. Secondly, we had to ensure that what we borrowed fit within a human rights framework. The company has high standards for human rights and behavior, so some things had to be different.”

Design a Means to Track and Monitor Grievances

Grievances need to be tracked and monitored as they proceed through the system (see boxes 5.8 and 5.9). Effective tracking and documentation accomplishes many goals.

- Document the severity of a complaint (high, medium, low) according to specific criteria. The level of severity guides requirements for alerting senior management and determines the seniority of management oversight needed.
- Provide assurance that a specific person is responsible for overseeing each grievance—from receipt and registration to implementation.
- Promote timely resolution.
- Inform all concerned (the complainant and appropriate company personnel) about the status of the case and progress being made toward resolution.
- Document the company’s response and outcome(s), to promote fairness and consistency.
- Record stakeholders’ response(s) and whether additional research or consultation is needed.
- Provide a record of settlements and help develop standards and criteria for use in the resolution of comparable issues in the future.
- Monitor the implementation of any settlement to ensure that it is timely and comprehensive.
- Provide data needed for quality control measures, to assess the effectiveness of the process and action(s) to resolve complaints.
- Identify learning from specific cases to be used later to assess the effectiveness of the mechanism or address systemic issues that may require changes in company policies or performance.

Tracking and documenting grievance resolution requires the following elements:

- *Tracking forms and procedures* for gathering information from company personnel and complainant(s)
- *Dedicated staff* to update the data base routinely
- *Systems with the capacity to analyze information* so as to recognize grievance patterns, identify any systemic causes of grievances, promote transparency, publicize how complaints are being handled by the company, and periodically evaluate the overall functioning of the mechanism.
- *Processes for informing stakeholders* about the status of a case (such as written status reports)
- *Procedures to retrieve data* for reporting purposes.

Box 5.8. Community Involvement in Monitoring and Tracking Cases

Involving communities in case monitoring and tracking is a cutting edge approach. In Peru, a large international gold mining company began registering all signed agreements between the mine and community members with the local branch of the government's ombudsman's office, the Defensoría del Pueblo. The Defensoría provides external, independent monitoring of agreements and objective determination of compliance, with a timeline for implementation. Each month, the Defensoría publicizes monitoring results on accords and actions of signatories to agreements. The agency also meets periodically with mine and community representatives to evaluate progress made on settlements and implementation.

Develop the Grievance Mechanism Infrastructure

Without strong commitment from the top, the grievance mechanism is likely to be ineffective or underutilized.

Before presenting the proposed design to senior management for approval, the design team should consider how the system will be implemented and supported over time. Questions of governance and oversight, the institutional "home" for the grievance mechanism, and staffing needs should be considered. These are complex and important decisions that have practical and political ramifications.

Define the Governance Structure

Governance of grievance mechanisms refers to the authority, procedures, and personnel involved in handling and resolving complaints, including:

- Authority delegated to specific personnel who have general oversight of the grievance mechanism as a whole, serve as gatekeepers for acceptance of complaints, and make decisions regarding the redress of issues
- Companies' internal policies and procedures that provide direction to managers and employees on how to process and resolve complaints
- Internal procedures to ensure that the chief grievance manager can obtain the necessary inputs and cooperation from company staff with close knowledge of the subject of the grievance
- Explicit steps for resolving grievances.

Grievance mechanism policies should be derived from the work of the design team. Successful implementation, however, depends upon approval and active promotion by the highest levels of management. Without strong commitment from the top, the initiative is likely to be ineffective or underutilized.

Determine the Institutional "Home" for the Grievance Mechanism

In many situations, the grievance mechanism is housed inside the company in one of its functional units (community relations, external affairs, human resources, legal, environmental management). In other situations, parts of the mechanism may be housed in a local community or government agency. In Peru, for example, the Defensoría del Pueblo houses an independent tracking mechanism that monitors complaints and agreements reached between mining companies and local community members (see box 5.8).

In general, complaints are most effectively addressed if grievance resolution is seen as everyone's job, rather than something the "social folks" do. There should be a single point for coordination of this function, however, and a single, high-level person who has ultimate responsibility for the system. Where the mechanism resides and who is responsible within the company sends a strong message to the community, company employees, and contractors about the company's commitment to grievance resolution.

While the home of the mechanism's coordination function should be in a prominent unit of the company and high-level personnel should be assigned to manage it, the work of the system should be mainstreamed throughout operations and the business side of the enterprise. If responsibility for resolution of complaints is assigned exclusively to community affairs or a social and environmental unit, these entities and their leaders may not have the authority to secure effective resolutions. Similarly, the effectiveness of the mechanism is likely to be compromised if the mechanism is totally disconnected or only loosely linked to operations—often the source of a complaint and therefore necessary to engage in resolution.

Companies have sought various ways to mainstream grievance resolution activities and link social and environmental functions with operations. Some solutions include regular forums, such as meetings that bring together community affairs, environmental, and operations staff to discuss community concerns. Sometimes, staff members are assigned to multiple departments. In other cases, all company personnel have been trained to handle complaints, with responsibility for grievance management ranging from merely receiving complaints to offering a solution, depending upon the level of the employee. A highly innovative approach—empowering operations staff on the ground to accept and resolve complaints within their authority—is described in box 5.9.

