



Office of the Director of Public Prosecutions

VICTIMS' RIGHTS AND EMPOWERMENT GUIDELINES

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UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

FOREWORD

Uganda ratified the 1945 Universal Declaration of Human Rights which is embedded in Chapter Four of the Constitution of the Republic of Uganda 1995. The same Constitution creates the office of the Director of Public Prosecutions with a mandate to prosecute all criminal cases except those in the Court Martial.

For every offence that is committed, there are two parties: the offender and victim(s) who are at the receiving end of the offender's atrocities. In most cases, a victim of crime suffers physical or mental injury, emotional distress, economic loss or substantive impairment of their fundamental rights through acts or omissions that are in violation of the criminal laws.

Right from the time a crime is committed against a victim, he or she should be treated with fairness bearing in mind his or her rights at all levels from investigation, trial and even after trial. There has been a tendency of emphasizing the accused person's rights throughout the investigation and trial at the expense of the victim. Until now, there were no specific guidelines or manuals to specify the actual rights a victim of crime is entitled to in the criminal justice system.

Equally, the investigators, prosecutors and judicial officers do not have the requisite training to handle the needs of victims of crime, most especially those who have suffered emotional distress. The prosecutors have been trained to handle cases in court and thereafter pray for deterrent sentences in case of a conviction. Sometimes, victims of crime require more than incarcerating the offenders. Article 126 (2) (c) of the Constitution advocates for compensation to be awarded to victims of wrongs in criminal cases.

The Office of the Director of Public Prosecutions has put in place these guidelines which stipulate the pre-trial, trial and post-trial rights of victims of crime, how to safeguard them and the obligations of the prosecutor throughout the whole process. The guidelines are designed to put in place a standard procedure to handle victims of crime and to assist the prosecutors to appreciate the notion of the victim's rights and how to have them enforced/realized.

A strict observance of the guidelines will involve participation of the victims at every stage of the case and it will be in compliance with the principle that justice must not only be done, but must also be seen to be done.

I would like to extend my gratitude to the United Nations Office of the High Commissioner for Human Rights (OHCHR) for the enormous and generous contribution towards the formulation of these resourceful guidelines.

I also wish to thank the dedicated ODPP task force for its tireless efforts in putting these guidelines together.

A handwritten signature in black ink, appearing to read 'Mike Chibita', with a stylized flourish at the end.

Mike J. Chibita

DIRECTOR OF PUBLIC PROSECUTIONS

Message from the United Nations Commissioner for Human Rights (OHCHR)

Protection of victims and witnesses is crucial in any efficient investigation and prosecution of perpetrators of human rights violations. A successful protection programme, designed to provide a full range of physical protection and psychosocial support to witnesses and victims, creates an enabling environment to report cases and is key to ensuring access to justice, fair trials and combating impunity.

The United Nations Declaration of Basic Principles of Justice for Victims of Crime and abuse of power defines a victim as *“persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within member States, including those laws proscribing criminal abuse of power.”*¹

Victims of human rights violations and abuses are entitled to effective remedy for the harm suffered as provided for in Article 8 of the Universal Declaration of Human Rights, and Article 2 (3) of the International Covenant on Civil and Political Rights. It is therefore the obligation of States to undertake prompt, thorough and impartial investigations and to take appropriate measures to ensure that perpetrators are held to account.

The 1995 Constitution of the Republic of Uganda in Article 120 provides the Director of Public Prosecutions (DPP) with the powers to institute and prosecute criminal cases in Uganda except before the court martial. The Constitution

1 <http://www.un.org/documents/ga/res/40/a40r034.htm>

provides under Article 50 that: *“any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation.”*

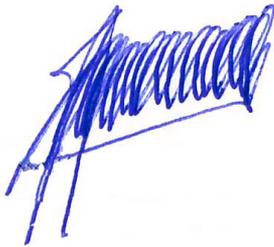
These provisions are commendable and provide a strong framework for victims’ claims for justice and redress. It is however important to note that most victims are often traumatized, disoriented, helpless and vulnerable, in view of what they have experienced. It is hence essential to handle victims with compassion and dignity by informing them of their rights, and by providing them with the necessary support to seek redress through courts and other mechanisms.

