



**FIRST REPORT BY THE
IGM INDEPENDENT
MONITOR**

August 2023

Public Report

INDEPENDENT GRIEVANCE MECHANISM WILLIAMSON DIAMOND MINE

1ST INDEPENDENT MONITOR REPORT

PUBLIC REPORT

Abstract

Pursuant to the Independent Monitor's contractual obligations and mandate, this report concerns the workings of the Independent Grievance Mechanism (IGM), instituted to deal with severe human rights complaints connected to the security operations at the Williamson mine for the period of February 2009 onwards. The report provides assessment, evaluation, and recommendations in respect of, inter alia, the IGM's implementation of the right to remedy obligation set out in the United Nations Guiding Principles on Business and Human Rights (UNGPs); and in particular, of the *Effectiveness Criteria*, which unpacks what the right to remedy ought to entail as a minimum standard. Whereas, the IGM implemented its plan of action which saw that from its launch in November 2022 to 30 June 2023, it carried out a controlled registration of 360 complaints during the pilot phase, of which 20% were not reachable to pursue their claims; and therefore the IGM added 100 more complaints for consideration in the pilot up to 30 June 2023 the IGM attended 356 grievances of which: 39 were out of scope; 3 were still pending at FFT; 261 were pending at the IP; 29 were closed; 2 were referred to third parties; 13 needed additional evidence; 8 were decided; and 1 met the threshold for remedies. The aim of this report to some extent is to provide a public check and balance; however, the report's ultimate aim is to offer guidance that enhances (i) the IGM's efficacy in respect of its adherence to the UNGPs' effectiveness criteria; (ii) its ability to meet its obligations towards Complainant rights-holders who access its services; and (iii) its ability to play an effective role in building/improving on going community relations concerning the Williamson Diamonds mining area.

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DISCLAIMER

The following report is the result of an independent assessment/evaluation conducted by Frank Femi Omere and Advocate Harold Sungusia, who together form the appointed Independent Monitor (IM) to the Independent Grievance Mechanism (IGM) concerning the Williamson Diamond Mine. The Report is pursuant to the IM's contractual obligations which specifically limits the liability of the authors of this report. The IM has prepared the report exercising reasonable care and skill, in accordance with accepted professional industry standards and practices in the Contractor's profession. While the IM believes that the report is both accurate and reliable and that every effort has been made to ensure the accuracy of the information presented, the findings are based on information provided to the IM by the IGM, PDL, WDL and from sources available to the IM during the periods of assessment. The report does not purport to be an assessment of the overall performance of the IGM beyond the assessment periods. The IM's conclusions are formed on the basis of its professional judgement in assessing the materials as outlined and should be considered within the context of the assessment's limitations, potential future developments, and the inherent complexities of evaluating dynamic situations. The IM disclaims any responsibility and/or liability to the client and others in respect of any matters outside the scope of the work. Although this report is public, the IM accepts no responsibility whatsoever to any person to whom this report, or any part thereof, is made known. Any such party relying on this report does so at their own risk. No part of this report may be reproduced without the prior written consent of Frank Femi Omere, Advocate Harold Sungusia, Petra Diamonds Ltd and Williamson Diamonds Ltd.

LIST OF ABBREVIATIONS

CLO	Community Liaison Officer
CGM	Community Grievance Mechanism
DC	District Commissioner
DED	District Executive Director
FFT	Fact Finding Team
GO	Grievance Officer
HoS	Head of Secretariat
IGM	Independent Grievance Mechanism
IM	Independent Monitor
IPE	Independent Panel of Experts
LAPs	Legal Aid Providers
LGAs	Local Government Authorities
LOs	Legal Officers
PDL	Petra Diamonds Ltd
PWC	Price Waterhouse Coopers
RP	Review Panel
SGBV	Sexual Gender Based Violence
SVDC	Surrounding Villages Development Committee
UNGPs	United Nations Guiding Principles on Business and Human Rights
WDL	Williamson Diamonds Ltd

1. BACKGROUND TO THIS INDEPENDENT MONITOR REPORT OVERVIEW/SUMMARY

1.1 ABOUT THE REPORT

This is the first public Independent Monitor (IM) report evaluating the implementation of the Independent Grievance Mechanism (IGM) concerning Williamson Diamonds Limited's (WDL) operations in Mwadui, within the Shinyanga Region of Tanzania. WDL is a Tanzanian mining company owned in part by Petra Diamonds Ltd (PDL) a United Kingdom listed company, who for the purposes of this report and for the duration of the IGM process, continues to be the entity that is funding the IGM.

1.2 ABOUT THE IGM

The setting up of the IGM is integral to the settlement agreement that PDL entered into with Leigh Day (a UK Law Firm) in May 2021, in which PDL agreed, inter alia, to design and implement a grievance mechanism, to address grievances involving allegations of severe human rights impacts connected to the security operations at Williamson Diamond mine and to provide effective access to remedy for victims, in accordance with the United Nations Guiding Principles on Business and Human Rights (UNGPs)¹. The work and outcomes of the IGM is envisaged to assist PDL and WDL in fulfilling its human rights commitments emanating from the settlement agreement.

