



**REVIEW PROCEDURE FOR
DEALING WITH COMPLAINTS
BROUGHT UNDER THE OECD
GUIDELINES FOR MULTINATIONAL
ENTERPRISES TO THE UK
NATIONAL CONTACT POINT**

**10 December 2008
(updated on 14 January 2011)**

URN 11/654

Table of Contents

Table of Contents	2
1. Introduction	3
1.1. What is this note about?	3
1.2. Useful jargon	3
2. Initial request for a review	3
2.1. Who can request a review?	3
2.2. How do you request a review?	3
2.3. When can a review be requested?	3
2.4. What about time limits?	4
2.5. Consequences arising from a request for a review	4
3. Reasons for a Review	4
3.1. What is the purpose of the review procedure?	4
3.2. In what circumstances should you consider requesting a review?	4
3.3. What are the limits of the review?	4
3.4. What do I need to request in a review?	5
4. Information Gathering Stage	5
4.1. Introduction.....	5
4.2. Circulation of information.....	5
4.3. Ineligible, frivolous or vexatious requests.....	5
4.4. Comments by the NCP and the parties.....	6
5. Impartiality of Board Members	6
6. Consideration of the request	6
6.1. Review Committee	6
6.2. Steering Board	7
7. What is the outcome of a Review?	7
8. Publication of Review Findings	7

1. Introduction

1.1. What is this note about?

This note is issued by the secretariat to the Steering Board that oversees the UK National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises. If you consider that the NCP, in coming to a final decision, has not followed the correct procedure or failed to treat you with appropriate fairness, you may request a review. This note explains what you should do. It sets out the procedure that has been put in place by the Steering Board to consider reviews and the possible outcomes of a successful review.

1.2. Useful jargon

Throughout this note “NCP” refers to the UK National Contact Point for the OECD Guidelines for Multinational Enterprises. Contact details for the NCP can be found on the website: <http://www.bis.gov.uk/nationalcontactpoint>.

References to the NCP Published Procedure refer to the "UK NCP Procedures for dealing with complaints brought under the OECD guidelines for multinational Enterprise", which can be found on the website: <http://www.bis.gov.uk/nationalcontactpoint>.

“You” refers to the person requesting the review and “we” refers to the secretariat to the Steering Board co-ordinating the review.

2. Initial request for a review

2.1. Who can request a review?

A review may only be requested by one of the parties to the complaint.

2.2. How do you request a review?

The covering e-mail or letter circulating the NCP final statement will normally include a paragraph which briefly sets out your right to request a review. A request for a review must be in writing but does not need to be in any specific format. It must identify the final statement to be reviewed and why, briefly, you think it should be reviewed. All correspondence relating to a review request may be made by e-mail.

2.3. When can a review be requested?

A review may only be requested where the NCP does not accept a specific instance in its initial assessment or following the conclusion of a complaint and the issue of the final statement.

2.4. What about time limits?

2.4.1 You have up to 10 working days from the date of the NCP final statement to ask (in writing) for a review of the decision.

2.4.2 You then have a further 10 working days from the date of requesting the review to provide full particulars of why you think that the NCP decision should be reviewed. This is dealt with further in paragraph 3.4 below.

2.4.3 The review process will normally be completed within 50 working days of receipt of a request and we will promptly notify you and the other party to the complaint of the outcome.

2.4.4 We expect that time limits will normally be observed. Late applications will only be considered if there are good reasons why deadlines have been missed.

2.5. Consequences arising from a request for a review

In the event of a request for a procedural review being received within the 10 days stipulated at 2.4.1, a final statement will not be published.

3. Reasons for a Review

3.1. What is the purpose of the review procedure?

The review process is intended to identify procedural errors in the NCP decision-making process and ensure they are corrected where possible.

3.2. In what circumstances should you consider requesting a review?

3.2.1 You might want to consider requesting a review if the NCP has failed to comply with the NCP Published Procedure. Examples of such failure might be:

- Failure to issue a final statement in accordance with the timetable set out in the Published Procedure
- Failure by the NCP to give you an appropriate opportunity to be heard
- Failure to meet your reasonable requirements in relation to the treatment of your witnesses, confidential or other sensitive information.

3.2.2 You should also consider requesting a review if the NCP has failed to treat you with appropriate fairness in the circumstances of the case. Appropriate fairness is intended to cover procedural rules that are sometimes called “rules of natural justice”.

3.3. What are the limits of the review?

You should be aware that the review can only deal with procedural errors, and will not examine the substance of the NCP decision.

3.4. What do I need to request in a review?

Once you have put in a request for a review you have 10 working days in which to provide full particulars of why you think the NCP has deviated from the Published Procedure or why you have not been treated with appropriate fairness. This does not need to be very formal or long but should provide examples and any other supporting information you think relevant. Everything should be provided in writing, and can be delivered by hard copy or e-mail.