It is against this background that the UN Office of the High Commissioner for Human Rights (OHCHR) supported a study to review the complaints mechanism and assistance to victims programme of the Office of the Director of Public Prosecutions. The review revealed the need to update the ODPP complaints mechanism to adequately cater for victims’ rights and concerns, alongside those of complainants. This includes provision for non-legal needs of victims, such as counselling and/or psycho-social support. The study also recommended standardizing the complaints processes and procedures in different duty stations of the Office of the Director of Public Prosecutions. In particular, the study recommended the development and adoption of standard guidelines for handling of complaints and upholding victims’ rights in all ODPP stations.

The UN Office of the High Commissioner for Human Rights is pleased that this collaboration with ODPP has resulted in the publication and dissemination of the Victims Rights and Empowerment Guidelines. We welcome that the ODPP now has a fully-fledged Department of Witness Protection and

Victim Empowerment that will oversee the implementation of the Victims Rights and Empowerment Guidelines. We are confident that the Department will implement the Guidelines to ensure that victims are treated with compassion and dignity, and we hope that it will enhance victims' access to mechanisms of justice and prompt redress for the harm suffered.

We sincerely value the collaboration and partnership with the Office of the Director of Public Prosecutions, and are hopeful that the efforts by the ODPP in this area will translate into greater respect for the rights of victims and facilitate their pursuit of justice.



Robert Kotchani

Country Representative

***United Nations High Commissioner for Human Rights
(OHCHR)***

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1.0 INTRODUCTION:

1.1 Background

The 1995 Constitution of Uganda guarantees the protection and promotion of fundamental and other human rights and freedoms. This is also in line with international and regional human rights instruments which Uganda ratified and is party to¹. The rights would however be meaningless without avenues to seek redress when they are breached. In line with that, the Government of Uganda has an obligation to undertake prompt, thorough, independent and impartial investigations of human rights violations and to take appropriate measures in respect of the perpetrators, particularly in the area of criminal justice, to ensure that those responsible for the violations are prosecuted, tried and duly punished.

1.2 The constitutional mandate of the DPP

The Government of Uganda has vested the overall authority to conduct criminal prosecutions in the Director of Public Prosecutions (DPP), who is mandated under Article 120 of the Constitution to direct the police to investigate any information of a criminal nature, institute and discontinue criminal proceedings in any court except in the Court Martial and to take over and continue criminal proceedings instituted by any other person or authority.

The ODPP in exercising its mandate applies a victim centred approach particularly in ensuring that the interest of the victim is taken into consideration during prosecution. In addition, the prosecutor should act in the public interest when conducting prosecution. He or she must always be mindful of the consequences of the offence on the victim and take appropriate cognisance of views expressed by the victim in relation to any significant decision relating to the proceedings.

¹ ICCPR – 1995, ICESCR – 1987, ICERD – 1980, CEDAW – 1985, CAT – 1986, CRC – 1990, ICRMW – 1995, ICRPD – 2008, AFRICAN UNION – 2001, AFRICAN CHARTER ON HUMAN AD PEOPLES RIGHTS-1986.

1.3 Situation Analysis

In order for victims to be able to demand their rights and hold duty bearers accountable, they must have equal and effective access to justice, which is in conformity with relevant human rights standards. To this end, the office of the Director of Public Prosecutions created among other measures, the Witness Protection and Victims Empowerment Department in the year 2017 to enhance the participation of victims and witnesses in the criminal justice system as well as promotion and protection of victims' rights.

In the absence of legislation and documented practices, these guidelines are intended to provide a uniform approach by prosecutors in handling victims of crime.

2.0 PRELIMINARY

2.1 Short title

The Guidelines may be cited as the Victims' Rights and Empowerment Guidelines for the Office of the Director of Public Prosecutions.

2.2 Interpretation

- (1) In these guidelines, unless the context otherwise requires—**“accused”** means a person who is charged with an offence under any written law.

“child” has the meaning assigned to it under the Children's Act.

“compensation” means an award granted by a court to a victim who has suffered economic or emotional loss, damage of property, or physical injury or harm as a result of an offence.

“complaint” means a statement both oral or written lodged by a victim, an accused or a concerned person expressing dissatisfaction in a matter.

