



# Prisoner complaints

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Related policies/standards	Date
See Section 6	

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## IPS Policy for Prisoner complaints

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## **1. Aim of this policy**

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To ensure that:

- 1.1 all investigations of prisoner complaints in the Irish Prison Service are compliant with legislation, the Prison Rules and the procedure laid out in this policy
- 1.2 all Complaints are dealt with in confidence.
- 1.3 all complaints are investigated in a timely, robust and transparent manner.
- 1.4 any prisoner who wishes to make a complaint may do so with the assurance that there will be procedural fairness.

## **2. Purpose of this policy**

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- 2.1 To provide prisoners with an accessible and effective means to make a complaint.
- 2.2 To present prisoners, IPS staff and others with a basis for confidence in the prisons' complaints system.

## **3. Scope of this policy**

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- 3.1 Staff and other persons employed directly or otherwise engaged by the IPS.
- 3.2 Prisoners in our custody.

## 4. Procedures for implementation

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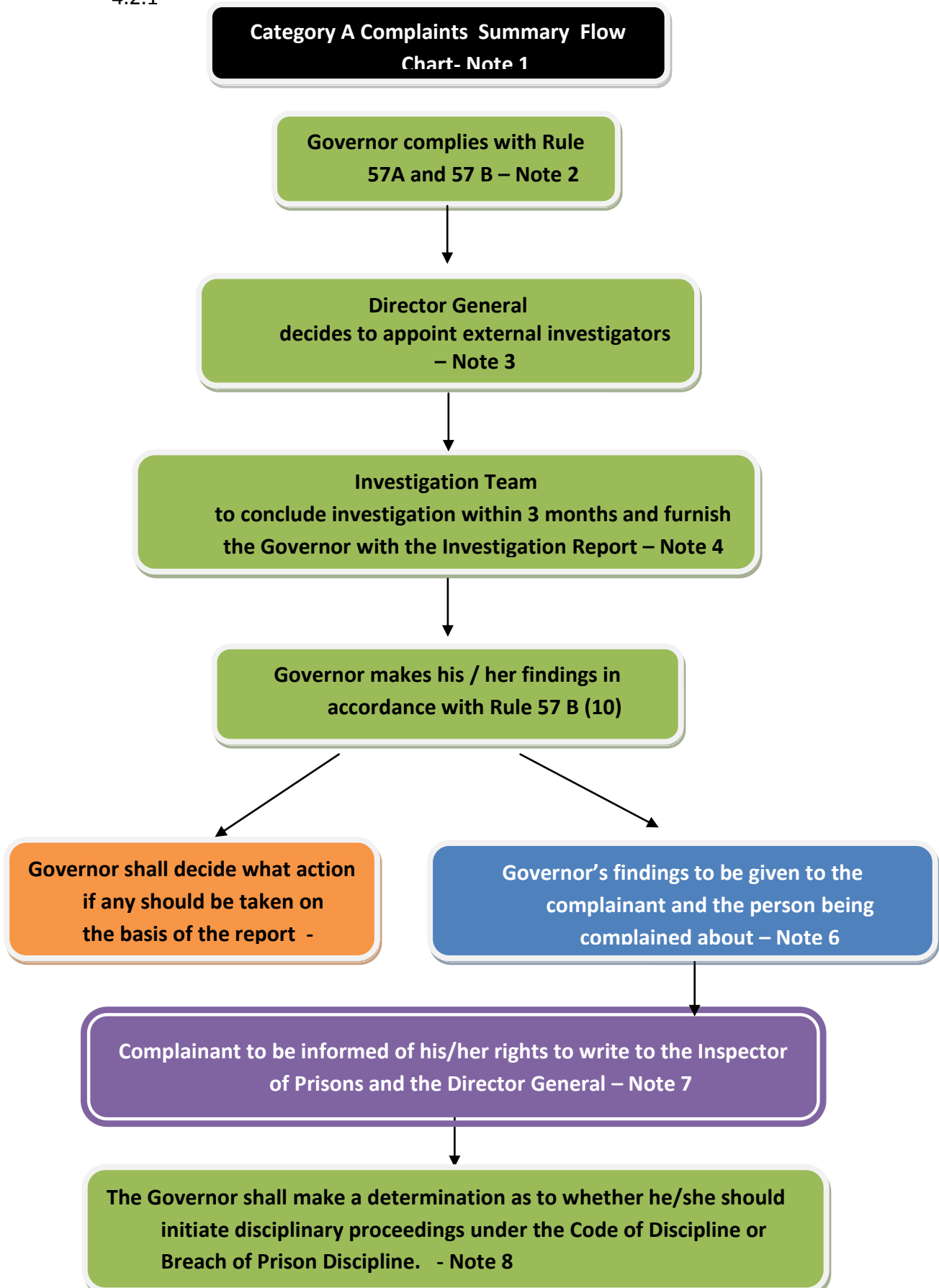
### 4.1 Complaints Generally

