

Tasmania Prison Service

Director's Standing Order

DSO – 4.15 End of Life Care, Planning and Support

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1. Statement of Purpose

The purpose of this Director's Standing Order (DSO) is to identify and support prisoners expected to reach end of life while in custody.

As part of its oversight function of health of the prison community, the Correctional Primary Health Service (CPHS) identifies prisoners who will most likely reach end of life in prison. While not all of the prisoners identified may be terminally ill, some by virtue of age or other illness are at increased risk of dying in prison.

Once a terminal diagnosis is confirmed CPHS undertakes planning to maintain the prisoner's comfort and wellbeing, in line with the prisoner's wishes wherever possible. This includes enduring guardianship and requests to withhold medical treatment, including emergency resuscitation. This Director's Standing Order aims to assist the TPS to enhance their dignity and choice, and to ensure appropriate supports are in place for the prisoners and their loved ones.

2. Desired Outcome

Prisoners with a short life expectancy and prisoners diagnosed with a terminal illness are identified and appropriate supports are put in place for the prisoner and his or her loved ones as end of life approaches.

3. Scope

This DSO focuses on prisoners who are expected to reach end of life while in custody and the coordination of relevant supports and services by the Tasmania Prison Service (TPS) and Correctional Primary Health Service (CPHS). It does not apply to watch-house detainees or provide procedures for managing actual deaths in custody. In the event of an actual or suspected death in custody, staff must activate the relevant Code Blue (Serious Medical Issue / Accident / Death in Custody) Emergency Operating Procedure.

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

[Corrections Act 1997](#), section 6(3)

Inspection Standards for Adult Custodial Services, Standard 81.6

[Director's Standing Order 1.37 – Section 36 Transfers](#)

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

[Director's Standing Order 2.03 – Prisoners' Primary Contacts](#)

[Memorandum of Understanding between the Tasmania Prison Service and the Royal Hobart Hospital](#)

Emergency Operating Procedure 03 – Code Blue

Deaths in Custody Register (Content Manager)

Form 6BA – End of Life Care Plan

5. Definitions and Abbreviations

CIS – means Custodial Information System.

Content Manager – means HPE Content Manager; the brand name for the Department of Justice records management system.

CPR – means cardio pulmonary resuscitation.

Death in custody – means death (end of life) in prison custody.

DSO – means Director's Standing Order.

Palliative care – means specialised care provided to a person who is terminally or chronically ill to alleviate pain, suffering and discomfort.

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

Terminally ill – means a disease that cannot be cured and will cause death.

TPS – means the Tasmania Prison Service.

6. Mandatory Policy

- 6.1. The TPS and CPHS will work cooperatively to ensure prisoners approaching end of life are managed with dignity and respect, and appropriate steps are taken to manage their pain, suffering and discomfort.
- 6.2. Prisoners who are aged and / or terminally ill will have the opportunity to make their end of life wishes known to the TPS.
- 6.3. With the prisoner's consent, the TPS and CPHS will jointly manage their end of life wishes.
- 6.4. When a suspected or actual death in custody occurs, regardless of the circumstances, the relevant Code Blue (Serious Medical Issue / Accident / Death in Custody) Emergency Operating Procedure must be initiated immediately.

7. Responsibilities

7.1. Coroner

- 7.1.1. The Coroner is required to investigate all reportable deaths, which includes the death of a person who immediately before death was a person held in care or a person held in custody.

7.2. Correctional Primary Health Service

- 7.2.1. CPHS delivers a range of health services including palliative care and end of life care. CPHS functions to provide early diagnosis, suitable treatment, referrals, coordination and oversight of specialist care. The Community Palliative Care service is involved at an early stage, providing specialist advice with regard to end of life medical care.
- 7.2.2. CPHS as a routine notifies the Coroner when it is expected that a prisoner is at a high likelihood of dying in custody; these notifications are also forwarded to the TPS.

7.3. Directorate Office

- 7.3.1. The Directorate Office will maintain a register of actual and expected deaths in custody. The Deaths in Custody Register will be contained in Content Manager as a permanent record.
- 7.3.2. The Directorate Office is also responsible for completing notifications to the National Death in Custody Program.

