

Prisoner Handbook

Your rights, the law and other information



Legal advice

You should always seek legal advice about your individual situation. The information contained in this publication is correct as at the date of review listed below, however the law may change at any time. The contents of this publication do not constitute legal advice about individual situations but contain only general information about the law. No person should rely on this publication as legal advice regarding a particular claim or individual case.

Please note: Any services referred to which are not operated by Legal Aid Western Australia are not specifically endorsed or approved by Legal Aid WA. While the referrals are given in good faith, Legal Aid WA does not accept total or partial responsibility for anything done or not done by these services or for any advice given by them. The services listed may not be the only organisations able to provide the information and advice you require.

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Warning

This handbook may contain images of Aboriginal and Torres Strait Islanders who have passed away.

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Introduction

1. Purpose of the handbook

This Legal Aid WA Prisoner Handbook is designed to help you know your basic rights while in prison, and what resources are available to help deal with issues you may have in prison.

Legal Aid WA provides a wide range of services to the public.

You can get help from Legal Aid WA in 3 main areas:

- **Criminal law** – You may have a criminal law issue if:
 - ▶ You are being investigated by the police.
 - ▶ You have been charged with a criminal offence.
 - ▶ You want to appeal against a decision about a criminal offence.
- **Family law** – You may have a family law issue if, for example:
 - ▶ You have a dispute with your former partner that involves children and/or property.
 - ▶ Your family is involved with the Department of Communities (sometimes called Child Protection).
- **Civil law** – You may have a civil law issue if your legal problem is not a criminal law or family law issue. Some examples of civil law issues include debt, housing, tenancy, social security, personal injury, criminal injuries compensation or motor vehicle accidents.

The services that Legal Aid WA provides are different according to the legal problems that people have.

Legal Aid WA cannot deal with or help everyone who has a legal problem. Instead, it aims to help people who are most in need, where the legal problems are more complicated and where help from a lawyer is most needed.

If Legal Aid WA cannot help you with a legal problem, you may be referred to a different service such as a community legal centre, family relationship centre or private lawyer.

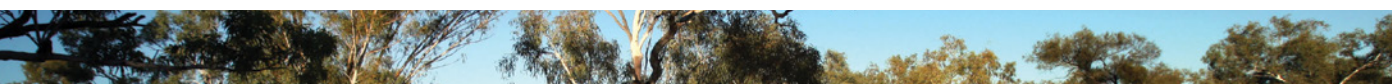
Resources referred to

If you would like a copy of any of the factsheets, infosheets, kits or other publications referred to in this kit, you can call Legal Aid WA's Infoline for free from your prison phone.

2. Feedback

If you have feedback about this handbook please call **Legal Aid WA's Infoline**.

3. The law covering prisons



The WA prison system is primarily covered by the following:

- [Prisons Act 1981 \(WA\)](#)
- [Prisons Regulations 1982 \(WA\)](#).
- [Prison Rules](#): these are made with the Minister for Corrective Services' approval, pursuant to section 35 of the *Prisons Act 1981* (WA).
- [Commissioner's Operating Policies and Procedures: Prisons](#)-(COPPs): these are policy documents that provide instructions to prison staff on how to carry out the law about prisons.

The COPPs are regularly reviewed and may change. Some of these have restricted access.

- Prison Standards: these say how prisons should operate and are intended to establish safe, decent and humane environments to encourage rehabilitation of prisoners and offenders to take personal responsibility.
- Standing Orders: The Superintendent of a prison can issue these orders to prison officers and prisoners. They cover the management and routine of that prison.

Where can I find these documents?

A copy of unrestricted COPPs, Prison Rules and Standing Orders should be available in the prison library. You will not have access to restricted COPPs, Prison Rules and Standing Orders.

4. Common abbreviations used in this handbook

ACCO	Assistant Commissioner Adult Custodial Operations
ACFA	Australian Financial Complaints Authority
ALS	Aboriginal Legal Service of WA
CCC	Corruption and Crime Commission
COPPs	Commissioner's Operating Policies and Procedures
DOC	Department of Communities
DJCS	Department of Justice, Corrective Services
DPP	Director of Public Prosecutions
FDR	Family Dispute Resolution
FDRP	Family Dispute Resolution Practitioner
IOMS	Individualised and Integrated Offender Management
PSO	Prisoner Support Officer (for young offenders)
SMT	Senior Management Team
TOMS	Total Offender Management Solution (an electronic database used by Corrective Services to record and manage information about prisoners).

If you need more help after looking at any part of this Handbook, or if your legal problem is not covered here, you can call Legal Aid WA's Infoline (or Legal Yarn on 1800 319 803 for First Nations callers) for information or referral.

Please note: First Nations prisoners are referred to throughout this Handbook as Aboriginal prisoners and Torres Strait Islander prisoners.



Part 1

Prison: an overview

This part covers:

1. Entering inside
2. Special requirements for different groups of prisoners
3. Intake
4. Getting information about you
5. Mental health and care
6. Your property
7. Assessments and sentence management
8. Concerns about your safety
9. Enquiries about your sentence
10. More information



Part 1

Prison: an overview

1. Entering inside

New prisoners are processed by the reception area of the prison.

The people who work here are called reception officers.

During this process:

- The reception staff should check if you need an interpreter and if you do need one, they should arrange for a professional interpreter. This is so that you get information about being in prison in a language you can understand.
- The reception staff should check whether you are the person who has been ordered to be in prison by asking your full name and date of birth.
- They should also make sure that you are being legally held by checking your paperwork.
- They should do any screening needed (for example, for COVID-19).
- If you self-identify as trans, gender diverse or intersex, the reception officer will ask you whether you would prefer to be placed in a men's prison or a women's prison. Your response is put in the Total Offender Management Solution (TOMS).
- Your profile on the TOMS will be created or updated and then you will be given a cell.

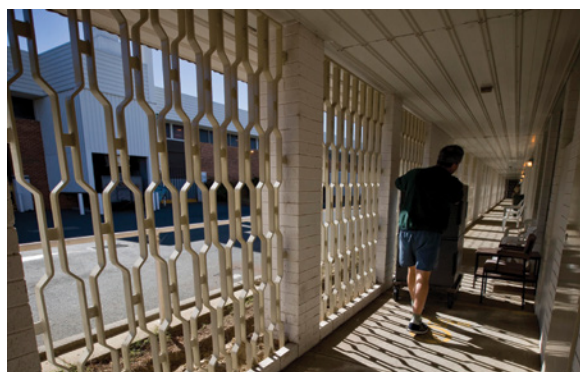
What is TOMS?

TOMS is an electronic database used by Corrective Services to record and manage information about you.

- Any injuries you have should be reported to Health Services staff immediately and photos should be taken of any significant injuries.
- The Health Services Nurse or Senior Officer Reception might think you need to see a doctor outside prison. Whoever has custody of you (for example, WA Police) will be asked to take you to a medical facility outside the prison for treatment.
- Your photograph will be taken if:
 - ▶ your appearance has changed since you were last photographed for your ID, or
 - ▶ more than 12 months have passed since your last photo.
- You are allowed to wear headwear that is important for cultural or religious reasons or for medical reasons.
- You will be searched as soon as practicable.
- Your personal items will be taken and listed. (See below under the heading *Your Property*.)
- You must remove all personal clothing and take a shower.
- Your clothing will be cleaned before being stored. You will receive prison clothing.
- A prison officer will complete an admission checklist.



- You will have a medical examination as soon as possible.



2. Special requirements for different groups of prisoners

Remand prisoners

If you have surety set for bail you should be given:

- a reasonable number of calls to arrange a surety for your release
- a chance to call a person to arrange this while you are at Reception if practicable.

During times when you are not locked in your cell, you should be able to make these calls with the help of officers from the Unit you are placed in.

A surety is a person who agrees in writing to pay a specific amount of money if you (the person charged) fail to comply with your bail undertaking to appear in court.

You don't have to work while you are on remand. However, if you want to, you can put in an application (Application for Remand Prisoners to be Employed) to the Superintendent.

Aboriginal prisoners and Torres Strait Islander prisoners

Reception officers will ask if you are an Aboriginal person or a Torres Strait Islander. If you say yes, you will be asked to name your 'Home Country.'

This information is put on TOMS.

Women prisoners

If you are the primary caregiver of children or other family members, you should be allowed to make extra calls to make arrangements for them. Alternatively, reception officers may make referrals to support services you might need.

You will be allowed to take sanitary products with you when you are transferred or go to appointments. These items will be given to you as you leave.

Prisoners with difficulties speaking or reading English

Reception officers should try to check if you have any difficulties reading or writing. They might do this by asking you questions (for example, asking you when you left school,

asking you to read something or to fill in a form).

If you can't read or write English, information should be explained to you by a translation service.

A Peer Support prisoner may help if no professional service is available and both you and the other prisoner agree.

Prisoners not born in Australia and non-Australian citizens

If you are not an Australian citizen, reception officers should let you know that:

- you are allowed to let your nearest Consulate know that you are locked up
- you can do so by phone or letter
- you are allowed to have a visit from someone from your country's Consulate
- you should be given information about how to contact the Consulate.

Trans, gender diverse and intersex prisoners

You have the right to express your gender identity and to have access to the support required for day to day living such as clothing and toiletries.

Your gender will be worked out by reception staff based on what is in the paperwork authorising your imprisonment.

If you identify as:

- trans,
- gender diverse, or
- intersex,

the Reception Officer will ask you where you would prefer to be placed (either men's or women's prison) and put this information in TOMS. However, initially you will be given a prison based on your gender as set out in your legal paperwork. You can apply to be placed in a prison that is different to this. Consideration will be given to your request when placement decisions are made as part of your sentence management.

Initially you will be offered placement in a single cell and the ability to go to a separate shower and toilet.

Before being searched, you will be asked your preferred gender for the Prison Officer who will conduct the search.

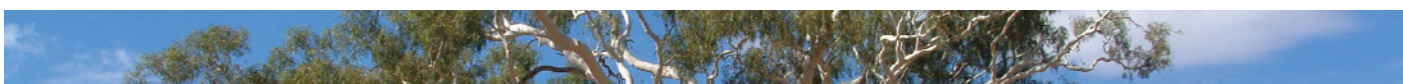
You have the right of one appeal against only the security and placement components of:

- your Management and Placement Checklist decision,
- your initial Individual Management Plan decision, and
- subsequent Individual Management Plan reviews.

'New Young Offenders' and 'Repeat Young Offenders'

You are a 'New Young Offender' if:

- you are aged under 20 years, and you have not been in an adult prison before, or



- you have spent less than 7 days previously in an adult prison.

As a 'New Young Offender' if it is your first time in adult prison:

- you will be referred to a Prisoner Support Officer (PSO) (if the PSO is not available, the Unit Manager may refer you to other support services), and
- you will be placed in a shared/buddy cell if possible.

The PSO should contact you as soon as possible.

You are a 'Repeat Young Offender' if you are aged under 20 years, and you have previously spent more than 7 days in an adult prison.

Prisoners charged or convicted of violent/sexual offences against children

You will have visit restrictions if you have current charges, convictions and prior offences for violent/sexually related offences committed against children under the age of 18. See [Part 8 – Outside contact](#) for more information.

3. Intake

Reception officers will make sure you:

- get a chance to shower (and be given lice shampoo if needed),
- are given prison clothing, shoes and personal hygiene items like soap, and
- are told about the rules relating to your property.

They will make a list of all your property in front of you where possible. See under the heading *Your property* below.

Interview

Reception officers will interview you and enter the necessary information into TOMS (for example, your name, other names you have used, your date of birth, where you last lived, your education level, and your religion if you have one.

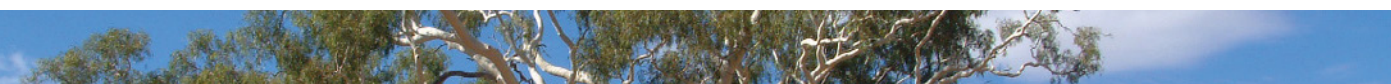
They will want to know your address and contact details for your Next of Kin.

If you don't want to give information about your Next of Kin, they will write this down in TOMS.

Support

Reception officers will check if you need help with:

- child care,
- your pets or other animals you look after,
- housing payments, and/or
- making your car or motor bike secure.



You will be given a chance to:

- ring your Next of Kin or another other suitable person to let them know you are locked up, and
- make or finalise arrangements about child care or your pets etc.

Reception officers will check you are not trying to contact someone who has a family violence restraining order or violence restraining order in place against you or trying to contact a victim of your current charges.

You may be referred to a PSO for support.

Medical screen

Within 24 hours of going into prison, Health Services staff, usually a nurse, will give you a full health screen.

If you are seen to be 'at risk,' this will be noted on TOMS.

Follow up appointments are made with nursing, medical, mental health and specialist staff where needed.

Orientation

Basic information will be given to you on the day you arrive in prison and soon after to help you know things like:

- the rules and services
- where things are
- expected behaviours
- your responsibilities
- support services you can access
- details about your next court appearance
- warrants
- gratuities (See Part 3 under the heading *Gratuity earnings*)
- library services
- what happens if you break the rules
- complaint processes, and
- dress standards.

4. Getting information about you

The prison may get the following information and samples from you when you arrive at the prison and at any other time considered necessary to help medical, dental or investigative requirements:

- Name
- Date of birth
- Ethnicity
- Language



- Most recent occupation
- Education level
- Qualifications
- Marital status
- Religion, if any
- Citizenship status
- Usual place of residence/most recent address
- Next of kin details (this is the person/s you may choose to nominate to be contacted in an emergency, for example, your closest relative)
- Height
- Weight
- A photograph including records of identifying features (eg tattoos, scars)
- Fingerprints
- Gangs you belong to, if relevant
- Blood sample (in limited circumstances eg for drug testing or where there has been an exchange of bodily fluids with an officer), and
- An impression of your teeth.

5. Mental health care

Your mental health is assessed when you enter prison.

At reception, the officers will be looking for any suicide/self-harm behaviours you may show and assess the risk to see if you need any extra support. This assessment will be done away from other prisoners.

For more information see *Psychiatric and mental health care* in [Part 6 – Health](#).

The mental health team can assess you for court and the Prisoners Review Board.

There are other services that can provide support if you have a mental health issue. See under the heading *Visitors and services* in [Part 8 – Outside contact](#).

6. Your property

When you are admitted to a prison, a list must be made of all property in your possession. Any property kept by the prison must be stored safely and given to you on your release.

The exceptions to this are:

- Any property which is perishable, dangerous or unhygienic may be destroyed or dealt with as directed by the Superintendent.
- The Superintendent has discretion to refuse to store your property.
- Property that is unclaimed for a period of 3 months after your release can be disposed of (for more detail and exceptions to this, see under the heading *Getting your property from the prison* in [Part 15 – After Release](#)).



You will be asked to sign the list of your property. If you don't sign, your reason for not signing will be noted on TOMS.

The Prison Superintendent ("the Superintendent") may allow you to keep some property in your cell.

The maximum personal property you are allowed to keep in your cell is one plastic storage container no greater than 50 litres. This excludes electrical items, legal papers and doonas.

Every prison has standing orders setting out the procedures for dealing with property. For example, they must provide a procedure for lost property, prison transfers and disposal. You can find out what the procedure is in your prison by asking your Unit Manager.

You are issued with prison clothing when you enter prison. However, you have a right to wear your own clothing if you go to court or for other legal proceedings.

7. Assessments and sentence management

When you are brought into custody, you will go through an assessment process to work out:

- your initial security rating
- where you will be placed
- if applicable, a review date
- if you need to be protected from other prisoners
- if you have any health needs including intellectual and physical disability (see *Health and medical treatment – assessment* in [Part 6 – Health](#)), and
- what work, education or rehabilitation programs would be helpful.

You are encouraged to have your say during the assessment process. You can say if you disagree with the assessment, security placement or placement.

Your security rating is decided at intake and reviewed at set times or if there is a change in your circumstances. You should be classified at the lowest level of security necessary to ensure:

- you stay in custody
- the good order and security of the prison, and
- the safety and protection of the general public, officers and other prisoners.

Security ratings

There are 3 security ratings:

- **Maximum:** if you are seen as being at a high risk of escape or a high risk to the safety of the public if you escape.
- **Medium:** if you cannot be trusted in an open prison, but do not present as having the resources or will to have a real try at escaping.
- **Minimum:** if you need a low degree of supervision and control within the prison.



Sentence plan

If you are serving a sentence longer than 6 months you will receive an in-depth assessment from which an Individual Management Plan (“IMP”) will be developed. In some situations, it may be done if you are serving a sentence of less than 6 months.

The IMP outlines how you will be managed in custody and provides information about the following areas:

- your behaviour in custody
- your security rating and placement
- the details for any outstanding court events
- your care and wellbeing including special needs referrals
- your family and social contacts
- industry or vocational skills you can offer
- any treatment programs or educational/vocational training that may be suitable for you
- specific parole issues (if you have eligibility for parole), and
- your rehabilitation and reintegration.

There should be regular reviews of your IMP to make sure that the plan remains relevant to you.

What are my appeal rights?

You have the right of one appeal against only the security and placement parts of:

1. your Management and Placement Checklist decision
2. your initial Individual Management Plan decision
3. subsequent Individual Management Plan reviews.

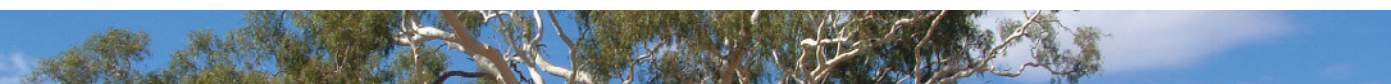
8. Concerns about your safety

You have the right to expect to be safe and properly treated in prison. You should not be subjected to cruel, inhumane or degrading treatment or punishment.

If you feel that you are in need of protection in prison, you should tell a prison officer or the Superintendent as soon as possible.

9. Enquiries about your sentence

If you have a query about your sentence, you should firstly contact the Sentence Management section at your prison. If you want to dispute how your sentence has been calculated or have more detail on your sentence, you should contact the Sentence Information Unit. You can contact this unit by writing to the Manager, Sentence Information Unit, Department of Justice - Corrective Services, GPO Box F317, PERTH WA 6841 or ring (08) 9264 1907.



10. More information

There are policies you may want to read for more detailed information.

These include the [Commissioner's Operating Policy and Procedures](#) (COPP):

- 2.1 Reception (effective as of 27 July 2023)
- 2.2 Prisoner Orientation (effective as of 11 November 2022)
- 2.3 Assessments and sentence management (effective as of 16 December 2022)
- 3.0 Prisoner Property 3.1 including Managing Prisoner Property (this covers all your property including clothing, electrical items, toiletries (such as soap, shampoo, toothpaste etc) and cosmetics, body piercing, legal and other materials, valuable items, jewellery, game consoles) (effective as of 27 July 2023)
- 4.0 Management of Specific Prisoners including 4.6 Trans, Gender Diverse and Intersex Prisoners (effective as of 7 April 2022).



Part 2

Moving prisons

This part covers:

1. Transfers within WA
2. Interstate transfers
3. Moving to an overseas prison
4. Prisoner transport
5. More information



Part 2

Moving prisons

1. Transfers within WA

If you want to be transferred to another prison in WA, you should raise this with the Sentence Management section of your prison.

2. Interstate transfers

WA offences prisoners

There is a national scheme set up under the law that permits prisoners to be transferred between states and territories.

If you ask to be transferred to another prison interstate, the following applies:

1. The WA Minister for Corrective Services decides whether or not you should be transferred, considering:
 - ▶ your welfare
 - ▶ the administration of justice
 - ▶ the security and good order of any prison, and
 - ▶ the protection of the community.
2. If the WA Minister decides that you should be transferred, they will write to the corresponding Minister in the state you want to go to.
3. If the corresponding Minister consents to receiving you, the WA Minister can make an order for your transfer.

Decisions made under the scheme cannot be reviewed by a court or tribunal.

What form do I need?

If you want to apply for an interstate transfer, you should ask your Unit Manager for the relevant form (Form 1).

Your request must include statements about:

- your family support and access to accommodation in the State you want to go to
- family or other social circumstances that may be good for your welfare while in prison or on release in the other state
- medical reasons (if any) in support
- the prospects of you getting a job on release, and
- anything else you can put in support of your request.

The Superintendent will then prepare a report on you. This report goes to the Chief Executive officer who makes sure the State Attorney General has it before they make a decision. It is likely the report will shape their decision.



Commonwealth (federal) offences prisoners

If you are currently serving a sentence of imprisonment for a Commonwealth offence and wish to apply for transfer from a prison in WA to a prison in another state or territory based on welfare grounds, you must fill in a **Welfare Transfer – Application form**.

You can get a copy of this form from prison staff or download one at this link

<https://www.ag.gov.au/crime/federal-offenders/interstate-transfers>.

The Commonwealth Attorney-General may seek the consent of the Minister for Corrective Services in the state or territory you want to transfer to. If the relevant minister consents to your transfer, the Attorney-General may then sign a welfare transfer order.

Joint federal and state prisoners

The Commonwealth will need to seek the consent of the Minister for Corrective Services in the State or Territory to which you want to transfer. If you are a joint federal and State or Territory prisoner, a welfare transfer order must be signed by both the Commonwealth and WA Minister for Corrective Services.

3. Moving to an overseas prison

If you want to transfer to a prison overseas, you must satisfy the following conditions:

- you either
 - ▶ are a national of the transfer country, or
 - ▶ have community ties with the country you want to be transferred to (note that some countries only allow nationals to transfer under the International Transfer of Prisoners (ITP) Scheme)
- the country you want to be transferred to is listed as a transfer country under the [International Transfer of Prisoners Act 1997](#) (Cth)
- there are at least 6 months of your sentence remaining to be served; or one year for transfers to or from some countries with whom Australia has a bilateral arrangement (this requirement may be ignored in some circumstances)
- neither the sentence of imprisonment nor the conviction on which it is based is subject to appeal, and
- the conduct making out the offence for which you are serving a sentence would also be an offence in the country to which you wish to transfer (this requirement may be ignored in some circumstances).

Foreign countries may have extra conditions for transfer. For example, some countries may not accept prisoners who have committed particular types of offences or require prisoners to serve a specified minimum period of their sentence before they can apply for transfer.

In addition to the conditions of transfer, the Australian Attorney-General takes a number of other factors into account when deciding whether or not to consent to the transfer of a prisoner from Australia.



These considerations include the extent to which the transfer would:

- assist your rehabilitation,
- assist enforcing your sentence,
- affect community safety and
- affect any relevant humanitarian considerations such as your age and health.

If you are serving a sentence of imprisonment in a prison or a hospital facility, and have not been released on parole and are not serving a suspended part of a sentence, you need to submit the following application forms:

- [Form A: Application for transfer from Australia – prisoner not on parole and not serving suspended sentence](#)
- [Form G: Collection, use and disclosure of personal information form.](#)

You can get a copy of these forms from prison staff.

By signing the Collection, use and disclosure of personal information form, you consent to the disclosure of personal information you provide on these application forms to other parties for the purpose of processing your application.

In some cases, the country you want to go to may want you to pay for part of the cost of transfer.

You can send the completed forms to:

International Transfer of Prisoners Unit
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

You can find out more information on the Attorney General's website at this link:
[International transfer of prisoners | Attorney-General's Department \(ag.gov.au\)](#).

4. Prisoner transport

You are transported around the State in secure air-conditioned vehicles under the supervision of uniformed officers. Coaches and air travel arrangements are also in place for long journeys.

5. More information

There are some policies you may want to read for more detailed information.

These include the [Commissioner's Operating Policies and Procedures](#) (COPP):

- Prisoner movements - 12.4 Prisoner transfers (effective as of 9 September 2022).



Part 3

Basics

This part covers:

1. Minimum entitlements
2. Access to an interpreter
3. Food
4. Religion
5. Health
6. Health education
7. Clothing
8. Finance and money management
9. Supervision and privileges
10. What behaviour the prison expects of you
11. Prison offences
12. Attendance at funerals and visiting seriously ill person/s
13. Artwork made in prison
14. Voting
15. More information



Part 3

Basics

1. Minimum entitlements

Your minimum entitlements in prison include the following, except where the security and good order of a prison requires otherwise: (from [Prison Rule 10 Privileges](#))

Accommodation:

Within a ventilated and well-lit cell (or otherwise), with clean bedding and access to a toilet.

Clothing and footwear:

Given to you by the prison. In certain circumstances (eg court appearances), you are permitted to wear your own clothes.

Consulate contact:

If you are identified as a foreign national, you must be offered the contact details of the relevant consulate office and the opportunity and means to make contact.

Exercise/Out of cell:

Weather permitting, access to open air for a minimum of 3 hours each day.

Food and water:

Provided as per unit routine. You should have continual access to clean drinking water and should be provided with nutritional food adequate for health and well-being.

Gratuities:

If you carry out work, you are entitled to receive a gratuity. Your gratuity will depend on the level of labour you have performed.

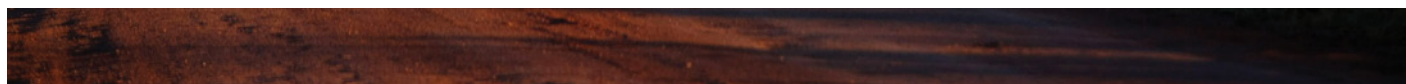
Health care:

Provided with physical and mental health care that meets your essential physical and psychological needs.

Information:

The following information will be provided when you request it:

- contents of the warrant or other instrument instructing the prison to hold you in custody
- where the dates are available, your anticipated date of discharge or the date upon which you become eligible for release on parole
- information recorded on your gratuity account
- details contained in the records about your property
- employment information.



Legal documents:

Access to legal documents about any matter you have currently before the courts.

Library:

Access to library services to meet your recreational, educational, legal and other information needs.

Mail services:

Receive and send mail.

Personal hygiene:

Daily access to showers and personal hygiene items like soap, toothpaste, etc.

Religious and spiritual observance:

Access to meet religious and spiritual needs, provided as practicable.

Socialisation:

Daily socialisation with other prisoners, Prison Officers and other staff.

Telephone calls:

Calls to your lawyer about your current and pending charges, Ombudsman's office and one welfare call per day to approved social contacts.

Visits:

Subject to the requirements of the *Prisons Act 1981* (WA), receive visitors:

- Remand prisoners - access to 1 contact social visit per day.
- Sentenced prisoners - access to 1 contact social visit per week.
- All prisoners - access to visits from official visitors in accordance with the *Prisons Act 1981* (WA).

Writing materials:

Paper and pen/pencil provided to allow you to write to friends and official people.

Suspension of entitlements

The Superintendent may temporarily suspend (stop) entitlements due to an emergency and for the purpose of keeping the good order and security of the prison.

You should be told of the reasons for suspension. The reasons should be put on TOMS.

2. Access to an interpreter

If you have difficulties understanding or speaking English, you should be offered an interpreter. This could be a phone interpreter or an onsite interpreter with the Superintendent's approval.

3. Food

You are to be provided with nutritionally balanced and varied meals that meet your individual dietary needs. You must be provided with nutritious and healthy food, and fresh drinking water to maintain health and wellbeing.

You should receive special food if you require it for medical reasons, or to meet established cultural or religious needs where practicable. You must fill in a Special/Religious/Cultural Meal Request form.

4. Religion

When you get to prison, you are given a chance to state your religion or denomination and have it noted on your file.

Subject to security, good order and management of the prison, you may:

- practice religious rites
- go to services in prison, and
- receive religious guidance and visits from a member of your religion.

Male prisoners

You are allowed to buy approved headwear linked to your religious practice, for example a skullcap. However, you are only allowed to wear it:

- a. during religious ceremonies or activities run by the chaplain or their approved representative, and
- b. in your cell.

Female prisoners

If your religion is Islam, you are allowed to wear a hijab. You can wear it from reception into prison if it is coloured black or purple. If it is a different colour, you will have to buy one from the canteen. The cost will be deducted from your private cash account.

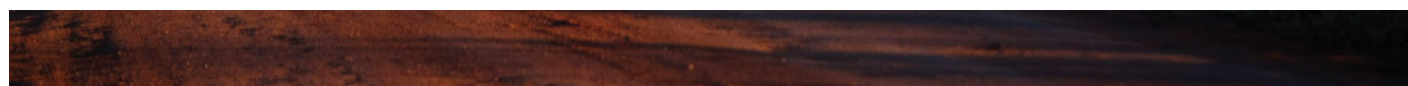
Change of religion

You can change your religious registration on your file and TOMS profile any time by putting in a Change of Religion Notification form.

5. Health

You are to be provided with access to appropriate health services and programs. You are entitled to access health programs appropriate to your age, gender and culture. The Chief Executive Officer (“CEO”) of the Department of Justice, Corrective Services must make sure that you get medical care and treatment.

For more information, see under the heading *Health and medical treatment* – assessment in [Part 6 – Health](#).



6. Health education

Education and health awareness programs are available to you, including drug and alcohol programs. See under the heading *Substance use and dependency* in [Part 6 - Health](#).

7. Clothing

You are given prison clothing on entering prison. However, you have the right to wear your own clothing if you go to court or to other legal proceedings.

You are not allowed to keep your own shoes except shoes purchased from the canteen unless you have orthopaedic or medically approved footwear. The Director of Health Services must support your need for these special shoes.

8. Finance and money management

Do I get an income in prison?

You are paid a nominal daily amount. The only exception to this is if your income is suspended as punishment.

How is my money held?

- You are not allowed to have cash unless authorised by the Superintendent for a particular purpose, for example, an absence permit.
- You have a Prisoner Private Cash Account (PPCA), which is run and managed pursuant to the *Financial Management Act 2006* (WA). You can't get interest on this account. This is set up for you on TOMS.
- Family and friends can put money into your account but there is a limit on the amount you can receive.
- You must authorise payments from your account unless restitution has been ordered. There is a limit on how much you can spend.

Gratuity earnings

You can earn "gratuities" if you are working or doing a constructive activity while in the prison. A gratuity is payment for work done or the constructive activity undertaken but is not actually money.

- Gratuity earnings are not deposited into Prisoner Private Cash Accounts. They are managed using a computerised system called GPC.
- You must authorise payments from the gratuity earnings.
- You can spend your gratuities inside the prison. Expenditure can be recorded by any officer with access to GPC.
- You must submit a written request to spend money outside the prison.

There are 5 levels of gratuity. Gratuity payments are highest for Level 1 and lowest for Level 5.

- ▶ Level 5 – work or activity of a type where not much skill is needed, or care is

needed

- ▶ Level 4 – minimum of skill or effort involved
- ▶ Level 3 – average skill or effort involved
- ▶ Level 2 – above average skill or effort involved
- ▶ Level 1 – very skilled work or activity or high effort involved.

Restitution orders

If restitution is ordered, deductions can be made from your PPCA funds and gratuities funds you have built up.

Fines enforcement

You can apply to pay your fines from gratuities or your PPCA by filling in a form C63.

External accounts

In limited circumstances you will be permitted to open an external account, for example in the Prisoner Employment Program. For more information, see [Part 5 – Programs](#).

Telephone account

A telephone account will be set up in your name. Subject to a limit set by the Superintendent, you can pay money into the Prisoner Telephone System (PTS) account to have credit for calls. You can apply to transfer money from your PPCA to your PTS account.

Limits on accounts

You can get money paid into your PPCA or PTS accounts by a registered visitor or from the sale of art or hobby material you own.

You can get cash deposits of up to \$150 a week. However, you can't have private cash accounts with more than \$200 unless authorised by the Superintendent or their delegate.

What happens to my money when I am released?

When you are released, all of your accounts are settled, and you receive the balance.

9. Supervision and privileges

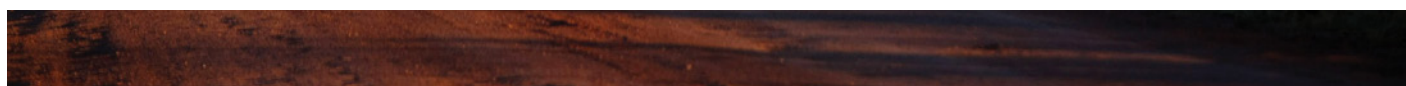
The prison system is designed to give you incentives for behaving well in custody. Essentially, good behaviour is rewarded by a lower level of supervision and a higher level of privileges.

Supervision

A supervision level is a set of privileges which varies depending on your behaviour.

There are four levels of supervision:

1. **Standard supervision:** if you are a new prisoner, you will generally start on this level of supervision.



2. **Earned supervision:** if you show appropriate behaviour, that is, a high standard of good behaviour. This level of supervision may not be available at your prison. If it is available, then you can apply to progress to this level.
3. **Basic supervision:** if you show poor or inappropriate standards of behaviour, a senior officer may recommend to the Senior Management Team that you be placed on Basic Supervision. With this level of supervision, you will stay in your cell when possible. Poor or inappropriate standards of behaviour could include:
 - a. refusing to accept employment (sentenced prisoners only)
 - b. dismissal from employment, or
 - c. not keeping your cell up to the expected standard (eg poor hygiene, having items you're not meant to have)
 - d. continuing with unacceptable behaviour after you have lost privileges.

Placement on this level of supervision should be reviewed at least every 7 days.

The maximum time you can be on this level of supervision is 21 days. Which level you go to after that depends on your behaviour.

You can ask for a review.

4. **Close supervision:** you may be placed on this level of supervision if:

- you would jeopardise the security and good order of the prison if you continued to mix with the general prison population, or
- you pose a threat to other prisoners or staff.

Placement on this level of supervision should be reviewed at least every 7 days.

You can ask for a review. This review is by the Superintendent (or another member of the Senior Management Team).

If you are kept on close supervision for more than 21 days, you can ask for a review of the decision by the Assistant Commissioner Custodial Operations or Assistant Commissioner Women and Young People.

You should be told about your supervision level. You can ask for a copy of the TOMS Supervision Level Decision Slip. If your supervision level is increased, the officer authorising the action must tell you the reason, the behaviour expected and the procedures for getting back to the same level.



Privileges

A privilege can be an item or benefit you get above your minimum entitlements.

A Superintendent can:

- grant privileges to prisoners that are above their minimum entitlements
- withdraw privileges, or
- temporarily suspend privileges due to an emergency and for the purpose of maintaining the good order and security of the prison.

Granting privileges

The following matters are not minimum entitlements and are available to be granted as privileges:

- access to property in storage
- personal property in your possession including electrical items in your cell
- Prisoner Telephone System limit and access
- accommodation
- movement and restrictions
- external activity absences
- canteen access
- town spends
- access to recreation, musical, hobby and sporting equipment
- employment, and
- gratuities.

In addition to these privileges, the Superintendent can increase your minimum entitlements.

