

# OVERVIEW OF UNDP'S PROPOSED DISPUTE RESOLUTION PROCESS<sup>1</sup>

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## Outline

I. Introduction

II. Rationale

III. Scope and Eligibility

IV. Identifying Dispute Risks through the Social and Environmental Screening Procedure (SESP)

V. Operationalizing the Dispute Resolution Process: Roles and Responsibilities

**Annex A.** Step-by-step Guidance on Operating the Dispute Resolution Process

*This document outlines the rationale and design of UNDP's proposed Dispute Resolution Process and aims to generate further discussion within UNDP that can surface additional and more specific feedback. In particular, this document seeks further input from UNDP staff in Country Offices, Regional Service Centres and Regional Bureaux. **Please send all comments and/or questions to Jennifer Laughlin at [jennifer.laughlin@undp.org](mailto:jennifer.laughlin@undp.org).***

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<sup>1</sup> Note 'Dispute Resolution Process' is a working title.

## I. Introduction

UNDP is in the process of rolling out mandatory Social and Environmental Standards (SES)<sup>2</sup> for all of UNDP's projects and programmes, as part of the Quality Assurance Framework outlined in UNDP's Strategic Plan 2014-2017.

The objectives of the Standards are to: (i) strengthen the social and environmental outcomes of programmes and projects; (ii) avoid adverse impacts to people and the environment; (iii) minimize, mitigate, and manage adverse impacts where avoidance is not possible; (iv) strengthen UNDP and partner capacities for managing social and environmental risks; and (v) ensure full and effective stakeholder engagement, including through a mechanism to respond to complaints from project-affected people.

The Standards will be underpinned by a Social and Environmental Compliance Review and Dispute Resolution Process with two key functions: 1) a Compliance Review to respond to claims that UNDP is not in compliance with applicable environmental and social policies; and 2) a Dispute Resolution Process (DRP) that ensures individuals, peoples, and communities affected by UNDP programmes and projects have access to appropriate dispute resolution procedures for hearing and addressing project-related disputes<sup>3</sup>.

With regard to the first function listed above, over the last few years UNDP has established a Social and Environmental Compliance Unit (SECU) based within the Office of Audit and Investigations (OAI), taking advantage of OAI's existing expertise in conducting investigations and developing evidence on which to base decisions in controversial cases. OAI is also known and respected within UNDP for its professionalism, fairness and independence. OAI operates with independence from the rest of UNDP operations, and the head of OAI reports directly to the Administrator. The OAI Charter has been revised to include a mandate to investigate claims of non-compliance with UNDP's social and environmental policies and procedures, which will include the Standards once they are approved. The main purpose of the Compliance Review is to investigate alleged violations of UNDP's environmental and social commitments in a project financed, or to be financed, by UNDP or any other project where UNDP policies apply. The compliance review may result in findings of non-compliance, in which case recommendations will be provided to the Administrator about how to

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<sup>2</sup> For more information on the Standards, click [here](#).

<sup>3</sup> For more information on the Social and Environmental Compliance Review and Dispute Resolution Process, click [here](#). In the field of conflict resolution, a 'grievance' is generally understood to be the perception of a party (individual, group or organization) that it has been unjustly treated or harmed, or faces risk of unjust treatment or harm by another party. A 'complaint' is the explicit communication of a grievance to the party that the aggrieved party believes to be responsible, and/or to others. A 'dispute' is a disagreement between two or more parties about an issue or situation. In the context of grievances and complaints, disputes can arise from disagreements among parties about the existence of, or potential for, harm or injustice; the cause, nature and extent of actual or potential harm or injustice; actions to be taken to eliminate or reduce current or potential harm or injustice; and/or the actions to be taken to compensate for harms or injustices caused.

bring the Project into compliance and, where appropriate, mitigate any harm resulting from UNDP's failure to follow its policies or procedures.<sup>4</sup>

This Overview focuses on the second function listed above – the Dispute Resolution Process. This document outlines the rationale and design of the Dispute Resolution Process and aims to generate further discussion within UNDP that can surface additional and more specific feedback. In particular, this document seeks further input from UNDP staff in Country Offices, Regional Service Centres and Regional Bureaux.

