COPP 8.1 Prison Based Constructive Activities

Prison

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| PrinciplesAs referenced in the Guiding Principles for Corrections Australia 2018:2.3.2 Prisoners are provided a minimum of one hour out of cell per day, and in fresh air (weather permitting).2.3.11 Prisoners who engage in work, rehabilitation programs or full-time education are remunerated in line with the applicable policy/legislation.4.2.9 Prisoners are provided opportunities to safely engage in a range of recreational and sporting activities which promote good health and wellbeing. |

Contents

[1 Scope 3](#_Toc86734909)

[2 Policy 3](#_Toc86734910)

[3 Constructive Activities 3](#_Toc86734911)

[3.1 General requirements 3](#_Toc86734912)

[3.2 Prisoner constructive activity profile 4](#_Toc86734913)

[3.3 Code of conduct 4](#_Toc86734914)

[4 Assigning Prisoners to Constructive Activities 5](#_Toc86734915)

[5 Payment for Constructive Activities (Prisoner Gratuities) 6](#_Toc86734916)

[6 Approved activities 6](#_Toc86734917)

[7 Occupational Safety and Health (OSH) in Prison Workplaces 7](#_Toc86734918)

[7.1 Prison orientation 7](#_Toc86734919)

[7.2 Workshop induction 7](#_Toc86734920)

[7.3 Machinery/equipment/vehicles 7](#_Toc86734921)

[7.4 OSH incidents 8](#_Toc86734922)

[8 Further Training 8](#_Toc86734923)

[9 Standing Orders 9](#_Toc86734924)

[9.1 General 9](#_Toc86734925)

[10 Annexures 10](#_Toc86734926)

[10.1 Related COPPs 10](#_Toc86734927)

[10.2 Definitions and acronyms 10](#_Toc86734928)

[10.3 Related legislation 11](#_Toc86734929)

[11 Assurance 11](#_Toc86734930)

[12 Document Version History 12](#_Toc86734931)

# Scope

This Commissioner’s Operating Policy and Procedure (COPP) applies to all prisons administered by or on behalf of the Department of Justice (the Department).

# Policy

Each prison shall develop a schedule of constructive activities for the wellbeing and rehabilitation of prisoners[[1]](#footnote-1). The Superintendent shall ensure the provision of these activities is developed with consideration to addressing the diverse needs of the prisoner population within the prison.

A prisoner cannot be compelled to participate in constructive activities but may be required to work as long as they are medically fit to do so. Prisoners shall receive gratuities dependent on the level the work or activity is classified[[2]](#footnote-2) at.

Remand prisoners are not required to work but may apply to the Superintendent where they request and consent to engage in employment. If granted, remand prisoners may work within the prison they are confined and receive gratuities accordingly.

All prisoners, officers and staff are entitled to work in safe conditions. Occupational Safety and Health (OSH) procedures as well as workplace training, instruction and supervision shall be provided to prisoners participating in constructive activities to minimise the risk of an unsafe work environment.

Officers supervising prisoners in a workplace are responsible for the management of the workplace and have a duty of care responsibility towards prisoners. This includes control over which prisoners may attend that workplace.

# Constructive Activities

## General requirements

Constructive activities may be designed and implemented with the intention of:

1. promoting the health and wellbeing of prisoners
2. enabling prisoners to acquire knowledge and skills that will assist them to adopt law abiding lifestyles on release
3. assisting prisoners to integrate within the community on release
4. maintaining and strengthening supportive family, community and cultural relationships for prisoners
5. providing counselling services and other assistance to prisoners and their families in relation to personal and social matters and problems
6. providing opportunities for prisoners to utilise their time in prison in a constructive and beneficial manner by means of educational and occupational training programs and other means of self-improvement
7. providing opportunities for work, leisure activities, and recreation
8. assisting prisoners to make reparation for the offences they have committed.

### Constructive activities may be provided inside or outside a prison. Approval of proposed external activities and the authorising of a prisoner’s absence from a prison or external facility shall occur in accordance with [COPP 8.7 – External Activities](#_Related_COPPS_and).

## Prisoner constructive activity profile

### Each Superintendent shall develop a Prisoner Constructive Activity Profile for their prison, identifying:

1. the work and other activities available inside and outside the prison
2. the gratuity level paid for the varying types of activities undertaken.

