



Report

Full investigation - *Ombudsman Act 1972*

Complainant	[REDACTED]
Agency	Department for Correctional Services
Ombudsman reference	2025/00957
Date complaint received	17 February 2025
Issues	Whether the Department for Correctional Services imposed an unreasonable visiting restriction on a prisoner's mother, amounting to an error under the Ombudsman Act 1972.

Introduction

On 17 February 2025, [REDACTED] (the complainant) contacted my Office about the Department for Correctional Services (the department). The complainant is an Aboriginal prisoner who, at the time of the complaint, was being held at the Yatala Labour Prison (YLP).

At the time of making his complaint to my office, the complainant was in G Division at YLP as he had been on hunger strike. The complainant had several concerns but told my office that the main reason he had been on a hunger strike was because his mother had been restricted from visiting the prison. I refer to the complainant's mother as Ms M.

The complainant described himself as quite stressed by the restricted visitation arrangement, and by his long-standing personal and family history with the department.

I determined to commence an investigation in relation to the complainant's concerns about the visiting restriction.

This matter is within the jurisdiction of the Ombudsman under the *Ombudsman Act 1972*.

Investigation

My investigation has involved:

- assessing the information provided by the complainant
- seeking responses from the department
- considering relevant information relating to the visiting restriction
- considering relevant legislation, department guidelines and human rights standards including the:
 - Correctional Services Act 1982

- Department for Correctional Services Standard Operating Procedures
- the United National Standard Minimum Rules for the treatment of Prisoners (**the Nelson Mandela Rules**).
- preparing a provisional report and considering the views of the parties
- preparing this report.

Procedural fairness

On 2 July 2026, I provided the department, the complainant and Ms M a copy of my provisional report which outlined my tentative views in this investigation.

My provisional view was that the department had engaged in two administrative errors under the Ombudsman Act in relation to its imposing of the visiting restriction against Ms M, being that the visiting restriction imposed on Ms M by the department was unreasonable, and that the department erred by failing to inform Ms M of an error it made in imposing the restriction against her for 6-months. I have not changed my view.

The department generally accepts and acknowledges my provisional views. It has provided additional context regarding the conduct that gave rise to the visitor restriction and has disagreed with the description I used in my provisional report that Ms M's conduct was 'low level'. The department also provided its views on my proposed recommendations. In light of the department's submissions, I have amended aspects of my report where necessary. I also address some of the submissions in more detail in the body of my report.

I did not receive any submissions from the complainant or Ms M.

Standard of proof

The standard of proof I have applied in my investigation and report is on the balance of probabilities. However, in determining whether that standard has been met, in accordance with the High Court's decision in *Briginshaw v Briginshaw* (1938) 60 CLR 336, I have considered the nature of the assertions made and the consequences if they were to be upheld. That decision recognises that greater care is needed in considering the evidence in some cases.¹ It is best summed up in the decision as follows:

The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issue has been proved ...²

¹ This decision was applied more recently in *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 110 ALR 449 at pp449-450, per Mason CJ, Brennan, Deane and Gaudron JJ.

² *Briginshaw v Briginshaw* at pp361-362, per Dixon J.

Background

1. Following engagement with the department, my Office was able to establish the following chain of events relevant to the visiting restriction imposed on Ms M:

DATE	EVENT
21 September 2024	Ms M attended YLP to visit her son. According to the department's records, Ms M was verbally abusive towards correctional officers at the end of her visit with her son. It is recorded that when Ms M was asked to move to the door at the end of the visit by a Correctional Officer she did not comply. When asked again, she responded 'f*** off you f***ing dog'. The Correctional Officer responded by saying 'don't you call me a f***ing dog' to which Ms M repeated 'f*** off you f***ing dog'. Ms M was again advised to leave and complied.³
23 September 2024	The department sent Ms M a notice of restriction (the notice). The notice outlined that the General Manager of YLP was restricting Ms M from 'entry into Yalata Labour Prison' for a period of 60 days in connection with her conduct on 21 September 2024.⁴ The notice outlined that the restriction was made under section 85A(1)(a) of the <i>Correctional Services Act 1982</i>. The notice outlined that the restriction was in place for up to 60 days whilst the department 'reviews the incident and determines appropriate action'. Ms M was advised that she could make a submission as to why a restriction should not be put in place and that she had 21 days to do so. If no submission was made, the department's delegate 'will make a decision based on the information at their disposal and determine if a restriction is warranted.'
October 2024	The department did not receive any submissions in relation to the restriction within the requested 21-day timeframe, so determined that the department's delegate would impose a further restriction. It was determined that Ms M be 'banned for a period of 6-months for continuously being verbally abusive towards correctional staff.'⁵ Based on a file note (file note 1) completed by the department's Operational Support and Performance Branch (OSPB), the decision to impose the 6-month restriction considered the following:

³ 'YLP Ban Package - Ms [REDACTED] - dated 23 September 2024,' attached to department's letter to Ombudsman SA dated 7 April 2025.

