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COMMISSIONER'S DIRECTIVE 081

In Effect: 2014-01-13
Last Review: 2014-01-13
Due for Review: 2016-01-04

Offender Complaints and Grievances

PROGRAM ALIGNMENT	Internal Services
OFFICE(S) OF PRIMARY INTEREST	Policy Sector
ONLINE @	<ul style="list-style-type: none"> • http://infonet/cds/cds/081-cd-eng.pdf • http://infonet/cds/cds/081-cd-fra.pdf • http://www.csc-scc.gc.ca/text/plcy/cdshtm/081-cde-eng.shtml • http://www.csc-scc.gc.ca/text/plcy/cdshtm/081-cde-fra.shtml
AUTHORITIES	<ul style="list-style-type: none"> • Corrections and Conditional Release Act (CCRA), sections 90 and 91 • Corrections and Conditional Release Regulations (CCRR), sections 74-82 • Canadian Charter of Rights and Freedoms • Canadian Human Rights Act • Official Languages Act • Federal Courts Act
PURPOSE	<ul style="list-style-type: none"> • To support the fair and expeditious resolution of offender complaints and grievances at the lowest possible level in a manner that is consistent with the law • To ensure that the legal obligation to provide timely and impartial resolution of offender complaints and grievances is met
APPLICATION	Applies to all staff and offenders engaged in the offender complaint and grievance process

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RESPONSIBILITIES

1. The Assistant Commissioner, Policy, has the authority to develop guidelines that must be followed with reference to the offender complaint and grievance process.
2. [Decision makers](#) at all levels will ensure that [grievors](#) are provided with complete, documented, comprehensible and timely responses to all issues that are related to the subject of the initial complaint or grievance.
3. When responding to offender complaints and grievances, decision makers at all levels will ensure that grievors are provided the services to which they are entitled under the [Official Languages Act](#).
4. The decision maker will ensure that any materials or documentation, including audio and video tapes, that are used in the analysis of a complaint or grievance are protected and available for review in the event of a subsequent submission by the grievor or where the grievor pursues an alternate legal remedy (such as judicial review of the final grievance decision).
5. The Institutional Head/District Director will ensure that:
 - a. offenders have complete access to the offender complaint and grievance process without negative consequences
 - b. offenders who require assistance using the complaint and grievance process receive it from a staff member
 - c. there is a mechanism in place to monitor the use of the offender complaint and grievance process at his/her site
 - d. all staff are provided training concerning the offender complaint and grievance process and its requirements and importance
 - e. all staff members make every effort to resolve matters that are the subject of offender complaints and grievances informally through discussion or by using [alternative dispute resolution mechanisms](#), where such mechanisms exist
 - f. there is a staff member designated to complete the duties associated with the Grievance Coordinator position
 - g. complaints and grievances are collected every working day, with the exception of offenders in segregation or on cell confinement, in which case complaints and grievances are collected every calendar day
 - h. there is an [Outside Review Board](#) in place should an offender request that his/her initial grievance submission and the corresponding response be reviewed by the Outside Review Board.

6. Grievors will:
 - a. use the complaint and grievance process in good faith as a means of redress when they believe that they have been treated unfairly by a staff member, or in a manner that is not consistent with legislation or policy on matters within the jurisdiction of the Commissioner
 - b. make every effort to resolve matters that are part of a complaint or grievance informally through discussion or by using alternative dispute resolution mechanisms, where such mechanisms exist.

PROCEDURES

Levels of the Offender Complaint and Grievance Process

7. The offender complaint and grievance process is comprised of three levels:
 - a. written complaint – submitted by the offender at the institution/district parole office and responded to by the supervisor of the staff member whose actions or decisions are being grieved
 - b. initial grievance (institution/district level) – submitted to the Institutional Head/District Director
 - c. final grievance (national level) – submitted to the Commissioner.
8. The Senior Deputy Commissioner and the Assistant Commissioner, Policy, have been designated to make decisions with respect to grievances at the final level.
9. Where an offender is dissatisfied with an action or a decision by a staff member, the offender may submit a written complaint, preferably on the form provided by the Service. The initial submission will be at the complaint level unless otherwise indicated in this directive or in [GL 081-1 – Offender Complaint and Grievance Process](#).
10. An offender being supervised in the community may submit a complaint or grievance to his/her Parole Officer or to the designated staff member within the parole office, community residential facility or Community Correctional Centre.

