SITE-LEVEL GRIEVANCE AND COMMUNITY RESPONSE MECHANISMS:

A Practical Design and Implementation Guide for the Resource Development Industry

The Mining Association | L'association minière
of Canada | du Canada

FOREWORD

Unlike retail businesses, which thrive and grow as a function of their product quality, good customer service and buoyant consumer markets, mining companies usually do not have direct relationships with the end-user. Instead, they sell their raw ore or concentrates to other industrial enterprises for further processing and final fabrication into industrial and consumer products. For exploration and mine site operators, the relationships of critical interest are not with the end-user, but rather with the host country's central and local area governments, as well as with local communities affected by their activities. Their focus must be on establishing, maintaining and strengthening these relationships.

Today, positive relationship building with host governments and local communities is as critical to project success as the technical and financial challenges of building and operating the mine and marketing its product. Ultimately, the success of any mine's development and operation is measured not just by its financial return to the company and its shareholders, but also by the net tangible and intangible benefits it is able to create and share with the host communities and country.

Extractive activities are by their nature disruptive, with impacts on both bio-physical and socio-economic environments in which the exploration or mining activities take place. While the industry has made tremendous advances in avoiding, mitigating and managing environmental impacts and risks, the recognition and management of social impacts and community risks have turned out to be at least as challenging. A company's capacity to manage potential and actual impacts, including unintended consequences and community risks, is further complicated by differences in the cultural values, norms, and language of the company and the community.

There are at least two critical issues here: one is how to hear and be responsive to individual and community concerns; the other relates to the risks posed to both the company and communities of not getting their relationships right. Socio-economic changes brought about by a major mine investment can be positive. Mines can create jobs for local people and new business opportunities for local entrepreneurs and companies. Mines can support improvements to local social and physical infrastructure such as education, health, transport, power and water supply. However, much of this beneficial work may go for naught if a company is ill prepared to address community concerns as they emerge.

No matter how good a company believes its efforts, policies and practices have been, legitimate, community concerns may still arise. For example, communities may be concerned with company hiring and buying practices, the loss of access to agricultural lands, sacred sites and other natural or cultural resources, or a real or perceived lack of sensitivity to local customs and values. ▸

Moreover, unintended equipment or plant incidents can occur that result in physical harm to property or lives or in perceived or real damage to community resources like water, forested areas, fisheries, pastoral and agricultural lands, or sacred sites. Several factors help determine how rapidly and effectively a company will address and resolve issues, including how a concern is recognized (heard) and understood by the company; how it is made known to the company by members of the community people or other groups; how unforeseen incidents or events are handled; and how company-community relationships have been established and nurtured. If ignored or unresolved, concerns or situations can fester and escalate. They can turn into more serious and significant collective grievances, which may result in an entrenched resentment of a company's presence or escalate into outright conflict.

The last decade has seen a convergence of opinion—from industry associations, community relations practitioners, civil society organizations and individual companies—around the importance and value of companies and their business units taking a more disciplined, described or formalized approach to addressing and handling community-based grievances. The importance of creating pathways leading to effective remediation of local community complaints and grievances relating to extractive activities or incidents has been further reinforced by the release in 2011 of the United Nation's Guiding Principles on Business and Human Rights. Its key precepts were incorporated a year later into the updated OECD Guidelines for Multinational Enterprises, and it was also included as one of six international reference standards in the Government of Canada's recently updated (2014) strategy for promoting corporate social responsibility for Canadian oil, gas and mining companies operating abroad[1]. Site-level grievance and community response mechanisms have been recognized as one way of providing aggrieved parties with access to remedy, but have not been easy to design and implement.

This Guide was prepared by the Mining Association of Canada with some assistance from the Counsellor's Office early in the process. Its objective is to provide its members and others with a clearer understanding of grievance generation and response dynamics. The discussion is positioned within the context of broader community concerns and provides a summary of the principal response methods currently in use. It identifies the more common design and implementation challenges that companies face in trying to put in place user-friendly and effective mechanisms, and advises on how to address these challenges. It makes an important contribution to the current discussion within the industry on how to design and implement site-level mechanisms that work and have an enhanced potential to result in positive outcomes for both parties.

While it is essential that individuals and communities have recourses to remedy, one of which is the site-level grievance mechanism, the preferred scenario is one in which the need for remedy is minimized over the mine's life cycle. This can only happen when companies recognize, respect and work constructively with communities to address and resolve issues and difficult situations from the very beginning, from the moment of their first encounter to the project's final closure and, in some cases, even beyond. ■

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[1] "Doing Business the Canadian Way: A Strategy to Advance Corporate Social Responsibility in Canada's Extractive Sector Abroad", November 14, 2014.

1. INTRODUCTION

Over the past few years, considerable emphasis has been placed on the design and implementation of site-level grievance mechanisms (GMs). Site-level GMs are rightly seen as vitally important and integral elements of a functional community relations management system that strives to incorporate evolving international best practice. Over the years, some rudimentary forms of site-level GMs have been common elements of operations, such as complaint boxes. These first-generation GMs offered the sense that companies cared about the opinions of their workforce, but rarely was much emphasis or importance placed on such tools.

The shift within the resource development industry to a focus on the concerns of external stakeholders, as well as employees and contractors, brought with it a need to not only identify and listen to stakeholders, but to document their concerns and respond to them in a constructive fashion. This, in turn, led to the development of more robust site-level GMs, although these were still not widely implemented or used as valued business tools.

Over the past several years, the work of Prof. John Ruggie, the Special Representative to the United Nations Secretary-General on Business and Human Rights, changed all of that. Ruggie's "Protect, Respect and Remedy" framework and the associated Guiding Principles (United Nations, 2011) brought an entirely new focus to GMs by explicitly identifying them as an essential community relations tool and by advocating their use to ensure and demonstrate that businesses are adhering to their responsibilities to respect human rights. Moreover, the original 2006 version of the International Finance Corporation Performance Standards on Social and Environmental Sustainability required a GM and the revised 2012 (IFC, 2012) version is even more explicit about the requirements surrounding site-level GMs.

In recent years, a number of organizations have produced valuable and thoughtful guides to help businesses design and implement GMs. Guides such as ICMM's *Handling and Resolving Local Level Concerns & Grievances*, IFC's *Addressing Grievances from Project-Affected Communities: Guidance for Projects and Companies on Designing Grievance Mechanisms*, and IPIECA's *Operational Level Grievance Mechanisms: IPIECA Good Practice Survey* each provide useful toolkits, checklists and guidance on the evolving best practice design elements and process steps to implement a site-level GM.

Despite all of this guidance, the uptake of site-level GMs has been slow within the resource development industry. Moreover, existing guidance does not typically address, with any granularity, the real and often intractable organizational and on-the-ground design and implementation challenges that businesses face after making a decision to put site-level GMs in place. ▸

"...this document provides guidance in placing grievances within the larger scope of community concerns. It is also intended to address common design and implementation challenges that are often associated with jurisdictions that suffer from weak governance."

The Mining Association of Canada (MAC), through its International Social Responsibility Committee and with the support of the Office of the Canadian Extractive Sector CSR Counsellor, identified a need to develop more practical and granular site-level GM guidance for MAC members and for the mining industry in general, especially in jurisdictions that suffer from weak governance. As such, this guide is intended to provide advice to overcoming common implementation challenges often experienced when implementing GMs. In considering what would best aid practitioners, MAC polled its members and identified three primary questions related to the design and implementation of site-level GMs that companies were facing challenges with:

1. How can trust and awareness regarding site-level GMs be best built within the community?

2. How can buy-in about the site-level GM process be built within business unit operational departments that are generally linked with the root causes of grievances?

3. How can consistency and culture be established internally to support the resolution of site-level grievances?

Rather than repeating the commonly-accepted design elements and implementation process steps that have been identified in the excellent documents referenced above, this document provides guidance in placing grievances within the larger scope of community concerns. It is also intended to address common design and implementation challenges that are often associated with jurisdictions that suffer from weak governance.

In addressing these challenges, a systems-based approach is adopted to bring consistency and documentation to the internal processes that together constitute a community relations management system to place grievances within the larger context of community relations concerns and incidents. In this way, community relations concerns and incidents are a spectrum of events that occur in interactions between the community and the company. These span a range of severity and potential materiality, both from the perspective of the community and the company, and therefore demand different approaches from the company, culminating in a formal response process (the site-level GM) for those incidents that are formally registered by a stakeholder. By formalizing a systems approach, site-level GMs can build alignment and support internally, achieve optimal design and, perhaps most importantly, achieve better outcomes that, over time, engender the trust in a GM that makes it legitimate in the judgment of the host community and other stakeholders.

It is important to recognize that a site-level GM, which is designed to address community concerns, is separate and distinct from other mechanisms, such as employee/labour grievance mechanisms, ethics whistleblower processes, etc. that companies implement to address internal matters. The spectrum of internal and external response mechanisms is illustrated in **Figure 1** (page 15) and explained further in Section 5. It is also important to recognize that site-level GMs are not appropriate tools when there may have been a contravention of law. In those cases, companies and community members alike are expected to report concerns or incidents to the appropriate local law enforcement authorities. ■

2. DEFINITION OF A GRIEVANCE AND SITE-LEVEL GRIEVANCE MECHANISM

A grievance is a type of community issue involving interaction between the community and the company that has risen to a degree of concern that it becomes a source of resentment and/or one that is more formally registered with the company (ICMM, 2009; IFC, 2009; IPIECA, 2012). The degree of concern felt by the host community therefore means that the company, if it is concerned about its relationships, will demonstrate that it takes the matter seriously, will investigate the issue and respond to the aggrieved party and/or to the issue raised in the complaint. A site-level GM is the formal method of accepting, investigating and responding to community issues and concerns.