Withdrawing privileges

A privilege can be withdrawn from you if:

- it is being misused
- you have behaved poorly, for example, by not following a lawful order, or
- it constitutes a threat to, or breach of good order and the security of the prison.

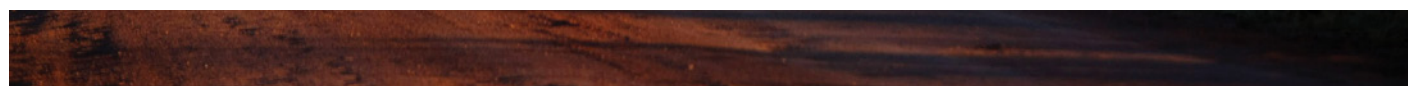
It can also be withdrawn for any other reason approved by the Superintendent.

Before a privilege is withdrawn:

- an incident report must be written
- you must be informed of the facts about the event and the consequences of your behaviour, and
- you must be interviewed.

You can request review of a withdrawal. How you can do this is set out in

[COPP 9.2 Prisoner Complaints.](#)



10. What behaviour the prison expects of you

The prison expects you:

- to obey all lawful instructions issued by staff
- to participate in, and be on time for the employment and programme activities for you
- to keep up a high standard of personal hygiene and keep your cell clean and tidy
- to express your views, requests or complaints in a reasonable manner
- to obey any COPPs or Standing Orders that apply to you
- not to use alcohol or any other drugs that have not been lawfully prescribed to you
- not to bully or threaten other prisoners
- not to buy, sell or swap any items of property with other prisoners without permission
- not to be involved in gambling or any related activities
- not to possess items not lawfully issued to you
- not to steal or interfere with another prisoner's property
- not to enter another prisoner's cell without the permission of that prisoner
- not to be involved in giving tattoos to yourself or other prisoners.

Good behaviour helps you earn extra privileges. Bad behaviour might mean you lose some privileges or get fewer privileges.

11. Prison offences

For information on dealing with offences allegedly committed while in prison, see the Legal Aid WA **Prison Offences Information Kit**

<https://www.legalaid.wa.gov.au/resources/self-help-kits-and-guides/prisoners-parole-and-prison-offences>). You can get a copy of this kit by calling Legal Aid WA's Infoline.

12. Attendance at funerals and visiting seriously ill person/s

You can apply for an absence permit to leave the prison on compassionate grounds. This includes going to a funeral or visiting a terribly ill person who has only been given a short time to live. You will always be with an officer on this leave.

Other types of compassionate leave will only be considered in exceptional circumstances. This is if you are faced with an event or a situation which is likely to cause difficulty or extreme stress to you or to a person you have a significant relationship with.

The following factors are relevant to whether your application will be accepted:

- the significance of the relationship between you and the deceased or terribly

ill person (an immediate family member or the relationship is exceptional, for example, primary carer)

- security concerns
- victim issues, and
- how easy it is for the prison to arrange your leave.

13. Artwork made in prison

Art and creativity are strongly encouraged — and often rewarded — in prisons all over Australia.

Will I own the artwork I create in prison?

[COPP 8.5 Prisoner Art](#) sets out that the Department of Justice, Corrective Services recognises the intellectual property and moral rights held by you in relation to work you have produced. The Department agrees not to reproduce your work without your clear written permission, except where the artwork is photographed for the purposes of recording the work in your prison property. Intellectual property is about your ownership of the art you have made and the rights that you have in relation to that art, for example, the right to copy it.

Copyright of all artworks and designs you create in prison stays with you.

You own the art materials and the art object created:

- by buying from the prison canteen or art material suppliers
- by getting them from those outside prison like your parents or partner
- when given them by Departmental staff
- when you get them in other lawful ways.

The Superintendent has the right to not allow the release of any artwork that would get in the way of the good order and security of the prison.

Can I sell my artwork?

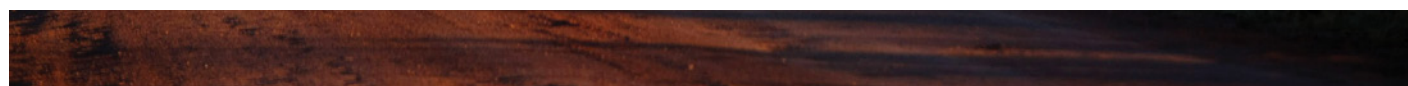
You can authorise the transfer of ownership of your artwork by giving written consent in the following situations:

- a. You can sign it out to a visitor or store it. (You must complete a Request to Store or Sign Out Prisoner Owned Art).
- b. You can sell it as set out in paragraphs 6, 7 and 8 of COPP 8.5 Prisoner Art).
- c. You can donate it (for example, to charities).

You can't give your artwork to another prisoner as a gift or by signing it over.

What if my artwork is damaged or lost in prison?

If your artwork is damaged or lost by the carelessness or negligence of prison staff, you should be compensated.



Can I exhibit my artwork while I am in prison?

If it is approved by the Superintendent in consultation with the Arts Coordinator, you can enter your artwork in certain group exhibitions and offer it for sale.

You can exhibit a maximum of 10 items a year unless more are approved by the Superintendent in consultation with the Arts Coordinator.

In limited circumstances, such as to complete a TAFE or other educational course, the Superintendent may approve you showing your artwork in a one-person exhibition.

You must fill in a Prisoner Exhibition Entry form if you want to exhibit artwork for an approved exhibition.

Where does any money I make from sales at an exhibition go?

Any money you get from sales of your artwork will be paid into your prison account. If you have been released by the time of payment, it will be paid into your private bank account.

Prison staff can only purchase your artwork through an approved exhibition/gallery process.

Your artwork can be commissioned for official Departmental business and by external agencies. The Commissioner must approve this.

Can I donate my artwork?

Prison art you own may be donated to charities or similar organisations where the Assistant Commissioner Rehabilitation and Reintegration has granted prior approval. You will need to fill in an Art Donation Consent Form.

You can also donate prison art to the Department.

Can my artwork be destroyed without my permission?

The Superintendent has the power to dispose of or recycle prison art in accordance with the *Prisons Regulations 1982*. However, it is unclear in what situations this power will be used. It appears to occur only in situations where storage space is needed.

For more information, ask to see a copy of COPP 8.5 Prisoner Art and COPP 3.1 Managing Prisoner Property in the prison library.

See also under the heading Artists in the Black in [Part 12 - Aboriginal Prisoners](#).

14. Voting

The law says that you **must enrol to vote** in Australia if:

- you are an Australian citizen (or a British subject who was on the Commonwealth electoral roll on 25 January 1984), and
- are 18 years and over.

The law also says that once you have enrolled to vote and you are on the electoral roll, you can and **must vote** in all federal and state elections.

However, there are special rules that say that sometimes you are not allowed to enrol to vote. There are also special rules that say that sometimes you are not allowed to vote, even if you are on the electoral roll.

When you are not allowed to enrol to vote

You are not allowed to enrol to vote if:

- you are of unsound mind and are not able to understand what it means to be on the roll and to vote
- you have been convicted of treason or treachery and have not been pardoned, or
- you are the holder of a temporary visa or you are an unlawful non-citizen under the *Migration Act 1958* (Cth).

When you are not allowed to vote

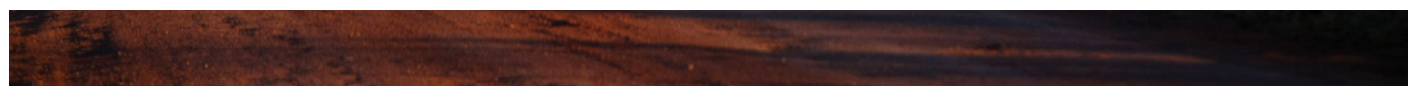
The rules about when you are not allowed to vote are different for federal and state elections.

In **federal** elections, you cannot vote if:

- you are not on the electoral roll
- you are under 18
- you are of unsound mind and are not able to understand what it means to be on the roll and to vote
- you have been convicted of treason or treachery and have not been pardoned
- you are serving a sentence of imprisonment of 3 years or longer.

In **Western Australian state** elections, you cannot vote if:

- you are not on the electoral roll
- you are under 18
- you are of unsound mind
- you have been convicted of treason
- you are serving or you are yet to serve a sentence of detention under the *Young Offenders Act 1994* (WA), or imprisonment of one year or longer
- you are serving or you are yet to serve indefinite imprisonment
- you are under a detention or custody order under certain sections of the *Criminal Code* (WA)
- you are, or are taken to be, a mentally impaired accused as defined in the *Criminal Law (Mentally Impaired Accused) Act 1996* (WA).



Voting in local council elections

When you are enrolled to vote, if you want to, you can vote in elections in the local government district where you live. You do not have to vote in local government elections.

How to enrol and vote from prison

If you were already enrolled when you started serving your sentence, you can remain enrolled at that address while you are in prison. However, you should tell the Australian Electoral Commission (AEC) that you are absent from your enrolled address. This is important so that they know how to contact you and you are not taken off the electoral roll by mistake.

If you were not enrolled when you started serving your sentence, you can enrol by completing the Enrol to vote or update your details as a prisoner form. You can find this on the AEC website at https://www.aec.gov.au/Enrolling_to_vote/Special_Category/Prisoners.htm. Alternatively, you can contact the AEC on 13 23 26 or by post: GPO Box 9867, Perth WA 6000.

You can check if you are currently enrolled on the AEC website at www.aec.gov.au or by calling 13 23 26.

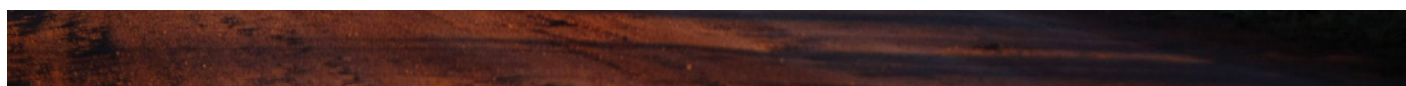
When it comes time to vote, you will need to apply for a postal vote after the election has been announced. To apply, you need to fill out the postal vote application form that is on the AEC website at www.aec.gov.au.

There is a factsheet about how to vote from prison on the AEC website at https://www.aec.gov.au/Enrolling_to_vote/files/fact-sheet-enrolling-and-voting-from-prison.pdf. Your librarian may be able to access a copy for you.

15. More information

There are policies and laws you may want to read for more detailed information.

- [Prisons Act 1981 \(WA\)](#)
- [Prison Regulations 1982 \(WA\)](#)
- [Prison Rule 10 Privileges](#)
- [Commissioner's Operating Policies and Procedures \(COPP\): Prisons:](#)
 - ▶ 3.1 Managing Prisoner Property (effective as of 27 July 2023)
 - ▶ 8.4 Prisoner Finances (effective as of 16 February 2022)
 - ▶ 8.5 Prisoner Art (effective as of 11 August 2023)
 - ▶ 9.1 Cultural, Religious and Spiritual Services (effective as of 8 March 2022)
 - ▶ 9.2 Prisoner complaints (effective as of 24 January 2022)
 - ▶ 9.5 Prison Taxation and Voting (effective as of 19 July 2021)
 - ▶ 10.1 Prisoner Behaviour Management (effective as of 14 December 2022)
 - ▶ 14.5 Authorised Absences and Absence Permits (effective as of 26 October 2022)



Part 4

Prison officer powers

This part covers:

1. Who can search me?
2. When can I be searched?
3. Basic searches
4. Strip and rub down searches
5. Restraints
6. Confinement
7. Force and weapons
8. More information



Part 4

Prison officer powers

1. Who can search me?

- If a search of you involves physical contact, a searching officer of the same gender as you must conduct it.
- The prison must try to make sure that the second Searching Officer is also of the same gender as you.
- The Superintendent can request that a doctor be present during your search. If a doctor is present, they can be of a different gender.
- If you have self-identified as trans, gender diverse or intersex you:
 - ▶ will be searched by a Searching Officer of the gender recorded on TOMS
 - ▶ can ask for Searching Officers of different genders to do top/bottom searches.

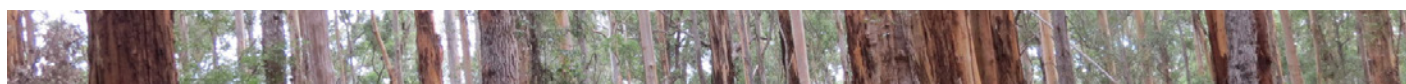
If you have a disability or injury, the search should be carried out with decency and in a way that causes the least discomfort or interference without lessening the effectiveness of the search.

If you have to remove religious or cultural headwear, this should be done in an area out of sight to anyone of the opposite gender to you.

2. When can I be searched?

There are routine (on a regular basis), targeted (because of information received or other grounds that give a reasonable suspicion to search) and random (any person, time, or place) searches.

- You will be searched when you go into prison and when you get out.
- You may be searched on such other occasions and in such manner as may be considered necessary by the Superintendent.
- The Superintendent can order that a basic search be conducted if the Superintendent thinks that such a search is necessary for maintaining the good government, good order or security of that prison. (A basic search is basically a rub down search).
- A prison officer can search you if ordered to do so by the Superintendent.
- There are special procedures for searches of prisoners for medical reasons, for searching of religious headwear, for searching of prisoners with injuries or disabilities and for searching residential babies and children.
- You will be searched on exit and entry to the prison when going to external activities, including the Prisoner Employment Program.





3. Basic searches

The procedure for a basic search is set out in [COPP: Prisons](#) 11.2 Searching 5.2 & Appendix E.

During a search

- A prison officer can take anything that was not issued or kept with approval of the Superintendent.
- The search must be conducted in a way that maintains the person's decency and self-respect.
- In searching a male prisoner, a prison officer can use any force that is reasonably necessary. Force should not be used in a search on women prisoners unless they pose a risk to themselves or others.

Can my mail be searched?

All mail to and from you can be opened and read, except for mail from certain complaints bodies.

Can my property be searched?

Yes. Any property issued to or kept by you can be searched by a prison officer and taken apart for that purpose. Your property will be searched when you enter and leave the prison.

Can my cell be searched?

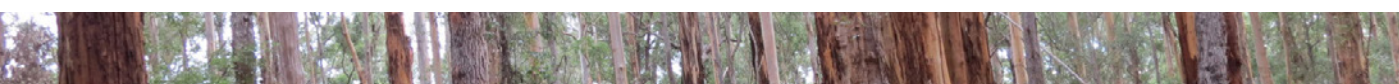
Yes. [Prison Rule 11 Searching 4.2](#) states that:

- at least 15% of all cells must be searched each week, and
- the cell searches are to include an inspection and check of all fixtures, fittings and items within the cell.

Common areas are to be searched daily.

Do I have to give a body sample?

Under prison regulations, you may have to provide a sample of your blood, sweat,



saliva or urine. The Superintendent may direct an officer to take random samples. An officer can also take a sample if the officer or the Superintendent has reasonable grounds for suspecting that you have committed an aggravated drug or alcohol offence. An aggravated drug or alcohol offence is where you:

- use or possess drugs not lawfully issued to you,
- use drugs in a way not prescribed, or
- consume or possess alcohol not lawfully given to you.

4. Strip and rub down searches

The general requirements and specific requirements for both male and female prisoners are set out in [COPP: Prisons 11.2 Searching 7 Prisoner Searches](#).

You must be strip searched before you are admitted to a prison, unless you are being transferred from another prison where the chain of custody by Corrective Services has not been broken.

You should not be strip searched unless this is authorised by the Superintendent (or if they are not available, an officer above Senior Officer) if they think there are reasonable grounds that a strip search is necessary for 'the good government, good order or security of the prison.'

Prison Standing Orders may require you to be strip searched before you are placed in a cell for observation or punishment or discharged from a prison or before doing urine testing. However, note that women prisoners should not be routinely strip searched before being placed in an observation or medical observation cell.

You will also be searched each time you enter or leave the prison, for example, when you leave prison to go to court and on your return. This search can be by way of rub down or strip search depending on the prison's searching strategy.

The following are key rules that apply to strip searches including:

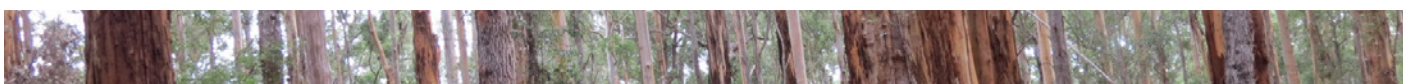
- A prison officer involved in a strip search must make a written report of the search to the Superintendent.
- You must not be strip searched in the sight or presence of a person of the opposite sex unless they are a medical officer.
- You should not be strip searched in an area visible to others.
- The Searching Officer should be the same gender as you. The same applies to the Searching Officer who witnesses the search and whose role is to receive and return clothing and other items and search the clothing and other items.

Rub down searches are to be carried out by a prison officer of the same gender as you. A second officer will be present.

Strip search of women prisoners

The method for strip searching women prisoners is different to the method used to search male prisoners.

Strip searches of women prisoners are meant to be carried out as a last resort for one of the following reasons:



Prison officer powers

- a. intelligence
- b. indication by a drug detection dog
- c. for safety or security purposes.

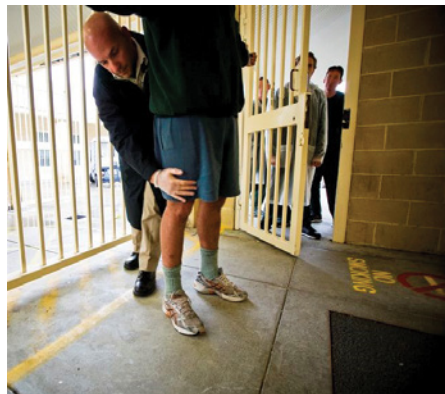
Women prisoners will also not be asked to squat under any circumstances during a strip search.

Where a woman prisoner refuses to be strip searched, they will be put in a cell and remain under constant observation by a prison officer. The prison officer will try to negotiate for the strip search to be agreed to.

Women prisoners will not have their clothing forcibly removed unless they are actively engaged in self-harm and there is a duty of care to enter the cell and remove the clothing.

Recording of searches

All searches are to be recorded on TOMS.



5. Restraints

When can I be constrained?

The Superintendent can authorise your restraint if they think this is necessary:

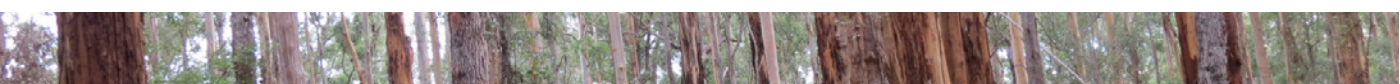
- to prevent injury to yourself or another person
- on medical grounds on the advice of a doctor
- to prevent your escape during your movement to or from a prison or during your temporary absence from a prison.

If the restraint continues for more than 24 hours, the circumstances must be reported to the Chief Executive Officer (CEO, the Director General) of the Department of Justice, Corrective Services (DJCS).

6. Confinement

When can I be confined?

The CEO can order that a prisoner be placed in separate confinement for the purpose





of ‘maintaining good government, good order or security in a prison’. This is meant to be a last resort when other options have been looked at and are not considered appropriate.

It is not intended as a form of punishment.

The confinement may be up to 30 days. It is meant to be for the shortest time necessary to manage prisoners who pose an unacceptable security risk or threat.

This power under the *Prison Act 1981* (WA) has been delegated (given) to others as set out in [COPP: Prisons 10.7 Separate Confinement](#).

The following apply in relation to confinement:

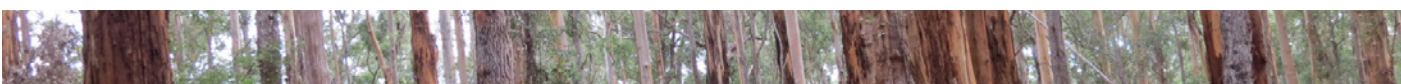
- You must be told why you are in confinement and how long you will be in confinement.
- The Superintendent must put in an application to get a confinement order which includes details of why it is needed.
- A mental health assessment should occur at the earliest reasonable opportunity and at the latest within 72 hours of your confinement.
- Prison staff responsible for managing you should check on your physical and mental health during the separate confinement and support you. They should also help develop plans for your supervision and management when you get out of separate confinement.

[COPP: Prisons 10.7 Separate Confinement](#) Appendix A sets out how you will be managed during confinement.

You must be placed in a cell that complies with legal requirements.

This means you must:

- be held in a ventilated and well-lit cell
- have access to daily exercise (for a minimum of one hour, weather permitting), adequate clothing, food, water and toilet facilities.



7. Force and weapons

When can force be used on me?

The CEO of the DJCS may order the use of force against you if:

- a serious breach of the good order or security of a prison has occurred or is about to happen, and
- there are no other reasonable means of control available.

This includes force which may cause death or serious injury.

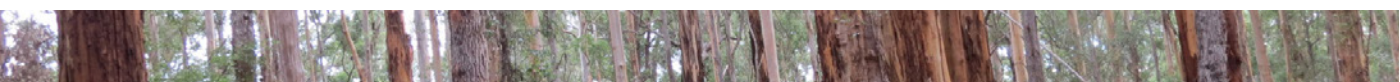
The use of firearms

Prison officers do not routinely carry firearms. Firearms can only be used if someone is attempting to:

- escape from the prison
- break into the prison, or
- assault any person in a manner that is apparently dangerous to life or likely to cause serious injury.

Other weapons

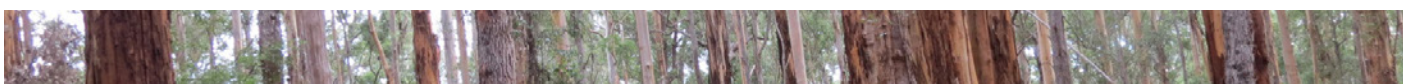
The weapons that prison officers routinely carry depend on their role and where they are working. Prison officers can carry chemical agents, batons and handcuffs. Emergency Support Group Officers do use tasers and it is an option available to prison staff in exceptional circumstances.



8. More information

There are policies and laws you may want to read for more detailed information:

- [Prisons Act 1981 \(WA\)](#)
- [Prison Regulations 1982 \(WA\)](#)
- [Prison Rule 11 Searching](#) (current as of 8 June 2020)
- [Commissioner's Operating Policies and Procedures \(COPP\): Prisons:](#)
 - ▶ 11.2 Searching (COPP) (effective as of 15 May 2023)
 - ▶ 10.7 Separate Confinement (effective as of 26 June 2023)



Part 5

Programs and employment

This part covers:

1. Overview of services and programs
2. Rehabilitation programs
3. Education
4. Work
5. More information



Part 5

Programs and employment



1. Overview of services and programs

The CEO of the Department of Justice, Corrective Services (DJCS) can arrange for you to go to services and programs for your wellbeing and rehabilitation. In practice, this is generally done through the Education and Vocational Training Unit (EVTU).

The programs may:

- promote health and wellbeing
- enable you to get knowledge and skills to help keep out of trouble on release
- assist you with integrating into the community when you are released
- help you maintain and strengthen supportive relationships
- provide opportunities for you to constructively use your time in custody
- provide counselling services
- provide work and leisure activities, and
- allow you to make reparation for your offences.

You should be given the opportunity to do these activities and programs, but you cannot be forced to participate in them.

However, you can be forced to work if you are sentenced and medically fit.

Doing education, treatment or rehabilitation programs or vocational training is considered a 'constructive activity.' If you do them, you are paid gratuities (see [Part 3 - Basics](#)). The level of gratuity payment depends on what is involved and how engaged you are.

Other constructive activities include:

- work in an industrial workshop
- some activities on a prison farm
- prison maintenance
- higher education programs.



2. Rehabilitation programs

You have the option of undergoing a range of treatment programs to help you identify your problem areas.

You can do programs that target the causes of your offending. All programs are delivered in groups.

The needs of specific groups such as Aboriginal prisoners, women and those who have struggled at school are addressed through certain programs.

There are programs for:

- Drug and alcohol use related offending
 - ▶ Pathways: an intensive 21-week program that helps you focus on reducing reoffending and substance abuse
 - ▶ Substance abuse programs offered at Wandoo Rehabilitation Prison and the Mallee Rehabilitation Centre at Casuarina Prison.
- If you graduate from these programs, you can be given priority to move into drug free units at Wooroloo, Albany, Bandyup and Acacia prisons.
- Sex offenders
 - ▶ These programs cover a range of issues, including victim empathy and critical reasoning. The Sex Offenders Deniers Program currently runs at Acacia, Bunbury and Karnet prisons
- Violent offenders
 - ▶ Several violent offending programs are run at prisons throughout the state
 - ▶ These programs look at the causes of violent behaviour. They help you develop positive behaviour and attitudes
 - ▶ Family violence programs are also available for male prisoners. These focus on you accepting responsibility for your actions.
- General offending
 - ▶ These programs help you get a better understanding of why you get into trouble using a range of treatment methods including problem solving, relapse prevention and safety planning
 - ▶ They also help you work towards improving aspects of your life
- To develop your thinking skills

What are the main benefits?

Completion of treatment programs is an important factor when you are considered for release by the Prisoners Review Board. The programs also help your transition back into the community and reduce the risk of re-offending.

3. Education

You will be encouraged to get involved in a wide range of education and vocational



training programs while you are in custody. Education programs are managed by the EVTU. They aim to help you get a job while in prison and after your release.

If needed, you can get help from education staff with basic education and literacy skills.

Programs are available to all prisons through internal and external service providers, including TAFE and other colleges. The courses include adult basic education, driver education and training, vocational education and training, secondary and higher education, employability and life coping skills, pre-release and the Prison Employment Program (“PEP”).

Qualifications are nationally recognised, and courses started in prison can be continued in the community after you are released.

4. Work

Unless you are on remand, you are required to work while in prison. The work you do may be classified as level 1 (the most skilled) to level 5 (the least skilled).

You are allocated work to do and credited gratuities to the prison’s gratuity account accordingly.

A gratuity is a payment for work done but is not actual money. You may spend amounts in the gratuity account if the Superintendent authorises it.

If you refuse to work, you may be charged with a prison offence and will not be credited with gratuities. If you are undergoing punishment, you are also not credited with gratuities. If you are sick, you will still be credited with the same rate of gratuities. If you are serving a sentence at a lock-up, you are not credited with gratuities.

Getting work inside

Sentenced prisoners who can work may be employed as the Superintendent directs. In practice, if you are sentenced, you generally need to apply for work as though you are applying for a job.

If you want to work while you are on remand, you must apply to the Superintendent in writing.

Prison work is classified into five levels, which have a corresponding gratuity rate. For example:

- Level 1 involves work that requires exceptional skill, special aptitude and carefulness.
- Level 5 involves “duties of a general nature” that don’t involve much skill.



Time to Work Employment Service

Some Aboriginal and Torres Strait Islander prisoners can be linked into the Time to Work Employment Service before release. It is a national voluntary in-prison employment service for Aboriginal and Torres Strait Islander peoples.

Is this service at every prison in WA?

No. For example, it is not available if you are in a remote prison. It is available at the prisons set out in the table below.

The organisations that provide the service are listed in the left-hand side column of the table below.

Provider	Prison
Breakaway Aboriginal Corporation	Bunbury Regional Prison Eastern Goldfields Regional Prison
Men's Outreach Service Inc.	Broome Regional Prison
PeopleKind (formerly Nulsen Group Limited)	Acacia Prison Bandyup Women's Prison Boronia Pre-release Centre for Women Casuarina Prison Hakea Prison Karnet Prison Farm Wandoo Reintegration Facility Wooroloo Prison Farm
Pivot Support Services	Albany Regional Prison Pardelup Prison Farm

Who is eligible?

To participate in the Time to Work Employment Service, you must:

- self-identify as Aboriginal or Torres Strait Islander
- be over 18 years of age, and
- be sentenced and within 1-to-4 months of your release from prison.

What help can you get?

Through the Time to Work Employment Service, you can access support which will put you in a better position to find employment and reintegrate into the community when you get out of prison. The service will help you to identify the things that might prevent you from getting a job. It will also help you to overcome those barriers.

Boronia Pre-Release Centre

Some Aboriginal women prisoners at Boronia Pre-Release Centre have the opportunity to learn hospitality skills in a pilot program to create work opportunities when they are released. The two-year pilot started in November 2022.

Those eligible are trained in kitchen, catering and hospitality over a 16-week cycle. The women participate in industry-recognised training up to Certificate II in Kitchen Operations, Retail Services, Cleaning Operations and Warehousing.

Program participants receive culturally safe learning and mentoring, access to Aboriginal language education and an Elders program, peer support and extended 6-month post-release support to help them keep their jobs while adjusting to life after prison.

Work outside the prison – Prisoner Employment Program (PEP)

What is covered by this program?

The program introduces you to paid employment, education or work experience outside the prison, with the hope that you will continue it after release.

Participation in the PEP is a privilege.

You can apply for the PEP for the following employment related activities in the Community:

- paid employment
- work experience
- going to a vocational training course that goes for more than 4 weeks, such as a TAFE course
- going to university.

Can I apply?

You can apply for this program if you:

- are a sentenced prisoner
- have a minimum security rating and placement (unless otherwise decided by the Superintendent and the Director of Sentence Management), and
- are within 12 months of your earliest eligibility date for discharge from prison.

Paid employment generally may only occur in the last 6 months prior to your potential release date or the last 6 months of a re-socialisation program. You can apply 3 months before the date you are eligible to start paid work.



You are not eligible to apply in certain circumstances including:

- if you are likely to be or have a confirmed order to be deported or removed from Australia
- if you are likely to be extradited (extradite means to make you return for trial to another country or state where you have been accused of doing something illegal)
- if you are a prisoner subject to the *Criminal Law (Mentally Impaired Accused) Act 1996* (WA).

Generally, you are also not eligible to be considered for the PEP if you haven't completed treatment programs as part of your Individual Management Plan.

Furthermore, you will ordinarily also not be considered for the PEP if you have a pending prison charge, or if you have been convicted of a prison offence within 3 months of the date of your application.

There are other time frames before you can apply depending on how many prison offences you have been convicted of within the last 3 years of your current sentence.

How to apply for the PEP

You must submit a PEP application form, which is assessed in relation to the aim of reintegration, your good conduct and the strengths of the application.

Your wages

You must open or have an activated savings bank account in your name only for your pay to be paid into. Any payment from employers is held in a secure account until you are released.

You must let Centrelink know of any wages you get for income assessment if your dependent family receives Centrelink payments.

You must:

- meet any Child Support obligations
- pay board to the Department of Justice, Corrective Services if you are in paid employment, and
- not receive gratuities if you are in full time PEP paid employment.

Appeals against PEP decisions

Unless the decision is made by the Commissioner, Corrective Services, you have the right to one appeal against your participation in the PEP and /or the conditions set out in the decision.

Generally, your appeal must be lodged with the Chairperson, Case Conference within 21 days of you being told of the decision.

If the decision is made by the Commissioner, Corrective Services, you have no right of appeal.

Work outside the prison - absence permits

Sometimes you are allowed to work outside a prison with an absence permit. You can

also be confined in a facility outside the prison to engage in work.

Work camps

Placement at a camp is a privilege. There are several work camps in WA, which house small groups of low-risk prisoners who are nearing release. The work camps allow you to improve your work skills and contribute to community projects. The work that prisoners at the work camps have been involved in includes:

- tree planting
- coastal regeneration
- maintenance of national parks, and
- restoring heritage sites.

Prisoners in work camps are generally subject to the same rules as other prisoners. Work camps have a 'zero tolerance' approach to misconduct.

Who is eligible for work camp placement?

You may be eligible in the following circumstances:

- if you have a minimum-security rating, and you are placed at the home prison responsible for the work camp you want to go to
- if you have less than 2 years to your earliest date of release (if you have more than 2 years, approval from the Assistant Commissioner Adult Custodial Operations (ACCO) is needed)
- where you are serving a sentence of less than 6 months, if a Superintendent agrees
- where you are liable for an order under the *High Risk Serious Offenders Act 2020* (WA), you are only eligible if you have successfully completed all recommended medium and high risk sex offender treatment programs (even then you must be recommended for placement by the Superintendent to the ACCO)
- where you are serving a life sentence or indefinite imprisonment, you are only eligible if work camp placement is a part of an approved Re-Socialisation program.

If you are at a work camp, you can be assessed to participate in the PEP.

5. More information

There are policies you may want to read for more detailed information.

These include the [Commissioner's Operating Policies and Procedures](#) (COPPs): Prison:

- 8.1 Prison Based Constructive Activities (effective as of 28 December 2021)
- 8.2 Prisoner Employment Program (effective as of 27 July 2023)
- 8.6 Work Camps (effective as of 10 July 2023).

You can also find information on the Department of Justice, Corrective Services website.



Part 6

Health

This part covers:

1. Health and medical treatment – assessment
2. Treatment
3. Medication
4. Substance use and dependency
5. Psychiatric and mental health care
6. Aboriginal prisoners and Torres Strait Islander prisoners
7. Programs and other services
8. Access to information
9. Common complaints about medical treatment
10. Who to complain to about medical treatment while in custody
11. More information



Part 6

Health

1. Health and medical treatment – assessment

Will I receive regular check-ups?

When you come into prison, a nurse will assess you within your first 24 hours. This first check looks for chronic diseases such as diabetes and diseases that can be spread such as hepatitis C.

Where necessary, follow up appointments are made with nursing, medical, mental health and specialist staff. You also get a yearly health check.

You are eligible for routine dental treatment, routine eye examinations and a routine hearing test of a type available through the WA public health system.

If you are feeling unwell, you must request an appointment.

Am I eligible for Medicare or the Pharmaceutical Benefits Scheme (PBS) while in prison?

No, because Medicare and PBS are federally funded. As prisons are state funded, the costs for your health care are covered by state prison services or state health services. However, you may not be covered for elective surgery or for things like reading glasses beyond the basic type.

2. Treatment

What health care treatment is available to me in prison?

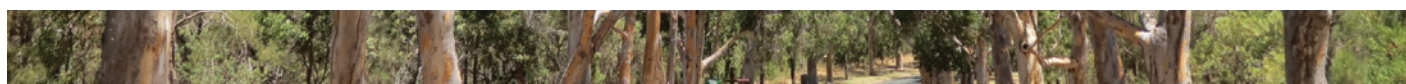
Health care is provided to all prisoners state-wide by a team of doctors, nurses, mental health and drug and alcohol specialists, and by visiting health and allied health specialists including psychiatrists, dentists, podiatrists and physiotherapists. Vaccines which you would be able to get if you were out of prison should be available in the prisons.

Programs to prevent health problems are also on offer.

What standard are these services provided at?

Prisoners receive the same care as that received by the general public under the WA public health system. They are subject to the same public wait lists as others in the general community.

Your medical needs are most important. The only time a conflict arises between being a patient and being a prisoner is where you behave in a dangerous manner and must be restrained before you receive medical attention.



