



Community Engagement Community Service Projects

CE

Custodial Operations Practice

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1. Human Rights

One of the objectives of the *Human Rights Act 2019* (HRA) is to help build a culture in the Queensland public sector that respects and promotes human rights. Queensland Corrective Services (QCS) must act and make decisions in a way that is compatible with human rights when discharging its responsibilities under the *Corrective Services Act 2006* (CSA).

Consequently, 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 the human rights which may be relevant to a decision and considering the impact of the decision on those human rights.

An act or a decision is compatible with human rights if the act or decision:

- a) does not limit a human right; or
- b) limits a human right only to an extent that is reasonable and demonstrably justifiable.

Human rights which may be relevant to decisions made in accordance with the procedures of this Custodial Operations Practice Directive (COPD) include, but are not limited to:

- a) the right to freedom from forced work, however this right does not protect from being required to undertake work or service normally required of a person who is under detention because of a lawful court order or who, under a lawful court order, has been conditionally released from detention or ordered to perform work in the community;
- b) the right to recognition and equality before the law, including the right to equal and effective protection against discrimination;
- c) the right to protection from torture and cruel, inhuman or degrading treatment;
- d) the right to privacy and to reputation;
- e) the right to be treated with humanity and respect when deprived of liberty; and
- f) 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 prisoner's life or prevent serious impairment to the prisoner.

2. Limitation of Human Rights

When considering whether an act or decision which limits a human right is reasonable and demonstrably justifiable, the following factors may be relevant:

- a) The human rights impacted (there may be multiple) and the nature of those rights - this involves looking at the purpose of the relevant human rights. For example, the purpose of the right to privacy and to reputation is to offer protections against the arbitrary and unlawfully interference with a person's privacy, family, home or correspondence and to protect a person's reputation from being unlawfully attacked.
- 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, the provisions of this COPD necessarily limit a prisoner's right to privacy in that they are required to be supervised while participating in a community service project and elements of their personal information will need to be shared with community service project providers to ensure the security of the prisoners, officers and other members of the community.
- 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.



