

Office of the Inspectorate: Complaint Procedures

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Defining a complaint

A complaint exists when a person who is or has been in prison or on a community-based sentence/order - or an advocate or representative acting on their behalf - raises an issue about:

- their treatment
- the conditions in a prison or Community Corrections site or any other place they are detained or required to attend, work, or live
- a decision about their request for information
- a decision where no other right of appeal or review exists under any enactment.

A complaint does not include any action taken by a prisoner to review or appeal a decision by a hearing adjudicator or Visiting Justice or any other complaint by a prisoner about a decision of that kind.¹

Important Note: Complaints from people on bail fall outside the scope of the Corrections Act complaint system, as these people are not under Corrections 'control and supervision'. On 25 January 2022, the Chief Executive directed under section 29(1)(e) of the Corrections Act 2004 that Inspectors of Corrections are also to inquire into complaints about Corrections received from a person who is or was subject to electronically monitored (EM) bail or engaging with the Bail Support Services (or their authorised advocate). When investigating these complaints, Inspectors cannot rely on powers conferred under Part 2 Subpart 6 of the Corrections Act 2004. However, Inspectors can gain consent from the complainant to access their personal information relevant to the complaint. Inspectors are expected to seek advice from the Principal Legal Adviser in these cases.

Complaint resolution approach

The Department of Corrections Ara Poutama Aotearoa approach is to resolve complaints informally at the lowest level - if possible, in the circumstances - usually by staff at a prison or Community Corrections site.

If this cannot happen, or if the person wishes to escalate the issue, Corrections has an internal formal process to manage complaints:

- at a prison or Community Corrections site or
- by an Inspector of Corrections (Inspector).

¹ Definition of a complaint from section 3 of the Corrections Act 2004.

Complainants must be advised that they have the right to seek assistance from an Inspector or external official agency at any time, for the purpose of making a complaint.

Most complaints are expected to follow the internal process and receive a response from prison or Community Corrections staff before an Inspector or external official agency will investigate.

People in prison or on community sentences or orders can contact an Inspector in the first instance about any complaint in cases of safety or urgency. Examples include:

- any situation where there are concerns about the immediate safety or health care of any individual
- where timeframes have not been met for prisoner misconduct matters
- prison management decisions relating to temporary removal or release on compassionate grounds.
- concern about prisoner Christmas early release applications
- concerns about Visitor Prohibition Orders.

Responding to requests for assistance

Site-based staff must advise people in prison or on community sentences or orders that they have the right to seek assistance, at any time, from an Inspector for the purpose of making a complaint.

Examples of cases where a person might “seek assistance” from an Inspector include when site-based staff have not:

- provided a person with a form to make a complaint
- accepted an internal complaint and loaded it into the relevant database
- advised a complainant of the progress of an internal complaint
- investigated a complaint in a fair, timely, and effective manner.

The Early Resolution Team (ERT) enters a record in the database detailing the request and the assistance provided to the complainant.

Responding to feedback

Any person may also provide the Office of the Inspectorate with feedback, which could be a compliment or suggestion for improvement.

The ERT enters a record in the database detailing the feedback and the response.

Receiving and triaging a complaint

The ERT receives and triages all complaints received by the Office of the Inspectorate.

Complaints can be received from a complainant or their advocate by:

- email: inspectorate@corrections.govt.nz
- post
- telephone [Freephone 0800 225 697]
- the online form on the Department of Corrections website
- interviews at site visits between Inspectors and people in prison or people on community sentences or orders.

Load and categorise the complaint:

The ERT loads all complaints received into the database and categorises them.

Triage a complaint:

The ERT triages all complaints at a daily multidisciplinary meeting and refers them to the most appropriate person to investigate. This could be a department staff member, Inspector, or an external official agency.

The ERT refers complaints to a department staff member or external official agency if they do not meet the criteria to be managed by an Inspector. The Inspectorate **criteria** is complaints that have already been through the internal process, and complaints where there are matters of safety or urgency (refer to the '*Complaint resolution approach*' section above). In these cases, the ERT advises the complainant, in writing, that their complaint has been referred. The record is then closed in the database.

The ERT refers any complaint that meets the Office of the Inspectorate's criteria to:

- a Clinical Inspector if it relates to health or psychological services
- a Regional Inspector if it relates to any other matter.

If a complaint is received from an advocate, the ERT provides department staff or the Inspector with guidance on working with advocates. The ERT also holds and maintains a central record of all active advocate forms.

The [Complaint Resolution Practice Centre](#) on Tātou (Corrections' intranet) includes a directory of all other department complaint procedures, and guidance on working with advocates.

Investigating a complaint

An Inspector may investigate a complaint in any manner that they consider appropriate (which may include, without limitation, referring the complaint to another person for consideration).

If an Inspector investigates a complaint, they must conduct the investigation reasonably promptly.

Respond to immediate or ongoing wellbeing needs:

The Inspector is expected to respond to any immediate or ongoing wellbeing needs during the process of investigating a complaint. These needs could be in relation to the complainant, the subject of a complaint, impacted staff members, or any other party.

Acknowledge a complaint:

The Inspector is expected to acknowledge a complaint in writing **within 10 working days**. The ERT sends the acknowledgment on behalf of the Inspector.

If the complaint has been investigated within that timeframe, the acknowledgement should provide the result/outcome of the investigation. Refer to the '*Informing a complainant of the result of an investigation*' section below.

Gather relevant evidence:

Inspectors are expected to gather evidence relevant to the complaint. To investigate a complaint, an Inspector may:

- enter a prison or Community Corrections site

- enter any other place where a person is or was detained or required to attend, work or live or from which their sentence or any condition of that sentence is or was monitored (with the consent of the occupier)
- have access to all people on sentences/orders, staff members, contractors, or visitors in those places
- have access to any records relevant to a complaint.

