

Corrections Management (Detainee Requests and Complaints) Policy 2019

Notifiable instrument NI2019-687

made under the

Corrections Management Act 2007, s14 (Corrections policies and operating procedures)

1 Name of instrument

This instrument is the *Corrections Management (Detainee Requests and Complaints) Policy 2019*.

2 Commencement

This instrument commences on the day after its notification day.

3 Policy

I make this policy to facilitate the effective and efficient management of correctional services.

4 Revocation

This policy revokes the *Corrections Management (Detainee Complaints and Grievances) Policy 2014 (No 1)* [NI2014-548] and *Corrections Management (Detainee Complaints and Grievances) Procedure 2014 (No 1)* [NI2014-532].



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DETAINEE REQUESTS & COMPLAINTS

POLICY NO. D28

ACT CORRECTIVE SERVICES



ACT
Government

Justice and Community Safety

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1 PURPOSE

ACT Corrective Services (ACTCS) is committed to ensuring that detainees can make requests or complaints to staff and external complaint bodies about all aspects of their custody.

Detainees are informed about the ways to make a complaint and are not prevented from doing so.

ACTCS is committed to fair, efficient and effective complaints management that results in detainee confidence in decision making and drives continuous improvement in custodial operations.

This policy establishes the requirements for complaints management in correctional centres.

2 SCOPE

This policy applies to all correctional centres in the ACT.

The General Manager Custodial Operations is responsible for ensuring that an efficient and consistent system for dealing with detainee complaints is implemented in correctional centres.

3 PRINCIPLES

- 3.1 ACTCS promote a culture that values complaints and their effective resolution.
- 3.2 Detainees are entitled to raise requests, concerns and complaints about all aspects of their custody.
- 3.3 Detainees making a complaint will be listened to, treated with respect and involved in the complaints process where appropriate.
- 3.4 Detainees are not:
 - a. prevented from making a complaint; or
 - b. adversely affected due to having made a complaint.
- 3.5 All complaints are responded to at the lowest level capable of resolving the complaint.
- 3.6 The privacy and confidentiality of detainees is respected and upheld throughout the complaints process.

- 3.7 Complaints that do not require investigation will be resolved as soon as practicable.
- 3.8 Positive engagement between staff and detainees will be maintained to ensure that detainees feel confident to attempt to resolve requests and complaints at the lowest level and within their accommodation area.
- 3.9 All detainees are informed of the process and how to make a complaint on induction in accordance with section 66(1)(e) of the Corrections Management Act 2007 (ACT) (Induction Policy).
- 3.10 Where a detainee has difficulty making a formal complaint, including for detainees with a disability, and Culturally and Linguistically Diverse detainees, they will be offered the opportunity:
- a. to dictate their complaint to a correctional officer who will record it in writing; or
 - b. to submit the complaint in their own language.
- 3.11 Indigenous Liaison Officers can assist Aboriginal and Torres Strait Islander detainees to make a complaint where requested.

4 DETAINEE REQUEST FORMS

- 4.1 All detainees have access to Detainee Request Forms in their accommodation area to bring their requests, concerns or other issues to the attention of staff.
- 4.2 Detainee Request Forms must be responded to as soon as practicable and the detainee informed of the outcome and any further action.
- 4.3 Where a detainee has submitted a complaint using a Detainee Request Form, it must be addressed at the lowest level in accordance with section 6.
- 4.4 The General Manager Custodial Operations will establish operational procedures for the management of Detainee Request Forms.

5 CONFLICTS OF INTEREST

- 5.1 The responsible officer for resolving a complaint must not have a conflict of interest in the complaint, including where a complaint relates to the conduct of the officer.
- 5.2 Where a conflict of interest arises or is identified:
- a. the responsible officer must report it to the Team Leader, Compliance; and

- b. the Team Leader, Compliance, must refer the complaint to a different officer for resolution.

5.3 Where a detainee makes a verbal complaint to an officer about their conduct, the officer must refer the detainee to another officer to make the complaint.

6 VERBAL COMPLAINTS

6.1 Detainees are encouraged to raise complaints verbally with an officer in their accommodation area in the first instance for an efficient resolution.

