



Community Engagement Provision of Chaplaincy Services

CE

Custodial Operations Practice Directive

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Specialist Operations

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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.

The purpose of this practice directive is to facilitate the provision of religious services to prisoners in corrective services facilities.

Human rights that may be relevant include:

- a) recognition and equality before the law, against discrimination;
- b) freedom of thought, conscience, religion and belief;
- c) freedom of expression;
- d) property rights;
- e) the right to privacy and to reputation;
- f) cultural rights – generally and for Aboriginal peoples and Torres Strait Islander peoples; and
- g) 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 freedom of thought, conscience, religion and belief provides for the freedom to have or to adopt a religion or belief of the person's choice and the freedom to demonstrate the person's religion or belief in worship, observance, practice and teaching, either individually or as part of a community, in public or in private;
- b) the nature and purpose of the limitation and the relationship between the limitation and its purpose – this involves considering the actual purpose or legitimate aim/reason for limiting the human right. For example, this policy document may limit a prisoner's right to demonstrate their religion or belief in worship, to ensure the safety and security of the corrective services facility;
- 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 the said purpose or legitimate aim. For example, in some circumstances a prisoner's access to a religious visitor or religious paraphernalia may be limited to ensure the safety of the prisoner and others and to ensure 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.



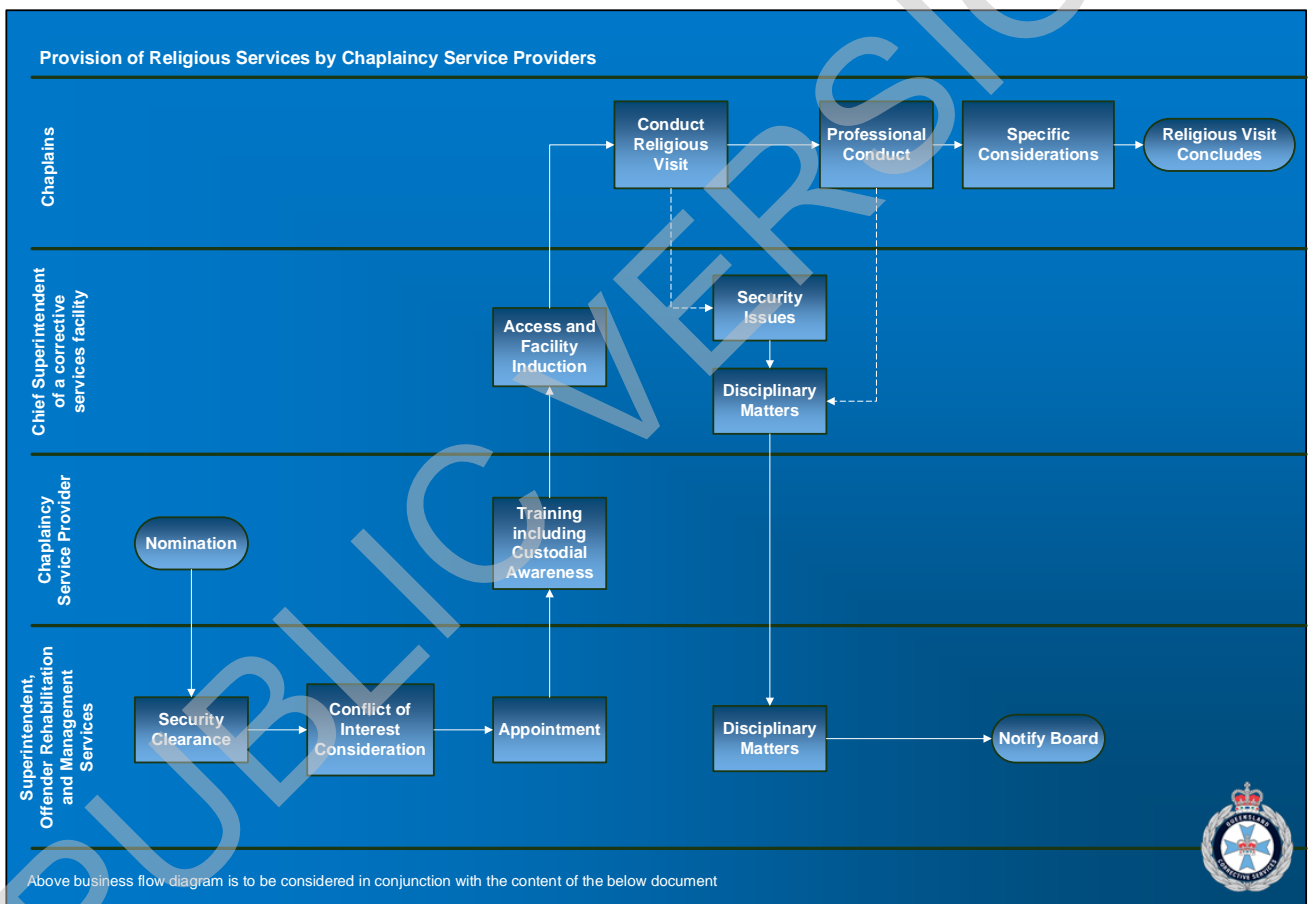


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For example, is the limitation to a prisoner's ability to demonstrate their religion or belief in worship the least restrictive possible, to ensure the safety and security of the corrective services facility;

- 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 safety and security of the corrective services facility that is provided by limiting a prisoner's right to demonstrate their religion or belief in worship, outweigh the limit to freedom of thought, conscience, religion and belief?

3. Overview



A prisoner must be given the opportunity to access religious services and to practice their religious beliefs within the operational constraints of a corrective services facility. If consistent with the operational requirements of the facility, a prisoner may join with other persons in practising the prisoner's religion and possess articles approved by the Chief Superintendent of the corrective services facility which may be necessary for the practice of the religion.

In deciding whether or not to grant access approval for a Religious Visitor, the authorised delegate must have regard to human rights, including (but not limited to) the right to freedom of religion and any relevant cultural rights.





4. Contracted Chaplaincy Service Providers

QCS engage with a number of organisations to deliver chaplaincy services (contracted chaplaincy service providers) within corrective services facilities. These contracted chaplaincy service providers administer religious services to support the spiritual needs of all prisoners. Any prisoner wishing to access these services may do so. Approved chaplains from contacted chaplaincy service providers do not preach but provide pastoral care to all prisoners that request support.