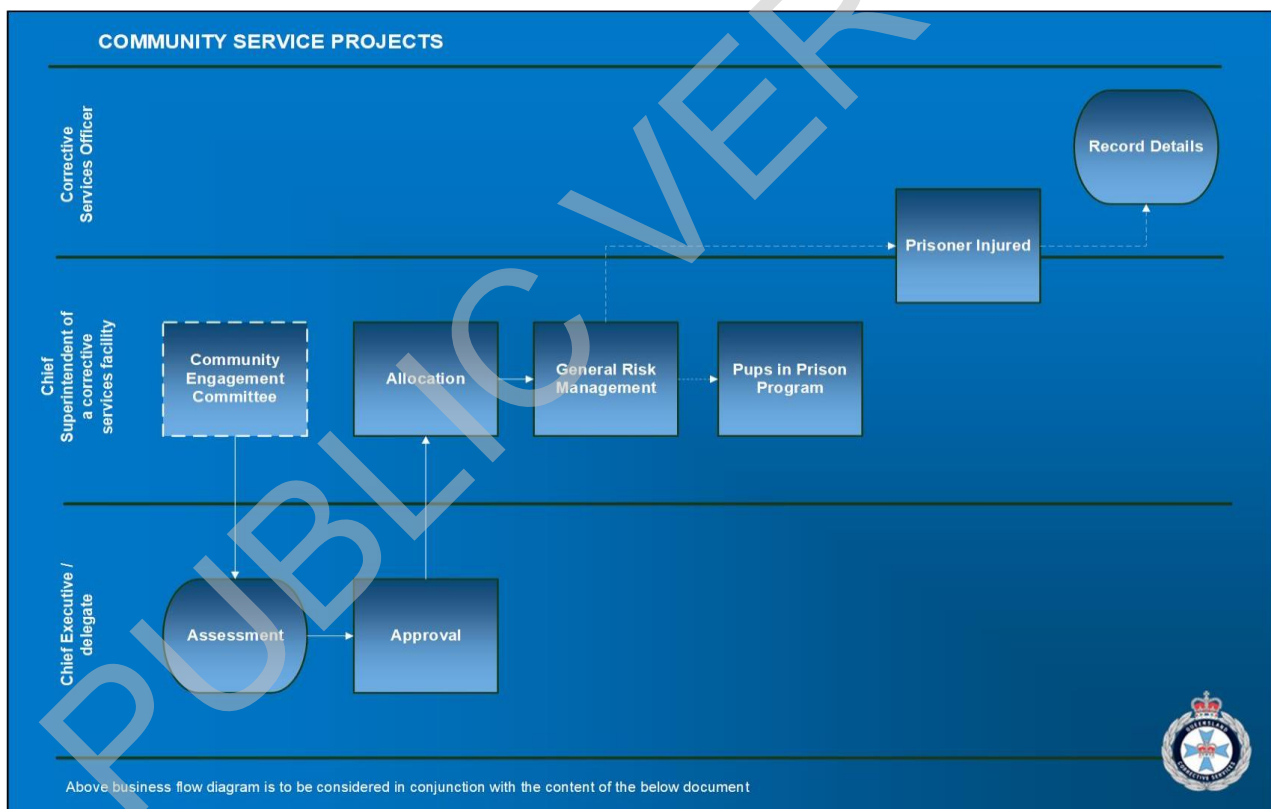


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For example, the supervision and surveillance of prisoners released to work in a community service project achieves the purpose of ensuring the security of the prisoner and the safety of officers and others in the community.

- d) Whether there are any less restrictive and reasonable ways to achieve the purpose – this involves a ‘necessity analysis’ where the purpose of the limitation is considered and whether it can be achieved in any other way. For example, supervision of a prisoner released to work in a community service project should be limited to actions which achieve, in the least restrictive way possible, the purpose of ensuring the security of the prisoner and the safety of officers and other members of the community.
- 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 impact of the limitation on the human right. For example, does the security of the prisoner and safety of officers and community members obtained as a result of the supervision and surveillance of a prisoner working in a community service project outweigh the impact of the limitation to the prisoner’s privacy?

3. Community Service Projects Process Map



4. Overview

The Chief Executive or delegate may approve community service projects in accordance with sections 270-271 of the CSA and the QCS Instrument of Delegation of Chief Executive Powers.

Where established, community engagement committees may provide information and advice regarding potential community service projects within their respective communities for consideration by the authorised delegate.





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Community service includes:

- a) local community service - conducted for government organisations or not for profit organisations within the regional council/district of the community engagement committee, refer to the Community Engagement Committees section of this COPD;
- b) work program community service - refer to the COPD Community Engagement: Work Camps, Programs and Orders; and
- c) flood recovery and emergency response - conducted at the discretion of the Commissioner and may include aid to members of the community, refer to the COPD Community Engagement: Work Camps, Programs and Orders.

5. Community Engagement Committees

The Chief Superintendent of a corrective services facility may establish a Community Engagement Committee (CEC) to oversee Community Service Projects.

Committee membership is honorary and members will participate on a voluntary basis only.

CECs may be established based on existing council boundaries.

Refer to the Appendix CE6 Community Engagement Committee Terms of Reference.

A CEC must not:

- a) be a decision making authority but rather may offer opinions on behalf of the community they represent; and
- b) raise or discuss individual prisoner needs or complaints. Note: persons provided with confidential information must be made aware of their obligations under section 341 of the CSA.

5.1 Membership

It is recommended that membership for low security facilities change around the time of council elections.

CEC members are subject to a security clearance, refer to the QCS Procedure Relevant Persons.

6. Assessment

When assessing suitability of potential community service projects, the following factors must be considered:

- a) a sponsor organisation should ideally be “not for profit” or a government agency (e.g. a Government Department or Shire Council), however exceptions may be approved where a project does not contribute directly to the organisation’s profit;
- b) a rigorous assessment for any potential ethical compromise to QCS;
- c) its appropriateness as an activity for the relevant prisoners;
- d) if appropriate - the ability of the sponsor agency to reimburse the Agency’s costs for the supply of prisoners to the site and the level of supervision provided;
- e) whether ongoing and adequate on-site supervision is to be provided for prisoners performing community service;
- f) if appropriate, its suitability to meet the needs of female prisoners (e.g. breast feeding or pregnant women);
- g) whether the project involves meaningful and non-traditional options for prisoners (where applicable); and
- h) whether children or young people visit or reside at the project site.





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Emergency response community service for locations outside of a facility's regional council boundaries should be performed by work program approved prisoners.

The outcome of each of these considerations must be documented as an integral part of the application for approval of the project.

A sponsor organisation must have current public liability insurance which covers prisoners use of equipment and any injuries sustained by prisoners (refer to the Administrative Form 163 Work Program Community Service Project Workplace Health & Safety Assessment).

Where potential projects appear to meet the criteria (listed above), the sponsoring organisation must be provided with an application and information kit to become a community service project.

Refer to the Administrative Form 162 Application to Become a Work Program Community Project and the Administrative Form 163 Work Program Community Service Project Workplace Health and Safety Assessment.

The Chief Superintendent of a corrective services facility must ensure community service projects are assessed to ensure compliance with QCS requirements for workplace health and safety. In this regard a workplace health and safety assessment must be conducted by the sponsoring organisation prior to approval of the project and at least annually thereafter. External organisations must be made aware that compliance with QCS workplace health and safety requirements does not discharge their obligations under the *Work Health and Safety Act 2011* (Qld).

