



INDECOM JAMAICA

Searching for Truth, Striving for Justice
THE INDEPENDENT COMMISSION OF INVESTIGATIONS

COMPLAINTS AND GRIEVANCE POLICY RESPECTING EXTERNAL COMPLAINTS

Issued by the Office of the Commissioner

INTERPRETATION

1. — “Assistant Commissioner” means the person in charge of the Commission’s operational staff.

“Commissioner” means the person appointed under the provisions of the **Independent Commission of Investigations Act** to be head of the Commission.

“Complainant” refers to a person who makes a complaint relating to any matter which the Commission has authority to investigate under the provisions of the **Independent Commission of Investigations Act**.

“Concerned Officer” shall have the same meaning ascribed in **Section 2** of the **Independent Commission of Investigations Act**.

“Director of Complaints” means a person appointed under the terms of **Section 7** of the **Independent Commission of Investigations Act** as a Director of Complaints of the Commission, and, in the context of this policy, the Director of Complaints that supervises the employee against whom a complaint is made.

“Director of Human Resources” the person assigned to perform the functions associated with managing the human resource element of the Commission.

“Immediate Supervisor” shall, where the context admits, mean the following:

- (1) (a) the Senior Director, Corporate Services in the case staff employed in the Corporate Services Division;
- (b) the head of the Forensic Department in the case of the staff of the Forensic Department

- (c) the head of the Legal Department, in the case of the staff of the Legal Department; and,
 - (d) the Deputy Commissioner, or Assistant Commissioner, in the case of other staff in the Operational Division that are not supervised by a Director of Complaints; or
- (2) any person, excepting those mentioned in subsection (1)(a)-(d), to whom supervisory responsibility has been given in respect of the employee against whom a complaint is made.

“Investigator” includes a Chief Investigator, Senior Investigator, Assistant Investigator and all staff members who perform investigative functions on the Commission’s behalf.

“Other employee of the Commission” means any member of the Commission’s staff with whom the **person aggrieved** comes into contact while at the Commission.

“Person aggrieved” means a complainant, a witness, a **concerned officer** or other member of the **Security Forces**, a **specified official**, a **public body**, or any person who has a direct stake in the outcome of an investigation under the **Independent Commission of Investigations Act**; including but not limited to, the family member of a deceased person, who wishes to make a complaint.

“Public body” has the meaning ascribed to it in **Section 2** of the **Independent Commission of Investigations Act**.

“Security Forces” has the meaning ascribed to it in **Section 2** of the **Independent Commission of Investigations Act**.

“Specified Official” shall have the meaning ascribed to it in **Section 2** of the **Independent Commission of Investigations Act**.

“the Committee” means **the Committee** established pursuant to **Section 6** hereof to assess and resolve complaints where its intervention becomes necessary.

Who may make a Complaint?

2. —A complaint pursuant to this policy may be made by:

- (a) a **person aggrieved**; or
- (b) any **other person adversely affected** by the conduct in question.

Subject Matter of Complaints

3. —The **person aggrieved** may make a complaint regarding:

- (a) conduct perceived by the **person aggrieved** to be impolite;
- (b) the failure of the **Investigator** or **Director of Complaints**, or **other employee of the Commission** to comply with the Commission’s policies.
- (c) any other neglect of duty on the part of the **Investigator**, **Director of Complaints**, or **other employee of the Commission** as perceived by the **person aggrieved**;
- (d) acts of corruption by the **Investigator** or **Director of Complaints**, or **other employee of the Commission**; and

- (e) any other act or omission perceived by the **person aggrieved** to amount to misconduct on the part of the **Investigator, Director of Complaints, or other employee of the Commission.**

Provided however that a complaint regarding:

- (a) a decision to charge; or
- (b) a decision to open an investigation,

shall not be subject to review under the provisions of this Policy.

Complaints against the Commissioner of Investigations

4. — Complaints against the **Commissioner** shall be made by the **person aggrieved** to Parliament without prejudice to the right to seek relief by way of Judicial Review.

Administration of Complaints System

5. — (1) The **Director of Human Resources** shall have responsibility for the overall administration of the complaints system established by this policy.

(2) Complaints relating to the Commission's operational staff shall be made to the relevant **Director of Complaints** within ninety (90) days from the date of the interaction which gave rise to the complaint.

(3) Complaints relating to the Commission’s administrative staff shall be made to the **Director of Human Resources** within ninety (90) days from the date of the interaction which gave rise to the complaint.

(4) Complaints relating other employees of the Commission not captured by the provisions subsections (2) and (3) (hereinafter referred to as “**other employee(s) of the Commission**”) shall be made to the relevant employee’s **immediate supervisor** within ninety (90) days from the date of the interaction which gave rise to the complaint.

(5) The Commissioner has a discretion to admit a complaint under the provisions of subsections (2), (3), and (4) outside the ninety (90) day limitation period prescribed for the making of complaints.

