

Annual  
report

2017



OECD **GUIDELINES**  
FOR MULTINATIONAL ENTERPRISES

NATIONAL CONTACT POINT  
FOR RESPONSIBLE BUSINESS  
NORWAY



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# Preface

The Norwegian National Contact Point (NCP) met many Norwegian businesses in the course of last year. In our experience, very many of them are concerned with responsible business conduct. Norway's new Minister of Foreign Affairs, Ine Eriksen Søreide, has stated that the Government has 'clear expectations that Norwegian business and industry should be familiar with and use the UN Guiding Principles on Business and Human Rights and the OECD's Guidelines for Responsible Business Conduct.' Despite this, many businesses seek concrete guidance on how to behave responsibly. OECD is endeavouring to meet this demand and have developed what we call sectoral guidance for different business sectors.

This guidance is based on the OECD Guidelines for Multinational Enterprises, the fundamental international document in this field. The Guidelines cover all key areas of responsible business conduct: human rights and the environment, labour relations and anti-corruption work, consumer interests and transparency, etc. However, they are general and must therefore be specified to clarify what they entail for the individual enterprise or corporation's everyday activities. The OECD has taken the matter in hand in cooperation with selected enterprises, business organisations, employee organisations, representatives from civil society and governments. The programme has led to the production of five important guidance documents to date, two of which are particularly relevant to Norway.

The first is Responsible Business Conduct for Institutional Investors, which was presented to the Norwegian investor community at a well-attended launch event in Oslo in September. The document is particularly interesting for Norwegian enterprises because the Government Pension Fund Global is the world's biggest government investment fund. Norway also has several other major institutional investors that have made systematic and targeted efforts for many years in the field of responsible investment. The new guidance will help to support and further develop this work. It will also help to ensure competitive terms for Norwegian investors in that they can demand that investors from other OECD countries or investors who are active in OECD markets should also comply with the same guidelines.

The other guidance is Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector. The structure of the garment industry consists of complex supply chains, and production is often carried out in relatively poor countries,

sometimes under authoritarian regimes. The investigations following the collapse of the factory building Rana Plaza in Bangladesh in 2013 was an eye-opener for many.

The garment and footwear sector guidance is therefore also important for many Norwegian businesses, since it offers advice on how to investigate and manage adverse impacts in their supply chains. A number of Norwegian and Nordic clothing groups have made systematic efforts in this area for several years. The new guidance provides additional support in this work. In 2017, Norway's NCP noticed considerable interest in such work in Norwegian enterprises, both in relation to work in businesses through taking part in a workshop in Oslo and at a launch seminar in Paris.

Another trend relating to the sectoral guidance is also worth noting. The first guidance document that was developed concerns the supply chains for conflict minerals. In 2017, the EU adopted a binding regulation relating to import and production of conflict minerals based on the OECD guidance. It has therefore become binding legislation that will apply to all EU countries.

In this annual report, we present the main aspects of our work throughout the year. We present the annual report every year at a dialogue meeting with our stakeholders. This year, we have followed up on input received at the meeting in 2017 and allowed critical viewpoints to be presented in the annual report itself. The Forum for Development and Environment comments in an interview on how the threshold for filing complaints can appear high in relation to resource use and what outcome one can expect.

Norway's NCP recognises that there may be differences in the relative strength of the parties. It is an important task for the secretariat of Norway's NCP to assist the parties to understand the grievance mechanism and what must be done to have a specific instance accepted. At the same time, we attempt to provide a better overview in the report of Norwegian work on responsible business conduct through talks with Norwegian stakeholders. They show that it is possible to make important achievements.

Enjoy the read!



*Ola Mestad*

OLA MESTAD  
Chair



# What are the OECD Guidelines for Multinational Enterprises?

The OECD Guidelines for Multinational Enterprises are recommendations from the OECD countries to promote responsible business conduct in all sectors. The Guidelines are the only multilaterally adopted, comprehensive guidelines for responsible business backed by 48 governments.

A main goal of the OECD Guidelines is that the business sector should contribute to sustainable development. The Guidelines clearly express expectations in areas such as human rights, including labour rights, the environment, anti-corruption and transparency. Together, the Guidelines cover all key aspects of corporate social responsibility.

The Guidelines are supported by a unique implementation mechanism of National Contact Points (NCPs). The NCPs are established by the adhering governments to raise awareness about the Guidelines and to establish a grievance mechanism. The grievance mechanism ensures that concerned stakeholders have a place to turn to. The NCPs facilitate dialogue and mediation in order to resolve specific instances.

According to the OECD Guidelines, enterprises shall contribute to the following:



