



Prisoner Entitlements

Prisoner Finances

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Custodial Operations Practice Directive

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Scope

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2. Limitation of Human Rights
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4. Prisoner Trust Funds
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6. Prisoner Telephone System (PTS) Balances
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9. Grievances
10. Discharge
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1. Human Rights

It is unlawful for corrective services officers and Queensland Corrective Services (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 the 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 human right to the extent that is reasonable and demonstrably justifiable.

The human rights that may be relevant include:

- a) recognition and equality before the law, including the right to enjoy the person's human rights without discrimination;
- b) property rights, including the right to own property and the right not to be arbitrarily deprived of property; and
- c) the right to privacy and to reputation.

2. Limitations 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 purposes and underlying value of the human right. For example, the right to property provides that a person must not be arbitrarily deprived of the person's property and specific to this COPD, a person's financial property, that is, their monies.
- b) The nature and purpose of the limitation – this involves considering the actual purpose or legitimate aim or reason for limiting the human right. For example, this document provides that a prisoner is not permitted access to monies in excess of an arbitrarily determined amount.
- c) The relationship between the limitation and its purpose – this involves considering the connection between the limitation of the right and whether this will assist with achieving the purpose or legitimate aim. For example, does the determination of a maximum limit to the amount of money that a prisoner can have in their trust funds, achieve the purpose of maintaining the security and good order of the corrective service facility.
- d) Whether there are less restrictive and reasonable ways to achieve the purposes – this involves a 'necessity analysis' where it is necessary to consider the purpose of the limitation and whether it can be achieved in any other way. For example, are there less restrictive ways to minimise the opportunities for prisoners to misuse the trust account process other than by placing a 'cap' on trust funds?
- e) The importance between the purpose of the limitation and preserving the human right – this involves balancing the benefits obtained by the limitation with the harm caused to the human right. For example, does the security and good order of the corrective services facility provided by the controls around prisoner monies outweigh the impact of the limitations to property, including financial property, such as monies?

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





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3. Prisoner Monies

Managing Prisoner Monies - Refer to sections 20, 48 and 311-316 of the *Corrective Services Act 2006* (CSA).

The allowable balance for a prisoner's operating account is \$1000.

To assist with maintaining the security and good order of the corrective services facility, the Chief Superintendent of the corrective services facility must ensure that a prisoner is not permitted to have access to monies in excess of \$1000.

Funds held in a PTS account and other prisoner accounts are not to be included to determine the \$1000 limit. Suitable controls should be set in place to ensure that the PTS account does not exceed \$300.

Any incoming monies that would result in the prisoner's operating account being in excess of \$1000 must be diverted using suitable arrangements as outlined in this Custodial Operations Practice Directive (COPD). Payments under a Redress Scheme are not subject to this limit on deposits and balances. Refer to the Government Redress Scheme section of this COPD.

4. Prisoner Trust Funds

Reconciliations must be performed at least monthly between the system cashbook, bank account statement and cash held. Any discrepancies must be investigated, and the reconciliation must be checked and authorised by an officer independent of the reconciliation process.

The Assistant Commissioner, Financial Services and Strategic Sourcing Command must develop a system that allows for the collection and retention of evidence to show the results of the monthly and quarterly reconciliations between the system cashbook, bank account statement and cash held. Evidence of the monthly and quarterly reconciliations must be retained by the centre.

All transactions involving prisoner trust funds must be supported by properly authorised and independently checked documentation.

4.1 Deposits

The term "prisoner's monies" encompasses monies the prisoner has in their possession on admission to a corrective services facility, such as funds received by the prisoner from:

- a) prisoner incentive payments;
- b) hygiene allowances; and
- c) other monies paid or received while in custody.

Subject to section 311A of the CSA, all monies received on behalf of a prisoner by the Chief Superintendent of a corrective services facility must be deposited in that prisoner's trust account. However, in accordance with section 311(4) of the CSA, if the Public Trustee is managing the prisoner's estate and the Public Trustee asks for the payment, the Chief Superintendent of a corrective services facility, must pay the amount in the prisoner's account to the Public Trustee.





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Monies must not be deposited to any other account (e.g. a prisoner's personal bank, building society, credit union or any other external account) without authorisation by the Chief Superintendent of the corrective services facility. [REDACTED]

4.2 Transfer of monies between prisoners

Funds may be transferred between prisoners in custody in a corrective services facility at the discretion of the Chief Superintendent of the corrective services facility. If the two prisoners are at different corrective services facilities, approval must be obtained from the Chief Superintendent at both corrective services facilities before the funds can be transferred.

4.3 Transfer of prisoners

A prisoner that transfers to another corrective services facility or a health institution is entitled to make one phone call and post one letter at the Chief Executive's expense as per section 68(1) of the CSA and section 13(1) of the Corrective Services Regulation 2017 (CSR). Prisoners subject to these sections may have \$2 credited into their phone account and be provided with a pre-paid envelope as part of the induction pack.