“complainant” means the party who lodges a complaint in a legal action or proceeding.

“immediate family” includes the victim’s spouse, children, brothers, sisters, parent, grandparents, and where the victim is a child, the guardian;

“offence” means an act or omission that constitutes a crime under any written law;

“offender” means a person convicted of an offence under any written law.

“parent” means a person having parental responsibility for a child and includes a biological or adoptive parent or a guardian;

“place of safety” means any other suitable place the occupier of which is willing to accept the temporary care of a vulnerable victim;

“rehabilitation” includes psychosocial interventions, medical treatment, legal aid and social services designed to assist victims recover from loss, injury or damage suffered as a consequence of an offence;

“restitution” means the act of restoring the victim, to the extent possible, to the status prior to the offence resulting in loss or injury;

“restorative justice” includes the lawful promotion of reconciliation, restitution and responsibility through the involvement of

- (a) the offender, the victim, their parents, if the victim and offender are children, and their communities; or
- (b) a systematic legal response to victims or immediate community that emphasises healing the injuries resulting from the offence;

“rights of victims” means any rights to which a victim is entitled under the Constitution, or any other applicable law;

“support person” includes an immediate family member, a social worker, or a counsellor.

“trauma” includes physical injury, psychological or emotional distress.

“trial” means a proceeding in court against an accused person.

“victim” means any natural, unnatural or other person who suffers injury, loss or damage as a consequence of an offence regardless of;

- (a) whether the crime perpetrated against the person has been reported to the police;
- (b) whether the perpetrator of the crime has been identified, apprehended, prosecuted or convicted or
- (c) the familial relationships between the perpetrator of the crime and the victim.

“victim impact statement” means a statement by the victim, or where incapacitated, the victim’s representative, on the psychological, emotional, physical, economic or social impact of the offence committed against the victim and includes any recording, summary, transcript or copy thereof;

“victim support services” means all the services offered to the victim of offence to secure restoration of their emotional, mental, physical, legal or economic status from any harm occasioned by the offence committed;

“victimization” means any act or omission that renders a person or community a victim.

“vulnerable victim” means a victim who, due to age, gender, disability or other circumstances may require special considerations and support; and

“welfare services” means all the victim support services aimed at assisting the victim.

2.3 Application

- (1) These Guidelines do not have the force of Law and are meant only to guide Prosecutors in the ODPP and those licensed by the DPP in the course of their duties.
- (2) The Guidelines shall apply in addition to the Laws, regulations, practice directions, guidelines and circulars in force or which may be passed or issued from time to time.
- (3) Where any provision of these Guidelines is inconsistent with any law in operation in Uganda, the law shall prevail.

3.0 OBJECTIVES

The objectives and purpose of these Guidelines are the following.

- (1) To recognize and give effect to the rights of victims of crime;
- (2) To protect the dignity of victims of crime;
- (3) To provide better information and support services to victims of crime.
- (4) To promote programmes to prevent victimization and re-victimization of victims of crime in the criminal justice system and
- (5) To promote co-operation among government departments, other organizations and agencies involved in working with victims of crime.

4.0 PRINCIPLES

- (1) Prosecutors performing any of the functions of the DPP should respect and uphold the values and principles in the Constitution of the Republic of Uganda and other relevant laws.
- (2) Prosecutors should seek to protect the victims' interest as best as they can while fulfilling their duties on behalf of the state.
- (3) Prosecutors shall at all times treat victims of crime with courtesy, compassion and respect their dignity and privacy without any discrimination.

5.0 RIGHTS, PROTECTION OF VICTIMS AND RESPONSIBILITIES OF PROSECUTORS

5.1 Pre-trial Stage

- (1) Fair and dignified treatment.** Prosecutors should treat victims;
 - (a) with courtesy, respect and empathy; and
 - (b) with due regard to any special need that arises because of the victim's age, sex, race, ethnicity, language, cultural or social background or any other reason.

- (2) Right to information.**

A victim should be informed about the following.

- (a) The progress of investigations into the offence;
- (b) The charge laid and details of the place and date of proceedings against the accused;
- (c) If a person has been charged with an offence, the name of the alleged offender;

- (d) If the prosecutor decides not to proceed with a charge, to close the file or to amend a charge and
- (e) The whereabouts of the offender-whether he or she is in custody, is at large, has escaped or is on bond.

