

Complaints Mechanism
Panguna Mine Legacy Impact Assessment Oversight Committee
Subject to consultation with and endorsement of the Committee
5 April 2022

Note: Proposed scope to be piloted for a three month period to ensure that it is effective and meets the community needs to record and address complaints associated with the Impact Assessment. During this pilot, feedback will be sought and adjustments made as required before the Complaints Mechanism will be put to the Committee for its endorsement.

1 Purpose

The “Complaints Mechanism” is for people seeking resolution of their complaint related to the undertaking of the Panguna Mine Legacy Impact Assessment (**Impact Assessment**), the associated multi-stakeholder oversight Committee (**Committee**) process and the independent Funding Vehicle established to fund the Impact Assessment and Committee-related expenses. This document sets out the process for making and processing complaints.

2 Objective

The objective of this Complaints Mechanism is to establish a non-judicial, formal system for managing stakeholder complaints in a systematic, fair, appropriate and transparent manner in accordance with the [United Nations Guiding Principles on Business and Human Rights \(UNGPs\)](#), and for complaints to be resolved in a way that is respectful of the complainant’s fundamental human rights.

The UNGPs requires grievance mechanisms to be legitimate, accessible, predictable, equitable, transparent, rights-compatible, based on engagement and dialogue and to be a source of continuous learning.

By providing systematic and prompt responses to Complaints, and ensuring the process is followed in accordance with this Complaints Mechanism, the Committee shall use its best efforts to manage and resolve Complaints associated with the undertaking of the Impact Assessment and Committee process in a fair and equitable manner.

The process is designed to protect a complainant from retaliation from making a Complaint including through confidential treatment of sensitive information.

3 Scope

Anyone can bring any query, feedback (including concerns) or a Complaint to the attention of the Secretariat. The triage process is designed so that the Secretariat can provide information to deal with a query, record feedback or if there is a Complaint, determine whether it can be dealt with under this Complaint Mechanism.

The Complaints Mechanism accepts Complaints related to:

- the Impact Assessment process or work; and
- oversight of the Impact Assessment, including the functioning of the Committee, Secretariat or Funding Vehicle.

The Complaints Mechanism is not mandated to address:

- legacy issues or imminent risks raised before the completion of the Impact Assessment (which should instead be referred to the Primary Contractor for consideration);
- grievances about community events or issues not related to the undertaking of the Impact Assessment or the actions of the Committee in overseeing the Impact Assessment; or
- complaints about remediation or restitution including relating to the operation or cessation of operations of the Panguna mine.

Where complaints are raised but determined not to fall within the Scope of this Complaints Mechanism, the Secretariat will record the complaint and referral in the Complaints Database to ensure a record of the issues raised, and refer the matter to alternate mechanisms or information, if possible. For example, a complaint concerning:

- reopening of the Panguna mine, or the actions or behaviour of an interested third-party associated with the mine, will be referred to the relevant Ministerial department within the Autonomous Bougainville Government (**ABG**);
- an imminent risk as a result of the mine will be referred to the Primary Contractor as part of consultation on the impacts of the mine and to the appropriate Ministerial department within the ABG; or
- a request for compensation as a result of a mine-related impact will be recorded but it will be communicated to the complainant that the Committee does not have the ability to determine compensation.

The Complaints Mechanism will operate from November 2022 until the conclusion of the Committee's work.

4 Definitions

- **Committee** means the Panguna Mine Legacy Impact Assessment Oversight Committee.
- **Complaint** means a complaint or grievance notified: 1) from a specific individual or group of people; 2) that a specific negative impact has occurred; 3) that the impact is directly connected to Scope of the Complaints Mechanism; and 4) that requires a specific response from the Committee.
- **Funding Vehicle** means the independent funding vehicle established to fund Committee-related expenses and the Panguna Mine Legacy Impact Assessment.
- **Panguna Mine Legacy Impact Assessment** means the environmental, social and human rights impact assessment to be undertaken in relation to the Panguna mine.
- **Primary Contractor** means the team or company of technical experts appointed to manage and undertake the Panguna Mine Legacy Impact Assessment.
- **Secretariat** means the collective body appointed by the Committee to provide independent, efficient and culturally sensitive support to the Committee, Technical Sub-committee, Independent Facilitator and Dispute mechanism set out in the Operating Procedure.

5 Roles and Responsibilities

The following key personnel are involved in the Complaints Mechanism.