The IGM is a non-judicial mechanism that operates independently from PDL and WDL. The main components of the IGM, comprise the Secretariat, the Independent Panel of Experts (IPEs), the Fact-Finding Team (FFT) and the Review Panel (RP).

The appointed IP Chair is tasked with overall management and administration of the IGM although the IP Chair does not have the ability to influence the RP's processes. The IGM is empowered to select and engage with external organisations and individual experts to provide safeguards for complainants and to support the implementation of specific remedy programmes. Within this context it is for the IM to ensure neutral oversight of the IGM.

PDL appointed PricewaterhouseCoopers (PWC), as the Secretariat of the IGM. The Secretariat as part of its mandate has appointed the IP Chair and the remaining organs that comprise the IGM. The IP, with the support of the Secretariat, is responsible for the operationalisation and administration of the IGM through the provisions of the IGM's manual and does so independently of PDL and WDL.

In December 2020 WDL, established the Community Grievance Mechanism (CGM), which is not part of the IGM and which is designed to address the grievances raised by local stakeholders concerning the day-to-day operations of the Williamson Diamond mine. The CGM became operational in early 2021 and is governed by a Standard Operating Procedure (SOP).

The WDL CGM aims to provide access to an effective process to resolve grievances for community members affected by WDL's mining activities and operations that fall outside the scope of the IGM. The WDL CGM should help manage social risks and ensure that grievances are effectively managed and understood before major incidents occur, whilst simultaneously ensuring that complaints are managed in a

culturally sensitive, respectful, timely and consistent manner, fostering confidence and positive relationships between WDL and stakeholders.²

1.3 INDEPENDENT MONITOR'S MANDATE

The IM's reporting mandate is to review and evaluate the workings of the IGM with specific reference to:

- (a) the IGM Manual, promulgated in November 2022 (which is now at Version 5);
- (b) to the UNGPs, with a focus on the effectiveness criteria;
- (c) the body of learning around the subject matter; and
- (d) the relevant laws of Tanzania and the African Human and Peoples Rights protection frameworks, where they are compatible and/or provide nuances that reinforce one of the overriding objectives in this process, which is:
 - to provide an effective home-grown solution to resolving the outstanding allegations of severe human rights violations; and
 - to building better long-term community relations.

1.4 FOCUS OF THE REPORT

In summary, the IM's report shall assess:

- (a) the processes applied by the IGM;
- (b) the effectiveness of the safeguards; and
- (c) the numbers and outcomes of the grievances received, as well as identifying risks to effective IGM implementation.

Further, where relevant, the IM shall provide recommendations for continuous improvement of the IGM.

2. SCOPE AND METHODOLOGY

2.1 STANDARDS

The report is guided by the UNGPs and the IGM Manual and is a compilation of the information collected and analysed by the IM in order to establish whether or not the IGM is aligned with the UNGPs and the effectiveness criteria. The Guiding Principles set out a list of effectiveness criteria for state- or company-based non-judicial grievance mechanisms. These criteria stipulate that effective grievance mechanisms should be:

- (a) **Legitimate:** enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;

² Ibid

- (b) **Accessible:** being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- (c) **Predictable:** providing a clear and known procedure with an indicative time-frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- (d) **Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- (e) **Transparent:** keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- (f) **Rights-compatible:** ensuring that outcomes and remedies accord with internationally recognised human rights;
- (g) **A source of continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;
- (h) **Based on engagement and dialogue:** consulting the stakeholder groups for whose use they are intended on their design and performance and focusing on dialogue as the means to address and resolve grievances.

2.2 IM REPORTING PROCESS

The IM Report has abided with the requirements in the Manual which required the IM to undertake the following towards production of the report.

2.3 FORMAL REQUEST TO THE IP AND THE SECRETARIAT FOR IGM INFORMATION.

The IM made a request to the Head of the Secretariat (HoS) of the IGM with a comprehensive schedule of programmes.

This report contains information garnered and analysed from two different site visits of which the prior requests were made to the HOS. The IM noted slight adjustment of the activities and dates following consultations with the IGM secretariat.

Further, the IM ensured that the Secretariat and Grievance Officer (GO) were informed beforehand of the proposed stakeholders' engagement, review of files, and presentation of the IGM statistics.

The information gathered from the stakeholders, documentation and presentations are the core basis for the findings and recommendations made herein this report.