### The Prisoner Constructive Activity Profile shall show the distribution of gratuities within a prison and should resemble the table below. The actual distribution of gratuities within a prison, however, shall depend on the nature of activities available within that prison.

|  |  |
| --- | --- |
| Gratuity Level | Percent (prisoner population) |
| 5 | 10% |
| 4 | 15% |
| 3 | 45% |
| 2 | 20% |
| 1 | 10% |

### The Superintendent, in consultation with the Assistant Director Prison Industries, shall ensure the distribution of gratuities reflects the prison’s budget for gratuities.

### The Prisoner Constructive Activity Profile may, with the approval of the relevant Deputy Commissioner, include a system for bonus payments at gratuity levels higher than normally provided for[[3]](#footnote-3).

## Code of conduct

### The Prisoner Constructive Activity Profile shall include a Code of Conduct that prescribes a set of guiding principles and duty of care obligations which assists prisoners in determining acceptable conduct. (refer prisoner handbook and [COPP 2.2 – Orientation](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)).

### The Superintendent shall make the Code of Conduct available to all prisoners.

### The Code of Conduct shall outline the conditions for Absence Permits provided for prisoners undertaking work or activities outside the prison.

### A breach of the Code of Conduct may result in disciplinary action or constitute a minor prison offence[[4]](#footnote-4).

# Assigning Prisoners to Constructive Activities

### Prisoners shall be assigned to constructive activities in a manner consistent with the Prisoner Constructive Activity Profile and other directions from the Superintendent.

### Constructive activities include, but are not limited to:

1. work in an industrial workshop
2. primary activities on a prison farm
3. prison maintenance
4. treatment/education programs
5. vocational training
6. higher education programs.

### Each prison shall aim to give all prisoners the opportunity to engage in constructive activities and all prisoners shall be encouraged to participate.

### Prisoners may be recommended to engage in certain constructive activities based on an assessment of their individual needs and identified in their Individual Management Plan.

### In determining a prisoner’s suitability for assignment to a constructive activity, consideration shall be given to their:

1. prison conduct
2. past performance
3. supervisory requirements
4. special skills or needs
5. desire to improve knowledge and skills
6. current knowledge, skills, experience
7. cultural and diversity needs.

### The Superintendent may approve prisoners of different genders to engage in the same group program. Prior consultation shall occur with the program provider, to determine what impact the inclusion of different gender prisoners may have on the program’s effectiveness.

# Payment for Constructive Activities (Prisoner Gratuities)

### The payment of a gratuity shall reflect the extent of the prisoner’s engagement in the constructive activity and whether it consists of engagement in one area or a combination of areas.

### Where a prisoner is engaged in other constructive activities besides work, the Superintendent shall credit the prisoner with a gratuity as if the prisoner were engaged in work requiring average skill or diligence.

### Where a prisoner conducts peer leadership, peer tutoring or group instruction as part of a constructive activity, the Superintendent may credit a gratuity at a higher level than that normally paid for prisoners engaged in such constructive activities.

### Where a prisoner is only partly occupied in a combination of constructive activities, the Superintendent may credit the prisoner with a lower level of gratuity proportionate to that normally commensurate with the type of constructive activities performed, but not lower than level 5.

### Where a prisoner is engaged in a constructive work activity and must leave that activity temporarily to undertake an approved program (eg education/ treatment program), in another constructive activity, the Superintendent shall credit the prisoner with a gratuity at least at the rate of the original activity.

### Where a prisoner is willing but unable to find a constructive activity to participate in, the Superintendent shall credit them with at least level 5 gratuities.

### Where a prisoner is absent from a constructive activity through no fault of their own, the Superintendent shall credit the prisoner with a gratuity as if the prisoner was not absent.

# Approved activities

### When participating in a constructive activity, prisoners shall only engage in the task approved by the supervising officer.

### Officers shall encourage prisoners to remain fully occupied on approved tasks whilst under their supervision.

### Officers shall not allow prisoners to undertake "hobby" and/or "personal" work during constructive activities, unless approved by the relevant officer.

# Occupational Safety and Health (OSH) in Prison Workplaces

## Prison orientation

### The Superintendent and the Education and Vocational Training Unit (EVTU) shall agree upon an accredited generic OSH unit suitable for prisoners at that prison. Refer [COPP 2.2 – Orientation](https://justus/intranet/prison-operations/Pages/prison-copps.aspx) for compulsory course requirements.

### EVTU staff shall provide the agreed OSH unit to prisoners during the prison orientation.

### Prisoners released from custody who subsequently return, shall need to prove competency or repeat the unit.

### The EVTU database, Pathlore, shall maintain verification of the completion of the OSH unit.

### Officers may access the education database for individual prison sites in order to receive an accurate status on all prisoners at that site.

