



OECD Guidelines for Multinational Enterprises
National Contact Point Peer Reviews
IRELAND



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Foreword

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

Adhering governments to the Guidelines are required to set up a National Contact Point (NCP) for Responsible Business Conduct that functions in a visible, accessible, transparent and accountable manner. During the 2011 update of the Guidelines, NCPs agreed to reinforce their joint peer learning activities, in particular with respect to conducting voluntary peer reviews.

The peer reviews are led by representatives of 2 to 4 other NCPs who assess the NCP under review and provide recommendations. The reviews give NCPs a mapping of their strengths and accomplishments, while also identifying opportunities for improvement. More information can be found online at <https://mneguidelines.oecd.org/ncppeerreviews.htm>.

This report presents the peer review of the Irish NCP. This report was prepared by a peer review team made up of reviewers from the NCPs of the Czech Republic, Norway and Spain, and with the support of the OECD Secretariat. The NCP of the Czech Republic was represented by Ludmila Hyklová. The NCP of Norway was represented by Åse Sand and Beate Slydal. The NCP of Spain was represented by Aize Azqueta. The OECD Centre for Responsible Business Conduct was represented by Nicolas Hachez and Emily Halstead. The report was informed by dialogue between the peer review team, the NCP of Ireland and relevant stakeholders during an in-person fact-finding mission on 27-28 October 2021. The peer review team wishes to acknowledge the NCP for the quality of the preparation of the peer review, especially considering the very recent return to in-person visits and the necessity to respect sanitary measures. The NCP of Ireland was represented by Anne Coleman Dunne, Paul McMahon, Declan Moran and Abigail Martin. This report also benefited from comments by OECD delegates to the Working Party on Responsible Business Conduct and institutional stakeholders (BIAC, OECD Watch, TUAC).

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Key findings

Institutional arrangements

The Irish NCP has a single agency structure, located as a standalone unit within the Trade Division in the Department of Enterprise, Trade and Employment (DETE). The NCP does not have an advisory or oversight body acting as support. Resourcing of the NCP function comprises two senior staff members from DETE working in a part-time capacity on the role; one staff member assisting with administrative support on a part-time basis and one staff member working in a fulltime capacity as a case officer/policy analyst.

This structure was implemented in early 2021 in order to address reported resource constraints, particularly given that the NCP was predominately handled by two official working part-time on NCP matters under the previous structure. Although the current structure is still relatively new, it has been received positively by stakeholders and there is a lot of optimism for continued improvements. Stakeholders have already noticed changes in the NCP reaction time and improvements upon indicative timelines and attentiveness of the NCP to their specific instances.

The new structure is not set up under any kind of official or legal document. Stakeholders indicated a desire for such a document to clarify and define the role and structure of the NCP. The principal reasoning for this being twofold: to increase transparency and stability, and to increase understanding and trust in the NCP mechanism. With regards to the structure of the NCP, there was strong interest from stakeholders to include some type of an advisory body in the NCP structure. The body could be comprised of representatives from businesses, civil society, trade unions, or other governmental departments or agencies. Including stakeholders in this manner would give visibility to the NCP and make it more representative. It would further provide expertise to the NCP, strengthen the standing of the NCP as an authority on RBC, increase efficiency as it would distribute the workload more, and the body could act as oversight of the NCP, increasing its accountability.

	Finding	Recommendation
1.1	The NCP structure was reformed to address the resource issues previously constraining the NCP function. However, this new and improved structure is not defined in an official or legal document. Stakeholders have indicated an interest in the creation of such a document to bolster the authority of the NCP.	Ireland could consider ways to lend more stability and authority to the NCP by formalising its role and structure in a legal or official document. This could further clarify how the NCP maintains its impartiality.
1.2	While the NCP has increased resources as a result of the restructure, its single agency structure without advisory body could limit its access to expert advice and decrease its visibility and accessibility with relevant stakeholders, and affect the confidence of some stakeholder groups. The NCP is still discovering its new abilities and structure and it is an optimal time to continue improvements prior to the fixation of the structure in a document such as the one above.	The NCP should increase and formalise its engagement with all stakeholder groups, for example by implementing a multistakeholder advisory body to provide more expertise, increase visibility and accessibility, spread workload, and increase accountability of the NCP.

Promotional activities

The NCP significantly increased promotion of the NCP and the Guidelines since implementing the structural changes in early 2021, after several years when it had been little active. In mid-2021, the NCP launched a series of promotional events focused on increasing stakeholder engagement. This has included activities such as meetings to present the role of the NCP and the Guidelines to interested parties, and working in conjunction with the Communications team at DETE to ensure coherence with NCP plans and the greater departmental communication strategy, including using the DETE Twitter account to promote the Guidelines. However, the plan was not made public and did not include information such as identified goals or target audiences. The NCP has also used its increased resources to develop an informational promotional flyer on the NCP and Guidelines. The NCP regularly updates their website and plans to do an overhaul soon. Some stakeholder feedback suggested that the NCP website can be difficult to locate as it is nested within the larger DETE site. Creating a more distinct link or a more prominent spot on the DETE website may increase the findability of the NCP site.

Given the timing of the increase in resources, the NCP has had the complex task of rolling out an engagement plan during the ongoing Covid19 pandemic. While stakeholders acknowledge the challenges faced by the NCP, both with respect to the pandemic and the recent change in resources, there is still agreement that the NCP needs to continue increasing promotion. The NCP should seize the opportunity to have a motivated group of stakeholders with whom they liaise regularly, but more effort could be placed in proactively identifying new relevant audiences.

The NCP appears to have close working relationships with several other government departments. This helps foster policy coherence by extending the reach of the NCP and has fostered the participation of the NCP in domestic legislature and action plans pertaining to responsible business conduct. Government representatives seemed eager to work even more collaboratively with the NCP and the NCP could take the opportunity to further its reach and develop its network of government representatives, particularly as RBC is increasingly moving up the agenda at both the national and EU level.

	Finding	Recommendation
2.1	The NCP has made clear progress over recent months in increasing their promotion of both the NCP and the Guidelines, although its visibility remains fairly low. A plan has been developed to increase stakeholder engagement and, while it provides a schedule of events, it lacks information on goals and target audiences for promotion.	The NCP could draft a comprehensive promotional plan which identifies, specific target sectors, target audiences, and defines clear goals. The plan could also be made public to increase visibility and legitimacy of the NCP.
2.2	While promotion has been increasing, the NCP still maintains relatively low number of promotional events organised and participated in. The NCP could benefit from building a network of contacts with representative stakeholder organisations and foster relationships face-to-face, where possible.	The NCP could consider partnerships with other professional associations to leverage existing activities to raise the visibility of the NCP. Further outreach could be made via media outlets, including press releases when the NCP receives a new case or publishes a new statement.
2.3	The NCP reports that it regularly updates their website and it is a useful tool for interested parties. However, the website lacks visibility and the NCP lacks a comprehensive strategy to increase its online presence.	The NCP could develop a strategy to improve the discoverability of the website, considering any government limitations. The NCP could further increase its online presence by including links on partner websites, cross-posting, and further developing its online promotion using videos, podcasts, or social media.
2.4	The NCP has already been involved and inputted in government works and National Action Plans relating to RBC and corporate social responsibility. The review also showed a willingness by members of other government departments to engage with the NCP. This creates an opportunity to increase policy coherence.	The NCP could act on the willingness of other government departments and increase promotion of policy coherence across these channels. The implementation of an advisory board could further the improvement of policy coherence as it includes more relevant stakeholders in the NCP process.

Specific instances

The Irish NCP had received eight specific instances since its creation and as of the date of the on-site visit, six of which had been in the last three years.¹ The NCP may expect to see a continued increase in cases as it continues its promotional work and increases the visibility of the NCP. While timeliness had been noted as a major issue for the NCP, stakeholders noted a clear improvement in the handling of specific instances since the restructure of the NCP. This recent uptick in cases is the NCP's opportunity to build confidence and trust in the new structure. When delays are necessary in the process, the NCP should aim to be transparent about the causes so that any overshoots of the indicative timelines are not met with undue criticism which could undermine the NCP.

The Ireland NCP has been using its rules of procedure (RoP) which were published in 2018 to handle specific instances. The document has been a useful tool for users of the specific instance process and interested parties, but stakeholder feedback suggests that the document lacks clarity in some places and leaves unaddressed a number of key aspects of the process. The document could benefit from tighter and more concrete language so that confusion does not arise for parties. This will also further increase the NCP's credibility to have a well-defined structural document for their procedures.

General feedback from stakeholders did remain positive and parties generally responded affirmatively when asked if they would work with the NCP again in the future. This shows clear interest in the mechanism and that interested parties value what the NCP can bring. The NCP can build upon this momentum now to increase its efficacy moving forward.

	Finding	Recommendation
3.1	Previous specific instances have suffered notable, and sometimes, unexplained delays. This raises issues for users as they do not always have the capacity to participate in a drawn-out process. This also raises issues of transparency when the delays are not clearly explained. Optimism has been expressed regarding improvements in timeliness since the restructure but concerns remain.	With increased capacity, the NCP could focus on timeliness of case handling as a priority. Where possible, the NCP could aim to make public, generally or to the involved parties, the reasoning for delays in specific instances. These causes for delay could also be noted in the published statements so that it is always clear why a case exceeded the indicative timeline.
3.2	The current RoP was drafted in 2018 and while it creates a good explanation and overview of the process, there are some notable places which require clarification. A comprehensive RoP would give the new restructured team even more credibility and allow them to gain stakeholder's confidence moving forward. The NCP has already noted plans to update the RoP in 2022.	The NCP could focus on tightening language in the RoP to decrease chances of misunderstandings in the process. Specifically, the RoP would benefit from further explanation on the difference between an initial and final statement, clarity in language surrounding confidentiality procedures, and clarity on when submissions can still be received from parties during the drafting of a statement.

