

02 Guidance for deforestation grievances

This document was commissioned by Cargill and written by Proforest as part of Proforest’s work with Cargill on grievances and how to address grievances with its suppliers. It was designed to guide internal processes, but Cargill decided to make the short guidance public to demonstrate how it approaches these issues. The long form of this guidance will not be published – but is referenced in places throughout this document, and these references have been left in to demonstrate where more information is available. If you are interested please send a request to receive the more detailed information to info@proforest.net

Introduction

Many companies all along the palm oil supply chain have made commitments to no deforestation as part of their responsible palm production and sourcing commitments and policies.



This guidance is primarily developed for growers or mills as a first point of contact, but corrective actions ultimately need to be carried out where deforestation happened whether by mills, plantations they own or/and plantations of outgrower or smallholder farms that they source from.



What is meant by a grievance?

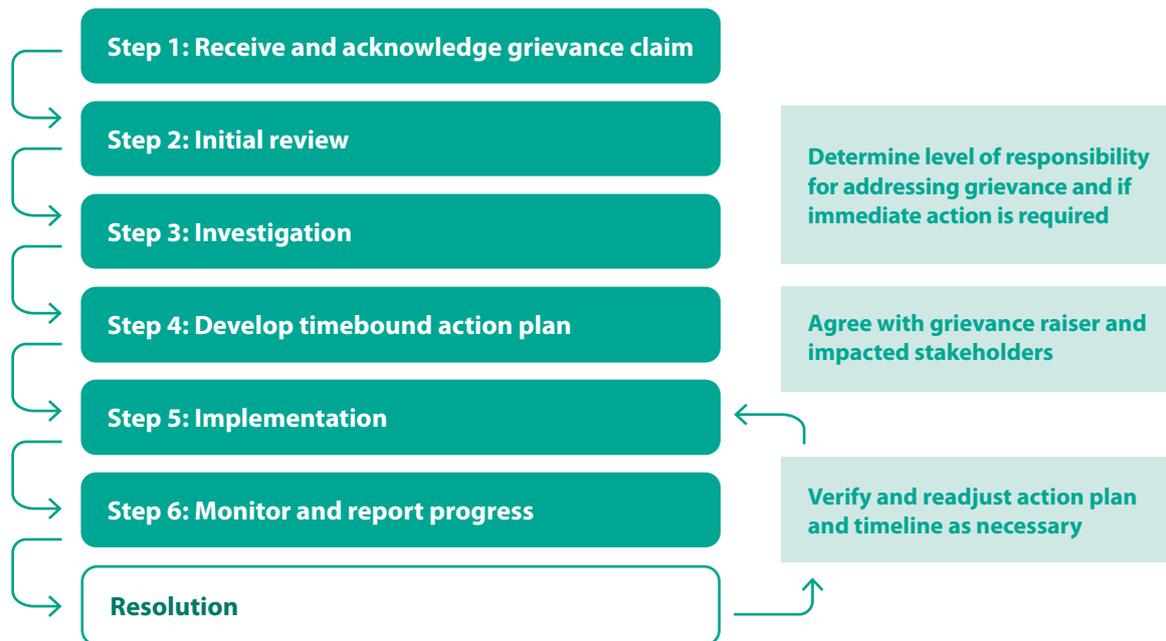
A grievance, in the context of the palm oil sector, may be defined as a complaint or allegation of a practice that may go against international standards, company policies or industry best-practices. It usually relates to a company's responsibilities to respect the rights of their employees and neighbouring communities as well as protect the surrounding environment. When individuals, communities, civil society organisations, media and even government agencies identify specific harms that they wish a company to address, they may be termed 'concerns', 'complaints' or 'grievances' or given a different name. They may be raised directly with the company through a formal communication that enters directly into a company's grievance mechanism, or they may arise through informal communication and/or be put forward by proxy through a third party (e.g. by an NGO in a public report).

In the palm oil sector, grievances are usually raised around the production practices of oil palm and therefore fall under the responsibility of the grower or mill. However, grievances at production level may also be raised to downstream companies who source palm oil, in which case they may raise these grievances to those suppliers concerned and routinely follow up to check on progress in resolving them. This also applies to grievances raised against mills concerning the practices of their third-party suppliers (e.g. traders/collectors, outgrowers and independent smallholders).

If left unresolved, grievances can antagonise stakeholders, attract widespread attention, cause damage to a company's reputation as well as that of their buyers, and, in some cases, result in business losses or failure.

Addressing deforestation grievances

A mill or grower that is subject to a grievance must follow a series of steps to address the grievance, presented in the figure below. These should be followed systematically and agreed with relevant stakeholders, in a **transparent, consultative and efficient** manner.



For further details, please refer to the grievance series [Introduction document](#).

Step 1: Receive and acknowledge grievance claim

On receipt of a grievance claim, the first step is to assign the grievance to a member of staff who will then be responsible for investigating and, if necessary, resolving the grievance claim. Once the grievance has been assigned, the responsible person needs to contact the grievance raiser to acknowledge receipt of the grievance and inform them of a timeline for an initial response, including whether the grievance is going to be accepted or not.

