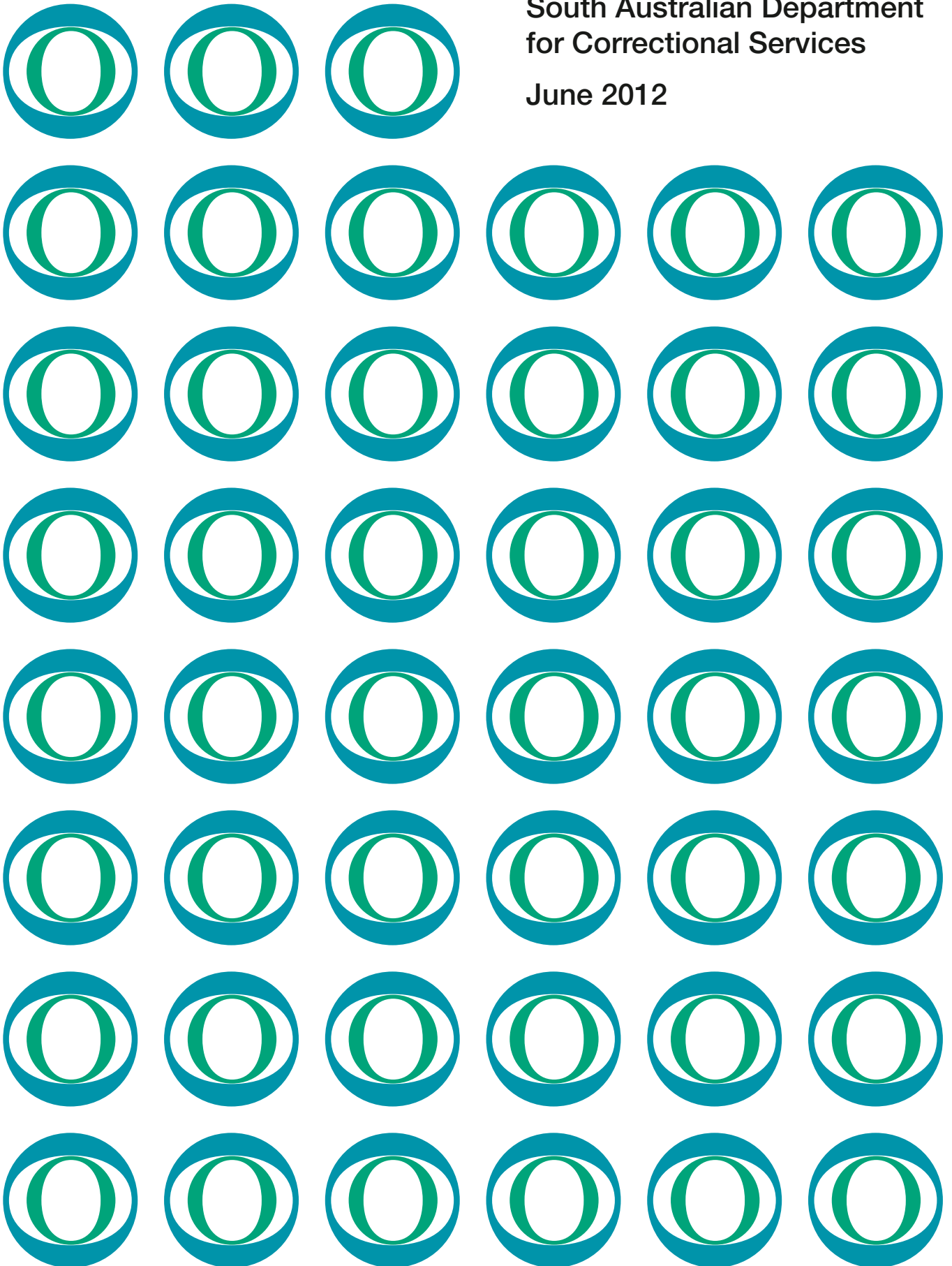


Ombudsman SA

An audit of prisoner
complaint handling in the
South Australian Department
for Correctional Services

June 2012



Ombudsman SA
PO Box 3651
Rundle Mall SA 5000

Telephone 08 8226 8699
Toll free 1800 182 150 (outside metro SA only)
Facsimile 08 8226 8602
Email ombudsman@ombudsman.sa.gov.au

CONTENTS

FOREWORD	1
PUBLICATION OF THIS REPORT	2
KEY FINDINGS AND RECOMMENDATIONS	3
Audit opinion	3
Audit recommendations	3
Response from the department	5
1. THE AUDIT PROCESS	7
1.1 Ombudsman jurisdiction	8
1.2 Background	8
1.3 What did we do?	9
1.4 Who did we talk to?	10
2. CORRECTIONS IN SOUTH AUSTRALIA	11
2.1 A profile of prisons in South Australia	12
2.2 National and local issues in corrections	14
2.3 Aboriginal prisoner issues - a special case	15
3. THE PRISONER COMPLAINTS PROCESS	19
3.1 Legislation and policy frameworks	20
3.2 Standards relating to the complaint management system	21
3.3 How the prisoner complaints system currently works	23
3.4 The Prisoner Complaint Line	28
3.5 When a concern becomes a complaint	31
4. ASSESSMENT OF THE PRISONER COMPLAINTS PROCESS	33
4.1 Whether the department's complaint handling policies and procedures are accessible	34
4.2 Whether the department's complaint handling procedures are efficient	35
4.3 Whether the department's complaint handling policies and procedures are fair	39
4.4 Whether the department's complaint handling procedures are accountable	41

5. INTEGRITY AND GOVERNANCE ISSUES	43
5.1 The Intelligence and Investigations Unit	44
5.2 Oversight of prisoner complaints at the department senior management level	45
5.3 National and international jurisdictions - some models for consideration	47
5.4 Assurance and inspection standards in SA correctional services	49
6. SYSTEMS IMPROVEMENTS RELEVANT TO COMPLAINT HANDLING	51
6.1 Correctional officer training and induction	52
6.2 Education, training and work in prisons	53
6.3 Monitoring progress	54
APPENDIX 1 - Interstate perspectives on corrections complaint handling	55
APPENDIX 2 - Mount Gambier Prison - Prisoner's requests, complaints and grievances	60
ABBREVIATIONS	68

FOREWORD

As Ombudsman for South Australia, my principal function is to investigate and resolve complaints about public administration within state and local government under the *Ombudsman Act 1972*. I also have an important role to play in improving public administration and promoting open government.

My annual report for the year 2010-2011 records 573 complaints made by prisoners and their families against the Department for Correctional Services. This is the largest number of complaints recorded by any department of state government. It accounts for almost one-third of the total complaints received by my office.

Some believe that once convicted and sentenced, prisoners should have little entitlement to complain about their treatment. That is not the view taken by the department, the courts or by my office. One of the purposes of a custodial sentence is protection for the community. The punishment is a term of confinement, the deprivation of liberty. Beyond that, the regime of prison must respect inherent human dignity, including the right to speak out and be protected from mistreatment, and the right to complain about conditions while incarcerated.

Prisoners in South Australia complain to my office about many issues, from cell conditions, loss of their property, drug testing, their daily regimen and transfers in the system to allegations of mistreatment or abuse. In many instances, my office is not able to substantiate the complaints. In others, they are followed up by my office with the department and result, mostly, in a satisfactory resolution for the parties. A minority of complaints require more complex investigation.

On some occasions, my office has a different view from the department about administrative decisions which have a direct impact on prisoner welfare. In recent times, for example, I have had cause to investigate matters relating to the administration of a levy on prisoner amenities; claims for compensation following destruction of prisoner property; an anomaly with the *Victims of Crime Act 2001*; and the shackling of prisoners. Complaints about serious mistreatment or assault to my office are relatively rare, and are referred to the appropriate authorities for investigation.

Management of prisoners in a resource constrained environment is a tough job. I acknowledge the work that correctional officers and the department's management team do to maintain safety, order and decency in our prisons. However, much more needs to be done to develop and consolidate efficient, fair and accountable complaint handling processes within the prison system.

My audit assesses prisoner complaint handling practices against recognised national and international standards. It reviews strengths and weaknesses with an eye to the realities of managing almost 2000 prisoners across South Australia's nine prisons. Whilst necessarily assessing performance, my audit includes perspectives and proposals designed to improve complaint handling practices in the department. It also makes a number of recommendations for administrative reform.

I take this opportunity to thank the department's officers and those prisoners who cooperated with my office in the conduct of my audit, as well as other parties with a knowledge of corrections in South Australia.

Richard Bingham
SA OMBUDSMAN

PUBLICATION OF THIS REPORT

Under section 26 of the *Ombudsman Act 1972*, I consider it appropriate and in the public interest to release my report to the Parliament of South Australia and to members of the public. Accordingly I will forward my report to the President of the Legislative Council and to the Speaker of the House of Assembly, in addition to a general release on the Ombudsman SA website.

I am releasing my report for the following reasons:

- members of the community have a reasonable expectation that government agencies will act fairly and reasonably in making decisions that affect them; and where this has not occurred, they expect that their government will have in place a fair and effective process for reviewing decisions, including in the prison environment.
- to provide a resource for the Department for Correctional Services¹ to use in further developing and refining complaint handling systems consistent with Australian standards best practice.

I encourage the department to consider and act on the contents and recommendations of my report. I also encourage the department to continue to follow standards improvement initiatives, and to use all available complaints management resources and relevant regulatory and industry standards available to it.

¹ I have referred to the Department for Correctional Services as 'the department' or 'DCS' in my report.

KEY FINDINGS AND RECOMMENDATIONS

Audit opinion

The evidence gathered in my audit indicates that the Department for Correctional Services complaint handling system is deficient in the key areas of accessibility, efficiency, fairness and accountability.

The most positive aspects of the department's current approach to complaints management is the work done in recent years to improve the circumstances of Aboriginal people in custody. This work provides a foundation upon which to build a stronger and more productive complaint handling system for all prisoners.

Although custodial staff and managers may have the authority to deal with and resolve prisoner complaints in the first instance, I have formed the impression that in general terms, prisoners are not confident that custodial staff and managers are able to deal with and resolve many of their complaints at the local prison level. The findings of my audit support the view that the department's complaint handling system is inefficient, and there is a distinct lack of consistency in the way in which complaints are dealt with at the local prison level and by the department.

I make the following recommendations under section 25(2)(b) of the Ombudsman Act to rectify or mitigate the effect of the deficiencies in the department's complaints handling system.

Audit recommendations

To improve accessibility

1. That the department ensure that on admission to prison, all prisoners be provided with clear, simple information about how to make a complaint and where to take different types of complaints.
2. That the department ensure that information about making a complaint is prepared in formats which enable all prisoners to understand the complaints system, and that this information be provided freely and proactively to enable prisoner access at all times.
3. That the department investigate the potential for trialling Prison Service Kiosks to improve information, support and advice to prisoners, including email communication with Sentence Management.

To improve efficiency

4. That the department review the operational focus, resourcing and training available for the Prisoner Complaint Line, including seeking prisoner input to build a more proactive and consistent service.
5. That the department accelerate development and implementation of a Standard Operating Procedure (SOP) for prisoner complaint management to be used across the system. Further, that the new SOP underpin a comprehensive review of all Local Operating Procedures (LOPs) to establish consistency and minimum standards whilst recognising different security classifications and local conditions.

To improve fairness

6. That the department ensure that the proposed SOP and all revised LOPs contain relevant impartiality, confidentiality and transparency clauses; and that appropriate complaint progress information and outcomes are fully communicated to prisoners.
7. That the department reiterate and strengthen measures to ensure that retribution against prisoners who have made a complaint is not tolerated at any level in the system. As necessary, the department's employee codes of conduct should be amended to ensure sanctions for any such infringement.

To improve accountability

8. That the department immediately implement a system of prisoner complaints data collection, analysis and reports for review at monthly General Manager meetings and at quarterly Executive meetings. This should include all complaints data from prisons and appropriate input and feedback from the Intelligence and Investigations Unit. Further, that a detailed report of prisoner complaints be prepared for the department's Annual Report each year.
9. That the department's Executive establish a system of outcome reporting back to Ombudsman SA on matters referred. Further, that the department consider the benefits of a bilateral protocol with Ombudsman SA to ensure follow-up and trend monitoring of prisoner complaints.

To improve management oversight and governance standards

10. That the department immediately prioritise oversight of complaint handling as a Business Plan objective for 2012-2013 and beyond.
11. That the department establish a new procedure for handling complaints against officers, by requiring a report via the Prisoner Complaint Line to go directly to the prison General Manager for attention, resolution and reporting to the department's Executive. Further, that all investigations involving an allegation of assault against a prisoner by a departmental officer be referred to the Intelligence and Investigation Unit for action.
12. That the Correctional Services Advisory Council identify prisoner complaints management as a systems issue warranting standing agenda item status. To facilitate this, the department should provide the council with regular reports prepared for the Executive on prisoner complaints management and related intelligence issues.

To improve systems relevant to prisoner complaint handling

13. That the department prioritise expansion of the prisoner complaints training module for trainee correctional officers and include additional input to the module from Ombudsman SA.

RESPONSE FROM THE DEPARTMENT

I provided a draft of this final report of my audit (my 'revised provisional report') to the Chief Executive of the department in January 2012, to enable the department to advise me whether I had correctly understood the facts and to give the department the opportunity to provide further information and submissions in response.

I received a detailed response with submissions from the Chief Executive on 2 May 2012. On the basis of those submissions, I have made certain amendments to finalise my report. These include providing further information on the audit methodology; footnoting evidence supporting my particular findings; and explaining the term 'failure' in relation to my findings on the accessibility, efficiency, fairness and accountability of the department's complaint handling system. All of my substantive findings and recommendations made in my revised provisional report remain in my final report.

The Chief Executive's 2 May 2012 response to my revised provisional report submitted:

It is the Department's view that the Revised Provisional Report into complaint handling processes offers appropriate recommendations in relation to the improvement of processes and systems for managing complaints.

Recommendations 1, 2, 5, 6, 9, 10 and 13 are accepted as outlined in the Revised Provisional Report and the Department will develop action plans to implement those recommendations.

Recommendations 3, 7, 8 and 11 are accepted with some qualifications either relating to best utilisation of resources and/or a different interpretation of relevant issues.

Recommendation 12 will be referred to the Minister for Correctional Services for consideration.

Whilst the Department accepts the majority of the recommendations and has slightly differing but constructive views regarding the remaining recommendations it is of significant concern to read some of the rationale and background that resulted in the recommendations being made. It is respectfully suggested that the Revised Provisional Report contains a large number of very general views in relation to Corrections which have very little or no relevance to the Department's complaint handling mechanisms and processes. It is not considered that reference to such information is constructive as it is in parts emotive in nature, not backed by tangible evidence and as such potentially more subject to public focus than the actual complaints handling processes when the reports are tabled in both houses of Parliament.

I would also respectfully question the need to consistently refer to 'the Department's failure' in relation to every aspect of the complaints handling processes resulting in relevant recommendations being made. The use of the term 'failure' implies intent on behalf of persons responsible to manage an established process, i.e. intentionally failing to provide prisoners with information, intentionally failing to ensure efficiencies, intentionally failing to ensure fairness and intentionally failing to ensure accountability. I do not accept such supposition whilst clearly acknowledging the opportunity to improve existing mechanisms, systems and processes.

It is suggested that the number and level of formal complaints made by prisoners in South Australia is no different to any other Australian jurisdiction. There is no evidence whatsoever that South Australian prisoners complain less or more than prisoners in other jurisdictions including those jurisdictions cited in the Revised Provisional Report who are considered to have better complaint handling mechanisms in place than South Australia. South Australia, as identified in the report, has a range of established and robust complaint handling arrangements and whilst these at this point in time remain to be captured in one Standing Operating Procedure, they nevertheless exist and are being utilised on a daily basis.

In addition to the arrangements in many other jurisdictions, South Australia has a telephone complaints system managed by the Department. It further has Visiting Inspectors constituted under the Correctional Services Act 1982 and provides for unrestricted access to external complaints mechanisms including the Ombudsman SA.

Importantly on a daily basis, a myriad of concerns, grievances and complaints are resolved at the appropriate level by Correctional Officers, Case Management Co-ordinators and Managers.

A further issue which is not consistently clear in the Revised Provisional Report is the reference to complaints involving prisoners allegedly being mistreated or assaulted by Correctional staff. It is important to acknowledge that **every** case of a prisoner complaining about being assaulted is immediately referred to both the Department's Intelligence and Investigations Unit (IIU) and SAPOL. Even in cases where prisoners do not wish to make a formal complaint this is the standard practice and there is no evidence to confirm that this practice is not being adhered to.

It is also important to understand in this context that the vast majority of complaints do not relate to alleged ill treatment by staff. Complaints against staff mainly relate to decisions made by Officers rather than alleged misconduct or criminal conduct. The Revised Provisional Report does not seem to acknowledge the very different arrangements for a prisoner complaining about being assaulted and in that context the role of the IIU is not correctly referenced.

As a general observation, in relation to the way the findings and recommendations are arrived at, it appears that in every section it is endeavoured to justify perceived departmental shortcomings, rather than to constructively assess the current situation with a view to identify improvements.

