



# Reception Processes

## Custodial Discharge

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### Custodial Operations Practice Directive

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## 1. Human Rights

It is unlawful for corrective services officers to act or make decisions in a way that is not compatible with human rights, or in making a decision, fail to give proper consideration to a human right relevant to the decision.

Giving proper consideration to human rights entails identifying human rights which may be relevant to a decision and considering whether the decision would be compatible with human rights.

A decision will be compatible with human rights when it does not limit a human right, or only limits a right to the extent that is reasonable and demonstrably justifiable.

Human rights which may be relevant include:

- a) recognition and equality before the law, including the right to equal and effective protection against discrimination;
- b) freedom of movement, including the right to move freely within Queensland and to enter and leave it;
- c) property rights;
- d) the right to privacy and to reputation;
- e) cultural rights – generally and for Aboriginal peoples and Torres Strait Islander peoples;
- f) the right to liberty and security of person; and
- g) the right to humane treatment when deprived of liberty.

## 2. Limitation of Human Rights

In determining whether a limitation may be reasonable and demonstrably justified, the following factors are relevant to consider:

- a) The nature of the human right – this involves looking at the purpose and underlying value of the human right. For example, the right to liberty requires that a person must not be arbitrarily detained and a person must not be deprived of their liberty except on grounds and in accordance with procedure established by law. The right to privacy requires that a person has the right not to have their privacy, including their home and correspondence unlawfully or arbitrarily interfered with.
- b) The nature and purpose of the limitation – this involves considering the actual purpose or legitimate aim/reason for limiting the human right. For example, this policy document limits the right to privacy for reportable offenders, by noting their address or locality post release on IOMS, which gets notified to Queensland Police Service (QPS).
- c) The relationship between the limitation and its purpose – this involves considering the rational connection between the limitation of the right, and whether this will help to achieve said purpose or legitimate aim. For example, the limitation to the right to privacy for reportable offenders, is to facilitate the offender's legal requirement to notify QPS of a change of personal details, including address.
- d) Whether there are any less restrictive and reasonably available ways to achieve the purpose – this involves a 'necessity analysis' where it is necessary to consider the purpose of the limitation and if it can be achieved in any other way. For example, is there another way to achieve the purpose of facilitating the legal requirement for offenders to notify QPS of a change of address, other than collecting the address or locality of a reportable offender on their discharge?





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The limitation on human rights is mitigated in this policy as the prisoner has the right to refuse to supply the requested address without further consequences from custodial staff.

- e) The importance between the purpose for the limitation and preserving the human right – this involves a balancing exercise of the benefits obtained by the limitation with the harm caused to the human right. For example, does the requirement to update the address of a reportable offender on discharge, to facilitate the protection of children in the community, outweigh the limitation to their human rights in asking them to provide an address?

### 3. Custodial Discharge Overview

Reception store staff at a corrective services facility are responsible for:

- a) 'moving out' the prisoner to the relevant Community Corrections office at the time of discharge (location to be advised by the Community Corrections Officer);
- b) including the Administrative Form 182 Court Ordered Parole Reporting Notice in the prisoner's property (provided by the Community Corrections Officer); and
- c) providing a copy of the Approved Form 31 Court Ordered Parole Order to the prisoner on the day before or the morning of the prisoner's release to court ordered parole and directing the prisoner to report to a Community Corrections office upon release.

### 4. Pending Discharge Date

In accordance with section 108 of the *Crimes (Sentencing Procedures) Act 1999* (CSA) the discharge process is inclusive of:

- a) recording discharge details (including address to discharge);
- b) verifying sentence details; and
- c) management and return of property, trust accounts and valuables.

A cultural liaison officer (CLO) must be involved in discharge processes for Aboriginal and Torres Strait Islander prisoners. This includes discharge planning and transition processes to support prisoners prior to and at discharge from custody.

A prisoner's discharge dates and conditions must be checked for accuracy and explained to the prisoner, if necessary, by Sentence Management Services (SMS), for example, if a prisoner has a cognitive impairment, a language barrier or literacy concerns. The prisoner's discharge details, and discharge authority are to be recorded in IOMS. The prisoner's identity must be confirmed by date of birth and photograph.

#### 4.1 Discharge from work camp

Consideration must be given to, where practicable, discharging prisoners directly from a work camp. For example, if a prisoner is to be discharged to a location that is closer to the work camp than the managing corrective services facility and Community Corrections requirements can be met (if applicable), it may be beneficial to discharge the prisoner from the camp and not return them to the managing corrective services facility.

If a prisoner is to be discharged from a work camp, the Chief Superintendent must develop a local instruction to ensure that identity checks of prisoners are completed prior to discharge.