The Overview presented here is a result of more than three years of internal discussion and consultation within the Bureau for Development Policy (BDP), including specific programmes (e.g. Global Environmental Facility (GEF); UN-REDD Programme; Extractive Industries); Bureau of Management (BOM), including Legal Support Office (LSO); Executive Office (ExO), including Operations Support Group (OSG); Office of Audit and Investigation (OAI); Bureau of External Relations and Advocacy (BERA); Regional Bureaux, and Bureau for Crisis Prevention and Recovery (BCPR). Substantive feedback has also been incorporated from external stakeholders and partners.<sup>5</sup>

## **II. Rationale**

The adoption of Social and Environmental Standards at UNDP necessitates a process to ensure that the associated policies and procedures are well implemented and that communities who are meant to benefit from the policies have a voice in their implementation. Compliance review and dispute resolution processes have become a common part of the development landscape since the establishment of the World Bank's Inspection Panel in 1993. Similar accountability processes have been developed at most of the international financial institutions and a growing number of bilateral financial institutions. Many international agencies, civil society organizations, and governments believe such compliance and dispute resolution processes alongside associated social and environmental policies are critical for ensuring effective development outcomes on the ground.

UNDP's Dispute Resolution Process can create opportunities to resolve issues that would otherwise lead to conflict. Left unaddressed, significant problems can fester, creating conflict that delays a project, increases project costs, and sometimes halts the project. A robust, transparent DRP creates the space and structure to resolve these issues to the satisfaction of all parties and to the benefit of the project.

Further, the DRP can amplify the voices of local communities to increase the likelihood of a project impact. If the DRP is well-known to communities, and perceived as predictable and credible, it can

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<sup>4</sup> For more information, please see the [Draft Standard Operating Procedures for UNDP's Social and Environmental Compliance Unit](#)

<sup>5</sup> A global consultation on the proposed Social and Environmental Compliance Review and Dispute Resolution Process was held from April to July 2011 (see [comment and response matrix](#)). Following the receipt of input from about 30 organizations, UNDP revised the original proposal (see [revised proposal](#)), which became the basis for further discussions.

provide an effective avenue for communities to voice concerns and feel heard and respected. This, in turn, can promote relationship building leading to solutions that are responsive to community needs, more effective and long-lasting.

More specifically, UNDP's DRP is intended to:

- Improve environmental and social outcomes for local communities and other stakeholders affected by UNDP projects;
- Support UNDP to manage risks related to social and environmental impacts and conflicts.
- Create opportunities to resolve issues that would otherwise lead to conflict
- Ensure that UNDP responds to the concerns of all project stakeholders particularly vulnerable groups that are central to UNDP's normative and programmatic work;
- Ensure feedback and operational learning from the DRP, by integrating DRP requests, responses and results into UNDP's results-based management and Quality Assurance Framework; and
- Reflect and advance best practices among development institutions, whose stakeholders (including governments, civil society, indigenous peoples, and international partner agencies) increasingly expect dispute resolution processes to be a regular, integrated part of project management.<sup>6</sup>

### III. Scope and Eligibility

The Dispute Resolution Process is intended for use by external stakeholders directly affected by UNDP project implementation. It is not intended for internal staff issues; issues within the UN development system; or issues between UNDP and its implementing partners, contractors or vendors (because there are already existing systems in place to manage such complaints).

**Who is eligible to file a request:** Any person or group of persons potentially affected by a UNDP project is eligible to file a request for dispute resolution. To be eligible for the DRP, the request must:

- Relate to a project;
- Identify how the requestors have been experiencing or may experience adverse socio-economic or environmental impacts from by the UNDP activity;
- Indicate what steps have already been taken to try to resolve the grievance or dispute, including use of existing project-level grievance mechanism, implementing partners' mechanism, and/or communication with relevant UNDP project, programme, or management staff; and
- Indicate an interest in working with other stakeholders to resolve the dispute.

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<sup>6</sup> The UN-REDD Programme and FCPF, for example, require dispute resolution processes at the programmatic level. The IFC, the InterAmerican Development Bank, the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, and the US Overseas Private Investment Corporation all have dispute resolution mechanisms at the corporate level to address project-related grievances.

**Exclusions:** The following requests are excluded from the DRP:

- Any request that is filed fraudulently or for malicious purposes;
- Requests that relate to UNDP procurement or employment (these requests should be referred to the appropriate mechanism, either OAI or the appropriate national government audit body or equivalent);
- Requests relating to projects that are not supported by UNDP or where UNDP's support has ended and its role can no longer reasonably be linked to the concerns raised in the request;
- Requests by people or groups who have already raised the same issue with respect to the same project and received a UNDP response, unless significant new information is available or there has been a significant change in circumstances;
- Requests that have not first been brought forward in good faith to an appropriate project, local or national grievance mechanism<sup>7</sup>;
- Anonymous requests.

