

Cultural Review of the
Adult Custodial Corrections System

Consultation Paper

October 2021



Acknowledgement of Country

We acknowledge the First Peoples of Victoria and their ongoing strength in practising the world's oldest living culture. We acknowledge the Traditional Owners of the lands and waters on which we live and work and pay our respects to their Elders past and present.

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Introductory remarks

Most of the daily operations of the adult custodial corrections system occurs out of sight. Most people will never enter a prison and have little understanding of the custodial environment or the challenges associated with working with people in the custodial environment. Despite this, everyday hundreds of people enter custodial environments to work in one of the most dynamic, intense and challenging workplaces.

For these people, the custodial environment is their workplace. And for people living in custody, this workplace is their home. The custodial environment and the workplace culture, attitudes and behaviour of people working in the adult custodial corrections system contributes to the quality of life for people in custody and helps shape their longer term social, health and rehabilitation outcomes.

The custodial workforce should be supported to do their critical work in a positive, safe and inclusive environment. People working in custodial environments have the same rights to a safe workplace as any other employee. Similarly, while they are deprived of their liberty, people living in custody have the same human rights as other members of the community.

The Minister for Corrections has asked the Expert Panel to conduct an independent review into the culture of the Victorian adult custodial corrections system. In approaching this work, we consider workplace culture to be shorthand for the accepted way of doing things in a workplace. It is an amalgam of attitudes, behaviour and experiences – of action and inaction. Workplace culture can either foster positive outcomes or perpetuate work practices that do not meet relevant standards and expectations for appropriate conduct.

In the custodial context, there is evidence that workplace culture may contribute to experiences of harmful, discriminatory and unlawful behaviours. It may provide space for issues of integrity and unlawful conduct to escape scrutiny. This can undermine safety, rights and outcomes for people living and working in custodial environments. There is also acceptance of the urgent need to do more to increase cultural safety and reduce the impact of custodial environments for Aboriginal people.

The Expert Panel have a strong shared interest in improving the culture of the adult custodial corrections system. While each member of the Expert Panel approaches this work with different background, skills and perspectives, we are at singular purpose when it comes to ensuring that the adult custodial corrections system provides a safe and inclusive workplace and ensures that people in custody are supported to achieve positive change in their lives, including planning for their eventual return to life in the community.

Expert Panel

Jill Gallagher AO

Tim Cartwright APM

Greg Smith AM

Head of Review

Kristen Hilton

Background

The Cultural Review

Creating and maintaining a safe, healthy and respectful workplace is a legal obligation that is also essential to employee safety, engagement, retention and wellbeing. Critically, the workplace culture of custodial settings also shapes the living conditions and the realisation of human rights for people living in custody. For the many vulnerable people living in Victorian prisons, the custodial environment shapes their everyday life and contributes to their long term social, health and rehabilitation outcomes.

In June 2021, the Victorian Government announced an independent cultural review of the adult custodial corrections system in Victoria (the Cultural Review).

The Cultural Review provides an opportunity to:

- develop a deep understanding of the workplace and custodial culture within the adult custodial correctional system across Victoria
- understand the systemic influences and current constraints on workplace culture
- identify targeted solutions to drive positive and enduring change within the adult custodial correctional system for people in custody and employees.

The Cultural Review is being conducted by a leadership team comprised of a panel of independent expert advisers and the Review Lead – former Victorian Equal Opportunity and Human Rights Commissioner, Kristen Hilton.

The members of the Expert Panel are:

- former Fair Work Commission Deputy President Greg Smith AM
- former Victorian Treaty Advancement Commissioner and CEO of the Victorian Aboriginal Community Controlled Health Organisation Jill Gallagher AO, and
- former Victoria Police Deputy Commissioner Tim Cartwright APM

The Expert Panel will provide a final report to the Minister for Corrections in June 2022.

Purpose the Cultural Review

The Cultural Review will examine the culture, experiences, systems and processes within Victoria's prisons and correctional centres. It will draw on research, data and the direct testimony of people who have experience of the corrections system to develop recommendations that will promote a safer corrections system characterised by respect, equality, transparency and support. In recognition of the continued over-representation of Aboriginal people in custody, the Cultural Review will also look carefully at Aboriginal cultural safety and self-determination for Aboriginal staff and people in custody.

