A Review of RSPO's Complaints System

RSPO

NATURAL JUSTICE

RT12 2014 | SUSTAINABILITY WHAT'S NEXT?

BC INITIATIVE

Main Changes to Date

Methodology of the Review

Organisation of Recommendations

Key Issues to Balance

Implementation of Recommendations

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RT12 2014 Kuala Lumpur MALAYSIA AN EVENT BY RSPO | SUSTAINABILITY **WHAT'S NEXT?**

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- Improved flow of information between Secretariat and Complaints Panel
- Efforts to provide summaries of complaints
- New format for Complaints Panel minutes

Resolution 6f

- *"Guaranteeing Fairness, Transparency and Impartiality in the RSPO Complaints System"*
- Strict **separation of executive powers** in handling complaints and grievances
- Align with **UN Guiding Principles**, particularly Principle 31 criteria

2007

2012-13

Late 2013

Nov 2013

2013-14

First Complaint

- Ad hoc grievance procedure
- No certified palm oil
- First Principles & Criteria adopted

External & Stakeholder Critiques

- Workshop in Puncak
- Grassroots et al: "Beyond Certification"
- PAN-AP: "The RSPO Roulette"
- Forest Peoples Programme et al: "Conflict or Consent"

Changes Introduced

- New compensation procedure
- Larger pool of Complaints Panel members
- Full-time Indonesian complaints coordinator
- More detailed Complaints Panel minutes
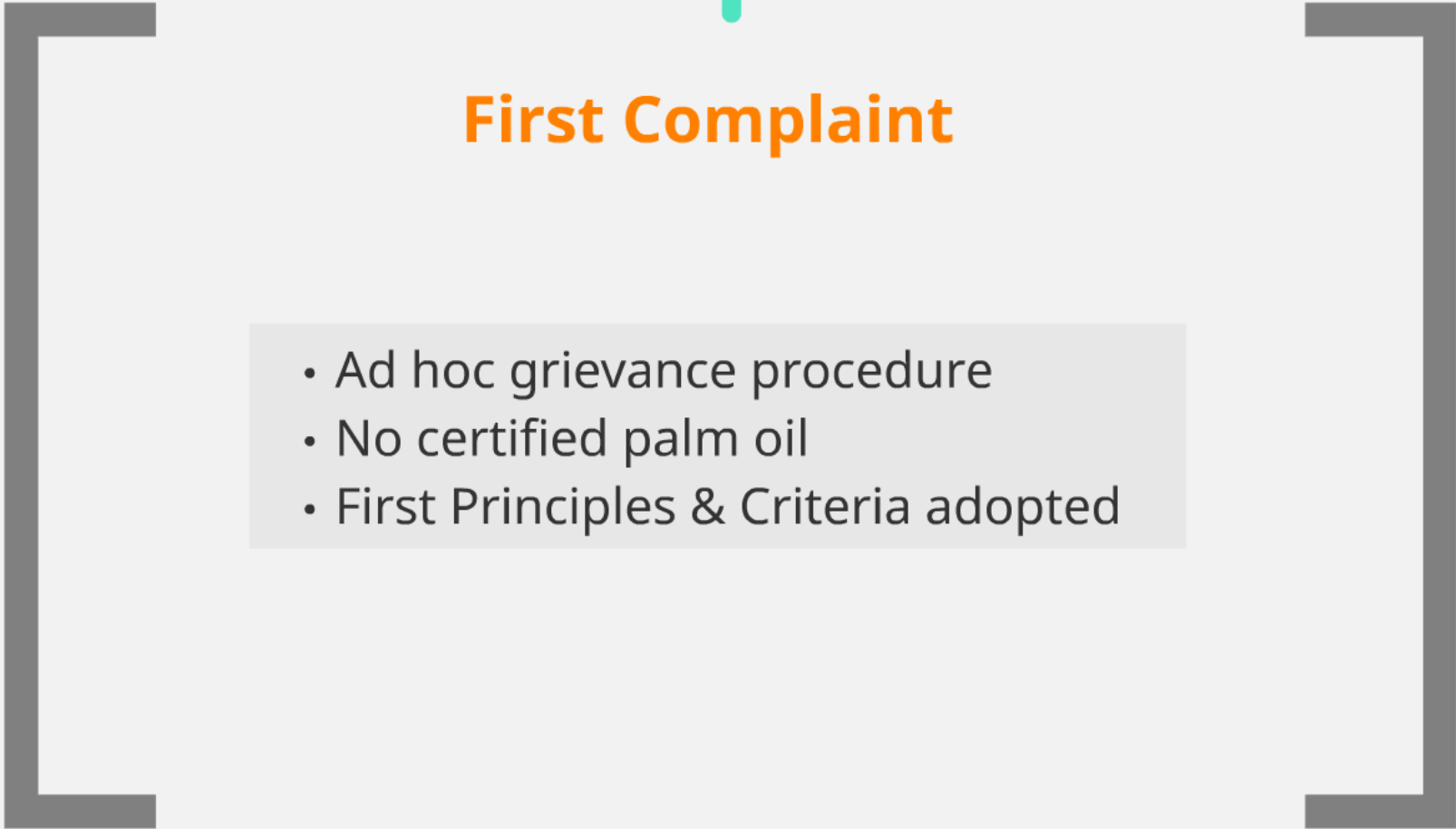- More regular updates to online Case Tracker
- Transition towards BoG-free Panel

