

FORM FOR MAKING A SPECIFIC COMPLAINT UNDER THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES.

Before coming to the Australian National Contact Point (ANCP) it is recommended to address your complaint/issue with the multinational enterprise (MNE) directly. Many MNEs have internal complaint handling procedures that may be able to assist in addressing the issue.

Parties are encouraged to complete this form but formal complaints will be accepted in any written form.

Details of the complainant			
<p>Name of the party making the complaint:</p> <p>1. Rights & Accountability in Development (RAID) - UK, 2. Human Rights Council of Australia, 3. Chil-Out (Australia), 4. International Commission of Jurists (Switzerland), and the 5. Brotherhood of St Laurence (Australia).</p> <p>For the purposes of initial communication in Australia please contact Patrick Earle, Executive Director, Human Rights Council of Australia</p>			
<p>Address:</p> <p>PO Box L 23, South Maroubra, NSW.</p>			
City: South Maroubra	State: NSW	Postcode: 2035	Country: Australia
Telephone number:	0401 932 196	Fax Number:	
Email Address:	p.earle@unsw.edu.au		
<p>Please indicate your preferred means of contact: Telephone <input type="checkbox"/> Fax <input type="checkbox"/> Email <input checked="" type="checkbox"/></p>			
Details of the MNE this complaint is about			
<p>Name of MNE to which the complaint refers:</p> <p>Global Solutions Limited (Australia) Pty Ltd</p>			
<p>Address of the MNE's head office in Australia:</p> <p>Fawkner Centre Level 16, 499 St Kilda Rd, Melbourne, Victoria 3004</p>			
City: Melbourne	State: Victoria	Postcode: 3004	
Is the MNE Australian or foreign owned (please indicate)?		Australian <input type="checkbox"/>	Foreign owned <input checked="" type="checkbox"/>
Where is the MNE headquartered?	State: WR12 2LJ	Country: United Kingdom	

Details of the issue/complaint

Set out the details of the activity (add supporting claims as attachments).

The complainants allege that Global Solutions Limited (Australia) Pty LTD (GSL), through its investment in and management of, immigration detention facilities, has perpetrated and /or participated in human rights violations, and is in breach of the Human Rights provision and the Consumer Interests provision of the OECD Guidelines for Multinational Enterprises. GSL (Australia) is also not meeting its own human rights policy. GSL(Australia) invests in and manages immigration detention centres where human rights abuses are occurring.

All details are in the attached submission. A summary of details of the breach include, but are not limited to:

GSL(Australia) is in breach of the Guidelines by acquiescing in the detention of children in its immigration detention centres.

GSL (Australia) has failed to remove children from immigration detention following recommendations of health care professionals, in contravention of article 7 of the International Covenant on Civil and Political Rights.

GSL (Australia) is violating the rights of child asylum seekers to measures of protection as required by their status as minors, in contravention of article 24, paragraph 1, of the international Covenant on Civil and Political Rights.

GSL (Australia) is complicit in violations of the Convention on the Rights of the Child by detaining Children

GSL (Australia), by acquiescing in the mandatory and indiscriminate detention of asylum seekers without charge or judicial review, is complicit in subjecting them to a regime of indefinite and arbitrary detention in contravention of Article 9 of the International Covenant on Civil and Political Rights.

GSL (Australia), through the penalising of asylum seekers who enter Australia without valid documentation, is in contravention of article 31 of the Refugee Convention.

GSL (Australia's) claim to be "committed to promoting best practice in human rights in its policies, procedures and practices" cannot be sustained.

GSL (Australia) does not comply with its own policies, procedures and practices with regards to human rights

Indicate whether there are any difficulties with the information supplied being forwarded to relevant parties (e.g. identity of complainant, documentary evidence).

The attached submission has been developed to the highest standard. There are no difficulties with any information contained, and documentary evidence being widely distributed.

What section of the Guidelines do you believe the issue falls within?

The complainants allege that GSL (Australia) is in breach of the Human Rights provision and the Consumer Interests provision of the OECD Guidelines.

1. Chapter 2 (General Policies) Paragraph 2 states "Enterprises should...respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments".
2. Chapter 7 (Consumer Interests) Paragraph 4 calls on enterprises "Not to make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent, or unfair".

Have you contacted the MNE concerned and addressed the issue with it? If so, what was its response?

Yes.

The complainants wrote to Peter Olszak, the Chief Executive of Global Solutions Limited (Australia) Pty Ltd and to Stephen Brown, the Chief Executive of Global Solutions Ltd in April 2005. A copy of the letter sent and the response are attached in Appendix G and H of the complainants submission.

What is your association with the MNE?

The complainants have no association with Global Solutions Limited (Australia) or the parent company Global Solutions.

Do you consider that the MNE is breaking Australian law as a result of this issue? If so, please provide details.

The OECD Guidelines have supranational applicability. This means that whilst "Governments have the right to prescribe the conditions under which multinational enterprises operate within their jurisdictions" this right is qualified as "subject to international law". The human rights provision of the OECD Guidelines requires conformity with international obligations, not merely with domestic laws. A defence of domestic compliance cannot be implied into the OECD Guidelines. See page 12 - 13 of the complainants submission for further details of supranational applicability.

Have you contacted the relevant legal authorities?

Relevant national and international legal authorities have recognised and responded to the issues raised in this complaint.

What outcome are you seeking?

The complainants seek:

The Australian NCP to determine that the complaint raised has breached the OECD Guidelines for Multinational Enterprises, and to investigate the 'specific instance' in a timely and transparent manner. This will require the establishment of an expert panel that includes the complainants and allows all stakeholders an opportunity to fully present their views and information. The attached submission provides recommendations for the future conduct of GSL (Australia) to bring the company's operations into compliance with the OECD Guidelines.

Name: Patrick Earle (on behalf of the five complainants)

Signature: _____

Date: _____

