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Human Rights Commission of Sri Lanka

STANDARD OPERATING PROCEDURE COMPLAINTS

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INTRODUCTION

This Standard Operating Procedure (SOP) sets out the process to be followed by officers of the Human Rights Commission of Sri Lanka (HRCSL) with respect to complaints received by members of the public in Sri Lanka. The SOP outlines the process from the point of receiving a complaint to the enforcement of the HRCSL's recommendations.

The primary aim of this SOP is to ensure that the complaints procedure at the HRCSL is accessible, effective, efficient impartial and open. The Board of Commissioners of the HRCSL may from time-to-time revise, make appropriate changes or adapt this SOP to better fulfil the mandate of the HRCSL.

1. RIGHTS OF VICTIMS AND WITNESSES

- 1.1 All officers of the HRCSL who interact with complainants shall always act courteously and professionally towards them.
- 1.2 Such officers shall bear in mind that the complainant who makes a complaint is potentially a victim of a fundamental rights violation or a witness of an infringement of fundamental rights and is owed special rights and protections under the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 10 of 2023. Accordingly, officers of the HRCSL shall:
 - (a) Ensure that the dignity of the parties is respected at all times;
 - (b) Take cognizance of the complainant's or victim's special accessibility needs and cultural particularities;
 - (c) Give appropriate advice or take reasonable steps to protect the parties from any injury or potential injury, including threats, intimidation, reprisal or retaliation;
 - (d) Ensure that procedures and processes pertaining to complainants or victims are gender responsive;
 - (e) Ensure that the best interest of the child is prioritised whenever a victim or witness is a person below the age of eighteen (18) years.
- 1.3 Where the Board of Commissioners of the HRCSL is of the view that a complainant, victim or witness in a case before the HRCSL requires protection from injury, intimidation, reprisal or retaliation, such Board may direct the National Authority for the Protection of Victims of Crime and Witnesses to take necessary measures to provide protection to such victim of crime or witness in terms of the Assistance to and Protection of Victims of Crime and Witnesses Act.

2. RECEIVING COMPLAINTS

- 2.1 Any person who visits the HRCSL Head Office or a regional office is entitled to receive a Complaint Form along with an annexure with written guidelines on how to fill a Complaint Form (Standard Form 1). The Complaint Form and guidelines shall be available in Sinhala, Tamil and English.
- 2.2 The Duty Intake Officer (DIO) stationed at the HRCSL Head Office, or the relevant officer stationed at a regional office or sub-office, is responsible for receiving complaints made in person at such office. The DIO or other relevant officer shall provide the complainant with a Complaint Form.

- 2.3 In the case of complaints made in person, the DIO or other relevant officer shall follow the process below:
- 2.3.1 If the complainant requires assistance, provide clear instructions on how to fill the Complaint Form in the preferred language of the complainant, i.e., Sinhala, Tamil or English. If the officer is not competent in the preferred language of the complainant, they shall immediately obtain the assistance of an officer competent in that language.
 - 2.3.2 Advise the complainant on what supporting documents shall be annexed to the Complaint Form.
 - 2.3.3 Advise the complainant on the number of copies of the Complaint Form that shall be submitted along with the original Complaint Form.
- 2.4 In the case of complaints received by means other than in-person, the following officers are responsible for receiving complaints:
- 2.4.1 The Legal Officer (LO) or Human Rights Officer (HRO) operating the 1996 Hotline is responsible for receiving complaints made via telephone. Only complaints concerning the personal liberty of an individual (e.g. alleged torture, or cruel, inhuman or degrading treatment, enforced disappearance, arbitrary arrests or detention, or police inaction in response to complaints regarding threats of assault, including domestic violence) should be entertained via the Hotline. In the case of complaints regarding any other matter, the complainant should be advised to submit the complaint through alternative means. If the officer is not competent in the preferred language of the complainant, they shall immediately obtain the assistance of an officer competent in that language. The relevant officer shall summarise the relevant details of the complaint made via the Hotline and prepare a hotline report (Standard Form 2) to ensure that all relevant details are recorded.
 - 2.4.2 The Network Administrator is responsible for forwarding complaints received via the HRCSL website portal (<https://www.hrcsl.lk/make-a-complaint/>) to the Inquiries and Investigations (I&I) Director responsible for receiving online complaints.
 - 2.4.3 Any officer of the HRCSL Head Office or regional office who receives a complaint via post, fax or email is responsible for forwarding such complaints to the I&I Director or regional coordinator.
- 2.5 If a complainant has a disability or is illiterate, and, therefore, unable to complete a Complaint Form, the DIO or other relevant officer shall follow the process below:
- 2.5.1 Inquire from the complainant whether they are in a position to obtain the assistance of another person, such as a family member, civil society representative, or attorney-at-law, to complete the Complaint Form.
 - 2.5.2 Where the complainant is unable to obtain the assistance of another person, the

DIO or other relevant officer shall direct a Management Assistant (MA) to assist the said complainant.