If a prisoner absconds or escapes, any monies in the prisoner's trust account must be held pending their recapture. Upon return to custody, the prisoner's monies and valuables must be immediately transferred to the corrective services facility holding the prisoner. If a prisoner remains at large and their Integrated Offender Management System (IOMS) account remains inactive for two years after the last transaction, any remaining funds are considered 'Unclaimed' and must be forwarded to the Public Trustee. Refer to the Negative trust account balance section of this COPD.

Following a transfer, the originating corrective services facility is to ensure a refund or finalisation of the prisoner's PTS account, outstanding external purchases and outstanding prisoner incentive payment.

4.4 International currency

If funds are received in international currency, they are to be stored in the prisoner's property until discharge. The Chief Superintendent of the corrective services facility may allow access to the funds if the prisoner agrees in writing to pay (taken out of final deposited amount) all related bank charges. The conversion rate will be at the currency rate offered at the establishment managing the corrective services facility's trust fund at the time of conversion.

4.5 Managing deposit of funds

Under section 311A(1) of the CSA, if the Chief Executive receives an amount for a prisoner and any of the following apply:

- a) the Chief Executive is not satisfied that the donor of the amount is sufficiently identified;
- b) the donor of the amount is not an approved donor for the prisoner;
- c) the donor of the amount was released from a corrective services facility within 1 year before the Chief Executive received the amount;
- d) the amount is more than the allowable receipt amount; or





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e) payment of the amount into the prisoner's account would result in the balance of that account being more than the allowable balance –
the Chief Executive must return the amount to its donor (refer to section 311A(2) of the CSA).

However, the Chief Executive may decide to receive an amount for the prisoner even if the donor of the amount was released from a corrective services facility within 1 year before the Chief Superintendent received the amount (refer to section 311A(3) of the CSA).

Under section 311A(4) of the CSA, if, despite making reasonable efforts, the Chief Executive cannot return the amount to its donor, the Chief Executive must, as the Chief Executive considers appropriate—

- a) pay the amount to an entity nominated by the prisoner; or
- b) keep the amount in the prisoner's account until the prisoner is discharged or released.

Under section 311A(5) of the CSA, a donor is an **approved donor** for a prisoner unless the Chief Executive decides not to receive an amount for the prisoner from the donor for payment into the prisoner's account in the prisoner's trust fund.

The allowable receipt amount for a prisoner's trust account is \$500 except for payments made to a prisoner under a Redress Scheme.

If practicable, funds in excess of the allowable receipt amount must be returned to the sender and the sender advised to make alternative payment arrangements with the prisoner.

Any funds receipted into the prisoner trust account where the source of such funds is not able to be identified or the funds cannot be returned to the sender (i.e. the donor is a Government department including Centrelink, Child Support Agency, Medicare, Department of Communities, Housing and Digital Economy, Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships, Department of Child Safety, Youth Justice and Multicultural Affairs, and the Australian Taxation Office etc.), must be placed into the prisoner's relevant sub-account pending alternative suitable arrangements or until the prisoner's release.

The Chief Superintendent of the corrective services facility must offer the prisoner the opportunity to nominate an account/address they want the funds to be sent. The Chief Superintendent of the corrective services facility must assess the suitability of the account/address provided and if determined to be suitable forward the funds.

Under section 311A(6) of the CSA, to remove any doubt, the prisoner cannot access an amount held in the prisoner's account under section 311A(4)(b) of the CSA.

Formal advice must be provided to prisoners of all funds managed under this provision, including advice as to the final disposition of the funds.

Appropriate secure arrangements must be made for the return of such funds and auditable records must be maintained of all funds managed under this provision. Advice of all funds managed under this provision must be provided to the Intelligence unit at the relevant corrective services facility.

5. Receipt of Cash and Payments to Prisoners

For safety and security purposes, QCS are unable to accept cash payments on behalf of prisoners received via ordinary or privileged mail.



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Any cash payments received via mail are to be transferred into the prisoner's sub-account and a receipt issued. Trust Accounts will also notify the prisoner, by way of an Administrative Form 40A Trust Accounts – Cash Payment Notification, why these funds are being held and how the funds will be dealt with.

For cash payments received via mail, in order to establish the identity of the donor, Trust Accounts will need to check the donor's details and match these details against a person of interest in IOMS. The process of establishing the identity of the donor is also required for money orders.

If QCS is satisfied that the donor is identifiable, the prisoner may then request that the money is returned to the same donor in the same value, by completing an Administrative Form 40 Application to Expend from Trust Account (General). The funds (in total) are to then be returned to the donor via cheque.

