



Agreement between the Chief Executive of the Department of Corrections and the Chief Ombudsman

The attached Agreement, made pursuant to section 160 of the Corrections Act 2004, underpins the relationship between the Chief Executive of the Department of Corrections (the Chief Executive) and the Chief Ombudsman in relation to the Official Information Act and the Ombudsmen Act.

The Department is responsible for ensuring that all sentences and related orders that are imposed by the courts and the New Zealand Parole Board are administered in a safe, secure, humane and effective manner. The Department is also responsible for assisting in the rehabilitation of offenders and their reintegration into the community through the provision of programmes and other interventions.

The Ombudsmen, in carrying out their statutory roles, provide Parliament and the New Zealand public with an independent and impartial check on the quality, fairness and integrity of state sector administrative conduct.

The Chief Executive and the Chief Ombudsman are committed to working together to ensure that people subject to lawful orders in New Zealand are treated humanely and provided with opportunities to become contributing law-abiding citizens whilst ensuring that the public are safe and offenders are held to account. Both parties undertake to work to identify and address complex or systemic issues that affect offenders whilst recognising the independence of the Ombudsmen. Where points of difference arise, both agencies are committed to working through these openly and constructively.

This Agreement, and its Schedules and Annexes, outline the working arrangements that fulfil the requirements of section 160 of the Corrections Act.

Ray Smith
Chief Executive
Department of Corrections
Date

Peter Boshier
Chief Ombudsman
Wellington
Date

The parties

1. This is an Agreement between the Chief Executive of the Department of Corrections and the Chief Ombudsman. The parties' representatives are set out in Schedule 1 to this Agreement.
2. The Department of Corrections (the Department) was established as a Government Department by State Sector Order 1995/28 with effect from 1 October 1995.
3. The Office of the Ombudsman was established in 1962 by the Parliamentary Commissioner (Ombudsman) Act 1962. Ombudsmen are appointed as Officers of Parliament and Commissioners for Investigations under the Ombudsmen Act 1975. Under this Act, the Ombudsmen:
 - a. receive and, where appropriate, investigate complaints about the administrative conduct of state sector agencies affecting any person in their personal capacity; and
 - b. conduct self-initiated investigations into the administrative conduct of state sector agencies affecting any person in their personal capacity.
4. Ombudsmen are also an Independent Monitoring Mechanism with responsibility for protecting and monitoring the implementation of the United Nations Convention on the Rights of Persons with Disabilities (Disability Convention) in New Zealand. The Ombudsmen's functions with respect to the Disability Convention are carried out under the Ombudsmen Act.
5. While Ombudsmen are also designated as a National Preventive Mechanism under the Crimes of Torture Act 1989 (COTA), their powers, functions and duties under the COTA fall outside this Agreement.

Statutory authority

6. This Agreement is made pursuant to section 160 of the Corrections Act 2004 and replaces the former Agreement made under that section in March 2012.
7. Section 160 of the Corrections Act provides:

160 Protocol between Chief Executive and Chief Ombudsman

1. *The Chief Executive must enter into an agreement with the Chief Ombudsman about:*
 - a. *the access to complainants and the places where complainants are required to attend, work, or live, to be given to the Ombudsmen;*
 - b. *access to records relevant to the resolution of those complaints;*
 - c. *the assistance to be provided by the Chief Executive to the Ombudsmen;*

- d. *any other matter that the Chief Ombudsman and the Chief Executive agree should be included in a protocol.*
 2. *Subsection (1) does not limit the powers of the Ombudsmen under the Ombudsmen Act 1975.*
8. In addition to the requirements of section 160, this Agreement:
 - a. sets out, in the associated Schedules and Annexes, how the agencies will work together in the interest of achieving legislative objectives;
 - b. records, in the associated Schedules and Annexes, the procedures to be followed in relation to the subject matter of this Agreement, without limiting:
 - i. the powers of the Chief Executive under the Corrections Act, the State Sector Act 1988 and other relevant legislation;
 - ii. the powers of an Inspector of Corrections (Inspector) under the Corrections Act; or
 - iii. the powers of the Ombudsmen under the Ombudsmen Act and other relevant legislation.
9. In 2007, the Government proposed that the Ombudsmen's role in prisons be enhanced. Funding was subsequently approved for the Ombudsmen to investigate *'some serious incidents, which is currently undertaken by Inspectors of Corrections, and more systemic or thematic reviews in the prison sector'*.¹ The Ombudsmen agreed to take on this enhanced role contingent on the Department maintaining an effective second tier complaints resolution mechanism outside the prisons.

Interpretation

10. In this Agreement:

Assistant Ombudsman means an Assistant Ombudsman appointed by the Chief Ombudsman under section 11 of the Ombudsmen Act.