Scope of the Review

Examining both private and public corrections facilities, the Cultural Review will focus on two streams of inquiry – ensuring the wellbeing and safety of staff within the adult custodial corrections system, and ensuring the system is safe for people in custody, promotes rehabilitation and caters to their needs, to ensure the system improves community safety.

Stream 1 – Staff

The first stream of the review will focus on the **experience of custodial staff**.

Addressing systemic behavioural and cultural challenges: Measures to address systemic behavioural and cultural challenges among and towards staff, impacting on staff wellbeing and safety.

Preventing behavioural and cultural issues: The effectiveness and appropriateness of the Department of Justice and Community Safety's systems and processes that prevent and respond to behavioural and cultural issues to protect and preserve the wellbeing of all staff.

Driving cultural change: Options to drive cultural change and promote respectful behaviour that is consistent with a culturally safe and integrity-based corrections system, including options to address workforce skills and key capabilities (including leadership capability).

Stream 2 – People in custody

The second stream of the review will focus on the **experience of people in custody**.

Access to culture, experiences of discrimination and self-determination for Aboriginal people living in prison: Whether systems and processes in prisons ensure that Aboriginal people in custody have the right to access and continue to practice culture, are free from discrimination, and are consistent with Aboriginal self-determination.

Safety in custody for vulnerable cohorts: The effectiveness and appropriateness of Department of Justice and Community Safety systems and processes to support the safety of people in custody (noting issues experienced by particular groups such as women, Aboriginal people, LGBTI people, people with disability, elderly people and people from Culturally and Linguistically Diverse backgrounds).

While there are two streams for the Cultural Review, the nature of the adult custodial corrections system means that the culture of the custodial workforce shapes the experience of people in custody. The examination of the experiences of people in custody under Stream Two will focus on the connection between workplace culture and the safety and experiences of people in custody.

While the Terms of Reference are framed broadly, there are a number of issues that are beyond scope of the Cultural Review. This includes experiences in police custody, specific COVID-19 custodial arrangements, community corrections, and the post sentence supervision scheme.

Legislation and policy frameworks outside the specific portfolio responsibility of the Minister for Corrections are not within the scope of the Cultural Review.

Definitions

We have included more information about the types of conduct that fall within the scope of the Cultural Review – including discrimination, integrity and misconduct, sexual harassment, victimisation and bullying – on our [website](#).

Approach and timelines

The Cultural Review will consider recent reports and recommendations directed at the adult custodial corrections system of the Department of Justice and Community Safety to improve custodial environments. The Review will also conduct close engagement with staff and people in custody to build a deeper understanding of systemic issues relevant to the Terms of Reference.

There are four key stages for the Cultural Review:



The Cultural Review has now established its team, finalised its scope and research methodology for approval by the Justice Human Research Ethics Committee in line with research ethics requirements. It has recently commenced research and engagement, initially focused on conducting expert interviews with key stakeholders, subject matter experts, service providers and integrity bodies, and receiving public submissions from stakeholders (guided by this paper).

There will also be opportunities for people to contribute their own expertise and experience directly to the Cultural Review through safe, confidential and accessible pathways including by making individual submissions by phone, post or through our website, or registering to attend a confidential interview. There will also be a custodial workforce survey disseminated in November 2021.

Subject to public health directions, engagement will also take place through visits to all custodial locations across Victoria where the Cultural Review will speak directly with staff and people in custody. Given the uncertainty around access to custodial locations due to the public health measures in response to the COVID-19 pandemic, the Cultural Review is exploring a range of additional ‘remote’ engagement methods.

People participating in the Cultural Review will be supported with warm referrals to complaint pathways, counselling, support and other services.

Information about other ways to contribute to the Cultural Review will be made available on our [website](#) alongside more information about the review approach and key milestones.

Purpose of this Consultation Paper

The purpose of this Consultation Paper is to provide an overview of the background and scope of the Cultural Review and ask some preliminary questions to support public stakeholder submissions on areas within the Terms of Reference.

This Consultation Paper is aimed at key organisations, service providers, integrity bodies and others with an interest in the operation of the adult custodial corrections system.

Your feedback will assist the Cultural Review to understand the broader context, experience and impact of workplace culture in the adult custodial corrections system.