⁴ Letter to Ms M from General Manager, YLP dated 23 September 2024 (**the notice**) (attached to Letter from department to Ombudsman SA dated 7 April 2025).

⁵ OSPB File Note 1 dated October 2024 (attached to Letter from department to Ombudsman SA dated 7 April 2025).

	• Ms M's alleged conduct during the 21 September 2024 visit. • The OSPB had not received any contact from Ms M to appeal the 60-day ban as outlined in the notice. • An incident report, which recommended a ban of 12 months. I understand this report was completed by the correctional officer involved in the incident. • Information from the Corrections Intelligence Unit (CIU), which indicated that it had 'no current holdings and or information' on Ms M.
25 October 2024	The department sent correspondence to Ms M, advising that a second restriction had been made by the department's delegate. The letter outlined that the department considered that Ms M had 'disobeyed prison rules by continuing to verbally abuse officers conducting their duties after being warned not to do so.' As a consequence, the department's delegate determined to exercise their power to restrict Ms M from visiting all correctional institutions for a period of 6-months.⁶ I outline the extract from the determination as follows: '...I have determined to refuse you entry to all correctional institutions for a period of 6 months. I can confirm that Zoom visits have been implemented with the same policies and conditions as in-person visits, and therefore you are not able to participate. This decision will be reviewed on 25 April 2025. If you wish to visit any correctional institution after this date, you will need to apply in writing or by sending an email as outlined below.' This restriction increased by an additional five months beyond the restriction that had initially been communicated in the notice dated 23 September 2024. It was also extended the restriction to Zoom visits and all correctional facilities. The September notice did not communicate to Ms M that a second restriction could be imposed beyond the timeframe that was initially proposed, and that it could extend to Zoom visits and prisons other than YLP.
24 February 2025	Ms M complained to YLP that the dates of her visit restriction did not add up correctly. The dates amounted to seven months, instead of the six-month period she had been advised. ⁷
March 2025	Following the above complaint, a review of the restriction was carried out by the OSPB. ⁸

⁶ Letter to Ms M from Acting Director, OSPB dated 25 October 2024 (attached to Letter from department to Ombudsman SA dated 7 April 2025).

⁷OSP B File note 2 dated 19 March 2025 (attached to Letter from department to Ombudsman SA dated 7 April 2025).

⁸ Ibid.

	According to a file note completed by the OSPB (file note 2), the review identified the following: - the letter to Ms M incorrectly advised that the restriction would expire on 25 April 2025, which was 7 months total - the restriction was for 'inappropriate language being used towards an officer.' The department's Standard Operating Procedure makes clear that this type of restriction should be up to three months in total.⁹ Ms M had a 6-month restriction placed on her. It was recommended that the ban be removed.
19 March 2025	A letter was sent to Ms M, which responded to her complaint made on 24 February 2025.¹⁰ Ms M was advised that after considering her circumstances, the visit restriction will be lifted effective from the date of the letter. I note that the letter did not outline the reasons the ban had been lifted, namely that it had been incorrectly applied for 6 months. At this point, the ban had been in place for 6 months.

Relevant law/policies

2. The following provisions of the *Correctional Services Act 1982* are relevant:

34 - Prisoners' rights to have visitors

- (1) Subject to this section, a prisoner (other than a remand prisoner) is, while in a correctional institution, entitled to be visited by a person...in each period of two weeks.

85A - Exclusion of persons from correctional institution

- (1) Despite any other provision of this Act -

- (a) if the manager of a correctional institution believes on reasonable grounds that a person lawfully attending the institution in any capacity (other than a member of the staff of the institution) is interfering with or is likely interfere with the good order or security of the institution, the manager -
- ...
 - may, in the case of person who visits or proposes to visit a prisoner under section 34, by written order, exclude the person from the institution until further order or for a specified period; and
 -
- (b) if a person to whom this paragraph applies—
- enters or proposes to enter a correctional institution; or
 - visits or proposes to visit a prisoner in a correctional institution under section 34,

⁹ SOP 100 - Visit Restriction.