- 4.1.1 A standard complaint form to cover all categories of complaints shall be freely available throughout every prison.
- 4.1.2 The Governor shall arrange assistance for any prisoner having difficulty completing a complaint form.
- 4.1.3 Complaint post boxes shall have unique identifying numbers and be located throughout all prisoner accessible areas of a prison.
- 4.1.4 The Governor of the prison shall be responsible for ensuring that:-
  - a) All complaint boxes are emptied on each working day
  - b) All complaint forms are brought to a central location
  - c) All complaint forms are assigned a reference number, date stamped and entered into the relevant journal complaints journal and on the PIMS system
  - d) All complaint forms are photocopied and a copy returned to the complainant in a sealed envelope by a prison officer not below the rank of Chief Officer
  - e) Complaints shall be categorised by the Governor and entered into the relevant journal for such complaints and on the PIMS system.
- 4.1.5 Complaints shall be investigated in accordance with the criteria laid out in this policy forthwith.
- 4.1.6 Any officer, having sight or knowledge of any complaint shall not disclose the contents of such complaint to any third party (other than any disclosure by the investigation officer in accordance with investigative requirements).
- 4.1.7 In cases where a Governor has a suspicion that a situation has arisen which would, if reported, give rise to Category A Complaint, the Governor shall instigate the procedure for the investigation of such an incident as a Category A Complaint even where the prisoner has declined or refused to make a complaint.

- 4.1.8 Where a prisoner withdraws a Category A or Category B Complaint, the circumstances of such withdrawal shall be investigated in accordance with the procedures laid down for such category.
- 4.1.9 The Governor may delegate any functions performable by him/her under this policy. Every function delegated under this policy shall continue to be vested in the Governor. The Governor will ensure investigation of all Categories of Complaints.

## 4.2 Category A Complaints

### 4.2.1



#### 4.2.2 Category A Complaint Notes (1 -8)

**Note 1** A Category A Complaint is defined in section 57B (1) of the Prison Rules 2007 as- *“Assault or use of excessive force against a prisoner or ill treatment, racial abuse, discrimination, intimidation, threats or other conduct against a prisoner of a nature and gravity likely to bring discredit on the Irish Prison Service”*.

**Note 2** The Governor must comply with Rules 57A and 57B of the Prison Rules 2007. A copy of the relevant Rules is attached in the appendix. The following is a brief summary of the Governor’s duties:-

- Where an allegation that an act has been committed that may constitute a criminal offence – inform An Garda Síochána
- On being notified of a complaint which he/she categorises as a Category A Complaint:-
  - a) Preserve all relevant material including CCTV recordings
  - b) Arrange for the prisoner to be examined and any injuries or marks recorded and photographed if any physical force is alleged
  - c) Arrange for the names of all prisoners, staff and others who may be potential witnesses to be recorded
  - d) Advise the complainant that the complaint is being investigated and the procedures involved
  
- Arrange for a record to be kept of:-
  - a) The identity of the complainant and the time and date the complaint was made
  - b) Details of the complaint
  - c) Date and time the complaint was notified to the Governor.
  - d) Date and time of the notification to An Garda Síochána and name of the member notified
  - e)
- Within 7 days of being notified of such a complaint, refer the complaint and the evidence gathered to the Director General and also notify the Inspector of Prisons

**Note 3** This is covered by Section 57B (5) of the Prisons Rules 2007. The Director General shall appoint an investigation team comprising of one or more persons

to investigate the complaint unless the complaint is determined as vexatious, without foundation or falls outside the scope of Rule 57B.