- 2.5.3 Once the Complaint Form is completed with the assistance of another person or an MA, the DIO or other relevant officer shall make a note on the Complaint Form stating that the form was completed with the assistance of another person and the complainant understood the contents of the Complaint Form, record the name and contact details of the said person, and request the complainant to place a thumbprint or signature next to the said note. The relevant officer may also, with the consent of the complainant, keep an audio recording of the contents of the Complaint Form and upload it to the HURIN system.

3. DETERMINING ADMISSIBILITY

- 3.1 In the case of in-person complaints involving alleged torture, or cruel, inhuman or degrading treatment, or arbitrary arrest or detention, the DIO or other relevant officer receiving the complaint will be the Admissibility Officer (AO). In the case of complaints involving alleged torture, or cruel, inhuman or degrading treatment, or arbitrary arrest or detention received via the Hotline, website, post, fax, or email the relevant LO or HRO will be the AO. These officers will initially determine whether a complaint is admissible.
- 3.2 The DIO or other relevant officer shall assume in the first instance that a complaint is sincere and treat the complaint as admissible if they form the view that the complaint concerns an alleged violation of a fundamental right by executive or administrative action. To assist in this process, the relevant officer shall consult the Checklist with the Admissibility Guidelines of the HRCSL (Standard Form 3), which provides guidance on the admissibility of complaints. The checklist includes consideration of whether the complaint is relevant to one of the fundamental rights guaranteed in Chapter III of the Sri Lankan Constitution, and whether the alleged violation of the right can be considered the executive or administrative action of the state.
- 3.3 Where the DIO or other relevant officer is of the opinion that a complaint made in person is admissible, the said officer shall accept the Complaint Form.
- 3.4 Where the relevant LO or HRO is of the opinion that a complaint received via the Hotline, website, post, fax or email is admissible, the said officer shall accept the complaint and request the complainant to submit any further documentation (if any) by a specified date.
- 3.5 The I&I Director in consultation with the Commissioner overseeing the I&I Division shall appoint senior level LOs and HROs to be AOs to determine the admissibility of all complaints that do not involve alleged torture or cruel, inhuman or degrading treatment, or arbitrary arrest or detention. Such officers will together form the Admissibility Unit of the HRCSL.
- 3.6 The AO or relevant officer of the Admissibility Unit, as the case may be, may call for a report from the respondents or further evidence from the complainant prior to the case being assigned to a LO or HRO. A copy of the Complaint Form shall be shared with the respondent. Upon the request made by the complainant, any personal details of the complainant or the victim shall be omitted from the Complaint Form when it is shared

with the respondents.