Step 2: Initial review

Recommended timeline for completion: 2 weeks

During the initial review, the focus is to collect **enough** information to verify if the grievance is valid. If so, then the grievance claim should be accepted as legitimate, and the process should proceed to full investigation (Step 3).

There are three main things to consider when assessing the validity and responsibility for a deforestation grievance:

- **When:** did any deforestation take place after a voluntary or legal policy cut-off date?
- **Where:** did the deforestation take place inside the company's own operations, or at the plantation or area owned and managed by a third-party supplier?
- **Who:** was the deforestation done by the company, a supplier or a third-party?

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Deforestation grievances may be based on different types of evidence, e.g. satellite imagery, field data from observations or stakeholder interviews (for example, see <http://www.foresthints.news/> for the typical information included in a public grievance). The table below presents some possible different scenarios to help understand necessary actions as well as the validity of the grievance. More guidance on cut-off dates and validity of the grievance can be found in the detailed guidance.

Scenario	Validity	Remarks
Clearance is outside the company's own concession boundary:		
A. Forest, HCV or HCS is cleared outside the company plantation boundary AND is being cleared by a third party that does not currently supply to the company	No	BUT the mill or grievance subject should notify the actor that they will not be able to buy FFB from the third party in the future UNLESS the party develops a plan to restore or compensate for any deforestation in line with Step 4 onwards.
B. Forest, HCV or HCS area being cleared after 31st December 2018 is outside the company's plantation boundary but is or may be within the plantation of a supplier to the company	Yes	Critical due to risk of immediate suspension. More information needs to be gathered on the location, supplier's situation/ policy
C. Forest, HCV or HCS area is being cleared by a company or supplier outside its legal plantation boundary (e.g. on community land or areas zoned for other land uses such as forestry)	Yes	Possible illegal clearance
Clearance is within the company's own concession boundary:		
D. Clearance of forest, HCV or HCS by the company, scheme smallholder, or contractors after 31st December 2018	Yes	Critical due to risk of immediate suspension
E. Clearance of forest, HCV or HCS by the company, scheme smallholder or contractors after July 2014	Yes	Clearance after Cargill policy – therefore retrospective remediation may be required
F. Forest, HCV or HCS clearance by third party inside company boundary after July 2014, or had government permission to legally clear the area and not yet on-boarded as Cargill supplier at time of clearance	Uncertain	Accept claim and proceed to step 3 to conduct further investigation
G. Clearance of scrub, open land or old plantations	No	But if no HCV or HCSA assessment was completed actors may expect evidence to prove what the vegetation was
H. There is insufficient evidence or expertise to judge if the claim is valid or not	Uncertain	Accept claim and proceed to step 3 to conduct further investigation
I. The grievance was valid – but the issue has already been reviewed and resolved with authorities or other processes (e.g. RSPO)	Uncertain	Grievance may be considered valid if other processes have not adequately resolved the grievance in the opinion of the grievance raiser

If the claim is accepted, inform the grievance raiser of i) finding, ii) immediate next steps and iii) timelines and start further investigation (step 3).



Stop work orders

It is important to avoid further deforestation from happening. Therefore, as a direct action, issue what is called a 'Stop work order' to stop all current land clearance activities for operations directly under your control.

- ➔ Communicate the stop work order to all relevant company staff or contractors, or if clearance is at third party, communicate to third party supplier to stop.
- ➔ Cease clearance activities until a plan for avoiding further damage is in place.

Step 3 and 4: Investigation and development of timebound action plan

Recommended timeline for completion: 4 weeks for investigation and 4 weeks for action plan

As a next step it is important to further investigate who cleared the area, when it was cleared and where. For further guidance on possible parties doing the clearance, how to assess it and possible root causes of clearance, please refer to further detailed guidance here. During this internal investigation, all activities, supporting evidence and findings must be carefully documented and shared with the grievance raiser.

The investigation will provide a clear picture of why and how the deforestation happened as well as on the size of the cleared area. The next step is to develop an action plan of corrective actions to resolve the deforestation grievance, including 1) either restore any forest that was cleared or 2) compensate for the clearance by protecting or restoring forest in a suitable location elsewhere.

The table below presents some possible scenarios of deforestation and general recommendations of strategies to remediate these.