Can I refuse medical treatment?

You should not be forced to have unwanted medical treatment (unless the examination/treatment is undertaken pursuant to sections 46 and 95D of the *Prisons Act 1981* (WA), (see below for these exceptions).

The health practitioner must first check if you have capacity to say yes or no to treatment.

You have capacity to give consent (to say yes) if you can understand the nature, consequences and risks of the proposed treatment.

According to the Consent to Treatment Procedure in force in WA from 13 March 2023, you must be given sufficient information to make an informed decision on whether to consent to medical treatment. In order to assist you with this, the health practitioner must (within their type of work):

- explain the proposed treatment (including treatment and recovery period),
- outline the potential benefits, complications, material risks as relevant to your particular situation, and the possibility that the treatment may be unsuccessful, and
- inform you of alternative treatment options and the option to seek a second opinion.

Failure of the practitioner, for example, a doctor, to disclose this information to you before you decide whether to have medical treatment may result in a finding that the practitioner has acted negligently towards you and that there has been a breach of the duty of care owed to you.

For more information on negligence, see under the heading *Personal injury – if you have been injured in prison or before you went to prison* in [Part 11 – Other legal problems](#).

All reasonable efforts must be made to give you extra information (for example, written information, specific information sheets about your procedure if available, decision aid tools, videos) to increase your understanding, and help you to make a treatment decision.

You have the right to be heard and to ask questions about any information provided about your proposed treatment.

The health practitioner should check that you have understood the information given and that all your queries have been answered.

The information should be given to you in a language and in such a way that you can understand it and in enough detail for you to make decisions about your treatment.

Generally, no health procedure can be done without your informed consent (see exceptions to this below). Your right to decide for yourself about medical care is not taken away because you are in prison.

To be valid, your consent must:

- be voluntary – your decision to either give or not give consent to the proposed treatment must not be improperly influenced by the health practitioner, or your friends or family





- be informed – you must receive sufficient and meaningful information about the proposed treatment to enable you to make an informed decision
- be given to you as someone who has capacity to understand the information presented to you and to make a decision about the proposed treatment
- cover the treatment/s to be performed – where a course of treatment involves multiple treatments, the consent obtained must cover all treatments
- be current – consent must be reviewed if, after consent was obtained, your circumstances (including treatment options and risks) have changed.

Your written consent should be obtained where a consent form is available.

When needed, an interpreter should be provided to confirm consent. If one is not available, a second independent practitioner should examine you and document their opinion.

If you cannot read or write or cannot sign a consent form but are not mentally incompetent, intellectually impaired or requiring emergency treatment, then no form is required. You can say that you give consent. A witness should be present at the time of giving consent.

When your consent is not needed

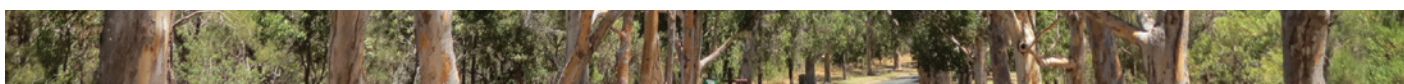
In the case of an emergency where a procedure is necessary to save your life or prevent serious harm to you, if you are not able to consent to the required treatment at the time (because you are unconscious), consent is deemed by law to have been given for treatment.

You can withdraw consent at any time.

Consent will usually remain valid until withdrawn.

Sections 46 and 95D of the *Prisons Act 1981* (WA) provide for the examination and treatment of prisoners against their will. Such a power must only be used in the following circumstances:

- Section 46 allows for an imposed medical examination to collect evidence. Where there are reasonable grounds for believing that a medical examination of you will provide evidence about an offence having happened, a medical officer acting at the request of the Superintendent or delegated officer/practitioner can do a medical examination of you as is reasonably necessary. They may use such force as is reasonably necessary for the purpose. An example of this may be where



another prisoner claims they have been assaulted by you. However, this section is not applied very often. Generally sufficient evidence to support a complaint is voluntarily provided by the other prisoner or alternatively, witnesses to the assault are able to confirm the incident occurred.

- Section 95D gives the prison authorities the power to conduct medical examinations and provide treatment to you in certain circumstances, such as:
 - ▶ Where you refuse to undergo a medical examination by a medical officer:
 - » when admitted to a prison
 - » when required by the Superintendent
 - » when a medical officer considers it necessary, or
 - » when a medical officer is of the opinion that your life or health or that of any other person/s is likely to be endangered by your refusal.
 - ▶ Where a medical officer and any person acting in good faith may, under the direction of the medical officer, undertake the medical examination or administer the medical treatment and use force.
 - ▶ Where you are required to be force fed or have forced psychiatric treatment.

Approval would need to be obtained from the Superintendent and the senior medical officer.

Can I get a COVID -19 vaccination or booster?

These should be available free.

Being infected with COVID-19 may lead to confinement and restrictions on visits and participation in activities.

When you are not able to give consent

Some people are not able (“competent”) to give consent such as:

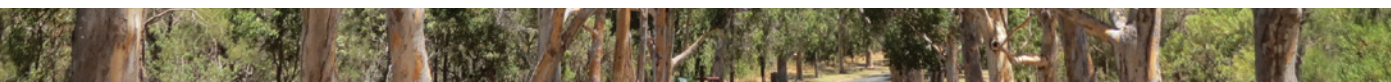
- mentally ill or impaired patients, or
- unconscious patients.

Where a person has a psychiatric illness or intellectual disability and they do not understand the nature and purpose of the treatment, then the *Guardianship and Administration Act 1992* (WA) [GAA] is to be followed. The GAA allows for the appointment of a guardian for prisoners who are unable to make reasonable judgements about matters relating to themselves.

A guardian may consent to any treatment of the represented person other than psychiatric treatment as defined in the *Mental Health Act 1996* (WA) section 4 or sterilisation.

Can I see a private medical practitioner, hospital or health specialist on the outside?

Under section 83 of the *Prisons Act 1981* (WA), authorised absences from the prison can be obtained for several purposes including so that prisoners’ medical or health



requirements can be met.

You can ask to consult a doctor privately and have treatment, but you will have to pay for this. Your request will be considered by the Director of Medical Services in consultation with the Superintendent. Consideration of your request will include:

- Are there medical grounds for you to see someone privately?
- Are the services not reasonably available in the WA public health system?
- Can you pay for all the costs involved?

First you see a prison doctor. The doctor will work out the medical condition and if a specialist is required. You are then referred by the prison doctor to a specialist on the outside. It is up to the specialist to confirm their availability. When an appointment is available, the prison health services receive notification, and it is booked on the TOMS (Offender Management System). A movements officer makes all the arrangements for you to get to your appointment. A risk assessment is undertaken, any potential issues are identified, and recommendations are made about security and escort arrangements.

Examples include:

- mothers attending a medical appointment with a child who lives with them
- appointments for dental, hearing, eyes, or other related health services, or
- hospital appointments for non-urgent surgery.

What happens if I require non-lifesaving surgery? Is it performed in the prison?

If you need non-lifesaving surgery such as a joint replacement, you are placed on the public waiting list. Appropriate transport is arranged to take you to hospital if your surgery date comes up while you are still serving your sentence.

What happens if I need urgent medical attention in hospital?

If an assessment carried out by prison health staff shows that you need to go to hospital, appropriate transport will be arranged.

Can I request to see a male or female doctor?

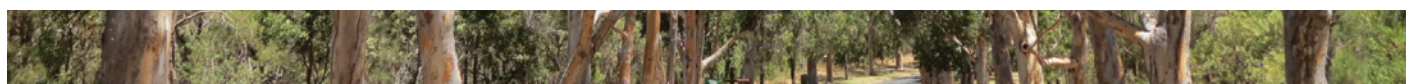
All State prisons try to provide both female and male doctors, however, due to the prisoner population, your request may not be granted.

Are contraceptives, eg, the pill, provided to female prisoners?

Yes. Sex is prohibited in all WA prisons but if you are already on the contraceptive pill when entering prison, you may continue using the contraceptive if your external doctor agrees. If so, the prescription is given to prison staff from your external doctor.

If I am pregnant will I give birth in prison?

At full term, you are transferred to hospital.



At what age can children stay with me in prison?

At Bandyup Women's Prison, children can live with their mothers up until the age of 1. At Boronia Pre-release Centre for Women, children can live with their mothers up until the age of 4. Children under 12 can apply for overnight stays or extended day stays.

Are condoms and dental dams provided?

Condoms are provided to help reduce the spread and transmission of infections and blood-borne viruses when prisoners are released back into the community. Condoms can be obtained from a vending machine for free. Dental dams are also available for free.

When you are released, you will also be given a kit with public health information.

What if I refuse to eat?

If you refuse food or fluids for more than 2 consecutive shifts, you will be placed on the At Risk Management System.

You may be withdrawn from all programs and sporting activities, so you don't use up energy. What you eat and drink will be checked.

The Superintendent, based on advice from a medical practitioner, will decide if you need to be observed in a prison hospital. If so, you will be transferred to Casuarina Prison if you are male and Bandyup Women's Prison if you are female.

The Superintendent will contact your next of kin or legally appointed guardian.

In consultation with the Director of Health Services, a medical practitioner will decide when you can no longer be treated in prison. You will then be transferred to a hospital.

As noted above, where there is a threat to your life and you refuse medical examination and/or treatment, medical staff and/or a prison officer under the direction of medical staff may use reasonable force to conduct procedures(s) which are necessary to save your life or prevent serious harm to you.

Isolation for medical reasons

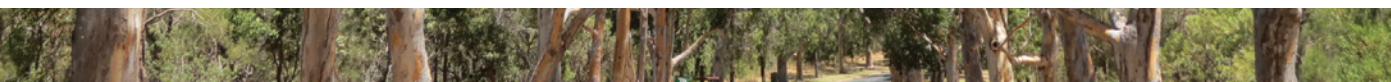
Occasionally your behaviour or medical condition may warrant your placement in an observation or medical observation cell. The placement is designed to minimise the opportunity for self-harm and to help with closer supervision. Placement is never to be used as punishment or in a punitive manner. Circumstances where placement may occur are:

- where there is considered to be a high risk of self-harm
- as a temporary measure until a full assessment is done, or
- to monitor your medical or psychological condition/welfare.

It should not be the first step taken. Placement in an observation cell is authorised by the Superintendent after a recommendation from health staff.

A mental health assessment should occur at the earliest reasonable opportunity and at the latest within 72 hours of your confinement.

If you request, the Superintendent will where practicable, immediately notify your family



(or significant others) of the placement. A doctor will work out further placement or removal. Your visits are to go on as normal.

For more information, see [Part 4 – Prison officer powers](#) under the heading *Confinement*.

Can I get special dietary food?

Special dietary food must be provided where it is established that such food is medically prescribed for health reasons.

It should also be provided to meet cultural, religious or other special needs where practicable. This needs to be authorised by the Superintendent.

You will need to complete a Special/Religious/Cultural Meal Request Form.

Medical diets (eg for diabetes) and low fat diets will need to be assessed and approved by Health Services staff.

Can I be charged for my medical treatment?

Access to health care is provided at no cost subject to medically assessed need, how acute your illness is and the availability of appointments on the public health system wait list.

Where there is a genuine need for dental, vision and hearing services, these will be provided. Treatment of a solely cosmetic nature will not be provided.

You must pay for:

- any medical services not paid for or supplied by the WA public health system.
- the cost of non-standard treatment or services. Non-standard treatment or services may include:
 - ▶ Dental: special prosthetic or orthodontic treatment such as cosmetic treatment crowns, bridges and wires.
 - ▶ Vision: special optical supply/treatment such as special frames, tinting, contact lenses beyond basic standard.
- the cost of replacement, loss or damages to things like hearing aids and batteries, glasses and dentures.

3. Medication

Do I get to keep my medication prescribed by my doctor before coming to prison?

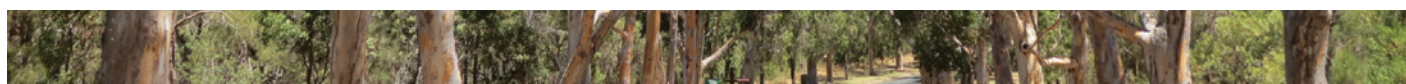
No.

Can family members bring in prescription medicine for me?

No.

How do I get approved to receive medication?

Medication must be given to each unit by a nurse. The nurse labels medication with



your name, the time for giving the medication and whether it is essential. Prison officers cannot give medication to you unless a nurse has provided it.

Who will provide me with the medication?

The Department of Justice, Corrective Services' pharmacy is responsible for the supply and dispensing of medication to prisoners. If you are already on medication when you enter the prison, prison health staff will contact your treating doctor and will request a prescription for the medication. Prison health staff issue the medication either daily or, depending on the condition, the medication is kept with you.

4. Psychiatric and mental health care

The Department of Justice, Corrective Services manages prisoners with a mental illness as part of a process of assessment, diagnosis and ongoing treatment.

Mental health care is available at each prison site from mental health nurses, addiction specialists and consultant forensic psychiatrists.

Specialist services such as the crisis care units at Casuarina and Hakea prisons are staffed 7 days a week by mental health specialists. These units are acute psychiatric wards within the prison. They:

- identify prisoners with mental illness
- consult with external agencies and individuals who have cared for prisoners or who will care for prisoners upon exit from prison
- assess prisoners, including assessment for the courts, the Mentally Impaired Accused Review Board and the Prisoner Review Board
- treat prisoners, and
- provide education services.

A specialist facility available for the treatment of mentally ill prisoners is the Frankland Centre, at the Graylands Hospital complex. This is a forensic psychiatric in-patient service. The hospital provides mental health inpatient care:

- to remand and sentenced prisoners,
- individuals referred on Hospital Orders by the courts for mental health assessment, and
- individuals found not guilty by reason of unsound mind or unfit to stand trial subject to the *Criminal Law (Mentally Impaired Accused) Act 1996*.

It is difficult for you to get placed in the Frankland Centre at Graylands Hospital unless you have an acute illness.

Bindi Bindi Mental Health Unit at Bandyup Women's Prison

This is a specialist treatment and care mental health unit with support services based in the unit. Women across the WA prison system can access the unit.

You will still be sent to the Frankland Centre if you need acute inpatient care and/or involuntary care.



The unit has two different placement areas:

1. High dependency area - this is for when your needs are high with severe symptoms of mental illness.
2. Subacute area – this is for you if you need more support than you would get in a usual prison situation. The aim of this area is to help reduce the risk of harm to yourself or others; help reduce your symptoms and stop the need to go to hospital; help you transition back to your usual prison accommodation; and support your ability to live independently.

Other services

The Mental Health Service can assess you for court and the Prisoners Review Board.

There are other services that can provide support if you have a mental health issue. See under the heading *Visitors and services* in *Part 8 - Outside contact*

5. Aboriginal prisoners and Torres Strait Islander prisoners

Aboriginal health workers are available within the prison system however they are mainly employed in regional prisons.

6. Substance use and dependency

To rehabilitate prisoners with alcohol and drug dependencies, Corrective Services offers a Pathways Program. It is a 21-week program focusing on reducing reoffending and substance abuse.

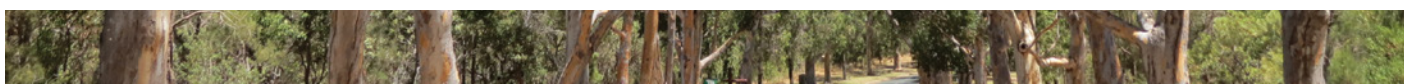
Wandoo Rehabilitation Prison is an alcohol and drug rehabilitation prison for women in custody. It offers dedicated, intensive trauma-informed treatment within a therapeutic community. Women at Wandoo are supported by multi-disciplinary case-management to reduce addiction, improve mental and physical health and reduce the chances of re-offending.

Women at Wandoo are offered transitional and post-release support for their ongoing rehabilitation and abstinence.

The Mallee Rehabilitation Centre at Casuarina Prison is a drug rehabilitation unit for male prisoners. In this unit you do intensive counselling and education focused on your recovery and successful reintegration back into the community.

Drug-related support for prisoners in other prisons includes:

- drug treatment units
- drug-free living units
- brief intervention support
- offender programs in prisons and in the community
- health interventions
- drug and alcohol withdrawal treatments, and
- Community Pharmacotherapy Opiate Program (CPOP).



If you:

- Enter prison and are already on methadone or buprenorphine, you may continue to receive this therapy through a replacement program for opiate addictions.
- Were on a program while in the community, then your medication will be continuous. The prison takes over the program and can work out increases or decreases in medication. When you leave the prison, you are transferred back into the community program.

or

- Enter prison and have an opiate addiction and you want to go onto the program, you can ask to go on the wait list. Conditions apply to entry to this program. Nurses are available in every prison to administer medication under this program.

7. Programs and other services

You should have access to a range of culturally appropriate health education programs and information.

What programs and services can I attend?

- HIP HOP (Health in Prison, Health Outta Prison)
- co-morbidity service: clinical nurses are available to assist you if you have more than one disease process present, for example, diabetes and a heart condition
- mental health and drug or alcohol programs and support, such as:
 - ▶ drug rehabilitation unit at Casuarina Prison
 - ▶ drug rehabilitation at Wandoo Rehabilitation Prison
- where available, culturally appropriate health education and promotion once your medical condition is identified. This includes:
 - ▶ information, clinical consultations providing preventative health checks, education, referrals, and
 - ▶ therapeutic support groups.

You must receive mandatory blood borne virus education within 14 days of going into prison or detention.

8. Access to information

How confidential is my medical record?

Health information is stored on a medical file, which is then used to record any subsequent medical consultations or treatment.

Your health is a matter between you and the health personnel and should remain confidential unless non-disclosure may jeopardise your care and well-being. Health staff will take care during consultations and treatment to maintain the privacy of conversations and examination.



- Each important contact is written up in your medical file, which is strictly confidential and only accessible to health staff (unless requested by others, see below).
- The medical file moves location when you do. Files are transferred in sealed envelopes with a “Privacy and Confidential – Medical in Confidence” sticker.
- Medical records are the property of the Department of Justice, Corrective Services and are released in accordance with legal requirements or to authorised personnel.
- Medical records are subject to the prison health services Retention and Disposal *Schedule RD 200001* approved by the State Records Office in July 2000. Since 2009 all medical records have been electronically stored. Generally, Corrective Services has a policy of not destroying medical records either in paper or electronic format.

Who can access my medical file?

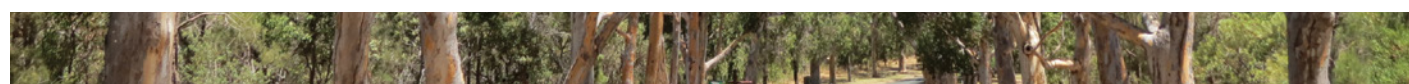
Medical records are confidential. Information and records should not be released to unauthorised persons.

Consent should be in writing where practicable and this will be filed in the medical record. Copies of medical records must be authorised by the Director Medical Services.

Responsibility for requests for information from your medical file depends on who is asking and what they are asking for. This will also determine whether your consent is required.

Requests can be made to access your medical file by the following:

Who is requesting my medical file?	Is my consent required?
Health care providers such as your GP who you will see on your release from prison	Usually requires written consent from you.
Court requests or subpoenas	Does not require your consent.
Lawyers acting for you	Requires written consent from you.
Lawyers acting for past or present health staff	<p>No written consent from you required. The Director Medical Services will seek advice from the State Solicitor’s Office.</p> <p>A GP nominated and paid for by the lawyer and approved by the Director Medical Services can be given access to the medical record to look at and extract relevant information.</p>



Who is requesting my medical file?	Is my consent required?
State Solicitor's Office	Requests go to Information Release and Litigation Management.
Police or Officers of Department of Justice, Corrective Services Internal Investigations Branch	Requests dealt with by Information Release and Litigation Management unless it is for intelligence purposes. Written consent required except where consent is not available, but the release of information is in the public interest.
Ombudsman or HaDSCO	The Ombudsman will normally check whether you have any objection to them seeing your medical record. HaDSCO will obtain a signed authorisation from you. Requests by the Ombudsman go to Information Release and Litigation Management.
The Office of the Inspector of Custodial Services	Section 28(1)(g) of the Inspector of <i>Custodial Services Act 2003</i> (WA) says that the inspector or their authorised delegate has free and unrestricted access to documents including patients' medical records.
Community-Based Corrections	Written consent required for the release of information.
Psychiatrists engaged by the Department of Justice, Corrective Services	May be granted access and consent is not required.
Prison counselling service engaged by the Department of Justice, Corrective Services	May be granted access and consent is not required.

How do I access my medical file?

When you are in custody, medical or psychiatric information is usually shared with you during your consultation.



To access copies of your prison medical records, including psychological records and reports, you will need to make a request for access by completing a Freedom of Information (FOI) application under the *Freedom of Information Act 1992* (WA) and provide it to a nominated officer at the prison. If you are in a private prison, your request should be sent to the FOI coordinator.

There are documents/records that can be requested outside of the FOI process, such as for example, a copy of a Cognitive Brief Intervention program report. However, this cannot be done until 6 weeks after you have completed the program.

To access your GP or specialist medical file, you will need to provide the prison with a signed release of information form for the prison to access this information. Without your consent the prison cannot obtain your medical history from community health services.

Can the prison administration access my medical record?

Information gathered by the prison health personnel in relation to your health is not accessible to the general prison administration. It remains confidential unless not disclosing it puts your care and wellbeing at risk. A request can be made by one of the individuals or groups listed in the table above.

Can my doctor get my medical record once I am released?

Your doctor can call the Department of Justice, Corrective Services dedicated telephone line on **1800 077 735**, 24 hours a day, seven days a week, to access medical information about patients who are ex-prisoners.

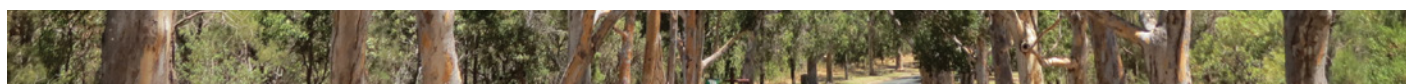
Once you leave prison, a summary of the medical treatment that you received while in prison can be supplied by the Department of Justice, Corrective Services to your health service providers. This is to make sure you receive appropriate continuing care.

Can I get my medical records once I am released?

A written summary of the medical treatment you received while in prison is supplied by Department of Justice, Corrective Services to health service providers when you are released from custody.

After release from prison you can access your medical records by making a request to the Department of Justice, Corrective Services Health Information Management Services. This request should be made by the health care provider looking after your ongoing care. A consent form signed by you should go with this request.

If you can't make a request through your health care provider, you will need to make a freedom of information (FOI) request.



Can my family or friends access information about my health or get copies of my medical records?

- Information cannot be released to a third party without your consent.
- Family and friends can write to the Minister for Corrective Services or the Commissioner for Corrective Services to seek information about your health.
- You must first provide them with consent to access this information.
- The Department of Justice, Corrective Services requests that your family member or friend get a signed letter from you stating that:
 - ▶ you give consent for the release of this information, and
 - ▶ you name the person who you agree can access your information.
- A prison officer can witness you signing your letter of consent.



Sample letter authorising access to information

Commissioner for Corrective Services
Department of Justice
David Malcolm Justice Centre
GPO Box F317
PERTH WA 6841

Hon [insert name of current minister] MLA
Minister for Corrective Services
Level 9
Dumas House
2 Havelock Street
WEST PERTH WA 6005

Dear Minister/Commissioner

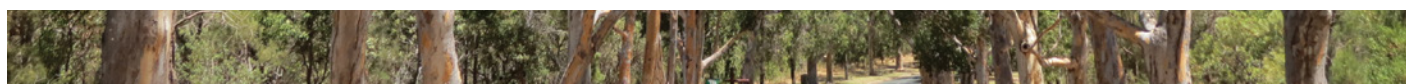
My name is [put in your name]. I am a prisoner in [put in the name of the prison].
I consent to information about my health/medical records [put in which you are
authorising the release of] being released by you to [put in the name of the person
you are allowing to get access to information about your health/medical records].

Yours faithfully

Sign your name

[print your name under your signature]

Witnessed by: [signature of prison officer who witnesses you signing it]
[the name of the prison officer should be printed below]



9. Common health related complaints

The types of complaints that are often raised by prisoners about their health include:

- Complaints about the quality of care received. Treatment problems arise if there has been inadequate treatment or delays in treatment. Here are examples:
 - ▶ My medication is not working well, and the doctor will not change it, or I have been given the wrong medication.
 - ▶ I have not been receiving appropriate treatment for my medical issue.
 - ▶ I have not received the medical treatment that was recommended by my specialist before coming into prison.
 - ▶ The prison will not approve my leave to see a specialist on the outside. What can I do?
 - ▶ I have been on the public wait list to see a specialist and I am in extreme pain. The prison will not approve the pain medication while I wait to go to a private clinic.
- Complaints about the level of communication provided, including feeling like not enough information is given about treatment or options. Sometimes prisoners can feel like they are not listened to by the prison.
- Complaints about access to treatment and services including the accessibility of services, for example, when a prisoner is refused treatment. Another example may be where a prisoner wants to go to the Frankland Centre at Graylands Hospital and not stay in the prison.
- Complaints about the effect medical treatment can have on other aspects of your imprisonment. For example: a prisoner who has been transferred from a minimum security prison to a maximum security prison for medical treatment may lose their home visit permit because of the move to a higher security prison.



10. Who to complain to about medical treatment while in custody

You can lodge a complaint with:

1. an authority within the prison
2. the Administration of Complaints Compliments and Suggestions (ACCESS)
3. the Ombudsman Western Australia
4. the Health and Disability Services Complaints Office (HaDSCO)
5. the Office of Inspector of Custodial Services.

The same type of complaint letter can be used when complaining to any of the above. This complaint letter will help you to provide the necessary information about your complaint and any supporting documents.

An authority within the prison

You should always make your complaint to your Unit Officer first. If this is unsuccessful, you can write to a more senior officer or the Prison Superintendent.

The Administration of Complaints Compliments and Suggestions (ACCESS)

If you do not get a satisfactory outcome from an authority within the prison, you can then make a complaint to ACCESS. ACCESS is the Corrective Services' complaints administration centre.

Contact:

Private and Confidential – ACCESS
PO Box Z5124
St Georges Terrace
PERTH WA 6831

Telephone: **1300 887 269** free call for prisoners. You can ask for a brochure on ACCESS to be sent to you.

If your complaint is not resolved to your satisfaction, then you have options to consider. Listed below are complaint bodies that are outside the prison system. They are independent and will investigate your complaint if it is made in writing.

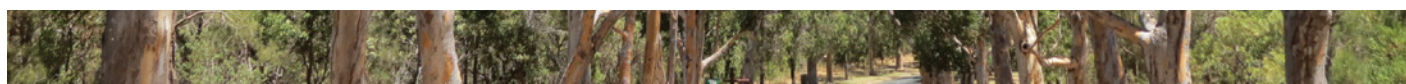
Ombudsman Western Australia

See under this heading [Part 7 – Complaints and getting information.](#)

The Health and Disability Services Complaints Office (HaDSCO)

HaDSCO:

- is an independent statutory body working to improve the delivery of health and



disability services provided within WA

- offers an accessible and impartial service for the resolution of complaints
- undertakes investigations and makes service improvement recommendations
- provides advice to users on the making of complaints to registration boards and other avenues available for dealing with complaints
- is governed by the *Health and Disability Services (Complaints) Act 1995* (WA) and the *Disability Services Act 1993* (WA)
- will accept complaints lodged by you or a family member or friend against individuals (doctors, medical staff) or an organisation (the prison), and
- generally cannot deal with disputes that are more than 2 years old or that have already been determined by a court, registration board or tribunal.

Contact:

Health and Disability Services Complaints Office (HaDSCO)

PO Box B61, Perth, Western Australia, 6838

Complaints line: **(08) 6551 7600** or **1800 813 583** or see the freecall number on the prison phone list. You can ask to be sent an information sheet: **Helpful hints: raising a complaint.**

HaDSCO have an automated call centre system which enables prison calls to be prioritised in the queue.

The Officer of the Inspector of Custodial Services

See under this heading in [Part 7 – Complaints and getting information](#) for information on the role of the Office and how to contact the office.



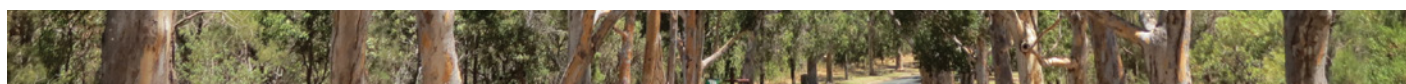
11. More information

There are policies and laws you may wish to read for more detailed information.

- [Prisons Act 1981 \(WA\)](#)
- [Prison Regulations 1982 \(WA\)](#)
- [Commissioner's Operating Policies and Procedures \(COPP\): Prisons:](#)
 - ▶ 4.13 Bindi Bindi Mental Health Unit (effective as of 14 June 2022)
 - ▶ 6.1 Prisoner Access to Health Care (effective as of 28 March 2023)
 - ▶ 6.3 Prisoner Food and Nutrition (effective as of 4 April 2023)
 - ▶ 6.6 Voluntary Starvation (effective as of 8 March 2022)
 - ▶ 9.2 Prisoner Complaints (effective as of 24 January 2022)
 - ▶ 9.6 Access to Information (effective as of 24 August 2022)
 - ▶ 10.7 Separate Confinement (effective as of 26 June 2023)

and

- the [Corrective Services Health care website](#) (current as of 1 April 2022).



Part 7

Complaints and getting information

This part covers:

1. How do I make a complaint?
2. Getting information from the prison
3. Freedom of information requests to the Department of Justice, Corrective Services
4. Freedom of information requests to private prisons
5. The Inspector of Custodial Services
6. Ombudsman WA
7. Corruption and Crime Commission
8. More information



Part 7

Complaints and getting information

1. How do I make a complaint?

If you have a matter that needs to be resolved, you could:

- consider raising the matter with the senior officer in your unit
- raise the matter with the **Administration of Complaints Compliments and Suggestions** (ACCESS) which is the part of the Department of Justice, Corrective Services which deals with complaints and feedback. You can make a free call to ACCESS on **1300 306 922** from the prisoner telephone system, or
- raise the matter with the Superintendent, a prison visitor, the Director or the Ombudsman WA.

See also under the headings *Complaints and Who to complain to about medical treatment while in custody* in [Part 6 - Health](#) for information on complaints about medical treatment.

2. Getting information from the prison

[COPP: Prisons 9.6 Access to Information](#) covers your access to personal information and disclosure of prisoner information to third parties. You are permitted to receive information about your warrants, sentence calculating and your property if you request it.

You may request other information, such as prison-based records, community-based correction records and offender medical records.

3. Freedom of information (FOI) requests to the Department of Justice

You need to check if you want **personal** information or **non-personal** information.

Personal information can be factual or routine information, such as date of birth, opinions, or evaluations, such as records of interviews.

Fees are payable as indicated below. To find out current fees call **Freedom of Information - Department of Justice** on **(08) 9264 1849 or 9264 1124**.

FOI requests – Personal information

Step 1: Get the application form:

- Ask for the library to get you a copy of an “**Application for access to documents**” Form which is available on the internet.
- If you cannot get a form from the library, you can call **Freedom of Information** in the **Department of Justice** on **(08) 9264 1849 or 9264 1124** to ask if they can post you a form.



Step 2: Complete the application form:

- To complete the application form please follow these instructions:
 1. Fill out the **applicant details** section with your personal information
 - ▶ Surname – write in your last name
 - ▶ Given names – write in your first and middle names
 - ▶ Date of birth – you can put in your birth date, but you do not have to
 - ▶ Title – write in whether you are a Mr, Mrs, Miss, Ms
 - ▶ If you have an agent or representative put their name here
 - ▶ Australian postal address: write in your address at prison
 - ▶ Contact number: write in your phone number at prison
 - ▶ Reference number: you don't have to complete this part.
 2. Fill out the details of request section by following these steps:
 - ▶ Tick the box that states, “Personal Documents.”
 - ▶ Describe what documents you want to access to. You need to be clear and give as much information about the documents as you can. You can do this by putting in information about:
 - » dates of the documents
 - » location of the documents
 - » subject matter of the documents
 - » any other information which would help identify the document
 - » if you know the name of the document that would help
 - » you can give a reason why you want access to the documents – but you don't have to.
 3. Fill out the form of access part by ticking either:
 - ▶ **“inspect the documents”** which means just having a look at the documents but not keeping a copy
 - ▶ **“require a copy of the documents”** which means you will be given a copy of the documents to keep
 4. After you have done all the steps above and signed the form, you have completed the application form.

Step 3:

Lodge your application with the Department of Justice:

By post addressed to:
Freedom of Information
Department of Justice
GPO Box F317
PERTH WA 6841



By fax: (08) 9481 8504

- An authorised prison officer may be able to help you submit your application to the relevant part of the Department of Justice.
- It can take up to 45 days to hear back from the Department about your request.

FOI requests – non-personal information

Step 1: Get the application form:

- Ask for the library to get you a copy of an “**Application for access to documents**” Form which is available on the internet.
- If you cannot get a form from the library, you can call **Freedom of Information** Department of Justice on **(08) 9264 1849 or 9264 1124** to ask if they can post you a form.

Step 2: Complete the application form:

To complete the application form:

1. Fill out the **applicant details** section with your personal information
 - ▶ Surname – write in your last name
 - ▶ Given names – write in your first and middle names
 - ▶ Date of birth – you can put in your birth date, but you do not have to
 - ▶ Title – write in whether you are a Mr, Mrs, Miss, Ms
 - ▶ Postal address: write in your address at prison
 - ▶ Contact number: write in your phone number at prison
 - ▶ Reference number: just leave this part blank.
2. Fill out the **details of request** section by:
 - ▶ Tick the box that states “Non-personal documents.”
 - ▶ Describe what documents you want to access. You need to be clear and give as much information about the documents as you can. You can do this by putting in information about:
 - » dates of the documents
 - » location of the documents
 - » subject matter of the documents
 - » any other information which would help identify the document
 - » if you know the name of the document that would help, and
 - » you can give a reason why you want access to the documents – but you don’t have to.
3. Fill out the form of access part by ticking either:
 - ▶ “**inspect the documents**” which means just having a look at the documents but not keeping a copy.
 - ▶ “**require a copy of the documents**” which means you will be given a copy of



the documents to keep.

- » Fill out the fees and charges part. As you are in prison, you can apply to get a 25% reduction in charges (financially disadvantaged). Tick 'Yes' and fill in the reason.
- » After you have followed all the steps above and signed the form, you have completed the application form.