**Note 4** These procedures are covered by Section 57B (9) and Section 57B (10) of the Prison Rules 2007.

- The investigation team may gather evidence, interview persons and take statements. The investigator shall be given access to the prison and all records to which the complaint relates
- The time limit for the investigation of such complaints should not, except in exceptional circumstances, exceed 3 months.
- If an investigation is not completed within 3 months an interim report shall be submitted to the Governor and the Director General of the Irish Prison Service documenting the progress made and the reasons why further time is required to complete the report

**Note 5** This is provided for in Section in 57B (10) of the Prison Rules 2007.

- The Governor shall make his/her findings on the basis of the report that:-
  - a) There are reasonable grounds for sustaining the complaint
  - b) There are no reasonable grounds for sustaining the complaint,

or

  - c) It has not been possible to make a determination as set out at (a) or (b) above
- The Governor shall state the reasons for his/her findings
- The findings and decision of the Governor shall be documented and any matters not in the report but taken into consideration shall be referred to in the documentation

**Note 6** The Governor shall advise the complainant and any person against whom the complaint was made that the report of the investigation team has been received and give a general outline of the report and advise them of his/her findings and decision. The Governor shall inform the Director General and the Inspector of Prisons of the decision. . No part of the report shall be made public or made known to the complainant or the person against who the complaint is



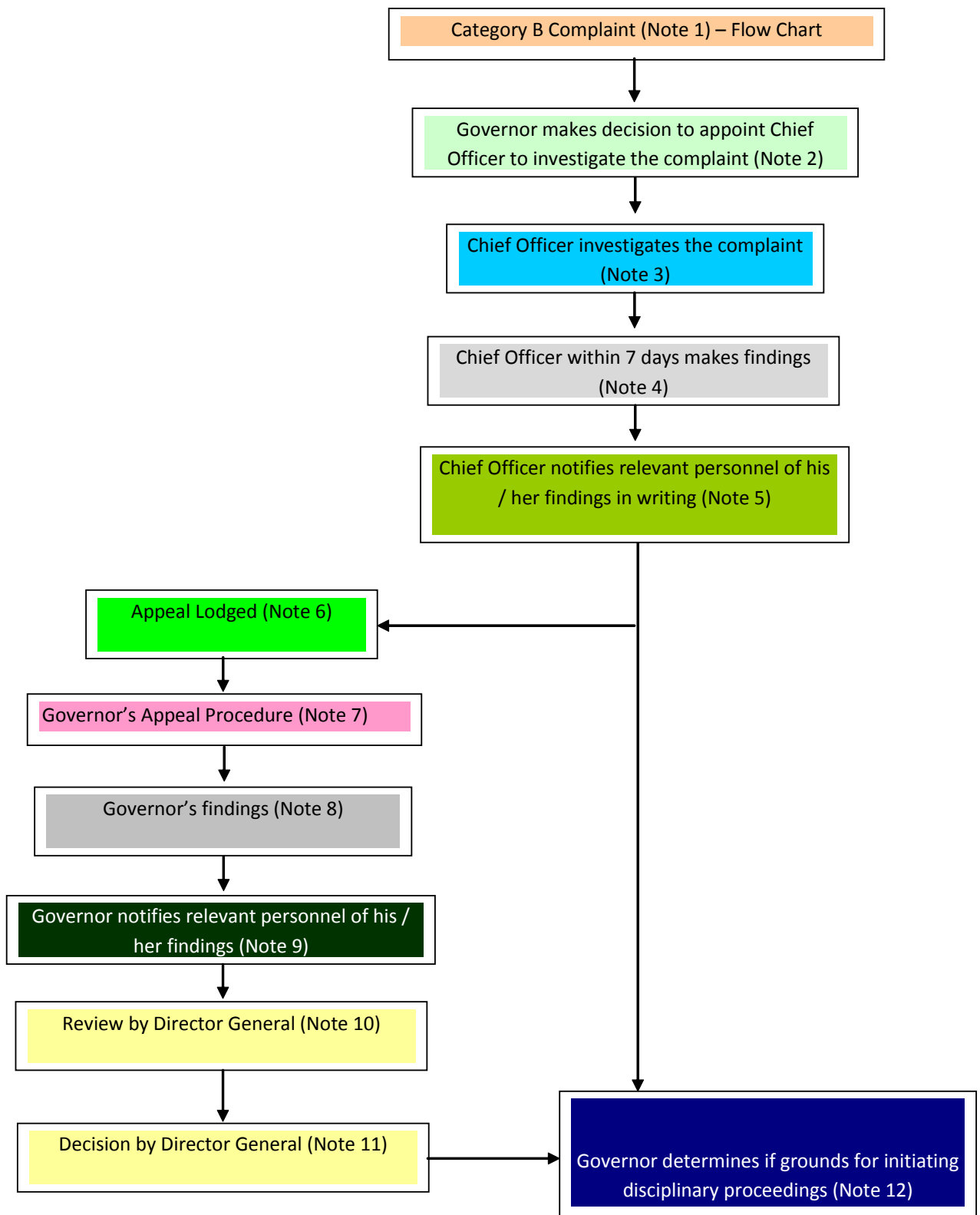
made if it contains adverse findings about an identifiable person or if it might prejudice any criminal proceedings