(6) On receipt of a complaint pursuant to subsections (2), (3), and (4), the relevant **Director of Complaints**, the **immediate supervisor**, or, the **Director of Human Resources**, as the case may be, shall cause the complaint to be recorded on the prescribed form forthwith.

(7) When a complaint is being taken, the **Director of Complaints**, **immediate supervisor** or, the **Director of Human Resources**, as the case may be, shall ask the **person aggrieved** to make an election as to whether he or she wants the complaint to be dealt with by:

(a) the **Director of Complaints**;

(b) the **Committee** established under this policy for the hearing and determination of a complaint; or

(c) the **immediate supervisor** of the **other employee of the Commission** against whom a complaint is made

(8) Where pursuant to subsection (6), the **person aggrieved** elects the **Director of Complaints** as the person to investigate, the relevant **Director of Complaints** shall cause an investigation to be conducted forthwith.

(9) Where pursuant to subsection (6), the **person aggrieved** elects **the Committee** as the forum for investigation of the complaint, the **Director of Complaints**, or the **Director of Human Resources**, as the case may be, shall cause the complaint to be forwarded to **the Committee** within seven (7) days.

(10) Where pursuant to subsection (6), the **person aggrieved** elects the **immediate supervisor** of the **other employee of the Commission** as the forum for investigation of the complaint, the **Director of Human Resources** shall cause the complaint to be forwarded to the employee's **immediate supervisor** within seven (7) days.

(11) Where the **person aggrieved** does not make an election under subsection (6), the complaint shall be dealt with by **the Committee**.

Establishment of Committee

6. — (1) A committee [hereinafter referred to as “**the Committee**”] shall be established to assess complaints referred to it by the **Director of Human Resources, Director of**

Complaints, immediate supervisor of other employees of the Commission, or a person aggrieved exercising a right of election under **section 4(5)**.

(2) The Committee shall consist of:

(a) a chairperson;

(b) the Senior Director, Corporate Services, provided he or she is not the **immediate supervisor** of the person against whom a complaint is made; and

(c) a **Director of Complaints**; who does not supervise the staff member complained about.

(3) A staff representative shall have the right to be present at all meetings of the Committee for the purpose of observing its proceedings only. This representative shall be appointed by the Commission's staff.

(4) The Committee's chairperson shall be a person that is not in the Commission's full-time employ.

(5) It shall be the responsibility of the **Commissioner** to choose all members of **the Committee** excepting the staff representative.

(6) The Committee shall not deal with a matter unless it has a quorum.

(7) The Committee shall attain a quorum if its Chairman and two (2) of the persons referred to in subsection (2) are present. Provided however, that where the Committee is unable to attain a quorum, the Commissioner shall, in his discretion, appoint suitable persons to sit on the Committee as *ad hoc* members.

Functions of the Committee

7. — (1) On receipt of a complaint, **the Committee** shall, within thirty (30) days, determine whether the complaint warrants an investigation.

(2) Where **the Committee** determines that an investigation of the complaint is necessary, it may direct the Standards and Evaluation Department or, any other department it deems necessary, to conduct the investigation.

(3) Where an investigation is conducted, **the Committee** shall, on receipt of an Investigation Report, have a discretion to determine whether the complaint is fit for:

- (a) a hearing; or
- (b) informal resolution

Provided however that **the Committee** has a discretion to make this determination:

- (a) without an investigation being conducted; or
- (b) before an investigation is conducted.

(4) Where **the Committee** determines that a complaint is fit for a hearing, **the Committee** shall, within seven (7) days notify the:

- (a) **immediate supervisor** of the member of staff against whom the complaint is made;
- (b) **person aggrieved;**
- (c) member of staff against whom the complaint is made,
of the date, time, place, and details of the complaint.

(5) On completion of a hearing, **the Committee** must provide a report to the:

- (a) **person aggrieved;**
- (b) member of staff against whom the complaint is made;

(c) **immediate supervisor** of the member of staff against whom the complaint is made,

setting out its findings in relation to the complaint.

(6) The report referred to in subsection (5) may take any form **the Committee** deems fit.

Procedure on receipt of Complaint

8. — On receipt of a complaint under **Section 4** of this Policy, the **immediate supervisor** of the member of staff against whom a complaint has been made, may direct the Standards and Evaluations Department to conduct the investigation.

Action of Standards and Evaluation Department on receipt of Investigative Directions

9. — On receipt of an investigative request pursuant to **Section 4** of this policy, the Standards and Evaluation Department shall:

(a) cause an investigation to be conducted within thirty (30) days;

(b) prepare an Investigation Report making appropriate recommendations;

(c) cause said report to be sent, forthwith, to the relevant persons under **Section 4** and, to **the Committee**.

Where Committee directs Informal Resolution of Complaint

10. — Where **the Committee** determines that a complaint may be resolved informally, it shall:

(a) inform the **person aggrieved** and the person against whom the complaint is made;

(b) direct the person against whom the complaint is made to offer an oral or written apology to the **person aggrieved**; and

(c) make any other recommendations deemed fit in the circumstances.