Step 3:

- Lodge your application with the Department of Justice with the application fee:

By post addressed to:

Freedom of Information

Department of Justice

GPO Box F317

PERTH WA 6841

- An authorised prison officer may be able to help you submit your application to the relevant section of the Department of Justice.
- It can take up to 45 days to hear back from the Department of Justice about your request.

Are there any charges for processing a freedom of information request?

You do not have to pay a fee or charge for your own application for personal information.

You can be charged for processing a non-personal freedom of information request. There is a \$30 application fee which must be lodged with your application.

The Department can charge the below amounts when processing your application:

- charge per hour for time taken dealing with the application
- charge per hour for access time supervised by staff
- charges of \$30 per hour for staff time and 20 cents per copy for photocopying
- charges per hour for staff time in transcribing information from a tape or other device
- charge for duplicating a tape, film or computer information – actual cost, and
- charge for delivery, packaging and postage – actual cost.

Given this you should try to limit your request to only the information you need.

Notice of decision

You will receive in writing, notice of the Department of Justice's decision relating to your request for information. The notice will include the below information:

- date of the decision
- name and title of the decision maker



- reasons for deleting any matter
- reasons for deferring access
- arrangements for giving access
- reasons for refusing access to any matter
- the amount and basis for any charges, and
- the rights of review and procedures followed.

If you are unhappy with your decision, you have a right of review

- Your right of review must be done **within 30 days** after being given notice of the decision.
- A different person holds the review than the person who made the original decision.
- The agency must give you written notice of the decision **within 15 days**.
- There are no fees involved.

If you are still unhappy with the decision after your review, you can:

Make a written complaint to the Office of the Information Commissioner WA within 60 days after the internal (first) review decision.

The Commissioner's decision is final unless an appeal is made to the Supreme Court on a question of law.

Where can I get more information?

For more information and the forms, you need to contact the Department of Justice or ask your Unit Manager for a form.

4. Freedom of information requests in a private prison

Your request should go to the Freedom of Information Coordinator in your prison. You should sign your application.

5. The Inspector of Custodial Services

The Office of the Inspector of Custodial Services (the Office) is an independent statutory body that provides external scrutiny of the standards and operational practices of custodial services in Western Australia.

The Office covers all public and private sector prisons and youth detention centres, court custody centres, prescribed lock ups, and contracted prisoner transport and support services in Western Australia.

The Inspector of Custodial Services does inspections of any prison service and considers custody related matters. The main focus is on:



Complaints

- the treatment of and conditions for persons in custody
- the effects of custody on particular groups of persons in custody
- a prison service, or any aspect of a prison service, and
- any other matter of significance.

The Office cannot deal with complaints or grievances about an individual. Where appropriate, these matters are referred to the appropriate department or agency. However, many complaints received by the Office actually raise system wide questions about custodial services which impact on prisoners.

The Office can be contacted on **(08) 6551 4200**.

6. Ombudsman WA

The Western Australian Ombudsman is an officer of parliament, who is independent and who has the power to investigate complaints made against a Western Australian State Government agency (for example, the Department of Justice, Corrective Services and a statutory authority (a prison)).

The Ombudsman WA tries to resolve complaints about the decision making of public authorities and tries to improve the standard of public administration.

The Ombudsman's services are free and available to everyone.

Below is a summary of what the Ombudsman can look into and do for you as a prisoner and the process for doing this.

- You can complain about any decision, action or inaction by any prison or the Department, but only if the complaint is related to a matter of administration such as decision-making practices and the matter affects you personally.
- If you want a family member or your lawyer to make the complaint for you, they will need to complete an Authority to Act Form.
- The Ombudsman cannot investigate complaints more than 12 months old or complaints that can be taken to court or a tribunal.
- Complaints must be in writing, but a phone call can be made to discuss your complaint.
- The Ombudsman can only make recommendations to agencies. They cannot direct that action be taken. However, public authorities generally accept and implement their recommendations.
- Any documents sent or received from the Ombudsman cannot be used in any legal proceedings.
- They will not look at the complaint until you have tried to deal with it at a unit level, prison level or Departmental level.

A review of the Ombudsman's decision is possible. The decision to undertake a review is not automatic. You must give enough evidence to persuade the Ombudsman that a review is justified.

The WA Ombudsman's office can send you information sheets on different aspects of the complaints process, including how to make a complaint to a State Government



agency and how to complain to the Ombudsman.

Contact the **Ombudsman WA** on **(08) 9220 7555** or **1800 117 000** (from landlines) or write to:

Ombudsman Western Australia

PO Box Z5386

St Georges Terrace

PERTH WA 6831

7. Corruption and Crime Commission

The Corruption and Crime Commission (CCC) accepts and can investigate allegations of misconduct by WA public officers, including police officers and prison officers.

What is misconduct?

Misconduct occurs when a public officer abuses their authority for personal gain, or to cause detriment to another person, or acts contrary to the public interest.

How do I make a complaint?

If you think this has been happening in the prison, for information on how to make a complaint about misconduct contact the **Corruption and Crime Commission** on **(08) 9215 4888** (general enquiries) or **1800 809 000** (to report serious misconduct).

8. More information

There are policies and laws you may wish to read for more detailed information.

These include the [Commissioner's Operating Policies and Procedures](#) (COPP): Prisons:

- 9.2 Prisoner Complaints (effective as of 24 January 2022)
- 9.6 Access to Information (effective as of 24 August 2022).



Part 8

Outside contact

This part covers:

1. Mail
2. Telephone
3. Faxes
4. Photocopiers, computers and the internet
5. Other forms of communication
6. In person visits
7. Video-link visits
8. Arranging contact with your children
9. Visitors and services
10. More information



Part 8

Outside contact

1. Mail

Authorised Officers will open, read and keep a record of your mail. The only exceptions are privileged mail and mail from your lawyer. Such mail is only opened and read in order to check who it is intended for; who sent it; whether it could jeopardise the good order or security of the prison; whether it contains a threat to a person or property; or whether it is expressed in code.

Privileged mail

Mail to and from some persons or government agencies is privileged mail. Such mail should not be opened by prison staff.

The following is a list of such mail:

- Administration of Complaints, Compliments and Suggestions (ACCESS)
- Attorney General (Commonwealth): in the case of a prisoner charged/convicted of a federal offence
- Attorney General (WA)
- Australian Electoral Commission (AEC)
- Australian Tax Office (ATO)
- Child Assessment and Interview Team (CAIT),
- WA Police Force
- Commissioner for Corrective Services
- Corruption and Crime Commission (WA)
- Director General, Department of Justice
- Equal Opportunities Commission (WA)
- Health and Disability Services Complaints Office
- Human Rights and Equal Opportunity Commission (Commonwealth)
- Minister for Corrective Services
- Office of the Information Commissioner
- Office of the Inspector of Custodial Services
- Ombudsman WA (Parliamentary Commissioner for Administrative Investigations)
- Ombudsman (Commonwealth)
- Disability Royal Commission
- Public Interest Disclosure Officer
- National Redress Scheme of Institutional Sexual Abuse (Department of Social Services)



General mail

Photos of newborn baby

You must get pre-approval by the Superintendent for hospital photos which may then be taken by prison staff.

Your family and friends can't bring a mobile phone or camera into your hospital room.

The Security team will check out the photos for any security concerns.

Where approved, you will be given the photos(s) when you get back to the prison.

What can I send?

You are allowed to send a reasonable number of standard letters free of charge, which depends on your circumstances. Extra expenses are paid by you. (See Appendix B in [COPP: Prisons: 7.1](#)). For example:

- 10 letters per month about future employment;
- if you are on remand, there is no limit for standard mail;
- if you are not on remand, you can send 12 letters per month; and
- if you are a prisoner who has not received more than 6 visits from family and/or friends during the preceding 16 months, you can send 16 letters per month.

You may **not** send:

- any photograph unless approved by the Superintendent, or
- mail addressed to a protected person or third party, which is in breach of the terms of a restraining order or an approved request from someone not to receive communications from you. This includes mail addressed to a third party, which is intended to result in contact with a protected person under a restraining order.

2. Telephone

You have access to a shared telephone, but the way you use the telephone is restricted. You are permitted to make telephone calls by entering your pin number through the Prisoner Telephone System (PTS).

Recording of calls

Prisoner telephone calls are monitored and recorded except for calls to:

- your registered legal practitioner, and
- the organisations stated in COPP: Prisons 7.1 Appendix A (set out below).

These calls are confidential.

You can have up to 10 social contacts on your telephone list.

You cannot:

- make reverse charge telephone calls, or
- receive incoming telephone calls except from

- ▶ independent government agencies
- ▶ the Ombudsman
- ▶ Adult Community Corrections
- ▶ Youth Justice Services
- ▶ the Department of Communities
- ▶ your lawyer.

If a call is received for an urgent matter (eg, family emergency) the receiving officer shall seek information from the caller, then pass the message on to the Unit Manager who will try to verify the information before passing it on to you as soon as practicable.

Minimum telephone entitlement

If you have sufficient funds, you should be given reasonable access to make at least one daily social call to an approved social contact unless you have lost privileges about telephone access.

You are also able to make calls to your lawyer for your matters currently before the court, as required.

If you are on remand, you can make 5 social calls per week for 10 minutes that the prison will pay for. The Superintendent may approve additional calls in exceptional circumstances.

If you are from off country or from a remote area, you get an allowance for 2 free 10 minute calls to family or friends per week including interstate.

You are not eligible for this allowance if you have your own funds to maintain contact, or you have been able to have video visits through subsidised Department facilities within the previous week.

If you are a foreign national, you get an allowance for 2 free 10 minute international calls to family or friends a week.

For how to get credit in your PTS account, see [Part 3 - Basics](#).

Free calls

You can make the following calls for free (based on [COPP: Prisons 7.1](#) Appendix A: Pre-Registered and Confidential Numbers).

The relevant telephone number(s) for the organisations listed below are included on each prison's contact list as outlined below:

No	Organisation	Number	Payee
1.	Aboriginal Legal Services WA	1800 019 900	Free Phone
2.	Aboriginal Visitors Scheme	1800 282 429	Free Phone



Outside contact

No	Organisation	Number	Payee
3.	Alcohol and Drug Information Service (ADIS)	1800 198 024 (r) (08) 9442 5000 (m)	Prison
4.	Australian Tax Office (dedicated line for Indigenous clients)	13 10 30	Prison
5.	Australian Tax Office (dedicated line for non-English speaking clients)	13 14 50	Prison
6.	Cannabis Information Helpline	1800 304 050	Free Phone
7.	Child Support Agency	1800 824 044	Free Phone
8.	Crime Stoppers in Prison	1800 333 000	Free Phone
9.	Family Relationship Advice Line	1800 050 321	Free Phone
10.	Hepatitis Helpline	1800 800 070	Free Phone
11.	Legal Aid	1300 650 097	Prison
12.	Office of Health Review – Health and Disability Complaints	00 6551 7635	Prison
13.	Ombudsman	1800 117 000	Prison
14.	Prisoner ACCESS (Administration of Complaints, Compliments and Suggestions)	1300 887 269	Prison
15.	Quitline	13 78 48	Prison
17.	Samaritans	1800 198 313	Free Phone

No	Organisation	Number	Payee
20.	Fines Enforcement Registry (FER)	1300 650 235	Free Phone
21.	Equal Opportunity Commission	1800 198 149	Free Phone
24.	Disability Royal Commission	1300 115 214	Free Phone
25.	Blue Knot Phone Counselling	1300 421 468	Free Phone
26.	Your Story Disability Legal Support	1300 973 572	Free Phone
27.	National Redress Scheme for Institutional Child Sexual Abuse	1800 737 377	Free Phone

Loss of privilege – telephone calls

If you use the PTS to abuse, threaten, intimidate or harass who you call, you may lose your telephone call privileges and retain only your minimum call entitlement.

Inter-prison calls

You can make inter-prison calls with close family members and other significant people. An office will initiate these calls.

Other calls

Aside from calling the numbers listed above, you can only make a phone call if:

1. the relevant phone number is already stored in your phone system, and
2. you have phone credit.

To get a number stored or removed, you must complete a Prisoner Telephone Application form which then goes to your Unit Manager. Your Unit Manager will call the number and ask whether the person is prepared to accept your calls. They will also make other checks including that the call won't breach any rules on any restraining order against you.

It is up to you to decide how much to put on your phone from your Personal Cash Account. You can also have money credited directly to your phone system by family or friends.



3. Faxes

You can ask your Unit Officers to send faxes for you if the fax is for a legal purpose.

With the exception of emails from your lawyer, you are not allowed to receive any email without prior approval from the Superintendent.

4. Photocopiers, computers, eReaders and the internet

You can access photocopiers for legal purposes.

You must not be granted direct access to the internet.

Some prisoners are allowed to have computers in their cells. This is a privilege.

Under exceptional circumstances, you may be allowed to have a specially issued Corrective Services computer to help with your legal defence. This would, for example, allow you to look at many legal documents given to you by your lawyer.

You may also be able to use education centre computers if you are doing education and vocational training programs.

If you are enrolled in courses specified in the COPP: Prisons 3.2 Computer Use for Prisoners, you may be eligible for approval to use offline personal devices like a notebook or laptop.

If you are doing certain education programs, you may also be eligible and get approval to use eReaders.

5. E-visits and video-link

E-visits are visits arranged electronically by a computer, laptop using platforms like Teams or Skype.

Video links and e-visits are available for social visitors and visits with other prisoners. They are only available for visits with your approved visitors listed on TOMS.

If an e-visit or video-link is approved, you will not have to pay if:

- it is for social visit purposes, and you can't have a physical visit due to distance issues within the State
- social visits have been suspended because of an emergency event such as COVID-19 restrictions, or
- it is an official visit about your current legal matters.

6. In person visits

Times of visits

The visiting times for each prison are set out in *Prison Rule 03*.

Your visits



You are allowed to receive visits in prison. These should be booked at least 24 hours in advance. No more than three adult visitors are allowed for each visit.

You are entitled to receive visits from your lawyer in an area where prison officers cannot hear, but can observe, conversations.

Children under the age of 18 may only visit while with an adult, unless the Superintendent approves otherwise. A child who is 16 or 17 years of age may be able to visit you with the approval of the child's parent or guardian or if there are exceptional circumstances.

Restricted visits with children

You will have visit restrictions if you:

- have current charges, convictions and prior offences for violent/sexually related offences committed against children under the age of 18, or
- don't fall within the above but an assessment of you has identified a potential risk to children (for example, family violence offences committed in the presence of a child).

You will not get visits (including e-visits) with children until all relevant screening checks have occurred.

For more information on visits with children, see [Part 11 – Family issues](#).

Other visitors

You may be allowed to receive visits by a prisoner from another prison, especially if the relationship between the prisoners is important, for example marriage relationships (including de facto) and blood relationships. If you are significantly isolated from your normal community or country, you may also be allowed visits with other prisoners from that region.

The Superintendent can refuse a visitor from visiting prisoners but must give reasons.

If you cannot leave the infirmary, visitors will be allowed to visit you in the infirmary.

What your visitors need to know

Let your visitors know that they must bring a valid form of identification, such as a driver's license, passport or an ID (with a photo) issued by a government organization. Visitors may also use a combination of credit cards, Medicare cards and electricity, gas or telephone bills as identification.

In special circumstances, a visitor who has not provided sufficient proof of identity will still be allowed to visit you. This is particularly true if the visitor is from a remote Aboriginal community.

7. Arranging contact with your children

See [Part 11 – Family issues](#).



8. Visitors and services

Visitors and services available to prisoners include:

- Legal Aid WA (see under the heading **Legal Aid WA** in [Part 16 - Legal help](#)).
- Aboriginal Legal Service WA.
- [Aboriginal Visitors Scheme](#) (AVS): Aboriginal staff who provide support and culturally appropriate advice to prisoners.
- [Elders Program](#): works together with Noongar Elders to help prisoners and young people while they are in custody and when they make the transition into the community on release.
- Bail Coordinators.
- Centrelink.
- Chaplain service: you can meet with spiritual leaders from your chosen religion for services, pastoral visits, religious instruction and private counselling. Access to recognised spiritual or tribal elders is provided to Aboriginal prisoners and Torres Strait Islander prisoners.
- Community Legal Centres (CLCs). Some visit prisons.
- [Independent Visitors Scheme](#) (IVS): run by the Inspector of Custodial Services. Scrutinises the standards of treatment and services in WA prisons.
- Department of Communities, Child Protection: case workers may visit you if they are asked to do so.
- Justices of the Peace: can assist prisoners with swearing or affirming documents.
- Salvation Army: provides chaplaincy, counselling and support.
- Peer support teams: include peer support prisoners who assist new prisoners with settling in and other prisoners who are having difficulties.
- Prison support officers: Aboriginal employees whose main role is suicide prevention. They work closely with prison officers, nursing staff and the Prison Counselling Service and manage the peer support teams.
- Prison Counselling Service (PCS): provides individual counselling. Prisoners can access this through self-referral or referral by the officers.
- Reintegration Services support you in the transition from prison to release.



Prisoners assessed as high and medium risk of re-offending will be referred to the service providers 6 months prior to release.

For example, ReSet: provides support to people while in prison and after leaving prison. If you are in prison, due for release and would like to get support from ReSet, you will need to contact your Transitional Manager and find out if you qualify to be referred to ReSet.

For details on reintegration providers for your prison, see [Part 18 – Contacts](#).

9. More information

There are policies and laws you may wish to read for more detailed information.

These include the:

- [Commissioner's Operating Policies and Procedures](#) (COPP): Prisons:
 - ▶ 3.2 Computer Use for Prisoners (effective as of 19 July 2021)
 - ▶ 7.1 Prisoner Communications (effective as of 21 March 2023)
 - ▶ 7.2 Social visits (effective as of 20 April 2023)
 - ▶ 7.4 Visitor Restrictions and Bans (effective as of 20 December 2022)
- [Prison Rule 7 Visitor Restrictions](#) (effective as of 9 August 2021)
- [Prisons Act 1981 \(WA\)](#)



Part 9

Criminal law

This part covers:

1. Appeals
2. Applying to set aside a court decision made in your absence
3. Chasing up interstate warrants
4. Confiscation of assets
5. Criminal court procedure
6. Mentally impaired accused
7. Extradition
8. “Fast track” plea of guilty
9. Getting information from the WA Police
10. How to early list a charge to change your bail conditions
11. How to early list a charge to change your plea to guilty
12. Obtaining a court transcript



Part 9

Criminal law issues

This part features information about areas of criminal law that may be of special interest to prisoners. It is always best to speak with a lawyer about your specific criminal law matter.

1. Appeals

Time limits apply so get legal advice as soon as possible.

You can call the **Legal Aid WA Infoline** on the dedicated prison line to get a copy of the Legal Aid WA publication [District and Supreme Courts Appeal Kit](#) or the [Magistrates Court Appeal Kit](#).

2. Applying to set aside a court decision made in your absence

Under what circumstances can you apply to have a decision set aside?

You can apply to have the decision set aside if you were not present when the decision was made because:

- you did not receive notice of the court date
- you did not receive notice of the court date with enough time to appear, or
- you did receive notice of the court date but did not appear for another good reason.

How to apply to set aside a decision?

If the decision was made in the Magistrates Court, fill out a [Form 7](#) (this is contained in the Kit). You must file the Form 7 at the Magistrates Court, along with an affidavit (for what an affidavit is see [Part 18: Legal words explained](#)) stating why you were not at court when the decision was made and attaching any relevant information.

What happens after you have made the application?

If you make this application within 21 days of the initial decision (in your absence) being made, the decision may be set aside without the need for a hearing, or the decision may stand.

If you make this application more than 21 days after the decision (in your absence) was made, a hearing will be required. You must go to the hearing. At the hearing, the magistrate will decide either:

- to dismiss the application (if so, there will be no new hearing), or
- to set aside the decision and either immediately deal with the original matter or set a new date for the original matter to be heard again.



3. Chasing up interstate warrants

If there is a warrant out for your arrest in another State (for example because you missed a court date), unless the police in the other State seek your extradition, the warrant will sit until you re-enter that State. On entry to the other State, you are liable to be arrested on that warrant.

If you are serving a long sentence and have outstanding charges in another State which you wish to clear up, you can apply for transfer of your WA sentence to the other State and answer those charges in the other State. (For more information on interstate transfer see [Part 2 – Moving Prisons](#)).

4. Confiscation of assets

Criminal Property Confiscation Act 2000 (WA)

Introduction

The *Criminal Property Confiscation Act 2000* (WA) [CPCA] gives the police the power to obtain a freezing notice and allows the Director of Public Prosecutions (the DPP) to seek orders to freeze and/or confiscate certain property.

If the Act applies, property may be frozen or confiscated regardless of whether the confiscation offence was committed in WA or elsewhere, or whether anyone has been charged or convicted of the confiscation offence.

Property may be seized by a police officer, or a freezing notice may be issued over property even if you have obtained the property lawfully.

Under the CPCA, individuals who have unexplained wealth can be ordered by the courts to show how they got their assets. The DPP only has to prove that there is a difference between your lawfully acquired income and your known assets. It is then up to you to prove that your assets were lawfully obtained. Any unexplained wealth may be confiscated and forfeited to the State.

How will I know if my property has been frozen?

You do not have to be there in court for the DPP to be successful in obtaining a freezing order. The DPP will often make the application without you knowing about it.

Once the police have obtained a freezing notice or if the DPP have successfully applied to the court for a freezing order, they must personally serve the papers on you. You or other people (for example, members of your family) might also be served with a freezing notice or a freezing order if you or they have an interest in the property.

If you are given a freezing notice or order, you must not deal with frozen property in any way. For example, you cannot sell it or give it away. If you deal with the property, you might be committing a criminal offence.

If you have been served with a freezing notice or order, you should seek urgent legal advice.

How do I pay for a lawyer if all of my property is frozen?

Legal aid is usually not available for representation in court for proceedings under the CPCA.

The Supreme Court may release some of your property from a freezing notice or order on the condition that it is used for legal expenses only. If you need to make an application to the Court for release of funds, call the **Legal Aid WA Infoline** for more information.

You can get a copy of Legal Aid WA's '[Objecting to confiscation – Part 1 – Information Kit](#)' and '[Objecting to confiscation – Part 2 – Forms](#)' by calling the **Legal Aid WA Infoline**.

5. Criminal court procedure

How the criminal process begins

The criminal court process begins when you are charged with an offence and either:

- you are arrested by the police and taken to court in custody or released on police bail requiring you to attend court on a particular date
- you receive a summons which requires you to attend court on a particular date, or
- you receive a court hearing notice letting you know when your case is to be heard and giving you the option to attend court.

Plea

You can plead either guilty or not guilty to a charge. You can also apply for an adjournment to obtain legal or other advice. A plea of guilty means you accept all the elements of the offence and generally, all the relevant facts as contained in the Statement of Material Facts provided by the prosecution. A plea of not guilty means you dispute the charge or have a defence and your case will be resolved through a trial where each side can present evidence.

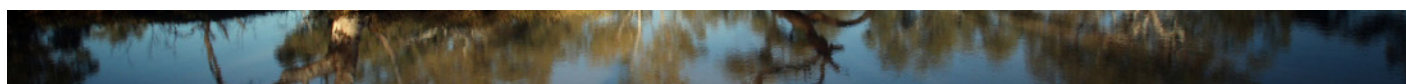
Different levels of courts

The Magistrates Court deals with summary offences and “either way” offences. Summary offences are less serious offences that may be dealt with by a magistrate and where there is a trial, a magistrate decides if you are guilty, rather than a jury. “Either way” offences can be dealt with in either the Magistrates Court, where lower penalties generally apply, or the District Court.

The District and Supreme Courts hear more serious offences which are dealt with “on indictment” (which is what a charge sheet in the District and Supreme Court is called).

Section 32 notices

If you are appearing in the District or Supreme Court for sentence, an application can be made by the defence or prosecution to have your Magistrates Court charges also sent up to the District or Supreme Court through the preparation of a “section 32 Notice”. This notice is a request that your charge or charges in the Magistrates Court be moved to the District Court, so that all your charges can be dealt with together.



Remember however, that the District Court penalties will apply to “either way offences” and this may lead to harsher penalties than would have applied in the Magistrates Court. **It is therefore important that you get legal advice before doing this.**

6. Mentally impaired accused

Please note the law in this area is changing from 1 July 2024 and this information will no longer apply.

If you are charged with an offence in Western Australia and have a mental illness and/or mental impairment, the *Criminal Law (Mentally Impaired Accused) Act 1996 (WA)* sets out the correct procedure and how your mental state is taken into account when dealing with your charges.

Custody orders

A custody order may be imposed by the court if:

- you are found mentally unfit to stand trial, or
- you are found not guilty of the offence because you were of unsound mind at the time the offence was committed.

If you are subject to a custody order, it means that you will be kept in an authorised hospital, a “declared place”, a detention centre (if you are a young offender) or a prison, until you are released by an order of the Governor.

What does the court take into account?

The judge or magistrate who is making a decision about a custody order where you have been found mentally unfit to stand trial, must take into account:

- the strength of the evidence against you
- the nature and circumstances of the offence you are charged with
- your character, past history, health, age and mental condition, and
- the public interest.

What happens after a custody order is made?

If a custody order is made against you, the Mentally Impaired Accused Review Board (MIARB) must review your case and decide within 5 days where you will be detained. The MIARB then regularly reviews your case and makes recommendations about whether you should be given a leave of absence, conditional release or an unconditional release. The MIARB ordinarily recommends leave of absence first before moving to conditional or unconditional release.

7. Extradition

This is when the police from another State or country have applied to have you transferred to that State or country to face outstanding charges. A warrant for your extradition in the correct form before a WA magistrate will provide the basis for you to be extradited to another State. However, you can apply for bail to allow you to return to the other State of your own accord as an alternative to being extradited in the company of police.



8. “Fast track” plea of guilty

This system may be an option for you if you have been charged with an indictable (more serious) offence to be heard in the District Court or Supreme Court. Under this system, if you plead guilty to the offence at an early stage in the Magistrates Court, your case will then be sent up to the District or Supreme Court for you to be sentenced as soon as possible. This can be taken into account to reduce the sentence.

You should get legal advice if you are considering pleading guilty to an offence that will be heard in the District or Supreme Court.

9. Getting information from the WA Police

There is information you can obtain from WA police by application or request. This is the first step you should follow in getting information. Otherwise, you may need to ask for access to the information under the *Freedom of Information Act 1992* (WA) [FOI Act].

Freedom of Information

The FOI Act allows you to:

- access WA Police documents
- make sure that your personal information in documents held by the police is accurate, complete, up to date and not misleading, or
- obtain details about personal and non-personal information.

If you are unable to obtain the information held by WA Police by any other means, you can apply under the FOI Act for:

- Personal information: WA Police documents including information only about you.
- Non-personal information: WA Police documents including information about other persons.

STEP 1 – Follow a set application process to get certain information from WA police

Firstly, please check that the information you want to get is held by the WA Police.

Call the **WA Police Force Public Access** on **(08) 6229 5900** to ask for the forms referred to below to be sent to you and to find out what fees you have to pay.

Alternatively, you can download the forms online and email them to PublicAccess@police.wa.gov.au, or apply online through the Police Direct webpage hosted by the Western Australia Police Force, at <https://www.police.wa.gov.au/Police-Direct/Apply-for-Information>.

Criminal and traffic records - National Police Certificate

A National Police Certificate (NPC) lists an individual's criminal and WA traffic court outcomes and pending charges that are deemed disclosable at the time of the application. Application forms for this can be obtained from Australia Post outlets or an application can be made online through the WA police website. If you want traffic



conviction details, you must apply for a [National Police Certificate](#). You must pay a fee when you submit your application.

Information held by the WA Police

You need to fill in an application form for release of each of the types of information set out below. For some there are other requirements, for example, a copy of photo identification. Application requirements are different for your authorised representative, for example, your lawyer.

Different fees are payable for each of the applications except for History for Court documents and replacement copies of personal statements which are provided free of charge. For help with your application, call Public Access on **(08) 6229 5900** or email PublicAccess@police.wa.gov.au.

- **Information Report for Criminal Injuries Compensation (CIC Report):**
 - ▶ If you are a victim of crime seeking police information for your criminal injuries compensation application, this report gives you the information held by police about your incident. Police investigations and court proceedings must be finalised before information will be released.
- **Record of Crash Incident:**
 - ▶ This is only available for crashes that are investigated by police and is a record of information collected by police when attending a traffic crash. It may help you or your insurer recover losses from an accident. It will only be released to someone involved in the crash (such as the driver, vehicle owner or injured party) or their authorised representative, for example, their insurer or lawyer.
- **Record of Crime Incident:**
 - ▶ This contains information about a criminal incident relating to a property or injury offence. It is only available to victims, their authorised representative or personal representatives. It is commonly used to assist with recovery of loss, for example, an insurance claim.
- **Record of Traffic Infringement Notices:**
 - ▶ A WA Traffic Infringement Record is a 10-year record of infringements resulting from red light cameras, fixed speed cameras, multi novas and hand written notices issued by police. You can find your traffic convictions by applying for a National Police Certificate.
- **History for Court:**
 - ▶ A History for Court document is a complete, certified criminal record which details all your criminal and traffic convictions, including non-disclosable outcomes such as court outcomes as a young offender and spent convictions.
 - ▶ This document is strictly for court purposes and cannot be used for any other purpose. For employment and licensing purposes you must apply for a National Police Certificate. For conviction information for visa applications, you will need to apply for a Replacement copy of Statement of Material Facts.

- **Replacement copy of Statement of Material Facts:**

This document:

- ▶ is a prosecution document for use in court, that will be provided to you when you have been charged with an offence
- ▶ describes the circumstances of the offence or offences with which you have been charged, and
- ▶ does not contain the date or outcome of any court hearing associated with the charge.

- **Replacement copies of personal statements made to police:**

- ▶ To request a copy of a personal statement you made to police as a victim of an offence, or as a party to a traffic crash, initially contact the police officer or police station where you made the statement. If you are unable to get it by this way, you will need to fill in an Application for Documents Outside of Freedom of Information Act 1992, which you can access at the WA police website (at <https://www.police.wa.gov.au/Police-Direct/Apply-for-Information>).
- ▶ Where an investigation is finalised, an application for a replacement statement can be made to Public Access.
- ▶ Information relating to, and statements of, any third party (eg, witness or offender) can only be obtained by lodging an FOI application (See Step 2).

Completed forms, together with a copy of your photo ID (driver's licence or passport), can be emailed to PublicAccess@police.wa.gov.au, or sent by post to:

Public Access
Locked Bag 20
Perth Business Centre WA 6849

STEP 2 – Make an FOI application

If the information you want is not covered in Step 1, you will need to make an FOI application. You should include as much information as possible, as this will assist with locating all relevant documentation.

Your valid application will be processed as soon as possible (and, in any case, **within 45 days**) after it is received.

You have two options if you cannot go in person or apply online:

- **Option 1**

Complete an application form and send it to:

Manager (Freedom of Information)
Public Access
WA Police
Locked Bag 20
Perth Business Centre WA 6849

- **Option 2**

Write a letter and post it to the above address. You should include as much of the following information as possible:



- ▶ your name and other relevant names involved
 - ▶ your postal address (must be an address in Australia)
 - ▶ date of incident – if relevant
 - ▶ location of incident – if relevant
 - ▶ nature of incident
 - ▶ incident or traffic crash reference number (if applicable)
 - ▶ name of attending police officers (if known).
- An application fee (currently \$30) is only payable if the requested information may contain details about a person other than yourself (non-personal information). Please include a cheque/money order made payable to the Commissioner of Police. It is important that you send the fee because if you do not, the application will be considered invalid and it will not proceed until full payment is received.
 - Attach photographic proof of identity to your application (eg copy of driver's licence or passport).
 - For any questions, call Western Australia Police Force Public Access on (08) 6229 5900 or email freedom.of.information@police.wa.gov.au.

Fees

You do not have to pay a fee for access to personal information or requests to amend personal information. Fees are payable to apply for and to process non-personal information. A photocopying fee per page is also payable.

Where FOI processing fees are likely to exceed \$30.00, FOI Staff will provide an "Estimate of Costs". This Estimate contains details of additional charges that may be applicable to your application and also provides you with the opportunity to reduce any applicable charges by reducing the number of documents requested.

Notice of decision

You will receive a notice in relation to your application. It is called "Notice of Decision." This notice is a formal decision about the level of access that has been provided to documents located in relation to your application.

Levels of access are:

- full access
- partial access (edited format)
- refused access, or
- deferred access.

This notice may also include advice on any further charges that have been incurred in relation to your application.

What can I do if I am not satisfied with the decision?

If you are dissatisfied with a decision that has been made, you:

- can make an application for an internal review of the decision, and
- should lodge this application in writing to the WA Police Force within 30 days after

the Notice of Decision is received.

An independent officer above the original decision-maker will undertake the internal review and review the original decision. The Internal Review process will be complete within 15 days of the internal review request being received unless an extension of time is agreed on.

If you are dissatisfied with the internal review, you can make an application with the Office of the Information Commissioner for an external review. This request must be lodged within 60 days of the Notice of Decision being given.

Contact details:

Office of the Information Commissioner:

Albert Facey House

469 Wellington Street

PERTH WA 6000

Telephone: **(08) 6551 7888**

Toll Free: **1800 621 244** (Western Australia country landline callers only)

Email: info@oic.gov.au

10. How to early list a charge to change your bail conditions

When may I apply to change my bail?

You may apply to change or vary bail if your circumstances have changed. For example, you may apply to change who is your surety or the residential address where you have to reside while on bail.

Do I need to be represented by a lawyer to vary bail?

If a lawyer does not currently represent you, you may apply to vary bail yourself. However, if you are appearing in the Magistrates Court you may ask for a duty lawyer to represent you.

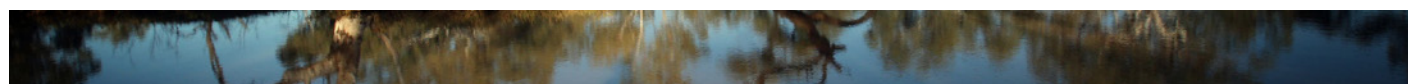
What if I need to have bail varied before my next court date?

You may always apply to vary bail on your next court date. If you want to apply to vary bail before then, you can complete a request for an early listing. An early listing is a court appearance date before your next scheduled court date, when the court will consider your application to vary bail. You must apply for the early listing at the same court where your charge is already listed.

If your charge is listed in the Magistrates Court, you need to fill out a [Form 6](#). Then send this form to the court and police prosecutions.

If your charge is listed in the District Court, you need to fill out a [Form 1](#). Then send this form to the District Court and the Office of the Director of Public Prosecutions (DPP).

If you have a lawyer, you should speak to them before applying to early list your matter.