Box 5.9. Involving Company Employees in Grievance Resolution

While many companies appoint and dedicate specific personnel to accept and handle grievances, a few see this role and function as part of the job responsibilities of all employees. These companies brief and prepare all employees to be ambassadors to the community and authorize them to accept grievances from members of the public whenever they are on the job. They are also empowered to resolve a complaint immediately if it is within their scope of responsibility and does not require significant expenditure of company resources.

An international forest products corporation has used this approach at some of its plants. A company official explained: "[We] emphasize good neighbor relations. Our Forest Managers, people accountable for the operating business, walk up and down the road to let people know what is happening—truck traffic, spraying... People with connections are from operations. We do not farm this out to community relations people. Operations are accountable to the people. We want operations people to be connected to the issues and the local people. [The] guy connected to the balance sheet has to be involved."

Incorporate the Community

To draw upon the community's perspective, the system may tap community leaders, elders, chiefs, or other respected people. Some of their functions may include accepting and forwarding community complaints to the appropriate company official; serving as witnesses who publicly verify the fairness of a resolution process; acting as advisors or advocates for

either individual complainants or a company and complainant on fair, reasonable, and/or customary procedures or solutions that could be used to settle a complaint; and serving as facilitators or mediators.

Regardless of whether staff or others involved in designing or operating a grievance mechanism are from a company or community, it is critical to clearly define and have common understandings concerning roles, responsibilities, and authority.

Review and Refine the Design

Once the design team has detailed the components of the grievance mechanism and designed the infrastructure for the mechanism, it is important to capture this plan in a comprehensive design document. The team should then step back and evaluate the design, considering questions such as those listed below.

- Will the mechanism be effective in meeting our stated goals, objectives, and principles?
- Have we taken into consideration good practice markers?
- Will the mechanism be able to respond to the range of grievances specified in our scope?
- Have we built in an adequate diversity of resolution approaches?
- Have we adequately identified means to improve upon those resolution approaches, if necessary (such as through an outside mediation option, technical expert consultation, or capacity building)?
- Do we believe that the infrastructure we have designed is sufficient to support the effective operation of the grievance mechanism?
- Is the grievance mechanism effectively integrated into the company's overall stakeholder engagement approach and management (See box 5.10)?

With the design complete, the design team should then present the grievance resolution mechanism to senior management for their approval, along with recommendations for governance, staffing, and the support structure. Suggestions from company management and community stakeholders are reviewed and incorporated into the final grievance mechanism plan. With the necessary approval in hand, the design team shifts its attention to implementation.



Box 5.10. Integrating a Grievance Mechanism into a Project's Management Framework

As part of its response to heightened community concerns, a small hydropower facility in northern India established a grievance mechanism. The mechanism comprised a small office in the local village to receive complaints, and a grievance redress committee—made up of internal as well as external members. After some months of operation, it became clear that nobody from the community had lodged any serious complaints with the office. The grievance committee had never met. Was this a sign that all was well?

In fact, the project was plagued with complaints: to managers, the local magistrates, the high court, district officers, and financiers. Community members were choosing not to use the grievance mechanism to resolve their concerns. The project manager expressed his frustration: “We have this grievance mechanism, which we created because our financiers asked us to do so, but it’s no use, because everyone just complains everywhere else and doesn’t want it. What is the point?”

Part of the explanation as to why the grievance mechanism failed is that it was added as a stand-alone function, and was not integrated into the project’s management. As a result, neither the project managers nor community members felt that they understood how to get the most out of it. Some people began to see it as an additional bureaucratic step (time-consuming busy work whose main function seemed to be filling out forms), and the managers saw it as less responsive than reacting on the spot to a community complaint.

It is relatively easy to see that the company could improve the situation and strengthen its community relations by:

- Developing a grievance register to consolidate complaints from multiple work sites and recording the response
- Periodically reviewing data for trends that might help spot systemic problems (such as recurrent road safety issues)
- Recording feedback on grievance resolution to see what types of responses are more effective, but also to identify persistent, recurrent, unresolved complaints that might signal deeper problems
- Effectively raising persistent, unresolved complaints to the grievance redress committee, and then acting on the advice of the committee to demonstrate how the project is responsive to these concerns
- Reporting the status of grievances back to the community to demonstrate how the company has responded—feedback that should help build trust in the responsiveness and accountability of the company and enhance community relations.

Chapter 6. Implement and Operate (Phase 3)

Phase 3. Implement and Operate

- Introduce the grievance mechanism
- Communicate to build awareness
- Train and support participants.

The goal of this phase is to introduce the grievance mechanism and promote its use. It may be piloted and refined before full rollout or launched immediately on a community-wide scale. In either case, successful implementation requires *marketing materials* that describe the mechanism and its benefits in simple and visual terms; a *communication and outreach strategy* that educates community members and company/contract managers and employees about the system and their role; and *training* for personnel administering the system and for those designated to accept complaints.

Introduce the Grievance Mechanism

The way a grievance mechanism is introduced to company employees and the public can have significant implications for its effectiveness over time.

