

Society for Community Organization
Hong Kong

Report on Improving the
Internal Complaints Mechanism in Prisons

July 2017

Introduction

Recent news reports on alleged physical abuses of inmates by prison or detention center staff have put the issues of prison conditions and treatment of inmates in the limelight. While enhancing the treatment of incarcerated persons remains an issue that demands attention from prison authorities, Society for Community Organization (SoCO) wants to stress the importance of improving the transparency and independence of prison complaints systems--especially the Correctional Services Department's (CSD) internal complaints mechanism, which remains the main channel for complaints-making despite a number of external channels that are currently in place--as an effective complaints system would be vital in holding prison staff accountable, ensuring fairness in the treatment of inmates, and tackling loopholes and any malpractices in the prison system.

Methodology

SoCO has referenced domestic, foreign, and international standards and practices of prison complaints handling, as well as conducted research into 44 complaint cases and investigation reports issued by the CSD, in order to evaluate current practices of prison complaints-making in Hong Kong. In addition, SoCO has reached out to the CSD in mid-June to clarify statistics and progress reports listed in their recent annual review and inquire about their current practices, such as policies for isolating complaints and complainees in cases involving serious staff misconduct; SoCO has yet to hear back from the CSD.

A comprehensive framework consisting of three main guiding principles and other guidelines addressing specific aspects of the complaints handling process has been developed to evaluate current practices and devise relevant recommendations for CSD.

Section 1: Evaluation Framework

The evaluation of the current complaints system and development of relevant recommendations were done with reference to an evaluation framework. This framework was devised from international and domestic guidelines for complaints handling, complaints investigation, and the handling of matters specific to the closed prison setting, such as guidelines for internal disciplinary hearing for prisoners charged with misconduct. With an emphasis on the principles of accessibility, accountability, and transparency, such framework serves as a model that is on par with international standards with elements specific to Hong Kong. Current practices reflected in case studies, as well as SoCO's policy recommendations, are compared against the principles and guidelines illustrated in this framework to check if they help, in theory and in practice, to promote justice and fairness in the complaints system and in prisons.

<p>General Guiding Principles</p> <p>The internal complaints system is in place largely to ensure inmates are receiving fair treatment. To ensure that the complaints system is effectively performing what it was intended for, complaints decisions would need to be impartial and fair. The principles on the left would make the system more accessible and transparent so to ensure a fair complaints outcome and fair treatment of inmates. These principles should be honored in all parts and procedures of the prison internal complaints system, which includes the filing, handling, and investigation of complaints.</p>	<p><u>Accessibility</u></p> <p>Complaints-making procedures should be concise and comprehensible, while information about the complaints process should be easily obtainable. Aside from increasing physical ease in lodging complaints, such as by removing possible language barriers for illiterate or non-Chinese speaking inmates, it is imperative to ensure that prisoners are free from the fear of retribution when filing complaints, especially complaints against prison officers or other staff members.</p> <p><u>Accountability</u></p> <p>An effective complaints system should be able to hold prison officers and staff accountable for their actions and behaviors. In order to maintain an effective complaints mechanism, it is important to hold complaints investigation units accountable for assuring the quality of the complaints services. Accountability is needed on both sides--investigators should be responsible for keeping an eye on prison staff to ensure that officers perform their duties of maintaining justice in prisons and do not abuse their power.</p> <p><u>Transparency and Fairness</u></p> <p>As prisons are closed systems and are mainly governed by their own unique sets of rules and regulations, prison officers are given substantial authority over the inmates. Transparency, especially with regards to the complaints system, is therefore critical in introducing checks and balances to the existing system. External authorities and the public should be able to monitor whether fairness is upheld by officers in prisons, while complainants (who are mainly inmates) should be able to obtain sufficient information about the complaints procedures and progress to ensure a fair and efficient investigation of their complaints.</p>
<p>Complaints Investigation Procedures</p> <p>At the core of complaints-handling is the investigation of complaints. To ensure complaints outcomes are fair -- especially in the case where the decisions could negatively affect a party's interests -- procedural fairness should be</p>	<p>Key components of complaints investigation should include⁴:</p> <ol style="list-style-type: none"> 1. Acknowledging the complaint 2. Developing an investigation plan 3. Formal notification of the complaint and seeking a response 4. Providing preliminary findings 5. Final outcome 6. System improvement recommendations

⁴Ombudsman Western Australia (2009). *Guidelines on Conducting Investigations*. Western Australia.

<p>upheld, for when investigators follow fair procedures, it is more likely that a correct and fair decision is reached¹. Procedural fairness² puts the focus on procedures used by decision-makers instead of the actual outcome of the decision. The main guiding rules of procedural fairness include³</p> <ul style="list-style-type: none"> (a) a hearing appropriate to the circumstances (please see sub-section “Internal Disciplinary Hearings” below for details), (b) lack of bias, (c) evidence to support a decision, and (d) inquiry into matters in dispute 	<p>It is worth mentioning that the CSD has done decently well in following these steps and ensuring procedural fairness is upheld. In addition to these procedures, it is also important to have a follow-up mechanism tracking the implementation progress of improvement recommendations and preventing the recurrence of incidents leading to complaints.</p>
<p>Internal Disciplinary Hearings Internal disciplinary hearings are held when inmates are charged with misconduct. At these hearings, the concerned inmate could face penalty such as wage deduction, extension of sentences, and solitary confinement⁵. Aside from complaints about the lack of impartiality of these hearings, threats of misconduct charges and disciplinary punishment⁶ as a form of retribution is often the main deterrent to complaints-lodging. Thus, the independence of internal hearings serves as the last frontier preserving the justice of the complaints system.</p>	<p>The following list includes key rules to be observed in internal hearings and is not exhaustive. When following these guidelines or devising new policies, it is important to bear in mind the principles mentioned above.</p> <p><u>Hearing Rule and Right of Information</u> Defendants should be provided with a summary of all negative information against them, as well as a summary of all possible decisions beforehand. In addition, they should be given sufficient legal counsel and support, including being informed of his rights, legal aid, and obtaining legal advice.</p> <p><u>Right of Reply</u> Defendants should be provided with an opportunity to make a written or oral statement of reply before a decision is made to deny or explain allegations, provide other evidence or details, or present an innocent explanation</p>

¹ Ombudsman SA (2012). *An audit of prisoner complaint handling in the South Australian Department for Correctional Services*. Australia.

² Ombudsman Western Australia (2009). *Guidelines on Conducting Investigations*. Western Australia.

³ Ombudsman SA (2012). *An audit of prisoner complaint handling in the South Australian Department for Correctional Services*. Australia.

