
Snapshot: Good practice when conducting prison disciplinary hearings

The Case

Across Victoria's 14 prisons, there are about 10,000 prison disciplinary process annually dealing with prisoners who break prison rules. Some of the stories in this report are telling: A suicidal prisoner with mental health conditions was charged – despite apologising a day later – after he resisted a strip-search while being moved to a safe cell. In another case, a prison officer reportedly reneged on a back room offer of to a prisoner after telling him he was told he would not be taken off the methadone program if he pleaded guilty. And how hearing officers did not consider prisoners' intellectual disabilities when handing out fines.

This investigation revealed there was a lack of discretion in taking forward minor offences to a formal disciplinary process. There was also insufficient information about the charge, leading to procedural unfairness, and there was also a perception of bias identified in some cases with the same prison officer issuing the charge and then presiding over the hearing, and an overall lack of transparency.

Key Findings

- Anecdotal evidence suggested undocumented pre-hearing discussions are widespread
- Some system improvements were noted since the 2011 Ombudsman investigation into prison hearings, with many hearings reviewed reflecting good practice
- Prisoners with cognitive impairment had limited access to information and support
- There was no formal requirement for written reasons for decisions
- There was no external adjudication or internal review processes in place
- Greater discretion could be used to divert some prisoners from the hearing process
- Requests by some prisoners to call witnesses were refused.

Key Recommendations

- Recognising review of decisions is likely to substantially mitigate the risk of unfair outcomes
- Establish and invest in a dedicated team within the Department of Justice and Community Safety to be responsible for conducting prison disciplinary hearings and related internal reviews
- Recognising the benefits in prisons conducting fewer disciplinary hearings
- Record written reasons for disciplinary hearing outcomes and penalties and make these available to prisoners upon request
- Implement measures to improve prisoner understanding and experiences of the disciplinary hearing process and available supports
- Recognising the significant record keeping issues identified in this report.

By the numbers



**10,000+ hearings
per year**



14 prisons in Victoria



**3/4 of reviewed hearing
files had incomplete or
inconsistent records**

Final word

“Ultimately, while we found improvements in some areas since 2011, disciplinary hearings in Victorian prisons are still carried out in the dark with insufficient scrutiny, oversight or transparency.”

Deborah Glass, Victorian Ombudsman