Refer to the Administrative Form 164 Hazardous Substances/Dangerous Goods/Chemicals Register.

A corrective services officer may assist the potential sponsor agency to complete the application form and conduct assessments using the Administrative Form 163 Work Program Community Service Project Workplace Health and Safety Assessment.

6.1 Victims Register

Where a prisoner with a Victims Register (VR) flag is being considered for participation in any community service work, work program or leave of absence program, 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.

The 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, work program or leave of absence program. The information provided by Victims Register is confidential and it not to be entered as a case note or an attachment on IOMS.

For any additional enquiries contact VR by phone or email to victims.register@corrections.qld.gov.au

If the prisoner is then assessed as suitable by the Chief Superintendent, the Chief Superintendent will ensure that the Victims Register are provided with further advice regarding the prisoner's participation.





7. Approval

7.1 Prisoner Approval

A prisoner convicted of a sexual offence listed in Schedule 1 of the CSA must not be approved leave to participate in a community service project (section 82(d) and (e) of the CSA).

A prisoner serving a life sentence or a serious violent offender (refer to sections 161A – 161C of the *Penalties and Sentences Act 1992* (PSA), and section 81 of the CSA) must not be approved for community service leave until:

- the prisoner has reached their parole eligibility date or where a court has ordered that the prisoner serve a stated period before being granted leave, the prisoner has served at least the stated period; and
- in deciding whether to grant leave to the prisoner, all recommendations of the sentencing court about the prisoner have been considered.

Section 81 of the CSA applies to community service leave but does not apply to a prisoner on an approved work order undertaking community service on the work program.

7.2 Project Approval

The completed Administrative Form 162 Application to Become a Work Program Community Project must be forwarded to the Chief Executive or delegate, refer to the Queensland Corrective Services Instrument of Delegation of Chief Executive Powers.

Where a project is approved:

- the data from the Administrative Form 162 Application to Become a Work Program Community Project must be entered into IOMS; and
- the project must be electronically recorded as approved in IOMS.

If a person responsible for the supervision and transportation of prisoners engaged in approved community service projects is not a QCS or engaged service provider employee, a security clearance must be obtained for the person.

Refer to the Criminal History Disclosure and Consent – For reasons other than employment form.

8. Allocation of Prisoners to Approved Community Service Projects

Prisoners are prohibited from providing services that may be considered to be regulated employment, including child related duties, work directed mainly towards children or conducting activities mainly involving children, refer to the *Working with Children (Risk Management and Screening) Act 2000* (WCRMSA), Schedule 1.

Prisoners must only provide a non-child related service, e.g. maintenance work or cleaning or building work.

9. General Risk Management Principles of Community Service Projects

The Chief Superintendent of the corrective services facility must assess the risk prior to prisoners undertaking community service at a community service project site where prisoners are present.

The following applies to all community service projects:

- The safety of the community, in particular children, is paramount in determining whether or not a prisoner is allocated to a particular community service project.





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- b) Appropriate assessment, placement and supervision of prisoners must be undertaken at all times - issues such as criminal history, behaviour and length of sentence must be considered.
- c) In the event that a prisoner is subject to a known Domestic Violence Order (DVO) extreme care should be taken when allocating the prisoner to a project. Conditions of the DVO must not be contravened.
- d) In determining the allocation of prisoners to a community service project, regardless of whether the project is considered regulated employment or not, if children are present, or likely to be present, the sponsoring organisation must have in place a child protection risk management strategy identifying risks and controls.

The following applies to community service undertaken at a regulated employment site:

- a) The service should be provided after hours when children are not present or likely to be present.
- b) If the community service is being undertaken at a child care service or a child care centre or an education and care service (refer <http://www.bluecard.qld.gov.au/definitions.html>) a prisoner must not attend when a child is present at that location.
- c) Prisoners must be supervised at all times, should a child attend the site while prisoners are in attendance the supervisor must be contacted to determine the immediate course of action.

Prisoners will not require screening for a blue card in accordance with the WCRMSA, Chapter 8 where a prisoner is providing a non-child related service (e.g. cyclone clean up) at a regulated employment site (e.g. a state school) when children are not present or likely to be present.

In these cases, they will not fall under a category of regulated employment, as their work in such circumstances is considered to be directed towards the school, rather than towards children.

A prisoner must not be approved to undertake community service at a regulated employment site at any time (refer to the WCRMSA Chapter 8 and Schedule 1) if:

- a) charged or convicted of a serious offence; or
- b) charged or convicted of a disqualifying offence or
- c) subject to:
 - i. reporting obligations under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*;
 - ii. an offender prohibition order under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*;
 - iii. a disqualification order issued by a court prohibiting them from applying for or holding a blue card; and/or
 - iv. a sexual offender order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

For more information with respect to the above refer to Blue Card Services ['Who cannot apply for or hold a blue card'](#).