2.4 THE INDEPENDENT MONITOR'S SITE-LEVEL STAKEHOLDER ENGAGEMENT PROGRAMME AND ACTIVITIES.

The IM made two separate site visits to the IGM as follows:

Date	Places/Persons Visited
May 2023 – Pilot Evaluation	<ul style="list-style-type: none">• Offices and Staff of the IGM – Shinyanga• Complainants who had received decisions• Senior Prison Warden Officer – Shinyanga• Magistrate Judge Kishapu District• Senior Medical Doctor Mwadui• Senior Police Officer Kishapu• Gender Desk Officers Kishapu Police Station• Surrounding Villages Development Committee
July 2023 – Evaluation	<ul style="list-style-type: none">• Offices and staff of the IGM• Complainants• Legal Aid Officers• Interpreters• Live Triage interview of complainants undertaken by Legal Officers• Live taking of witness statements undertaken by FFT officers• Live decision delivery to a rights holder/complainant

The IM's reporting phase centres around the two site-level visits to the IGM and to the wider Shinyanga locality, undertaken in 2023. This followed two previous visits to the locality: the first in June 2022, comprised an orientation field trip to the mining area, the CGM where complaints were being lodged, and to the surrounding districts meeting local authority and community leaders and members of the community; and the second visit, in November 2022, comprised the IM's attendance of the official public opening of the IGM ceremony that took place in Shinyanga town, followed by a visit to the newly opened IGM building and further introductions to the IGM organs and their respective team members.

On each occasion, the IM has been able to gain a better understanding of the dynamics of the situation within the area; the site-level visits in particular have been highly valuable and have included full access to: the IGM's offices, interviews with all the respective team members, a review of documents including complainant forms, physical and electronic case files, and written decisions; and related service personnel within the surrounding districts. In addition, the IM gained access to complainants and persons connected to the complaint resolution processes.

The visits and ability to consult with key stakeholders provided the IM with insights into important historical and contemporary issues and situations, which inform the IM in key aspects of its findings and recommendations.

2.5 REFERENCE TO THE PILOT PHASE

This report follows on from an agreed pilot phase of the IGM that took place from November 2022 and continued until the end of May 2023. The IM's evaluation of the pilot phase provided the IGM with an interim assessment of its initial service roll out to a sample of the complainants, who had registered their claims at the CGM offices between 2021-2022 (347 grievances).

To be clear, the pilot saw the operational launch of the IGM and the commencement of its handling of real grievances. The processes, procedures deployed, the outcomes and decisions reached, were all fully live and provided an important opportunity to identify learnings and to refine processes leading up to the full implementation phase that has now been reached.

The pilot sample of claims, derived from those lodged between 2021-2022 had in mind specific criteria to provide a realistic and representative insight into how the IGM would manage such claims over the duration of its mandate. The documentation and case files, together with persons that the IM interviewed and/or had access to, were also reflective of this broad ambit, including qualities such as:

- (i) Which village complainants came from;
- (ii) The type and nature of the claim;
- (iii) The outcome of the claim; and
- (iv) Issues concerning access, etc.

This report therefore also draws upon the key findings reached in the interim assessment, outlining the challenges/concerns and progress that has been made since the interim report, and the IM's consolidated recommendations in respect of guiding the IGM's ongoing operations.

3. THE IM'S OBSERVATIONS AND RECOMMENDATIONS

It is worth stating at this juncture of the report that from the IM's stakeholder engagement activities, which included meetings with a district Magistrate Judge, Senior Police Force Officers, Senior Medical Officers, a Senior Prison Warden, Community Leaders as well as with complainants, it can be said with some degree of certainty, that within the temporal scope of the IGM's mandate 2009-2023³, there appears to have been significant periods where there are consistent reports of injuries and human rights abuses carried out by security personnel contracted by WDL.

That said, this can be contrasted with a vastly improved situation currently, where security services and the local police force, as understood from the IM's engagement sessions, appear to have been better trained and prepared in deploying human rights approaches to security interventions; and who are now better able to deal with incursions/trespasses onto the WDL mining areas; and moreover, now seem to have an improved relationship with the surrounding communities and their members. However, the relations remain finely

³ Note that grievances are still being registered and the current intention is that grievances can be registered until the end of the year

balanced and the IGM process itself has an important part to play in how the situation may materialise long term.

The IM recognises that this contextual understanding has an important impact when it comes to the assessment of allegations of human rights violations. International jurisprudence regarding such situations highlights that the burden and standard of proof ought to reflect the likelihood of such high prevalence, which can have the effect of lowering the burden/standard of proof, not increasing it. This is particularly important where evidence may be difficult to obtain due to the passage of time, poor memory induced by trauma, etc.

The IM further recognises that where vulnerability issues surface, a range of instances may require professional support services to be made available to complainants (SGBV, severe physical/psychological injury grievances in particular). Such professional support services are likely to assist the case/evidence management process and ultimately, the IGM's ability to determine matters in a holistic and balanced way.

The IM observes that the volume of complaints that are to be determined by the IGM remains very large from an initial starting point of 5573 grievances lodged. Again, from the IM's engagement efforts, the anecdotal evidence tends to suggest an inevitability that there will be a sizeable proportion of unmeritorious claims. However, on the other hand, which is equally borne out from the anecdotal evidence emanating from the range of key stakeholders mentioned, that a considerable proportion of the total number of complaints are likely to be genuine grievances that reveal severe individual human rights violations. The IM is cognisant of the difficulties that these realities present to the IGM, and at the same time recognises that the overall objective is to strike the right balance in favour of dispensing remedy to those who have suffered severely and not to disproving grievances.