### Officers shall not assign prisoners to a workplace for work until the prisoner completes the OSH unit.

## Workshop induction

### Upon a prisoner’s assignment to an industrial workshop position, the workshop Officer in Charge (OIC) shall:

1. provide the prisoner with the appropriate Personal Protective Equipment (PPE)
2. instruct the prisoner in the correct use, storage and maintenance of safety equipment and PPE
3. provide the OSH induction to each new prisoner commencing work.

### The officer and the prisoner shall jointly complete the [Prisoner Safety and Induction Training Form (C002)](https://justus/intranet/prison-operations/Pages/copp-forms.aspx).

### The [C002](https://justus/intranet/prison-operations/Pages/copp-forms.aspx) form provides evidence to verify a prisoner received a safety and health induction to a specific work location.

### This workshop induction is not transferable to other workshops or prisons. A prisoner shall receive a specific induction for each workshop.

## Machinery/equipment/vehicles

### As each workshop has different machinery, equipment and vehicles, the Vocational Support Officer (VSO) shall provide an induction to prisoners on the Safe Operating Procedures (SOP) for each item.

### The VSO within each workshop shall maintain a record of induction for each item, using the [C002](https://justus/intranet/prison-operations/Pages/copp-forms.aspx) form. Prisoners must not operate machinery, equipment, or vehicles until an induction and C002 form has been completed.

### The VSO shall ensure the SOP is displayed for each piece of static machinery/equipment, as well as a list of the names of prisoners authorised to use the equipment.

### The record shall include the prisoner’s name, the date of induction and the initials of the OIC of the work area.  This record in addition to the [C002](https://justus/intranet/prison-operations/Pages/copp-forms.aspx) form, provides permission for who can operate that piece of equipment.

### For each piece of mobile machinery, equipment or vehicle, the workshop supervisor shall display an approved list of users at the distribution point.

### Officers shall ensure prisoners working in their area of supervision are aware of and comply with Statutory[[5]](#footnote-5) and Department OSH requirements.

### Officers shall provide ongoing supervision, instruction, and management to prisoners to provide and maintain a safe workplace.

### The training unit at each prison can assist with the assessment of these units.

## OSH incidents

### In the event a prisoner sustains injury from the use of machinery, equipment or vehicles, the following shall occur:

### the prison shall organise immediate medical treatment

### the prison and the supervising officer shall provide the C002 form to the prison’s Business Manager and the OSH Coordinator as evidence that inductions and training have occurred

### the Supervising Officer shall complete and submit an incident report on TOMS, in accordance with COPP 13.1 – Incident Notifications, Reporting and Communications.

### When reporting an incident, the reporting officer shall attach a copy of the [C002](https://justus/intranet/prison-operations/Pages/copp-forms.aspx) form and the TOMS incident report to the Department’s [Non-Employee OSH Incident Report](http://justus/intranet/human-resources/HRForms/HRD0084.docx). The officer and the prisoner shall assist in the OSH investigation, where possible.

### Where an officer supervising a prisoner in a workshop observes that a prisoner’s performance is impaired (eg under the influence of medication, contraband or some other condition) they shall prohibit the prisoner from operating any machinery, equipment or vehicles, contact the relevant officer responsible for security and have the prisoner removed from the workshop.

# Further Training

### Wherever practical, prisoners shall receive industry specific accredited OSH training that is relevant to a workplace industry.

### National industry bodies have identified one OSH unit per industry sector (eg the Hospitality industry has the ‘Follow Health, Safety and Security Procedures’, while the Metals and Engineering industry has the ‘Occupational Health and Safety in the Work Environment’). The EVTU at each prison can assist with the assessment of these units.

### Where a prisoner performs special skills or receives skills training as part of a work assignment, the OIC of the work area shall liaise with the EVTU to arrange for the prisoner to receive formal recognition of their skills.

# Standing Orders

## General

### Superintendents may develop Standing Orders, compliant with this COPP as operationally required.

### For prisons requiring a Standing Order this shall be compliant with [COPP 1.3 – Standing Orders](http://justus/intranet/prison-operations/Pages/prison-copps.aspx) and the Department’s [Operational Policy and Procedure Framework](http://justus/intranet/department/standards/Documents/opp-framework-prisons.docx).