- **Secretariat – Administration Lead:**
 - Manages front of house initial triage, responsible for receiving and processing Complaints lodged as part of this Complaints Mechanism. Unless and until a Complaints Officer is appointed, this role will also be the person responsible for carrying out the steps in Section 7.
 - Collates Complaints received via the Secretariat office, monitoring the implementation of resolutions on a strictly confidential basis, and assisting with preparing reports for the Committee on the Complaints Mechanism.
- **Secretariat – Community and Stakeholder Lead:** Responsible for receiving verbal Complaints as part of their stakeholder engagement, referring Complaints, assisting with investigating and implementing resolutions where further communication is required.
- **Independent Facilitator:** Responsible for the oversight of the Complaints Mechanism on behalf of the Committee; assists the Secretariat to resolve Complex Complaints and reporting Complaint metrics and feedback to the Committee.
- **Third-party Investigator:** A person to be appointed by the Committee as needed to investigate Complaints involving the Independent Facilitator or a member of the Secretariat where it would not be possible to resolve the Complaint via ordinary processes, or which require escalation from the Complex Complaints Mechanism process.
- **Primary Contractor:** Responsible for implementing the resolution of the Complaints associated with the Impact Assessment or the Primary Contractor's work in accordance with the resolution agreed with the Secretariat. The Primary Contractor also reports all direct Complaints received by it in relation to the Impact Assessment or the Primary Contractor's work to the Secretariat for recording, investigation and resolution.
- **Secretariat – Complaints Officer:** Role to be appointed following pilot stage if the number of complaints or a risk assessment makes it necessary, at which point non-administrative portion of complaints role will shift from Administration Lead to this role.

The Independent Facilitator has accountability for the Complaints Mechanism. The Secretariat roles, including if appointed the Complaints Officer, report to the Independent Facilitator.

If a Complaint involves the Independent Facilitator or Secretariat member, then they will recuse themselves from the complex complaint investigation and resolution of that specific Complaint. Accountability for the resolution lies with a Third-party Investigator who will be appointed on behalf of the Committee.

6 How to lodge a complaint

It is the role of the Secretariat to ensure that all stakeholders are informed of the Complaints Mechanism, how to access it and its purpose. It is the role of the Primary Contractor to support the Secretariat in these tasks as necessary.

Anyone can make a Complaint, ask for information about the Impact Assessment or Committee process or get in touch with the Secretariat for any reason.

A Complaint must be lodged with the Secretariat (initially the Administration Lead), who will follow the process set out in this document in responding to the Complaint. If a Complaint is lodged with an alternate member of the Secretariat or the Independent Facilitator or Primary Contractor, the recipient of the Complaint must refer the Complaint to the person within the Secretariat managing complaints within 2 days.

Complaints can be anonymous or specify that the complainant would not like their name to be provided to anyone else outside of the Secretariat and Independent Facilitator. Written Complaints may be submitted in their preferred language. Where that is not English or Tok Pisin, they will be translated by the Secretariat as required to ensure appropriate records are maintained.

There are various ways to lodge a Complaint under this Complaints Mechanism:

By phone: +675 71449914

By email: PEHRIA.Secretariat@gmail.com

By mail: c-PO Box 313, Waigani

In person: at the PEHRIA office, Ioro 2 Community Government Building

7 Complaints Mechanism

The person dealing with the Complaint should firstly determine whether it can be dealt with on the spot, that is, if an action plan can be agreed with the complainant immediately, or if it is more complicated. If it can be dealt with on the spot, the action plan is agreed and then the person dealing with the Complaint logs it and ensures the action plan is followed. All complaints will be recorded, regardless of whether they are resolved on the spot or require further assessment.

If the Complaint cannot be dealt with on the spot, the following process must be followed.

7.1 Classification

These steps should be completed promptly by the Secretariat and within two weeks (excluding time for complainant to provide additional information).

Step 1: Intake - Receive Complaint and complete Complaints form

- Ask the complainant(s) to, or on their behalf, complete and submit the Complaints form set out at Appendix 1.
- Enter the complaint into a secure, confidential, electronic, assigned Complaints Database that tracks progress of each Complaint in a deidentified manner
 - Complaints records (letter, email, record of conversation) must be securely stored together, electronically or in hard copy. Identifying details must have separate security to the Complaints Database.
 - Each record must have a unique number reflecting year and sequence of received complaint (i.e. 2021-01, 2021-02 etc for each complaint, with documents numbered and stored within this file i.e. 2021-01-01, 2021-01-02 etc).
 - The Complaints Database and Complaints records will be password protected and only be available to the Secretariat and Independent Facilitator and will remain secure and confidential at all times.
 - While the pilot phase is ongoing, a password protected spreadsheet confined to the Secretariat and Independent Facilitator may be used as the Complaints Database.
- On receipt of the Complaint form, review the Complaint form (with or without the complainant(s)) and record communication to the complainant of the following:
 - Acknowledge that the Complaint has been received and explain the process to the complainant;
 - Request further information from the complainant(s) if insufficient information is provided to proceed with the Complaint;
 - Propose to the complainant a high-level process to bring the Complaint towards a resolution, if possible at this time (ordinarily only possible for Simple Complaints);

- If the complainant indicates they are worried about retaliation, consider and record any safety precautions for the complainant(s) input and agreement (e.g. grouping of complaints to remove individual identification or other confidentiality measures, ensuring discretion over investigations, not bringing the Complaint to awareness of any parties that may lead to retaliation); and
- Request the complainant(s) confirms whether acceptance of the proposed process steps to address the Complaint (if possible and appropriate to address the complaint) including any steps around non-retaliation.
- The complainant has 14 days to provide the additional information directly or with the assistance of the Secretariat, or to agree an extension of this time as needed.
- If additional information is required and the complainant(s) does not provide it within the prescribed timeframe, the Complaint may not progress the additional information has been received. This will be communicated to the complainant as appropriate.

