

Final Report
Full investigation - *Ombudsman Act 1972*

Complainant	[Deidentified]
Government Department	Department for Correctional Services
Ombudsman reference	2017/06456
Department reference	SEC/17/0185
Date complaint received	26 June 2017
Issues	<ol style="list-style-type: none">1. Whether the department erred by failing to formally induct the complainant2. Whether the department erred by failing to assist the complainant to make calls3. Whether the department erred by failing to pass on messages from the complainant's wife

Jurisdiction

The complaint is within the jurisdiction of the Ombudsman under the *Ombudsman Act 1972*.

The complainant contacted my Office on 26 June 2017 to make a complaint. The complainant stated that he had been in prison for just over four weeks and had only been able to contact his family a few days ago. The complainant said he had self-harmed and was High Risk and that the inability to contact his family had further upset him. He complained that while in G-Division, he had rung the bell to seek assistance from the officers and was told the bell was for emergencies only. The complainant stated he was very anxious, but did not want to report this to the officers in case his regime changed and he could not make any further calls.

Since making the complaint, the complainant had his charges dropped and was released from prison. My Office has not been able to contact him to seek his views on whether he consents to be identified in this report.

Therefore, in order to protect the identity of the complainant, his name has been omitted from this report.

Investigation

My investigation has involved:

- assessing the information provided by the complainant

- seeking a number of responses from the Department for Correctional Services (**the department**).
- considering the department's Form F001A-008 - Induction Checklist
- considering the department's Standard Operating Procedure 001A - Case Management - Admission (**SOP 001A**)
- considering the *Correctional Services Act 1982* (**the Act**) and the *Correctional Services Regulations 2016* (**the Regulations**)
- preparing this report.

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

Response to my provisional report

In response to my provisional report, the Chief Executive of the department, Mr David Brown, provided the following comments:

- while he finds it unusual that a prisoner was not inducted upon entering prison on day one or in the proceeding days, there is no evidence to suggest, in the case of the complainant, that any induction occurred
- he accepts my provisional views as set out in my provisional report.

Mr Brown also provided comment on the recommendations foreshadowed in my provisional report. I have addressed those comments later in this final report.

Background

1. On 30 May 2017 the complainant was arrested on charges of aggravated assault.
2. On 31 May 2017 the complainant was detained in the Elizabeth Magistrates Court custody cells. Upon learning that his application for bail was denied, the applicant became distressed and attempted to self-harm. The complainant was immediately transferred to Yatala Labour Prison (**YLP**) and placed into G-Division in a camera observations cell. From this point onwards, the complainant was under the supervision of the department.
3. Clause 3.11.2 of SOP 001A provides that an induction interview must take place within 24 hours of a prisoner entering YLP. This means that in the complainant's case an induction interview should have taken place no later than 3.50pm on 1 June 2017.

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.

There is no evidence that the complainant was inducted upon being placed in G-Division.