¹ The Irish NCP has since received an additional two new cases during the assessment phase of the peer review.

Introduction

The Irish NCP at a glance

Established: Unknown

Structure: Single Agency NCP without Advisory Body

Location: The NCP is a standalone unit located in the Trade Division of the Department of Enterprise, Trade and Employment.

Staffing: Three DETE staff operating on the NCP function in a part-time capacity and one full-time staff member.

Website: <https://enterprise.gov.ie/en/What-We-Do/Trade-Investment/OECD-Guidelines-NCP/>

Specific instances received: Three concluded, five in progress

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

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

Countries that adhere to the Investment Declaration are required to establish NCPs. NCPs are set up to further the effectiveness of the Guidelines and adhering countries are required to make human and financial resources available to their NCPs so they can effectively fulfil their responsibilities, taking into account internal budget priorities and practices.² NCPs are “agencies established by adhering governments to promote and implement the Guidelines. The NCPs assist enterprises and their stakeholders to take appropriate measures to further the implementation of the Guidelines. They also provide a mediation and conciliation platform for resolving practical issues that may arise.”³

The Procedural Guidance covers the role and functions of NCPs in four parts: institutional arrangements, information and promotion, implementation in specific instances and reporting. In 2011 the Procedural Guidance was strengthened. In particular, a new provision was added to invite the OECD Investment Committee to facilitate voluntary peer evaluations. In the commentary to the Procedural Guidance, NCPs are encouraged to engage in such evaluations.

² Amendment of the Decision of the Council on the OECD Guidelines for Multinational Enterprises, para I(4).

³ OECD Guidelines for Multinational Enterprises (2011), Foreword.

The objectives of peer reviews as set out in the Core Template for National Contact Point Peer Reviews⁴ are to assess that the NCP is functioning in accordance with the core criteria set out in the implementation procedures; to identify the NCP's strengths and possibilities for improvement; to make recommendations for improvement and to serve as a learning tool for all NCPs involved.

This report was prepared based on information provided by the NCP and in particular, its responses to the NCP questionnaire set out in the core template as well as responses to requests for additional information. The report also draws on responses to the stakeholder questionnaire, which was completed by 12 organisations representing enterprises, civil society, trade unions/representative organisations of the workers' own choosing (worker organisations), international organisations, academic institutions and government agencies (see Annex A) for a complete list of stakeholders who submitted written feedback) and information provided during the on-site visit.

The peer review of the NCP was conducted by a peer review team made up of reviewers from the NCPs of the Czech Republic, Norway and Spain, along with representatives of the OECD Secretariat. An in-person fact-finding mission took place from 27-28 October 2021 and included interviews with the NCP, other relevant government representatives and stakeholders. A list of organisations that participated in the on-site visit is set out in Annex B. The peer review team wishes to acknowledge the NCP for the quality of the preparation of the peer review, especially considering the very recent return to in-person visits and the necessity to respect sanitary measures.

The basis for this peer review is the 2011 version of the Guidelines. The specific instances considered during the peer review date back to 2008. The methodology for the peer review is that set out in the core template.

Economic context

Ireland's economy is dominated by the service sector, representing 61% of GDP. Regarding foreign direct investment (FDI), the inward stock of FDI, which represents the accumulated value of FDI in the Irish economy over time, was USD 1 383 billion in 2020, equivalent to 325 percent of Ireland's GDP. The outward stock of FDI was USD 1 197 billion in 2020, representing 281 percent of Ireland's GDP. In 2020, Ireland's exports of goods were USD 279 billion and exports of services were USD 278 billion while imports of goods were USD 114 billion and imports of services were USD 349 billion.

The main investors in Ireland are the United States, Bermuda, the Netherlands, Luxembourg, and Switzerland, and the main inward investment sectors are manufacturing, finance and insurance, and information and communication. The main destinations for outward investment from Ireland are Luxembourg, the United States, the United Kingdom, Netherlands, and Isle of Man and the most important sector is professional, scientific and technical activities followed by manufacturing and finance and insurance. The most important partner countries for exports of goods are the United States, Belgium, Germany, the United Kingdom and China, while the most important source countries for imports of goods are the United Kingdom, the United States, France, Germany and China. The most important destinations for exports of services are the United Kingdom, the United States, Germany, France and Japan and the most important sources for imports of services are Bermuda, the United States, the Netherlands, the United Kingdom and Singapore.

⁴ OECD (2021), National Contact Point Peer Reviews: Core Template, <http://mneguidelines.oecd.org/national-contact-point-peer-reviews-core-template.pdf>

1. Institutional arrangements

Under the Procedural Guidance of the Guidelines, Section I(A):

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

Legal basis

Ireland’s government adhered to the OECD Investment Declaration in 1976. The NCP function has been within DETE since the early 2000s. The exact year in which the NCP became operational is unknown. In 2020-2021, the NCP was restructured to give it greater capacity to achieve its mandate.

The NCP was not established through a separate domestic legal instrument, but through an internal decision of the DETE, where it is located.

NCP structure

The NCP is a ‘single agency NCP’ meaning that the NCP is composed of representatives of a single ministry.

Following a restructuring in 2020-2021 (Box .1), the Irish NCP is now composed of four individuals, one full-time staff member and three DETE staff working on the NCP in a part-time capacity, in a discrete standalone unit within the Trade Division of the DETE. The restructure was initiated in part to address reported resource and capacity constraints by the NCP to fulfil its mandate. The restructure was not formalised in an official or legal document. Stakeholders have indicated that such formalisation would increase transparency as well as their understanding of the NCP’s structure, and reinforce their confidence as to the stability of the new structure.

Stakeholder feedback also pointed to some concerns about the NCP location within a government department and how it could impact the NCP’s ability to act impartially. Conversely, other stakeholders viewed the location as an opportunity to increase outreach for the NCP. As indicated above, an official document clarifying the structure of the NCP, along with the roles of the staff members, could increase confidence from stakeholders by conferring authority to the NCP and illustrating how the NCP maintains its impartiality.

The NCP indicated that the Department’s diverse policy areas of responsibilities are carefully managed to ensure that policy and decision making are aligned and to avoid potential conflicts of interest. In that regard, the NCP, as a standalone Unit within the Trade Division does not have any involvement in trade policy or hierarchical relationships with other parts of the Departments. In terms of how reporting lines between the Head of the NCP and higher management of the Department, the NCP confirmed that the understanding within the Department was that there could be no interference into the activities of the NCP, in particular its handling of specific instances.

Box .1. Restructuring of the Ireland NCP

In March 2021, the NCP became a discrete unit within DETE, transitioning from being part of DETE's Trade Policy Unit. The current structure was created following an examination in 2020 in the context of Workforce Planning within the Department. The examination recognised that the NCP required increased resources and more autonomy for operations. The previous structure left the NCP functions as part of the broad trade policy agenda, without a dedicated unit or resources.

The revised structure was put into place in March 2021, maintaining its place within the Trade Division as the location was not considered a hindrance to achieving the core objectives. The NCP was moved from the Trade Policy Unit to a standalone unit. In January 2021, the NCP hired its first and only full-time position at the Administrative officer level as a case officer/policy analyst.

All stakeholders participating in the review expressed satisfaction about the NCP restructure and optimism regarding what they perceived as increased capacity and responsiveness from the NCP. Accordingly, some stakeholders indicated that they would welcome a stabilisation of the new structure over time and more transparency about its operating procedures, including its relationship to the rest of DETE, which could be achieved by recording the NCP's institutional arrangements in an official document.

NCP members and NCP support staff

As indicated above, the NCP is set up as a single-agency NCP without an advisory body.

Composition

The Irish NCP is fully comprised of the discrete unit located in DETE, and is staffed by members of the Department (organisation in Figure .1)⁵. In 2020⁶, the Irish NCP had two dedicated part-time staff members – a Deputy Director and an Administrative Officer. Approval was given in Q4 of 2020 for a new full-time staff member, assigned in January 2021.

The Irish NCP does not include stakeholders in its structure. The NCP did note that they have contacts within government and across stakeholder groups both to obtain expert advice in other parts of government, and to include stakeholders in their activities. These contacts are not organised into any advisory body or contact network. While the NCP has increased in capacity since the restructure, concerns remain among stakeholders that its location in a single-agency without an advisory could limit its access to expert advice. Additionally, given its location in the Trade Division of the DETE, it seems that the NCP more readily has access to business stakeholders than union or civil society stakeholders, which may create imbalances in perceptions of impartiality and in the confidence stakeholders have in the NCP. To address this, the addition of a multistakeholder advisory body could increase the visibility and accessibility of the NCP across all stakeholder groups, as well as their confidence in the NCP's structure. The timing may be optimal for such an addition as the NCP is still in a state of transition following the restructure.

