COPP 9.2 Prisoner Complaints

Prison

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| **Principles**As referenced in the [Guiding Principles for Corrections in Australia, 2018](https://justus/intranet/prison-operations):1.3.1 Effective systems provide prisoners/offenders with opportunities to make requests or complaints and access appropriate information.1.3.2 External review and oversight is supported through engagement with Official Visitors, including their free and unfettered access to all prisoners, staff and all areas of the prison, subject to any security and operational concerns.1.3.3 Complaints are promptly actioned and governed by a review framework that is fair, transparent and equitable. |

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# Scope

This Commissioner’s Operating Policy and Procedure (COPP) applies to all prisons administered by or on behalf of the Department of Justice (the Department).

# Policy

All prisoners are entitled to raise a query, concern or complaint about their care and management while in prison. The complaints processes must be accessible to all prisoners and shall be managed in an accountable, fair and transparent manner.

Prisoners shall be provided information, as part of the orientation process, regarding the range of internal and external mechanisms available to them if they choose to make a complaint (refer [COPP 2.2 – Orientation](http://justus/intranet/prison-operations/Pages/prison-copps.aspx)).

Prisoners should be encouraged to address their complaints at the lowest possible level in order for the issue to be considered and responded to in a timely manner.

A record shall be made of all formal complaints by a prisoner and the outcome of how the complaint was addressed or resolved.

# Prisoner Complaints

## Overview

### A prisoner wishing to raise a complaint may do so confidentially through a variety of mechanisms:

1. verbally or in writing to prison staff ([section 4](#_Complaints_made_to_3))
2. verbally or in writing to ACCESS (Administration of Complaints, Compliments and Suggestions) ([section 5.1](#_ACCESS))
3. in writing to the Commissioner for Corrective Services[[1]](#footnote-1) (the Commissioner) (section 5.2)
4. in writing to the Minister for Corrective Services (the Minister) (section 5.3)
5. verbally and in writing to the external agencies and bodies listed in section 6.

### This COPP does not affect any provision prisoners have for privileged mail and telephone calls to the pre-registered and confidential call list ([refer COPP 7.1 – Prisoner Communication](http://justus/intranet/prison-operations/Pages/prison-copps.aspx)s).

### Where a process exists for addressing the specific subject matter of a complaint it shall be directed to that process, for example:

1. decisions covered by another appeals process (e.g. prisoner placement and assessments and Case Conference decisions - refer [COPP 2.3 –Assessments and Sentence Management](http://justus/intranet/prison-operations/Pages/prison-copps.aspx) for the appeal procedures)
2. misconduct (minor and serious) by Department of Justice staff. Prisoners may make a complaint of this nature to internal or external government bodies identified on the confidential mail envelope. Refer [COPP 7.1 – Prisoner Communication](http://justus/intranet/prison-operations/Pages/prison-copps.aspx)s.

### Prisoners shall be advised that complaints made with respect to the following matters will not be addressed as part of the prisoner complaints process and will be assisted with the most appropriate mechanism to lodge their complaint:

1. complaints associated with statutory disciplinary decisions
2. complaints about matters set out within Acts, Regulations, Prison Rules, COPPs and Standing Orders
3. complaints related to offences or acts of a criminal nature
4. complaints made on behalf of another prisoner.

### Staff shall ensure where complaints are raised against Ventia that the Ventia Complaint Form is completed and emailed to CSCScomplaints@ventia.com.

## Confidentiality

### All staff involved in dealing with and resolving complaints shall do so in an efficient, timely and confidential manner. For these matters staff shall not:

1. make any comment to any person, either verbally or in writing concerning any Prison Officer or other staff, prison, or prisoner

or

1. use for any purpose information gained by or conveyed to them through their work in the prison service,

except in connection with the discharge of their duties or with the prior written approval of the Superintendent[[2]](#footnote-2).

## Complaints against prison staff

### Where a prisoner makes a complaint concerning prison staff, the prisoner shall be informed the matter will only be reported to the staff member as part of the investigation into the complaint. For serious matters, the Superintendent shall make necessary arrangements to ensure the safety and security of the prisoner.

### Prisoners shall be made aware they may be charged with a minor prison offence if they make a false or frivolous complaint against an officer (refer [COPP 10.5 – Prison Offences and Charges](http://justus/intranet/prison-operations/Pages/prison-copps.aspx)).

## Alleged assault

### If a prisoner makes a complaint that they have been assaulted (by another prisoner or other person) then the incident must be reported in accordance with [COPP 13.1 – Incident Notifications, Reporting and Communications](http://justus/intranet/prison-operations/Pages/prison-copps.aspx).