⁵ From interview with ex-inmates

⁶ From interview with ex-inmates

	<p><u>Unbiased judgments</u></p> <p>Non-affiliated parties should be present at hearings as either jury or observers to ensure the hearing is fair. The employment of affiliated persons, including prison directors, officers, and other staff, as judges should be avoided if possible.</p> <p><u>Application to Other Parts of the Mechanism</u></p> <p>The important concepts of right of information, right of reply, and unbiased judgement also apply to other components of the complaints handling mechanism, especially in complaints handling, investigation, and final decision-making.</p>
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Section 2: A Detailed Look into Hong Kong's Prison Complaints System: Problems and Solutions

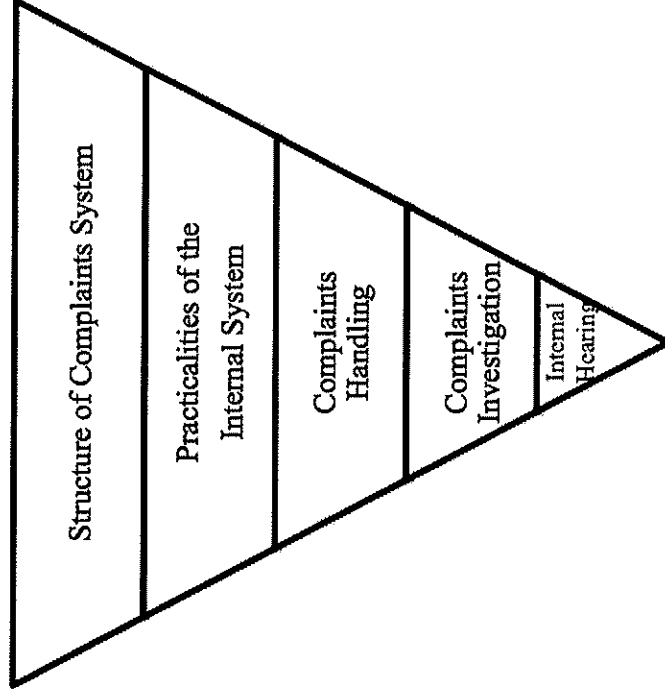
Hong Kong's prison complaints system consists of both internal channels within the prison system and channels external to the prison institution. Internal channels

⁷ include (a) making verbal complaints staff members of CSD and (b) filing formal complaints through the Complaints Investigation Unit (CIU) -- the main unit within the CSD in charge of complaint handling, investigation, and appeals. External channels include (a) making verbal complaints with visiting Justices of the Peace (JP), who will then refer the complaints to the CIU, and (b) making complaints in writing to external institutions, including the police, Independent Commission Against Corruption, and the Office of the Ombudsman, at the complainant's own discretion.

The evaluation of the current system and devisement of recommendations are organized under 6 different sections as illustrated in the graph on the right, with an additional section on improving the relative structural independence of the internal system. The analysis of current policies and practices have revealed 3 main problems of the internal complaints systems, which deterred prisoners from making complaints:

1. **Lack of mechanisms ensuring compliance with rules and regulations**, which leads to the lack of accountability, as reflected by the lack of a proactive body overseeing prison staff compliance and the relative partiality of internal hearings.
2. **Lack of institutional support for complaint-making and processing**: the current system (a) lacks transparency in terms of procedures and decision-making criteria of complaints investigations, (b) lacks an efficient referral mechanism to direct cases out of the CSD's purview to relevant external institutions, and (c) has yet to update its policies to realistically reflect the needs of inmates, such as the need for an extension of the 24-month period of viable complaints.
3. **Lack of legal support and counsel**, especially in relation to incarcerated persons' rights before and during complaints investigations and/or internal hearings and obtaining additional information related to complaints without fearing retribution from staff, which often includes being put on disciplinary report.⁶

Recommendations are developed with a focus on tackling these three main issues and will be summarized in Section 3 of the Press Release.



⁷ Security Bureau. (2004). *Mechanism for Handling Complaints from Persons Serving Sentences* (pp. 1-4).

STATUS QUO	PROBLEMS	RECOMMENDATIONS
<p>1. Independence of the Internal System The Justices of the Peace (JP) complaints system shows an intersection between the strictly internal complaints mechanism and external channels. While JPs take complaints from inmates in-person during their prison visits -- often in front of prison officers⁸ -- they refer a huge majority of those complaints back to the CIU for investigation and rarely follow up with individual complaints, as there exists no mechanism or guidelines holding them responsible for following-up or investigating complaints. In 2015, JPs have received 115 complaints during their visits⁹, with around 90 of them referred to the CSD. Out of the 90 referred cases, 32 of them involve serious allegations, such as staff misconduct and abuses of power¹⁰, and thus were directed to the CIU for further investigation. These serious complaints referred by JPs made up around 10% of all complaints received by CIU that year.</p>	<p>1. Inefficient Justices of the Peace (JP) System The heavy use of the JP channel in making complaints, especially ones involving staff misconduct, reflects a lack of confidence in the current internal system in tackling more sensitive complaints, especially those involving staff mistreatment or abuses of power. These complaints would have been more effectively resolved if they were made directly to the CIU, which is supposed to be an independent complaints investigation unit, for better follow-up, higher confidentiality, and authority to oversee staff behaviors.</p>	<p>#1: Introduce an Independent Equity Officer [Improving accountability of complaints investigators and system, transparency of the system, and protection of prisoners' rights]</p> <p>The JP system shows the need for an independent party serving as the point-person for complaints within the prison system. While the final goal of improving the prison complaints system is to introduce a supplementary and external body overseeing complaints handling and quality assurance of the prison system, it is important to begin by introducing a certain level of independence in the current internal mechanism.</p> <p>As such, it is strongly recommended that a non-affiliated person to be appointed as the Chief Equity Officer within the CSD or even CSD's Quality Assurance Unit to specifically handle issues related to complaints and equity in prisons. The Chief Equity Officer will ideally address the main problems of non-compliance and lack of institutional support identified at the beginning of Section 2 by introducing an independent and proactive regulatory body within the internal prison quality assurance</p>

⁸ Interviews with ex-inmates show that there is an informal practice of having to let officers know the nature of your complaints before raising them to JPs, or else there will be retribution from staff.

⁹ Justices of the Peace (2015). *2015 Annual Report on Justices of Peace Visits*. HONG KONG.

¹⁰ Ibid.

		<p>structure.</p> <p>The Equity Officer should be structurally independent of individual prisons and/or prison staff and assume a supervisory role over the CIU. The main roles and responsibilities of the Equity Officer should include, and are not limited to, the following:</p> <ul style="list-style-type: none"> (a) ensures the transparency of the complaints system by <ul style="list-style-type: none"> (i) publicizing important documents such as the flow of different complaints channels, and (ii) publishing regular reports on prison complaints statistics and the overall progress of upholding equity in prisons (b) manages and oversees all complaints mechanisms by <ul style="list-style-type: none"> (i) managing all complaints facilities, such as the sufficient provision of complaints form, (ii) maintaining a confidential prisoner's complaints book recording down all verbal complaints made to officers for better record-keeping, (iii) maintaining a moving muster record¹¹, and (iv) making regular physical visits in prisons to supervise the implementation of policies
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¹¹ Moving Muster Record is a record recording the movement of persons in custody to or from a specific location of the institution