Timeframes

11. An offender should normally submit a complaint or grievance for the first time within 30 working days of becoming aware of the action or decision being grieved. The decision maker may extend this timeframe.
12. Decision makers will render a decision with regard to complaints and grievances in the following timeframes:

Complaint and Initial Grievance

- **High Priority** – Within 15 working days of receipt by the Grievance Coordinator at the site
- **Routine Priority** – Within 25 working days of receipt by the Grievance Coordinator at the site

Final Grievance

- **High Priority** – Within 60 working days of receipt by the National Grievance Coordinator
- **Routine Priority** – Within 80 working days of receipt by the National Grievance Coordinator

13. If the Institutional Head/District Director or the Director, Offender Redress, considers that more time is necessary to deal adequately with a complaint or grievance, the grievor must be informed, in a letter dated on or before the due date, of the reason(s) for the delay and of the date by which the decision will be rendered.
14. Where a grievor is not satisfied with the response at any level, he/she may escalate the complaint or grievance to the next level, normally within 30 working days of receiving the response.
15. If not satisfied with a decision rendered at the final level, grievors may seek judicial review of the decision at the Federal Court within the time limit prescribed in [subsection 18.1\(2\)](#) of the *Federal Courts Act*.

Grievance Coordinator

16. The Grievance Coordinator at the institution or district will:
 - a. upon receipt of a complaint or grievance, assign a grievance code, determine the priority level, and record the complaint or grievance in the Offender Management System (OMS) pursuant to [GL 081-1 – Offender Complaint and Grievance Process](#)
 - b. ensure that complaints or grievances which significantly impact or infringe on an offender's rights and freedoms are designated as high priority
 - c. ensure that complaints or grievances of a [sensitive](#) or [urgent](#) nature are identified and treated as such. This includes [harassment](#), [sexual harassment](#) and [discrimination](#) grievances.

Offenders in Segregation/Cell Confinement Status

17. On admission to segregation or when placed on cell confinement status, offenders must be informed that they can submit complaints and/or grievances about placement/maintenance in segregation and confinement conditions and treatment. They will also be provided with access to complaint and grievance forms as well as the institutional Grievance Coordinator where required.
18. The Institutional Head must ensure that complaints and grievances submitted by offenders in

segregation and those on cell confinement are collected and reviewed daily. Complaints and grievances classified as high priority, as defined in Annex A, will be brought immediately to the attention of the Institutional Head or Officer-in-Charge of the institution.

Group Complaints and/or Grievances

19. A complaint or grievance may be submitted by a group of grievors but the submission must be signed by all grievors involved. One grievor must be designated to receive the response for the group as well as any other correspondence related to the complaint or grievance.

Combining Complaints and/or Grievances

20. When a grievor submits two or more complaints or grievances in reference to a similar issue, the decision maker may choose to address all of the issues in one response. When this is done, it is necessary to identify each of the complaints and grievances being addressed in the response.

Rejection of Complaints and/or Grievances

21. If portions of a complaint or grievance are considered [frivolous](#), [vexatious or not made in good faith](#), or [offensive](#), the decision maker may reject the entire grievance or portions thereof, indicating the reason(s) for this decision.

22. Where any element of the complaint or grievance relates to an urgent matter, the decision maker must respond to that portion within the required timeframes.

23. The grievor is entitled to grieve a decision to reject in whole or in part his/her complaint or grievance.

Multiple Grievors

24. An offender may be designated as a multiple grievor by the Institutional Head/District Director if the volume of complaints and/or grievances submitted impacts on the capacity to respond to submissions by other grievors and/or hinders other grievors' access to the process at that site.

25. A grievor may be designated as a multiple grievor by the Institutional Head/District Director when an assessment is made based on local complaint and grievance information and the determination is validated statistically.

26. The offender must be informed, in writing, by the Institutional Head/District Director that a multiple grievor status is being considered. The offender must be provided with the information that will be used to determine the designation pursuant to [GL 081-1 – Offender Complaint and Grievance Process](#), and given an opportunity to:

- a. rebut the information on which the proposed designation is based, and/or
- b. present an alternative plan or resolution, in an attempt to find alternative means to address his/her issues.

27. The Institutional Head/District Director will take into account the offender's submissions before a decision is finalized. The outcome of any discussions between the offender and the Institutional Head/District Director will be documented.
28. The Institutional Head/District Director will ensure that the grievor is notified in writing of the final decision without delay.
29. Where multiple grievor status is confirmed, the Institutional Head/District Director will include in the notification the number of routine complaints and grievances that will be responded to each month and inform the multiple grievor of the length of the designation. A multiple grievor designation must be reassessed at least every six months.
30. Complaints and grievances submitted by multiple grievors that are deemed high priority will be responded to within established timeframes.

Financial Compensation

31. Financial compensation may be provided to an offender through the complaint and grievance process:
 - a. for loss or damage to personal property pursuant to [CD 234 – Claims for Staff Personal Effects and Inmate Personal Effects and the Offender Accident Compensation Program](#), or
 - b. where the grievor seeks payment or reimbursement of money that the Correctional Service of Canada (CSC) is required to provide under legislation or CSC policy.