## Prison’s Complaints Oversight Officer

### The Superintendent shall authorise one or more senior staff members (e.g. Assistant Superintendent Offender Services) to be the Prison’s Complaints Oversight Officer. The Complaints Oversight Officer shall:

1. have oversight and monitor all prisoner complaints handled by the prison
2. manage written complaints that are not resolved by the Unit Manager/Nurse Manager (refer sections 4.3.10 to 4.3.12)
3. ensure the prison maintains a record keeping system of all prisoner complaints (refer section 4.4).

# Complaints made to Prison Staff

## Overview

### A prisoner may make a complaint regardless of their placement or regime.

### The person/business area receiving a prisoner complaint shall consider it and determine the most appropriate method of addressing the complaint, including informal and formal mechanisms. Complaints will not be progressed if they are frivolous or of a minor nature.

## Verbal complaint

### For complaints that are not resolved verbally, prisoners shall be encouraged to make a written complaint.

## Written complaint

### Unit Managers shall ensure copies of the TOMS Prisoner Complaint: Details are accessible and freely available to all prisoners.

### A prisoner may submit a complaint using a Unit Interview Form. In these cases Prison Officers shall manage the matter where a complaint can be resolved through an Interview process.

### The prisoner may seek assistance from an approved support person to fill out the TOMS Prisoner Complaint: Details.

### The TOMS Prisoner Complaint: Details should explain:

1. details of the complaint (e.g. what it is, when it happened and the events surrounding the complaint)
2. the outcome the prisoner is seeking.

Note: a prisoner may wish to indicate if the complaint has already been made to the Department and/or Minister to determine if the matter has already been dealt with by another business area. This is not a requirement as the prisoner may wish to keep the matter confidential.

### Written complaints to the Minister, Commissioner, ACCESS or external agencies shall use the yellow confidential mail envelopes. Such correspondence shall be forwarded by the prison to that person/business area/organisation without being opened (refer [COPP 7.1 – Prisoner Communication](http://justus/intranet/prison-operations/Pages/prison-copps.aspx)s).

### The Superintendent shall ensure a response is given within 10 days of a prisoner making a verbal or written complaint to prison staff.

Procedure for the Unit Manager/Nurse Manager

### A prisoner’s complaint shall be managed using the following procedure:

|  |  |
| --- | --- |
|  | Procedure |
| 1. | Enter all the details of the complaint into the TOMS Prisoner Complaint: Details, filling in all fields. |
| 2. | Within 24 hours of receiving a prisoner's TOMS Prisoner Complaint: Details, return a signed copy of the completed form to the prisoner. |
| 3. | Inform the prisoner of the complaint’s response due date. The ‘response due date’ will be 10 days after receiving the verbal or written complaint. Where it is likely the response date will be more than 10 days, clearly explain the reason (e.g. staff not on shift) to the:1. prisoner

and 1. Complaints Oversight Officer.

Note reasons for delay in the ‘summary of situation’ field in the Part 1 section of the TOMS Prisoner Complaint: Prison Response. |
| 4. | Interview the prisoner and review with them the details of the complaint and their expectations of the outcome.Determine if the prisoner’s expectations are realistic, fair and reasonable.Ensure there is a common understanding of the complaint and the specific outcome desired. |
| 5. | Conduct an investigation into the complaint |
| 6. | Discuss with the prisoner the results of your investigation and what options can be taken to address the complaint. |
| 7. | Fill out Part 1 of the TOMS Prisoner Complaint: Prison Response, including the:1. ‘summary of situation’ field and indicate any additional information the prisoner may have supplied during the interview
2. fill in the details of the investigation into the ‘What action have you taken?’ field.
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### If the complaint is resolved:

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|  | Procedure |
| 1. | Complete Part 1 of the TOMS Prisoner Complaint: Prison Response, including the ‘‘outcome’ field and print the form. |
| 2. | Ensure the TOMS Prisoner Complaint: Prison Response is signed off by the prisoner and the Unit Manager/Nurse Manager. |
| 3. | Forward the completed and signed forms to the Complaints Oversight Officer. Provide a copy of the documents to the prisoner, if required. |

### If the complaint is not resolved and the prisoner wants to progress the matter further:

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| --- | --- |
|  | Procedure |
| 1. | Advise the prisoner of the next steps (refer section 4.3.10). |
| 2. | Complete Part 1 of the TOMS Prisoner Complaint: Prison Response, including the ‘outcome’ field and print the form. |
| 3. | Ensure Part 1 of the TOMS Prisoner Complaint: Prison Response is signed off by the prisoner and the Unit Manager/Nurse Manager. |
| 4. | On the same day/shift, notify and forward the Prisoner Complaint: Prison Response to the Complaints Oversight Officer for consideration/action. |