Protecting the environment



Respecting human rights



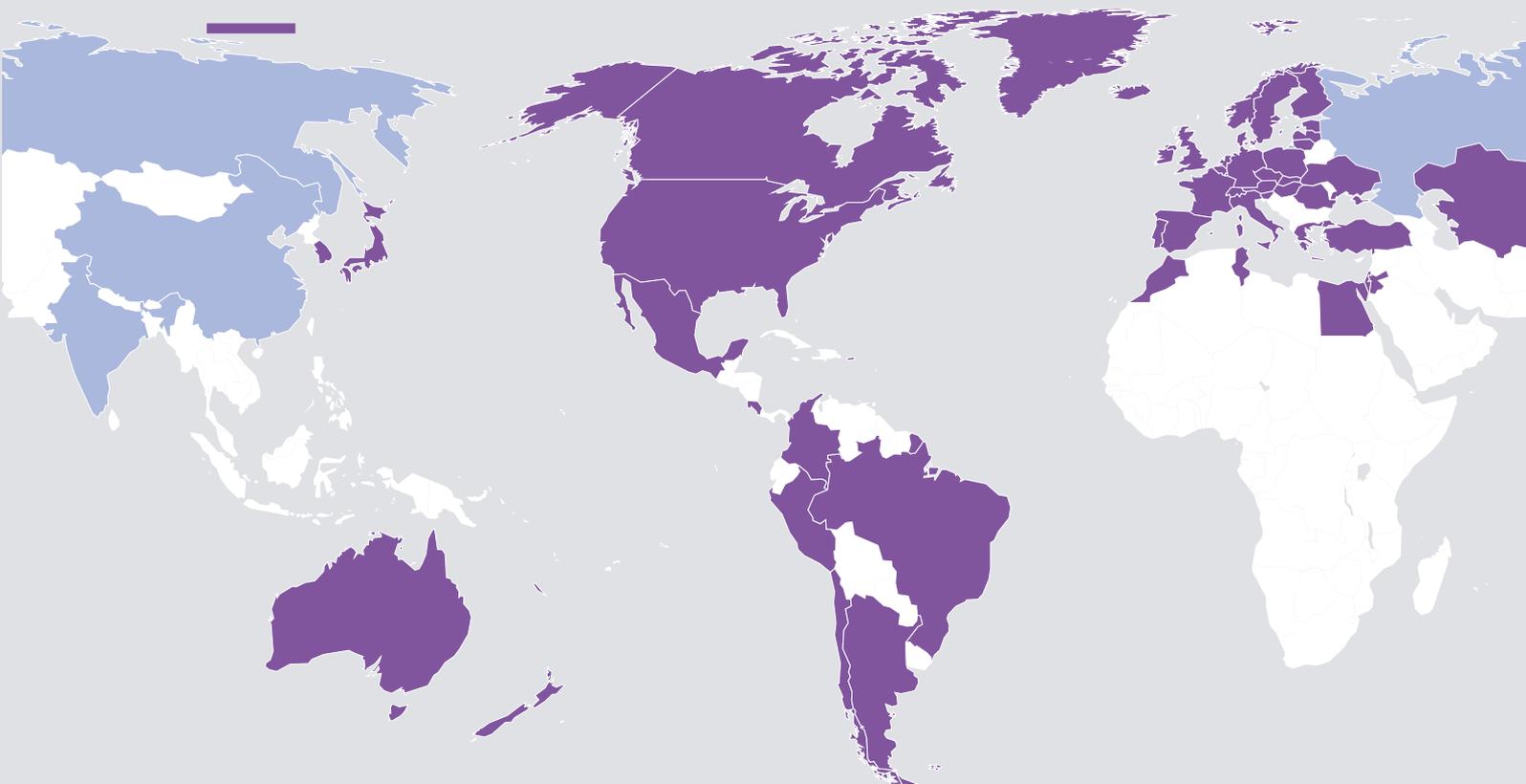
Protecting labour rights



Preventing corruption and bribery

*The Guidelines also contain chapters on transparency, reporting, consumer interests, science and technology, competition and taxation.*

# 48 National Contact Points



## ● Countries with National Contact Points:

Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Latvia, Lithuania, Luxembourg, Mexico, Morocco, the Netherlands, New Zealand, Norway, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Tunisia, Turkey, UK, Ukraine and USA.

## ● Observer countries:

India, China and Russia.

The map is for guidance only and does not express any position on territorial status or sovereignty.

A total of 48 countries have adopted the OECD Guidelines and are therefore obliged to establish a national contact point.



*The NCPs meet regularly at the OECD in Paris.*



# The Norwegian National Contact Point – who we are and what we do?

The Norwegian National Contact Point – NCP- is an independent public expert body. The members are appointed by the Ministry of Foreign Affairs and the Ministry of Industry and Fisheries on the basis of their professional expertise, and based on proposals from the social partners and civil society, represented by the Confederation of Norwegian Enterprise (NHO), the Confederation of Norwegian Trade Unions (LO) and the Forum for Development and Environment (ForUM). All OECD countries are obliged to establish a national contact point. How they are organised varies from country to country. The Norwegian NCP assists the Norwegian authorities in promoting the Guidelines and contributes to the resolution of issues related to the implementation of the Guidelines in specific instances.

## MEMBERS

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**OLA MESTAD**

*Professor dr. juris  
University of Oslo  
Chair*



**FRODE ELGESEM**

*Attorney at law and partner  
at Elgesem Advokatfirma AS*



**SYNNE HOMBLE**

*Chief Officer Mobility and  
Strategy at the NSB Group*



**GRO GRANDEN**

*Special adviser,  
LO*

## THE SECRETARIAT

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**CATHRINE HALSAA**

*Head of the secretariat*



**BENTE F. BAKKEN**

*Senior Adviser*

# The Norwegian NCP has three main tasks:



Promoting the  
OECD Guidelines



Handling specific  
instances



International cooperation  
with the OECD's central  
organisation and other NCPs



# 1

## Promoting and providing guidance about the OECD Guidelines

One of the NCP's most important tasks is to promote the OECD Guidelines for Responsible Business Conduct as an effective tool for preventing violations.

The guidelines are more than just words. They are a practical tool that can prevent Norwegian companies from taking a wrong step in meetings with people, society and the environment in other countries.

The Norwegian National Contact Point carries out extensive information work and provides guidance to Norwegian businesses and other stakeholders on how they can meet the requirements of the OECD Guidelines, including through due diligence courses and sectoral guidance.





# Is the financial sector heading in a new direction?

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**After major criticism, four Norwegian banks withdrew from the Dakota Access Pipeline in USA in 2017. One of them was DNB. The company is now heading in a new direction to avoid investing money in projects that are on a collision course with important rights and values.**

**Text:** Marianne Alfsen

– We must contribute to returns, but also to a positive development in society. We must behave with integrity in relation to our customers. We must be open and honest and listen more to other stakeholders, says Kaj-Martin Georgsen, Head of Corporate Responsibility and Public Affairs at DNB.

It is not long ago that the finance industry would have ended this statement before the first comma. Now, DNB is among the financial stakeholders that are redefining their role and raising corporate social responsibility in its strategic planning.

– As a lender, we have a unique opportunity to make a difference. On the investment side, our investments are often small, but we nonetheless have the power to assert influence together with others, Georgsen believes.

## Cultural challenge

– We are used to thinking in spreadsheets and whether our reputation can handle what we do being printed on the cover of a national newspaper. Now that we are in a central position in society and

say that we want to make a positive contribution, it is a cultural challenge, smiles Georgsen, and points out that the financial sector has slightly different stumbling blocks to consider than other businesses, since it is held accountable for the whole value chain it funds.

In the USA, for example, DNB faced rough times when it emerged that the oil pipeline they helped to fund through loans would negatively affect indigenous peoples' territories, and was subject to massive protests from indigenous groups who claimed that their interests were not safeguarded by the developer. The conflict surrounding the Dakota Access Pipeline combined with various other storms in recent years contributed to a process that, according to Georgsen, was already in motion.

