



Sentence Management Transfers

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Custodial Operations Practice Directive

Process Owner: Custodial Operations and Specialist Operations	Security Classification: Official/Public
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Scope

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Official/Public



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) to promote community safety through the humane containment, supervision and rehabilitation of offenders.

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) freedom of movement;
- b) the right to have access to further vocational education and training;
- c) the right to privacy;
- d) the right to access health services without discrimination;
- e) the right to emergency treatment that is immediately necessary;
- f) the protection of families as the fundamental group of society and the protection of children; and
- g) the prisoner's cultural rights – generally and for Aboriginal peoples and Torres Strait Islander peoples.

Any limitation of a human right can only be reasonable if it can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

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 right to freedom of movement provides that a person has the right to move freely within Queensland, to enter or leave it, and the freedom to choose where they live.
- 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 freedom of movement for the purposes of promoting community safety, the safe custody and welfare of all prisoners and the security and good management of corrective services facilities.
- 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, a transfer based on a classification or placement decision may limit the right to the 'protection of families', but will be determined to ensure the safety and security of the individual prisoner, other prisoners and QCS staff.
- 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, where a prisoner must be transferred to another corrective services facility which has a negative impact on the human rights of the prisoner, a necessity analysis requires staff to consider if an alternative transfer/placement is viable, which would either not further limit, or have less of a negative impact, on the human rights of the prisoner.





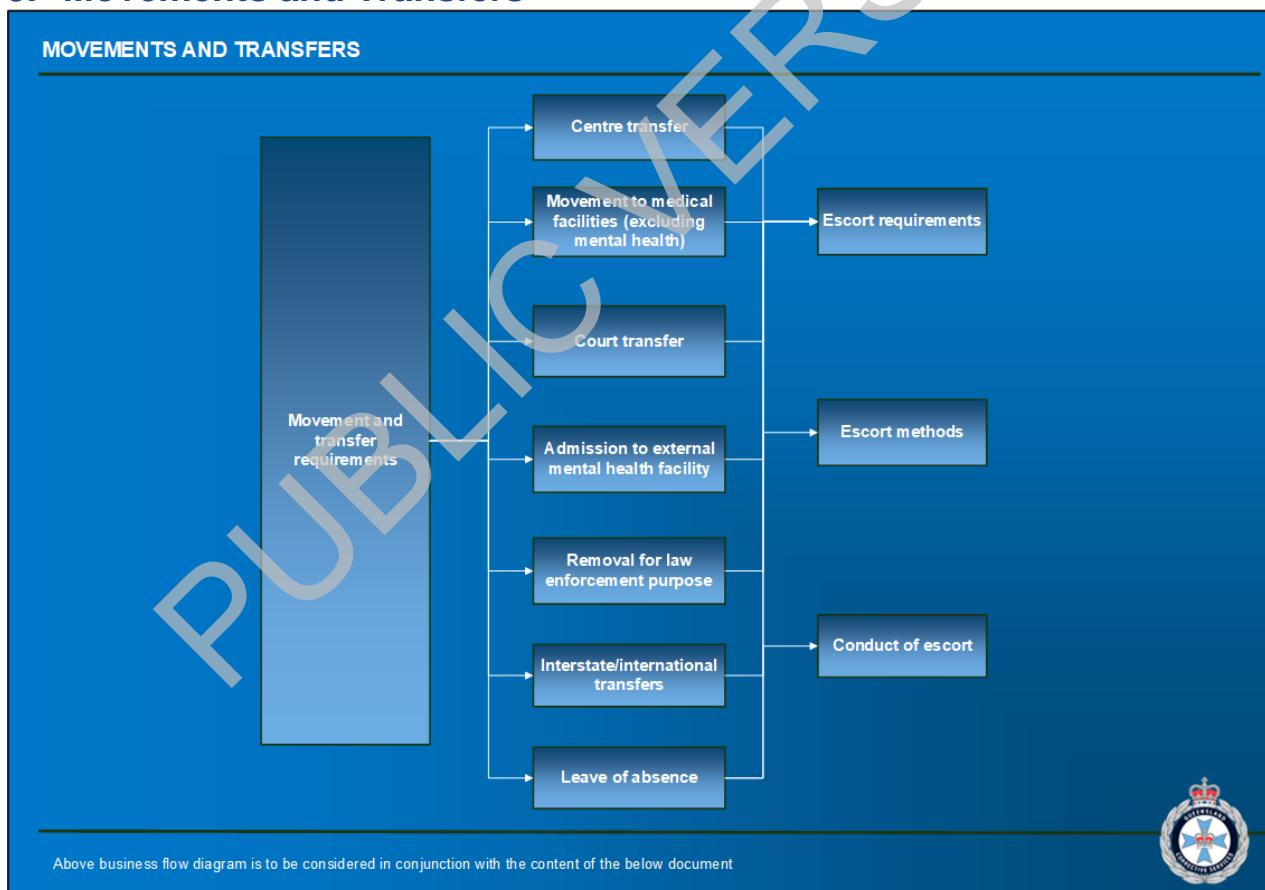
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- e) The importance between the purpose of the limitation and preserving the human right - this involves balancing the benefits obtained by the limitation with the impact of the limitation on the human right. For example, considering the balance of the safety and security benefits of a prisoner being transferred as a result of a classification/placement decision and balancing the benefits of this against the impact of the transfer on prisoner's human rights.

The HRA specifies that Aboriginal peoples and Torres Strait Islander peoples hold distinct cultural rights as Australia's first people. Consequently, regard must be had to cultural considerations relevant to the transfer and the relocation of Aboriginal or Torres Strait Islander prisoners, (e.g. considerations relating to kinship ties, avoidance relationship risks and specific cultural protocols) noting that rights protected under the HRA can only be limited where it is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality, and freedom.

For further advice with respect to cultural considerations contact Murrighagun Cultural Centre via [REDACTED]

3. Movements and Transfers



4. Transfer Requirements

A prisoner may be transferred between corrective services facilities in order to:

- comply with a classification and/or placement decision;
- comply with a work order;
- perform community service at a work camp;





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- d) provide closer family links through visitor access (refer to section 3 of the Corrective Services Regulation 2017 (CSR));
- e) provide medical or psychiatric treatment;
- f) effect more appropriate placement in emergent situations;
- g) undertake programs;
- h) attend a court, parole board or tribunal;
- i) partake in an approved leave of absence;
- j) comply with Australian Border Force transit requirements (refer to the COPD Sentence Management: Release/Discharge); or
- k) support transitional release plans, including return to home location.

In accordance with section 72(1) of the CSA, a prisoner may be granted leave from a corrective services facility to:

- a) perform community service;
- b) for compassionate purposes;
- c) for educational or vocational activities;
- d) for medical, dental or optical treatment; or
- e) leave for any other purpose the Chief Executive is satisfied justifies granting the leave.

A prisoner may be removed from a corrective services facility to:

- a) enable law enforcement agencies to perform necessary functions; or
- b) transfer to interstate or international jurisdictions.

All transfers of prisoners should occur during business hours unless for exceptional circumstances.

PUBLIC VERSION





4.1.2 Safety Order

The transfer of a prisoner subject to a Safety Order must be in accordance with the COPD At Risk Management: At Risk.

4.1.3 Transfer of prisoners on at-risk observations

The transfer of prisoners on at-risk observations should progress in accordance with any approved placement decision but must adhere to the Transfer and Escort to Secure Facility section of the COPD At Risk Management: At Risk.

4.1.4 Victims Register flag

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

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, the work program, 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, the Chief Superintendent of the corrective services facility will ensure that the VR is provided with further advice regarding the prisoner's participation.

4.1.5 Release of information to eligible persons outside of normal business hours

The QCS officer responsible for the oversight and/or management of any incidents which occur outside business hours in relation to a prisoner who has a VR flag, will contact the On-Call SMS officer if the incident may result in the release of information, to a relevant eligible person, relating to:

- a) the fact, and date, of the death or escape of the prisoner pursuant to section 324A(1)(c) of the CSA; or
- b) the fact, and date, of any particular circumstances relating to the prisoner that could reasonably be expected to endanger the eligible person's life or physical safety pursuant to section 324A(1)(d) of the CSA.