- 3.7 The AO shall determine that a complaint is inadmissible if they form the view that the complaint does not concern an alleged violation of any fundamental right by executive or administrative action (e.g. if the alleged violation was committed by a private actor with no involvement of an executive or administrative officer of the state) and shall communicate to the complainant the inability to proceed with the case.
- 3.8 Where a complaint concerns an alleged violation of a fundamental right with respect to which the Supreme Court has granted leave to proceed in a fundamental rights application, the AO may determine that the complaint is provisionally inadmissible.
- 3.9 Except in cases of alleged torture or cruel, inhuman or degrading treatment, pensions, or continuous violations, such as when the complainant is in detention, a complaint should be submitted to the HRCSL within three (3) months of becoming aware of the alleged violation of a fundamental right. If the Commission is satisfied that a reasonable excuse is provided for the delay in submitting the complaint even after a three-month period, the complaint may still be accepted.
- 3.10 Where the AO is of the opinion that an adequate alternative remedy or right of appeal can be provided by another state institution more efficiently (e.g. the National Police Commission or Public Service Commission), the AO may advise the complainant to explore such remedy or right of appeal before such institution prior to submitting a complaint to the HRCSL. Where appropriate the AO may issue a written letter stating this advice (Standard Form 4A).
- 3.11 Where the AO is of the opinion that a complaint made in person or via telephone, website, post, fax or email is inadmissible, they shall follow the process below:
 - (a) Issue a Letter of Inadmissibility (Standard Form 4B) to the complainant explaining the reasons for the inadmissibility of the complaint. The Letter of Inadmissibility shall be handed over to the complainant if the complaint is made in person. In the case of complaints made via the Hotline, website, post, fax or email, the Letter of Inadmissibility shall be sent via post, in addition to which an email or text message containing the letter may be sent.
 - (b) Advise the complainant on any other institution or remedy available to them.
 - (c) Keep a written record of the fact that the complaint was deemed inadmissible along with the reasons for inadmissibility.
- 3.12 The I&I Director and Regional Coordinators shall periodically review complaints that are deemed inadmissible by an AO and prepare a report of the same on a quarterly basis to be submitted to the Board of Commissioners of the HRCSL.
- 3.13 The AO shall always consult the I&I Director where they are uncertain as to whether a complaint is admissible. When in doubt, however, the AO shall determine the complaint to be admissible and forward such complaint for further review by the I&I Director, or any other senior officer to whom the I&I Director delegates such authority of review.
- 3.14 When an AO refers a complaint for further admissibility review, the I&I Director or such other officer with the authority to review admissibility, may determine the admissibility of a complaint. The Commissioner overseeing the I&I Division shall be consulted in the

review process.

- 3.15 The Board of Commissioners of the HRCSL, the I&I Director, or any other senior officer with the authority to review admissibility, may at any point review the initial admissibility determination of an AO and determine whether a complaint is admissible or inadmissible upon such review.
- 3.16 The I&I Director shall submit to the Board of Commissioners of the HRCSL a quarterly report of all complaints sent for admissibility review along with the outcome of the review process.

4. ACCEPTANCE OF COMPLAINTS

- 4.1 In the case of admissible in-person complaints, the DIO or other relevant officer shall assign the complaint a temporary complaint number and hand the Complaint Form to the Registration Officer (RO). The temporary number shall be recorded on the top of the complaint form and will be used as a reference number only until the Complaint Form is handed over to the RO.
- 4.2 Upon receiving the duly completed Complaint Form, the RO shall enter the details in the Complaint Form into the HURIN System. The RO shall scan and upload the Complaint Form and the supporting documents onto the system.
- 4.3 In the case of admissible complaints made via telephone, website, post, fax or email, the RO shall enter the relevant details into the HURIN System based on the hotline report, online complaint form, or relevant letter or email respectively.
- 4.4 Once a complaint is accepted and the details uploaded to the HURIN System, a permanent case number is generated by the HURIN system. The RO shall ensure that they enter into the HURIN system the correct thematic category or categories relevant to the alleged fundamental rights violation in the complaint (Standard Form 5).
- 4.5 After adding the details of a complaint to the HURIN System, the RO shall issue to the complainant a Receipt of Complaint (Standard Form 6) including a copy of the complaint. In the case of in-person admissible complaints, the RO shall issue the Receipt of Complaint after the Complaint Form has been uploaded to the HURIN System. In the case of admissible complaints made via telephone, website, post, fax or email, the RO shall issue the Receipt of Complaint via post in addition to which a fax, email or text message with the relevant Receipt may be sent.

5. ASSIGNING CASES

- 5.1 The I&I Director or Regional Coordinator, as the case may be, is responsible for assigning a case to a suitable LO or HRO based on the caseload of each LO and HRO. The officer assigned to a case will be the Case Officer(CO) of the case. In the case of public interest cases concerning specific themes, the I&I Director may also consider the expertise of a CO when assigning the case.
- 5.2 Where a case concerns alleged torture, or cruel, inhuman or degrading treatment of a sexual nature, the I&I Director shall, where relevant, and particularly where the victim

or complainant makes a request, consider the gender of the CO when assigning the case.