AVL means audio visual link.

Chief Executive means the Chief Executive of the Department of Corrections.

Chief Ombudsman means an Ombudsman appointed as Chief Ombudsman under section 3(4) of the Ombudsmen Act, and, unless the context otherwise requires, includes:

- a. any Ombudsman appointed under section 3(2) or section 7 or section 8 of the Ombudsmen Act; and

¹ '2008/09 Draft budgets for Office of the Controller and Auditor-General, Office of the Ombudsmen, and Parliamentary Commissioner for the Environment' – Report of the Officers of Parliament Committee, Forty-eighth Parliament, March 2008.

- b. officers and employees appointed by the Chief Ombudsman under section 11 of the Act; and
- c. any person engaged by the Chief Ombudsman under a contract for services for the purpose of assisting the Ombudsmen in the performance of their statutory functions.

Death in custody means the death of any prisoner occurring whilst in the legal custody of the Chief Executive.

Department means the Department of Corrections.

Departmental property means any premises occupied by the Department or by any person engaged under a contract for services, when carrying out their statutory functions.

Departmental staff means any person employed by the Chief Executive of the Department and includes any person engaged under a contract for services.

Deputy Chief Executive means a Deputy Chief Executive of the Department.

Deputy Ombudsman means a Deputy Ombudsman appointed by the Chief Ombudsman under section 11 of the Ombudsmen Act.

Inspector means a person appointed as an Inspector of Corrections under section 28 of the Corrections Act.

Inspectorate means Inspectors of Corrections.

IOMS means the Integrated Offender Management System, being the information technology system that contains detailed information about offenders.

Ombudsmen's staff means any person employed by the Chief Ombudsman and includes any person engaged, whether under a contract for services or otherwise, for the purpose of assisting the Chief Ombudsman in the performance of his or her statutory functions.

Prison Director means a person appointed or engaged as a prison manager under section 11 of the Corrections Act.

Serious incident or matter:

- a. means an incident or matter notified to an Ombudsman by the Department, or of which the Chief Ombudsman becomes aware by another means, and which the Chief Ombudsman determines is sufficiently serious to warrant consideration as to whether an Ombudsman's investigation should be made; and
- b. includes an incident or matter of a nature that affects, or potentially affects, the fair, safe, secure and humane treatment of individuals.

Visit, unless the context otherwise requires, means any visit the Chief Ombudsman may make in the performance of his or her statutory functions, powers or duties, or under this Agreement.

Term of, review of and variations to the Agreement

11. This Agreement is subject to the Corrections Act, the Corrections Regulations 2005 and the Ombudsmen Act.
12. This Agreement will commence on execution by the parties and will remain in force until terminated by written agreement between the parties.
13. Monitoring of the operation of this Agreement, and resolution of any issues arising between the parties in relation to the interpretation or performance of this Agreement, are the responsibilities of the agency representatives specified in Schedule 1.
14. The Agreement, its Schedules and its Annexes may be amended by written agreement as provided for in paragraphs 15 and 16.
15. Any amendment to the Agreement must be personally approved in writing by the Chief Executive and the Chief Ombudsman.
16. Any amendment to the Schedules and Annexes to the Agreement can be approved in writing by the Deputy Chief Executive and the Deputy Ombudsman.

The Chief Executive's responsibilities

17. The Chief Executive agrees:
 - a. To provide the Chief Ombudsman with read-only access to the Integrated Offender Management System (IOMS) and all other records for the purposes of conducting preliminary inquiries or investigations pursuant to an Ombudsman's statutory functions or this Agreement, subject to the following:
 - i. No information on IOMS is to be accessed other than for the purpose of specific preliminary inquiries or investigations undertaken pursuant to an Ombudsman's statutory powers or this Agreement.
 - ii. In the event that IOMS has to be shut down for maintenance, or should otherwise not be used or be treated as accurate, the Department will advise the Chief Ombudsman accordingly.
 - b. To provide the Chief Ombudsman, on a monthly basis, with audit records showing which Ombudsmen's staff have accessed prisoner records through IOMS.
 - c. To ensure that the Chief Ombudsman's correspondence is responded to as soon as reasonably practicable and in any case not later than 20 working days after receipt of the correspondence, subject to the following:
 - i. If a substantive reply cannot be provided within 20 working days, the Department will advise when this will be provided and why it cannot be provided within the above timeframe.

