

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE INSPECTOR OF CUSTODIAL SERVICES
AND
THE NSW OMBUDSMAN

December 2014

1. APPLICATION

- 1.1 This is a Memorandum of Understanding (MOU) between the Inspector of Custodial Services (the Inspector) and the NSW Ombudsman (the Ombudsman).
- 1.2 The objective of this MOU is to establish and maintain a constructive and cooperative working relationship between the Inspector and the Ombudsman by:
 - 1.2.1 providing a framework to clarify the independent accountability responsibilities of the Inspector and the Ombudsman in relation to custodial services; and
 - 1.2.2 establishing protocols for the exchange of information between the Inspector and the Ombudsman on matters of mutual interest relevant to the functions of the respective agencies.

2. AUTHORITY

- 2.1 The Inspector and the Ombudsman derive authority to consult and exchange information from Sections 10 and 26 of the *Inspector of Custodial Services Act 2012* and the arrangements set out in this agreement.

3. ROLE AND RELATIONSHIP

This MOU recognises the distinct roles of the Inspector and the Ombudsman.

The Inspector

- 3.1 The role of the Inspector is to inspect each custodial centre at least once every 5 years, and each juvenile justice centre and juvenile correctional centre at least once every 3 years, and to examine and review any custodial service at any time. The Inspector reports to Parliament on each such inspection, examination or review, and on any particular issue or general matter relating to the functions of the Inspector and includes in any report such advice or recommendations as the Inspector thinks appropriate. The Inspector oversees Official Visitor programs conducted under the *Crimes (Administration of Sentences) Act 1999* and the *Children (Detention Centres) Act 1987*, and advises, trains and assists Official Visitors in the exercise of their functions under those Acts.

The Ombudsman

- 3.2 The NSW Ombudsman is an independent and impartial watchdog which helps agencies within jurisdiction to address problems with their performance. These problems may be uncovered by complaints from the public or by people who work for those agencies. Problems may also come to attention through work done in scrutinising agency systems, overseeing investigations or reviewing the delivery of services.

4. LIAISON

Liaison between the Inspector and Ombudsman

- 4.1 The Inspector and Ombudsman agree to meet quarterly, or otherwise as determined, to discuss issues of common interest.

Liaison officers

- 4.2 The Inspector and the Ombudsman will each nominate officers to act as liaison officers whose role will include:
- facilitation of information exchange between the two agencies in accordance with the relevant statutory provisions and this MOU; and
 - the provision of clarification for staff as required in relation to the operation of the MOU and generally the involvement of either agency in any matter.
- 4.3 Where issues arise between the Inspector and the Ombudsman in relation to the operation of this MOU, the parties will seek to resolve the issue in the first instance through a meeting between liaison officers. Where necessary, any significant policy or procedural issues are to be referred to the Inspector's nominee and the Manager, Custodial Services and Compliance, or the Inspector and the Ombudsman.

5. INFORMATION EXCHANGE

Provision of Information

Provision of Information for Inspections

- 5.1 The Inspector undertakes to provide the Ombudsman with their inspection schedule.
- 5.2 The Ombudsman undertakes to provide the Inspector with a complaint summary report in relation to a custodial service subject to an inspection two weeks prior to the inspection. The report will include a breakdown of complaints by allegation over the previous six months.

Complaint Summary reports

- 5.3 The Ombudsman undertakes to provide the Inspector with complaint summary reports at other times on an 'as requested' basis, for example to assist the Inspector to determine their inspection schedule, or as research to assist in preparation for a thematic or systemic review.

Referral of matters

- 5.4 The Ombudsman undertakes to inform the Inspector of the outcome of complaints referred to the Ombudsman by the Inspector as soon as practicable after the matter is completed.

- 5.5 Where the Inspector wishes to conduct a review concerning matters raised in complaints made to the Ombudsman, the Inspector undertakes to consult with the Ombudsman.
- 5.6 If the Ombudsman has exercised discretion not to investigate a complaint on the basis that the issues raised will be considered by the Inspector, the Ombudsman will inform the complainant of the decision and the reasons for the decision.

Requests for Information

- 5.7 The Inspector and the Ombudsman may request each other to provide information relevant to their respective functions.
- 5.8 A request for information must be in writing, including by email. However, an urgent request for information may also be made by telephone or in person provided the request is confirmed in writing as soon as practicable.
- 5.9 Requests for information are to be directed to the officer dealing with the file or the nominated liaison officers. Any requests for information should state the purpose for which the information is requested.
- 5.10 Where an officer receives a request for information, that information will be provided in accordance with the MOU but subject to:
- (a) any statutory requirements
 - (b) any agency caveats
 - (c) available resources, and
 - (d) any undertaking of confidentiality given to any person by the agency.

6. COMPLAINT HANDLING

- 6.1 The Ombudsman may decline to consider a complaint consistent with any of the provisions of the *Ombudsman Act 1974*, and any current internal policies or procedures of the office.

7. CONFIDENTIALITY AND PRIVACY CONSIDERATIONS

- 7.1 Information received will be treated in accordance with the legislative obligations placed upon each agency.

8. APPLICATION OF THIS MOU

- 8.1 This MOU is consistent with Section 10(2) of the *Inspector of Custodial Services Act 2012* in that it sets out the arrangements to which the Inspector and the Ombudsman are empowered and required to conform in the exercise of their relevant functions

9. DATE OF EFFECT

9.1 This MOU comes into effect on the date which it is signed by both the Ombudsman and the Inspector.

10. AMENDMENT AND TERMINATION

10.1 This MOU can be amended or varied following the written agreement of both parties or can be terminated at any time by written notification by either party.



Inspector of Custodial Services

2 December 2014

Date



NSW Ombudsman

2 December 2014

Date