

## Matrix for Comments from Bank Management on Update of Inspection Panel Operating Procedures

<u>Issues Raised</u>	<u>Responses</u>
<b>1. Pre-Request</b>	
<ul style="list-style-type: none"> <li>▪ 1.1 Improving public awareness of the Panel’s availability as an accountability and recourse mechanism</li> </ul>	<p><b>Bank management 28:</b> The respondent said that in years gone by, there was outreach where the Panel went out looking for business.</p> <p><b>Bank management 58:</b> The respondent explained that the Panel does its own outreach activity. They have workshops in the country where they present their activities. When s/he was a TTL s/he didn’t inform the PIU or the project-affected people about the Panel. It’s just that one doesn’t think about that. TTLs are concerned about building the internal grievance mechanism into the project. Whether or not they are sharing information about the Panel with the PAPs (project-affected people), this respondent could not answer.</p>
<ul style="list-style-type: none"> <li>▪ 1.2 Prior contact between requesters and management</li> </ul>	<p><b>Bank management 12:</b> There have been cases where Requesters had almost no contact with Management, then made a Request, and then Management must utilize an enormous amount of resources to respond to the Request. It could cost as much as \$500,000 for Management to respond to any complaint. It’s important to give Management a chance and to not allow people to think that they can just access the Panel without making an effort to resolve issues beforehand.</p> <p><b>Bank management 14:</b> Prior contact should be determined case-by-case. If you have an active, engaged project management unit that is responsive, there will be a paper trail on any issues that come up. But if you send your case to Management and no one hears it, and send it again, and they don’t respond, then escalate it (to the Panel).</p> <p><b>Bank management 38:</b> The Panel needs to establish whether or not there has been prior contact and whether or not Management was given a reasonable opportunity and timeframe to address complaints as appropriate. While this should not create an untenable burden for communities with few or no formal communication channels, previous cases have shown that the vast majority of Requesters have had access to email, fax or postal mail. Those should indeed be required to provide evidence of the contact/communications with Management before registering the Request, and such evidence should be included in the Panel’s Eligibility Report.</p>
<b>2. Submitting a Request</b>	
<ul style="list-style-type: none"> <li>▪ 2.1 Contents of a request</li> </ul>	
<ul style="list-style-type: none"> <li>▪ 2.2 Form of Request</li> </ul>	
<ul style="list-style-type: none"> <li>▪ 2.3 Delivery of Request</li> </ul>	<p><b>Bank management 14:</b> The procedure for filing a complaint should be clarified to Requesters. The respondent said that sending an email to a sector group within the Bank to forward a complaint to the Panel should not be the process for</p>

	delivering a Request.
<b>3. <u>Procedures on Receipt of Request</u></b>	
<ul style="list-style-type: none"> <li>▪ 3.1 Registration</li> </ul>	<p><b>Bank management 7:</b> Not all Requests that come in should be registered. There should be space to resolve a conflict before a Request is registered, or at least Management should be allowed to discuss the Request with the Panel before the Request is registered. In some cases, if the Panel had heard out Management before registration, the Panel might not have registered the complaint.</p> <p><b>Bank management 14:</b> The Panel should look at frivolous requests and say “we don’t see a compelling case.” Sometimes we don’t know. At the end of the day, the Panel tends to want to investigate where Management would say “this is frivolous.” It has become tricky, where we as Management feel the Panel bends over backwards to do cases in our view, just to create more work for themselves.</p> <p>How do you define boundaries between a compelling case and a non-starter? If good project grievance mechanisms were in place, then there would be a whole paper trail about the complaint. The decision should be made on a project by project basis. For the smaller projects that are sent out very quickly, not so much attention is paid to these issues. And that’s a weakness of current Management.</p> <p><b>Bank management 30:</b> The respondent stated that the registration process flips the switch and initiates the compliance process, and then you have lost two years. Making a conflict resolution process available in advance of the Panel is absolutely key. Having a conflict resolution mechanism similar to the ombudsman, with a very senior-level individual running it, who has enormous experience and understands the issues, could be quite useful. If a Request came to the conflict resolution mechanism, the ombudsman would call project staff and say, ‘Here is some advice. See what you can do. Let’s talk in a month.’ A dispute resolution approach would not have resolved one of the cases in which the respondent was involved. But in another case, it could have allowed some problems to be resolved.</p> <p><b>Bank management 36:</b> There should be some process of interaction with Management before the Panel registers a Request. That would give Management a chance to give the Panel information about Requesters, some of whom have personal interests. Interaction with Management could help support the Panel’s assessment of whether there’s serious harm or a credibility issue. There are sometimes thunderbolt requests, but Management usually has a lot more information than the Panel about these Requesters, initially at least.</p> <p>A structured discussion before registration would be useful, because registration locks in all the bureaucratic machinery and the 21 day timeline. These cases take a lot of time. To go through this whole Panel process and find out</p>