		<p>related to complaints and equity, as well as take in confidential complaints as necessary checking in regularly with complainants and witnesses to ensure no staff misconduct occurs during the time when complaints are being filed and investigated</p> <p>(v)</p> <p>(c) promotes equity and fairness in prisons in the long-term by</p> <p>(i) handling the equity and diversity aspect of prison officers' training, which includes components on emotional intelligence and human rights,</p> <p>(ii) developing and monitoring the implementation of recommendations for continuous improvement,</p> <p>(iii) designing and managing initiatives that better inform and educate inmates about their rights to complaints and the relevant processes.</p>
<p><u>2. Accessing the Internal Complaints System</u> The main ways of making complaints while in prison, as indicated by experience, are through verbal complaints filed with officers and formal complaints made to the CIU. However, both inmates from complaining by putting complainants into a difficult position where</p>	<p>2.1 Fear of Retribution As shown in the cases, inmates are deterred from complaining as they are likely to face retribution -- some in the form of a lengthening of sentence and others physical threatening and imposition of charges for misconduct.</p> <p>2.2 Access to Complaints Forms</p>	<p>#2: Introduce Confidential Complaint Boxes [Improving accessibility and confidentiality of the complaints system]</p> <p>Complaints boxes that allow complainants to access forms, make complaints, and submit complaints in a confidential area should be made available at various locations around</p>

<p>one's physical safety is at risk¹².</p> <p>Case Study 1: Mr. B</p> <p>Mr. B was deterred from making complaints in reception centers as he was at the time awaiting his sentence and feared making complaints would mean retribution from staff and a lengthening of his sentence (he feared being put on disciplinary report for charges imposed on him by staff, which would be heard at internal CSD hearings and could affect his final sentencing).</p> <p>Case Study 2: Mr. C</p> <p>Mr. C mentioned that he was considered a "troublemaker" in the prison. Since there was no separation measures between the complainant and complainee (officers in these cases), the staff treated him badly and put an eye on him. He was threatened and warned by the officers about the possible retributions of complaining (such as lengthened sentences). Also, he stated that external complaints channels were not confidential enough, even though documents are sealed in envelopes, as he would be questioned by officers repeatedly about the nature and content of his complaints.</p>	<p>In order to lodge a formal complaint with the CIU, inmates have to reach out to staff personally for forms to write down their request, as there are no physical forms or ways to access the CIU without having get passe CSD staff. And while complaints are meant to be confidential, complainants are often questioned repeatedly, or even threatened, by staff when they are submitting their complaints, which heavily deters them from complaining in the future.</p>	<p>prisons where inmates can access daily, such as on the landing of each accommodation unit. These boxes, supervised and attended to by the Chief Equity Officer, should be opened at least on each weekday and materials necessary to make a complaint, such as the forms, pens, and envelopes, should always be available to all inmates without having to contact prison staff to ensure confidentiality. These recommendations are devised with reference to ideas by researchers in Ireland¹³, whose suggestion also included a "confidential access procedure" for complaints about prison staff.</p>
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¹² Includes physical and verbal abuses or threatening by officers.

¹³ *Making a Complaint*. (2015). *Offenders Families Helpline*. Retrieved 5 June 2017, from <http://www.offendersfamilieshelpline.org/index.php/making-a-complaint/>

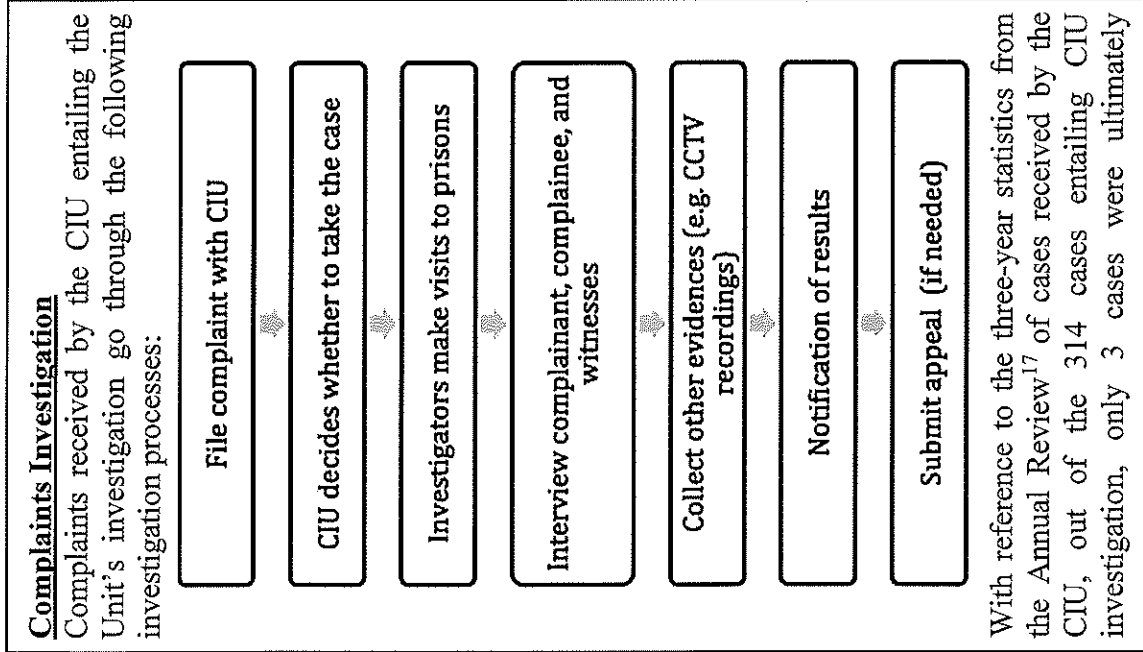
<p>Complaints-Handling All complaints are handled according to Prison Rules (Chapter 234A)¹⁴ and CSD’s Complaints Handling Manual¹⁵. Minor complaints are usually handled individually by prison staff while major complaints involving misconduct of staff are supposedly followed up by the CIU. Complaints may also be referred to other departments or external organizations, such as the Police or ICAC, for further investigations.</p> <p>Case Study: Mr. D The 24-month limit was one of the major reasons of rejection among Mr. D’s complaints. Mr. D said that the limit was not stated clearly in posters posted up in prisons. Moreover, since witnesses and complainants are not sufficiently protected from possible retribution from staff, both parties are deterred from making or supporting complaints claims, leading to the lack of evidence for further complaints investigation or decision-making.</p> <p>Number of cases citing “exceeded 24-month complaints period” as reason for termination of investigation: 4 out of 44 cases (9%)</p>	<p>Lack of transparency Current practices and guidelines, such as the Complaints Handling Manual, used by the CSD regarding complaints-handling are not publicly available. At the same time, CSD’s recommendations for systemic improvement suggested by the Commissioner mentioned in the annual report are only available in CSD’s internal systems and the public have no way of accessing those recommendations, or at least be informed of the progress of implementations.</p> <p>Unrealistic Valid Complaints Period Only complaints made within 24 months of the incident’s occurrence will be considered by the CIU, however, due to fear of retribution, many complainants do not submit their complaints until after or shortly before their release from prisons. The 24-month limit is then an unnecessary barrier to the promotion of justice in prisons.</p>	<p>#3: Publicize Procedures and Forms [Improving transparency of procedures] For the purpose of checks and balances, the following documents and policies should be made public for better transparency: (a) CSD’s manual and current practices on complaints-handling, which include separation policies of complainants and complainees (b) Progress of implementing endorsed recommendations. In addition, complaints investigation reports should be accessible to complainants at a reasonable cost¹⁶.</p> <p>#4: Extend the Valid Complaints Period [Improving accessibility of the system] While a valid complaints period that is too extended will be a challenge to evidence collection and the investigation of complaints, the current 24-month limit shows to be a hindrance to the pursuit of fairness in prisons, as prisoners are prone to delay their complaints due to fear of retribution, and the current time limit should be reviewed. However, SoCO recognizes that the root problem lies not with the 24-month limit but the lack of protective</p>
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¹⁴ 1969 “prison rules” (2017). Hong Kong.