- 5.3 When several complaints are interconnected, the I&I Director may consolidate the related complaints into one case or assign the cases to the same CO.
- 5.4 Where necessary, the I&I Director may assign more than one CO to a case.
- 5.5 Where a case concerns the personal liberty of the individual (e.g. alleged torture, cruel or inhuman or degrading treatment, or enforced disappearance), death in custody, rights of a child (e.g. school admissions or suspensions), or pension matters, the I&I Director or the Regional Coordinator, as the case may be, shall direct the relevant CO to conclude the case expeditious.
- 5.6 Once a case is assigned to a CO, the case file shall be handed over to the CO. The CO shall then verify that the contents of the file have been accurately scanned and uploaded to the HURIN system. If the contents are accurately uploaded, the CO shall formally accept the case on the HURIN System within two (2) days of receiving the case file.
- 5.7 In the event any officer believes acceptance of the case amounts to a conflict of interest, the officer shall notify the I&I Director through the ‘Note’ option available in the HURIN System. Examples of conflicts of interest include circumstances where the CO has a familial relationship to one of the parties or has a prior or existing professional or academic relationship with one of the parties. In such circumstances, the I&I Director may reassign the case to another CO.

6. PROVIDING INFORMATION

- 6.1 The relevant CO, and when the case has reached the inquiry stage, the relevant Inquiring Officer (IO), is responsible for providing accurate and regular updates to the complainant on the progress of a case. The relevant officer shall update all parties to a case when summons are issued to either party, when reports or documents are requested from either party, and when the respondent’s report is forwarded to the complainant for the complainant to submit their observations.
- 6.2 Where the complainant requests a report provided by the respondent, the relevant officer (CO or IO as the case may be) shall share the requested report. The relevant officer shall provide a complainant a minimum of seven (7) days from the date of receiving the report to submit their observations on the said report. If the complainant or their representative requests a further reasonable period of time to respond to the said report, the relevant officer shall afford such time. The complainant’s observations on the said report shall be shared with the respondents. Where any portion of a report is deemed confidential by the respondent, or where any portion of the complainant’s observations are deemed confidential by the complainant, the relevant officer shall seek the advice of the I&I Director and release the report or observations, or any portion thereof to the other party based on the I&I Director’s advice.
- 6.3 The relevant officer (CO or IO as the case may be) is responsible for updating all relevant information on the HURIN System and ensuring the HRCSL website (https://hurin.hrctl.lk/track_my_case) is up to date to enable parties to directly view updates by entering the relevant case number and registered mobile number. The Network

Administrator is responsible for ensuring that this feature of the HRCSL website is functioning properly. Where a party requests a standard update and the information is available on the website, the relevant officer may refer the party to the website.

- 6.4 If a complainant or their representative makes a request for information regarding an ongoing case, the process below shall be followed:
 - 6.4.1 If the complainant makes the information request in person, the receptionist or other officer receiving the request shall direct the request to the I&I Division. If the requested information can be provided based on the information updated in the HURIN System, the MA of the I&I Director shall provide such information immediately. If such information is not available on the HURIN System, the relevant request shall be forwarded to the relevant officer.
 - 6.4.2 If the complainant makes the information request via post, the Postal Unit shall direct the request to the MA of the I&I Director who shall forward the request to the relevant officer. The relevant officer shall assess the request and forward the requested information to the complainant via the Postal Unit.
 - 6.4.3 If the complainant makes the information request via email to a Commissioner of the HRCSL, to the Secretary of the HRCSL, or to any other officer of the HRCSL, the said officer shall direct the request to the MA of the I&I Director who shall forward the request to the relevant officer. The relevant officer shall assess the request and forward the requested information to the complainant via the Postal Unit or to the email address of the complainant if the request is via email.
 - 6.4.4 If the information requested cannot be provided immediately due to the fact that gathering the information would be time consuming, the relevant officer shall immediately send a written acknowledgment of the request (Standard Form 7) to the complainant along with a deadline by which the information will be provided.
- 6.5 The relevant officer shall take reasonable steps to ascertain whether the person requesting the information is the complainant or their representative. Information with respect to an ongoing inquiry or investigation shall not be shared with any other person, as such sharing may prejudice the inquiry or investigation.
- 6.6 Information that is confidential, including any document shared with the HRCSL in confidence or any confidential victim or witness statement the disclosure of which may threaten the safety of the victim or witness shall not be shared with any person.
- 6.7 If any person requests information under the Right to Information Act, No. 12 of 2016, including information with respect to any concluded case, the officer receiving the request shall forward it to the Information Officer of the HRCSL, who shall respond to the request in terms of the Act.

7. MINUTING AND PAGE NUMBERING

- 7.1 The CO shall be responsible for minuting each and every step, development, and progress in a case in the relevant case file (Standard Form 8).