(3) Right to lodge a complaint.

- (a) Any dissatisfied person, victim or victim's representative may lodge a complaint with the ODPP.
- (b) A victim should be informed about procedures that may be available to deal with a grievance the victim may have in relation to non-recognition or inadequate recognition of his or her rights.

(4) Right to access health and welfare services.

A victim should be informed about health and welfare services that may be available to alleviate the consequences of injury suffered as a result of an offence.

(5) Return of Property.

If a victim's property is detained during investigation or for use as evidence, it should, if practicable, be returned to the victim as soon as it appears that it is no longer required for the purposes for which it was taken.

(6) Pre-trial orientation of victims.

- (a) Victims of crime in most instances are also treated as prosecution witnesses and as such require preparation and orientation by the prosecutor prior to the trial.
- (b) The prosecutor should contact victims ahead of time for meetings to review their statements in order to prepare them for testimony and refresh their memories regarding the contents of their statements.

- (c) Victims and witnesses should not be coached.
- (d) Personal contact with the victims as witnesses is necessary to build their confidence.
- (e) Where their appearance will be required, victims, including vulnerable victims, can benefit from visiting the courtroom in advance, when the court is not sitting, to familiarize themselves with the surroundings and the formalities.
- (f) Prosecutors should brief the victim on the different actors and their distinct dressing.
- (g) The use of an interpreter is necessary to facilitate communication between the prosecutor and a witness expressing himself or herself in a language unknown to the prosecutor.
- (h) Prosecutors should encourage and re-assure witnesses by explaining to them the importance of providing evidence to court to obtain justice for victims of crime and their duty to remain truthful while doing so.
- (i) Prosecutors should empower witnesses by informing them that the court is looking forward to hearing what they witnessed and that their contribution to justice is important and appreciated.

5.2 Trial Stage

- (1) Prosecutors should ensure the victim has a clear understanding of the proper role of the prosecutor at the trial stage.

(2) Right to a fair hearing.

A victim is entitled to the following;

- (a) To be informed of the charge which the offender is facing in sufficient details;
- (b) To know when his or her case has been cause listed;

- (c) To give his or her views in any plea bargaining;
- (d) To be present at the trial either in person or through a representative of his or her choice;
- (e) A fair and expeditious trial;
- (f) To be informed of the progress of the case;
- (g) To be notified if the case is to be withdrawn;
- (h) To have his/her views taken into account by prosecutors and presented before the court;
- (i) To be referred to or shown the appropriate court by the prosecutor;
- (j) To be advised by the prosecutor on role as a witness and
- (k) To be informed by the prosecutor about the trial process and the victim's rights and responsibilities as a witness for the prosecution.

(3) Right to protection.

The prosecutor should inform the victim that he /she has a right to:

- (a) freedom from intimidation, harassment, fear, tampering, bribery, corruption and abuse and
- (b) notify the prosecutor or the police if any kind of intimidation, harassment, fear, tampering, bribery, corruption and abuse occurs against him or her.

(4) Right to privacy.

- (a) There should be no intrusion on a victim's privacy.
- (b) The prosecutor may advise the victim to avoid contact with the alleged offender and defence witnesses during the course of the trial.

- (c) A victim may only be asked to attend proceedings related to the offence if the victim's attendance is genuinely necessary.

(5) Rights of vulnerable victims.

- (a) A prosecutor may request court to give special treatment to a victim appearing as a witness where the victim is likely to be vulnerable on account of-
 - (i) physical, intellectual, or other impairment;
 - (ii) age;
 - (iii) dependency on, or other relationship with, the accused;
 - (iv) trauma;
 - (v) disability;
 - (vi) cultural differences;
 - (vii) religious differences;
 - (viii) gender;
 - (ix) language;
 - (x) race;
 - (xi) the nature of the offence committed against him/her;
 - (xii) health status;
 - (xiii) or any other special condition.
- (b) Prosecutors must be particularly mindful of the needs of victims of sexual offences, child victims and those who have been victims of crime involving death;

- (c) Where it is relevant, prosecutors should ensure that any alternative means of giving evidence (e.g. behind a screen) is shown and explained to the victim.
- (d) Prosecutors should personally meet with victims of sexual offences, child victims and victims of offences where death has resulted to discuss the court process and any issues which are likely to arise.