## Head on the block

– We see that people have come to hold higher expectations of banks and what we invest in, says Georgsen and repeats a clear order from the top management: DNB should not only avoid doing harm, but should also be a positive force in society. And corporate social responsibility does not only belong in one department, it must permeate the entire company.

He admits to a certain degree of discomfort in relation to how the company sticks its neck out:

– We are measured on what we say we are going to do. And confronted with it. But we already have our

– We see that people have come to hold higher expectations of banks and what we invest in.

Kaj-Martin Georgsen, DnB

head on the block just by being Norway's biggest bank. If we are going to change the culture and the way we work, I have faith in the power that lies in the management clearly communicating its goals to the outside world.

### Due diligence

When things go wrong, withdrawing is not the only responsible path to take, in Georgsen's view. In the USA, DNB sought advice from the indigenous groups affected and attempted to influence the project.

– This was done through close dialogue with and follow-up of the controversial company and contact with the other international banks that were funding the project, explains Georgsen.

DNB only withdrew when these efforts did not succeed, an approach that Ola Mestad, Chair of Norway's NCP, has stated is in line with the OECD's due diligence guidelines.

What does DNB do in advance, though, to avoid investing money in projects that are not ethically sound?

Georgsen points out that the new strategic plan is at the very core of a stronger, clearer and more concrete approach to corporate social responsibility in the organisation.

– You also need some disciples who will go after it and sow the seeds, says Georgsen, adding that it's

about doing business 'the DNB way' – everywhere – and making demands of customers:

– For example, we demand that the companies we lend money to take an active approach to climate risk in their activities. Customers who close their eyes to this issue will also be met with a closed door here, says Georgsen.

Internal competence-raising is another key term:

– After Dakota, for example, we have increased our competence on indigenous peoples' rights. Next week, the president of the Sami Parliament will be visiting as part of a continuous dialogue. We need to invite others in when we need knowledge, and engage in dialogue in advance, Georgsen believes.

### Litmus test

At the end of the day, it all comes down to which factors are taken into consideration before the bank enters into financing agreements.

– We need to become better at making good sustainability assessments. We have been too brief in this area and assessments have not been reviewed, says Georgsen, and adds that DNB has already introduced a broader and verifiable due diligence perspective to its credit processes.

However, Georgsen is clear that they have some way to go before he can be sure that everything DNB does passes what he calls the litmus test: Could I tell my mum about it?



# The financial sector up close

**Society's expectations in relation to responsible business conduct in the financial sector has sky-rocketed in recent years. In September, Norway's NCP invited stakeholders to a seminar on what the OECD Guidelines expect of investors and how they can be met in practice.**

Where are we and where are we headed? These were among the key questions raised at the seminar, where the Norwegian financial sector, experts from the OECD and the UN, as well as representatives from civil society and the authorities met for debate and mutual learning.

The occasion was the launch of the OECD paper Responsible Business Conduct for Institutional Investors. The publication is part of a greater process in the OECD, the goal of which is to develop better guidance on how the financial sector can comply with the OECD Guidelines.

Roel Nieuwenkamp and Barbara Bijelic from the OECD talked about investors' responsibility to map and avoid risks in the companies they invest in, including as minority shareholders. The guidance

contains concrete, practical advice on due diligence assessment, adapted to the financial sector's complex and extensive portfolios.

The OECD representatives also raised the matter of how an investor is to respond in cases of non-compliance with the OECD Guidelines. Investors are not responsible for remedying adverse impacts, but are expected to use their leverage to influence the company they have invested in to mitigate the impact.

FOKUS – Forum for Women and Development and Amnesty International Norway welcomed the guidance, since it specifies that investors have a clear responsibility to map their role in potentially high-risk investments.

Representatives from Norges Bank Investment Management (NBIM), the UN Principles for Responsible Investment (PRI), KLP, Nordea, and the Norwegian Forum for Responsible and Sustainable Investment (NORSIF) shared their experience of how they follow up responsible business conduct in practice.



*Roel Nieuwenkamp made reference to the many specific instances considered by the OECD national contact points concerning the role and responsibility of institutional investors.*



**IDAR KREUTZER**

*Managing Director  
of Finance Norway*

– Promoting responsible business conduct in the financial sector is vital to achieving a sustainable global economy. The OECD’s guidance document is an important tool for helping investors to understand and deal with the risk caused by companies they invest in.

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**MONICA MEE**

*Sustainability Specialist,  
Nordea*

– Responsible Business Conduct for Institutional Investors clearly signals what is expected of institutional investors and can help to make it easier to comply with the OECD Guidelines in practice. More and more banks are now developing strategies for responsible business conduct, but there is likely still some way to go.

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**BEATE EKELØVE-SLYDAL**

*Political adviser,  
Amnesty*

– Amnesty will deem investors who ignore the danger signs to be complicit. However, if investors join forces and demand responsible business conduct, the industry can make positive contributions to promoting and strengthening human rights.

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## Norwegian Financial Institutions And The North Dakota Pipeline

In spring 2017, a number of Norwegian financial institutions, including DNB, Sparebank 1, KLP and Storebrand, attracted considerable media attention and faced pressure from customers to withdraw their investments in companies participating in the Dakota Access Pipeline construction in the USA. Ola Mestad stated that the financial institutions have proceeded in line with OECD’s expectations – they have been in dialogue with the affected indigenous people, the Standing Rock Sioux Tribe, and have attempted to influence the project in the right direction before withdrawing. However, it would have been preferable if a due diligence assessment had been conducted before the reactions emerged.



# Working towards a sustainable garment industry

**How can Norwegian businesses in the garment and footwear sector ensure better working conditions, prevent human rights violations and reduce the environmental impact of their activities? This was the topic at Norway's NCP's industry seminar in June as a follow-up event to the launch of the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector.**

Garments and footwear are among the biggest groups of consumer products in the world. The industry operates in a challenging value chain which has in recent years been criticised for poor working conditions in the supply chain. In cooperation with HM Norway and Norwegian Fashion Hub, the NCP invited Norwegian businesses to a working seminar on responsible business conduct in the garment and footwear industry.

