

DSO – 2.13 Prisoners with Disabilities

Table of Contents

1. Statement of Purpose	2
2. Desired Outcome	2
3. Scope	2
4. References (including Legislation, Policy, Forms and Other Documents)	2
5. Definitions and Abbreviations	2
6. Mandatory Policy	3
7. Responsibilities	4
7.1. All staff	4
7.2. Correctional Officer (Reception Prison)	4
7.3. CPHS, TSU and P&R Staff	4
7.4. Correctional Supervisors	4
7.5. Correctional Officers (Case Management) / Planning and Reintegration / Programs Unit	4
7.6. Superintendents	5
7.7. Chief Superintendents	5
8. Accommodation Placement	5
8.1. Identification and assessment	5
8.2. Placement and security rating	6
8.3. Prison Infrastructure	6
9. Management of Prisoners with a Disability	7
9.1. Case Management	7
9.2. Support	7
9.3. Adjustment of Routine and Order	7
9.4. Disciplinary Process	7
9.5. Access to Disability Support Services and Aids	8
9.6. Sentence Management	8
10 Document History and Access	9

1. Statement of Purpose

The purpose of this Director's Standing Order is to ensure that prisoners with disabilities are able to, with reasonable adjustment and support, participate equally and without discrimination in all aspects of prison life.

2. Desired Outcome

The Tasmania Prison Service identifies prisoners with disabilities upon their reception into custody.

Prisoners with disability are not discriminated against, and their needs and best interests are promoted within the Tasmania Prison Service.

Prisoners with disability are provided with opportunities that are equal, or equivalent, to the opportunities available to prisoners without disability.

Specialist Disability Services are made as physically and technologically accessible as possible to prisoners who require additional disability support within the Tasmania Prison Service.

3. Scope

This Standing Order applies to prisoners, detainees and other persons in the custody of the Tasmania Prison Service. All sections of this Director's Standing Order relate to watch-house detainees.

4. References (including Legislation, Policy, Forms and Other Documents)

[Anti-Discrimination Act 1998](#), sections 16(k), 43, 45, 46, 47 and 48

[Corrections Act 1997](#), sections 4(c), 6(3), 29(1)(f) and (g), 36A

[Disability Discrimination Act 1992](#)

[Disability Services Act 2011](#)

[Director's Standing Order 1.10 - Searching](#)

[Director's Standing Order 1.22 \(Substance Testing\)](#)

[Director's Standing Order 1.23 \(Disciplinary Process\)](#)

[Director's Standing Order 1.38 \(Medical Appointments and Hospital Admissions\)](#)

[Director's Standing Order 2.02 \(Induction and Case Management\)](#)

[Director's Standing Order 2.04 \(Classification and Placement\)](#)

[Director's Standing Order 2.05 \(Accommodation Placement\)](#)

[Director's Standing Order 4.08 \(Health Services\)](#)

[Director's Standing Order 4.14 \(Prisoner/Detainee Property\)](#)

[Disability Justice Plan for Tasmania 2017-2020](#)

[State Service Act 2000](#), sections 7(1)(c) and 9(3)

[Form 1J – Tier 1 Assessment](#)

[Terms of Reference – Disability Case Management Group](#)

5. Definitions and Abbreviations

CIS – means the Custodial Information System.

CPHS – means Correctional Primary Health Services.

Disability – for the purposes of this Standing Order is as defined by the *Disability Services Act 2011*. In relation to a person, means a disability of the person which:

- (a) is attributable to a cognitive, intellectual, psychiatric, sensory or physical impairment or a combination of those impairments; and
- (b) is permanent or likely to be permanent; and
- (c) results in –
 - (i) a substantial restriction in the capacity of the person to carry on a profession, business or occupation, or to participate in social or cultural life; and
 - (ii) the need for continuing significant support services; and
- (d) may or may not be of a chronic episodic nature.

DSO – means Director's Standing Order.

Functional impairment – means a problem in body function, faculty or structure which can result in limitations and difficulties in activity, and restrictions in participation in everyday life situations.

NAU – means the Needs Assessment Unit (the Mersey Unit in the Risdon Prison Complex).

NDIA – means the National Disability Insurance Agency, which is responsible for implementing the National Disability Insurance Scheme.

NDIS – means the National Disability Insurance Scheme, the Federal Government funding for individualised support for people with disability.

P&R – The Planning and Reintegration Unit of the Integrated Offender Management Team.

Prisoner – means, unless otherwise stated, prisoner and detainees (as defined in the *Corrections Act 1997*).

Specialist Disability Services – are services specifically for, or related to, the support of persons with disability and includes (but is not limited to) intake and assessment services, community access services, information and referral services, counselling, support and advocacy services, equipment services, independent living training services, information and print disability services, education or training services, accommodation support services and individual support programs.