Seek support as required

Inspectors are expected to seek relevant support and expertise from other people or groups, taking into account the subject of the complaint.

For example, in cases where a complaint centres around matters of tikanga, an Inspector may seek support from practitioners with kaupapa Māori expertise.

Interview relevant people:

An Inspector may interview the complainant and any other relevant person as part of their investigation.

If an Inspector visits a prison or Community Corrections site to interview a specific person, all people on a sentence/order are entitled to an interview.

If an Inspector visits a site for any other purpose, any person on a sentence/order may ask for an interview and the Inspector may agree. People on sentences/orders are not required to disclose to site staff the reasons why they asked for an interview with an Inspector.

If an Inspector wishes to visit a prison to interview prisoners, they must, if practicable in the circumstances, notify the Prison Director at least 48 hours before the visit. The Prison Director must ensure that the prisoners are given at least 24 hours' notice of the visit. They must also take all reasonable steps to facilitate interviews (for example, by ensuring that interview rooms are available for interviews, and that the prisoners are available to attend interviews).

Provide advice on progress:

The Inspector is expected to regularly advise the complainant in writing and, if practicable, orally on the progress of the investigation.

In complex cases, the Inspector may consider sharing preliminary views on the complaint with people involved and give them the opportunity to respond. People involved in a complaint include the complainant, the subject of a complaint, and the department decision makers.

Informing a complainant of the result of an investigation

The Inspector must inform the complainant and other persons concerned in writing and, if practicable, orally of the result of the investigation. The notification must include:

- a clear reflection of the key issues raised by the complainant and the established facts and findings of the investigation
- any further actions the Inspector proposes to take in respect of the complaint, such as a recommendation or direction to department staff
- advice that the complainant can complain to an external official agency if they are dissatisfied with the result of the Inspector's investigation.

Frivolous or vexatious complaints

An Inspector may assess a complaint, consider it 'frivolous or vexatious', and choose to take no further action. If an Inspector is unsure whether a complaint is frivolous or vexatious, they are expected to discuss the matter with the Principal Inspector and Chief Inspector.

If a complaint is considered frivolous or vexatious, the Inspector must promptly notify the complainant in writing and advise that the Inspector will take no further action. As noted above, the complainant must also be informed about their right to complain to an external official agency if they are dissatisfied with this decision.

Recordkeeping

An Inspector must keep records of every complaint in the database. The record is to be closed in the database once the complainant is notified of the result of the investigation.

Issuing recommendations and directions

An Inspector may, during or after an investigation of a complaint, make recommendations about practices or procedures to any person who they consider should receive the recommendation. The Chief Inspector must be consulted on any recommendation before it is issued to department staff.

If an Inspector makes a recommendation in relation to a complaint, the Monitoring Agency Relationships (MAR) team must record it in the Recommendations Reviewer. The assigned action owner must ensure that the recommendations are responded to in an appropriate manner, and that regular updates are recorded in the Recommendations Reviewer.

An Inspector can also issue any direction to department staff to avoid or reduce any immediate danger to a complainant or any other person. The Chief Inspector must be consulted on any direction before it is issued to department staff. The Chief Executive may revoke a direction at any time. If the Chief Executive does so, the MAR team must promptly inform the Chief Ombudsman of that revocation and the reasons for it.

Complaints to external official agencies

Where an Inspector has investigated a complaint, they must advise the complainant that they can contact an external official agency if they are dissatisfied with the result of the investigation.

The complainant can contact any of the following external official agencies:

- Office of the Ombudsman **0800 662837**
- Health and Disability Commissioner **0800 112233**
- Privacy Commissioner **0800 774892**
- Independent Police Conduct Authority **0800 503728**
- Human Rights Commission **0800 496877**

External official agencies will contact the Department of Corrections requesting information to support their investigation of a complaint.

The MAR team manages these information requests from external official agencies. The external official agency may:

- refer a complainant to advocacy or mediation services

- refer a complaint back to a prison, Community Corrections or to an Inspector if it has not already been investigated through those processes
- attempt to resolve the complaint informally through communication with the complainant and the Department of Corrections
- formally investigate the complaint.

To support the external official agency investigation, Inspectors must provide the MAR team records or material relevant to the complaint. The MAR team will work with all relevant staff to draft a response to the external official agency.

Complaint governance

The Chief Inspector and members of the senior leadership team are expected to review Office of the Inspectorate complaint trends at least monthly. To support the review, a dashboard is created outlining the number of complaints received in the preceding month, broken down by category and site.

The senior leadership team will use the monthly review to identify any opportunities to improve:

- Department complaint handling
- Office of the Inspectorate complaint handling
- Department operational practices, or wider policies and systems.

Information from the dashboard is provided to the Chief Executive and relevant department staff for their action as appropriate.

The Department of Corrections Annual Report must also include statistics on the number and category of complaints made to the Office of the Inspectorate, and comment on issues arising out of complaints.

Monitoring allegations against staff

Inspectors can monitor a prison site's investigation of an allegation against a staff member. The monitoring function provides the Chief Executive with assurance that the site has conducted an effective investigation and followed correct process.

Inspectors review all new allegations at a weekly team meeting, and triage which will be monitored and by whom.

Inspectors monitor:

- all allegations of assault by staff (including sexual assault)
- all allegations of excessive use of force by staff
- any other allegations at the discretion of the Chief Inspector.

The Chief Inspector can refer allegations to other groups in the department for their reference as appropriate, such as the Integrity Assurance Team.