The formal nature of site-level GMs in no way diminishes the value of internal company management systems (standards, procedures and guidelines) that are in place to record, evaluate and respond to the broader types of community concerns and incidents. The more effective these systems are at identifying and addressing community-related concerns, the more effective the company will be in building stronger relationships based on trust. A key component in ensuring that these systems are effective is building strong support for them internally. On occasion, barriers to the effective implementation of an effective grievance mechanism may come from within the company. One such example of this is when community relations staff feel that the company's efforts to establish a site-level grievance mechanism points to a lack of confidence in their ability to effectively discharge their responsibilities.

The relative severity of grievances demands a formal approach to ensure that a social license to operate is built, maintained and enhanced. Site-level GMs complement other elements of an effective stakeholder engagement system, which typically incorporate stakeholder identification and mapping processes, mechanisms to engage directly with various community constituencies, and transparent public reporting about engagement activities, issues and responses, such as published meeting reports and annual Corporate Responsibility Reports. Guidance on these elements can be found in the Mining Association of Canada's Towards Sustainable Mining Aboriginal and Community Outreach Protocol (*www.mining.ca*).

It is important for resource development companies to understand that the role of the site-level GM is to accept and address community concerns regarding *objects or events*, as well as *people* who may feel that they or their rights have been negatively impacted. Thus, site-level GMs should not only address human rights impacts but are also legitimate fora to raise concerns about, for example, environmental impacts. ◼

3. THE BUSINESS CASE FOR SITE-LEVEL GRIEVANCE MECHANISMS

The underlying precept for developing and implementing the broad range of community relations and development management systems is the fact that local host communities possess rights, deserve a forum to express their concerns and have the right to remedy those concerns. Communities thus have the ability to both enhance and inhibit a company's social license.

As an important element of such management systems, site-level GMs deliver business value in the following ways:

• Site-level GMs serve as an early warning system, allowing the company to identify, investigate and respond to community concerns in a timely fashion before they have the potential to escalate and become material;

• The design and implementation of site-level GMs convey a powerful commitment and demonstration to the host communities and other stakeholders that the company is a good neighbour and is interested in hearing about and responding to concerns;

• When companies involve local community members in the design and ongoing improvement of GMs, along with a whole series of similar initiatives, companies take the steps necessary to, over time, build trust-based relationships with its communities of interest;

• By incorporating evolving international best practice on human rights, GMs are essential tools to demonstrate a company's respect for human rights;

• Site-level GMs can avoid the unnecessary escalation of site-level community concerns to other non-judicial or judicial mechanisms; and

• GMs can help avoid or mitigate negative publicity, NGO mobilization, government intervention and, even, shareholder activism, by channeling grievances through a structured process.

Community concerns generally relate to various impacts to property and quality of life, to land, livelihoods and human rights. In terms of process only, an analogous situation to a site-level GM is a customer service complaint in a retail setting. As consumers we expect any business to listen, validate and respond empathetically, respectfully and in a timely fashion to our complaints. We all know how important these attributes are for us as consumers.

Beyond the comparison to the retail setting, site-level GMs can play a particularly valuable role in helping to address the perceived or actual power imbalances that often exist with resource development. ▶

"Despite the clear business value represented by site-level GMs, barriers remain to their implementation within companies and to their widespread use by communities."

An effectively implemented site-level GM can also help address concerns in jurisdictions where there is a lack of confidence for those in authority positions, a lack of respect for the rule of law and/or a high risk of human rights abuses.

Nevertheless, companies have only recently started to understand the value of site-level GMs and the importance of addressing the concerns of communities of interest and of resolving complaints through fact-finding and dialogue. There may be many factors contributing to the slow rate of uptake the industry has had in implementing site-level GMs. These factors include challenges articulating the business case internally to senior management and concerns regarding the potential for opening a "Pandora's Box" of complaints that may lack legitimacy if a site-level GM is implemented.

When articulating the business case to senior management for a site-level GM, corporate responsibility professionals are more likely to gain their support by highlighting the positive community and business outcomes that would result from progressive approaches to addressing stakeholder concerns.

Despite the clear business value represented by site-level GMs, barriers remain to their implementation within companies and to their widespread use by communities. There are many reasons for these barriers; the significance and nature of the barriers are highly context-specific. This guide is designed to help companies overcome common barriers and to ensure, to the greatest degree possible, that site-level GMs deliver the intended value to companies and communities alike. ■

4. WHY MIGHT STAKEHOLDERS AND COMPANIES MISTRUST SITE-LEVEL GMs?

Effective implementation of site-level GMs is often complicated by trust dynamics that can exist between both communities/stakeholders and mining company representatives. Specifically, stakeholders and individuals within company management may not trust one another to be balanced and fair.

Stakeholders and mining company representatives often seem to have similar concerns. Some community members may have the perception that companies are large, faceless organizations that wield immense power to achieve objectives that may be distant from the community's interests. It can be difficult for individuals or groups of community members to place their faith in a company to receive, investigate and resolve concerns in a fair, objective and timely manner.

Likewise, company representatives may harbour concerns about whether outside, non-community actors (e.g. anti-mining activists) are behind some complaints and that perhaps complaints are being used as a form of Trojan Horse to achieve ulterior objectives that could inflict damage on the business.

It is human nature to inherently question anyone who is, in essence, investigating themselves. It is important for company representatives to understand that communities may believe that the company's interests may diverge significantly from those of the community. Community members may be skeptical, at least initially, of a site-level GM that is owned and operated by that same company that may have different interests. People may perceive that the company is retreating behind closed doors to deliberate and pronounce pre-ordained outcomes.

Community members may also be sensitive to the power that transnational companies wield economically and may perceive that such power will be used to suppress the voices of community members and their concerns. Historic examples of such power imbalances have sometimes had tragic consequences, to the detriment of local communities, the environment and host governments, not to mention the reputation of the sector. From the company perspective, there is a keen understanding of the evolving power communities can wield in resource development, and concern that such power may be exercised to address what the company perceives as matters lacking legitimacy.

Community members may also initially distrust a company's motivations in implementing a site-level GM and may be reluctant to trust something that is foreign and/or unfamiliar to their pre-existing customs of resolving disputes. Suspicion and cynicism can exist about whether a company is trying to *appear* to care about community concerns rather than being committed to actually *demonstrating* that they care. ▸

"Shared challenges require shared solutions. The most effective way to resolve mistrust of site-level GM processes is to acknowledge the others' issues and motivations, and seek solutions that demonstrate that the process can be trusted over time."

Companies may have difficulty understanding who speaks for the community and how representative the leaders' opinions are when complaints are made on behalf of a group of community members. In some cases, community decision-making processes may not be transparent, despite the best intentions of company representatives to understand and respect them.

Companies can find themselves in a no-win situation, trying to arbitrate between factions and deciding who may truly represent the views of the community. Company representatives can begin to distrust the ability of the site-level GM process to provide effective outcomes and become frustrated with the inordinate amount of time they are spending to referee internal community disputes. Companies should seek to understand these realities and address them in design and implementation to overcome them and build trust.

Likewise, if the company is not explicit about the internal decision-making process, community members may be frustrated when they believe resolution has been achieved but the agreed-to solution must be referred upwards to others for final ratification. Community members may perceive that the company's internal decision-making processes are unnecessarily opaque, bureaucratic and may begin to distrust the entire site-level GM process as a result.

In conclusion, like any process that seeks to resolve sources of friction between parties, a site-level GM can sow the seeds of distrust amongst community members, other stakeholders and company representatives. The root causes of such distrust are suspicion of motives, perceptions of power imbalance, and misunderstandings of decision-making processes and who represents the community and/or the company. Shared challenges require shared solutions. The most effective way to resolve mistrust of site-level GM processes is to acknowledge the others' issues and motivations, and seek solutions that demonstrate that the process can be trusted over time. ■

5. THE SPECTRUM OF RESPONSE MECHANISMS

A considerable spectrum of response mechanisms exists, from site-level, company-run GMs to international mechanisms. Typically, the spectrum begins with site level, non-judicial GMs (First Order mechanisms), then progresses to local non- or quasi-judicial mechanisms to state-level judicial mechanisms (Second Order mechanisms) and from there to international non- or quasi-judicial (Third Order) mechanisms.

In the absence of an effective site-level GM, stakeholders may have no other choice than to take advantage of these other mechanisms, effectively escalating issues and possibly complicating the resolution of matters that could have been fairly and efficiently resolved at the site level. We distinguish here between site-level GMs that are hosted by and centered on mining operations, and local-level mechanisms, which are community or regional mechanisms hosted outside of the company operations. Each of the other types of response mechanisms is briefly discussed below.

SITE-LEVEL, NON-JUDICIAL GMs

These are mechanisms that exist at the site (operations) level and are operated by the company. They are generally dialogue-based and are focused on addressing concerns to the best ability of the company. Site-level GMs can be more effective if they are co-designed with communities of interest. This contrasts with related processes such as whistleblower processes and ethics hotlines, which are often managed at the corporate level rather than at the site level.

LOCAL NON- OR QUASI-JUDICIAL MECHANISMS

Local mechanisms are more independent than site-level mechanisms, since they are run by local groups, such as community panels, faith-based organizations, and local government-led mechanisms that have some quasi-judicial powers.