7.2 The CO shall ensure that the pages of the case file are accurately numbered.

8. INITIAL PREPARATION

- 8.1 Once a CO has accepted the case and decides to conduct an inquiry (in which case, the CO may be referred to as the 'IO'), they shall fix a date for inquiry and inform the Summons Section of the HRCSL to issue summons to the parties. The IO shall ascertain relevant information to prepare an inquiry plan (Standard Form 9), including the language preferences and accessibility requirements of the parties.
- 8.2 The IO shall provide the Summons Section with the following information either in the minute sheet in the case file or through the Summons Request Form (Standard Form 10):
- (a) The list of names of persons who shall be summoned;
 - (b) The addresses of such persons; and any special requirements, such as language preference or disability access.
 - (c) The list of documents such persons shall bring when attending the inquiry.
- 8.3 Except in cases where an urgent inquiry is required, the IO shall inform the Summons Section on or before the fifteenth (15th) day of each month of the requirement to issue summons. The Summons Section shall issue summons (Standard Form 11) two (2) weeks prior to the date of the inquiry.
- 8.4 The summons shall include the date, time and location of the inquiry and a copy of the Complaint Form. Where the complainant makes a request, the personal details of the complainant or victim should be omitted from the Complaint Form shared along with the summons. The summons may be sent via post, fax, email, text or by hand. Where summons is issued by means other than by registered post, the Summons Section should endeavour to obtain an acknowledgement of receipt of the summons.
- 8.5 Once the date is fixed and summons issued, the Summons Section is responsible for updating the HURIN System.
- 8.6 The daily list of all scheduled inquiries shall be prepared by the Summons Section and sent to the Network Administrator to be uploaded to the HRCSL website. The daily list shall be uploaded at least seven (7) days in advance, and any changes to the list shall be updated immediately.
- 8.7 The IO is responsible for conducting an inquiry and shall take the following steps to prepare for an inquiry:
- 8.7.1 Read and analyse the submitted documentation and the available facts.
 - 8.7.2 Finalise an inquiry plan. Prepare a list of documentary or digital evidence that has to be marked as part of the inquiry proceedings.
 - 8.7.3 Prepare a list of questions to clarify any contradicting information, obtain any facts or information that may have been omitted by either party and ascertain the credibility of the statements provided by both parties.
 - 8.7.4 Analyse the applicable law and refer any previous HRCSL recommendations

relevant to the case.

8.7.5 Seek the advice of a Commissioner, I&I Director, or other senior officer where a clarification with respect to the facts or applicable law is required.

8.7.6 Based on available resources, obtain necessary translation and accessibility facilities required by the parties.

9. CONCILIATION AND MEDIATION

9.1 Apart from cases concerning torture, or cruel, inhuman or degrading treatment, the IO shall explore the possibility of referring the matter for conciliation or mediation where they believe the matter can be resolved and justice can be met through a settlement.

9.2 Conciliation occurs when the conciliator proposes viable settlement terms to the parties and facilitates a settlement, whereas mediation occurs when the mediator only facilitates discussion between the parties to enable them to arrive at a mutually agreeable settlement. The HRCSL is empowered to engage in both types of settlement processes under section 10(b) of the HRCSL Act. The IO may, according to the circumstances of each case, and in consultation with the I&I Director and the Commissioner overseeing the I&I Division, select the appropriate settlement process. Special attention shall be paid to the urgency of the matter, the relationship between the parties, and the complexity of the matter (i.e., the potential for a settlement) when initiating conciliation or mediation.

9.3 The IO is responsible for informing the parties to a case about the possibility of resolving the issue through conciliation or mediation, the nature and conditions of conciliation or mediation, and the pros and cons of resorting to conciliation or mediation.

9.4 The IO shall assess the willingness of the parties to reach a settlement by observing the following:

9.4.1 Whether the parties demonstrate that they have a full understanding of conciliation or mediation and their processes.

9.4.2 Whether the parties:

(a) are not under duress;

(b) display no reluctance in agreeing to resort to conciliation or mediation; and

(c) express willingness to resolve the issue through conciliation or mediation.

Such expression of willingness shall be immediately and clearly recorded in the written inquiry proceedings of the relevant inquiry date and the parties' signatures should be placed below such expression of willingness.

9.5 A party to a case shall have the right to withdraw from the conciliation or mediation process at any point by informing the IO. In such an event, the IO shall record such withdrawal on the next relevant inquiry date and proceed to conduct the inquiry.

