

start here quick sheet

Designing and Implementing Grievance Mechanisms



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Prepared by
Lindsay McIvor
Stephanie Bertels

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This guide was prepared by Lindsay McIvor, MBA, and Dr. Stephanie Bertels, PEng., Beedie School of Business, Simon Fraser University



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preface

This document provides a tailored overview of the process of designing and implementing a grievance mechanism and the approaches that are most plausible for exploration and development companies. It has been created out of the **70-page advisory document** released by the IFC, “A Guide to Designing and Implementing Grievance Mechanisms”, and only represents a portion of the information contained in the full document. This is not an official International Finance Corporation document, nor has it been endorsed by the IFC, and the entire contents of this Quick Sheet are credited to the IFC. If you begin to do work in this area, we suggest referring back to the original document, which can be found here:

<http://www.cao-ombudsman.org/howwework/advisor/documents/implemgrieveng.pdf>

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1. introduction to grievance mechanisms

Resource development projects represent dramatic change for communities and other affected peoples.

A well-functioning grievance mechanism:

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

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 its simplest form, a grievance mechanism can be broken down into the following primary components:

1. Receive and register a complaint
2. Screen and assess the complaint
3. Formulate a response
4. Select a resolution approach
5. Implement the approach
6. Settle the issues
7. Track and evaluate results
8. Learn from the experience and communicate back to all parties involved

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.

2. relevance to exploration, development and small producing mining companies

The International Finance Corporation's Performance Standards emphasize that a grievance mechanism should help your company understand the community's perception of project risks and impacts so as to adjust its measures and actions to address the community concerns.

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. 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. People may feel powerless to act, while their grievances—unresolved, ignored or scorned—accumulate over time, eventually erupting into intractable community opposition.

"There is only one chance to make a good first impression. It's difficult to get back on track after a project has problems... 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 behaviour of contractors. It also is a chance to instil our corporate ethic in our contractors. We think grievance mechanisms also make affected people part of the solution, which is a good practice."

—General Manger, mining project, Peru

Perceived concerns can be as critical to address as actual hazards. They often arise when people do not have adequate information.

2.1 TRADITIONAL WAYS COMPANIES HANDLE GRIEVANCES

Blind trust: Rely on reputation to avoid disputes.

Inevitably, complaints arise that trust alone cannot avert.

Ad hoc: Hope for the best. Ad hoc approaches pose **several limitations** for companies:

- Transparency is lacking. Complainants do not know where to find assistance with their grievance.
- 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. **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

2.2 A BETTER APPROACH: GRIEVANCE RESOLUTION MECHANISMS

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, including the company
- Offers an early, efficient and less costly way to address concerns
- Helps build a company's social license to operate

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

- Serving as an early warning system for wider problems
- Indicating possible systemic changes that might be needed to ensure that particular grievances do not recur

2.3 HOW GRIEVANCE MECHANISMS FIT INTO THE LARGER CONTEXT OF PROJECT ACCOUNTABILITY

Various accountability mechanisms exist at the industry, regional, national and international level. **Non-project-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.

3. getting started

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.

3.1 COMPONENTS OF A GRIEVANCE MECHANISM

Grievance resolution mechanisms should include the following:

1. **A transparent grievance receipt and registration system** to provide ways for community members to register complaints and confirm they have been received
2. 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
3. Several **choices for solving problems**, with or without the assistance of independent, third parties
4. Grievance **tracking**, monitoring and reporting to the community
5. Company-community **feedback** and information sharing to strengthen grievance resolution processes
6. **Organizational learning** and identification of systemic problems and the need for changes to policies and procedures to prevent recurrent future disputes

3.2 DESIGNING A CONTEXT-BASED MECHANISM

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.

3.3 CHOOSE WAYS TO RECEIVE, REGISTER, SCREEN, ASSESS AND RESPOND TO GRIEVANCES

Reception procedures are most effective if they are convenient, culturally appropriate, simple to understand and easy to use. The grievance receipt and registration process should provide the following:

1. Multiple channels to gather and forward local people's concerns
2. A central point of contact to receive complaints and log them into a central register
3. Designated complaint-resolution staff
4. 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
5. A record of all complaints recorded in the complaints log or data system
6. A procedure to determine whether a complaint is eligible for the grievance mechanism

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.

4. implement and operate

Grievance resolution is everybody's business.

1. 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.