**Representation in filing requests:** Requests may be submitted by an authorized representative, on behalf of a person or group of people who believe they have been or may be adversely affected by a UNDP project.

#### **IV. Identifying Dispute Risks through the Social and Environmental Screening Procedure (SESP)**

As outlined in the Social and Environmental Standards (SES), UNDP will carry out project screening and categorization at the earliest stage of project preparation when sufficient information is available for this purpose. Screening and categorization is undertaken (i) to identify and reflect the significance of potential impacts or risks that project activities might present; and (ii) to identify the level of review and resources required for addressing such impacts and risks.

UNDP's screening procedure, categorization system, and assessment process reflects UNDP's risk-based approach to application of the SES. UNDP utilizes its Social and Environmental Screening Procedure (SESP) to identify potential social and environmental risks of the proposed UNDP-supported project. UNDP reviews and categorizes projects to reflect the degree of potential social and environmental risks and impacts and determines the applicability of specific requirements for the project.

With regard to project-level grievance mechanisms and the DRP, the Standards outline that:

*"For projects with significant adverse risks and impacts, UNDP will ensure that project stakeholders who may be adversely affected can communicate their concerns about the social and environmental performance of the project to the appropriate project managers, and receive a constructive and timely response. UNDP will work with Implementing Partners to ensure that an effective project-level grievance mechanism is available, scaled appropriately*

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<sup>7</sup> UNDP may choose to waive this exclusion where the requestor indicates fear of retaliation or other adverse consequences if the request is handled through another channel or process

*to the nature of the activity and its potential risks and impacts...In addition, UNDP's Dispute Resolution Process will be available for concerns directed specifically to UNDP as project partner. Potentially affected stakeholders will be informed about UNDP's Social and Environmental Compliance Review and Dispute Resolution Process as part of the stakeholder engagement process."*

The Screening Procedure will screen for both social and environmental impacts as well as the risk of disputes/conflicts related to those impacts.

### Managing Risks and Disputes throughout the Project Cycle

Project Management Cycle	Related Tasks
<b>Project Concept Development</b>	Identify dispute risks
<b>Design and Appraisal</b>	Screen and assess dispute risks using Social and Environmental Screening Procedure (SESP); identify and plan management actions to address significant dispute risks, including e.g. strengthen/clarifying role of Project Board (or Project Steering Committee) as a project-level grievance mechanism and strengthen implementing partners' dispute resolution capacity in the context of the project.
<b>Implementation</b>	If requests for dispute resolution are received through the Dispute Resolution Process, manage and resolve requests using procedures outlined in DRP Guidance. Report on how disputes have been managed in e.g. the ROAR.
<b>Closure/Evaluation</b>	Review dispute prevention and management experience; note lessons learned and opportunities for improvement in project closure/evaluation

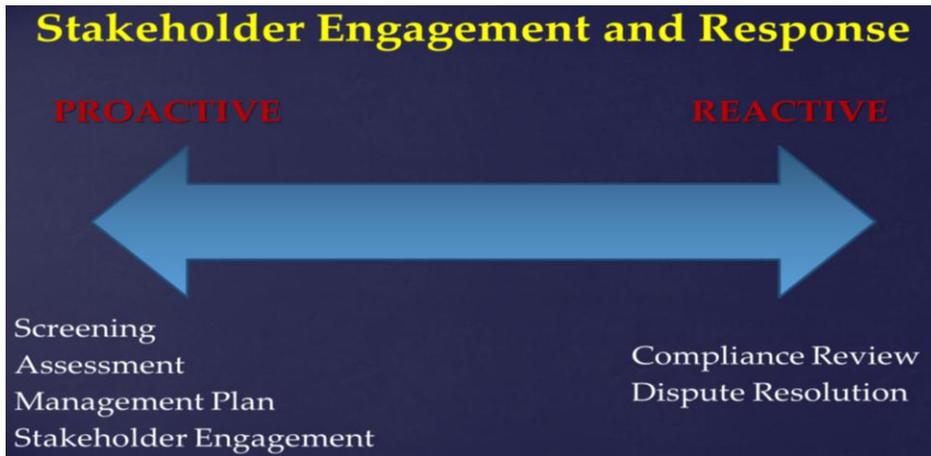
Project Managers can therefore anticipate disputes and build into the project the appropriate management measures, including for example, activities to strengthen and clarify the role of the Project Board<sup>8</sup>/Project Steering Committee as a project-level grievance mechanism and/or activities to strengthen implementing partners' dispute resolution capacity in the context of the project. Over time, UNDP should seek to build national capacity and minimize the use of its own staff and procedures for dispute resolution. UNDP has produced guidance on how to support national partners in strengthening their dispute resolution capacity in the context of REDD+<sup>9</sup>.