TPS – means the Tasmania Prison Service.

TSU – means the Therapeutic Services Unit.

6. Mandatory Policy

- 6.1. The State Service Code of Conduct requires that an employee, when acting in the course of State Service employment, must treat everyone with respect and without harassment, victimisation or discrimination.
- 6.2. The State Service Principles require that all employees provide a workplace that is free from discrimination, and recognises and utilises the diversity of the community it serves.
- 6.3. Prisoners with disability are to have the same opportunities to access facilities, services and programs, suitable to their physical and cognitive / intellectual capacity, as other prisoners.
- 6.4. Prisoners with disability have the right to reasonable access to specialist services, care and treatment within and outside the prison, as considered necessary or desirable by a medical officer, assessed as necessary or appropriate by TSU Senior Psychologist, Senior Planning Officer P&R or as assessed as a part of their NDIA funding, and as approved by the Director of Prisons.

- 6.5. Provided that the safety, security and good order of the prison is not compromised, prisoners with disabilities are managed appropriately with consideration to their special needs in regards to placement, accommodation and security.
- 6.6. Sentenced prisoners with a disability will be provided with the required communication and mobility aids, and other necessary supports, to enable access to, and better participation in programs that address their offending related behaviour and assist them to re-enter the community.

7. Responsibilities

7.1. All staff

All staff must ensure the safety of prisoners with disability.

Other prisoners who come into contact with prisoners with a disability must be encouraged to treat prisoners with a disability with dignity and respect.

All staff should consider special needs in relation to a prisoner's disability. For example, information may need to be provided in a different format to accommodate cognitive/intellectual/learning disabilities and/or sensory disabilities (vision and hearing). Staff should undertake to ensure messages have been understood by prisoners. Where necessary staff will need to make appropriate referrals, to access the services and supports required by a prisoner with disability.

7.2. Correctional Officer (Reception Prison)

Correctional Officers within Reception Prisons are responsible for identifying prisoners with a disability upon reception into custody via the Tier 1 process. Officers are responsible for consulting with CPHS and Therapeutic Services staff to ensure a thorough assessment is completed prior to making a recommendation as to a prisoner's classification and placement.

7.3. CPHS, TSU and P&R Staff

CPHS staff are responsible for screening for disabilities during the Tier 1 assessment upon reception.

CPHS, TSU and P&R staff are responsible for working together, and with other TPS staff, to assess the needs of prisoners and identify appropriate accommodation, support and special aids required for prisoners who have ongoing special care needs relating to their disability during their time in custody and their needs upon release.

7.4. Correctional Supervisors

Supervisors are responsible for ensuring prisoners with disabilities are placed in accommodation appropriate to their needs, and for reviewing accommodation placement requests or disagreements. Supervisors are responsible for ensuring post-Sentence Reviews of Classification are undertaken for those who have been on remand for less than 6 months.

Supervisors are responsible for ensuring that prisoners with disabilities have access to aids and supports, as directed by CPHS, TSU or P&R.

7.5. Correctional Officers (Case Management) / Planning and Reintegration / Programs Unit

TPS staff members delivering services to prisoners with disabilities (including, but not limited to, Correctional Officers, Program Facilitators, and Planning Officers), must consider suitability of programs in regards to prisoners' intellectual/cognitive, physical capacity and communication needs, and arrange appropriate disability services and support where necessary, and / or provision of adaptive programs to enable participation. This may include, but is not limited to:

- Provision of one-on-one sessions to facilitate improved understanding of materials;
- Provision of the program/service in a room that is easily accessible by the participant;
- Provision of assessment of cognitive functioning limitations and abilities to determine modifications required to a program/service to enable participation; and
- Provision of information to relevant authorities (e.g. the Parole Board) where a person has been unable to access or complete a program/service due to system limitations or difficulties.

P & R Officers are responsible for working with Specialist Disability Services and the NDIA to assist prisoners applying for, or reconnecting with, support packages and services, during their time in custody, when transitioning out of custody and upon their release.

7.6. Superintendents

Superintendents in reception prisons are responsible for authorising the security rating of prisoners with disability where circumstances surrounding the disability warrant overriding their assessed initial security rating. This must be done in consultation with Sentence Management Division.

Superintendents are responsible for ensuring that people with a disability are appropriately accommodated within the prison, including oversight of access to required equipment, programs or other items deemed necessary.

Superintendents are also responsible for the approval of short-term placement of prisoners with disabilities in the NAU whilst awaiting further assessment of their needs (by CPHS, TSU or P&R).

7.7. Chief Superintendents

The relevant Chief Superintendent will make decisions regarding long term placement of prisoners with disability and special needs relating to disability where accommodation within the mainstream prison environment is not appropriate. Recommendations by CPHS and TSU are made through the relevant Chief Superintendent to the Director of Prisons, for prisoners to be placed in the NAU, when all other accommodation options have been exhausted.