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#### 5. Queensland Drug and Alcohol Court

Prisoners appearing before the Queensland Drug and Alcohol Court (QDAC) may be sentenced to a Drug and Alcohol Treatment Order. In these circumstances, arrangements for sentencing will be known in advance and detailed in the Verdict and Judgement Record (VJR) issued by the Courts at the mention date prior to sentencing

#### 6. Return of Prisoner Property Following Discharge or Release From Court

When a prisoner is discharged or released from court, the chief executive must ensure any property stored for the prisoner in a corrective services facility is returned to the prisoner (section 43(7) of the Corrective Services Regulation 2017).

The nature of the items and their relevance to addressing the person's immediate post-release needs must be taken into consideration when determining the urgency of the property return.

#### 7. Guardianship and/or Administration Order

If a prisoner has an active Guardianship and/or Administration Order warning flag indicator in IOMS staff must contact the prisoner's appointed guardian for involvement in the prisoner's release from Queensland Corrective Services (QCS) custody or parole application process. Refer to section 3, Working with Substitute Decision Makers for Offenders under Guardianship and Administration Orders, of the Custodial Operations Practice Directive (COPD) Prisoner Entitlements: Office of the Public Guardian.

#### 8. At Risk Prisoners

For detailed information on the discharge of a prisoner subject to a current At Risk Management Plan. Refer to the COPD At Risk Management: At Risk.





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## 9. Finalise Arrangements

### 9.1 Medical

Prisoners must undergo a medical examination prior to discharge. Medication must be issued where appropriate.

### 9.2 Monies

Upon a prisoner's discharge from a corrective services facility, the total credit balance in the prisoner's operating account must be paid to the prisoner except uncleared receipts, committed external purchases and other amounts as deemed appropriate by the Chief Superintendent of the corrective services facility.

After determining the total credit balance of a prisoner's trust fund at the time of discharge, an expenditure voucher must be completed and authorised to pay money by means of a maximum of \$100 cash excluding Centrelink discharge payments, approved travel allowance and other amounts as deemed appropriate by the Chief Superintendent of the corrective services facility. The remaining balance is to be paid by cheque. Upon payment, the prisoner must provide written acknowledgment of the receipt of the monies.

A debit balance in a prisoner's trust fund at the time of discharge must either be recovered from the prisoner at the time of discharge (e.g. from awaiting relatives or friends) or written off in accordance with the financial delegations and the COPD Prisoner Entitlements: Prisoner Finances.

### 9.3 Property, trust accounts and valuables

Personal property and valuables must be checked against the prisoner's property record, and IOMS updated to reflect this process. The updated IOMS property document is printed, signed, and dated by the prisoner and responsible officer. A copy is provided to the prisoner and original is filed in the property folder. Case note of events are to be written and entered in IOMS.

Further, items of facility property and identification cards must be retrieved from the prisoner prior to discharge and the prisoner's electronic trust account must be balanced and finalised and monies issued to the prisoner.

### 9.4 Discharged prisoners – positive trust account balance

If the prisoner is no longer a resident at a corrective services facility and has a positive account balance, communications must be sent to the prisoner's last known address advising that QCS is holding a sum of money. After a period of two years has expired, these funds must be regarded as "Unclaimed".

If a discharged prisoner can be located, a positive account balance must be forwarded to that person.

Any balance, and any investigated balance regarded as "unclaimed" must be forwarded to the Public Trustee of Queensland (PTQ), (refer to the *Public Trustee Act 1978*, Part 8 Division 1 – Unclaimed Money).

Any requests for return of funds submitted to the PTQ are to be made by the prisoner directly to the PTQ.

Refer to the COPD Prisoner Entitlements: Prisoner Finances.

### 9.5 Discharged prisoners – negative trust account balance

Attempts must be made to recover or reduce negative balances in a prisoner's trust account prior to being discharged or if the likelihood of recovery is possible, after discharge.





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## 10. Travel Arrangements

Assistance with bus/train fares may be provided in the case where a prisoner has insufficient funds at the time of discharge (refer to section 108(4) of the CSA). A prisoner may apply for assistance with travel fares by completing an Administrative Form 181 Application for Issue of Travel Voucher. Travel arrangements can be determined considering a calculation of available funds for travel purposes and:

- a) the prisoner's age;
- b) the prisoner's health and physical condition;
- c) reporting obligations (e.g. location of Community Corrections office, police station);
- d) if the prisoner is a reportable offender;
- e) if the prisoner is subject to a DPSOA supervision order;
- f) transition arrangements (e.g. visit to Centrelink);
- g) cultural needs, including for Aboriginal and Torres Strait Islander prisoners; and
- h) special needs.