NATIONAL-LEVEL JUDICIAL MECHANISMS

National-level recourse, based on existing property, environmental, human rights and other relevant laws, is available in many jurisdictions. These can also take the form of national human rights institutions. The legal process can be time-consuming and costly, although judgments are binding on the parties.

INTERNATIONAL NON-OR QUASI-JUDICIAL MECHANISMS

International mechanisms typically take the form of regional human rights commissions, set up to promote and protect human rights. Examples include the Inter-American Commission and Court on Human Rights (an organ of the Organization of American States), European Human Rights Commission (and Court) and the African Commission (and Court) for Human and Peoples Rights. ▸

WHEN IS IT APPROPRIATE TO INCLUDE A RELEASE FROM FUTURE LIABILITY IN A RESOLUTION?

In cases where resolution has been achieved, it is reasonable for the company to expect and receive some form of release in exchange for a settlement that has been entered into willingly and without coercion by the complainant. Equally, it is unreasonable for a complainant to agree to a resolution and then use the site-level GM or some other escalation mechanism to adjudicate and seek redress again.

Where monetary or other forms of direct compensation are made by the company, the amount of the compensation may have a bearing on whether the company should expect a release. In some cases there may be reasons where complete releases are not appropriate, as in instances where there may be an underlying criminal issue to be resolved. Thus, the dynamics and sensitivities of specific cases will dictate whether releases are necessary and/or appropriate in the context of other options that might exist.
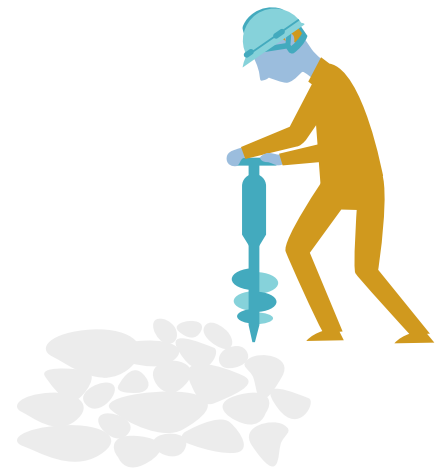
Other international dispute resolution bodies include the World Bank/International Finance Corporation Compliance/Advisor Ombudsman (CAO) and the Organization for Economic Cooperation and Development National Contact Points (NCP).

In the interests of transparency, businesses are strongly encouraged to make complainants aware of available escalation mechanisms at the outset of registering a formal concern, to the degree they are aware of those outside of their site-level GM. Not taking this step may result in the perception that the company is, in effect, circumventing or preventing access to other mechanisms.

Although this step is clear in principle, it has the potential to render the site-level GM meaningless if complainants know at the outset of a grievance process that there are higher level processes available and they make use of these first. It is important to clearly communicate that participating in a site-level GM process does not cause the complainant to waive their rights to pursue other remedies.

There are considerable advantages for both the company and the complainant in having complaints dealt with openly, transparently, fairly and in a timely fashion using site-level GMs. Site-level GMs can build trust by taking ownership of community complaints and resolving them in a timely and respectful way; failing to do so is likely to further damage relationships with the community. If site-level GMs are able to resolve complaints, they will also avoid the possibility that the complainant will escalate their complaint to a higher-level mechanism that could be more costly, time consuming and also more likely to further damage relationships. In this regard, where site-level GMs are seen by communities as legitimate and effective, companies and officials responsible for the administration of higher-level mechanisms may want to encourage those raising complaints to first try resolving their issue through the site-level GM, provided that the complaint is not an allegation of a criminal nature. Such encouragement might include a commitment that the complainant can return to the higher-level mechanism if a resolution is not found within a reasonable timeline. This would help assure the complainant that this is not a circular process.

Companies that make efforts to build transparency into their site-level processes may want to consider reaching out to local officials to ensure there is a common understanding between the company and the community as to how complaints received about the project will be addressed if the concern is escalated beyond the site-level GM. This helps build trust within the local community by demonstrating that the company's interest in transparency extends beyond its own internal processes. ▸

FIGURE 1: SPECTRUM OF RESPONSE MECHANISMS

| SITE | LOCAL | NATIONAL | INTERNATIONAL |

- Employee/labour relations (internal)
- Ethics hotline (internal-corporate)
- Whistleblower (internal-corporate)
- Grievance Mechanism (external)

- Community dialogue (non-judicial)
- Community mediation (non-judicial)
- Community court (judicial)

- Community dialogue (non-judicial)
- National mediation (non-judicial)
- National court (judicial)

- International mediation e.g. OECD NCP, World Bank CAO (non-judicial)
- Home country court (judicial)
- International human rights courts e.g. Inter-American Commission on Human Rights (judicial)

Schematic illustrating the relative position of site-level GMs within the context of site, local, national and international grievance mechanisms. As noted, there are relative degrees of independence of site-level GMs, with best practices tending towards higher levels of stakeholder involvement, to the point that they become fully independent of the company. ■

6. ATTRIBUTES AND CORE PROCESS ELEMENTS OF SUCCESSFUL SITE-LEVEL GMs

There are a number of excellent guides (ICMM, 2009; IFC, 2009; IPIECA, 2012, among others) that describe the attributes and core process elements of site-level GMs. Attributes refer to the characteristics that are incorporated into the core process elements of site-level GMs to ensure that they incorporate evolving international best practice and are effective. It is not the intention of this guide to reinvent these generally accepted attributes and process elements but rather to present them here, along with brief narratives describing what they are and why they are important. Attributes are discussed first, followed by discussion of the core process elements.

The attributes of successful site-level GMs are divided into two groups: external and internal. Although, the division of some of these attributes is somewhat artificial and both types are mutually reinforcing.

RECOMMENDED EXTERNAL ATTRIBUTES

External attributes are those that are most apparent to communities of interest and which are broadly aligned with the effectiveness criteria for non-judicial mechanisms described in the UN Guiding Principles (UN, 2011; Guiding Principle 31). Many of the external attributes are mutually related and reinforcing. To make GMs as effective as possible, it is recommended that companies seek to build the following external attributes into their GMs:

1. Legitimate and trusted
Legitimacy and trust develop over time as the site-level GM matures and as local residents observe how the company implements the tool and resolves concerns. However, legitimacy also stems from the incorporation of evolving international best practice. Trust is largely built on the perceived fairness, predictability and consistency of the GM process and its outcomes. Both legitimacy and trust are also built by involving the complainant in the process to the greatest degree possible.

2. Publicized and accessible
For the site-level GM to be effective, it must be known and understood by local community residents, including how a concern can be admitted into the GM process. Accessibility should take into account language and literacy concerns and whether infrastructural capacity exists to facilitate electronic submittals. An effective site-level GM should also address cultural barriers that may exist for vulnerable peoples. As a general rule, the more ways a resident has to register a concern, the better. ▸

"Addressing power imbalances between the company and the community is best done by ensuring that the process takes stakeholder views into account and is dialogue-based, with clear escalation mechanisms."

3. Based on a clear, timely, predictable, respectful and transparent process accepted by communities

Predictability, respect and transparency are key attributes of a site-level GM because they build both legitimacy and trust over time. Community acceptance is also an important part of building legitimacy and to demonstrate that they are involved in the process.

4. Equitable and empowering, both in terms of process and outcomes

Site-level GMs that provide equitable process and remedy are more likely to be used and to be considered legitimate in the eyes of communities of interest. That is not to say that all outcomes will fully satisfy all parties. A site-level GM that also helps to address the real and perceived power imbalances between the company and the local communities, and results in communities feeling that their voices are being heard and that their concerns are being addressed, is also more likely to be used by communities. Addressing power imbalances between the company and the community is best done by ensuring that the process takes stakeholder views into account and is dialogue-based, with clear escalation mechanisms.

5. Rights-based and rights-compatible

The evolving understanding of the role of business in respecting human rights and providing access to remedy means that a site-level GM should be based on a fundamental understanding of and respect for individual and collective human rights. An example of how this can be accomplished is to incorporate the Universal Declaration of Human Rights into the site-level GM by reference. Moreover, a site-level GM that incorporates elements that conflict with human rights norms is unlikely to gain acceptance and trust.

6. Incorporate review and continuous improvement

A review mechanism that allows for continuous improvement on an ongoing basis is an important part of a successful site-level GM. Such a review mechanism will incorporate input from previous cases and comments from communities of interest. It is recommended that site-level GMs be implemented in a way that maintains sufficient flexibility to incorporate the continued evolution of international GM best practice.

7. Dialogue-based

A site-level GM designed to incorporate dialogue between the parties at all stages is a very effective way of promoting understanding, reducing potential for conflict and building trust over time. ▸

"For the site-level GM to be effective, it should be embraced throughout the business unit, rather than simply being treated as the sole responsibility of the community relations team."

RECOMMENDED INTERNAL ATTRIBUTES

Internal attributes are those that can be considered and incorporated by companies in the design of their site-level GMs to ensure that they are, to the greatest degree possible, recognized and used as tools integral to the operation of the business. In most cases, internal attributes speak to management system-related design and implementation matters. Some of the attributes speak to values and approaches that, when incorporated into the design and implementation of site-level GMs, help reinforce the external attributes.