The Irish NCP is currently staffed by two senior management posts at a part-time capacity. A director heads the Ireland NCP unit, in addition to two other areas of policy responsibility, including investment screening and Ireland-UK relations. In case of a potential conflict arising in relation to a specific instance involving a company whose investment was previously screened by the Head of the NCP in her other capacity, the unwritten rule would be that the Head of the NCP would recuse herself from handling that

⁵ The NCP has informed the peer review team that Ronnie Downes has replaced Philip Kelly as the Head of Trade Division since the time of the on-site visit

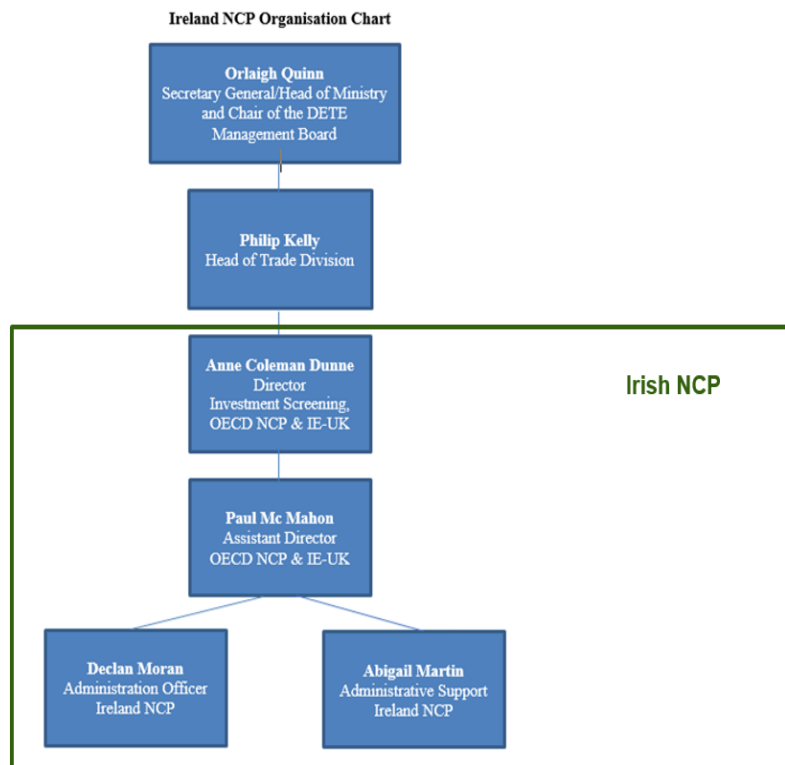
⁶ According to Annual Report for 2020

case. Where there is a matter of strategic importance within DETE, the management board, a body comprised of heads of seven divisional areas are called upon to address the issues.

An assistant director also services the NCP along with one other area of policy responsibility, namely Ireland-UK relations. At the administrative office level, a Department officer works full-time on NCP matters. Clerical support is also provided on administrative issues on a part-time basis.

When staff changes occur, meetings are conducted with the new staff to provide an overview of information and later there are detailed discussions on live cases to ensure a smooth transition. A document explaining the current cases is also provided to new officials. In 2021, the NCP also drafted an internal procedures manual for handling specific instances. The document is being developed organically and will greatly aid knowledge transfer. Stakeholder feedback was unanimous that a multi-stakeholder advisory body would be a welcome addition to the NCP in order to increase the effectiveness of the structure, in terms of expertise available, as well as stakeholder relations and confidence.

Figure .1. Ireland NCP Structure within DETE



Source: Peer review questionnaire for the Irish NCP (2021)

Note: the questionnaire is provided by the NCP under review during the peer review preparatory phase. Functions

The Irish NCP's tasks, as described in its recent flyer⁷, comprise:

- Promoting and raising awareness of the Guidelines and their implementation procedures
- Handling enquiries related to the Guidelines from other NCPs; the business community; worker organisations; other non-governmental organisations; the public; and governments of non-adhering countries
- Providing a grievance mechanism to resolve complaints relating to non-observance of the recommendations of the Guidelines

Outside of the NCP, the DETE has a wide range of responsibility in various policy areas. Notably, the department works in employment, labour standards, company law, inward investment, and trade policy. The NCP has indicated that it has exercised extreme caution to avoid any interference with these other policy area when handling cases, ensuring that it is not influenced by wider Departmental policy.

Resources

In its 2020 Annual Report, the Irish NCP noted a challenge of having only part-staff members within a unit with other work responsibilities and priorities. The restructuring which took place during 2021 was to address these capacity issues.

In early 2021, the Irish NCP underwent significant staff changes. The NCP function previously conducted by two staff members on a part-time basis who had been operating the NCP for several years, was moved to a standalone unit within the Trade Division and the team grew to include one full-time staff member and two staff at senior management level working on NCP functions on a part-time basis. Ireland reported that the financial resources of the NCP are sufficient to support the NCP in carrying out its various functions, including handling specific instances, organising promotional events and attending events organised by external stakeholders, cover professional mediator fees or in-house mediator fees, and conducting fact-finding research.

The NCP does not have a dedicated budget, but is funded within the general departmental budget. The NCP has already received financial provisions from the Department's budget to fund the peer review and other requirements, such as the provision of an external mediator in a specific instance in 2021.

Necessary resources for promotional activities and specific instances were awarded on an *ad hoc* basis.⁸

Reporting

The NCP submits its annual report to the OECD on an annual basis. These reports, since 2018, are also published on the NCP's website and include information such as structure, promotion, and implementation activities.

There is no legal requirement for the NCP to report its activities to other national government bodies.

The NCP also reports on its work in the context of business planning in DETE, reporting to the Management Board up to Secretary General in the Department.

⁷ Brief Overview of the Ireland National Contact Point for OECD MNE Guidelines – 2021, <https://enterprise.gov.ie/en/Publications/Ireland-NCP-for-OECD-MNE-Guidelines-Flyer.html>

⁸ National Contact Point Reporting Questionnaire (2020).

	Finding	Recommendation
1.1	The NCP structure was reformed to address the resource issues previously constraining the NCP function. However, this new and improved structure is not defined in an official or legal document. Stakeholders have indicated an interest in the creation of such a document to bolster the authority of the NCP.	Ireland could consider ways to lend more stability and authority to the NCP by formalising its role and structure in a legal or official document. This could further clarify how the NCP maintains its impartiality.
1.2	While the NCP has increased resources as a result of the restructure, its single agency structure without advisory body could limit its access to expert advice and decrease its visibility and accessibility with relevant stakeholders, and affect the confidence of some stakeholder groups. The NCP is still discovering its new abilities and structure and it is an optimal time to continue improvements prior to the fixation of the structure in a document such as the one above.	The NCP should increase and formalise its engagement with all stakeholder groups, for example by implementing a multistakeholder advisory body to provide more expertise, increase visibility and accessibility, spread workload, and increase accountability of the NCP.

2. Promotion of the Guidelines

Information and promotional materials

Following the changes in the NCP structure in 2021, including the addition of a full-time staff member, the NCP has had increased capacity to effectively and proactively engage with stakeholders and promote the Guidelines.

The NCP has developed a flyer and there is a presentation containing an overview of the Guidelines and the role of the national contact point, available at the top of their webpage. The website also links to the OECD's informational YouTube video presenting the NCP mechanism. The informational flyer can be found both on the NCP website and LinkedIn page.

The 2020 Annual Report from the Ireland NCP indicated that there was not a promotional plan in place for 2020-2021. However, following the restructure of the NCP in early 2021, the NCP developed a plan for promotional activities from June to December 2021 (see below and Annex C). The plan relates only to communication activities made by the NCP and does not specify the creation of further promotional materials or a strategy for promoting the NCP and the Guidelines.

Promotional plan

The NCP developed a promotional plan in early 2021 which covered the period from June to December 2021 (Annex C). The plan is set up in an excel sheet which separates the promotional material from June to August and from September to December of 2021. The plan includes dates of events, NCP Unit actions, Comms Unit actions in support of the NCP, and a further description of the promotional event or activity where relevant. The plan is a basic schedule of events and does not include a strategic aspect or target audience within the document.

The plan has led to an increase in promotional activity by the NCP. Examples of some past and upcoming events can be seen below.

- From 20 September to 1 October, the NCP hosted meetings with enterprise agencies (IDA Ireland and EI) to discuss the Guidelines and role of the NCP. The precise nature and dates of the meetings were not specified.
- From 4 to 15 October 2021, the NCP hosted meetings with Government Departments (DFA, DAFM, DECC, OGP). The precise nature and dates of the meetings were not specified.
- From 27 to 28 October, the peer review of the Ireland NCP
- On 15 July, the NCP hosted an information session with stakeholder groups on the Guidelines and the role of the NCP

The creation of this plan is a welcome development, although stakeholders pointed out that the visibility of the Irish NCP remains low and the NCP needs to further increase their efforts on promotion. This could be done by creating a more comprehensive promotional plan which contains a strategy for outreach and targets particular stakeholder. This could be further developed by making the plan, or some aspects of the plan, such as the schedule of events, public in order to increase transparency of the NCP and show stakeholders the existing forms of promotional activity.

The NCP already has prospects for increasing stakeholder engagement and targeting new audiences considering a displayed interest from other organisations in cooperating with the NCP. For example, a

member organisation of the recently created Irish Coalition on Business and Human Rights⁹ has expressed interest in collaborating with the NCP. These types of collaborations could allow for an increased reach for the NCP to target audiences without requiring a great number of additional resources. Prioritising face-to-face contact on these situations, where possible, could help the NCP to solidify these new relationships.

Website

In Quarter four of 2020, the Ireland NCP collaborated with the Communications Unit of DETE to review and update their website (Box .1). The website was finalised in January 2021 and OECD Watch and the OECD Secretariat were notified so that their links to the page could be updated.¹⁰ Since then, the website has been regularly updated with new material became available, such as the information flyer mentioned above.