**Note 7** The complainant shall be advised that if he/she is not satisfied with the outcome of the investigation he/she may write to the Inspector of Prisons and the Director General of the Irish Prison Service stating why he/she is not satisfied.

**Note 8** The finding of the Governor and the report shall not be a basis for imposing any disciplinary sanctions on an officer or a prisoner. The Governor shall decide whether or not he/she should institute disciplinary proceedings under the Code of Discipline or the Prison Rules 2007. If the Governor decides to initiate proceedings under the Code of Discipline he/she must follow the procedure set out in S.I. No. 289/1996 - Prison (Disciplinary Code For Officers) Rules, 1996. If the Governor decides to initiate a breach of prison discipline it shall be carried out in accordance with Rules 66, 67 & 68 , Prison Rules 2007.

### 4.3 Category B Complaints

#### 4.3.1



#### 4.3.2 Category B Complaint Notes (1 -12)

**Note 1** Category B Complaints are complaints of a serious nature, but not falling within any other category of complaint. Examples of Category B complaints could include verbal abuse of prisoners by staff, inappropriate searches or any other conduct against a prisoner of a nature likely to bring discredit on the Irish Prison Service. Category B complaints will be investigated by a Chief Officer with recourse to appeal to the Governor and review by the Director General of the Irish Prison Service

**Note 2** The Governor shall, within 48 hours of being notified of such complain. appoint a Chief Officer in the prison to investigate the complaint. The Chief Officer so appointed shall not be the officer in charge of the area where the incident allegedly occurred or the area where the complainant is accommodated. The Chief Officer shall not have been present at any time during the alleged incident.

**Note 3** The Chief Officer shall investigate the complaint. To this end the Chief Officer may, *inter alia*, gather evidence, interview persons, take statements, peruse documentation and reports in the prison and view CCTV.

The time limit for the investigation of such complaints shall not, except in exceptional circumstances, exceed 28 days.

If an investigation is not completed within 28 days, from the date that the investigation of same is assigned to a Chief Officer, an interim report shall be submitted to the Governor documenting the progress made and the reasons why the Chief Officer will require further time to complete the report. The complainant shall also be advised of the reasons for any delay.

**Note 4** On the conclusion of his/her investigation the Chief Officer shall make findings on the basis of his/her report that:-

- a) There are reasonable grounds for sustaining the complaint

- b) There are no reasonable grounds for sustaining the complaint
- c) It has not being possible to make a determination as set out at (a) or (b) above

The Chief Officer shall give reasons for his/her findings.