Making a submission

Submissions can be made through the website. Submissions will be open for a six-week period. Submissions are requested by **Monday 29 November 2021**.

The Cultural Review will not be publishing submissions on our website. However, we may use material from submissions in our final report, unless you request that we keep your submission confidential. Organisations may choose to publish their own submissions.

Please contact the Cultural Review at correctionsreview@justice.vic.gov.au if you have any questions. Further information can also be found on our [website](#).

Privacy and confidentiality

The Cultural Review may be required to disclose information provided to it in certain circumstances. Further information about privacy, confidentiality and mandatory disclosure requirements is included on our [website](#).

Complaints

The Cultural Review will not investigate individual incidents or individual complaints of misconduct. If you have a complaint or would like to make a report about an individual incident or specific example of misconduct within the adult custodial corrections system please refer to the complaint pathways on our [website](#).

Consultation questions

Background and context

The custodial environment can be a complex and challenging workplace. While serving the community in this way can be a source of pride for many in the adult custodial workforce it is coupled with substantial occupational risks. On any one day, workers may perform a range of duties and functions that are unparalleled in most other workplaces. Custodial staff work with some of the most vulnerable and, at times, dangerous, people in the community.

People working in the custodial environment need a broad range of skills and clear set of values to meet the challenges of the everyday prison environment and the diverse needs of people in custody. Understanding how the custodial workforce can be supported with the right training, supervision and support to perform their duties will be a key focus for the Cultural Review.

There are likely to be additional demands on the custodial workforce due to the growth of the number of people in custody over the last decade¹ and the complexity of the needs of people entering custody.² A substantial proportion of people in custody are unsentenced and may only spend a limited period at a particular custodial location.³

The Cultural Review will consider how these contextual factors may influence the experience of the custodial workforce, and the development of workplace culture.

The Cultural Review is also being conducted in the context of continuing over-representation of Aboriginal people in the criminal justice system and the disproportionate number of Aboriginal people in the adult prison population. Approximately one in ten people within the adult corrections system (733) identifies as an Aboriginal or Torres Strait Islander person.⁴ A substantial focus for the Cultural Review will be the experience of cultural safety and self-determination for Aboriginal people in the custodial environment.

¹ According to data published by the Department of Justice and Community Safety, the adult prison population has grown by around 60 per cent since 2010. On 31 August 2021, there were 7,120 people in adult custody, comprising of 6,714 men and 406 women. The proportion of women entering custody has grown. There has also been significant growth in the number of people aged 50 and over entering prison over the last ten years. See further Department of Justice and Community Safety (2021) [Monthly Offender and Prisoner Statistics 2020-21](#) and Department of Justice and Community Safety (2021) [Annual Prisoner Statistical Profile 2009-10 to 2019-20](#).

² See further Australian Institute of Health and Welfare (2019) [The health of Australia's prisoners 2018](#), Canberra, AIHW. This data records high rates of mental health conditions, drug and substance use disorders, chronic health conditions within the population of Australia's prisons.

³ Department of Justice and Community Safety (2021) [Monthly Offender and Prisoner Statistics 2020-21](#).

⁴ Department of Justice and Community Safety (2021) [Monthly Offender and Prisoner Statistics 2020-21](#).

The Cultural Review will not be the first time issues within the custodial environment have been examined. There have been a number of reports and investigations into elements of the adult custodial corrections system. Most recently, this has included a report of an investigation by the Victorian Ombudsman into the conduct of prison disciplinary processes⁵ and a special report from the Independent Broad-based Anti-Corruption Commission (IBAC), focussing on issues relating to serious systemic corruption risks in the corrections system.⁶

Other reports have examined the specific experience of people in custody, including the Victorian Ombudsman's investigation into the imprisonment of a woman found unfit to be tried⁷ and the reports of the Victorian Ombudsman on inspections of the Dame Phyllis Frost Centre,⁸ and Port Phillip Prison.⁹ The Cultural Review will benefit from the detailed inquiry into these issues from integrity agencies. The Cultural Review will also consider the response to these reports by the Department of Justice and Community Safety.