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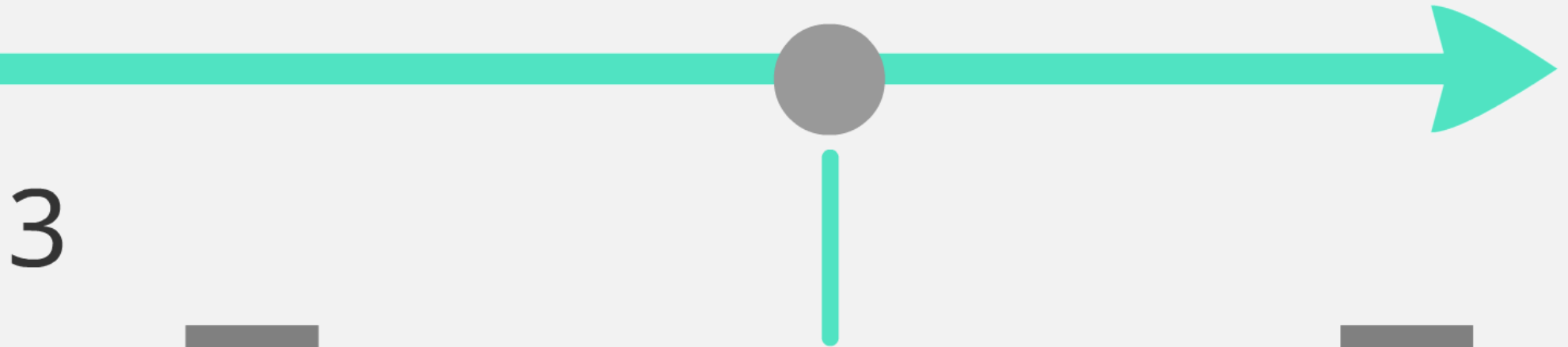
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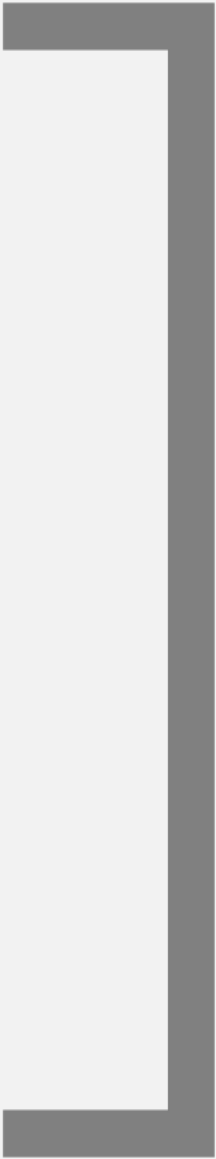- Forest Peoples Programme et al: "Conflict or Consent"
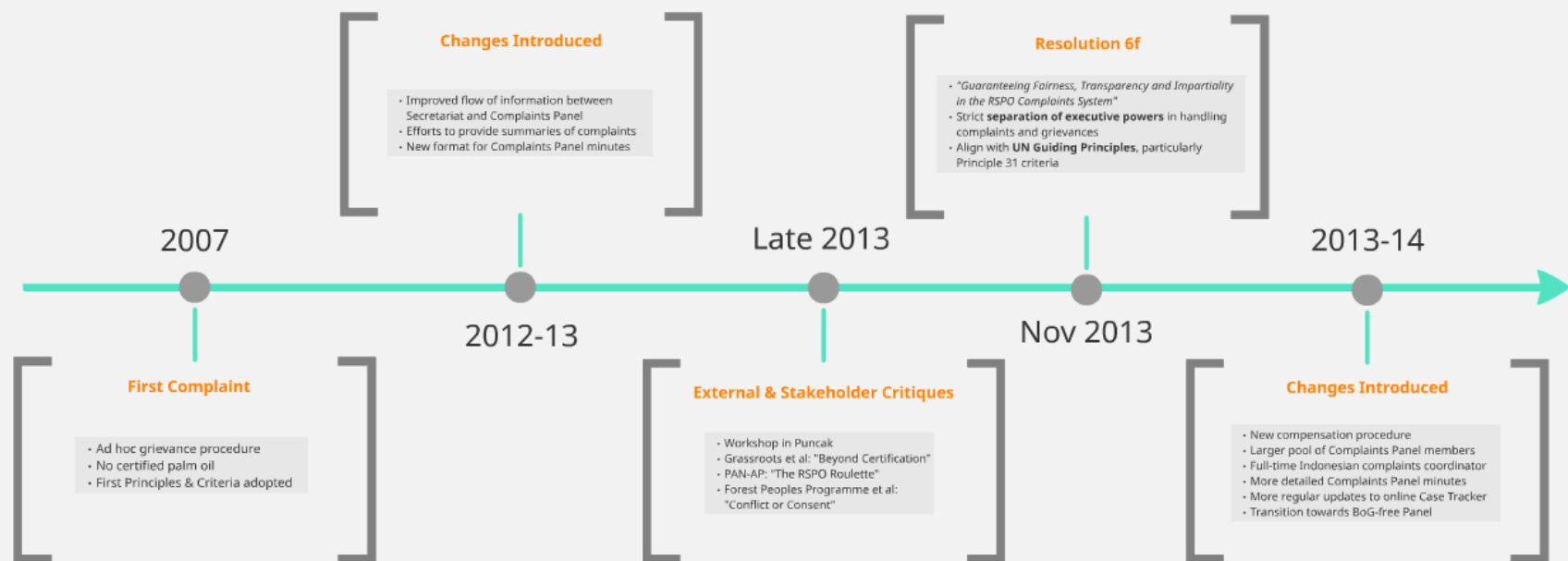
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Stakeholder Engagement
- **Workshop** in Bandung in August: 43 participants (companies, NGOs, communities, Secretariat)
- Detailed group discussions
- Very positive feedback
- Several **interviews** + **email exchanges**

