



Prisoner Entitlements Activities

PE

Custodial Operations Practice Directive

Process Owner: Custodial Operations and
Specialist Operations

Security Classification: Public/Official

Version: 05

Implementation date: 12/10/2023

Review date: 2024

Scope

1. Human Rights
2. Limitation of Human Rights
3. Meaningful Activities for Prisoners
4. Risk assessment – Recreational and General Equipment
5. Structured Plan
6. Priority Groups
7. Prisoner Advisory Committees
8. Prisoner Participation
9. Art and Craft Program
10. Display of Art and Craft Work
11. Sale of Art and Craft Works to Employees and Engaged Service Providers
12. Prisoners Dealing with Art and Craft Work
13. Gift of Art and Craft Work
14. Donating Prisoner Art/Craft Work to the State
15. Disposal of Art and Craft Work

Public/Official





Prisoner Entitlements

Activities

PE

Custodial Operations Practice Directive

1. Human Rights

It is unlawful for corrective services officers and QCS staff 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) freedom of expression;
- b) property rights;
- c) cultural rights – generally and for Aboriginal and Torres Strait Islander peoples; and
- d) the right to humane treatment when deprived of liberty.

2. Limitation of Human Rights

In determining whether a limitation may be reasonable and demonstrably justifiable, 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, property rights provides that a person must not be arbitrarily deprived of the person's property. Freedom of expression provides that a person has the freedom to seek, receive and impart information and ideas of all kinds, including by way of art and craft work.
- b) The nature of the purpose of the limitation – this involves considering the actual purpose or legitimate aim/reason for limiting the human right. For example, freedom of expression may be limited by the requirement to not create art and craft work that is deemed as inappropriate content within a corrective services facility environment.
- 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 actually help to achieve said purpose or legitimate aim. For example, the requirement to maintain community standards in the art and/craft work permitted is to maintain the safety and security of the corrective services facility.
- 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, can the safety and security of the centre be maintained without limiting the content of the art/craft work?
- 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 vs the harm caused to the human right. The greater the incursion of the right, the more important the purpose will need to be to justify the limitation. For example, does the importance of maintaining the safety and security of a corrective services facility by requiring the art/craft work to be within community standards outweigh the impact on the limitation to the freedom of expression?

A person's human rights should only be limited to the extent that is reasonably and demonstrably justified.



Public/Official



Prisoner Entitlements

Activities

PE

Custodial Operations Practice Directive

3. Meaningful Activities for Prisoners

The Chief Superintendent of a corrective services facility must provide prisoners access to meaningful activities which promote the positive use of a prisoner's leisure time.

A meaningful activity is an approved activity undertaken by a prisoner which may not be included in the prisoner's Progression Plan. The activity should engage the prisoner in a pro-social manner and promote a healthy lifestyle.

For example, a unit manager organises a table tennis tournament within the unit with the intention to constructively engage prisoners to interact with each other and supervising corrective services officers; or an activities officer schedules a regular supervised hobbies session in the gymnasium.

3.1 Approval of a meaningful activity

When determining whether to approve a meaningful activity, the following must be considered:

- the activity should be capable of being recorded/accountable;
- the activity can be individual or group participation;
- the activity should contribute to a prisoner's personal development;
- the activity should involve the acquisition of knowledge and skills;
- the activity should be socially appropriate and/or recreational; and
- the activity should encourage social responsibility.

4. Risk assessment – Recreational and General Equipment

All recreational or general equipment available to prisoners must have a risk assessment completed and documented, prior to issue (including equipment provided in accommodation areas).

For secure accommodation areas, refer to the Appendix PE10 Recreational Equipment for Prisoners in Secure Accommodation Areas.

Recreational and general equipment to satisfy legitimate needs is to be maintained and supplemented as required from the offender amenities account.

No free/loose weights are to be permitted in a corrective services facility.

Prisoners may access equipment and supplies for any approved hobbies. Hobby tools, implements and materials are to be accessed by prisoners in a controlled manner and in a controlled environment.

Corrective services officers are responsible for the above. The Chief Superintendent of a corrective services facility is responsible for any review and approval related to the above.

5. Structured Plan

A structured plan of meaningful activities must be developed at the commencement of each calendar year to provide for the delivery of recreational activities, approved hobbies and education aimed at encouraging prisoners to exercise and participate in a healthy lifestyle.

The plan should provide for all prisoners to have an opportunity to participate in at least one hour of meaningful activity per day, including group activities.





Prisoner Entitlements

Activities

PE

Custodial Operations Practice Directive

Supervision of prisoners by corrective services officers in secure facilities is to be provided for all sporting activities, inclusive of participation in gymnasium and oval.