As with the external attributes detailed above, companies should seek to build the following internal attributes into their site-level GMs to help ensure they are as effective as possible:

1. One element of a broader community relations strategy and management system
To be truly effective and to deliver the desired value to communities and the company, a site-level GM can be integrated into a comprehensive community relations strategy and management system. This means that the site-level GM is part of a larger dialogue program between the company and its communities of interest on matters that span the entire range of interactions between the parties.

2. Clearly integrated with operational activities
For the site-level GM to be effective, it should be embraced throughout the business unit, rather than simply being treated as the sole responsibility of the community relations team. Broad-based operational support is critical when corrective actions are proposed by the company to resolve a particular community concern and when reviewing concerns to ensure that actions are taken to prevent future recurrences.

3. Substantive
The site-level GM incorporates design elements and is executed in a manner that builds confidence that the process is meaningful and has the full support of the organization as an important relationship-building and management tool. To be substantive, the site-level GM should be well planned and implemented, and supported with the necessary human and financial resources to make it effective. ▶

"Where communities already have accepted local dispute resolution processes in place that incorporate local customs and practices, it is recommended that companies consider these as a starting point and look to build on these rather than creating something entirely new..."

4. Participatory; co-developed with key stakeholder representatives where capacity exists

Involve communities of interest in the design of the GM so that it is co-developed and encourages the community to own the process, rather than it being perceived as the construct of the company alone. Where communities already have accepted local dispute resolution processes in place that incorporate local customs and practices, it is recommended that companies consider these as a starting point and look to build on these rather than creating something entirely new, provided that the pre-existing local processes do not conflict with universally-accepted human rights norms. Capacity to participate may be limited or non-existent in some jurisdictions, creating an opportunity for the company to build capacity as part of its larger community development activities.

5. Culturally appropriate

Cultural appropriateness builds legitimacy of the site-level GM and addresses some of the accessibility matters, timeframes and processes that demonstrate respect for the customs and practices of local communities and their residents. Knowledge of these local customs can be obtained through advanced research, dialogue and engagement with the community.

6. Based on commitment to build human and institutional capacity

To build trust over the long term and to ensure that communities are capable of fully participating in decisions that affect them, resource development companies can empower people by committing to helping build their capacity to create or strengthen human capital. Moreover, in helping to create the enabling institutions that facilitate the development of flourishing communities, companies can also catalyze an increase in institutional governance capacity.

7. Incorporate public summary reporting

To demonstrate openness and transparency, it is important for the site-level GM to incorporate public summary reporting that describes the numbers and types of community concerns that have been registered, the resolutions and other key indicators that the company uses to ensure that the site-level GM process is operating efficiently (see more examples of key performance indicators below). When designing the report, it is important to take the care necessary to address privacy and anonymity concerns. By encouraging joint company-community GM reporting or stand-alone community-based reporting on the GM process and outcomes, companies can further build trust and awareness in the site-level GM. Public summary reporting will help communities overcome the distrust of internal, site-level GMs by demonstrating a clear commitment to openness and transparency by the company. ▶

CORE PROCESS ELEMENTS

Core process elements are the series of broadly sequential management steps that constitute a site-level GM that incorporate evolving international best practice (see **Figure 2**). In many ways, the steps of this sequential process are directly relatable to the standard investigative processes used by companies in safety and environmental matters. To eliminate duplication, existing investigative processes should be modified as necessary to cover community incidents and grievances.

The following table describes each of these core process elements, along with their importance and the related attributes that should be incorporated into the design of each element. The most successful GMs will be those that effectively involve the aggrieved parties at each step in the process to obtain their agreement and support for the matter that is being evaluated, how the process will proceed, who will be involved, whether it will be a strictly internal process, and how the resolution is designed and implemented.

FIGURE 2: CORE PROCESS ELEMENTS

Receive grievance

Classify the type and severity of the grievance

Review and improve the GM process and communicate modifications

Acknowledge receipt of the grievance with the complainant

Report both internally and externally

Describe the grievance process steps and timelines for resolution

Monitor the corrective actions to ensure they are completed and effective

Investigate the grievance to identify what occurred, and the root and contributing causes

1 2 3 4 5 6 7 8 9 10

Respond to the complainant

Close out and sign off on the grievance process, resolution and corrective actions

CORE PROCESS ELEMENT	DESCRIPTION	ATTRIBUTES TO BE INCORPORATED
Receive grievance	• A process and tools to allow grievances to be formally registered by community members	• Publicized and accessible • Legitimate and trusted • Culturally appropriate • Dialogue-based • Participatory
Classify the type and severity of the grievance	• A process to evaluate whether the issue qualifies to be admitted into the formal GM process (see Section 9) • The severity of the issue raised by the grievance and the corresponding timeline for response • A process to identify the operational department responsible for leading the investigation	• One element of a broader community relations strategy and management system • Substantive and systems-based • Legitimate and trusted • Based on a clear, timely, predictable, respectful and transparent process accepted by communities
Acknowledge receipt of the grievance with the complainant	• Acknowledge receipt of the grievance • Communicate eligibility for consideration in the GM • Communicate timelines • Communicate alternatives if the grievance is not eligible for the formal GM process	• Based on a clear, timely, predictable, respectful and transparent process accepted by communities
Describe the grievance process steps and timelines for resolution	• Ensure that the complainant is clear on the process and timelines for resolution of the grievance	• Legitimate and trusted • Culturally appropriate • Based on a clear, timely, predictable, respectful and transparent process accepted by communities • Equitable and empowering, both in terms of process and outcomes
Investigate the grievance to identify what occurred, and the root and contributing causes	• A formal and documented investigative process • Process led by relevant operational department with support from Community Relations • Rights-based and rights-compatible • Consider involvement of aggrieved party or other trusted community members or neutral third parties	• One element of a broader community relations strategy and management system • Rights-based and rights-compatible • Legitimate and trusted

CORE PROCESS ELEMENT	DESCRIPTION	ATTRIBUTES TO BE INCORPORATED
Investigate the grievance to identify what occurred, and the root and contributing causes (continued)	• Response discussed and agreed to internally • Response signed off by MD or GM	• Participatory • Based on a clear, timely, predictable, respectful and transparent process accepted by communities
Respond to the complainant	• Discuss process since grievance received • Present results of the investigation • Present the proposed resolution • Seek feedback from the aggrieved party • Consider how feedback can modify the agreed path forward • Reiterate alternative mechanisms if aggrieved party is unsatisfied	• Dialogue-based • Rights-based and rights-compatible • Participatory • Legitimate and trusted • Culturally appropriate
Close out and sign off on the grievance process, resolution and corrective actions	• Seek agreement from aggrieved party on proposed resolution • Seek sign off or acknowledgement on the solution AND on the process	• Based on a clear, timely, predictable, respectful and transparent process accepted by communities • Dialogue-based • Culturally appropriate • Equitable and empowering, both in terms of process and outcomes
Monitor the corrective actions to ensure they are completed and effective	• Confirm that agreed response is being implemented and addresses the issue identified by the grievance • Involve aggrieved party in monitoring effectiveness of implementation	• Based on a clear, timely, predictable, respectful and transparent process accepted by communities • Dialogue-based • Legitimate and trusted • Participatory
Report both internally and externally	• Report internally to identify preventative steps • Report externally to build trust and legitimacy of the process	• Incorporate public summary reporting • Legitimate and trusted • One element of a broader community relations strategy and management system
Review and improve the GM process and communicate modifications	• Address inefficiencies and concerns of internal and external stakeholders to build trust • Develop, implement and report on leading and trailing key performance indicators	• Incorporate review and continuous improvement • Clearly integrated with operational activities • Legitimate and trusted

BEST PRACTICE EXAMPLE: COBRE PANAMA

In 2011, First Quantum Minerals' Minera Panama S.A. (MPSA) formally launched the Community Response Mechanism after hiring a former government ombudsman from the project development area as its grievance officer. MPSA developed an informational campaign to promote the mechanism that included community meetings in the project development area, meetings with local authorities and institutions, local radio newscasts and publications in national dailies. Stakeholders were informed that they could file claims through MPSA's community liaisons who visit communities in the project development area on a weekly basis, by contacting any MPSA office, by depositing claims in specially-designed boxes strategically located in the project development area or through electronic media. Through the Community Response Mechanism, MPSA guarantees potential claimants a legitimate process they can easily access, and utilize to report grievances that are subsequently investigated and resolved within 30 days. The mechanism also ensures predictability in terms of process and outcome. When grievances are logged and investigated, MPSA then proceeds to formally close claims asking aggrieved parties to sign their concurrence with the resolution measures taken and claimants are asked to define their level of satisfaction with the mechanism. If not satisfied with MPSA's remediation measures, the claimant can appeal and ask MPSA to convene a field committee, request third-party mediation and/or appeal to an executive committee.

Despite the efforts by MPSA to develop a straightforward streamlined system, the MPSA Community Response Mechanism has had its setbacks due to two fundamental issues regarding the formalization of the process. First, though the mechanism clearly defined the differences between grievances and emerging issues or concerns, there was some confusion within the MPSA Community Relations team regarding what constituted an issue or concern and what constituted a grievance. The latter was defined as an actual impact to third parties that could be investigated as opposed to a general concern regarding, for example, potential environmental impacts resulting from MPSA operations. As a result, many potential grievances were resolved outside the mechanism. The confusion was compounded by a local community culture where claimants refused to "complain", instead asking Community Relations personnel to take care of the problem. MPSA held several workshops with its personnel and developed a three-point system to determine potential claims. Claims are considered grievances if they are reported by an external stakeholder, if the claims involve a verifiable geographically-specific impact, and if the stakeholder requires or expects remediation.