Final Report
- End of November
- Final recommendations and action plan
- Consolidation of all background research and interviews

Complaints Site Visits
- **Two** complaints selected with parties' consent on basis of criteria agreed with the Secretariat (see *Interim Report 1*)
- **Aim:** focused on the process undertaken and perceptions; not an attempt to resolve
- **Interviews:** complainants and supporting NGOs, responding RSPO members, Complaints Panel members, and Secretariat

Desktop Research
- Baseline of current Complaints System
- International law and policy
- Other complaints mechanisms
- External critiques
- Gaps assessment
- Recommendations

Final Inputs at RT-12
- Board of Governors meeting
- Prep Cluster
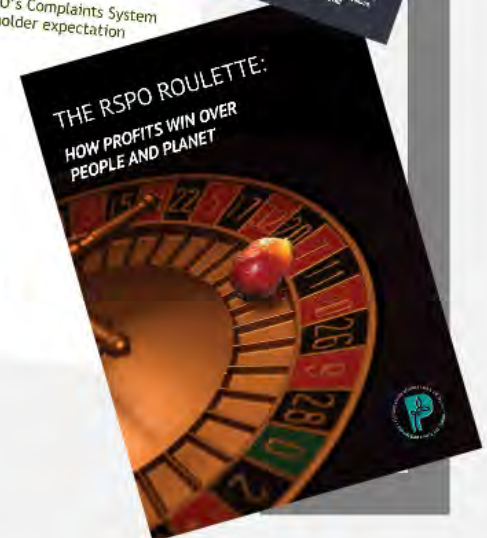- Informal discussions
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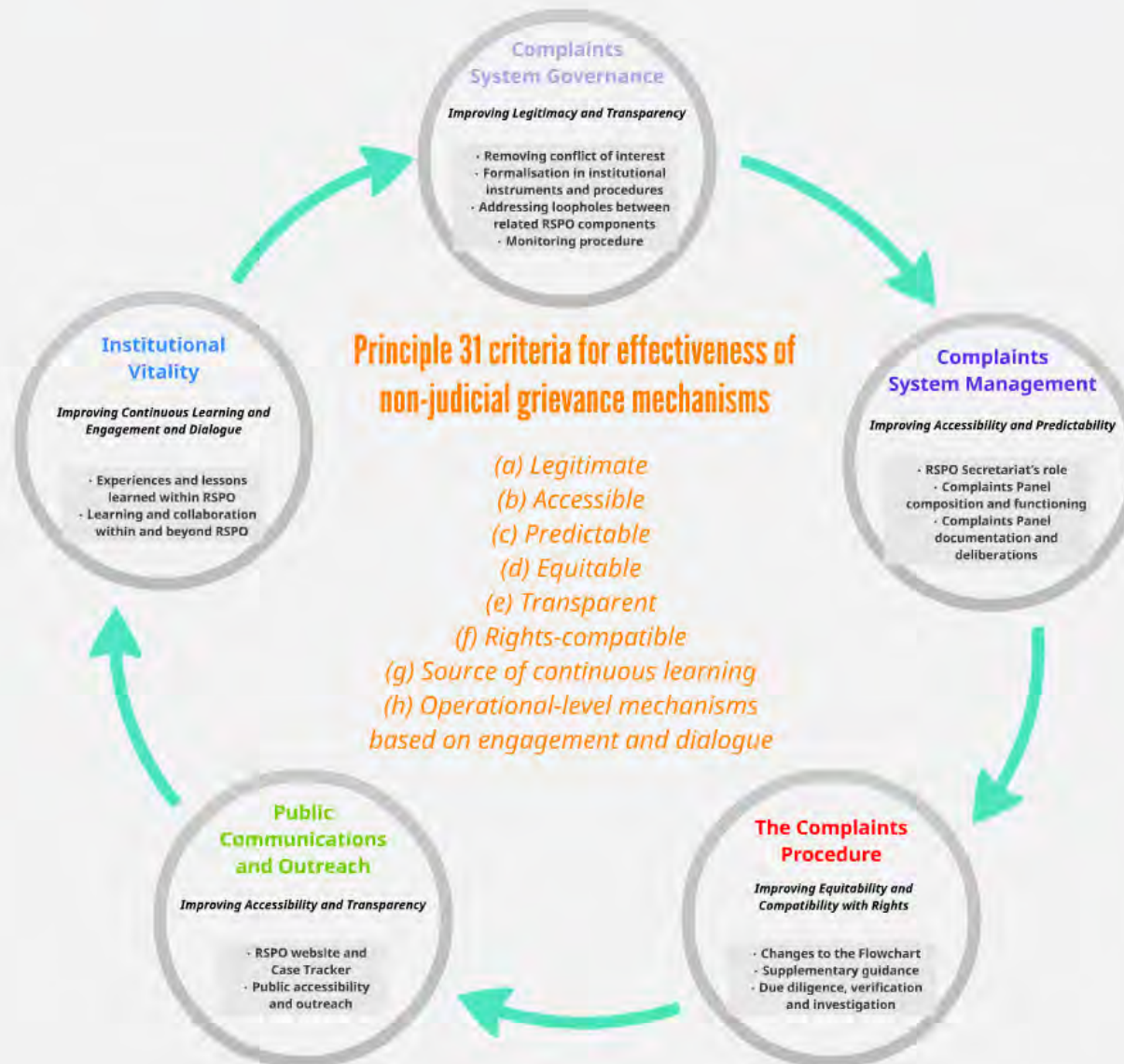- Informal discussions
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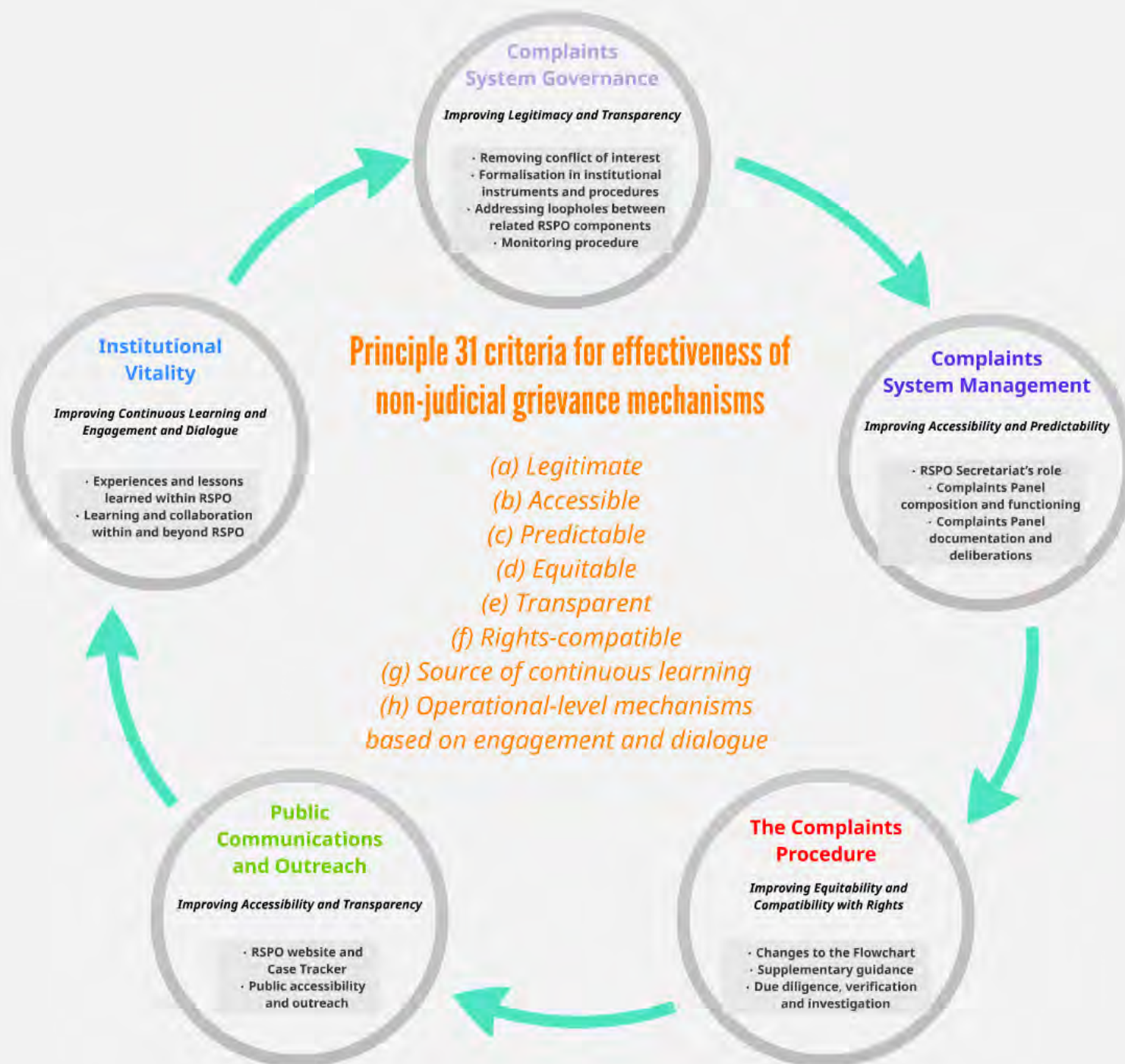
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Complaints System Governance