The Manager, Offender Development is the responsible officer for ensuring the above occurs and the Chief Superintendent of a corrective services facility is the relevant delegate for review and approval.

6. Priority Groups

Prisoners from identified priority groups should be given all reasonable opportunities to fully participate in prison activities suitable to their needs. Priority groups include:

- a) high risk prisoners;
- b) prisoners with a disability (including cognitive impairment and mental illness);
- c) youthful prisoners;
- d) Aboriginal and/or Torres Strait Islander prisoners; and
- e) women prisoners.

Meaningful activity is particularly important for prisoners with cognitive impairment whose level of functioning may prevent them from actively participating in intervention programs, education and/or employment.

7. Prisoner Advisory Committees

To engage prisoners and provide a process for them to have input into the corrective services facility's functioning and to promote positive communication between facility management and prisoners, a facility should have a Prisoner Advisory Committee. Refer to the Appendix PE12 Prisoner Advisory Committees.

8. Prisoner Participation

A record of prisoner participation in meaningful activities must be maintained in secure corrective services facilities. The record will include:

- a) types of activity participated in during session;
- b) number of prisoners attending/participating in the activity; and
- c) hours of participation.

Refer to the Administrative Form 43 Meaningful Activities Register.

Records must be updated on a daily basis by the relevant corrective services officer.

9. Art and Craft Program

The Art and Craft Program for Offenders (ACPO) refers to the program by which Queensland Corrective Services (QCS) assists prisoners in the display of the art/craft work they have produced. Refer to the Administrative Form 44 Art/Craft Work Licence Agreement.



Prisoner Entitlements

Activities

PE

Custodial Operations Practice Directive

Each centre should maintain an Art and Craft Work Register. The register should record:

- canvases purchased (including a unique identification number given for each canvas, e.g. 01, 02, 03, etc. or 1A, 1B, 1C, etc.);
- canvases provided; and
- the prisoner's full name and Integrated Offender Management System (IOMS) number.

The prisoner's IOMS should also be recorded on the canvas.

9.1 Roles and responsibilities

ACPO is managed by the Chief Superintendent of the corrective services facility.

The Cultural Liaison Officer, Cultural Development Officer and/or Activities Officer at the corrective services facility is responsible for developing, managing and delivering cultural and recreational art, craft and hobby activities to prisoners.

Art and craft work documentation must be completed at the relevant corrective services facility in consultation and negotiation with the artist, the Cultural Liaison Officer, Cultural Development Officer or Activities Officer, the Manager, Offender Development and the Chief Superintendent of the corrective services facility.

9.2 Dealing with prisoner art and craft work

While held in custody in a corrective services facility the prisoner must not sell, give, give possession of, or otherwise dispose of art and craft work unless approved by the Chief Superintendent/Superintendent.

Refer to section 28A of the *Corrective Services Act 2006* (CSA) and the Queensland Corrective Services Instrument of Delegation of Chief Executive Powers – Queensland Corrective Services.

9.3 Prisoner's estate managed by the Public Trustee

If the Public Trustee manages a prisoner's estate, prior written consent must be obtained before the prisoner can provide their art and craft work for display or otherwise part with it.

9.4 Copyright

The copyright and intellectual property rights of art and craft work created by prisoners remain with the prisoner unless released by them through agreement.

Art/craft work is automatically protected by copyright when put in 'material form' (i.e. in a form where it could be reproduced by making a craft item, painting a picture, taking a picture or making an artwork in a digital form).

Copyright does not protect ideas, information, styles or techniques.

9.5 Moral rights

Moral rights relate to personal rights belonging to the creator of copyright works and cannot be transferred, assigned or sold.

The creator has the right to be attributed for their work, not to have their work falsely attributed and not to have their work treated in a derogatory way.





Prisoner Entitlements

Activities

PE

Custodial Operations Practice Directive

Any issues in relation to copyright, intellectual property and moral rights must be resolved prior to the art and craft work being subject to the ACPO.

9.6 Art and craft work retained by prisoners

When a prisoner completes art and craft work, details of the art and craft work must be recorded. A prisoner may choose to retain their art and craft work. Refer to Custodial Operations Practice Directive (COPD) Property: Management of Prisoner Property.

The Cultural Liaison Officer, Cultural Development Officer and/or Activities Officer or other nominated officer is responsible for tasks relating to the above. The delegate for any relevant review and approval is the Chief Superintendent.

If approved by the Chief Superintendent/Superintendent of the corrective services facility, prisoners may retain their completed art and craft work in their cell. Refer to the Administrative Form 4 Acknowledgement of Responsibility for Property.

9.7 Prizes

If the Public Trustee does not manage a prisoner's estate or if prior written consent has been obtained by the Public Trustee and a prisoner exhibits art and craft work in a registered competition and is awarded a prize, the prisoner may receive the full benefit of that prize, provided it does not constitute a prohibited thing.