4.1.6 Work camps

The Chief Superintendent of a corrective services facility may transfer a prisoner from one work camp site to another work camp site that is within their responsibility. Refer to section 68 of the CSA and the COPD Community Engagement: Management of Prisoners on a Work Program.

4.1.7 Other transfers

For information regarding transfer processes not primarily actioned by Sentence Management Sentence refer to:

- a) COPD Escorts: External Escorts;
- b) COPD Property: Management of Prisoner Property;
- c) COPD Reception Processes: Admission and Assessments; and
- d) COPD Community Engagement: Management of Prisoners on a Work Program.

4.2 Transit/temporary transfer

A temporary transfer occurs when a prisoner is expected to return within 21 days to their placement facility upon completion of an activity, such as a medical/dental appointment, parole assessment/parole board appearance, leave of absence or court appearance. For example, a prisoner placed at a low custody facility who is temporarily transferred to a secure facility should be returned to their placement facility upon completion of the temporary transfer. A case note is required to be completed advising the reason for the temporary transfer. Refer to the Appendix D03 Case Noting Categories.

A temporary transfer, where practicable should not be for a duration in excess of 21 days. To support this timeframe, consultation will need to occur with the receiving SMS team regarding the temporary transfer details prior to the prisoner's arrival.

While a prisoner who transfers to a safety unit is still considered to be a temporary transfer regardless of the length of stay, the prisoner should be managed as per the COPD At Risk Management: Safety Unit.





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A prisoner whose temporary transfer exceeds 21 days must not be automatically returned to the sending facility.

In these instances, a review of the prisoner's placement must be conducted and considered by the Chief Executive or delegate prior to approval being granted to return to the sending facility. This review should be documented in a case note. Refer to section 68 of the CSA, the Queensland Corrective Services Instrument of Delegation of Chief Executive Powers and the COPD Sentence Management: Classification and Placement.

4.3 File management when transferring to another corrective services facility

A prisoner's files, including the Offender File, Queensland Health Medical File and Psychological Assessment File must accompany the prisoner if the prisoner is transferred between corrective services facilities. Refer to the COPD Confidential Information: File and Document Movement Excluding Medical Records.

Queensland Health is responsible for prisoner medical records and files. These records should wherever possible move with the prisoner when transferred. However, if the records are unavailable at the time of escort, Queensland Health must make other arrangements to provide them. The escort and transfer of the prisoner will proceed with Queensland Health taking responsibility for the timely and appropriate movement of the medical records.

Files must be complete and up-to-date at the time of transfer. Any temporary file must be amalgamated with the original file prior to transfer. Prior to forwarding, files should be reviewed for duplication. Any duplication of an original document, or print out of information stored in IOMS, must be removed from the files and destroyed.

If a prisoner's file has been sent to a central office unit and a temporary file has been created, the temporary file must be forwarded to the prisoner's new location. Prior to forwarding, the cover of the temporary file must be clearly marked, in the area provided, with the current location of the original file.

Documents that are unable to be attached to the prisoner's files at the time of the transfer or that are subsequently received must be forwarded to the prisoner's new location for inclusion on the prisoner's file clearly marked with the:

- a) prisoner's full name;
- b) prisoner's IOMS number;
- c) prisoner's date of birth; and
- d) name of receiving corrective services facility.

4.3.1 RecFind

RecFind must be updated each time a file moves to a new location and is received by a new location.

4.3.2 Temporary transfer

If a temporary transfer occurs, and the prisoner is expected to return within 21 days to their placement facility upon completion of an activity such as a medical/dental appointment or court, the prisoner's files will remain at the sending facility.



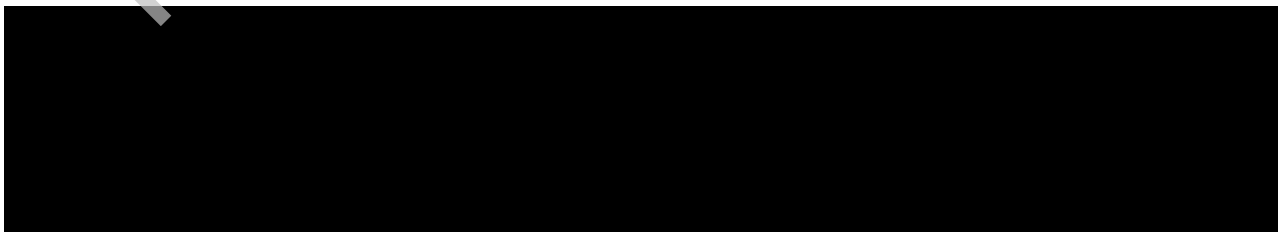


The processing officer must seek confirmation from the prisoner of their full name, date of birth and IOMS number, wherever possible and check this information against the relevant removal order. The processing officer must confirm the prisoner's identity upon their return to the corrective services facility.

- c) Conduct a search of the prisoner, (including property and clothing) prior to removal and upon return.

Searches of a prisoner are to be undertaken prior to any external movement or transfer and upon return to the relevant corrective services facility. A removal of clothing search is to be conducted when a prisoner is moving from or returning to a corrective services facility.

However, section 35(3) of the CSA states a direction under subsection (1) does not apply to a particular prisoner if the Chief Superintendent or Superintendent reasonably considers it unnecessary for the search to be carried out on the prisoner because of the prisoner's exceptional circumstances.



Further, a comprehensive search is to be completed of a prisoner's property prior to issuing to the prisoner and when the property is returned to a corrective services facility, in accordance with section 33(3)(a) of the CSA. Refer to the COPDs Search: Prisoner Search and Escorts: External Escorts.





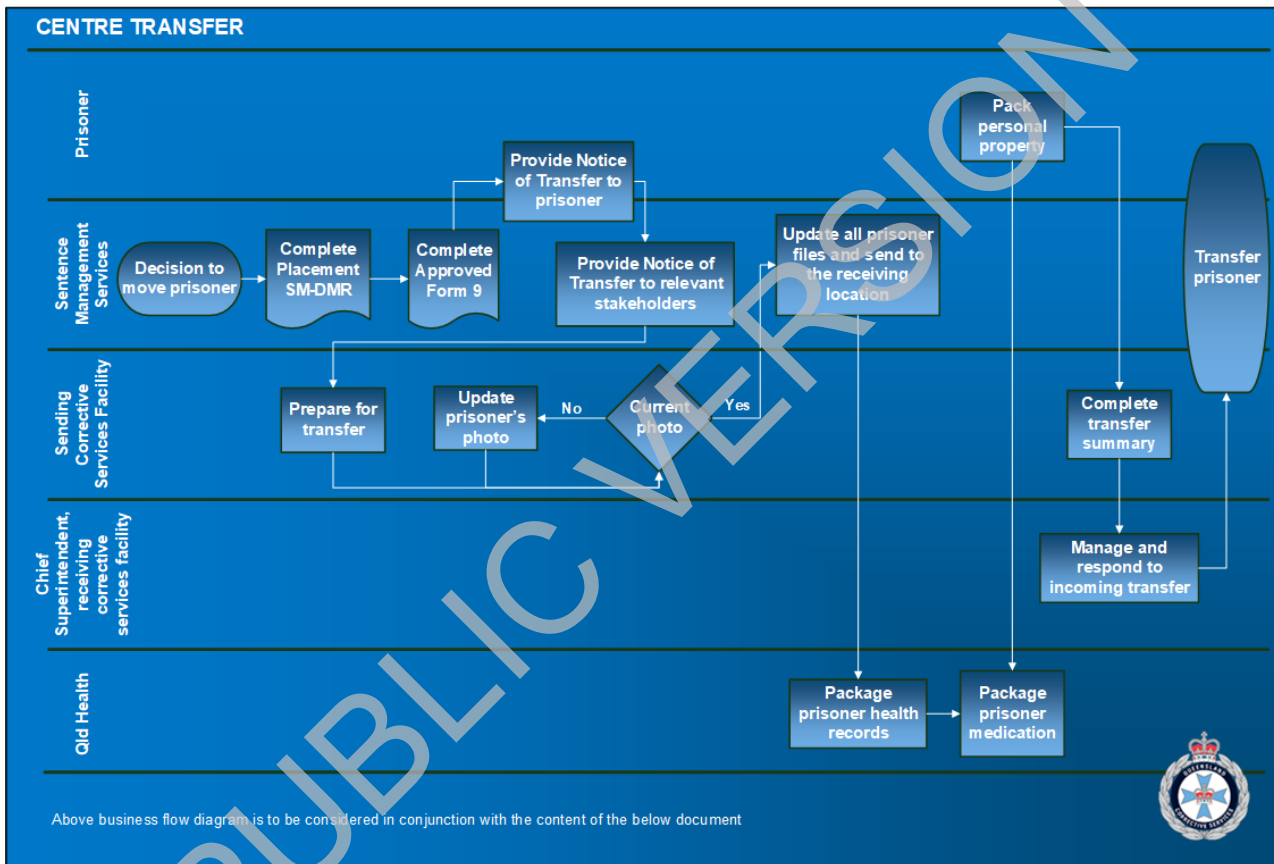
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- d) Issue appropriate clothing and, where applicable, issue property to the prisoner.