4. Following a further self-harm attempt, the complainant was transferred to the Infirmery on 1 June 2017, where an assessment was conducted. The department's case notes indicate that during his assessment, the complainant was teary and depressed and remained at acute risk of self-harm. The complainant also expressed worry for his five year old daughter as she is severely autistic.
5. Clause 3.11.2 of SOP 001A provides that a prisoner must be inducted into the unit each time the prisoner is transferred to a new accommodation unit or wing, and that this induction must take place within 24 hours. There is no evidence that the complainant was inducted upon being placed in the Infirmery.
6. On 2 June 2017 the complainant's wife contacted the Adelaide Remand Centre (**ARC**) and spoke to a social worker (**the ARC social worker**). The complainant's wife wanted to know whether the complainant was at the ARC and wanted to convey a message to the complainant that his 12 year old son was okay. The complainant's wife told the ARC social worker that the complainant would probably want to speak to his son and she was happy to enable this contact. The ARC social worker advised the complainant's wife that she could not disclose the complainant's whereabouts but that she would make a case note that could be viewed by other departmental employees.
7. On the available evidence, the ARC social worker took no proactive steps to pass on the message from the complainant's wife, such as contacting YLP. It does not appear that this message was ever received by the complainant.
8. The department's case notes indicate that the complainant was observed to be upset and teary and spent most of the day lying on his mattress.
9. The department's case notes indicate that on 5 June 2017, it was observed that over the weekend the complainant's wife had left seven messages with the ARC requesting information about the complainant's welfare and expressing concern. The complainant's wife further stated that she wished to facilitate contact between the complainant and his children. The ARC social worker called the complainant's wife and agreed to forward on a message to the complainant's social worker (**the Yatala social worker**). It appears that this message was received by the Yatala social worker on 7 June 2017.
10. On 6 June 2017 the complainant was transferred from the Infirmery to G-Division. There is no evidence that the complainant was inducted upon being placed in G-Division. However, it appears that the Yatala social worker assisted the complainant with adding his wife's number to his telephone contacts.
11. On 7 June 2017 the Yatala social worker called the complainant's wife and left a message for her. The complainant was then interviewed by the Yatala social worker as part of a High Risk review. It does not appear that the Yatala social worker provided any information to the complainant at this time that his wife had been trying to contact him. The department's case notes indicate that the complainant was depressed and teary and worried about his autistic daughter and how his wife would be coping. It was determined by the Yatala social worker that the complainant remained at an acute risk of self-harm.
12. On 11 June 2017 the complainant was moved from G-Division to the High Dependency Unit (**HDU**). At 9pm the complainant reported to an officer that he was feeling very anxious and missing his wife and daughter a lot. The complainant stated that he had not had a phone call from his family and he can only remember one of his family

member's phone numbers. The officer advised the complainant to talk to a social worker on Tuesday 15 June 2017, due to the upcoming public holiday long weekend.

13. Based on this information, it appears that the complainant had not yet been given the appropriate induction information, either formally or informally. The complainant believed that his family members would call him, rather than understanding that he needed to call them. The complainant repeatedly expressed worry for his family. While his wife's number had been added to his telephone account five days prior, the fact that the complainant had not called her, despite his evident worry and anxiety, is indicative that he did not understand the phone system.
14. An officer checked on the complainant on 13 June 2017. The department's case notes indicate:

...[the complainant] presented as teary at times and said he was distressed about the status of his marriage...[the complainant] strongly denied any current thoughts or intent to hurt himself. He explained his main stressors were the status of his marriage, and his inability to pay mortgage repayments in custody. He was also concerned about his children, and wanted to know they were OK with his wife...
15. The officer subsequently contacted the complainant's wife. The department's case notes indicate that the conversation was positive and the complainant's wife wanted to facilitate contact between the complainant and his children. The officer then notified the complainant of the phone conversation. The department's case notes indicated that the complainant was appreciative and grateful of the news.
16. On 15 June 2017 the complainant asked a social worker to contact his wife and ask for his sister's address as a potential bail address. The social worker subsequently contacted the complainant's wife, recorded the requested information and informed the complainant. The social worker also assisted the complainant with a Legal Aid application.
17. The department's case notes from 16 June 2017 record the following:

[Social worker] met with [the complainant] for the purpose of practical matters. [The complainant] mentioned that he would like to add his sister's number onto his phone list. [Social worker] assisted [the complainant] with this and phone list has been completed...
18. On 17 June 2017 the complainant successfully called his sister. This was the first direct contact the complainant had with his family since his arrest. It is clear that on this date, the complainant now had a working understanding of the phone system. I note that this took place 17 days after the complainant entered YLP.
19. The complainant then made two calls to his wife, on 18 and 19 June 2017.
20. On 19 June 2017 the complainant was transferred from the HDU to B-Division. However after a short time he reported to officers that he had been threatened and requested to be moved to Protection. A supervisor assessed the complainant and concluded that he was not presently suitable for mainstream. He approved the complainant's transfer to E-Division, which was facilitated the same day.
21. There is no evidence that the complainant was inducted upon being placed in either B-Division or E-Division.
22. On 21 June 2017 the complainant was transferred from YLP to Mount Gambier Prison (MGP). The complainant was inducted the same day and his induction checklist was completed and placed in his file. This appears to be the first time the complainant had been formally inducted since entering the department's custody on 31 May 2017.