Another emphasis in projects screened as medium to high risk will be on bolstering stakeholder engagement activities, like early and ongoing awareness raising and consultation; identification and engagement with the rights-holders etc.

For the most part, proactive engagement should prevent and mitigate complaints and concerns from project stakeholders. In some cases, this may not be enough or unintended impacts may result from project activities leading a stakeholder or group of stakeholders to file a complaint with UNDP. This is where the Compliance Review and Dispute Resolution Process would be activated - on the reactive side of the spectrum of stakeholder engagement and response.

<sup>8</sup> According to UNDP's Programme and Operations Policies and Procedures (POPP), the Project Board "... arbitrates on any conflicts within the project or negotiates a solution to any problems between the projects and external bodies."

<sup>9</sup> REDD+ is Reducing Emissions from Deforestation and forest Degradation. See [FCPF/UN-REDD Guidance Note for REDD+ Countries: Establishing and Strengthening Grievance Redress Mechanisms](#).



## V. Operationalizing the Dispute Resolution Process: Roles and Responsibilities

UNDP country-level programming is nationally-owned and often nationally-executed. At the same time, UNDP is accountable for the sound use of resources and must ensure the quality of its support. Accordingly and as mentioned above, the first recourse for stakeholders will be the implementing partner mechanisms and processes for project dispute resolution (or the project-level grievance mechanism if one has been established).

UNDP Country Offices' existing procedures will be the second recourse. UNDP COs are already highly effective in responding to concerns, and will continue to use their existing project management channels and procedures to resolve the vast majority of concerns that are raised. In the course of UNDP country-level project design and implementation, the vast majority of disputes that arise are appropriately and effectively resolved through discussion, correspondence, meetings and management decisions, without formal logging or tracking.

The DRP will therefore be a "third line" supplemental procedure for a relatively small number of situations in which project stakeholder(s): have not been satisfied with the responses they have received through existing channels and procedures; make a formal request to use the DRP; and meet the DRP's eligibility criteria (outlined above). In these situations, the DRP will provide a more formally structured, voluntary process to respond to eligible requests, in a good faith effort to address the concerns that have been raised.

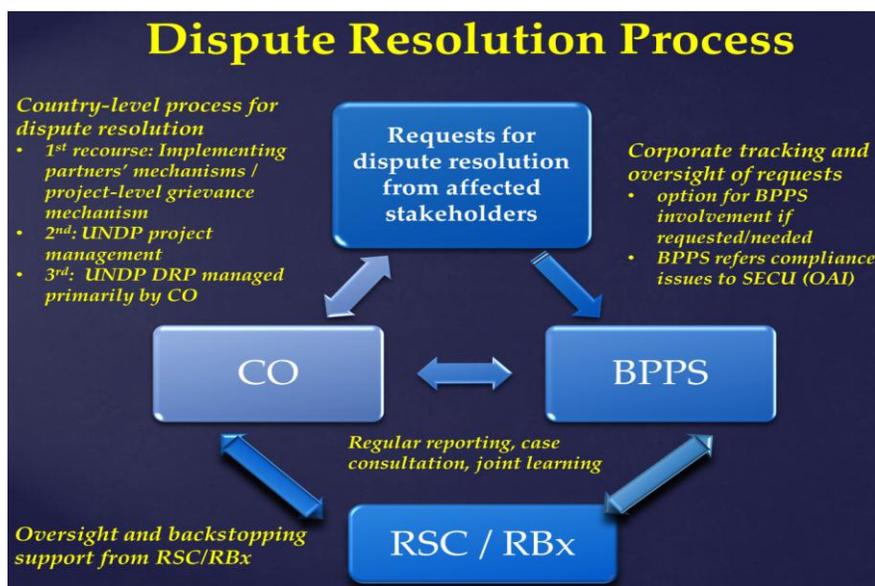
In sum, the DRP should be used in the context of UNDP projects when:

- There is a national implementing partner for the UNDP project; the partner's actions or activities are the focus of the grievance or dispute; neither the partner's own processes and mechanisms or the CO's standard practices for responding to issues arising in the course of project design and implementation have succeeded in resolving the issue(s) of concern; and one or more stakeholders request UNDP assistance through the DRP;

or

- UNDP's own actions or activities are the direct focus of the grievance or dispute; the CO's standard procedures and approaches for responding to issues arising in the course of project design and implementation have not succeeded in resolving the issue(s) of concern; and one or more stakeholders request use of the DRP.