Deforestation scenario	Suggested restoration or compensation strategy
<p>Clearance of HCV area or HCS forest identified in HCV/HCSA assessment</p>	<p>These are areas that were identified in the HCV/HCSA assessment as particularly important and requiring long term protection, management and monitoring, therefore:</p> <ul style="list-style-type: none"> • Rehabilitate, restore or remediate forest that was cleared. • In exceptional circumstances, off site compensation may be acceptable – see below.
<p>Clearance of HCV area or HCS forest identified in HCV/HCSA assessment BUT no forest remains in the area cleared or in the surrounding landscape (e.g. within 2 km).</p> <p>OR</p> <p>Clearance of area or forest without previous HCV/HCSA assessment BUT virtually no forest remains in the area cleared or in the surrounding landscape (e.g. within 1 km)</p>	<ul style="list-style-type: none"> • Compensate elsewhere (except for legal reserves and HCV 4 areas such as steep slopes or riparian reserves) <p>This may be acceptable in exceptional circumstances, for example, where an HCV area or HCS forest has been completely destroyed or cleared in its entirety (e.g. by fire) AND there is no forest remaining in the surrounding landscape. In such cases, it will be virtually impossible to recover the biodiversity, forest structure and other values previously provided by the forest – therefore, compensating in another location is likely to achieve a far greater conservation benefit. See long form guidance for more information about compensation options.</p> <p>Note:</p> <ol style="list-style-type: none"> 1. This excludes legal reserves and HCV4 areas that should always be restored or rehabilitated for the critical ecosystem services that they provide. 2. This does not mean that companies are permitted to clear identified HCV areas or HCS forest, and compensate elsewhere. This is a last resort only, that will come with a significant cost and may mean that the company is suspended as a supplier for a prolonged period.
<p>Illegal deforestation</p>	<ul style="list-style-type: none"> • Resolution and appropriate remediation strategy to follow local legal processes with relevant authorities. <p>However, depending on legal requirements or sanctions, supply chain actors (buyers) may often expect the grievance subject to go beyond legal requirements and develop more extensive compensation or remediation plans in order to restore trust and meet stronger NDPE commitments.</p>
<p>Clearance by a company of forest on customary or legal community land (without community consent)</p>	<p>The affected community had customary or legal rights to the land and forest, therefore, it is the community’s decision how they should be compensated.</p> <ul style="list-style-type: none"> • Discuss and agree strategy with affected community <p>Potential options may include:</p> <ol style="list-style-type: none"> 1. Rehabilitate/restore forest that was cleared 2. Compensate community by providing another equivalent land area (similar size, access, value) 3. Alternative in-kind compensation as agreed by community, e.g. development projects, alternative livelihood programmes, agronomic support, etc. 4. Financial compensation. This should be chosen only if fully supported by the affected community, and should never be used as a one-off payment, rather as part of a compensation agreement that will allow communities to meet livelihood needs over time. <p>Note: If the supplier was covered by a ‘no deforestation’ commitment, if the community decides to accept compensation that does not require restoring the forest that was cleared, the company may also need to compensate for the forest cleared through another avenue.</p>

<p>Clearance of area or forest without previous HCV/HCSA assessment BUT location of cleared area of potential strategic conservation benefit</p>	<ul style="list-style-type: none"> • Assess potential and viability to rehabilitate/restore forest that was cleared <p>There are various situations where it may be worth investing the additional resources in restoring or rehabilitating the forest that was cleared, for example, if the area:</p> <ul style="list-style-type: none"> • Connects to or is nearby other larger blocks of forest, protected areas or provides a link between other forest areas, • Still supports animal or plants species that are nationally protected or of conservation importance (e.g. IUCN Red List species), or • Is relatively well protected from threats of future clearance or hunting (e.g. it is far away from roads or villages) <p>Some guidance on how to define these areas is provided in the extended guidance under 4.5.2, although assessing the potential viability of areas needs doing on a case-by-case basis and so may ultimately require an assessment by a conservation expert.</p>
<p>HCS forest or HCV clearance by a local or indigenous community inside company concession</p>	<p>It is companies' responsibilities to effectively manage, monitor and secure HCV and HCS areas inside their concessions. This means that there are two parts of an equitable strategy for these scenarios:</p> <ul style="list-style-type: none"> • Company to compensate or remediate for the clearance following the scenarios listed above. • Develop strategy to address root causes in consultation with community conducting land clearance <p>For example, if the community or individuals clearing the land claims customary or legal rights to the land and forest, then this is a land rights dispute and should be dealt with accordingly (see Land Rights Grievance Guidance).</p> <p>Another common scenario is that community encroachment into company conservation areas is driven by displacement or the community not having access to adequate, productive land elsewhere or to plasma plots – in such cases, the grievance holding company may need to explore options to help the community secure land tenure elsewhere, improve productivity on existing land or support alternative livelihood programmes to ensure livelihood needs are met. Ideally this should be done in collaboration with other landscape stakeholders e.g. other concession holders, local government and NGOs.</p> <p>The encroachment may also be opportunistic, without a clear livelihood need – in which case there would be no need to develop a wider programme but the company should consider improving community engagement efforts and Standard Operating Procedures for delineating conservation areas.</p>
<p>Forest or HCV clearance by a local or indigenous community on legally owned or customary land (outside company concession)</p> <p>OR</p> <p>Independent smallholders</p>	<p>Resolving such scenarios is challenging, because communities or smallholders usually clear forest to make a livelihood and if it is on their own legal or customary land they are entitled to do this. The same “no deforestation” commitments still apply, which means that remediation and compensation is also needed. However, it should be done in the most equitable way possible to ensure community livelihoods are still supported.</p> <p>As a general rule, the same steps should be followed as for the scenario above, EXCEPT that the company cannot be held responsible and options to pay for developing and implementing action plans should be discussed with supply chain actors.</p>

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Once the action plan is developed and accepted by the grievance raiser, implementation should begin according to the action plan and subsequently progress should be monitored against timelines and milestones included in the action plan.