Box .1. Recent Website Restructure

The NCP recently worked to update its website including the following measures:

- Moving the content to a new and more prominent place on the DETE website
- Explanation of the role of the NCP in promoting OECD Guidelines
- More visible NCP contact information
- Uploading the most recent NCP Annual Reports
- Explanation of the Guidelines
- Publishing specific instances

The current form of the website was finalised in early January 2021. The NCP reports that they are currently working on another refresh and reviewing the content currently available.

Source: Peer review questionnaire for the Irish NCP (2021)

The NCP's website is in English. The NCP reports that it is regularly reviewed and updated. The NCP's website provides information on:

- The OECD Guidelines and NCPs, including background and key content
- An overview of the NCP's structure, including linked presentation
- Information on the Irish NCP's mandate as a non-judicial grievance mechanism for handling complaints, where to submit a complaint, the Irish NCP Rules of Procedure, a list of open complaints, and closed complaints (including published statements where available).
- Contact details (email, mail and telephone)
- Information on NCP peer reviews and year of Ireland's pending peer review
- Links to the associated OECD sector due diligence guidance and detailed presentation
- Specific instances submitted to the Ireland NCP

The NCP also has various OECD materials available on its website including:

- OECD Guidelines for Multinational Enterprises

⁹ See <https://www.icbhr.org/>

¹⁰ See <https://enterprise.gov.ie/en/What-We-Do/Trade-Investment/OECD-Guidelines-NCP/>

- OECD Flyer on Specific Instance Complaints
- OECD Due Diligence Guidance for Responsible Business Conduct
- Detailed OECD Presentation on the OECD Due Diligence Guidance
- OECD's Due Diligence Guidance for Specific Sectors
- NCP Reporting Questionnaire (2018, 2019, 2020)

While the recent update of the website has brought about changes welcomed by stakeholders, such as publishing initial assessments and more information on the role of the NCP, concerns remain about the current structure. Notably, a simple google search is not sufficient to locate the NCP, despite recent efforts to feature it more prominently within the DETE website.

The NCP is in contact with the DETE Communications Unit to request statistics from the website to show engagement. This information will be used and compared to try and understand if the NCP information sessions are increasing activity on the website.

A general comment from stakeholders suggested that, given that the NCP's webpage is still three clicks removed from DETE's main page, the NCP needed an independent website from DETE or a more concise link to locate the NCP page. Stakeholders indicated that these suggestions could both increase the accessibility of the NCP and its independence from the government department.

The Ireland NCP acknowledged the calls from stakeholders to create a more independent website, or adopt a discrete URL. The NCP notes some barriers to this change as it is government policy where possible to centralise and rationalise government related content rather than having standalone websites that might not link back to the central government portal. Stakeholders further suggested measures such as still increasing the NCP's visibility on the DETE website or working to improve its search ranking.

Further comments from stakeholders suggested to include the roles of the NCP employees and clarify the structure, and increasing the information on the role of the NCP, possibly with the addition of a new video which pays distinct attention to the Ireland NCP.

The NCP website does not provide an online form for reporting a specific instance but provides an email and physical address to send complaints. The website provides information on which criteria are evaluated when considering a submission but does not provide specific guidance on what information is required for the submission.

The website does not have a dedicated space to advertise promotional events. There is a note saying that the NCP is scheduled for a peer review in 2021 in the section of the website which explains the peer review process.

The website has not yet been fully updated to reflect the new structure of the NCP. Notably, the website still lists the NCP as part of the Trade Policy Unit while it has transitioned into a standalone unit within the Trade Division.

The NCP does not seem to have active social media accounts, but in June 2021, DETE published a post¹¹ including information on the OECD Guidelines and the Ireland NCP on its LinkedIn account. Information about the NCP was also added to the DETE LinkedIn account around this time.

Promotional activities

In recent years, the Irish NCP has not been particularly active when it comes to organising or co-organising promotional events – in 2018 and 2019, it neither organised nor co-organised any events. The Irish NCP

¹¹ DETE LinkedIn Post: https://www.linkedin.com/posts/department-of-enterprise-trade-and-employment_the-oecd-guidelines-for-multinational-enterprises-activity-6815926455541800960-RoeX

has been only slightly more active in participating in events organised by others, participating in one event in 2019 and none in 2018.

In its 2020 Annual Report to the OECD, the Irish NCP reported that it did not organise or co-organise any promotional events, but that it participated in two events organised by others with the aim of promoting the Guidelines and the NCP (see Annex C). These included:

- A meeting in the Department of Foreign Affairs in which the NCP made a presentation to the Access to Remedy Subgroup of the Business and Human Rights Implementation Group
- A presentation at a second meeting later in the year with the same theme and organisers as mentioned above

In its 2020 Annual Report to the OECD, the NCP did list the challenge of having only part-time staff which functioned in a ministry with other duties. The addition of a full-time staff member in 2021 aims increase capacity for the NCP to organise and participate in promotional activities.

Following the structural changes of the NCP, a wider stakeholder engagement program commenced in July 2021 aiming to reduce the challenges the NCP faces in terms of visibility, accessibility, transparency and accountability. The program took the form of presentations at cross-Government meetings as well as a series of outward engagements with NGOs, trade unions, and the business community. The events are documented in the 2021 communications programme. The NCP has taken the following measures to increase stakeholder engagement and awareness:

- In July 2021, the NCP published an article via the Departmental Business Bulletin entitled 'Public Consultation: Ireland's National Contact Point for the OECD Guidelines for Multinational Enterprises'. The article contained an overview of the Guidelines, information about the public consultation, the role of the NCP, contact details for the IE NCP and a link to the NCP promotional flyer.
- The NCP informed stakeholders of the new team members and refreshed them on the Guidelines and the role of the NCP. An information session was held on 15 July 2021. An additional session is being arranged for September 2021 for civil society groups.
- On 13 July 2021, the Irish NCP met with the Irish Business Representative Group (Ibec) and the Irish Congress of Trade (ICTU) to present on the Guidelines and role of the NCP.
- On 6 August 2021, the NCP held an information session with the Irish Exporters Association (IEA) and the American Chamber of Commerce Ireland (AmCham). A similar information session took place with the Irish Chamber of Commerce on 23 August 2021.

General stakeholder feedback has suggested that promotional activities from the NCP are insufficient at this time. There are calls for the NCP to take a more proactive role in promotion rather than waiting for interested parties to approach them.

Stakeholder feedback has further suggested the necessity to find ways to build promotion within smaller enterprises in Ireland which may not have the capacity to implement larger working groups on sustainability or CSR, often a point of entry for the NCP. The NCP will need to strategise other ways to promote to these enterprises. Trade Union stakeholders particularly also pointed to a necessity to promote due diligence related to impacts on workers with respect to companies domiciled in Ireland but with main operations abroad.

Business representatives highlighted the difficulty they had to adequately promote to individuals lower down the chain of command in a company. Business responded enthusiastically to work more with the NCP and would be interested in guidance on how they can help to promote the Guidelines and the role of the NCP internally.

Stakeholder feedback further indicated the necessity to promote the NCP and Guidelines to trade unions and civil society. There has already been interest from organisations, such as a member of the Irish Coalition for Business and Human Rights (see above), which could help the NCP to engage with new audiences. The NCP did proactively send invitations to the peer review to five universities and the school of law at University College Cork accepted the invitation, a positive step to increase awareness of the NCP and Guidelines within academia.

The NCP has already begun to increase their pool of contacts and have made their availability clear to some stakeholder groups for promotional presentations. The NCP is especially interested in joining existing events and presentations, as opposed to hosting their own, as a more efficient way to use their resources while reaching the widest audience possible.

Promotion of policy coherence

There is a range of policy initiatives in Ireland that connect to RBC. A number of them reference the Guidelines and/or the NCP. The Public Procurement Guidelines for Goods and Services (2019)¹² reference OECD Guidelines for Fighting Bid Rigging in Public Procurement and Managing Conflicts of Interest in the Public Service.

The NCP is referenced once in Ireland's National Plan on Business and Human Rights (2017-2020), but the NCP was not a member of the Implementation Group for the plan and no information is provided in the document on how to make contact with the NCP. The NCP has in turn been involved in the review of this NAP and will be invited to the implementation group for the next NAP on Business and Human Rights which is led by the Human Rights Unit and involves multistakeholder representatives. The Department of Foreign Affairs indicated that they would officially start on the new NAP in early 2022, depending on developments around a possible EU mandatory Due Diligence legislation.

The NCP also indicated that it did present its work in the context of other government agendas relating to RBC. Specifically, they are often engaged with the Ministry of Foreign Affairs on UN related work in the business and human rights areas. The NCP is also in touch with the Department of Agriculture, Food, and the Marine. This is a useful entry point for the NCP as the Department works on implementation of Origin Green¹³, a national food and drink sustainability program in Ireland. RBC is a necessary portion of the application for companies wishing to achieve Origin Green status, and the department already circulates the OECD Guidelines and sector guidance to help companies develop their applications. This is especially important for companies given the pending EU legislation on due diligence and the department has shown interest in coordinating with the NCP to provide training tools for companies, particularly SMEs, on the Guidelines, sectoral guidance, and due diligence guidance.

Given that the NCP does not have an advisory body including other government departments, contacts with other parts of governments that could foster policy coherence are made on an *ad hoc* basis. In the past, the following events with other government officials included:

- Presentation on an overview of the Guidelines and the NCP role at an event held by the National CSR Stakeholder Forum in March 2019. The event included CSR stakeholder including, business, trade unions, government departments and agencies.