¹⁰ Letter to Ms M from DCS Director, OSPB dated 19 March 2025 (attached to Letter from department to Ombudsman SA dated 7 April 2025).

the CE may, by written order, direct that the person be excluded from a specified correctional institution, all correctional institutions of a specified class, or all correctional institutions, until further order or for a specified period.

(1a) Paragraph (b) of subsection (1) applies to a person who the CE believes on reasonable grounds—

- (a) is interfering with or is likely to interfere with the good order or security of a correctional institution; or
- (b) is a member of a criminal organisation, or associates with, or has associated with, a member of a criminal organisation.

3. The department's Standard Operating Procedure (SOP 100 - Visit Restrictions) is also relevant.
4. SOP 100 provides the framework within which prisoners may be visited within correctional institutions. It specifies that the department can 'restrict visitors where necessary to ensure the safety and security of an institution and pursuant to provisions within the Correctional Services Act 1982.'
5. Clause 3.3.1 of SOP 100 provides that 'a [general manager] can prohibit entry to a visitor pursuant to Section 85A(1)(a) of the Act; if they are of the opinion that the visitor may threaten the security, safety or good order of the institution.'
6. Clause 3.4.1 of the SOP provides that pursuant to the Correctional Services Act:
 - ...the CE or delegate can restrict any person from visiting:
 - ...
 - a) **Any or all institutions**, pursuant to section 85(1)(b), for a fixed period of time or until further order.
7. The display of 'abusive or threatening behaviour towards a DCS employee (or any other person) during a visit session' is one reason, among various reasons, that a prohibition may be applied.
8. SOP 100 clearly states that the initial restriction imposed by the General Manager can be for a maximum period of 60 days,¹¹ and that the General Manager must write to the visitor concerned to advise that they will be refused entry pending consideration of the restriction by the departmental delegate.¹² The SOP outlines that there will be an opportunity for the restricted person to appeal within 21 days,¹³ following which time, the department 'will consider if a further period of restriction is to be imposed and/or the restriction is extended to all sites.'¹⁴
9. I note that the further restriction would be imposed under section 85A(1)(b) of the Correctional Services Act, which gives the CE (or their delegate) power to restrict a person from a specified, or all correctional institutions.
10. SOP 100 contains a table which sets out 'a guideline for recommended timeframes', with some discretion allowable for 'individual circumstances'. There is no guidance on the kinds of information that may be considered as individual circumstances. With

¹¹ SOP, Clause 3.3.3.

¹² SOP, Clause 3.3.4.

¹³ SOP, Clause 3.3.5.

¹⁴ SOP, Clause 3.3.6.

regard to an incident involving 'abusive, threatening or inappropriate behaviour towards employees or members of the public,' the restriction guideline states 'up to 3 months'¹⁵.

11. SOP 100 does not reference the accumulation of penalties. Accordingly, it is understood that 3 months is typically the highest restriction that should be imposed on a visitor for an incident as described above.
12. The responsibility to assess and make recommendations in respect of any period of restriction rests with the OSPB, which 'must use all relevant information provided by the site and any recommendations from the [general manager]; and where appropriate, intelligence OCSR reports.'¹⁶
13. SOP 100 also details the associated appeal process once the department has determined the restriction period.¹⁷

United Nations Standard Minimum Rules for the Treatment of Prisoners

14. My investigation has considered the United Nations Standard Minimum Rules for the Treatment of Prisoners (**the Nelson Mandela Rules**).
15. These rules specifically state that prisoners should be able to communicate with their family, both by correspondence and by receiving visits.¹⁸ Further, and relevantly, the Nelson Mandela Rules specify that family contact may only be restricted for a limited time, if strictly required for the maintenance of security and order.¹⁹
16. The Nelson Mandela Rules are not incorporated into domestic law in the way required by section 3 of the *Administrative Decisions (Effect of International Instruments) Act 1995*. This Act provides that international instruments that are binding in international law are binding on state administrative decisions 'only to the extent the instrument has the force of domestic law under an Act of the Parliament of the Commonwealth or the State.'²⁰
17. Whilst this international statement of minimum standards is not enforceable in Australia, it sets out what is generally accepted as being good principle and practice in the treatment of prisoners.
18. Ombudsman offices have adopted an approach which embraces international human rights treaties and standards as interpretative rules when determining whether a government action amounts to an administrative error.²¹ While it is not an obligation under law for the agency to comply with human rights standards, I consider it wrong for a South Australian government agency to act inconsistently with human rights standards. It is my view that in a community such as South Australia, we should be aiming to exceed these minimum international standards in the humane treatment of

¹⁵ SOP, Clause 3.3.9.