It is suggested that the very nature of a prison system will result in prisoners not always being confident that their matters of concern are at all times adequately dealt with at the local level. That is the very reason for external complaint mechanisms as well as broader departmental arrangements to deal with complaints.

The report asserts that *"South Australia has fallen behind other jurisdictions in relation to the complaints management system"*. Whilst it is acknowledged that the South Australian complaints management system in prisons, as most other systems, can continuously be improved and the Department is committed to do so, it is not evident how this assertion is being measured and against which standard. Other jurisdictions do not offer vastly superior processes, albeit in some instances they have better documented ones. Relevant indicators which could be cited to confirm tensions or problems in the prison system, such as rates of incidents, participation rates in education and vocational training and most importantly the return to prison rate of repeat offenders, also do not in any way confirm that South Australia has particular problems resulting from not appropriately managing prisoners, which includes dealing with their grievances and complaints.

I refer to the Productivity Commission Report on Government Services of 2012 which confirms that the South Australian prisoner participation rate in education and vocational training remains high, despite the recent change to the educational focus on literacy and numeracy, which evidently targets a less motivated group of prisoners than general education. Further the rate of prisoners involved in work has steadily increased and the Department will maintain its strong focus on a meaningful structured day for prisoners.

The appropriate management of complaints is essential for a well operating prison system, which includes both internal complaint and grievance mechanisms, as well as external avenues of redress. The Department is committed to improve current arrangements, in particular the implementation of a Standard Operating Procedure for consistent application across the prison system. Further the Department acknowledges that there is an opportunity to improve staff training in complaint handling and it is welcome that the Ombudsman has indicated willingness to participate in such training where appropriate. I express my hope that these comments are considered and where found to be reasonable, given due regard in formulating the final report.

PART 1

THE AUDIT PROCESS

1.1 Ombudsman jurisdiction

1. Under the Ombudsman Act, the Ombudsman has authority to investigate the administrative actions of government agencies, including the department, on receipt of a complaint or on his own initiative. Generally, my office operates as an office of 'last resort'; and where appropriate, there is an expectation that prisoners make an effort to resolve complaints directly with the department before contacting my office.² If my office undertakes an investigation of a complaint, I may make recommendations to correct identified errors and to recommend improvements to the department's administrative practices and procedures.
2. In certain circumstances, my office may refer prisoners back to the prison or the department for resolution of their complaint. For that reason, it is essential that my office be confident that the department has a commitment to a complaints management system that it is accessible and fair for both prisoners and staff, and that staff are adequately trained to deal effectively with complaints from prisoners.
3. I conducted my audit pursuant to section 14A of the Ombudsman Act, which provides that I may conduct a review of the administrative practices and procedures of an agency if I consider it to be in the public interest:

14A—Administrative audits

- (1) If the Ombudsman considers it to be in the public interest to do so, the Ombudsman may conduct a review of the administrative practices and procedures of an agency to which this Act applies.
- (2) The provisions of this Act apply in relation to a review under subsection (1) as if it were an investigation of an administrative act under this Act, subject to such modifications as may be necessary, or as may be prescribed.

1.2 Background

4. The department acknowledged during my audit that an effective and transparent internal complaints management system should be in place to enable the efficient internal review and resolution of complaints from prisoners and others. If complaints are not resolved internally, complainants should be informed that they also have the right to access the Ombudsman in accordance with the provisions of the Ombudsman Act, the *Correctional Services Act 1982* and the department's policies and procedures.
5. The aim of my audit was to assess the department's existing complaint handling policies and procedures against best practice complaint handling practices ie. Australian Standard AS ISO 10002-2006 'Customer Satisfaction-Guidelines for complaints handling in organisations' (**Australian Complaint Handling Standard**) and the Standard Guidelines for Corrections in Australia; and to assist the department to make the necessary improvements to its complaints management system in accordance with recognised national standards.
6. I wrote to the Chief Executive of the department on 29 October 2010 to advise of my intention to conduct an audit of the department's policies, practices and procedures

² Section 13(3) of the Ombudsman Act provides:

The Ombudsman must not investigate any administrative act where—

- (a) the complainant is provided in relation to that administrative act with a right of appeal, reference or review to a court, tribunal, person or body under any enactment or by virtue of Her Majesty's prerogative; or
- (b) the complainant had a remedy by way of legal proceedings, unless the Ombudsman is of the opinion that it is not reasonable, in the circumstances of the case, to expect that the complainant should resort or should have resorted to that appeal, reference, review or remedy.

which relate to the way in which complaints from prisoners and the general community are dealt with by the department, prisons and my office.

7. I advised the Chief Executive that the principal objective of my audit was to determine the adequacy of the department's existing complaint handling policies and procedures; to determine the extent to which departmental staff complied with the policies and procedures; and to identify and recommend appropriate improvements to complaint handling policies and procedures and the complaint management system.
8. I proposed to conduct my audit in three stages:

Stage 1 Assess the department's policies and local operating procedures of each prison and any other relevant information that the department may have in relation to complaint handling practices.

Research and identify best practice principles for the handling of complaints about the department's actions and decisions which affect prisoners and others.

Stage 2 Meet with department staff and others to provide an overview of my proposed audit process.

Undertake visits to prisons and interview department and prison staff and others to obtain information as to the way in which the department puts its complaint handling policies and procedures into practice. Review and assess the information.

Analyse complaints received by Ombudsman SA and the department as part of the department's existing complaint handling system.

Stage 3 Provide the department with a written report on my provisional findings, on which the department would be invited to comment.

Consider any comments or suggested amendments made by the department.

Provide the department with a final report detailing my findings; highlighting existing good practice and any areas that can be improved; and making the necessary recommendations for implementation by the department.

1.3 What did we do?

9. To evaluate the department's handling of prisoner complaints, my office:
 - reviewed the caseload of prisoner complaints presenting to Ombudsman SA in the annual reporting period 2010-2011
 - researched the origins of the existing prisoner complaints process and the operations of the department's complaints management service
 - identified and researched best practice principles for the handling of complaints with specific reference to prisoner grievances
 - liaised and collaborated on data collection sampling with the department's Prisoner Complaint Line personnel to inform understanding of use of internal and external complaint line systems
 - reviewed information from prison inspections by Ombudsman SA officers in the period 2009-2011, which included speaking to prisoners and prison officers and gaining a first hand insight into prison conditions and complaint handling practices

- reviewed a sample group of complaint files from the Yatala Labour Prison (YLP)
- reviewed information from departmental officials, including the Executive management team, senior prison management and correctional officers
- reviewed correspondence and reports from the department and related written information from corrections authorities and Ombudsman offices around Australia.

1.4 Who did we talk to?

10. To establish and corroborate evidence and to analyse information reviewed as part of my audit, my office interviewed or corresponded with a range of departmental officers, and also with stakeholders outside of corrections with direct knowledge of prisoner complaint handling issues, including:
- Mr Peter Severin, Chief Executive
 - Mr Greg Weir, Executive Director Strategic Services
 - Mr David Brown, Executive Director Custodial Services
 - Mr Andrew Ford, Director Policy and Stakeholder Services
 - Mr Richard King, Director Aboriginal Services
 - Ms Louise Jenkins, Acting Director Custodial Services
 - Mr Mark Mackie, Director Business and Performance Services
 - Mr William Kelsey, Manager Intelligence and Investigations Unit
 - Ms Lauren Roe, A/Policy Officer Victim Services and Client Advocacy
 - Ms Ksharmra Brandon, Senior Advisor Offender Services
 - Mr Paul Robinson, Acting General Manager YLP
 - Ms Hayley Millhouse, Manager Assessment and Sentence Planning YLP
 - Ms Sandra Russell, General Manager Pre-release Centre and Adelaide Women's Prison
 - Mr Stephen Raggatt, General Manager Adelaide Remand Centre
 - Ms Jacqueline Casey, Manager Executive Services
 - Ms Debbie Winterfield, Unit Manager Mount Gambier Prison
 - Mr James Hugo JP, Visiting Inspector Coordinator
 - Mr Ian Shephard, Presiding Member Correctional Services Advisory Council.

In addition to ad hoc interviews with departmental executives and correspondence between the department and my office, formal interviews were conducted with the executives and managers from Custodial Services, Policy and Stakeholder Services, Aboriginal Services, the Intelligence and Investigations Unit (IIU), YLP, Adelaide Remand Centre, the Pre-release Centre and Adelaide Women's Prison. Written questions were submitted in advance and notes were taken of subsequent discussions in interviews with central office staff. In some cases departmental staff responded to questions in writing.

A small number of prisoners in custody and ex-prisoners provided information on particular aspects of the department's complaint handling, and contributed their perspective on the conduct of corrections staff and prisons. Union, non-government organisations and interstate corrections officers and managers were also consulted on particular issues including comparative information on complaint handling systems and approaches.

My office's five Assessment Officers who deal directly with prisoner complaints by telephone, provided their perspective of prisoners' experiences of the department's complaint handling. Three of my Investigating Officers with experience in managing more complex prisoner complaint files, also contributed their views.

PART 2

CORRECTIONS IN SOUTH AUSTRALIA

2.1 A profile of prisons in South Australia³

11. There are nine prisons located throughout South Australia, four of which are in the Adelaide metropolitan area. During 2010-2011, South Australia had an average prisoner population of 1,987, of whom 125 were female and 1,862 were male.
12. Each prison has a specific role and function within the South Australian correctional system. The key prisoner categories include male and female, remand, sentenced, high security, medium security, low security and protection.
13. The South Australian prison system is designed for prisoners to progress from high to medium to low security prisons. Progression is based on their assessed level of risk to the community, institutional risk and their level of behavioural compliance. Placement also considers the availability of intervention services and programs to address a prisoner's individual needs.

14. **Yatala Labour Prison**

YLP is South Australia's largest prison and can accommodate up to 500 male prisoners. It is a multi-purpose facility for high, medium and low security prisoners, including those in protective custody.

Yatala is the state's metropolitan induction and reception prison for male sentenced and remand prisoners.

15. **Adelaide Remand Centre**

The Adelaide Remand Centre is a metropolitan remand facility for male offenders, which can accommodate up to 267 remandees. The facility accommodates both mainstream and protection prisoners.

Prisoners are transported from the Adelaide Remand Centre to the courts on a daily basis. Due to a continuous high remand rate the Adelaide Remand Centre operates at maximum capacity at various times.

16. **Mobilong Prison**

Mobilong Prison is located near Murray Bridge and provides accommodation for medium and low security male prisoners. It has the capacity to accommodate 327 prisoners.

Mobilong is a programs prison, geared to maximise prisoner participation in a range of programs and services that are designed to develop skills and to reduce the risk of re-offending.

17. **Port Augusta Prison**

Port Augusta is a multi-purpose facility providing accommodation for up to 392 high, medium and low security prisoners. Port Augusta is the state's largest regional prison catering for the full range of prisoner profiles, including women prisoners.

Port Augusta Prison has a high proportion of Aboriginal prisoners from communities across the north of the state. Construction of a new security unit has recently commenced. When completed in late 2012 the prison will accommodate approximately 473 prisoners.

³ Department for Correctional Services - Annual Report 2010-2011 (edited).

18. Cadell Training Centre

Cadell Training Centre provides accommodation for up to 167 low security prisoners in a rural environment, on land covering approximately 1600 hectares.

Prisoners at Cadell are able to undertake employment focused education programs, from numeracy and literacy to computer programs. In addition, they are able to obtain backhoe, truck, car and forklift licences, and nationally recognised qualifications in horticulture, dairy and commercial cooking.

19. Port Lincoln Prison

Port Lincoln Prison is located 650 kilometres north-west of Adelaide, and can provide accommodation for up to 126 medium to low security prisoners.

Port Lincoln Prison, which is considered 'a farm property', consists of approximately 200 hectares and is currently used for barley, canola and livestock production. The commercial garden produces a wide range of vegetables, which are used within the institution and sold to the local community throughout contracts with local supermarkets, vegetable retail outlets, hotels and restaurants.

20. Adelaide Women's Prison

Adelaide Women's Prison has the capacity to accommodate up to 148 remand and sentenced female prisoners, with high, medium and low security ratings.

Remand and sentenced prisoners are accommodated together, a practice which (whilst not ideal) is adopted in many other states around Australia. There are two secure sections of the prison - the mainstream area which secures approximately 88 prisoners, and the independent living area which provides unit-style accommodation for up to 60 prisoners assessed as eligible for the low-security environment.

21. Adelaide Pre-release Centre

The Adelaide Pre-release Centre is the main pre-release facility for male prisoners. It has the capacity to accommodate 60 low security prisoners in cottage accommodation.

The centre was established to provide prisoners with programs to facilitate their gradual release back into to the community. Prisoners at the Pre-release Centre are generally in the last 12 to 18 months of their sentence and participate in accompanied and unaccompanied family leave, education, work release and community work programs.

22. Mount Gambier Prison

Mount Gambier Prison is the only privately managed prison in South Australia. It is currently managed and operated by G4S Custodial Services Pty Ltd. The contract is monitored by the department.

The prison can accommodate 172 male sentenced and remand prisoners, and caters primarily for medium and low security prisoners. The prison can also accommodate short-term high security male and female prisoners.

23. Security classifications

Every prisoner who enters the system is given a security classification. The classification is reviewed on an ongoing basis through the case management process.

Prisoners must demonstrate good behaviour and a commitment to personal development before a reduction in their security classification is considered.

As at June 2011, approximately 22% of prisoners were classified high, 54% were classified medium and 23% of prisoners were classified as low. There were a small number of prisoners not classified at that time.

24. **Incentive based regime**

South Australia's prison system operates with incentive based regimes for prisoners. These regimes are designed to encourage prisoners to accept responsibility for their own conduct. Prisoners are initially placed on a basic regime and can advance to enhanced regimes that give greater access to privileges. The system also allows for prisoners to be regressed for breaches of regulations or non compliance with expected standards of behaviour.

2.2 **National and local issues in corrections**

25. The South Australian correctional system is a product of the British penal system, local history and social development since the early days of settlement in 1836. Whilst some prison facilities are relatively new, the best known prison for male offenders is YLP built in 1854, with buildings in use today which date back to the nineteenth century. YLP was due to close in 2011. However the closure was not proceeded with as a result of a 2009 state government budget decision to cancel plans to build new prisons near Murray Bridge. There are no current plans by the government to close the prison.

26. The cancellation of the major prison replacement project in 2009 was a setback in the plan to decommission ageing and outdated infrastructure, particularly at the Northfield precinct, being YLP, the Adelaide Women's Prison and the Pre-release Centre. However, a \$44 million upgrade to the three centres was approved in 2010 to ease pressure on these facilities. Additional allocations have also been made to expand the capacity of Port Lincoln, Mount Gambier and Port Augusta prisons to keep pace with the demand for accommodation.

27. The NSW Ombudsman's Annual Report 2010-2011 made reference to a number of issues in corrections which are relevant to complaint handling in jurisdictions across Australia and internationally. Some of these are:⁴

- the vulnerability of certain prisoners - such as women, young people, people with disabilities and older prisoners - each bringing their own challenges and needs
- use of force and restraints and how prisoners are disciplined
- the increasing number of prisoners who have mental health illnesses
- increasing use of multi-bunk accommodation
- ageing facilities in which prisoners are accommodated that no longer meet the needs of a modern correctional environment
- long term segregation/separation of some prisoners
- large numbers of Aboriginal people in custody.

28. My office has extensive ongoing contact with prison officials and departmental staff at senior levels, including recent visits to prisons across the state. Significant issues raised with me during my audit or emerging from communication with my office, may be summarised as follows:

- pressures in managing scarce cell space in metropolitan prisons, necessitating frequent transfers to other prisons and unavoidable changes in enhancement regimes

⁴ Ombudsman New South Wales, Annual Report 2010-2011, p37. See further in my report for a discussion of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

- inadequate numbers of, and challenges in attracting, qualified social workers and psychologists to work in the prison environment
- significant numbers of prisoners with acquired brain injury resulting in cognitive, physical, emotional, behavioural impairments and changes in functioning
- significant numbers of prisoners with substance abuse problems
- variable levels of people management skills, discipline and case management ability amongst the ranks of correctional officers
- variable levels of an interactive culture between prisoners and correctional officers manifesting in a 'them and us' mentality in some prisons
- variable levels of people management ability and senior management skills available to manage prisons competently and consistently
- relatively low recruitment rates for corrections manager positions from outside the system and interstate
- the need to maintain the resources available to recruit Aboriginal Liaison Officers and senior managers from an Aboriginal background
- prisoner pay rates remaining stagnant over time - leading to a widespread grievance about low pay rates and subsequent pressure on purchases of personal items from the canteen
- boredom and a lack of work for many prisoners creating an environment of tension and dull routine for prisoners and officers alike
- a changed regime for lock-downs in some prisons due to reorganised shift arrangements and sporadic industrial action
- outdated security measures for visitors and families of prisoners which are now in the process of a significant upgrade
- a strong industrial culture amongst correctional officers with a well resourced legal fund to defend their interests and professional conduct.