The way a grievance mechanism is introduced to company employees and the public can have significant implications for its effectiveness over time. Several factors must be carefully considered, including who must receive information regarding the mechanism's existence and use, what information needs to be shared, and how this information will be delivered, both in the immediate term and on an ongoing basis. The development of incentives to use the mechanism might also be considered.

Communicate to Build Awareness

Educating local people and the company about the grievance mechanism is an essential and ongoing responsibility. It does no good to have a perfectly designed grievance mechanism that no one knows about (see box 6.1).

Get the Word Out to Communities

The fundamentals of a successful strategy to publicize the complaints procedure to the local population include the following:

- *Develop simple, visually engaging marketing materials.* These should describe the process for handling people's concerns and the benefits that can result. The materials should also inform the local population about where to go and who to contact if they have a complaint.
- *Provide materials in an understandable format and language.* Consider special approaches if the literacy rate is low.
- *Use face-to-face, informal meetings in local communities* as the primary vehicle for building awareness about the program. Make these visits interactive and engaging.

Box 6.1. Reaching Out to the Public to Inform Them About Available Grievance Mechanisms and Approaches

Most companies with effective grievance mechanisms use a range of approaches to engage and inform community members and often take advantage of public social gatherings, meetings of associations of people (such as irrigation ditch committees), chambers of commerce, or service organization functions, fiestas, and town meetings. Company representatives request time or may set up staffed tables or booths at these gatherings to present information about the function and use of the grievance mechanism.

Companies also sponsor and convene their own forums to provide public education. Meetings should be scheduled on a regular basis and be held at convenient times and locales. Meetings also may be used to:

- Brief the public about company activities or upcoming events
- Solicit community concerns and input on specific issues or problems and ask for ideas on how to address them
- Assist concerned stakeholders in voicing and filing complaints, which company personnel can accept on the spot
- Discuss a specific issue or event.

In situations where individuals or communities that may be affected by a company's operations are spaced far apart or are located in isolated regions, company personnel should make regular visits to meet with individuals, families, or small groups.

Consider using puppet shows or role-plays to illustrate how to make a complaint and how a company representative and complainant might work together to resolve their differences. Establishing a personal connection with the local population (as well as with company managers, employees, and contractors) is what it takes to get people to buy into and use the system.

- *Build incentives* to use the system (see box 6.2). Consult the community about any risks or fears they have associated with using the system. Gather information about what else they might need to voice a complaint and participate effectively in the mechanism (such as training, coaches, and accompanists).
- *Involve the design team* as promoters.
- *Supplement briefing sessions with other communication approaches*, such as brochures, posters, billboards, radio spot-ads, or brief television ads.

Remember that communicating about the grievance mechanism is an ongoing effort, rather than a one-time launch. Otherwise you may build it, but no one will come.

Establishing a personal connection with stakeholders is what it takes to get people to buy into and use the system.



Get the Word Out to Companies and Contractors

Companies should encourage their personnel to view complaints and opposition as a source of valuable information that can lead to improved operations, reduced risk, and a supportive relationship with the community.

Company personnel also need to be educated about community grievance resolution mechanisms and procedures. This is especially true when a company expects larger numbers of employees to be more directly involved in the informal education of community members about complaint procedures, to accept complaints, or to participate in on-the-spot resolution of minor problems. The following points are worth considering when developing briefing sessions for company employees and contractors:

- *Focus sessions on why the grievance mechanism is in place, its goals, benefits, and how it operates.*
- *Discuss roles and expectations of employees and contractors (what to do if a member of the community approaches them with a grievance, how best to respond to aggrieved stakeholders and the importance of listening, remaining objective, and taking stakeholder concerns seriously).*
- *Highlight the constructive role of community dissent in project operations, by encouraging the view that complaints and opposition are a source of valuable information that can lead to improved operations, reduce risk, and develop a supportive relationship with the community.*
- *Emphasize that there will be absolutely no reprisals within the company or community.*

Train and Support Participants

A fundamental goal of the grievance mechanism is
to solve problems early at the lowest level.
It is important to support that goal with training for employees.

A fundamental goal of the grievance mechanism is to solve problems early at the lowest level. Thus it is important to support that goal with basic stakeholder engagement and conflict resolution training for employees. Training in a variety of responsibilities is required in the start-up of a grievance mechanism for the following people:

- *Personnel who will administer the system* must receive skill training in conducting receipt and registration, referral processes, service provision, quality control, monitoring and record keeping, and the grievance mechanism ethics.
- *Grievance coordinators* must receive training in conflict resolution and grievance management.
- *Those who register complaints* must receive training about the receipt and registration process, and the procedure for forwarding complaints to a central point of contact within the company. They also need a set of complaint forms.
- *Managers and supervisors* need problem-solving skills because the bulk of complaints can be resolved by using informal “decide together” approaches without having to resort to more formal procedures, such as arbitration. Managers and employees who assume a new role—that of a problem solver—will be more successful if they are prepared.
- *Users* need information about the system, information about their rights, help in thinking through their choices, and appreciation for their efforts to address their disputes in a responsible, productive way.

For all these reasons, training is a key element of quality control for the system.

Incentives must also be established to encourage the use of the grievance mechanism. Some ways to build incentives are discussed in box 6.2.