7.4. End of Life Case Management Group

- 7.4.1. The End of Life Case Management Group is responsible for providing support and services to prisoners who will likely die in custody from natural causes.
- 7.4.2. The End of Life Case Management Group will be chaired by the Senior Psychologist, with the Chief Superintendent (Women's Prison and Specialist Units) acting as alternate Chair when required. The End of Life Management Group will also include suitable and consistent representation from the following areas:
 - Prison Chaplaincy
 - Planning and Reintegration
 - Correctional Primary Health Service
- 7.4.3. Representatives from the Planning and Reintegration Unit will be appointed by the Senior Manager, Integrated Offender Management and Industries.
- 7.4.4. Terms of Reference will be developed and maintained by the End of Life Management Group, and must be consistent with this DSO.

7.5. Prison Chaplaincy

- 7.5.1. The Prison Chaplaincy is responsible for undertaking an initial review of prisoners who are likely to reach end of life while in custody at the request of the End of Life Case Management Group.
- 7.5.2. The Prison Chaplaincy will routinely review the contents of the End of Life Care Plan to ensure it meets TPS requirements and the requirements of the individual.

8. Identifying Prisoners who may require End of Life Support

8.1. Prisoners over the age of 60

- 8.1.1. On the first Monday of each month a report will be automatically generated from the Custodial Information System. The report will assist the Prison Chaplaincy and End of Life Case Management Group to identify prisoners who may reach end of life while in custody. The scope of the report will be as follows:
 - Prisoners over the age of 60 years fitting the following criteria:
 - Indefinite sentence (including dangerous criminals)
 - Total time to serve of greater than 10 years
 - Total time to serve of greater than 5 up to 10 years
 - Total time to serve of greater than 2 years up to 5 years

8.2. Other Means of Identifying Prisoners who may require End of Life Support

- 8.2.1. The TPS may also become aware of an expected death in custody or person suffering from terminal illness through the following means:
 - Disclosure by the prisoner during the reception and induction processes (i.e. Tier 1 Custodial Assessment or Tier 2 Assessment)
 - Disclosure by the prisoner during the Tier 1 Health Assessment and subsequent notification by CPHS
 - Formal notification from CPHS, where the medical officer deems it necessary to notify the Coroner of an expected death in custody
- 8.2.2. Where a staff member becomes aware of an expected death in custody, through any means, the staff member must notify the relevant Superintendent, Therapeutic Services (Email: Therapeutic.Services@justice.tas.gov.au) and the Prison Chaplaincy (Email: tpschaplaincy@justice.tas.gov.au).
- 8.2.3. The Prison Chaplaincy will facilitate the timely review of prisoners who may require end of life services, in time to explore options for non-secular support for the prisoner and his or her family.

9. End of Life Case Management

9.1. Case Management

- 9.1.1. The End of Life Case Management Group will meet as required, but at least once every three months, to discuss prisoners who are likely to reach the end of life while in custody. The purpose of this discussion will be to:
 - identify prisoners who are likely to reach end of life in custody and may require relevant support and services
 - prioritise cases as needed
 - identify the supports and actions required in each case and assign responsibility for completing those actions
 - undertake a case review to ensure the supports and actions for each prisoner have been provided and / or completed

- 9.1.2. Where directed by the End of Life Case Management Group, the Prison Chaplaincy will:
- initiate contact with the relevant prisoners and explore options for non-secular support for the prisoner and his or her family
 - discuss their end of life wishes and, where appropriate, work with the prisoners to complete an End of Life Care Plan
- 9.1.3. It is anticipated through this process the following will occur:
- Checks will be undertaken to ensure the prisoner's next of kin and next of kin contact details are up-to-date.
 - It will be established whether the prisoner has a will and if so who should be contacted regarding the prisoner's estate after his or her death.
 - If the prisoner does not have a will, the prisoner will be given the opportunity to make a will.
 - The prisoner's end of life wishes and funeral arrangements will be determined.
- 9.1.4. This discussion may result in the development of an End of Life Care Plan which, with the prisoner's consent, will be placed on CIS. If the prisoner does not consent to the plan being placed on CIS, the plan will be maintained by the End of Life Case Management Group and placed on the prisoner's Case Management file in Content Manager.
- 9.1.5. End of Life Care Plans must be supported by a Statutory Declaration, signed by the prisoner and a Justice of the Peace or Commissioner for Declarations.
- 9.1.6. The Prison Chaplaincy will report any concerns or issues to the End of Life Case Management Group at each meeting and as otherwise required.
- 9.1.7. All End of Life Case Management Group meetings must be minuted. A copy of the Minutes must be forwarded to the Chief Superintendents and Clinical Director, CPHS. A copy of the Minutes must also be provided Records for uploading to Content Manager.