¹⁶ SOP, Clause 3.4.2.

¹⁷ SOP, Clause 3.8.

¹⁸ The Nelson Mandela Rules, Rule 58 - 'Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals...by corresponding in writing...and by receiving visits'.

¹⁹ The Nelson Mandela Rules, Rule 43 - 'In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment...disciplinary sanctions or restrictive measures shall not include the prohibition of family contact...(which) may only be restricted for a limited time period and as strictly required for the maintenance of security and order'.

²⁰ Section 3(3) of the *Administrative Decisions (Effect of International Instruments) Act 1995*

²¹ Anita Stuhmcke, 'The Role of Australian Ombudsmen in the Protection and Promotion of Human Rights' (2010) 16(1) Australian Journal of Human Rights 37, 56; L Grenfell and A Olijnyk, 'A Breath of Fresh Air? Rights Oversight by the Ombudsman During the Pandemic' (2024) 47(3) Melbourne University Law Review 583, 594.

prisoners. Accordingly, I have considered these standards in forming my view as to whether the agency has acted in error.

Procedural fairness

19. I also consider the principles of procedural fairness to be relevant to this matter.
20. It is a tenet of administrative law that the provision of procedural fairness is fundamental in decision-making which will impact the rights of those affected by any decision. As outlined by the High Court of Australia in *Minister for Immigration and Border Protection v WZARH*²² in 'the absence of clear, contrary legislative intention, administrative decision-makers must accord procedural fairness to those affected by their decisions.' Gibbs CJ in *Kioa v West* provided the following guidance: being the 'fundamental rule [of procedural fairness] is that a statutory authority having power to affect the rights of a person is bound to hear him before exercising the power.'²³
21. I consider that department is required to comply with the principles of procedural fairness when making decisions to restrict a person's access as a visitor under section 85A of the Correctional Services Act.
22. In response to my provisional report, the department acknowledged the importance of ensuring that visitor restriction decisions are procedurally fair, proportionate, appropriately documented and supported by clear reasons.

Whether the Department for Correctional Services imposed an unreasonable visiting restriction on a prisoner's mother, amounting to an error under the Ombudsman Act 1972.

23. My investigation has identified a number of issues with department's imposition of the visiting restriction on Ms M. In considering these issues, I have also had regard to the department's responses to my office on this matter:
24. The department's letter dated 23 September 2024 failed to advise Ms M that the timeframe for her visiting restriction could be extended from 60 days to 6 months, or to other institutions, following the department's review. SOP 100 allows for a further 'period of restriction' to be imposed following a departmental review. However, it is my view that the department was required to tell Ms M that this was a possibility. The way in which the letter is drafted does not make this clear and, in my view, is unfair. I note the following:
 - Ms M was not provided with sufficient information for her to meaningfully respond to the department's decision to impose a 6-month visitor restriction. I am concerned that this may have materially impacted her decision not to make any submissions within the 21-day timeframe, particularly given it is significantly longer than the 60-day restriction referenced in the letter. The restriction also extended to other institutions and Zoom calls with the complainant. The department did not outline this possibility in the notice.
 - Given the impact of the decision on Ms M's visiting rights and the right of the complainant to receive visitors, the department was required to provide her with procedural fairness on that decision. This would include notice that the restriction could be extended following the department's review, and hearing submissions on

²² *Minister for Immigration and Border Protection v WZARH* [2015] HCA 40 (4 November 2015) [30] (Kiefel, Bell and Keane JJ). 78 (1985) CLR 550 Gibbs C.

²³ *Kioa v West* (1985) CLR 550 Gibbs CJ at 563.

that decision. Good practice would have been to advise Ms M of the maximum restriction that could be imposed, in-person and on Zoom.

- In response to my provisional report, the department acknowledged this issue. It accepted that the correspondence to Ms M could have provided greater clarity about the possible duration, scope and effect of any further restriction, including whether it may apply across multiple correctional institutions and to different visit types.

25. It is my view that the department failed to take into account, and sufficiently weigh, relevant information when placing the 6-month visiting restriction on Ms M.