As a general remark regarding the effective remedy criterion, there can be no doubt about the importance of individual remedy for those who have suffered severe human rights violations, and in this context, violations falling within the scope of the IGM's mandate. However, community remedy, in the IM's view, ought to be seen in a similar light of importance, especially given the inevitable collective harm that results and/or that can follow from consistent patterns of abuse meted out to community members.

It is the IM's position that combining individual and community remedy is consistent with the IGM's mandate and desire to inculcate a restorative justice programme that can be sustained. Significant efforts should be exerted to arrive at a workable balance between these linked approaches to providing effective remedy. The IM remarks here also go to the issue of providing community solutions that may be able to reduce claims that are either out of scope and/or are lacking in merit. In other words, community remedy may/ought to induce and incentivise collective good conscience, leading to the voluntary withdrawal of unmeritorious individual grievances.

Whilst the IM raised a number of concerns in the interim report, it must be emphasised that the magnitude of the task before the IGM is exceptionally large. And there has been, in the IM's view, a concentration in rapidly creating an institution, which is equally important to the endeavour at hand. However, in so doing, there have been important substantive details that appear not to have been fully adhered to initially, the standard and burden of proof being one such example; notwithstanding that there was some fine tuning of such details. However, what has been extremely impressive is the re-alignment efforts that have taken place since the IM's initial interim report.

Firstly, there was a root and branch acceptance of the IM's findings and recommendations; and secondly, the IGM has demonstrated efficient and concerted efforts to address the concerns raised. This has included: intense interactive business and human rights training and mentorship; a review of all grievances decided; commencement of the recruitment of a senior human rights legal officer/case worker to assist the triage and fact-finding processes; the IP's peer-to-peer evaluation of decided grievances; better strategic use of the in-house human rights expertise available through the IPEs; and an overall demonstrable shift in language, tone and action, whereby, on the face of it, the IGM organs and team members appear more empowered in recognising and therefore internalising that the IGM itself is a humans rights-centred entity, set up to serve rights-holders in accordance with the UNGPs' effectiveness criteria.

During a recently attended meeting, the IM was encouraged to hear several of the IGM organ members now referring to complainants as "rights-holders". And to illustrate this point further, in the IM's recent review of the IPE's decisions that the IM recommended be reviewed, there was clear improvement in how the standard and burden of proof was being applied, which in some grievances, resulted in the reversal of the initial decision rejecting the claim. An area of concern that ought to be highlighted for prioritisation is the relationship between the IGM and the surrounding village community leaders. This is not an easy relationship to manage, particularly given the multiple interests that community leaders do sometimes have that may conflict with what the IGM can legitimately deliver.

Besides, there have been repeated claims by the community leaders that they feel excluded from the IGM process, and they have also highlighted issues regarding how the IGM had been dealing with evidential matters of complainants. Such concerns clearly warrant addressing. To those points, the IM has been made aware of an IGM lead community engagement programme that is to be proposed to community leaders and, as said earlier in the report, the IM has assessed some of the reviewed IPE decisions, which demonstrated that the evidential matters concerning complainants' accounts of human rights abuses were being handled with an appropriate evidential threshold being applied.

All concerned agree on the importance of obtaining the buy-in from the various community leaders with regards to the IGM process, however, this must be achieved with the core principles of the UNGPs, related human and peoples' rights and good governance frameworks in mind⁴.

In the following section of this report the IM sets out its consolidated Assessment Evaluation Findings and Recommendations where applicable and does so in table form for ease of reference.

⁴The IM is aware that other forms of stakeholder engagement have taken place. The IM, however, has not been able to witness those first hand during its monitoring works and cannot therefore comment on their effectiveness.

UNGPs Standard Applicable	Summary Observations and Recommendations by IM
<p>3.1 LEGITIMATE Whether the IGM took into account rights-holder views when the mechanism was designed, and when evaluating and improving the mechanism once it was established.</p>	<p>Whilst a lot of effort has gone into stakeholder engagement to gain the inputs of the various stakeholders, particularly prior to the launch of the IGM, the realities of becoming operational looks to have placed pressure on the amount of continued engagement during the pilot phase. This appears to have led to a number of misunderstandings regarding the IGM processes and what the IGM is legitimately able to sign off regarding requests for financial help coming from the community leadership in respect of their assistance to the process.</p> <p>The IM recommends that <i>the IGM consider having a dedicated Community Liaison Officer (CLO) whose job it will be to create the anchor between the local community leaders, other related community stakeholders and the IGM..</i> Whilst the HoS's duties do comprise these elements of responsibility, they sit within many other critical roles that the HoS needs to be play for the IGM. The IM sees this additional resource as being very focused for the specific need. The role would fall under the HoS's supervision, ensuring a well-coordinated and highly available resource for community engagement purposes, serving both the community and the IGM.</p> <p>The IM recommends further <i>that:</i> In the event that the IGM considers it appropriate to reimburse community leaders for their assistance to the process, that it should consider the government rates in payment of the local government officials.</p> <p>The IM recommends that the IGM consider looking at ways to demystify its processes to stakeholders who claim that they do not feel included, which mainly emanates from community leaders. The IGM should increase its engagement and outreach such as the radio shows, listening clubs, and community animators in this regard and beyond.</p>
<p>Whether the IGM has policies that consider the special needs of people who may be at heightened risk of vulnerability or marginalisation</p>	<p>The IGM excels in this regard and has a well put together Manual that is thorough with dedicated sections dealing with vulnerability and at the same time, ensuring that it has a pervasive quality throughout the document.</p>