(6) Rights of child victims.

- (a) Prosecutors should ensure that they request court to hear cases involving child victims in camera.
- (b) Where it appears to a prosecutor presiding in a case involving a child victim that it would not be prudent to place the victim with the parents, guardians, or care-givers, the child victim shall be committed to a place of safety until the court makes a decision in relation to the matter.
- (c) A child victim who is held in any facility shall be accorded treatment in accordance with the Children's Act.
- (d) The prosecutor should ensure, where practicable, that a child victim is accompanied by a support person during court proceedings.

(7) Non-disclosure of the victim's identity.

- (a) The prosecutor may advise the victim of the applicable law regarding suppression of their name and other identifying particulars.
- (b) The prosecutor may provide the victim with information regarding the possibility of the court making an order prohibiting the publication of identifying information about the victim and what steps may be taken for court to make such order.

(8) Non-disclosure of the victim’s contact details.

Prosecutors should ensure they get leave of court not to disclose the victim’s contact details where applicable or in the event that it is established that such disclosure will affect the victim’s safety or security.

(9) Alternative ways of giving evidence.

- (a) A prosecutor may apply to court for leave for a victim to give evidence to the court in an alternative way such as by audio-visual means or using screens as may be authorized by law.
- (b) In each case, the prosecutor should consider carefully whether a particular mode of providing evidence is appropriate and would improve the quality or credibility of the evidence given.

(10) Restorative justice.

- (a) A victim has a right to restorative justice where applicable by the law.²
- (b) Where the victim decides to participate in any process towards restorative justice, the process shall proceed on condition that ;
 - (i) the participation of the accused shall not prejudice any of his/her rights under any law or be deemed as evidence of admission or proof of guilt in respect of the offence complained of;
 - (ii) any of the parties may withdraw their participation to the process at any time;
- (c) Where a process for restorative justice fails, the criminal trial of the accused shall proceed to final determination, but

2 Childrens’ Act section 92 , African Human Rights Law Journal Cap 8 . vol. 2 (2013)

without prejudice to the right of the victim to seek appropriate relief in civil proceedings and

- (d) Any agreement for restoration or other redress agreed upon between the victim and the accused shall be recorded and may be enforced by the victim through civil action in court.

5.2.1 Bail

Whenever possible, a prosecutor should do the following.

- (1) Obtain and convey to the court the victim's views on the accused's application for bail;
- (2) Explain to the victim that his/her views on bail will not be determinative and that the court will need to consider a range of factors when making its decision;
- (3) Consult witnesses, specifically a witness who is also a victim, prior to bail hearing, to ensure that all relevant information is gathered and considered;
- (4) Ensure that the victim is informed of the result of bail application;
- (5) Inform the victim, where bail is granted, about the special conditions and restrictions relating to interference with the witnesses; and
- (6) Inform the victim about the procedure to follow in case the accused contravenes any conditions of bail.

5.2.2 Sentencing And Related Orders

- (1) During sentencing, it is the duty of the prosecutor to present to the court the following³—;
 - (a) the impact of the crime on the victim, family members of the victim and the community, including the impact statements

³ The Constitution (Sentencing Guidelines for Courts of Judicature)(Practice) Directions 2013.

- relating to the victim and the community;
- (b) statistics regarding the frequency and relative seriousness of the offence;
 - (c) the degree of preparedness with which the crime was committed;
 - (d) any expenses incurred during investigations and
 - (e) any other aggravating factors that may be relevant to the facts of the case.
- (2) The prosecutor should, where practicable, fully explain to the victim the outcome of the sentencing process and the reason for the court's decision.
- (3) For the purpose of sentencing, the prosecution shall, when making any submissions to the court, have a fair balance of the interest of the victim and the administration of justice.

(4) Rights in relation to compensation and restitution.