2.3 Aboriginal prisoner issues - a special case

29. At 30 June 2011, the number of Aboriginal prisoners in custody was 472. This represents almost 24% of the average total prison population of 1,987. This is an increase from 30 June 2010 when 23% of prisoners were Aboriginal.⁵
30. The department's Aboriginal Services Unit (**ASU**) was established in 1995 as a result of the Royal Commission into Aboriginal Deaths in Custody (**Royal Commission**). The ASU is responsible for advising on and developing culturally appropriate services for Aboriginal prisoners and offenders; and it is a significant contributor to policy development for the management and rehabilitation of Aboriginal offenders.
31. Aboriginal offenders require special attention in any correctional system for social and cultural reasons and their high level of representation. In the South Australian system, Aboriginal offenders come from both urban backgrounds and traditional lands in the far north and western areas of the state. The ASU develops and implements policies and practices for managing these offenders and liaising with key advocacy groups.⁶
32. In response to enquiries from my office regarding progress on Recommendations 176 and 179 from the Royal Commission, the department provided me with written advice covering these and related matters. Noting the original Royal Commission recommendations (in bold and italics), the response was as follows:⁷

⁵ Department for Correctional Services, Annual Report 2010-2011, p30.

⁶ Source: DCS website.

⁷ Letter from Mr Peter Severin to Ombudsman SA, 7 October 2011.

176. That consideration should be given to the establishment in respect of each prison within a State or Territory of a Complaints Officer whose function is:

- a) To attend at the prison at regular (perhaps weekly) intervals or on special request for the purpose of receiving from any prisoner any complaint concerning any matter internal to the institution, which complaint shall be lodged in person by the complainant*
- b) To take such action as the officer thinks appropriate in the circumstances;*
- c) To require any person to make enquiries and report to the officer,*
- d) To attempt to settle the complaint;*
- e) To reach a finding at possible on the substance of the complaint and to recommend what action if any, should be taken arising out of the complaint, and*
- f) To report to the complainant, the senior officer of the prison and the appointing Minister, the terms of the complaint, the action taken and the findings made.*

There has been significant progress in relation to Recommendation 176. Specific Complaints Officer positions have not been established in each prison, however the functions outlined in Recommendation 176 are met through a range of processes including but not limited to the following:

- The DCS Complaints Line is available for all prisoners to access via the free call direct line telephone system.
- Prisoners are made aware that complaints can also be directed to a range of institutional staff including:
 - Case Management Coordinator
 - o Unit Manager
 - o General Manager
 - o Aboriginal Liaison Officer
 - o Social Worker
 - o Community Correctional Officer (in relation to parole matters)
 - o Sentence Management Unit
 - o Education Coordinator
- The role of Aboriginal Liaison Officers incorporates dealing with complaints but is much broader which provides additional advantages.
- Prisoners are also able to direct complaints to the Aboriginal Legal Rights Movement via the free call direct line telephone system.
- If a complaint has not been resolved through the options listed above, prisoners may direct their complaint to Visiting Inspectors or the State Ombudsman. Visiting Inspectors visit each institution on a weekly basis. Recent changes to regulations have enabled individuals of Good Standing to be appointed as Visiting Inspectors. This has removed the previous requirement for all Visiting Inspectors to be JPs and it is anticipated that this will assist in the appointment of more Aboriginal community members as Visiting Inspectors.
- The Prevention of Aboriginal Deaths in Custody Forum (**PADIC**) was established in 1995 to provide the means for Aboriginal prisoners, members of staff, service providers and other Aboriginal stakeholders to contribute to the development of policies and procedures to address the circumstances of Aboriginal people in the department's custody. The forum is chaired by the Chief Executive and conducted six weekly on a rotational basis through all prisons and provides another option for the resolution of complaints by Aboriginal prisoners.

179. That procedures whereby a prisoner appears before an officer for the purpose of making a request, or for the purpose of taking up any matter which can appropriately be taken up by the prisoner before that officer, should be made as simple as possible and that the necessary arrangements should be made as quickly as possible under the circumstances. (3:33 1)

As mentioned above, requests and complaints by Aboriginal prisoners are commonly directed through Aboriginal Liaison Officers in the first instance. This provides a straightforward, culturally competent, easily accessible and timely process to resolve matters. All other complaint process are available to Aboriginal prisoners should they choose to utilise these options.

33. The department's Executive advised me that there are currently 12 Aboriginal Liaison Officers (ALOs) in the prison system, and that the level of professionalism and acceptance from prisoners and from other correctional officers has grown markedly in recent years. At all levels of the system, the feedback to my audit on ALOs was positive, with several senior managers acknowledging their 'critical' role in managing Aboriginal offenders; and noting that they are 'working well' in a team environment and that they are 'no longer on the periphery of the system'.⁸
34. One note of caution was expressed that conflicts of interest sometimes arise for ALOs in contact with extended family members in custody; and that family relationships can impose pressures which are difficult to manage. I was advised that the system of case notation required of ALOs is used as an accountability check to avoid or manage these conflicts. Another perspective highlighted was that ALOs help maintain external family relationships - which are very important to Aboriginal people in the prison system.
35. A key feature of the approach to management of Aboriginal prisoners, which is directly relevant to complaint handling, is the evolution of the role of ALOs as advocates and problem solvers for prisoners. Because ALOs have cultural status in prisons, they are able to communicate with and for Aboriginal prisoners on a broad range of matters. As such they are able to explain things to prisoners where understanding might have been slight or non-existent. They are also able to follow up on concerns and complaints in an informal way and bring back answers to questions and anxieties. The department has acknowledged that many Aboriginal prisoners prefer, in the first instance, to direct complaints to ALOs rather than to officers or the department's Prisoner Complaint Line.
36. The liaison and advocacy role played by ALOs is further augmented by the PADIC forum process described above, and by the 'cultural competence' focus of programs and services offered by the department through the ASU. These include spiritual programs involving Aboriginal Elders to promote healing, and Aboriginal Health Services, through the department's partnership with Nunkuwarrin Yunti. There is also an Aboriginal accommodation unit at Port Augusta Prison and recognition of traditional cultural status in that prison's management regime.
37. I was advised that as at May 2011, the department had 67 Aboriginal/Torres Strait Islander employees, which is approximately 4.1% of all departmental employees, well above the state's strategic target of 2%. I note also that the department intends to engage Aboriginal Visiting Inspectors to further build partnerships with the Aboriginal community.⁹

⁸ Comments from departmental senior managers Mr Richard King, Ms Louise Jenkins and Mr Stephen Raggatt in separate discussions, 21 and 28 October and 10 November 2011.

⁹ Department for Correctional Services, Annual Report 2010-2011, p15.

38. Low rates of use of the department's Prisoner Complaint Line by Aboriginal prisoners, and the corresponding low numbers of complaints by Aboriginal prisoners to my office, is also noteworthy. Whilst there is no direct evidence that the small numbers of telephone complaints¹⁰ is a result of the 'cultural competence' focus of the department, it is a reasonable assumption that these initiatives play a positive role in resolving many matters before they get to the complaint stage. The existence of ALOs in the system, of culturally tailored programs including a spiritual and healing focus, and of forums such as PADIC, where Aboriginal prisoners have direct access to the department's Chief Executive, can only be seen as positive initiatives. The question which then arises is: can anything be learned about general prisoner management from the positive way in which the system seems to be responding to Aboriginal prisoner needs?

¹⁰ See 'The Prisoner Complaint Line' below.

PART 3

**THE PRISONER COMPLAINTS
PROCESS**

3.1 Legislation and policy frameworks

39. The department's current prisoner complaints management practices have a long history. Various international human rights and treaty obligations have influenced or established minimum rules for the treatment of prisoners over many decades.¹¹ As discussed below, the Standard Guidelines for Corrections in Australia are now in place and universally recognised following publication of the first minimum standard guidelines in Australia in 1978.
40. In South Australia, the Correctional Services Act and corresponding regulations govern the management of prisons and the treatment of prisoners. This includes the rules established for prison life by the manager of the prison, under the delegation from the Chief Executive of the department.
41. The Minister for Correctional Services must arrange for prisons to be inspected regularly by special justices or other people who are appointed for that purpose. Section 20 of the Correctional Services Act provides:

Division 2—Inspection of correctional institutions

20—Correctional institutions must be inspected on regular basis

- (1) The Minister must cause correctional institutions to be inspected on a regular basis by an inspector for the purpose of ascertaining whether the provisions of this Act relating to the treatment of prisoners are being complied with.
- (2) The Governor may, on the recommendation of the Minister, by notice in the Gazette, appoint a suitable person to be an inspector for the purposes of this section.
- (3) An inspector cannot be directed to inspect a correctional institution in respect of which the inspector constitutes a Visiting Tribunal.
- (4) For the purposes of, or in the course of, carrying out an inspection, an inspector may—
 - a) enter and inspect any part of the correctional institution; and
 - b) question any person within the institution; and
 - c) inquire into the treatment of the prisoners, or of a particular prisoner; and
 - d) receive and investigate any complaint of a prisoner.
- (5) An inspector may, in investigating a complaint, be assisted by any other person authorised by the Attorney-General for the purpose.
- (6) An inspector must, as soon as reasonably practicable after carrying out an inspection pursuant to this section, or at such other intervals as the Minister may direct, furnish the Minister with a written report on the inspection, including findings in relation to any complaint investigated by the inspector in the course of the inspection.
- (7) An inspector may, in a report furnished pursuant to this section, make such recommendations on any matter arising out of the report as he or she thinks fit.

¹¹ These include the Standard Minimum Rules for the Treatment of Prisoners, United Nations, Geneva, 1955, and the Council of Europe Minimum Standard Rules for the Treatment of Prisoners, 1973.

42. Under section 20, an inspector has an unrestricted right of entry to any part of a prison and can ask anyone any questions concerning the prison and the treatment of the prisoners.
43. Prisoners are entitled to make complaints to an inspector, which the inspector must investigate. The inspector must send a report on the complaint and may make recommendations to the Minister.
44. Under section 87, all judges and magistrates are entitled to inspect a prison at any reasonable time.
45. The Correctional Services Advisory Council (**CSAC**) was established under the *Prisons Act 1936-1981* and continues its functions under sections 10-16 of the current Act. The functions of CSAC under section 15 of the Act are:
 - a) to monitor and evaluate the administration and operation of the Act;
 - b) to report to the Minister on any matter referred to the Advisory council by the Minister;
 - c) to report of its own motion to the Minister on any matter pertaining to the administration or operation of the Act; and
 - d) to perform such other functions as may be prescribed by or under this Act, or any other Act.

Under section 16, CSAC is required to report annually to the Minister by 31 October each year. CSAC meets monthly and addresses a series of standing agenda items designed to provide an overview of current issues and trends in corrections. Inspections of prisons by Visiting Inspectors may be reviewed by CSAC, but there is no requirement or standing provision for this to occur.

46. All Australian prisons and the correctional services departments which oversee them observe the Standard Guidelines for Corrections in Australia. First published as the Minimum Standard Guidelines for Australian Prisons in 1978, the guidelines have been subject to periodic review, notably in 1986 and again in 1992 to respond to the recommendations of the Royal Commission. The most recent review was completed in 2004. This occurred under the auspices of a national corrections standards body comprising ministers responsible for corrections throughout Australia and New Zealand.
47. In South Australia there is no overarching policy or procedural framework which governs the system and management of prisoner complaints. Currently, each prison, with the exception of YLP, has in place a Local Operating Procedure (**LOP**) which sets out the procedures for (variously) the reporting and recording of prisoner complaints; response procedures; review and referral arrangements; manager responsibilities and confidentiality requirements.

3.2 Standards relating to the complaints management system

48. My audit set out to establish whether or not the department's prisoner complaints management process is consistent with relevant national standards - the Australian Complaint Handling Standard and the 2004 Standard Guidelines for Corrections in Australia.
49. The Australian Complaint Handling Standard and the Standard Guidelines for Corrections in Australia outline a set of guiding principles for best practice complaint

management. In simple terms, the principles relate to a commitment from agencies to establish and maintain a complaints management system that is accessible, efficient, fair and accountable.

50. The Australian Complaint Handling Standard is widely recognised as setting the benchmark for best practice complaints handling in organisations. It outlines nine guiding principles underlying best practice complaints management. They are: visibility, accessibility, responsiveness, objectivity, (free of) charges, confidentiality, customer-focused approach, accountability and continual improvement.
51. In essence, a best practice complaints management process should cover the following elements:
 - commitment from the agency
 - visibility and access for complainants
 - responsiveness to the complaint
 - assessment and action to deal with the complaint
 - feedback to the complainant and staff and others involved
 - monitoring the effectiveness of the complaints management process.
52. The Standard Guidelines for Corrections in Australia recommend that each Australian state and territory 'must continue to develop its own range of relevant legislative, policy and performance standards that can be expected to be amended from time to time to reflect best practice and community demands...'.
 - 1.22 Prisoners should be informed of the procedures for making complaints at the prison and through external grievance resolution authorities.
 - 1.23 Requests and complaints by prisoners are to be able to be made at any time and shall be handled promptly and effectively by the prison.
 - 1.24 Prisoner complaints or grievances that are not resolved by the prison should be submitted to an authority external to the prison for an independent assessment and determination. Prisoners should be informed about these external resolution processes in the prisoner's own language where practicable, and provided with the means for making complaints to an external authority in a confidential manner.¹²
54. The Better Practice Guide to Complaint Handling published by the Commonwealth Ombudsman in April 2009 is a guide for managers and complaint handling staff in public sector agencies and is broadly consistent with the Australian Complaint Handling Standard. It promotes a 'complaint welcoming culture' and states:¹³

An agency that cares about its clients and its reputation will be committed to good complaint handling. It will have a culture that recognises the value of complaints and that requires all staff to be committed to effective complaint resolution.

It summarises a 'complaint welcoming culture' as a culture which promotes:

- Understanding and compliance with the agency's policy on complaint handling by staff at all levels
- Senior management responsibility for complaints

¹² Standard Guidelines for Corrections in Australia (revised), 2004, pp2, 14.

¹³ Better Practice Guide to Complaint Handling, Commonwealth Ombudsman, April 2009, p5.

- Appropriate training for staff who handle complaints
- Allocation of sufficient resources to complaint handling
- An information technology system that supports complaint handling and facilitates the collection and analysis of complaint information
- Regular internal reporting on complaint trends, issues and any administrative defects.
- Regular public reports on complaint trends and issues

55. Corrections administrators around Australia and in the Asia Pacific region recognise the need for standards and an effective complaints and grievance process in prisons. Speaking on this topic in 2003, the Chief Executive of the department focused on the relationship between independent bodies with an interest in corrections (eg. the Ombudsman, the Coroner and NGOs) and the internal workings of the prison system. He noted:

[Independent agencies] have an important role to play. [They] generally provide a completely independent complaints process that is transparent and accountable. [They are] vital to the ongoing integrity of the prison system and they are perhaps the major single influence in the protection of prisoner rights and privileges. [They] also play an important role in monitoring and reporting on the ethical conduct of staff...

Without a proper complaints process, prisons can become incubators of unrest and distrust, resulting in greater prisoner tension followed by prison incidents, escapes and deaths in custody.¹⁴

3.3 How the prisoner complaints system currently works

56. The Chief Executive has advised me 'that the department's formal complaints management system is based on the Australian Standard AS4269 (now revised to AS ISO 10002) and incorporates elements of that document where appropriate'. The Chief Executive describes the department's complaints management system as 'a consistent and fair process for managing complaints, which recognises, promotes and protects the rights of victims, offenders and community members in contact with the department'.¹⁵
57. Prisoners can direct requests or complaints to people inside and outside the prison. Prisoners' requests and complaints are handled at various levels within prisons and prisoners have the right to raise issues directly with custodial staff and with the prison manager. If a complaint cannot be satisfactorily resolved within the prison, there is a range of other external avenues available to prisoners seeking assistance to resolve their issues of concern.
58. The existing complaints management system allows for prisoners to lodge complaints by:
- discussing the complaint with custodial staff, the Case Management Coordinator (CMC), ALOs, Unit Managers, staff from the Prisoner Health Service, or the prison's General Manager
 - sending a confidential written complaint by 'privileged' mail to the department's Chief Executive, the Ombudsman, a Member of Parliament, a prison inspector or a legal practitioner

¹⁴ Presentation by Mr Peter Severin to the 23rd Asian and Pacific Conference of Correctional Administrators, December 2003.

¹⁵ Letter from Mr Peter Severin to Ombudsman SA, 8 December 2010.