If you do not have a lawyer and you are appearing in the Magistrates Court, you can ask for help from the duty lawyer on the day you appear in court.

To find the phone number for the court registry where your case is listed, see the list of court numbers in [Part 17 – Contacts](#).

Bandyup and Hakea

The Department of Justice, Corrective Services has a Bail Unit, which sends Bail Coordinators to Bandyup and Hakea. The Bail Coordinator can usually file a Form 6 for you.

11. How to early list a charge for changing your plea to guilty

If you decide to change your plea from not guilty to guilty, you may apply for an early listing. As you will no longer need a trial date, the court will be able to consider your case at an earlier date. You should get legal advice before deciding whether or not to change your plea.

How to apply for an early listing?

If you do not have a lawyer, you can apply yourself for an early listing to change your plea to guilty. You should try and contact the investigating officer to let them know you are changing your plea to guilty. If you have a statement of material facts, the investigating officer's contact details will be on that.

If your case is listed for trial in the Magistrates Court, you will need to fill out a Form 6. Then send this form to the court and police prosecutions.

If your case is listed in the District Court, fill out a Form 1 and send it to the court and the DPP.

If you have a lawyer, you should speak to them before applying to early list your matter. Call **Legal Aid WA's Infoline** for information on how to obtain a copy of these forms.

12. Obtaining a court transcript

To get a copy of any of the forms referred to here, you can ring the relevant court and ask to be sent one, or you can get a copy from staff in our Prison Visiting Service.

To request a transcript from the Magistrates Court of WA, you must fax or post the [Form 1 Request to inspect or obtain a copy of a court record](#) to the relevant court registry.

There is a fee associated with obtaining a transcript. If you want to apply to pay a reduced fee, you will also have to use the appropriate form/s and send it to the registry:

1. [Form 1A Application to Change Fee Concession Card Holder and people under 18](#) (this form also covers if you have a grant of legal aid for the proceedings). Note: You will not be eligible for the required Commonwealth assistance while you are in prison or detention.
2. [Form 1B Application to Change Fee Financial Hardship](#)

3. [Form 1C Application to Change Fee Interests of Justice.](#)

If you are the holder of a concession card (after release from prison or detention), or are under 18, or have a grant of legal aid, you must complete Form 1A so you can be assessed for the reduced fee.

While you are in prison, if you have not been granted legal aid, or are not under 18, but believe you should be eligible for a reduced fee due to financial hardship or because it is in the interests of justice, you must put in a Form 1B or Form 1C (whichever is applicable – note that you may put in both).

To request a transcript from the **District Court**, you must make your request by email to courttranscriptdc@justice.wa.gov.au or fax or post a District Court transcript form to the court. If possible, give the indictment number, your full name and date of birth, and the reason for your request. This transcript is normally provided free of charge.

This form is available from the court, the prison or from staff in our Prison Visiting Service.

To request a transcript from the **Supreme Court**, you must fax or post the following forms to the relevant registry:

1. [Transcript Request Form.](#) This can be found on the Supreme Court website under [Forms and Fees.](#)
2. Form 2 - Application to Reduce Fee. This can be found on the Supreme Court website under [Reduced](#) Fees.

Links to both of these forms can be found on the Supreme Court website under [Forms and Fees.](#)

If you are in custody, you may apply to have the transcript fee waived. In this case you should submit the [Form 2 - Application to Reduce Fees](#) together with the [Transcript Request Form.](#)

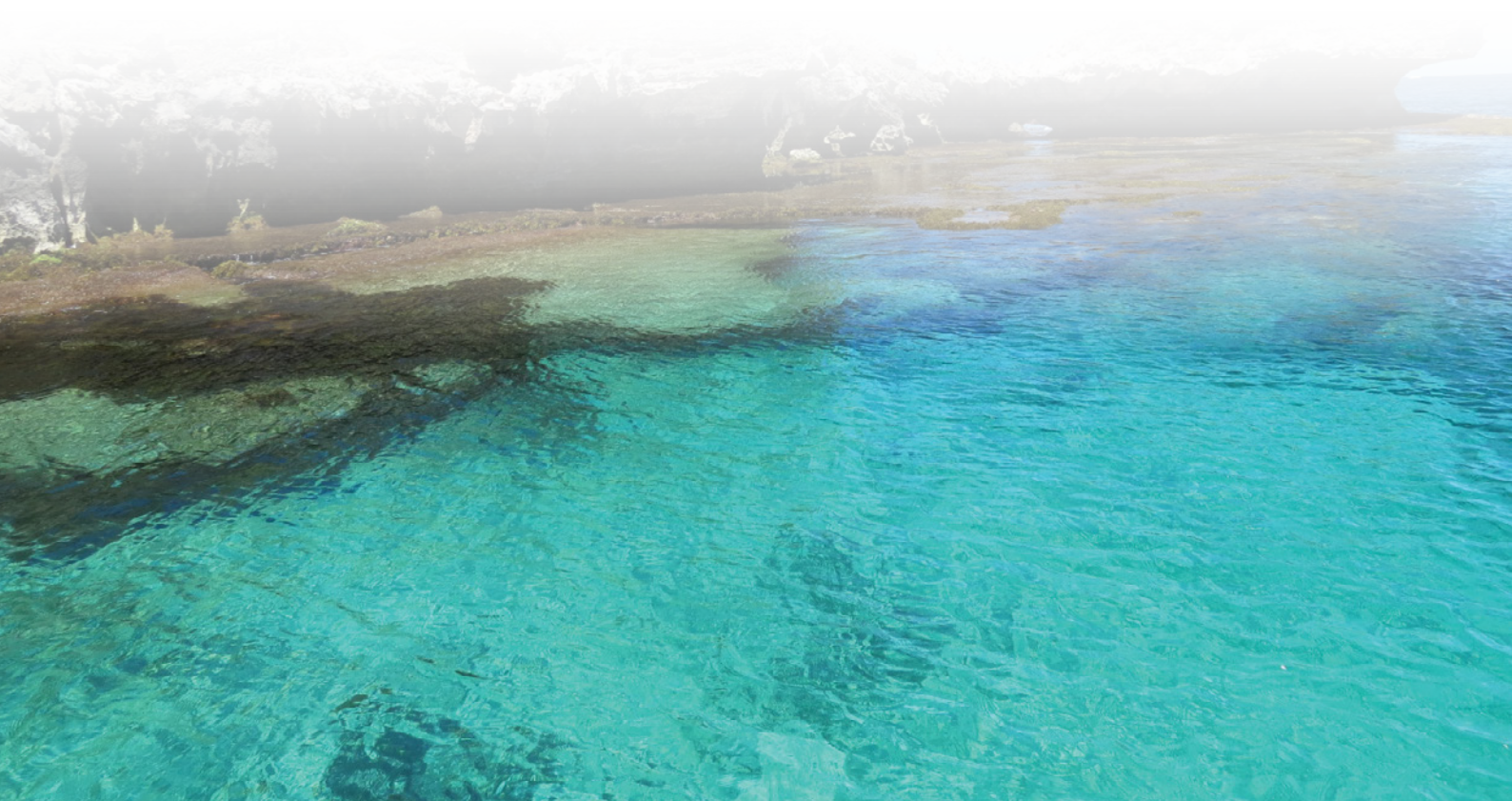


Part 10

Family issues

This part covers:

1. Visits with your child
2. Child support
3. Dealing with the Department of Communities
4. Divorce
5. Family violence restraining orders
6. More information



Part 10

Family issues

1. Visits with your child

It may be possible to arrange visits with your child while you are in prison.

You will need to have an agreement about visits, telephone calls and sending letters with the person caring for your child or Family Court orders. The agreement you have with the carer for your child doesn't need to be formal. For example, you can have a verbal agreement that they will bring your child to visit you.

If your child is in the care of Child Protection you will need to have an agreement with Child Protection to have visits or Children's Court orders which require them to arrange visits. If you are having difficulties getting visits with your child, there is information about what to do later in this Part under the heading: **Dealing with the Department of Communities: What if I am not getting contact with my child?**

Note: usually you can only have 3 adult visitors and 3 children per visit. However, the Assistant Superintendent may allow extra visitors in some exceptional circumstances. For example, if you have 4 children you could ask the Assistant Superintendent for permission for all 4 of your children to visit together.

You may not be able to have visits with your child in prison if you are a restricted category prisoner.

Restricted visits prisoners

You are a 'Restricted Visits' prisoner if:

- your current charges, convictions or prior offence history involve violent and/or sexually related offences committed against children under the age of 18 years, or
- your assessment when you enter prison identified you as a potential risk to children (for example, you committed a family violence offence in the presence of a child).

'Restricted Visits' prisoners can only have visits with a child who is an immediate family member – their son or daughter, brother or sister. This includes when a child is related by adoption or marriage. You must also have been the child's primary care giver (usual carer) before you went to prison and the child's other parent or legal guardian must agree to the visits.

Children aged 16 or 17 years

It may be possible for a child aged 16 or 17 years to visit you in prison without an adult, if the Superintendent agrees. Your child's other parent or legal guardian would need to write a letter giving them permission to visit on their own. In some rare situations the Superintendent may allow a visit without written permission, however, this will be required in most cases.

A 'Restricted visitor' prisoner cannot have a visit with a child aged 16 or 17 without an adult – even if their other parent or legal guardian agrees to the visit.



Appeals about restricted visits

You have the right to one appeal against a decision made by the Superintendent about restricted visits with children. You must lodge the appeal with the Assistant Superintendent within 21 days of being told of the decision.

You can also make a new request for a visit with a child if there is a change in your circumstances since the original visit request was refused.

How can I organise visits with my child while I'm in prison?

The first step is to talk or write to the other parent or child's usual carer to try and organise visits. However, if there is a family violence restraining order (FVRO) in place, you should not do this and it is recommended you get legal advice and assistance. FVROs often include exemptions which allow for communication through a lawyer and the lawyer can check this for you.

If you are unable to reach an agreement about visits with the other parent or the child's usual carer, you may wish to try Family Dispute Resolution (FDR).

FDR is a type of mediation that involves people meeting together with an FDR Practitioner to try and reach an agreement about family law issues. FDR practitioners have had special training to support separated families work out their family law disputes. The FDR practitioner will help parents (or other caregivers) to focus on the best interests of their child.

If you can't reach an agreement about visits or telephone calls with your child at an FDR conference, you can ask for an FDR Certificate to show you tried FDR. You and the other parent (or other caregiver) can then apply to the Family Court for orders about your child. You should get legal advice before filing an application with the Family Court.

Example letter asking for prison visits

Important: do not send this letter if there is an FVRO in place between you and the other parent or child's usual carer

(your address here – where the other person can write back to you)

(name of the person you are writing to)

(address of the person you are writing to)

(date)

Dear (other person's name)

I am writing to you because I would like to make arrangements to have visits and telephone calls with (name of your child/ren) while I am in (name of prison).

I believe that the visiting facilities are appropriate for (name of your child/ren) to spend time with me (write the proposed day/length of visit/frequency) during visiting hours.

I suggest that (name of person you are proposing will bring the child/ren for visits) could bring the children to visit me in prison. I have spoken to them about this and they are happy to do this.

I would also like to speak to (name of child/ren) on the telephone each (write the proposed day/time/frequency) and to be able to write letters and send small presents to them.

I believe that it would be in the best interests of (write name of child/ren's) to maintain a relationship with me.

I am happy to discuss these proposals with you or you can leave a message with (name and phone number – this could be the prison social worker or the person you have suggested who can bring your child for visits).

I propose these arrangements be in place while I am in (name of prison). I would like to put in place different arrangements for (name of child/ren) once I am released. At the moment my expected date of release is (write date).

Please let me know within 14 days if you agree to my proposals or if you would like to make other suggestions.

Yours sincerely

(your signature)



How does the Family Court make decisions about prison visits?

When the Family Court decides what orders to make for a child, the most important consideration is the best interests of the child. This includes if the court was asked to make a decision about whether a child should have visits with their parent in prison.

The term 'best interests of the child' has a special legal meaning and the court has to take into account a number of considerations to decide what is in the best interests of children. The Legal Aid WA infosheet: [Best interests of children](#) has more detailed information about what the court must consider.

The primary considerations the court must take into account when deciding what arrangements are in children's best interests are:

- the need to protect the child from physical or psychological harm, and from abuse, neglect or family violence (including being exposed to these (for example, seeing or hearing family violence), and
- the benefit to the children of having a meaningful relationship with both of their parents.

Whilst both primary considerations are important, the most important consideration, above anything else, is the need to protect children's safety.

Some examples of other things the court may consider when deciding if a child should have visit their parent in prison include:

- what your relationship with your children was like before you went to prison and how often you spent time with them,
- what offence you are in prison for,
- how long you will be in prison,
- practical issues such as the location of the prison and how far the child would have to travel for visits, who will bring them and who will pay for this,
- the prison's visiting facilities and whether these are appropriate for children,
- what communication or time you may have already had with your child while in prison and how it went, and
- the age of the child.

How can we record our agreement about prison visits?

If you and the other parent reach an agreement about visits it may be helpful to have a written record of the agreement.

Parenting plans

Parenting plans are written agreements made between parents after separation. They set out how a child will be cared for, including the time the child will spend with each parents and other parenting matters.

Parenting plans are not lodged with the Family Court and are not legally enforceable. However, it can be helpful for parents to have a parenting plan as a record of what they have agreed to and make it less likely for misunderstanding in the future. Although a

parenting plan is not legally enforceable, if a parent is not following the plan, and a case is started in the Family Court, the court will take it into consideration when deciding what orders to make.

To make a parenting plan, it must be:

- made between the parents of the child
- in writing
- dated
- signed by both parents
- freely agreed to by both parents (without threat, pressure or force).

Consent orders

If you and the other parent want a legally enforceable agreement, you can make an application to the Family Court for consent orders. A consent order is a written agreement which is approved by the court.

You can apply to the Family Court for consent orders by completing and lodging the following documents:

- Application – Consent Orders (Form 11), and
- Draft consent orders (the agreement you have reached).

The application form can be found on the Family Court of WA website: www.familycourt.wa.gov.au. If you cannot get access to the Family Court of WA website you can request the form by calling the **Legal Aid WA Infoline** (Mon – Fri, 9am to 4pm).

You can lodge the documents by posting them to the Family Court of WA Registry:

GPO Box 9991

PERTH 6848

Usually, people are required to lodge documents electronically on the eCourts Portal of WA. However, prisoners are not required to do. It is important to make it clear in your covering letter to the court that you are in prison.

What do I do about seeing my children when I get out of prison?

See under this heading in [Part 15 - After release](#).

Where can I get legal advice?

In very limited circumstances you may be eligible for a grant of legal aid for advice and ongoing assistance from a lawyer. Grants of aid are means tested so your available finances will be taken into account. Legal Aid WA will also look at the circumstances of your matter and the likelihood you would get what you are seeking if you went to the Family Court to make sure available funds are used as effectively as possible. Call the **Legal Aid WA Infoline** for more information.

There may be other community legal services that can provide family law advice to people in prison. Women prisoners may be able to get legal assistance from the **Women's Legal Service WA** by calling **(08) 9272 8800 or 1800 625 122 (country**



callers) or Aboriginal Family Legal Services by calling (08) 9355 1502.

You can seek legal advice from a private lawyer. Private lawyers charge a fee for their services so be sure to discuss this with them before asking them to give you advice. For a referral to a private lawyer, call the **Law Society of WA** on **(08) 9324 8600**.

2. Child support

What happens to my child support obligations while I am in prison?

You only have to pay the minimum amount of child support. This amount changes each year. If you are in prison on a long sentence, you can apply to have your payments reduced to nil while you are in custody.

When you enter prison call **Services Australia** for a payment review to reduce the risk of getting a child support debt. Normally Child Support only change your payments from the date it is told of the change. You can do this by calling the Child Support Incarcerated Customer Team on the prison phone. Child Support is an option on the auto dial list.

You should tell Child Support:

- your address in prison
- the best way to contact you while you're in prison
- your income while you're in prison - you need to give details of any:
 - ▶ income or allowances you earn in prison
 - ▶ money from investments or other income you receive outside prison, and
- if the care arrangements for your children will change while you're in prison - if you normally have care of your child, your payments may change

You can choose someone, or an organisation, to deal with Child Support for you while you are in prison. If you want them to they can:

- ask about your Child Support
- give Child Support information about you.

You should authorise them to do this by completing and or signing a Representative authority form (CS3042). The person you want to represent you must also sign the form saying they agree to represent you. They can't sign documents for you.

Child Support:

- Does not tell the other parent that you are in prison.
- Does tell the other parent it payments are reduced or stopped but not why.

You should also call **Services Australia - Child Support Inquiry Line** on **131 272** when you get out.



3. Dealing with the Department of Communities

Introduction

This information covers when:

- a. The Department of Communities (“Child Protection”) is working with your family before the birth, if you are pregnant or if your partner is pregnant, and you want to be involved in decision making about the baby.
- b. Child Protection has taken your child/children into care, **your case is at court or is expected to be at court soon** and you want to have a say.
- c. Your child has **been placed on a protection order** by the Children’s Court and you:
 - i. want to know what is going on
 - ii. want to have a say about what is happening
 - iii. want to work towards contact now or more contact and/or
 - iv. getting your child back into your care, etc when you get out.
- d. You want to **make a complaint** about something Child Protection is doing or not doing that is separate from case planning for example, calls not being returned, the way a worker speaks to you, doesn’t contact you and so on.

Useful hints

- If you have concerns about how your children are being looked after contact the Child Protection office nearest to where the children live during office hours Monday to Friday. If you have concerns and it is on the weekend or after hours call the Crisis Care Helpline on (08) 9223 1111 or 1800 199 008 (see Part 17 – Contacts under the heading Department of Communities, Child Protection for office contact details).
- Write things down. Try to keep a written record, for example, with a diary of every contact you have with Child Protection or other agencies, who you speak to, when and so on.
- Get legal advice especially if your case is at court.
- You can try to have decisions changed if you think they are not in the best interests of your child, for example, care plans.
- Remember the focus of the court and Child Protection is on what is best for your child and making sure they are safe. It should also be your focus.

For more tips call the **Legal Aid WA Infoline** and ask to be sent a copy of the Blurred Borders fact sheet: [Practical tips for parents on Child Protection](#).

Pre-birth signs of safety meetings

If you, or your girlfriend or partner is pregnant and Child Protection is working with your



family, eg, because of past involvement or current worries, Child Protection may arrange pre-birth signs of safety (SOS) meetings.

Call the **Legal Aid WA Infoline** to get a copy of the Blurred Borders fact sheets [Why is Child Protection working with me while I am pregnant?](#) and [What is a signs of safety meeting?](#)

If you are going to be in custody after the birth you can talk about:

- what if any contact arrangements can be put in place
- arrangements for breast feeding if applicable
- ways of finding out information about the baby being put in place, for example, getting sent photos.

If you are in Bandyup it may be possible to have the baby with you.

How do I find out more information about what is going on?

- Call the Child Protection case worker who is working with your family. Leave a message if you cannot get through.
- Keep a record of when you ring and who you speak to.

Can I get a lawyer to represent me?

- Legal representation may be available for pre-birth SOS meetings.
- Make a legal aid application as soon as you know the date of the meeting by calling the **Legal Aid WA Infoline**.

Can I get legal advice before the meeting?

If you do not have a lawyer to represent you, call the **Legal Aid WA Infoline**. You may be able to get legal advice from **Legal Aid WA's Children's Court Protection Services**.

If your case is at the Children's Court

If your child has been taken into the care of Child Protection, with or without a warrant, the child is in the provisional (temporary or interim) care of Child Protection.

For more information on what you can do call the **Legal Aid WA Infoline** to ask to be sent a copy of the Blurred Borders fact sheets: [Child Protection has taken my child - what can I do?](#) and [What happens in the Children's Court?](#)

Do I need a lawyer for my case at court?

- You should get legal advice about your case.
- Legal Aid WA provides initial advice and investigation (subject to a means test) for parents and in some cases other parties, for example, grandparents when they have been made parties. You are also likely to get aid for a lawyer to represent you at a child protection mediation conference. Aside from this, ongoing representation depends on what you want and your chances of success.
- Apply for legal aid as soon as you know the court date.

What court papers should I have at the start?

If you are a parent at the start you should have a copy of:

- the Communities' Child Protection application
- the report in support of the Child Protection application.

Communities has to give these papers to you if you are a parent or have been made a party in the case.

If possible read:

- the application to see what protection order Communities want and whether it wants any interim (temporary) orders.
- the report in support which gives the reasons for bringing the case to court and sets out Child Protection's plan for contact.

Write down or mark the things you disagree with in the Child Protection report in support or important things that you think have been left out and what you think is best either in the margins or on a separate sheet of paper. You can use these notes when you talk to your lawyer.

What if I don't have some of the court papers I should have?

You can ask your lawyer, if you have one, your Communities' case worker or tell the magistrate on the court date that you do not have court paperwork.

Will I be at court?

Sometimes a bring up order (by video) has been made for the first court date. If not, one will be done by the court for the next court date once the court knows you are in custody.

You can ask to come in person but remember you may end up in the cells at the Children's Court all day.

What if I am not a parent but have lived with the mother/father and the children?

Biological parents are automatically parties ("respondents") in the court case and can have a say at court.

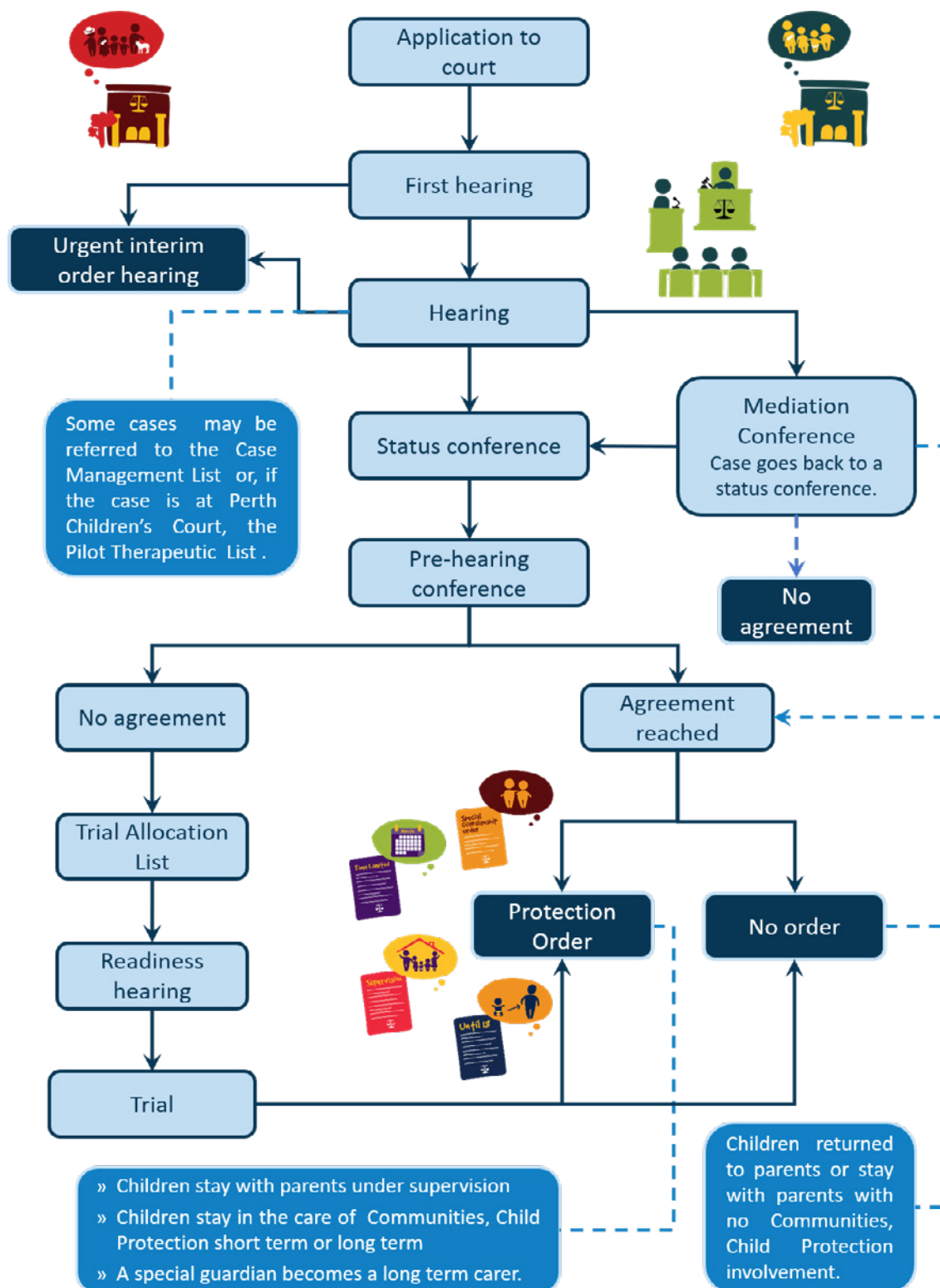
If you are not a biological parent but have been living with the father/mother and had a lot to do with the child and expect to remain involved you can apply to be made a party if you think you need to have a say. The magistrate will usually want you to put in both:

- an Application in a Proceeding (Form PC003) and
- an affidavit in support.

A magistrate may let you be joined as a party if you can show you have a "**direct and significant interest**" in the wellbeing of a child. Get legal advice before making your application. For more information, call **Legal Aid WA's Infoline**.



Flow chart of Children's Court process



What happens on the first day at court?

- The case is only listed for mention so not a lot of time is usually spent on the case.
- Nothing is made final until all the parties are in agreement, or a magistrate makes a decision after a hearing.
- The case is often put off for 2 to 3 weeks for the parties to get legal advice or to give time for negotiations with Communities.

Interim orders

Interim (temporary) orders can often be made on the first mention day at court (but notice should be given) or on later court dates. They can be made about things like:

- contact
- placement

On the first mention Communities often asks for an interim (temporary) order for the child to stay in the care of Communities even though they are already in the temporary or provisional care of Communities. This is because Communities prefers to have a court order to show organisations such as Medicare that they have temporary parental responsibility.

Sometimes magistrates do not see the need for this order to be made and will not make it.

What am I allowed to have a say about at court on the first day?

Some of the issues you might have a say about include:

- where your child lives, for example,
 - ▶ if your child is in foster care you may want to ask for a family member to be assessed as a family carer, or
 - ▶ if your child has been placed by Communities with a family member but you think it may be in your child's best interests to be placed with another family member
- whether you can contact with your child, and if so how often and under what circumstances, for example, supervised in person or by phone or video call.
- if you do not think you are the father you can ask the court to order a paternity test.

If you ask for more contact in court, not all magistrates deal with this issue in the same way. The court prefers you give the other parties notice of any application you want to make before court.

For more information call the **Legal Aid WA Infoline** to ask to be sent a copy of the fact sheet [Child Protection: Interim applications](#).

What other papers should I get as the case goes on?

You should get the following papers:

- a **provisional care plan**
- a **Section 143 Written Proposal** (you may get more than one of these if changes



are made or if the case goes on a long time),

- a cultural support plan will be attached to the Written Proposal if your child is an Aboriginal child, a Torres Strait Islander child or a child from a culturally or linguistically diverse background, and
- a report about proposed special guardians if an application is being made for a protection order (special guardianship).

The case worker should talk to you about the cultural support plan and get your input if you are an Aboriginal parent, Torres Strait Islander parent, or a parent of a child from a culturally or linguistically diverse background.

Provisional care plan

This is a document that sets out the temporary living arrangements and decisions that have been made about your child.

You should be given the opportunity to participate in the development of the plan through a meeting with the case worker.

It should be done within 7 working days of your child going into care.

Section 143 Written Proposal

Before a magistrate can make a protection order they need to have a Written Proposal from Communities. It sets out the proposed living arrangements, including contact arrangements, and if the child is out of the parents' care and a time limited order is being asked for, what the parents have to do to have their child returned to their care.

It should be your "roadmap" for what you have to do to get what you want, for example, more contact, unsupervised contact and/or to move towards having your child back in the care of a parent/s in some cases.

What should I be looking for in the Written proposal?

The answer depends on what you want to happen.

For example, if you:

- want more contact and/or to move to unsupervised contact when you get out, it should include what you have to show and for how long, and how things will progress if you do what is expected of you, or
- want your child to be placed back in your care in the future, it should include what you have to do to achieve this.

Again in some cases you may not be able to do much apart from courses while you are in custody but should be clear on what you have to do and what needs to change to make it safe enough for your child when you get out.

You should be satisfied that the cultural support plan will help your child develop and keep a connection to their culture. If not speak up and get it changed.

Can I get changes made to the Written Proposal and if so how?

If you do not agree with anything set out in the Written Proposal or the cultural support plan or want something else included, for example, the contact you are to get, timeframes to do certain things and how the case will progress if you do these things, speak to:

- your Communities case worker
- your lawyer if you have one
- get legal advice if you are unable to get the changes you want without help. Call **Legal Aid WA's Infoline** for a referral
- sometimes your case will be put off for a child protection mediation conference or a pre-hearing conference to see if agreement on the proposal can be reached, or
- if none of these options lead to change, speak up in court about the changes you want (you may be told by the magistrate to get legal advice, but some magistrates may ask Communities whether the change you want can be made).

What is a child protection mediation conference?

Your court case can be put off to give time for one of these conferences to take place if those involved don't agree on what is best for your child.

A child protection mediation conference is a meeting attended by Child Protection and other people involved in the case (usually parents) and their lawyers. Parents and other people involved will have the opportunity to talk about the issues in the case, care arrangements for the child and have a say about what they would like to happen in the case.

The meeting is organised by Legal Aid WA and run by a person who has special mediation training. The person running the meeting is independent. This means they are not on the side of Child Protection or on the side of the parents of the child. They are there to help everyone have their say about the issues in the case and help them reach agreement.

At the meeting Child Protection will talk about the good things parents and family have been doing to care for the child. Child Protection will also talk about any worries they may have about the child's care and safety (for example, drug or alcohol use). The meeting is an opportunity for parents and family to make a plan with Child Protection to work towards making things safer for the child in the future.

Going to the conference with your lawyer gives you the best chance to be clear on what Child Protection is looking for from you to make it safe for your child, to say what you think is best for your child, to maybe narrow the issues that are in dispute or even come to an agreement about your case.

To encourage everyone to speak up, everything talked about during the meeting is confidential. This means what is said during the meeting cannot be talked about in court.

Who can go to a child protection mediation conference?

- If you are a parent, you would usually have a lawyer go to the conference with you. As a prisoner you will participate by video link.



- The Communities case worker, the team leader and their lawyer.
- The child's lawyer if one has been appointed.
- You can usually bring family or friends as support people and/or a professional working with you. You need to tell your lawyer who will tell the person who will run the meeting in advance to check it will be OK, eg, there may not be enough room for everyone you want to go.

You should tell your lawyer **before** the day of the meeting if either you have a family violence restraining order (FVRO) against your former partner or they have one against you and if possible give them a copy of the order.

What do I have to do to prepare for a child protection mediation conference?

Communities, the parents and the child representative, if there is one, have to prepare "conference outlines" and send them to the other parties and the convenor of the meeting **before** the conference.

Dates are set for when each party has to prepare their outline. Communities goes first and then the others respond.

What are the possible outcomes of a conference?

There could be agreement on the next steps to be taken by you, the other parent and Child Protection. Any agreed next steps will go on the court file. You should get a copy of the agreed next steps before the next court date.

Possible outcomes include:

- agreement on how to progress contact or reunification
- agreement to changes being made to the Section 143 Proposal and the protection order being made
- agreeing to ask the magistrate to put the case off for an agreed time to allow worries to be worked on by a parent/parents, or
- the case going to a final hearing (usually after a pre-hearing conference).

What is a pre-hearing conference?

- It is a meeting which the parents and their lawyers and if appointed, a child representative, go to. The case worker and team leader also go.
- It is usually run by a registrar or a magistrate.
- Everyone gets a chance to say what they want, and an attempt is made to try reaching an agreement on some or all of the issues in dispute.
- If an agreement is not reached your case may be put off for another pre-hearing conference, a mention or a final hearing (there may be other court dates' to sort out witnesses, reports and readiness for a final hearing)
- If you are in custody you will be on video link and the conference will be held in a court room.

Will I get a lawyer for the conference or pre-hearing conference?

Subject to a means test, you will get a lawyer for a child protection mediation conference. You may get aid to be represented at a pre-hearing conference if what you want has a good chance of success. You will have to apply for legal aid as soon as possible if you have not already applied.

Child representatives

A child representative (sometimes also called a “separate representative”) is a lawyer who acts for your child in a Children’s Court of WA protection and care case. This lawyer acts for a child in a court case in much the same way that a lawyer acts for any person in court.

Call the **Legal Aid WA Infoline** to ask to be sent a copy of the Blurred Borders fact sheet: [What do lawyers do in child protection cases?](#)

What is stability and connection planning?

With stability and connection planning Child Protection case workers are meant to plan at the same time for both reunification with a parent or parents and long-term out of home care in case reunification is not achieved.

For more information call the **Legal Aid WA Infoline** to ask to be sent a copy of the Blurred Borders fact sheet: [Child Protection: Stability and connection planning-making long term plans.](#)

My child has been placed in a secure care centre. What is that?

A secure care centre (the Kath French Centre) has been set up by the government in WA for children and young people where:

- there is an “immediate and substantial risk” of them causing significant harm to themselves or another person, and
- there is no other suitable way for them to receive the care they need.

There are limits about how long a child can be placed in the centre. If the case is currently at court you will get a say about your child being placed here.

What is a protection order?

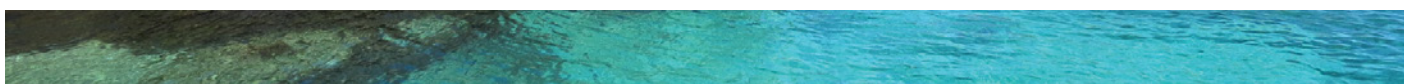
A protection order is the final order made by the Children’s Court when it is decided that your child is in need of protection and care and needs to be placed on an order.

For more information on protection orders call the **Legal Aid WA Infoline** to ask to be sent a copy of the infosheet: [Protection orders in the Children’s Court](#) or the Blurred Borders fact sheet: [Children’s Court orders to protect your children.](#)

What are my options at court?

Once the Written Proposal is available you should get legal advice as you will need to make a decision about what to do.

For more information on your options call the **Legal Aid WA Infoline** to ask to be sent a copy of the Blurred Borders fact sheet: [How does my Children’s Court case finish?](#)



Is there any other way I can have my comments noted on the court file?