Withdrawal of Complaints and/or Grievances

32. A complaint or grievance may only be withdrawn by a grievor if the matter is resolved, the nature of the resolution is recorded, and the grievor attests to this resolution in writing. The complaint or grievance will be signed by the grievor and a staff member and recorded in OMS as resolved.
33. If the agreed upon resolution does not occur or does not resolve the issue, the offender may escalate the complaint or grievance to the subsequent level.

Response After Warrant Expiry Date

34. When an offender completes his/her sentence after having submitted a complaint or grievance during his/her sentence, the Service will respond to the complaint or grievance as required and forward the response to the grievor. If a forwarding address cannot be located, the original response will be placed on his/her file.

Death of the Grievor

35. When an offender dies following the submission of a complaint or grievance at any level, a response will be prepared and made available to any persons conducting lawful investigations or inquiries into the matter(s) addressed in the complaint or grievance. The original response will be

placed on the offender's file.

Special Provisions – Initial Grievance

36. The Institutional Head may refer an offender's initial grievance to the [Inmate Grievance Committee](#), where such a committee exists in the institution, with the offender's consent, prior to rendering a decision.
37. A grievor may request that the grievance decision rendered by the Institutional Head be reviewed by an Outside Review Board. The grievor is required to submit a [Request for Outside Review](#) (CSC/SCC 0359) within 10 working days of receipt of the initial grievance response.
38. In such cases where a grievance has been referred to the Inmate Grievance Committee or an Outside Review Board, the grievance will be handled pursuant to [GL 081-1 – Offender Complaint and Grievance Process](#).

Special Provisions – Final Grievance

39. In order to facilitate a timely response, when the Offender Redress Division at National Headquarters requests supporting documentation to complete the analysis and review of an offender grievance, staff will provide all information requested as soon as possible, normally within five working days.

Consultation

40. Decision makers will consult operational and policy experts prior to rendering a decision on a complaint or grievance regarding matters requiring specialized knowledge. Requests for consultation will be responded to in writing within five working days of receipt of request. For example:
 - a. decision makers at all levels of the offender complaint and grievance process will consult a Health Services at the national or regional level, as appropriate, before rendering decisions on complaints or grievances related to the provision of health services
 - b. the decision maker at the final grievance level will consult relevant subject-matter experts prior to approving specific grievances pursuant to [GL 081-1 – Offender Complaint and Grievance Process](#)
 - c. decision makers will otherwise consult with subject matter experts in all cases that they deem appropriate.
41. All responses to consultations will be provided to the decision maker, where applicable.

Corrective Action

42. When a complaint or grievance is upheld or upheld in part, and corrective action is required, the corrective action will be completed within 30 working days, and it will be clearly noted on the

grievance file and in OMS that the corrective action has been completed.

43. The person responsible for implementing the corrective action will provide written confirmation and documentation to the decision maker indicating that procedures were completed in accordance with policy.
44. A grievor may submit a grievance to the next level of the offender complaint and grievance process when the corrective action was not completed within the designated timeframes. In the case of a corrective action in a final grievance, a grievor may submit a final grievance regarding this issue.

Alternate Legal Remedy

45. A grievor may pursue an alternate [legal remedy](#), such as a legal proceeding before the courts or the Canadian Human Rights Tribunal, for his/her complaint or grievance in addition to the offender complaint and grievance process. In such cases, the complaint or grievance will be deferred in OMS and handled in accordance with the procedures outlined in [GL 081-1 – Offender Complaint and Grievance Process](#).
46. Upon completion of the alternate legal remedy, or if the offender abandons the alternate legal remedy, the grievor may, within 30 working days, request in writing that the complaint or grievance be reactivated.

Harassment, Sexual Harassment and Discrimination Grievances

Determining the Validity of the Allegation

47. When receiving grievances designated as harassment, sexual harassment or discrimination, the decision maker must determine if the allegation(s), if proven, meet(s) the applicable definition.
48. Once this has been determined, the decision maker will respond to the grievance in accordance with the procedures outlined in [GL 081-1 – Offender Complaint and Grievance Process](#).

Convening an Outside Investigation

49. An investigation into an offender's allegation of harassment, sexual harassment or discrimination may be convened at any stage in the grievance process by the decision maker or the Director, Offender Redress. The outside investigation and corresponding grievance will be carried out in accordance with the procedures outlined in [GL 081-1 – Offender Complaint and Grievance Process](#).