	<p>that this person (the Requester) is disgruntled for some reason should be avoided.</p> <p><b>Bank management 38:</b> There appears to be no prima facie assessment by the Panel prior to registration of how credible the claim is or if the alleged harm is of a serious character. Such a determination would help the Panel to deal with cases, such as some controversial past cases, where no link could be found between alleged harm and Bank activities.</p> <p>There is often no opportunity for Management to provide input to the Panel prior to the decision to register a Request. Such an opportunity could in some cases allow Management to resolve issues and thus enable Management and the Panel to better deploy human and financial resources. The same applies when the Panel's Eligibility and Investigation Reports are prepared. Although a pro forma approach exists, the interaction has not been substantive at such stages.</p> <p><b>Bank management 41:</b> The respondent suggested that when a Request is registered, there should be a mechanism that allows Management and the Panel to interact without compromising the Panel's integrity. Just reading the documents is not enough to understand a project. In one case, the respondent believes that if the Panel had engaged with the region early enough then it would have understood the ambit of the technical assistance, which had never promised all the things the Requesters wanted. If the Panel engaged with the region and understood the context of the project, it would not quickly jump to conclusions based on the Requester's claims because it would understand what the project was about in the first place.</p> <p>If the Panel sat with us and understood the design and intention of the project plan, then at that point in time they could make a determination that this does not have to go to the investigation stage.</p> <p><b>Bank management 44:</b> Coordination and collaboration with the Bank staff is fundamental before you trigger a case, particularly where the project has a lot of technical content. There is a lot of background and context to the project that is not in the project documents. How the Panel could communicate with Bank staff while maintaining neutrality and professionalism should be clarified.</p>
<ul style="list-style-type: none"> <li>▪ 3.2 Supporting due diligence and interaction with requesters at registration</li> </ul>	
<p>4. <b><u>Management Response</u></b></p>	<p><b>Bank management 7:</b> The 21 days allowed to Management to respond to a Request are too short, and should be extended. More time is needed to lay out the story and obtain clearances on the submissions from VP's.</p> <p><b>Bank management 12:</b> The respondent emphasized that the 21 day response window is impossible to meet when the</p>

	<p>days required to have a visit, to consult, to obtain Management’s approval, and to do all the things that must be done are counted. In this situation, the consultation is hurried and not as good as it could be. So a result is obtained, but it may not be a very high quality result. When the 21 days was originally put in the procedures, the authors didn’t imagine the fullness of response required in that timeline. For Management, this initial period is the only chance to make a case for not conducting an investigation. Across the different regions and sectors, most of the time Management responds robustly to a Request. A reason for this may be that the penalty is enormous if you don’t get it right the first time.</p> <p>In most cases, an extension was requested and granted by the Panel. But in order to get an extension, you have to have the VP on board, the MD on board, and some top Management will ask for 3 or 5 days just to review and respond. The respondent suggested that a proper Management response needs at least 5 weeks and that if people have more time to be able to think about these things, they will be able to learn more from the experience.</p> <p>The respondent suggested greater flexibility before starting to prepare the response on eligibility, because some of the people who would be involved in the response also have current responsibilities for operational deliveries. If they are pulled off their project to work on the Management response, other people will be hurt because of lack of supervision or project delivery behind the planned timeline. The respondent suggested allowing a range of time during which the initial Management response should be reasonably expected and continued that if Requests are simple, the responses can be prepared in 21 days. Others need more time if they’re complex, or also if you will affect the operational delivery of another project.</p> <p><b>Bank management 41:</b> The Panel tells us, “This is the number of days you have to get the Management Response all tied up and give it to us.” Most of the time Management takes the process seriously, and sometimes we can do that within 21 days. But in the cases where we can’t get all the internal arrangements together and the approvals, Management should be able to say, “You know what? We need more time.” It’s like a court: once you contravene the law of the 21 days, you are going straight to the guillotine!</p>
<p><b>5. <u>Eligibility Phase</u></b></p>	
<ul style="list-style-type: none"> <li>▪ 5.1 Ensuring clarity of eligibility criteria</li> </ul>	<p><b>Bank management 26:</b> Clarity on eligibility rules is needed. How are cases determined to be eligible? Could help for Panel to have communication with Management before determination of eligibility.</p> <p><b>Bank management 44:</b> Separate eligibility criteria should be available for different types of cases, for example social, financial, technical, and so on. If a Request is related to social issues, such as resettlement or indigenous peoples, the evidence is likely pretty clear. If there’s a lot of technical content to the complaint, but it comes from someone who has no technical background or credibility, the Panel must do their homework seriously before they register a Request. They should carefully review the Request with experts in the Bank – if not, they can easily lose their credibility. Don’t play with technical things. The government doesn’t understand this at all and they will think the Inspection Panel is</p>

