

5.1 Why grievance mechanisms are important

Even with the best designed impact assessments, agreements, engagement programs and risk mitigation strategies, conflicts and disagreements can still occur, in some cases with the potential for rapid escalation. Community concerns can range from commonly occurring, relatively minor issues, to more entrenched or serious ones that have become a source of significant concern or resentment. The latter are sometimes referred to as grievances. How a mining company anticipates and responds to these situations can be critical to determining the future quality of relations with the community and, ultimately, the company's social licence to operate. This is particularly the case with indigenous communities, where there may be history of prior grievances relating to a lack of recognition of land and resource rights and interests, as well as negative legacies associated with poorly planned and implemented projects.

Conflicts are commonly perceived as negative and destructive. This is not always the case: sometimes disagreements can be a creative force for transformational change and can lead to strengthened community-company relationships and improved outcomes. However, escalated disputes can cause reputational damage and also lead to, or involve, violence and threats to the lives and property of affected communities and mine employees.

Companies can take steps to reduce the incidence and severity of conflict at their operations. Open communication with Indigenous Peoples and a clear approach to grievance management is critical to building and maintaining trust and collaboration. Companies can also reduce the chance of serious conflict by taking steps to comprehensively understand the national and local context of their projects, as well as by designing them to avoid significant environmental and social impacts.³⁰

Operational-level grievance mechanisms are one of the most important ways through which companies can prevent or mitigate conflict. The Office of the Compliance Advisor/Ombudsman (CAO) for the IFC and Multilateral Investment Guarantee Agency has summarized the advantages of a well-functioning grievance mechanism as:

- providing a predictable, transparent and credible process to all parties, resulting in outcomes that are seen as fair, effective and lasting
- building trust as an integral component of broader community relations activities
- enabling more systematic identification of emerging issues and trends, facilitating corrective actions and pre-emptive engagement.³¹

There is increased attention being paid internationally to how companies respond to community concerns and grievances, particularly as they relate to human rights. Most notably, the former UN Secretary General's Special Representative on Business and Human Rights, Professor John Ruggie, has highlighted as a critical issue, that "[a]n effective grievance mechanism is part of the corporate responsibility to respect [human rights]".³² In a report to the Human Rights Council (April 2009) Professor Ruggie reiterated the importance of providing legitimate and trusted avenues – judicial and non-judicial – for communities to have their concerns and grievances recognized and remedied. Further guidance on how both states and companies can establish effective grievance mechanisms is provided in the 2011 UN Guiding Principles on Business and Human Rights.

In recognition of this growing focus on grievance mechanisms, in October 2009 ICMM released a guide on Handling and resolving local level concerns and grievances, as part of its Human Rights in the Mining and Metals Sector series.³³ The ICMM Indigenous Peoples and Mining Position Statement also contains an explicit commitment to establishing appropriate mechanisms for dealing with Indigenous Peoples' complaints and grievances, as well as those from the wider community.

30 ICMM, Research on company-community conflict, London, ICMM, 2015. www.icmm.com/publications/research-on-company-community-conflict

31 www.cao-ombudsman.org/howwework/advisor/documents/implemgrieveng.pdf30

32 J Ruggie, *Protect, respect and remedy: a framework for business and human rights*, report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, 2008, UN document A/HRC/8/5.

33 <https://www.icmm.com/document/691> and www.icmm.com/document/8331