¹⁵ The “Complaints Handling Manual” is not publicly available. SoCO has requested a copy for reference from CSD but has yet to hear back.

¹⁶ From experience, the administrative fees for obtaining investigation reports are exorbitantly high (around HKD\$700 for 6 reports). SoCO has filed a complaint with the PCPD about these fees that are hindering access to critical personal information.

	<p>Poor Protection of Complainants and Witnesses</p> <p>As reflected by several case studies, inmates complaining about staff misbehavior or other inmates' misconduct do not receive protection from complainees despite being threatened and abused verbally, nor do witnesses receive such protection. In closed settings like prisons, the lack of reliable separation policies protecting complainants and witnesses from possible aggression from the complainee(s) is a huge deterrent to complaints and encourage CSD staff to take advantage of and abuse the system.</p>	<p>measures preventing retribution from staff, and a systemic reform addressing this fear should thus be pursued in the long term.</p> <p>#5: Mandate Protective Measures for Complainants and Witnesses [Improving accessibility of the system]</p> <p>Complainants and witnesses, if any, should be protected from possible retribution by parties involved or prison staff. An independent committee, ideally led by the Chief Equity Officer, should oversee the protection system and check-in regularly with the complainants and witnesses to ensure their safety during the protection period, which is effective from the receipt of the complaint to the end of the investigation result appeal period. There should be additional punishment for staff violation and aggression towards complainants and witnesses during the protection period as such actions can be considered a perversion of the course of justice. As for cases involving staff misconduct and abuses of power, a physical separation of the complainants and witnesses from the complainee(s) should be enforced, for instance changing the complainant's resident block assignment, which includes his working unit and cell assignments, so to ensure the safety of both the complainants and complainees.</p>
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Insufficient Record-keeping
As identified from various complaints investigation reports, investigations are often hindered by difficulties in collecting evidence, which are caused by the lack of systematic record-keeping in the following aspects:

(a) Witness protection: witnesses in complaints cases currently do not receive protection from threats from complainees, which deters some of them from giving testimonies for the investigation. Please see Recommendation #5: Mandate Protective Measures for Complainants and Witnesses for details of the recommendation.

(b) Physical Evidence: Moving Muster Record (MMR)

- The MMR is a record of the movement of persons in custody to or from a specific location of the institution, which is a useful record for investigations, for example for verifying the validity of testimonies. However, the MMR is not systematically documented as “it was not an official document”¹⁸

(c) Physical Evidence: CCTV Policies

- Not including private areas such

#6: Establish Systems for Record-keeping [Improving accountability and transparency]

Systematic record-keeping structures should be established to better facilitate complaints investigation. For witness protection policies, please refer to **Recommendation #5: Mandate Protective Measures for Complainants and Witnesses**. As for physical evidence:

(a) **MMR**: a full record of the movements of persons in custody between different CSD facilities should be kept updated

(b) **Prisoners' Complaints Book**: a record of all verbal, “informal” complaints should be kept for better record-keeping, review, and tracking of investigation progress. This Complaints Book should only be accessible to independent investigators under the supervision of the Chief Equity Officer. Each entry should contain the following:

- Name or identification of the complainant
- Nature of the complaint
- Parties involved
- Investigation outcome

(c) **CCTV**: coverage of CCTV should be reviewed to cover as much of the non-private areas in prisons as possible, while CCTV systems with voice-

¹⁷ Hong Kong Correctional Services. (2016). *2016 Annual Review* (p. 103).

¹⁸ “Moving Muster Record” is not classified as an official record under departmental rules and regulations. Hence, there are neither orders governing the retention period of such record nor information recording the disposal of it.

<p>deemed substantiated, while 183 of them are either unsubstantiated or not pursuable. Major reasons cited for the unsubstantiated or non-pursuable complaints, as identified from 44 case studies, were (a) a lack of evidence, (b) expiration of the 24-month valid complaints period, and (c) the complaints being out of the CSD and CIU's purview, which only covers inmate-staff interaction and structural issues of the CSD.</p> <p>Case: Mr. E Complaints could not be proved "substantiated" without the support of physical evidence. However, in Mr. E's case where he complained about an officer's refusal to let him attend his regular physical exercises, the crucial Moving Muster Record (MMR) was said to be disposed as they are not official documents. Moreover, requests to check the relevant CCTV recordings were rejected due to the limited recording period (3 months) of prison CCTVs. As a result, Mr. E's complaints were found "unsubstantiated" due to the lack of support of physical evidence, reflecting a serious lack of record-keeping on CSD's part.</p>	<p>as washrooms, CCTVs currently do not cover all other areas of prisons, meaning that incidents could happen in corners not reachable by CCTVs</p> <ul style="list-style-type: none"> • Current CCTV systems in prisons do not have voice-recording functions, making the collection of evidence more difficult; moreover, only basing the investigation on visual images, verbal abuses, which are a major component of complaints, are not taken into account in investigations • CCTVs in prisons only have records from the past 3 months, which is unreasonable given that the current valid complaints period is 24 months long. 	<p>recording functions should be adopted. As for the length of recordings to be kept, they should be longer than, or at least equal to, the length of the valid complaints period, which is 24 months at the moment. CCTV recordings should always be readily available as evidence for internal hearings and complaints investigations, all of which will be confidential.</p>
<p><u>Internal Disciplinary Hearings</u></p> <p>Case: Mr. F Mr. F claimed to be charged with misconduct and faced disciplinary hearing as an alleged retribution for his frequent complaints against prison officers. Before his hearing, Mr. F was</p>	<p><i>Internal hearings and the Complaints System</i> It is important to note that disciplinary charges, which could entail wage cuts, solitary confinement, and lengthening of sentences, are often used as a form of retribution for complaints-making, especially complaints against staff members. Thus, the lack of</p>	<p>#7: Improving Independence of Hearings [Improving accountability, transparency, and fairness of the system]</p> <p>Independent non-officials should be present in or even judge the hearings to avoid biased judgements and favouritism towards the staff. In</p>