All grievances are registered in an MPSA database and tracked to measure MPSA performance. The metrics tracked include: number of opened, resolved and closed grievances; grievance resolution rate and grievance closure rate; frequency of types of claims filed through the mechanism; frequency of claims within each community; frequency of claims by MPSA and specific contractors; and frequency of claims within different MPSA work fronts. The results of these measurements are reported in the MPSA project dashboard in real time. The results of these grievances are reported to external stakeholders annually.

7. STRETCH ELEMENTS OF A SITE-LEVEL COMMUNITY RESPONSE MECHANISM TO ESTABLISH LEADERSHIP

In addition to the most commonly recognized attributes of a site-level GM, there are a few additional attributes or elements that could be implemented by organizations that wish to establish leadership and define new evolving best practice. Moreover, companies may determine that the particular socio-environmental context they find themselves operating in demands that they go beyond the basic elements of a GM.

The following stretch elements present opportunities to be considered for inclusion in site-level GMs by companies who want to demonstrate leadership:

INVOLVING COMMUNITIES AND/OR CIVIL SOCIETY ORGANIZATIONS IN THE ADMINISTRATION OF GMs

Involving communities and other stakeholders in the design of a site-level GM is already addressed above as a core attribute. Involving communities in the actual administrative and investigative processes further demonstrates openness, transparency and participation. Moreover, it helps align the process with any pre-existing cultural norms, builds trust in the GM and the company over time and enhances social license. A further step would have community members and/or other stakeholders, such as civil society organizations, administer the site-level GM process itself. This step essentially cedes some control over the GM process to the community, making it more of a community-based process. Such a step cannot reasonably be contemplated until a significant level of trust has already been built and until a capacity to participate has been built with the local communities.

Nevertheless, experience has demonstrated more broadly that ceding control over some aspects of business can drive business value when dealing with communities. Including communities in the design stage may help bring about the trust that can lead to collaboration on the administration much earlier.

APPOINTING A SITE-LEVEL GM OMBUDSMAN

Companies may decide to take openness and transparency to a higher level by appointing a person with broad authority within the organization to oversee the operation and outcomes of the site-level GM process to ensure its fairness.

To be effective, such a role would be discussed with local communities of interest to identify how best to implement such a position. Moreover, the role would ideally report directly to the senior operational leader (Managing Director, General Manager or similar). Companies may also involve the communities of interest in selection of the successful candidate and/or the oversight of the ombudsman role. ▸

"A program such as this gives the company and communities comfort and an independent view of whether the company is living up to its GM and human rights commitments."

IMPLEMENTING AN INDEPENDENT GM/HUMAN RIGHTS MONITORING AND REPORTING FUNCTION

Independent monitoring and reporting of an organization's site-level GM and, by extension, its human rights performance is another way to build trust and enhance social license. Such outsourcing, paid for by the company, is analogous to community-based environmental participatory monitoring that has become a relatively accepted practice internationally. A program such as this gives the company and communities comfort and an independent view of whether the company is living up to its GM and human rights commitments. Some challenges that may need to be overcome when setting up an independent monitoring and reporting function include:

1. *The availability of a local civil society organization (CSO) with the required capacity to undertake independent monitoring of a site-level GM and human rights performance;*

2. *Building confidence within the CSO monitor that the company is committed to taking the reports seriously and to addressing gaps identified in the process;*

3. *Issues surrounding scope and human resources, particularly the challenge of whether the function was purely an oversight role or would have investigative power; and*

4. *How to pay for the function while preserving its independence.*

An independent monitoring function will be more meaningful if it is based on a long-term commitment by the company and, as such, the company may want to carefully consider the associated costs and implications. Moreover, trust and social license can be damaged if a company implements such a mechanism and then either does not respond to findings or discontinues the mechanism prematurely. ∎

8. SCALABILITY OF SITE-LEVEL COMMUNITY RESPONSE MECHANISMS

Much has been written and discussed about the challenges organizations face in designing and implementing site-level GMs, particularly junior exploration and mining companies. Smaller companies generally have fewer financial and human resources with which to deploy site-level GMs, despite their importance in the initial phases of the mining life cycle.

Despite this, the UN Guiding Principles on Business and Human Rights has this to say about the need for companies of all sizes to respect human rights and provide remedy:

"The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure. The scale and complexity of the means through which enterprises meet that responsibility may vary according to these factors and with the severity of the enterprise's adverse human rights impacts."

> - Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, Office of the High Commissioner for Human Rights, 2011, Principle 14 (United Nations, 2011).

Scalability is an important element to consider when designing a site-level GM. Some of the factors that may assist a company in determining the appropriate scale for a GM include:

1. The site-specific socio-environmental context that a particular project is situated within;

2. The stage in the mining life cycle; and

3. The size and capacity of the company.

The following decision tree **Figure 3** (page 27) allows any company to evaluate what scale of GM to consider. Junior companies can design site-level GMs with the basic components and need not necessarily have dedicated staff to implement their GMs, unless socio-environmental contexts suggest otherwise. Site-level GMs can be scaled to any circumstance, but requires that smaller organizations understand and embrace the business case, listen to their local stakeholders and strive to be good neighbours. ■

FIGURE 3. DECISION TREE TO GUIDE THE SCALABILITY OF SITE-LEVEL GMs

?

How challenging is the socio-environmental context of the project?

• Is there active conflict?

• Is there unresolved or latent conflict?

• Is there respect for the rule of law?

• How much institutional capacity exists?

CHALLENGING   **RELATIVELY TRANQUIL**

Design and implement a full-scale GM incorporating all evolving international best practice elements and processes

?

Where is the business in the mining life cycle?

EXPLORATION[1]   **CONSTRUCTION/ OPERATIONS**

Design and implement a basic GM incorporating:

1. Mechanism to receive and record complaints

2. Basic investigation process

3. Mechanism to respond

Design and implement a full-scale GM incorporating all evolving international best practice elements and processes

---

[1] Senior producing companies typically operate in multiple jurisdictions and therefore must operate to a single high standard of evolving international best practice. Such companies should consider designing and implementing a GM incorporating all evolving international best practice elements and processes.

9. COMMON IMPLEMENTATION CHALLENGES AND SOLUTIONS

When MAC members were asked to identify challenges that they have encountered in the implementation of effective site-level GMs, a series of common questions emerged:

1. What triggers the formal, site-level GM process and how do grievances fit into the context of broader community concerns and incidents?

2. What tools are available to build alignment and buy-in about the GM process within business unit operational departments that are generally identified as the cause of grievances? How are consistency and culture established internally to support the resolution of site-level grievances?

3. What are ways in which a company can build the community's awareness of the site-level GM?

4. How is trust and legitimacy for the site-level GM built within the community?

5. How can the concerns of legal liability in admitting fault be addressed?

6. What is the best approach to dealing with community concerns that may lack legitimacy?

7. Will implementation and publicizing of a site-level GM encourage a flood of complaints that overwhelms the available human and financial resources?

8. How can companies deal with complainants they view as not truly representative of impacted communities?

These questions, answered in the sections below, suggest that there is less concern and uncertainty in defining and developing the specific elements that constitute an effective site-level GM system, but more difficulty surrounding building a workable culture, both internally and externally with communities of interest, to support an effective GM.

1. PROCESS FOR DEFINING SITE-LEVEL GM TRIGGERS AND PLACING GRIEVANCES INTO THE CONTEXT OF COMMUNITY CONCERNS AND INCIDENTS

Perhaps the most important challenge for companies is to design and implement a management system process that places grievances into the context of the broad range of community concerns and incidents. Common questions are "What triggers a formal site-level GM process?" and "If an issue is raised at a community meeting, is it always necessary to record it as a grievance, add it to the GM log and process as such?"

The first consideration in this process should be whether a community concern or incident is an accusation of a criminal nature, including non-compliance with environmental regulations, etc. In these cases, a site-level GM may be an appropriate place to surface such issues and channel them to the appropriate law enforcement mechanism; however, it is not the appropriate process through which to attempt to resolve such accusations. Site-level GMs are, by definition within the UN Guiding Principles (United Nations, 2011), intended to address allegations of human rights violations registered against the company, since the GM meets the "remedy" component of the "Protect, Respect and Remedy" framework. For this reason, allegations of human rights violations registered against a company can, in the first instance, be addressed by the site-level GM if it is properly designed and implemented. ▸

There is, of course, a spectrum of community concerns and different ways in which they may be brought forward to a company's attention, from rumours to informal conversations to formal, documented complaints. Many issues may be resolved simply, or through a site's regular community relations function. However, there is a specific point at which a community issue crosses the threshold and becomes a grievance. What's important is determining the key aspects that would trigger a site-level GM (see **Figure** 4).