The diagram below outlines the primary elements, roles and relationships in the DRP.



As mentioned above, UNDP COs are already highly effective in responding to concerns from project stakeholders. Given their proximity to the project, relationships with relevant actors and understanding of country context, Country Offices are best placed to lead in responding to complaints that come through the DRP. While the Resident Representative will be delegated ultimate responsibility for this role, it is recommended that he/she would identify a member of the CO management team to oversee and manage the DRP on a regular basis. This person could be the same who has been identified for the 'Quality Assurance Approver' role, in line with the Quality Assurance Framework (typically DRR or DCD level).

UNDP also has a corporate-level interest in ensuring that these dispute resolution processes are responsive, treat claimants fairly, operate effectively, and generate useful lessons that can be used to improve UNDP's country-level operations. To meet these goals while maintaining a decentralized approach, there will be a corporate function supporting the DRP. It is currently proposed that this function be based within the new Bureau for Policy and Programme Support (BPPS), to ensure close linkages with colleagues managing and overseeing the implementation and application of the Quality Assurance Framework and the Social and Environmental Standards; as well as colleagues providing backstopping and technical support on areas related to building national capacities to address grievances (e.g. conflict prevention, civic engagement, institutional strengthening, local governance and decentralization, access to justice, etc.).

Below is a table that outlines the proposed roles and responsibilities at each level.

## Dispute Resolution Process – Proposed Roles and Responsibilities

Country Offices	Regional Bureaux and Regional Service Centers	Corporate - BPPS
<ul style="list-style-type: none"> <li>• Receive complaints and register them in the case management system;</li> <li>• Review its eligibility, together with BPPS and SECU;</li> <li>• Assess the complaint to identify opportunities for dispute resolution;</li> <li>• Propose a response;</li> <li>• Support the implementation of the response;</li> <li>• Report on the results in the case management system;</li> <li>• Monitor / track the agreement/outcomes of the process.</li> </ul>	<ul style="list-style-type: none"> <li>• Receive notification of requests for dispute resolution within the region, when those requests are entered into the case management system;</li> <li>• Has the option to proactively engage the CO and BPPS in discussion about the best way to proceed in addressing the request;</li> <li>• May be asked by the CO or by BPPS to provide guidance on the response, and/or to become directly involved in communication with national stakeholders;</li> <li>• Is invited to participate in periodic evaluation and lesson learning exercises undertaken by BPPS.</li> </ul>	<ul style="list-style-type: none"> <li>• Maintain a global case management system;</li> <li>• Provide backstopping and technical advice to country-level dispute resolution processes;</li> <li>• Organize trainings, workshops, webinars on the DRP;</li> <li>• Maintain a roster of effective dispute resolution professionals;</li> <li>• Lead in the response to requests when it cannot be done impartially and/or effectively at the country level;</li> <li>• Liaise with the SECU/OAI</li> <li>• Compile and analyze case experience</li> <li>• Conduct public outreach to inform global stakeholders about the DRP and support COs in performing parallel outreach at country level;</li> <li>• Track and report annually on the DRP.</li> </ul>

## Annex A. Step-by-step Guidance on Operating the Dispute Resolution Process

### 1. Receiving and registering requests for dispute resolution

BPPS and SECU/OAI are developing a case management system, based on an OAI's existing system. Most requests will be entered online by the requester. For those that are received either by BPPS or CO staff directly, the request can be entered through the online form. Once a request is entered into the system the relevant CO, RSC/RBx and BPPS focal points will be automatically notified. These same focal points will continue to receive automatic notifications when key milestones in the case are entered into the system as well.

COs should make this form available by creating a link from the UNDP CO website to the Corporate webpage (to be provided), where the form will be made available globally. COs should ensure that these forms are available in communities where there are substantial risks of adverse impact from UNDP projects.

### 2. Acknowledge, Assess and Assign

**Acknowledging receipt:** If the request is complete enough to enable eligibility assessment, the receiving office should provide written acknowledgement within [three] business days that it has received the request, and indicate that it will complete eligibility review and initial assessment within [fifteen] business days after acknowledgement. **If the request is incomplete**, the receiving office should return it to the requestor within [three] business days of receipt, with a clearly specified request to provide the missing information.

**Assessing Eligibility of the Request:** Within [five] business days after the request has been received, the CO in consultation with BPPS should determine the eligibility of the request (see Section III above).