- requesting to speak with a Visiting Inspector or approaching a Visiting Inspector during the weekly visits to the prisons
 - contacting the Prisoner Complaint Line by telephone¹⁶
 - contacting the Ombudsman by telephone
 - contacting the Health and Community Services Complaints Commissioner (HCSCC).
59. In the first instance, custodial staff, CMCs, Unit Managers, ALOs and prison General Managers have primary responsibility to deal with and resolve complaints from prisoners whenever possible.
60. Section 33 of the Correctional Services Act – ‘Prisoners’ mail’, provides that prisoners are entitled to receive and send mail. A letter sent by a prisoner to the Ombudsman, a Member of Parliament, a Visiting Tribunal,¹⁷ an Inspector of the prison or a legal practitioner cannot be opened.¹⁸
61. As detailed above, Visiting Inspectors are appointed by the Minister for Correctional Services to independently conduct regular inspections of South Australian prisons; to monitor and report on the treatment and conditions of prisoners; and to assist prisoners to raise and resolve concerns and complaints. Prisoners may fill out a request form to see the Visiting Inspectors and during each inspection the Inspectors ask prisoners directly if they have any issues and invite them to raise matters spontaneously with the Inspector during the visit.
62. The Visiting Inspectors work on a volunteer basis and they are ‘managed’ by a State Coordinator who is directly responsible to the Minister. The State Coordinator is responsible for:
- providing periodical reports about the visits to the responsible Minister and where appropriate, discussing issues with the Minister at any time
 - interviewing, training and rostering of inspectors
 - visiting all prisons
 - informing/advising new and trainee correctional service officers about the role of the Visiting Inspectors.
63. The duties of the Visiting Inspectors are summarised in a set of guidelines. Although the guidelines may vary from prison to prison, Visiting Inspectors are instructed to:
- report to the General Manager on entry to the prison whenever possible
 - check the Visiting Inspectors’ journal entries made at the last inspection
 - inspect each unit of the prison, randomly checking cells
 - liaise with each divisional officer in charge
 - ask staff in each unit for Visiting Inspector request forms
 - speak with all prisoners before leaving the division
 - visit the health centre (infirmary)
 - visit the kitchen
 - visit the education unit
 - contact the General Manager on completion of the inspection to discuss any issues

¹⁶ Prisoners are allocated a telephone account with a nominated number of contacts which are vetted by prison authorities for security purposes. Prisoners may use these numbers at their own cost. No charge is made for calls to the Prisoner Complaint Line or to Ombudsman SA.

¹⁷ Visiting Tribunals are appointed by the Governor of South Australia to provide an independent adjudication service for serious breaches of prison rules and regulations. They have wide powers under the Act, including hearing appeals that originate from the imposition of penalties by prison General Managers. Tribunals do not hear matters related to general complaint handling.

¹⁸ However the Legal Services Commission *Law Handbook Online* points out that correspondence from the Ombudsman, once opened by a prisoner, may be subject to search and removal. The Legal Services Commission recommends that prisoners destroy letters from the Ombudsman if they wish to keep the contents private.

- record any issues in the Visiting Inspectors' journal.
64. The Prisoner Complaint Line provides a backup service to prisoners by means of receiving, recording and resolving telephone enquiries through a centralised free telephone inquiry and complaints service for prisoners and members of the public (operations are detailed below).
65. The Prisoner Complaint Line is not generally envisaged by the department as being the first point of call for prisoners, although it may be if complaints are considered urgent, such as a prisoner's safety. Prisoners are advised to take their complaints in the first instance to custodial staff and/or Visiting Inspectors who ideally, attempt to resolve the issue at the prison level. When a complaint has been lodged with prison staff or a Visiting Inspector and the prisoner is concerned that the matter has not been appropriately resolved, prisoners are able to refer the matter to the department's complaint services either in writing or by telephone.
66. I am advised that prisoners make a comparatively small number of complaints directly to the Prisoner Complaint Line.¹⁹ The majority of complaints are raised with custodial staff at the local prison level and, where possible, resolved within the prison. Senior departmental staff assert that 'on a daily basis a myriad of concerns, grievances and complaints are resolved at the appropriate level by Correctional Officers, Case Management Coordinators and Managers'. A small number of matters involve correspondence with members of the Executive raising concerns such as sentence management or treatment by corrections staff. I am informed these issues are investigated and responses provided to prisoners in writing.²⁰
67. Departmental officers advised that at the local prison level, complaints are ideally dealt with as informally as possible. Complaints which cannot be informally resolved are dealt with in a formal manner with the involvement of prison managerial staff. It appears that most prisons require prisoners to record the details of a formal complaint on a prisoner request, complaint or appeal form and these forms are retained in case files. The complaints are then recorded in the prison's complaints register (reference number; date; prisoner's name; receiving officer's name). However, as discussed below, there are problems with accurate records being kept of prisoner complaints at the local level. Staff case notes do not consistently record prisoner complaints.
68. The recording and reporting on the number of complaints received and dealt with at the local prison level is not addressed by most of the LOPs provided to me by the department. Only one LOP states that complaint forms must be copied and forwarded to the Manager, Complaints Management on a monthly basis. Although there appears to be no other reports provided to the department's Executive about the number and type of complaints received at the local prison level, the department advised that the establishment of a SOP 'will enable a more accurate reflection of the number of custodial complaints and how these are managed within the institutions and by the custodial services directorate'. In separate correspondence I was advised that 'staffing movements within the department's Policy and Stakeholder Services Branch have not enabled this matter to be progressed; however it is listed as a priority for the 2011-12 Financial Year.'²¹

¹⁹ See paragraph 101 for details of the Prisoner Complaint Line numbers over time compared with calls to Ombudsman SA.

²⁰ Letter from Mr Peter Severin to Ombudsman SA 2 May 2012.

²¹ Letter from Mr Peter Severin to Ombudsman SA, 7 October 2011.

69. Prisoners have a right to access my office in accordance with section 15 of the Ombudsman Act. My office operates as an 'office of last resort' when dealing with complaints.²² My office will not usually deal with a complaint from a prisoner until the prisoner has raised the complaint with custodial staff or prison management and all other avenues of redress have been tried. For that reason, it is essential that I be confident that complaints from prisoners are appropriately addressed by the prisons and the department. The department provides a free, accessible telephone link between prisoners and Ombudsman SA. Telephone calls between prisoners and my office are not recorded or monitored by the department. If I find a complaint to be justified, I may recommend a remedial course of action to the prison and/or the department.
70. Although some complaints at the prison level are recorded by the Visiting Inspectors in a journal and by prison staff in a complaints register, I was not provided with any information to show that the department's Executive receives reports from prison management about the number and type of complaints received at the local prison level. In discussions with senior managers, this was acknowledged as a gap that needs to be addressed.
71. The health care of prisoners is the responsibility of the South Australian Prison Health Service (**SAPHS**). Requests from prisoners to visit a prison's health centre are dealt with by SAPHS which triages the requests and determines the most appropriate health management strategy for each prisoner.
72. If a prisoner has a complaint about the health services provided by SAPHS that is not resolved with assistance from custodial staff, they are required to raise their issues of concern directly with SAPHS staff at the on-site health centre. If a prisoner has a complaint about the actions or decisions of SAPHS they are advised to:
- raise the issue directly with SAPHS staff within the prison in person, in writing, or by phone, or
 - request a visit to the health centre at the prison to have their health management decision reviewed.
73. If the issues remain unresolved, prisoners are advised to
- write to the Director of SAPHS to request a review of the decision made by SAPHS staff
 - approach a Visiting Inspector during the weekly visits to the prisons
 - contact the HCSCC in writing or by telephone.
74. Since October 2005, HCSCC has dealt with complaints from prisoners about health services in prisons when a direct approach to the health service is either unreasonable or has been unsuccessful. HCSCC does not deal with complaints from prisoners about the department's decisions.
75. I was advised that it is usual practice for custodial staff to assist prisoners to raise and follow up any initial health care issues they may have as the need arises. If custodial staff receive complaints from prisoners in relation to access to a health centre, the matter is usually followed up with health staff to clarify issues such as whether health centre staff are aware of the prisoner's immediate needs; the reason for any delay in the prisoner receiving treatment or review; or to update health centre staff about the

²² Section 13 (3) (3) The Ombudsman must not investigate any administrative act where—
(a) the complainant is provided in relation to that administrative act with a right of appeal, reference or review to a court, tribunal, person or body under any enactment or by virtue of Her Majesty's prerogative; or
(b) the complainant had a remedy by way of legal proceedings,
unless the Ombudsman is of the opinion that it is not reasonable, in the circumstances of the case, to expect that the complainant should resort or should have resorted to that appeal, reference, review or remedy.

urgency of the prisoner's need for medical assistance. Once the information is received from the health service, the information is usually passed on by custodial staff to prisoners and other staff accordingly.

76. Although the department is not generally involved in the management of health complaints from prisoners, some types of complaints in relation to services provided by SAPHS may be investigated by the department. I was advised that there is a designated custodial services staff member who acts as a liaison between the department and SAPHS and is responsible for addressing operational issues such as the provision of services within prisons and access to those services.
77. Prisoners' medical information is considered confidential by SAPHS and is rarely shared with custodial staff during a prisoner's incarceration. Although custodial staff and management may be informed of any information that directly impacts on the management of the prisoner and their safety, the SAPHS has strict guidelines regarding the release of medical information.
78. Aboriginal prisoners can also request assistance about health complaints from ALOs, legal representatives (toll free confidential calls), Aboriginal Legal Rights Movement (free call) and others.
79. I asked the department to provide copies of policies, operating procedures and other written material that has been produced to inform departmental and custodial staff and prisoners about the complaints management process.
80. As discussed above, the department's complaints management system is not based on overarching policy. Nor does it have a SOP in place. Rather the system varies according to the LOPs developed by each prison.
81. The department provided copies of LOPs - Prisoner Complaints from the Adelaide Remand Centre; Adelaide Women's Prison (dated October 2009); Cadell Training Centre (dated June 2007); Mobilong Prison (review date January 2000); Mount Gambier Prison (dated September 2007); Port Augusta Prison (dated March 2010); and Port Lincoln Prison (issued May 2009).
82. I was advised there is no LOP - Prisoner Complaints in operation at YLP. I was informed that all prisoners who are admitted to YLP participate in a prisoner induction process. Prisoners are verbally informed about the prison's internal request system relating to lodging complaints; the Visiting Inspector request forms; the prisoners' phone list; and the automatic free call numbers which include the Prisoner Complaint Line and Ombudsman SA.
83. There are few substantive differences in the LOPs in current use in prisons, with the exception of Mount Gambier Prison, which deals with complaints by way of what it terms an 'Operational Instruction'. This document (a December 2011 update is attached as Appendix 2) appropriately addresses 'prisoners' requests, complaints and grievances' with a comprehensive, well explained procedure. The LOP documents in use in other prisons appear to be written in a 'proforma' format and do not include essential information such as agency commitment to fair and efficient complaint handling; a statement of aims and objectives; staff delegations/responsibilities; types of issues to be complained about and how to complain; confidentiality and fairness requirements; prisoner's right to access other complaint handling services; and documentation, recording and reporting requirements.
84. At the time of the audit, the department reported that there was no written information about the department's complaints management process provided to individual

prisoners on their admission to a prison. However, the department provided a document entitled 'Prisoner Handbook - Adelaide Remand Centre' (dated January 2007) which includes a brief summary of the way in which complaints should be made in that prison. The 'handbook' document includes contact information for the Prisoner Complaint Line service and the Ombudsman.

85. I have received a copy of a 'fact sheet' issued by the department entitled 'Prison Complaints'. The 'fact sheet' instructs prisoners to attempt to resolve issues with custodial staff or the unit or prison manager in the first instance. Prisoners are advised that they can contact the department complaint service in writing or by telephone if the complaint cannot be resolved. Prisoners are also advised that they may take their complaint to the Visiting 'Justice' or to the Ombudsman. However, no information is provided to instruct prisoners on how this can be done. It is not clear how the 'fact sheet' is used in the various prisons.

3.4 The Prisoner Complaint Line

86. The Prisoner Complaint Line is a well established service operating from the department's central office in Adelaide. It is available to prisoners between the hours of 9am to 5 pm Monday to Friday and is staffed by a team of seven officers variously trained in social work and the behavioural sciences. Usually one officer is available on the phone at any time, although potentially multiple operators could be engaged. I was advised that Prisoner Complaint Line staff also take calls from victims of crime. On any shift, an operator may deal with a variety of issues raised by either prisoners or victims of crime.
87. A team approach is taken with the complaint line operators, supported by a manager and the Director, Policy and Stakeholder Services. Manual records, in the form of pro forma reports, are kept from each prisoner call where a complaint is made. I was advised that a large number of calls received (up to 50%) are classified as 'aborted calls'. This is where a prisoner terminates the call within 60 seconds without any form of complaint being lodged. Usually these are dialled-in-error calls, although a small number may be deliberate mistakes. Some may also be casual interruptions from other prisoners or corrections staff. Only 'valid calls' are recorded on the complaints management spreadsheet and entered in the Justice Information System. In order for a complaint to be taken, a prisoner must identify themselves. Anonymous complaints are not usually accepted.
88. When operators take a call and establish prisoner identity with name and identification number, they are instructed to:
- ask for details about the complaint
 - ask if the prisoner has raised the complaint with an officer or the CMC
 - if not, the prisoner is referred back to the CMC level
 - if so, assess whether the complaint is legitimate and either:
 - refer the prisoner to the best person to assist
 - provide information or advice
 - discuss the complaint with an officer
 - work with prison staff to help the prisoner to resolve the complaint
 - follow up with prison staff
 - provide prisoners with feedback, advice and an outcome
 - record the complaint.
89. In a departmental brochure, prisoners are advised that there are three steps which should precede any complaint call to the Prisoner Complaint Line. They are:

Step 1: raise the complaint with an officer or CMC

Step 2: if the Officer or CMC is unable to resolve your complaint, you can request to see the Unit Manager (**UM**)

Step 3: if the UM is unable to assist with the complaint you can raise your complaint (in writing) to the General Manager (**GM**).

90. The fourth step is contact with the Prisoner Complaint Line. The brochure advises that 'if, after using all 4 steps, you remain unsatisfied, you can raise your complaint with the Ombudsman's Office and/or the Visiting Justice'. I understand the brochure is generally available, but is not routinely provided to prisoners on admission. Instead, the brochure is displayed adjacent to telephones accessed by prisoners in some locations.
91. Departmental records show that Prisoner Complaint Line matters are registered using the following categories:
- access to services
 - complaint against officer
 - custodial management
 - disciplinary action
 - medical
 - other
 - placements/transfers
 - property
 - prison pay
 - prison facilities or living conditions
 - seeking information
 - parole matters
 - prisoner mail
 - enquiry on sentence details
 - home detention.
92. Using figures supplied by the department for the period 1 January 2010 to 31 December 2010, the top five categories of 'valid' complaints lodged with the Prisoner Complaint Line were:
- | | | |
|----|--|---------------|
| 1. | property | 76 complaints |
| 2. | complaint against corrections officer | 52 complaints |
| 3. | placements/transfers | 51 complaints |
| 4. | medical | 49 complaints |
| 5. | prison facilities or living conditions | 40 complaints |
93. Noting relative prison populations (capacity in brackets) the majority of 'valid' prisoner complaints to the service during 2010 came from:
- | | | | |
|---|-------------------------|----------------|-------|
| • | Yatala Labour Prison | 150 complaints | (500) |
| • | Port Augusta Prison | 89 complaints | (392) |
| • | Adelaide Women's Prison | 73 complaints | (148) |
| • | Adelaide Remand Centre | 71 complaints | (267) |
94. I was advised that the department's Executive reviews quarterly reports from the Prisoner Complaint Line, and has recently been monitoring the number and type of complaints regarding health issues.
95. There is currently no provision for prison General Managers to review complaints at their monthly meetings; although I am informed that in senior ranks, this is considered to be a good idea.

96. In response to enquiries from my office about records kept of prisoner complaints at the first level contact (ie. steps 1-3 above), I was advised that formal records and statistics are not kept. However, sometimes 'case notes' are made, apparently when an officer believes a matter is deemed 'genuine' and needs to be documented for later reference. Complaints considered to be 'frivolous' are not usually noted or recorded.
97. As I understand the Prisoner Complaint Line approach, complaints made against a departmental officer are referred back to prison General Managers in the first instance for local action, along with an advisory notification to the IIU. In instances where a criminal offence is alleged, departmental guidelines require that the matter should always be referred to the IIU and the police. As discussed further below, I am concerned that this protocol is not always observed.
98. Drawing from figures for the annual reporting period 2010-2011, the top five complaint categories to Ombudsman SA were:²³
- | | |
|--|---------------|
| 1. property | 71 complaints |
| 2. complaints against departmental employees (various) | 70 complaints |
| 3. sentence management/placement/transfers | 56 complaints |
| 4. health matters | 52 complaints |
| 5. prison management/daily regimen | 40 complaints |
99. A notable statistic to emerge from my audit is the comparatively low number of complaints recorded from Aboriginal prisoners. Over the two month period November/December 2011, the department recorded 12 complaints from Aboriginal prisoners²⁴ from a total of 200 calls to the Prisoner Complaint Line. In the same period my office recorded similar low numbers from Aboriginal prisoners, 7 from a total of 66 calls.²⁵
100. The department's Aboriginal Services staff predicted the low numbers from Aboriginal prisoners to the Prisoner Complaint Line before the recording was done. They advised my office that they believed that Aboriginal prisoners were more likely to use ALOs, case managers, the PADIC forums or outside services such as the Aboriginal Legal Rights Movement or the Aboriginal Prisoners and Offenders Support Service, before they would ring either the Prisoner Complaint Line or Ombudsman SA. As far as can be ascertained, this is an accurate picture of the situation.
101. When the figures are adjusted for completed calls a comparison of the total complaints received by Ombudsman SA and the Prisoner Complaint Line shows only minor variations in the number of complaints lodged with the two telephone services over a five year period to 30 June 2011.