Depending on the type of transfer, appropriate personal clothing may need to be issued to the prisoner to wear during the transfer period. Refer to the Court Transfers section of this directive and the transfer to external mental health facility section of COPD Escorts: External Escorts.

A Supervisor or Manager is responsible for the review and approval related to the above.

5. Centre Transfer



5.1 Sentence Management placement decision

The transfer of a prisoner between corrective services facilities will occur following a sentence management placement decision or to facilitate a transit/temporary transfer.

SMS is responsible for placement decisions to:

- a) ensure the prisoner is accommodated according to assessed risks and needs;
- b) enable eligible prisoners the opportunity to participate in identified reintegration and intervention activities to support progression, e.g. work program and community service leaves of absence;
- c) support a valid prisoner placement request;
- d) give consideration to the prisoner protection status and/or compatibility issues, including those raised through a centre placement request; and
- e) effectively utilise QCS resources.

Refer to the COPD Sentence Management: Classification and Placement.





A decision to transfer a prisoner between corrective services facilities may be taken at any time and must be in accordance with the placement considerations and approval process outlined in the COPD Sentence Management: Classification and Placement.

Transfers must be approved by the delegate. The Deputy Commissioner, Custodial Operations or the Assistant Commissioner, Custodial Operations are the arbitrators for all disputes between Chief Superintendents of corrective services facilities arising from the proposed transfer of a prisoner. Refer to section 68 of the CSA, Queensland Corrective Services Instrument of Delegation of Chief Executive Powers, COPD Sentence Management: Classification and Placement and Instrument of Limitation of Corrective Services Officers' Powers.

Any requests to remove prisoners from transfer escort lists after approval by the delegate must be discussed between facility Chief Superintendents for reconsideration by the authorised delegate.

5.2 Reconsideration of transfer decision

A prisoner may request reconsideration of a decision made to transfer them, in accordance with the provisions of section 71 of the CSA. Refer to the COPD Sentence Management: Classification and Placement.

All involuntary transfers should proceed irrespective of the status of a request for reconsideration of a placement decision.

SMS are responsible for processing this request and the Chief Executive or delegate is responsible for approval and review.

5.3 Complete Approved Form 9 Order for Transfer of a Prisoner

An Approved Form 9 Order for Transfer of a Prisoner must be completed by SMS for all prisoners transferring to another corrective services facility.

The authority to transfer a prisoner and all details of the transfer must be documented in IOMS. The Chief Superintendent of the corrective services facility must establish a process that ensures all required activities are completed prior to the transfer of a prisoner in accordance with the Administrative Form 90 Prisoner Transfer Checklist.

SMS must ensure all relevant information for the transfer is contained on the removal order as per the Appendix SM9 Information Required for Removal Orders.

5.3.1 Transfer for medical purposes

Before a decision is made to transfer for medical reasons, unless in the case of a medical emergency requiring urgent transfer, QCS will receive medical information regarding the prisoner's health and treatment needs from Queensland Health. In providing information to QCS, Queensland Health will provide or obtain a medical opinion, including consultation with the relevant medical officer, if relevant to the particular health issue.

5.3.2 Transfer of at-risk observation prisoners

SMS must ensure the observation status of an at-risk observation prisoner is updated in IOMS and the receiving corrective services facility is notified of the status prior to transfer. The level of observation and the provision for CCTV during transport must be recorded on the removal order.





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5.3.3 Work camps

Prior to deployment of prisoners to a work camp, the field supervisor will be supplied with a signed copy of Approved Form 13 and Approved Form 9 authorising the transfer of each prisoner. Refer to the COPD Community Engagement: Management of Prisoners on a Work Program.

5.4 Provide notice of transfer to the prisoner

SMS is responsible for notifying a prisoner of any transfer that will occur as a result of a sentence management placement decision within two days of the decision via the Information Notice Placement Decision. Refer to the COPD Sentence Management: Classification and Placement.

5.5 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. Where possible, notice of the transfer is to be provided to relevant business units prior to the transfer of the prisoner. SMS are responsible for notifying the receiving centre and other identified stakeholders of the transfer.

5.5.1 Immediate transfer

Where appropriate, the physical transfer of a prisoner should occur no less than seven days after the provision of the Information Notice Placement Decision and within a reasonable timeframe to facilitate a temporary/transit transfer commitment.

Prisoners may transfer in shorter timeframes in instances such as when the safety and security of a facility is compromised, including possible escape, or a prisoner is at-risk. In this instance, the Chief Superintendent or nominee of the sending corrective services facility must contact the Chief Superintendent or nominee of the receiving corrective services facility to ensure the receiving facility is in a position to safely and securely accommodate and manage the prisoner. All relevant information and reasons regarding the immediate transfer must be documented in IOMS. The Chief Superintendent or nominee must provide email notification regarding the transfer to the relevant Regional Managers, SMS at the receiving and sending facilities.

5.5.2 Serious Offenders Unit

Any transfer of a prisoner in the SOU cohort must be brought to the attention of the State-wide Manager, SOU. Prior to transfer, notification must be sent via email to [REDACTED]

5.5.3 Prisoners subject to an MSO

The MSAT must be notified prior to the departure, removal or escort of a prisoner subject to an MSO via email to [REDACTED]. MSAT will then advise the Assistant Commissioner and Chief Superintendent, Custodial Operations.

5.5.4 *Dangerous Prisoners (Sexual Offenders) Act 2003 (DPSOA)*

Any transfer of a prisoner sentenced under the *Dangerous Prisoners (Sexual Offenders) Act 2003* (DPSOA) or a prisoner being considered under the DPSOA, must be brought to the attention of the High Risk Offender Management Unit (HROMU). Prior to transfer, notification must be sent via email to [REDACTED]

5.5.5 Medical appointments

If a prisoner is transferring to another corrective services facility to attend medical appointments, Queensland Health are to notify SMS one week prior to the appointment/s.





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5.5.6 Guardianship and/or Administration Order

If a prisoner has an active Guardianship and/or Administration Order warning flag indicator in IOMS a notification is to be made to the Office of the Public Guardian (OPG) via email adult@publicguardian.qld.gov.au. This must occur prior to the transfer of the prisoner. Refer to the COPD Prisoner Entitlements: Office of the Public Guardian.

5.6 Prepare for transfer

Prisoners should be provided the opportunity to pack personal issued property located in their cell prior to the transfer unless operational reasons necessitate a staff member to pack the property. The delegate may allow a prisoner additional personal visits prior to transfer as circumstances permit. Refer to section 153 of the CSA and the Queensland Corrective Services Instrument of Delegation of Chief Executive Powers.

The sending facility must:

- ensure the currency of the information in IOMS, including dietary requirements;
- ensure RecFind is updated;
- ensure the prisoner photograph in IOMS is current in accordance with Appendix R1 Prisoner Photograph Requirements;
- update all prisoner files (including if applicable, the medical file and psychological assessment file) and send the files to the receiving location within one working day of the transfer in accordance with Appendix R2 File Model Requirements; and
- notify the receiving facility if the prisoner is a current open client of Prison Mental Health Services (PMHS), where this information is known. The notification to the receiving centre must be recorded as a case note.