UNGPs Standard Applicable	Summary Observations and Recommendations by IM
	<p>The IGM staff are becoming more empowered toward meeting the needs of vulnerable complainants and this will be aided by the roster of specialists who are now available to add their expertise toward this area. The IM understands that the roster is continually under review and the aim is to increase capacity to meet the growing needs of the complainant caseload that will be encountered by the IGM, now it is in the full implementation phase.</p>
<p>Whether the IGM observes fairness of the fact-finding and assessment process (including a review of evidentiary thresholds);</p>	<p>Whilst there have been challenges in this area, fairness should also be seen in the IGM's ability to correct and refine its approaches and to do so in a manner that impacts complainants positively. The IGM reviewed all grievances that were decided in the pilot phase, which is testament to the issue of fairness.</p> <p>The IM has provided extensive recommendations in this regard and understands that the IGM at all levels is now much clearer on the appropriate evidential threshold to be applied in human rights grievances, specific to the context of what is alleged to have been prevalent within the Mwadui mining area.</p> <p><i>The IM recommends that the IGM enshrines the correct approach to evidence within the Manual itself</i></p>
<p>How the IGM IPE operates with impartiality and fairness</p>	<p>The Manual is comprehensive in setting out the framework for ensuring impartiality and the IM saw nothing that would suggest that this is not fully observed. With regards claim forms, there is some level of standardisation and prescription that provide useful prompts for the LOs and FFTs, reinforcing this important quality. Such forms are under constant review and have been refined to deal with areas regarding threshold and comprehensive evidence gathering.</p>
<p>Whether the IGM maintains sufficient independence from those whose activities may be the subject of grievances</p>	<p>To a considerable extent the IGM has maintained sufficient independence, but improvement may be made particularly in respect to stakeholders' perceptions., This risk may heighten where communities might conflate WDL and the IGM if they both appear at events together.</p> <p>In line with the IM's recommendations, the IGM is embarking on much more IGM lead engagement with the community and less so alongside PDL/WDL's engagement efforts. This is important so as not to conflate what each of the institutions are doing.</p>
<p>Whether and how the IGM hire suitably qualified personnel</p>	<p>The IGM has done well in this regard. It has well qualified and dedicated staff members throughout the organisation. That said, in important areas, namely the witness statement level,</p>

UNGPs Standard Applicable	Summary Observations and Recommendations by IM
and/or invest in training of personnel	<p>the IM has recommended enhancement in the form of the recruitment of an experienced legal officer/case workers to assist with the taking of witness statements, who can pivot between the triage and fact-finding processes, ensuring that the human rights centred approach is prioritised above-all because of specialist technical know-how and relevant experience. This is underway and in the interim the IPE are playing an increased supervisory role in the processes that produce the line of reports upon which they base their decisions.</p> <p>Coupled with the intense training that has been delivered by an expert in the specific area of business human rights and experienced in the implementation of the effectiveness criteria for grievance mechanisms, the IM has noted a very real and positive shift in important out puts concerning evidence gathering and IPE decisions.</p>
3.2 ACCESSIBLE Whether and to what extent does the IGM proactively disseminate information to rights-holders	<p>The IGM's GO provides information to IGM stakeholders about the progress of the grievances and the IPE Chair provides community engagement sessions informing the public and IGM stakeholders about the status of the grievances; i.e. how many grievances are attended etc and challenges involved and mitigation by IGM.</p> <p>The newly recruited HoS has quickly embarked on devising a programme of stakeholder engagement that he will lead, which the IM understands will be discussed and proposed to community leaders for their inputs prior to the intended roll out of the same. In view of the concerns of the community leaders of late, this development is timely and vitally important and requires the IGM to nurture this attempt at re-engagement with care skill and pragmatism, maintaining the integrity of the institution.</p>
How does the IGM address barriers faced by people who may be at heightened risk of vulnerability or marginalisation	<p>This was an area highlighted for prioritisation in the IM's interim report. The new HoS, immediately upon his arrival, sought to address this issue and the IM understands that from a position of having virtually no service, the IGM now has a roster of qualified medical doctors and psycho-social experts, who are on call to provide assistance when requested by the IGM. This is a welcome development.</p> <p>In the live sessions that the IM attended, it was apparent that, regardless of the merits of the actual grievances, complainants were often presenting as persons with deep psychological</p>