Government stakeholders have shown an eagerness to cooperate and work with the NCP. Criticisms have suggested that the NCP should take a more proactive role in inputting into new policy initiatives at national and EU level, rather than waiting to be called for input. Stakeholders from the Department of Environment,

¹² Public Procurement Guidelines for Goods and Services (2019): <https://assets.gov.ie/135773/d186ba93-dd70-45fe-83d3-8d9c3bb9d4a6.pdf>

¹³ See <https://www.origingreen.ie/>

Climate Change, and Communications have pointed to the SDGs as a useful point of entry for the NCP on enabling policy coherence. It was also pointed out that, while Brexit and the Covid-19 pandemic have been top priorities in recent years, sustainability continues moving up the agenda and the NCP currently has an opportunity to take advantage of this shift in priorities to increase promotion of RBC within government and foster policy coherence.

Among other initiatives, the Ireland NCP inputted and was consulted for a review of the state of Access to Remedy in Ireland undertaken with the National Business and Human Rights Implementation Group, an independently chaired group comprised of representatives from civil society, the business community, and government departments. The group is established within the Department of Foreign Affairs. The document discusses the NCP and its functions and makes mention of the handled specific instances as well as several OECD documents referencing the NCPs. The work will be published in 2021.

The OECD Guidelines and Irish NCP were widely cited within the previous Review of Access to Remedy in Ireland¹⁴ published in 2020. This was an independent report commissioned by the Department of Foreign Affairs under the auspices of the National Plan on Business and Human Rights (2017-2020).

Ireland's Third National Action Plan (2019-2024)¹⁵: Women, Peace and Security Ireland's third National Action Plan for the implementation of UN Security Council Resolution 1325, and related resolutions, makes specific commitments to adhere to related national legislature. This includes coherence with the National Plan on Business and Human Rights, a national policy which aims to strengthen responsible business conduct in Ireland and largely corresponds with the goals of the Guidelines. However, the plan does not make explicit mention of the NCP or the Guidelines.

Towards Responsible Business: Ireland's National Plan on Corporate Social Responsibility (2017-2020)¹⁶, an action-oriented plan to promote RBC in Ireland, makes several mentions of the OECD Guidelines. The document does not appear to make specific reference to the NCP.

The Corporate Social Responsibility (CSR) Check 2019¹⁷ references the Guidelines in Chapter 5: Public Policy and CSR. The CSR check is used as a progress report on the goals set out in National Plan on Corporate Social Responsibility (2017-2020). Previous progress reports for Ireland's National Plan on Corporate Social Responsibility (2017-2020) have also referenced the Guidelines.

Requests for information

The Irish NCP has their contact details listed on the website, in the form of an email and mailing address, and invites users to contact for any enquiries.

The Irish NCP has received four general queries not directly related to ongoing specific instances as of the moment of the on-site visit. Submitters included a journalist reporting for a state broadcaster, a legal academic researching the specific instances handled by various NCPs, and a Dublin law firm preparing a dossier on regulatory mechanisms to which its cooperate clients could be subject. The enquiries were mostly broad regarding the general nature and scope of the Guidelines and functions of the NCP.

The NCP additionally received an enquiry regarding Ireland's national practice regarding EU regulation 2017/821, relating to supply due diligence obligations on the importers of minerals from conflict-affected

¹⁴ Review of Access to Remedy in Ireland (2020): [FINAL-Access-to-Remedy-in-Ireland-June-2021.pdf \(dfa.ie\)](#)

¹⁵ Ireland's Third NAP (2019-2024): <http://1325naps.peacewomen.org/wp-content/uploads/2020/12/Ireland-NAP-2019-2024.pdf>

¹⁶ Towards Responsible Business: Ireland's National Plan on Corporate Social Responsibility (2017-2020): [Towards-Responsible-Business-Ireland's-National-Plan-CSR-2017-2020.pdf \(enterprise.gov.ie\)](#)

¹⁷ CSR Check 2019: <http://www.csrhub.ie/ireland-s-national-plan-on-csr/progress-reports-csr-check-2019-and-csr-check-2018/csr-check-2019-2nd-progress-report-as-at-151019.pdf>

and high-risk regions. The request was referred to the Geoscience Regulation Office of the Department of the Environment, Climate and Communications.

The NCP hopes to receive more enquiries following the restructure and after the initiation of the stakeholder engagement program as it is seen as more of an authority on RBC.

One NCP noted meeting with the Irish NCP in 2019 during a peer learning event hosted by the Austrian NCP and described the team as being very pleasant and cooperative. Aside from this event, the NCP has not reported close collaboration with another NCP around promotion.

	Finding	Recommendation
2.1	The NCP has made clear progress over recent months in increasing their promotion of both the NCP and the Guidelines, although its visibility remains fairly low. A plan has been developed to increase stakeholder engagement and, while it provides a schedule of events, it lacks information on goals and target audiences for promotion.	The NCP could draft a comprehensive promotional plan which identifies, specific target sectors, target audiences, and defines clear goals. The plan could also be made public to increase visibility and legitimacy of the NCP.
2.2	While promotion has been increasing, the NCP still maintains relatively low number of promotional events organised and participated in. The NCP could benefit from building a network of contacts with representative stakeholder organisations and fostering relationships face-to-face, where possible.	The NCP could consider partnerships with other professional associations to leverage existing activities to raise the visibility of the NCP. Further outreach could be made via media outlets, including press releases when the NCP receives a new case or publishes a new statement.
2.3	The NCP reports that it regularly updates their website and it is a useful tool for interested parties. However, the website lacks visibility and the NCP lacks a comprehensive strategy to increase its online presence.	The NCP could develop a strategy to improve the discoverability of the website, considering any government limitations. The NCP could further increase its online presence by including links on partner websites, cross-posting, and further developing its online promotion using videos, podcasts, or social media.
2.4	The NCP has already been involved and inputted in government works and National Action Plans relating to RBC and corporate social responsibility. The review also showed a willingness by members of other government departments to engage with the NCP. This creates an opportunity to increase policy coherence.	The NCP could act on the willingness of other government departments and increase promotion of policy coherence across these channels. The implementation of an advisory board could further the improvement of policy coherence as it includes more relevant stakeholders in the NCP process.

3. Specific instances

As of the date of the on-site visit, three specific instances have been concluded by the Irish NCP and five are ongoing.¹⁸ Among the three concluded cases:

- One was concluded without agreement due to irreconcilable differences between the parties.¹⁹
- One case was not accepted because the link between the company and the issues could not be ascertained, as, the submission did not provide sufficient indications as to the existence of a business relationship between the parties.²⁰
- One was not accepted and the explanation of the outcome was not published as a concluding statement was not required for cases at the time.²¹

Five cases were in progress as of the date of the on-site visit. Two cases had been accepted post initial assessment and will move to good offices with mediation if both parties agree. The three other cases were awaiting initial assessment.

The Irish NCP has received a limited number of cases in the past, but this number might be expected to increase in the coming years as the NCP continues to increase promotion and increase confidence in the mechanism.

An overview of all cases handled by the NCP is available in Annex D.

Rules of Procedure

The Irish NCP has published ‘Procedures for Dealing with Complaints Brought under the OECD Guidelines for Multinational Enterprises’ (the RoP) on its website. The current version is dated December 2018. The RoP contains the following sections:

1. Introduction
 - a. Implementation of the OECD MNE Guidelines
2. Procedures
3. Consideration of Complaints
 - a. Stage 1—Initial assessment
 - b. Stage 2—From acceptance of a case to conclusion of mediation or fact finding
 - c. Stage 3—Drafting and publication of Final Statement
4. Confidentiality

The NCP has stated its intention to review and update the RoP in early 2022.

¹⁸ Two additional cases have been received by the NCP following the on-site visit.

¹⁹ Pobal Chill Chomain, and two NGOs and Shell Exploration and Production Ireland Limited (SEPIL) et al. (2008)

²⁰ Spokespersons of the workers of Pharmakina SA and Schweppes Holdings Limited (2020)

²¹ Unidentified NGO and Unidentified multinational enterprise in the Palestinian Authority (2011)

Introduction

The introduction section of the RoP begin by summarising the purpose and goals of the OECD Guidelines and acknowledging the necessity to establish an NCP as an adherent country. The RoP continue by identifying national policies in place to strengthen responsible business conduct such as Ireland's National Plan on Corporate Social Responsibility 2017-2020²² and Ireland's National Plan on Business and Human Rights 2017-2020.²³ The NCP further clarifies that these strategies consider the principles outlined in international business practice frameworks from the EU, ILO, UN, and the OECD Guidelines for MNEs. The RoP have not yet been updated following the expiration of the National Plans.

Following the introduction section, the RoP continue on to procedures.

Procedures

The procedure section of the RoP set out the process for submitting a specific instance.

Aside from the RoP, the NCP's main webpage clarifies the nature of a specific instance and the purpose of the process. This section of the webpage, titled 'Making a complaint to the Ireland NCP,' clarifies the term 'specific instance' as a reference to the complaints submitted to the NCP. It further discusses the consensual and non-judicial role of NCPs and their lack of ability to impose sanctions or provide compensation during cases. The NCP's main website also clarifies the jurisdictional flexibility of NCPs in general as they can cover issues outside of the countries in which they are based.

The RoP procedures section then spells out the process of submitting a specific instance along the following subsections.

Who can make a Specific Instance (complaint)?