Through group discussions on specific dilemmas and challenging situations, 30 participants took a deep dive into how the industry can improve its due diligence assessments. They also discussed how individual businesses can use their influence to prevent violations and remedy challenges in the supply chain.

NCP member Frode Elgesem opened with the Government's expectations for responsible business conduct and a review of international standards, such as the UNGP and the OECD Guidelines. Jennifer Schappert from the OECD described how the industry can use the OECD guidance for the garment and footwear sector as a tool for carrying out due diligence assessments.



*GOOD DISCUSSIONS: The seminar participants were active and enthusiastic in discussions about responsible business conduct in the garment and footwear industry.*



**LUISA BOOK**

*Sustainability Manager  
Norway, HM*

– It was a productive workshop led by a skilled OECD expert who really explained what the guidance contains in a simple way. It was also fantastic to be able to take active part in the workshop's group work where we had many good discussions. I learned a lot from listening to others and gained new perspectives on my own sustainability efforts.



**VEGARD NEVERLIEN**

*Corporate Social  
Responsibility Manger,  
Varner*

– The workshop held in connection with the launch of the OECD's guidance for the garment and footwear sector was useful and inspiring. The guidance in itself is a good tool in work on due diligence assessments and responsible purchasing. There were also many good discussions and perspectives at the workshop on challenges and opportunities relating to demonstrating active corporate social responsibility in supply chains and in your own business.



**ELIN KATHRINE  
SAUNES**

*Project manager  
Norwegian Fashion Hub*

– We felt that the workshop was very well organised for our members, and the seminar had a well-adapted message and used good and relevant examples. NFH is very satisfied with our good cooperation with the NCP, which is positive for us and the projects the industry establishes to raise competence and develop the industry.

## **NORWEGIAN FASHION HUB**

### Norwegian Fashion Hub

In 2017, Norway's NCP established a collaboration with the Norwegian Fashion Hub, a business cluster for the Norwegian fashion industry and part of Innovation Norway, Siva and the Research Council of Norway's cluster programme. The focus is on responsible business conduct and sustainability for Norwegian textiles and brands.



## THE OECD'S SECTORAL GUIDANCE

# – specific advice for your business

The OECD has developed sectoral guidance that provides concrete and practical advice adapted to different industries. The guidance documents elucidate specific issues relating to responsible business conduct in the various sectors. They focus on topics including how businesses can use their influence to ensure responsible supply chains in the agricultural and food sector, enable stakeholder engagement with affected parties in the extractive industry, or ensure responsible supply chains in the garment and footwear industry, which employs millions of unskilled labourers, of which a large percentage are women. The OECD has also prepared a guidance document for how institutional investors can conduct due diligence assessments in a demanding and complex financial sector, and guidance for handling conflict minerals.

In 2017, the OECD produced a new draft of a due diligence guidance for responsible business conduct. Norway's NCP invited key stakeholders to give feedback on the guidance through a consultation process and sent our input to the secretariat in Paris. After its launch, the guidance will be a key document for Norway's NCP work and training in the future.

The guidance documents are unique in that they are recommendations from governments prepared in cooperation with key business representatives from each industry. They focus on stakeholder engagement and also include a unique gender perspective. It is challenging for businesses to familiarise themselves with what is expected of them under the OECD Guidelines, and the sectoral guidance provides useful examples and advice. The Norwegian NCP will continue to promote the sectoral guidance in the form of seminars and courses.

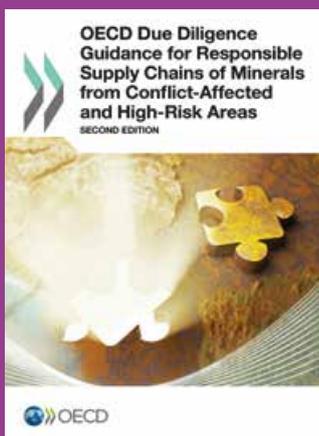
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*Responsible Business Conduct for Institutional Investors.*



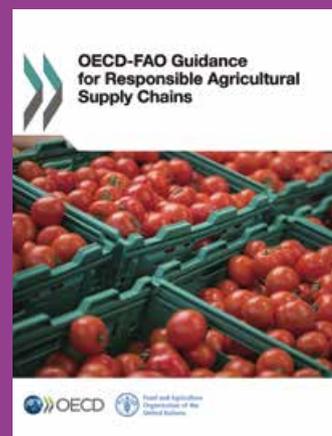
*OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector.*



*OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.*



*OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector.*



*OECD Guidance for Responsible Agricultural Supply Chains.*



# Could your business become involved in violations?

Due diligence for responsible business conduct is the key method of ensuring compliance with the OECD guidelines for multinational enterprises. Norway's NCP therefore organises regular courses in how to put them into practice.

The goal of due diligence is that the company systematically maps risks and then implements measures to avoid contributing to harmful impacts on people, the society and the environment.

Companies can find it challenging to familiarise themselves with the OECD guidelines for responsible business conduct and how to comply with them in practice. By providing an introduction to both the guidelines and the due diligence process, the

courses aim to help businesses to establish and further develop their risk assessment procedures.

Key topics covered are how to ensure stakeholder engagement, how to safeguard labour rights and how to ensure good purchasing practices. The participants become acquainted with new tools and are given individual assistance from experts in the field.

In 2017, 12 businesses from different sectors and of different sizes took part in courses consisting of three full-day sessions. The businesses shared a desire to learn more about responsible business conduct in a globalised world with complex supply chains.

*Mestad gave the opening talk on the course in due diligence for responsible business conduct.*



Kurs i aktsomhetsvurderinger



OECDs **RETNINGSLINJER**  
FOR FLERNASJONALE SELSKAPER

NORGES KONTAKTPUNKT  
FOR ANSVARLIG NÆRINGSLIV





**MARI HAAVE SVEEN**

*Senior Advisor,  
Project Development  
and Construction  
Department*

– Statsbygg has an overall responsibility for contributing to a responsible building and construction industry. It is therefore important for us to increase our knowledge of how we can promote responsible business conduct in our activities and supply chains. The NCP's courses are one of several sources that provide better understanding and sharing of experience, and the use of stakeholder engagement as a tool has been of genuine interest. As a public-sector developer, we would very much appreciate similar courses being adapted to public enterprises.