23. The department's case notes indicate the complainant settled well in MGP and made several more calls to his family.
24. On 29 June 2017 the complainant was transferred from MGP to YLP for the purpose of a psychological assessment. The complainant was placed in E-Division where he was formally inducted.
25. On 3 July 2017 the complainant was transferred back to MGP where he was placed back into the Induction Unit.
26. On 6 July 2017 the complainant was released from the department's custody as all charges had been dismissed.

Relevant policies

27. SOP 001A relevantly provides:

3.11 Prisoner Induction

3.11.1 The Case Management Coordinator (CMC) and/or operational supervisor must provide oversight to ensure that unit staff complete the Induction process within set time frames.

3.11.2 All prisoners, regardless of status, must have an induction interview conducted by unit staff within 24 hours from the time of admission or transfer into a prison or accommodation unit/wing.

3.11.3 The Induction process for each prisoner must have:

- a) The Induction Checklist (F001A/008) completed and placed in the Induction section of the prisoner's Case File.

3.11.4 7-Day Observations commenced:

- a) The 7-Day Observation Form (F001A/007) is commenced during the induction interview or within 24 hours of placement in an accommodation unit. This form will be used as part of the assessment process.

b) 7-Day Observations do not need to be commenced for prisoners if they are:

- i) Admitted directly to the infirmary for medical observation and/or treatment.
- ii) Placed in an observation cell where continual monitoring occurs.
- iii) Placed in a management cell under section 36 of the *Correctional Services Act 1982*.

c) Once medical treatment, continual monitoring in an observation cell or placement in a management cell is complete or no longer required, and the prisoner is placed in an accommodation area, 7-Day Observations must commence.

3.11.5 Case notes must be entered onto the JIS detailing any issues/concerns and interventions that have taken place or that have been recommended to take place by DCS, the SAPHS and the Intervention Team within the prison or any external provider over this 7-day period.

3.11.6 The following forms and information provided to or made available for all newly admitted prisoners:

- a) Visitor Nomination Form (F022/001A);
- b) Prisoner Telephone Account Information Form (F007/002); and
- c) Any other relevant documentation and information.

3.11.7 Newly admitted prisoner informed of when and how the above forms can be submitted, according to local procedures and practices.

3.11.8 Prisoners made aware of the Prisoner Induction Handbook, ensuring that if a prisoner is illiterate or is from non-English speaking background they are made aware of its existence and content.