**Note 5** The Chief Officer shall within 7 days of the completion of the investigation communicate in writing the outcome of his/her investigation, his/ her findings of the investigation and the reasons for same to the following:-

- a) The prisoner who lodged the complaint
- b) The Officer, if any, against whom the complaint has been made
- c) The Governor

The prisoner, who had lodged the complaint, shall be notified in writing of his/her right to appeal to the Governor if dissatisfied with the outcome. The notification shall provide that a time limit of 14 days for lodging such an appeal shall, except in exceptional circumstances, apply. The notification shall also advise the prisoner wishing to appeal that they have a right to submit or have submitted on their behalf such observations as they may wish to offer.

**Note 6** Where an appeal has been lodged the Governor shall within 7 days of the lodging of the appeal:-

- a) Inform the prisoner who had lodged the original complaint and the officer (if any) against whom the complaint had been made that an appeal process has commenced
- b) Inform all parties that the appeal will take place on the basis of all documentation received
- c) Inform all parties that the Governor will carry out further investigations he/she considers relevant where submissions to this effect have been made by either party
- d) Inform all parties that the outcome will be communicated to all parties

**Note 7** The Governor shall within 28 days from the date of receiving the appeal:-

- a) Carry out a review of the investigation conducted by the Chief Officer
- b) Consider any documentation or submissions made by either the complainant or the person complained of
- c) Carry out any further investigation having regard to any observations or submissions made by the appealing party

**Note 8** The findings and the decision of the Governor shall be documented and if any matters, not in the initial investigation report, are taken into consideration by the Governor these matters shall be referred to in the findings and the decision of the Governor.

The Governor's decision shall determine that:-

- a) No further action be taken and confirm the findings of the Chief Officer
- b) The findings of the Chief Officer be quashed without further inquiry
- c) The appeal cannot be adequately determined without a fresh investigation. In this case the fresh investigation shall not be carried out by the Chief Officer who investigated the complaint in the first case.

**Note 9** The Governor shall communicate in writing the outcome of his/her investigation, his/her findings and the reasons for same to the following:-

- a) The party who lodged the appeal
- b) The other party to the process (if any)
- c) The Director General of the Irish Prison Service

Parties to the appeal shall be notified in writing of their right to seek a review of the decision of the Governor by the Director General of the Irish Prison Service. The notification shall provide that a time limit of 14 days for the lodging of such an application for review shall, except in exceptional circumstances, apply.

**Note 10** On receipt of an application to review the decision of the Governor the Director General shall within 14 days of such receipt carry out a review of the

decision and findings of the Governor. This review shall be confined to a review of the procedures followed by the Governor to determine that fair procedures have been followed and that the decision and findings of the Governor are consistent with the supporting evidence.

**Note 11** The Director General of the Irish Prison Service shall within 14 days of finalising his review of the Governor's decision, inform all parties including the Governor of his/her decision and explain the reasons for same.

The Director General's decision shall determine that:-

- a) The Governor's decision is upheld on the basis that correct and fair procedures were followed and findings are consistent with the supporting evidence, or
- b) That correct and/or fair procedures had not been followed and/or findings are not consistent with the supporting evidence. The Director General may direct a new investigation be initiated. .

**Note 12** The finding of the Governor and the report shall not be a basis for imposing any disciplinary sanctions on an officer or a prisoner. The Governor shall make a determination as to whether he/she should initiate disciplinary proceedings under the Code of Discipline or the Prison Rules 2007.

If the Governor decides to initiate proceedings under the Code of Discipline he/she must follow the procedure set out in S.I. No. 289/1996 - Prison (Disciplinary Code For Officers) Rules, 1996. If the Governor decides to initiate a breach of prison discipline it shall be construed in accordance with Rule 66, 67 & 68, Prison Rules 2007.