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**THOMAS TØNNESEN**

*Head of Customer Analysis  
Department – International  
Corporate Division*

– Inspiring to gain insight into other businesses' thoughts on how to act responsibly in business activities. Good exchanges of opinions and experience placed in a useful context by the lecturers.

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**JANNICKE  
ARNESEN-ZARDI**

*Compliance Officer/  
HR Adviser*

– The course in due diligence for responsible business conduct was useful, and the most educational part was networking and hearing how other companies approach due diligence both in relation to human rights and anti-corruption. The individual assistance was also valuable, since we looked specifically at Norconsult and what we can improve and make further efforts in.

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*Johan A. Andresen from the Council on Ethics gave an introduction in the NCP seminar.*

## Seminar on responsible business conduct as a competitive advantage

**Responsible business conduct is the key to sustainable development, but is it also a competitive advantage? This was the topic of a follow-up seminar on 3 March for businesses that had previously taken part in the due diligence for responsible business conduct course.**

The seminar was opened by State Secretary Laila Bokhari, who stated that the Government expects Norwegian businesses to comply with the OECD Guidelines and demonstrate responsible business conduct. Johan H Andresen shared his experience from the Council on Ethics for the Government Pension Fund Global relating to risk assessments, and from Ferd AS concerning their work on responsible business conduct. Marie Rustad has studied the topic and stated that young talented individuals



*Laila Bokhari*

are motivated by responsible business conduct, but also that businesses must not lose sight of important messages on how to work responsibly – it must be rooted in the whole organisation.



*The Government's Action Plan on Business and Human Rights specifies that companies shall receive adequate guidance on responsible business conduct from public funding agencies.*



*These institutions are part of the online portal*

## Public funding agencies and expectations on responsible business conduct

A number of public sector entities provide funding for business promotion, such as the Norwegian Export Credit Guarantee Agency (GIEK), Innovation Norway, Norfund, Norad, the Research Council of Norway and the Ministry of Foreign Affairs.

The Government's Action Plan on Business and Human Rights specifies that: Companies that apply for government funding or services shall receive adequate and consistent information and guidance on responsible business conduct and the Government's expectations concerning respect for human rights.

In cooperation with the entities listed above, Norway's NCP has developed an online portal for the public funding agencies' requirements and guidance on responsible business conduct. There you can find brief information about the entities, the requirements they make, and what guidance they provide on responsible business conduct.

[www.responsiblebusiness.no/nettportal-ansvarlig-naeringsliv/](http://www.responsiblebusiness.no/nettportal-ansvarlig-naeringsliv/)



*Promoting respect for human rights is key for responsible business conduct.*

## Consistent guidance on responsible business conduct

**The NCP is making efforts to ensure that public sector entities can provide good and consistent advice to businesses on risk management and due diligence methods. For the second time, the NCP organised an introduction course for public sector entities in human rights due diligence.**

Representatives of the Norwegian Guarantee Institute for Export Credits (GIEK), Innovation Norway (IN), the Agency for Public Management and eGovernment (Difi), GIEK Kredittforsikring, the Norwegian National Human Rights Institution (NIM), the Ministry of Foreign Affairs (UD), Norfund, and the Norwegian Agency for Development Cooperation (NORAD) contributed to good discussions about how we can promote respect

for human rights and present a consistent message to Norwegian companies and other stakeholders.

The due diligence assessment method was introduced, which the businesses have learned on the NCP course. Varner took part in the course and shared their experience from due diligence work. They discussed some of the concrete challenges faced by the textile industry, which often has many sub-suppliers in countries with major human rights issues. It was motivating for the participants to hear how Varner makes systematic efforts to manage risk and make requirements of its partners to avoid contributing to human rights violations.



**KAMIL ZABIELSKI**  
*Head of the Sustainability Team, the Norwegian Guarantee Institute for Export Credits (GIEK)*

– GIEK sees great value in the NCP’s course, which has helped to achieve a constructive dialogue with our customers. The course for public sector entities is important in ensuring that different entities in the public funding system express the same expectations of businesses as regards responsible business conduct.

We look forward to working with the NCP on a sector-specific course for our customers in the shipping industry in 2018.

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**KRISTIN IMAFIDON**  
*Senior Adviser, Norfund*

– Norfund’s task is to help to develop sustainable business activities in developing countries. Identifying and managing social and environmental risks are key aspects of our work. The course provided an opportunity to become better acquainted with other government entities who work on issues related to human rights and private sector development in developing countries.

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**ADELE MATHESON MESTAD**  
*Deputy Director, the Norwegian National Human Rights Institution*

– The NCP’s course in responsible business conduct for public sector entities was very interesting and useful. It enables public sector entities to provide good, uniform advice on how businesses can safeguard human rights through systematic due diligence assessments. It helps to fill the gap between the public and private sector’s responsibilities to safeguard fundamental rights.

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### Aker ASA Group conference

On 16 March 2017, the NCP was invited to inform the local branches of the Confederation of Norwegian Trade Unions (LO) in Aker ASA about responsible business conduct expectations and what the OECD Guidelines entail. It was an inspiring meeting with dialogue between trade union representatives, the NCP, those responsible for CSR in the various business areas and the management represented by Atle Kigen, Communication Director in Aker ASA.

One of NCP's messages was that the employee organisations have a responsibility for promoting the Guidelines. It was discussed how global framework agreements often require compliance with guidelines and conventions, including Chapters IV and V of the OECD Guidelines, which concern human rights and employment and industrial relations.

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### Responsible purchasing

On 18 September, the NCP gave an introduction in the Ethical Trading Initiative Norway's launch of its Guide to Buying Responsibly. The guide builds on an international investigation showing that businesses can undermine their own standards and the suppliers' ability to ensure good working conditions through poor purchasing practice. Buying responsibly is an important aspect of the OECD Guidelines, underlining that businesses should map whether their goods are manufactured in countries with a high risk of corruption, child labour, forced labour and poor trade union rights. It is therefore important that businesses have a clear policy as regards responsible purchasing, of which making requirements of suppliers and their use of subcontractors is a particularly important element. The Ethical Trading Initiative Norway organises courses on the Guide to Buying Responsibly.

