



## **Consultation Draft:**

### **CAO Approach to Complainant Protection**

#### ***Introduction***

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector arms of the World Bank Group. CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA supported projects in a manner that is fair, objective and constructive, and to enhance the social and environmental outcomes of those projects.

CAO's work with complainants is sensitive by nature, and in some circumstances, complainants may experience threats or reprisals as a result of having lodged a complaint. Equally, CAO consultants (mediators, interpreters, investigators etc.) may be at risk. This document sets out how CAO approaches these challenges and is applicable to all CAO functions, including complaints handling through the dispute resolution or compliance functions, advisory work and outreach activities.

#### ***Principles***

In any circumstance or situation, CAO acts in keeping with the following principles.

##### ***Peaceful resolution of disputes***

CAO is committed to promoting peace and wellbeing among people everywhere it works. CAO believes in the resolution of disputes through non-violent and peaceful means that promote the dignity of people and respect the rights of all. Violence or threats have no place in a CAO process.

##### ***Confidentiality***

CAO's Operational Guidelines<sup>1</sup> set out its commitment to safeguard individual identities or confidential information shared by the parties. CAO respects the confidentiality of identities of complainants in a process for as long as they choose. This confidentiality protection starts with inquiries to the office before lodging a complaint, and carries through the eligibility, assessment, dispute resolution and/or compliance process, and any related advisory work.

##### ***Complainant participation***

CAO's approach to complainant protection will be discussed and agreed with the complainants throughout the process. When CAO finds that complainants may be at risk of threats or retaliation, based on CAO's risk assessment or on information from the parties, CAO engages with the affected party throughout its involvement to discuss and reassess the risk, and to devise an appropriate response. In this context, CAO will explain CAO's limitations in this field, as CAO has

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<sup>1</sup> Operational Guidelines (CAO 2013): 1.4 Confidentiality and Information Disclosure, page 6

no direct power to physically protect complainants, and strives to be realistic and transparent in its description of what it can do in such circumstances, as set out in this document.

*Precautionary principle:* Complainants should not be worse off as a result of having lodged a complaint with CAO. CAO may conclude an assessment or a dispute resolution process and transfer the complaint to Compliance, if this is the only way to prevent harm. This decision should be taken jointly with the complainants.

## ***Approach***

Recognizing that every case context is unique and different, CAO takes a flexible approach to protecting complainants, which can be adapted to different situations, but is always guided by core principles, as noted above: peaceful resolution of disputes, confidentiality, complainant participation, and the precautionary principle.

## *Risk Assessment*

Throughout CAO's process, CAO continuously assesses the risk context of the complaint, both by consulting independent open sources and through interactions with the parties. CAO pays particular attention to risk factors such as the presence of formal or informal security forces, and seeks to identify specific groups within the affected population that may be at higher risk based on their gender, religion, or otherwise minority or vulnerable status.

## *Preventive measures*

Where relevant, CAO will work closely with the complainants to identify appropriate preventive measures adapted to the specific circumstance, especially where security concerns are present. Preventive measures can take a multitude of forms:

### *Safeguarding confidentiality*

CAO will safeguard individual identities or confidential information throughout a parties' engagement with CAO. To this end, CAO does not use photographs of anyone with confidentiality protection without their express consent, and may advise against the use of recording/filming devices during meetings to protect confidentiality. Further, CAO requires interpreters it uses to sign confidentiality agreements. CAO will be cautious in its use of electronic correspondence and phone calls which may not be secure. Logistical arrangements will be agreed with the complainants with view to minimizing any threat, such as by avoiding public meetings, or meeting people at off-site locations or where they feel it is safe.

### *Generating a supportive environment*

In dispute resolution processes, CAO may work with the parties to help create a safer environment for engagement. This can take the form of unilateral actions by either party to build trust, such as cessation of activities that are of concern to the other party. Joint public statements in support of a collaborative process can also help generate a safer environment for the process through the signal this sends to process outsiders, if this is where a source of threat may lie. Sometimes, it may be appropriate to approach other actors for assistance in creating an environment conducive

for the CAO process, such as government agents or the World Bank Group, as appropriate, after consultation with the affected party.

*Addressing power imbalances*

A source of discomfort and threat to complainants may lie in power imbalances between the complainants and the entity about which they have voiced concerns. Where parties engage in a dispute resolution process, CAO works with the parties to help address power imbalances through a variety of means, including the engagement of professional mediators, and the provision of training and ongoing capacity building for the parties engaged in dialogue.

*Response to security incidents*

Should security incidents or threats occur in the context of CAO engagement, or should the CAO become aware of such security threats, CAO will discuss with the affected party what the appropriate course of action should be. This may include discussing what options there may be for legal redress, raising the incident to the relevant authorities, or to World Bank Group management. CAO may also reflect any significant security concerns or incidents in CAO reports as appropriate.