FIGURE 4: TRIGGERS FOR A SITE-LEVEL GM

A formal GM process is only triggered when there is:

A SPECIFIC ISSUE IDENTIFIED ➕ **A COMPLAINANT** ➕ **AN EXPECTATION OF A FORMAL RESPONSE TO THE COMPLAINT** ＝ **GRIEVANCE TRIGGERED**
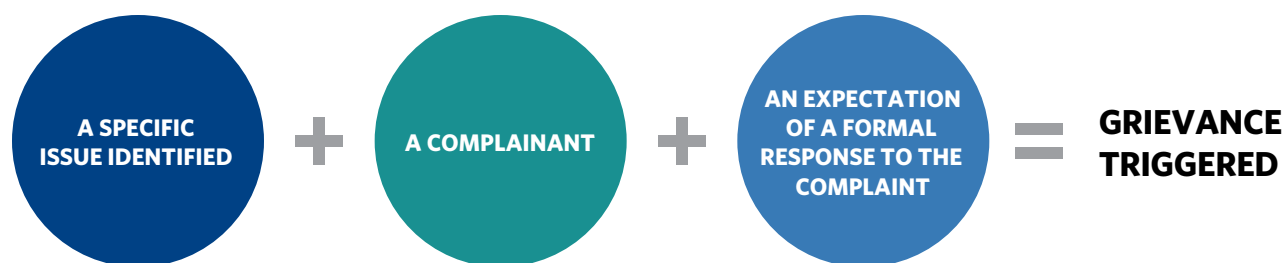
There is no requirement that the alleged grievance be formally documented at this juncture, although it is reasonable to expect that it would be documented in some accessible and culturally appropriate manner once it has been accepted as legitimate. It is worth bearing in mind that the expectation of a response may not immediately exist, at least initially, if there is no prior experience with the site-level GM or if trust in the GM does not exist.

The decision tree shown in **Figure** 5 (page 31) outlines the steps that determine whether a formal GM is triggered. It is worth noting that at any of the end points outside of the formal GM process a company may, at its discretion based on the severity of the issue and its impact on community relations, *choose* to go through what amounts to the same process as prescribed by its formal site-level GM.

A key piece of this decision-making system is the severity classification. The following is a list of variables to help inform the development of such a classification:

1. The number of people affected by the community concern or incident;

2. The areal scale represented by the community concern or incident;

3. Whether there is an identifiable, adverse impact to human rights;

4. The reversibility of the community concern or incident;

5. Whether the issue represents an imminent threat to public health, safety and/or the environment; and

6. Whether the community concern or incident is a contravention of law or could be subject to another process outside of the company procedures.

Ideally, a severity classification system will be consistent with current values and existing management processes of the company. Factors to take into account include compressed timelines and streamlined investigative processes for issues of lesser severity and correspondingly more detailed processes and longer timelines for the formal site-level GM process and for those matters of greater severity. It is also important from the perspective of the timeliness of response to take into account the severity of the issue; crisis communications experience clearly demonstrates that it is preferable to communicate early and often about what is known regarding severe incidents, rather than waiting until all of the facts are known. Having a one-size-fits-all timeline, regardless of severity, risks building suspicion amongst local community members and negates the opportunity to address relatively straightforward matters quickly. ▶

Although each organization is free to define for itself what a grievance is and how the site-level GM links to other forms of community concern and feedback, there are three elements that are important:

1. Clear definitions of what constitutes a grievance are essential for both internal and external stakeholders;

2. A well-defined and consistent management structure that places the site-level GM within the broader context of concerns and incidents; and

3. A clear severity classification, coupled with associated actions, that assists company staff in evaluating immediate steps to be taken once a community concern or incident is uncovered.

2. BUILDING INTERNAL ALIGNMENT, BUY-IN AND CULTURE FOR SITE-LEVEL GMs

Cultural attributes within an organization go a long way in determining the success of all corporate responsibility issues and how deeply these are embedded across the enterprise as core business functions that deliver value. Internal alignment and buy-in are two of the most important predictors of the success of a site-level GM. The best GM design and flawless implementation by community relations staff can both be for naught if the entire company organization does not understand or support it. Although there is no cookbook to guarantee internal alignment and buy-in, there are several attributes that are common to those organizations that have achieved internal alignment, including:

• A clear and unequivocal business case for the community relations management system and site-level GM with the corporate Board, executive management and business unit leadership;

• Demonstrable leadership by the Board and executive management, ensuring that the enterprise places value on such management processes;

• Community relations leadership by business unit leaders, rewarded for these competencies;

• Clear accountability to the business unit leader for the success of the community relations management system and GM;

• Corporate and business unit community relations staff who go out of their way to collaborate extensively with their operational and exploration colleagues in the design and implementation of the community relations management system and GM to achieve buy-in and ownership of the tools;

• A site-level GM integrated within a broader management system that clearly demonstrates progress of management system implementation;

• Issues and complaints that are likely to be raised through the community relations management system and GM processes are identified, along with potential responses and outcomes, to help build comfort within the business for the management system and site-level GM;

• The breadth, depth and quality of the community relations management system and site-level GM is audited and verified;

• Business unit successes in community relations management system and site-level GM implementation are recognized internally; and

• Business unit leaders are aware of, support and sign off on all proposed GM corrective actions in advance of them being presented to the complainant.

Ensuring buy-in and consistency at the business unit level boils down to one of corporate culture. These elements reflect how corporate responsibility matters are valued by the Board, executive management and business unit management, and how these matters are managed and followed up across the enterprise.
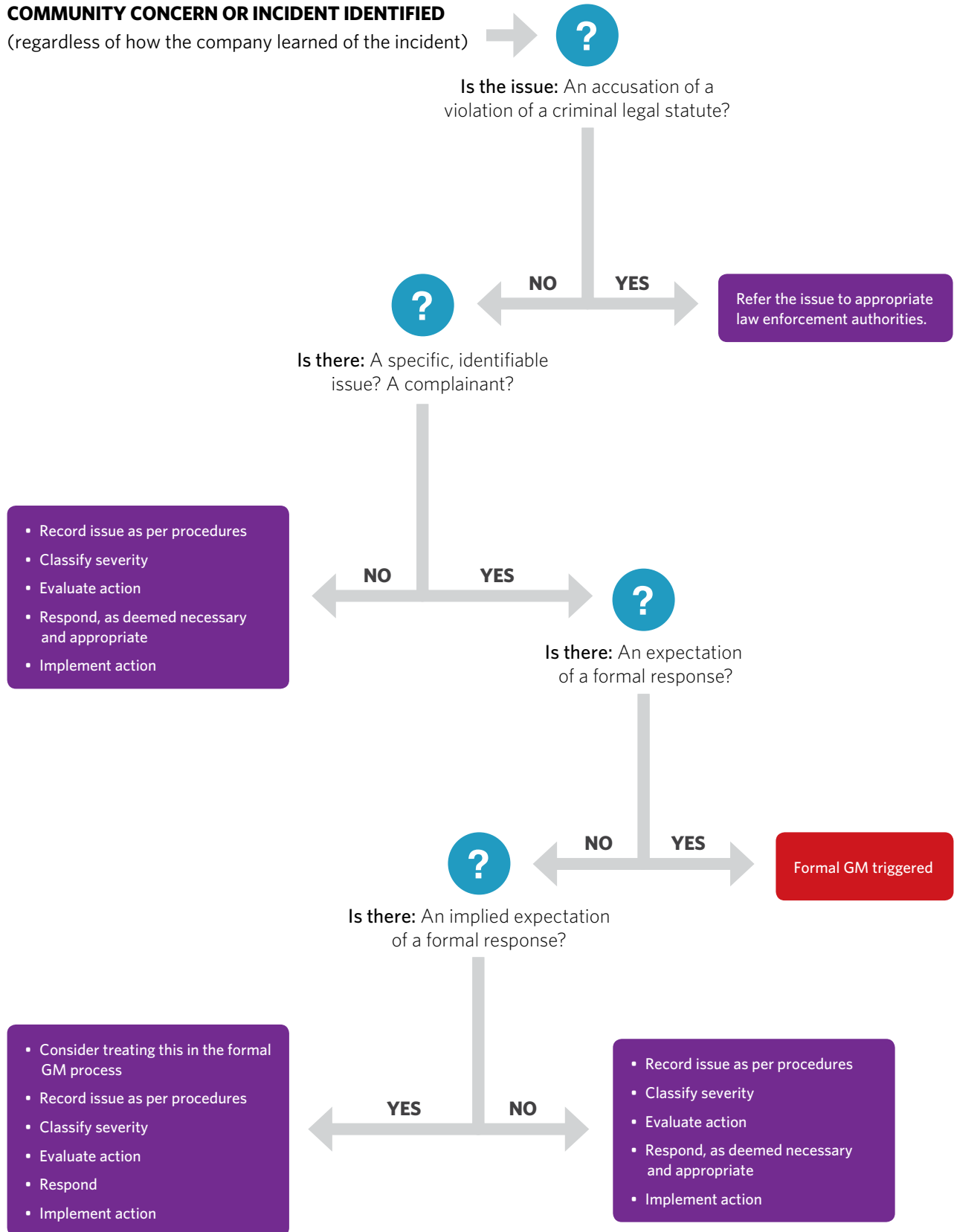
In summary, organizations that successfully achieve alignment and buy-in with the community relations management system and GM processes have developed a deeply embedded culture of excellence that spans the entire range of corporate responsibility matters. ▶

FIGURE 5: DECISION TREE TO FACILITATE HANDLING OF COMMUNITY CONCERNS

COMMUNITY CONCERN OR INCIDENT IDENTIFIED
(regardless of how the company learned of the incident)

?

Is the issue: An accusation of a
violation of a criminal legal statute?

NO   **YES**

Refer the issue to appropriate
law enforcement authorities.

?

Is there: A specific, identifiable
issue? A complainant?

NO   **YES**

- Record issue as per procedures
- Classify severity
- Evaluate action
- Respond, as deemed necessary
  and appropriate
- Implement action

?

Is there: An expectation
of a formal response?

NO   **YES**

Formal GM triggered

?

Is there: An implied expectation
of a formal response?