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## The EU and responsible business conduct

EU is important for business through the EEA Agreement. EU also attempts to encourage responsible business conduct. Ola Mestad gave the opening talk at a seminar on responsible business conduct under the auspices of the European Economic and Social Committee in Brussels on 20 February. The topic of the seminar was how the EU integrates corporate social responsibility requirements in its trade agreements, using the trade agreement with the Republic of Korea as a case study.

The EU builds its responsible business conduct efforts on the UN guidelines and standards developed by the OECD, but often takes things a step further. EU has the authority to adopt binding rules. Some of these rules also apply to Norway through the EEA Agreement. This applies to the procurement directives that set out detailed requirements on responsible business conduct and the directive relating to large corporations' duty to disclose information of a non-financial nature.

The OECD Guidelines can contribute to binding regulations. The EU has incorporated recommendations from the OECD guidance on conflict minerals into the EU Conflict Minerals Regulation, which sets out binding due diligence requirements for importers.



Norway's NCP has been active in the public debate on issues related to responsible business conduct.

## Media coverage on the NCP





## THE SUSTAINABLE DEVELOPMENT GOALS



**The 17 Sustainable Development Goals** are ambitious, aiming, among other things, to eradicate all forms of poverty and combating climate change. The goals cannot be achieved without contributions from the business sector and the infusion of private capital. Responsible business conduct is both an important step towards achieving individual goals and fundamental to the goals as a whole. The OECD Guidelines express basic requirements of responsible business conduct that are a precondition for achieving the Sustainable Development Goals.



## Handling of specific instances

The National Contact Point arrangement gives individuals, local communities and organisations a place to turn to with their complaints when they believe that multinational enterprises have had a negative impact on people, society and the environment. This makes the OECD Guidelines for Multinational Enterprises unique. No other international instruments have a corresponding grievance mechanism.

Norway's NCP handles complaints against Norwegian multilateral enterprises in cases where it is claimed that they do not comply with the OECD Guidelines.

The complaints mechanism is non-judicial. The NCP offers guidance, dialogue and mediation between the parties, and the goal of the process is to reach a joint solution. Case processing should be impartial, predictable, fair and in line with the Guidelines.





# Is it too difficult to file complaints?

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**Norway's NCP handles a small number of specific instances. This does not necessarily mean that Norwegian businesses keep to the straight and narrow. The reason is rather that civil society is hesitant when it comes to using the arrangement.**

**Text:** Marianne Alfsen

The NCP system cannot intervene on its own initiative, but is dependent on receiving complaints concerning failure to comply with the OECD guidelines on responsible business conduct.

– The grievance mechanism is used too rarely, says Markus Rotevatn, Adviser for the Forum for Development and Environment, an association comprising 50 Norwegian organisations.

The question is why?

## **Resource-demanding**

– One answer we often hear from our members is that the process is too demanding in terms of resources, says Rotevatn.

He explains that small organisations in particular find it hard to spend several months preparing a complaint without knowing whether it meets the strict requirements or whether the company the

complaint concerns will participate in the process if the case is accepted.

It is particularly difficult to demand the necessary efforts from those affected by the breach of the OECD Guidelines when there are so many uncertainty factors.

– They are also scared of raising the victims' expectations says Rotevatn, and adds that if a complaint is rejected, it can be challenging to defend the use of resources to the donors.

– Many wish that the arrangement was more in line with a notification entity, where it is not up to the organisations themselves to provide all of the documentation, says Rotevatn.

## **David and Goliath**

If the complaint goes on to mediation under the auspices of the NCP, the organisations must dedicate further resources to following the case up. According to Rotevatn, the organisations that have lodged complaints have felt that the process was drawn out.

– They also experience an unequal balance of power, says Rotevatn, and describes a feeling of being an activist faced with a wall of lawyers and endless resources, both in the NCP and the company the complaint concerns.

## – The grievance mechanism is used too rarely

Markus Rotevatn, ForUM



– It entails a language and culture barrier, where all parties involved have a responsibility to understand each other better,' Rotevatn believes, and underlines how important it is that the organisations are taken seriously and met with respect.

### On the side of the businesses?

– The NCP has over the past years maintained a particular focus on information activities aimed at businesses, without an equivalent effort targeting civil society. This has likely contributed to the organisations being left with the impression that the NCP is closer to business and industry than to civil society, Rotevatn believes.

In 2018, Norway's NCP plans to improve civil society's knowledge of the Guidelines and the grievance mechanism, and Rotevatn underlines that this dialogue is under way.

### Weak outcome for the victims?

– When it comes to the outcomes, many people will probably focus on specific financial compensation for the victims, which is rare,' says Rotevatn.

He adds that decisions on matters of principle, which set a precedent and lead to changes over time, can also be deemed a positive outcome.

– The way things have been, though, some people may feel that just getting the complaint to the mediation stage is a victory, and that shouldn't be the case, says Rotevatn.

### Right way to use resources?

He points out that all organisations must consider at all times how they can achieve the best results. This may not always be through the national contact point system.

– Large organisations with greater capacity and expertise and good business contacts may benefit just as much from direct dialogue. For small organisations, however, or when the company does not show any interest in the matter, it clearly strengthens their position to have the NCP as a door opener for dialogue,' says Rotevatn, and concludes:

We feel that the NCP system is important and the grievance mechanism is the best we have. As organisations, we should definitely become better at using it, but there is also a great obligation in being such a grievance mechanism. If this kind of voluntary arrangement that is used in the NCP system doesn't work, our focus will rapidly turn to more binding schemes for business and industry. The added value to the organisations is calculated somewhere between the required resources and possible results we can expect.



## Industri Energi versus DNO ASA

In 2017, the NCP has dealt with a specific instance where the Norwegian trade union Industri Energi, on behalf of the Yemeni trade union DNO Yemen Union, filed a complaint against Det norske oljeselskapet DNO ASA (DNO) with the NCP. The complaint was accepted by the NCP, which initiated mediation and dialogue that was not successful. In line with our procedures, the NCP will handle the

specific instance and prepare a final statement, with possible recommendations to the company on how to comply with the OECD Guidelines. The primary issue that the NCP was asked to look into concerned the alleged lack of dialogue between DNO and the employee representatives in Yemen in connection with collective dismissals and suspension of production in 2015.