- ii. If the Chief Ombudsman seeks an urgent response, the Department will take all reasonable steps to provide the information within the specified timeframe, or advise why this is not feasible and when the information will be provided.
- d. To ensure that minor queries, made by email or telephone, are responded to as soon as reasonably practicable and not later than 2 working days after receipt of the email or telephone request. (For the purpose of this paragraph, 'minor query' is a preliminary inquiry which is not an investigation notified to the Chief Executive pursuant to section 18 of the Ombudsmen Act, and does not require substantial follow-up.)
- e. To ensure that where an Ombudsman addresses correspondence, 'Personal for the attention of the Chief Executive', the correspondence will be considered and responded to by the Chief Executive, or by the Deputy Chief Executive at the direction of the Chief Executive. ('Ombudsman' in this paragraph means only an Ombudsman holding a warrant from the Governor-General, and not Ombudsmen's staff.)
- f. To permit the Chief Ombudsman to visit any departmental property, at any time, for any purpose consistent with the Chief Ombudsman's statutory functions and powers, subject to any necessary restrictions imposed by the Prison Director for the good order of the prison, or in order to comply with relevant health and safety requirements. Processes relating to such visits, including any necessary restrictions that may be imposed by a Prison Director, are set out in Schedule 2 to this Agreement.
- g. To make suitable interview facilities available to the Chief Ombudsman, at the earliest possible opportunity, for the purpose of interviewing any person.
- h. To consult with the Chief Ombudsman on complaint categories and outcomes that may be used by both parties for reporting or research purposes. Such categories and outcomes will be reviewed as necessary.
- i. To provide prisoners, on arrival at a prison, with information about the Department's internal complaints processes, an Ombudsman's roles and how the Chief Ombudsman may be contacted.
- j. To provide offenders serving community-based sentences, or orders imposed under the Parole Act 2002 or the Sentencing Act 2002, with information about the Department's internal complaints processes, an Ombudsman's roles and how the Chief Ombudsman may be contacted.

The Chief Ombudsman's responsibilities

18. The Chief Ombudsman agrees:
 - a. To investigate serious incidents, and systemic or thematic issues or concerns, where the Chief Ombudsman considers such action to be warranted. The processes relating to the Chief Ombudsman's consideration of such incidents are set out in Schedule 3 to this Agreement.
 - b. To provide information and advice to complainants about the Department's internal complaints processes and how these should usually be utilised before an Ombudsman's intervention is requested.
 - c. To ensure that IOMS will only be accessed for the purpose of preliminary inquiries or investigations made pursuant to an Ombudsman's statutory powers or this Agreement.
 - d. Subject to section 21 of the Ombudsmen Act, to provide the Chief Executive, on a quarterly basis, with statistical information, including, but not limited to:
 - i. the number of complaints and other contacts received in relation to the Department; and
 - ii. the subject matter of complaints or other contacts received.
19. The Chief Ombudsman may communicate with any person in such a manner and at such time as is consistent with the Chief Ombudsman's statutory functions and powers. Where such communications occur inside a prison, they will be subject to any necessary restrictions imposed by the Prison Director for the good order of the prison, or in order to comply with relevant health and safety requirements.
20. Every investigation shall be conducted in private (section 18(2) of the Ombudsmen Act 1975) and the Chief Ombudsman will maintain secrecy in respect of all matters that come to his or her knowledge in the exercise of his or her functions (section 21(2) of the Ombudsmen Act). Any disclosure of such matters will be made only in accordance with the provisions of the Ombudsmen Act and the Ombudsmen Rules 1989.
21. The Chief Ombudsman may provide such information to the Chief Executive under the Ombudsmen Act as the Chief Ombudsman considers appropriate.

Miscellaneous

22. The Department's current internal complaints processes are set out in Schedule 4 to this Agreement, and may also be accessed electronically.
 - a. For prisoner complaints
http://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Prisoner-complaints.html

- b. For complaints about community probation
http://www.corrections.govt.nz/about_us/getting_in_touch/making_a_complaint/complaints_about_community_probation.html.
23. The Department's internal complaints processes may be subject to amendment. Any substantial changes will be discussed beforehand between the Department and the Chief Ombudsman.
 24. If, having been through the Department's internal complaints processes, the complainant remains dissatisfied with the outcome, they can contact an external agency such as the Chief Ombudsman, the Privacy Commissioner, the Human Rights Commissioner, the Commissioner for Children or the Health and Disability Commissioner, as appropriate.
 25. The complainant has the right to contact the Inspectorate or any external agency at any time. The external agency concerned may, however, decide not to intervene if the complainant has not first accessed the Department's internal complaints processes.

Signatories

Signed by the Chief Executive of the Department of Corrections

Signature

Name

Date

Signed by the Chief Ombudsman

Signature

Name

Date

In the presence of

Signature

Name

Address

Designation

In the presence of

Signature

Name

Address

Designation

Schedule 1 – Parties’ representatives

Monitoring of the operation of this Agreement, and resolution of any issues arising between the parties in relation to the interpretation or performance of this Agreement, are, in the first instance, the responsibilities of the representatives specified in this Schedule.