- (a) A victim should have access to information about how to obtain compensation or restitution for harm or loss suffered as a result of an offence.
- (b) Where the prosecutor is empowered to make an application for restitution or compensation on behalf of a victim in criminal proceedings, the prosecutor should
 - (i) bring that fact to the attention of the victim;
 - (ii) make the application on the victim's behalf and
 - (iii) bring to the attention of the court any relevant information provided by the victim in connection with the application.
- (c) Subject to any limitations and conditions set out by law, the victim may be compensated by the offender for —;
 - (i) economic loss occasioned by the offence;

- (ii) loss of or damage to property;
- (iii) personal injury;
- (iv) costs of any medical or psychological treatment and
- (v) costs of necessary transportation and accommodation suffered or incurred as a result of an offence.
- (d) A compensation or restitution order made by a court against a convicted offender —
 - (i) is in addition to any other sentence or order the court may make against a person;
 - (ii) is not, for any purpose, to be taken to be part of a sentence passed against the person and
 - (iii) is not a bar to civil proceedings.
- (e) A compensation order made against a convicted offender may be enforced as a judgment in civil proceedings.
- (f) The Prosecutor should extract the compensation order and then hand it to the victim to proceed with execution.
- (g) The Prosecutor can advise the victim on the execution process.

5.3 Post – Trial Stage

(1) Appeals and revisions.

- (a) A Prosecutor should explain to the victim whether the prosecution can or cannot appeal under the law⁴.
- (b) A prosecutor should where practicable, explain to the victim all the essential steps in the appeal process as provided by the law.

⁴ Criminal Procedure Code Act Cap 116 sec. 28, Trial on Indictment Act Cap23 secs. 132 & 133, Magistrates Courts Act Cap. 16 sections 204 &205, Judicature Act Cap.13

- (c) Paragraph (a) and (b) shall, with the necessary modification, apply to a petition for revision, if any.

6.0 REFERRAL MECHANISM

- (1) Matters that are outside the mandate of the ODPP but have been brought to the attention of the prosecutor will be referred to the relevant institutions/organizations for handling.
- (2) Referral services will be accorded to victims, where necessary, to assist them deal with physical injury and emotional trauma (psychosocial support) and counselling;
 - (a) access and participate in the criminal justice system;
 - (b) participate in restorative justice to obtain reparations and
 - (c) cope with problems associated with victimization.
- (3) Prosecutors should identify agencies/ organizations within their areas of operation where victims can be referred for further assistance.
- (4) The prosecutor should advise the victim to directly follow up with the organizations/ agencies that the victim has been referred to.

7.0 COMPLAINTS HANDLING MECHANISM IN THE ODPP

7.1 Objectives

- (1) To establish clear procedures for receipt and handling of complaints from service users.
- (2) To ensure complaints are received and handled in a timely and satisfying manner and feedback is provided to complainants.
- (3) To establish a clear tracking system to ensure proper follow up on complaints.

- (4) To prevent abuse of the legal process and ensure effective and efficient prosecution service.

7.2 Guiding Principles

The complaints handling framework is governed by the following principles.

- (1) **Visibility and access.**
 - (a) The public should have access to information about the complaints handling system including how and where to make a complaint.
 - (b) The complaints handling frame work and procedure should be available to the public through:
 - (i) ODPP website;
 - (ii) bill boards (screens) in the ODPP;
 - (iii) information materials at the ODPP service points.
- (2) **Responsiveness**
 - (a) Complaints should be handled expeditiously.
 - (b) Staff should be aware of and have access to the ODPP complaints handling system and procedure.
 - (c) Complaints will be referred to external agencies, where necessary.
- (3) **Timeliness.** Complaints should be handled within timelines provided in the ODPP performance standards.
- (4) **Integrity.**
 - (a) The principle of natural justice should be applied to all complaints.
 - (b) Complaints handling officers should demonstrate honesty, fairness and consistency in decision making.

- (c) A complaints handling officer should not be influenced in handling a complaint.
- (d) Complaints should be handled in a manner that is non prejudicial.
- (e) A complaints handling officer should recuse himself/herself from handling a complaint where he or she has a conflict of interest in the matter.
- (5) **Accountability.**
 - (a) Parties to a complaint should receive appropriate feedback.
 - (b) Systemic issues that negatively affect performance and increase the number of complaints received should be identified and addressed.
- (6) **Effectiveness.** The complaints handling process should be logically concluded to achieve the intended results and in accordance with set targets and performance standards.
- (7) **Complainant protection.** The parties to a complaint should be protected against victimization.