YES   **NO**

- Consider treating this in the formal
  GM process
- Record issue as per procedures
- Classify severity
- Evaluate action
- Respond
- Implement action

- Record issue as per procedures
- Classify severity
- Evaluate action
- Respond, as deemed necessary
  and appropriate
- Implement action

"Trust with local communities is something that takes the totality of a company's relationship with a community into account, beyond how the site-level GM is operating and is perceived."

3. APPROACHES TO BUILD AWARENESS OF A GM WITHIN THE COMMUNITY

Building awareness of the site-level GM requires considerable effort when it is developed and rolled out. It also requires ongoing communications to continually reinforce the GM and to identify and address community concerns with the process itself. The following processes have been identified to help ensure that the community is aware of the company's site-level GM:

- Socialize the GM through a variety of mechanisms, including:

    - *GM-specific awareness building in town hall meetings, open houses, etc.*

    - *Ongoing Community Relations encounters, such as informal engagement, visits to the Community Relations offices, etc.*

    - *Social media*

    - *Media, including print, radio, television*

    - *A variety of signage*

    - *Employee communications with fellow community members*

- Ensure that the site-level GM is accessible by building the following into the GM:

    - *Incorporating a wide variety of culturally-appropriate methods to facilitate access, always ensuring a low barrier to entry to encourage feedback (Rees, 2008). Seeking the input of the community on access issues is recommended*

    - *Ensuring that mechanisms for anonymous submittal of complaints exists (e.g. using independently-managed hotlines or through neutral and respected third parties)*

    - *Ensuring that the confidentiality of people using the GM is protected*

4. APPROACHES TO BUILD TRUST WITHIN THE COMMUNITY AND LEGITIMACY FOR SITE-LEVEL GMs

Building trust with local stakeholders and legitimacy for the site-level GM is one of the most important goals of any resource development company. There is no straightforward cookbook approach that will guarantee a successful, long-term outcome. Trust with local communities is something that takes the totality of a company's relationship with a community into account, beyond how the site-level GM is operating and is perceived. Nevertheless, a functional site-level GM can be an important vehicle for trust building. ▶

At the outset, building trust and legitimacy requires a rights-based approach to the community that radiates caring, respect, understanding and empathy. Companies' perceptions of site-level GMs can benefit from placing themselves in the shoes of local communities. GMs become much more effective if respect and understanding of local communities is practiced at all times by all employees that interact with them. This will also contribute to building trust-based relationships. Caring and empathy are especially important for a company to demonstrate that it accepts the grievance and wishes to address the matter in a meaningful way.

There are several attributes that are common to successful trust-building processes (Ford, 2013b), including:

• Behaviours, including empathy, caring and respect;

• Validation of concerns;

• Honesty;

• Openness;

• Transparency;

• Taking the time necessary to let relationships develop;

• Patience;

• Predictability;

• Relinquishing control over certain issues and outcomes;

• Continuous communication; and

• Doing what you say.

GM SIGN-OFF, APPEAL AND ESCALATION

The way in which companies deal with the processes of grievance sign-off, appeal and escalation can also build trust and legitimacy for the site-level GM. There are several steps that can be taken, including:

• Having a double sign-off process, one for the proposed solution and another for the complainant to agree or disagree that the site-level GM process was respectful and timely.

• Proposing that GM cases be presented to a site-level External Stakeholder Advisory Panel (ESAP) for review and comment, provided that such a panel has already been established. ESAPs, when properly scoped and with the right mix of stakeholders, are valuable tools to understand concerns, identify steps to address them and build credibility. ESAPs can also help in the design of the site-level GM and in the oversight of its operation.

• Having a joint investigative process, depending on the issue and its context.

• Retaining a third party to provide expertise and an independent opinion when the issue involves a technical matter.

• When resolution is reached, the remedy is transparently communicated within the community to ensure fair and consistent remedies are arrived at.

• When resolution cannot be achieved through the site-level GM process, companies and complainants can retain a neutral and respected third party, such as an elder, leader of a faith-based organization or trained mediator, to try to facilitate a mutually-acceptable resolution.

Concerns over the protection of information shared during a site-level GM process often arise when the issue is escalated to a higher-level non-judicial or judicial mechanism. One practical approach to address this concern is to have confidential and other sensitive information held by a trusted third party who can help ensure that, in the event of escalation, such information is not used by either party in a prejudicial manner. ▶

"Ideally, GM indicators are a mix of leading and lagging indicators to accurately measure whether the site-level GM is being utilized to identify and prevent community concerns and incidents, and to identify management process improvements."

GM MONITORING, INDICATORS AND REPORTING

Monitoring of the site-level GM process using a suite of leading and lagging indicators[1], coupled with internal and external reporting, can build trust in the process and provide indications of where the GM can be improved. Monitoring of the GM process can take several forms, including:

- Corporate management system audits;

- Ongoing, internal company management processes, including regular management (site-level, joint site-corporate and corporate) and Board meetings;

- Community monitoring;

- Third-party, independent monitoring (as discussed above); and

- Linking GM and other management system indicators to compensation.

There are several indicators that are currently in use to evaluate the performance of site-level GMs, many of which are lagging indicators. Ideally, GM indicators are a mix of leading and lagging indicators to accurately measure whether the site-level GM is being utilized to identify and prevent community concerns and incidents, and to identify management process improvements. Companies may consult their local communities to listen to their views about what indicators are important. The following are a sample of both leading and lagging indicators that companies can consider, in consultation with local communities:

LEADING INDICATORS

- The number of repeat grievances or those with similar root causes, and their temporal trend;

- The degree of GM implementation against corporate standards and procedures;

- Involvement of operational departments in investigation and resolution of grievances;

- Mode of grievance submittal;

- Satisfaction survey results on awareness, respect, accessibility; and

- Number of instances of positive feedback. ▶

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[1] Leading indicators are those that measure factors that change ahead of underlying performance. Lagging indicators are those that measure factors indicative of the underlying performance and measure performance that has already occurred.

- Number of grievances;

    - *Received*

    - *Reported by media*

- Number of grievances by severity classification;

- Number of open grievances versus number closed;

- Time to close a grievance versus the established standard;

- Number of complainants signing off on the resolution versus the number of complainants signing off on the process; and

- Number of grievances that have been escalated beyond the site-level GM.

Reporting of key performance indicators (KPIs) internally at all levels of the organization is an important management process that builds alignment and awareness of the site-level GM process, and helps identify trends and potential new risk areas that deserve attention before they escalate. It also helps ensure that those delegating responsibility for overseeing the implementation and operation of the site-level GM are held to account. External reporting of KPIs to local communities and other stakeholders demonstrates openness and transparency about the GM process and builds awareness. Over time, this helps develop trust in the process within local communities. It is recommended that reporting in the aggregate be done as a matter of course in the annual Corporate Responsibility reports. Local-level reporting to communities of interest demonstrates openness, transparency and responsiveness, and can help identify any sources of friction or dissatisfaction with the process and its outcomes.

5. HOW CAN THE CONCERNS OF LEGAL LIABILITY IN ADMITTING FAULT BE ADDRESSED?

Although views are changing, aided by the emphasis of the UN Guiding Principles (2011) on early, dialogue-based resolution, rather than on fault-finding, many organizations are rightly concerned about the legal liability that they may create if they admit fault associated with community concerns and grievances. Almost by definition, companies are implicitly admitting fault by implementing a site-level GM that accepts community concerns associated with their activities.

Experience has demonstrated that admitting fault and apologizing can go a long way to building trust with stakeholders (e.g. the 2008 Maple Leaf Foods listeriosis outbreak experience). On the other hand, an unnecessarily legalistic approach can lead to mistrust and cynicism. It is important to consider the severity and scale of the community concern in evaluating the potential for civil or criminal liability and in deciding when to explicitly or implicitly admit fault. The great majority of community concerns and grievances will not generate such liability unless they go unresolved. When required, legal experts can provide advice to operational and executive decision-makers; however, it is recommended that legal concerns not be the only factors driving the decision-making process.

6. WHAT IS THE BEST APPROACH TO DEALING WITH UNFOUNDED COMMUNITY CONCERNS?

Some community grievances may be based on false pretences and are a legitimate concern for companies implementing site-level GMs. Companies are concerned that their actions in dealing with such unfounded claims could set precedents that could result in copycat concerns being made. Such claims are certainly made for a variety of reasons, but experience has shown that these are a minority of community concerns.

Since companies encourage all forms of community concerns to be registered, it may be inevitable that unfounded complaints will be received. The most effective way to discourage the submittal of such concerns is to have a clear, transparent and consistent site-level GM process that objectively evaluates the validity of complaints against established criteria, their severity and how they will be handled (i.e. according to the decision tree in **Figure 4**). Although the potential for vexatious claims can never be eliminated, community residents will be much less likely to game a GM system if they see that their concerns are objectively and expeditiously resolved through fact-finding and dialogue. ▸

"There is an argument to be made that over-resourcing the GM initially will help ensure that the roll-out is relatively smooth and that complainants see that the mechanism is working from the outset."

7. WILL IMPLEMENTING AND PUBLICIZING A SITE-LEVEL GM ENCOURAGE A FLOOD OF COMPLAINTS THAT WILL OVERWHELM THE AVAILABLE HUMAN AND FINANCIAL RESOURCES?