UNGPs Standard Applicable	Summary Observations and Recommendations by IM
	<p>troubles. The IM highlights that there may also be a need to equip LOs and FFTs with a deeper understanding of how to handle persons who are psychologically affected in the ways the IM observed.</p> <p>The IM also raises the issue of LAPs and language services. The IM recommends that the IGM should consider subjecting the LAPs and interpreters to sign an oath of confidentiality, honesty, and integrity.</p> <p>The IGM Manual, specifically the provision on legal representation (see para 4.7.2.1 of V5),.. may also be further amended to provide for a more refined role of the LAP, so as to provide additional contextual explanation to the person represented.</p> <p>On the issue of financial barriers and keeping people safe – the IM commends the IGM for its efforts and for creating a relaxed safe environment where from what the IM observed, complainants felt welcome.</p> <p>On confidentiality issues, the IM saw a robust regime in place, and it merely flags the recent Tanzanian legislation that has come into force (the Tanzanian, Personal Data Protection Act no.11/2022) and urges the IGM to review the same to confirm its compliance.</p>
<p>3.3 PREDICTABLE</p> <p>How does the IGM manage the expectations of the rights-holders and avoid over-promising?</p>	<p>The community engagements efforts completed so far have communicated the objective and function of the IGM, which are in-forming the communities about the evidential threshold and assisting / urging the village community members to distinguish the handling of claims by the IGM from the previous claims that were awarded payment under the Leigh Day initiated case in the UK. This includes sensitising community members to the available remedies and compensation levels of the IGM, that will be informed by principles of laws of Tanzania.</p> <p>The IM is aware that such efforts have also been aired on popular radio programmes accessible to village community members. Further, the IGM engages the village community leaders on the subject matter as well as with individual complainants from the date of registering their</p>

UNGPs Standard Applicable	Summary Observations and Recommendations by IM
	<p>grievances, with the legal officers and FFT playing a key role in informing complainants about the process, criteria and type of available remedies upon reaching the threshold.</p> <p>The IPE members also have contact with complainants and thus have the opportunity to inform IGM service users about the review process as well. In summary, throughout the claim process, from registration to decision, information to complainants is provided that seeks to manage expectations. It remains to be seen how successful such efforts will be. Since awards have not been finalised, the IM cannot report on what type of compensation has been provided to those who have been successful in their claims.</p>
<p>What mechanisms are in place at IGM to address grievances without undue delays?</p>	<p>There has been delay but to a large extent this is on account of the IM's recommendation that all claims decided in the pilot phase be reviewed. Having gone through the pilot phase, and having refined processes, the IM is of the view that complainants can expect more timely outcomes.</p> <p>The IM is also aware of the implementation of the case management system that was presented to it by the GO, who is confident of its ability to assist in speeding up the process, regarding the recording, tracking and joining up of the IGM's processes.</p>
<p>3.4 EQUITABLE How does the IGM provide (or direct affected stakeholders to external sources of) advisory, technical, and financial support.</p>	<p>The IM observed that all complainants who registered their grievances are afforded with the right to be heard, legal aid, translator/interpreter services and where needed the IGM provides for medical and/or psychosocial support to vulnerable complainants:</p> <ul style="list-style-type: none"> • IGM has created a good level of awareness for complainants regarding the process and what to expect. However, more outreach work outside of the IGM is needed. • There is a minimum of 5 legal aid providers and complainants are free to choose from those provided by the IGM. This is a positive supportive feature of the process that is in line with the UNGPs. More, however, ought to be done to enhance representation options further. <p>The IM recommends that the complaint forms highlight a complainant's freedom to choose their legal representation over and above what is provided; however, emphasizing the need for</p>

UNGPs Standard Applicable	Summary Observations and Recommendations by IM
	<p>quality of service and high standards to be maintained and that the IGM shall play an active role, with necessary powers in place, to ensure the same.</p> <p>IM recommends further that the IGM should conduct periodic evaluation/assessment of the LAPs and interpreters. This is vital to ensure quality and to secure integrity of the LAPs and interpreters for the best interest of the complainants.</p> <p>The IM is also aware of the IGM's constant review and refinement of its administration in this area for example the use of IGM transport service to accommodate vulnerable / special needs complainants.</p> <p>The need to recruit psycho-social specialists, medical specialists, legal aid providers and interpreters is ongoing; however, progressive steps are being taken to satisfy these requirements.</p>
<p>How does the IGM make appropriate, gender-sensitive adjustments to accommodate the needs of those who may be affected</p>	<p>The Manual requires that the IPE's composition must be as balanced as possible in terms of gender and geographic representation.</p> <p>The IM observed that some but not all gender-sensitive grievances such as sexual abuse and rape allegations are managed by female team members in the IGM units i.e. LOs, FFT, and IP members. With the number of grievances to be dealt with, it is unlikely that each of those grievances could always be allocated to a female member of the team. The IM reiterates its recommendation that the specialist service providers be made routinely available to assist in the witness statement taking process, i.e. triage and/or FFT taking of witness statements. Further, and in so far as this is in accordance with the laws of Tanzania, that the recruitment of the senior legal officer/case work should prioritise female candidates.</p> <p>The IGM team, it is understood, has received high level, but not specialised trainings on awareness around sexual and gender-based violence, vulnerability issues and identifying vulnerable complainants. The psychosocial experts that are now on board should also be able to play an important role in enhancing awareness within the IGM and in the community on such matters.</p>