#### **4.4 Category C Complaints**

- 4.4.1** Category C Complaints are basic service level complaints (and may include complaints about visits, phone calls, reception issues, missing clothes, not getting post on time, not getting appropriate exercise).
- 4.4.2** Category C Complaints will arise in two ways, namely, by informal complaints made to officers and by written complaints on complaint forms.
- 4.4.3** Where complaints or requests are made of staff these must be documented and recorded in a special journal and/or on the PIMS system.
- 4.4.4** The Governor may delegate the investigation of Category C complaints to an officer not below the position of Class Officer whether they arise by verbal complaint (or request for information) or the more formal procedure whereby a complaint form is filled out.
- 4.4.5** Category C Complaints should be resolved as soon as possible – it is expected that a reply or acknowledgement could be provided within 24 hours- although resolution may not be possible within that timeframe. The complainant should be kept aware of ongoing developments in relation to the complaint.
- 4.4.6** The Class Officer shall record the steps taken to resolve the Category C Complaints, the explanation given to the prisoner with the date, time and place where the prisoner was informed.
- 4.4.7** All prison staff and others working in the prison shall cooperate with Class Officers in their endeavours to resolve Category C Complaints.
- 4.4.8** If a Category C Complaint cannot be resolved the prisoner must be given a written explanation as to the reasons why the complaint cannot be resolved.
- 4.4.9** The Senior Chief Officer in the prison shall maintain constant oversight of the Category C Complaints procedure and shall take immediate action to resolve any matters outstanding in excess of 48 hours.

## **4.5 Category D Complaints**

- 4.5.1** Category D complaints are complaints against professionals which, for example, may include medical personnel, legal/financial representatives.
- 4.5.2** Where possible, medical/healthcare complaints shall be resolved through local resolution.
- 4.5.3** Category D Complaints may also fall into Categories A, B or C to be investigated.
- 4.5.4** Where Category D Complaints cannot be resolved locally, the prisoner shall be informed of the relevant professional body that he/she may contact. Appropriate assistance must be afforded to any prisoner endeavouring to make contact with the relevant professional body.



## **4.6 Category E Complaints**

- 4.6.1** Category E Complaints are those made by visitors to the prison. Complaint forms shall be available in all areas where visitors have access to.
- 4.6.2** Category E Complaints shall be categorised and investigated accordingly.
- 4.6.3** On receipt of a complaint a written acknowledgement shall be sent to the complainant by post. This acknowledgment should contain the name of the prison complaints coordinator.

## **4.7 Category F Complaints**

- 4.7.1** Category F complaints relate to complaints against decisions made by IPS Headquarters in relation, for example, to such matters as the granting of temporary release, prison transfers.
- 4.7.2** Apart from exceptional circumstances where the giving of such information could jeopardise the security or good order of a prison, all prisoners shall have an entitlement to answers to reasonable queries raised by them in relation to matters referred to in 4.7.1
- 4.7.3** Replies to requests for information shall be made in writing to the prisoner within 7 days of receipt of such a request. Replies to complaints against decisions made by IPS Headquarters shall be made in writing to the prisoner within 4 weeks of receipt of such a complaint.

## 5. Related policies /standards

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Management of IPS Prisoner Complaints

Protocol for managing Cat D – Healthcare complaints

Framework of Investigations under the IPS Prisoner Complaints

The Prison Rules 2007 (S.I. 252 of 2007)

## 6. Definitions

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Governor - the Governor of a prison or other officer for the time being authorised to perform all or any of the functions of Governor of the prison concerned;

## Appendices

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Appendix I – Rule 57A *Complaints of a criminal offence* & 57B *Preparation of internal reports on complaints* of the Prison Rules 2007 as inserted by S.I. No. 11 of 2013 Prison Rules (Amendment) 2013

**Appendix I – Rule 57A & 57B Prison Rules 2007- S.I. No. 11 of 2013 Prison Rules  
(Amendment) 2013**

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57A.

(1) Any allegation by a prisoner to a prison officer or a member of the Irish Prison Service that an act has been committed that may constitute a criminal offence shall be notified, by such officer or member, to the Governor and to the Garda Síochána and the Governor shall arrange for a record to be kept of—

(a) the identity of the complainant and the time and date the complaint was made,

(b) the details of the complaint,

(c) the time and date the complaint was notified to the Governor, and (d) the time and date of the notification to the Garda Síochána and the name of the member notified.