<p>not offered any opportunities to sought legal assistance; even when he asked officers for ways to apply for legal aid, he was immediately rejected as officers claimed that internal hearings in prisons do not qualify for legal aid. Moreover, information of evidence that could be against Mr. F -- testimonies of officers -- were not available to him before the hearing. Without professional legal knowledge and sufficient opportunity to fully understand his situation and rights, Mr. F attended a hearing that was, at the time ¹⁹, judged by the concerned prison's director. There were no independent, non-affiliated individuals at the hearing who could ensure the impartiality of the hearing. Full recordings of the hearing was also not available; the transcript provided by CSD afterwards was allegedly missing important details in favor of Mr. F that were mentioned during the cross-examination.</p>	<p>impartiality of internal hearings is one of the major deterrents to complaints-making within prisons. Moreso, complaints related the incident heard at the hearing will be dealt with along with the disciplinary charge, meaning that complaints investigations will be curtailed if a hearing ensued, and the hearing proceedings will substitute for the complaints investigation process. Thus, it is crucial that internal disciplinary hearings are held to the same, if not higher, standards used to ensure the independency and fairness of the complaints investigation process.</p> <p>Lack of Impartiality</p> <p>The internal disciplinary hearing was sufficiently lacking in impartiality in multiple aspects, not only under the rules governing over internal hearings outlined in the Evaluation Framework, but also under normal expectations:</p> <ul style="list-style-type: none"> • The defendant was not given any information of negative evidence against him nor was he informed of the possible decisions he might receive before the hearing, which is in violation of the hearing rule and his right of information • The person(s) judging the hearings are prison directors who are directly affiliated with the concerned prisons and officers; even worse, the only persons present at the hearing are officers, and 	<p>terms of information, all parties involved should be given information of negative evidence against them and a summary of possible decisions, while full recordings and transcripts of the hearing should be available upon request.</p>
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¹⁹ After a judicial review decision, internal disciplinary hearings are now judged by the superintendent from another prison.

	<p>there are no independent persons at the hearing who could ensure that the judgements are unbiased</p> <ul style="list-style-type: none"> • Full recordings of the hearing were not available for a comparison against the transcript, which was only given to and not confirmed by the defendant after the hearing 	
<p><u>Structure of the Complaints System</u></p> <p>Case Study: Mr. A</p> <p>Complaint cases that involve criminal behavior are out of CSD's purview. Therefore, CSD would not handle it directly but would recommend referring it to the Police or other external bodies. However, in cases where external bodies determine that the case does not fit in their purview either, they will usually</p>	<p>Absence of a Referral Mechanism</p> <p>While inmates can complain to external institutions, at times such access can be limited and complaints cannot be made until after the 24-month valid complaints period has expired, as illustrated by Mr. F's case. In addition, most external complaints are ultimately referred back to the CIU for investigation, which reflects the inefficiency of the current referral mechanism--if any exists--in sorting complaints into the most</p>	<p>#8: Protecting the Right to Counsel [Improving transparency and fairness]</p> <p>Defendant's right to counsel should be honored. Defendants should be given sufficient opportunities to access legal counsel, either within the prison system or externally. Such information on the channels of getting legal counsel and guidelines for obtaining legal aid should be easily obtainable to the defendant. In addition to seeking legal advice and assistance, provision of necessary legal documents, such as testimonies, should be available to defendants, at least on their requests.</p>
	<p>Absence of a Referral Mechanism</p> <p>While inmates can complain to external institutions, at times such access can be limited and complaints cannot be made until after the 24-month valid complaints period has expired, as illustrated by Mr. F's case. In addition, most external complaints are ultimately referred back to the CIU for investigation, which reflects the inefficiency of the current referral mechanism--if any exists--in sorting complaints into the most</p>	<p>#9: Introduce Complaints Referral Mechanisms [Improving accountability]</p> <p>To better attend to complaints of different nature, an effective complaints referral system involving different governmental departments is necessary. Such referral mechanism should include (a) cross-departmental channels built</p>

<p>forward the case back to the CIU. The back-and-forth referral is not only inefficient, but also drags the complaints investigation beyond the 24-month valid complaints limit, making further investigation in the CIU after rounds of referral impossible.</p> <p><i>Number of cases citing “out of purview” as reason for termination of investigation: 6 out of 44 cases (13.6 percent)</i></p>	<p>relevant department for further investigation.</p>	<p>especially for communication and cooperation on matters related to complaints handling. An example of these channels of communication include an online database accessible by different departments like the ICAC, police, and CSD, built especially for case referral both by CSD to other departments and from other departments back to CSD as appropriate;</p> <p>(b) clear and easily obtainable guidelines on the purviews of different departments in terms of complaints-handling, so that the CSD can quickly forward complaints that it cannot handle to other departments and that complainants are better informed of how their complaints are handled; and</p> <p>(c) a time limit for complaints referral to take place, especially for cases involving criminal behaviors, which should be referred to the police as soon as possible.</p>
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Section 3: Summary of Recommendations

Independence of the Internal Complaints System

#1: Introduce an Independent Equity Officer

[Improving accountability of complaints investigators and system, transparency of the system, and protection of prisoners' rights]

The JP system shows the need for an independent party serving as the point-person for complaints within the prison system. While the final goal of improving the prison complaints system is to introduce a supplementary and external body overseeing complaints handling and quality assurance of the prison system, it is important to begin by introducing a certain level of independence in the current internal mechanism.

As such, it is strongly recommended that a non-affiliated person is to be appointed as the Chief Equity Officer within the CSD or even CSD's Quality Assurance Unit to **specifically handle issues related to complaints and equity in prisons**. The Chief Equity Officer will ideally address the main problems of non-compliance and lack of institutional support identified at the beginning of Section 2 by introducing an **independent and proactive** regulatory body within the internal prison quality assurance structure.

The Equity Officer should be structurally independent of individual prisons and/or prison staff and assume a supervisory role over the CIU. The main roles and responsibilities of the Equity Officer should include, and are not limited to, the following:

- (a) ensures the transparency of the complaints system by
 - (i) publicizing important documents such as the flow of different complaints channels, and
 - (ii) publishing regular reports on prison complaints statistics and the overall progress of upholding equity in prisons
- (b) manages and oversees all complaints mechanisms by
 - (i) managing all complaints facilities, such as the sufficient provision of complaints form,
 - (ii) maintaining a confidential prisoner's' complaints book recording down all verbal complaints made to officers for better record-keeping,
 - (iii) maintaining a moving muster record, and
 - (iv) making regular physical visits in prisons to supervise the implementation of policies related to complaints and equity, as well as take in confidential complaints as necessary
 - (v) checking in regularly with complainants and witnesses to ensure no staff misconduct occurs during the time when complaints are being filed and investigated
- (c) promotes equity and fairness in prisons in the long-term by
 - (i) handling the equity and diversity aspect of prison officers' training, which includes components on emotional intelligence and human rights,
 - (ii) developing and monitoring the implementation of recommendations for continuous improvement,
 - (iii) designing and managing initiatives that better inform and educate inmates about their rights to complaints and the relevant processes.