In this section, the RoP clarify that any 'interested party' can file a complaint. Some examples are provided:

- a community adversely affected by a company's activities;
- employees or their trade union;
- a non-government organisation (NGO).

Aside from the RoP, the NCP's website includes 'an individual, group, or organisation affected by a company's activities' as an example of an interested party.

The RoP specify that the NCP will not consider complaints which fall outside of the scope of the Guidelines.

The RoP clarify that the NCP will need to receive detailed information regarding the complaint in order to handle it. They suggest the complainant have a close interest in the case and be in a position to provide details. The complainant should also approach the process with clear goals in mind. Stakeholder feedback suggested that it may be useful to provide more precise guidance on what type of evidence can be provided to substantiate a submission, also in light of the initial assessment criteria (see below).

The NCP website further clarifies the possibility for a complainant to 'act on behalf of identified other parties,' without further detail on the conditions of such representation.

²² Ireland's National Plan on CSR 2017-2020 <http://www.csrhub.ie/ireland-s-national-plan-on-csr/>.

²³ Ireland's National Plan on Business and Human Rights 2017-2020 <https://www.dfa.ie/our-role-policies/international-priorities/human-rights/human-rights-in-ireland/national-plan-on-business-and-human-rights/>

Who/Where should complaints be sent to?

The section provides a physical address and an email to which complaints may be sent. The physical and email addresses for submitting a specific instance in the RoP are not consistent with the addresses which appear on the website²⁴. As indicated above, there is no online form on the website to submit a case.

Stakeholder feedback acknowledged a need for more explicit guidance in terms of submission information so submitters know what to include when contacting the NCP. To this end, submitters suggested employing an online submission form that would clearly identify and break down information and supporting documents to be provided, though noting that this could face technical barriers to implementation. An alternative suggestion was made to include a template for submission, easing access for interested parties.

In this section of the RoP the NCP also notes the objective of transparency. The NCP states that all information provided regarding a specific instance will be shared with all parties unless a case is made for specific information not to be shared. The RoP do not provide examples of what reasons would qualify if the issue had arisen in the past.

The handling of a specific instance

The following three sections consider the handling of the specific instance.

Stage 1 - Initial assessment

The RoP state that the initial assessment will be conducted to determine if the issues raised are 'appropriate and valid' for consideration by the NCP in the context of the scope of the OECD Guidelines. Considerations are listed as follows:

- Whether it is appropriate for consideration by Ireland's NCP and/or that of another adhering country
- Whether it falls within one or more of the OECD Guidelines
- Whether the issue raised is material and substantiated
- Whether there are any other factors which should be taken into account such as, but not limited to:
 - The relevance of applicable law and procedures, including court rulings
 - How similar issues have been, or are being, treated in other domestic or international complaints
 - Whether consideration of the complaint would contribute to the purpose and effectiveness of the OECD Guidelines.

The list within the RoP do not fully align with paragraph 25 of the commentary to the Procedural Guidance, notably as it is missing the identity and interest of the submitter and the link between the company and impacts. However, these points are clarified in the 'Who can complain?' section of the main NCP website, noting that guidance provided in the RoP and on the website is not always fully consistent. The NCP did however note that it refers to para 25 from the PG when considering the merits of a specific instance.

The RoP specify that, after receipt of the complaint, the NCP will contact the complainant to confirm how the case will be handled, and contact the MNE with the provided details to ask for a response within a specified timeframe. The NCP may ask the complainant for further details or clarifications at this time, in which case it may extend the deadline for the company's response. The RoP do not provide any details about typical timeframes for these correspondences.

The NCP may consult with other NCPs or adherent countries in order to:

²⁴ The NCP has informed the peer review team that the contact details had been aligned shortly after the on-site visit.

- Seek advice from the other NCP(s) regarding the complaint
- Possibly involve the other NCP(s) in the complaint process
- Possibly transfer the complaint to the other NCP(s) if this is considered appropriate and agreed by the NCP(s) involved in the matter.

The NCP may also consult with external experts during the initial assessment. The NCP has reported previously consulting with other NCPs or with the OECD Secretariat at this stage of the process. The NCP has also reported collaborating with the Department of Foreign Affairs concerning expert country advice or political reads on particular country contexts.

The NCP specifies that they will draft the assessment based on information received from the complainant and any responses from the MNE(s), the draft statement will be sent to both parties for comments before publication. The NCP states a goal timeline of publishing the statement within three months of receipt of the initial complaint.

The NCP specifies that the initial assessment will contain the following information:

- The names of the parties if the complaint is accepted for consideration
- The substance of the complaint – including reference to those OECD Guidelines alleged to have been breached
- A statement of the precise nature of the complaint
- A summary of the process the NCP has followed to date
- The reasons for accepting or rejecting issues for further examination
- A statement that acceptance of issues for further consideration does not mean that the NCP has determined at this stage that the Guidelines have been breached
- An outline of the next stages in the NCP's determination.

Specifically, the 'statement of precise nature of the complaint' refers to a concise outline of the specific instance and the relationship of the parties to the submission. The section provides an overview of the arguments and lists the remedies, if provided, sought by the complainant. The section is complimentary to the other factual information listed.

The NCP publishes their initial assessments on their website. The NCP noted that publication typically takes place two weeks after the statement is released to both parties. .

Stage 2 - From acceptance of a case to conclusion of mediation or fact finding

Stage 2 details the process through which cases go from accepted to concluded, including specifics on the mediation process and potentially necessary fact finding.

Mediation - In the section titled 'Mediation', under stage 2, the NCP specifies that the preferred outcome is always to reach an agreement between the two parties.

After accepting a complaint, the NCP will discuss and offer its 'good offices' to the parties. Good offices are meant to be conducted through mediation. The RoP state that mediation is voluntary, and the final statement will include whether the parties agreed to participate. If the parties agree to participate, the NCP will select a mediator, to be agreed upon by both parties.

The NCP had its first opportunity to recruit a mediator in 2021 as it was the first time a specific instance lead by the Irish NCP had progressed to the good offices phase. In the other concluded case in which the Irish NCP was involved, the good offices were handled by the Netherlands NCP. The Irish NCP took the opportunity to consult with NCPs more familiar with the practice and with the OECD Mediation Manual. Based on these consultations and information available on mediation practices in the Irish civil service, the NCP felt prepared to obtain a mediator with the appropriate expertise. The NCP recruited an external

mediator in line with procurement requirements for contracts awarded by State bodies. Three candidates were originally contacted and, of the two which responded, the NCP team scored their applications and made an offer to the successful candidate. The NCP then developed terms of references that were approved by the mediator and are awaiting approval from the case parties.

Stakeholder feedback indicated an openness for the NCP to provide additional support to parties with less capacity to operate within the NCP process (Box .1). However, it was also highlighted that the involvement of professionals other than NCP officials, such as translators, mediators or legal counsel, needed to be transparent to all parties involved and clearly identified in the confidentiality agreements for the case.

Box .1. A group of former workers of Pharmakina SA & Schweppes Holdings Limited (2018)

In October 2020, the Irish NCP received a specific instance from spokespersons of the workers of Pharmakina SA, a manufacturer of quinine in the Democratic Republic of the Congo, alleging non-observance of the Guidelines by Schweppes Holding Ltd., an Irish company alleged to have a relationship with Pharmakina SA.

The resources for the parties in this specific instance differed greatly and the representatives from the MNE agreed that additional support was warranted to the complainant in this instance, particularly given the language barrier and the initial lack of knowledge from the complainant on the Guidelines and NCP process. While the MNE representatives noted agreement to provide the complainant with additional resources, they also noted that any extra advise or help should be clearly identified by the NCP and be included in any confidentiality agreements between the parties.

Fact finding examination - In this section the RoP state that if the parties are unable to agree on mediation, or mediation fails, the NCP will examine the case.

The NCP will draft a plan for the investigation and notify both parties in writing, further amendments and additional steps to the plan will be notified as well. The NCP may then make a statement or report on relevant issues.

The RoP state that the goal is to complete Stage 2 within six months of Stage 1.

Stage 3 – Drafting and publication of final statement

The RoP note that the final statement will include the following information:

- Details of the complaint including identification of those parts of the OECD Guidelines (e.g. chapter/paragraph references) where non-compliance is alleged
- Details of the parties involved i.e. complainant and the company
- The outcomes of any mediation in a statement agreed between the parties and including any follow up arrangements agreed by parties
- The results of its examination (if any)
- Where appropriate, the NCP may make specific recommendations.

The NCP has not yet made a specific determination regarding observance of the Guidelines, but intends to include it as an official step in their new Rules of Procedure to be reviewed in 2022.

In practice, the NCP has not had the opportunity to provide many recommendations. The updated RoP in 2022 will intend to provide more information on the NCP's responsibility to provide recommendations.

The NCP notes that it aims to complete Stage 3 within three months of Stage 2.

In this section, the NCP clarifies that these procedures give effect to the OECD Guidelines for MNEs and may be subject to change.

The RoP do not indicate any necessary follow-up actions. To date, the NCP has only concluded one case jointly with the Dutch NCP and no follow-up was conducted. The NCP intends to address this gap during the review of the RoP in early 2022.

Confidentiality - The confidentiality section reiterates the objective of transparency for the NCP and that information received by the NCP will be shared with all parties, unless a good case is made to withhold information. It further clarifies that conditions for confidentiality can be agreed to where necessary.

The RoP go on to state that all information sent to the NCP will be treated confidentially for the period of the assessment. This further states that the information provided by each party may be shared with the other party, but only with the consent of the providing party, which seems to contradict the above principle that all information shared by a party with the NCP will be shared with the other party by default. The NCP has acknowledged the disconnect between the two statements and will revise and clarify²⁵.