Whether the department erred by failing to formally induct the complainant

28. The department was required to induct the complainant each time he was transferred to a new prison or a new accommodation unit within a prison.
29. In accordance with clause 3.11.2 of SOP 001A, YLP was obliged to induct the complainant on the following occasions:
 - on 31 May 2017 when he entered G-Division
 - on 1 June 2017 when he entered the Infirmary
 - on 6 June 2017 when he entered G-Division
 - on 11 June 2017 when he entered the HDU
 - on 19 June 2017 when he entered E-Division
 - on 29 June 2017 when he returned from MGP and entered E-Division.
30. While I note that the complainant also entered B-Division on 19 June 2017, I consider that an obligation to formally induct him to B-Division did not apply as he was shortly transferred to E-Division. I also note that the complainant only remained in E-Division from 19 June 2017 to 21 June 2017. However, as the obligation to induct a prisoner must be fulfilled within 24 hours and the complainant was located in E-Division for over 24 hours, I consider that the department was obligated to induct him into E-Division.
31. The complainant's first induction should have taken place on 31 May 2017 or 1 June 2017. This induction should have involved the completion of the Induction Checklist, which relevantly involves the following:
 - the provision of the Visitor Nomination Form to the prisoner and an explanation of the system of visitation
 - the provision of the Prisoner Telephone Account Information Form and an explanation of the telephone system
 - an explanation of when and how the above forms can be submitted
 - an explanation of the existence of the Prisoner Induction Handbook and the content contained within, as well as where the prisoner can later view a copy
 - an explanation as to the Complaints Resolution process
 - an explanation of the rules of the accommodation unit to which the prisoner will first be placed
 - an explanation of the social worker services which are available
 - the officer completing the induction should make a case note on the department's information system, reflecting that the induction process has been completed
 - the officer and the prisoner signing the Induction Checklist to acknowledge that induction has taken place
 - the signed Induction Checklist being placed into the prisoner's file.
32. In my view, the department's failure to conduct the first induction is particularly significant. This was the complainant's first time in prison. Further, the context of his entering the department's custody was immediately following an attempt at self-harm. It is evident that during his early days at YLP the complainant was distressed, upset, depressed and anxious.
33. In my view, given the complainant's High Risk state, if the department had turned its mind to whether he was in a fit state to attend an induction interview and determined that he was not (and there is no evidence that the department did turn its mind to this issue) then the department was nevertheless obliged to conduct the induction interview at the first available opportunity, likely being 2 or 3 June 2017.

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34. The department's failure to provide subsequent inductions, upon the complainant being transferred to different areas within YLP, is also significant. Clause 3.11.2 of SOP 001A requires a prisoner to be inducted into each new accommodation unit that the prisoner is transferred to. I note that each accommodation unit has differing rules and expectations which a prisoner needs to be made aware of.
35. In response to initial enquiries, the department has provided the following information to my Office:
- [The complainant] was escorted from Elizabeth police cells after attempting to self-harm by the Emergency Response Group (ERG) on the evening of 31st of May, he was placed in G-Division under camera observations, usual practice is that any new prisoner is provided with a telephone call on admission through the holding cells area, due to [the complainant's] situation he was transferred directly into a G-Division camera cell. He was transferred to the Health Centre on the 1st of June after further self-harm attempts and a professional assessment of being at acute risk of self-harm, phone calls are freely available in the Health Centre where prisoners have increased contact with Correctional Officers, nurses and doctors...
- All prisoners are "inducted" into each accommodation unit as they move around the prison and are provided with the relevant forms needed to initiate phone calls and domestic visits as well as the routine and expectations of each area; although an induction has not been recorded in case notes it is highly unlikely this would not have occurred at either G-Division or the Health Centre...
36. In response to further enquiries about the recording of inductions, the department has provided the following information:
- Prisoners are provided with all forms and information regarding the accommodation unit on induction. When done correctly a record of induction is signed by the prisoner and placed in his case folder, and a case note is recorded...
37. In response to a request that the department locate and examine the complainant's file, the department has provided the following information:
- I have now located the contents of the prisoner's case management folder and the only Record of Induction is from Mt Gambier Prison [and] from YLP on 29/06 - when he returned to YLP for the mental health assessment. So, it is quite possible that the induction was in fact missed for this man.
38. YLP was obligated to induct the complainant on six occasions. On the available evidence, YLP failed to induct the complainant on five occasions and only inducted the complainant on the final occasion.
39. The department's case notes indicate that one of the main causes of the complainant's stress and distress was worry for his family. I consider it to be likely that the complainant's level of distress, and consequently negative impact on his mental health, would have been alleviated to some extent if he had been aware of his ability to contact his family at an earlier stage and had successfully made contact.
40. While the department has commented that the complainant could have made phone calls while he was in the Infirmary, it appears likely that the complainant was unaware of this fact as he had not been inducted into the Infirmary.
41. The complainant was in YLP for 17 days before successfully making contact with his family. I do not consider that this delay was attributable to the complainant. He expressed a number of times that he was worried for his wife and children. It appears

from 6 June 2017 the complainant had his wife's number added to his phone list, and the department has advised that from 1 June 2017 he had credit in his phone account.

