



Simon Corbell MLA

ATTORNEY GENERAL
MINISTER FOR POLICE AND EMERGENCY SERVICES

MEMBER FOR MOLONGLO

Ms Jane Williams
ACT Mental Health Consumer Network
Level 2, Griffin Centre
20 Genge St
CANBERRA ACT 2601

Dear Ms Williams

I refer to your email dated 18 March 2008 in relation to the Prisoner Requests Complaints and Grievances Policy. I understand that ACT Corrective Services contacted you to obtain further details. I will endeavour to address your query below.

The relevant passage of the Prisoner Requests Complaints and Grievances Policy is as follows:

7. Vexatious or untruthful complaints

7.1 A prisoner must not make a formal complaint knowing that the complaint is baseless.

7.1.1 Should a prisoner knowingly make a false complaint that has the potential to impact upon the rights and reputation of others, and that complaint is subsequently shown to be baseless, this will be considered a disciplinary matter and treated accordingly.

The phrase "disciplinary matter" refers to circumstances arising from one of the events listed in section 152 of the *Corrections Management Act 2007* (CMA).

Among the breaches listed in section 152 is (a) contravening a direction given to the detainee by the chief executive or a corrections officer under this Act or the *Crimes (Sentence Administration) Act 2005*. Since all prisoners are notified upon their induction that there is an obligation not to make formal complaints, if the prisoner knows that the complaint is baseless, such a complaint is a contravention of a direction and is, therefore, a disciplinary breach under section 152(a).

Responses to disciplinary breaches vary according to the severity of the breach and the circumstances in which it takes place. A breach may result in the detainee being counselled, reprimanded, or warned, or the matter being referred for investigation and potential penalty under section 184 of the CMA. It is noted however, that in most cases, disciplinary responses to a vexatious complaint will go no further than a warning. For more detail on the disciplinary procedure, please refer to chapters 10 and 11 of the *Corrections Management Act 2007*.

ACT LEGISLATIVE ASSEMBLY

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I have been advised that you have particular concerns about how this policy applies to people with a mental illness. If it is believed that a statement is vexatious, investigations are first undertaken to determine whether the statement is untrue. For a complaint to be vexatious, it must be untruthful and intentionally made to create annoyance or scandal. The fact of a person's intellectual or psychological capacity is taken into account when determining whether the misrepresentation is truly vexatious.

I hope that this information is of assistance to you.

Yours sincerely

Simon Corbell MLA
Attorney General

6 May 2008