An important component of properly implementing an effective site-level GM is to ensure that it is properly resourced. Resources need to be provided at the outset to publicize the existence of the GM and how it can be accessed once it is in place. Once a site-level GM is available and publicized, the company can anticipate that a significant number of community concerns will be submitted, at least initially. There is an argument to be made that over-resourcing the GM initially will help ensure that the roll-out is relatively smooth and that complainants see that the mechanism is working from the outset. Proper resourcing is a difficult issue to predict and depends on the local culture, the ability of complainants to access the mechanisms and the effectiveness of the publicity campaign to launch the site-level GM. The list below presents some factors to consider when planning resourcing for the implementation of a site-level GM:

1. The area of influence of the project or business unit;

2. Infrastructure challenges and challenges of physical access and access to communication mechanisms;

3. Population density;

4. Cultural propensity of communities of interest to raise concerns;

5. The quality of the past and current relationships with communities of interest and degree of social license that exists;

6. The capacity of local communities of interest to understand and participate in the GM; and

7. The number and severity of past community concern and incidents.

One important measure of the success of a site-level GM is the number of grievances that are registered, indicating that local residents are comfortable with raising concerns with the company. Since companies seek to encourage the use of the mechanism, it follows that resourcing be commensurate with the upper estimates of predicted submittals. Regular review of the ability of the operating departments and GM function to deal with the number of incoming concerns is important to ensure resourcing and staffing levels are adjusted accordingly. Since corrective actions are ideally the responsibility of the line operations, it is also important to provide them with the resources necessary to respond to the actions identified by the investigative process. Arguably, an under-resourced and ineffective site-level GM function can do more harm to a community relationship than no GM at all. ▸

"If companies adopt an 'attitude of assistance' by assuming that the complainants' motives are genuine and take the appropriate actions to help, then trust will be built."

8. HOW CAN COMPANIES DEAL WITH COMPLAINANTS THEY VIEW AS NOT TRULY REPRESENTATIVE OF IMPACTED COMMUNITIES?

Sensitivities and the potential for conflict arise when complaints or concerns are raised by groups or civil society organizations the company believes are not representative of the impacted communities. Often, companies sense that such concerns are simply being raised by anti-development interests to take up precious resources and damage their reputation (see the section above on dealing with claims that lack legitimacy). By engaging with such groups, companies may feel that they are provided legitimacy. Often, however, such groups actually do represent at least a portion of the impacted community, and may be acting as a proxy for individuals who are not comfortable raising concerns on their own. Ignoring them can escalate conflict, and blind a company to legitimate grievances. Clearly, companies will want to exercise judgment, but experience shows that approaching third-party interests in good faith, at least initially, is wise.

In summary, companies are encouraged to adopt a slightly different approach when dealing with third-party interests. In the past, the attitude of companies when dealing with them has been somewhat adversarial; companies perhaps suspicious of their motives. If companies adopt an "attitude of assistance" (A. Guaqueta, written communication) by assuming that the complainants' motives are genuine and take the appropriate actions to help, then trust will be built. ■

10. CONCLUSIONS

Site level GMs are valuable business and relationship tools. When properly designed and implemented, taking into account the views and concerns of local communities of interest, they help to build trust and social license over time. There are several excellent guides that have been produced over the past few years describing the essential design elements and process steps for GMs. There are, however, a number of challenges that resource development companies have identified during implementation. These implementation challenges involve developing systems that place grievances into the broad spectrum of community concerns and incidents.

One key challenge for companies is building internal support and alignment within the organization. This is largely determined by the culture of the company and how deeply corporate responsibility matters are embedded into its decision-making. There are a number of steps to help ensure buy-in and alignment, starting with building a strong, operationally-focused business case at the Board and executive levels. This commitment requires regular and objective follow-up and internal reporting.

Another implementation challenge is determining what constitutes a grievance and how it is distinguished from other community concerns and incidents. A grievance is differentiated from a community concern or incident by the following three triggers:

1. A specific issue is identified;

2. A complainant exists; and

3. There is an expectation of a formal response to the complaint.

By using these triggers, it becomes easier to identify when to consider an issue a formal grievance and admit it into the formal, site-level GM process. This allows for a low barrier to entry for grievances, since it does not necessarily require the matter to be formally submitted by the aggrieved party at the outset and is independent of how the company learned of the issue, even if it came to light through informal dialogue. With this type of distinction, it is possible for companies to design a management system for community issues that goes well beyond grievances. ▸

"Including communities in dialogue about all of these standards, procedures and tools will help to ensure that cultural and accessibility matters are identified and addressed, and that the process is understood and supported by local residents."

It is recommended that companies:

1. Design a community relations incident notification system that documents what concerns are handled by the Community Relations Team (versus the Human Resources Department, etc.), the conditions under which community concerns become grievances, what the investigative process entails and how responses are handled.

2. Design a site-level GM, in conjunction with local communities, that incorporates the core attributes and evolving best practice elements;

3. Design and implement a community relations concern/incident severity scale that describes how issues of different severity are handled internally, the timelines for investigation and response, and at what severity a concern or incident becomes subject to the GM process; and

4. Design and implement a series of key performance indicators that can be used to measure the effectiveness of GMs and to communicate with communities, the corporate Board and executives about site-level GM performance.

Including communities in dialogue about all of these standards, procedures and tools will help to ensure that cultural and accessibility matters are identified and addressed, and that the process is understood and supported by local residents.

Scalability is an important element for the resource development industry and the complexity of a site-level GM depends on the socio-environmental context of the project, the size of the company and its position in the mining life cycle.

The implementation challenges identified by MAC member companies can best be overcome through a comprehensive systems-based approach, which extends across all corporate responsibility functional elements to gain the business value from the Corporate Responsibility Value Chain (Ford, 2013c). ■

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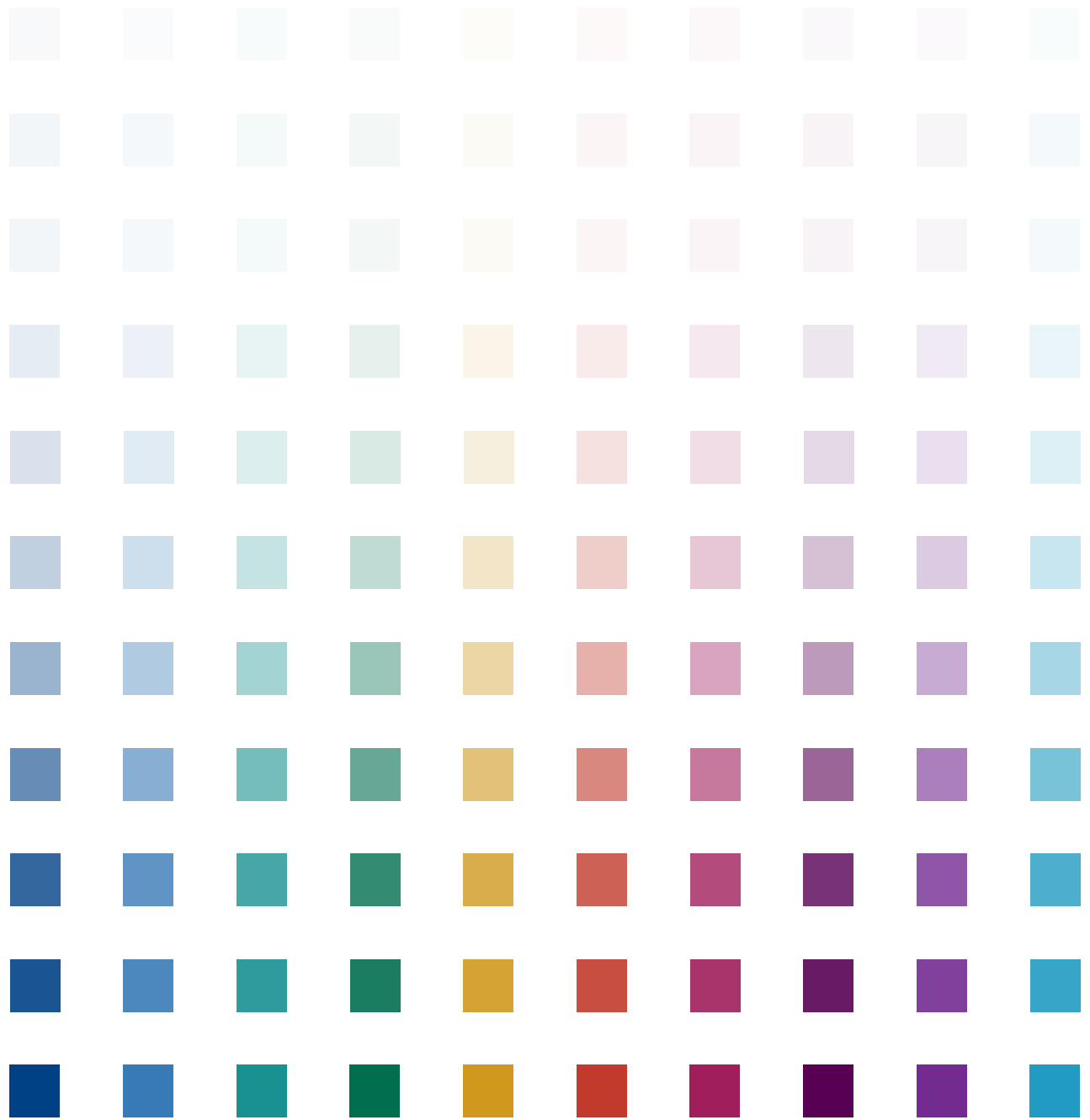
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