9.6 The IO shall adopt the following approach to conciliation or mediation.

9.6.1 Review the facts of the case based on the evidence gathered up to that point in the

inquiry.

- 9.6.2 Ascertain the views of all parties in terms of their preferred settlement terms.
- 9.6.3 Where necessary, seek the advice of the I&I Director and the Commissioner overseeing the I&I Division.
- 9.6.4 Where conciliation is opted for, propose a viable settlement to both parties and ascertain their willingness to accept such a settlement. (Standard Form 12)
- 9.6.5 Where mediation is opted for, ascertain from the parties a viable, mutually agreeable settlement.
- 9.7 At the conclusion of the conciliation or mediation process, and a settlement is reached, the stenographer shall prepare a written document enumerating the settlement.
- 9.8 The IO shall thereafter read the settlement to all parties. Where the parties accept such settlement, the IO shall ensure that all parties place their signature at the bottom of each page. A written copy of the settlement shall be provided to all parties.
- 9.9 If a settlement between the parties is not reached, the IO shall resume the inquiry.

10. INQUIRY

- 10.1 The IO shall follow the procedure below when conducting an inquiry:
 - 10.1.1 The MA shall ensure that any person making a statement during the inquiry takes an oath (Standard Form 13) before the IO to tell nothing but the truth during the inquiry.
 - 10.1.2 Where a statement of a person under the age of eighteen (18) years needs to be recorded, the parent or legal guardian of the child shall be present during the recording of the statement. The IO shall at all times ensure that the best interest of the child is prioritised. The I&I Director may get assistance of specially trained officers of the HRCSL's Child Rights Unit to facilitate the recording of any statement from a child.
 - 10.1.3 The stenographer on duty shall record the entire inquiry proceedings. In the absence of a stenographer, the inquiry proceedings shall be audio recorded, and transcribed thereafter. The audio recording may be deleted once the transcript is completed and reviewed for accuracy.
 - 10.1.4 If either party fails to attend the inquiry for the first time, and where a valid reason for absence has been communicated, the party present will be informed of the absence of the other party, and the inquiry will be rescheduled to another date.
 - 10.1.5 If a respondent fails to attend an inquiry without a valid reason, notice under section 21 of the HRCSL Act, No. 21 of 1996 shall be issued to the respondent.
 - 10.1.6 In exceptional circumstances, such as disability and unavoidable transport

difficulties, and bearing in mind the availability of resources, the IO may permit a party to attend an inquiry through an audio-visual-conferencing facility where all parties can see and hear each other simultaneously.

- 10.1.7 If the complainant fails to attend an inquiry without a valid reason on two consecutive occasions, the IO has the discretion to conclude the case. The I&I Director shall on a quarterly basis provide a report to the Board of Commissioners of the HRCSL detailing all such concluded cases.
- 10.1.8 Prior to the adjournment of the inquiry on a particular date, the IO shall fix the next inquiry date on the basis of their availability and after checking the availability of the parties.
- 10.1.9 The agreed next date of inquiry shall then be communicated to all parties in writing (Standard Form 14).
- 10.2 The IO shall at all times treat the parties with patience and empathy. In the event that a party becomes hostile during an inquiry or engages in unacceptable behaviour in relation to an inquiry, the IO shall record the incident in writing and report it to the I&I Director. Such unacceptable behaviour includes, but is not limited to, deliberate attempts to delay the progress of the inquiry and any threats or harassment towards the IO or any party to the case or their representatives. The I&I Director, upon receiving the said written report, shall in consultation with the Commissioner overseeing the I&I Division take appropriate action, including issuing a written warning to the relevant party, and where the circumstances warrant so, instituting action under section 21 of the HRCSL Act.
- 10.3 The IO shall ensure that any party to a case, and their representatives including their attorney-at-law or other representative (e.g. a civil society representative) are provided an adequate opportunity to make submissions and are afforded due respect during the inquiry proceedings.
- 10.4 The IO may take cognizance of the fact that a victim or witness in the case requires special protection from injury, intimidation, reprisal or retaliation by any party. In determining the vulnerability of a victim or witness, the IO shall rely on the criteria set out in section 34(4) of the Victims of Crime and Witnesses Act including:
 - (a) consideration of the nature of the alleged fundamental rights violation (i.e., in particular, cases of torture, or cruel, inhuman or degrading treatment, enforced disappearance, or arbitrary arrest or detention); and
 - (b) any credible evidence of the risk of such injury, intimidation, reprisal or retaliation.
- 10.5 Where the IO determines that a victim or witness in the case requires special protection from injury, intimidation, reprisal or retaliation, the IO shall refer the matter to the I&I Director, who shall after having reviewed the risk, refer the matter to the Board of Commissioners of the HRCSL for appropriate action under the Victims of Crime and Witnesses Act. Where appropriate, and bearing in mind the right of all parties to a fair hearing, the Board of Commissioners of the HRCSL may direct the IO to avoid or minimise face-to-face interaction between the said victim or witness and the relevant party who has allegedly threatened injury, intimidation, reprisal or retaliation.
- 10.6 The IO may request parties to tender written submissions prior to scheduling an inquiry