	<p>incompetent because the Panel champions the view of a complainant who has no technical background.</p> <p><b>Bank management 49/51:</b> The respondent felt that eligibility criteria are a major concern regarding the Panel. There is a feeling in many cases that the Panel is pursuing investigations that they should not be pursuing. The Panel has sent a message to the Board saying they believe a case is eligible and the Board has requested a meeting to consider a judgment on eligibility. If it had gone to a vote, then it would have stopped the Panel case on the spot then and there and closed the door to it for good. The lesson to be learned is that the Panel needs to be more transparent and put Board members at ease in terms of its operating procedures.</p>
<ul style="list-style-type: none"> <li>▪ 5.2 Ensuring clarity of information in describing findings on eligibility</li> </ul>	<p><b>Bank management 12:</b> In recent cases, the respondent liked the number and quality of exchanges with the Panel throughout the process. In some cases the Panel did an excellent job of concluding not to investigate, while on other cases, the Panel was exactly right to go ahead because there was poor supervision of the project and thus many mistakes had been made. The recommendations of the Panel were good, followed and implemented. In the end, the way supervision was conducted changed completely.</p>
<ul style="list-style-type: none"> <li>▪ 5.3 Conditions for Problem Solving (management proactivity; requesters agreement to give time; Panel satisfaction that this will address issues)</li> </ul>	<p><b>Bank management 7:</b> Parties to project conflicts may request advisory assistance from a project-level grievance mechanism until an official Request is submitted. Then everyone should drop the resolution procedures and allow the investigation to take place. Conflict resolution should not be on-going during the investigation.</p> <p><b>Bank management 12:</b> The respondent felt that interaction with the Panel before the decision on eligibility was important and noted that once the Panel process begins, it becomes very hard for the Panel to interact with Management in certain ways so as to maintain its integrity. The respondent felt that the Panel should be “upstream” about helping to resolve issues and appreciated that in one case, the Panel was careful not to make a final decision whether to recommend an inspection until enough time was allowed for a collaborative resolution.</p> <p><b>Bank management 49/51:</b> The importance of a grievance mechanism is also an item of concern to this Respondent. Some see a lot of value in the Panel, but don’t see the need for it to be operating all the time. The Panel is a component of the safety net. Whatever problems arise in projects should be solved in the easiest, quickest and cheapest way possible. So there is a search for ways that potential cases don’t ever get to the Panel. The Panel is a line of defense, but we shouldn’t even trigger that line of defense. The Panel cases have high visibility and positive and negative components. Some say grievance should be part of the Panel process to some degree, but that view comes more from external influence rather than those who have been here for a while.</p> <p>There is negotiated language where Management has been mandated to pursue any kind of up-front solution and the Panel will be kept apprised of the progress. That’s fine, but do make sure to keep the Panel informed.</p>

	<p><b>Bank management 58:</b> In certain cases, there was an Action Plan. If the Panel is considering being open to letting that Action Plan go ahead for 3-6 months and seeing what happens, that would be a welcome development. But it hasn't happened on any projects in this region yet.</p> <p><b>Bank management 61:</b> The Panel has recently suggested that Regional Management consider a different approach to a Request – that is, instead of just going through the procedures, there is space for Management to look at the complaints and concerns of local people, and to reach out and see if these issues can be solved. Once you have reached out and addressed the concerns brought up by the Requesters, if the Requesters insist that their problem was not solved, then Management has to create a Response. In our Response, we try to say that we did the right thing and did not violate the Bank policies. But being proactive could be punished by people saying that implicitly if you did something to address the issue raised in the Request, you must have been guilty.</p> <p>If you have a grievance mechanism and it is not overshadowed by the Panel process, it would give Management an incentive to resolve the situation. Then we probably will address those issues. Then the Requesters could still challenge separately in a second [compliance] stage. But if the problem-solving and compliance sides are related, then it won't work.</p> <p>Given the design of the Panel, whenever you have a case, it's pretty much like a lawsuit. You want to defend yourself; you want to say you are clean. And that doesn't give you an incentive to want to solve the problem. At the institutional level, this needs to be figured out so that we don't have to take the legal approach [i.e., proceed to investigation].</p>
<ul style="list-style-type: none"> <li>▪ 5.4 Fostering opportunities for management to address problems during the early stages of the Panel process, building on or codifying recent practice and lessons from other IAMs</li> </ul>	<p><b>Bank management 28:</b> The respondent recommended an intermediate process that should focus on constructive things that could be done, and have an impact. The Panel should say to Management, "We have gone on mission to the case area, here are the key issues. Tell us what you are doing about them, and how you could address these issues." An Action Plan could be put in place that might resolve the issues.</p> <p>This kind of communication and collaboration could result in a narrowing of the claims. This would not take away the right of the Panel to investigate later. On the other hand, the Panel could say, "We don't think you're taking it seriously enough," or "The problem is beyond what Management sees," or "I don't think that's an adequate response," and continue with the investigation.</p> <p><b>Bank management 38:</b> Management should be allowed some time to address Requesters' concerns, especially if the Panel feels that the Requesters have not given Management the opportunity or time to address the issues in question. However, the Panel should not seek to be an intermediary between Management and Requesters. The term "supporting opportunities" carries a notion of active involvement, which could blur the Panel's independent policy compliance role and its responsibilities as part of the World Bank.</p>