10. Relevant Person Exempt from Blue Card Screening Requirements

A relevant person under the CSA is exempt from the requirements of Chapter 8 of the WCRMSA and will not require screening for a blue card.

Refer to Schedule 1, Part 3, section 27 of the WCRMSA and section 327 of the CSA.





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11. Record Details

A corrective services officer or an approved site supervisor will complete the prisoner's time sheet confirming hours worked.

12. Work and Development Orders

The Work and Development Order (WDO) program enables people in hardship to resolve their State Penalties Enforcement Register (SPER) debts by completing unpaid work. This unpaid work can include activities performed by prisoners for Community Projects that have been identified as not for profit organisations.

Only approved QCS locations can provide prisoners with the option of contributing to the reduction of their SPER debt through approved unpaid work. Refer to the Appendix CE1 Guidelines for Work and Development Orders (WDOs) for Unpaid Work.

13. Register of Projects

A register of community service projects undertaken by corrective services facilities must be maintained by those facilities.

The register must be maintained in IOMS.

14. Pups in Prison Program

Refer to the Appendix CE5 Pups in Prison.

14.1 Other animal programs within a corrective services facility

Centres may have programs with other animals that have been approved by the Chief Superintendent of the corrective services facility. A local instruction outlining the program should be implemented.

15. Prisoners Injured on a Community Service Project

Corrective services officers must, with assistance from part-time and on-site supervisors, ensure prisoners adopt safe working practices in the performance of community service, refer to the Administrative Form 170 Guidelines for the Community Service Worker.

Prisoners performing community service are covered for injury under a Contract of Insurance policy between QCS and Workcover for medical treatment and lost wages. In the event of a claim for damages, they may be eligible to make a personal injury claim under the *Personal Injury Proceedings Act 2002*.

15.1 Actions to be taken following a community service work injury

The responsibility of a corrective services officer is to:

- a) provide first aid, as required;
- b) seek medical attention, as required;
- c) prevent further injury from any potential risks or hazards; and
- d) immediately report details of the injury to a supervisor (normally on-site supervisor).

On-site supervisor responsibility:

- a) If the on-site supervisor or the prisoner consider further medical attention is required, arrangements must be made for the prisoner to attend a doctor to seek medical assessment and/or treatment and have the injury recorded.





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- b) If the prisoner requires medical attention, the on-site-supervisor must:
 - i. in the case of serious injury - arrange medical attention immediately, including an ambulance or any other emergency service response, if necessary;
 - ii. note details including date, time, circumstances and nature of injury;
 - iii. ensure that the senior executives are informed of any serious/notifiable incidents (Reference: [WHS Incident Reporting and Investigation People Capability Practice Directive](#));
 - iv. consult with the Occupational Health Safety and Environment Coordinator (OHSEC) Health, Safety and Wellbeing (HSW) group regarding liaison with Workplace Health and Safety Queensland (WHSQ) or other regulatory body (e.g. Electrical Safety Office); and
 - v. ensure copies of all notifiable incidents and their receipt/response are forwarded to the centre-based OHSEC HSW Officer.

15.2 Documentation

All incidents must be immediately reported to the relevant manager and the facility based Occupational Health Safety and Environment Coordinator (OHSEC) Health, Safety and Wellbeing group.

Related documents are to be completed in accordance with the direction and responsibilities recorded in section 15.1.

At a minimum, the following steps must be taken by the on-site supervisor:

- a) Complete a Safety Health and Environment (SHE) incident report form for a prisoner "worker" through the SHE portal (refer intranet.dcs.qld.gov.au/media/external-links/government/she-safety-health-and-environment).
- b) Based on the seriousness of injuries sustained, assess whether there is a requirement to notify the Regulator, Workplace Health and Safety Queensland (WHSQ) of the incident:
 - i. if so, the community service project supervisor must complete the relevant [WHSQ](#) notifiable incident documentation and submit it to [WHSQ](#) within 24 hours, via the Work Safe website (refer WorkSafe.qld.gov.au) or by telephone (1300 362 128);
 - ii. The OHSEC, HSW group can provide advice and assistance with the [WHSQ](#) notification process and any WorkCover claim for the prisoner "worker".
- c) Complete an incident report in IOMS.
- d) In the case of a serious / notifiable incident / accident:
 - i. if required, control access to the site and preserve any evidence.
 - ii. ensure no further injuries occur and risks/hazards are managed.
 - iii. gather as much information as possible, including statements from witnesses, photos or sketches of incident site, and equipment; and
 - iv. flag the date of the injury on the prisoner's file.
- e) Forward all documents, including medical certificates, accounts and any other related documents, to the relevant manager and OHSEC of the facility, while copies should be kept on the prisoner's file.