## How do Norwegian enterprises manage risk in challenging markets?

– Norwegian enterprises operating in a challenging markets must do what they can to prevent violations and act as constructive change agents. We know that there are major challenges in some countries where Norwegian enterprises operate relating to human rights, freedom of association and labour rights. In such cases, it is important to enter into dialogue with the local authorities, and to follow the NCP and other stakeholders' recommendations.

It is important that Norwegian enterprises abroad have close dialogue with the Foreign Service missions, which should be clear as to what is required in terms of responsible

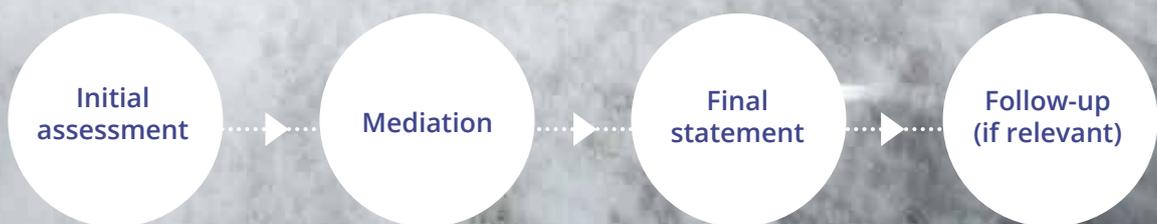
business conduct and risk assessments. At the same time, the foreign service missions should provide good guidance in corporate social responsibility, and provide advice on the challenges enterprises can face, for example in relation to human rights, and ensure that the advice is suited to big and small enterprises.



*Jon Vea – the Confederation of Norwegian Enterprise, NHO*



The four stages of the NCP's handling of a specific instance





# 3

## International cooperation with the OECD's central organisation and other NCPs

The NCP's third main task is to cooperate and share best practice with the OECD and with the other 48 national contact points. It is essential for trust in the NCP system that multinational enterprises meet the same requirements and expectations, regardless of which OECD country they are based in. However, the NCPs are organised differently, and their resources and status also varies, which challenges this principle.





# The National Contact Point system – not perfect, but the best we have

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**The Norwegian NCP has sufficient resources, independence and trust to contribute in line with the intentions. This is not the case everywhere. Norway's NCP is therefore making active efforts to help to raise the standard of the NCP system internationally.**

**Text:** Marianne Alfsen

– There are serious shortcomings and differences in the NCP system within the OECD family, admits NCP member Frode Elgesem.

– That said, however, the system is unique, he continues, and explains how the OECD guidelines for responsible business conduct constitute the only arrangement that brings the parties to mediation through a grievance mechanism.

– This makes the NCP system important for setting standards and developing what is required of business and industry, says Elgesem.

## Many cases resolved

The 'Heineken case' is a good example of the significance of the NCP system. In 2017, the Dutch NCP negotiated an agreement between the Heineken Group and previous employees in DR Congo, who accused the Group of unlawful termination and missing pay.

Elgesem also refers to the Swiss NCP's work on the Football World Cup in Qatar, which led to major improvements in working conditions for migrant workers.

– The Norwegian and Swedish NCPs' work with Statkraft and Jijnjevaerie Sami village, and the conflict concerning wind power development in an indigenous community is a good example of the NCP's ability to bring parties together and, in this way, help to resolve conflicts between businesses and indigenous peoples, says Elgesem.

## Major weaknesses

One thing that the Swiss, Dutch, Swedish and Norwegian NCPs have in common is that they have sufficient resources to process the complaints they receive.

– This is not the case everywhere, Elgesem points out.

While several NCPs comprise one lone bureaucrat who also has other duties, the Norwegian NCP has its own secretariat and an expert body chaired by a professor, with three members appointed on the basis of nominations from civil society, NHO and LO.

– The Norwegian way of thinking is that the NCP must be independent of the Government, which we

– Strengthening the National Contact Point system in countries where it is weak will be a huge step forward towards responsible business conduct.

Frode Elgesem,  
member of Norway's NCP



believe is a major advantage, particularly in the handling of specific instances, explains Elgesem.

### Contributing internationally

Different priorities and forms of organisation lead to major differences in how well business activities are monitored in the different OECD countries.

– Strengthening the NCP system in countries where it is weak will be a huge step forward towards responsible business conduct, Elgesem believes.

The Norwegian NCP is considered to be one of the better functioning NCPs and takes active part in improvement efforts. Among other things, Elgesem took part in a peer review in Chile in 2017, which was a thorough review of the functioning of the Chilean NCP that gave rise to concrete proposals for improvements. Peer review is planned for all of the NCPs by 2023.

– Peer review is important, but there are not enough resources to do it in all the countries, and it is only done once. We need more resources and a follow-up mechanism, Elgesem believes.

### A good outcome?

The NCP system is also criticised for not producing good enough outcomes. Elgesem feels that there is a need to raise competence in the handling of

specific instances in many countries. At the same time, there is disparity in some cases between the parties' expectations for the outcome and the aim of the arrangement.

The Heineken agreement involved compensation, which is rare. The NCP facilitates mediation and does not have the authority to order anyone to pay compensation, only to recommend that it be considered.

– The Football World Cup case is a more typical example, says Elgesem.

The main outcome was a better understanding of human rights obligations in FIFA, which led to major changes, including in what is required of local partners. The Statkraft case was initially concluded without an agreement being reached, but the process helped the parties to reach agreement at a later date.

– We must protect the NCP system because it is the best instrument we have. However, it relies on civil society actually using it and reporting cases to us, Elgesem points out, and adds:

– This is why we need to focus more on developing civil society's ability and willingness to use the system.



## The NCP's contributions in international forums

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**During 2017, Norway's NCP has attended and made contributions to international meetings with the business sector, the OECD's central organisation, other NCPs, the UN, civil society and trade unions.**

These events are important arenas where the NCP works to promote the Guidelines and strengthen the NCP system, and they are an essential part of our three-part mandate. Participation in various seminars, both in Norway and abroad, helps to harmonise the understanding of the OECD Guidelines in several countries and will thereby contribute to a more level playing field for international businesses.

In 2017, the NCP hosted eight events on responsible business conduct. The NCP has also given the opening talk at 22 different national and international events. The attendees and partners at these events have been representatives of the Norwegian business sector, other public sector and international bodies, the academic community and Norwegian special interest organisations, including development organisations and employee organisations. The topics have included the OECD Guidelines, human rights due diligence, including responsible business conduct in the financial sector, labour rights and the OECD's sectoral guidance.