Chief Executive of the Department of Corrections

Deputy Chief Executive Corporate Services

Chief Ombudsman

Deputy Ombudsman

Assistant Ombudsman Compliance and Practice

Assistant Ombudsman Complaints Resolution

Schedule 2 – Process for visits for specific purposes conducted under the Ombudsmen Act

1. Where an investigation has been commenced, and following notification of entry to the Chief Executive, an Ombudsman is authorised under section 27 of the Ombudsmen Act to enter, at any time, any departmental property for the purpose of the investigation.
2. Where no investigation is involved, and the incident or matter is not urgent, any request by the Chief Ombudsman to visit a prison, for any purpose consistent with the Chief Ombudsman's statutory functions and powers, will be sent to info@corrections.govt.nz at least three working days before the projected date of the visit. The request should also be copied to the Manager Ministerial Services, Corporate Services.
3. Where no investigation is involved, and the incident or matter is not urgent, any request by the Chief Ombudsman to visit any departmental property other than a prison, for any purpose consistent with the Chief Ombudsman's statutory functions and powers, will be sent to info@corrections.govt.nz at least one working day before the projected date of the visit. The request should also be copied to the Manager Ministerial Services, Corporate Services.
4. Ombudsmen's staff who visit any departmental property will have the same access as the Chief Ombudsman, carry appropriate identification authorised by the Chief Ombudsman, and produce this on request. The Ombudsman will also be required to carry appropriate identification and produce this on request.
5. Ombudsmen's staff may, with the necessary permissions from the relevant Prison Director, bring recording devices into prisons when visiting and when conducting interviews (see regulation 113 of the Corrections Regulations 2005). Such devices may include, but are not limited to, laptops, cameras and voice recorders. In order for any such devices to be brought into a prison, a '*V.03.Form.02 Authority to use electronic devices in prison*' must be completed. Where the visit is pre-arranged, the completed form must be sent to the prison in advance of the visit. For unannounced or short-notice visits, the form must be completed on entry. All devices will be subject to normal search procedures.
6. Prison Directors will facilitate access to all prisoners and staff, subject to any necessary restrictions imposed for the good order of the prison, or in order to comply with relevant health and safety requirements, and will provide suitable interview facilities for this purpose at the earliest possible opportunity. Prison Directors will also ensure that the Chief Ombudsman has access to any information that the Chief Ombudsman considers to be relevant.

Schedule 3 – Investigation of serious incidents, including deaths in custody

Notification of serious incidents, including deaths in custody

1. The Department will ensure that the Chief Ombudsman is notified of all serious incidents, including deaths in custody, within one working day of the incident. Notifications of such incidents will be sent to ombudsman.incidents@ombudsman.parliament.nz as well as to any other Ombudsmen's staff nominated by the Chief Ombudsman. (For the purposes of this paragraph, '*serious incident*' means any incident of a nature that affects, or potentially affects, the fair, safe, secure and humane treatment of individuals.)
2. Subject to the provisions of the Ombudsmen Act, the Chief Ombudsman will notify the Department of any serious incident or allegation made known to the Chief Ombudsman through non-departmental channels and which, in the Chief Ombudsman's view, warrants the Department's attention. This paragraph refers in particular to matters affecting, or potentially affecting, the fair, safe, secure and humane treatment of individuals. Notifications of such incidents will be sent to info@corrections.govt.nz and copied to the Manager Ministerial Services, Corporate Services.
3. Where advice of a serious incident, including a death in custody, is given orally, the Chief Executive and the Chief Ombudsman will ensure that an agreed written record of the advice is made.

General approach

4. Inspectors of Corrections will carry out formal investigations into serious incidents, including all deaths in custody reported to the Chief Executive and/or the Coroner.
5. The Chief Ombudsman will not generally investigate matters that are already being investigated by the Inspectorate, but will consider on a case by case basis whether investigation of a particular incident, or of matters arising from or relevant to an incident, is warranted.
6. Both parties acknowledge that there will be occasions where an Ombudsman's intervention will be appropriate, notwithstanding the fact that the Inspectorate is conducting an investigation.

Where no investigation is seen to be warranted on the facts to hand

7. Where no investigation is seen by the Chief Ombudsman to be warranted on the facts to hand, the Department will provide the Chief Ombudsman with updates in relation to its investigation of a serious incident, including a death in custody, at agreed points in the process, including:
 - a. when the Inspectorate's investigation commences and is completed;

- b. when any coronial involvement commences and is completed;
 - c. when any Police involvement commences and is completed; and
 - d. at intervals not exceeding three months.
8. At the conclusion of the Inspectorate's investigation, the Department will make available to the Chief Ombudsman:
- a. as a matter of course, the Inspectorate's final report; and
 - b. on request, any or all other information that was prepared and/or collated as part of that investigation.
9. If, on considering this information, the Chief Ombudsman decides to commence an investigation, the Chief Executive will be notified of this decision in accordance with section 18 of the Ombudsmen Act.