There are also important questions relevant to the experience of Aboriginal people involved in the criminal justice system being explored by the Yoo-rook Justice Commission. There is also a current Parliamentary Inquiry into the criminal justice system, including the consideration of factors contributing to the growth of the Victorian prison population. The Cultural Review will monitor the progress of these processes and consider any findings and recommendations relevant to the Terms of Reference for this review.

Key issues

The Cultural Reviews wants to explore how the unique climate and workforce challenges of the adult custodial corrections system may contribute to the development and experience of workplace culture.

The Cultural Review also wants to hear about the attitudes, behaviours, practices, policies and procedures that influence and shape the workplace culture and the experiences of people in custody, particular Aboriginal people and vulnerable groups within custody such as people from CALD backgrounds, people with a disability, women, LGBTIQ+ people and older people.

⁵ Victorian Ombudsman (2021) [*Investigation into good practice when conducting prison disciplinary hearings*](#), 7 July 2021.

⁶ Independent Broad-based Anti-corruption Commission (2021) [*Special Report on Corrections*](#), 22 June 2021.

⁷ Victorian Ombudsman (2018) [*Investigation into the imprisonment of a woman found unfit to stand trial*](#), 16 October 2018.

⁸ Victorian Ombudsman (2017) [*Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre*](#), 29 November 2017.

⁹ Victorian Ombudsman (2019) [*OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people*](#), 5 September 2019.

We invite submissions to assist the Cultural Review to understand:

- **Context** – current issues that influence the custodial environment and the development of workplace culture, including the nature of working with the custodial environment, and legislative and policy context.
- **Workplace Culture** – the experience of the custodial workforce and any systemic issues with workplace culture, safety, behaviour or conduct, including areas for improvement in capability and leadership, workplace values, safety and support.
- **Impact and Consequences** – the consequences of any issues associated with workplace culture on the custodial workforce and the safety and outcomes for people in custody including more vulnerable cohorts.

The Cultural Review will not be investigating individual incidents or examples of workplace conduct, however, any examples will assist the Cultural Review to identify systemic issues. There are investigative bodies and other integrity agencies with statutory responsibilities for responding to complaints about inappropriate and unlawful behaviour, including the experience of people in custody.

The Cultural Review will adopt a broader lens to identify any structural or other systemic factors that may contribute to any workplace issues or challenges for people in custody. The Cultural Review will deliver ideas and solutions to prevent, address and overcome these issues for a safer, more inclusive custodial environment.

The Cultural Review has identified some early themes and key questions to support the consideration of these issues and to guide submissions from stakeholders.

Legal and policy frameworks

The operation of the adult custodial corrections system is shaped by its legislative and regulatory context. The *Corrections Act 1986* and the *Corrections Regulations 2019* shape the everyday operation of the adult custodial corrections system, and the welfare of people in prison. The Act and the Regulations are supplemented by Commissioner's Requirements, Corrections Management Standards and other operating protocols and local procedures.¹⁰ These instruments draw on the Guiding Principles for Corrections in Australia; standards of national intent guiding the making of laws, policies and regulations for Australian jurisdictions.¹¹

The *Charter of Human Rights and Responsibilities Act 2006 (Vic)* requires public authorities such as the Department of Justice and Community Safety (which includes Corrections Victoria) to act compatibly with human rights, including in the development and implementation of policies. Further, international human rights conventions¹² and instruments¹³ provide specific standards and guidance on the treatment of people in custody.

¹⁰ See further [Corrections Act 1986](#), [Corrections Regulations 2019](#) and [Commissioner's Requirements](#).

¹¹ Government of Australia (2018) [Guiding Principles for Corrections in Australia](#), Corrective Services Administrator's Council, 2018.

¹² For example, the [International Covenant on Civil and Political Rights](#) (ICCPR), the [Convention Against Torture](#) (CAT) and the [Optional Protocol to the Convention Against Torture](#) (OPCAT),

¹³ The [United Nations Minimum Rules for the Treatment of Prisoners](#) (the Nelson Mandela Rules) and the [United Nations Rules for the Treatment of Women Prisoners and Offenders](#) (the Bangkok Rules).

The *Public Administration Act 2004 (Vic)* and the *Equal Opportunity Act 2010 (Vic)* provide specific obligations with respect to the conduct and rights of employees and employers in the workplace. The employment of custodial officers within the adult custodial corrections system is subject to the Victorian Public Service Code of Conduct and employment conditions are set out in the Victorian Public Service Enterprise Agreement 2020.