- In preparing its assessment and recommendation regarding visiting restrictions, clause 3.4.2 of SOP 100 requires the OSPB to 'use all relevant information provided by the site and any recommendation from the GM', and requires consideration of 'previous restrictions, recommended timeframes of restrictions; and where appropriate, intelligence and OCSR reports.'
- The department advised that, in making the restriction recommendation, the OSPB:
 - had regard to the ban package, which contained the letter dated 23 September (which, among other matters, provided an explanation of the incident) and the 'VR Form' (which contained a record of the Correctional Officer's recollections of the incident and their recommendation for restriction);
 - noted that Ms M had 'no prior bans'; and
 - noted that the CIU had 'no current holdings and/or information on Ms M.'²⁴
- It is evident from the OSPB file note that the OSPB did have regard to Ms M's failure to appeal the 60-day restriction. I query the relevance of this consideration, noting my view that the notice contained insufficient information about the level of restriction that could be placed.
- I also query the OSPB's categorisation of Ms M's conduct, in its recommendation of a 6-month ban, as 'continuously being abusive towards correctional staff'. On the description of the incident, it seems that the conduct was limited to saying twice 'f*** off you f***ing dog'. I acknowledge that this would be considered verbal abuse and may have impacted on the department's operations. However, it appears that while Ms M failed to initially comply with a Correctional Officer's instruction, she ultimately did comply, without further incident.²⁵ The conduct also occurred at a single visit. It is difficult to understand how this conduct has been characterised as 'continuous' by the OSPB. Further, it is not clear on the information before me how the nature of her conduct was weighed in determining to impose the 6-month restriction against her.
- It is not evident that any individual circumstances, including any cultural and/or familial factors, were taken into account when making the decision to impose a broad and lengthy visiting restriction on Ms M. I find this concerning. I note the South Australian Government's commitment to implementing the National Agreement on Closing the Gap includes a commitment to transforming Government organisations so that culture and systems are shifted to eliminate institutionalised racism and disproportionate outcomes for Aboriginal and Torres Strait Islander people along with embedding meaningful cultural safety within our services.²⁶
- I have also had regard to the study conducted by Elizabeth Grant titled 'Prison Environments and the needs of Australian Aboriginal Prisoners: A South

²⁴ Ibid.

²⁵ OSPB File Note 1 dated October 2024.

²⁶ Closing the Gap, South Australia's Implementation Plan 2024-2026 p 25 and National Agreement on Closing the Gap (July 2020) p 11 - 12.

Australian Case Study'.²⁷ Grant emphasises the importance of family and kin for Aboriginal people and the harm that is caused by incarcerating Aboriginal prisoners long distances from their families and communities.²⁸ This impact extends to both the prisoner and their family. The study notes that in South Australia many Aboriginal prisoners are incarcerated considerable distances from their family and community, resulting in infrequent contact with family members outside of prison. It is noted that this isolation from family and kin can give rise to feelings of distress, powerlessness and despair, and perpetuates historical dispossession. Grant has also commented that while telephone contact is available for those who cannot be visited, it is cost prohibitive.²⁹ This transfers the burden back to the prisoner to have contact with their family, despite their visitation rights being prescribed under the Correctional Services Act.

- While the complainant's mother was able to visit him at YLP, the above study reiterates the importance of facilitating in-person contact between Aboriginal prisoners and their families. The impact of the visiting restriction on the complainant's wellbeing should have been considered in this context.
- It also appears that little to no weight was given to the fact that Ms M had not been the subject of prior restrictions and that the CIU held no information about her.
- Although I note that the department is not required by law to have regard to, and weigh, specific criteria when assessing and assigning visiting restrictions, SOP 100 is clear that the department 'must' consider a range of information. In this case, it is my view that the department did not comply with the requirements of SOP 100 in that it failed to properly consider:
 - the nature and severity of Ms M's behaviour;
 - the absence of any prior visit restrictions;
 - the absence of any information held by the CIU; and
 - individual circumstances of the prisoner, including cultural and familial factors.
- The OSPB file note gives no information justifying why it would be necessary or appropriate to ban Ms M from all correctional institutions. It is not known whether Ms M had ever visited other institutions or may be likely to do so during the period.
 - If the department had no reason to believe Ms M would visit another site during the period, it is unclear how the delegate could have considered the all-sites restriction to be reasonably necessary
 - If the department did have knowledge that Ms M may visit another site, I consider that the decision to restrict access should have had regard to the likely purpose of such visit(s)
- I also query the department's decision to extend the restriction to Zoom visits, noting that the alleged conduct occurred in person. It is not clear to me how the Zoom restriction would address the issues identified with Ms M's alleged conduct against the correctional officers. I am concerned that the department may have imposed a standard restriction against Ms M, instead of considering the individual circumstances of the matter.
- In response to my provisional report, the department acknowledged that, in principle, consideration should be given to whether a restriction should apply to in-person visits, Zoom visits, or both. However, it has advised that its current JIS system does not distinguish between face-to-face and Zoom visit restrictions. Under the current system, for a Zoom visit to proceed, the restriction would need to be lifted, with any face-to-face visit requests managed manually. It has raised concerns that this may increase the risk of error, including restrictions being