**Assigning Responsibility for Response:** As noted above, the CO has the “default” responsibility for leading the UNDP response to an eligible request. However, there are situations in which it may be appropriate for the project-level or implementing partner’s mechanism; BPPS and/or the SECU to respond to an eligible request:

- There is a relevant and credible project-level or implementing partner’s mechanism that could be used to respond to the request, and the requestor has not yet sought assistance from that mechanism. In this case, the UNDP DRP should refer the requestor to the relevant mechanism for response, and should monitor and follow up on that referral to ensure that the request is being addressed.
- The request has been made to BPPS, and the requestor has indicated it has significant concern about the impartiality and/or capacity of the CO to respond to the request. In this case, BPPS should consult the CO, preserving requestor confidentiality, and make a determination on what role, if any, the CO should play in the response. To help in that determination, BPPS may contact the requestor and discuss the situation and the requestor’s concerns about the CO in order to clarify whether and how they could be addressed.
- The SECU review of the request determines that there is a need for compliance review. When SECU advises the DRP of the need for such a review, it is the responsibility of the receiving office

to communicate to the requestor any planned action by the SECU to review compliance issues, and to discuss with the requestor the possibility of conducting compliance review before, after, in parallel with, or instead of dispute resolution.

From this point forward, and only for the sake of brevity in the text, this Annex uses the term “DRP” to mean both the typical situations where the CO leads the response, and the less typical situations where BPPS leads.

### **3. Develop a response in consultation with CO staff, managers, RSC/RBx, and other UNDP stakeholders as appropriate**

After determining eligibility, and making an initial assignment of organizational responsibility, the DRP needs to determine what response to make to the requestor. The DRP has four basic response options:

- Indicate that the request is ineligible, and explain why<sup>10</sup>
- Refer the requestor to a relevant and credible project-level or implementing partner’s mechanism (as noted above), and explain why
- Propose direct action by the CO to resolve the grievance/dispute
- Propose further assessment and engagement with the requestor and other stakeholders to determine jointly the best way to resolve the grievance/dispute.

To choose between the latter two options, the DRP needs to determine whether the request can be addressed directly, and dispute resolved, through relatively straightforward action by the CO; or whether the request is complex enough that it requires additional assessment and engagement with the requestor, the CO and other stakeholders to determine how best to respond.

Even in cases where previous good faith efforts through normal channels have not succeeded, many grievances can be resolved through direct and relatively straightforward action on the part of UNDP program or operations staff and partners: e.g. investigating alleged damage caused by a vehicle; changing the time and location of a consultation; making public information more accessible in a community, etc. Often the core problem is one of miscommunication and misperception, and a higher level of clarity and formality in the response process will ensure effective communication and improve mutual understanding.

In developing response options, the DRP should consult directly with the CO staff whose programs, projects, or operational activities are the focus of the request. Preserving requestor confidentiality where appropriate, the DRP should discuss the issues raised in the request, and discuss in detail with the relevant CO staff their views on how best to respond. The lead DRP staff will need to maintain clarity about their role in this dialogue with CO staff: the goal is to learn more about the situation that gave rise to the request, and solicit CO perspectives and ideas on how best to respond. It would not be appropriate for the DRP either to adopt a stance of alliance with CO staff to “defend” UNDP against the requestor, or to adopt a stance of “advocate” on behalf of the requestor,

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<sup>10</sup> It is important to note that a request may be determined ineligible because no prior good faith effort has been made to bring the concern to the relevant national partner or UNDP programme or project staff. In these cases, it is important for the DRP response to note that it is still available to the requestor if good faith efforts to resolve the concern through normal channels are not successful.

demanding a particular CO response without a thorough and impartial review of the issues and options.

In some cases, CO staff (including managers) may become anxious and/or defensive in response to requests that pertain to their work. It is important for the DRP to stress in dialogue with CO counterparts that the value of the DRP mechanism is to resolve requestor concerns using a collaborative, non-adversarial approach. Even if CO staff believe that there is no factual basis for the grievance, the DRP will need to make its own initial assessment of the facts. With the exception of requestor concerns or grievances that the DRP determines to be ***entirely*** without basis in fact, it is the responsibility of both the DRP and the CO to engage in a good faith effort to resolve the requestor's concerns, beginning with a joint effort to clarify the facts.<sup>11</sup>

In complex grievances and disputes involving multiple external stakeholders and issues, the DRP will need to explore the issues and response options not only with CO staff, but also with the requestor(s), key external stakeholders (such as government and/or civil society program partners, and other government counterparts), and possibly with members of the requestor's community or constituency. This exploration may require a structured process of joint fact-finding, dialogue and/or negotiation. In these cases, the DRP should propose a stakeholder assessment and engagement process as the initial response to the request (see steps 4 and 5 below).