The Cultural Review invites stakeholder submissions on whether the legal, policy and workplace frameworks for the adult custodial corrections system could be enhanced to support and improve culture, safety and inclusion in the adult custodial corrections system in line with international law and leading practice.

The Cultural Review also seeks stakeholder feedback on whether there are matters that are governed by subordinate instruments (regulations, operational requirements, location-based policies and procedures) that should be provided for in legislation.

Question 1 – Legal and policy frameworks

In order to embed a safe and positive culture within the adult custodial corrections environment:

1.1 What, if any, amendments should be made to the *Corrections Act 1986* to improve culture, safety, integrity and inclusion in the adult custodial corrections system?

1.2 What, if any, changes should be made to subordinate instruments (Corrections regulations, Commissioner's requirements, location-based policies and procedures?)

Workforce skills, training, supervision, and support

The custodial environment is complex, challenging and dynamic. People working in the custodial environment need a broad range of skills and clear set of values to meet the challenges of the everyday prison environment and the diverse needs of people in custody.

Many people in custody have backgrounds of disadvantage, violence, trauma and abuse, as well as complex needs. As noted above, there are also people with specific and diverse needs that may make them particularly vulnerable in custody, including Aboriginal people, women, LGBTIQ+ people, people with disability, elderly individuals and people from a CALD backgrounds.

Ensuring that the custodial staff have the right skills, supervision and support to perform their duties is one of the best tools to support a safe, inclusive and positive workplace. The Cultural Review is interested in stakeholder views on the essential skills and training required to be an effective custodial officer and any further opportunities to support continuous improvement and learning for custodial staff.

The Cultural Review is also interested in stakeholder views on any improvements to recruitment and employment processes to support positive culture, safety and integrity in the adult custodial corrections system and ensure staff diversity. In particular, we want to know how employment processes may make a positive contribution to workplace culture through a focus on workforce diversity, flexibility and the identification of any behaviours or attitudes that might be incompatible with diversity, safety and inclusion, such as racist or discriminatory attitudes.

The Cultural Review also wants to ensure that the leadership and supervision of custodial staff exemplifies the skills and conduct expected of a safe, inclusive and diverse workplace.

Question 2 – Workforce skills, training, supervision, and support

In order to support staff working within the adult custodial corrections environment:

2.1 What essential skills and training should be required for staff working within the adult custodial corrections system?

2.2 What are the essential values for staff working within the adult custodial corrections system?

2.3 How can leadership and supervision arrangements be improved to ensure that staff are safe and supported while working in the adult custodial corrections system?

2.4 How can learning and professional development opportunities for custodial staff be improved to support positive culture, safety, diversity and integrity in the adult custodial corrections system?

2.5 Are there opportunities to improve recruitment and employment processes to support positive culture, safety, diversity and integrity in the custodial environment?

2.6 Are there any other supports that should be made available to staff working within the adult custodial corrections system, including to manage workplace stress?

Workplace culture and values

Most people working within the adult custodial corrections system do the right thing and act with integrity in their work – they are motivated to create positive change in the lives of people in custody. However, the unique and closed nature of the custodial environment has been identified as a factor that can directly contribute to corruption and integrity risks and other inappropriate behaviour. For example, the recent IBAC report noted incidents of excessive use of force, contraband, the development of inappropriate relationships and failure to report or escalate examples of misconduct, among other issues.¹⁴

¹⁴ See further Independent Broad-based Anti-corruption Commission (2021) [*Special Report on Corrections*](#).

There have also been examples of inappropriate workplace behaviour – sexual harassment, discrimination and bullying – reported within the adult custodial corrections system. Poor organisational cultures are often characterised by high levels of sexual harassment, discrimination and bullying between staff, and low levels of reporting for fear of reprisal. The Cultural Review wants to understand more about these experiences from the perspective of staff working within the adult custodial corrections system and whether there is a link between the workplace culture and these behaviours.

We also want to understand whether there are accepted norms for reporting inappropriate behaviour that may mean there is an incomplete picture of the extent of workplace conduct issues within the adult custodial corrections system.

The Cultural Review also has some questions about how this might directly affect the everyday living conditions and longer-term outcomes for people in custody. These can be found below at Questions 5 and 6.