5.6.1 Medical considerations

The person responsible for planning the escort must confirm with Queensland Health staff if there are medications and/or medical aids that must accompany the prisoner on escort.

5.6.3 Work camps

A prisoner participating in a work camp may be placed in QPS custody prior to being escorted to a corrective services facility. This may be the result of safety and/or security concerns raised regarding the prisoner and a need to secure the prisoner immediately prior to the escort. A safety order must be generated when a prisoner is secured in a watchhouse. Refer to sections 53 and 68 of the CSA, Instrument of Limitation of Corrective Services Officers' Powers and the COPD At Risk Management: At Risk.

Prior to deployment of prisoners to a work camp, the field supervisor will be supplied with:

- pre-dispensed Webster pack medications as required for the duration of the deployment (if applicable);
- QCS issued mobile phone; and
- approved prisoner monies.





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5.7 Complete transfer summary

The transfer summary must be generated from IOMS by SMS prior to a prisoner's transfer (but as close as possible to the time of transfer) to ensure that any element of risk requiring the immediate attention of the transporting officer or receiving facility is highlighted and actioned.

A copy of the transfer summary must be attached to a copy of the Approved Form 9 Order for Transfer of a Prisoner and both accompany the prisoner in transit.

In the event that IOMS is not operational, a manual Administrative Form 62 Transfer Summary is to be utilised and inputted in IOMS once returned to an operational state.

5.8 Manage and respond to incoming transfer

The officer receiving a prisoner must have regard to the transfer summary and immediately notify the Chief Superintendent of the corrective services facility if immediate attention is required or a referral is necessary. A check of IOMS should be conducted to identify any approved special dietary requirements and this information forwarded to the food services supervisor/manager. There is no requirement for a receiving centre to reassess a prisoner for special dietary needs upon reception.

For prisoners received at a high security facility, a psychologist, allied health clinician or registered nurse must interview the prisoner prior to placement in an accommodation unit or cluster. At a minimum the interview must assess the prisoner's individual risk of self-harm/suicide and their immediate individual needs, as well as an appraisal of risk if there are overt risk factors (i.e. threats to harm others). If the prisoner is a known open client of PMHS, timely liaison with Queensland Health must occur to support the individual risk identification. Reference must be made to the prisoner's Immediate Risk Needs Assessment (IRNA) for the current episode when completing the assessment. If overt risk factors are identified, these must be reported to the Correctional Supervisor and Senior Psychologist or Team Leader, Allied Health Services immediately as well as completing an Intelligence Note.

On completion of the assessment interview, a case note must be raised to confirm the above factors were considered.

For prisoners received at a low custody facility, a psychologist, allied health clinician or registered nurse should conduct the interview and assessment, as per the minimum criteria detailed above, prior to the prisoner's placement. In situations when this may not be facilitated (e.g. unavailability of a psychologist, allied health clinician or registered nurse) the Chief Superintendent of the corrective services facility must nominate a staff member to be responsible for completing the interview and assessment.

If a prisoner is received after hours the Duty Manager, in consultation with a registered nurse, if available, is the initial contact for a prisoner requiring immediate attention.

All actions undertaken, including referrals generated from the transfer summary or interview and assessment of the prisoner at the receiving facility must be recorded in IOMS. If the prisoner is not considered to present with at-risk indicators, the information must be recorded as a case note. If a prisoner is assessed as at-risk, a new Notification of Concern – Initial Assessment – Initial Response Plan (NOC – IA – IRP) must be entered.





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The receiving location Sentence Management must ensure RecFind is updated showing the file has been received.

The officers responsible for the above are:

- a) corrective services officer, Reception;
- b) SMS to undertake RecFind of Offender File;
- c) Manager, Offender Development; and
- d) Duty Manager, in consultation with a registered nurse (if after hours).

The Chief Superintendent of the corrective services facility is responsible for approval and review.

5.8.1 At risk prisoners

A prisoner considered to be at-risk must be managed in accordance with the COPD At Risk Management: At Risk.

6. Movement to Medical Facilities (excluding mental health)

6.1 Transfer to health facilities

Section 68 of the CSA authorises the Chief Executive by written order to transfer prisoners from a corrective services facility to a place for:

- a) medical or psychological examination or treatment; or
- b) examination or treatment for substance dependency.

Refer to the Queensland Corrective Services Instrument of Delegation of Chief Executive Powers.

Also refer to the COPD Escorts: External Escorts for further information about providing notice of the transfer to the prisoner's next of kin and stakeholders and preparing for transfer for medical emergencies and non-emergency medical transfers.

7. Court Transfers

7.1 Transfer need

The Chief Executive must produce a prisoner at the time and place and for the purpose stated in a court order or an attendance authority (e.g. Letter of Production). Refer to sections 69(1) and 69(4) of the CSA.





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7.2 Complete Presentence Custody Certificate

A presentence custody certificate (PSC) must be provided by SMS within one working day of the scheduled court appearance for all criminal court appearances (including video link) by prisoners (unless the prisoner is not required to appear). The certificate must be saved as an attachment in IOMS in accordance with IOMS Document Naming Conventions. Presentence custody certificates must be prepared in accordance with Part 1.5 of the Sentence Calculation and Administration Manual.

7.3 Complete Approved Form 11 Order for Transfer of a Prisoner to Attend Court

SMS is responsible for ensuring that a prisoner is produced at court at the stipulated time and place in accordance with a court order. To enable this, an Approved Form 11 Order for Transfer of Prisoner to Attend Court must be completed by SMS for all prisoners being transported to court as per section 69(3) of the CSA.

Included in the information supplied on the Approved Form 11, a status of “ordinary”, “dependent on court outcome” or “irrespective” must be allocated. Once the movement has been facilitated this status will assist the holding authority, namely QPS and Escort and Security Branch in determining the future movement of that prisoner upon completion of court (e.g. discharge or transfer back to QCS custody).

When allocating a movement status for a prisoner, it is important that the date the offence/s were committed is considered in conjunction with any previous parole orders, and the potential automatic cancellation of that parole should the prisoner be convicted and sentenced to a term of imprisonment.

7.3.1 Ordinary

A prisoner is to be given an ordinary status when the current court matters are the only reason they are being held in custody and there is no possibility section 209 of the CSA will apply and automatic cancellation of a previous parole order is applicable.

Examples:

- a) Full remand and appearing on all remand matters:
 - i. the prisoner should be released from court if sentenced to time already served on remand, wholly suspended sentence, fined with time to pay, convicted with no further punishment, charges withdrawn or thrown out, an immediate fixed parole release date etc.
- b) Sentenced with remands and appearing on all remand matters after the custodial end date (CED) or unexpired Court Ordered Parole (COP) date and there is no possibility that section 209 of the CSA will apply, and automatic cancellation of a previous parole order is applicable:
 - i. if the prisoner’s CED or active COP date is on the day of court or before and no further imprisonment is required to be served or the COP date is not extended, the prisoner should be released from court or the centre if dealt with via video link or in the prisoner’s absence.





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For ORDINARY prisoners, the following comments are to be recorded on the Approved Form 11 in the special circumstances section:

- a) *As of [date] QCS does NOT hold any order to lawfully detain this prisoner other than the attached document.*
- b) *This person cannot be returned to QCS custody without court documentation requiring further imprisonment.*
- c) *The Verdict and Judgment Record is to be emailed to Sentence Management [email address].*
- d) *If in doubt when determining lawful detention/release please contact Sentence Management on [phone number].*

7.3.2 Dependent on Court Outcome (DOCO)

DOCO applies when a prisoner's release or return to QCS custody depends on the court outcome for the matter that will be dealt with on that day. This occurs when there are other matters that could lawfully detain the prisoner; however, the outcome of the current court matters could result in their immediate release from custody.