²³ Note that the reporting period is slightly different - the departments' figures are from 2010. Ombudsman SA figures are from the 2010-2011 financial year. However, there is a striking consistency in the breakdown of the figures to the two telephone complaint services. The top 5 categories are virtually the same, with similar numbers alongside each. Totals are also similar - 268 to the Prisoner Complaint Line and 289 to Ombudsman SA.

²⁴ One caller to the Prisoner Complaint Line identified as a Torres Strait Island person.

²⁵ My office does not count calls from prisoners made in error or terminated early. This figure may be as high as 40% of the total.

	Jul 06-Jun 07	Jul 07-Jun 08	Jul 08-Jun 09	Jul 09-Jun 10	Jul 10-Jun 11
Ombudsman SA	662	613	473	524	578
DCS Complaints Line	737	756	894	973	977

Account should be taken of the fact that the department's figures here include 'aborted calls' (or 'invalid calls') numbering anywhere between 40% and 50% of the total from the Prisoner Complaint Line.

3.5 When a concern becomes a complaint

102. A consistent theme in the Standard Guidelines for Corrections in Australia is the imperative for correctional officers and managers 'to advise offenders...to give clear information about the process...to give written and oral information...etc'. In my view, knowledge and understanding of rules and procedures and a willingness by correctional officers to communicate, helps keep small concerns in perspective.
103. In the artificial and stressful environment of a prison, it is easy for small concerns to grow into a serious grievance. In some cases, there is nothing that can be done to prevent a situation from becoming more serious. However, it is my experience that with good communication, a willingness to impart information and a level of patience and tolerance, there is much that can be done to prevent prisoner concerns from becoming complaints.
104. I note the 'complaint' categories used by the Prisoner Complaint Line to identify 'seeking information', 'parole matters' and 'access to services'. By definition, many of these issues are about prisoners seeking information and/or a response. Similarly in my office, there are occasions when prisoners call to seek information. Parole processing delays feature in this category, as do the rules around drug testing and property transfers. As outlined above, complaints about property being withheld, lost or mislaid are common to both the Prisoner Complaint Line and to my office. Given the pressures in the system for available accommodation, some of these complaints are inevitable. However, there seems to be an absence of care on some occasions, and inconsistent application of the 'rules' on others. Clearer policy and procedures on property transfers should alleviate some of these concerns. Similarly, a more proactive approach to follow up from lost property calls to the Prisoner Complaint Line should obviate the need for calls to my office on the same issue.
105. On the matter of parole processing delays, I was advised that the department's Sentence Management Unit has a performance target of 2-5 days processing turnaround once it receives information for consideration by the Parole Board. However, before that information is received there may be delays of weeks, even months, in the preparation of risk assessments and course outcome documentation which is essential for parole to be considered. If there is no follow up by case managers and no information going back to the prisoner about where the process is up to, tensions can mount. In some situations this could lead to prisoners not getting the opportunity to have their case heard by the Parole Board until later than necessary. If this is occurring it is an entirely avoidable situation.

106. One technological innovation which may usefully be trialled by the department is 'Information Kiosks' or Prison Service Kiosks. These are a touch screen information service set up recently in New Zealand prisons to provide access to information, support and advice for prisoners and visitors. I understand a similar service is operating in the Western Australian corrections system. Prisoners can access information on health, legal matters, education and training opportunities and more. They are also useful to enable prisoners to access rules and processes which affect them. Not only can complaint procedures be explained, but the kiosks enable prisoners who doubt that rules are being properly applied to them or doubt that staff are giving correct advice, to check the position for themselves. The innovation clearly has potential for information provision and complaint handling in South Australia's corrections system.

PART 4

ASSESSMENT OF THE PRISONER COMPLAINTS PROCESS

4.1 Whether the department's complaint handling policies and procedures are accessible

107. The Standard Guidelines for Corrections in Australia state that all prisoners should be provided with information about the procedures for making complaints within the prison and the department. Prisoners should also be informed about external resolution and provided with the means for making complaints to external authorities such as the Ombudsman, SAPHS and HCSCC in a confidential manner. The information should be visible and easily accessed by prisoners, and clearly written in simple English and appropriate to the literacy level, culture and other special needs of prisoners where practicable.
108. While the department has published an information or a 'fact sheet' of sorts which informs prisoners about complaint procedures, the detail about the Prisoner Complaint Line, the Visiting 'Justice' and the Ombudsman included is incomplete. I was advised by custodial staff that although it is usual practice for an information sheet to be displayed in the prison units, the documents are more often than not, removed from the noticeboard by individual prisoners for their own use and are not regularly replaced. From the evidence provided to me, it appears that the information is not freely available throughout the prisons; and prisoners often have to rely on custodial staff to inform them about the process and assist them to correctly lodge their complaint.
109. I was advised that the department is undertaking a review of the overall complaints management process within its institutions with the intention to establish a clear procedure, with relevant and available documentation. This will include the establishment of materials for dissemination to prisoners, as there is no comprehensive written material about the complaints management process currently available for prisoners on their admission to prisons. An exception to this is the supply of the brochure about the Prisoner Complaint Line which is sometimes given to prisoners in some locations.
110. I was further advised that all sites had the HCSCC's number placed on the free-call system which now enables prisoners to access the service, as required.
111. I acknowledge the recent action taken by the department to review the accessibility of information about the department's complaints management system for prisoners. However, in light of my audit of the department's existing processes, I consider that the failure to provide all prisoners with accessible and visible information about its complaint management process does not amount to a best practice approach to complaints management or meet the requirements of the Standard Guidelines for Corrections in Australia.
112. In my opinion, the department's failure to provide all prisoners with accessible and visible information about its complaint management process is wrong within the meaning of section 25(1)(g) of the Ombudsman Act.²⁶
113. I make the following recommendations to improve accessibility:

²⁶ I use the word 'failure' here and subsequently in my findings. By this I mean no more than the standard dictionary definition, namely: 'the fact of not reaching the required standard on examination or test' Collins Compact Australian Dictionary, 1997 edition.

1. That the department ensure that on admission to prison, all prisoners are provided with clear, simple information about how to make a complaint and where to take different types of complaints.
2. That the department ensure that information about making a complaint is prepared in formats which enable all prisoners to understand the complaints system, and that this information be provided freely and proactively to enable prisoner access at all times.
3. That the department investigate the potential for trialling Prison Service Kiosks to improve information, support and advice to prisoners, including email communication with Sentence Management.

4.2 Whether the department's complaint handling procedures are efficient

114. The Standard Guidelines for Corrections in Australia require that requests and complaints by prisoners be handled promptly and effectively by a prison; and complaints or grievances that are not resolved by the prison should be submitted to an authority external to the prison for an independent assessment and determination. The process followed by the department in the management of prisoner complaints should provide an appropriate and efficient system to deal with complaints within the prisons and the department at a local level, with the expectation that complaints may be dealt with by an external body if necessary.
115. The department's complaints management system must, in my view, be based on easy to understand written procedures for custodial staff and prison management. The aim is to guide them through the complaints process and to ensure a consistent and practical approach to complaint handling. The written procedures should outline the department's commitment to the efficient resolution of complaints.
116. Currently the department's complaints management policies and procedures are in the form of a LOP for each prison. With one exception, the documents I assessed are deficient in many aspects. They do not meet best practice criteria or contain sufficient detail to inform custodial and managerial staff about the key aspects of acceptable complaint handling processes. The way in which existing LOPs are written varies significantly from prison to prison. They lack consistency, and in some cases, leave out important information such as:
 - a statement of commitment to the efficient and fair resolution of complaints
 - a complete summary of the reasons for the LOP
 - a statement of aims and objectives
 - the definition of a complaint
 - staff delegations/responsibilities
 - a statement about the types of issues prisoners can complain about and how to complain
 - confidentiality and fairness requirements
 - prisoners' right to access to Visiting Inspectors, the department complaints line or external complaints services
 - documentation, recording and reporting requirements.
117. Although the existing LOP documents address the time to be taken to deal with and resolve complaints, the time limits relating to the provision of a response to the prisoner who has complained varies from prison to prison. There are variations from five, seven and fourteen days. If a response cannot be provided within the set time limit, there is a provision in the LOP for the time to be extended. However, the LOP

documents are not clear about the basis on which time can be extended, or the way in which the time limits or extensions of time are monitored by custodial staff.

118. In my view, the complaints management system should not just rely on well written procedures. There must be a commitment from the department to an efficient complaints management system by staff at all levels. The department's complaints management system cannot be expected to operate efficiently unless staff have adequate training and knowledge of the complaints management system and have the necessary skills to make it work.
119. The department provided some information about staff training in this area; and I am aware that in the past, Visiting Inspectors and the Ombudsman have provided training sessions to instruct entry level custodial staff on aspects of the complaint management process. However, I am not confident that all custodial staff have a good understanding of the process. There is anecdotal evidence to suggest that many staff may not have adequate information about the process or feel they do not have the authority to properly deal with and resolve prisoner complaints.
120. In my view, the department must be committed to provide new staff with a structured induction program which includes adequate information about the complaints management system and the role of custodial staff, prison management, the Prisoner Complaint Line, Visiting Inspectors, the Ombudsman, HCSCC and all other avenues available to prisoners who may wish to lodge a complaint. Staff should be authorised and encouraged to deal appropriately with complaints and to take the necessary remedial action. Further emphasis could be placed on ongoing staff training in conflict resolution, mediation skills and reporting on and recording of complaints. I address these issues in more detail at 6.1 below.
121. It appears that the system in place for the regular visits carried out by the Visiting Inspectors provides a level of welfare support to the department's management of prisoners. As outlined above, their role is to monitor the treatment of prisoners, ensure that their accommodation is clean and safe, and that adequate food and suitable clothing is provided. The 25 voluntary Visiting Inspectors conduct regular inspections of prisons, regularly debrief with prison managers and assist prisoners to raise and resolve minor concerns and housekeeping complaints.²⁷ One of my Investigating Officers accompanied the program co-ordinator and Visiting Inspectors during their inspections of two prisons. During the visits it was noted:
- the Visiting Inspectors appeared to have genuine commitment to their role
 - they met with prison managers at the commencement of the inspection and journal entries were examined and issues noted at the previous inspection were followed up
 - custodial staff cooperated with the Visiting Inspectors as they proceeded through the prison, and staff were involved in discussion about issues for follow up
 - the prisoners appeared to be fully aware of the role of the Visiting Inspectors and willingly approached them to discuss concerns
 - journal entries were recorded as required at the conclusion of the inspection.

I consider that the Visiting Inspectors' regular visits to each prison contribute in a positive way to the efficiency and effectiveness of the general management of the prison system.

122. Notwithstanding this, their role in complaint handling is limited. This is despite their having the statutory power to 'receive and investigate any complaint of a prisoner'.

²⁷ 'Housekeeping' complaints is a reference to minor grievances about prison conditions, e.g. food, clothing, toiletries, cell arrangements, canteen purchases, heating/cooling etc.

Feedback provided to me during my audit and over time in assessing prisoner complaints to my office, indicates that Visiting Inspectors are not seen as a primary point of contact for prisoners wishing to resolve grievances. They are perceived to be identified with the department - with a general interest in health, welfare and safety matters - not as independent complaint handlers with investigative powers.

123. One manager commented that their attention was mainly focussed on aged infrastructure, cleanliness and heating/cooling issues pointed out to them by prisoners on their rounds. Notes from the Visiting Inspector journals provided to my office seem to bear this out. I am advised that there is a perception that prisoners will not make serious complaints to Visiting Inspectors, because they have no track record in resolving important issues for them. There is no evidence I have to indicate that Visiting Inspectors investigate and resolve serious matters such as complaints about officer conduct, custodial management issues, disciplinary action or placements/transfers.
124. After considering the information available to me in relation to the Prisoner Complaint Line, I take the view that the service adds an important capacity and dimension to the department's complaints management system. It assists prisoners who cannot write; are unable to understand written English; or otherwise have difficulty in dealing in person with custodial staff. Given the volume of calls to the Prisoner Complaint Line and the number of complaints received by my office, it is apparent that the first point of contact procedures at the prison level are not working as effectively as they could be. For example, calls taken in Ombudsman SA from prisoners often cite a delay in getting to see the CMCs. On this point, it is important that the Prisoner Complaint Line is seen as having authority.
125. To ensure this, further development and refinement of the Prisoner Complaint Line is required. The service could improve the efficiency of the department's complaints management system and provide prisoners with answers to the many day-to-day questions about matters such as prison programs; prisoner's case management; parole concerns; visits; and transfers from prison to prison. Free telephone access by prisoners to an improved complaints line service could take some pressure off custodial staff who may be called upon to respond to questions not within their immediate expertise or knowledge. This may prevent the delays and frustration that can cause a simple question to escalate into a complaint. (As noted elsewhere, there are also technology initiatives which might assist in information management and coordination of visitors).
126. However, as noted above, it appears that there are low usage rates amongst the Aboriginal prisoner population. Given that the low percentage numbers are similar to those received by my office, a reasonable conclusion is that Aboriginal prisoners may not be particularly shy about using the Prisoner Complaint Line or in any way discouraged from doing so. Rather, it would appear that they are using other mechanisms to seek redress for their problems through the ALOs, PADIC forums and external advocates.
127. As discussed, significant concerns about the current operation of the Prisoner Complaint Line were raised with my office during the audit period. There is perceived to be a 'revolving door' element to the service.²⁸ I was advised by departmental staff and by sources external to the department that there is a lack of confidence in the service to resolve issues.²⁹ Criticisms expressed by prisoners in calls to my office

²⁸ The term 'revolving door' to describe the Prisoner Complaint Line operation was used by a senior DCS manager in discussions with Ombudsman SA.

²⁹ Another senior DCS manager described bed space and rotations as the main source of complaints in 'a system that's choked up'.

include a tendency to refer a large number of matters back to CMC or officer level or to request that prisoners fill out paperwork which has already been completed. Issues have also been raised about the ability of the Prisoner Complaint Line to deal with serious matters appropriately.

128. Many complaints received by my office are from prisoners who claim to have gone to the Prisoner Complaint Line in the first instance and not had their matter resolved. Others are from prisoners who claim that they have been referred directly to my office by corrections officers or by their CMC.³⁰ The referral of prisoners directly to my office from the local prison level lends weight to the assertions that there is a lack of confidence in the Prisoner Complaint Line to proactively resolve matters. Together, these reports give rise to my view that the current approach to the Prisoner Complaint Line is in need of review.
129. A recent incident involving my office illustrates this point. My assessment staff received a call from a prisoner claiming that he had been in contact with the Prisoner Complaint Line to give information on drug trafficking in prison. The claim included knowledge of the names of correctional officers and prisoners involved. The prisoner said he had been told that the Prisoner Complaint Line would not take his complaint unless he identified himself. He said he declined to do so and terminated the call. When my officers reported the matter to the department's Executive, the incident was promptly investigated. The Prisoner Complaint Line confirmed that the call had been received. I was advised that staff believed that there was insufficient information for them to proceed with an investigation. The Prisoner Complaint Line supervisor believed there was nothing further that could be done. The responsible senior manager has since stated that a report should have been made to the IIU and advised that this has now occurred. He emphasised that although incomplete, the information could be a valuable 'piece in a puzzle' of other intelligence received on the trafficking of contraband.³¹
130. The department has acknowledged that 'the practice in prisons and across other areas of the department may at times not be consistent'; and I was advised during my audit that the department is currently addressing the efficiency and effectiveness of the overall complaints management system:
- We are currently establishing a Standard Operating Procedure that outlines the complaints management process, in addition to documentation. This will enable a more accurate reflection of the number of custodial complaints and how these are managed within the institutions and by the Custodial Services' directorate. All documents will be provided to staff on the DCS Prisoner Complaint Line to ensure the provision of up to date and consistent information to prisoners.³²
131. I acknowledge that the department has stated a commitment to the improvement of the complaints management system. A substantial revision of the existing LOPs that apply to each prison and development of a written SOP to apply across all prisons and the department would be positive steps towards such improvement. However, to ensure intended outcomes, the new SOP must address all key aspects of best practice complaint management processes. It should also clearly describe the steps that need to be taken by custodial staff and managers in implementing the aims and objectives of the operating procedures.

³⁰ Assessment Officers in Ombudsman SA report sometimes hearing prisoners say 'the boss has just told me to ring you'.

³¹ In correspondence received from departmental Executives on 9 March 2012 I was advised that : 'the department is concerned that empowering a non operational unit, consisting of staff that have no operational experience could destabilise the relationship between staff and prisoner at the local level. The department's view is that the Prisoner Complaint Line should remain principally a mechanism whereby staff receive and record complaints, provide advice to the prisoner and refer the prisoner to an appropriate course of action'.

³² Email from Ms Ksharmra Brandon, Senior Advisor, Offender Services, DCS to Ombudsman SA, 27 April 2011.