Question 3 – Workplace culture and values

In order to understand the workplace culture and the experience of inappropriate behaviour within the adult custodial environment:

3.1 What are the key challenges for custodial workforce and what can be done to support increased safety and wellbeing for custodial staff?

3.2 What are the key issues of staff safety and integrity within the adult custodial environment (how prevalent are integrity issues and inappropriate workplace behaviour such as sexual harassment, racism, discrimination, bullying and victimisation)?

3.3 What are the drivers of integrity issues and inappropriate workplace behaviour (sexual harassment, racism, discrimination and bullying) in the adult custodial environment?

3.4 What are the key factors that influence reporting inappropriate workplace behaviours and integrity issues, and the responses of people with supervision and leadership responsibilities?”

3.5 What are the consequences and impacts for staff who experience and report these issues within the workplace?

3.6 What improvements can be made to support staff to report inappropriate and unlawful workplace behaviours?

Cultural safety for Aboriginal staff

The Cultural Review invites Aboriginal stakeholders and community members to provide their advice on how to improve cultural safety for Aboriginal staff working within the adult custodial correctional environment. It is understood that Aboriginal Wellbeing Officers and Aboriginal Liaison Officers may face particular challenges and impacts working within the custodial correctional environment including carrying a high cultural load and navigating support for and relationships with Aboriginal people in custody, as well as experiencing racism and racial discrimination in carrying out their roles.

Question 4 – Cultural Safety for Aboriginal staff

In order to understand the specific experience of Aboriginal staff working in the custodial environment:

- 4.1** What are the experiences of Aboriginal staff working within the custodial environment including the nature, extent and impact of racism and racial discrimination?
- 4.2** What level of support is provided to Aboriginal staff to ensure their wellbeing and cultural safety at work?
- 4.3** What changes are required to increase cultural safety for Aboriginal staff working within the custodial environment, consistent with Aboriginal peoples' right to self-determination?

The wellbeing and safety, including cultural safety, of people in custody

The Cultural Review wants to hear about the impact of workplace culture on the safety, wellbeing and long-term health, social and rehabilitation outcomes for people in custody. This will assist us to shape recommendations that increase safety and improve outcomes for people in custody.

Many reports have highlighted the significant consequences for people where their health and wellbeing needs are not met while in custody.

The experience of Aboriginal people in custody is a substantial focus for the Cultural Review. We recognise the significant impacts of custody for Aboriginal people and the importance of ensuring that Aboriginal people in custody are able to maintain strong connections to family, culture, community and country and experience a custodial environment that is culturally safe and free from racism and discrimination. It is also important that Aboriginal people have access to culturally safe counselling, support and other programs that support their wellbeing and rehabilitation while in custody.

The Cultural Review wants to understand the experience of Aboriginal people in custody and understand how the workplace culture might impact their safety, experience and longer term outcomes. We are committed to working directly with community and Aboriginal Community Controlled Organisations to develop recommendations for change.

Question 5 – Influence of workplace on culture on wellbeing and safety of Aboriginal people in custody

In order to understand the specific experience of Aboriginal people in custody:

5.1 What are the experiences of Aboriginal people in the adult custodial correctional system including the nature, extent and impact of racism and racial discrimination?

5.2 What support is provided to Aboriginal people to improve their wellbeing and cultural safety while in custody? How effective are these supports?

5.3 Are existing counselling, support and programs culturally safe for Aboriginal people in custody, and how important are these to promote rehabilitation outcomes?

5.4 What changes are required to increase cultural safety for Aboriginal people in custody consistent with Aboriginal peoples' right to self-determination?

The experience of people in custody and the capacity of the custodial environment to meet individual needs can influence long-term health, wellbeing and rehabilitation outcomes. For example, the investigation by the Victorian Ombudsman into the rehabilitation and reintegration of prisoners in Victoria highlighted the connection between the experience of people in prisons and their longer-term rehabilitation outcomes.¹⁵ Ensuring that the health, wellbeing and safety needs of people in custody are identified and that appropriate supports are provided in custody is essential to advance their rehabilitation and transition to community life.

The Cultural Review is interested in stakeholder views on the experience of people in custody and how workplace culture might influence the experience of people in custody and the capacity of the custodial environment to meet their individual needs.