	<p><b>Bank management 43:</b> The respondent reviewed the Panel’s work historically and said that initially, for several years in the 1990s, complaints were resolved quickly, there was no investigation, and the Panel was emasculated. After 5-6 years, following the clarifications of 1996 and 1999, they felt a need to lower the bar. The pendulum swung from where Management sorted everything out, to where there was no bar too low. Now the Panel does not seem to differentiate between horrific cases of dreadful harm and silly stuff.</p> <p>The respondent felt there could be a chance in the first Management response to say, “we think we can fix it.” And for the Panel to be able to say, we’ll put this on a different track where Management can sort it out. There needs to be trust between the Board and Panel and Management. It’s not that it should be completely informal and Management will just say “we’ll take care of that.” If there are currently some cases where the Panel is allowing Management to work things out first, that’s very good.</p>
<p>6. <u>Panel Recommendation to Board</u></p>	<p><b>Bank management 58:</b> Some of the cases that they decide to pursue are not worth \$500,000 and at least 3 staff paralyzed and I don’t have other staff! If teams are larger, it’s easier to pull people off and make them focus exclusively on Panel cases. In current conditions, this Respondent has had a nominally flat budget for 3 years and will next year as well.</p> <p>The Respondent stressed the opportunity to be wise and take up these cases where we as an institution make the investment of time and money. And then the objective is to learn and not replicate that in the future. Not these cases where you make us work for months and it was a trivial thing, there are no lessons to be learned, it was marginal.</p>
<p>7. <u>Investigation Phase</u></p>	
<ul style="list-style-type: none"> <li>▪ 7.1 Shortening investigation phase</li> </ul>	<p><b>Bank management 36:</b> The respondent stated that the investigation process should be limited to a reasonable amount of time, such as one year. There’s always the chance of an exception, but there should be a performance standard, a benchmark.</p> <p><b>Bank management 38:</b> A clear time line for the investigation and the Investigation Report would be useful. Investigations that extend for more than one year since the Request for Inspection put all parties at a disadvantage, due to the wide variety of changes that occur with the passage of time. This includes the limited ability of Management to address Panel findings in projects that are either late in the implementation process or even closed. Moreover, an extended time span between Request and Investigation Report is likely to be a source of stress for the Requesters.</p> <p><b>Bank management 41:</b> There is often a delay in receiving the investigation report from the Panel. We’re anxious to see it. We hear that it’s coming, it’s coming and then it doesn’t come for some time. Regarding time limits for the investigation report, we are looking for quality, but if it’s going to take more time, just give a heads-up.</p>

	<p><b>Bank management 58:</b> Referring to the timeline of investigations, the Respondent said it's long and slow and that has nothing to do with us. Of course, the demand for a shorter time frame is there. But we don't want sloppy work. Our TTLs are very committed to this and that's a very reassuring part and they see the nuisance that comes with sloppy work.</p>
<ul style="list-style-type: none"> <li>▪ 7.2 Methods of investigation</li> </ul>	<p><b>Bank management 26:</b> The respondent stated, in addition to addressing the compliance issue/s raised in the Request, the Panel sometimes casts the net wider during an investigation, looking for more problems and raising questions about tangentially related issues. Is this practice permissible under the Panel's operating procedures?</p> <p><b>Bank management 30:</b> Panel interviews of staff are very difficult, particularly for younger staff, where the staff goes to the interview, the Panel put the microphone on and staff has no one there to help him or her. Staff is sitting before four people who are going to nail you to the wall. They felt they had walked into the Spanish Inquisition.</p> <p><b>Bank management 38:</b> A clear description of the harm found and its relation to the Bank-financed project should be provided in the Panel's Investigation Report.</p> <p><b>Bank management 41:</b> When Management responds to a case by saying, "The policy framework is this way on this project," this never works with the Panel. As a result, Management overreacts because they know the Panel will not accept the policy as applied practically and therefore they must create an Action Plan. The Panel seems to be testing not only whether we applied the policy, but whether the policy itself was sufficient. The respondent felt there is an attempt to rewrite the policies and to use the Panel and the Board to interpret the policies in a much wider basis. With one case, the Panel tries to force everyone to apply policies in a certain way.</p> <p>The respondent felt there has to be clarity in the investigation report as to how what the Bank did caused harm. The respondent has felt that the Panel is trying to get into policy-related issues and sector policy issues. A Requester might try to drag us into a conversation on the sectoral policy stance of the Bank. That's not what the Panel is supposed to do. When the respondent reads the report, s/he wanted to see the harm caused by the project, but didn't see it. Instead, it was about the Panel being persuaded by international NGOs that the Bank shouldn't be doing anything in a certain sector.</p> <p>The respondent said that the Panel can also investigate whether the Bank has caused "potential harm." You can drive a truck through that. That's why cases take so long. In one case report, you'll find a long description of many issues that no one disagrees with but they have very little to do with the Bank's project. The argument was that there was potential harm instead of actual harm and then the debate gets broader and broader.</p> <p><b>Bank management 58:</b> When asked about the investigation phase, the Respondent said, "This is the black-box phase."</p>