Box 6.2. Building Incentives to Ensure that the System Is Used

The best way to promote the use of the grievance mechanism is to ensure that it resolves grievances effectively and that this success is demonstrated to staff and potential users.

The true proof of the success of the grievance mechanism will be measured by how much it is used and what results it achieves. Use is connected to minimizing the risks and maximizing the benefits of the system. For those operating the grievance mechanism, an ongoing issue will be how to develop incentives and encourage its use.^a Focusing on the following five questions will help grievance personnel ensure that the system is used:

1. What else can we be doing to minimize the risk and fear of using the system?
 - Are we successfully demonstrating that retaliation is not tolerated?
 - Are we protecting confidentiality?
 - Do people feel their rights are protected?
2. What else should we be doing to encourage community members to use the system?
3. What are we doing as a company to change the way we view conflict and complaints?
 - Are we overcoming the prevailing attitude that “getting a grievance is not okay”?
 - Is grievance management included as a core competency in a performance appraisal system?
4. What are the tangible benefits and results we see from the grievance mechanism?
 - Are we reporting benefits and results back to the community and the company?
 - Are we publicizing success stories of people who have used the grievance mechanism?
5. Do community leaders encourage use of the mechanism?

The best way to promote the use of the grievance mechanism is to ensure that it resolves grievances effectively and that this success is demonstrated to staff and potential users.

a. Some concepts for building incentives are drawn from Lipsky, Seeber, and Fincher (2003, pp. 257–58).

Chapter 7. Monitor, Report, and Learn (Phase 4)

Phase 4. Monitor, Report, and Learn

- Get the right people and create suitable forums
- Establish clear standards and criteria for evaluation
- Create a plan to implement changes to the mechanism
- Report back to the community
- Learn and modify.

The goal of ongoing monitoring is not only to improve the system, but also to improve the company.

Creating and implementing effective grievance mechanisms is not an exact science. Their development is experimental and always a work in progress, requiring assessment and refinements to assure that the mechanism is achieving desired goals. Lack of satisfaction by the system's users, lack of support in the community or company, accessibility problems, or procedural inefficiencies may be indicators that change is needed. In all cases, such change should be the result of an intentional, structured, broadly participatory, and ongoing process.

It is necessary to monitor and evaluate the overall performance of the grievance mechanism throughout the project life cycle. The goal of this level of monitoring is not only to improve the system, but also to improve the company. Companies that can adapt to changes in their external environments are better able to meet their goals.

Ongoing company-community learning and assessment of a grievance mechanism can be viewed as a five-step process.

Get the Right People and Create Suitable Forums

- Create a **grievance advisory committee**—an oversight group with advisory authority, composed of company and community representatives who monitor performance and provide strategic advice about the grievance mechanism. (For a discussion of a formal monitoring and evaluation entity, the Business Excellence Committee, see box 7.1.)
- Involve appropriate company and community members: the grievance manager and team, complainants who have used the grievance process, and the grievance advisory committee.
- Include internal company forums such as staff meetings, community relations meetings, and weekly safety meetings. Do not censor or discourage discussion about the performance of the system and possible suggestions for changing the company.
- Solicit input from community members and, where appropriate, engage them in deliberations on appropriate changes to the mechanism.
- Use independent experts with expertise in grievance resolution mechanisms to conduct an independent evaluation every three to five years.
- Consider appropriate venues and processes to secure the best citizen suggestions on the functioning of the mechanism, and shape these according to local cultural norms (see box 7.2).

Box 7.1. Business Excellence Committees

Ad hoc internal company committees are sometimes created to monitor and evaluate the performance of grievance mechanisms. However, they often fall short in achieving their goals because of the level within the company hierarchy of personnel appointed to them, lack of broad representation from diverse parts of the company, unclear mandates, changing personnel, difficulty in maintaining an institutional memory concerning what has been done in the past, and absence of authority to make needed changes directly.

One potentially more effective approach would be for senior management to create a Business Excellence Committee. These committees have formal and permanent status within the company. They would have a mandate to gather and regularly assess the performance of a grievance mechanism, and make any changes necessary. Senior managers from all parts of the company involved in processing or resolving grievances would be involved in the assessment of the mechanism, to determine what to change and how to implement changes.

Once information has been gathered, company and community representatives meet to evaluate it.

Establish Clear Standards and Criteria for Evaluation

Identify which aspects of the grievance mechanism to evaluate: the whole mechanism, the performance or behavior of company personnel, the time required to process complaints, kinds of resolutions, patterns of settlements, structural issues posed by the system and its operation, settlement costs, and so forth. Questions should be developed in two broad areas: the performance of the grievance mechanism, and lessons related to company operations that have emerged. Some possible questions to pursue are listed below.