7.3 Who can lodge a complaint?

A complaint can be lodged by any of the following persons.

- (1) A victim or his or her representative;
- (2) A suspect, an accused or his or her representative;
- (3) A concerned member of the public.

7.4 Where a complaint can be lodged

- (1) A complaint can be lodged at any of the following offices:

- (a) Resident State Prosecutor's Office;
 - (b) Resident State Attorney's Office;
 - (c) Regional Office;
 - (d) Headquarters.
- (2) Where a file originates from a Resident State Prosecutor Station, a complaint shall in the first instance be made to the Resident State Prosecutor.
- (3) A complaint may be made to the Resident State Attorney in any of the following circumstances;
- (a) Where a person is dissatisfied with the decision of the Resident State Prosecutor;
 - (b) In the first instance, where the file originates from the Resident State Attorney Station.
- (4) A complaint may be made to the Regional Officer where a person is dissatisfied with the decision of the Resident State Attorney.
- (5) A complaint may be made to Headquarters in any of the following circumstances:-
- (a) Where a person is dissatisfied with the decision of the Regional Officer;
 - (b) Where a person is dissatisfied with the decision of an officer at Headquarters.

7.5 Lodging, receipt and record of complaints

- (1) There shall be a complaints register at each ODPP station.

- (2) The complaints register shall contain the following particulars:
 - (a) date of receipt of complaint;
 - (b) serial number of the complaint;
 - (c) police case file number;
 - (d) office (if known);
 - (e) nature of the complaint;
 - (f) name of the complainant;
 - (g) age of the complainant;
 - (h) sex of the complainant;
 - (i) name of the suspect or accused;
 - (j) outcome of complaint/action taken and
 - (k) date of feedback.
- (3) There shall be a complaints file or files, as the case may be, for each of the offices in 7.4(1).
- (4) A complaint shall be lodged by filing in duplicate a letter at the relevant registry of the office in 7.4(1).
- (5) Where a complaint is lodged as indicated in paragraph (4) above, the receiving officer shall affix thereon the stamp of the office, the date of receipt of the complaint and his or her signature.
- (6) The receiving officer or the records officer, as the case may be, shall record the complaint in the complaints register with the particulars in paragraph (2).
- (7) The original of the complaint shall be filed in the complaints file while the duplicate shall be returned to the person lodging the complaint.

- (8) The complaint shall as soon as practicable be forwarded to the action officer or complaints handling officer for appropriate action.

7.6 Form of Complaints

- (1) A complaint may be made orally or in writing.
- (2) Where a complaint is made orally, it shall be reduced into writing and signed by the maker.
- (3) A written complaint is not necessary in any of the following circumstances.
 - (a) where the complainant is only seeking legal advise.
 - (b) where the complainant seeks to know some information about a case, such as:
 - (i) progress of the case;
 - (ii) date when the case is fixed for court;
 - (iii) his or her role as the complainant;
 - (iv) the prosecutor handling the case;
 - (v) why the case file was closed or sanctioned;
 - (vi) why the case was withdrawn and
 - (vii) why the accused was acquitted or convicted.
- (4) Written complaints shall be in English language.
- (5) Language assistance should be given to non-English speaking complainants who can be allowed to submit their complaints in a language of their convenience.
- (6) Where a complainant requires special needs or suffers from disability and is unable to lodge a complaint in writing, he or she should be allowed to make the complaint orally or in any manner that is intelligible.

- (7) A complaint made in accordance with paragraphs (5) and (6) shall be translated or transcribed into English and the two versions shall be lodged, registered and filed together.
- (8) A standard complaint form shall be developed by the Witness Protection and Victim Empowerment Department for use in lodging, registering, filing and handling complaints in the ODPP.