	<p>They start the process, they inform us of when they are going to visit the country. Sometimes they ask for help with the logistics so we know which sites they are going to see, they ask us to organize meetings with the authorities, the other meetings they organize themselves.</p> <p>And then they come back and they sit on their information until they are ready to issue their report. It's a long stretch of time. Sometimes they do interview some of us, task manager, sector manager. Through that, by the tone of the questions, we may have a sense of what kind of argument they are preparing. But they meet one to one.</p>
<ul style="list-style-type: none"> <li>▪ 7.3 Participation of Requester: Improving transparency, including access of requesters to panel investigation findings when action plans to address the findings are being developed.</li> </ul>	<p><b>Bank management 28:</b> The respondent felt that investigation findings should not be shared with Requesters before the report goes to the Board because they are part of a deliberative process. However, as a supporter of transparency, this respondent felt that as the Panel and Management go to the Board, the Requesters should be allowed to know the Panel's findings. The Board would likely say, "We don't want comments [from Requesters] until we've had a chance to talk to staff." Let the Requesters say what they want to say, the Board has to deal with it. The Board has to agree to allow that to happen.</p> <p><b>Bank management 38:</b> As per the Panel Resolution, Management has to consult with the Requesters on the Action Plan before they have had an opportunity to see the Investigation Report. However, disclosing the Report and the draft Action Plan to the Requesters prior to Board consideration would raise several governance issues:</p> <ul style="list-style-type: none"> <li>• Firstly, it would change the nature of the Action Plan as a tool to bring the project into compliance from one based on the Panel's findings to one based on the Requesters' opinions and demands. Moreover, it would transform this process into one which is based on negotiations and bargaining, which may be very distinct from a discussion of steps to overcome noncompliance.</li> <li>• Secondly, disclosing the Report prior to Board discussion would deprive the Board of its prerogative to consider the Report and Action Plan. The Management Action Plan involves commitments made by both the Bank and the client country and hence requires Board approval, as the basis of the authorization of use of funds to carry out the Action Plan.</li> <li>• Thirdly, the Panel's Report is discussed and disclosed only jointly with the Management Report to allow a balanced representation of facts and views. Disclosing the Panel Report at a stage when the Management Report is not yet available would not allow Management the time to review and respond to the Panel's findings.</li> </ul>
<ul style="list-style-type: none"> <li>▪ 7.4 Participation of Third Parties</li> </ul>	
<p><b>8. <u>Panel Report to the Board and President</u></b></p>	<p><b>Bank management 7:</b> Before a report is issued, have the Panel discuss it with Management in the shape of fact-checking, laying down markers, or areas to respond to and clarify.</p>

<p>9. <b><u>Management Response and Action Plan</u></b></p>	<p><b>Bank management 7:</b> Both the 21 days allowed to Management to respond to a Request and the 6 weeks allowed to the Management to respond to the Panel’s investigation report are too short. Both should be extended. More time is needed to lay out the story and also to obtain clearances on the submissions from VP’s.</p> <p>Regarding Requesters’ access to Action Plans before Action Plans are submitted to the Board, Management currently needs a VP to sign off on an Action Plan before the Requester can see it. If the Requester sees it before the Eligibility or Investigation phase is complete, it means they would be shown a version that a VP has not yet signed off on. The Board won’t have approved that Action Plan yet, but the Requesters would have seen it.</p> <p>The Board has to let go of control of the Action Plan in order for it to be useful as a tool for communicating with the Requesters. If there’s a change of Operating Procedures whereby the Board will approve the final report after the Action Plan has been negotiated with the Requesters, borrowing countries will have a hard time with this.</p> <p><b>Bank management 12:</b> The respondent explained that the initial Management response is a basis for the subsequent Management response to the investigation report, but that if the response includes an Action Plan, then you have to conduct consultations, which take time to do correctly. These deadlines are too short and there should be 8 weeks or a bit longer for preparation of the final Management response to the investigation report.</p> <p><b>Bank management 14:</b> It’s not a good idea to allow Requesters to have some idea of what Management has in mind for the Action Plan before it goes to the Board.</p> <p><b>Bank management 43:</b> The respondent stated that during consultation with the requesters concerning the proposed Management Action Plan, Management can’t talk about the findings of the Panel’s investigation report with the Requesters because the Board hadn’t discussed it yet. The respondent was concerned about the affected people, and equally worried about the Government. No Management Plan can be implemented without the full support of the Government. Staff are handicapped in discussing the Action Plan with the Requesters, but also with the Government! They can’t share the plan or the investigation report.</p> <p>The respondent felt it would be all right to give the Requesters access to the investigation report and the Plan as long as you give access to the Government as well. Share the report with both constituents with the caveat that this is the Panel’s report, which has not been approved by the Board.</p>
<p>10. <b><u>Board Decision and Public Release</u></b></p>	
<ul style="list-style-type: none"> <li>▪ 10.1 Requester’s participation in Board Meetings</li> </ul>	