Refer to the Appendix CE9 List of Contracted Organisations that Provide Chaplaincy Services.

Contracted chaplaincy service providers are responsible for the planning, coordination and administration of chaplaincy services at the relevant corrective services facilities for which they are contracted to provide religious services, in consultation with QCS, and for appointing chaplains post completion of all training requirements contained within the relevant service level agreement.

It is the role of the contracted chaplaincy service providers to manage the number of chaplains at a facility on a daily basis, in order to meet the terms of the service level agreement.

Contracted chaplaincy service providers at a corrective services facility must prepare a chaplaincy roster, having regard to the pastoral and religious needs of prisoners at the facility. The roster is to be developed in consultation with Offender Rehabilitation Management Services (ORMS) and relevant staff within the corrective services facility such as Manager Offender Development or Senior Service Coordinators (SSC).

Contracted chaplaincy service providers should meet with centre management on a monthly basis to ensure appropriate communication occurs and issues are proactively discussed and addressed.

Contracted chaplaincy service providers can be contracted to provide two categories of religious services:

- **Generalised pastoral care services** are pastoral care to all prisoners generally; and
- **Targeted religious services** are specific faith based religious services.

Refer to the Appendix CE9 List of Contracted Organisations that Provide Chaplaincy Services for more information on contracted chaplaincy service providers and the religious services they provide.

An assistant chaplain may work with a chaplain for the purpose of a specific task, for example conducting group worship or providing religious instruction. An assistant chaplain must be accompanied by a chaplain within a facility at all times.

5. Personal Religious Visitors

If a prisoner wishes to receive a religious visit from a representative of their own religious group who is not an approved chaplain aligned with a contracted chaplaincy service provider, the prisoner must make a request for a Personal Religious Visit to the Chief Superintendent of the corrective services facility. Refer to the COPD Visitors to a Facility: Visits Process for more information regarding access approvals for personal religious visitors and religious visitors generally.





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Typically visits will occur in the corrective services facility's visits area. A Chief Superintendent of a corrective services facility may approve a group meeting where a number of prisoners request it. Personal Religious Visitors do not preach to the broader prisoner population.

Before determining whether to approve a personal religious visit, the Chief Superintendent of a corrective services facility should seek advice from a local religious society/organisation of the same faith about the representative's status within their religious organisation/denomination.

In deciding whether or not to approve the visit, the authorised delegate must have regard to human rights, including (but not limited to) a prisoner's right to freedom of religion and their right to practice or demonstrate their religious beliefs, and any relevant cultural rights.

6. Specialist Religious Visitors

If a corrective services facility has a demand for a faith not represented by a contracted chaplaincy service provider, consideration is to be given to the appointment of Specialist Religious Visitors sponsored by that religious organisation.