¹⁵ See generally Victorian Ombudsman (2015) [*Investigation into the rehabilitation and reintegration of prisoners in Victoria*](#), 17 September 2015

Question 6 – Influence of workplace culture on wellbeing and safety of other people in custody.

In order to understand the particular experience of people in custody with specific needs:

6.1 How do issues with culture, safety and integrity affect the experience and outcomes for people in custody?

6.2 What are the particular needs, experiences and safety concerns for the following people within the custodial environment:

- women
- people who identify as LGBTIQ+
- people from a culturally and linguistically diverse background
- people with a disability (including people with a mental health condition and people with a cognitive impairment)
- older people in custody.

These include any experiences of discrimination, sexual harassment, bullying or experience of integrity issues.

6.3 What changes are required to improve access to programs and support to assist people in custody work towards rehabilitation and better transition to the community.

Transparency, accountability and oversight

The nature of the custodial environment means that it is difficult to understand the everyday experience of people in custody, as it is for all closed environments.

Corrections Victoria is part of the Department of Justice and Community Safety. Within the Department of Justice and Community Safety there is a business unit (Justice Assurance and Review Office) with responsibility for the oversight of the custodial corrections system, including the administration of the Independent Prison Visitors Scheme. There are also dedicated Aboriginal Prison Visitors.

The Victorian Ombudsman and the Independent Broad-based Anti-Corruption Commission (IBAC) have statutory oversight functions relating to the adult custodial corrections system, and recently made a number of recommendations to address integrity risks and improve transparency within the custodial environment (including consideration of a statutory obligation to require corrections staff report corruption and misconduct).¹⁶

¹⁶ Independent Broad-based Anti-Corruption Commission (2021) [*Special Report on Corrections*](#) (Recommendation 2)

Other public sector bodies including the Victorian Equal Opportunity and Human Rights Commission, the Victorian Auditor General's Office and the Victorian Public Sector Commission also contribute to the regulation and oversight of the corrections system and the workforce.

In addition, the Australian Government ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in December 2017 (OPCAT). OPCAT requires the establishment of a system of regular preventative visits to places of detention by an independent body known as National Preventative Mechanisms. Under the implementation timeline, these are required to be designated or established by each State jurisdiction by January 2022. The Victorian Ombudsman has made a number of recommendations about the implementation of OPCAT in Victoria.¹⁷

There are also a number of informal monitoring mechanisms that operate in Victoria. This includes the volunteer Independent Visitors Program and free phone advice through Prisoner Legal Help at Victoria Legal Aid. A number of community legal centres and other community visitors also provide services to people in custodial environments. People in custody can make unmonitored phone calls to and send confidential correspondence to a number of bodies.

The Cultural Review invites stakeholder views on improvements to the processes and pathways for preventing, reporting and responding to integrity risks, corruption and misconduct in custodial settings, and opportunities to increase scrutiny and transparency through informal monitoring and additional support for people in the adult custodial corrections system.

The Cultural Review is also interested in stakeholder views on whether there should be any additional external reporting requirements for certain conduct or incidents within custodial environments, such as the use of force or certain restraints.

Question 7 – Transparency, accountability and oversight

To ensure there are appropriate processes for the early identification and response to issues of culture, safety and integrity in the adult custodial corrections system:

7.1 Can the integrity and oversight arrangements be enhanced to support improvements to culture, safety and integrity in the custodial environment?

7.2 Are there any ways to improve the accessibility and safety of complaint processes and pathways to encourage the reporting of corruption and misconduct in the adult custodial corrections system?

7.3 Are there opportunities to enhance the informal monitoring of the adult custodial environment?

¹⁷ Victorian Ombudsman (2019) *OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people*, 5 September 2019.

