



Prisoner Entitlements

Education and Community Service Leave

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Custodial Operations Practice Directive

Process Owner: Custodial Operations and Specialist Operations	Security Classification: Official/Public
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Version: 04	Implementation date: 08/08/2024	Review date: 2025
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Scope
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PUBLIC VERSION



Official/Public



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1. Human Rights

To ensure corrective services officers act or make decisions in a way that is compatible with human rights, officers must give proper consideration to human rights relevant to the decision including but not limited to:

- a) the right to protection from torture and cruel, inhuman or degrading treatment;
- b) freedom of movement;
- c) recognition and equality before the law, including the right to equal and effective protection against discrimination;
- d) cultural rights – generally and for Aboriginal peoples and Torres Strait Islander peoples;
- e) the right to privacy and to reputation;
- f) the right to humane treatment when deprived of liberty;
- g) the right to have access, based on the person's abilities, to further vocational education and training that is equally accessible to all; and
- h) the right to access health services without discrimination including the right not to be refused emergency medical treatment that is immediately necessary to save the offender's life or prevent serious impairment to the prisoner.

2. Limitation of Human Rights

Human rights can be limited if certain conditions are present:

- a) the limit must be provided under law;
- b) the limit must be reasonable; and
- c) any imposition on the human rights must be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

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

3. Educational Leave

Educational leave provides opportunities for an eligible prisoner to access specific educational and vocational education and training programs and related activities that cannot be provided within the corrective services facility or through distance education. These programs and activities must have been identified and endorsed during the offender management process as conducive to the prisoner's rehabilitation and be consistent with the prisoner's assessed needs.





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Prisoners on a work order may also be permitted to undertake approved vocational or educational courses that are available in the local community.

Any programs undertaken must be consistent with the prisoner's assessed needs and be authorised in accordance with section 72(1)(c) of the *Corrective Services Act 2006* (CSA).

4. Community Service Leave

Community service leave provides opportunities for an eligible prisoner to make reparation to the community by undertaking voluntary activity at approved projects within the community. A prisoner undertaking community service leave must not profit financially from any sponsoring organisation but may be remunerated by the responsible corrective services facility.

The Chief Executive or delegate is to consider the factors mentioned in section 4. Eligibility Criteria and section 5. Assessment and Approval in the COPD Escorts: Leave of Absence and the completion of the Administrative Form 20 Work Program Suitability Assessment/Community Service and Education LOA Assessment to determine the suitability of prisoners to partake in community service and/or educational leave. Refer to the Queensland Corrective Services Instrument of Delegation of Chief Executive Powers.

All leave is to be authorised in accordance with section 72 of the CSA.

5. Educational and Community Service Leave Suitability Assessment

The required assessments for educational and community service leave must be conducted using the Administrative Form 20 Work Program Suitability Assessment/Community Service and Education LOA Assessment. This form and associated documentation must accompany the application for approval of a leave program.





The need for a psychological and/or psychiatric assessment must be determined on an individual basis. The decision maker must determine whether a specialised assessment is required to ensure a sound decision making process. Refer to the Queensland Corrective Services Instrument of Delegation of Chief Executive Powers.

5.1 Victims Register considerations

For prisoners who have a Victims Register (VR) flag, who are under consideration for participation in any community service work or education leave of absence, the Chief Superintendent of the corrective services facility must ensure a proximity check is requested via submitting a VR Custodial Proximity Enquiry in relation to the proposed participation site. This is to be recorded on the Administrative Form 20 Work Program Suitability Assessment/Community Service and Education LOA Assessment.

VR will advise the Chief Superintendent of the corrective services facility if any relevant information is required to be provided as a factor for consideration as a part of their suitability assessment to participate in any community service work or leave of absence program. The information provided by VR is confidential and is not to be entered as a case note or attachment on IOMS.

Any additional enquiries contact VR by phone or email to [REDACTED]

If the prisoner is assessed as suitable to participate in the community service work/leave of absence, the Chief Superintendent of the corrective services facility will ensure that VR is provided with further advice regarding the prisoner's participation.

6. Provide Notice of Transfer to Relevant Stakeholders

Information regarding the transfer and responsibility for the management of a prisoner from one location to another must occur in a timely manner.