In practice, the NCP requests consent to share information from the providing party after receiving the response for the specific instance. This has led to some delay in at least one case as there was a back and forth between the NCP and the company to acquire consent to share the company response with the complainant. The company eventually agreed to share the response after receiving written assurance of confidentiality from the complainant. The precise grounds on which the company was initially refusing consent were not made clear in the statement²⁶.

Parties should be aware that submitted information may be subject to release under the provisions of the Freedom of Information Act 2014.²⁷

Overall, stakeholders agreed that while the current RoP provides a good high-level overview of the procedures, they lack the specificity necessary to navigate the NCP process without confusion. The RoP also notably misses guidance around several issues such as parallel proceedings and conflicts of interest. Furthermore, the RoP are currently complemented by information available only on the website, rather than consolidating the information. This disconnect between the two resources could impede a party's participation in the process and decrease confidence among stakeholders. The NCP has indicated a revision of the RoP in 2022, a welcomed measure that will help to increase the credibility of the NCP structure and team.

Specific Instances in practice

Of the three cases closed, the Irish NCP decided not to accept two cases for further examination, based on the following reasons:

- One case did not provide a reason for non-acceptance and no statement was published as it was concluded prior to enacting the 2011 Guidelines revision which required an initial assessment for cases which were not accepted.²⁸

²⁵ The NCP informed the peer review team that this was since then clarified in the RoP with minor amendments in December 2021. See: <https://enterprise.gov.ie/en/Publications/Publication-files/Procedures-Ireland-NCP-under-OECD-Guidelines.pdf>.

²⁶ Global Legal Action Network and San Leon Energy Initial Assessment (2021), <https://enterprise.gov.ie/en/Publications/Publication-files/Ireland-NCP-SI-San-Leon-Energy-plc-January-2021.pdf>.

²⁷ Freedom of Information Act 2014 <http://www.irishstatutebook.ie/eli/2014/act/30/enacted/en/print.html>.

²⁸ Unidentified MNE in the Palestinian Authority and Unidentified NGP (2011).

- Insufficient evidence to link the company to the alleged issues²⁹.

The case which was not accepted and for which there is a statement provides the details for non-acceptance as considered specifically against the criteria listed in para. 25 of the Commentary to the Procedural Guidance.

The third case closed by the NCP was accepted and handled jointly by the Dutch and Irish NCPs. It was concluded without agreement between the parties.³⁰

The concluded case did not provide direct recommendations but rather included broad observations on the need to conduct stakeholder engagement as part of the due diligence process.

The concluded case did include a statement which noted that, during early stages of the project, dialogue with local stakeholders 'was not in accordance with the spirit of the OECD Guidelines.' However, these shortcomings in dialogue had been addressed in other proceedings starting in 2005, prior to the NCPs' involvement.

The NCP has faced reluctance on the part of the MNE to share information with the complainant in three specific instances. The NCP makes their guidance around confidentiality clear both in the publicly available RoP and again during the specific instance process.

There have been no reported issues regarding breaches in confidentiality. There have been issues regarding points of contact when reaching out to parties. This was a particularly serious issue prior to the NCP restructure and in the beginning of the Covid crisis when the NCP was not as responsive. One case³¹ involved a 17-month lapse between the first initial assessment draft and the next point of contact with the parties. During this time, the MNE had assumed the matter was closed and, also due to staff turnover, did not take notice of the emails sent by the NCP, as no new person was designated to handle this complaint and the emails were not forwarded. While the predominant issue in this situation was timeliness, it points to a benefit of having a well-defined point of contact with parties in the NCP procedure, and of regular communication with these points of contact to ensure they remain up to date, especially in large companies where communication may be more difficult, and of having regular updates on case progress. Additionally, the NCP may consider providing an explicit closure of specific instance notice so that parties know when they can or cannot expect to receive further communications.

Stakeholder feedback showed concern for the statement drafting process and a lack of clarity surrounding how the NCP accepts suggestions for changes to shared drafts. Specifically, concerns were raised in one specific instance where a draft initial assessment was modified from non-acceptance to acceptance of the case based on a submission from the complainant, which was not shared with both parties. The RoP specifies that comments sought from parties on draft should concern factual corrections, so it was not clear to the MNE why the decision would be changed. This point was also not adequately explained by the NCP to the MNE and was not reflected in the statement. This instance called for greater transparency from the NCP in its decision to share submissions, and clearer guidance on the drafting process. Since the restructure, stakeholders have noted an improvement in the level of detail of the published statements, indicating that the decisions are well-argued.

Stakeholders have pointed to a need to demystify the NCP process in order to make it more accessibly as a non-judicial mechanism.

Generally, stakeholders agreed that they saw the NCP staff as impartial and professional. However, the RoP have not always been followed as written, in part because some sections lack clarity and details. The

²⁹ Spokespersons of the workers of Pharmakina SA and Schweppes Holdings Limited (2020).

³⁰ Pobal Chill Chomain, and two NGOs and Shell Exploration and Production Ireland Limited (SEPIL) et al. (2008).

³¹ IUF and Coca Cola Company/Ballina Beverages (2018).

NCP has made progress since the restructure but would benefit from an updated RoP which addresses these issues.

All previously involved stakeholders responded affirmatively when asked if they would be willing to engage with the NCP again in the future regarding specific instances.

Timeliness

Indicative timeframes are identified in the Irish NCP RoPs. The initial assessment is stated to have a goal for completion within three months of receiving all necessary information. The timelines provided in NCP statements do not provide a date on which all necessary information is received, complicating the assessment of the indicative timeline. Mediation and fact-finding should be completed within six months of the completion of the initial assessment. The final statement should be published within three months of conclusion of mediation and fact-finding. This suggests a total time of one year, plus the time between receipt of a case and until all necessary information is acquired, for the total process of handling a specific instance.

The Irish NCP's first two cases were published before the 2011 revisions of the Guidelines and do not include initial assessments. The first case was completed jointly with the Dutch NCP and took 708 days from the receipt of the specific instance to the publication of the final statement. The second case was received in May 2011 and was concluded the same year, though the exact date was not reported. The case was not accepted and therefore does not have a statement as this was not required under the previous version of the Procedural Guidance.

The third case took 817 days to initial assessment. The case was accepted and is currently in progress. The company took four months to respond to the NCP's request for response, after receiving two reminders. A full year elapsed in between the first draft of the initial assessment and publication. During this time, the NCP was incorporating feedback from the company on the initial assessment and working to gain consent to share the company response with the complainant. No further information is provided on the delays in the process.

The fourth case took 996 days to initial assessment. The case was accepted and is currently in progress. Over three months elapsed between the reception of the specific instance and the notification of the company. Eleven months elapsed between notifying the company and the first draft of the IA. During this time, the NCP made several requests for information to which the company and complainant both appear to have responded to in a relatively timely manner. Another six months elapsed while the NCP incorporated feedback before publishing the final IA. The statement includes no explicit mention of delays in the process.

The fifth and most recent case for the Irish NCP was received in October 2020 and was not accepted. The case took 319 days from the receipt of the specific instance to the publication of the final statement. Notably, six months elapsed between the reception of the case and the moment when the NCP notified the company. It took approximately four months to publish the initial assessment once the company had been notified.

General stakeholder feedback did point to timeliness as a serious issue for the NCP. This issue led to both problems for complainants to effectively communicate with their stakeholders and also undermined the confidence of stakeholders in the NCP. This was especially of concern for smaller organisations, or organisations with high staff turnover, which lack the capacity to follow extended cases. This could in turn also dissuade such organisations from participating in the NCP process.

The NCP acknowledges the shortcomings in meeting indicative timelines and lists case complexity, lags in obtaining responses from parties, and insufficient NCP resources as reasons for these shortcomings. The NCP expects that the 2021 restructure will allow the NCP to meet timelines, where it has control. While

extended timelines do not inherently reflect a shortcoming of the NCP, a priority has to be transparency in these issues so that interested parties can understand what causes delays in the process. In this regard, stakeholders indicated that the NCP could be more proactive in communicating about timelines and delays, and further expressed an interest in receiving routine updates from the NCP and notification when statements are published.

Regarding delays, some stakeholders suggested that they would like to see guidance on the procedures used when parties are causing delays to the process, and suggested that the NCP should be careful to retain control of the process in such situations, and if needed enforce timelines of effectively.

Confidentiality and Campaigning

No issues have been brought to the NCP in terms of breaches of the confidentiality policy by either party in the specific instances. The confidentiality policy is highlighted in the RoP and again during initial correspondence with the parties.

Parallel proceedings

Neither the RoP nor website of the NCP include explicit guidance around parallel proceedings.

One case involving the Irish NCP has been accompanied by parallel proceedings. The case, predating the existing RoP and 2011 revisions of the Guidelines, was received in 2008 and involved the development of the Corrib Gas Field by Shell Exploration and Production Ireland Limited (SEPIL). The case was handled jointly with the Dutch NCP. The NCP noted the proceedings in the final statement and concluded, given that the parallel administrative procedures focused on the authorisation of the project and not the concerns of the notifiers, the NCP process could still be useful to open a dialogue between the parties.

The NCP has not reported any parallel proceedings or public campaigns, to date, impacting their handling of a specific instance.