Questions targeted to the grievance mechanism's performance

- How well is the system accomplishing its purpose and goals?
- Is the system making a difference? How?
- Is the mechanism saving money and reducing risk?
- Does the mechanism enable complainants to raise their concerns, engage in a fair process, and obtain a satisfactory settlement to their issues (when appropriate)?
- Where are the gaps? What is and is not working?
- What types of problems is the system addressing?
- Do people know where to go? Is the mechanism accessible and easily understood?
- Do those who receive and register complaints document the complaints?
- Can complainants readily determine the status of their complaint and how the company is responding?
- To what extent is the system actually used by a wide cross-section of men, women, and youth from the community?
- How well does the mechanism address the power imbalance between the company and complainant and assure that the complainant is not always merely receiving a judgment from the company?
- Does the mechanism provide adequate opportunities for face-to-face participation and discussion and joint development of mutually acceptable solutions to issues in question?
- Does the mechanism allow and facilitate, when appropriate, complainants' pursuit of external and independent means to redress their grievances?
- What conflict trends, community issues, and project operations could influence the kinds of conflicts that might be expected in the future?
- Is the grievance mechanism set up to handle such issues?
- What actions would increase effectiveness?

Questions targeted toward organizational learning and improving company policies, procedures, and operations

- What kind of demonstrable change and improvement is the mechanism producing in project operations, management systems, and benefits for communities?
- How does the mechanism facilitate identification of root causes of conflict?
- What actions has the company taken to address these root causes? Is the company adopting any structural changes?

Actions should be identified to address any system shortfalls. Evaluation meetings should focus not only on adapting the grievance mechanism, but also on identifying specific, structural causes of grievances themselves, the sources of which, if changed, could eliminate a whole class of similar disputes.

Box 7.2. Forums and Procedures to Obtain Feedback on the Performance of a Grievance Mechanism

Companies can create forums and procedures to obtain feedback on the performance of a grievance mechanism:

- Regular company-community meetings with two-way feedback and joint appraisals of the mechanism, its components, or specific procedures
- Regular or targeted meetings between senior company managers and local community leaders
- User evaluation/feedback forms distributed to complainants at the time of settlement and again several months later
- In-person or telephone interviews by company staff with past complainants to assess their satisfaction with mechanisms and procedures to address complaints.

Create a Plan to Implement Changes to the Mechanism

Decisions on changes to the mechanism must be followed up with a clear implementation plan. The plan should explain in detail what is to be done, when, where, how, and by whom. Ideally, an oversight or monitoring process should be put in place to ensure that implementation happens in a timely and effective manner. In some cases, it may be desirable to utilize participatory monitoring, in which both company and community members have oversight of implementation and have the authority to raise concerns if it is not being conducted as mutually understood or planned.¹²

Report Back to the Community

In the spirit of transparency and accountability, companies are encouraged to disclose information about the results of the grievance mechanism, including the volume and nature of complaints, case outcomes, and resolution rates—as well as key conclusions from the monitoring and evaluation process.

The grievance team should provide regular feedback to the community to clarify expectations about what the mechanism does and does not do, to encourage people to use it, and to gather feedback to improve the grievance mechanism. The company and the community should talk about:

- Types of cases and how they were resolved, presented in an interactive way that maintains confidentiality of the parties where required
- Impacts of the grievance mechanism and complaints on company policies, procedures, and operations, including what the company is learning and how has the company changed
- How to make the grievance mechanism more effective.

Learn and Modify

The company should use information from the grievance mechanism to learn and report to stockholders about ways it could improve performance:

- Report on key insights emerging from individual grievances that indicate where changes might be needed to company operations or management systems.
- Indicate possible systemic changes that might be needed to ensure that particular grievances do not recur.
- Make sure that results of the analysis are factored into the community engagement plan and the environmental monitoring plan as these tools are updated.
- Continually provide feedback to management.

The company also should assess the impacts of any changes to the grievance mechanism by considering how the mechanism responded to complaints and how the complainants viewed the response. The company also should assess what further modifications might be necessary to improve the system.

By building in regular review and incorporating findings into improvements in company procedures and activities, the company can improve both its own performance and any development impacts on the ground.



Appendixes

Appendix A. Individuals Interviewed for this Guide

Jean Aden, Overseas Private Investment Corporation (OPIC), Office of Accountability, USA

David Barnden, BankTrack, the Netherlands

Stan Batey, Freeport-McMoRan, USA

Steve Botts, Rio Tinto, Peru

Nicholas Cotts, Newmont Mining Corporation, Ghana

Cecilia Dalupan, Sustainable Development Resources, USA

Luke Danielson, Sustainable Development Resources, USA

Carol Fries, Rio Tinto, Peru

Ginger Gibson, University of British Columbia, Canada

Pierre Gratton, Mining Association of Canada

Amy Gray, ActionAid USA, USA

Dr. Alexandra Guaqueta, Ideas para la Paz, Colombia

Anne Marie Harmon, Rio Tinto, Peru

Bill Knight, Pronatura, Nigeria

Paul Korpi, Centerra Gold, Mongolia

Ramanie Kunanayagam, British Gas Group, UK

Thereza Lobo, Comunitas, Brazil

Shanta Martin, OXFAM Community Aid Abroad, Australia

Maria Morgan, formerly with British Petroleum, Tbilisi, Georgia

Mercedes Occhi, Reporte Social, Argentina

Alan Ovalle, Goldcorp Inc., Guatemala

Cassie Phillips, Weyerhaeuser Company, USA

Caroline Rees, John F. Kennedy School of Government, Harvard University, USA

Per Renman, Skanske Corporation, Panama

Caroline Ristau, Consultant to Pro Natura, Nigeria, USA

Jonathan Samuel, Anglo American, UK

James Schenck, Goldcorp Inc., Guatemala

Jorge Daniel Taillant, Center for Human Rights and Environment, Argentina

Ian Thompson, On Common Ground, Canada

Jodie Thorpe, SustainAbility Ltd., UK

Karen Westley, Shell International, the Netherlands

Appendix B. Interview Questions

These questions served as a general guide for interviews. Some interviewees were not asked all of the questions if it was apparent during the interview that they did not have experience with certain issues.