Applications for Specialist Religious Visitors are approved by the Chief Superintendent of the corrective services facility, with a recommendation, if required, to the Assistant Commissioner, Custodial Operations. Refer to the Appendix V12 Appointment and Approval of Religious Services.

Conditions of access for a Specialist Religious Visitor are at the discretion of the Chief Superintendent of the corrective services facility.

In deciding whether or not to grant applications for Specialist Religious Visitors, human rights must be considered, including (but not limited to) the right to freedom of religion, any relevant cultural rights and a person's right to enjoy their human rights without discrimination.

Refer to the COPD Visitors to a Facility: Visits Process for more information regarding access approvals for specialist religious visitors.

7. Conduct of Religious Visitors/Contracted Chaplaincy Service Providers

The service agreements between contracted chaplaincy service providers and QCS are developed to comply with current legislation, policies, procedures and agency expectations which outline the terms in which the religious services are provided, and the behaviour expected of the providers.

All religious visitors/contracted chaplaincy service providers must adhere to relevant legislation, policies and procedures including the QCS Code of Conduct, the *Corrective Services Act 2006* (CSA) and other guidelines.

If a chaplain or any other religious visitor suspects that a prisoner may be at risk of self-harm, pose a risk of harm to others or to the safety and security of the corrective services facility, they must immediately advise facility staff.

All prisoner communication to outside persons is strictly monitored for security and surveillance reasons by the corrective services facility staff.





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Chaplains must not facilitate communication between a prisoner and any other person within or outside the corrective services facility. Communication includes use by a prisoner of a telephone to a landline or mobile connection or email facilities within the corrective services facility to an external party.

Under no circumstance should a religious visitor take anything from a corrective services facility, particularly an item given to them by a prisoner, including personal letters or other documents as this may be deemed a criminal offence. Refer to section 129 of the CSA.

7.1. Provision of chaplaincy services to QCS staff

Chaplains come into contact with staff on a regular basis and may hear of issues that are of concern however, chaplains are not appointed for the provision of counselling services to staff, but caring and confidential listening may be appropriate.

Staff affected by workplace incidents or matters of a personal nature can seek the services of the QCS Employee Assistance Program (EAP) and a chaplain should encourage staff to seek this support. If a chaplain becomes involved in staff matters, either inadvertently or at the request of the staff member they should seek the involvement of centre management or encourage the staff member to approach their supervisor/manager, or access community resources (such as the QCS EAP).

If staff members raise an issue of workplace grievance, a chaplain must encourage them to follow the QCS grievance resolution procedure.

7.2. Post release contact with released prisoners

It is considered inappropriate for a chaplain to be nominated as the sponsor for a prisoner applying for parole and such a situation may result in review of the chaplain's appointment.

It is recommended that advice be sought from the service provider by the chaplain and/or QCS prior to QCS endorsing a chaplain as a sponsor to ensure no conflicts of interest with their chaplaincy role will occur.

7.3. Disciplinary matters

If the professional conduct or behaviour of a contracted chaplaincy service provider is in contravention of the conditions of the contract which include reference to the QCS Code of Conduct and the CSA, attempts are to be made to address the issue at the local level in the first instance, in consultation with the ORMS, in the first instance.

If resolution at a local level is not possible or appropriate, ORMS should be contacted to advise on next steps.

8. Access within Corrective Services Facilities for Contracted Chaplaincy Service Providers

Religious visitors may only have access to areas of corrective services facilities as approved by the Chief Superintendent of the corrective services facility.

8.1. Accommodation unit common areas

A contracted chaplaincy service provider must be given reasonable access to unit common areas within operational constraints.





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When in a unit common area, a chaplain must be able to be observed by a corrective services officer at all times, with due consideration to the prisoner's right to privacy.

It is not necessary for an officer to be in the unit common area with the chaplain if the chaplain is able to be observed by an officer and the chaplain is comfortable with this arrangement. Chaplains are to remain in common areas visible to officers and are not to enter prisoners' cells. Assistant chaplains are not permitted access to accommodation areas unless in the company of a chaplain.

A Specialist or Personal Religious Visitor may only access the designated areas approved by the Chief Superintendent of the corrective services facility. All contracted chaplaincy service providers are to be afforded equitable access within operational constraints, and in compliance with the terms of the service agreement governing the provision of their religious service.

8.2. Princess Alexandra Secure Unit (PAHSU)

The pastoral care of prisoners admitted as inpatients to the PAHSU is the responsibility of the PAHSU Medical Director. This may involve the provision of pastoral and spiritual care by the Princess Alexandra Hospital Pastoral Care Service or by a chaplain appointed by the service provider.