8. Accommodation Placement

8.1. Identification and assessment

- 8.1.1. Upon reception into custody, Correctional Officers (Reception Prison) must provide prisoners with the opportunity to self-identify as having a disability through the Tier 1 Assessment process. If the prisoner is a recipient of a Disability Support Pension or a Disability / Mobility Supplement payment, Correctional Officers must notify CPHS staff and, if necessary, TSU to assist during the assessment phase to ensure that prisoners with disabilities are accommodated appropriately.
- 8.1.2. CPHS will conduct physical and health assessments through the Tier 1 Assessment process for those who are identified as having a physical disability. CPHS will also screen for potential cognitive disabilities. TSU may also be required to assess cognitive and intellectual capacity of prisoners, whether or not they have self-identified as having a disability.
- 8.1.3. A further or extended period for assessment and orientation should be provided where practicable in order to maximise prisoners' understanding of information, allow for any physical or mobility issues, and to aid a more thorough assessment.

- 8.1.4. Prisoners may require use of a disability support worker or advocate physically and / or with communication where necessary during the reception and initial assessment process. Staff should facilitate a support person to assist the prisoner where appropriate and necessary.
- 8.1.5. Following the Tier 1 interview, Correctional Officers (Reception Prison) must record on CIS any recommendation made by CPHS and TSU in regard to placement or ongoing needs. The Prisoner Acknowledgment of Assessment form must be forwarded to Central Records for filing.

8.2. Placement and security rating

- 8.2.1. Following the joint assessment by TPS and CPHS staff, the Superintendent / Correctional Supervisor will determine the placement of prisoners with disability within the prison system.
- 8.2.2. Prisoners with disability will be accommodated in a facility as determined by their security rating and in accommodation that is suitable to, and in consideration of, any special needs relating to their disability.
- 8.2.3. Discretion can be applied to override a prisoner's assessed initial security rating and placement if particular functional needs relating to the prisoner's disability warrant it. Any decision to override a security category must be reasonable, justifiable, fully documented and authorised in accordance with DSO 2.04 – Classification and Placement.
- 8.2.4. If it is determined that a prisoner's disability would place him or her at risk in a mainstream environment, because of particular disability-related vulnerabilities, arrangements are to be made to accommodate the prisoner in approved special facilities.
- 8.2.5. Where appropriate, recommendation to the relevant Chief Superintendent will be made for long term placement of the prisoner within the NAU or other suitable accommodation.
- 8.2.6. Where appropriate to do so, prisoners with disabilities will be integrated into the mainstream prison environment.
- 8.2.7. If a prisoner with a disability or their support worker / advocate does not agree with the decision for their placement, a request can be made to the Superintendent / Correctional Supervisor to review the decision.
- 8.2.8. A prisoner with a disability should have their placement and management regularly reviewed by their assigned Correctional Officer (Case Management) and also assigned P&R member in accordance with [DSO 2.02 – Induction and Case Management](#).

8.3. Prison Infrastructure

- 8.3.1. TPS facilities have a limited number of fully modified cells suitable for prisoners with a severe physical disability and mobility issues. Divisions 3 and 4 within the Ron Barwick Prison have two fully disability compliant cells suitable for wheel chair access or a prisoner with mobility issues.
- 8.3.2. Division 7 at the Ron Barwick Prison has been modified to support the housing of Aged and Infirm prisoners. A maximum of 30 prisoners can be housed in the Division.
- 8.3.3. Prisoners with disability may need to be placed in the NAU in the Risdon Prison Complex or accommodated at the Wilfred Lopes Centre if their accommodation needs and disability warrant it.

- 8.3.4. All new construction of prison facilities must be built according to the Australian Construction Standard that requires disability compliance and accessibility standards outlined in Disability (Access to Premises – Buildings) Standards 2010. Recent infrastructure redevelopments providing additional prison facilities within the Risdon Prison Complex include an Activities and Education Centre and Trade Training centre, which are compliant with the Australian standards and building codes and are suitable for disability access. Most areas of the prison can accommodate or facilitate a prisoner with disability or an elderly prisoner with mobility issues.

9. Management of Prisoners with a Disability

9.1. Case Management

- 9.1.1. Correctional Staff will undertake joint case management with CPHS to meet the day-to-day care and support needs of prisoners with a disability in custody, including supervision, personal care and provision of general supports.

9.2. Support

- 9.2.1. TPS staff, in conjunction with outside disability services, will provide general supports to enable skill development and living skills to promote the effective transition of people with a disability out of custody where necessary and available.
- 9.2.2. Relevant and necessary support and contact with external disability services and NDIS will be arranged upon request of the prisoner or service provider where deemed appropriate.
- 9.2.3. TSU and/or CPHS will review and assess prisoners to provide advice on required supports.