or, in certain instances, during or at the conclusion of the inquiry. The IO shall request the parties to tender written submissions by hand, post, fax or email. A period of two (2) weeks shall be given to a party to tender written submissions. An extension of the deadline for submission may be given only where a party provides a valid excuse for being unable to tender the written submissions by the stipulated deadline.

- 10.7 At the end of each inquiry date, the IO shall update the HURIN System and include the next inquiry date and status of the inquiry. The Summons Section has the responsibility of reviewing the HURIN System to ensure that all inquiry dates are accurately reflected.
- 10.8 The IO shall ensure that any party (i.e., the complainants, respondents, victims and intervening parties) to a case is provided a copy of the proceedings of the inquiry upon such party making a written request to the IO.

11. LAYING-BY CASES

- 11.1 The CO, or when the case has reached the inquiry stage, the IO, may, on the advice of the I&I Director, decide to lay-by a case where the holding or continuation of an inquiry would depend on the outcome of court proceedings. In such an event, the relevant officer shall inform the parties that the case will be laid-by and request the complainant to keep the HRCSL informed when the court proceedings are completed.
- 11.2 The IO shall forward the relevant case file to the Record Room Officer (RRO) who shall be a designated LO or HRO in charge of the Record Room. Such RRO shall keep the case file in their custody in the Record Room.
- 11.3 Any officer of the HRCSL who receives any further correspondence with respect to a laid-by case shall direct the said correspondence to the RRO, who shall review the said correspondence and direct the case file to the former CO or IO who handled the case to obtain their advice on whether the case should be reopened.
- 11.4 Where a case file is redirected to the relevant CO or IO who handled a laid-by case, such officer shall, on the advice of the I&I Director, make a determination as to whether the case should be reopened.
- 11.5 The relevant CO or IO shall promptly, and no later than one month from the date on which the further correspondence was received by the RRO, communicate to the parties and inform them of the decision as to whether to reopen a case.
- 11.6 If it is decided that the case should be reopened and an inquiry may be fixed, the relevant officer shall follow the procedure set out in this SOP and proceed with the inquiry.
- 11.7 If it is decided that the case should continue to be laid-by, the relevant officer shall return the case file to the RRO.

12. INVESTIGATION

- 12.1 The I&I Director may launch an investigation to visit a site to interview persons or examine evidence. The I&I Director shall launch an investigation if the case involves:

- (a) a death in custody;
- (b) an alleged extra-judicial killing;
- (c) an alleged illegal arrest or detention and the person is yet to be released;
- (d) an alleged enforced disappearance;
- (e) an alleged act of torture; or
- (f) an alleged violation of a fundamental right involving a medical emergency.

12.2 The IO shall undertake an investigation with the assistance of other LOs or HROs as required. If required, an investigation may also be attended by a senior officer, such as a director of any division of the HRCSL.

12.3 The IO is responsible for preparing an Investigation Report (Standard Form 15). An Investigation Report shall include the following information:

- (a) the case number;
- (b) the IO's name;
- (c) the date, time and place of investigation;
- (d) the HRCSL officers involved in the investigation;
- (e) the objectives of the investigation;
- (f) the preliminary observations made during the investigation;
- (g) the concluding findings of the investigation; and
- (h) the signature of the IO.

13. INQUIRY PROCEEDINGS AND REPORT

13.1 The IO shall ensure that the inquiry proceedings are properly recorded and maintained by relevant officers of the HRCSL.

13.2 In the event that a complainant makes a written request, or the Board of Commissioners determines so, the address of the complainant may be removed from the inquiry proceedings. In such cases, the IO shall inform the I&I Director and redact such information when such proceedings are released to the parties or to any other third party accessing such proceedings in accordance with the law.