<p><b>11. <u>Return Visits</u></b></p>	
<p><b>12. <u>Panel Follow-up</u></b></p>	
<ul style="list-style-type: none"> <li>▪ 12.1 Fact-finding follow-up investigations to check results on the ground, and invite inputs from all parties on the effectiveness and outcomes of the process.</li> </ul>	<p><b>Bank management 7:</b> The Panel monitoring and issuing reports on the implementation of Action Plans would lead to the Panel resolving conflicts and monitoring projects, which is getting involved in operations. Management has a feeling the Panel is telling them what to do and how to run their projects. The Panel is crossing a line between the accountability role and Management’s role in designing, implementing, and monitoring projects.</p> <p><b>Bank management 14:</b> The respondent answered the question whether, given that the Board occasionally asks the Panel to follow up or report on the results of the Management Action Plan or other aspects of a complaint, the Panel should define its methodology and process for such follow-up visits in the updated procedures as follows. The respondent suggested leaving the post-investigation phase as it is. If the Board approves the Action Plan, a regional VP will be put on it to monitor it, so the Panel will not be needed to monitor it. The Board is the Board. But if you don’t want to compromise the principles of independence, what do you do? If the Panel reports and finds something amiss, what will they do? Report to the Board.</p> <p><b>Bank management 26:</b> This respondent felt that the Panel should not monitor implementation of the Management Action Plan.</p> <p><b>Bank management 41:</b> The respondent felt that the most undesirable broadening of the Panel’s remit would be looking to monitor the Management Action Plan. You would have to create a bureaucracy to monitor the bureaucracy. The Action Plan is endorsed by the Board. The IP has already delivered on the job. The progress reports go to the Board. But to say, on behalf of the Board, now give us the assignment to monitor Management would not be a productive use of their time.</p> <p><b>Bank management 43:</b> The respondent felt that Management is supposed to be following up on the implementation of the Management Action Plan, and Panel involvement in following up would be mission creep. In one case, Management has been writing monitoring reports for years. Panel involvement in monitoring should be an exception because that’s not the Panel’s role. If the Panel is going to go back for monitoring they should define the methodology and process, and check with the Country Director. The concerns in a Request are frequently raised by the members of the political opposition and can be detrimental to country relations.</p>

**13. General Procedures**

**Bank management 14:** The respondent stated that the weaknesses of the Panel process include the process of engagement – that clients might want to resolve their grievances quickly, but get trapped in an inspection process that takes a long time to resolve.

**Bank management 28:** This respondent felt that the Panel has a heavy focus on micro-management of operational policies, which has become more pronounced over time. This detailed focus on the operational policies was not a problem in one controversial case. In that case, Management recognized that a safeguards policy had not been implemented. But this micromanagement seems to have happened in another case. In this second case, while the Panel found in its investigation report that the Bank could not have caused the harm claimed by the Requesters, thus throwing out the main complaint, the Panel investigation report went on for 80 pages saying that certain policies could have been implemented in a better way.

The respondent felt that outside constituencies are very quick to speak up and scrutinize the Panel. The respondent felt a lot of sympathy for the Panel and that the Panel walks a very thin line.

The Bank put the Panel in place. You can't take it off the table. The respondent has dealt with enough NGOs to know what the reaction would be. The challenge is to develop procedures that present intermediate steps. The Panel will certainly have to proceed to investigation at times. In the end, the region will feel strongly that it did the right thing and question whether the process was totally fair and objective. The region will survive. So will the Panel.

**Bank management 38:** Since the establishment of the Inspection Panel over 18 years ago, the Bank has benefitted from its work as an independent body and has received significant recognition by external parties for its willingness to have an effective independent body that supports our commitment to transparency and accountability.

**Bank management 41:** The respondent stated a real appreciation for one Panel investigation report. It was obvious we had some shoddy supervision. On that one I said look, when we slipped up, I'm taking responsibility on that. That Action Plan is still being monitored and it's going pretty well.

The respondent clarified that the average cost thus far of a straight-forward case is \$500,000 for the whole process. Anything that's complex could be \$1,000,000 to \$1.2 million.

The respondent hoped there would be interviews of the Panel staff and members about how they see their own role. S/he said that some Panel staff seemed to see their role as "protecting the poor against the Bank" and it comes across in a prosecutorial and adversarial approach that is often too legalistic. This approach creates a court-like atmosphere which could be changed in an intangible way. It would not change the vision of the Panel, but the engagement of the Panel with Management, where the goal is to rectify the harm that has been done. This is the ultimate objective. It doesn't matter which Operating Procedure/Operations Policy it was.