No account is to be taken of any other special benefit payment to which the prisoner may be eligible.

If possible, travel arrangements must be finalised prior to discharge. Costs associated with excess luggage and property will be the sole responsibility of the prisoner.

### 10.1 Calculation of available funds for travel purposes

The delegate may deduct an amount from a prisoner's account to pay for, or contribute to the cost of, the prisoner's travel on discharge from a corrective services facility in accordance with the section 314(e) of the CSA and Queensland Corrective Services Instrument of Delegation of Chief Executive Powers.

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#### 10.3 Insufficient funds

If a prisoner has insufficient funds or a debit balance at the time of discharge, they may apply to the delegate for assistance in returning to their place of arrest, residence, place of employment or other reasonable destination. Refer to section 108(4) of the CSA and the Queensland Corrective Services Instrument of Delegation of Chief Executive Powers.

The delegate must review the prisoner's application and/or proposed travel costs. If the delegate considers the prisoner's travel cost and time is reasonable, the facility may pay the shortfall, ensuring that the prisoner on discharge has the \$40 per day to cover necessities. Alternatively, the Chief Superintendent may determine an alternative, more economical travel plan and the facility may pay the shortfall, if any. Refer to the Delegations – Project Commencement and Financial Delegations Table.

#### 11. Centrelink Payments Upon Discharge

For Centrelink to provide a pre-release service to prisoners, advance notice of release is required for prisoners wishing to apply for Centrelink payments. Locally tailored forms may be used for this process.

Prisoners may apply for a crisis payment up to 21 days in advance via the Centrelink Form SU508 – Claim for Crisis Payment, however as release dates may change within a 21-day period, a lesser time frame may be more appropriate for notification. Requirements for advance notification of release will need to be determined at the local level.

If the release date provided to Centrelink changes, the corrective services facility should notify Centrelink within 48 hours or before the previously advised release date, whichever is sooner.

##### 11.1 Centrelink payments - release of prisoners outside normal business hours

Assistance should be provided in the facilitation of Centrelink payments for prisoners released or discharged outside business hours or who are otherwise unable to access a cash payment on the date of release.

Where a prisoner is unable to access a cash payment on the day of release through usual processes, access to a cash payment will be delivered by depositing the prisoner's Centrelink cheque to the corrective services facility's trust account and providing a cash payment on the day of release.

The cheque method of payment is preferred; however, the facility can proceed by issuing a Centrelink Electronic Benefit Transfer (EBT) Card on the day of release in limited circumstances.

The following method of payment of Centrelink cheques and EBTs must be adhered to:

- authorised staff receive cheque and EBT handovers;
- safe and secure storage of Centrelink cheques and EBTs provided until issued to the prisoner;
- application form signed by the prisoner confirming they have received their payment;
- authorised staff sign as a witness to the prisoner's signature;
- Centrelink provided with phone or fax confirmation that the prisoner was or was not released on the previously notified date; and
- return the payment, cheque or EBT if the prisoner is not being released.

#### 12. Discharge to Liberty

Prisoners should also be advised that they will need to update their contact details upon release with various government agencies including (as relevant), Centrelink, Department of Communities, Housing and Digital Economy and Child Support Agency.

Refer to the COPD Sentence Management: Release/Discharge and the COPD Sentence Management: Parole Applications and Process for information relating to Discharge to Community Corrections supervision or Court Ordered Parole.



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#### 12.1 Weekend/public holiday/QPS

Discharge or release (section 108 of the CSA) must be undertaken in accordance with the Appendix SM18 Basic Sentence Administration.

Section 108(2) of the CSA applies where a prisoner's release date or discharge date if the date is on Saturday, Sunday or a Queensland or local public holiday. The prisoner must be discharged or released on the last day before the release day that is not a Saturday, Sunday or a Queensland or local public holiday in accordance with section 108(3) of the CSA.

Section 108(2) of the CSA must be applied to a prisoner's release date or discharge date if the prisoner has been transferred from QCS custody to a QPS watchhouse and the prisoner is to be discharged from the watchhouse, where it is not practical for the prisoner to be returned to QCS custody e.g. keep the prisoner in their community.

#### 12.3 Reportable offenders

On discharge, reportable offenders must:

- be provided with the original Initial Reporting Obligations Notice (IRON) and brochure, and
- be asked to provide a current/intended address or location.

The address/location, if provided, must be updated in IOMS. If a prisoner refuses to provide an address, no further action is required, as the onus is on the prisoner to comply with reporting requirements.