1-800 Line

50. A national toll-free phone number (1-800-263-1019) is available to offenders to inquire about the offender complaint and grievance process or to ask specific questions about final grievances they have filed, such as the status of the grievance or the implementation of a corrective action.

Confidentiality of the Offender Complaint and Grievance Process

51. An offender's use of the offender complaint and grievance process may not be mentioned in records outside of the offender complaint and grievance process without the authorization of the Institutional Head/District Director, in which case this should be noted on the file.

ENQUIRIES

52. Strategic Policy Division
National Headquarters
Email: Gen-NHQPolicy-Politi@csc-scc.gc.ca

Commissioner,

Original Signed by:
Don Head

ANNEX A

CROSS-REFERENCES AND DEFINITIONS

CROSS-REFERENCES

[CD 001 – Mission, Values and Ethics Framework of the Correctional Service of Canada](#)

[CD 060 – Code of Discipline](#)

[GL 081-1 – Offender Complaint and Grievance Process](#)

[CD 234 – Claims for Staff Personal Effects and Inmate Personal Effects and the Offender Accident Compensation Program](#)

[GL 234-1 – Claims Administration Instructions](#)

[CD 700 – Correctional Interventions](#)

[Policy on Prevention and Resolution of Harassment in the Workplace \(TBS\)](#)

[Policy on Information Management](#)

[Grievance Code Reference Guide](#)

DEFINITIONS

Alternative dispute resolution mechanism: a method for resolving disputes by voluntary discussion by the parties which may include coaching, counselling, mediation, and healing/resolution circles.

Decision maker: the staff member who responds to a complaint or grievance at any level of the offender complaint or grievance process (normally the supervisor, Institutional Head/District Director, or the Commissioner, or the senior staff member that the Commissioner designates).

Discrimination: when an offender believes that actions, language or decisions of CSC staff were made in a discriminatory manner based on gender, race, ethnicity, language, sexual orientation, religion, age, marital status, or a physical or mental disability. The category includes staff behaviour that constitutes a violation of the offender's human rights or the [Canadian Charter of Rights and Freedoms](#).

Frivolous: where the decision maker concludes on the balance of probabilities that the complaint or grievance was submitted with no serious purpose.

Grievor: for the purpose of this directive, the offender who submits a complaint or grievance at any level of the complaint and grievance process.

Harassment: any improper conduct by a CSC staff member, that is directed at and offensive to an offender, and that the individual knew or ought reasonably to have known would cause offence or harm. It comprises any objectionable act, comment or display that demeans, belittles, or causes personal humiliation or embarrassment, and any act of intimidation or threat. It includes harassment within the meaning of the [Canadian Human Rights Act](#).

High priority: complaints and grievances that concern matters that have a direct effect on life, liberty or security of the person or that relate to a grievor's access to the complaint and grievance process. Other complaints and grievances are designated routine priority.

Inmate Grievance Committee: a committee consisting of an equal number of offenders and staff members and a non-voting Chairperson, who may be an offender or a staff member. It is a group within an institution that reviews initial grievances before a decision is rendered on the grievances and makes recommendations to the Institutional Head.

Legal remedy: a proceeding before a court or an administrative tribunal (such as the Canadian Human Rights Tribunal) or a complaint to an oversight agency such as the Privacy, Access to Information or Official Languages Commissioners but does not include a complaint to the Office of the Correctional Investigator.

Offensive: where the decision maker concludes:

- a. that the complaint or grievance was submitted in an attempt to harm, slander, demean or generally insult the decision maker or the person against whom the complaint or grievance is presented, or
- b. that the complaint or grievance lodged or language in the presentation would undermine a person's sense of personal dignity by demeaning the person or causing personal humiliation or embarrassment to a person, on the basis of gender, race, ethnicity, language, sexual orientation, religion, age, marital status, or physical or mental disability.

Outside Review Board: a committee of members of the community (minimum of two), other than CSC staff members or offenders. It is established to review initial grievance submissions and their corresponding responses and make recommendations to the Institutional Head.

Sensitive: complaints and grievances that contain information whose disclosure must be significantly restricted due to its nature or the potential adverse effects of its disclosure.

Sexual harassment: any verbal comment or non-verbal gesture(s) or contact of a sexual nature by CSC staff, whether on a one-time basis or in a continuous series of incidents, that might reasonably be expected to cause offence or humiliation.

Urgent: complaints or grievances that would result in irreparable adverse consequences to the grievor if not immediately resolved (at some identified juncture in less than 15 days).

Vexatious or not made in good faith: where the decision maker concludes on the balance of probabilities that the overriding purpose of the complaint or grievance is:

- a. to harass
- b. to pursue purposes other than a remedy for an alleged wrong, or
- c. to disrupt or denigrate the complaint and grievance process.