Step 2: Preliminary classification

Classify the Complaint based on the following table.

	Simple	Complex
Issue	Single issue.	Multi-issue.
Party	Single-party or if multi-party, one issue or solution.	Multi-party.
Acceptance	Complaint recognised as likely to require minimal investigation, specific communication to resolve the issue or the Complaint can be rejected following the written confirmation of the Independent Facilitator.	Complaint likely to involve extensive communication or requires significant investigation or there is a perceived or actual conflict of interest involving the Secretariat or Independent Facilitator.
Solution	Specific solution either requested or evident.	Specific solution either not requested or contested or unclear.
Risk	Low risk or no urgency to resolve.	Immediate or high risk; urgent to resolve.

7.2 Investigation and Agreed Resolution

These steps should be completed by the Secretariat (unless otherwise specified) promptly and within one month of Step 2 for simple complaints and within three months of Step 2 for complex complaints.

Step 3: Investigation and determining resolution**(i) Simple Complaints**

- Consider the most appropriate method and pathway for bringing the Complaint to a resolution. If there are multiple Complaints addressing the same issues, subject to confidentiality obligations, these will be managed as one Complaint.
- Request a meeting or discussion with the complainant(s) to understand the Complaint, if required, either in person or via telephone. The complainant(s) may be accompanied by one

supporter, adviser or relative in discussing the complaint for support purposes only. Any meeting with the complainant(s) will be in a location which is discrete, convenient and acceptable to the complainant(s) within reason (i.e. will come to complainant(s) if practical and safe to do so).

- Communicate with the complainant(s) to understand the Complaint and provide additional information that would assist in bringing the Complaint to a resolution.
- Seek additional information from others, if possible in a de-identified way or as appropriate considering the sensitivity of the Complaint, the consent of the complainant in relation to confidentiality and the need to protect the complainant(s) from retaliation, in order to understand and resolve the Complaint.
- Agree and confirm a pathway with the complainant(s) for resolution of the Complaint.

Resolution of the Complaint must be documented in writing, agreed by the complainant, and notified to the Independent Facilitator who is responsible for and aware of all Complaints.

(ii) Complex Complaints

- Consult with the Independent Facilitator to consider the appropriate course of action to respond to the Complaint.
- With the Independent Facilitator, request a meeting with the complainant(s) to discuss and understand the Complaint and provide or communicate additional information to resolve the Complaint. The complainant(s) may be accompanied by one supporter, adviser or relative in discussing the complaint for support purposes only.
- Any meeting with the complainant(s) will be in a location which is discrete, convenient and acceptable to the complainant within reason (i.e. the Independent Facilitator and Secretariat member will come to complainant(s) if practical and safe to do so).
- Following the meeting, and receipt of any additional information by the complainant(s) following the meeting, discuss with the Independent Facilitator and finalise the proposed resolution of the Complaint.
- Agree and confirm a proposed pathway with the complainant(s) for resolution of the Complaint.
- Record the proposed resolution of the Complaint and implement in accordance with Steps 4 and 5, and any associated confidentiality requirements.

(iii) Simple or Complex complaints involving the Independent Facilitator or Secretariat

- Should the Complaint involve an allegation against the Independent Facilitator or a member of the Secretariat, the Independent Facilitator or Secretariat member will excuse himself or herself from the investigation and a Third-party Investigator who must not have any conflicts of interest and have appropriate and proven skill set will be appointed by the Committee or a person delegated by the Committee and will progress the Complaint with the complainant(s) directly.
- Where possible and without creating conflict, resolution of the Complaint must be recorded by the Secretariat (subject to confidentiality) and implemented in accordance with the finalisation and close-out requirements in Step 4.

(iv) Complaints involving the Primary Contractor

Complaints involving the Primary Contractor will be managed in accordance with this Complaints Mechanism.

- Depending on the sensitivities and confidentiality of the Complaint, discuss the issue with the Primary Contractor.
- Propose resolutions with or without the Independent Facilitator depending on the complexity of the Complaint.