²⁷ Elizabeth Grant, 'Prison Environments and the Needs Of Australian Aboriginal Prisoners: A South Australian Case Study' (2008) 12(2) *Australian Indigenous Law Review* 66.

²⁸ Ibid 69.

²⁹ Ibid 70.

inadvertently bypassed and potential breaches of intervention orders or child visit restrictions. I am concerned that system limitations mean that restrictions are being automatically applied to both face-to-face and zoom visits. In my view, this leads to unfair outcomes for those impacted by a restriction when the behaviour in question may not impact zoom visits. I will discuss this further in my recommendations.

- I also consider the department failed to adhere to the recommended timeframes for this restriction. I will discuss this in more detail below.

26. The 6-month visiting restriction exceeded the guidelines outlined in SOP 100, which recommends a restriction of 'up to 3 months' for conduct of the kind reported against Ms M.

- In reviewing the information provided by the department, it appears that it had initially recommended that Ms M be banned for visiting for a period of 12 months.³⁰ However, I understand that following an assessment of the information above, the OSPB recommended a visiting restriction period of six months. This does not accord with the 3-month guideline recommended in SOP 100.
- SOP 100 notes that, when considering appropriate restriction timeframes, individual circumstances can also be considered.' The department has also suggested to my office that 'penalties accumulate' under SOP 100.³¹ However, this is not outlined in the policy.
- The department has advised that as a result, '[Ms M's] behaviour of verbal abuse toward a Correctional Officer and repeated refusal to follow directions, were treated as two separate incidents, each resulting in a three-month ban, for a total of six months including the initial 60 days.'
- Firstly, I observe that this rationale was not documented in the OSPB file note or the letter to Ms M dated 25 October 2024. No other documents contemporaneous document have been provided to my office recording this reasoning at the time the delegate made their decision.
- Secondly, I disagree with the department's assessment. In my view, SOP 100 does not provide for the accumulation of penalties, in the manner asserted by the department. Further, I have had regard to the Mandela Rules, which outline that restrictions should only be imposed where it is 'strictly required' to maintain security and order.
- Given my views on Ms M's behaviour, it appears manifestly unfair and unreasonable for the department to assert that Ms M's profanity and initial non-compliance, which occurred as part of the same interaction with the Correctional Officer on a single occasion, be treated as two separate acts warranting an accumulated penalty.
- I also note that the department's review found that it had erred in imposing the 6-month restriction as Ms M's behaviour only warranted a three-month restriction. Accordingly, I find its assertion that Ms M engaged in two separate incidents confusing.

27. The department failed to inform Ms M that it had incorrectly imposed a 6-month restriction.

- From the timeline above, Ms M contacted the department on 24 February 2025 about the department citing an inaccurate end date for the visiting restriction. Ms

³⁰ 'Visitor Restriction form' completed by correctional officer; provided by the department in letter to Ombudsman SA dated 7 April 2025.

³¹ Letter from department to Ombudsman SA dated 7 April 2025.

M's query was not actioned by the OSPB until 18 March 2025, almost one month later.

- The OSPB File Note 2 recommended the removal of the visiting restriction, which was actioned by the department on 19 March 2025. The department's correspondence to Ms M stated that the dates 'were incorrect' and the restriction was lifted with immediate effect.
- In its correspondence to Ms M, the department failed to acknowledge the error found by the review and failed to apologise to Ms M for the error.
- As above, the imposition of a visitor restriction impacted the complainant's right under the Correctional Services Act to have visitors. It is expected that state government agencies acknowledge mistakes when its decisions have an impact on individual rights.
- The department advised in its response to my provisional report that an error occurred in calculating the restriction and that it should have been communicated to Ms M more clearly at the time the restriction was lifted.