132. In light of the information available to me and my review of the department's processes, I consider that the existing administrative practices and procedures of the Prisoner Complaint Line are in need of review and refocus. Further, I consider that the farrago of LOPs currently used in prisons is confusing and outdated, and compromises the ability of the department to improve complaint handling standards. As such, the department's complaints management system is inefficient and ineffective.
133. In a practical sense, a refocus of the Prisoner Complaint Line should result in the service becoming more proactive in problem solving - well beyond referral back to the CMC and officer level. Step 4 in the official departmental complaints process must mean more than a referral back to Step 1. I believe there is also benefit in the Prisoner Complaint Line being more closely connected and in communication with the operations of Custodial Services, the IIU and the Aboriginal Services Unit.
134. In my opinion, the department's failure to ensure efficiency in the complaint handling process relating to complaints from prisoners is wrong within the meaning of section 25(1)(g) of the Ombudsman Act.
135. I make the following recommendations to improve efficiency:

4. That the department review the operational focus, resourcing and training available for the Prisoner Complaint Line, including seeking prisoner input to build a more proactive and consistent service.
5. That the department accelerate development and implementation of a Standard Operating Procedure (SOP) for prisoner complaint management to be used across the system. Further, that the new SOP underpin a comprehensive review of all Local Operating Procedures (LOPs) to establish consistency and minimum standards whilst recognising different security classifications and local conditions.

4.3 Whether the department's complaint handling policies and procedures are fair

136. Prisoners who lodge complaints to the department must be treated fairly. A consideration in understanding fairness is factors which inhibit prisoners from voicing complaints, including some who may fear retribution. Another is awareness of the power differential where the department's custodial staff operate from a formalised position of strength. The Australian Complaints Handling Standard recommends that written procedures should outline an agency's commitment to the fair resolution of complaints and should include a statement of commitment on the part of an agency to respond to complaints in a fair, equitable and unbiased manner. To ensure fairness in complaint handling, complaints must be handled with impartiality, confidentiality and transparency.
137. Impartial investigation is an essential element of any credible and successful complaint handling system. A key aspect of impartiality is procedural fairness which is concerned with the procedures used by the decision maker, rather than the actual outcome reached. Procedural fairness protects legitimate expectations as well as legal rights. It requires a hearing appropriate to the circumstances, a lack of bias, evidence to support a decision, and inquiry into matters of dispute. In the context of corrections and the management of the prison system, known procedural fairness is important in generating confidence amongst prisoners that their grievances will be heard and dealt with on their merits.

138. Procedural fairness also means that complainants will not be disadvantaged because they have complained. Feedback to my office indicates that a significant number of prisoners calling the Ombudsman do so because they have little or no confidence in the department's complaints process, because of their experience in trying to use it. Some allege that they have been bullied or 'spoken to' because they wanted to complain - or because they have complained. Sanctions alleged included loss of privileges, loss of a valued job or removal to a harsher regime in the same prison. The Chief Executive has acknowledged he is aware that some prisoners have expressed concerns about retribution:³³

A small number of prisoners have expressed such concerns when contacting the DCS Complaints Line. In these circumstances complaints line staff confirm that the prisoner has a right to voice complaints and provide information about the complaints management process. This usually helps to reassure prisoners in relation to such concerns.

139. At another level, there will be circumstances where some prisoners may be reluctant or unable to follow the procedures due to the nature of the complaint or for literacy, cultural or other genuine reasons. To ensure fairness in these circumstances, the procedures should appropriately describe all available options for making a complaint and the ways in which prisoners can be offered any practical assistance from custodial staff, Visiting Inspectors, ALOs or social workers.
140. It appears that almost all of the LOP documents for individual prisons have attempted to address issues such as the identity of the staff responsible for the management of a complaint; response timelines; and the provision of progress reports and written reports about any decisions made. However, the information included is scant in detail; and in my opinion, the written procedures must be improved and modified to include information to provide a clear step-by-step explanation of the process. The development of a SOP will help to rectify current shortcomings.
141. To meet best practice standards, new procedures should state that complaints will be prioritised on criteria such as urgency, complexity and seriousness; that complainants will be provided with response timeframes; and that complainants will be provided with progress reports and advised of outcomes and reasons as soon as practicable after a decision has been made. The procedures should state that wherever possible, appropriate resolutions will be fair to both the complainant and the agency, and consistent resolutions will be offered in similar situations. The procedures should provide details about the avenues for a review of the decision by management, the department or an external authority in cases where the complainant is not satisfied with a decision.
142. Although the information provided in some of the LOP documents informs staff about the avenues for review within the department, only two include information about the referral of prisoners to the Visiting Inspectors, the Prisoner Complaint Line, or to external review authorities such as the Ombudsman and HCSCC. There is also no mention of the role of ALOs who provide a valuable information and advocacy role to Aboriginal prisoners and to prisoners who are connected to the Aboriginal community.
143. In light of my review of the department's overall complaint handling systems and processes, I consider that the department's existing LOP documents do not adequately inform staff about the fair assessment and investigation of prisoner complaints. The current procedures do not meet best practice requirements for fairness in the department's complaints management processes.

³³ Letter from Mr Peter Severin to Ombudsman SA, 7 October 2011.

144. In my opinion, the department's failure to ensure fairness in the complaint handling process is wrong within the meaning of section 25(1)(g) of the Ombudsman Act.
145. I make the following recommendations to improve fairness:

6. That the department ensure that the proposed SOP and all revised LOP's contain relevant impartiality, confidentiality and transparency clauses; and that appropriate complaint progress information and outcomes are fully communicated to prisoners.
7. That the department reiterate and strengthen measures to ensure that retribution against prisoners who have made a complaint is not tolerated at any level in the system. As necessary, the department's employee codes of conduct should be amended to ensure sanctions for any such infringement.

4.4 Whether the department's complaint handling policies and procedures are accountable

146. The current Standard Guidelines for Corrections in Australia specify that prisoner complaints or grievances that are not resolved by the prison should be submitted to an authority external to the prison for an independent assessment and determination; and prisoners should be informed about external resolution options and processes in cases where the complainant is not satisfied with a decision.
147. As noted, only two of the department's current LOP documents include information about the referral of prisoners to the Visiting Inspectors, the Prisoner Complaint Line or to external review authorities such as the Ombudsman and the HCSCC. Most do not include information about the external options for resolution of prisoner complaints.
148. In line with best practice, documents should reinforce the important role that prisoner complaints play in the improvement of services and systems. If complaint information is to be used to identify defects in the department's provision of service to prisoners, the subject matter of complaints must be recorded and analysed to objectively identify trends in complaints and to address any systemic or recurring problems. In my view, the importance of this aspect of the complaints management system is not adequately communicated to staff in the existing LOP documents.
149. I was provided with documents to support the department's claim that all complaints dealt with by the Prisoner Complaint Line are recorded and reported to the department's Executive by staff on a quarterly basis. The quarterly reports include information such as the number of complaints to the Prisoner Complaint Line made by prisoners from individual prisons; the issues complained about; and other information such as increases or decreases in the number of complaints for each quarter.
150. It appears from my review of the LOP documents that there is a requirement for each prison to record complaints in a complaints register. Although there is evidence to show that some complaints at the prison level are recorded by the Visiting Inspectors in a journal and by prison staff in a complaints register, I was not provided with any information to show that the Executive receives reports from prison management about the number and type of complaints received at the local prison level. There is no information to show that complaints lodged with agencies such as SAPHS and HCSCC are recorded and reported to the department. For risk management, quality assurance and accountability reasons these reports should be made regularly to the Executive.

151. The department has advised that the complaints management system 'provides a step by step prisoner grievance process aimed at achieving a satisfactory resolution at the first point of contact, the local level'. The available data relating to the complaints received by Ombudsman SA and the Prisoner Complaint Line indicates that there is only a minor variation in the number of complaints lodged with the two lines. However, due to the lack of data relating to the management of prisoner complaints at the local prison level, it is not possible to make an informed judgement as to whether the majority of prisoner complaints are appropriately dealt with by custodial staff at the local level. Indeed experience with departmental liaison on individual matters leads me to conclude that more needs to be done to encourage appropriate first point of contact handling.
152. The quarterly reporting from the Prisoner Complaint Line to the Executive is a useful monitoring mechanism of that service. However, reportage of overall statistics and category trends from the Prisoner Complaint Line is not sufficient oversight of complaint handling practices in prisons. What is needed is establishment of a middle management review of reports from custodial staff. This assumes improvements in documentation and process handling at the level of CMCs and Unit Managers.
153. Oversight could effectively be achieved through the monthly prison General Managers' meetings. These could also be attended by the manager of the Prisoner Complaint Line for cross-review purposes, and advised by the IIU as appropriate. Unusual complaints, serious complaints, systemic issues and liaison with my office are all legitimate topics of monitoring and review in a system which seeks to learn from mistakes and recommend system improvements as a consequence. Establishment of such a practice would have positive implications for the level of oversight and control exercised by the Executive.
154. On the evidence to hand, the department's existing procedures do not adequately meet best practice requirements for accountability of the complaints management system. As a consequence, the systems in place to inform prisoners about external independent avenues of review and to identify and address recurring complaints, or clearly identify systemic issues, are inadequate.
155. In my opinion, the department's failure to ensure accountability in the complaint handling process is wrong within the meaning of section 25(1)(g) of the Ombudsman Act.
156. I make the following recommendations to improve accountability:
 8. That the department immediately implement a system of prisoner complaints data collection, analysis and reports at monthly General Manager meetings and at quarterly Executive meetings. This should include all complaints data from prisons and appropriate input and feedback from the Intelligence and Investigations Unit. Further, that a detailed report of prisoner complaints be prepared for the department's Annual Report each year.
 9. That the department's Executive establish a system of outcome reporting back to Ombudsman SA on matters referred. Further, that the department consider the benefits of a bilateral protocol with Ombudsman SA to ensure seamless follow-up and trend monitoring of prisoner complaints.

PART 5

**INTEGRITY AND GOVERNANCE
ISSUES**

5.1 The Intelligence and Investigations Unit

157. The IIU is responsible for the conduct of complex and protracted investigations and intelligence gathering on behalf of the Chief Executive of the department. In addition to the monitoring of information related to prison security and the detection of contraband, the IIU oversees major investigations related to prisoner escapes and attempted escapes and all cases of death in custody.
158. Given that many of these functions have a law enforcement element, the IIU works closely with SA Police, in particular the Police Corrections Section (PCS). Local police may also become involved where there are reported instances of prisoner on prisoner violence.
159. At the direction of the Chief Executive and in situations where a complaint is made against a correctional officer regarding behaviour, the IIU will investigate the matter if the allegation involves serious professional misconduct and/or criminal activity. The department advises that where allegations of a criminal nature are made, the matter will always be referred to the PCS for investigation and possible police action. In instances where the alleged offence is found by the PCS not to be criminal in nature, the matter is usually referred back to the IIU for review regarding possible internal disciplinary proceedings.
160. In circumstances where a prisoner alleges mistreatment or physical abuse, I have been advised that the issue is sometimes addressed at the level of the prison General Manager. As such, the IIU is not always informed of complaints that involve allegations of misconduct against officers.³⁴ The IIU advised that the Prisoner Complaint Line does not refer matters directly to them.
161. Since January 2011, an investigations register and journal have been kept by the senior officer of the IIU. The investigations register records the file reference, a complainant, respondent, location and date of incident and a record of report to the Chief Executive. Matters are investigated under secure, confidential files and are not accessible to those outside the IIU. Where detail relates to practice and procedure improvements, information is disseminated to relevant senior personnel.
162. I was advised that for the 10 months between January and October 2011, the IIU conducted seventy-three investigations. In October eleven of these matters were currently ongoing - six of these were in the hands of the PCS pending a report from police. Fifteen of the seventy-three investigations have involved deaths in custody or escape attempts. Nineteen were complaints made by prisoners alleging professional misconduct, harassment, bullying or physical abuse by custodial staff. The remaining cases involved officer against officer complaints, or complaints against officers made by prison General Managers.
163. My investigation into this area of the department's operations identified a number of gaps in the current approach to handling serious prisoner complaints consistently and effectively. Whilst the IIU advises me that findings are made against officers in approximately 40% of cases, there have been few recent prosecutions against correctional officers. In circumstances where appropriate and proportionate use of force is sometimes necessary to maintain prison safety and order, the line between acceptable use of force and a legitimate prisoner grievance claiming mistreatment is

³⁴ For example, a random examination of five sets of case notes from YLP revealed an investigation of two assault allegations from a prisoner in 2010 which took 12 months to reach a conclusion and was internally handled by YLP management. I am also currently investigating the matter of an alleged assault on a prisoner by a corrections officer in the Adelaide Remand Centre which it appears has not been reported to the IIU.

not always clear. Nor is it always easily determined. This is, in itself, good reason to reinforce and ensure procedural fairness for prisoner complaints and a high standard of ethical behaviour and professional conduct from correctional officers.

5.2 Oversight of prisoner complaints at senior management level

164. In section 4.4 above I outlined my findings and made recommendations to improve accountability in the system. One of the key reasons is to support the identification of trends in complaints and to enable the department to objectively address any systemic or recurring problems.
165. I acknowledge that the department has shown a willingness to act on these issues through the preparation of reports from the Prisoner Complaint Line that are presented to the Executive on a quarterly basis. The IIU also advised me that it takes the system improvement aspects of its investigative work seriously; and it has established a practice of informing senior officers about the operational practice and procedure implications of investigations. I support both initiatives.
166. To ensure that the department's system has the capacity to drive a process of continuous improvement in prisoner complaint handling at the coalface, there is an important role for prison General Managers at two levels.
167. First, it is important that General Managers ensure that custodial staff are trained and effective in receiving and responding to complaints. Sorting out requests for information, procedural matters and minor property and health related issues is an essential part of the correctional officer role. Beyond that point, dealing with bona fide complaints should be a well understood process involving CMCs and Unit Managers as appropriate. In my opinion, there should be no barrier at any level in the complaints process to a prisoner wishing to contact either the Prisoner Complaint Line or my office. The proviso is that both my office and the Prisoner Complaint Line will, in most cases, ask the prisoner what they have done to raise the matter at the local level. When 'housekeeping' matters are investigated at the correctional officer or unit level, it is important that the complaint is recorded and that the matter is dealt with promptly, appropriately and fairly. If implemented consistently, there is likely to be some noticeable increase in prisoner confidence in using the front-line complaints process. This is a matter for prison management to identify and prioritise within the prison as a business practice.
168. Although the vast majority of complaints from prisoners do not concern ill treatment by staff, there should be an unequivocal zero tolerance approach from General Managers to prisoner harassment and abuse. General Managers have a vested interest in maintaining order and in keeping the 'temperature' of the prison as low as possible. I am aware that experienced General Managers do exactly this, and indicate their expectations of officers and identify the line that cannot be crossed. Some also take an active role in counselling staff who have been involved in an incident where there is doubt about the level of physical restraint used against a prisoner. Others actively mediate and settle disputes between prisoners and staff where harsh words may have been exchanged. These are all legitimate methods for managing staff and prisoners when situations become tense and fraught. However, they are not a substitute for clear instructions to staff on the limits of discretion and the exercise of power, and the consequences for overstepping the mark.

169. Where prisoners want to complain about an officer, there is a practical difficulty presented for both staff and prisoners. For staff, the issue relates to acknowledging and recording complaints which may raise performance management issues for themselves or their colleagues. For the prisoner making the complaint, the action raises the prospect of a likely confrontation with that correctional officer or others in the team. In these situations officers may be inclined to place pressure on the prisoner not to complain, to withdraw the complaint or to suffer some form of retribution if they do complain. As discussed above, this scenario is sometimes alleged to my office by prisoners. There is credible anecdotal evidence that these occurrences are not isolated.³⁵
170. In these circumstances, the best course of action is for the prison General Manager to be notified (or if necessary the Chief Executive or my office) immediately so that contact can be made with the prisoner at senior level and the matter investigated formally. In my view, it is preferable that the Prisoner Complaint Line take the complaint, verify the prisoner's version of events and advise the prisoner that the matter has been documented and will be reported confidentially to the General Manager for action. In this way custodial staff are not engaged unless and until the General Manager deems it appropriate to seek an explanation from staff in a controlled environment. This process should be clearly articulated and understood by all - prisoners, custodial staff, Prisoner Complaint Line, General Managers and the Executive.
171. In simple terms, it is advisable for prison General Managers to have direct and immediate knowledge of complaints made by prisoners against their staff. To enable this to happen, the SOP for prisoner complaints and the information provided to prisoners must emphasise that this is the required procedure. Some adjustments to the Prisoner Complaint Line processes for recording and forwarding these complaints may also be necessary - along with any changed protocol around follow-up from General Managers to report back to the Prisoner Complaint Line and to the Executive when the matter has been finalised.
172. In instances where prisoners are alleging criminal behaviour, for example an assault allegation, it is essential that the IIU and as necessary, the PCS are formally involved in the investigation from the outset. It is also important that detailed and accurate files are kept on these matters for reporting and review purposes at the level of prison and department senior management.³⁶
173. On the evidence available to me from prison-level investigations conducted on allegations of assault against prisoners, I believe the department should move to formalise all such investigations as the responsibility of the IIU and SAPOL. General Managers should be involved as facilitators of evidence gathering and provide support - but the investigation should be conducted external to the prison. This procedure would be a useful inclusion to the proposed SOP to operate across all prisons.