6.2 The officer who receives a verbal complaint is responsible for:

- a. resolving the complaint; or
- b. reporting the complaint to the Accommodation Supervisor where appropriate; and
- c. advising the detainee of the resolution and avenues for formal complaint if the detainee is not satisfied with the outcome.

6.3 Where a detainee verbally makes a complaint including allegations of:

- a. assault by a staff member against any person;
- b. staff misconduct, including criminal activity;
- c. inappropriate relationship between a staff member and detainee; or
- d. inappropriate use of force,

the officer must immediately record the allegation and refer the complaint to the Deputy General Manager Custodial Operations.

6.4 The Deputy General Manager Custodial Operations must immediately refer all complaints under section 6.3 to the Executive Director to be managed in accordance with section 8.

7 FORMAL COMPLAINTS

7.1 Detainees can make a formal complaint:

- a. via email to ComplaintsAMC@act.gov.au; or
- b. by requesting and completing a *D28.F1: Complaints Form*.

7.2 Detainees must submit a *Detainee Request Form* asking to receive a complaint form from AMC Executive Support.

7.3 Where a *Detainee Request Form* has been received, the Team Leader, Compliance, will ensure that the *D28.F1: Complaints Form*:

- a. is numbered in the *Complaints Register*; and

- b. provided to the detainee within one (1) business day with an envelope addressed to AMC Executive Support to seal the completed form.
- 7.4 To assist ACTCS to respond to a formal complaint, detainees are encouraged to:
 - a. include as much relevant information as possible; and
 - b. clearly describe the outcome they are seeking in their complaint.
- 7.5 Accommodation Supervisors are responsible for ensuring that all complaints forms are returned to the Team Leader, Compliance, as soon as practicable following completion or confirmation of no further action by the detainee.
- 7.6 Detainees are encouraged to raise complaints within three (3) months of the related incident, action or omission, or as soon as possible after it becomes known to the detainee.
- 7.7 Complaints submitted more than three (3) months after the related conduct may not proceed in accordance with section 8.12 where insufficient evidence has been located to investigate the complaint.

External complaints on a detainee’s behalf

- 7.8 Where ACTCS receives a formal complaint on behalf of a detainee, this will be managed in accordance with the ACTCS external complaints process.
- 7.9 ACTCS cannot provide any information about a detainee in response to a complaint received under section 7.8 unless a signed consent form to share the information has been signed by the detainee and provided by the complainant.

8 COMPLAINT PROCESS

- 8.1 Where the Team Leader, Compliance, has provided a *D28.F1: Complaints Form* to a detainee but hasn’t received the complaint within seven (7) days, they will request that the Accommodation Supervisor confirm whether the detainee still wishes to make a complaint.
- 8.2 Where a complaint has been submitted, the Team Leader, Compliance, is responsible for ensuring that:
 - a. the complaint is numbered and recorded in the *Complaints Register*; and
 - b. a written notice is provided to the detainee within two (2) business days to acknowledge receipt (*Annex B – Receipt of complaint pro forma*).
- 8.3 The Team Leader, Compliance, will assess all complaints and refer each to the most appropriate area to resolve the issues.

- 8.4 Details of a complaint will only be made available to responsible officers for managing and resolving the complaint.
- 8.5 Where a complaint includes allegations relating to the following, it must be immediately referred to the Executive Director to respond to:
- a. assault by a staff member against any person;
 - b. staff misconduct, including criminal activity;
 - c. inappropriate relationship between a staff member and detainee; or
 - d. inappropriate use of force.
- 8.6 As far as practicable, complaints will be processed in accordance with the following timeframes:
- a. **Acknowledgement:** Within two (2) business days of receipt
 - b. **Response:** Within 20 business days of receipt.
- 8.7 Where it is not possible to respond to a complaint within the allocated timeframe, the detainee must be informed in writing of the delay and revised response date in accordance with section 8.6(b).

Referral of complaint

- 8.8 Where a complaint does not relate to the functions of ACTCS or a correctional centre, the detainee will be advised to refer the complaint to the relevant area of government.
- 8.9 The Executive Director may refer serious complaints to an external body for investigation, including ACT Policing.
- 8.10 Where there is a requirement to refer a complaint to an external body, the detainee will receive a written notification that the complaint has been referred for investigation.