9.3. Adjustment of Routine and Order

- 9.3.1. Staff are encouraged to develop an understanding of prisoners with diverse disabilities, and be aware that prisoners with physical disability may or may not have an intellectual/cognitive disability. Prison routines and enforcement of good order may need to be adjusted to take into account the individual needs of prisoners with disabilities, functional impairment and capacity.
- 9.3.2. Normal searching procedures will apply to prisoners with disability, but may need to be modified according to the particular disability or injury. Staff are to ensure searches of prisoners or visitors with a disability are conducted in line with procedures for searching people with injury or disability as specified in DSO 1.10 Searching.

9.4. Disciplinary Process

- 9.4.1. DSO 1.23 Disciplinary Process directs that when a prisoner is subject to the disciplinary process, staff must have regard for their cultural values and any disabilities / mental health issues they may have.
- 9.4.2. DSO 1.23 Disciplinary Process allows for a prisoner to have a support person present at a hearing if requested.
- 9.4.3. Where necessary, P&R and TSU will assist prisoners with intellectual disability to prepare for and participate in disciplinary hearings, classification and placement interviews and parole hearings. Correctional Officers involved in hearings should notify P&R or TSU that a hearing is to occur.

- 9.4.4. DSO 1.23 Disciplinary Process also directs that if the prisoner has an intellectual disability and a penalty is recommended, consult Therapeutic Services regarding an appropriate sanction. Notify the Therapeutic Services Unit if the prisoner is placed in separate confinement (refer Standing Order 1.24 – Separate Confinement of Prisoners) and / or if the prisoner is at risk of suicide or self-harm (refer Standing order 2.01 – Suicide and Self-Harm Prevention).

9.5. Access to Disability Support Services and Aids

- 9.5.1. Prisoners will be afforded access to external disability services and support where it is deemed necessary for them to have specialised assistance for tasks associated with day-to-day routines, and where the TPS or CPHS cannot directly provide those supports or it is determined that these supports are to be provided via NDIS funding packages.
- 9.5.2. Prisoners will be able to access aids as identified by CPHS. A medical chit will be provided reflecting the need for an aid. The Supervisor receiving the chit must ensure that a case note is made in CIS reflecting that an aid is required and any conditions relating to its use and access.
- 9.5.3. Where deemed necessary and with permission of the Director of Prisons, prisoners with disability will be permitted to have an assistance animal accommodated with them to provide the required support for function and wellbeing in prison.
- 9.5.4. Prisoners with disability may be eligible to access NDIS funding for specialised care if they are in the eligible age cohort and if supports and aids provided are aimed at improving transition back into the community. Staff from TSU and P&R can support prisoners to access the NDIS.
- 9.5.5. Criteria for accessing NDIS includes age and functional impairment, where use of support and aids are necessary, due to the impact of the person's impairment on their functional capacity. The TPS is obliged to make reasonable adjustments and the NDIS may be able to provide other supports that are outside of those. NDIS Local Area Coordinators, Planners, Co-ordinators of Support and Justice Liaison Officers can provide support and planning input for a prisoner with a disability.
- 9.5.6. Referrals to outside disability services for specialist services, support, aids, and advocacy services will be made by CPHS, P&R and TSU as necessary.

9.6. Sentence Management

- 9.6.1. Prisoners with disabilities will be assisted by TPS staff to participate to their maximum potential in programs, education, work and general prison routines. Prison routines may need to be adjusted to take into account the needs of prisoners with disabilities.
- 9.6.2. Prisoners with disability must have access to induction programs adjusted to their needs.
- 9.6.3. Prisoners with disability will be managed with regard to their needs according to DSO 2.02 Induction and Case Management.
- 9.6.4. Development of customised sentence plans, provision of specialised case management services and access to programs addressing both criminogenic and non-criminogenic needs will be specifically tailored in consideration of a prisoner's disability related needs. The Disability Case Management Group will guide the development of these plans.

- 9.6.5. Individual plans will be developed for prisoners with disability to ensure health, diet and personal hygiene needs are met. Where necessary, prisoners with functional impairment/s who have specific personal hygiene, health and / or dietary needs must receive individual attention. CPHS will be responsible for ensuring these needs are identified and communicated to relevant responsible parties.
- 9.6.6. P&R will liaise with NDIS and disability support services to ensure existing disability service clients or NDIS supported clients are continued on appropriate plans whilst in custody, and to assist in preparation for reintegration and post-release needs.
- 9.6.7. TSU, CPHS and P&R also have a responsibility to identify prisoners who are likely to be eligible for NDIS support and provide information and support for their applications to the NDIS.
- 9.6.8. P&R and CPHS will assist prisoners to plan for release and will develop throughcare links as required.

10 Document History and Access

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Approved by:

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