

# CMSI Consultation Response

## Respondent Details

NAME

Eddie Smyth

COUNTRY

Ireland

PERMISSION

Yes, CMSI can disclose my feedback, name, and organisation.

STAKEHOLDER

Consultancy

ORGANISATION

Intersocial

## COMMENTS & QUESTIONS BY DOCUMENT

Document:  
Standard

### General comment on Performance Area

COMMENT:

*The CMSI Consolidated Standard represents incremental refinement within a familiar ESG/assurance paradigm, but it does not respond to the fundamental issues raised in my submission (Intersocial Limited, 16 December 2024). The final draft preserves an engagement-centric, developer-led model of social performance that is structurally incapable of ensuring fairness, accountability, or rights protection for affected people.*

*Almost all the governance, power, and assurance concerns documented in my submission remain undressed. The Standard renames concepts, reorganises clauses, and adds capacity language –but does not reconstruct the governance architecture that produces harmful outcomes in mining and large-scale development projects.*

*CMSI missed the opportunity to break from the decades-old ESIA-consultant-audit cycle that continues to dominate global mining practice. Instead, the Standard codifies a slightly more elaborate version of business-as-usual industry behaviour.*

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COMMENT:

#### *1. The Standard Has Not Moved Beyond Developer-Led Engagement*

*CMSI centres its social requirements on “meaningful engagement,” capacity support, and, at Leading Practice, some co-design of decisions. This remains the voluntary participation model that has failed communities for 30 years.*

*What’s missing is governance.*

*The Standard does not create:*

*representative and legitimate multi-stakeholder governance bodies,  
shared decision-making spaces with authority,*

*formalised roles for Indigenous Peoples or affected communities,  
guaranteed independent advisory support,  
binding agreements.*

*Instead, it asks companies to run better engagement processes, guided by ESG consultants and monitored by auditors. This is the same architecture that has produced persistent legacies of harm from Peru to PNG, Ghana to Romania.*

*Engagement is not governance.*

*CMSI repeats the language of “meaningful engagement” without embedding any power-sharing or enforceable rights. Communities remain “stakeholders,” not rights-holders.*

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COMMENT:

### *2. The Three-Level Structure Normalises Substandard Behaviour*

*The Standard preserves a three-tier system:*

*Towards Good Practice (low bar)*

*Good Practice*

*Leading Practice*

*The rebranding of “Foundational” to “Towards Good Practice” is cosmetic. CMSI openly admits this level is below good practice yet treats it as valid certification footing. This creates a structural race to the bottom: mining companies simply certify at the lower level, without incentives to improve.*

*A standard that institutionalises substandard behaviour is not a standard –it is a concession to industry comfort.*

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COMMENT:

### *3. Auditor Independence and Conflicts of Interest Remain Unresolved*

*The final Standard continues the long-standing ESG flaw: companies hire and manage their own auditors. This is a structural conflict of interest that no amount of accreditation or ISO language can fix.*

*CMSI’s assurance model still reflects:*

*a 3-year cycle, regardless of risk*

*company procurement and payment of auditors*

*no prohibition on consultants auditing work their own firms designed*

*no independent mechanism for auditor allocation or rotation*

*Given the well-documented problems of “audit capture” across ESG, supply-chain, and mining assurance systems, CMSI should have taken a principled stance. Instead, it preserves industry control over the entire assurance ecosystem.*

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COMMENT:

### *4. “Governing by Audit” Persists as the Core Logic*

*The Standard continues the classic ISO “Plan-Do-Check-Act” logic and ESIA-driven impact framing. This audit managerialism:*

*obscures power asymmetry*

*treats social outcomes as compliance tasks*

*elevates consultants and auditors as key intermediaries*

*pushes communities into passive roles*

*marginalises rights-based frameworks (e.g., FELA)*

*The ESIA-consultant-audit cycle is the single most significant factor shaping the failure of social performance systems globally. CMSI reaffirms that cycle rather than replacing it.*

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COMMENT:

#### *5. Absence of Social Theory and Rights-Based Governance*

*CMSI anchors its normative foundation in the usual set of ESG instruments (UNGPs, OECD, IFC, EITI), none of which were designed to ensure equitable governance of extraction.*

*Missing from the Standard:*

*FELA (Fair & Equitable Land Access)*

*Sustainable Wellbeing Framework*

*Indigenous governance models*

*political economy analysis*

*power theory*

*rights-based remedy architecture*

*distributive justice frameworks*

*Without grounding in social theory, CMSI cannot understand –let alone correct –the structural forces that reproduce injustice in mining.*

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COMMENT:

#### *6. Remedy Architecture Remains Corporate-Centric*

*Despite years of evidence that company grievance mechanisms routinely fail the most vulnerable, CMSI:*

*does not require independent grievance pathways*

*does not guarantee legal support for communities*

*does not mandate multi-channel remedy systems*

*does not link remedy to enforceable agreements or state-based recourse*

*CMSI embeds the corporate-managed grievance system as the principal remedy channel, which is neither independent nor rights-compatible.*

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COMMENT:

#### *7. Binding Agreements Are Absent*

*The Standard makes no requirement for:*

*negotiated, binding community agreements*

*Indigenous consent agreements (beyond aspirational language)*

*enforceable benefit-sharing frameworks*

*legal standing for communities in oversight and review*

*The most important governance tool in modern resettlement and land access practice –binding agreements –is entirely absent from the core requirements.*

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COMMENT:

*8. Critical Recommendations Ignored Across the Board*

*None of the following structural recommendations were taken up:*

*risk-based assurance*

*independent auditor allocation*

*co-governance of CMSI*

*co-governance at site level*

*integration of political economy / power mapping*

*community-controlled advisory budgets*

*mandatory binding agreements*

*mandatory transparency of audits*

*elimination of the substandard tier*

*shift from engagement to governance*

*dismantling the consultant-audit dependency structure*

*The Standard is therefore not a governance instrument –it is a procedural framework for documenting engagement and managing reputational risk.*

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COMMENT:

*Conclusion: CMSI Has Refined the Language but Preserved the Model*

*The CMSI Consolidated Standard is a technically tidy document built on outdated assumptions: that improved engagement, stronger management systems, and more structured auditing can deliver fair outcomes in contexts dominated by structural power asymmetries.*

*They cannot.*

*The issues that matter –governance, power, enforceability, legitimacy, remedy, and community agency –remain outside the Standard’s conceptual and operational core.*

*CMSI has missed an opportunity to align the mining industry with contemporary governance innovations:*

*FELA,*

*the Sustainable Wellbeing Framework,*

*Indigenous-led governance models,*

*political settlement analysis,*

*new thinking on corporate accountability,*

*and genuinely multi-stakeholder control.*

*Instead of transforming practice, the Standard refines existing practice.*

*Until CMSI moves beyond developer-led governance and audit-driven assurance, the mining sector will continue to reproduce the same patterns of unfairness that have characterised it for decades.*

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