Examples:

- a) Full remand and attending court for a Bail application:
 - i. the prisoner may be granted Bail on all or only some of the matters.
- b) Full remand and attending court for only some of the remand charges:
 - i. the prisoner has all Magistrates Court remands but for different dates and appearing in court on the earlier court date.
- c) Full remand with both higher court (District/Supreme) and lower court (Magistrates) matters but appearing in the higher court:
 - i. the higher court has the power to deal with the lower court matters either ex-officio or via transfer under section 651 of the *Criminal Code 1899* (Qld).
- d) Full remand with some/all of the charges committed while on an active parole order, regardless of whether that order has expired or not:
 - i. the prisoner may be required to serve a period of "time not served" if convicted and sentenced to a term of imprisonment for any of these charges, as automatic cancellation of the parole order will apply as per section 209 of the CSA.
- e) On a current parole suspension:
 - i. the court may order a fixed parole release date (COP).
- f) Sentenced with NO remand matters and attending court for a sentence re-opening or appeal:
 - i. the court may reduce the sentence/parole date and if the prisoner is given an immediate fixed parole release date, will be eligible to be released from court.

For DOCO prisoners, the following comments are to be noted on the Approved Form 11 in the special circumstances section:

- a) *This prisoner's lawful detention/release depends on the outcome of the matter currently before the court.*
- b) *To ensure lawful detention/release please contact Sentence Management on [phone number] prior to release or return to QCS custody.*

7.3.3 Irrespective

An irrespective status applies to any prisoners that are required to be returned to QCS custody regardless of the court outcome on that day, as there are other matters to lawfully detain the prisoner in custody.





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Examples:

- a) Full remand with both District/Supreme Court and Magistrates Court matters but appearing in the Magistrates Court:
 - i. the lower court cannot deal with the higher court matters therefore the prisoner will remain remanded on the higher court matters.
- b) Sentenced with a parole eligibility date (PED) and attending court prior to their custodial end date (CED):
 - i. if there is a PED and a future CED, the prisoner has to apply to the Parole Board Queensland for release otherwise is required to serve the fulltime, therefore is required to be returned to QCS custody.
- c) Sentenced with a COP date and attending court prior to that COP date:
 - i. if further sentenced, the court is not permitted to order a COP date that is earlier than the current one, therefore the prisoner is required to be returned to QCS custody.
- d) Sentenced with a suspended sentence or Recognisance Order and attending court prior to their CED:
 - i. if further sentenced, the prisoner is required to serve the suspended sentence or Recognisance Order in full prior to eligibility for release.

For IRRESPECTIVE prisoners, the following comments are to be recorded on the Approved Form 11 in the special circumstances section:

- a) *This prisoner is required to be returned to QCS custody as there are other orders of imprisonment lawfully detaining this prisoner.*
- b) *However, if the court order directs that the prisoner be immediately released, please contact Sentence Management on [phone number] prior to releasing.*
- c) *The Verdict and Judgment Record is to be emailed to Sentence Management [email address].*

At a minimum, the following documentation must be attached to the Approved Form 11:

- a) a copy of the presentence custody certificate;
- b) current sentence calculation;
- c) documentation requiring court appearance (e.g. Letter of Production or Notice to Appear or Approved Form 10 – often used for coercive hearings held by the Australian Criminal Intelligence Commission and Crime and Corruption Commission); and
- d) the warrant and/or order of imprisonment holding the prisoner in custody.

In the event that IOMS is not operational, an Approved Form 11 is to be manually prepared. A copy of the Approved Form 11 must be filed on the Offender File and attached in IOMS once the system is restored.

If there are multiple orders of imprisonment holding the prisoner in custody, only the VJR for the next scheduled court appearance and/or order of imprisonment for the operative sentence is required to be attached.

7.4 Queensland Drug and Alcohol Court

Prisoners appearing before the Queensland Drug and Alcohol Court (QDAC) may be sentenced to a Drug and Alcohol Treatment Order. In these circumstances, arrangements for sentencing will be known in advance and detailed in the Verdict and Judgment Record (VJR) issued by the Courts at the mention date prior to sentencing.





7.5 Provide notice of transfer to relevant stakeholders

Refer to the Centre Transfer – Provide notice of transfer to relevant stakeholders section of this COPD.

7.6 Prepare for transfer

Corrective services facility staff must ensure documentation for a court transfer is attached to the Approved Form 11 and undertake the responsibilities of processing officers when a prisoner leaves the corrective services facility, as outlined in the Transfer Requirements of this COPD. The Chief Superintendent of the corrective services facility is responsible for approval and review.

7.7 Court outcomes

SMS staff, whether at a corrective services facility or the Lawful Detention Unit, are responsible for ensuring that a prisoner can continue to be lawfully detained in custody at their location following a court outcome. Before a prisoner's return to the corrective services facility, the relevant court will notify SMS of the court outcome.

It is the daily responsibility of SMS to track, receive and reconcile court outcomes on the day of the court appearance and to also update the electronic IOMS records and the hard copy file. A result for each prisoner's court appearance/s must be tracked and received with the lawful detention/release determined by SMS staff on the day of the court outcome. This is critical to enable the verification of sentence calculations and also for SMS staff outside a corrective services facility to remotely ascertain lawful detention and lawful release if required.

Without exception, SMS staff must ensure that:

- a) **all** sentencing documentation, including orders of imprisonment VJRs, remand in custody VJRs, any subsequent updated court appearances (e.g. further remanded) that relate to the prisoner's current detention or release must be scanned and attached to the prisoner's record on IOMS;
- b) any amended or superseded sentencing documents must be deleted from IOMS and replaced with the updated document;
- c) SMS staff are to enter bring ups in the IOMS Events Manager relating to court appearance dates that are not orders to remand in custody (i.e. Notice to Appear, Summons, Letter of Production, Bail Undertaking etc); and





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- d) the scanning and attachment of documents received by the court, and the recording and updating of court events, must occur:
 - i. in the event of immediate or same day release – on the day of receipt; and
 - ii. for any future release dates – on the day of receipt or by the following working day.

SMS staff are to email relevant corrective services facility staff those prisoners who are lawfully permitted to return to the corrective services facility.

Where possible, prisoners are not to be returned to QCS custody after the close of business unless the court outcome has been checked by sentence management staff during business hours. The Lawful Detention Unit will forward the court outcome spreadsheet to the local SMS team outlining the relevant court outcomes for the centre that day.

Where a court outcome is not available prior to close of business the Lawful Detention Unit will notify SMS at the corrective services facility. SMS at the facility must notify the duty manager and night supervisor of the current status of the outstanding court outcome and all key contacts should there be any queries in relation to the court outcome.

7.8 Ex-officio matters

For prisoners who have had matters that they were held in custody on, dealt with by way of an ex-officio indictment in the District or Supreme Court, the prisoner is to be held in custody until the court matters have been discontinued in the Magistrates Court.

7.9 Manage and respond to incoming court transfer

Upon a prisoner returning from a court transfer, QCS must be in receipt of a court order that authorises the continuing detention of the prisoner. SMS will provide email notification to relevant corrective services facility staff of those prisoners who are lawfully permitted to return to the corrective services facility after a court appearance.