7.7 Investigating And Handling Complaints

- (1) Complaints should be investigated, handled and completed expeditiously.
- (2) Investigating a complaint may include, but is not limited to, the following;
 - (a) Requesting for additional information from the complainant if it is necessary for action on the complaint;
 - (b) Clarifying the details in a complaint;
 - (c) Reviewing documentation submitted by the complainant;
 - (d) Interviewing the complainant, staff or other individual involved in the complaint;
 - (e) Identifying actions taken to resolve the issue before the complaint was lodged;
 - (f) Perusing and analysing evidence and information from the relevant file and correspondence;
 - (g) Directing the police to investigate the complaint and make a report;
 - (h) Reviewing relevant policies, procedure and legislation and
 - (i) Reviewing previous complaints about the same issue.
- (3) Outcomes that may result from the investigation of a complaint

include, but are not limited to, the following

- (a) Maintaining the decision, if it is correct;
 - (b) Amending or rescinding the decision or taking any other decision;
 - (c) An explanation of how and why the problem occurred;
 - (d) Changes to a service provision;
 - (e) Review of policies or procedure;
 - (f) Staff training and
 - (g) Disciplinary action.
- (4) Response/feedback should be given to the complainant once the outcome of the complaint is known.
- (5) The response/feedback to the complainant should indicate the following details;
- (a) The outcome of the investigation;
 - (b) A clear explanation of the decision made;
 - (c) Changes implemented as a result of the complaint(if applicable) and
 - (d) Option for review.

7.8 Critical Considerations In Complaints Handling Process

- (1) **Natural justice.** This involves procedural fairness, ensures a fair decision is reached by an objective decision maker and requires that the following rules be observed:
 - (a) **The “hearing rule”** which requires that a person or body deciding a particular matter ensures the affected person knows the case against him/her and has the opportunity to present his/her case before a decision is made;

- (b) The “**rule against bias**” which requires that a decision maker should have no personal interest in the matter to be decided, has no bias as to the outcome, acts in good faith throughout the process and takes care to exclude perceived bias from the process.
- (2) **Review of process, decision or remedy.** If a complainant is dissatisfied with the outcome of a complaint, he or she may request for an internal review of the complaint.
- (3) **Keeping records of complaints.** Complete and accurate records of all materials relating to a complaint should be kept and preserved in accordance with the national records and archives legislation and policies.
- (4) **Protection /confidentiality.** Protection of complainants against victimization is a key responsibility of the ODPP and is critical for complaints handling sustainability and credibility.
- (5) **Vexatious complaints.**
 - (a) The ODPP may refuse to investigate a complaint if it is considered to be trivial, frivolous or vexatious.
 - (b) A complaint may be considered vexatious if the purpose of the complaint is to harass, annoy, delay, frustrate or cause detriment.
 - (c) If a complaint is considered vexatious, this must be communicated to the complainant in writing.
 - (d) Refusal to investigate a complaint should follow a very careful consideration of the matter.
 - (e) Sufficient evidence to support a decision not to investigate a complaint should be kept in the records.

- (6) **Time frames** within which complaints should be handled have to be followed and in case of any delay, the complainant should be informed.
- (7) **Reporting.** The ODPP offices in 7.4(1) shall submit to Headquarters a record of complaints received and those handled at the end of every calendar month.
- (8) **Appeal process.**
 - (a) A complainant who is dissatisfied with the decision of the Resident State Prosecutor may request for a review by the Resident State Attorney.
 - (b) Where a complainant is aggrieved by the decision of the Resident State Attorney, he or she may lodge a complaint with the Regional Officer.
 - (c) A complainant who is discontented with the decision of the Regional Officer may request for a review by the headquarters.
 - (d) A complainant who is dissatisfied with the decision of an officer at headquarters may lodge a complaint at the headquarters.
- (9) **Referral process.**
 - (a) Complaints which are outside the mandate of the ODPP but have been received should be referred to the relevant institutions for handling.
 - (b) Where a complaint is referred to another institution, the complainant should be duly informed and advised to follow up directly with the institution.

8.0 IMPLEMENTATION MECHANISM

- (1) The ODPP shall ensure that these guidelines are disseminated to its staff and that they are trained in customer care.
- (2) The ODPP shall workout modalities of sensitizing members of the public and non - ODPP prosecutors about these guidelines.
- (3) The ODPP shall monitor the implementation of the guidelines by various stakeholders to assess relevancy, adherence, effectiveness and efficiency.
- (4) These guidelines may be reviewed, modified or amended from time to time as and when need arises.



"A Crime Free Society"

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