Regardless of whether the CO or BPPS is leading on the response, the CO and BPPS should consult with each other before finalizing the proposed response. Both the CO and BPPS have the option to consult the Regional Bureau, and the Regional Bureau also has the option to proactively engage with the CO and/or BPPS with regard to the response, after it is notified. Where compliance issues may be involved, the DRP should also consult with SECU, to develop a joint proposal for addressing both grievance/dispute issues and compliance issues, with clarity about the respective roles of DRP and SECU.

#### **4. Communicate proposed response to requestor and seek agreement**

The DRP should communicate the proposed response back to the requestor within [15 business days] of acknowledging the request.<sup>12</sup> The proposed response should also be logged into the case management system. It should be in writing, in language that is easily accessible to the requestor. The CO may also contact the requestor by telephone, or set up a meeting to review and discuss the proposed response. Whatever method is used, it is essential that the requestor(s) fully understand both the proposed response, and what choices they can make after considering the proposed response.

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<sup>11</sup> In cases where the CO is leading the response, and there is a serious disagreement between the CO and relevant CO staff/managers on the factual basis of the request, or on how to respond, the CO should seek assistance from the DRS staff in resolving the disagreement. Whether the CO or the DRS staff is leading, the DRS staff can escalate the discussion to the Regional Director if necessary to resolve disagreement on what response to propose.

<sup>12</sup> In the case of grievances alleging serious harm or risk of harm, and/or serious rights violations (death, serious injury, risk of violence, major loss of livelihood or housing, denial of basic political or civil rights), the DRP should fast-track the response, by direct action in consultation with the RR, CD and relevant UNDP program staff, and/or by immediate referral to a national government office or organization and immediate notification of the requestor of that referral.

The proposed response should include:

- A clear restatement of the requestor's concerns by the DRP;
- A detailed description of the proposed response, with an explanation of why the DRP is proposing it; and
- A listing of the requestor's choices, given the proposed response. (Those choices may include, among others: agreement to proceed; request for a review of an eligibility decision, a referral decision, or a plan for compliance review; further dialogue on a proposed action; or participation in a proposed assessment and engagement process.)

The requestor may or may not agree with the proposed response. If there is agreement, then the DRP and CO can proceed with the proposed response, whether direct action, further assessment, or referral. If the requestor challenges a finding of ineligibility, rejects a proposed direct action, or does not want to participate in a more extensive process of stakeholder assessment and engagement, the DRP needs to ensure that it fully understands the reasons why the requestor does not accept the proposed response. If possible, the DRP should revise the proposed approach to meet the requestor's concerns. Revision may require further consultation with the CO and/or other stakeholders.

If there is still not agreement, the DRP needs to make sure the requestor understands what other recourse may be available, whether through the judicial system or other administrative channels. The DRP also needs to document the outcome of the discussions with the requestor in a way that makes clear what options were offered and why the requestor chose not to pursue them.

For sensitive and challenging cases, where the DRP as a whole (i.e. CO and BPPS) have limited credibility and/or capacity to manage the response, the DRP may seek agreement from the requestor and other stakeholders to use independent assessment, mediation and/or arbitration in response to the request. If independent mediation or arbitration is used, it may be appropriate to set up joint oversight of the process by senior representatives of key stakeholders (e.g. the requestor(s), government, international partners, communities, NGOs, and/or businesses involved), to ensure the mediator's/arbitrator's impartiality and to provide strategic oversight of the process.

Paying for independent consultants and other process costs in these complex cases may require significant financial resources, ranging from thousands to tens of thousands of dollars. These costs should be built into the program project.

## **5. Implement the response to resolve the grievance**

When there is agreement between a requestor and the DRP to move forward with the proposed action, or a relatively simple direct dialogue or negotiation process, then the response should be implemented, with DRP monitoring to ensure that the response resolves the issues raised by the requestor.

In the cases where the initial response to the request is to initiate broader stakeholder assessment and engagement, the assessment process may be conducted by DRP staff themselves, or by consultants or others perceived as impartial and effective by the requestor, DRP, senior CO management, and other relevant stakeholders. The main purpose of the assessment and engagement process is to clarify:

- The issues and events that have led to the request
- The stakeholders involved in those issues and events
- The stakeholders' views, interests and concerns on the relevant issues
- Whether key stakeholders are willing and able to engage in a joint, collaborative process (which may include joint fact finding, dialogue and/or negotiation) to resolve the issues
- How the stakeholders will be represented, and what their decision making authority will be
- What work plan and time frame the stakeholders could use to work through the issues
- What resources they will need, and who will contribute them

In some cases, the stakeholder assessment will produce clarity and agreement among the relevant stakeholders on a collaborative process to resolve the issues raised in the request. In others, the assessment may determine that one or more key stakeholders are unable or unwilling to participate. Whether or not a collaborative process appears viable, the DRP needs to communicate the assessment findings to the requestor and other stakeholders, and document them in the DRP database, with a recommendation on whether and how to proceed.