Accessing the Internal Complaints System

#2: Introduce Confidential Complaint Boxes

[Improving accessibility and confidentiality of the complaints system]

Complaints boxes that allow complainants to access forms, make complaints, and submit complaints in a confidential area should be made available at various locations around prisons where inmates can access daily, such as on the landing of each accommodation unit. These boxes, supervised and attended to by the Chief Equity Officer, should be opened at least on each weekday and materials necessary to make a complaint, such as the forms, pens, and envelopes, should always be available to all inmates without having to contact prison staff to ensure confidentiality. These recommendations are devised with reference to ideas by researchers in Ireland, whose suggestion also included a “confidential access procedure” for complaints about prison staff.

Complaints-Handling

#3: Publicize Procedures and Forms

[Improving transparency of procedures]

For the purpose of checks and balances, the following documents and policies should be made public for better transparency:

- (a) CSD’s manual and current practices on complaints-handling, which include separation policies of complainants and complainees
- (b) Progress of implementing endorsed recommendations.

In addition, complaints investigation reports should be accessible to complainants at a reasonable cost.

#4: Extend the Valid Complaints Period

[Improving accessibility of the system]

While a valid complaints period that is too extended will be a challenge to evidence collection and the investigation of complaints, the current 24-month limit shows to be a hindrance to the pursuit of fairness in prisons, as prisoners are prone to delay their complaints due to fear of retribution, and the **current time limit should be reviewed**. However, SoCO recognizes that the root problem lies not with the 24-month limit but the lack of protective measures preventing retribution from staff, and a systemic reform addressing this fear should thus be pursued in the long term.

#5: Mandate Protective Measures for Complainants and Witnesses

[Improving accessibility of the system]

Complainants and witnesses, if any, should be protected from possible retribution by parties involved or prison staff. An independent committee, ideally led by the Chief Equity Officer, should oversee the protection system and **check-in regularly with the complainants and witnesses** to ensure their safety during the protection period, which is **effective from the receipt of the complaint to the end of the investigation result appeal period**. There should be **additional punishment** for staff violation and aggression towards complainants and witnesses **during the protection period as such actions can be considered a perversion of the course of justice**. As for cases involving staff misconduct

and abuses of power, a physical separation of the complainants and witnesses from the complaine(s) should be enforced, for instance changing the complainant's resident block assignment, which includes his working unit and cell assignments, so to ensure the safety of both the complainants and complainees.

Complaints Investigation

#6: Establish Systems for Record-keeping **[Improving accountability and transparency]**

Systematic record-keeping structures should be established to better facilitate complaints investigation. For witness protection policies, please refer to **Recommendation #5: Mandate Protective Measures for Complainants and Witnesses**. As for physical evidence:

- (a) MMR: a full record of the movements of persons in custody between different CSD facilities should be kept updated
- (b) Prisoners' Complaints Book: a record of all verbal, "informal" complaints should be kept for better record-keeping, review, and tracking of investigation progress. This Complaints Book should only be accessible to independent investigators under the supervision of the Chief Equity Officer. Each entry should contain the following:
 - (i) Name or identification of the complainant
 - (ii) Nature of the complaint
 - (iii) Parties involved
 - (iv) Investigation outcome
- (c) CCTV: coverage of CCTV should be reviewed to cover as much of the non-private areas in prisons as possible, while CCTV systems with voice-recording functions should be adopted. As for the length of recordings to be kept, they should be longer than, or at least equal to, the length of the valid complaints period, which is 24 months at the moment. CCTV recordings should always be readily available as evidence for internal hearings and complaints investigations, all of which will be confidential.

Internal Disciplinary Hearings

#7: Improving Independency of Hearings **[Improving accountability, transparency, and fairness of the system]**

Independent non-officials should be present in or even judge the hearings to avoid biased judgements and favouritism towards the staff. In terms of information, all parties involved should be given **information of negative evidence against them and a summary of possible decisions**, while **full recordings and transcripts** of the hearing should be available upon request.

#8: Protecting the Right to Counsel **[Improving transparency and fairness]**

Defendant's right to counsel should be honored. Defendants should be given sufficient opportunities to **access legal counsel, either within the prison system or externally**. Such information on the channels of getting legal counsel and guidelines for obtaining legal aid should be easily obtainable to the defendant. In addition to seeking legal advice and

assistance, **provision of necessary legal documents**, such as testimonies, should be available to defendants, at least on their requests.

Structure of the Prison Complaints System

#9: Introduce Complaints Referral Mechanisms **[Improving accountability]**

To better attend to complaints of different nature, an effective complaints referral system involving different governmental departments is necessary. Such referral mechanism should include

- (a) **cross-departmental channels** built especially for communication and cooperation on matters related to complaints handling. An example of these channels of communication include an online database accessible by different departments like the ICAC, police, and CSD, built especially for case referral both by CSD to other departments and from other departments back to CSD as appropriate;
- (b) **clear and easily obtainable guidelines on the purviews** of different departments in terms of complaints-handling, so that the CSD can quickly forward complaints that it cannot handle to other departments and that complainants are better informed of how their complaints are handled; and
- (c) a **time limit** for complaints referral to take place, especially for cases involving criminal behaviors, which should be referred to the police as soon as possible.

Section 4: Conclusion

SoCO looks forward to future meetings with the Correctional Services Department to discuss recommendations suggested in this press release and other ideas to improve the internal complaints system. SoCO also welcomes responses from other relevant departments, such as the Security Bureau and the Office of the Ombudsman, on these recommendations.

Appendix 1: Case Study

Mr. C made a complaint to CIU about an incident of staff misconduct: an officer (Officer A) forced him to fabricate a submission explaining why he did not make the scheduled visit to the hospital. On the day of the pre-scheduled medical visit, Mr. C discovered that he was arranged to make the visit on a “category-A” security bus. From his own experience, Mr. C claimed that he will get dizzy and unwell if traveling on that type of bus, thus, he asked to change the bus or else he would opt to miss the visit.

According to CSD guidelines, inmates missing these medical visits for any reasons will need to meet with a Medical Officer and explain their reasoning behind missing the visit, as well as ensure they are informed of the possible consequences of missing those medical checks. In addition, inmates will have to write a submission explaining the reason for absence. Therefore, Mr. C wrote the first submission based on the reasons mentioned above.

However, after Officer A read Mr. C’s original submission, Officer A immediately told Mr. C that he cannot write like that and has to rewrite according to Officer A’s intentions. Then, Mr. C involuntarily rewrote his submission under Officer A’s coercion. The second submission, which stated that Mr. C opted out of the scheduled medical visit because he thinks that he has recovered and will not need the visit, was ultimately accepted by CSD officers and submitted to relevant prison authorities. The hard copy of the first submission was kept by Mr. C.

After the receipt of Mr. C’s complaint, the CIU met with the relevant officers and prisoners present that day for testimonies. All officers unanimously testified that there was no violation of rules during the submission-writing process, and that they have not seen any other staff coercing Mr. C to fabricate a submission that day. As for the prisoners, all testified that they could not recall what happened that day due to the lapse of time.