Review and response

- 8.11 The responsible officer for resolving a complaint under section 8.4 must review a complaint and gather any relevant information to determine whether the complaint is upheld or is not upheld.
- 8.12 ACTCS may not proceed with a complaint where:
- a. there is insufficient information to investigate the complaint;
 - b. the complaint is considered vexatious as it:
 - i. is an abuse of the complaints process; or
 - ii. attempts to reopen an issue that has been resolved, or another instance of the same issue.

- 8.13 Detainees will be provided with a written response under section 8.12 including the reasons for not proceeding with the complaint and external complaint avenues under section 10.
- 8.14 Following review, a detainee will be informed in writing of the outcome of their complaint, and any action taken in response as appropriate.
- 8.15 Complaint responses must address the issues raised and confirm whether the complaint has been upheld or is not upheld (*D28.F1: Complaints Form*).
- 8.16 Where a complaint is not upheld, the detainee must be provided with the reasons for the decision.
- 8.17 Detainees will be informed that they can appeal the outcome of their complaint in accordance with section 9.

9 APPEALS

- 9.1 Detainees can appeal the outcome of their complaint by requesting and completing a *D28.F2: Complaint Appeal* in accordance with sections 7.1-7.2.
- 9.2 Appeals will be reviewed by the relevant Divisional Executive or Executive Director as appropriate, and the detainee informed of the outcome (*D28.F2: Complaint Appeal*).
- 9.3 As far as practicable, appeals will be reviewed within 21 days of receipt.

10 ABUSE OF THE COMPLAINTS PROCESS

- 10.1 Where there are reasonable grounds to believe that a detainee may be abusing the complaints process, the relevant Area Manager will:
 - a. discuss the issue with the detainee with the aim of coming to a mutual solution with the detainee on the issue; and
 - b. where no mutual solution can be agreed, recommend an individualised response to the Deputy General Manager Custodial Operations.

Example: Temporarily limiting the number of complaints relating to the same issue that the detainee can submit each day.

- 10.2 The Area Manager will record any agreement with a detainee under section 10.1(a) on the detainee's electronic record system.
- 10.3 Where the Deputy General Manager Custodial Operations has approved a response under section 10.1(b), the detainee will be informed of the restriction and any limitations that apply.

10.4 A detainee's right to complain must not be completely withdrawn.

11 EXTERNAL COMPLAINT AVENUES

11.1 While detainees are encouraged to raise complaints with ACTCS in the first instance, they may raise concerns and complaints directly with any of the following external complaint avenues where appropriate:

- Public Advocate
- ACT Ombudsman
- Human Rights Commission
- Official Visitor (*Official Visitor Policy*).

11.2 Detainees can contact external complaints bodies under section 11.1 via telephone or email in accordance with the *Detainee Communication Policy*.

11.3 Detainees must not be requested to provide information or reasons for their use of an external complaint avenue.

12 COMPLAINT TRANSFERS FROM EXTERNAL AGENCIES

12.1 Where a detainee's complaint has been transferred to ACTCS from an external agency, the Manager, Ministerial Support Unit, is responsible for:

- a. informing the Team Leader, Compliance, that the complaint has been received;
- b. processing the complaint in accordance with section 8 and responding in writing to the detainee;
- c. notifying the external agency when the complaint has been responded to as soon as practicable; and
- d. maintaining records of all complaints under this section in accordance with section 13.2.

13 RECORDS AND GOVERNANCE

13.1 A copy of all documents under this policy must be stored in a detainee's electronic records system and in the detainee's custody file.

13.2 The Team Leader, Compliance, is responsible for maintaining a *Complaints Register* of all complaints under this policy, including:

- a. the complaint, response and related documentation; and
- b. all dates under section 8.6 and 12.1.

14 RELATED DOCUMENTS

- A – Annex A – Complaints Flowchart
- B – Annex B – Receipt of complaint pro forma
- C – D28.F1: Complaints Form
- D – D28.F2: Complaint Appeal
- E – Complaints Register
- F – Detainee Communication Policy
- G – Official Visitor Policy
- H – Induction Policy



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