9.2. Notifying Family and Friends

- 9.2.1. When a prisoner is diagnosed with a terminal illness, the Prison Chaplain will offer to assist the prisoner in notifying his or her family, friends and other people who need to know. Therapeutic Services may assist the prisoner in preparing to make those notifications but will not have direct contact with the family member or friend.
- 9.2.2. Information which may assist the prisoner's family and friends can be found on the Magistrates Court of Tasmania website at:
http://www.magistratescourt.tas.gov.au/about_us/coroners.

9.3. Support for Family and Friends

- 9.3.1. Director's Standing Order 2.03 – Prisoners' Primary Contacts provides a mechanism for communicating important information concerning prisoners to their nominated primary contact person.
- 9.3.2. Information relating to the prisoner's wellbeing will only be provided to the primary contact person. It is expected the primary contact person will relay relevant information to other members of the prisoner's family and friends.

9.4. Grief Counselling

- 9.4.1. The Prison Chaplaincy and Therapeutic Services staff will be available to provide grief counselling to prisoners upon request or by referral from TPS or CPHS staff.

9.5. Wills and Power of Attorney

- 9.5.1. Information regarding the making of wills and creating powers of attorney can be found at the following link:

<http://www.australia.gov.au/information-and-services/family-and-community/wills-and-powers-of-attorney>

- 9.5.2. The Prison Chaplain may download information from this site and provide it to the prisoner.
- 9.5.3. The Prison Chaplain may at the request of a prisoner make contact with the Public Trustee or a legal representative of the prisoner's choice to arrange the making of a will.
- 9.5.4. If the prisoner wishes to make a will, the Prison Chaplain may obtain a will kit from Australia Post or purchase one on-line. Under normal circumstances, the prisoner will be responsible for the cost of the will kit. If the prisoner is unable to cover the cost, application may be made to the Chief Superintendent for financial support.

9.6. Do Not Resuscitate (DNR) Orders

- 9.6.1. It is acknowledged that some prisoners who are terminally ill may not wish to be resuscitated or receive medical treatment. CPHS is responsible for managing requests to withhold medical treatment. The CPHS medical officer will advise the relevant Chief Superintendent and Superintendent where a prisoner has a Do Not Resuscitate Order in place.
- 9.6.2. Where a prisoner who is terminally ill and close to dying, arrangements should be made, wherever possible, for the prisoner to be accommodated in a prison inpatient facility or approved hospital under the care of appropriate health professionals.
- 9.6.3. If a medical emergency occurs and no health professionals are immediately available, Emergency Operating Procedure 03 – Code Blue will apply. This direction will apply even if the prisoner has indicated they do not wish to be resuscitated or has given Power of Attorney to another person to make medical decisions on their behalf.
- 9.6.4. In the following circumstances the treating medical practitioner will consider the prisoner's request in accordance with the Tasmanian Health Service's policies and procedures:
 - The prisoner is resuscitated and is able to indicate that he or she does not wish to receive further medical assistance.
 - The prisoner has a Do Not Resuscitate Order in place.

10. Palliative Care

10.1. General Provisions

- 10.1.1. Prisoners in the last stages of life should be considered for placement in a non-custodial setting prior to death having regard to their sentence, the community, victims, the intention of the sentencing court, the prisoner's family and the prisoner.
- 10.1.2. Although prisoners who are approaching end of life will generally be managed within the prison environment, there may be times when a prisoner requires specialised palliative care that cannot reasonably or adequately be provided within in a custodial setting. In those circumstances, CPHS and / or other associated health professionals may recommend that the prisoner be transferred to an approved hospital or institution.

10.2. Approval of Hospitals and Institutions

- 10.2.1. The following facilities are approved by the Minister as hospitals for the purpose of the *Corrections Act 1997*, which may include the provision of palliative care to prisoners who are acutely or terminally ill:
 - Royal Hobart Hospital
 - Launceston General Hospital
 - North West Regional Hospital
 - Mersey Community Hospital
 - Hobart Private Hospital

- St Helen's Private Hospital
 - Calvary Health Care Tasmania – Lenah Valley Campus
 - Roy Fagan Centre
- 10.2.2. Requests for additional facilities to be approved by the Minister as a hospital or institution under this section must be referred to the Manager, Directorate Office.
- 10.2.3. Transfers to an approved hospital or institution must be facilitated in accordance with Director's Standing Order 1.37 – Section 36 Transfers, Director's Standing Order 1.38 – Medical Appointments and Hospital Admissions and the relevant Memorandum of Understanding.