Procedure for the Complaints Oversight Officer

### The Complaints Oversight Officer shall ensure to conduct the following procedure:

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| --- | --- |
|  | Procedure |
| 1. | Discuss the complaint and possible outcomes with the Unit Manager/Nurse Manager who has already dealt with the complaint. |
| 2. | Investigate the complaint, possible outcomes and document findings in Part 2 of the TOMS Prisoner Complaint: Prison Response. |
| 3. | If the 10 day period is to be exceeded, enter the reasons why in the ‘Actions’ field. |

### If the complaint is resolved:

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| --- | --- |
|  | Procedure |
| 1. | Complete Part 2 of the TOMS Prisoner Complaint: Prison Response, including the ‘‘outcome’ field and print the form. |
| 2. | Ensure Part 2 of the TOMS Prisoner Complaint: Prison Response is signed off by the prisoner and the Complaints Oversight Officer.  |
| 3. | File the completed and signed forms. Provide a copy of the documents to the prisoner, if required. |
| 4. | Inform the Unit Manager/Nurse Manager. |

### If the complaint is not resolved and the prisoner wants to progress the matter further, the Complaints Oversight Officer shall advise the complaint can be:

1. reviewed by ACCESS
2. made to
* the Commissioner (section 5.2)
* the Director General (section 5.2)
* the Minister (section 5.3)
* external agencies and bodies (section 6).

## Recording complaints

### All hardcopy and signed complaints forms will be forwarded to the Complaints Oversight Officer.

### These hard copy records will be maintained on site for 12 months before being forwarded to Offender Records, Department of Justice.

### No copies of any complaints shall be held on a prisoner’s unit file.

## Withdrawing a written complaint made to prison staff

### A prisoner may withdraw a complaint at any time.

### The statement to withdraw the complaint must be signed by the prisoner in the presence of a support person who has not been involved with the complaint.

### The withdrawal shall be recorded on the appropriate Prisoner Complaint: Details and forwarded to the Complaints Oversight Officer.

## Complaints made directly to the Superintendent

### Pending the Superintendent’s consideration, the complaint may be forwarded to another Prison Officer (e.g. Unit Manager, Nurse Manager, or Complaints Oversight Officer) for consideration and action as necessary in accordance with previous parts of this section.

### The Superintendent shall ensure to keep a separate record on TOMS Notes of all prisoner complaints made directly to them, except when the matters are frivolous or of a minor nature. The record shall detail the complaint, if/how it was addressed and any outcome.

### Where the Superintendent is unable to determine the complaint (e.g. due to a conflict of interest), the prisoner shall be advised the complaint may be reviewed or made to other persons/bodies in accordance with section 4.3.12.

# Complaints made to Other Parts of the Department

## Complaints made to ACCESS

### ACCESS will work to resolve the matter, which may involve:

1. seeking more information about the complaint from the relevant prison
2. forwarding the complaint to the relevant business area in the Department or other organisation.

### The prisoner will be notified of the outcome by the relevant business area/prison staff or ACCESS.

## Complaints made to the Commissioner or Director General

### The Commissioner may forward the complaint to another person/business area for determination and action such as the relevant Superintendent or ACCESS.

### If the Director General receives a prisoner complaint, the DG may forward the complaint to the Commissioner to consider/action the matter.

## Complaints made to the Minister

### The Minister shall determine the most appropriate method of addressing a complaint. The Minister may contact the Department for further information and/or action on the matter.

# Complaints made to External Agencies and Bodies

## Overview

### Prisoners may wish to make a complaint with external agencies and bodies which may include:

1. the State Ombudsman (also known as the Parliamentary Commissioner for Administrative Investigations)
2. the Commonwealth Ombudsman
3. the Office of the Inspector of Custodial Services (OICS)
4. an Independent Prison Visitor
5. the Aboriginal Legal Service
6. the Health and Disability Services Complaints Office
7. the Corruption and Crime Commission (CCC) (WA)
8. the Equal Opportunities Commission (WA)
9. the Human Rights and Equal Opportunity Commission (Commonwealth).

### The external agency or body shall determine the most appropriate method of addressing a complaint and may contact the Department for further information about the matter.

## Independent prison visitors

### An independent prison visitor may record any complaint made by a prisoner or on behalf of a prisoner and report it to OICS[[3]](#footnote-3).

### The Superintendent shall inform an independent prison visitor of any prisoner who would like to have a discussion with the visitor.

### The Superintendent shall ensure the necessary arrangements to enable the independent prison visitor to interview the prisoner at the prison[[4]](#footnote-4).

### Subject to any security considerations, a prisoner’s interview may be within view but not the hearing of a Prison Officer[[5]](#footnote-5).

