

<i>Ne-daa-kii-me-naan Inc.</i>	<b>COMPLAINTS/DISPUTE RESOLUTION PROCESS</b>	<b>Document #:</b>	Nedaak SOP-005
		<b>Revision #:</b>	1.4
		<b>Revision Date:</b>	March 3, 2021
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**SCOPE :**

This document provides guidelines on the management of complaints and dispute resolution processes including disputes of substantial magnitude that are not covered by existing dispute resolution processes.

**DEFINITION:**

A **complaint** is defined as an expression of dissatisfaction or concern by any person or organization presented to the Organization.

***Culturally appropriate engagement:*** Means/approaches for outreach to target groups that are in harmony with the customs, values, sensitivities, and ways of life of the target audience.

The approach can be adapted to the level of engagement required and adjusted to meet the needs of the intended group, as appropriate.

It should consider, but not restricted to the elements listed below:

1. Cultural difference/attitude:
  - a. Preference for direct or indirect negotiation
  - b. Status of the current relationship and existing level of trust.
2. Representation
  - a. Representatives are identified for each activity in which engagement is required.
3. Communication, including:
  - a. How information is exchanged
  - b. Methods for cross-cultural communication including how information is presented
  - c. Sensitivities in the use of jargon
  - d. Shared level of understanding of the language used to communicate forest management planning and certification process (written and spoken)
4. Documentation:
  - a. Outcomes and agreements are recorded and shared with approval sought on the content and intended use of records
  - b. The way outcomes and agreements are shared both internally and externally should be agreed to in advance
5. Timeframe:
  - a. Timeframe for the engagement is determined and allows for adequate involvement.
  - b. Availability of participants is considered.
6. Capacity:
  - a. Consideration is given to the capacity and required resources necessary to facilitate an appropriate level of engagement, including access to appropriate technology and the level of knowledge of the affected community.

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7. Decision making

- a. Approach for making decisions, including consideration of direct or indirect negotiation is determined.

A **dispute** is a formal disagreement, after the initial attempts to resolve a complaint have not been achieved.

A **dispute of substantial magnitude** is a dispute that involves one or more of the following:

- Where negative impact of management activities on local communities or on Indigenous Peoples legal or customary rights is of such a scale that it cannot be reversed or mitigated
- Physical violence
- Significant destruction of property
- Presence of law enforcement or military bodies
- Acts of intimidation against workers and stakeholders

A dispute can become of substantial magnitude if it is of substantial duration, implies a significant number of interests and has a significant negative impact to the forest resource/value.

Dispute of substantial magnitude are not common and represent the exception.

**Timely manner:** As promptly as circumstances reasonably allow; not intentionally postponed by the Organization (or other parties involved); in compliance with applicable laws, contracts, licenses or invoices.

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### **COMPLAINTS PROCEDURE:**

In the everyday operation of the organization, enquiries, such as requests for information or a request for a solution to an issue, from Indigenous communities or members or stakeholder/interested/affected parties are common and most often the organization can easily and expeditiously address these requests. If a stakeholder is not satisfied with the outcome of its query, he/she may lodge a complaint internally with the organization. In which case, the following process shall be implemented:

Upon receipt of a complaint the following process shall be implemented:

- a) Compliant is recorded and documented in the External communication log database (by the Nedaak FMP Forester, including a description of the issue.
- b) Nedaak FMP Forester reviews the complaint form and provides formal response to complainant within 10 business days.
- c) FMP Forester ensures the complaint is logged in the External communication log, recording all actions taken in relation to the complaint.
- d) Dialogue with complainants that aims to solve complaints before further actions are taken, ensuring *culturally appropriate* engagement.
- e) Employ a precautionary approach towards the continued activity while a complaint is pending (if applicable).
- f) If the complaint is resolved the FMP Forester adds supporting documentation to the External communication log and compliant is closed.
- g) If the complaint cannot be resolved, it is then deemed a dispute and follows the table on the next page.
- h) FMP Forester notifies complainant that the complaint is escalated to a dispute and advises them of the next steps as per the table as a guide and logs this information to the External communication log.
- i) Take appropriate actions with respect to complaints and any deficiencies found in processes, verifying whether corrective action has been taken and whether it is effective.
- j) Notify the complainant when the complaint is considered to be successfully addressed and closed.
- k) If dispute remains unresolved, document and log reasons that dispute is not resolved and options for how to resolve.

The organization currently has access to a number of dispute resolution processes. Depending on the nature of the dispute, the applicable existing dispute resolution process shall be used.