Refer to the Appendix S1 Prohibited Things, section 123(1) of the CSA and section 19 of the Corrective Services Regulation 2017.

If the prize is not monetary (for example, art materials) the Chief Superintendent/Superintendent of the corrective services facility must determine whether the prize is suitable for entry to the corrective services facility.

In the circumstances where a prisoner is awarded a prize they may elect to:

- donate the proceeds of the prize to the purchase of art materials (subject to the approval of the Chief Superintendent/Superintendent of the corrective services facility);
- handout the proceeds of the prize to a nominated recipient at the discretion of the Chief Superintendent/Superintendent of the corrective services facility, refer to the COPD Property: Management of Prisoner Property; or
- request a monetary prize be deposited into their trust account.

Where a prisoner's estate is being managed by the Public Trustee and if the prize is considered 'property' for the purposes of the *Public Trustee Act 1978*, then the Public Trustee should determine how the prize shall be managed. The Public Trustee may provide consent for the prisoner to otherwise deal with the prize.

10. Display of Art and Craft Work

10.1 Promotion of prisoner art and craft work

Art and craft work may only be displayed if the prisoner has completed the Agreement between the Administrative Form 45 Prisoner Artist and Queensland Corrective Services. This applies to all forms of exhibitions including those within a corrective services facility. When organising an exhibition refer to the Appendix PE11 Guidelines for the Organisation of an Exhibition.





Custodial Operations Practice Directive

It is the responsibility of the Chief Superintendent/Superintendent of the corrective services facility to ensure that art and craft work submitted for display does not contain material that:

- a) is offensive;
- b) is of a provocative nature, for example, racist;
- c) is sexually explicit; and/or
- d) depicts violent or threatening images.

At the conclusion of the exhibition/display the art/craft work will be returned to the prisoner unless the prisoner makes alternative arrangements as provided for in this COPD.

10.2 Centre-based arrangements for display at corrective services facility

The Chief Superintendent/Superintendent of the corrective services facility may authorise the display of prisoner art and craft work within public or general access areas of the facility using the Administrative Form 46 Request for Approval for Local Exhibition/Project/Initiative. This approval must occur prior to the event/exhibition.

The following applies to displayed art and craft work:

- a) All displayed art/craft work must be recorded in the prisoner's property.
- b) The corrective services facility must accept responsibility for safekeeping and liability for any damage or loss.
- c) Upon transfer to another corrective services facility or discharge of a prisoner, all attempts must be taken to ensure the art/craft work follows the prisoner.
- d) The prisoner may terminate the agreement at any time for any reason by completing the Administrative Form 45 Agreement between the Prisoner Artist and Queensland Corrective Services.

The Cultural Liaison Officer, Cultural Development Officer and/or Activities Officer or other nominated officer is responsible for oversight and documenting this process.

10.3 External exhibition/display of art and craft work through the Art and Craft Program for Offenders (ACPO)

A request for exhibition of art and craft work including participation in local community displays and exhibitions must be made to the Chief Superintendent/Superintendent of the corrective services facility using the Administrative Form 46 Request for Approval for Local Exhibition/Project/Initiative.

Exhibitions must be organised and co-ordinated through the Manager, Offender Development in consultation with the Chief Superintendent of the corrective services facility.

10.4 Government departments and other agencies

The display of art and craft work in the offices of other state Government departments and agencies is conditional upon the completion of an assessment as to the suitability of the proposed display area and terms for the safekeeping of art/craft work by the Manager, Offender Development in consultation with the Chief Superintendent/Superintendent of the corrective services facility.

The Chief Superintendent/Superintendent of the corrective services facility is responsible for ensuring the Administrative Form 47 Agreement Between Agencies for Displaying Prisoner Art and Craft Work is signed by the other agency.





Prisoner Entitlements

Activities

PE

Custodial Operations Practice Directive

In the event of loss or damage and/or at the conclusion of the display period an assessment must be conducted to determine the extent of any damage or loss. The delegate for the review and approval of the assessment is the Chief Superintendent/Superintendent of the corrective services facility. Arrangements would need to be made for the prisoner to be compensated accordingly. These funds should be recovered by QCS from the displayer.

10.5 Limitation of liability

For art and craft work valued at greater than \$500 and handled for display and exhibition by QCS under the ACPO, the state of Queensland (through Queensland Corrective Services) provides a maximum liability of \$500 in circumstances where accidental damage and/or loss is sustained.

For art and craft work valued at less than \$500 the liability is limited to the value of the repair.

The suitability of the proposed display areas is to be assessed by the Activities Officer (or other nominated officer at the corrective services facility through the Manager, Offender Development) prior to the display of the art and/or craft work. The extent of any damage or loss is to be assessed at the conclusion of the display period.