An automatic notification to the Child Protection Offender Registry (CPOR) will also be generated upon a reportable offender's discharge, in accordance with section 58 of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (CP(OROP)A), section 18 of the Child Protection (Offender Reporting) Regulation 2015, and the COPD Community Engagement: Dangerous Prisoners (Sexual Offenders) Act and Reportable Offenders. A relevant system generated case note will be automatically generated on the file.

The prisoner must be reminded of their obligation to report to the police station nominated in the notice as well as any other obligations.

The corrective services officer who gives the notice to the reportable offender must:

- enter a case note in IOMS detailing that the prisoner has been reminded of their reporting obligations and that a copy of the notice and brochure have been given to the prisoner; and







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- b) enter a case note in IOMS detailing that the prisoner has been asked for details of their address or location and whether this was provided.

## 13. Discharge Confirmation of Identity

Prior to any prisoner being discharged from a secure or low security centre, two custodial correctional officers must conduct separate identity checks.

A Correctional Supervisor must be present for one of these checks. All officers involved in the identity checks are to be completely satisfied of the prisoner's identity prior to the prisoner's release.

Prisoners are not to be subjected to a Removal of Clothing search as part of the discharge process.

The Correctional Supervisor must confirm that the following has occurred prior to discharge:

- a) the prisoner has attended medical;
- b) the prisoner has been given all discharge documentation including any discharge monies;
- c) any prisoner property issues are addressed; and
- d) prisoner transport is available (when required).

In circumstances where the supervisor cannot be present at the low security unit to complete the identity checks, the correctional officer will liaise with the Centre Services Supervisor at the secure centre who will confirm that the following has occurred prior to the discharge:

- a) the prisoner has attended medical;
- b) the prisoner has been given all discharge documentation including any discharge monies;
- c) any prisoner property issues are addressed; and
- d) prisoner transport is available (when required).

## 14. Reception/Discharge Register

Prisoners who are discharged from a corrective services facility are to be recorded within a register by reception store staff specifically created for the purpose of recording prisoner receptions and discharges within the reception store.

## 15. Manage Prisoner File

When a prisoner is transferred to a Community Corrections office, corrective services facility staff must send the most recent Offender File to the Community Corrections office within one business day of the transfer. All remaining files are to be sent to Central Archives.



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For example: if prisoner Joe BLOGGS has Offender File parts 1, 2 and 3 and also several Detention, Professional Management and Case Management Files. The Offender File Part 3 must be sent to the Community Corrections office. The remaining files (Parts 1 and 2 of the Offender File, along with all the Detention, Professional Management and Case Management Files) must be sent to Central Archives.

Files must be complete and up to date at the time of transfer. Any temporary file (refer to the Appendix R8 Management of the Temporary File) must be amalgamated with the original file prior to transfer. Prior to forwarding, files should be reviewed for duplication. Any duplication of an original document, or print out of information stored in IOMS, must be removed from the files and destroyed.

The transfer, and the completed movement of the files, must be recorded in the RecFind database.

Documents that are unable to be attached to the prisoner's files at the time of the transfer or that are subsequently received must be forwarded to the prisoner's new location for inclusion on the prisoner's file clearly marked with the:

- a) prisoner's full name;
- b) prisoner's IOMS number;
- c) prisoner's date of birth; and
- d) name of receiving Community Corrections office.

When a prisoner is discharged to liberty the prisoner's files should be retained for no longer than 14 days. During that time all relevant original documents must be affixed to the prisoner's file. Duplicates of original information on the file or print outs of information stored in IOMS must be removed and destroyed.

If a prisoner's file has been sent to a central office unit and a temporary file has been created, it must be retained by the discharging corrective services facility until the original file has been returned. The temporary and original file must then be amalgamated and forwarded to Wacol Archives for storage.

In exceptional circumstances, documents for a discharged prisoner may be forwarded to Wacol Archives for filing if the relevant facility has been unable to attach it to the prisoner's file/s prior to the file's dispatch.

Such documents must be clearly marked with the:

- a) prisoner's full name;
- b) prisoner's IOMS number;
- c) prisoner's date of birth; and
- d) name of the sending corrective services facility.

The Recfind database must be updated by SMS at the relevant corrective services facility when a file is moved to a new location, closed or destroyed.

Permanent status records must not be destroyed. An original record created in relation to a prisoner remains the property of QCS and must not be removed, altered or destroyed without appropriate authorisation in accordance with the Retention and Disposal Schedule regarding:

- a) the destruction of temporary status at the expiration of the minimum retention period;
- b) the disposal of electronic and hard copies; and
- c) distinguishing records which are to be retained temporarily or are of continuing value to QCS and the State that must be kept permanently.

All inactive records must be archived according to the requirements of the *Public Records Act 2002* and the Retention and Disposal Schedule.