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7. Developing a Leave Program

If leave of absence is to be granted on more than one occasion for the same purpose, a leave program must be developed and approved by the delegate. In the case of an Aboriginal or Torres Strait Islander prisoner, an Aboriginal and Torres Strait Islander staff member or community representative should, if practicable, be involved in the development of a proposed leave program.

For education and community service leave, refer to the Administrative Form 20 Work Program Suitability Assessment/Community Service and Education LOA Assessment. The proposed leave program must be forwarded to:

- a) the relevant manager for a recommendation; then
- b) the delegate for approval of the program.

Following approval of a leave program, in accordance with sections 72-96 of the CSA and the Queensland Corrective Services Instrument of Delegation of Chief Executive Powers, the prisoner must submit an Administrative Form 103 Application for Leave of Absence for each instance of leave.

If an application for approval of a leave program is refused, the decision maker must specify a review date. The review date is the earliest date after which the prisoner may re-apply for a leave program.

Refer to the Approved Form 16 Leave of Absence.

8. Review of a Leave Program

A review of any leave program must be conducted immediately if:

- a) the frequency/duration/conditions of the program are to be amended;
- b) a report indicates that a prisoner is not meeting performance requirements on leave of absence or has not complied with a condition of the leave of absence order;
- c) a prisoner is refused parole;
- d) when individual leave is refused; or
- e) for unescorted leave, significant changes occur in the prisoner's personal circumstances.

The findings of reports/assessments, especially those regarding risk to the community must be considered in the review.

If possible, a review of a leave program should be conducted in conjunction with a Progression Plan Review. In the case of an Aboriginal or Torres Strait Islander prisoner, an Aboriginal and Torres Strait Islander staff member or community representative should, if practicable, be involved in the review.

A leave program for educational or community service purposes must be reviewed by a multidisciplinary panel comprising of representatives from Sentence Management Services and custodial staff whenever a specified review period has been set.





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If a review results in a recommendation for the suspension or cancellation of a leave program the multidisciplinary panel must:

- complete an Approved Form 17 Notice to Prisoner of Amendment/Suspension/Cancellation of Leave of Absence Order (refer to IOMS) and forward the form to the original approving authority;
- if applicable, establish the criteria for reinstating the program of leave of absence; and
- ensure any subsequent leave program or re-instatement of the program is referred to the relevant approving authority.

All leave programs may be amended, suspended or cancelled at any time by the delegate. Refer to section 24AA of the *Acts Interpretation Act 1954*, sections 79, 80, 85 and 86 of the CSA and the Queensland Corrective Services Instrument of Delegation of Chief Executive Powers.

If a review results in a recommendation that an amendment be made to the leave program, the proposed amendment/s must be forwarded to the approving authority. If a leave program is amended, a copy of the amendment and the reasons for the amendment must be attached to the prisoner's file.

9. Cost Recovery Considerations

In general, prisoners are expected to meet the costs of any prisoner requested escort in accordance with the Appendix ECS4 Leave of Absence – Escort and Cost Recovery. However, delegates have discretion in determining whether to recover costs from a prisoner in relation to an escort during a LOA. Delegates may determine that such costs are to be waived. In exercising this discretion, delegates should have regard to the following factors:

- the nature of the LOA and likely costs that will be incurred;
- the particular circumstances of the prisoner who is granted a LOA;
- the financial capacity of the prisoner to meet the costs of the escort; and
- any other factor the delegate considers relevant.

In determining the estimated cost of an escort, Centres must use the LOA Cost Checker issued by Financial Services and Strategic Sourcing Command and must provide an itemised estimate (quote) to the prisoner prior to the escort. At the time the quote is provided to the prisoner, they must be advised that the actual cost of the escort may vary from the quoted cost, due to unforeseen circumstances.

In determining the actual cost of the escort, the centre must use the cost calculator and input the actual distance travelled on the escort and the actual start and finish times of the escort.

Where the actual cost of the escort exceeds the estimate originally provided to the prisoner, delegates have discretion to waive the difference, so that a prisoner is only charged an amount equal to the estimate. In exercising this discretion, delegates should have regard to factors including:

- the reasons for the variance between estimated and actual costs of the escort;
- whether the prisoner in any way contributed to the actual cost of the escort exceeding the estimated cost of the escort;
- the financial capacity of the prisoner to meet the actual costs of the escort; and
- any other factor the delegate considers relevant.

Centres must not issue an invoice or recover any funds from a prisoner before the escort has been completed and a decision has been made about cost recovery.