Interviewee's Background

1. What is your position/role in your company (community organization, NGO, or local government) and how have you been involved in handling disputes between the company and the community?

Motivation/Impetus for Involvement or Development of Procedures and Mechanisms

- 2A. What motivated your company to develop procedures to address complaints with members of affected communities (risk, reputation, a crisis event such as an accident, death of a worker, or demonstration, desire for positive relationships with a community, international standards/good practice, etc.)? Ask for stories.
- 2B. Alternatively, for NGOs, community groups, etc.: What motivated you to become involved in developing or participating in an accountability mechanism focused on community grievances related to the company's operations? Ask for stories.

Procedures and Elements in Place

3. What procedures are in place to address community grievances?
4. Describe the elements of the system (receiving/recording/documenting a complaint, assessment, addressing/resolving the issues, implementation, independent redress, tracking and reporting, learning/feedback to the broader organization and community, system evaluation, etc.) Get descriptions.
5. What additional administrative or judicial mechanisms are available in the country to resolve complaints?

Scope of Issues, Problems, Disputes, or Conflicts to Be Addressed

6. What is the overarching purpose of the accountability mechanism? What kinds of issues are the mechanisms designed to address? (Land, resettlement, environmental impacts, property loss or damage, minor small claims, etc.)
7. Are there any gaps: that is, issues where a procedure is *not* available?

Process for Development of the Mechanisms

8. What kind of leadership was required and who were the champions for the introduction of a grievance resolution mechanism?

9. Where was there resistance (inside the company, in civil society, within the community, etc.). What strategies were used to reduce resistance and gain buy-in, particularly from the operations side of the business?
10. How were the procedures and mechanisms developed? (Unilaterally by the company—who and where? In collaboration with members of the community? Others?)
11. How have you managed special design challenges (culturally appropriateness, making it understandable to communities, accessibility to vulnerable populations, consideration of the customary and traditional methods of dispute resolution)?
12. What kinds of challenges, frustrations, pitfalls, conflicts, or unintended consequences were encountered in the development and/or implementation of these procedures (either within the company or with outside parties)?
13. Where are the procedures housed/located? (A particular place in the company? In an existing government or community organization? In an independent organization? In a new organization? In multiple places and institutions?)
14. What kinds of staff and resources were dedicated to the procedures and mechanisms? (Number of people, budget, etc.)

Kinds of Dispute Resolution Procedures and Mechanisms

15. Probe more about the specifics of the grievance mechanism and what they are intended to do. Are there procedures that:
 - Promote positive working relationships?
 - Address different views on data, impacts, risks, or damages?
 - Promote voluntary problem solving or negotiation between the company and members of the community?
 - Develop standards and criteria that guide decision making or awards (common standards for compensation for land, crops, loss of an animal, or damage to a car windshield)?
 - Resolve a complaint if the company and a complainant are not able to reach a mutually acceptable agreement (independent redress)? Get stories.
16. How do procedure components fit together? Is there a sequence of steps to follow?
17. What is the difference between the system on paper versus how it really works?

Implementation and Operational Issues

18. Explore issues related to implementation and operations:
 - Who is responsible for system implementation?
 - What training is provided to those who operate the system?
 - What training is provided to communities so they can effectively use the system?
 - How do you gain buy-in, develop support, and find champions for the system (in the community and company)?
 - What have you done to market and promote the system?
 - What monitoring, quality control, and evaluation approaches are in place?
 - How does the grievance resolution mechanism provide feedback to the project and the community about patterns of conflicts and inform the need for project policy or structural change to eliminate sources of repeated complaints?

The Way People Access and Use the Conflict Resolution Procedures and Mechanisms

19. How do people learn about and understand the grievance mechanism? Describe the communication and outreach strategy.
20. How do people access the procedures (filing a complaint, recording/documenting it, etc.)?
21. Are people using the procedures and mechanisms? Who is and is not? Why or why not?

Results and Satisfaction with Mechanisms

22. How has the grievance resolution process benefited the company and community?
23. How satisfied are the company and the various stakeholders, including users, with the process and results/outcomes? Why or why not?
24. Are agreements implemented? Are there any monitoring or evaluation procedures?