42. Therefore it appears likely that the reason the complainant did not contact his family was that he had not been advised of the process for making calls to his family.
43. I also note that all prisoners are entitled to contact my Office as a free phone call, regardless of their placement or regime. This is a further piece of information the complainant was denied as a result of the failure of the department to ensure he was properly inducted. Had the complainant been able to contact my Office earlier, the failure by the department to induct the complainant may have been identified, and remedied, at an earlier date.
44. The consequences of failing to properly induct the complainant were, in my view, significant. The complainant had already attempted self-harm and was considered at acute risk that he may attempt self-harm again. The complainant had informed the department that one of his main stressors was the welfare of his children. I consider it is likely that the prolonged lack of contact with his family, who are noted to be his main supportive factors, contributed to the poor state of the complainant's mental health.
45. On the available evidence, YLP failed to follow SOP 001A clause 3.11.2 as YLP failed on five occasions to formally induct the complainant.
46. I also note that SOP 001A clause 3.11.1 stipulates that the Case Management Coordinator and/or operational supervisor must provide oversight to ensure that unit staff members complete inductions within 24 hours. On the available evidence, insufficient oversight was provided, as the failure of staff to induct the complainant does not appear to have been detected by the Case Management Coordinator or the operational supervisor.

Opinion

In light of the above, my final view is that by failing to induct the complainant on five occasions, the department acted in a manner that was wrong within the meaning of section 25(1)(g) of the Ombudsman Act.

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

1. that the department implement a procedure of compliance checks to ensure that Inductions are being completed
2. that the department offer an apology to the complainant for the delay in inducting the complainant to YLP.

In response to enquiries by my Office as to actions the department had taken to address the issue, the department has responded that

The Assistant General Manager has ensured that YLP's Accommodation Managers continue to stress the importance of conducting Inductions of prisoners to all staff and that the Inductions are properly recorded. Consideration has also been given to carry out compliance checks to ensure Inductions are being undertaken.

I note that the department has taken some steps to prevent reoccurrence of this type of incident.

In response to my provisional determination, the department has indicated that compliance checks will be undertaken and a letter of apology will be issued to the complainant.

Whether the department erred by failing to assist the complainant to make calls

47. During the induction interview a newly admitted prisoner is advised, among other things, of the process for making telephone calls to their family. A newly admitted prisoner should also be made aware of the Prisoner Induction Handbook and be provided with the necessary forms to enable the prisoner to add phone numbers to their telephone account.
48. Section 34 of the Act provides that remand prisoners are entitled to have three visitors per week.³ Regulation 11 provides that authorised telephone calls (defined as a telephone call made by a prisoner in accordance with the rules made by the Chief Executive of the department)⁴ are permitted.
49. A prisoner's entitlement to make telephone calls will vary depending on their security classification, placement and case management.
50. A prisoner who is newly admitted to prison is entitled to one officer-assisted call. This is a call arranged by the officers for which the prisoner incurs no charges. Following this, a prisoner must ensure that there is sufficient money on their telephone account to make future calls.
51. The department has provided the following information about why the complainant did not make an officer-assisted call:

It is usual practice at YLP that new prisoners are provided with a telephone call on admission through the holding cells area. However, as [the complainant] was transferred straight into a G Division camera cell after attempting to self-harm in Elizabeth police cells and then into the Infirmary following further self-harm attempts the next day, [the complainant] was not admitted through the holding cells and he was not in a fit state to make any phone calls.

52. I accept that the complainant may not have been in a fit state to be offered a telephone call immediately following his entry into YLP. However, I am of the view that his entitlement to one free officer-assisted call remained and could have been utilised by the complainant in the following days.
53. In response to enquiries as to whether there were any particular restrictions on the complainant, while he was accommodated at YLP, which would render him unable to make any phone calls at all to his family, the department provided the following information:

Prisoners are able to make personal phone calls to those numbers that they have listed on their Prisoner Telephone Account Information form. [The complainant] submitted this form on 6 June 2017, however he would not have been able to make personal phone calls until this date.