Where the Chief Ombudsman is considering whether an investigation should be made

10. Both parties acknowledge that there will be occasions where the Chief Ombudsman's intervention will be appropriate, notwithstanding the fact that an Inspectorate investigation may be underway.
11. To assist consideration of whether a separate investigation by the Chief Ombudsman is warranted, the Department will, at the conclusion of the Inspectorate's investigation, make available to the Chief Ombudsman:
- a. as a matter of course, the Inspectorate's final report; and
 - b. on request, any or all other information that was prepared and/or collated as part of that investigation.
12. Where requested by the Chief Ombudsman, the Department will also make available, at any time, any specified information that it holds.
- a. Where the Chief Ombudsman seeks the information as part of preliminary inquiries, in order to decide whether or not to commence an investigation, the Department will provide any requested information that is readily retrievable within three working days.
 - b. If the Chief Ombudsman wishes to view information as part of preliminary inquiries, the Department will facilitate this by allowing Ombudsmen's staff, within three working days of the request, or as soon as reasonably practicable, to physically view, on site, a copy of the information that is provided to the Inspectorate as part of its investigation. Requests to view information will be made to the relevant Prison Director(s); or, in the case of archived information that is no longer retained by prisons, to info@corrections.govt.nz (and copied to the Manager, Ministerial Services, Corporate Services).

- c. If information is not readily retrievable, the parties will agree to the necessity and details of provision of the requested information.
13. The Chief Ombudsman will consider the Inspectorate's report(s), and any other relevant information, with a view to deciding whether a separate investigation is warranted:
- a. into an individual case that raises serious issues or concerns; and/or
 - b. into systemic issues or concerns.

Where an investigation is commenced by the Chief Ombudsman

14. Where the Chief Ombudsman decides to commence an investigation, the Chief Executive will be notified of this decision in accordance with section 18 of the Ombudsmen Act.
15. If the Chief Ombudsman is seeking information following the commencement of a notified investigation, the Department will provide the requested information as soon as reasonably practicable following the request, in accordance with section 19 of the Ombudsmen Act.

Schedule 4 – Department of Corrections internal complaints processes

Prisoner complaints

Defining a complaint

A complaint exists when a prisoner, or other person acting in the interests of a prisoner, formally draws attention, either orally or in writing, to any action which the complainant wishes to have investigated.

PC.01.01 Complaint resolution approach

1. Our approach is to resolve complaints informally at the lowest level, usually by staff at the unit or site. If this cannot happen, the Department has a three tiered process to manage complaints through a formal process:
 - a. at the prison site
 - b. the Corrections Services Complaints Response Desk (CRD) at National Office
 - c. Inspector of Corrections (see '*PC.01.13, Complaints to official agencies*', for more information including contact details).
2. Prisoners should contact the Inspectorate in the first instance for any complaint where there exists an immediate timeframe that may affect a particular outcome. These include:
 - a. any situation that indicates concern about the immediate safety of any individual, including complaints about a prisoner not receiving medication
 - b. prisoner misconduct matters where the prescribed timeframes are alleged to have not been met
 - c. prison management decisions relating to temporary removal/release on compassionate grounds.

PC.01.02 Initial issue raised by prisoner

1. If a prisoner raises an issue (including a concern or query) with a staff member, the staff member assists by taking all reasonable attempts to address the issue. Staff being responsive to any issues raised by a prisoner may eliminate a subsequent complaint.
2. Staff consider whether/if:
 - a. this is something they can answer
 - b. they know who could provide the answer
 - c. this is something they can find the answer to

- d. this is something they can direct the prisoner to find on the kiosk.
3. Staff must enter a file note in IOMS detailing the issue and attempts to answer/resolve it. The file note heading/s must relate to the most appropriate description of the issue.
4. Staff (and persons conducting formal complaint interviews) should refer to the *'PC.01.Res.09 Considerations for effective complaint resolution'* resource to assist with informal and formal (interview) to assist with resolving prisoner issues.

PC.01.03 Making a complaint

1. If an issue cannot be resolved informally and a prisoner wishes to make a complaint, unit staff must:
 - a. advise the prisoner of the internal complaint process and may provide a copy of the information booklet (see *'PC.01.Res.04 Information on the complaints process in prisons'*)
 - b. provide the prisoner with a *'PC.01 Form.01 Prisoner complaint'*.