³⁵ For the purpose of fairness to all potentially involved in these situations, including officers wrongly accused, I suggest DCS mandate the wearing of identity tags by all correctional staff at all times.

³⁶ The department has advised that SOPs mandate reporting all Use of Force incidents (planned and unplanned) in accordance with recognised Incident Reporting protocols.

5.3 National and international jurisdictions - some models for consideration

174. At the 2011 national seminar Oversight of Correctional Facilities, hosted by the Queensland Ombudsman,³⁷ delegates were advised of the implications of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (**OPCAT**). OPCAT was adopted by the General Assembly of the United Nations in 2002. The Australian government signed OPCAT on 19 May 2009, but has yet to ratify the protocol.
175. When Australia ratifies OPCAT, the government will be required to establish a national system of visits to all places of detention, including prisons and all detention centres and the vehicles used to transport prisoners from one location to another. There is yet to be a determination about whether the inspections will be conducted by a national body, independent state bodies or other arrangements combining the two authorities. It is possible that existing agencies such as the Human Rights Commission at national level or the Ombudsman at state level, could perform the inspections. I understand that the department has recognised that there may be new oversight arrangements put in place as a result of the implementation of the protocol. It is reasonable to assume that inspections may include examination of complaint handling standards in prisons.³⁸
176. Another development in corrections of note is the method by which prisons have implemented inspection programs based on standards, to ensure that prisons are operated safely and efficiently and that there is a focus on positive outcomes for prisoners. In Queensland this has been achieved through the establishment of the Office of Chief Inspector within Queensland Corrective Services.³⁹
177. Queensland has adopted the World Health Organisation concept of a 'healthy prison' using an international definition of what should be provided in any custodial environment. The model has been used extensively in the British prison system. There are four key elements:⁴⁰
- **Safety:** Prisoners, even the most vulnerable, are held safely.
 - **Respect:** Prisoners are treated with respect for their human dignity.
 - **Purposeful activity:** Prisoners are able, and expected, to engage in activity that is likely to benefit them.
 - **Resettlement:** Prisoners are prepared for release into the community, and helped to reduce the likelihood of re-offending.
178. The Healthy Prisons model identifies 28 standards of performance required of prisons and outlines the inspection process employed by the Office of the Chief Inspector in applying the 'Healthy Prison Test'. It ranges from 'Arrival in Custody' to 'Resettlement Pathways'. Standard 13 relates to 'Request and Complaint Systems'. Referencing formal corrections policy and procedures Standard 13 measures:⁴¹

Effective request and complaint procedures are in place are easy to access, easy to use and providing timely responses. Prisoners feel safe from repercussions when using these procedures and are aware of an appeal procedure.

³⁷ A seminar hosted by the Queensland Ombudsman, Brisbane, 20-21 July 2011.

³⁸ Breaking the Cycle - Tasmania Corrections Plan 2010-2020 Discussion Paper, Department of Justice, Tasmania, 2010.

³⁹ Healthy Prisons Handbook, Queensland Corrective Services - 2007, p2.

⁴⁰ Ibid, p2.

⁴¹ Ibid, p44.

179. Since its inception in 2007, the Healthy Prisons model has achieved some recognition for improving standards in many areas of prison management - including in the handling of prisoner complaints. There is currently a discussion about a proposal to make Healthy Prison audit reports available as public documents. I am advised that Queensland Corrections are increasingly seeing these reports as a resource rather than as a performance score card for individual prisons.
180. In Western Australia, the Office of the Inspector of Custodial Services was established by the *Prisons Amendment Act 1999* (WA). The role of that office is to bring independent scrutiny to the standards and operational practices relating to custodial services in that state. The office operates under the general portfolio responsibility of the Minister for Corrective Services and is answerable directly to the Parliament.⁴²
181. In addition to conducting regular inspections of prisons, both announced and unannounced, the office conducts audits to examine practice and performance in key areas of prison operations. The office has published a Code of Inspection Standards which includes:⁴³
- 50. **Prisoners must have an opportunity to make requests, lodge complaints and where these are not satisfactorily resolved, be able to take matters to an independent competent authority without being victimised.**
 - 50.1 An objective of good prison management should be, as far as possible, to prevent serious complaints arising in the first place. This is best achieved through adhering to a set of fair and clear procedures that govern aspects of prison life;
 - 50.2 These procedures should include a description of how prisoners are able to make requests and complaints, and how to take a complaint that is not (in their view) satisfactorily resolved by the prison to an independent competent authority;
 - 50.3 As many complaints will concern staff, it is essential that prisoners be assured that they will not be victimised or disadvantaged in making complaints locally or by seeking remedy through an independent authority.
182. In New Zealand, the Prison Inspectorate provides the Chief Executive of the Department of Corrections with a level of assurance that prisoner complaints can be investigated independently. There is a requirement that inspectors must report independently of any prison management structure. The inspectors' functions are to hear and investigate offender complaints, carry out special investigations for all prisoner deaths in custody and to report on any local investigations about alleged abuses by an officer or an offender.
183. A system of internal auditing complements the roles of the inspectorate - their activities are then reported on and subsequently reviewed by the Assurance Board. The Assurance Board provides assurance on a range of corrections governance issues and is directly involved in considering reports from inspectors' special investigations and/or external reports undertaken by other interested agencies, including the Ombudsman.

⁴² WA Office of the Inspector of Custodial Services, www.custodialinspector.wa.gov.au.

⁴³ Code of Inspection Standards for Adult Custodial Services, WA Office of the Inspector of Custodial Services 2007, p32.

5.4 Assurance and inspection standards in South Australian correctional services

184. The department's complaints management system was originally developed to provide a consistent and fair process for managing complaints. It is described as one which 'recognises, promotes and protects the rights of victims, offenders and community members in contact with the department.'⁴⁴
185. As the evidence to my audit demonstrates and as stated by a number of senior departmental managers, more needs to be done to improve the complaints management system in this state's prisons. In a general sense, I consider that South Australia has fallen behind other jurisdictions in this area of prison management.
186. However, it is also apparent that the department has worked hard in recent years to improve the management and treatment of Aboriginal prisoners in the system. In particular, the department has effectively built the Aboriginal Services Unit to drive improved standards in custodial services. The successful recruitment and integration of ALOs, the acceptance of the PADIC forum model, and the investment in programs with a healing and 'cultural competence' focus has been a highlight of the department's prisoner management approaches. Arguably these initiatives have had a positive impact in the area of addressing prisoner grievances.
187. In this context, I believe the Healthy Prisons model and the independent inspectorate and assurance arrangements in place in Western Australia and in New Zealand are initiatives worth considering for corrections in South Australia. The outcomes from these models could provide ideas for systems improvements alongside and beyond the proposed development of an overarching SOP for complaint handling.
188. As noted above, the CSAC exists as an advisory body to the Minister for Correctional Services and operates by virtue of sections 10-16 of the Correctional Services Act. Its role is to monitor and evaluate the administration and operation of the Act; and it has the authority to report of its own motion to the Minister on any matter pertaining to the functioning of corrections in South Australia. CSAC formally reports annually to the Minister on its activities and current issues in the corrections system.
189. I note that the last three Annual Reports from CSAC (2008-2011) have all documented a small number of standing agenda items, including matters relating to Visiting Inspectors' reports. The Annual Reports state that: 'Council discusses current topical issues and determines appropriate action to address and attend to identified matters.'⁴⁵ I am advised by the Presiding Member of CSAC that concerns had been raised recently about the consistency of reporting of the Visiting Inspector service, and that this issue has now been addressed by the department.⁴⁶
190. Notwithstanding the broad oversight responsibilities CSAC has as a 'watchdog' of the prisons system, there is greater scope for CSAC to be involved in the monitoring of trends and issues in prisoner complaint handling. This is not recent or current practice. Given their regular contact with all prisons, CSAC members are uniquely placed to focus attention on prisoner complaints from all sources, including prison managers, Visiting Inspectors, correctional officers and prisoners themselves. In addition, it would be useful for CSAC to be regularly briefed on reports to the department from the Prisoner Complaint Line, and to be included in an appropriate sharing of information on systemic complaint matters dealt with by the IIU.

⁴⁴ Letter from Mr Peter Severin to Ombudsman SA, 8 December 2010.

⁴⁵ Correctional Services Advisory Council, Annual Reports 2008-2009, 2009-2010, 2010-2011.

⁴⁶ Ombudsman SA interview with Mr Ian Shephard, 13 December 2011.

191. I make the following recommendations to improve management oversight and governance standards related to prisoner complaints:

10. That the department immediately prioritise oversight of complaint handling as a Business Plan objective for 2012-2013 and beyond.
11. That the department establish a new procedure for handling complaints against officers, by requiring a report via the Prisoner Complaint Line to go directly to the prison General Manager for attention, resolution and reporting to the department's Executive. Further, that all investigations involving an allegation of assault against a prisoner by a departmental officer be referred to the Intelligence and Investigation Unit for action.
12. That the Correctional Services Advisory Council identify prisoner complaints management as a systems issue warranting standing agenda item status. To facilitate this, the department should provide the council with regular reports prepared for the Executive on prisoner complaints management and related intelligence issues.

PART 6

SYSTEMS IMPROVEMENTS RELEVANT TO COMPLAINT HANDLING

6.1 Correctional officer training and induction

192. An efficient and effective prisoner complaint handling process must have competent operators with a good working knowledge of the system and the necessary training to make it work.
193. In South Australia, trainee correctional officers must complete a 12 week training program which consists of 6 weeks intensive induction and training in a group training environment, and 6 weeks in-service training under the guidance of experienced correctional officers. At the conclusion of the course performance reviews examine core elements of the program and assess workplace capability.
194. The group training component is intensive and covers a wide range of skills including:
- introduction to the justice system
 - confidentiality
 - SOPs, LOPs and General Managers' rules
 - professional prisoner relations
 - security
 - emergency procedures
 - ethics
 - prisoner discipline
 - officer safety
 - regime management
 - introduction to Aboriginal cultural awareness
 - pat down searching
 - strip searching
 - critical incident management
 - report writing
 - restorative justice
 - drug testing cell and area searches
 - suicide awareness
 - prisoner bullying tactics
 - use of force - theory
 - case management assessment.
195. I was advised that the current program involves a prisoner complaints module run by departmental personnel which is 50 minutes in duration. I understand that there are elements of mediation in the critical incident management module and restorative justice is also briefly covered. It is unclear whether the prisoner complaints module is directly assessed as part of the performance review at the conclusion of the training.
196. I note that the department's Business Plan for 2011-2012 includes a Capability Key Performance Indicator at 2.6.3 which is to 'Continue to review and update course material in the 'Correctional Officer Training' program for new officers'.
197. As part of that review process, the department should consider the benefits of expanding the module which deals with prisoner complaints. I suggest a modified program which outlines the rationale, processes and reporting systems for prisoner complaints, and which also introduces the role of external monitoring agencies, including Ombudsman SA. As a contribution, I am prepared to provide a module on prisoner complaint handling from an Ombudsman SA perspective to complement the input offered by the department.

6.2 Education, training and work in prisons

198. An issue raised by several senior officers during my audit was the extent of boredom amongst prisoners. In my own visits to prisons, I have been struck by the atmosphere of listlessness amongst many prisoners. Prisoners complaining to my office often remark on their boredom to my Assessment Officers. Indeed staff from the Prisoner Complaint Line have also made mention of boredom as a reason for prisoners to ring the service.
199. 'Just another day' is the title of one of the trainee correctional officers training modules. Repetitious and uneventful working days are part of the good management of prisons; and I am sure many officers and managers in the system see routine and a calm working environment as highly desirable. However, for prisoners a routine which is completely devoid of stimulation and effort soon becomes a source of discontent.
200. I am aware of the suite of education, training and work programs which the department runs across the prison system. I appreciate that within available resources, the department takes the responsibility to provide rehabilitation and skill support to prisoners seriously. For example, the prison industries program operates in most prisons and aims to provide meaningful work for offenders in a commercial context. The work tasks include engineering, carpentry and joinery, concrete product manufacture, component assembly, powder coating and a range of agricultural occupations.
201. I note that prison industries employs approximately 300 prisoners daily within the seven participating prisons.⁴⁷ I was advised that a further 500 prisoners are engaged in prison support services, a category which includes unskilled tasks such as cleaning, kitchen work, gardening and general maintenance. I understand that the system currently has unused capacity in several locations, notably the industry area in Mobilong prison and workshops in YLP and Port Augusta, as well as some capacity constraints in the Adelaide Women's Prison. The department emphasised its commitment to continuing to expand employment opportunities to all prisoners regardless of status. I urge the department to redouble efforts by expanding skills based employment throughout the system. Support services activity cannot match real jobs for equipping prisoners with marketable skills. A priority must be to maximise opportunities for labour market participation on release.⁴⁸
202. Vocational Education and Training (**VET**) programs in corrections are run through the Vocational Training and Education Centre of South Australia. The focus of VET in prisons is on the development of basic language, literacy and numeracy skills, although computing and business studies units are also taught. Mobilong is the stand-out prison for concentrating activity on skill development and transition to employment, with a sophisticated case management and employment skills mix complementing the prisoner management regime. Notwithstanding the good work done in Cadell Training Centre and the Adelaide Pre-release Centre, I would like to see more of this effort replicated in the other major facilities across the system.
203. In a confined environment where levels of isolation, frustration and anger can reach palpable levels, meaningful employment and training opportunities are critically important as a prisoner management tool. Engaging prisoners with work opportunities is also an investment in strong rehabilitation outcomes and public safety.

⁴⁷ Department for Correctional Services, Annual Report 2010-2011, p21 (note: does not include the Adelaide Remand Centre or Mt Gambier facilities).

⁴⁸ The Queensland Corrective Services Prisoner Employment Policy and Action Plan 2008-2011, p 5, notes that some 50% of offenders have never worked - and that the aim of employment in prison industries is 'to provide transferable skills, knowledge and a positive work ethic for offenders to take with them into post-release employment'.

204. I am aware too that correctional officers have expressed greater satisfaction with their work when prisoners in their care are meaningfully occupied with practical or creative activity. Feedback received by my office indicates that corrections staff believe their relationships with prisoners improve markedly in a work environment where everyday frustrations, grievances and worries are resolved more easily when productive activity exists. This can only benefit management of complaints in the prison environment.
205. I make the following recommendation to support system improvement relevant to prisoner complaint handling:

13. That the department prioritise expansion of the prisoner complaints training module for trainee correctional officers and include additional input to the module from Ombudsman SA.

6.3 Monitoring progress

206. To ensure that recommendations from this report are successfully implemented, and to provide feedback to the department to support continuous improvement in complaint handling, my office will monitor the department's progress towards implementing these recommendations on a six monthly basis.
207. I will also seek feedback on the department's internal complaints handling processes from prisoners telephoning my office. I intend to arrange regular visits to prisons around South Australia to monitor complaint handling practices at the local level.

INTERSTATE PERSPECTIVES ON CORRECTIONS COMPLAINTS HANDLING

Many state and territory jurisdictions in Australia have recently given attention to good practice elements in the management of prisoner complaint handling. Particular attention has been directed towards strengthening the internal processes used by corrections staff in determining complaints and requests from prisoners. Below is a sample of recent approaches.

Victoria

Corrections Victoria updated their policy for dealing with requests and complaints in 2010.⁴⁹ The policy acknowledges the right of prisoners to make requests and complaints, and ensures that Corrections Victoria will provide a formal process to address these issues fairly, openly and in a timely manner. Requests and complaints must be dealt with within 14 days. If a matter is sensitive or complex, then following an interim response to the prisoner, a response should be provided within 28 days.

The policy states that prison General Managers must ensure that their prison has a Local Operating Procedure that provides guidelines for local processes for management of requests and complaints. In the first instance, complaints should be dealt with by local (unit level) staff. Prisoners are encouraged to direct their requests and complaints at a local level. Where requests or complaints fall outside the local staff's authority, requests and complaints are to be referred to their supervisor, who will then initiate action to resolve the issue. Where required, requests and complaints are referred to an Operations Manager or the prison General Manager. If prisoners are not satisfied with the response, they are able to contact a range of internal and external persons or agencies, including the Victorian Ombudsman and the Minister for Corrections.

All prisoners are advised of their rights to make a complaint during prisoner orientation processes. Posters identifying the general complaints process are accessible across the prison. Provision has also been made to ensure that prisoners who are illiterate, speak English as a second language or have a cognitive impairment are assisted in expressing their concerns.

All prisoners can make requests and complaints either in person or in writing. Formal requests and complaints are recorded in a register at the prison. This register must also record the resolution of the request or complaint and the Manager or authorised delegate must attend to requests in the register at least twice a week. Responses to formal requests must be in writing.

This policy applies to all public prisons. The two privately operated prisons in Victoria have operating instructions which are consistent with this policy. Corrections Victoria is currently in the process of developing a Commissioner's Requirement - Unreasonable Complaint Policy, which will apply to all prisons.

⁴⁹ Corrections Victoria, Public Prisons - Director's Instruction No: 4.1.