If the donor is not identifiable, the funds will be held in the relevant prisoner's sub-account, which the prisoner may not access until their discharge or release from the corrective services facility. Refer to section 311A(4)(b) of the CSA.

The Chief Superintendent of the corrective services facility may only approve for the prisoner to otherwise access these funds held in the sub-account in exceptional circumstances e.g. a Leave of Absence, or if there is a significant period of time until the prisoner's discharge.

Any payments to prisoners are to preferably be facilitated via Secure Payment Services, or by money orders. However, cash should also be accepted in person (either for a prisoner accommodated at that centre or another centre in Queensland).

Where payments are being accepted in person, the relevant officer is to establish the identity of the donor (e.g. this can be through sighting a government issued identification, such as a driver's licence). Officers may record that identification has been sighted however, are not permitted to make or keep copies of the identification or card numbers, etc.

6. Prisoner Telephone System (PTS) Balances

PTS accounts should be checked to ensure all balances are within the set \$300 limit. Any excess funds over this limit need to be returned to the prisoner's operating account.

PTS reconciliations should be conducted monthly and should ensure that all prisoner movements including admission, discharge, transfers are accounted for.

7. Withdrawals

A deduction may be made from a prisoner's trust account in accordance with sections 311 and 314 of the CSA and section 42 of the CSR. Refer to the COPD Prisoner Entitlements: Prisoner Purchasing.

A deduction may not be made if there are insufficient funds in the account to fully cover the amount of the deduction without approval from the Chief Superintendent of the corrective services facility except for a reception canteen sale and television/computer rental.





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All deductions from a prisoner's trust account, with the exception of monies relating to prisoner transfers or reimbursement for cost of replacing property wilfully damaged or destroyed, must be supported by documentation signed by the prisoner.

All transactions must be signed as approved by an authorised officer or process (e.g. canteen sales and open custody cash payments do not receive prior approval from an authorised officer).

7.1 Special requests

In accordance with section 311 of the CSA, a prisoner may apply to the Chief Superintendent of a corrective services facility on a case-by-case basis to withdraw monies for an identified purpose outside the standard purchasing requests.

This particularly applies to prisoners requiring monies to be forwarded to an external recipient for the purpose of financial assistance to families (e.g. telephone, electricity and rates bills, rental assistance, food and clothing, travel for visits) and occasions such as birthdays and Christmas.

The following restrictions and conditions apply if special requests are made:

- All requests must be made using the Administrative Form 40 Application to Expend from Trust Account (General) and the Administrative Form 39 Application to Expend from Trust Account (Store) (indicating reasons for the need to send money).
- Expenditure for this purpose must be limited to \$500 per month unless written proof of purpose is received.

7.2 Garnishee

QCS is incapable of being a garnishee in relation to the *Crown Proceedings Act 1980*. The relationship between QCS and a prisoner is sufficient to preclude QCS from being a garnishee. A necessary relationship would be that of a debtor and creditor, and during the term of imprisonment, the requisite relationship does not exist.

7.3 Refunds

When being discharged or transferred from a corrective services facility, a prisoner may request to be refunded the value of vending machine tokens in their possession limited to a maximum of 30 tokens.

Other refunds may be at the discretion of the Adviser, Business Services, Stores Supervisor and Stores Officer during working hours or the officer in charge of the discharge or transfer of the prisoner if this occurs after hours.

7.4 Deductions from trust accounts to reimburse the Chief Executive for costs arising from wilful damage to property

On a case-by-case basis, the authorised delegate can arrange a repayment plan for the repayment of costs arising from damage to property. The prisoner must be informed of the transaction and where the amount exceeds the current balance of the trust account the authorised delegate must give consideration to the impact on the prisoner when determining the repayment amount of the plan.





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In these circumstances the deduction is for the reimbursement of the cost to QCS to replace or repair the property or item.

In the case where a commission of an offence or a breach of discipline has occurred and the prisoner is found guilty which requires the prisoner to pay the reimbursement for cost of replacing or repairing property wilfully damaged or destroyed, there is no requirement for the prisoner to sign the supporting documentation, as the deduction can be authorised under section 314 of the CSA.

the Administrative Form 40 Application to Expend from Trust Account (General) and the Administrative Form 39 Application to Expend from Trust Account (Store).

All associated records such as the Verdict and Judgment Record or the Approved Form 23 Breach of Discipline must be held in the prisoner's trust account records. Accompanying information such as records of the damaged item/s and the replacement or repair costs must also be included.

Refer to section 314 of the CSA.

Within PTAS a sub-account for each reimbursement should be created and monitored regularly.

8. Public Trustee of Queensland

If the Public Trustee of Queensland (PTQ) is responsible for managing a prisoner's property under sections 90 and 91 of the *Public Trustee Act 1978* (PTA), QCS does not require the consent of PTQ in relation to transactions made through a prisoner's trust account. It is not necessary for PTQ to discontinue management under section 92 of the PTA before the Chief Superintendent of a corrective services facility exercises the authority to deal with a prisoner's trust account.