As for physical evidence, no CCTV records have been referenced or mentioned in the complaints investigation report, nor has the first submission been consulted for the purpose of references and validation of Mr. C’s claims. More importantly, the complainee (Officer A) left CSD before the receipt of the complaint, and the CIU has done nothing other than sending the complainee double-registered mail twice asking for his version of the incident. Ultimately, due to the absence of the complainee’s response to CIU’s letters and hence the lack of crucial testimony, the complaint was classified as “not pursuable” and the case was closed.

Appendix 2: Standards Governing Over Prison Complaints Mechanisms

Excerpts of relevant legislation and standards for prison complaints-handling and investigation

Hong Kong

Nature of Standards		Rules and Regulations
Hong Kong	Legislation	<p>CAP 234A Prison Rules (Section 95): Duty as to reports and complaints</p> <p>(1) The Superintendent shall hear daily all reports at such hours as may be most convenient.</p> <p>(2) The Superintendent shall ensure that every prisoner having a complaint to make or a request to prefer to him shall have ample facilities for so doing, and he shall take all the necessary steps to redress all grievances so far as is possible.</p>
	Internal Guidelines	<p>Correctional Services Department Complaints Handling Manual (not publicly available)</p>

International and Foreign Standards

Region	Nature	Relevant Legislation, Guidelines, or Best Practices
International	<p>International Standards</p> <p>Best Practice</p>	<p><u>United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)</u></p> <p>Rule 36: Discipline and order shall be maintained with no more restriction than is necessary to ensure safe custody, the secure operation of the prison and a well ordered community life.</p> <p>Rule 54: Upon admission, every prisoner shall be promptly provided with written information about:</p> <ul style="list-style-type: none"> a) The prison law and applicable prison regulations; b) His or her rights, including authorized methods of seeking information, access to legal advice, including

through legal aid schemes, and procedures for making requests or complaints;

- c) His or her obligations, including applicable disciplinary sanctions; and
- d) All other matters necessary to enable the prisoner to adapt himself or herself to the life of the prison.

Rule 56:

1. Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her.
2. It shall be possible to make requests or complaints to the inspector of prisons during his or her inspections. The prisoner shall have the opportunity to talk to the inspector or any other inspecting officer freely and in full confidentiality, without the director or other members of the staff being present.
3. Every prisoner shall be allowed to make a request or complaint regarding his or her treatment, without censorship as to substance, to the central prison administration and to the judicial or other competent authorities, including those vested with reviewing or remedial power.
4. The rights under paragraphs 1 to 3 of this rule shall extend to the legal adviser of the prisoner. In those cases where neither the prisoner nor his or her legal adviser has the possibility of exercising such rights, a member of the prisoner's family or any other person who has knowledge of the case may do so.

Rule 57:

1. Every request or complaint shall be promptly dealt with and replied to without delay. If the request or complaint is rejected, or in the event of undue delay, the complainant shall be entitled to bring it before a judicial or other authority.
2. Safeguards shall be in place to ensure that prisoners can make requests or complaints safely and, if so requested by the complainant, in a confidential manner. A prisoner or other person mentioned in paragraph 4 of rule 56 must not be exposed to any risk of retaliation, intimidation or other negative consequences as a result of having submitted a request or complaint.
3. Allegations of torture or other cruel, inhuman or degrading treatment or punishment of prisoners shall be dealt with immediately and shall result in a prompt and impartial investigation conducted by an independent national authority in accordance with paragraphs 1 and 2 of rule 71.

Rule 83

1. There shall be a twofold system for regular inspections of prisons and penal services:
 - a. Internal or administrative inspections conducted by the central prison administration;
 - b. External inspections conducted by a body independent of the prison administration, which may include competent international or regional bodies.
2. In both cases, the objective of the inspections shall be to ensure that prisons are managed in accordance with existing laws, regulations, policies and procedures, with a view to bringing about the objectives of penal and correctional services, and that the rights of prisoners are protected.

Rule 84

1. Inspectors shall have the authority:
 - a. To access all information on the numbers of prisoners and places and locations of detention, as well as all information relevant to the treatment of prisoners, including their records and conditions of detention;
 - b. To freely choose which prisons to visit, including by making unannounced visits at their own initiative, and which prisoners to interview;
 - c. To conduct private and fully confidential interviews with prisoners and prison staff in the course of their visits;
 - d. To make recommendations to the prison administration and other competent authorities.
2. External inspection teams shall be composed of qualified and experienced inspectors appointed by a competent authority and shall encompass healthcare professionals. Due regard shall be given to balanced gender representation.

Body of principles for the protection of all persons under any form of detention or imprisonment
Principle 33

1. A detained or imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.
2. In those cases where neither the detained or imprisoned person nor his counsel has the possibility to exercise his rights under paragraph 1 of the present principle, a member of the family of the detained or

		<p>imprisoned person or any other person who has knowledge of the case may exercise such rights.</p> <p>3. Confidentiality concerning the request or complaint shall be maintained if so requested by the complainant.</p> <p>4. Every request or complaint shall be promptly dealt with and replied to without undue delay. If the request or complaint is rejected or, in case of inordinate delay, the complainant shall be entitled to bring it before a judicial or other authority. Neither the detained or imprisoned person nor any complainant under paragraph 1 of the present principle shall suffer prejudice for making a request or complaint.</p>
Europe	Guidelines and Best Practice	<p><u>European Prison Rules</u></p> <p>Rule 70.1 Prisoners, individually or as a group, shall have ample opportunity to make requests or complaints to the director of the prison or to any other competent authority.</p> <p>Rule 70.2 If mediation seems appropriate this should be tried first.</p> <p>Rule 70.3 If a request is denied or a complaint is rejected, reasons shall be provided to the prisoner and the prisoner shall have the right to appeal to an independent authority.</p> <p>Rule 70.4 Prisoners shall not be punished because of having made a request or lodged a complaint.</p> <p>Rule 70.5 The competent authority shall take into account any written complaints from relatives of a prisoner when they have reason to believe that a prisoner's rights have been violated.</p> <p>Rule 70.6 No complaint by a legal representative or organisation concerned with the welfare of prisoners may be brought on behalf of a prisoner if the prisoner concerned does not consent to it being brought.</p> <p>Rule 70.7 Prisoners are entitled to seek legal advice about complaints and appeals procedures and to legal assistance when the interests of justice require.</p>
United Kingdom		<p><u>Prison Service Order 2510: Prisoner's Requests and Complaints Procedure</u></p> <p>Chapter 3: The Applications System</p> <p>Establishments may find it helpful to provide a written application form for prisoners to use to make requests, alongside the oral application process.</p>

Chapter 4: Principles underlying the formal complaints

The complaints procedures set out in Chapters 5 -18 of this Order are based on the following ten principles:

1. Openness
2. Simplicity
3. Ease of access
4. Timeliness
5. Fairness
6. Responding at an appropriate level
7. Confidentiality
8. Appropriate redress
9. Freedom from penalty
10. Use of the system to provide management information

Chapter 5: The complainants co-ordinator, the complaints clerk and the designated officer(s)

- It is mandatory for the duties of one manager at principal officer or above in each establishment to include those of complaints co-ordinator.
- It is essential for the effective operation of the complaints procedures that the complaints co-ordinator takes active steps to ensure that the system works effectively.
- There must be at least one complaints clerk in each establishment, responsible for registering complaints and logging subsequent stages, allocating completed forms to the appropriate member of staff for reply, chasing up outstanding cases and compiling monthly statistics.
- At least one other member of the administrative staff must understand the complaints system and be able to cover for the complaints clerk in his or her absence.
- There must be a “designated officer” or officers responsible for emptying the boxes for the receipt of completed complaints forms on each wing and passing the forms either to the complaints clerk or directly to staff for reply.

