



Department for Business & Trade

This note replaces provisions on Mediation in paragraphs 4.1 to 4.5 of the *UK National Contact Point procedures for complaints brought under the OECD Guidelines for Multinational Enterprises*, published September 2019. All other provisions of the 2019 UK National Contact Point procedures will continue to apply to the UK NCP handling of specific instances.

The “UK NCP” will hereafter be referred to as the “Office for Responsible Business Conduct”, or “ORBC”, following the launch of the UK NCP rebrand, announced in June 2025 as part of the UK Trade Strategy.

Mediation

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Mediation within the ORBC process

1. Where mediation is undertaken within the ORBC process, mediation will be conducted by a qualified mediator, either a civil servant or an external mediator commissioned by the ORBC.
2. Neither party will be responsible for the cost of mediation services under the ORBC process. The ORBC will assume responsibility for the provision of mediation services.
3. On occasion, there may be one or more co-mediators involved in the process. The ORBC will prepare terms of reference to be agreed by both parties and the mediator(s).
4. The mediator(s) may only be challenged for competency or evidence of an actual conflict of interest. For example, being qualified by the International Mediation Institute and experience applying the Guidelines constitutes a presumption of competency.
5. The mediator(s) will at all times be neutral. The role of the mediator is to provide a platform and opportunity for each party to discuss the issues raised in the case. It is not the mediator’s role to adjudicate any issues or evaluate evidence.
6. If a civil servant participates as either the mediator or co-mediator, they will have no further involvement in the case following the mediation procedure. Nor will they communicate with anyone else regarding the content or information discussed during the

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mediation session or communicate any arrangements of an agreement. However, the mediator may update the ORBC case handler on timelines, and whether the mediation has resulted in an agreement or not.

7. Only the issues accepted in the Initial Assessment will be the subject of mediation.
8. The mediator(s) will:
 - agree the agenda with both parties before commencing the joint mediation session(s).
 - chair and facilitate meetings with the parties either separately or together, and encourage both parties to exchange information, build up trust and confidence, and ultimately find a process to resolve the issues.
9. There are three main stages to the mediation process:
 - the mediator(s) will meet both parties separately to prepare for the mediation. These meetings will explore the issues, explain the mediation process, and answer questions on the how the process will work. These meetings will have an agenda and will be noted but these will not be shared with the ORBC case handler or the parties.
 - the mediator(s) will bring both parties together in a meeting which will always commence by providing each party with time to explain their views and will provide ample opportunity to clarify outstanding issues.
 - at the end of successful mediation, the parties will draft a mediation agreement. Any agreement between the parties shall be completed and signed by their authorised representatives within five business days of the mediation concluding.
10. If mediation is successful, the mediation agreement or a summary statement will be published on the ORBC website as part of the Final Statement. If mediation is successful on only some aspects of a case, the ORBC will examine those aspects of the case where mediation failed. The ORBC's findings, any recommendations (if applicable) and the mediation agreement or summary will be published as part the Final Statement. In a case where most of the key concerns of the case were mediated and where the parties are content for the ORBC not to investigate the remaining issues, this will be written into the mediation agreement.

Responsibilities of both parties in the ORBC mediation process

11. The ORBC expects both parties to enter into the mediation in the spirit of seeking to reach a resolution on the issues accepted. Parties are expected to adhere to the agenda and to not raise new issues that have not been accepted by the ORBC in the Initial Assessment phase, unless mutually agreed to by the parties.
12. Both parties must have a representative taking part in the mediation who has the full authority to enter into a mediated agreement on behalf of their respective party.

Confidentiality in the ORBC mediation process

13. Discussions held in the mediation will be confidential, unless the parties consent to information being shared. Mediation sessions will not be minuted by the mediator(s).

14. If mediation is successful, the ORBC will publish a Final Statement noting a successful outcome, including that the parties may have reached a mediated agreement. The ORBC will not publicly communicate the terms of any agreement reached between the parties without consent. The parties may request the ORBC to elaborate further on the items agreed in mediation when it publishes the Final Statement.
15. Parties will agree to observe confidentiality except to the extent that it is necessary to seek professional advice or guidance. In these circumstances, those consulted will be expected to observe confidentiality.

Mediation outside the ORBC process

16. The filing of a case with the ORBC sometimes results in the parties asking to resolve a case amongst themselves. At any stage, the parties may realise that they may be able to settle their differences without further intervention by the ORBC and are free to seek mediation outside the ORBC process.
17. If the ORBC receives written notification from both parties that they wish to mediate outside the ORBC process, the ORBC will suspend the case for up to three months. The ORBC will request an update on the progress of mediation outside the ORBC process to determine whether the case needs to be unsuspended. Where the ORBC does not receive an update from the parties, it may unsuspend the case. In this instance, the ORBC may either offer mediation under the ORBC process or progress to further examination.
18. If mediation outside of the ORBC is successful, the ORBC will close the case. A Final Statement will be published setting out that the issues have been resolved outside the ORBC process.
19. Where issues raised are resolved after the Initial Assessment stage, a reduced Final Statement will be published explaining that the parties have achieved a mediated settlement outside the ORBC process.
20. Where mediation is taking place outside the ORBC process, the ORBC will expect to receive a notification of failure to reach agreement from the parties. If the ORBC has not done so already, it will offer mediation under the ORBC process.

Failure or rejection of mediation

21. If mediation is refused or fails at any stage, the case will return to the ORBC for further examination. The mediator(s) will inform the ORBC where mediation has failed. The mediator(s) may not inform the ORBC why mediation may have failed. However, the mediator(s) may inform the ORBC where parties have failed to agree on the Terms of Reference prior to entering mediation.
22. If mediation under the ORBC process fails or is rejected, the parties have the option of continuing mediation outside the process at their own expense. However, the ORBC will continue to proceed to further examination.