Nature of the Dispute	Forest Management <sup>1</sup>						Others <sup>2</sup>
Object of Dispute	Statutory or Customary Law	Working Conditions	Agreement	Forest Management Planning	Impact of Forest Management activities	Other	
Group or Party	<ul style="list-style-type: none"> <li>Indigenous Communities</li> </ul>	<ul style="list-style-type: none"> <li>Other Affected Stakeholders</li> <li>Local Communities</li> </ul>	<ul style="list-style-type: none"> <li>Workers</li> </ul>	<ul style="list-style-type: none"> <li>Indigenous Communities</li> <li>SFL Members</li> </ul>	<ul style="list-style-type: none"> <li>Affected or Interested Stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>Indigenous Communities</li> <li>Affected or Interested Stakeholders</li> <li>Local Communities</li> </ul>	<ul style="list-style-type: none"> <li>Any Group or Party (incl. individuals)</li> </ul>
Specific Provisions	<ul style="list-style-type: none"> <li>Forest Management Planning Manual Issue Resolution Process<sup>3</sup></li> </ul>	<ul style="list-style-type: none"> <li>Forest Management Planning Manual Issue Resolution Process</li> </ul>	<ul style="list-style-type: none"> <li>Company procedure for complaints</li> <li>OHRC Procedures for resolving complaints<sup>4</sup></li> <li>utilize union grievance process (if available)</li> </ul>	<ul style="list-style-type: none"> <li>Management contract Agreement Dispute Resolution Process<sup>5</sup></li> </ul>	<ul style="list-style-type: none"> <li>Terms of Reference for the Kenogami Forest 10-year FMP Issue Resolution Process<sup>6</sup></li> <li>Forest Management Planning Manual Issue Resolution Process</li> </ul>	<ul style="list-style-type: none"> <li>Forest Management Planning Manual Issue Resolution Process</li> <li>GANRAC LCC Terms of Reference Conflict Resolution Process<sup>7</sup></li> </ul>	<ul style="list-style-type: none"> <li>-Use Dispute Resolution Process (next page)</li> <li>- Nedaa-SOP-005</li> </ul>

<sup>1</sup> The conflict and/or concern within the scope of the formal issue resolution process of Forest Management are the following: proposed LTMD, proposed operations in the preparation of a FMP, contingency plan, minor or major amendment, amendment to the LTMD, or insect pest management program.

<sup>2</sup> Concerns that are not within the scope of the formal issue resolution process include concerns related to matters outside MNR's mandate, Crown land use planning or matters that would require a legislative or regulatory amendment, or a change in the direction or guidance set out in MNR manuals, policies or guides.

<sup>3</sup> OMNRF. May 2020. Forest Management Planning Manual, Toronto. Queen's Printer for Ontario. 318 pp). Refer to Part A, Section 2.4.

<sup>4</sup> [6. Procedures for resolving complaints | Ontario Human Rights Commission \(ohrc.on.ca\)](https://www.ohrc.on.ca/en/6-procedures-for-resolving-complaints)

<sup>5</sup> Ne-daa-kii-me-naan Inc. Management Contract (version of March 21, 2021).

<sup>6</sup> Terms of Reference for the Kenogami Forest 2021 to 2031, Ten Year Forest Management Plan (version of September 2020). Refer to Section 2.6.

<sup>7</sup> MNR Nipigon District. 2018. Geraldton Area Natural Resources Advisory Committee and GANRAC Local Citizens Committee – Terms of Reference. Refer to Section 6.

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**DISPUTE RESOLUTION PROCESS:**

- The Kenogami Forest is Crown land, therefore the MNRF District Manager may provide direction in order to settle the dispute as a first step.
- A variety of approaches may be used to resolving disputes, including, but not limited to:
  - Arbitration
  - Inquiry/Investigation
  - Mediation (neutral third-party)
- The chosen method should match the level and nature of the dispute.
  - Consensual or restorative processes such as mediation, negotiation or other conciliatory processes where the goal is for the parties to reach agreement are preferred.
  - The dispute resolution process shall be adapted through culturally appropriate engagement prior to implementation.
  - Records of disputes are kept, as well as outcomes taken.
  - Parties shall agree on a method of resolving the dispute.
  - Disputes are best dealt with those closest to the situation and with relevant parties involved. If there is a dispute of substantial magnitude, the response should be tied to the specific area that is under dispute. For certification Principles 1 and 4: if the dispute is elevated to a dispute of substantial magnitude, then the value or right at risk must be maintained/protected.
- Ceasing operations may be considered as part of the dispute resolution when proposed management activities may negatively impact the rights and interests of affected stakeholders or indigenous peoples or may generate irreversible damage to an important value. If the dispute escalates and becomes a dispute of substantial magnitude, operations may be required to cease in the area directly related to where the dispute exists. However, ceasing operations should be used as a last resort when the previous actions have failed to resolve the issue, and where there is a real danger associated with the continuation of forest operations.
- It is expected that all parties involved in the dispute are working in good faith and in a reasonable manner, and that all parties can demonstrate the efforts deployed to resolve the dispute.
- Unless previously agreed otherwise, each party is expected to cover their cost related to the implementation of this dispute resolution process. Parties involved shall equally share the cost of an expert or mediator.