Chapter 6: Submitting a complaint

- Prescribed complaint forms, for ordinary complaints, appeals, confidential access complaints and appeals against adjudications must be used.

		<ul style="list-style-type: none"> ● Complaint forms must be made freely available to prisoners on the wing. ● If a prisoner feels that his or her concerns can only be met by a formal written complaint, then no obstacles must be placed in his or her way. ● There must be at least one locked box on each wing or in each residential area into which prisoners deposit completed complaints forms, so that every prisoner has easy access to a box. ● The boxes must be located in a prominent position, but not directly outside wing offices. ● Prisoners with learning or literacy difficulties, or whose first language is not English, should be provided with assistance to enable them to make a complaint if they wish. <p>Chapter 11: Complaints about Members of Staff The normal procedure for making complaints against staff is by means of a complaint form, but any written allegation against a member of staff must be investigated.</p> <ul style="list-style-type: none"> ● Where a prisoner makes an oral allegation of misconduct by a member of staff, in the hearing of another member of staff or a member of the Board of Visitors, the prisoner should be encouraged to put the allegation in writing on a complaint form. ● Even if a prisoner declines to put an allegation in writing, the member of staff or member of the Board of Visitors to whose attention the allegation has been brought should nevertheless still make a note of the allegation and pass it to the appropriate manager or senior manager to consider whether the allegation should be investigated. ● Where it is alleged that a member of staff has committed an assault, the alleged victim must be examined by a Medical Officer as soon as possible and the outcome recorded. ● If a governing governor or Area Manager considers that there is evidence that a criminal offence may have been committed by a member of staff, the Discipline Policy Team in Personnel Management Group must be consulted by telephone without delay. ● A prisoner who has made an allegation against a member of staff which, on investigation, has been deemed to be unfounded should be given a written warning not to repeat the allegation, followed where necessary by a formal order.
USA	Best Practice	<p><u>Principles and Best Practices on the Protection of Persons Deprived of Liberty in the America</u> Principle V: Due process of Law All persons deprived of liberty shall have the right, exercised by themselves or by others, to present a simple, prompt, and effective recourse before the competent, independent, and impartial authorities, against acts or</p>

		<p>omissions that violate or threaten to violate their human rights. In particular, persons deprived of liberty shall have the right to lodge complaints or claims about acts of torture, prison violence, corporal punishment, cruel, inhuman, or degrading treatment or punishment, as well as concerning prison or internment conditions, the lack of appropriate medical or psychological care, and of adequate food.</p> <p>Principle VII: Petition and response</p> <p>Persons deprived of liberty shall have the right of individual and collective petition and the right to a response before judicial, administrative, or other authorities. This right may be exercised by third parties or organizations, in accordance with the law. This right comprises, amongst others, the right to lodge petitions, claims, or complaints before the competent authorities, and to receive a prompt response within a reasonable time. It also comprises the right to opportunistly request and receive information concerning their procedural status and the remaining time of deprivation of liberty, if applicable. Persons deprived of liberty shall also have the right to lodge communications, petitions or complaints with the national human rights institutions; with the Inter-American Commission on Human Rights; and with the other competent international bodies, in conformity with the requirements established by domestic law and international law.</p>
Australia	Guidelines	<p><u>Australian Complaint Handling Standard & 2004 Standard Guidelines for Corrections in Australia</u></p> <p>The Australian Complaint Handling Standard and the Standard Guidelines for Corrections in Australia outline a set of guiding principles for best practice complaint management. In simple terms, the principles relate to a commitment from agencies to establish and maintain a complaints management system that is accessible, efficient, fair and accountable.</p> <p>The Australian Complaint Handling Standard is widely recognised as setting the benchmark for best practice complaints handling in organisations. It outlines nine guiding principles underlying best practice complaints management. They are: visibility, accessibility, responsiveness, objectivity, (free of) charges, confidentiality, customer-focused approach, accountability and continual improvement.</p> <p>The Standard Guidelines for Corrections in Australia recommend that each Australian state and territory 'must continue to develop its own range of relevant legislative, policy and performance standards that can be expected to be amended from time to time to reflect best practice and community demands...'</p> <p>They provide the basis for a prison based complaints handling system that is accessible, fair, efficient and</p>

		<p>accountable. In addressing the requirement for effective prison complaint management policies and procedures, the guidelines specify that:</p> <ul style="list-style-type: none"> ● Prisoners should be informed of the procedures for making complaints at the prison and through external grievance resolution authorities. ● Requests and complaints by prisoners are to be able to be made at any time and shall be handled promptly and effectively by the prison. ● Prisoner complaints or grievances that are not resolved by the prison should be submitted to an authority external to the prison for an independent assessment and determination. Prisoners should be informed about these external resolution processes in the prisoner's own language where practicable, and provided with the means for making complaints to an external authority in a confidential manner.
Ireland	Best Practice	<p><u>Guidance on Best Practice relating to Prisoners' Complaints and Prison Discipline</u></p> <p>4.11 Protocols should be put in place to ensure that prison officers against whom allegations of ill-treatment have been made are not left in positions where they are in contact with the prisoner making the complaint during the period of the investigation.</p> <p>4.12 No matter what complaints procedure is in place a dedicated person or persons should be appointed in each prison whose duty it is to assist prisoners in making complaints. These people should be independent in that they should not be involved in any way with either the prisoner making the complaint or the persons complained of.</p>
Africa	Guidelines and Best Practice	<p><u>Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa</u></p> <p>Clause 22: Torture and other cruel, inhuman or degrading treatment or punishment and other serious human rights violations in police custody and pretrial detention</p> <p>a) All persons deprived of their liberty shall have the right to lodge a complaint with a competent, independent and impartial authority with a mandate to conduct prompt and thorough investigations in a manner consistent with the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa.</p> <p>Clause 37: Complaints mechanisms</p> <p>a) States shall establish, and make known, internal and independent complaints mechanisms for persons in police custody and pretrial detention.</p>

		<p>b) Access to complaints mechanisms shall be guaranteed for all persons in police custody and pretrial detention, without fear of reprisals or punishment.</p> <p>c) Detainees shall have the right, and be provided with the facilities, to consult freely and in full confidentiality with complaints mechanisms, subject to reasonable conditions to ensure security and good order in the place of detention.</p> <p>d) There shall be thorough, prompt and impartial investigations of all complaints and, where they are well-founded, appropriate remedial action shall be taken without delay.</p>
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