	<p><b>Bank management 43:</b> The respondent stressed that from the corporate perspective, the Panel is a very important part of the Bank, and is seen as open, transparent, and listening. It's important that there is an independent channel where people can complain. We work with clients and we hope we're able to respond to their issues, but still that channel is really important.</p> <p><b>Bank management 58:</b> The respondent explained that first we try to design the project so that there is an internal complaint system. And that the appropriate channel for the beneficiary would be for them to complain through that mechanism and only if they feel that they have not been heard would they go to the Panel. Let's put in place a system so that when people have a grievance, they can use this system and that could take care of the problem at the initial stage. The respondent stated that the initial port of entry should be through a grievance mechanism in the project.</p> <p>The Panel is a tool for us to capture things that we might not be able to capture through our own observations.</p>
<b>14. <u>Cross-cutting general categories and themes</u></b>	
<ul style="list-style-type: none"> <li>▪ <i>14.1 Improving public awareness of Inspection Panel</i></li> </ul>	<p><b>Bank management 26:</b> There's a perception within the Bank that the Panel is marketing for business when it is talking to a lot of people on the ground about the kinds of things the Panel does. There's a rumor that a number of Panel members are paid daily rates. The Secretariat and Chair are paid staff salaries. It may or may not be true. But if it's true, it gives Panel staff an incentive to continue to investigate and create more cases.</p>
<ul style="list-style-type: none"> <li>▪ <i>14.2 Transparency and Disclosure during Panel Process</i></li> </ul>	
<ul style="list-style-type: none"> <li>▪ <i>14.3 Early Problem Solving</i></li> </ul>	
<ul style="list-style-type: none"> <li>▪ <i>14.4 Affected People's Access to the Panel</i></li> </ul>	[See Pre-Request section 1]
<ul style="list-style-type: none"> <li>▪ <i>14.5 Promoting Effective Panel Interaction with Management, the WB Board, and Borrower Countries</i></li> </ul>	<p><b>Bank management 14:</b> We don't interact with the Panel much. We don't want to go there. It's very daunting. Things are wired. It's very intimidating. It's an inquisition! It's easier for someone to plead the Fifth Amendment. People come to the Panel very carefully. They're afraid that even a constructive comment could be used against them. When Management is honest about what happened with the Panel, it's used against them. If you say, "Let's Panel-proof the project" then everything changes.</p> <p><b>Bank management 21:</b> In the context of an Inspection, Management has to be careful. There has to be a formal process</p>

	<p>there where we can feel that while we can exchange views, the Panel can feel that their process is pure. It sets limits on their side and on our side. The respondent stated that the Panel knows us well and we know them. While frequent communication is possible, at the end of the day if you're one of the 5 I's, you have to have a certain ring-fencing or you won't be considered independent.</p> <p><b>Bank management 26:</b> In a majority of cases, the Panel says they'll get a report to Management in June and then it gets pushed back many times. The Panel has done a good job and has been very accommodating in terms of scheduling Management responses. But there's an imbalance to the structure that says that Management has to be accountable to the timeline and wait around for the Panel and then there's no accountability of the Panel's timeline.</p> <p><b>Bank management 28:</b> In one case, the request was submitted two years before the investigation report was completed. During the 18 months of the investigation, you annoy the government, which says, "You've been screwing around for all this time and now that you're ready to implement, why should we be helpful?"</p> <p><b>Bank management 36:</b> The respondent said that current interaction between Management and the Panel is not a part of the procedures. Often in these informal interactions the Panel is seeking facts on a case. The respondent recommended more formal interaction between Management and the Panel in the process of developing a draft of the Investigation report.</p> <p>The respondent described the beginning of interactions with the Panel during a case as very bureaucratic. When the Panel registers the Request, having all the operating procedures at arm's length and so antiseptic means there is no real substantive engagement. We spend time writing the response...is that the best way to resolve this? I don't know. For someone who has been harmed to wait two years to get a long report, is that what we want?</p> <p>The respondent said that there are two objectives: 1) un-doing harm or mitigating it, and 2) accountability. We should not allow #2 to get in the way of #1. Under current procedures, the accountability comes before the help. At the end of the line, when the investigation report is completed two years from now, there will be help, but the accountability comes first, because there's this very formalized way of interacting. I think we need to look at these procedures differently. It seems to the respondent that the Panel process optimizes the accountability.</p>
<ul style="list-style-type: none"> <li>▪ <i>14.6 Promoting Corporate Learning based on the experiences of Panel Investigations</i></li> </ul>	<p><b>Bank management 7:</b> The lessons learned from Panel cases are discussed all the time in the halls of the Bank. Board decisions on Panel cases have true gravitas. The recommendations in the reports are distilled into direct input to project planners and managers. Lessons learned from Panel recommendations include nuts and bolts issues such as, 'Count people properly. Do a social assessment. Reinsertion procedures.' When a project is being planned Regional management asks people: 'If the Panel were looking at this case, could you defend it?' Regional management designs projects with Panel compliance in mind.</p>