Improving Legitimacy and Transparency

· Removing conflict of interest
· Formalisation in institutional instruments and procedures
· Addressing loopholes between related RSPO components
· Monitoring procedure

Institutional Vitality

Improving Continuous Learning and Engagement and Dialogue

· Experiences and lessons learned within RSPO
· Learning and collaboration within and beyond RSPO

Principle 31 criteria for effectiveness of non-judicial grievance mechanisms

(a) Legitimate
(b) Accessible
(c) Predictable
(d) Equitable
(e) Transparent
(f) Rights-compatible
(g) Source of continuous learning
(h) Operational-level mechanisms based on engagement and dialogue

Complaints System Management

Improving Accessibility and Predictability

· RSPO Secretariat's role
· Complaints Panel composition and functioning
· Complaints Panel documentation and deliberations

The Complaints Procedure

Improving Equitability and Compatibility with Rights

· Changes to the Flowchart
· Supplementary guidance
· Due diligence, verification and investigation

Public Communications and Outreach

Improving Accessibility and Transparency

· RSPO website and Case Tracker
· Public accessibility and outreach

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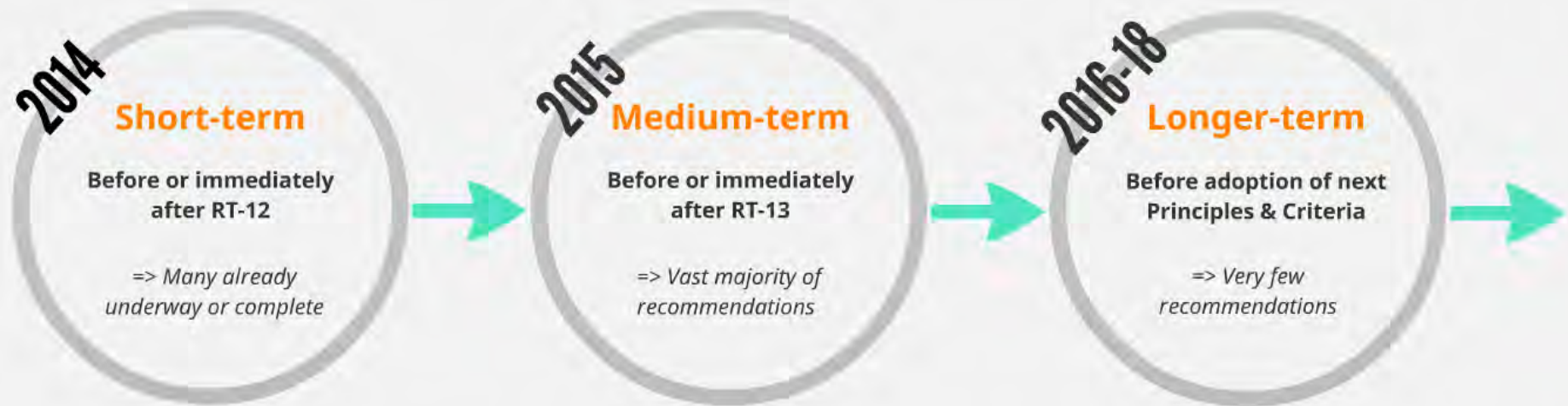· Public accessibility and outreach

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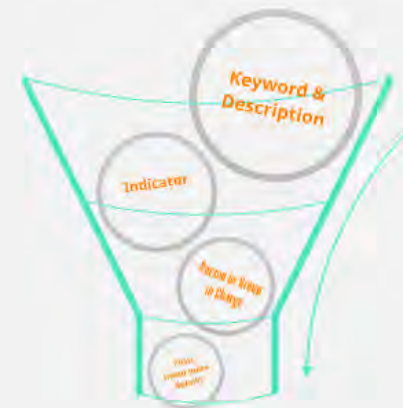· Learning and collaboration within and beyond RSPO

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2014

Short-term

Before or immediately after RT-12

=> *Many already underway or complete*

2015

Medium-term

Before or immediately after RT-13
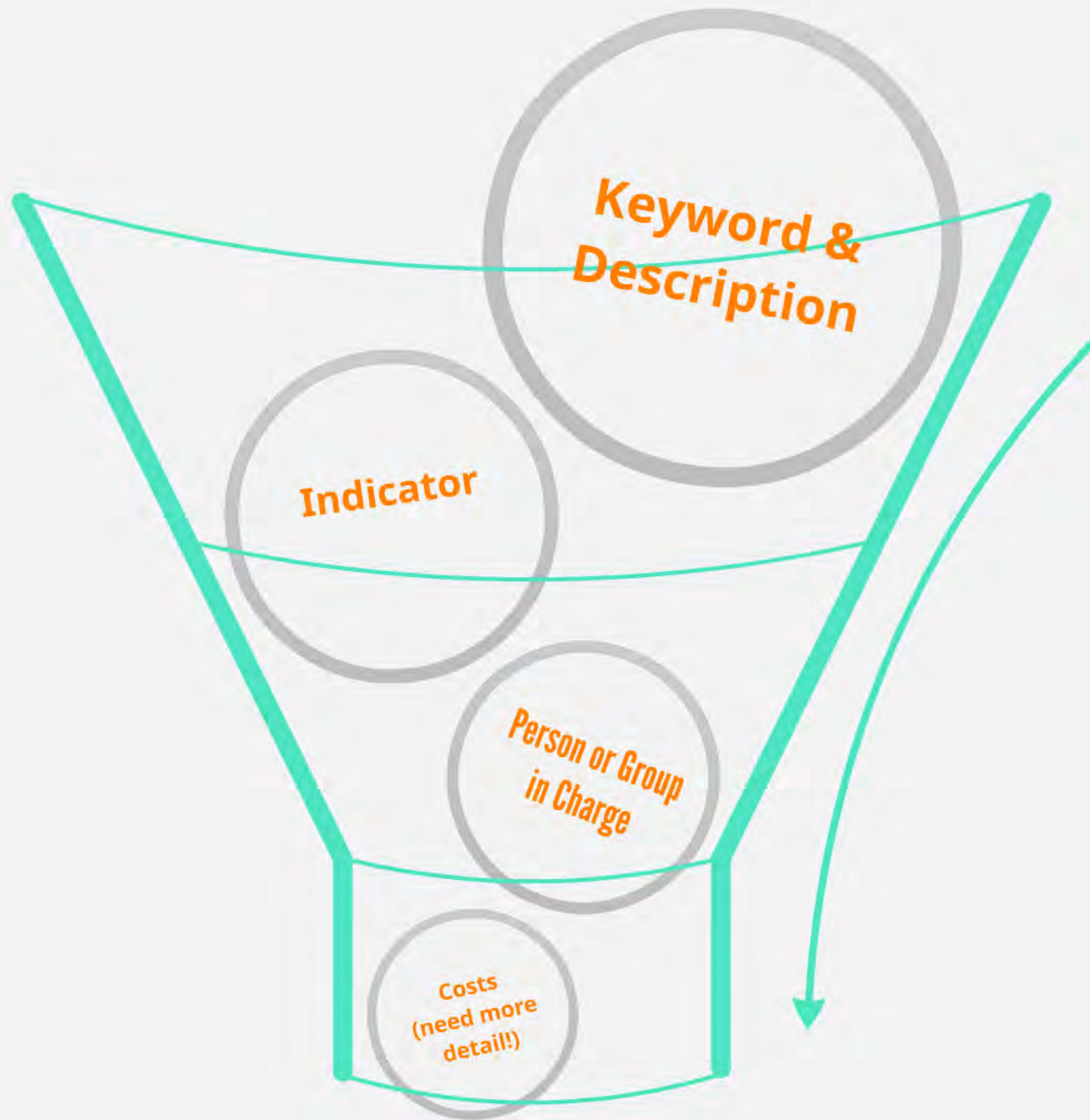
=> *Vast majority of recommendations*