- The Primary Contractor is required to assist in good faith in relation to the investigation of any Complaint concerning the Primary Contractor, and in bringing the Complaint to resolution.
- The Primary Contractor will report and refer any direct Complaint received by it in relation to its work in undertaking the Impact Assessment to the Secretariat, including any steps taken by the Primary Contractor to address or resolve issues raised directly with it. This information will be recorded in the Complaints Database.

Step 4: Resolution or agreed action plan

- All resolutions or agreed plans to address a Complaint must be prepared in writing in English and translated into Tok Pisin if requested.
- The resolution must include the following information:
 - Date of receipt of Complaint
 - Notice of review and discussion of Complaint
 - Measures proposed to be implemented to bring the Complaint to a resolution
 - Signature by the Independent Facilitator or, if the Complaint involves the Independent Facilitator, the Third-Party Investigator and the complainant(s).
- If the complainant is illiterate, additional measures will be taken to ensure that communications are received and understood.
- The complainant(s) must be given an opportunity to respond and confirm their level of satisfaction with the resolution.
- The agreed resolution of the Complaint and complainant(s) response must be recorded securely and confidentially on the Complaints Database.

7.3 Finalisation

These steps will be taken within a time frame agreed with the complainant.

Step 5: Implementation and monitoring

- Implementation of resolutions agreed will be actively monitored, with regular reporting back to the complainant(s) as agreed in the resolution (Step 4).
- Failure to implement measures in accordance with the agreed resolution and timeframe may be escalated by the complainant(s) to the Independent Facilitator to address and resolve in accordance with Step 6.

Step 6: Follow-up measures after unsatisfactory resolution

- Should a complainant(s) express dissatisfaction with the proposed resolution (Step 4) and implementation of the resolution (Step 5) of the Complaint:
 - Contact the complainant(s) to clarify the reason for dissatisfaction.
 - Report the dissatisfaction to the Independent Facilitator, who will determine whether Steps 2 and 3 should be repeated. If the Independent Facilitator is the subject of the Complaint, the matter will be reported to the Third-party Investigator to consider.
- Where a Complaint fails to reach a satisfactory resolution after re-investigation and the subsequent resolution implemented, and the complainant continues to be dissatisfied with the resolution offered or achieved, the Independent Facilitator will determine whether the matter will be closed and whether to inform the Committee.

8 Reporting and Evaluation

Deidentified summaries of Complaints including resolution progress and lessons learned shall be reported by the Independent Facilitator to the Committee as part of the regular Committee meeting agenda. It should contain the total number of Complaints:

- received;
- that have or are implementing a resolution;
- under investigation / not yet reached a resolution and their reason for not reaching a resolution;
- that have been escalated under this Complaints Mechanism (Step 6);
- yet to reach a resolution and which also exceed the agreed close out times; and
- that have been resolved and closed.

Deidentified means the summary should not include any names, personal details or other identifying details of the Complaint.

The Independent Facilitator will investigate any patterns or repetition of issues that need addressing and report to the Committee on what can be done to mitigate or resolve similar Complaints going forward, including relating to processes used by the Primary Contractor. .

The Independent Facilitator will suggest adjustments to the Committee process for consideration by the Committee and work with the Secretariat, Third-party Investigator, Technical Sub-committee and Primary Contractor, as necessary, to avoid future Complaints.

The Independent Facilitator and/or Secretariat must formally seek feedback from members of the Committee and the community on an annual basis to ensure the Complaints Mechanism is operating as intended and propose any changes to the Complaints Mechanism as a result of feedback. The Independent Facilitator may decide to get an independent consultant to review and provide advice to the Committee on the Complaints Mechanism using the UNGPs effectiveness criteria as the foundation for the review.

The feedback provided and monitoring against a set of key performance objectives will be included in the Secretariat's quarterly Committee report. This is measured against the following criteria:

	Criteria	KPI
1.	All Complaints and resolution of Complaints registered accurately in the Complaints Database.	95%
2.	Complaint resolutions agreed within the prescribed time period set out in the steps above	80%
3.	Resolutions proposed and implemented are confirmed by the complainant as satisfactory.	70%
4.	Resolve Complaints without triggering Step 6: Follow-up measures after unsatisfactory resolution.	70%

9 Confidentiality

- Details about the Complaints Mechanism are provided openly.
- The details of the issues raised in the Complaint are to be shared openly with the Committee to the extent that they do not contain sensitive or personal information and taking into account any requests from complainants to keep information confidential. However, sensitive or personal data will be treated confidentially, unless the complainant consents to the disclosure of their personal information to third parties. If the Complaint cannot be resolved

without disclosing personal information, the complainant's consent will be sought to share this information.

- The Committee's quarterly report will contain de-identified summaries of the Complaints received and proposed resolutions.
- If the complainant wishes to remain anonymous, the Complaints Mechanism will be continued to the extent possible but it should be noted that limitations on the outcome of the Complaint may result.
- Retaliation against anyone bringing a Complaint will not be tolerated.