4. Information Gathering Stage

4.1. Introduction

This section of the notice sets out the procedures we will follow upon receipt of a request for a review. The process is normally a paper based review only.

4.2. Circulation of information

4.2.1 When we receive a review request, we will promptly acknowledge receipt and ask you to provide full particulars, if you have not already done so, within 10 working days.

4.2.2 We will promptly circulate a copy of the request to each member of the Steering Board, together with a copy of the NCP final decision. We will ask Steering Board members to declare any interest or involvement they may have had affecting the complaint.

4.2.3 The Steering Board has nominated [*probably between 6-8 members*] of its members to form a Review Committee to consider any review request and make recommendations to the Board if necessary. We will notify those members of the likely timetable for a review and find out which members are available during that time.

4.2.4 We will also send a copy of the request to the NCP and to the other party to the complaint.

4.2.5 Promptly on receipt of full particulars we will circulate copies to the NCP, all Steering Board Members and the other party to the complaint.

4.3. Ineligible, frivolous or vexatious requests

If at any stage we consider that a request is ineligible, frivolous or vexatious we will notify the Steering Board of our opinion and recommend that the request be refused. The recommendation will become final unless three or more members of the Steering Board raise an objection, in which case the review will proceed in the normal manner.

4.4. Comments by the NCP and the parties

- 4.4.1 The NCP will then have 10 working days to comment in writing on the request and provide any background information it considers will assist the Steering Board. NCP comments may include recommendations for rectifying errors in procedure identified by the review request.
- 4.4.2 We will circulate the NCP comments to both parties to the complaint. Each party will be given 5 working days to comment on any matter relevant to the review.
- 4.4.3 We will circulate NCP comments and any additional comments of the parties to all members of the Board.

5. Impartiality of Board Members

- 5.1. Any Board member who has been actively involved in the decision-making process for the complaint will not be entitled to participate in the review.
- 5.2. A Board member shall notify the secretariat of an active interest in the complaint. That Board member may choose to withdraw from the review process or ask the secretariat to declare that interest and ask the parties to the complaint if they consent to that Board member taking part in the review. If any of the parties object, that member will take no part in the review process.
- 5.3. Board members involved in a review will not take into account the interest of any constituency or department they represent.

6. Consideration of the request

6.1. Review Committee

- 6.1.1 The quorum for the Review Committee is three.
- 6.1.2 The Review Committee will determine its own proceedings and how best to consider the information provided. It will make a recommendation to the Steering Board within 10 working days of circulation of the papers referred to in paragraph 4.4.3 above. Any recommendation must be approved by a simple majority of the Review Committee. If the Review Committee considers that the recommendation should not be published, or only a summary should be published, it will set out its reasons in an appendix to its recommendation. The Review Committee may also suggest that publication be delayed until the final statement is published.

6.2. Steering Board

6.2.1 The Steering Board will have 5 working days to consider the Review Committee's recommendation. The recommendation will become final unless three or more members of the Steering Board who are not members of the Review Committee raise an objection, in which case the conclusion of the review will be delayed until the next full Board meeting at which it is practicable to consider the request.

7. What is the outcome of a Review?

7.1 If the Steering Board considers that there were good grounds for the request the Board may:

- remit the decision back to the NCP with instructions on how to rectify the procedural irregularity;
- acknowledge that there were deficiencies in the NCP process in the specific instance and make recommendations as to how those errors can be avoided in the future. However, the Board will not replace the NCP decision with its own appraisal.

7.2 If the decision is sent to the NCP for reconsideration the NCP will re-open the case in accordance with the instructions of the Board, correct the deficiencies and, if necessary, reconsider its final statement.

7.3 No further request for the review of that decision may be made.

7.4 If the Steering Board considers the request for a review is not well founded it will notify the NCP and both parties to the complaint. The NCP will then post the final statement on the website: <http://www.bis.gov.uk/nationalcontactpoint>.

8. Publication of Review Findings

The final recommendation approved by the Steering Board will normally be published promptly on the BIS website, unless the Steering Board considers there is a good reason to withhold or delay publication or only publish a summary.

© Crown copyright 2011

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk. This publication is available on our website at www.bis.gov.uk/nationalcontactpoint. Any enquiries regarding this publication should be sent to:

UK National Contact Point for the OECD Guidelines for Multinational Enterprises
Department for Business, Innovation and Skills
3.1 Victoria Street
1 Victoria Street
London SW1H 0ET
Tel: 0044 (0)20 7215 5756

If you require this publication in an alternative format, email uk.ncp@bis.gsi.gov.uk, or call 0044 (0)20 7215 5756.

URN 11/654