2016-18

Longer-term

Before adoption of next Principles & Criteria

=> *Very few recommendations*

1. Advisory Group
2. Monitoring complaints
3. Monitoring adherence to complaints procedure
4. Annual reports and reviews

Monitoring and Review

Keyword & Description

Indicator

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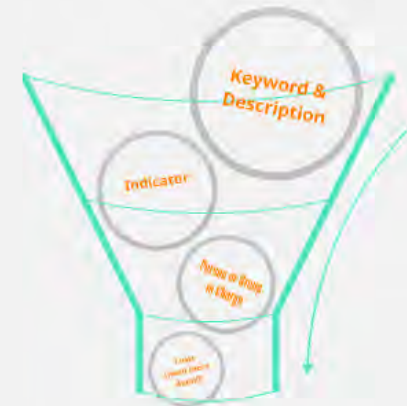**Before adoption of next Principles & Criteria**

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[funnel diagram labels]

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Transparency & Confidentiality

Wide spectrum of cultural perspectives and communication styles

Conflict of Interest

Removing BoG involvement in the Complaints Panel and procedure...

... declaring conflict of interest in Complaints Panel deliberations ...

... separating the Panel from RSPO??

Independent Appeal Mechanism

Systems Approach

Complaints are **dynamic**... system should be adaptive, responsive, and provide **diverse options**

... reconceptualise and rebuild as an **integrated system**

Cost Implications

- *Secretariat staff*
- *Roster of experts*
- *Consultations*
- *Consultants*
- *Independent Panel or appeal mechanism*

Innovative Procedures

Need clear procedures and detailed guidance

- *Interim measures*
- *Sanctions*
- *Investigations*
- *Roster of experts*
- *Authoritative guidance*

Transparency & Confidentiality

Wide spectrum of cultural perspectives and communication styles

Transparency

- The norm
- Central to building confidence
- Exceptions: *threats to complainants; eventual mediation; identity of Panel members*

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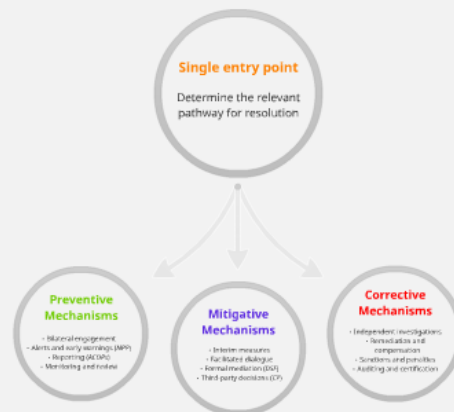
Single entry point

Determine the relevant pathway for resolution

Preventive Mechanisms

- Bilateral engagement
- Alerts and early warnings (*NPP*)
- Reporting (*ACOPs*)
- Monitoring and review