- You can put your side of the story in by completing and filing a Response form at any time before the case is finalised.
- For more information on how a Response might help your case or to get a copy of a kit on how to complete one call the **Legal Aid WA Infoline** and ask to be sent a copy of the fact sheet: [Child Protection: Response forms](#), the Blurred Borders fact sheet: [Can I put in my own court documents to the Children's Court?](#) or a [Response form and kit](#).
- In some cases you can also have notes made on the court file. Some magistrates will let you have notes made on the court file for example, about things you do not agree with. You or your lawyer if you have one, can read out your comments so they are included in the recording of what is said in court.

What if I am released and don't go to court?

The case can be decided without you as long as Communities prove to the court that they have tried to give you copies of the court documents and that they have made reasonable attempts to do so before the hearing.

The magistrate reads the court papers and decides if an order should be made. The court can make a different order to the one asked for by Communities if it thinks it is in the best interests of the child, eg Communities might be seeking a protection order (time limited), but a protection order (until 18) may be made. If you do not want this to happen, you should make sure you go to court.

What if the case goes to a final hearing and I do not agree with the magistrate's decision?

You can appeal the decision. Time limits apply. Get legal advice quickly.

Can I change a protection order?

You can apply to change:

- the conditions on a protection order (supervision)
- the contact condition on a protection order (special guardianship) or to have a contact condition added (if you were a respondent when the order was made), or
- an interim protection order.

You would need to show things have changed since the order was made. You should get legal advice before going to court to change an order.



Can I apply to cancel an order?

You as a parent, or Communities, or any other party to the initial proceedings can apply to cancel (revoke) a Children's Court order. The first thing you will need to show to start your case is that things have changed since the order was made.

The court can:

- only cancel the order if it is satisfied it is in the child's best interests
- make another order, or
- decide no order is needed.

Where can I get the forms I need?

You can get the forms from a Children's Court registry or the [Children's Court website](#). Staff in the prison library may be able to help you get the forms you need.

You need a:

- Application initiating care proceedings form to apply to vary or revoke a protection order
- Application in a proceeding form to apply for interim orders or to be made a party to the case
- Protection and care affidavit.

If your child is already on a protection order

What if I am not getting contact with my child?

What you should do may depend on what order your child is on.

- If your child is on a protection order (supervision):
 - ▶ Check the Written Proposal and/or the court order to see what is supposed to happen about contact. If there is a condition which says you should have contact, you can call the Communities case worker and see if they can get the other parent to follow the order.
 - ▶ If Communities cannot get contact started and there is no condition about contact, get legal advice. If you cannot have the order amended in the Children's Court, you may need to get Family Court orders about your contact.
- If your child is on a protection order (time limited) or a protection order (until 18):
 - ▶ Check what the Written Proposal says about your contact.
 - ▶ If you are meant to be getting contact, ring the case worker and ask them to follow the Written Proposal, or if they won't, ask them to tell you why they won't. In this case you may need to seek a review of the care plan decisions about contact. See the heading *What if I am a parent who does not agree with a Communities care plan decision?* below. With a protection order (time limited) there should be monthly family meetings and you can ask about contact at these.
- If your child is on a protection order (special guardianship)



- ▶ If there is a contact condition for you which is not being followed – first contact Communities. If Communities cannot help you get contact started, get legal advice.
- ▶ If there is no condition about contact, you may need to get one added. You will need to make an application to the court to change the order to add one. The magistrate's decision on your application will depend on what is seen as in your child's best interests.

What if I am a parent and I do not agree with a Communities' care plan decision?

If you are a parent who does not agree with a Communities care plan, for example, about the amount of contact, or living arrangements for your child, you can seek an internal review of the decision. You should get legal advice on how best to do this. Time limits apply but you may be able to ask for the time to be extended.

For more information call the **Legal Aid WA Infoline** to be sent a copy of a fact sheet on [Child Protection: Care plan reviews](#).

What happens when the protection order ends?

Once the order ends (if there is no Communities application to extend, or revoke and replace with another order) there is no restriction on a parent going to the family court to get parenting orders if they are needed. Or if there were family court orders before the Children's Court case they will come back into operation.

Complaints about the Department of Communities

What if I have a complaint about how my child is being treated in care?

You can:

- contact the case manager
- if you do not receive a response or if you are not happy with it you can contact the Advocate for Children in Care, or
- make a complaint as outlined below under the heading *What if I have a complaint about Communities that is not about a care plan?*

The Advocate can help children with problems or complaints which they can't sort out with their case manager and can make sure they have a say in decisions that affect their life. If your child is old enough, they should do this themselves, but if they are too young, you can ring the Advocate for them.

Call the **Advocate** on **1800 460 696** (freecall) or **0429 086 508**.

If your case is at court and you have a lawyer, they may also be able to help you with your complaint.

What if I have a complaint about Communities that is not about a care plan?

You can:

- explain your concerns to the Communities' officer working with your family
- talk to the team leader who supervises the Communities officer
- make a complaint to the Director of the District Office or work unit.

If you are still not satisfied, you can:

- ▶ call the Communities **Child Protection Complaints Management Unit** on **1800 333 325**, or
- ▶ write to the **Complaints Management Unit** at **Locked Bag 5000, Fremantle, WA 6959**

The Complaints Management Unit **cannot** deal with complaints about:

- decisions made by the Children's Court or Family Court
- any complaint subject to legal action
- formal case plan decisions
- recommendations of the Care Plan Review Panel, or
- anonymous complaints.

There is a complaints kit that you can use. You can get a copy of this from Communities. More information on the complaints that CMU **cannot** deal with is in the kit.

The Complaints Management Unit oversees all complaints about Communities.

If Communities are not able to resolve your complaint you can call:

- the **Ombudsman WA** on **(08) 9220 7555** or freecall **1800 117 000** (for country and interstate callers)
- the **Minister for Child Protection** on **(08) 6552 5000**.

Hints for complaints letters

- Keep a copy for your records. You should be able to make a copy in the prison library.
- Date the letter.
- Make sure you put in the full name and date of birth of your child/children and what your relationship to the child/children is.
- State your main problem/s clearly.

Where can I get more information or help?

- Call **Legal Aid WA's Infoline** for information and referral and to get copies of infosheets and fact sheets that may help you especially if your case is listed for a final hearing.
- Call the **Family Inclusion Network of Western Australia Inc** on **(08) 9328 6434** for help for parents.
- Any Children's Court of WA registry or the [Children's Court website](#) has the forms you need.



- Call the **Aboriginal Legal Service WA** on the **free prison number**.
- Call the **State Administrative Tribunal** on **(08) 9219 3111**, or **1300 306 017** (cost of a local call) for information on the care plan review process.
- Women prisoners can call the **Women's Legal Service WA** on **1800 625 122** (country callers) or **(08) 9272 8800** or **Aboriginal Family Legal Services** on **(08) 9355 1502**.
- Call the **Law Society of WA** on **(08) 9324 8600** for information on whether you can get help from the Law Access Pro Bono Referral Scheme if you are not eligible for legal aid. You can also write to: Law Access, PO Box Z5345, Perth WA 6831

4. Divorce

Getting divorced legally ends your marriage to your ex-partner.

A divorce order changes your legal status to recognise your marriage has ended. However, the court will not deal with arrangements for children or how property will be divided as part of your divorce case. The court process for dispute about children and property issues are separate to a divorce case.

You can make an application to the Family Court of WA for a divorce if you have been separated from your ex-partner for at least 12 months (12 months and one day is enough).

You can request a divorce application form by calling the **Family Court of WA Call Centre** on **(08) 9224 8222**.

You can lodge your divorce documents with the court by posting them to the Family Court of WA Registry:

GPO Box 9991

PERTH 6848

Usually, people are required to lodge documents electronically on the eCourts Portal of WA. However, prisoners are not required to do. It is important to make it clear in your covering letter to the court that you are in prison.

Legal Aid WA has a fact sheet with more information called [Separation and Divorce](#).

5. Family violence restraining orders (FVROs)

What is an FVRO?

It is a court order against a partner, ex-partner or another family member, (eg uncle, aunt, son, daughter, grandfather relative of an ex-partner, etc) designed to stop threats of violence or violence, behaviour that coerces, controls, or causes the applicant, or person protected, to be fearful.

For more information call the **Legal Aid WA Infoline** to ask to be sent a copy of the infosheets: [Family violence restraining orders](#) and [Responding to a restraining order application](#).

Can I try to get an FVRO changed or cancelled if it stops me seeing my child?

Yes, you can apply to a court that has the power to make a restraining order. This can be a court different to the court that made the order, but it cannot be a court lower than the court that made the order. For example, you can't apply to the Magistrates Court if the District Court made the order.

For more information on how to apply to change a restraining order call **Legal Aid WA's Infoline** to ask to be sent a copy of the infosheet: [After a restraining order is made](#). You should get legal advice before you apply to change an FVRO.

Where can I get more information?

Legal Aid WA has other fact sheets and infosheets that may help if you have been served with an FVRO and your case is going to a shuttle conference or a final order hearing. Call **Legal Aid WA's Infoline** to ask for copies to be sent to you.

6. More information

There are prison policies and rules you may want to read for more detailed information.

These include:

- [Commissioner's Operating Policies and Procedures](#) (COPPs):
 - ▶ 7.2 'Social Visits' (effective as of 20 April 2023)
 - ▶ [7.4 with 'Visitor Restrictions and Bans'](#) at end of Bans and add (effective as of 20 December 2022)
- [Prison Rules 7 Visitor Restrictions](#).(effective as of 9 August 2021)



Part 11

Other legal problems

This part covers:

1. Assault
2. Centrelink
3. Changing personal information in WA Police records
4. Court orders for compensation and restitution
5. Criminal injuries compensation – as an offender
6. Criminal injuries compensation – as a victim
7. National Redress Scheme for victims of institutional child sexual abuse
8. Dealing with debts
9. Discrimination
10. Enduring power of attorney
11. Fines and infringements
12. Getting information from WA Police
13. Guardians and administrators
14. Immigration issues – visa cancellation
15. Negligence
16. Personal injury – if you have been injured in prison or before you went to prison
17. Powers of attorney
18. Registration and enforcement of fines from another state
19. Return of seized goods from the police
20. Tenancy issues
21. Uncollected goods



Part 11

Other legal problems

1. Assault

If you have been the victim of an assault in prison, for example, by another prisoner, or if you received medical treatment without consenting to it (and it did not fit within one of the exceptions where consent is not required) you may be able to make a civil claim for assault. You should get legal advice. It may also be a criminal matter and should be reported to the police. See also under the heading **Criminal injuries compensation – as a victim** below.

2. Centrelink

You do not receive Centrelink payments while you are in custody, even if you are on remand for a short period of time. Social security payments for you are returned to Centrelink with a covering letter stating that you are in custody.

See also under the heading Centrelink in [Part 15 - After release](#) for how to apply for help on release.

3. Changing personal information in WA Police records

You have the right to apply to change your personal information contained within WA Police documentation if the information is:

- inaccurate
- incomplete
- out of date, or
- misleading.

Your application to change personal information should follow the requirements set out in Section 46 (1) of the [Freedom of Information Act 1992 \(WA\)](#) [FOI Act]. It must:

- be in writing
- give enough details to enable the document that contains the information to be identified
- give details of matters where you believe the information is inaccurate, incomplete, out of date or misleading
- give your reasons for why you believe that
- give details of the change that you wish to have made
- give an address in Australia to which notices under the FOI Act can be sent
- give any other information or details required under the regulations
- be lodged at an office of the agency.

The new application must state whether the change is made by:



- changing information
- striking out or deleting information
- inserting information
- inserting a note in relation to information

or in two or more of those ways.

4. Court orders for compensation and restitution

This information covers what happens when a court in a criminal case makes any of the following orders when an offender is found guilty of an offence:

- that the fine imposed on the offender be paid to the victim(s)
- that the offender pay the victim(s) an amount of money as compensation, or
- that property be returned to the victim(s). (Note: the court can also order a third party to do this).

What happens if a fine ordered by a court has been made payable to a victim?

If you are found guilty of the offence of assault, the court may make an order that any fine imposed on you has to be paid to the victim.

You do not pay this money to the victim directly. You must pay the fine to the court and the court will pass the money on to the victim.

The payment of the fine by you can be enforced in the same way as other fines (see under the heading **Fines and infringements** below).

What is a reparation order?

There are 2 sorts of reparation orders that can be made by a criminal court:

- compensation orders, and
- restitution orders.

What is a restitution order?

A restitution order is an order that an offender or third party return property to the victim within a set time. Usually, the property will have been seized by police and it will be the police who return it to the victim.

A restitution order can be enforced by the sheriff if it is not obeyed.

What is a compensation order?

A compensation order is an order that the offender pay an amount of money to the victim as compensation for:

- loss of or damage to their property, and
- for any expenses they have reasonably incurred.

The compensation order cannot cover the type of injury or loss that would be covered under the [Criminal Injuries Compensation Act 2003 \(WA\)](#). (See under the heading **Criminal injuries compensation – as an offender** below).

A compensation order can be enforced as a judgment debt through the appropriate court. It is the responsibility of the victim to enforce this order.

How is a reparation order made?

The court can decide to make a reparation order without any application.

A victim of an offence or a prosecutor can apply for a reparation order to be made by the court.

An application for an order can be made:

- orally or in writing (using an approved form available from the court) when you are being sentenced, or
- in writing (using an approved form) within 12 months after the date you were sentenced.

What happens if a compensation order is made against you?

The court does not pay the victim this money out of its own funds. The victim will have to get the money from you through the court's enforcement process unless you voluntarily pay it.

If the amount payable under a compensation order has not been paid to the victim within 28 days from the date of the order, the victim could enforce it in the relevant court, eg, the Magistrates Court of WA if that court made the order. Amounts of \$75,000 and less would be enforced through the Magistrates Court of WA.

Can I appeal a decision to make a reparation order?

It is possible to appeal a court's decision to make a reparation order. Different time limits apply depending on which court made the decision. Get legal advice.

5. Criminal injuries compensation – as an offender

When is recovery of criminal injuries compensation sought?

If you have been **convicted** of committing an offence and the victim of the offence is awarded criminal injuries compensation, you may have to pay to the State of Western Australia either the whole amount awarded or a portion of the amount. This is called a "compensation reimbursement order".

An application for you to pay can be made at any time after a compensation award is made. However, if criminal injuries compensation is awarded to a victim of an offence of which you have not been convicted, you will not be required to make any repayment towards the award.



How much compensation can be ordered?

The maximum amount of compensation that can be awarded to a victim is dependent upon the date that the offence/s occurred.

The table below sets out these amounts.

Item	Period (all dates inclusive)	Maximum amount
1.	22 January 1971 to 17 October 1976	<i>For an indictable offence: \$2,000</i> <i>For a simple offence: \$300</i>
2.	18 October 1976 to 31 December 1982	\$7,500
3.	1 January 1983 to 31 December 1985	\$15,000
4.	1 January 1986 to 30 June 1991	\$20,000
5.	1 July 1991 to 14 December 2003	\$50,000
6.	On or after 15 December 2003	\$75,000

If you were convicted of only one offence, the maximum amount of criminal injuries compensation that can be awarded is the amount available at the time that the offence occurred.

If you have been convicted of more than one offence, and if at the time the offences occurred there were different maximum amounts of criminal injuries compensation that could be awarded, the sum awarded to the victim cannot be more than twice the amount available at the time the last offence occurred.

For example, if one of the offences was committed in 1992 (at which time the maximum amount was \$50,000), and if the last offence was committed in January 2004 (at which time the maximum amount was \$75,000), then the total amount of criminal injuries compensation that can be awarded to the victim is \$150,000 (\$75,000 x 2).

However, if you committed more than one offence and the offences for which you were convicted occurred at the same time, the victim is only entitled to receive one payment of the maximum amount that is available at the time that the offences occurred.

In some circumstances, the criminal injuries compensation assessor may not make an order for compensation or may reduce the amount awarded.

If the victim was injured as a result of an offence and at that time was also committing an offence, a compensation award cannot generally be made to the victim.

If the victim behaved or acted in a way that contributed, directly or indirectly, to the victim's injury and/or death, the assessor dealing with the application may reduce the amount awarded or refuse to make an award.

What can the compensation award include?

As well as making a claim for physical injury, the victim can also make a claim for compensation if the victim has suffered from emotional and/or psychological injury as a result of the offence/s.

If a person witnessed the offence/s and suffered emotional and/or psychological injury as a result, that person can also make a claim for compensation.

A close relative of the victim who was living with the victim at the time the offence/s occurred can also make a claim for compensation, including if the victim dies as a result of the offence/s.

A close relative is defined as a:

- parent, grandparent or step-parent of the victim
- spouse or de facto partner of the victim, or
- child, grandchild or stepchild of the victim.

If the victim dies as a result of the offence/s, the parent or step-parent of the victim can make a claim for compensation even if the parent or step-parent was not living with the victim at the time the offence/s occurred.

If a compensation order is made, can I get the reasons?

If an assessor makes a compensation award where you were the offender, as an interested person you can write to the assessor to ask for the reasons. The assessor has to give you written reasons for making an award.

If a compensation award is made, can I appeal the decision?

Yes, you can appeal to the District Court against an assessor's decision to make a compensation award and/or the amount awarded. Time limits apply. You must start your appeal within 21 days of the date of the assessor's decision. In limited circumstances the District Court may allow you to appeal after 21 days.

What happens when the State of WA applies to recover compensation from an offender?

If an application is made by the State of WA for you to pay (reimburse) the compensation that was awarded to the victim, you will be provided with a notice of the application and the time and place of the hearing of the application.

When you receive the notice, you can:

- give written submissions to the assessor dealing with the application, before the hearing, about whether a compensation reimbursement order should be made (for example, you will be able to tell the assessor if the applicant's behaviour contributed to their injuries, their injuries are not as bad as they say they are, or that their injuries are not because of the offence)



- appear at the hearing and have your say about the application
- represent yourself or be represented by a lawyer, or by a person approved by the assessor hearing the application, and
- present any evidence you have, call any witnesses and cross-examine any other witnesses.

What matters will be considered by the criminal injuries compensation assessor in deciding what if anything I should pay?

When the assessor is deciding how much, if any, money you should pay, they will consider:

- How responsible you were for the injuries that the victim had.
- Whether the victim provoked the offence to any extent.
- Whether any injury or condition the victim had contributed to their injury.
- Your means to pay the compensation. They will take into consideration your income and assets as well as your current employment, and potential future employment.
- Your ability to pay the money in a reasonable amount of time.

Will I have to pay the compensation amount?

If a compensation reimbursement order is made, you can be ordered to repay all or some of the money. This is a debt owing to the State. You can be ordered to pay it by instalments or in a lump sum.

Changing or cancelling a criminal injury compensation reimbursement order

You may at any time apply for the reimbursement order made against you to be changed or cancelled. However, you will have to have a good reason as to why this should occur, and it is only on rare occasions that the order will be altered or cancelled.

Can I appeal against an assessor's decision to make a compensation reimbursement order against me?

Yes, you can appeal against an assessor's decision to make a reimbursement order against you or their refusal to cancel or amend it. The appeal is to the District Court. Time limits apply. You must start your appeal within 21 days of the date of the assessor's decision. In limited circumstances the District Court may allow you to appeal after 21 days.

6. Criminal injuries compensation – as a victim

What if I have been the victim of a crime?

You may be eligible to apply for criminal injuries compensation.

If you have been injured or suffered loss as a result of a criminal offence, you may be able to:

- make a compensation claim under the *Criminal Injuries Compensation Act 2003* (WA)
- bring a common law claim against the offender, and
- ask the court sentencing the offender to give you a compensation or restitution order against the offender.

For more information, call the **Legal Aid WA's Infoline** to get a copy of the **Legal Aid WA infosheet: [Compensation for victims of crime](#)**.

7. National Redress Scheme – for victims of institutional child sexual abuse

Following from the 2017 Royal Commission into Institutional Responses to Child Sexual Abuse, the Commonwealth Government set up the National Redress Scheme ('the Scheme').

The Scheme will provide support to Australian citizens and permanent residents who were sexually abused as children (aged under 18) while in the care of participating governments and institutions before 1 July 2018. Each state and territory will participate and non-government bodies have the option to participate in the Scheme. Various churches and organisations like the YMCA and Scouts Australia have joined the scheme.

You can apply to the Scheme until **30 June 2027**. You cannot apply while you are in prison. You can apply once you are released, or in exceptional circumstances while still in prison, for example, if you have early onset dementia and there is a risk that details of the abuse will be forgotten.

Your application will be considered differently in several circumstances, including if you have ever been sentenced to more than 5 years in prison.

The Scheme is an alternative to applying for compensation through the courts. You will not be able to apply to both the courts and the Scheme for the same events.

The Redress Scheme can provide three things:

- access to psychological counselling
- a direct personal response – such as an apology from the responsible institution for people who want it
- a monetary payment.

Where can I get help or more information?

For more information, call the **National Redress Scheme** on **1800 737 377** or call the **Legal Aid WA Infoline**.

[Aboriginal Family Legal Services](#) (AFLS) is offering free National Redress services to clients living in the Perth metropolitan area and in the Midwest and Gascoyne regions.

AFLS will:



Other legal problems

- provide you with information about how the National Redress Scheme works
- help you with gathering the relevant information required to make your application
- help you to complete and lodge your application
- help you with accessing counselling, psychological care and any other services available, and
- help you with receiving a direct personal response.

Call **AFLS** on **(08) 9355 1502**.

“knowmore” is an organisation that provides free legal advice and practical assistance to survivors of child sexual abuse.

Contact the knowmore free advice line on 1800 605 762.

The contact details for the Perth branch of **knowmore** are:

Level 5, 5 Mill Street, Perth WA 6000

PO Box 7072

Cloisters Square Perth WA 6850

Tel: **08 6117 7244**

8. Dealing with debts

When entering prison, you may owe money to individuals or credit providers (lenders) with limited or no ability to pay. Generally speaking, your obligations to repay debts do not stop while you are in prison. However, you do have some rights to put off repayments in some circumstances.

If you owe a debt to an individual, you will need to speak to them directly to negotiate an acceptable arrangement. Alternatively, the person that you owe money to may apply to the relevant court to obtain judgment against you. They could then enforce this judgment (see below under the heading *Enforcing debts* below).

Debts owed to credit providers – hardship provisions

If you have a:

- home loan
- personal loan, or
- credit card

with a bank or other financial institution, you have some rights under the hardship provisions of the *National Credit Code*. These state that if you have reasonable cause to be unable to meet your commitments under a credit contract, you have the right to apply for a hardship variation. A term of imprisonment has been found by the courts to be “reasonable cause”.

You can apply to change the credit contract by

- stopping repayments for a certain length of time or
- reducing payments for a temporary period or

- extending the period of the contract or
- any other way you think might work.

When applying for a hardship variation, you should always think about how you are going to deal with any repayments that you missed while the variation was in place. For example, if you negotiate to suspend (stop) repayments for 6 months while you are in prison, also negotiate how the missed repayments will be repaid or they may become immediately owing at the end of the 6 months. You could, for example,

- negotiate to extend the term of the contract until the missed repayments have been paid in full, or
- offer to make a lump sum repayment in the future, or
- offer to increase future repayments.

The credit provider will generally consider whether you will be able to meet your obligations under the contract or whether it is “putting off the inevitable”. In practical terms, the length of your sentence may be a key consideration when deciding whether to give a hardship variation.

If the credit provider rejects your application for a hardship variation, you can apply to an external dispute resolution scheme, the [Australian Financial Complaints Authority](#), to consider the dispute.

Enforcing debts

Credit providers must give you a default notice giving you 30 days to pay any arrears. If you do not pay in the 30 days, it can enforce the debt. Debts owed to individuals and unsecured creditors (such as credit cards) are generally enforced through the appropriate court.

If a creditor is successful in obtaining a judgment against you, it can apply for a number of enforcement orders to enforce the judgment. Depending on your circumstances, some enforcement orders will not have any practical effect on you while you are serving a term of imprisonment (such as an instalment order when you receive no income).

However, if you have money in the bank or own property (cars or a house), a judgment creditor could apply for a time for payment order (requiring payment of the debt) or a property seizure sale order (to sell property to pay the debt).

Suspending enforcement

It is possible to apply to the court to suspend the enforcement of a judgment debt. This would mean that the court would hold off on the enforcement of the debt for a period of time. The court would consider any “special circumstances” of the case. It is unclear whether a term of imprisonment would be considered “special circumstances”. You should get legal advice before applying for a suspension order.

Car or motorbike loans

If you are in default on your car or motorbike loan, the credit provider must give a default notice giving 30 days to fix the default. If you do not pay the outstanding repayments within this 30-day time period, the credit provider can repossess the vehicle.

The credit provider cannot repossess the vehicle from residential property without a



court order or the occupier's consent. However, if the vehicle is out on the road, it can simply be towed away. Therefore, it is a good idea to keep the vehicle on residential property so you (or your family or friends) can make an informed decision whether to release the vehicle to the credit provider.

The credit provider must give you a notice within 14 days of repossessing the vehicle stating the estimated value of the vehicle and the outstanding arrears and enforcement costs. It cannot sell the vehicle for 21 days after this notice. If you pay the outstanding arrears and enforcement costs (and any other amounts that fall due), it must give you back the vehicle. If you do not pay within the 21 days, it must sell the vehicle for the best price obtainable. A trade-in price is a good guide to the amount usually seen as acceptable.

You can also find a buyer who is willing to buy the vehicle for the estimated value as stated on the notice. This must happen within 21 days from the date of the notice.

Often, once the proceeds of the sale of the vehicle are applied to the money borrowed, there is an outstanding amount still owing often referred to as the "shortfall debt". This is common as vehicles lose value quite quickly, whereas interest and default charges often mean that car and motorbike loans are slow to decrease. Shortfall debts are generally payable immediately to the credit provider. These debts are enforceable as described above in Enforcing debts.

Home loans

If you are in default under the credit contract, the credit provider must send a default notice complying with section 88 of the *National Credit Code* and section 106 of the *Transfer of Land Act 1893* (WA) before it can enforce the home loan and mortgage. A notice given under the *Transfer of Land Act 1893* (WA) must be served personally or by registered post. The notice must give you 30 days to pay any outstanding arrears and any payment that falls due within the 30-day notice period. If you pay the outstanding arrears and your normal repayment before the 30 days expire, both notices are satisfied and the contract is reinstated.

If you do not pay the arrears and any repayment that falls due during the 30-day notice period, the lender can take steps to repossess and sell the mortgaged property.

Enforcing the home loan and mortgage

If the lender decides to enforce the credit contract and mortgage, it can request that you (or the occupier) vacate (leave) the property and give vacant possession to the credit provider. However, more commonly it would start legal proceedings in the Supreme Court. The credit provider will generally ask for possession of the property and/or the payment of all monies due under the contract. Generally speaking, in the absence of any valid defence, the Supreme Court will give judgment to the credit provider.

If the credit provider obtains a judgment against you

If the credit provider obtains a judgment against you, the credit provider or sheriff (an officer who enforces court orders) may serve a Notice to Vacate. This usually gives you approximately 21 days to vacate the property.

However, even after judgment has been obtained, it may be possible to negotiate with the credit provider to delay enforcing the judgment. However, any agreement not to

enforce the judgment is at the credit provider's discretion.

If the credit provider repossesses the property

If the credit provider takes possession of the property, they will generally sell it by public auction. If there is any money left after discharging the mortgage and paying enforcement and selling costs, it will be returned to you. If the proceeds of the sale do not discharge the mortgage and cover enforcement and selling costs, you will be responsible to the credit provider for the shortfall debt.

Getting help

It is always worth seeking legal advice about your options and the likelihood of a hardship variation being successful. It also may be helpful to contact a free financial counsellor who may be able to assist you to deal with debts while in prison. The **National Debt Helpline** can be contacted on **1800 007 007**.

Mob Strong Debt Helpline is a free legal advice service about money matters for Aboriginal and Torres Strait Islander peoples. Call this helpline on **1800 808 488**.

Call the [Australian Financial Complaints Authority](#) on **1800 931 678**.

9. Discrimination

What is discrimination?

Discrimination may be either **direct discrimination** or **indirect discrimination**.

Direct discrimination is the less favourable treatment of a person in a group compared to another person of the same group because of a certain attribute they possess.

Indirect discrimination is when there is an unreasonable condition or requirement placed upon a person and the person is unable to comply with that condition or requirement, but a higher proportion of other people without the attribute can or do comply with the conditional requirement.

Less favourable treatment of a prisoner compared to other prisoners may amount to discrimination.

The *Equal Opportunity Act 1984* (WA) applies to certain areas of public life. The most relevant area in relation to discrimination against a prisoner is in the provision of goods, services and facilities.

What are goods, services and facilities?

- Services include those provided by:
 - ▶ government
 - ▶ public authorities, and
 - ▶ local government.
- Services must provide a benefit to those alleging discrimination.
- Services might include:
 - ▶ services to prison visitors



Other legal problems

- ▶ prison food
- ▶ rehabilitation services
- ▶ recreation and sporting services
- ▶ services to prisoners' families
- ▶ providing facilities and staff allowing prisoners to have their children with them, and
- ▶ activities including work arrangements and educational classes.

However, cell transfers and accommodation might not amount to “services” for prisoners.

What “attributes” can lead to discrimination?

It is illegal to discriminate against a person on the basis of:

- age (including being too young or too old)
- breastfeeding or bottle feeding
- family responsibility (eg, having a caring role)
- family status (ie, being a relative of a certain person)
- gender history (including having a reassigned gender)
- impairment (having a current, past or assumed mental, physical or intellectual disability)
- marital status
- political conviction (including lack of conviction)
- pregnancy
- publication of a person's relevant details on Fines Enforcement Registrar's website (for example, because the person has outstanding registered fines)
- race (including skin colour and ethnicity)
- religious conviction (including lack of conviction)
- sex, and
- sexual orientation.

It is unlawful to discriminate on the ground of a spent conviction, in some types of employment or work under the *Spent Conviction Act 1988* (WA) however there are some exceptions.

It is unlawful under the *Equal Opportunity Act 1984* (WA) to:

- harass a person in certain areas of public life because of their race, and.
- sexually harass a person in certain areas of public life.

What is “less favourable treatment”?

If you have one or more of the above attributes, it is possible for you to be discriminated against in two ways:

- **Direct discrimination:** This requires a comparison between the way you are treated and the way a similar prisoner without your “attribute” is treated. If you are treated differently, this can be direct discrimination.

- **Indirect discrimination:** Where a rule or policy negatively affects a higher proportion of people within a particular group (for example, persons of a certain race) compared to those outside of the group.

Examples of discrimination in prison

In Australia, a number of actions have amounted to discrimination against prisoners. For example:

- In Queensland, not providing Halal meat to a Muslim prisoner who requested it amounted to discrimination.
- In Western Australia, denying a prisoner access to activities and services available to other prisoners because of his HIV status amounted to discrimination.

How can I make a complaint?

If you feel you have been discriminated against, you may make a complaint to the Equal Opportunity Commissioner. Ordinarily, a complaint must be made within 12 months of an incident of discrimination, although exceptions may apply.

The **Equal Opportunity Commission** can be contacted by:

- Telephone: **(08) 9216 3900**
- Email: eoc@eoc.wa.gov.au
- Post: Albert Facey House, 469 Wellington Street, Perth WA 6000

Discrimination in employment on the basis of criminal record

- Criminal record discrimination is not unlawful under federal law. However, the Australian Human Rights Commission may investigate complaints of discrimination in employment on the basis of criminal record and, when appropriate, attempt to resolve the complaint by conciliation.
- Criminal record discrimination occurs when you do not experience equality of opportunity in employment because of your criminal record. This may include being refused a job, dismissed from employment, denied training opportunities or being harassed at work on the basis of your criminal record.
- You may make a complaint if you think you have been discriminated against because of your criminal record by contacting the Australian Human Rights Commission.
- Information is available from the **Australian Human Rights Commission**, including complaints forms.
 - ▶ Telephone: **(02) 9284 9600** and **1300 656 419** (for general information)
 - ▶ Email: newcomplaints@humanrights.gov.au (to make a complaint) and infoservice@humanrights.gov.au (for information)
 - ▶ Online: fill in an online complaint form on the Australian Human Rights Commission's website at <https://humanrights.gov.au/complaints/make-complaint>.
 - ▶ Post: GPO Box 5218, Sydney NSW 2001



Where can I get more information?

- Call **Legal Aid WA's Infoline** for information and referral.
- Call the **Equal Opportunity Commission WA** on **(08) 9216 3900**.

10. Enduring power of attorney

An enduring power of attorney is different to a power of attorney. The ability to appoint an attorney who can keep making decisions for you after you lose legal capacity is what makes an enduring power of attorney different to an ordinary power of attorney.

An attorney, who is appointed under an ordinary power of attorney, loses the power to act as your attorney if you lose legal capacity (for example, if you have a stroke and cannot communicate).

An enduring power of attorney allows you to appoint an attorney who will be able to keep acting as your attorney, even if you lose legal capacity. The power “endures” after you lose capacity.

You can get more information about enduring powers of attorney and an information kit with the necessary forms from the [Office of the Public Advocate](#) on **1300 858 455**.

For more information on powers of attorney see under this heading below.

11. Fines and infringements

What are infringements?

An infringement notice is a notice issued by the police, local government authority or other prosecuting agency, requiring the payment of money as a penalty for breaking a particular law.

Infringement notices are issued for breaches of the law that are not as serious, such as minor traffic offences and parking offences. An infringement notice is issued by the police, local government authority or other prosecuting agency and is often called a “ticket”, for example a “speeding ticket” or “parking ticket”.

What are fines?

A fine is an amount of money that a judge or magistrate **in court** may order you to pay as a penalty for committing an offence. A fine may be the whole sentence (penalty) or just part of the sentence you receive for the offence. You might receive a fine for an offence such as drink driving or disorderly conduct.

What is the difference between a fine and an infringement notice?

The difference between a fine and an infringement is that a fine can only be imposed on you by a court. An infringement notice cannot be given to you by a court, and it does not have to be dealt with in court in order to be legally binding.

Why do I need to know the difference between a fine and an infringement notice?

Different processes apply depending on whether you have received a fine or an infringement notice. There are different processes for:

- disputing payment
- seeking time to pay
- enforcing payment, and
- applying to have a licence suspension order set aside for non-payment.

An important example is that **you can serve time in custody for a fine but not for an infringement notice.**

If I don't pay my fine or infringement notice within the required time or organise time to pay, can I lose my licence?

Yes, suspending your driver's licence is usually the first step taken when a person fails to pay their fine or infringement notice.

If your licence is suspended, **your actual driver's licence will not be taken from you, but you will not be allowed to drive.**

See the **Legal Aid WA infosheet:** [Infringement notices](#) for information on these and what you can do if you fail to pay your infringement notice. Call the **Legal Aid WA Infoline** to be sent a copy.

