

Response to OECD National Contact Point Peer Review of Australia

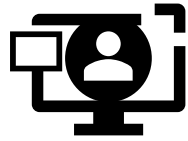
December 2022

About the AusNCP

The AusNCP promotes responsible business conduct (RBC) consistent with Australia's obligations as a member of the Organisation for Economic Co-operation and Development (OECD), by:

- Promoting and providing advice about the [OECD Guidelines for Multinational Enterprises](#) (the OECD Guidelines) and related due diligence.
- Handling complaints against multinational enterprises when non-observance of the OECD Guidelines is alleged, in a manner that is impartial, predictable, equitable and compatible with the OECD Guidelines.

OECD Peer Review – Process and timeline



September 2021

Representatives from the OECD and the NCPs of Italy, Sweden and New Zealand conducted a peer review of the AusNCP

- Public survey
- Two-weeks of virtual consultations with stakeholders and staff



June 2022

Final Report published

- Positive findings relating to structure and handling of complaints
- Identified opportunities to improve promotion and policy engagement with stakeholders



December 2022

Publication of the response to the peer review report

- Agreed to all recommendations.
- Implementation of findings has commenced, continuing over 2022-23.

Recommendations and Response

Final Report Finding	Recommendation	AusNCP Response
1. Institutional Arrangements		
<p>1.1 The NCP structure was reformed as part of the general mandate of Treasury to promote RBC and the OECD Guidelines, but is not formalised in a legal or official document. Stakeholders have shared that they would have more trust in the NCP, would view its structure as more stable and its authority as better established if it was explained in such a document.</p>	<p>Australia could consider ways to lend more stability and authority to the NCP by formalising its structure in a legal or administrative document.</p>	<p>Agree. The AusNCP has published a document on its website explaining its authority and structure.</p>
<p>1.2 The NCP structure is viewed as conducive to impartiality, notably as cases are handled by an Independent Examiner, but stakeholders have questions regarding how impartiality can be guaranteed in some circumstances (e.g. a case that touches upon government policy).</p>	<p>More communication could be done to clarify and explain the safeguards that are in place to maintain impartiality (e.g. enhance the existing conflict of interest policy, extent of independence of the independent examiner, etc).</p>	<p>Agree. The AusNCP will incorporate information on impartiality in material provided to parties to a complaint and on its website and expand the material on managing conflicts of interest in its procedures.</p>

Recommendations and Response

Final Report Finding	Recommendation	AusNCP Response
2. Promotional activities		
<p>2.1 The structure of the NCP offers many opportunities for promotion, through the Secretariat, the Independent Examiner, and the Governance and Advisory Board, whose own activities and contacts can act as relays for the NCP’s promotion efforts. However, these opportunities are not fully explored in the promotional plan.</p>	<p>The promotional plan should be revised to more strategically leverage key actors and relationships, in particular the secretariat (strategically located in Treasury), advisory board, independent examiner, stakeholder networks. It could set clearer dissemination objectives and be publicised with stakeholders.</p>	<p>Agree. The AusNCP developed a revised engagement strategy, which was finalised in consultation with the Independent Examiners and the Governance and Advisory Board in June 2022. The revised strategy articulates how the AusNCP is increasing its efforts to leverage its relationships with other Government agencies, the AusNCP Governance and Advisory Board, the Independent Examiners and external organisations to promote the OECD Guidelines, the AusNCP and the importance of responsible business conduct.</p>
<p>2.2 The AusNCP’s website is modern, user-friendly and easily accessible. It plays an important part in the AusNCP’s promotional efforts and in its accessibility, and this role could be increased further.</p>	<p>The use of the website as a tool for accessibility and visibility should be enhanced, e.g. by including more guidance materials produced by the NCP, an agenda of promotional events, and key information (such as a fact sheet on submitting specific instances) in relevant foreign languages.</p>	<p>Agree. The AusNCP is enhancing the website and has published a fact sheet and a news and events page. Additional guidance material and key information, including in selected foreign languages, will be expanded progressively throughout 2022 and beyond.</p>
<p>2.3 The AusNCP maintains relationships with key government agencies, notably through the Governance and Advisory Board, and provides policy inputs related to the OECD Guidelines where necessary, but knowledge of the NCP across government remains low and the RBC field is dominated by other initiatives.</p>	<p>2.3 The AusNCP should enhance its contribution to policy coherence by promoting use of the OECD Guidelines by key government actors, and by seeking further opportunities for promoting the OECD Guidelines and the NCP through related agendas, such as policies on modern slavery.</p>	<p>Agree. This is a priority for the AusNCP’s revised engagement plan. The AusNCP is also reviewing the Governance and Advisory Board membership and terms of reference to strengthen policy coherence.</p>

Recommendations and Response

Final Report Finding	Recommendation	AusNCP Response
3. Complaint Handling (Specific Instances)		
<p>3.1 The AusNCP is faced with a sharp increase in case activity following the reforms, which may pose challenges to the Independent Examiner’s ability to handle cases in a timely and efficient manner. Treasury decided to appoint at least two Examiners going forward. This is a welcome development, but may pose coordination challenges between the two examiners.</p>	<p>Arrangements should be made regarding coordination between Examiners to avoid inconsistent decisions while protecting the independence of each Examiner. A clear, transparent and objective process should be designed for assigning cases to Examiners, taking into account relevant factors.</p>	<p>Agree. The AusNCP Secretariat and Governance and Advisory Board will consider ways to reduce the risk of inconsistency, building on current complaint handling oversight arrangements. The AusNCP’s revised complaints procedures finalised in July 2022 include the process for assigning cases to Independent Examiners.</p>
<p>3.2 The AusNCP has a detailed and elaborate set of rules of procedure (RoP) that were incepted following the reforms and after public consultation. The RoP are strong, but practice has shown that certain aspects could be revised to enhance perceptions of impartiality, transparency, and accessibility.</p>	<p>The AusNCP should consider reviewing the following aspects of its RoP: (i) publication of initial assessments; (ii) advice of Board on draft statements; (iii) consolidation of conflict of interest policy into one document; (iv) confidentiality agreement template.</p>	<p>Agree. The AusNCP complaints procedures were updated in July 2022 to reflect multiple Independent Examiners and other minor changes. The complaints procedures are under review. Issues raised in the peer review and updates to procedural guidance in the OECD Guidelines will be considered in a more substantial update in 2023.</p>