(2) The Governor shall, on being notified of such a complaint—

(a) arrange for any relevant evidence, including CCTV recordings, to be preserved as long as they may be required for any investigation by the Garda Síochána, or any criminal proceedings,

(b) arrange for the prisoner in question to be examined and any injuries or marks recorded and photographed if any physical force is alleged, and

(c) arrange for the names of all prisoners, staff and others who may be potential witnesses to be recorded.

57B.

(1) (a) This Rule shall apply to any complaint made after the Rule comes into operation by any person alleging—

(i) assault or use of excessive force against a prisoner, or

(ii) ill treatment, racial abuse, discrimination, intimidation, threats or any other conduct against a prisoner of a nature and gravity likely to bring discredit on the Irish Prison Service, whether or not the incident occurred before this Rule comes into operation and shall apply notwithstanding Rule 57A.

(b) It shall not be necessary to duplicate a record for the purposes of this Rule if a record has already been made for the purposes of Rule 57A.

(c) Nothing shall be done under this Rule which might interfere with or prejudice any investigation by the Garda Síochána or possible criminal proceedings.

(2)

(a) It shall be the duty of every prisoner, prison officer and other member of prison staff whether engaged under a contract of employment or a civil servant, to whom a complaint is made, to notify the Governor of any such complaint to which this Rule applies.

(b) The Governor shall arrange for a record to be kept of the:

- (i) identity of the complainant and the time and date the complaint was made,
- (ii) details of the complaint, and
- (iii) time and date the complaint was notified to the Governor.

(c) If necessary the complainant shall be given assistance to record his or her complaint in writing. The prisoner shall be assured that the complaint can be made without fear of repercussions and the Governor shall take any steps necessary to ensure that there is no victimisation of the prisoner.

(d) If the Governor is a subject of the complaint, the Governor shall forthwith notify the Director General of the Irish Prison Service and the Inspector of Prisons.

(3) The Governor shall, on being notified of such a complaint, or if the provisions of subparagraph (2) (d) apply, such other person as may be designated by the Director General of the Irish Prison Service (hereafter referred to as the "Designated Officer"),

(a) arrange for any relevant material, including CCTV recordings, to be preserved as long as they may be required for any investigation by the Garda Síochána and any investigation under this Rule, or any proceedings,

(b) arrange for the prisoner in question to be examined and any injuries or marks recorded and photographed if any physical force is alleged,

(c) arrange for the names of all prisoners, staff and others who may be potential witnesses to be recorded, and

(d) advise the complainant that the complaint is being investigated and the procedures involved.

(4) The Governor shall, within seven days of being notified of such a complaint, or the Designated Officer where the Governor is the subject of the complaint, refer the complaint and the evidence gathered pursuant to subparagraph(3) to the Director General and also notify the Inspector of Prisons.

(5)

(a) Subject to subparagraphs (b) and (c), the Director General shall appoint an investigation team comprising one or more persons to investigate the complaint. The person or persons appointed shall not be members of staff serving at the prison to which the complaint relates or have had a recent association with that prison through having worked there or otherwise, and may be persons from outside the Irish Prison Service. The Governor and Inspector of Prisons shall be notified of the appointment of the person or persons.

(b) The Director General may decide not to appoint an investigation team if he or she is satisfied that the complaint is vexatious, without foundation or falls outside the scope of this Rule. If such a decision is made the Director General shall document the reasons

for the decision and arrange for the complainant, the Governor and the Inspector of Prisons to be advised of the decision and the reasons for the decision.

(c) If the complaint is withdrawn, the Governor, or the Designated Officer where the Governor is the subject of the complaint, shall inquire as to why the complaint was withdrawn, document the reasons given and forward a report to the Director General. If there is any evidence of any threat or inducement for the complainant to withdraw the complaint, the initiation of disciplinary proceedings shall be considered.

On receipt of the Governor's or the Designated Officer's report, the Director General may decide that the investigation should be terminated (and if so document the reasons for doing so and advise the Inspector of Prisons) or direct that the investigative process should continue.