UNGPs Standard Applicable	Summary Observations and Recommendations by IM
<p>How does the IGM allow rights-holders to decide who represents them</p>	<p>This area is managed well within the IGM with information and assistance provided to complainants regarding obtaining representation of choice.</p> <p>The IM recommends that the psycho-social experts be put on notice to be ready to assist relevant grievance assessment processes at the IGM and for complainants to continue to be made aware of the support available and to be empowered to use the same. Further, in certain circumstances, the IGM may on its own motion, require the experts to assist the process.</p>
<p>Whether in the IGM parties may challenge the grievance process and outcome</p>	<p>This is adequately provided for in terms of the procedural framework and complainants are aware of the RP's role within the process. There is also an internal peer-to-peer review mechanism that will be more robustly applied to decisions of the IPE, which may also act as an internal challenge of grievances before they are notified to complainants.</p>
<p>3.5 TRANSPARENT Whether the IGM ensures ongoing, proactive engagement with the parties regarding the status of each step of the process</p>	<p>The IM observed that the level, nature and dynamics of the communities surrounding villages and stakeholders, including some who may happen to have negative feelings toward the IGM, require constant and strategically objective engagement. Unmet expectations, misinformation, perceived or real, and uncertainties need to be addressed through continuous community engagements. During the stakeholders' engagements, the IGM provides written statements with statistics about the status of the IGM updating them on achievements, challenges, and pathways forward.</p> <p>The IM recommends that meaningful and strategic community engagement is key to the success of the IGM. This may include increased use of radio broadcast programmes and other well-positioned community institutions (interfaith dialogue perhaps) to reach the wider range of stakeholders more effectively.</p> <p>The IM further recommends that continued efforts be deployed to improve and build positive relationship with the IGM stakeholders, which may likely assist in speeding up the fact-finding processes, given the role which the community and local government leaders often play in this regard. It may also help to build more mutual trust, enhancing the legitimacy of the IGM</p>

UNGPs Standard Applicable	Summary Observations and Recommendations by IM
<p>3.6 RIGHTS-COMPATIBLE Whether the IGM remedies are adequate, effective, prompt, culturally appropriate, and gender-sensitive</p>	<p>The IGM Manual provides for remedies that are based on the Tanzanian context. The IM is unable to report on the actual remedies awarded as, at the date of the assessment, none had been administered for reasons outlined above relating to the review of all grievances decided in the pilot phase and since then, only one grievance has been accepted for remedy. From a policy perspective there appears to be a range of remedies at the IGM's disposal that can meet the requisite remedy standard, including being culturally appropriate and gender-sensitive.</p> <p>The IM recommends that the IGM manage expectations on the issue of remedy in a balanced way and in a manner that looks at each situation, individual and/or collective, on its own merits.</p>
<p>How does the IGM consider collective remedy options or other initiatives that could deliver remedy more effectively</p>	<p>The IGM has enshrined collective remedy into how claims may be settled. The IM is encouraging of this approach where it is appropriate and in recognition of communities that have suffered communal harm as a result of being specifically targeted, or on account of harm to individuals that in turn harms the community. For example, if there were numerous cases of beatings to specific community members or on a more serious level, numerous rapes of women from a specific community. As stated above, the IM is yet to see how the IGM seeks to administer/structure such remedy outcomes and therefore the IM is not able to comment. However, the IM offers the following notes of caution and guidance:</p> <ul style="list-style-type: none"> • The collective remedy route must not undermine the legitimacy of the process. In other words, if the IGM has concluded that an individual's grievance is out of scope or has no basis, they should not then be directly rewarded in the form of being expressly included in a collective remedy award, even if they may also benefit from the same indirectly. • The collective remedy may be appropriate for a range of grievances where the threshold of seriousness is unlikely to be reached but that the veracity of the account given is broadly accepted. <p>That collective remedy, may also be in recognition of serious harm perpetrated to individuals that when taken together, also indicate communal harm (numerous rapes of women from a specific community would be a clear example).</p>