Can I cut out my fines and infringement notices while I am in prison?

If you are on remand or a sentenced prisoner and you cannot pay your fines, you can apply to cut out unpaid fines at the same time. This is called applying for a Fine Expiation Order. You can only do this with unpaid fines, not infringement notices. For example, you can apply for a fine expiation order in relation to a fine for drink driving, but not a parking ticket.

For information on how to apply to cut out your fines while you are in custody, see the **Legal Aid WA Infosheet:** [Fines](#). Call the **Legal Aid WA Infoline** to be sent a copy.

Can I backdate cutting out my fines?

Yes, you can. However, the day when the expiation period starts cannot be before any of the following:

- the first day of the period of custody to which the fine expiation order relates
- the day on which the fine was registered
- 29 September 2020.



I am in custody because I haven't got bail, will the time in custody I spend cutting out my fines be considered by the court if I am sentenced?

The court can take into account the time you spend in custody cutting out your fines in the same way as it would if you didn't get bail.

That is, the court can backdate or reduce the sentence it would have otherwise imposed to take account of the time spent in custody.

I was under 18 years old when I was fined. What happens if I don't pay my court fine?

The process for the enforcement of your fine will be different according to your current age.

If you were under 18 when you were fined and are still under 18, then the Children's Court of WA will deal with the failure to pay. The court will give you three choices:

- more time to pay the fine
- a community work order, or
- a detention order.

The court may also **decline to make a detention order**. This means that you cannot be imprisoned for failure to pay that fine and it cannot be registered with the Fines Enforcement Registry.

If you were under 18 when you were fined but have since turned 18, then the fine must be registered with the Fines Enforcement Registry as normal for adults. This will not happen, however, where a community work order or a detention order has been made in respect of your failure to pay, or if there is another good reason not to register the fine.

12. Getting information from WA Police

See under this heading under **Criminal law matters** in [Part 9](#).

13. Guardians and administrators

The [Guardianship and Administration Act 1990 \(WA\)](#) allows a substitute decision maker to be appointed for adults over the age of 18 years. A substitute decision maker can be appointed for you by the State Administrative Tribunal if you are found to be not capable of making reasoned decisions for yourself. The appointment of a guardian or administrator takes away your right to make your own decisions and this right is given to another person for you. The appointment of a guardian or administrator is an option of last resort and should be taken only when it is needed.

A guardian is a person over the age of 18 years who is appointed to make decisions about a person's lifestyle, including matters such as work, living arrangements and medical treatment. A guardian is a decision-maker, not a carer (although they may be both).

An administrator is a person over the age of 18 years or a trustee company that is appointed to make financial and legal decisions in the best interests of the represented person, such as the buying or sale of assets (for example, a house), payment of debts, or investment of moneys.

14. Immigration issues – visa cancellation

What can I do if I have received a notice of visa cancellation on character grounds?

The Department of Home Affairs (“the Department”) may cancel your visa if you do not pass the “character test”. Your visa will not be automatically cancelled if you do not pass the character test, the Department must consider other reasons why your visa should not be cancelled before making a decision. For more information contact the **Department** on **131 861**.

The **Legal Aid WA** infosheet [Mandatory visa cancellation on character grounds](#) explains what this means and what you can do. Call the **Legal Aid WA Infoline** to get a copy.

15. Negligence

What is negligence?

Negligence involves doing or failing to do something that a reasonable person would or would not do in a certain situation, and damage, injury or loss occurs to someone as a result.

How is negligence worked out?

There are four criteria that must be satisfied to prove negligence:

- that the respondent had a duty of care
- that the respondent breached their duty of care
- that the plaintiff suffered an injury or other damage, and
- that the injury or the damage occurred as a result of the breach of duty of care.

When does a duty of care exist?

Sometimes it can be complicated to work out if a duty of care is owed, and legal advice is required.

When is a duty of care breached?

The court will look at what **standard of care** could be expected in the circumstances.

If the person you are taking action against acted in an unreasonable way or their actions fell below the standard expected, they might have breached their duty of care.

The Act applies the reasonable person test. The test is would a reasonable person in the person’s position have taken precautions against the risk of harm?



When does a breach of a duty of care cause a personal injury?

In some cases, it will be obvious what has caused the injury eg, if a woman slips on a wet floor and then discovers she has a broken arm.

Sometimes showing the cause of an injury can be more complex eg, the woman slips on a wet floor but earlier that morning she hurt her arm in a fall on the stairs of another building. There may be a question about which fall caused the injury.

Is a claim worthwhile?

This depends on how badly you were injured and the costs of making the claim.

You need legal advice to work out:

- whether there is any legal basis to your claim
- who you should make a claim against
- the chances of success
- the costs involved in going to court, for example the legal cost, court fees and witness fees, and
- the appropriate court.

In many cases, parties negotiate a settlement as any legal action can be costly, time consuming and stressful. You should get legal advice before negotiations start.

Do time limits apply?

There are time limits to start legal proceedings. Get legal advice about the time limits that apply in your case.

Things to take to a legal appointment

You should take the following to a legal appointment:

- personal details of any other parties involved
- names and addresses of any witnesses
- copies of any letters written
- the date, time and place of the incident
- full details of how the incident occurred (notes may be helpful)
- full description of injuries or loss (if property damage, eg, quotes)
- details of any hospitalisation or treatment
- full names and addresses of any treating doctors or other therapists
- any medical accounts or other accounts related to this injury that you have received
- details of work history and current employment details
- your thoughts on how the injury is currently affecting you
- any valuations or quotes for repairs etc (if property damage), and
- any photos taken – photos should be dated and signed by the person who took them.

What should I ask the lawyer?

Before deciding to hire a lawyer for a personal injury claim, you should ask them:

- if you have a strong case and if it is likely to succeed
- how much you are likely to get if you win
- how much it is likely to cost you, and
- how long it is likely to take.

The lawyer may not be able to give you definite answers, but they should be able to give you an idea about the likely outcome. You can then weigh up the information and decide if it is worth going ahead.

I want to go ahead with my claim. What should I do?

The first step is to sign a costs agreement with the lawyer who has agreed to take on your case. This is a contract setting out how and when you will pay the lawyer.

Do not sign this agreement unless you understand what it means.

Before signing the agreement, talk to your lawyer and make sure you understand:

- how their fees will be calculated
- the expected extra costs for your case, for example filing fees, medical reports
- if you are expected to pay for anything during your case or only at the end
- what costs you will have to pay if your case is not successful, and
- the maximum amount the other person will have to pay, even if you win.

16. Personal injury – if you have been injured in prison or before you went to prison

Personal injury is a term used to refer to physical or psychological harm or injury.

Psychological harm is often referred to as “nervous shock”. There are specific legal rules about what kind of psychological injury a person can recover damages for.

The [Civil Liability Act 2002 \(WA\)](#) sets out rules that apply to personal injuries claims that occurred after 1 January 2003.

Damages

Damages is the term used for monetary **compensation** awarded to the injured person.

The aim of compensation is that the person be restored, as far as possible, to the position they would have been in, had they not suffered the injury.

For some injuries there are specific laws that award compensation (for example, the *Workers Compensation and Injury Management Act 1981 (WA)*, the *Criminal Injuries Compensation Act 2003 (WA)*).

Sometimes the person injured has to seek compensation directly from the person who caused the injury. This may involve negotiation and settlement or commencing a court action.



Limits on the amount of damages

If the injury occurred **after 1 January 2003**, the provisions of the [Civil Liability Act 2002 \(WA\)](#) will apply. The Act places limits on the amount of damages that can be awarded. For example, there is a restriction where your claim is for non-pecuniary damages. Non-pecuniary damages are for:

- pain and suffering
- loss of amenities of life
- loss of enjoyment of life
- shortening of life expectancy, and
- bodily or mental harm.

Where your claim for non-pecuniary damages is equal to or less than an amount that is set each year (\$24,500 current until 30 June 2024) you will not be paid any money for those damages. You may still be able to claim for other types of damages such as loss of income or costs of medical treatment.

17. Power of attorney

What is a power of attorney?

A power of attorney is a legal document which gives one person (the donee or attorney) the power to act for another (the donor) in some circumstances.

For example, you may wish to sell a property while you are in prison. The donee would be able to act for you as a result of the power of attorney.

It is often used for a specific purpose and for a fixed period of time.

When can a power of attorney be used?

A power of attorney may be used for any purpose that can legally be given to someone else. Some situations where a power of attorney can be used are:

- buying and selling property (if the property is not held on trust for someone else), for example while you are on holidays
- operating a bank account, for example if you are in prison.

Some things cannot be done for you by someone else through a power of attorney, these include:

- making a will
- swearing or affirming your affidavit, and
- anything prohibited from being delegated by law.

If you are not sure if you can or should have a power of attorney in your situation, get legal advice.

Are there special requirements for dealing with land?

Yes. Where a donee intends to be involved in a transaction about land and it will be recorded at Landgate, the power of attorney must be lodged at Landgate.

Landgate requires an original copy, so two originals should be signed.

Can a power of attorney be limited?

Yes. A power of attorney can be worded to cover a particular purpose, for example, sale of a particular piece of land, for a limited time, or to apply only in a particular state or territory.

When you make a power of attorney, you need to be clear what, where and when you want it for. You should make sure the wording does not give the donee more power than you intended. Get legal advice if you are not sure what your power of attorney should cover.

What are some of the things I should consider in deciding who I should give my power of attorney to?

Some of the things you should consider are:

- Do you trust the person?
- Are they reliable?
- Do they have the time to do what you may need done?
- Does the person have the skills and knowledge to do what you want done?
- Is there any conflict between your interests and theirs?

Be careful who you appoint as there is the potential for the power to be abused.

You may want to get legal advice so that you understand the risks you are taking in giving a power of attorney.

What is the main danger in having a power of attorney?

The main potential danger is that while the donee has your power of attorney, another party dealing with the donee may be able to enforce an arrangement against you which is not in your interests.

Does a power of attorney have to be witnessed?

Yes. A power of attorney must be signed before an independent adult witness. The witness verifies that the donor signed the document on the date specified.

If there is a dispute about the legal capacity of the donor or whether they signed it freely, the witness may be called to give evidence.

Are there special requirements for a power of attorney dealing with land?

Yes. A power of attorney must be signed before an independent adult witness. The witness verifies that the donor signed the document on the date specified.

If three months have passed without lodgement of the power of attorney, the registrar will need proof that the power of attorney has not been revoked.

There is a fee for registration of the power of attorney and a fee for removing the registration.



Where can I get the form to make a power of attorney?

Most lawyers have a standard form which can be changed to fit a particular situation.

Do I need a lawyer to prepare a power of attorney?

Lawyers usually prepare powers of attorney, but this is not a legal requirement. It is important that the document is correctly worded and follows the requirements in the state or country it is needed in.

Some of the situations where you should get legal advice include if:

- you want a better understanding of the risks for you
- a company is involved
- the property involved is overseas or interstate
- the document is to be used overseas or interstate
- the power of attorney is given as security, for example, for a debt, or
- a trustee is involved.

Can more than one person be given a power of attorney?

Yes. You can give more than one person your power of attorney. You would need to indicate in the power of attorney whether they were to:

- use the power together, or
- exercise the power together and independently.

When does a power of attorney stop operating?

When a power of attorney stops operating can vary.

Some of the situations where a power of attorney may end or lapse are:

- if it contains a time limit, it ends at the end of that time limit
- if it is for a specific purpose, it ends when the purpose is achieved
- the donee or donor dies
- the donor or donee loses legal capacity (eg, through mental illness, medical problems) – it then lapses
- the donor revokes it (see the heading below *How do I revoke a power of attorney?*)
- where the donor is a trustee: when the trustee returns to the state or when they regain the capacity to perform the duties
- if the donor does something that is inconsistent with having given the donee authority, for example if the donor authorises the donee to do something and then does it themselves, or
- in most cases if the donor becomes bankrupt.

Get legal advice if you are not sure if your power of attorney has ended.

If the power of attorney has been given as security as part of a wider arrangement, get legal advice as the donor may not be able to revoke it.

How do I revoke or cancel a power of attorney?

The requirements for this can vary depending on the situation. Get legal advice if:

- you are not sure what applies in your situation, or
- you have entered into a contract with someone for them to be your attorney for a given time or purpose.

In some cases, you can say to the donee that the power is at an end. As the donee may deny being told, the presence of a witness may help.

You should give written notice to the donee stating that the power of attorney is revoked or cancelled as soon as possible.

You should keep a copy of this notice. If you send it by registered post, you will have proof of postage or you could get a receipt if you hand deliver it. It is a good idea for you to have the power of attorney and any copies returned to you.

You should tell all relevant parties that you have revoked or cancelled the power of attorney (eg, Landgate, banks) as soon as possible.

Are there special requirements for revocation of a power of attorney for land transfer?

Yes. Landgate requires written notice if the power of attorney is terminated.

You could tell the Registrar of Titles by phone and confirm in writing as soon as possible, for example, by fax.

Where can I get more information?

- Call [Landgate](#) on **(08) 9273 7373** for information on fees and procedures to lodge a power of attorney for a land transaction.

For information on enduring power of attorney see under this heading above.

18. Registration and enforcement of fines from another state

A fine from another State can be registered in WA where this is requested by the other State. The request from the other State will be accompanied by the order of the court imposing the fine or fines. The effect of registration in WA is that the fine can then be enforced in WA to the extent that the fine could have been enforced in the other State. When the fine is paid in WA, then this money is sent back to the other State.

19. Return of seized goods from the police

If the police has seized any of your property, but you did not end up being charged, or the court has not made an order for forfeiture or destruction, you should contact the police officer who charged you about the return of the seized goods.



20. Tenancy issues

If you are in prison as a sentenced prisoner or on remand, it is important to think about how your situation affects your rental. Depending on your circumstances it is possible that you will need to keep paying rent or your tenancy agreement may be ended.

Do you have a tenancy agreement?

A tenancy agreement is also known as a lease. It is a contract and can be either in writing or oral. It is where an owner (also called a 'lessor') allows you the right to live in a residential premise in exchange for rent.

How does going to prison affect my tenancy agreement?

How your imprisonment affects your tenancy agreement will depend on your particular circumstances. These include, for example, the length of time that you are away from the premises, if you are a private or public tenant or if you have a fixed or periodic tenancy.

What if I have a private lease?

You are a private tenant if you rent the premises from a private owner or through an agent ("the owner").

If you are a private tenant, both the owner's and your rights and responsibilities are set out in the [Residential Tenancies Act 1987 \(WA\)](#) [RTA], the [Residential Tenancies Regulations 1989 \(WA\)](#) and the tenancy agreement.

The tenancy agreement will set out what you have to do, including such things as how much rent you need to pay and whether the term is either fixed term or periodic. With a private tenancy you may be able to assign or sublet your tenancy agreement to another person.

If others are living at the property and are not named in the tenancy agreement, they can apply to a court to be recognised as a tenant under the agreement.

What is a periodic tenancy?

A periodic tenancy is ongoing and does not have an expiry date. If you have a periodic tenancy you have to keep paying the rent until you give 21 days notice that you intend to terminate the tenancy. The termination notice must be in writing, signed by you, identify the property, and specify the date you will deliver up the property.

If you fall into rent arrears or otherwise breach the tenancy agreement, the owner may issue you with a breach notice. If you fail to rectify the breach in the given time, the owner can start eviction proceedings at court against you. If these proceedings are successful, you may be liable for any rent arrears and to pay damages to the owner. Damages can include lost rent and the costs of finding a new tenant. In any eviction proceedings the owner must take reasonable steps to keep their costs down.

The owner can also terminate your periodic tenancy without specifying a ground if they give you 60 days notice or if they have entered into a contract to sell the property with 30 days notice.

What is a fixed term tenancy?

A fixed term tenancy has a specific end date for the tenancy agreement. You have to pay the rent for the term of the tenancy.

Can my fixed term tenancy be terminated?

You can terminate your tenancy by agreement with the owner. Be aware that the owner may charge you fees and costs to cover expenses they get in releasing you from the agreement, for example, advertising costs. There may be other fees that apply too, for example, if the owner uses a real estate agent, there may be a final inspection fee payable.

The owner can terminate your fixed term tenancy at the end of the tenancy period. The tenancy will expire at the end date of the tenancy agreement if either you or the owner writes to the other party 30 days before the expiry is due and you set a possession date.

If you breach the terms of the tenancy agreement, the owner may issue you with a breach notice. If you fail to fix the breach in the given time, the owner can start eviction proceedings at court against you. If successful, the court may say that you are responsible for any rent arrears and to pay damages to the owner.

Abandoned premises

If you have a fixed term or periodical tenancy and the owner suspects that you are no longer living at the premises, they may apply to the Magistrates Court for a declaration that you have abandoned the premises. If the court declares the premises are abandoned, your tenancy agreement may be terminated and you will be responsible for paying the owner's costs and damages.

What if I am a public tenant?

If you are a tenant with the Department of Communities, Housing ("Housing") the RTA still applies and you will have a tenancy agreement. As such, much of the above information is relevant to you as a public tenant too.

However, Housing policies such as the Disruptive Behaviour Management Policy ("DBMP") and the Rental Policy Manual ("rental policy") also apply. The DRB policy sets out how Housing is to respond to disruptive tenants while the rental policy sets out tenant responsibilities.

Going to prison and public housing

As part of your tenancy agreement with Housing, you need to continuously occupy the premises. If you are going to be away for more than 4 weeks, you need their written permission. If you are imprisoned for more than 4 weeks and you do not have Housing's approval for such an absence, you may be in breach of your continuous occupation obligation.

For more information contact **Legal Aid WA** to get a copy of the Blurred Borders Tenancy kit factsheet: [Tenancy issues while in prison](#).



Can my details be entered onto a tenant's database?

If you breach your tenancy agreement, an owner may in certain circumstances register the breach and your details with a tenancy database. A tenancy database may be used by an owner to assess your suitability for future tenancies.

The owner is required to provide you with details of the listing they are putting onto the tenancy database or take reasonable steps to give you the information. Generally, you must also have at least 14 days to check that the information is correct and let the owner know what needs to be changed or that the listing should not be made. You can dispute a listing at court to get the listing partially or fully removed if the information is inaccurate, incomplete, out of date, ambiguous or unjust in the circumstances.

What happens to my bond?

If your tenancy agreement is terminated, you should have all bond money returned to you unless you owe money for outstanding rent, water consumption (if liable) or to repair damage to the place that goes beyond fair wear and tear. You should not stop paying rent on the assumption that the arrears will be covered by the bond.

The bond cannot be disbursed unless both you and the owner sign a bond disposal form or if there is a court order.

What if I have left my things at the rental premises?

If you are imprisoned, you should arrange for friends or family members to contact the owner to collect your things.

If you have abandoned the premises, the RTA says that after two days the owner can dispose of goods left behind if they are perishable food stuffs or if the costs of removing, storing and selling the goods is more than their value.

If the goods cannot be disposed of as described above, the owner must store your property in a safe place for 60 days. If your property is stored, the owner must notify you of this within seven days by writing to your forwarding address or putting a notice in a newspaper with state-wide publication.

You have the right to reclaim your property within the 60-day holding period, but you must pay the removal and storage costs incurred by the owner. You do not need to pay any rent arrears. If the owner refuses to release the property, contact a tenant advocate for assistance.

After 60 days, the owner can sell your property and recover money owed by you including arrears, damage and the removal, storage and selling costs relating to the abandoned property. Excess money from the sale is to be repaid to you or placed in the Rental Accommodation Account with the Magistrates Court.

The RTA says that the owner must follow a similar process before destroying a tenant's abandoned documents. Tenant documents include photographs, correspondence, official documents or any document which it would be reasonable to want to keep.

Summary

Tenancy agreements are legally binding contracts, and they continue even if you are in prison. If you are in public housing, it is important to notify the Department of

Communities, Housing and arrange permission to be away from the premises for more than four weeks.

If you are a private tenant, you can either continue with the agreement or you will need to contact the owner and negotiate an end to your agreement.

If you are unsure, you should contact a tenant advocate to get help.

Where can I get more information?

- You can get tenancy advice from **Circle Green Community Legal** on (08) 6148 3636.
- Call **Legal Aid WA's Infoline** for information or referral or to get a copy of the Blurred Borders Tenancy fact sheet: [Abandoned rental houses and goods](#).

21. Uncollected goods

The law sets out steps a person must take where goods are left with them or on their property and they want the owner to collect them. For example:

- If you were living in a house and you moved out and left several items of furniture or boxes in that house.
- You temporarily left your car in a friend's garage for a week and failed to collect it because you have since been imprisoned.
- You left your car on the verge in front of a house and the owner of the house wants it removed.

The legal term for this situation is “abandoned goods”.

There are steps the person needs to take before they can sell or dispose of goods that have been left with them. They cannot throw away or dispose of the goods unless ordered to do so by the court.

The [Disposal of Uncollected Goods Act 1970 \(WA\)](#) sets out the steps that must be taken before a person can do anything with the goods they have in their possession.

For goods abandoned in residential tenancy situations, see under the heading *What if I have left my things at the rental premises?* above.

Do I need legal advice if I receive a notice about uncollected goods?

Yes. Legal proceedings are costly, and the unsuccessful party is usually ordered to pay the successful party's legal costs.

Where can I get more information?

Call **Legal Aid WA's Infoline** to get a copy of the infosheet: [Disposal of uncollected goods](#).



Part 12

Aboriginal prisoners and Torres Strait Islander Prisoners

This part covers:

1. Royal Commission into Aboriginal Deaths in Custody
2. Commissioner's Operating Policy and Procedure (COPP) 4.2 Aboriginal prisoners
3. Aboriginal Legal Service of WA
4. Family Violence Prevention Legal Service and Aboriginal Family Legal Services
5. Elders Program
6. Aboriginal Visitor Scheme
7. Artists in the Black
8. Wungening Aboriginal Corporation
9. Time to Work Employment Service
10. More information



Part 12

Aboriginal prisoners and Torres Strait Islander prisoners

1. Royal Commission into Aboriginal Deaths in Custody

The Royal Commission into Aboriginal deaths while held in State and Territory prisons was established in 1987 in response to a growing public concern that deaths in custody of Aboriginal people were too common and poorly explained.

The Commission examined all deaths of Aboriginal people in custody in each State and Territory gaol which occurred between 1 January 1980 and 31 May 1989, and the actions taken in respect of each death. The Commission's terms of reference enabled it to take account of social, cultural and legal factors which may have had a bearing on the deaths under investigation.

The Royal Commission produced a number of reports, including individual reports for each death investigated. The final report was released in 1991. It made 339 recommendations, mainly concerned with procedures for persons in custody, liaison with Aboriginal groups, police education and improved accessibility to information. Not all recommendations have been implemented.

2. Commissioner's Operating Policy and Procedure (COPP): Prisons 4.2 Aboriginal prisoners

Communication and cultural issues

If you are not able to communicate in spoken and/or written English, you should be:

- made aware of your right to communicate in your language
- when and how to ask for an interpreter, and
- the complaints processes.

There should be an area in the prison which is set aside as a cultural meeting place for Aboriginal prisoners. Ask where it is in your prison if you are not told as part of your introduction to the prison.

Where you are placed in prison

When deciding where to place you in the prison, the Superintendent is meant to take into account kinship groups, language groups, extended families and other Aboriginal prisoners. At reception, staff should ask you if there are any feuding issues to make sure you are placed appropriately within the prison.



If they don't do so, you will need to tell them.

Superintendents should make sure you are placed on country wherever possible.

Food

Superintendents are meant to make sure where possible and practicable that you are offered foods that meet your cultural needs. You will need to fill in a Special/Religious/Cultural Meal Request form.

Home Leave

If you wish to have Home Leave at an Aboriginal community, the view of the community or council should be considered as part of the assessment process (COPP: Prisons 14.2 Home Leave 4.2.2). For more information see [Part 14 – Release](#) under the heading *Home Leave*.

3. Aboriginal Legal Service of WA

The Aboriginal Legal Service of Western Australia Limited (ALSWA) provides legal advice and assistance to Aboriginal people and Torres Strait Islanders throughout Western Australia. ALSWA has offices at Perth, Albany, Broome, Bunbury, Carnarvon, Derby, Geraldton, Halls Creek, Kalgoorlie, Kununurra, Northam, and South Hedland.

For more information, call the Perth office of **Aboriginal Legal Services** on **(08) 9265 6666** or **1800 019 900**.

4. Family Violence Prevention Legal Service and Aboriginal Family Legal Services (AFLS)

The Family Violence Prevention Legal Service (FVPLS) and Aboriginal Family Legal Services (AFLS) are legal and counselling services for victims of family violence and/or sexual assault who are Aboriginal people or Torres Strait Islanders or whose partner or children are Aboriginal or Torres Strait Islanders. Each service provides a range of services that may include:

- legal advice and information
- community legal education
- court representation on family violence and sexual assault matters
- advocacy and assistance with completion and lodgement of legal documents
- information on some general law matters
- sexual abuse counselling
- community awareness groups/development, and
- outreach to towns in their area.



The contact details for AFLS offices are set out below.

<p>Aboriginal Family Legal Services Unit 1/46 Dampier Terrace BROOME WA 6725 PO Box 2037 BROOME WA 6725 Phone: (08) 9193 5455 Fax: (08) 9193 7913 Mobile: 0448 888595</p>	<p>Aboriginal Family Legal Services 1 Camel Lane CARNARVON WA 6701 PO Box 729 CARNARVON WA 6701 Phone: (08) 9941 3633 Fax: (08) 9941 3801 Mobile: 0429 529 046</p>
<p>Aboriginal Family Legal Services 18 Chapman Road GERALDTON WA 6530 PO Box 2731 GERALDTON WA 6530 Phone: (08) 9965 4654 Fax: (08) 9921 6377 Mobile: 0417 965 206</p>	<p>Aboriginal Family Legal Services 2/45 Brookman Street KALGOORLIE WA 6430 PO Box 10411 KALGOORLIE WA 6430 Phone: (08) 9021 0244 Fax: (08) 9021 2765</p>
<p>Aboriginal Family Legal Services Suite 1/10 Banksia Street KUNUNURRA WA 6743 PO Box 1749 KUNUNURRA WA 6743 Phone: (08) 9168 2001 Fax: (08) 9169 3321 Mobile: 0447 501 205</p>	<p>Aboriginal Family Legal Services 2/3 Hunt Street SOUTH HEDLAND WA 6722 PO Box 2807 SOUTH HEDLAND WA 6722 Phone: (08) 9172 5024 Fax: (08) 9172 5035 Mobile: 0409 887 854</p>
<p>Aboriginal Family Legal Services Head office 113 Orrong Road RIVERVALE WA 6103 PO Box 5254 EAST VICTORIA PARK WA 6981 Phone: (08) 9355 1502</p>	

The contact details for the **Albany** and **Fitzroy Crossing Family Violence Prevention Legal Services** are:



<p>Family Violence Prevention Legal Service 45-47 Serpentine Road ALBANY WA 6330 PO Box 5277 ALBANY WA 6332 Phone: (08) 9842 7751 Freecall: 1800 557 187</p>	<p>Marninwarntikura Women's Resource Centre Marnin Family Support and Legal Unit Lot 284 Balinijangarri Road PO Box 43 FITZROY CROSSING WA 6765 Phone: (08) 9191 5284 Fax: (08) 9191 5611</p>
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5. Elders program

The [Elders program](#) works together with Noongar Elders to help prisoners and young people while they are in custody and when they make the transition into the community on release.

Elders talk to prisoners about, and help them with the following:

- Traditional values, such as respecting cultural ways, sharing, and maintaining family and family relationships.
- Through-care post-release by connecting prisoners to Aboriginal community centres.
- Counselling to help deal with issues such as drugs and alcohol or family relationships and getting training to increase the likelihood of getting a job.
- Building up self-esteem, credibility and integrity and helping that person to be a better role-model for their family.

6. Aboriginal Visitors Scheme

The [Aboriginal Visitors Scheme](#) (AVS) is a group of Aboriginal staff who visit prisons, youth detention centres and police lock ups around the state, providing support and counselling to Aboriginal people in custody.

Aboriginal Visitors are Department of Justice employees, who work solely with the Aboriginal prisoners. AVS staff are located at Department of Justice prisons and youth detention facilities within Western Australia (Monday to Friday, 8.00 am to 4.00 pm).

The AVS forms part of Prison Support Services within the Mental Health, Alcohol and Other Drugs (MHAOD) Branch.

AVS:

- provides culturally appropriate support and works as part of a multidisciplinary team to prevent instances of suicide and self-harm among Aboriginal people in adult prisons and the youth detention facility.
- promotes a culture of resilience and healing and help prisoners and detainees connect with their culture and community.

An after-hours service is available to Aboriginal prisoners and detainees through the AVS on **1800 282 429** (Freecall). AVS provides assistance to the Aboriginal community



through the AVS where there are concerns reported about the social and emotional wellbeing of prisoners and detainees in custody.

Visitors cannot help with money, legal or medical matters, but can make referrals to appropriate agencies.

7. Artists in the Black

Artists in the Black provides free legal help for Aboriginal artists and Torres Strait Islander artists. The service can help with a range of issues including wills, so the property of Indigenous artists is distributed in the way they want after passing away.

You may be able to get help from the Arts Law Centre of Australia in relation to legal issues that may arise for you as an artist, for example recovering money owed or agreements to sell. **Artists in the Black** and the **Arts Law Centre of Australia** can be contacted on **(02) 9356 2566**.

For more information on your rights to art produced in prison, see also under the heading *Artwork made in prison* in [Part 3 - Basics](#).

8. Wungening Aboriginal Corporation

Wungening Aboriginal Corporation is an Aboriginal Community Controlled Organisation which provides culturally secure, confidential and free of charge services to Aboriginal people in the Perth metropolitan area.

For more information, contact **Wungening Aboriginal Corporation** East Perth hub on **(08) 9221 1411**.

9. Time to Work Employment Service

This voluntary in-prison employment service for Aboriginal and Torres Strait Islander peoples is available in non-remote prisons in WA for prisoners over 18. For details, see [Part 5 - Programs and employment](#) under the heading Time to Work Employment Service.

10. More information

There are policies you may want to read for more detailed information.

These include the [Commissioner's Operating Policies and Procedures](#) (COPP): Prisons:

- 4.2 Aboriginal prisoners (effective as of 3 August 2023).
- 14.2 Home Leave (effective as of 5 August 2022)



Part 13

Young prisoners

This part covers:

1. Your rights in custody
2. Withdrawal of privileges
3. Trans, gender diverse and intersex detainees
4. Telephone use
5. Complaints
6. Fines
7. More information



Part 13

Young prisoners

1. Your rights in custody

If you are in police custody, and have not been granted bail, you have the right to be placed in a detention centre as soon as practicable.

Before police question you while in their custody, they must let a responsible adult know, for example a parent.

Once you are in a detention centre, your rights are published and set out by the Department of Justice, Corrective Services. You are entitled to know about these rules and rights, even if you cannot understand or read and write English.

Do I have to go to school while I am in detention?

Yes. If you are aged 17 or under, you have to go to school Monday to Friday. If you are older, you can either continue your studies or take part in other activities designed to help you get a job.

Young people also have the opportunity to get involved in a wide range of programs. These address the contributing factors to their offending (also known as criminogenic needs), life skills, emotional well-being and rehabilitation as well as recreation. These programs include Army Cadets, Emergency Services Cadets, barista training, hip hop classes, AFL, rugby, basketball, mental health awareness, sexual health, offence specific counselling, substance use, healthy relationships, and others.

The structured day, the programs and the services delivered at Banksia Hill Detention Centre are aimed at:

- developing and improving your skills set
- making you a good citizen
- reducing the likelihood of offending and
- helping you to lead a life without getting into trouble and also a positive life in the community.

Can my privileges be withdrawn?

Your privileges can be withdrawn while you are at Banksia Hill if you:

- Do not do what you are lawfully asked to do.
- Do not join in education, employment, programs and activities if they are offered to you.
- Drink alcohol or use other drugs that have not been prescribed for you.
- Bully or threaten other young people, staff or visitors.
- Do not look after your personal hygiene well (for example by washing regularly) and keep your cell and living areas clean and tidy.
- Buy, sell or swap any things with other young people in custody without staff saying it is okay.



- Have things you are not authorised to have.
- Steal or interfere with another person's property.

3. Trans, gender diverse and intersex detainees

If you identify as trans or intersex, when you are admitted to Banksia, the Custodial Officer should ask you what your preferred name and self-identified gender is.

If you identify as non-binary (that is neither male nor female), when you are admitted to Banksia, the Custodial Officer should ask you what your preferred name is.

Your preferred pronouns should be entered on TOMS.

If you identify as trans, non-binary or intersex, you should be asked where you would prefer to be placed.

If a search is to be conducted, before you are searched, you should be asked for the preferred gender of the Custodial Officer who will search you.

You will be placed into an area at BHDC that takes into account your safety and any risks.

You should also be asked which BHDC clothing you would prefer to wear. However, the Superintendent has the final say about what clothing and personal things (such as toiletries) you are given.



4 . Telephone use

All telephone calls are recorded, except for calls to your lawyer and certain external service providers.

Unit Managers may also sometimes have to listen to telephone calls.

Telephone call allocation

Location	Number of free social calls per week	Duration (minutes)	Extra calls you can buy if you have sufficient funds
General living units	7	10	5
Approved for A Wing privileges	10	10	10
Approved for Self-Care	12	10	10

If you are from a regional area, out of country, interstate or from overseas, the Assistant Superintendent may let you have extra free calls.

You are not allowed to make reverse charges calls.



5. Complaints

You may make a request, complaint or allegation about anything that affects you while you are in custody. Your parent, a care giver or a significant other as the adult responsible for you may also make requests or complaints. You can make a complaint in writing or orally to the Superintendent or their representative. If it is not resolved, you have the right to ask for the next higher authority to consider the matter.

If the Superintendent or their delegate can't resolve your complaint in a way you agree with, or doesn't agree to your request, they are meant to let you know what you have to do to have the matter reviewed.

You might be interviewed by a Department of Justice, Corrective Services investigator or an external agency about your complaint.

If the complaint is about a custodial staff member and an investigation finds that your complaint is false or had no real basis, the Superintendent or their representative might talk to you about it, or have you charged for it as a detention offence under the *Young Offenders Act 1994* (WA).

If you say there has been misconduct (sexual, physical or emotional) or inappropriate sexual conduct by another young person in custody towards you, or there is an allegation by another young person in detention about you:

- The safety and wellbeing of the alleged victim will be the most important concern,
- The rights and protection of the detainee against whom the allegation is made will be considered, and
- The detainee who made the allegation won't be left on their own or put under any form of pressure to change their allegation or complaint.