### Standing Orders aligned with this COPP may include procedures for (but not limited to):

1. schedule of constructive activities
2. gratuity levels
3. routine/timing
4. process for application/transfers between activities
5. specific information and processes related to each activity type.

# Annexures

## Related COPPs

* [COPP 2.2 – Orientation](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 8.7 – External Activities](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 13.1 – Incident Notifications, Reporting and Communications](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)

## Definitions and acronyms

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| Term | Definition  |
| Absence Permit | written permission for a prisoner to be absent from the prison or external facility in which the prisoner is confined for the objectives described in s. 83(1) *Prisons Act 1981* |
| Constructive Activity | A constructive activity involves undertaking activities in a work area, education, vocational training and participation in a treatment program or other like program for self-improvement. |
| Commissioner’s Operating Policy & Procedure (COPP) | Operational instruments that provide instructions to staff as to how the relevant legislative requirements are implemented. |
| Educational and Vocational Training Unit (EVTU) | EVTU coordinates, supports and facilitates the delivery of education in public prisons. |
| Gender | Gender refers to how a person identifies, the ways they express their personal and social identity and the way they are recognised within a community. A person’s gender may be reflected in outward social markers, including their name, outward appearance, mannerisms and dress. |
| Gratuity | A gratuity is the payment to a prisoner in recognition of work or constructive activity undertaken whilst in prison. |
| Gratuity Level | A gratuity level as described in r. 44 *Prison Regulations 1982*. |
| Guiding Principles for Corrections in Australia, 2018  | The guidelines and the accompanying principles constitute outcomes or goals to be achieved, rather than a set of absolute standards or laws to be enforced. They represent a statement of intent that each Australian State and Territory can use to develop their own range of relevant legislative policy and performance standards to reflect best practice and community demands. |
| Officer in Charge (OIC) | An officer designated as having the charge and superintendence of a prison in the absence of the Superintendent. |
| Prison Officer | As defined in s. 3(1) *Prisons Act 1981*. Also includes any contract worker authorised by the Commissioner in accordance with s.15I (1)(b) *Prisons Act 1981* to perform the functions of a prison officer. |
| Superintendent | As defined in s. 36 [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html) includes any reference to the position responsible for the management of a private prison under Part IIIA [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html). Does not extend to the Officer in Charge of a prison. |
| Total Offender Management Solution (TOMS) | The computer application used by the Department of Justice for the management of prisoners in custody. |
| Workplace Orientation | Each prisoner receives an orientation into the prison’s regimes, orders and procedures upon first arrival at the prison. |

## Related legislation

* *Prisons Act 1981*
* *Prisons Regulations 1982*
* *Occupational Safety and Health Act 1984*
* *Occupational Safety and Health Regulations 1996*

# Assurance

It is expected that:

* Prisons will undertake local compliance in accordance with the [Compliance Manual](http://justus/intranet/department/standards/Pages/monitoring.aspx).
* The relevant Deputy Commissioner will ensure that management oversight occurs as required.
* Operational Compliance Branch will undertake checks in accordance with the [Operational Compliance Framework](https://justus/intranet/department/standards/Pages/monitoring.aspx).
* Independent oversight will be undertaken as required.

# Document Version History

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| --- | --- | --- | --- | --- |
| Version no | Primary author(s) | Description of version | Date completed | Effective date |
| 0.1 | Operational Policy | Initial draft | 15 October 2019 | n/a |
| 0.2 | Operational Policy | Updated following consultation | 20 January 2020 | n/a |
| 0.3 | Operational Policy | Tabled for approval with the Project Steering Committee | 28 January 2020 | n/a |
| 0.4 | Operational Policy | Amended following feedback from the Project Steering Committee | 5 February 2020 | n/a |
| 0.5 | Operational Policy | Approved by the Project Steering Committee | 3 March 2020 | n/a |
| 0.6 | Operational Policy | Minor amendments and formatting made following approval | 1 November 2021 | n/a |
| 1.0 | Operational Policy | Approved by A/Director, Operational Projects, Policy, Compliance and Contracts | 3 November 2021 | 28 December 2021 |

1. s. 95 *Prisons Act 1981* [↑](#footnote-ref-1)
2. r. 44 *Prisons Regulations 1982* [↑](#footnote-ref-2)
3. r. 45(E) *Prisons Regulations 1982* [↑](#footnote-ref-3)
4. s. 69 *Prisons Act 1981* [↑](#footnote-ref-4)
5. *Occupational Safety and Health Regulations 1996* [↑](#footnote-ref-5)