In G Division prisoners who are on the Induction/Assessment Regime are able to make calls to the Ombudsman, Prisoner Complaints line and Legal calls and may make a personal phone call with the approval of the Manager.

Phone calls in the Infirmary and High Dependency Unit are currently not made via the Prisoner Telephone System, but are processed as requests by Officers. Calls can be made daily by prisoners and any requests are documented.

There are no restrictions on the number of daily phone calls within E Division other than needing to take turns with the other prisoners within the Division.

³ *Correctional Services Act 1982* (SA) section 34(2), although restrictions may apply in a given circumstance.

⁴ *Correctional Services Regulations 2016* (SA) regulation 3.

54. I particularly note that in the Infirmary and HDU, the complainant should have been able to make a phone call by making a request to an officer. I note that on 11 June 2017 while in the HDU, the complainant made comments to an officer regarding a desire to contact his family, and the officer's response was to advise the complainant to speak to a social worker. This raises further concerns about why the officer did not process the complainant's comments as a request to make a telephone call, in light of the fact that the prisoner was entitled to make telephone calls 'daily' and had told the officer he could remember one phone number.
55. I also query why an officer called the complainant's wife on 13 June 2017 instead of arranging for an officer-assisted call so that the complainant could speak to his wife himself.
56. In my view, by failing to assist the complainant to make any calls to his family, the department's actions had a detrimental effect not only on the complainant, but also upon his family. The department's case notes indicate that his wife had been calling to enquire about his welfare and specifically wishing to facilitate contact between the complainant and his children. It can be inferred that the complainant's children were also distressed at their father's imprisonment and wished to speak to him. I particularly note the many references throughout the department's case notes to the complainant's young autistic daughter. I note that the department's case notes dated 1 June 2017 state that the complainant "stated that he [was] quite worried about his five year old autistic daughter as he reported being the only person with who[m] she communicates".

Opinion

In light of the above, my final view is that by failing to assist the complainant to make calls while he was in the Infirmary and the HDU the department acted in a manner that was wrong within the meaning of section 25(1)(g) of the Ombudsman Act.

To remedy that error, I make a recommendation under section 25(2) of the Ombudsman Act that the department remind staff of their role in facilitating phone calls in both the Infirmary and the HDU, with an emphasis on the importance of family contact for High Risk prisoners.

In response to my provisional report, the department indicated that a reminder will be issued to the staff in the Health Centre and the HDU to remind them of their responsibilities in facilitating phone calls for prisoners accommodated in those areas.

Whether the department erred by failing to pass on messages from the complainant's wife

57. The complainant's wife contacted the department on numerous occasions with the principal goal of enquiring as to the complainant's welfare and expressing her desire to facilitate contact between the complainant and his children.
58. Despite the complainant's wife's desire to facilitate contact, and multiple attempts to do so, and despite the complainant's evident desire to gain information concerning the welfare of his children, the complainant did not successfully contact his wife for 18 days.
59. In response to enquiries regarding the current practice, the department provided the following information:

Any messages to prisoners from family are passed to a prisoner's assigned social worker, in this case earlier messages were given to a S/W at the ARC after he had already moved

on to YLP, the S/W case noted this however it's not clear if she passed the messages to YLP colleagues. They do have access to the case notes and so may have passed on after reading the ARC notes.