The Victorian Ombudsman recently raised concerns about the scrutiny, oversight and transparency of prison disciplinary hearings under the Corrections Act 1986 and made recommendations for reform.¹⁸

In response to those recommendations, the Department of Justice and Community Safety indicated that these recommendations would be considered as part of the Cultural Review. This commitment is recorded in the Victorian Ombudsman's report.¹⁹ These recommendations are:

- **Recommendation One** – Recognising that robust merits review of decisions is likely to substantially mitigate the risk of unfair outcomes, develop and implement an internal review mechanism for disciplinary hearings, including, if necessary, through amendment to the *Corrections Act 1986*.
- **Recommendation Two** – Establish and invest in a dedicated team within the Department to be responsible for conducting prison disciplinary hearings and related internal reviews, including staff with relevant operational and administrative decision-making expertise.
- **Recommendation Three** – Recognising the benefits in prisons conducting fewer and better quality disciplinary hearings, develop and implement a strategy to reduce the number of minor offences that proceed to the hearing stage, including through a formalised and consistent minor offence process, behaviour management plans and other alternatives to disciplinary hearings.

The Cultural Review is interested in stakeholder views on the approach to the implementation of these recommendations as well as ideas for improvements to prison dispute resolution processes more generally.

Question 8 – Complaints, disciplinary and dispute resolution processes

To support the development of positive culture, improve relationships and assist with the resolution of disputes within the custodial environment:

8.1 How can complaint processes and pathways be improved to encourage people in custody to report issues relating to culture, safety and integrity within the adult custodial corrections system?

8.2 What changes should be made to the prison disciplinary processes to support positive culture safety and integrity within the custodial environment?

8.3 Is there a role for restorative justice and alternative dispute resolution to improve culture, safety and integrity within the adult custodial corrections system?

¹⁸ Victorian Ombudsman (2021) [*Investigation into good practice when conducting prison disciplinary hearings*](#). (6 July 2021)

¹⁹ Victorian Ombudsman (2021) [*Investigation into good practice when conducting prison disciplinary hearings*](#). (6 July 2021)

Appendix A. Terms of reference

The Review will inquire into and report on culture, safety and inclusion, and integrity within the Victorian custodial corrections system (“the Review”).

It will report to the Minister for Corrections through the Secretary, Department of Justice and Community Services (DJCS) and the Deputy Secretary, Corrections and Justice Services (CJS).

The Review will support a safe prison system that is free from breaches of integrity, sexual harassment and discrimination and promotes Aboriginal cultural safety and self-determination.

The Review will span both the public and private adult custodial corrections system. It will inquire into the culture of the adult custodial corrections system, focussed on two streams of inquiry – ensuring the wellbeing and safety of staff within the adult custodial system, and the safety (including Cultural safety) of people in custody. In particular, it will consider:

Stream 1 – Custodial Staff

1. Measures to address systemic behavioural and cultural challenges among and towards staff, impacting on staff wellbeing and safety.
2. The effectiveness and appropriateness of the DJCS systems and processes that prevent and respond to behavioural and cultural challenges to protect and preserve the wellbeing of all staff.
3. Options to drive cultural change and promote appropriate behaviour that is consistent with a culturally safe and integrity-based corrections system, including options to address workforce skills and key capabilities (including leadership capability).
4. Measures to ensure appropriate and effective cultural support for Aboriginal staff.

Stream 2 – People in custody

1. Whether systems and processes in prisons ensure that Aboriginal people in custody have the right to access and continue to practice Culture, are free from discrimination, and are consistent with Aboriginal self-determination.
2. The effectiveness and appropriateness of DJCS systems and processes to support the safety of people in custody (noting issues experienced by cohort groups such as women, Aboriginal people, LGBTIQ+ people, people with disability, elderly individuals and people from a CALD background).

Matters currently on foot regarding conduct will be dealt with in the usual way and not form part of this review. Allegations of criminal or inappropriate conduct will be passed on to appropriate bodies and will also not be investigated or responded to by the Review.

The Review will build on key achievements and initiatives already underway within DJCS, including the implementation of a range of rehabilitation focussed support programs, Corrections Victoria’s ongoing efforts to strengthen workplace culture and leadership capability, strengthening systems and responses to integrity issues and the ongoing commitment to the Victorian Aboriginal Justice Agreement.

In inquiring into the culture of the corrections system, the Review will have regard to the Victorian Public Sector values (Responsiveness; Integrity; Impartiality; Accountability; Respect; Leadership; Human Rights), the Charter of Human Rights, Corrections Conduct and Ethics Commissioner's Requirement and the DJCS Integrity Policy.

Find out more

[correctionsreview.vic.gov.au](https://www.correctionsreview.vic.gov.au)