(6) The purpose of an investigation under this Rule shall be to advise whether there are grounds for the complaint, and to make recommendations on the future management of such complaints or their subject matter. Nothing in this Rule shall prevent the initiation of disciplinary proceedings before an investigation team is appointed or reports.

(7) It shall be the duty of every prisoner, Governor, prison officer and other member of prison staff whether engaged under a contract of employment or a civil servant to cooperate fully with an investigation team appointed for the purpose of this Rule.

(8) The complainant shall be advised of the identity of the member or members of the investigation team and how the team may be contacted.

(9) The investigation team shall investigate the complaint. To this end the team may gather further evidence, interview persons and take statements. The team shall be given access to the prison and all records to which the complaint relates or any other prison.

(10)

(a) On completion of this investigation, the team shall submit a report to the Governor, unless the Governor is the subject of the complaint, and the Director General. If an investigation is not completed within 3 months from the date of the complaint an interim report shall be submitted to the Governor, unless the Governor is the subject of the complaint, and Director General documenting the progress made

and the reasons why they will require further time to complete the report. The Inspector of Prisons shall be provided with a copy of every report submitted under this paragraph and the complainant shall be advised of the reasons for any delay.

(b) The Governor, or the Director General where the Governor is the subject of the complaint, shall make his or her finding on the basis of the report that:

- (i) there are reasonable grounds for sustaining the complaint,
- (ii) there are no reasonable grounds for sustaining the complaint, or
- (iii) it has not been possible to make a determination as set out at (i) or (ii) above and may state the reasons for his or her finding.

The Governor, or the Director General where the Governor is the subject of the complaint, shall decide, what action if any should be taken, on the basis of the report and any other matters that he or she considers relevant. The finding and decision of the Governor, or the Director General where the Governor is the subject of the complaint, shall be documented and if any matters not in the report are taken into consideration for the purpose of deciding what action shall be taken those matters shall be referred to in the documentation.

The Governor, or the Director General where the Governor is the subject of the complaint, shall advise the complainant and any person against whom the complaint was made that the report of the investigating team has been received, and give, subject to subparagraph (c) below, a general outline of the report and advise them of his or her finding and decision. A copy of any report and the Governor's finding and decision shall be forwarded by the Governor to the Director General and the Inspector of Prisons or if the Governor is the subject of the complaint the Director General shall forward a copy of the report to the Inspector of Prisons.

(c) Subject to subparagraph (d) below no part of the report shall be made public or made known to the complainant or the person against who the complaint is made if it contains adverse findings about an identifiable person or if it might prejudice any criminal proceedings.

A prisoner may be told that disciplinary proceedings have been initiated and the outcome of such proceedings.

(d) The finding of the Governor and the report shall not be a basis for imposing any disciplinary sanction on an officer or a prisoner but notwithstanding this and any time limits provided for in the Prison (Disciplinary Code for Officers) Rules S.I. 289 of 1996 (hereafter referred to as the "Disciplinary Code"), such a report or the report with any additional statements or information may

(i) be used by a Governor to ground a Complaint Form under the Disciplinary Code against an officer and, subject to (e) below, any evidence gathered for the investigation may be referred to in disciplinary proceedings including at an Oral Hearing under the Disciplinary Code, or

(ii) be used by the Governor to ground an allegation of a breach of prison discipline and subject to (e) below, any evidence gathered for the investigation may be referred to in proceedings for breach of prison discipline.

(e) Statements made by an officer, prisoner or the Governor to the investigating team shall not be used in disciplinary proceedings against that officer or the Governor or the prisoner in proceedings for breach of prison discipline without his or her consent.

(f) For the purpose of this Rule, reassignment of duties or suspension from duty on full pay shall not be regarded as a disciplinary action.

(11) A complainant shall be advised that if he or she is not satisfied with the outcome of the investigation, he or she may write to the Inspector of Prisons and the Director General of the Irish Prison Service stating why he or she is not satisfied.

(12) The Inspector of Prisons shall have oversight of all investigations carried out under this Rule, shall have access to any material relevant to any such investigation and may investigate any aspect that he or she considers relevant."

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