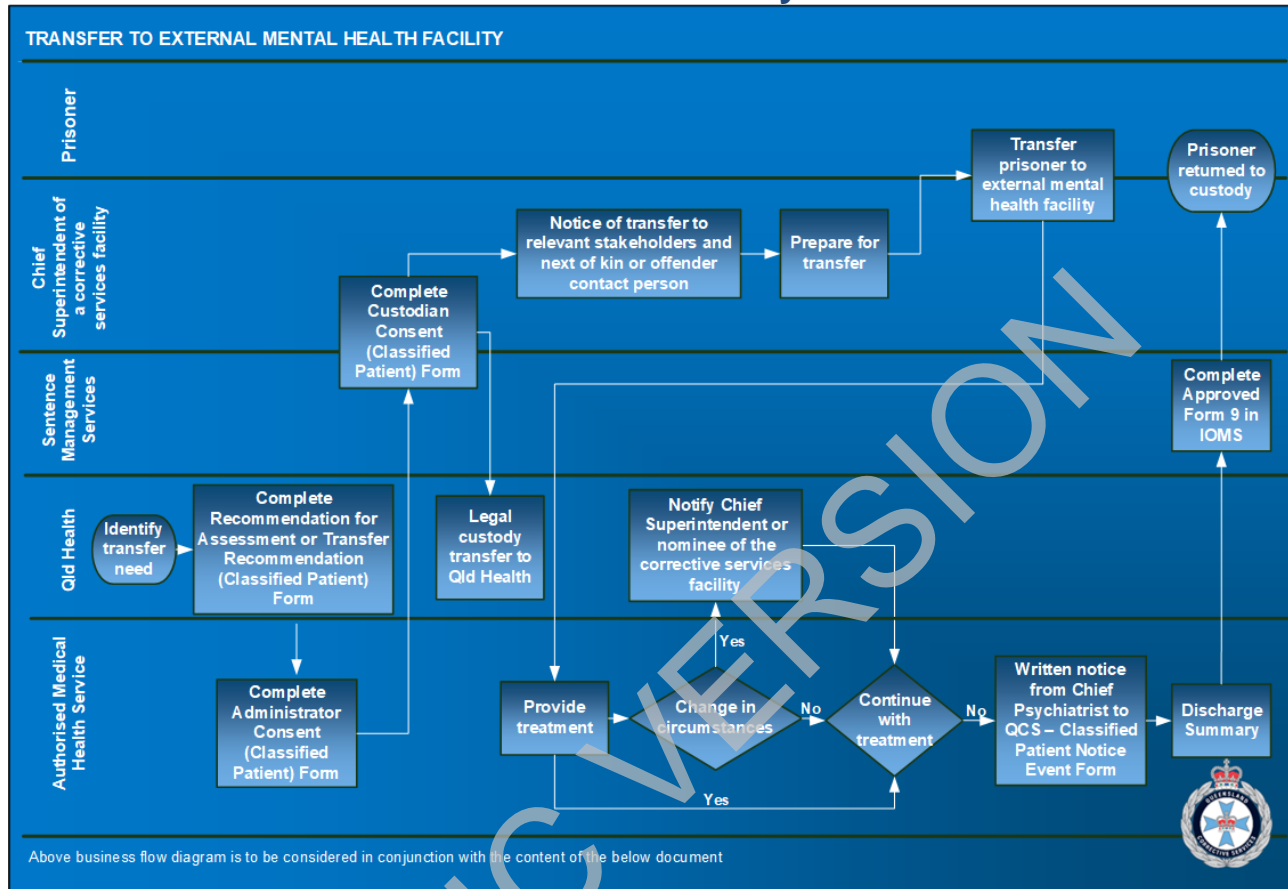
In circumstances where notification from SMS has not been received upon the prisoner being presented to the corrective services facility, staff must contact SMS at the centre.

The Chief Superintendent of the corrective services facility is responsible for approval and review.





8. Transfer to External Mental Health Facility



Refer to the COPD Escorts: External Escorts for further information regarding the assessment, treatment, admission and return of prisoners to an authorised mental health facility.

9. Removal of Prisoners for Law Enforcement Purposes

The Chief Superintendent of a corrective services facility must provide for the removal of prisoners from a corrective services facility to another place to enable:

- the prisoner to provide information to a law enforcement agency to help the agency perform its law enforcement functions; or
- a law enforcement agency to question the prisoner about an indictable offence alleged to have been committed by the prisoner.

Police are responsible for escorting prisoners outside a corrective services facility under a number of circumstances including undertaking investigations and formally interviewing prisoners.

Refer to section 70 of the CSA, sections 399-402 of the *Police Powers and Responsibilities Act 2000* and the Appendix SM13 Prisoner Removal for Law Enforcement Purposes.

Refer to the Appendix SM9 Information Required for Removal Orders.





10. Interstate Court Appearances

If a court of another state issue a subpoena for a prisoner held in QCS custody to appear at a specified date and place to give evidence, refer to the Appendix SM10 Process for Escorts Undertaken as a result of Documents Served under the SEPA.

If a prisoner from another state receives a subpoena for their attendance at a Queensland court at a specified date and place to give evidence, the SEPA provides that the court or authority of issue may order that a prisoner be produced at the time and place specified in the subpoena for a proceeding.

Section 46(1) of the SEPA provides the authority for the custodian of the prisoner (the originating state) to escort the prisoner and while outside of the state (i.e. in Queensland) will have the same powers of detention and disposition of the prisoner as they would have in their own state and may do things necessary to ensure that the prisoner is produced in compliance with the order and afterwards return the prisoner to custody.

Further, section 46(2) provides that the custodian (originating state) may require the person in charge of a prison in the state, to receive the prisoner and keep the prisoner in custody for such time as the custodian or escort requires and surrender custody of the prisoner to the custodian or the escort at the time and in a way that the custodian or escort requires. QCS must comply with the requirements of the custodian.

The relevant responsible officers are as follows:

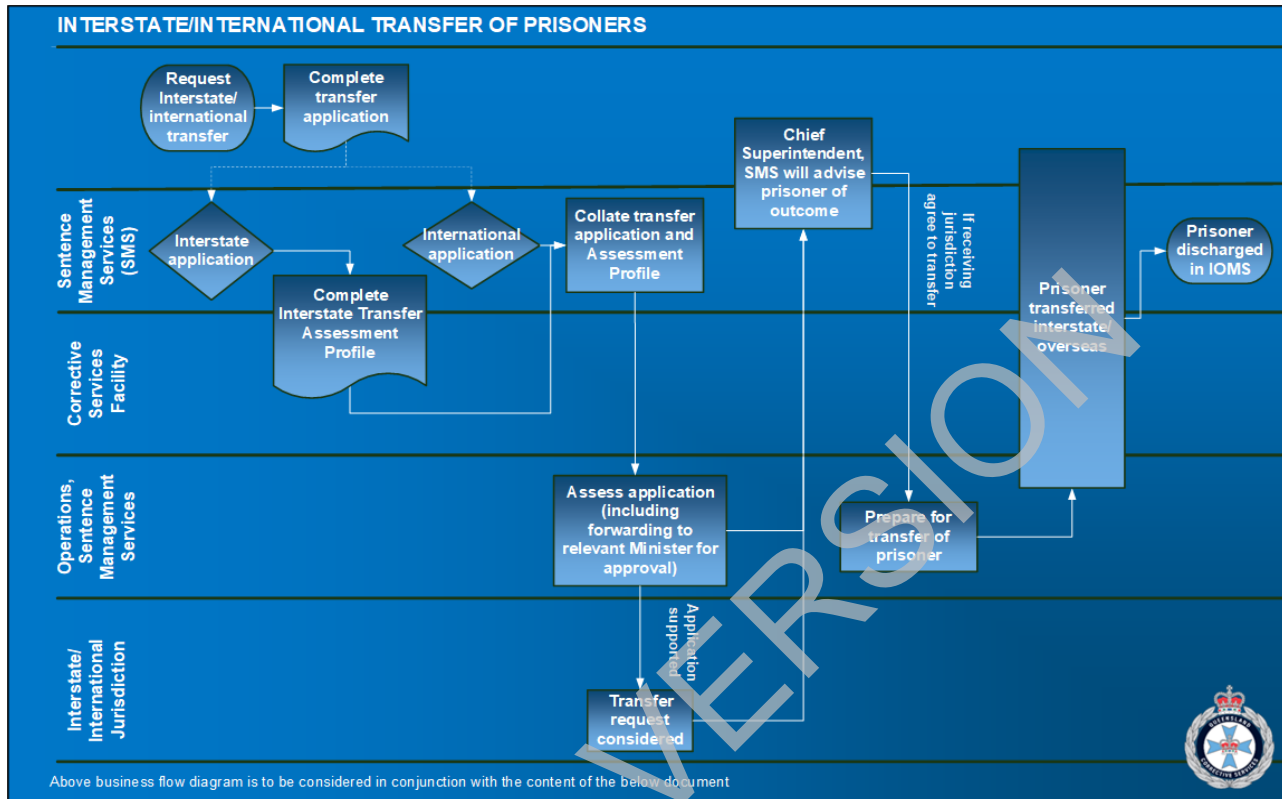
- a) coordination is to be managed by Operations, SMS;
- b) the originating state should make a formal request/requirement for assistance in accordance with section 46(2) of the SEPA;
- c) centre SMS to monitor court appearance results; and
- d) the Chief Superintendent, Escort and Security Branch would provide the necessary assistance to facilitate the escort of the prisoner in the south east corner in line with their normal operations.