13.3 When releasing inquiry proceedings in accordance with the law, any personal information relating to a victim or witness under the age of eighteen (18) years shall be redacted.

13.4 The IO shall prepare an Inquiry Report (Standard Form 16) once the inquiry is completed. The following information shall be included in an Inquiry Report:

- (a) the case number;
- (b) the name and address of the parties, i.e., complainant and respondent(s);
- (c) the factual summary of the case;
- (d) the contentions made by the complainant;
- (e) the contentions made by the respondent(s);
- (f) a factual analysis;
- (g) a legal analysis, inclusive of relevant case law and previous HRCSL recommendations;
- (h) the findings and observations;
- (i) the recommendations; and
- (j) the name and signature of the IO.

13.5 The I&I Director shall review each Inquiry Report in consultation with the Commissioner overseeing the I&I Division. The I&I Director may, after reviewing such Inquiry Report, direct the IO to make suitable amendments to the analysis, observations or recommendations in the Inquiry Report and finalize the Report.

14. OUTCOME OF CASE

14.1 If a violation of a fundamental right is found at the end of an inquiry, the parties shall receive a Decision Letter stating the outcome of the case, the reasoning for arriving at the conclusion, and the recommendations of the HRCSL (Standard Form 17).

14.2 Recommendations of the HRCSL may include:

- (a) A recommendation to the appropriate authorities, that prosecution or other proceedings be instituted against the person or persons infringing such fundamental right;
- (b) Recommendations to the appropriate authority or person or persons concerned with a view to preventing or remedying such infringement or the continuation of such infringement;
- (c) A recommendation that the act or omission giving rise to the infringement or imminent infringement of a fundamental right be reconsidered or rectified;
- (d) A recommendation that the decision giving rise to the infringement or imminent infringement of a fundamental right be reconsidered or rectified;
- (e) A recommendation that the practice on which the decision, recommendation, act or omission giving rise to the infringement or imminent infringement of a fundamental right was based, be altered; and
- (f) A recommendation that reasons be given for the decision, recommendation, act or omission giving rise to the infringement or imminent infringement of a fundamental right.

14.3 If no violation of a fundamental right is found at the end of an inquiry, the parties shall receive a Decision Letter stating the outcome of the case along with the reasoning for arriving at the conclusion (Standard Form 18).

14.4 The language of a Decision may be determined by the IO taking into consideration the language preference of the complainant.

14.5 The I&I Director shall prepare a report of all Decision Letters issued on a quarterly basis and submit it to the Board of Commissioners of the HRCSL.

15. PUBLISHING RECOMMENDATIONS

15.1 All Decision Letters recognising a violation of fundamental rights shall be translated to ensure Sinhala, Tamil and English versions of the Letter are made available. The IO shall forward the original Letter to the Official Translator of the HRCSL, who will be responsible for completing the translation.

15.2 The IO shall forward the Sinhala, Tamil and English versions of the Decision Letters recognising a violation of fundamental rights to the Network Administrator and the Media Spokesperson of the HRCSL. Where the translations of original letters are not completed, the originals may be forwarded first and the translations later once completed. The

following steps shall be taken thereafter:

- 15.2.1 The Network Administrator shall upload the Decision Letters, along with their translations, to the website of the HRCSL.
- 15.2.2 Where the case has a public interest value, the Media Spokesperson shall prepare a short press release and share the Decision Letter, along with their translations, to the HRCSL media contact list and via social media.

16. ENFORCING RECOMMENDATIONS

- 16.1 The Non-Implementation Unit (NIU) of the HRCSL is responsible for monitoring the implementation of all recommendations contained in Decision Letters.
- 16.2 The Decision Letter shall require the respondent(s) to submit a report to the HRCSL on the action that such respondent(s) has taken, or proposes to take, to give effect to the recommendations in the Decision Letter. An initial deadline for submitting such report and implementing the recommendations shall be determined by the Commissioner overseeing the I&I Division on a case-by-case basis, and such Commissioner shall periodically update the Board of Commissioners of such deadline. Such deadline shall be clearly mentioned in the Decision Letter.
- 16.3 Where the respondent(s) fails to implement the recommendation by the final deadline, the NIU shall prepare a report to be sent to H.E. the President in terms of section 15(8) of the HRCSL Act, No. 21 of 1996.