UNGPs Standard Applicable	Summary Observations and Recommendations by IM
	<ul style="list-style-type: none"> Avoid conflating existing community projects with the collective remedy outcomes, unless there is quantifiable increase of resource allocation to such projects that can be audited and that also have the approval of the communities that they are designed to recompense.
Whether the IGM assesses and addresses the potential human rights implications of remedies and outcomes to avoid further harm	<p>In so far as the Manual is concerned there is provision for this and a recognition that vulnerable persons should be assisted to mitigate the risk of unintended consequences arising from complainants being awarded remedies. The IM has not seen this in action as yet, given the stage where things are at in terms of dispensing remedies to successful complainants.</p> <p>The IM recommends that a close eye be kept on this area as remedy outcomes start to come through in order to mitigate the potential for secondary human rights violations arising.</p>
3.7 A SOURCE OF CONTINUOUS LEARNING What mechanism is there for the IGM to gather information on mechanism performance in relation to feedback on parties' experiences; on frequency, patterns, and causes of grievances; and effectiveness of remedial outcomes	<p>The IGM provides a contact phone number where the parties can communicate with the IGM and provide feedback; some of the complainants who physically visit the IGM offices do provide feedback.</p> <p>There is a special form where the complainant is asked to confirm their satisfaction levels with the process, the decision and in the case of remedy, feedback on this aspect as well.</p> <p>The IM strongly recommends that the IGM conduct feedback sessions with the SVDC on a regular basis as well. The IM is of the view that consistent engagement between the IGM and the SVDC provides the opportunity to address stakeholders' concerns.</p>
How does the IGM identify risks to the effective IGM implementation and independence	<p>The IGM has its ear to the ground and broadly speaking is well enough connected within the community and/or with official bodies to be aware of the risks which may emanate from villages and communities that they engage with on a near daily basis. This is an important quality that ought not to be underestimated and the FFT play a vital role in this regard.</p>
3.8 Based on engagement and dialogue	<p>The IGM will no doubt engage with the communities in relation to dispensing collective remedy, it is important that the decision on scope and type of remedy must be informed by the views of</p>

UNGPs Standard Applicable	Summary Observations and Recommendations by IM
Whether the IGM draws from mediation best practice	community members and not be taken as an IGM imposed scheme to a given community. The IM understands that such mapping of community views is under way.
How does the IGM train and support mechanism personnel in dialogue-based methods of resolving grievances	<p>The IM observes that the IGM has continuously invested in building the capacity of its staff. For instance, immediately after the pilot phase, trainings of 2 sessions per week for 3 weeks followed the review process, which took the form of virtual mentorship sessions.</p> <p>The trainings led to the amendments of the claim forms that clarified important practical details regarding the rights of the complainants. There is now increased peer-to-peer support that adds value to the LOs work outputs. The LOs interview skills have been sharpened with human rights approaches taking precedence. The IGM has adopted a complainant's feedback review form which is better able to capture how complainants are experiencing the services of the IGM.</p>

4. CONCLUDING REMARKS.

The hard work, dedication and integrity of the IGM organs and team members that the IM witnessed over the assessment periods ought to be highlighted for praise. The IM was struck by how much had been achieved in such a short period of time and this goes specifically to the issue of having to rapidly create a solid, recognisable institution to handle a complex and novel area of human rights centred grievance resolution. The IM is confident to say that the look and feel of the IGM is one of an institution that is well under way to making an important impact within a set of communities that appear to have undergone trauma and who in any event, reside in challenging socio-economic conditions.

The IGM was set up carefully and methodically with a sensible design valve included, in the form of a pilot phase. This was purposefully implemented so that the IGM could test the waters and gain immediate insight into its operations. That has happened and the issues that have been teased out, some of which could be regarded as negative, is part of the process of transparency and openness to getting things right. The IM commends the IGM for its open, dynamic, and cooperative approach to the assessment process and moreover, to receiving, accepting and to beginning the process of addressing the areas of concern with real commitment and a passion to serving the community well and ultimately with the UNGPs in mind. Notwithstanding the areas highlighted for improvement, there is no doubt in the IM's general observations that the IGM is committed to fulfilling its mandate under the UNGPs and in a manner that is faithful to the social mores of the locality that it operates within.

The available human resources that the IGM has at its disposal is formidable and incredibly professional and committed. The IM observed the IPE being endowed with personnel who are widely regarded as being the leading human rights performers in the country; the FFT team with very experienced individuals in investigation and capable of identifying the risks and potential threats to the IGM; the LOs being most consistent and professional always eager to learn and to administer human rights-sensitive justice; the GO being a person very passionate about human rights and very capable of dealing with vulnerable rights-holders; and the Secretariat capable of effectively managing the logistics of the IGM to the satisfaction of the rights-holders and IGM organs. The IM is confident that the IGM is moving in the right direction. Notwithstanding all such positive attributes, the IM's recommendations for improvements in certain areas are still very important. The enhancement of the IGM can and shall still be required, for example the hiring of a senior legal officer/ senior human rights officer with relevant human rights experience.

It is clear from the body of the IM's report that issues have been identified and it would be surprising were that not to be the case, considering such a gargantuan enterprise. The IM emphasises that nothing it encountered gave the impression of an insurmountable obstacle to achieving the end goals that it believes all stakeholders wish to see in this process, i.e., a successful resolution process that has remediated persons who have suffered severe human rights abuses within the scope of the IGM's mandate; that may also operate at the collective community level; and which leaves a legacy on which to continue building sustainable positive relations between all stakeholders within the Mwadui mining area. The IM's concluding remarks are that this reporting phase was somewhat premature in being able to give a fuller appraisal of the post pilot phase. The next report shall be different, and the IM expects to be

able to report on areas such as remedy outcomes and progress of community engagement efforts with much more detail. The IM ends by wishing all concerned the very best in building up the IGM to serve the community effectively.