10.3. Special Visits or Telephone Calls

Prisoners admitted to an approved hospital for palliative care may receive additional or special visits or telephone calls at the discretion of a Superintendent in accordance with Director's Standing Order 1.38 – Medical Appointments and Hospital Admissions.

11. Early Release Options

11.1. General Provisions

In exceptional circumstances a prisoner may apply to be absent from prison or for early release through the prerogative of mercy or special parole provisions.

11.2. Authorisation to be absent from Prison (*Corrections Act 1997*, s.41)

- 11.2.1. Under s.41 of the *Corrections Act 1997*, the Director (or delegate) may authorise a prisoner to be absent from a prison for any reason.
- 11.2.2. The authorisation is subject to the condition that the prisoner or detainee is to be accompanied by a correctional officer, probation officer or any other person authorised by the Director (or delegate) at all times.
- 11.2.3. Section 41 Leave will only be considered if the prisoner is acutely ill, end of life is imminent and all other options for the dignified and humane management of the prisoner have been considered. Section 41 Leave for this purpose must be approved by the Director of Prisons.

11.3. Early Parole

- 11.3.1. Under normal circumstances a prisoner is not to be released on parole before his or her Parole Eligibility Date. However, in exceptional circumstances, the Parole Board has discretion under s.70 of the *Corrections Act 1997* to release a prisoner on parole earlier than his or her Parole Eligibility Date.
- 11.3.2. Requests for early parole under s.70 must be by way of written application to the Parole Board.

11.4. Petition for Mercy

11.4.1. Federal Offenders

The Governor-General of Australia, in accordance with s.61 of the Constitution and acting upon advice from the Minister for Justice (Cth), may exercise the Royal Prerogative of Mercy in relation to a federal offender convicted of a Commonwealth offence. In exercising that power, the Governor-General may:

- the grant of a free, absolute and unconditional pardon (a full pardon)
- the grant of a conditional pardon (commutation of a sentence from one form to another)
- the remission or partial remission of a penalty (i.e. sentence or fine)
- the ordering of an inquiry

The Minister will not recommend executive action unless there are compelling grounds.

Information on how to apply for the Royal Prerogative of Mercy is available on the Commonwealth Attorney-General's website at:

<https://www.ag.gov.au/CrimeAndCorruption/FederalOffenders/Pages/Royalprerogativeofmercyandreferralofmatterstostateandterritorycourts.aspx>

Applications are to be emailed to FederalOffenders@ag.gov.au or sent to the following address:

Principal Legal Officer
Federal Offenders Unit
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

11.4.2. Prerogative of Mercy – State Prisoners

Section 419 of the *Criminal Code (1924)* enables a prisoner convicted of a State offence to petition the Attorney-General (Tas) for the exercise of His Majesty's mercy.

A prisoner wishing to apply to the Attorney-General to exercise the prerogative of mercy must submit an application in writing and forward it to the Directorate Office.

The Directorate Office will prepare a Minute to the Attorney-General on behalf of the Director of Prisons, providing information regarding the prisoner's offence(s) and time in custody, and any available information relating to the prisoner's medical condition. This will be submitted along with the prisoner's application and any supporting documentation. Advice must be sought from CPHS in preparing the Minute.

12. Funeral Arrangements

12.1. Funeral Arrangements

- 12.1.1. A list of funeral directors can be found on the Australian Funeral Directors Association website at <http://www.afda.org.au/funeral-directors> or by calling 1300 888 188, or alternatively in the Yellow Pages.
- 12.1.2. Where a prisoner wishes to make his or her own funeral arrangements, the Prison Chaplain can assist in gathering funeral quotes.
- 12.1.3. Further information regarding funeral arrangements can be found on the Magistrates Court of Tasmania website at:
http://www.magistratescourt.tas.gov.au/about_us/coroners/coronial_practice_handbook/a_guide_for_family_and_friends/practical_matters
- 12.1.4. A prisoner may pay for all or part of his or her funeral in advance. Payments for pre-paid funerals and funeral bonds must be authorised by the prisoner using a Money Transfer Application [Form 6I] and approved by the relevant Chief Superintendent.