8.3. Access to other corrective services facilities

If a contracted chaplaincy service provider is required to conduct, for example, a service, celebration or marriage, at a corrective services facility which they are not contracted to deliver religious services at the Chief Superintendent at the corrective services facility, or their nominee may contact the appropriate contracted chaplaincy service provider to request a contracted chaplain to conduct the relevant service or where one is unavailable, request a recommendation for another suitable chaplain who may be available.

The relevant prisoner may also make recommendations as to a preferred chaplain or religious service provider. Refer to the Appendix CE9 List of Approved Organisations that Provide Chaplaincy Services.

8.4. Access to minister to a dangerously ill/seriously injured prisoner

The Chief Superintendent of the corrective services facility is to notify the contracted chaplaincy service provider of any prisoner who is seriously ill and request a visit from a minister/religious person of their particular faith as soon as possible.

The chaplaincy services provider is to advise the Chief Superintendent or nominated manager of chaplains to be contacted should staff become aware of a prisoner who is dangerously ill or whose death may be imminent.

Refer to section 23 of the CSA.

8.5. Access after death in custody

Contracted chaplaincy service providers should ensure that they have provided emergency contact details to the Chief Superintendent or nominated manager at the corrective services facility to which they are contracted to provide services, to allow support services to be provided at a facility after a death in custody in accordance with the contraction agreement with the service provider.





Refer section 24 of the CSA. Refer to the COPD Incident Management: Death in Custody.

9. Specific Considerations

9.1. Programs delivered by religious visitors

A religious visitor must only be involved in the delivery of rehabilitation programs at the corrective services facility where they have prior approval of the service provider, the Chief Superintendent of the corrective services facility, and the Director, ORMS.

Proposed programs for prisoners of a religious nature should be referred to ORMS, Specialist Operations through the Manager, Offender Development (or equivalent) to be considered by the QCS Offender Program and Services accreditation panel.

9.2. Access to wine for religious services

Only contracted chaplaincy service providers of the catholic faith may request that the Chief Superintendent of the corrective services facility procure a quantity of alcoholic wine for the purpose of conducting religious services at a corrective services facility. Chaplains from other religious denominations may not utilise wine as part of their service.

This wine must be securely stored at the facility in a place as determined by the Chief Superintendent of the corrective services facility.

Access to the secure storage of wine may be granted by the Chief Superintendent of the corrective services facility only for the purpose of conducting religious services. After consultation with the catholic chaplain, the Chief Superintendent of the corrective services facility must determine the quantity of wine released, which may not exceed 750ml, subject to the following conditions:

- a) the wine **may only** be consumed by the catholic chaplain as part of the religious service and not for any other purpose; and
- b) the wine is **not to be given to prisoners** to consume for any reason, including as part of the religious service.

Refer to section 128(2)(a) of the CSA and section 19(k) of the Corrective Services Regulation 2017 (CSR).

The Chief Superintendent of the corrective services facility must develop a local instruction that identifies how relevant chaplains are to access wine for the purpose of conducting religious services, including services conducted on weekends.

9.3. Religious materials

Contracted chaplaincy service providers may maintain a list of approved religious magazines, periodicals and other printed materials for dissemination in corrective services facilities and update these on request.

For facilities where sex offenders are located, the Chief Superintendent of a corrective services facility should ensure that any approved magazines are checked prior to being made available to prisoners to ensure there is no inappropriate imagery as outlined in the COPD Property: QCS Property, Tamper labels, Electronic Equipment and Restrictions.





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When deciding whether or not to provide a prisoner with an approved magazine due to inappropriate imagery, the Chief Superintendent of the corrective services facility should consider the prisoner's human rights, including (but not limited to) their right to practice their religious beliefs and property rights.

9.4. Security issues

A Religious Visitor must not take any prohibited or unauthorised articles into a corrective services facility. Refer to section 128 of the CSA, section 19 of the CSR and Appendix S1 Prohibited Things. A chaplain or other religious visitor may supply a prisoner with a religious object that has been approved by the Chief Superintendent of the corrective services facility.

A religious object is an item of religious, spiritual or symbolic significance to a particular faith or belief. Examples include rosary beads and prayer mat.

Under no circumstance should a religious visitor review a prisoner's file or medical file. Religious Visitors are encouraged to speak to facility staff if they are unclear on an issue which is causing concern or distress to a prisoner.

PUBLIC VERSION