Lessons, Advice, and Good Practice Indicators

25. What are the system's key strengths and weaknesses?
26. What would supporters and critics say about the system and its results? (Consider cultural appropriateness/acceptability, getting to the root of problems, fairness to different genders, transparency, bias/lack of bias, timeliness, incorruptibility, fairness, responsiveness, transaction costs, getting things settled, openness to access to other dispute resolution procedures: [administrative or legal], etc.)
27. How do the procedures address issue related to hazard versus outrage?
28. What sources of resistance to the grievance resolution process (structural, cultural, attitudinal, behavioral factors) exist within the company and how is it being addressed?
29. What is it like to actually use an accountability mechanism like that of the CAO?
30. What sources of resistance exist within the NGO community for advising use of a CAO-type mechanism? What do NGOs see as the value of such a mechanism? What would have to be present for your NGO to advise a community to use an accountability mechanism? Are there existing mechanisms that you know of that you feel are doing a good job? What are the indicators? Any advice about the National Contact Points (NCP)-type model, versus the Ombudsman model, versus CAO, versus company grievance mechanism?
31. What are three (or so) key lessons that you have learned about implementing grievance mechanisms? What other insights or advice would you give colleagues? What would you identify as emerging good practice indicators in the area of grievance resolution?

Abbreviations and Acronyms

ADR	alternative dispute resolution
CAO	The Office of the Compliance Advisor/Ombudsman
CBO	community-based organization
CLO	community liaison officer
CSR	corporate social responsibility
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency
NGO	nongovernmental organization
OECD	Organisation for Economic Co-operation and Development
PS	Performance Standard
UN	United Nations
WBG	World Bank Group

Notes

- ¹ The focus of this guide is locally based systems for resolving project-level grievances between companies and communities. The guide does not focus on public systems, such as the accountability mechanisms of the international financial institutions, the Organisation for Economic Co-operation and Development (OECD) National Contact Person, or the courts. Nor does it focus on NGO-based mechanisms, such as Oxfam Australia's Mining Ombudsman.
- ² The word "project" is used for all phases of development, including conceptualization or exploration, feasibility, construction, operation, and decommissioning.
- ³ <http://www.ifc.org/ifcext/enviro.nsf/Content/PerformanceStandards>;
http://www.miga.org/policies/index_sv.cfm?stid=1652
- ⁴ <http://www.ifc.org/ifcext/enviro.nsf/Content/GuidanceNotes>
- ⁵ Rees and Vermijs (2008).
- ⁶ The option of using formal legal redress should always remain available. The company should never impede a complainant's right to pursue legal remedies.
- ⁷ Ruggie (2008).
- ⁸ CAO Operational Guidelines (2007).
<http://www.cao-ombudsman.org/html-english/caooperationalguidelines.htm>
- ⁹ Lipsky, Seeber, and Fincher (2003).
- ¹⁰ In situations where local people fear that raising complaints will lead to retribution, it is advisable to develop a receipt and registration system that relies upon a trusted third party—a church, an aid organization, or the like—and entrust it with the role of taking complaints to the company on behalf of local people with problems.
- ¹¹ Staff not associated with complaint procedures may receive complaints from stakeholders. Systems for managing and forwarding such complaints should be established. The company will need to provide guidance to these staff on how to recognize a complaint and where to refer it.
- ¹² CAO (2008).

Glossary

Accountability mechanism – An office within an institution with a mandate and/or standardized procedures, designated roles, and responsibilities to ensure that the entity adheres to and complies with external and/or internal laws, policies, procedures, or guidelines related to the institution’s performance.

Arbitration – A private, and adjudicative process for resolving complaints or disputes. Arbitration may be voluntary or part of a contract or a prearranged, necessary step in a grievance process. Involved parties submit the contested issue(s) to a mutually acceptable and impartial intermediary—an arbitrator—to obtain either a nonbinding opinion or binding judgment.

Arbitrator(s) – An individual or panel that conducts an arbitration hearing and process to resolve a dispute or conflict.

Assisted negotiation(s) – Talks or bargaining conducted with the assistance of an intermediary or third party to help parties voluntarily resolve a complaint, grievance, or dispute. A facilitator or mediator commonly provides assistance by helping parties establish or build positive working relationships, conduct more effective negotiations, or provide nonbinding substantive advice.

Change agent – A person who leads a change project or business-wide initiative by defining, researching, planning, building business support, and selecting volunteers to be part of the change team.

Company-community grievance mechanism – Institutionalized approaches, procedures, and roles for the resolution of concerns or complaints at the project level raised by individuals or community groups concerning the performance or behavior of a company, its contractors, or its employees.

Complainant – An individual or group with an issue, concern, problem, complaint, or claim that he, she, or they want addressed and/or resolved.

Complaint – An issue, concern, problem, or claim (perceived or actual) that an individual or community group wants a company or contractor to address and resolve. Synonymous with grievance.

Compliance – Commitment to follow and/or implement—in both spirit and letter— relevant laws, rules, regulations, or negotiated agreements.

Compliance Advisor/Ombudsman (CAO) – The independent recourse mechanism of the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector lending and insurance members of the World Bank Group.

Compliance audit – An impartial assessment by an independent third party focused on whether an institution has complied with relevant policies, standards, guidelines, and procedures.

Conflict – A serious and potentially costly dispute over perceived or actual incompatible values or more tangible interests. When acted upon, conflicts are often damaging to all concerned in terms of relationship, time, personnel, and resource and opportunity costs required to resolve them. Often used synonymously with dispute.

Customary approaches for grievance resolution – Roles, procedures, standards, and criteria commonly found and used in traditional or indigenous communities to address and resolve differences or conflicts. Examples include use of community elders or chiefs as mediators or arbitrators and application of traditional norms to guide settlements or decisions.