The delegate for the review and approval of the assessment is the Chief Superintendent/Superintendent of the corrective services facility.

11. Sale of Art and Craft Works to Employees and Engaged Service Providers

An employee of QCS or an engaged service provider may only buy contributed prisoner art and craft work through an exhibition or display co-ordinated by the Chief Superintendent/Superintendent of the corrective services facility.

Any failure to comply with the procedure may constitute a breach of the Code of Conduct for the Queensland Public Service. Refer to the QCS Conflict of Interest Policy.

12. Prisoners Dealing with Art and Craft Work

A prisoner may with the approval of the Chief Superintendent/Superintendent:

- hand out their art/craft work to another person for safekeeping; and/or
- make a gift of their art/craft work to another person.

Refer sections 28B, 28C and 28D of the CSA.

The purpose of handing out the art and craft work is for the recipient to store the art and craft work until the prisoner is released.

The prisoner must apply in writing by submitting the Administrative Form 48 Art and Craft Work Handout Application and Receipt.

Before approving the handing out of the art and craft work the contact details of the recipient must be confirmed.





Prisoner Entitlements

Activities

PE

Custodial Operations Practice Directive

In deciding whether or not to approve the application, the Chief Superintendent/Superintendent must have regard to the prisoner's human rights, including (but not limited to) property rights and freedom of expression.

If the application is approved, art and craft work may be collected by the approved recipient or sent to the approved recipient at the prisoner artist's expense.

Upon receipt of the art and craft work item the recipient must also complete and return part D of the Administrative Form 48 Art and Craft Work Handout Application and Receipt.

If the recipient no longer wishes to store the art and craft work they may advise the prisoner who is responsible for arranging the collection of the art and craft work. The Chief Superintendent/Superintendent of the corrective services facility may make arrangements for the collection of the art and craft work at the prisoner's request. The cost of collecting the art and craft work will be deducted from the prisoner's trust account.

13. Gift of Art and Craft Work

A prisoner may, with the approval of the Chief Superintendent/Superintendent, give an item of art and craft work to a person as a gift by completing the Administrative Form 50 Request to Gift Art/Craft Work. Refer to section 28B of the CSA.

In deciding whether to approve for a gift the Chief Superintendent/Superintendent of the corrective services facility must consider the factors set out in section 28B(2) of the CSA.

In deciding whether or not to approve the art/craft work as a gift, the Chief Superintendent/Superintendent must have regard to the prisoner's human rights, including (but not limited to) property rights, freedom of expression and any cultural rights, where relevant.

The Chief Superintendent/Superintendent of a corrective services facility must not approve a gift from a prisoner to any of the following without first obtaining approval from the relevant Assistant Commissioner, Custodial Operations or such other appropriate delegate:

- a) an employee of QCS;
- b) an engaged service provider, or an employee of an engaged service provider;
- c) an organisation or agency providing a service to the corrective services facility, or an employee of any organisation or agency providing a service to the corrective services facility;
- d) an official visitor;
- e) a person who volunteers their services at the corrective services facility; or
- f) a prisoner at the same corrective services facility or different corrective services facility.

14. Donating Prisoner Art/Craft Work to the State

A prisoner may donate their art to the State, in accordance with section 28B(1)(b) of the CSA, by completing the Administrative Form 49 Request to Donate Art/Craft Work to the State.





Custodial Operations Practice Directive

15. Disposal of Art and Craft Work

Prior to disposal of art and craft work all reasonable efforts must be made by the relevant centre to determine the whereabouts of a discharged prisoner (or a nominated beneficiary).

The Art and Craft Work Register should be updated to include a photograph of the art and craft work (front and back) with comments to record the attempts to make contact with the prisoner. Where these attempts are unsuccessful, attempts should then be made to contact the prisoner's primary contact person as recorded in IOMS and comment recorded in the Art and Craft Work Register.

Where the prisoner or primary contact are located, arrangements are to be made to collect the art and craft work from the centre, ensuring the prisoner or primary contact provide photographic identification upon collection. If an agreement is made to mail out the art and craft work, this must be done through registered mail with the mailing details recorded in the Art and Craft Work Register. If the art and craft work item is collected from the centre, the receipt portion of the Administrative Form 48 Art and Craft Work Handout Application and Receipt should be used.

Unclaimed art and craft work must be securely stored until they are disposed of through the Public Trustee.

A reconciliation of the art/craft work held in the Art and Craft Work Register shall be undertaken at least annually by the officer responsible for maintaining the Art and Craft Work Register. The Chief Superintendent/Superintendent is responsible for the review and approval of the above processes.

PUBLIC VERSION