PC.01.04 Prisoner completing the *PC.01.Form.01 Prisoner complaint*

1. Staff must assist any prisoner who appears to have difficulties with oral or written communication, or has difficulty communicating in English with completing the *'PC.01.Form.01 Prisoner complaint'*.
2. The prisoner is advised that they may have a support person who can:
 - a. assist in completing the form
 - b. act as an interpreter
 - c. assist in responding and representing the prisoner's complaint, but;
 - d. not act in any legal capacity or be legally qualified.
3. The prisoner can record any information on the form outlining the complaint. Exceptions the prisoner must be advised about include:
 - a. health complaints – the prisoner does not need to disclose any personal health information on the form.
 - b. if the complaint relates to a person that the complaint may be referred to, the nature of the complaint does not need to be disclosed.
4. If information is withheld from the form for the above reason/s, staff must not ask the prisoner about it (see *'Recording complaint details'* below for further guidance).

PC.01.05 Receiving a complaint

1. When an officer receives a '*PC.01.Form.01 Prisoner complaint*' they complete sections 2 and 3 on the form and then create a copy of the form and give the copy to the prisoner as confirmation their complaint has been received.

PC.01.06 Recording complaint details

1. The officer receiving the '*PC.01.Form.01 Prisoner complaint*' must enter the complaint details into Section A of the IOMS complaint screen.
2. The complaint details are entered exactly as the prisoner has written them, with the following exceptions:
 - a. if the complaint is about staff conduct or attitude, the name of the staff member involved is **not** recorded in IOMS
 - b. If the complaint is about a health matter and private health information has been included, the specific pieces of private information are **not** to be recorded in IOMS. If the prisoner has provided private health information on their form, that information should be replaced with an excerpt such as '*private health information removed*'.
3. Once the complaint details have been entered in the IOMS complaint screen the officer receiving the complaint must provide the prisoner with the numbered copy of the IOMS generated '*Complaint registration form*' within 24 hours of the complaint being received from the prisoner. The officer needs to tick the '*copy given to inmate*' box as a record that the prisoner has been given the IOMS form.

PC.01.07 Referring a complaint

1. Once the complaint is registered in IOMS the officer ensures the unit principal corrections officer (PCO) is notified that a complaint requires action.
2. The PCO will manage the complaint process by recording the initial '*action taken*' in section B of the IOMS complaint screen. This will normally involve copying the informal advice/communication with the prisoner that was entered in the IOMS file note by the officer attempting to informally resolve the issue and pasting the file note into section B. Any other relevant information leading to the complaint being made should also be added in section B.
3. The PCO will decide who is best placed to take the action to resolve the complaint and interview the prisoner. This will most often be the PCO themselves, however, may be another appropriate person such as a residential manager. The PCO may use other information, such as details in the relevant file notes, to make informed decisions.
4. If the complaint cannot be resolved at the unit level it must be referred to the next appropriate level within 3 days of being registered in IOMS.

5. Complaints must be referred on in the following cases:
 - a. staff conduct and attitude must be referred to the prison director.

Note: Any allegation of the following are managed as per instructions set out in *'IR.07 Staff related incident report and investigation'*:

 - i. assault by staff on prisoner
 - ii. assault by staff on other person
 - iii. criminal offence by staff (other than assault) while on duty
 - iv. misconduct by staff while on duty.
 - b. complaints about a prison director must be forwarded to the Regional Commissioner by the prison director.
 - c. complaints about Health Services must be referred to the health centre manager who will arrange an interview within 7 days of being notified.
 - d. complaints about offender employment activities must be referred to the manager industries who will arrange an interview within seven days of being notified.
6. If the PCO is referring a complaint to the next appropriate level they must note this in section B of the IOMS complaint screen (along with any other actions taken). A numbered copy of the IOMS-generated *'Complaint form'* with the updates is printed and given to the prisoner to keep them apprised of progress with their complaint. *'Copy to inmate'* is ticked in section B to record the copy has been provided.

PC.01.08 Actions to resolve complaint

1. The person who the complaint was referred to by the PCO (or the PCO themselves if they have interviewed the prisoner) will complete section C *'further action taken'* in the IOMS complaint screen. This includes relevant information from the interview with the prisoner, IOMS file notes, or further information obtained following speaking with staff involved.
2. Once section C is completed in IOMS, the person conducting the interview (or the PCO) prints another numbered copy of the IOMS generated *'Complaint form'* for the prisoner and ticks *'copy to inmate'* in section C.
3. If a prisoner is received on transfer and complaints are located on the prisoner's file that have not been recorded in IOMS, the PCO must record them in IOMS and register the complaint against the prison in which the events occurred. Once the PCO has recorded the complaint(s) in IOMS, they must notify the applicable prison director by email that the complaint has been recorded in IOMS for them to complete the process.
4. If the prisoner is Off Muster at the time the complaint is processed, staff must still record the complaint in IOMS. If the complaint relates to compensation (for lost or damaged property) or alleges misconduct by staff, the complaint must be managed as if the

prisoner was still On Muster. Apart from this requirement to record the complaint on IOMS, all other complaints for Off Muster prisoners can be closed as there is no meaningful way to progress a complaint in the prisoner's absence.