60. The department does not appear to have a written policy in place stipulating the process to be followed when a friend or family member contacts a prison wishing to leave a message for a prisoner. It appears that whether the message is actually passed on is a decision left within the discretion of the social worker and it does not appear any guidance is provided to social workers to assist them in making a decision.
61. I have considered whether the ARC social worker took sufficient action in response to the complainant's wife's call on 2 June 2017. The ARC social worker recorded the call on the department's case notes. The ARC social worker did not contact any social workers at YLP where the complainant was located. It appears that the only way this message would have reached the complainant was if a social worker or officer at YLP took it upon themselves to review the case notes for the complainant to see whether there were any messages that had been left for the complainant. It appears that this did not occur. Further, it appears likely that no departmental employees reviewed the case notes for any reason, as it went unnoticed by the department that the complainant had not been inducted.
62. While I acknowledge it is possible that the message was passed on and not case noted, on the available evidence it appears to me unlikely that this occurred. In particular, I note the complainant's comments on 11 June 2017 that he had not had a call from his family.
63. I further note that the complainant's wife attempted a further seven times to leave messages for the department and/or the complainant to get in contact with her. I note that the ARC social worker contacted the Yatala social worker to pass on messages left by the complainant's wife between 2 June 2017 and 5 June 2017. The ARC social worker therefore followed the established practice currently used by the department by contacting the prisoner's assigned social worker. It is unclear why these messages were not ultimately conveyed to the complainant.
64. In my provisional report, I commented that it appears the department did not have an appropriate system in place to ensure that messages from friends and family members were passed on, particularly when a prisoner has been relocated to a different prison. I commented that I considered, within reason and barring any specific limitations on communication that are in place in a particular circumstance, family members of prisoners should reasonably be able to expect that messages are passed along.
65. In response to my provisional report, the department indicated that:
 - the department receives a significant amount of telephone calls each week asking for messages from loved ones to be passed on to prisoners
 - it is not operationally viable to pass on each message, therefore the department usually asks callers to either wait for the prisoner to contact them, or to write to the prisoner via a central address
 - the department agrees that in circumstances involving a prisoner's wellbeing, or in which prisoners are distressed, messages should be forwarded to the prisoner, where appropriate.
66. Whilst I appreciate that it may not be operationally viable to pass on every message received from friends and family members of prisoners, I agree that in some circumstances it will be appropriate to pass on messages. I consider that in the case of the complainant, this was a circumstance in which it would have been appropriate for the messages from the complainant's wife to be passed along.

Opinion

In light of the above, my final view is that by failing to pass on messages from the complainant's wife, the department acted in a manner that was wrong within the meaning of section 25(1)(g) of the Ombudsman Act.

In my provisional report, I foreshadowed making a recommendation under section 25(2) of the Ombudsman Act that the department consider implementing a written policy that outlines a process for passing on appropriate messages to prisoners.

In response to my provisional report, the department indicated that it partially accepted my foreshadowed recommendation. The department suggested that it will review how calls and contact from family members are managed, particularly where prisoners are listed by the High Risk Assessment Team and where it is their first time in custody.

I have considered the department's response. I consider that the department can address my concerns with a review, rather than the implementation of a policy. Therefore I make a recommendation under section 25(2) of the Ombudsman Act that the department conduct a review of how contact from family members is managed and advise me of the outcome of the review.

Summary of Opinions and Recommendations

In light of the above, my final view is that:

1. by failing to induct the complainant on five occasions, the department acted in a manner that was wrong within the meaning of section 25(1)(g) of the Ombudsman Act.
2. by failing to assist the complainant to make calls while he was in the Infirmary and the HDU, the department acted in a manner that was wrong within the meaning of section 25(1)(g) of the Ombudsman Act.
3. by failing to pass on messages from the complainant's wife, the department acted in a manner that was wrong within the meaning of section 25(1)(g) of the Ombudsman Act.

I have made recommendations under section 25(2) of the Ombudsman Act that:

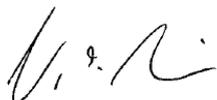
1. the department implement a procedure of compliance checks to ensure that inductions are being completed
2. the department offer an apology to the complainant for the delay in inducting the complainant to YLP
3. the department remind staff of their role in facilitating phone calls in both the Infirmary and the HDU, with an emphasis on the importance of family contact for High Risk prisoners
4. the department conduct a review of how contact from family members is managed and advise me of the outcome of the review.

Final comment

In accordance with section 25(4) of the Ombudsman Act, the department should report to the Ombudsman by **20 January 2018** 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 recommendations.

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



Wayne Lines
SA OMBUDSMAN

21 November 2017