12.2. Essential Care Funeral

- 12.2.1. The Department of Health and Human Services manages an Essential Care Funeral Policy which may provide for a publicly funded direct committal (a cremation without a service) where the deceased person has not been claimed because there is insufficient money in their estate to pay for a burial or cremation and:
 - there is no-one willing to claim the body; or
 - the deceased's relatives are unable to claim the body because they cannot afford the burial / cremation
- 12.2.2. Further information regarding Essential Care Funerals can be obtained from the Magistrates Court of Tasmania website at the following link:
http://www.magistratescourt.tas.gov.au/about_us/coroners/coronial_practice_handbook/a_guide_for_family_and_friends/practical_matters

13. Disbursement of Deceased Prisoner's Assets

13.1. Funeral Costs

- 13.1.1. Funeral expenses are a debt due by the estate and must be paid. Funeral expenses take priority over any other debts or benefits from the prisoner's estate.
- 13.1.2. Funeral expenses are usually covered by the prisoner's family or the prisoner may wish to make his or her own arrangements. If a prisoner has funds in his or her Prisoner Earnings or Private Monies accounts, the Tasmania Prison Service may be required to release all or some of the funds to the funeral provider to cover the cost of the funeral. A tax invoice will be required.
- 13.1.3. If an Essential Care Funeral is arranged, the Department of Health and Human Services may invoice the TPS to recover some or all of the costs of the direct committal from the prisoner's estate. Invoices are to be forwarded to the Head of Financial Operations.

13.2. Disbursement of Deceased Prisoner's Monies and Property

- 13.2.1. Any money or personal property held on behalf of a prisoner at the time of his or her death will go to the prisoner's estate. The Head of Financial Operations is responsible for the disbursement of all money and personal property held by the TPS on behalf of the prisoner.
- 13.2.2. If the prisoner has a will, the will should detail the nominated executor of the deceased's estate. All property and assets (including the balance of the prisoner's Prisoner Earnings and Private Monies accounts) must be transferred to the executor who will determine whom the property should be given to. A grant of probate of a will may be required to evidence the legal authority of an executor, depending upon the value of the property.
- 13.2.3. If the prisoner dies intestate (i.e. without a will), the Head of Financial Operations will make a request to the Public Trustee to handle the prisoner's estate.
- 13.2.4. Upon receipt of a Certificate of Appointment from the Public Trustee, the Head of Financial Operations will arrange for the release of all funds and property belonging to the prisoner to the Public Trustee. A copy of the Certificate of Appointment must be forwarded to Records and uploaded to the prisoner's file in Content Manager.

14. Record Keeping

14.1. Deaths in Custody Register

- 14.1.1. The Directorate Office will maintain a register of actual and expected deaths in custody in Content Manager.
- 14.1.2. Upon receiving formal notification from CPHS of an expected death in custody, the Directorate Office will update the Expected Deaths in Custody tab in the Deaths in Custody Register.
- 14.1.3. Access to the Deaths in Custody Register is restricted to members of the Senior Management Team, Directorate Office and members of the IOM Unit who require access for the purpose of administering this DSO.

14.2. Minutes of Meetings

Minutes of the End of Life Case Management Group must be forwarded to Records for filing in Content Manager.

14.3. End of Life Case Management Register

The Administrative Assistant, Therapeutic Services Unit / Planning and Reintegration must maintain a register of prisoners reviewed by the End of Life Case Management Group and the relevant outcomes.

14.4. End of Life Care Plans

Where a prisoner provides written consent, his or her End of Life Care Plan must be uploaded to the Briefcase tab in CIS. If the prisoner does not consent to the End of Life Care Plan being uploaded to CIS, the plan will be maintained by the End of Life Case Management Group. When the prisoner passes away, the plan must be forwarded immediately to Records and be uploaded to the prisoner's file in Content Manager.

14.5. Australian Institute of Criminology National Deaths in Custody Program

- 14.5.1. The Australian Institute of Criminology is to be notified of all deaths in custody, as they occur in both prison and police custody operations. Notification is to be made within one month of the death occurring. This is the responsibility of the Directorate Office.
- 14.5.2. A data collection form is provided annually by the National Deaths in Custody Program and is available via the Prison Directorate / Reports / Deaths in Custody folder on Risdon on Venom.
- 14.5.3. Advice is to be sought from the Head of Department, CPHS when completing questions relating to health and substance abuse, as well as the circumstances of the death.
- 14.5.4. The data collection form is to be submitted via email to ndicp@aic.gov.au.
- 14.5.5. A copy of the form is to be placed on the prisoner's file in Content Manager.

15. Document History and Access

Implementation Date	28/05/2018
Version Number	1.0
Date of First Issue	
Date of Further Amendments	
Additional Information	
Next Review Date	Five years from date of implementation
Access to this DSO	Routine Disclosure

Approved by:

Ian Thomas
Director of Prisons