PC.01.09 Interviewing the prisoner

1. The prisoner must be interviewed within 3 working days of the complaint being registered in IOMS, the exceptions to this are if the complaint:
 - a. cannot be resolved at unit level and the PCO or residential manager is **not** conducting the interview, the PCO must email anyone else they refer a complaint to within 3 working days of the complaint being registered in IOMS
 - b. has been referred on by the PCO, that person has seven working days from being advised to conduct the interview and update IOMS section C '*further action taken*'.
2. At the interview the prisoner can be accompanied by a support person as long as that support person is not the prisoner's legal advisor.
3. The interviewer attempts to resolve the complaint promptly where possible.

PC.01.10 Complaint resolution

1. The interviewer is responsible for detailing the outcome of the interview in section C '*further action taken*' of the IOMS complaint screen within 7 days of receiving notice to conduct the interview. The outcome includes any action the Department has taken in response to the complaint or any decisions made as a consequence of the complaint.
2. If an action is agreed on and the prisoner accepts the resolution of the complaint, this information is recorded in section C. The prisoner is then provided with a numbered copy of the IOMS generated '*Complaint form*'. '*Copy to inmate*' and '*situation resolved*' can then be ticked in IOMS. Ticking '*situation resolved*' closes the complaint.
3. If the interviewer is unable to resolve the complaint, they may need to refer it to a person at the next level of delegated authority as follows:
 - a. if the interview was conducted by the PCO, they must refer the complaint to the residential manager
 - b. if the interviewer needs to escalate the complaint they must ensure the next person to further interview the prisoner is informed
 - c. the complaint must be left '*open*' in IOMS (do not tick '*situation resolved*')
 - d. section C '*further action taken*' is updated to reflect the outcome of the initial interview (including who the complaint is being referred to)
 - e. once section C is updated the interviewer must provide the updated, numbered version of the IOMS generated '*Complaint form*' to the prisoner and tick '*copy to inmate*'.

4. The person who receives the unresolved complaint is responsible for investigating it within 14 days of referral. This person is also responsible for ensuring the prisoner is informed of progress.
5. When the complaint is ongoing the investigator must notify the prisoner on a monthly basis in writing (by printing the updated IOMS generated '*Complaints form*' and giving it to the prisoner) and if practicable, orally, of progress on the complaint. These actions are recorded in section C '*further action taken*'.
6. A complaint is resolved internally when any one of the following has occurred:
 - a. all legal and reasonable steps have been taken to address the substance of the complaint
 - b. the complainant withdraws a complaint
 - c. it is referred on to an appropriate external complaint official agency
 - d. it is referred back to an appropriate lower level for any action agreed to be taken.
7. When a complaint is resolved, the interviewing person will complete section C, print a copy of the resolution and give it to the prisoner (see '*PC.01.11 Next steps*' below before closing the complaint) then tick '*copy to inmate*' and tick '*situation resolved*'.

PC.01.11 Next steps

1. Where the prisoner is not satisfied by the resolution provided by the site, the prisoner must be advised of the next steps. The prisoner can contact the:
 - a. Complaints Response Desk on 0800 326 778 for further advice or support
 - b. Department of Corrections Ministerial Services, in writing for unresolved complaints regarding personal or official information at:

Ministerial Services
National Office
Department of Corrections
Private Box 1206
Wellington 6140
 - c. Inspector of Corrections in writing or by calling 0800 225 697
 - d. following external official agencies:
 - i. Office of the Ombudsman 0800 662837
 - ii. Health and Disabilities Advocacy Service 0800 555050
 - iii. Health and Disability Commission 0800 112233
 - iv. Privacy Commissioner 0800 803909

- v. Independent Police Conduct Authority 0800 503728
- vi. Human Rights Commission 0800 496877.