28. In considering the above, it is my view that the visiting restriction imposed on Ms M was unreasonable, in so far that:

- Ms M was not advised that the restriction could be extended from 60 days to 6 months or to other institutions, which failed to meet procedural fairness obligations.
- The restriction failed to take into account relevant information, including the severity of Ms M's behaviour and the fact that she did not have restriction placed on her before, or why it would be necessary to extend the restriction beyond YLP.
- The decision to impose a 6-month visiting restriction exceeded the guidance in SOP-100 and was based on an unfair assessment of the incident.

29. It is my view that this amounts to an error under the Ombudsman Act.

30. It is also my view that the department's failure to inform Ms M that it had erred in imposing the 6-month restriction amounts an error under the Ombudsman Act.

Summary and Recommendation

In light of the above, my final view is that the department has engaged in administrative errors under the Ombudsman Act by imposing an unreasonable visiting restriction on Ms M and failing to inform Ms M that it had erred in imposing the ban for 6 months.

To remedy these errors, I make the following recommendations under section 25(2) of the Ombudsman Act:

Recommendation 1

That the department embed the requirement to provide procedural fairness to those who are impacted by visiting restrictions. I have considered the department's submissions to my provisional report to understand what this may look like in this context. I note that the department has advised that there are some circumstances which may require immediate restriction to address operational, safety or security concerns. The immediacy of those risks may mean it is not practicable to seek submissions before the restriction is imposed.

I recommend that the department's procedures require that it provide affected persons with clear information about the nature and possible consequences of the restriction process.

Persons affected must be advised:

- the maximum restriction period that may be imposed;
- whether the restriction may apply to multiple correctional institutions;
- whether the restriction may apply to different visit types, including in-person and Zoom visits; and
- be given an opportunity to provide information for consideration as part of the restriction review process. If a restriction is to be increased, the affected person must be provided with an opportunity to be heard on that decision.

The department has advised that its OSPB has already commenced a review of the relevant visitor restriction letter templates and SOP 100. This work is intended to ensure affected persons receive clearer information about the visitor restriction process and its possible outcomes, including that a restriction may apply statewide and that relevant information may be considered as part of the review process.

Recommendation 2

That the department review and update SOP 100 to:

- expand upon the kinds of information that will be considered as part of the assessment and recommendation process,³² including the inclusion of a requirement that the OSPB (and, ultimately, departmental delegate) consider whether any other supporting information could be sought to assist in making its recommendation
- expand upon the 'individual circumstances' that will be taken into account by the department when making assessments and recommendations on visiting restrictions, particularly as they relate to cultural and familial connections
- ensure that proper reasoning is provided for a decision to extend a ban to multiple institutions and that information relevant to this decision is considered
- ensure that the imposition of an in-person and Zoom restriction is considered on a case-by-case basis.
- require the OSPB (and, ultimately, departmental delegate) have express regard to cultural considerations and needs that may be impacted by a restriction.

In my provisional report, I proposed that the need for a restriction to extend to Zoom, in addition to face-to-face, must be demonstrated. As outlined at paragraph 25, the department has advised that it was unable to accommodate consideration of whether a restriction on zoom visits was necessary due to its system limitations. While this may not be possible to accommodate in an immediate sense, I recommend that the department prioritise the implementation of a system such that zoom visits are not automatically applied. The current system is imposing an unfair restriction on those persons whose behaviour may not relate to zoom visits. It is inappropriate that the rationale behind zoom restrictions is simply based on system limitations.

Recommendation 3

Inform Ms M and the complainant of its apparent error in imposing the restriction for 6 months, instead of 3 months. I also recommend that the department offer Ms M and the complainant an apology for its error.

³² Noting the additional kinds of information detailed in the Department's response dated 21 November 2025.

Final comment

In accordance with section 25(4) of the Ombudsman Act the department should report to the Ombudsman by **12 October 2026** on what steps have been taken to give effect to the recommendations above; including:

- details of the actions that have been commenced or completed
- relevant dates of the actions taken to implement the recommendation.

In the event that no action has been taken, reason(s) for the inaction should be provided to the Ombudsman.

I have also sent a copy of my report to the Minister for Correctional Services as required by section 25(3) of the *Ombudsman Act 1972*.



Emily Strickland
SA OMBUDSMAN

7 September 2026