Mitigative Mechanisms

- Interim measures
- Facilitated dialogue
- Formal mediation (*DSF*)
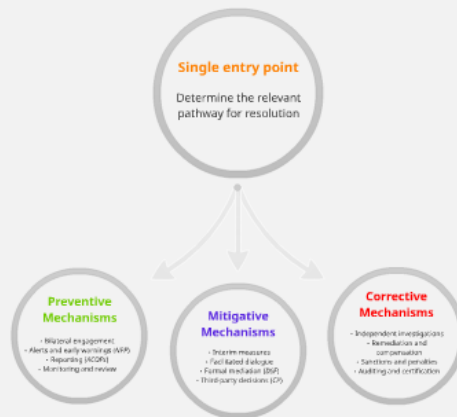- Third-party decisions (*CP*)

Corrective Mechanisms

- Independent investigations
- Remediation and compensation
- Sanctions and penalties
- Auditing and certification

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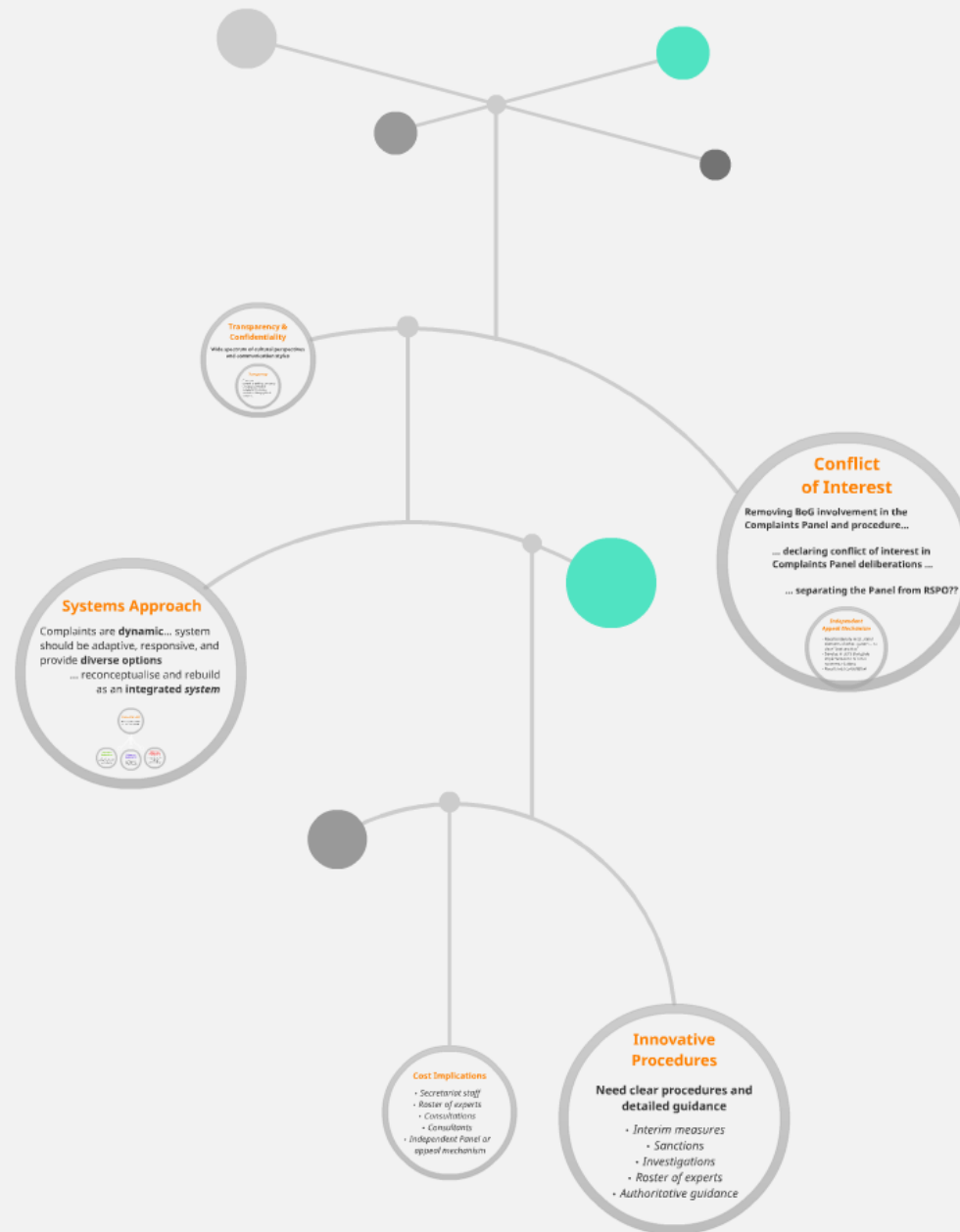
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