2. Communicate to Build Awareness

Educating local people and the company about the grievance mechanism is an essential and ongoing responsibility.

3. 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, understandable and 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.
- 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.

- 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.

4. Get the Word Out to Companies and Contractors

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.
- Highlight the constructive role of understanding community dissent in project operations.
- Emphasize that there will be absolutely no reprisals within the company or community.

5. Train and Support Participants (Where Possible)

Training in conflict resolution and grievance management is required in the start-up of a grievance mechanism for grievance coordinators.

5. receive and assess grievances

1. Determine who will conduct the 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.
4. Classify the complaint in terms of its seriousness (high, medium or low).
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.

5.1 FORMULATE A RESPONSE

The system for responding to the complainant should specify who communicates and how.

1. The response should consider the complainants’ views about the process for settlement and provide a specific remedy.
2. Consider holding a meeting with the complaint coordinator, relevant company manager and the complainant to present and discuss the response.
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.

6. grievance resolution approaches

APPROACH 1: THE COMPANY PROPOSES A SOLUTION

The company and community jointly decide if the solution is acceptable and, hence, share decision-making authority.

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

Tips:

1. The proposed solution should be based on consistent standards and criteria so that similar complaints receive similar remedies.

2. 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:
 - Providing 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 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:

- The case is more complex and several diverse stakeholders are involved
- 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

“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.

The advantages include the following:

- Those directly involved can address the complaint early, rapidly and informally.
- The process can improve relationships as well as address substantive concerns in a principled and creative way, leaving both sides better off.

Common “decide together” approaches:
(These can be used separately or in combination)

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 and discussing and seeking ways to reduce tension may adequately address a grievance.

Information sharing. Facilitating access to information can help clarify facts or misperceptions.

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.

Joint fact-finding. May be appropriate 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. 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.

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

Three main approaches can be used:

(These tend to be more formal and rights-based)

Arbitration. 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.

Fact-finding. Fact-finding is recommended when it is important to use third party expertise to resolve a data dispute through a process that is less formal and without the need for a hearing.

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.

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

Consider using the following options:

Observers, witnesses and testifiers. Their presence legitimizes the process, verifies fairness and assures that agreements comply with widely accepted community values and norms.

Advisors. Disputants often ask for recommendations that comply with community norms and restore harmonious relationships. 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.

Mediators. Use of local and respected community leaders may help open communication between the parties, further more effective problem solving and provide counsel or specific recommendations on possible settlements.

7. monitor, report and learn

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. It is necessary to monitor and evaluate the overall performance of the grievance mechanism.

Design a Means to Track and Monitor Grievances:

1. Document the severity of a complaint (high, medium, low).
2. Provide assurance that a specific person is responsible for overseeing each grievance.
3. Inform all concerned (the complainant and appropriate company personnel) about the status of the case and progress being made toward resolution.
4. Document the company's response and outcome(s).
5. Record stakeholders' response(s) and whether additional research or consultation is needed.
6. Monitor the implementation of any settlement to ensure that it is timely and comprehensive.

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Rick Killam, Independent Mining and Metals Professional (former Director, Environment and Social Responsibility, New Gold Inc.)

David Barrett, Manager, Climate Change and Sustainability Services, Ernst & Young LLP

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about NBS

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Since the creation of Canada's first Executive MBA in 1968, the Beedie School of Business has championed lifelong learning, productive change and the need to be innovative as it delivers research and teaching that make an impact. In particular, it has been recognized for its contributions to knowledge creation in the areas of globalization and emerging markets; innovation and technology; sustainability and governance; and capital and risk management. The school's goal is to produce broadly educated, enterprising and socially responsible managers capable of making lasting contributions to their communities.

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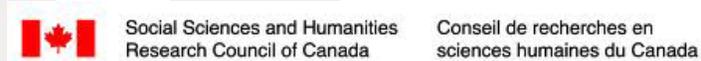
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Network for
Business Sustainability

Business. Thinking. Ahead.

Network for Business Sustainability
c/o Richard Ivey School of Business
Western University
1255 Western Road
London, Ontario, Canada N6G 0N1
519-661-2111, x88980



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Penser l'entreprise en visionnaire

Réseau entreprise et développement durable
École des Sciences de la gestion,
Université du Québec à Montréal
1290, rue Saint-Denis, 6e étage, AB-6270
Montréal, Québec, Canada H2X 3J7
514-987-3000 x7898

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