If a collaborative process is possible, then the DRP will normally be responsible for managing it (in some cases, the DRP may delegate process management responsibility to the CO, a national institution, or an independent consultant). The DRP may directly facilitate the stakeholders' work on the issues, create a consultant contract with a facilitator, or use traditional and local consultation and dispute resolution procedures and leaders/facilitators. Where joint fact-finding is needed (for example, in a dispute about whether UNDP did or did not follow through on financial or technical assistance commitments to a civil society group), it may be necessary to have the stakeholders jointly select an impartial expert to review correspondence, financial transactions and program/project records to clarify what did or did not take place.

If the collaborative process produces agreement on actions to resolve the request, then the DRP is responsible for documenting agreements reached, and will normally be responsible for overseeing implementation of those agreements and actions. In a multi-stakeholder context, both the CO and other actors (the requestor(s), government, civil society and/or private sector stakeholders) may be involved in the solution.

It is important for the DRP and the stakeholders to monitor implementation jointly. Where implementation of agreements reached is a multi-step process, and there is some implementation risk, the DRP should seek commitments from all stakeholders to "come back to the table" when needed to deal with challenges during implementation.

## **6. Review the response if unsuccessful**

As noted above, in some cases it may not be possible to reach agreement with the requestor on the DRP's proposed response. In a multi-stakeholder dispute, an assessment process may lead to the conclusion that a collaborative process is not feasible. If a collaborative process is used, good faith efforts may still not succeed in resolving key issues.

In any of these situations, the DRP should review the process and the outstanding issues with the requestor, the relevant CO staff/managers, and any other relevant stakeholders, to see whether any modification of the response might meet all of their interests and concerns (see step 4 above). If no modification to the response is mutually acceptable, the DRP should inform the requestor about alternatives that may be available, including the use of judicial or other administrative mechanisms

for recourse. Whatever alternative the requestor chooses, is important for DRP staff to document their discussion with the requestor and the requestor's informed choice among alternatives in the DRP database.

### **7. Close out or refer the request**

The final step is to close out the grievance. If the response has been successful, the DRP should document the satisfactory resolution. In cases where there have been major risks, impacts and/or negative publicity, it may be appropriate to include written documentation from the requestor indicating satisfaction with the response. In others, it will be sufficient for the DRP to note the action taken and that the response was satisfactory to the requestor and the organization/program. In more complex and unusual grievance situations, it may be useful to document key lessons learned as well.

If the grievance has not been resolved, DRP should document steps taken, communication with the requestor (and other stakeholders if there has been substantial effort to initiate or complete a multi-stakeholder process), and the decisions made by DRP, the CO and the requestor about referral or recourse to other alternatives, including legal alternatives.

In general, DRP documentation on particular cases should maintain confidentiality about details, while making public aggregate statistics on the number and type of complaints received, actions taken and outcomes reached. It may be appropriate in some cases to make basic information about the identity of requestors publicly available, with the consent of the requestor.<sup>13</sup>

### **8. Monitoring and Documenting Responses and Results**

The DRP will include with any agreement an agreed plan for monitoring the implementation of the agreement made as the result of the dispute resolution process. Monitoring may be as simple as a telephone call with the requestor and a discussion with the relevant CO staff to confirm that a relatively straightforward response has been fully implemented. On the other hand, effective monitoring may require ongoing meetings of a multi-stakeholder group that has reached agreement, (e.g. to review implementation of a set of commitments for consultation with indigenous people, or a implementation of a new approach to developing an voter registry). The DRP will issue a monitoring report at least annually until such time as the agreement has been fully implemented. All monitoring plans and reports will be made available to the requestors and the public on the DRP Website maintained by BPPS.

BPPS will also develop and implement training for COs on how to conduct outreach regarding the dispute resolution processes, how to inform potential requestors about the procedure for submitting requests, and how to implement or manage dispute resolution processes.

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<sup>13</sup> The CO and/or other stakeholders may wish to document and publicize the resolution of the request. It is important for the DRP to confirm with all relevant stakeholders that they are comfortable with publicizing the process and its results before any stakeholder does so.