Major interest in Lithuania in the Norwegian NCP's experience.



Elgesem and Roel Nieuwenkamp, Chair of OECDs working party on responsible business conduct, in Chile.

## Peer cooperation with other NCPs strengthens the arrangement

Peer support is a key aspect of the OECD NCP system. The NCPs are encouraged to assist each other and share experience. In 2017, Norway took part in the following activities:

**Chile:** Frode Elgesem was part of the team that carried out the peer review of Chile's NCP in August 2017. These reviews are very useful in providing concrete advice on how the arrangement can work in all 48 countries that are part of the arrangement.

Frode Elgesem also participated in a regional seminar on human rights and businesses held

in Santiago de Chile in January. The seminar was under the auspices of the UN High Commissioner on Human Rights' regional office in South America and gathered representatives from the business sector, national human rights institutions and NCPs in the region.

**Lithuania:** Along with Denmark's NCP, the Norwegian NCP took part in a capacity building workshop and business seminar under the auspices of the Lithuanian NCP. The seminar focused on procedure guidelines, websites, information and seminars to promote the OECD Guidelines, and promotion of the arrangement to Lithuanian stakeholders.



*Elgesem had meetings in Chile with Norwegian Ambassador to Chile, Beate Stirø, and Head of the Chilean Bar Association Arturo Alessandri Cohn.*





## Mediation seminar

How do you best facilitate good dialogue? What can the NCPs do if a company does not want to engage in dialogue? How do you balance the need for confidentiality and freedom of information? In September 2017, the Norwegian NCP, along with 11 other NCPs, took part in a mediation seminar in Washington D.C. under the auspices of the US NCP. Mediation, conflict resolution and dialogue are key aspects of the NCPs' mandate.

## Banks and responsibility – Mestad attended the Thun Group's annual meeting in Switzerland

The Thun Group is a conglomeration of major banks working on the banking sector's compliance with the UNGP. Ola Mestad attended the Thun Group's annual meeting in Switzerland in June. It ignited great international debate when the Thun Group was criticised for its interpretation of banks' responsibility by Professor John Ruggie, who developed the UNGP. This was a key issue at the annual meeting.



## Cooperation with the Rafto Foundation

On Thursday 5 October, Bergen Chamber of Commerce and Industry, in cooperation with the Institute for Human Rights and Business (IHRB) and the Rafto Foundation, organised a breakfast meeting entitled 'Human rights – in the best interest of business and industry'. NCP member Frode Elgesem took part and introduced the UN Guiding Principles on Business and Human Rights, with a focus on due diligence as an important method of mapping whether companies contribute to risks to people, communities and the environment. Ron Popper, former Head of Corporate Responsibility in the ABB Group, gave good practical examples of how the group has integrated and implemented due diligence in its business model.

## Norwegian-Baltic cooperation

The Norwegian and Danish NCPs have taken the initiative to establish cooperation between the NCPs in the Nordic and Baltic countries. This includes the NCPs in Norway, Sweden, Denmark, Finland, Iceland, Estonia, Latvia and Lithuania, and will be followed up with a seminar in 2018, which will likely be held in one of the Baltic countries.



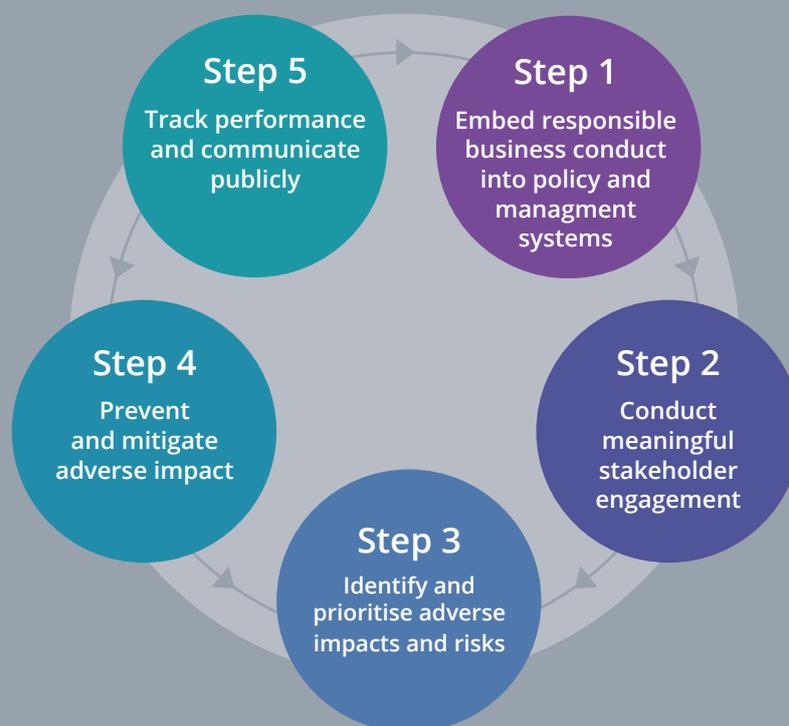
# Accounts for 2017 for Norway's NCP

The NCP's budget mainly goes to fees for NCP members and secretariat employees (two permanent employees and one temporary). Other funds are spent on handling specific instances, preparing information and course material, and providing expert assistance.

All figures are in NOK

	2017 EXPENDITURE
Fees for NCP members	345 000
Salary, secretariat	2 629 000
Travel expenses	378 000
External consultancy	336 000
IT, misc. office equipment and printed matter	85 000
Information activities, courses and meetings	309 000
Translations	325 000
<b>Total</b>	<b>4 407 000</b>

# 5 steps to ensure responsible business



The OECD guidelines expect that enterprises carry out risk-based due diligence to identify, prevent and mitigate actual and potential adverse impacts, both in their own operations and in the supply chain. Furthermore, enterprises should account for how these impacts are addressed.

Risks refers to the risk of harm on individuals, other organisations and communities in relation to human rights, labour rights and the environment.

Enterprises should track progress on due diligence and should communicate publicly on the processes, including on how the enterprise has addressed negative impacts.

The five steps illustrates that this entails a dynamic, and ongoing process.



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