	<p><b>Bank management 12:</b> The respondent thought that a summary of cases would be helpful and that the Panel should take a few topics that could be knowledge products based on their experience on the body of cases they have already processed. Perhaps the Panel could create lessons the same way IEG (the Independent Evaluation Group) does. Better exchange between IEG and the Panel and between the Panel and OPCS (Operations Policy and Country Services) would be good. The Panel meets with OPCS regarding cases, but not on the lessons learned. There might be holes in the way guidelines are interpreted or the way that people understand them.</p> <p>People remember the punitive cases like Albania, but the richness of the learning doesn't come through as much as the fear. The respondent observed the horror of the way the institution dealt with that case and felt they took away the learning from the story and made it a completely punitive exercise.</p> <p><b>Bank management 28:</b> The dilemma is that while the Panel is about accountability, the trade-off between accountability and learning is very high. The farther you go down the accountability trail, the harder it is to obtain learning opportunities. Learning opportunities would be better if there were cases where the Panel was able to resolve issues at an earlier stage. In cases where there is a prolonged investigation, no staff member is going to read a long investigation report.</p> <p><b>Bank management 36:</b> Learning comes from interactions. But if the interaction becomes so defensive during the litigious process of the investigation, you don't create an environment that is conducive to learning.</p>
<ul style="list-style-type: none"> <li>▪ <i>14.7 Multi-donor Projects</i></li> </ul>	
<p><b>15. <u>Comments Outside The Scope of this Operating Procedure Update</u></b></p>	<p><b>Bank management 38:</b> The Panel drafted and published its own "Operating Procedures" in 1994. In Management's view, these were meant to serve as an operational manual for the Panel, although they appear to have been rarely referred to over the years. The formal status of these procedures is not entirely clear, as they were never vetted by the Board, and most staff members are not aware of their existence.</p> <p><b>Bank management 7:</b> The respondent observed that all WB lending or partial financing should be on the table because the Panel's mandate is to investigate everything but procurement and corruption.</p> <p>Most Requests concern project finance, but some are for Development Policy Loans (DPLs). Under a DPL, what is the role of a Panel investigation?</p> <p>Some Bank staff were very harshly treated in the aftermath of investigations. People mean well. Some TTL's are so driven by project objectives and accomplishing them that they forget what they're here for. But we can't forget humanity! People are now very defensive and very risk averse.</p> <p>The Panel wants to keep its distance and also feel accountable to Requesters. Some say, "No, the Panel is</p>

accountable to the Board.” Others say it’s accountable to the people [Requesters], but Requesters can be very hard to figure out.

**Bank management 21:** The respondent explained that as soon as the Panel receives a complaint, whether or not they register it, regional Management prepares an Action Plan. First and foremost, Management discusses this with the project implementing agencies (Government). Management is also building complaint mechanisms into all our projects. While the Panel is a good thing, they can only handle a couple cases a year. The region is a very contentious area. Many issues aren’t about Bank performance. So we’ve been building up grievance mechanisms so that complaints can go there before they go to the Panel. Our role is to build the capacity of government to handle these issues.

The respondent felt that particularly for A-rated projects Management would like to have grievance mechanisms institutionalized, appraised and vetted. Then if people have gone through a grievance process and felt that their issues have not been addressed, they can go to the Panel. The Bank is not meant to be the focal point. These are government projects and their people. So they should be the ones dealing with this.

The respondent stated that the approach is to start on the Action Plan before the Panel comes to the project area. We take this seriously. We don’t wait. We go immediately to the community and ask what’s wrong. This conversation should be the Government with the Requesters with us just facilitating because we can’t give the Requesters anything. The Panel comes and we’ve already got an Action Plan. So we can say we’ve already done this. The Action Plan is consulted with Government as well.

The respondent’s recommendation is that if there are unhappy people who have already filed a Request, go out and solve it. Always try to implement the Action Plan immediately. They may come and say, you need to do more. But they can’t tell us what precisely to do. Our experience nips these things in the bud. The Panel takes 2 years. So don’t make everyone wait.

It isn’t an adversarial relationship. It’s a check and balance.

**Bank management 26:** This respondent thought that more clarity is need on what the role of the Panel is. Is the Panel’s role one of looking at the facts on the ground and determining whether the Bank was in compliance with its procedures? OR is the Panel an advocate of the people who may have been harmed by the project? There’s a fine distinction there and depending on the Chair, some are more objective and others clearly see themselves as the advocate of the people. In many cases people have been harmed. It may or may not have been because of the project. But when you have the Panel going in to a project area and they are perceived to be on the side of the requesters when they arrive, that has all sorts of implications.

**Bank management 41:** The respondent felt that if there were a grievance or conflict management process, formalizing it could change a lot. Informally, there are ways people try to fix those problems through consultations with project-affected people. But if you establish a level of formality and guidance, it would reduce significantly the number of



	<p>petitions that would go to the Panel. It wouldn't solve everything. It wouldn't mean that no cases would go to the Panel. But it would be an additional tool in the hands of Management.</p>
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A second respondent in the meeting thought that it could be functional to have mediation Staff lodged with the Panel. Such staff could say they accept Management's willingness to create an Action Plan to resolve the issue and that will be enough, a full investigation will not be necessary. It goes back to the objective of why the Panel is there: to help those who might have been harmed by the project.