PC.01.12 Frivolous or vexatious complaints

1. If the interviewing officer considers that the complaint is frivolous or vexatious, they must refer the matter to the prison director. The prison director must consider each complaint on a case by case basis, and determine if the complaint:
 - a. is an abuse of the complaint process
 - b. is not made in good faith
 - c. attempts to re-open an issue that has been properly resolved.
2. The prison director must consult with the senior advisor to the regional commissioner before determining whether to investigate a frivolous or vexatious complaint.
3. If the prison director decides that the complaint is frivolous or vexatious, the prison director must ensure that the prisoner is promptly notified in writing (by completing the '*agreed action*' section on the IOMS generated '*Complaints form*' and providing the prisoner with a copy of this form) and, if practicable also orally, of the decision not to investigate the complaint.
4. The prison director must advise the prisoner about their right to complain to an official agency (e.g. the Office of the Ombudsman or Inspector of Corrections).
5. Prison directors are responsible for maintaining a register of all complaints not investigated because they are considered to be frivolous or vexatious (made up of completed '*PC.01.Form.01 Prisoner complaint*' and IOMS generated '*Complaints form*' with evidence that this decision was made in consultation with the senior advisor to the regional commissioner).

PC.01.13 Complaints to official agencies

1. Prisoners must be advised that they have the right to seek assistance from official agencies for the purpose of resolving a complaint at any time. Prisoners must however be advised that for most complaints they will need to follow the internal process and receive a response from the site before the Inspectorate or external agency can address their complaint (see '*PC.01.11 Next steps*' above for the list of external agency contacts).
2. Serious complaints must be referred to a suitably qualified and independent person to investigate, in a way that enables a prompt resolution to the allegation. An Inspector of Corrections will monitor the conduct and outcome of any such investigation.
3. Prisoners can request an interview with an Inspector during the next visit cycle. Staff must ensure the prisoners name is registered on the visit list by informing the prison director. A prisoner requesting an interview does not need to register a complaint,

however, the Inspector may refer the prisoner back to the Prisoner complaint process if the interview is about a complaint.

4. The prison director records the names of prisoners who wish to have an interview with a[n] Inspector to the appropriate regional Office of the Inspector of Corrections.
5. The Inspector of Corrections will, if practicable, provide the prison director with at least 48 hours notice of an impending visit, and advise who they intend to interview.
6. Notices of upcoming visits by an Inspector of Corrections must be prominently displayed.
7. The prison director must take reasonable steps to facilitate these interviews and ensure that the prisoner is given at least 24 hours notice of an upcoming interview.
8. If required, the prison director will provide an oral briefing to the Inspector of Corrections.
9. An Inspector of Corrections must be given access to any person in a prison at which the complainant is/was detained and have access to any records that are relevant to the complaint for the purpose of investigating a complaint.
10. An Inspector of Corrections may at any time enter a prison and have access to all parts of the prison (including any vehicle used for the transportation of any prisoner during the complainant's period of detention) and any other prisoners for the purpose of investigating a complaint.

PC.01.14 Official agencies recommendations

1. The prison director must ensure that the recommendations of the official agency are responded to in an appropriate manner.
2. Where a complaint to an Inspector of Corrections requires the Inspector's intervention in order to bring about the correct outcome, that complaint will be deemed to be justified. Any of the following conditions may apply:
 - a. the action or outcome being complained of did not comply with the applicable legislation, operating standards or lawful local instructions
 - b. the action or outcome being complained of was not safe, fair or reasonable in the circumstances
 - c. the matter was not dealt with in a timely fashion upon being drawn to attention in the first instance.
3. A complaint is unjustified if, upon being referred back to a lower level from a higher level where it has been received in the first instance, the matter is acknowledged at the lower level and resolved without requiring intervention by an Inspector of Corrections.

Related Links

- PC.01.Res.01 Contact details for external agencies

Complaints about community probation

Community Corrections aims to carry out its duties fairly and professionally. If anyone has an issue or concern with any aspect of our work, they have the right to make a complaint.

How to make a complaint

To make a complaint talk to a community corrections staff member. Complaints can also be made to a probation officer (if applicable) or their manager. They will do their best to deal with complaints fairly, professionally and confidentially. They may need to involve their manager or other staff.

If a complaint cannot be resolved at this level, a formal complaint can be made.

Making a formal complaint

A formal complaint will be passed to a community probation district manager. They will investigate a complaint further, and may involve other staff or more senior management if necessary.

A formal complaint can be made by:

- completing and signing a complaints form
- sending a signed letter, or an email, to your local community corrections site (filter list by '*Community Corrections*') that outlines the complaint in detail
- talking to a community corrections staff member, who will record the complaint, ask the person to sign it and then send the complaint to the community corrections district manager.

What happens next

Once the community corrections district manager receives a complaint, they will:

- write to say that the complaint has been received
- register the complaint in a database
- start a fact-finding process to see if further investigation or action is needed.

The manager will keep the person who made the complaint updated as it's dealt with, and may ask for more information during the investigation.

Other ways to complain

Complaints can also be taken directly to an Inspector of Corrections, whose job it is to deal with complaints about Corrections.

The Ombudsman can also assist with the outcome of a complaint investigation.

To get help or more information

For more help talk to a local community probation staff member or email:
complaints@corrections.govt.nz.