Queensland

In Queensland, a Complaints Management System exists for all corrective services facilities. This system was developed in collaboration with the Queensland Ombudsman's office. The focus of the complaint management approach is to ensure that the responsibility for complaints resolution remains at the local level. There is an emphasis on complainants talking about their complaint with local staff before lodging a complaint in writing. The Complaints Management System is based on the Australian Standard on Complaints Handling.⁵⁰

A fact sheet summarising the Complaints Management System is available to all prisoners. The Corrective Services website contains a comprehensive outline of the complaints management system, with links to the relevant policies, procedures and forms.⁵¹

Complainants are encouraged to make complaints verbally to staff at the front line level. These complaints are not entered into the Complaints Management Database. When complaints are unable to be resolved by front line staff, the complainant is encouraged to put their complaint in writing. Written complaints are entered into the database and are only dealt with once the complainant has demonstrated that they were unable to resolve their complaint at a local level.

Complaints in the database are assessed as a level 1, level 2 or level 3, in order to ensure that the investigation is determined by an appropriate officer. Level 1 and 2 complaints are determined within 30 days of receipt. Level 3 complaints, which are more complex, must be dealt with within 60 days of receipt. All complaints must be acknowledged and the decisions must be given in writing.

A fact sheet summarising the Complaints Management System is available to all prisoners. The Corrections Services website contains a comprehensive outline of the complaints management system, with links to the relevant policies and forms.

If the complainant is not satisfied with the decision, then internal review followed by a reconsideration of the decision is available. The complainant can then seek external review of the decision once this process has been exhausted.

Western Australia

In 2006, the Western Australian Ombudsman initiated an 'own motion' investigation into the prisoner grievance process to establish whether the existing prisoner grievance process was consistent with the Australian Complaints Handling Standard and the Standard Guidelines for Corrections in Australia.⁵²

The investigation found several shortcomings with the existing grievance process. The policy was found to be complex and confusing for some prisoners. Many were found to have difficulty understanding the documentation or they did not have the requisite literacy skills to fill out complaint forms. Prison staff were not appropriately trained to resolve prisoner complaints and there was a lack of clearly defined responsibility to ensure an efficient complaints handling system. The report concluded that prisoners had little confidence in the grievance process being a fair process and had doubts about the integrity of the system. The Ombudsman made several recommendations to improve the existing policy. These included that clear, simple information should be provided to prisoners about the process and in a way that is appropriate to the culture and literacy level of the prisoners.

⁵⁰ Queensland Corrective Services website.

⁵¹ http://www.correctiveservices.qld.gov.au/Resources/Complaints_Management/index.html

⁵² Ombudsman Western Australia, Own Motion Investigation into the Department of Corrective Services' Prisoner Grievance Process, May 2006.

Further, prisoners should be provided with appropriate mechanisms, such as a telephone contact line or pathways outside the unit management framework, for lodging a complaint where cultural differences or the nature of the complaint are unsuitable for the current process. Prison staff should be trained in handling complaints and the department should formalise the responsibility for an effective complaints handling process at each prison. Prisoners should be given access to confidential mail envelopes which would enhance the accountability of any external review process. The corrections department had acknowledged 'that there are systemic and operational issues that need to be addressed for prisoners to have absolute confidence in the grievance process'. The recommendations were accepted and the department agreed in principle to their implementation.⁵³

The current Western Australian policy on complaints by prisoners was updated in March 2010 and applies to all prisons.⁵⁴ Prisoners may make a complaint or request on any matter with the exception of prisoner placement and assessment, that are dealt with under a separate procedure. Prisoners may make a complaint to the officer in charge of the prisoner, the superintendent, a prison visitor, the relevant director or the CEO. However, prisoners are encouraged to attempt to resolve requests at the lowest level possible, to allow for a faster resolution to the matter. If a complaint is unable to be dealt with by the person complained to, the officer must arrange for the complaint to be transferred and the prisoner must be notified of this.

Complaints can be made verbally or in writing and the officer receiving the complaint must record it on the prisoner's management file unless it is of a minor nature. Any determination made must also be recorded on the file. If a prisoner does not believe that an issue has been adequately dealt with, a formal grievance may be lodged, following the procedure detailed in the Prisoner Grievance Process Manual. Certain matters are excluded from this procedure with the appropriate procedures for these matters being listed. The grievance forms are made available to all prisoners.

New South Wales

The Operations Procedures Manual in Corrective Services NSW recognises the right of prisoners to make inquiries and complaints and have them dealt with in a fair, timely and effective manner. The primary means for prisoners to resolve issues is at the local level. The department believes this results in a faster resolution of issues, minimises the escalation of problems and stress and makes for a safer environment for inmates and staff.⁵⁵

In the first instance, issues are to be managed by the inmate's supervising officers or through the inmate request system in the area where the prisoner is accommodated. All inmates can file application and request forms to raise problems or issues relating to their lives while in custody. These forms are only used for significant issues where it is important to record an official process. The Area Manager must review the request book daily to resolve any new forms as soon as possible. Issues on these forms should be resolved within 14 days.

If the issue remains unresolved after the internal process has been followed, then inmates can complain to the Corrective Services Support Line (CSSL). Posters and promotional material are left with inmates and staff. If an issue is urgent, including safety, security or threats of self-harm, then inmates can call the CSSL before completing internal complaints procedures. All calls to the CSSL are free and inmates should not be prevented from calling the CSSL. The CSSL operators then notify a relevant staff member for follow up action.

⁵³ Ibid, p6.

⁵⁴ Department of Corrective Services (Western Australia), Adult Custodial Rule 5 - Requestions, Complaints and Grievances by Prisoners.

⁵⁵ Corrective Services NSW, Operations Procedures Manual - Section 8.34 Corrective Services Support Line.

These matters are to be resolved within 3 business days. The staff member will directly inform the inmate of the outcome and must inform CSSL of the outcome.

Complaints can also be made orally or in writing to the general manager, the Commissioner, the Minister or official visitors. Official visitors must deal with complaints in one of two ways. If the complaint can be resolved quickly and at a relatively local level, the general manager must be notified. The official visitor can inform other officers of the prison or take any other action the official visitor thinks appropriate in relation to the complaint. Official visitors must not give instructions to officers or interfere with the management or discipline of a correctional centre. A record must be made of these complaints. Inmates must not make baseless or false or misleading complaints. Inmates also have the right to complain directly to the Ombudsman by writing or telephone.⁵⁶

Tasmania

The Department of Justice has recently addressed mechanisms for complaints handling in the 2009 Breaking the Cycle Discussion Paper and the 2011-2013 Breaking the Cycle Strategic Plan. The discussion paper notes the establishment of the Tasmanian Prison Service Compliance Unit in 2008:

The Tasmanian Prison Service Compliance Unit was established in 2008 and has a number of functions, including assisting in the investigation of formal complaints forwarded by the Ombudsman or made directly to the Director of Prisons, and conducting on-site audits of various prison functions. Compliance Unit staff also assist in reviewing and developing Director's Standing Orders and Standard Operating Procedures.

As the Compliance Unit has only recently been established, audit criteria and procedures are still being developed. To date, functions audited have been selected on their assessed priority. For example, the assessment process carried out when an inmate arrives in prison ("Tier 1 assessment") has recently been audited due to its importance in the identification of inmates' immediate needs.⁵⁷

The Ombudsman has jurisdiction to investigate prisoner complaints, and prisoners have a dedicated, secure free-call line to the Ombudsman available in all prisons. In his 2009 Annual Report, the Ombudsman noted that the Tasmanian Prison Service Compliance Unit has 'responded promptly and constructively' to complaints. Increasing numbers of complaints are believed to arise from the increased availability of the complaints process to prisoners and not from deterioration in prison conditions.

Prisoners are able to make complaints to official prison visitors. Visitors can assist inmates in raising and resolving their concerns and complaints.⁵⁸

The Breaking the Cycle Discussion Paper also examines OPCAT and its possible implications for prison complaints handling. Prison visits may be carried out by a different independent body, necessitating changes in current external complaint handling practices.

⁵⁶ Corrective Services NSW, Operations Procedures Manual - Section 8.28 Ombudsman.

⁵⁷ Department of Justice (Tasmania), Breaking the Cycle: Tasmania Corrections Plan 2010-2012 Discussion Paper, pp 69-70.

⁵⁸ Ibid, p70.

The Breaking the Cycle Strategic Plan recognises that:

Services and procedures should be fair, equitable and have due regard to personal dignity and individuality, as far as is consistent with the need for appropriate levels of security and control.⁵⁹

Further, prisoner complaints handling should be consistent with the principles and goals of the strategic plan. A particular commitment has been made to review case management practices and improve internal procedures. The plan will also 'provide staff with training and resources to allow them to deal confidently and sensitively with offenders of culturally and linguistically diverse backgrounds'.⁶⁰

⁵⁹ Department of Justice (Tasmania), Breaking the Cycle: A Strategic Plan for Tasmanian Corrections 2011-2013, p6.

⁶⁰ Ibid, p9.

NO. 7 - PRISONERS REQUESTS, COMPLAINTS AND GRIEVANCES**1. INTRODUCTION**

- 1.1 There must be effective channels for prisoners to make requests, and complaints and to challenge decisions in a way that gives them confidence that their challenges will be heard fairly. Ensuring that prisoners have access to, and understand how to use various channels open to them is an important responsibility of all prison staff.

2. FIRST STEP - GENERAL PRINCIPLES

- 2.1 The general principle is that requests and complaints should be:
- raised at lowest possible level;
 - resolved at the lowest possible level; and
 - dealt with as informally as possible.
- 2.2 Thus a prisoner should initially raise a complaint verbally with his/her Accommodation Unit Officer or his/her Case Officer. If the complaint can not be resolved at this level, then the prisoner should seek an interview with the Duty Supervisor. The great majority of requests and complaints can be resolved at this level, either by the prisoner's request being granted or by the prisoner being satisfied with the explanation for why it cannot be granted.

3. NEXT STEP

- 3.1 If the complaint remains unresolved the prisoner should seek an interview with the Unit Manager using a Prisoner Request Form. The Unit Manager will see the prisoner as soon as practicable and normally within 48 hours receiving the request.
- 3.2 The Unit Manager will keep a record of the interview and the decisions made on the Prisoner request Form. If the prisoner asks for a written response to the request, this should be supplied by the manager soon after the interview.

4. WRITTEN COMPLAINT, REQUEST OR APPEAL

- 4.1 Written Complaints, Appeals and Requests may be dealt with more formally because;
- It is not a matter that can be resolved by G4S staff because it relates to either DCS or another contract.
 - The prisoner does not accept the Unit Manager's decision and wishes to challenge the matter further.
 - The prisoner wishes to make a complaint about some aspect of the conduct or behaviour of a G4S or DCS staff member.
- 4.2 In these cases the prisoner should obtain a Request/Appeal Form (MG030). These are only issued from the Administration Building during normal office hours. When each form is issued, it will be given a number and the issue logged so that the progress of the complaint can be tracked. This cannot be done if forms are issued from any other point. The administration staff will maintain a Tracking Log recording:
- the number and date of each form issued;
 - the date it was received back from the prisoner;
 - the date it was sent to the recipient, and who the recipient was;
 - the date the reply was received; and
 - the date the reply was sent to the prisoner.
- 4.3 The Guidance notes issued with the form explains to whom the prisoner should address his/her complaint. On the form the prisoner is asked to state:
- the nature of his/her request or complaint;

-
- the steps s/he has already taken to resolve it;
 - the action s/he would like taken in respect of it; and
 - the person to whom this written request is addressed.
- 4.4 If this is a complaint about the day to day running of the prison, or against a **decision** made by any member of G4S staff, other than the Prison Director, or a **complaint** about any member of G4S staff, the form should be addressed to the Prison Director.
- 4.5 If it is a request or complaint about any matter outside G4S's jurisdiction, such as parole, leave of absence, classification, allocation, sentence, conviction, matters occurring in other prisons, matters to do with another contract or a complaint against any DCS employee, at the prison or elsewhere, the form should be addressed to the DCS General Manager.
- 4.6 If the prisoner wishes to complain about the Prison Director, or appeal against the decision made by the Prison Director they should address the complaint to the G4S Director Prisons. Any complaint about the DCS General Manager may be addressed to the Executive Director Custodial Services.
- 4.7 The prisoner will return the form to administration for forwarding to the nominated recipient.

5. TIME LIMITS

- 5.1 The time target for response is 14 days of the initial written request form being received. (Where it is addressed to a person outside the prison, the target is 28 days).

6. WITHDRAWAL

- 6.1 A prisoner may withdraw any written request or complaint by advising administration staff in writing.

7. GENERAL

- 7.1 All formal complaint documentation including any withdrawal and any response will be filed and retained for a prescribed period. .

8. REPLIES TO PRISONERS

- 8.1 Written replies to prisoners should:
- indicate clearly and in detail the reply to the prisoner's request or complaint;
 - be written in language able to be understood by the prisoner; and
 - give the prisoner detailed reasons for the decision that has been made.
- 8.2 Where possible, where the prisoner has advanced arguments in favour of a request or complaint that is not being upheld, indicate why the arguments have not been considered overwhelming.

9. ACCESS TO EXTERNAL PARTIES OR AGENCIES

- 9.1 Prisoners may also lodge a complaint with external parties or agencies;
- DCS Complaints Hotline (free call on PTS)
 - A Member of Parliament
 - The Ombudsman
 - A Visiting Inspector
 - Legal Adviser at their business address
 - The Police Complaints Authority
 - The Chief Executive of DCS
- 9.2 Written correspondence to these persons will not be opened by staff. The addresses of these persons will be available in the library and letters addressed to them will be processed in the normal way by the administration staff. Prisoners may also contact such persons by telephone, at their own expense.

10. COMPLAINTS & INQUIRIES FROM EXTERNAL PARTIES OR AGENCIES

- 10.1 Complaints or inquiries from persons or agencies within the community will normally be investigated and responded to by the Prison Director or delegate. These are most commonly from the Ombudsman's Office and normally relate to operational matters. Staff receiving complaints or Inquiries via telephone, email or written correspondence must forward the complaint or inquiry to the Prison Director or delegate.
- 10.2 All complaints or Inquiries will be responded to promptly (not greater than 14 days) and records of the complaint or inquiry will be retained.

MOUNT GAMBIER PRISON

Serial No.:
Date:

PRISONERS REQUEST, COMPLAINT OR APPEAL

NAME:UNIT:.....

Fill in this form carefully and then pass it to your Unit Officer.

Describe your Request , Complaint or Appeal
--

Is this an appeal against a reply to an earlier Request/Complaint Form decision?

YES	NO
-----	----

If so who made that decision?

When were you told of the decision?

What have your done already about this?

(Who have you discussed it with. Have you tried to resolve it in any other way?)

Who do you want to deal with this Request,/Complaint/Appeal?
(Attached is a list of suggestions)

What do you want to be done about your Request/Complaint/Appeal?

Signed: Date:

Print Name:

PASS THIS FORM TO YOUR UNIT OFFICER

See Over

Reply

Signed: Date:

Name: Date:

GUIDANCE TO PRISONERS MAKING A REQUEST OR COMPLAINT

WHO TO ADDRESS YOUR REQUEST, COMPLAINT OR APPEAL TO

COMPLAINTS / REQUESTS

SUBJECT	ADDRESS TO
Anything about the day to day management of the prison including food, work, accommodation, programs, education, privileges, visits, regime changes or disciplinary actions.	The G4S Prison Director
Anything to do with placement at Mount Gambier prison, security classification, parole, leave of absence, home detention	The DCS General Manager
Complaints about the behaviour of G4S staff (apart from normal operational decisions)	The G4S Prison Director or the DCS General Manager
Complaints about the G4S Prison Director	The G4S Managing Director
Complaints about any DCS staff member	The DCS General Manager
Anything to do with your sentence, conviction or things that have happened in other prisons or outside of Mount Gambier Prison.	The DCS General Manager

APPEALS

Against decisions made by G4S Staff	The G4S Prison Director or the DCS General Manager
Against decisions made by the G4S Prison Director	The G4S Managing Director or the DCS General Manager
Against decisions made by DCS Staff	The DCS General Manager
Against decisions made by the DCS General Manager	The Director Custodial Services.

ABBREVIATIONS

ALO	Aboriginal Liaison Officer
ASU	Aboriginal Services Unit
CMC	Case Management Coordinator
CSAC	Correctional Services Advisory Council
DCS	Department for Correctional Services
Correctional Services Act	<i>Correctional Services Act 1982</i>
Australian Complaints Handling Standard	Australian Standard AS ISO 10002-2006 'Customer Satisfaction-Guidelines for complaints handling in organisations
GM	General Manager
HCSCC	Health and Community Services Complaints Commissioner
IIU	Intelligence and Investigations Unit
LOP	Local Operating Procedure
NGO	Non-governmental organisation
Ombudsman Act	<i>Ombudsman Act 1972</i>
OPCAT	Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
PADIC	Prevention of Aboriginal Deaths in Custody
PCS	Police Corrections Section
SAPHS	South Australian Prison Health Service
Royal Commission	Royal Commission into Aboriginal Deaths in Custody
SOP	Standard Operating Procedures
VET	Vocational Education and Training



OmbudsmanSA