

Supt. Wintaton 7.7.c.

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 Social Welfare Department

Staff Noticeboard.

Director-General's Circular No. 76/14

4th November, 1976.

Complaints to Ombudsman

The following guidelines are set down for procedures to be followed in dealing with complaints, or proposed complaints, to the Ombudsman by persons in the custody of the Department, or other persons who are aggrieved by administrative actions taken by the Department:

1. Right of person in custody to write to Ombudsman:

Section 23 of the Ombudsman Act 1973 provides that any person in custody on a charge, or after conviction of an offence, shall have his letter immediately forwarded unopened to the Ombudsman. Failure to do so constitutes a breach of the Act.

Nevertheless, appropriate, careful counselling of the prisoner or detainee intent on writing to the Ombudsman may solve his problem or remedy the situation to his satisfaction. At no time should the prisoner or detainee be denied his right to write to the Ombudsman, but in an appropriate case a responsible senior officer may enquire of the intending complainant as to the nature of his grievance, and offer to discuss it with the objective of eliminating the problem rather than eliminating the letter to the Ombudsman.

2. Ability of Department to investigate and provide comments on complaints received:

The usual procedure followed by the Ombudsman when he intends to investigate a complaint is to provide the Department with a copy of the complainant's letter and to request comments.

In establishing facts to prepare an answer, an officer of the Department may feel he needs to interview the complainant to clarify a particular issue. The Ombudsman has indicated that he would prefer that officers not take this course. He feels that such practice may erode the confidence that the complainant holds in the Ombudsman's independence and integrity. He has also pointed up the temptations that may apply (or may be felt to apply) where those conducting the interview may be directly or indirectly affected by the outcome of the investigation. I have some sympathy with the Ombudsman's view, and have agreed to endeavour

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to avoid interviewing complainants where the instruction of a departmental officer might be misconstrued. I have also indicated that, on occasions, prisoners or detainees launch concurrent complaints with the Ombudsman, the Visiting Stipendiary Magistrate, and/or the Department. The Ombudsman understands and agrees that, in these cases, it may be necessary for the Department to make its own investigations, including the interviewing of the complainant.

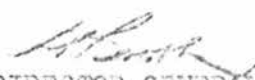
If any doubts are held on whether a complainant should be interviewed, the Department's Liaison Officer with the Ombudsman - Mr. M. Ryan - should be contacted and the situation explained. Similarly, any aspect of providing comments to an Ombudsman's investigation should be discussed directly with Mr. Ryan if any uncertainty is felt.

Generally, a copy of the complainant's letter to the Ombudsman, and of the Ombudsman's to this Department, should be made available to all staff members who are required to furnish reports or make comments relative to the complaint.

3. Transmission to staff of results of Ombudsman's investigations:

A system will be implemented whereby a copy of all correspondence between this Department and the Ombudsman, relative to complaints, will be forwarded to the particular institution or section. This will include the Department's reply to the particular complaint, the Ombudsman's finding, and his final advice to the complainant.

This correspondence should be made freely available to all staff who were involved in the investigation of the complaint. It will be the responsibility of the superintendent, governor, or other officer-in-charge to make the information accessible to staff.


 DIRECTOR-GENERAL.

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