Cooperation with other NCPs

The NCP reports consistently cooperating and liaising with other NCPs when handling specific instances³². This includes when the case is submitted to multiple NCPs or when the complaint is made against a company with links to other OECD countries. The NCP notes that cooperating with other NCPs have been extremely valuable, especially with the recent changes of the NCP team.

One NCP reported that the Irish NCP participated as support in all meetings relating to a specific instance it was handling. The Irish NCP also responded to all consultations on statements as well as agreed to contact the company's entities based in Ireland.

The Irish NCP contacted another NCP regarding a recently not accepted case given that the NCP had previously received a similar complaint from the same complainants. The NCPs discussed the case and the contacted NCP described it as a fruitful discussion which showed them they had a common understanding of the Guidelines and also faced similar challenges in the handling of specific instances.

One NCP coordinated with the Irish NCP on one case in 2019. The other NCP led the case while the Irish NCP acted as support. The lead NCP described the process as smooth with clear and quick communication from the Irish NCP. The two NCPs were in touch again in 2021 when the Irish NCP reached

³² NCP Questionnaire (2021).

out to learn about their experiences with the mediation process. The other NCP described the new team at the Irish NCP as eager to learn and the contacted NCP provided them with answers to their questions and shared further written information on their procedures and Terms of Reference for mediation.

The Irish NCP approached one NCP for advice regarding a case they were handling. The case was similar to one previously handled by that NCP and they noted positive exchanges with the Irish NCP regarding the specific instance.

One NCP reports engaging with the Irish NCP in a group of three related specific instances which concerned five different NCPs. The Irish NCP admitted to a lack of knowledge in handling the specific instances, but was eager to learn from the other NCPs involved. The coordination was discontinued after it was determined that the case involving three other NCPs could not be handled in common with the cases to the Irish NCP.

One NCP reports that the Irish NCP has been quick to respond to enquiries and share relevant information. The Irish NCP and reporting NCP have coordinated on a recent case including two other NCPs. The reporting NCP describes the Irish NCP as flexible and honest in their approach considering their adaptability during coordination and the acknowledgment of their capacity in the process. The Irish NCP also reached out to the reporting NCP to discuss mediation practices in early 2021.

The NCP has had a supporting NCP in two specific instances and has acted as support in one specific instance (Table .1).

Stakeholder feedback suggested increased transparency regarding when the NCP goes to others for support or expert advice.

Table .1. Specific instances where the Irish NCP has cooperated with other NCPs

Specific instance	Lead NCP	Supporting NCPs
Pobal Chill Chomain and Shell Exploration and Production Ireland Limited et al.	Ireland	Netherlands
IUF and Coca Cola Company/Ballina Beverages	Ireland	United States
AirBnB and AhTop	France	Ireland, United Kingdom, United States

Source: OECD NCP Database (2021)

	Finding	Recommendation
3.1	Previous specific instances have suffered notable, and sometimes, unexplained delays. This raises issues for users as they do not always have the capacity to participate in a drawn-out process. This also raises issues of transparency when the delays are not clearly explained. There has been optimism expressed regarding improvements in timeliness since the restructure but concerns remain.	With increased capacity, the NCP could focus on timeliness of case handling as a priority. Where possible, the NCP could aim to make public, generally or to the involved parties, the reasoning for delays in specific instances. These causes for delay could also be noted in the published statements so that it is always clear why a case exceeded the indicative timeline.
3.2	The current RoP was drafted in 2018 and while it creates a good explanation and overview of the process, there are some notable places which require clarification. A comprehensive RoP would give the new restructured team even more credibility and allow them to gain stakeholder's confidence moving forward. The NCP has already noted plans to update the RoP in 2022.	The NCP could focus on tightening language in the RoP to decrease chances of misunderstandings in the process. Specifically, the RoP would benefit from further explanation on the difference between an initial and final statement, clarity in language surrounding confidentiality procedures, and clarity on when submissions can still be received from parties during the drafting of a statement.

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

Government
UN Special Rapporteur on Human Rights Defenders
Business
Chambers Ireland
Ibec
Irish Exporters Association
Trade Unions
Services Industrial Professional and Technical Union (SIPTU)/TUAC
Irish Congress of Trade Unions (ICTU)
IUF
Civil Society
GLAN and Christian Aid Ireland
Irish Coalition for Business and Human Rights
Academia
Centre for Social Innovation, Trinity Business School, Trinity College Dublin
NCPs
Canada
France
Germany
Netherlands
Norway
Switzerland
United Kingdom

Annex B. List of organisations that participated in the NCP peer review on-site visit

Governments
Department of Agriculture, Food and the Marine
Department of Environment, Climate, and Communications
Department of Foreign Affairs
Department of Justice
Business
American Chambers of Commerce
Coca-Cola
Enterprise Ireland
Ibec
IDA Ireland
Irish Exporters Association
Schweppes Holdings Ltd.
Trade Unions
ICTU
IUF
Services Industrial Professional and Technical Union (SIPTU)
Civil Society
Global Legal Action Network (GLAN)
Irish Environmental Network
Irish Human Rights and Equality Commission
Academia
University College Cork
Individuals
Union representative
Institutional Stakeholders
TUAC

Annex C. Promotional events 2019-2020

Promotional activities in 2019 participated in by the NCP

Title	Date	Location	Size of Audience	Organiser	Targeted audience
Overview of Guidelines and NCP Role	5 March 2019	Bank of Ireland, Dublin	50-100	National CSR Stakeholder Forum	Business, Trade Unions, Govt Depts, Govt Agencies

Source: OECD (2020), [Annual Report on the OECD Guidelines for Multinational Enterprises 2019](#)

Promotional activities in 2020 participated in by the NCP

Title	Date	Location	Size of Audience	Organiser	Targeted audience
Overview of OECD Guidelines and Ireland NCP	5 March 2020	Video call – Department of Foreign Affairs to Access to Remedy Subgroup	10-50	Department of Foreign Affairs	Business, Unions, NGOs, Govt Depts, Govt Agencies
Overview of OECD Guidelines and Ireland NCP	30 June 2020	Video call – Department of Foreign Affairs to Business and Human Rights Implementation Group	10-50	Department of Foreign Affairs	Business, Unions, NGOs, Govt Depts, Govt Agencies

Source: OECD (2020), [Annual Report on the OECD Guidelines for Multinational Enterprises 2019](#)

Annex D. Overview of Specific Instances Handled by the Irish NCP as the leading NCP

Enterprise	Submitter	Host Country	Chapter (s) of the Guidelines	Date of Submission	Date of Initial Assessment	Date of Conclusion	Outcome	Description	Follow-up?	Review?
Shell Exploration and Production Ireland Limited (SEPIL) et al.	Pobal Chill Chomain, a community group in North Mayo, Ireland and two NGOs	Ireland	General Policies (II), Environment (VI)	21/08/2008	N/A	30/07/2010	Concluded without agreement	The Dutch NCP assisted on the case however it was determined that differences between the parties were irreconcilable and the case was concluded without mediation.	No	No
Unidentified multinational enterprise in the Palestinian Authority	Unidentified NGO	Palestinian Administered Areas	Human Rights (IV)	02/05/2011	N/A	2011	Not accepted	Not provided.	No	No
San Leon Energy	Global Legal Action Network (GLAN)	Ireland	General Policies (II), Human Rights (IV)	24/10/2018	18/01/2021	N/A	In progress, accepted	The Irish NCP determined the SI to merit further consideration and will invite both parties to mediation.	N/A	N/A
Coca Cola Company/Ballina Beverages	IUF	Ireland	General Policies (II), Human Rights (IV), Employment and Industrial Relations	21/11/2018	13/08/2021	N/A	In progress, accepted	The Irish NCP determined the SI to merit further consideration and will	N/A	N/A

Enterprise	Submitter	Host Country	Chapter (s) of the Guidelines	Date of Submission	Date of Initial Assessment	Date of Conclusion	Outcome	Description	Follow-up?	Review?
			(V)					invite both parties to mediation.		
Schweppes Holdings Ltd.	Emery Ruhanya, representing former workers of the company Pharmakina SA	Democratic Republic of the Congo	Concepts and Principles (I), General Policies (II), Human Rights (IV), Employment and Industrial Relations (V), Environment (VI), Combating bribery, bribe solicitation and extortion (VII)	09/10/2020	N/A	24/08/2021	Not accepted	The Irish NCP decided not to accept the case after determining that there was insufficient evidence to link the company to the alleged issues. Further, due to an existing case with the US NCP which raises similar issues.	N/A	N/A
Coal Marketing Company (CMC)	Global Legal Action Network (GLAN)	Colombia	General Policies (II), Disclosure (III), Human Rights (IV), Environment (VI)	18/01/2021	N/A	N/A	In progress, pre-initial assessment	The Irish NCP is currently conducting an initial assessment.	N/A	N/A
The Electricity Supply Board	Global Legal Action Network (GLAN)	Colombia	General Policies (II), Disclosure (III), Human Rights (IV), Environment (VI)	18/01/2021	N/A	N/A	In progress, pre-initial assessment	The Irish NCP is currently conducting an initial assessment.	N/A	N/A
Afilias Limited	Legal counsel acting for the Crypto Currency Resolution Trust and Chagos Refugees Group UK	Chagos Islands – British Indian Ocean Territory	General Policies (II), Human Rights (IV), Consumer Interests (Chapter VIII)	28/07/2021	N/A	N/A	In progress, pre-initial assessment	The Irish NCP is currently conducting an initial assessment.	N/A	N/A

Source: OECD NCP Case Database (2021), Irish NCP Website (2021)

National Contact Point Peer Reviews: Ireland

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

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