# Annexures

## Related COPPs

* [COPP 2.2 – Orientation](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 2.3 – Assessments and Sentence Management](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 7.1 – Prisoner Communication](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 10.5 – Prison Offences and Charges](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 13.1 – Incident Notifications, Reporting and Communications](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)

## Definitions and acronyms

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| --- | --- |
| Term | Definition  |
| ACCESS (Administration of Complaints, Compliments and Suggestions) | ACCESS is a dedicated service within the Department of Justice, Corrective Services that manages complaints, compliments and suggestions for and related to prisoners and offenders state-wide. |
| Approved support person | These are approved and trained persons who can provide support and assistance to prisoners who wish to make or withdraw a complaint and include:1. prison support officers
2. Aboriginal Visitors Scheme visitors
3. education officers
4. chaplains
5. Health Services staff
6. official prison visitors
7. Unit Managers
8. unit officers or case officers
9. Community Corrections Officers
10. industry officers
 |
| CCC | The Corruption and Crime Commission of Western Australia. |
| Commissioner of Corrective Services | The position designated by the Director General as responsible for the management of the Corrective Services Division of the Department of Justice. The Commissioner also holds the title of Deputy Director General. |
| Commissioner’s Operating Policy and Procedure (COPP) | Operational Instruments that provide instructions to staff on how the relevant legislative requirements are implemented. |
| Complaint | A prisoner’s written or verbal statement that something is wrong or not satisfactory which they would like addressed. |
| Director General (DG) | The Director General of the Department of Justice. |
| Guiding Principles for Corrections in Australia, 2018  | The guidelines and the accompanying principles constitute outcomes or goals to be achieved, rather than a set of absolute standards or laws to be enforced. They represent a statement of intent that each Australian State and Territory can use to develop their own range of relevant legislative policy and performance standards to reflect best practice and community demands. |
| Independent Prison Visitor | A person who is appointed to be an independent prison visitor under s. 39 *Inspector of Custodial Services Act 2003.* |
| Minor Misconduct | Minor misconduct is conduct by a public officer that:* adversely affects the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their official capacity at the time of engaging in the conduct;
* involves the performance of functions in a manner that is not honest or impartial;
* involves a breach of the trust placed in the public officer; or
* involves the misuse of information or material that is in connection with their functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person; and
* constitutes, or could constitute, a disciplinary offence providing reasonable grounds for termination of a person's office or employment.
 |
| OICS | Office of the Inspector of Corrective Services |
| Serious Misconduct | Serious misconduct is conduct by a public officer who:* acts corruptly or corruptly fails to act in the course of their duties; or
* corruptly takes advantage of their office or employment to obtain a benefit or to cause a detriment to any person; or
* acting in the course of their duties or while deliberately creating the appearance of acting in the course of their duties, commits an offence punishable by two or more years imprisonment.
 |
| Superintendent | The Superintendent as defined in s. 36 [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html) includes any reference to the position responsible for the management of a private prison under Part IIIA [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html). Does not extend to the Officer in Charge of a Prison. |
| Total Offender Management Solution (TOMS) | An electronic database used by the Department of Justice, Corrective Services to record and manage comprehensive information relating to prisoners. |

## Related legislation

* *Corruption, Crime and Misconduct Act 2003*
* *Inspector of Custodial Services Act 2003*

# *Prisons Act 1981* Assurance

It is expected that:

1. Prisons will undertake local compliance in accordance with the [Compliance Manual](http://justus/intranet/department/standards/Pages/monitoring.aspx).
2. The relevant Deputy Commissioner within Head Office will undertake management oversight as required.
3. Operational Compliance will undertake checks in accordance with the [Operational Compliance Framework.](http://justus/intranet/department/standards/Pages/monitoring.aspx)

Independent oversight will be undertaken as required.

# Document Version History

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| --- | --- | --- | --- | --- |
| **Version no** | **Primary author(s)** | **Description of version** | **Date completed** | **Effective Date** |
| 1.0 | Operational Policy | Approved by A/Director Operational Projects, Policy, Compliance and Contracts  | 16 December 2021  | 24 January 2022 |
| 2.0 | Operational Policy | Approved by Deputy Commissioner Operational SupportCM ref: D23/913649 | 09 October 2023 | 24 October 2023 |

1. As delegated by the Director General s. 67(1)(b) *Prisons Act 1981* [↑](#footnote-ref-1)
2. r. 22(1) *Prisons Regulations 1982* [↑](#footnote-ref-2)
3. s. 40 (1) (c) and (2) *Inspector of Custodial Services Act 2003* [↑](#footnote-ref-3)
4. r. 77(1) *Prisons Regulations 1982* [↑](#footnote-ref-4)
5. r. 77(3) *Prisons Regulations 1982* [↑](#footnote-ref-5)