Refer to the *Service and Execution of Process Act 1992 (Cth)* (SEPA) and the Appendix SM10 Process for Escorts undertaken as a result of documents served under the SEPA.





11. Interstate/International Transfer of Prisoners



Above business flow diagram is to be considered in conjunction with the content of the below document

A Queensland prisoner may request to transfer their sentence:

- from Queensland to another State or Territory for legal or welfare reasons; and/or
- from Queensland to a transfer country under the International Transfer of Prisoners Scheme (ITP scheme).

The interstate transfer process is governed by the *Prisoners (Interstate Transfer) Act 1982*. The ITP scheme is administered by the Attorney-General's Department. The *International Transfer of Prisoners Act 1997 (Cth)* (ITP Act) provides the legal framework for this scheme and allows a prisoner who is a national of the transfer country or has community ties with the transfer country to apply to serve the balance of their sentence of imprisonment in the transfer country. A list of participating countries can be found in the Related Directives and Documents menu of this COPD.

Where it is identified that a prisoner may be eligible for international transfer under the ITP Act, SMS staff are required to inform a prisoner that they are able to apply for transfer. The SMS Operations Team will prepare correspondence (a copy of the letter template can be found in the Related Directives and Documents menu of this COPD) to the prisoner advising them of their eligibility to apply for an International Transfer and to obtain relevant documents from SMS staff at their location. A copy of this correspondence will also be provided to the relevant Consulate.

The prisoner's completed International Transfer application forms are to be forwarded to the Attorney-General's Department at [redacted] and CC'd to [redacted] within one business day of receipt. The prisoner's original application is to be forwarded to the SMS Operations Team for record keeping purposes. A case note is to be recorded by the relevant local SMS on IOMS to reflect that these processes have occurred.





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The Attorney-General's Department will process the application upon receipt in accordance with their internal processes. Prisoners will be notified in writing when a decision regarding their application for International Prisoner Transfer has been made.

A prisoner may be transferred between Australia and a transfer country under the IPT Act if:

- a) the prisoner is eligible;
- b) the conditions of transfer are satisfied;
- c) the transfer of the prisoner is not likely to prevent their surrender to an extradition country; and
- d) the Australian Government, the foreign government, the prisoner and, where relevant, the Minister for Corrections, all agree to the transfer.

Although there are no legislative timeframes for the consideration of a prisoner's request for interstate transfer it is expected that the process administered by QCS staff is completed in a timely manner, without delay.

11.1 Interstate transfers

Sentenced prisoner is received into the Queensland correctional system from another state must undergo the assessment and planning process. Information pertaining to the prisoner's response to the correctional environment prior to their interstate transfer should be included in the assessment process such as:

- a) institutional behaviour;
- b) involvement in work, programs and other interventions;
- c) current assessment outcomes; and
- d) any other relevant information that can be obtained.

This information should be used to assist when completing assessments. An additional two week period may be taken to complete assessments if necessary to enable a more comprehensive summary in the event the information is not available at the time of the prisoner's transfer to Queensland.

11.2 Complete transfer application

11.2.1 Welfare reasons

A prisoner making a request for interstate transfer for welfare reasons must complete the Administrative Form 92 Transfer to a Participating State at Request of Prisoner for Welfare Reasons. Each section of the transfer application must be completed and the prisoner should be encouraged to supply supporting documents, including but not limited to:

- a) letters of support from family, friends and other supports in the State or Territory they wish to transfer; and
- b) supporting medical reports/documents (if applicable).

11.2.2 Federal prisoners

A federal prisoner may make an application to transfer from Queensland to another state by completing the Attorney-General's Department Application for Welfare Transfer.

11.2.3 For trial

A prisoner may make an application to transfer from Queensland to another state for trial by completing Administrative Form 91 Transfer to a Participating State at Request of Prisoner for Legal Reasons.





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11.2.4 Application by interstate Attorney-General

Where an interstate Attorney-General has requested a prisoner transfer for trial, the prisoner will be advised in writing by the Queensland Attorney-General's office upon receipt of the application.

11.2.5 International transfers

A prisoner may make an application to transfer from Queensland to a participating country by completing the Attorney-General's Department Form A: Application for transfer from Australia – prisoner not on parole and not serving a suspended sentence and Form G – Collection, use and disclosure of personal information.

The transfer application must be forwarded to SMS following completion.

11.3 Complete interstate transfer assessment profile

The following regarding the transfer assessment profile does not apply for International transfer applications.

The responsible officers for completing the interstate transfer assessment profile are:

- SMS to coordinate completion of the Administrative Form 93 Interstate Transfer Assessment Profile.
- all sections of the assessment profile must be completed by relevant corrective services facility staff; and
- the report is to be endorsed by the Chief Superintendent of the corrective services facility.

11.4 Collate transfer application and assessment profile

The completed transfer application form and assessment profile must be forwarded to Operations, SMS via email to [REDACTED]

SMS must ensure supporting documentation is attached in IOMS:

- Verdict and Judgment Records/Warrants of Commitment/Court of Appeal Orders;
- sentence transcripts;
- Queensland criminal history;
- interstate criminal history (if any);
- program completion reports; and
- any other documents considered relevant to the management of the prisoner.

A copy of the application and profile must be retained on the Offender File.

11.5 Assess application

Operations, SMS are to assess the application.

11.6 Advise prisoner

The prisoner will be informed in writing by the Chief Superintendent, SMS whether the QCS Minister (for welfare applications) or the Queensland Attorney-General's office (for trial applications) has consented or not to their transfer request.

Operations, SMS are responsible for this task with the Chief Superintendent, SMS responsible for approval and review.

11.7 Transfer request considered by interstate/international authority

If the relevant authority consents to the transfer, the prisoner's application will be forwarded to the receiving interstate/international jurisdiction for consideration.





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11.8 Advise prisoner

Should the delegate in the receiving jurisdiction agree to the transfer, the prisoner will be informed in writing and arrangements will be made to transfer the prisoner at the earliest available opportunity.

Should the delegate in the receiving jurisdiction decline the prisoner's transfer request, the prisoner will be advised in writing. The prisoner is eligible to reapply after 12 months of their original application, unless otherwise stated.

11.8.1 Application by interstate Attorney-General

Should the Queensland Attorney-General provide consent to the prisoner's transfer, the Chief Executive will issue a Certificate of Prescribed Officer and arrangements will be made for the prisoner to appear before a Magistrate of the Magistrates Court of Australia.

The Magistrate will determine whether the transfer will proceed and, if so, an Administrative Form 15 Order of Transfer to a Participating State will be issued.

11.9 Prepare for transfer of prisoner

If approved, Operations, SMS will liaise with all relevant parties and prepare the required authorising documents to facilitate the prisoner's transfer, either interstate or overseas.

In all instances, SMS must provide an original certified copy of the prisoner's sentence calculation and corresponding warrants to the officers escorting the prisoner.

11.10 International transfer

The prisoner's transfer may be approved on the condition that they are responsible for the costs associated with their transfer. Correspondence will be forwarded to the prisoner outlining the request for payment, if applicable.