Dispute – A disagreement over concerns or interests that takes the form of a claim between parties. Claims are often countered with rejections or denials, accusations, or counter-claims or charges. Often used synonymously with conflict.

Dispute resolution system – An institutionalized and organized method—consisting of specified roles, rules, and procedures—for systematically resolving complaints, grievances, disputes, or conflicts. Synonymous with grievance mechanism.

Distributive solutions/outcomes – Results of a collaborative problem-solving initiative, mediation, or third party decision-making process over complaints or disputes over limited resources that distributes benefits or costs between the involved parties.

Enforcement – Means and procedures to assure commitment to and/or implementation of relevant laws, rules, regulations, or negotiated agreements, regardless of the cooperation or will of involved parties.

External appeals process – Institutions and procedures external to a company-community grievance mechanism that provide complainants with an independent and impartial means to seek redress of complaints. These include, but are not limited to, private arbitration, governmental administrative hearings, or judicial proceedings and rulings.

Facilitation – A means of helping groups work together in meetings to accomplish their goals in ways that elicit participation, ownership, and creativity from all involved.

Governance structure – Roles, procedures, and institutional home for the management of a grievance mechanism.

Grievance – An issue, concern, problem, or claim (perceived or actual) that an individual or community group wants a company or contractor to address and resolve. Synonymous with complaint.

Grievance mechanism – An institutionalized and organized method consisting of specified roles, rules, and procedures for systematically resolving complaints, grievances, disputes, or conflicts. Synonymous with dispute resolution system.

Grievance mechanism components – Parts of a grievance mechanism implemented to accomplish specific tasks, such as grievance prevention, receipt and registration, monitoring, tracking, internal company deliberations, and third party assistance.

Interest-based negotiation/bargaining – A negotiation process focused on identification of parties' substantive, procedural, relationship, and/or psychological interests and development of mutually acceptable solutions that satisfy them to the greatest extent possible and result in joint gains for all concerned.

Intermediary/Intermediaries – Individuals or groups that are not a party to a complaint, grievance or dispute—such as facilitators, mediators, process coaches, fact finders, compliance advisors, or community elders—who provide assistance to parties that enables them to reach voluntary agreements, secure nonbinding advice, or obtain a binding judgement to settle differences. Synonymous with third parties.

Internal company grievance mechanisms – Internal procedures for accepting a complaint concerning company performance or behavior, processing it, making a decision on its merit, and providing a response to the complainant.

International Finance Corporation (IFC) – A member of the World Bank Group that focuses on private sector projects in developing countries. It provides financing for private sector projects, helps private companies in the developing world mobilize financing in international financial markets, and provides advice and technical assistance to businesses and governments.

Mediation – A way of helping parties voluntarily resolve a dispute using the assistance of an acceptable, impartial, and neutral third party with no decision-making authority.

Multilateral investment Guarantee Agency (MIGA) – A member of the World Bank Group whose mission is to promote foreign direct investment in developing countries. MIGA offers political risk insurance, technical assistance, and dispute mediation services to private sector clients.

Nonbinding agreement – A way of resolving a dispute using negotiation, mediation, or determination by experts that does not legally bind the disputants to the outcome (unlike legal matters such as the courts or arbitration, which are binding).

Organizational learning – The ability of an entity to sense changes in its internal and external environments and effectively adapt to them to better achieve its goals.

Performance Standards (IFC and MIGA) – A series of standards that are applied to manage social and environmental risks and impacts and to enhance development opportunities of projects in which IFC and MIGA invest or serve as partners.

Receipt and registration – A simple process where local people can present concerns directly to the company, and if necessary, anonymously or through third parties.

Social license – An implicit contract between a company and society that constrains the company to meet societal expectations and avoid activities that societies deem unacceptable, whether or not those expectations are embodied in law.

Stakeholders – Persons or groups that are directly or indirectly affected by a project as well as those that may have interests in a project and/or the ability to influence its outcome, either positively or negatively. Stakeholders may include locally affected communities or individuals and their formal and informal representatives, national or local governmental authorities, politicians, religious leaders, civil society organizations, and other groups with special interests, the academic community, or other businesses

Stakeholder engagement – An umbrella term encompassing a range of activities and interactions between a company and community over the life of a project that are designed to promote transparent, accountable, positive, and mutually beneficial working relationships. Stakeholder engagement includes stakeholder identification and analysis, information disclosure, problem/conflict anticipation and prevention, ongoing consultation, formation of partnerships, construction of grievance resolution mechanisms, negotiated problem solving, community involvement in project monitoring, regular reporting forums and procedures, and other management functions.

Third party/third parties – See intermediary/intermediaries.

Unassisted negotiations – Talks or bargaining conducted by parties to resolve a complaint, grievance, or dispute without the assistance of an intermediary or third party.

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Acknowledgments

Principal author: Susan Wildau (CDR Associates)

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Compliance Advisor/Ombudsman
2121 Pennsylvania Avenue NW
Washington, DC 20433 USA
Telephone: (202) 458-1973
Facsimile: (202) 522-7400
e-mail: cao-compliance@ifc.org
www.cao-ombudsman.org



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