The PTQ will provide a prisoner with an annual statement.

8.1 Prior to discharge

The Trust Accounts Officer must be advised of any intended discharge as soon as is practicable and must advise the PTQ in writing, specifying how the funds are to be transferred after consultation with the prisoner.

9. Grievances

A prisoner wanting to make a formal complaint relating to the purchase of an item must forward written advice to the Chief Superintendent of the corrective services facility describing particulars of the complaint (refer to the procedure Complaints Management).

The Chief Superintendent of the corrective services facility must ensure a prisoner's complaint is investigated in a timely manner and the prisoner is advised of the outcome in writing. The finding in relation to the complaint, including a copy of the written advice to the prisoner, must be placed with relevant documentation on a file maintained for this purpose.

10. Discharge

10.1 Monies upon discharge

Upon a prisoner's discharge from a corrective services facility, the Chief Superintendent must ensure that the total credit balance in the prisoner's operating account is paid to the prisoner except uncleared receipts, committed external purchases and any other amounts which may have been committed.





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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, approved travel allowance and other committed amounts approved 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 this COPD.

10.2 Property, trust accounts and valuables

In accordance with the COPD Property: Management of Prisoner Property, personal property and valuables must be checked against the prisoner's property record. The prisoner is to sign the Administrative Form 12 Acknowledgement Sheet acknowledging receipt of property. 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.

Refer to the COPD Reception Processes: Custodial Discharge.

10.2.1 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 PTQ, (refer to Part 8, Division 1 – Unclaimed Money of the *Public Trustee Act 1978*).

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

10.2.2 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. Refer to the COPD Reception Processes: Custodial Discharge.





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10.3 Funds held in suspense

If funds are placed in a corrective services suspense account and the source of such funds is not able to be identified or the funds cannot be returned to the sender, the Chief Superintendent of the corrective services facility must arrange for the suspense account to be cleared as soon as is practicable.

Refer to the Managing deposit of funds section of this COPD.

10.4 Monthly review

On a monthly basis, any positive and negative balance remaining in a trust account for a prisoner who is no longer residing at a corrective services facility must be investigated with the finding being documented.

10.5 Quarterly review

A review of prisoner's sub accounts must be conducted before the end of each quarter (i.e. 31 March, 30 June, 30 September, 31 December and documented to ensure funds are managed as per this COPD.

If the prisoner is subject to the PTQ provisions, any excess amount can be forwarded as soon as is practicable as a cheque to PTQ with an Administrative Form 41 Transfer of Excess Monies to PTQ.

Prisoners not subjected to the PTQ provision are to have any excess monies held in their sub-accounts pending discharge. Access to funds held in this sub-account may only be approved by the Chief Superintendent of the corrective services facility.

11. Government Redress and Other Compensation Schemes

Prisoners may receive payments under a Government Redress or other compensation schemes.

The payment will be credited to the prisoner's trust account. To the extent that the payment takes the balance of the trust fund over \$1000 it will be held in a 'Prisoner's Redress 1 Account' to the credit of the prisoner. For example, if the prisoner has a trust account balance of \$500 and receives a redress payment of \$7000, \$500 will be deposited to the trust account and \$6500 will be held in their Prisoner's Redress 1 Account.

When the prisoner's trust fund balance falls below \$1000 prisoners may request that the trust fund be topped up from the funds held in their Prisoner's Redress 1 Account. All deductions from a Prisoner's Redress 1 Account must be supported by documentation signed by the prisoner and approved by the Chief Superintendent of the corrective services facility.

11.1 Deductions from trust accounts to repay amounts owed under the *Victims of Crime Assistance Act 2009*

Prisoners who receive a payment under a Redress Scheme may have a deduction made from the payment to repay an amount owed under the *Victims of Crime Assistance Act 2009*. Refer to sections 42(e) and 42(f) of the CSR.





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QCS will seek a deduction from the prisoner's trust account by sending a written request to the Chief Executive. The request must be for:

- a) satisfaction of a repayment order made against the prisoner under the *Victims of Crime Assistance Act 2009*; and/or
- b) reimbursement of the State for an amount paid by the State under the *Victims of Crime Assistance Act 2009* because of a compensation order made against the prisoner under that Act.

If the Chief Executive is satisfied that:

- a) the prisoner received a payment under a Redress Scheme into the prisoner trust account;
- b) the prisoner has a balance of the payment held in suspense; and
- c) there is evidence that the prisoner owes money to the State under the *Victims of Crime Assistance Act 2009* -

the Chief Executive may make a deduction from the funds held in suspense for a prisoner to satisfy a repayment order or reimburse the State for a payment made.

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