11.11 Prisoner transferred interstate/overseas

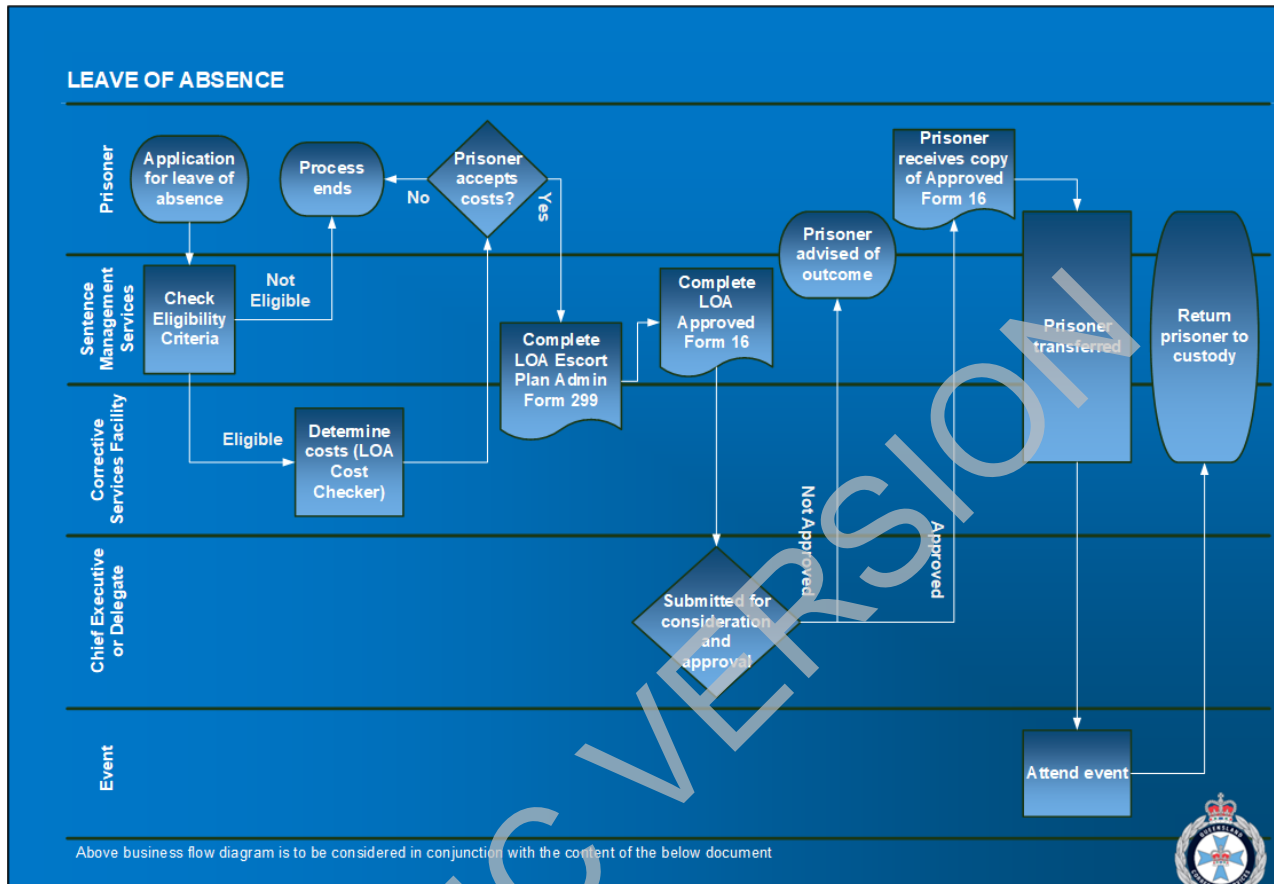
The prisoner is permitted to travel with carry-on luggage of approximately 10kg. Arrangements can be made for any other property to be shipped interstate/overseas at the prisoner's expense or to be collected by a representative for the prisoner.

Following transfer of the prisoner, SMS must ensure the prisoner is discharged in IOMS to 'Interstate Transfer' or 'Other Discharge from Custody' for international transfers.





12. Leave of Absence



12.1 Dangerous Prisoners (Sexual Offenders) Act 2003 (DPSOA)

A prisoner subject to a continuing detention order or interim detention order is only eligible for compassionate or health leave of absence. If granted leave, the prisoner must remain in the physical custody of a corrective services officer during the leave. SMS must notify the HROMU of leave of absence requests via email at [REDACTED]

12.2 Victims Register flag

For prisoners who have a Victims Register (VR) flag, who are under consideration for a leave of absence program, the Chief Superintendent of the corrective services facility must contact the Victims Register [REDACTED] and request a proximity check in relation to the proposed participation site.

The email to Victims Register should contain the prisoner's IOMS number, full name, date of birth, and the proposed address of where the leave of absence will occur.

The Victims Register 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 leave of absence program.

If the prisoner is assessed as suitable to participate in a leave of absence program, the Chief Superintendent of the corrective services facility will ensure that the Victims Register is provided with further advice regarding the prisoner's participation.





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12.2.1 Release of information to eligible persons outside of normal business hours

For any incidents outside business hours where the prisoner has a VR flag and the incident may result in the release of information in accordance with section 324A(1) (c) or (d) of the CSA, the QCS officer responsible for the oversight and/or management of the incident will contact the on-call SMS officer.

The On-Call SMS officer will:

- contact the eligible person and release the relevant information;
- record the contact with the eligible person in the IOMS VR case notes;
- where relevant, provide an email brief to senior QCS staff and the QCS Media Unit; and
- email the QCS Victims Register advising of the actions undertaken in relation to the matter.

When contacting the eligible person the On-Call SMS officer will:

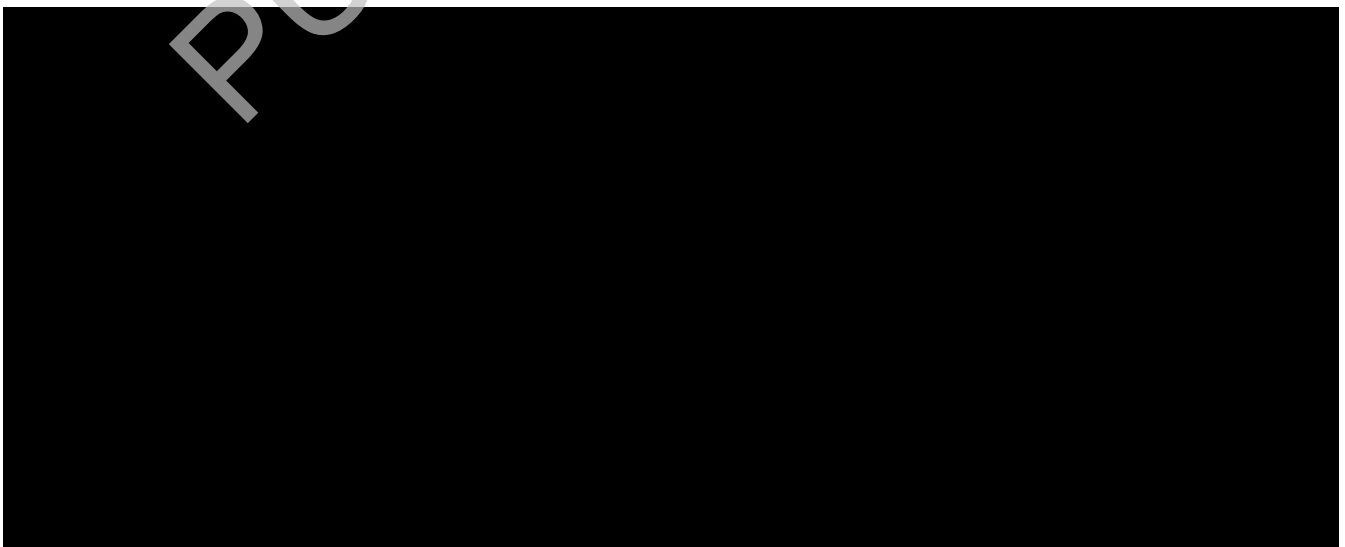
- provide their name and position and advise the contact is occurring on behalf of the QCS VR;
- release the relevant information to the eligible person; and
- if necessary, encourage the eligible person to contact QPS if they have any immediate or future safety concerns.

If contact cannot be established, where practicable, a voice mail message will be left or an email sent requesting the eligible person contact the On-Call SMS officer at the earliest opportunity or the QCS VR on the next business day.

The On-Call SMS officer will **always** also send an email to [REDACTED] detailing:

- the QCS officer initiating contact;
- if contact was established;
- if contact was not established, was a voice mail message left or an email forwarded requesting contact;
- nature of the incident;
- information provided to the eligible person;
- any issues raised by the eligible person; and
- if an IOMS VR case note and or email brief was completed.

Refer to the COPD Escorts: Leave of Absence.





PUBLIC VERSION





Sentence Management Transfers

SM

Custodial Operations Practice Directive



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