Staff are meant to provide you with support.

As sexual abuse is a criminal offence, it will be reported to the police.

6. Fines

For more information on fines, see [Part 12 – Other legal problems](#) under the heading *I was under 18 when I was fined. What happens if I don't pay my fine?*.



7. More information

There are policies and laws you may want to read for more detailed information:

- [Young Offenders Act 1994 \(WA\)](#)
- [Youth Custodial Rules](#) including Rule 6 Withdrawing Privileges (as of 29 December 2021)
- [Commissioner's Operating Policies and Procedures: Detention Centres](#). These set out your minimum requirements:
 - ▶ 2.0 Admissions and Placement
 - ▶ 3.1 Access to Health and Psychological Services
 - ▶ 4.1 Property
 - ▶ 5.1 Orientation
 - ▶ 6.0 Detainee Management and Planning
 - ▶ 6.2 Supervision Levels and Privileges
 - ▶ 7.5 Trans, Gender Diverse and Intersex Detainees
 - ▶ 9.5 Approved and prohibited items
 - ▶ 9.6 Searching
 - ▶ 11.0 Communication and visits



Part 14

Release

This part covers:

1. Potential problems with release for prisoners
2. External activities
3. Parole
4. Re-entry release orders
5. Home Leave
6. Re-socialisation programs
7. Trial program for female prisoners who are victims-survivors of family violence
8. Release – Help and Support



Part 14

Release

1. Potential problems with release for prisoners

If you are a prisoner who is subject to the *High Risk Serious Offenders Act 2020* (WA) (HRSO), you may not be released even after you have served your full term if it is decided that the risk you pose for the community cannot be adequately managed. Usually, the “risk cannot be managed” mainly because the only place you can live is in a community where:

- your victim/s may live
- there is no police presence
- community corrections are too far away, or
- GPS monitoring doesn’t work.

For more information see [Part 15 After release](#).

2. External activities

To give you more chances for rehabilitation and re-connecting with the community before your release, if you are a minimum-security prisoner, you are able to take part in a range of activities outside prison that:

- promote health and wellbeing
- give you knowledge and skills that will help you live a crime free lifestyle
- provide opportunities for you to improve yourself, for example, through education and training, and
- help you pay back your debt to the community for the crimes you committed.

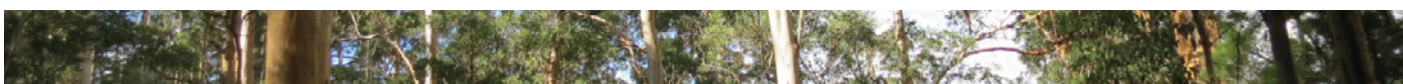
Your involvement in these outside activities is always based on a security assessment. The activities have to be approved as suitable.

3. Parole

For information on applying for parole see the **Legal Aid WA** [Parole Information Kit](#). See also [COPP 14.4 Parole applications](#) for information on Commonwealth parole.

4. Re-entry release orders

You may be eligible to apply to be released under a Re-entry Release Order (RRO). The Prisoner’s Review Board will consider your application.



How do I know if I am eligible to apply?

You are eligible to apply if:

- you are not serving a parole term; and
- are not serving life or indefinite imprisonment; and
- are not in custody because of an order made under the *High Risk Serious Offenders Act 2020* (WA)
- are not someone detained at the Governor's pleasure and subject to release by the Governor; and
- you will have been in custody under sentence for a continuous period of at least 12 months at the time of the release date if the RRO is made; and
- would be within 6 months of being eligible for release after the release date that would be specified in the RRO if it was made.

(See s 50 *Sentence Administration Act 2003* (WA))

If you are a non-citizen, you are likely to be apprehended and removed from Australia when released from custody.

When do I have to put my application in?

The date you are eligible to apply will be listed on TOMS and your Individual Management Plan and/or Sentence Information Advice to Offender sheet.

If you are eligible to apply, you should apply not less than 3 months before the date you are eligible for release. There is a Re-entry Release Report you can get from TOMS which is your application.

What goes in my application?

You must give a re-entry release plan to support your application and it should include:

- confirmation of the address where you will live;
- confirmation of a job or details of your work history and a plan for getting a job, or
- details of training for a job you plan to do and proof of acceptance for enrolment by the training institution; or
- acknowledgement of the requirement to do organised and suitable voluntary (free) work for the re-entry release period; or
- acknowledgement of the requirement to do things that will help you re-enter your community.

If you need help to prepare your re-entry release plan, the prison should offer support and help.

The Superintendent/Officer in charge will consider any reports and make a recommendation to the Prisoner Review Board about your application and send all the relevant reports and documents such as the judge's sentencing remarks.

The Prisoner Review Board will then make a decision.

(See [COPP 14.1 Re-entry Release Orders](#) for more on the information that goes to the Prisoner Review Board).



5. Home Leave

(This is based on information in [COPP 14.2 Home Leave](#) effective as at 5 August 2022)

If you are a minimum-security prisoner, you may be eligible for Home Leave. This gives you a chance to re-establish relationships with your family and community through programmed periods of leave. One of the aims is to assist you to reintegrate into the community.

Home Leave enables you to leave the prison under the supervision of an approved sponsor for set periods of time. This leave means that if you have spent a long time in prison, you can re-establish family and community relationships which help you adjust when you are released. Home Leave is a graduated program with an increasing level of contact with the community. As an incentive for work camp participation, a greater rate of leave is provided for prisoners located in a work camp than for those placed at a prison.

There are rules or conditions you must follow while you are on Home Leave.

The maximum period that can be granted is 36 hours plus travelling time to and from the prison.

How do I know if I am eligible for Home Leave?

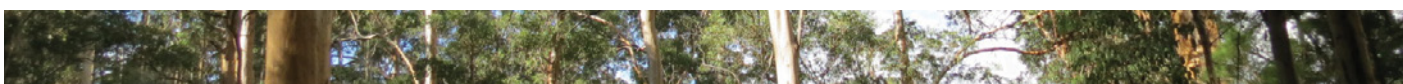
You have to meet the eligibility criteria before you can apply to be included in the Home Leave program. These include:

- if you have served at least 12 months continuously in prison under sentence
- if you have achieved a minimum-security rating and you are in a minimum security prison (unless otherwise determined by the Superintendent and Director Sentence Management)
- if you are within 12 months of your eligible discharge date from prison, that is the 12-month period before your
 - ▶ earliest eligibility date if you have a parole term
 - ▶ earliest date of release if you have a set term or parole has been denied
 - ▶ parole review date if parole has been put off
 - ▶ release date of a recognisance order
- if you are able to identify a proposed Home Leave sponsor (your sponsor will have to be willing to act as your sponsor; allow the Department of Justice to do a criminal record and police check; and consent for an interview by a Community Corrections Officer).

If you are a life/indefinite sentenced prisoner, your participation in Home Leave must be a component of an approved re-socialisation programme.

You are not eligible to apply if:

- you are liable for, or have a confirmed order for, deportation or removal from Australia
- the police have written indicating they will seek extradition or a warrant about your extradition has been issued by a court



- you are a prisoner under the *Criminal Law (Mentally Impaired Accused) Act 1996* (WA)
- you are placed at the following prisons except where the Superintendent and Director Sentence Management decide otherwise:
 - ▶ Acacia Prison
 - ▶ Albany Regional Prison
 - ▶ Bandyup Women's Prison
 - ▶ Casuarina Prison
 - ▶ Melaleuca Remand and Reintegration Facility
 - ▶ Wandoo Rehabilitation Facility

Generally, you will not be considered for Home Leave:

- until you have completed any treatment programs
- if you have a charge pending for a prison offence
- if you have been convicted of a prison offence within 3 months of your application (there are other time limits if you have been convicted of a violent or drug/alcohol prison offence).

When and how do I apply for Home Leave?

If you are eligible, you should put in a written application on the Home Leave Application Form up to 3 months before the expected start date of your Home Leave. This application includes details of your sponsor. A Sponsor's Nomination Form must be completed by your sponsor, and it must be witnessed and signed by a Department of Justice employee.

If you leave it too late, that is less than 2 months before your eligibility for discharge from prison, your application will not be considered.

Prison staff should help you with your application if you need it, including helping you write it.

How is my application assessed?

Home Leave is a privilege. Your application will be assessed based on your behaviour as a prisoner and whether the leave will help your successful reintegration into the community.

Your suitability for Home Leave will be assessed, as well as the suitability of your proposed sponsor and the address you want to have the leave at.

If you want to have Home Leave at an Aboriginal community, the view of the relevant community or council should be considered as part of the assessment process.

Your application will be reviewed at a Case Conference. After that, it goes to the Superintendent for a recommendation. The application then goes to Sentence Management. The Director of Sentence Management will make a decision and give the details to the Approving Authority.

6. Re-socialisation programs



Re-socialisation programs may apply to you if you are a long-term prisoner, including if you have a life or indefinite sentence. The aim is to gradually reintegrate you into the community before you are released.

The Department of Justice, the Prisoners Review Board and the Attorney General all have to give approval for life and indefinite sentenced prisoners to take part in a re-socialisation program. Final approval is then required from the Governor.

Re-socialisation programs vary in length depending on the individual prisoner's risks and needs, although they generally run between 6 and 24 months.

Typically, if you are on a re-socialisation program, you will be placed at a minimum-security facility and will take part in supervised and unsupervised external activities, be included in the Home Leave program and also take part in the Prisoner Employment Program.

(See [COPP 14.3 Re-socialisation Programme](#) effective as at 17 August 2023 for more information)

7. Trial program for female prisoners who are victims-survivors of family violence

A new program called 'Leave Safe, Stay Safe' is being trialled at Bandyup Women's Prison and Greenough Regional Prison. It is aimed at breaking the cycle of family and domestic violence for female prisoners when they are released.

Under the program, service providers will offer support to women nearing the end of their sentences who have identified as family and domestic violence victim-survivors. If you are eligible you will be given one-on-one social support and legal advice to support you and your family when returning to the community.

Relationships Australia will provide counselling, risk assessment and safety planning before and after you are released from prison.

Gosnells Community Legal Centre and Regional Alliance West will provide legal support, including help with applying for family violence restraining orders and parenting matters in the Family Court.

You will also learn about online safety from women's services network WESNET and upon release receive a 'clean' smartphone which will have important information and contacts.

The program is being managed by the Department of Justice, through the Office of the Commissioner for Victims of Crime and is being trialled for a period of 3 years. The program will be evaluated in early 2025.



8. Release – Help and Support

"Release – Help and Support" is a website (<https://www.wa.gov.au/organisation/departments-of-justice/release-help-and-support>) that assists you and your family by supplying a list of support agencies that provide services and help as you reintegrate into the community.

The Department of Justice, Corrective Services has other services to help you re-enter the community. These include:

- Reintegration providers
- Family Support Service Centres (FSSC)
- Transport Options Program.

Reintegration providers

The Department of Justice funds agencies across the state called Reintegration Services.

These agencies include: AccordWest, Centacare Kimberley, Centrecare Kalgoorlie, Pilbara Community Services, Pivot Support Services, Regional Alliance West Inc, ReSet, and Uniting WA. Contact details for these services are set out in [Part 17](#).

They will support you in the transition from prison to release. If you are assessed as high or medium risk of reoffending, you will be referred to a service provider 6 months before you are released.



These providers can help you with the following services:

- Adjusting to life after prison
- Connecting with family and community
- Finding a place to live
- Preparing for and finding work, and
- Positive parenting relationships.

Family Support Service Centres

These provide information, support and referral services to your family, friends and other visitors to the prison.

Transport Options Program

This service may be able to help if you are going to have difficulty returning from a prison or work camp to a remote location.

If you are eligible for this, you will be referred to the Transitional Manager.



Part 15

After release

This part covers:

1. Seeing your children when you get out of prison
2. Serial Family Violence Offender Declarations
3. Serious Violent Offence Declarations
4. Post-Sentence Supervision Orders (PSSOs)
5. High Risk Serious Offenders restriction orders
6. Community Protection WA website
7. Sex Offender Register
8. Victim Notification Register
9. Family violence restraining orders and violence restraining orders
10. Prohibited Behaviour Orders
11. Getting your property from the prison
12. Breach of parole
13. Removal of licence disqualification
14. Extraordinary driver's licence applications
15. Centrelink
16. Financial counsellors
17. Discrimination in employment on the basis of criminal record
18. Declaring convictions
19. Access to health information from prison



Part 15

After release

1. Seeing your children when you get out of prison

Sometimes things will just go “back to normal” when you get out of prison, and previous care arrangements for your children resume. If this is the case and you are happy with those arrangements, you don’t have to do anything formal about this, even if you are separated from the children’s other parent.

In some circumstances you and the other person may not agree about what arrangements are in the best interests of your children. If this is the case, first you will need to try negotiating directly with that person about arrangements for the children (unless there is a family violence restraining order in which case you should get legal advice).

Family dispute resolution is available to assist you in your negotiations with the other person or people involved.

If you still cannot come to an agreement with the other person, you may need to go to the Family Court to seek parenting orders. In most cases you will need to have tried family dispute resolution before going to court.

It is usually best to come to an agreement with the other person if possible, as going to court can be a lengthy, expensive and stressful process and the outcome is never guaranteed.

Contact **Legal Aid WA’s Infoline** for information and referral.

2. Serial Family Violence Offender Declarations

In certain circumstances, and if you are convicted of certain offences, the Prosecution may make an application for you to be declared a Serial Family Violence Offender (SFVO). The court convicting you may also on its own initiative declare you to be a SFVO.

The law says that certain offences are ‘family violence offences’, if you have been convicted of them on or after 1 January 2021, and you were in what is called a ‘designated family relationship’ at that time. These include, for example, breach of a family violence restraining order, assaults, criminal damage, and threats or stalking.

If a magistrate or judge has convicted you of a ‘family violence offence’ and you have committed family violence offences in the past, you may have been declared a Serial Family Violence Offender. Alternatively, if you are now on remand, on being being convicted of a family violence offence, an application may be made to declare you a Serial Family Violence Offender.



What does the declaration mean for you?

The declaration will make many things harder for you. It will be on your criminal record.

For bail

If you are a declared SFVO and you are charged with a ‘family violence offence’, you will not be let out on bail unless there are exceptional reasons. If the magistrate or judge does decide to give you bail, they must get a home detention report and think about electronic monitoring as a condition of your bail. Electronic monitoring means wearing a GPS tracker. You must wait in custody while the report is done. For more information on exceptional reasons, see the Blurred Borders Factsheet [Schedule 2 and bail](#).

If you get a community order as your punishment

If you are a declared SFVO and you are convicted of a ‘family violence offence’, and the magistrate or judge gives you a community order as your punishment, they must think about electronic monitoring for you as a condition of your community order.

If you get a suspended or immediate term of imprisonment as your punishment

If you are a declared SFVO and you are convicted of a ‘family violence offence’ and receive a term of imprisonment as your sentence, the offence must be declared a serious offence and a post-sentence supervision order may be given to you. It does not matter whether the term of imprisonment you receive is suspended or immediate.

If you are given a parole order, re-entry release order or post-sentence supervision order

If you are serving imprisonment for a ‘family violence offence’ and you are an SFVO, and the Prisoners Review Board is imposing a parole order, re-entry release order or post-sentence supervision order, they must think about electronic monitoring for you as a condition of the order.

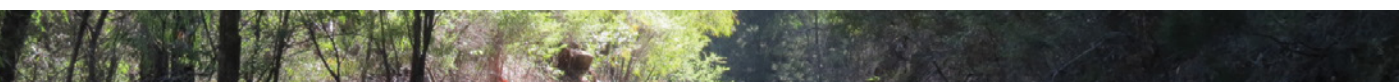
You are not allowed to hold or get a firearms or explosives licence while you are a declared SFVO. At the time when the magistrate or judge makes the declaration, they can give you an exemption in exceptional circumstances.

3. Serious Violent Offence Declarations

If you were sentenced to imprisonment (including suspended imprisonment) for an indictable offence which involved the use of a firearm or serious violence against another person, or which resulted in serious harm to or the death of another person, the court may have made a “Serious Violent Offence Declaration”.

If you were sentenced to imprisonment for a family violence offence, the court would not have had a choice, but would have had to declare the offence to be a “serious offence”.

If there has been such a declaration, it means that the Prisoners Review Board can later impose a Post-Sentence Supervision Order for the offence. The *High Risk Serious Offenders Act 2020* would also apply to you, which means that you may be at risk of



a restriction order under that Act (either a continuing detention order or a supervision order).

For more information on Post-Sentence Supervision Orders and restriction orders under the *High Risk Serious Offenders Act*, see below.

4. Post-Sentence Supervision Orders (PSSOs)

If you are serving a fixed term for a “serious offence”, or if you are serving a term not for a serious offence, but have been serving it since you completed a fixed term for a serious offence, the Prisoner Review Board can make a Post-Sentence Supervision Order (PSSO).

If the Prisoner Review Board believes that the PSSO is necessary to protect the community from further offences you might commit, they **must** make a PSSO, unless you are a “serious offender under restriction”. You are a serious offender under restriction if you are subject to a restriction order or interim supervision order under the *High Risk Serious Offenders Act 2020*.

What are “serious offences”?

“Serious offences” are generally offences of a sexual or violent nature. They include, for example, producing, distributing or possession of child exploitation material; grievous bodily harm; sexual offences; deprivation of liberty; stalking; robbery; criminal damage by fire; dangerous driving causing death or grievous bodily harm; among others. An offence may also have been declared a serious offence in other circumstances: see above under 3. *Serious Violent Offence Declarations*.

What conditions do I have to comply with if I am on a PSSO?

If you are placed on a PSSO, you must comply with its conditions. These include, for example: reporting within 72 hours or as directed; letting a community corrections officer know within 2 days if you change your address or place of work; and comply with the lawful orders of a community corrections officer.

How long does a PSSO last?

A PSSO lasts for 2 years from the end of your term of imprisonment.

What happens if I breach a PSSO?

If you commit an offence while you are on a PSSO and are sentenced to immediate imprisonment, the PSSO is cancelled. If you breach a PSSO without a reasonable excuse, you commit an offence.

5. High Risk Serious Offenders restriction orders

The *High Risk Serious Offenders Act* allows the court to make restriction orders under certain circumstances. Restriction orders include continuing detention orders, under



which an offender would continue to be detained after they have served their term of imprisonment, and supervision orders, under which an offender would be released but subject to supervision.

Who can be the subject of this application?

The Attorney General, DPP or State Solicitor can make an application for a restriction order in relation to a person who is imprisoned due to a serious offence, or has previously been imprisoned for a serious offence and since the end of that term of imprisonment, has served a term of imprisonment for a different offence. An application for a restriction order can only be made against you if there is a chance that you will be released within the next year.

For the meaning of “serious offence”, see above under *4. Post-Sentence Supervision Orders (PSSOs)*.

Under what circumstances will this order be made?

If the application for a restriction order is successful, a continuing detention order or a supervision order will be made. This will happen if the court finds that you are a “high risk serious offender”, which means that the court thinks that there is an unacceptable risk that you will commit another serious offence and it is therefore necessary to make such an order to ensure adequate protection of the community. To decide this, the court may consider, for example:

- medical, psychiatric or psychological reports
- your criminal record, and
- rehabilitation programs you have undertaken.

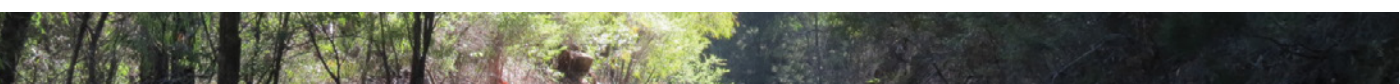
What is the effect of the order?

You may:

- have to remain in custody for an indefinite period of time, or
- be released from custody but will be supervised and have conditions imposed on you. These conditions may include for example:
 - ▶ reporting to and receiving visits from a corrections officer
 - ▶ not leaving WA without permission
 - ▶ being subject to electronic monitoring
 - ▶ not consuming alcohol.

If you are imprisoned indefinitely, will this be reviewed?

Your continuing detention order will be reviewed for the first time one year after the beginning of the order, and every two years after that. You may also be able to apply to the Supreme Court for a review, but this cannot be until at least one year has passed since the last review.



Is there anything you can do to avoid one of these orders being made?

Unfortunately, there is very little you can do to prevent a restriction order from being applied for or made. Moreover, it is always up to the court to decide whether or not to make a restriction order, and while there are a few things you can do to place yourself in a better position, the court can still make an order – there is no guarantee that the order won't be made.

However, as stated above, in considering whether to impose a restriction order, the court must have regard to a number of factors. Whilst you have no control over some of these, such as your criminal record, you may be able to do something about others.

Participation in rehabilitation programs is a very good idea, as this will show the court that you have made efforts to address the reasons why you have committed offences in the past. It would also be important to cooperate with any report writers and accept responsibility for what you have done.

Of course, it is also important not to commit any prison offences while you are in custody, and to plan for your release, by arranging accommodation and employment if possible. Keeping pro-social contacts will also be very useful: try to engage in relationships which motivate you to do positive things with your life, for example where you can help others.

What happens if you breach a supervision order?

If you breach a supervision order or the court believes you are likely to breach it, a warrant may be issued for your arrest. The court might also order that your photograph can be published on a website.

Breaching the order is moreover an offence which is punishable by imprisonment. If you have breached it by removing or interfering with an electronic monitoring device, the court must sentence you to an immediate term of imprisonment of at least 12 months.

6. Community Protection WA website

As long as you are not a child, the Commissioner of Police may publish your photo and the town/suburb where you live on a website if:

- you have been convicted of a serious sexual offence, and you are the subject of a supervision order (the order described above), and the supervision order does not say that your photo and the place where you live should not be published on the website; or
- you are a reportable offender and after becoming a reportable offender, are found guilty of murder of a child or a serious child sex offence; or
- you are found guilty of an offence which carries a penalty of 5 or more years imprisonment, and the minister believes you pose a risk to the lives or sexual safety of one or more persons.

Before publishing your photo, the Commissioner must give you written notice of the proposal to publish it and the reasons for it. You then have a certain period of time (at least 21 days) to respond to the proposal.



The Community Protection WA website (<https://www.communityprotection.wa.gov.au/>) provides the public with photographs and certain information on dangerous and serious repeat sexual offenders.

The website has been divided into 3 tiers for different types of offenders.

Tier 1 is for sex offenders who have gone missing or underground and do not comply with their reporting obligations. Information includes a photograph, date of birth, physical description, name and known aliases.

Tier 2 is for serious and high risk sexual offenders. A person can apply to make a local search to get access to photographs of certain serious and high risk sexual offenders living in their suburb and adjoining suburbs.

Tier 3 allows a parent or guardian to make a request regarding whether a specific person who has regular unsupervised contact with their child is a reportable offender.

7. Sex Offender Register

You will be on this register (officially called the “Community Protection Offender Register”) if you are a “reportable offender”. You will remain on the register even after your reporting conditions have ended.

You become a “reportable offender” if you have been sentenced for a “reportable offence”. “Reportable offences” include various sexual offences against children, producing, distributing or possessing child exploitation material, indecently recording children, child pornography and other similar offences.

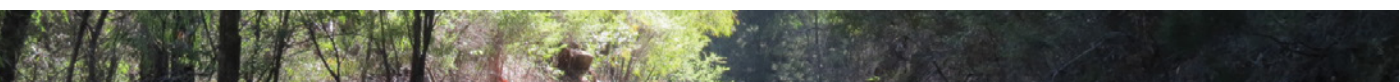
Alternatively, the court may have ordered you to become a “reportable offender” if the court has found you guilty of a non-reportable offence and is satisfied that you pose a risk to the life or sexual safety of one or more persons.

If you are a reportable offender, your reporting obligations will be explained to you in accordance with the Reportable Offenders brochure and you will be given a copy of this brochure when you are released. If you are not clear on your reporting obligations, ask for them to be explained again in a different way.

If you don’t comply with your reporting obligations and you don’t have a reasonable excuse, you are committing an offence.

8. Victim Notification Register

Victims can apply to go on the Victim Notification Register (VNR) if they are the victim of the current offence, have a current Family Violence Restraining Order (FVRO), have been the victim of previous domestic violence offences, are an immediate family member of a deceased victim or are the parent or guardian of a child victim. Through the VNR, victims can receive information about your sentence, movement or release from custody.



9. Family violence restraining orders and violence restraining orders

It is very important you do not breach any restraining order that is in force against you either while you are in custody or on your release.

See the heading *Family violence restraining orders* in [Part 10 – Family issues](#) for more information.

If you think you have good reason to get a restraining order changed or cancelled, see the Legal Aid WA infosheet [After a restraining order is made](#) for more information and get legal advice.

10. Prohibited Behaviour Orders

If you have had a Prohibited Behaviour Order (PBO) made against you, make sure you don't breach it when you are released. This law is still in force but is not used often.

What is a Prohibited Behaviour Order?

A PBO will prohibit you from doing certain things which would otherwise be legal. This may include:

- being in or near certain places
- going within a certain distance of a specific person, or
- being in possession of a certain thing.

Who may a Prohibited Behaviour Order be imposed on?

A PBO may be imposed on you if you are convicted of an offence involving anti-social behaviour twice or more in three years. Anti-social behaviour means behaviour that may cause harassment, alarm, distress, fear, intimidation or damage to property.

Can Prohibited Behaviour Orders apply to young people?

A PBO may be made against a person who is 16 and above.

Details of person with PBO may be made public

Unless the court says otherwise, if a PBO is made against you, the following details must be put on a website:

- your name
- a photo of you
- the town or suburb you live in, and
- the things you are prohibited from doing.

When does the Prohibited Behaviour Order begin?

The PBO usually begins when you are released from prison.



What are the consequences of breaching a PBO?

It is an offence to breach a PBO. This offence is punishable by imprisonment and/or a fine.

Defence to the breach of a Prohibited Behaviour Order

One defence to the breach of a PBO may be that you were in an emergency situation. Get legal advice about whether you have a defence.

11. Getting your property from the prison

If your property is unclaimed, abandoned or uncollected 3 months after your release, your property can be disposed of. This can be by:

- being sold at public auction
- being given to an association incorporated under the *Associations Incorporation Act 1987* (WA), or
- destroyed or otherwise disposed of.

12. Breach of parole

It is important to stick to your parole conditions to avoid being sent back to prison to finish your sentence.

For more information on breaches of parole, see the [Legal Aid WA Parole Information Kit](#).

13. Removal of licence disqualification

Avoid driving while disqualified or driving without a licence. Licence disqualification does not run while you are in custody. You should always check that you have a current, valid licence before you drive. You can be imprisoned for driving while disqualified.

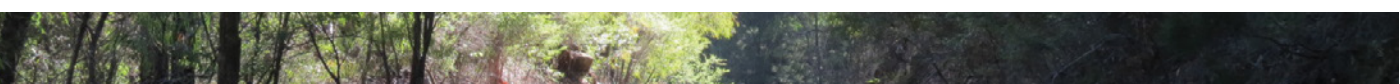
If you have been disqualified from driving and the length of that disqualification is **more than 3 years**, or you have been disqualified for life, you may be able to apply to get your driver's licence back before the disqualification ends.

See [Legal Aid WA's Removal of Licence Disqualification Kit](#). This includes information on how long you have to wait before you can apply and what happens if you have more than one disqualification.

14. Extraordinary driver's licence applications

What is an extraordinary driver's licence?

An extraordinary driver's licence is a licence granted at the discretion of a court. It allows someone who has been disqualified from holding or obtaining a driver's licence, to drive in certain specified circumstances.



You can apply for an extraordinary licence if you are currently under disqualification, however, there are certain types of disqualification that do not allow you to apply for an extraordinary licence.

Disqualification is also sometimes called “licence suspension”.

Where can I get more information on extraordinary driver’s licences?

For more information, you can get a copy of the [Legal Aid WA Infosheet: Extraordinary driver’s licences](#) which includes information on how to apply for one.

The Magistrates Court of WA also puts out a [Fact Sheet on extraordinary driver’s licences](#).

15. Centrelink

You can re-apply for Centrelink on your release. You may be eligible for a “Crisis Payment”. You can apply online through your MyGov account (where you will need to make the following selections: Centrelink > Payments and Claims > Claims > Make a claim > Crisis Payments > Apply for Crisis Payment for Release from Prison or Psychiatric Confinement). Alternatively, you can fill in a Claim for Crisis Payment - Release from Prison or Psychiatric Confinement form (SU508) (<https://www.servicesaustralia.gov.au/su508>)

You are eligible if you are in severe financial hardship and all of the following apply:

- you spent 14 or more days in prison or psychiatric confinement as a result of being charged with committing an offence, and
- you are in Australia when you submit your claim, and
- you are eligible for an income support payment or ABSTUDY Living Allowance.

You will need to prove to Centrelink that you have been in custody for at least 14 days. This should be on your discharge papers.

For the purposes of the Crisis Payment, you are in severe financial hardship if your liquid assets total either:

- less than 2 weeks of the maximum rate of your income support payment or ABSTUDY Living Allowance, if you are single, or
- less than 4 weeks of the maximum rate of your income support payment or ABSTUDY Living Allowance, if have a partner.

Where applicable, the maximum rate of your income support payment or ABSTUDY Living Allowance includes the:

- Energy Supplement
- Pension Supplement
- Pharmaceutical Allowance
- Rent Assistance.



Liquid assets include:

- cash you have on hand
- money you have in the bank
- shares
- bonds
- gifts
- other money you can access.

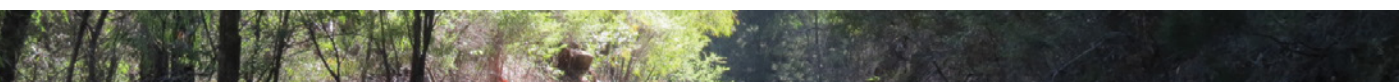
You cannot get this payment if you were either:

- held in an immigration detention centre, or
- released from a mental health facility but were not charged with committing an offence.

16. Financial counsellors

If you need help with managing your money when you get out, contact the **National Debt Helpline on 1800 007 007**. This is a free and confidential service to provide information about possible ways to deal with financial problems.

Aboriginal prisoners and Torres Strait Islander prisoners can call the **Mob Strong Debt Help line** on free call **1800 808 488** (Mon. to Fri. 9.30am - 4.30pm).



17. Discrimination in employment on the basis of criminal record

See under the heading *Discrimination* in [Part 11 – Other legal issues](#).

18. Declaring convictions

When do I have to declare my conviction?

If you are filling out a form for employment or being interviewed for a job or an application for a visa to travel somewhere, and are asked if you have any convictions, you should reply honestly.

19. Access to health information from prison

When you are released from custody, you are given a written summary of your medical records. If you misplace this paperwork, your health care provider can ring **1800 077 735** during normal business hours. Outside these hours, details of the enquiry (including name of enquirer and telephone number) can be left on an answering machine and will be responded to as soon as possible.



Part 16

Legal help

This part covers:

1. Legal information within the prison
2. Legal visits
3. Legal Aid WA
4. Other ways of getting legal help
5. Avoiding problems with lawyers
6. Appearances at court
7. Legal Aid WA publications



Part 16

Legal help

1. Legal information within the prison

All prisons must provide library services to meet your recreational, legal and other information needs in accordance with your supervision levels and minimum privileges. Using the library is seen as a privilege.

Legal resources should be made available to you if you are:

- sentenced pending appeal
- on remand and representing yourself in your court matters.

If you do not fall into either of these two groups and want to use the legal and appellant library, you must give valid reasons to the Senior Officer in your Unit and the Library Officer before you will be allowed to use the legal library.

Resources will not be available for civil cases.

Who can help me access legal cases, commentary and legislation?

Recreation/Library Officers will be able to help you, with assistance from the Library Supervisor if required.

There should be at least one computer available for you to use to help you prepare to represent yourself. Copies of key criminal legislation will be in the library, but you should also be able to access these on a program on the computer. You will not get internet access unless approved by the Superintendent.

The library should also have unrestricted copies of the following:

- Prison Rules
- Commissioner's Operating Policies and Procedures
- Standing Orders.

If you need a form from a court website, you can ask the Library Supervisor to obtain it for you.

You can also ask for up to date information from the Legal Aid WA website about appeals, parole, family law issues, prison offences and Legal Aid WA services.

Photocopying and printing

You can ask the Library Officer to photocopy or print legal documents. You will need to pay 20 cents per page. You need to fill in the Request for Bona Fide Printing or Copying Form and C63 Form. The C63 will be sent to the cashier for processing.

The Library Officer can let you off paying (waive the fees) where the fees are very small or where you show that you are unable to pay the fees and the material to be printed/copied is essential for your legal case.



You will need to get approval from the prison's Security Manager to print photographs relevant to your case.

Library Officers will not send faxes or emails for you.

For more information see [Commissioner's Operating Policy and Procedure 8.3 Prison Libraries](#).

2. Legal visits

If you have been granted legal aid, you should contact your lawyer and ask them to come and see you.

If you do not have a grant of legal aid, ask your Unit Manager to write your name in the **Legal Aid WA Prison Visits Book** or call the **Legal Aid WA Infoline on the dedicated prison line** and request a prison visit. The more information that you provide about your matter at this time, the better prepared the prison visits officer will be able to be when they see you. This means they will be more likely to be able to help you when you receive a prison visit.

At some prisons you can have an appointment by video link to your lawyer.

You can see someone from [Aboriginal Legal Service WA](#) by contacting the nearest ALS Office. The telephone number for the office in Perth is **(08) 9265 6666**. You can put your name in the ALS Prison Visits Book in your unit at the prison. You can ask your Unit Manager to write your name down in the **ALS Prison Visits Book**.

3. Legal Aid WA

Legal Aid WA:

- gives legal help to people in special need
- may be able to help you if you have a legal problem and can't afford a lawyer, and
- is an independent statutory body and is not a government department.

The [Information for Prisoners – Legal Aid WA Services – Kit](#) has details about applying for legal aid and Legal Aid WA Services including the prison visiting service. A copy of this kit can be obtained by contacting **Legal Aid WA's Infoline**.

First Nations prisoners can also call **Legal Yarn** on **1800 319 803**.

4. Other ways of getting legal help

See under the headings **Legal visits** and **Legal Aid WA** above to find out how to apply for legal aid. If you apply for legal aid and are not successful, you can seek reconsideration of the decision to refuse legal aid (and then review if your request for reconsideration is unsuccessful).

Legal Aid WA has several publications which are set out below that may help you to:

- understand your legal problem, and
- in some cases where you cannot get a lawyer, understand how to represent yourself, for example, in a restraining order final order hearing or a protection and care final hearing.



On many legal topics you may be able to get advice even if you cannot get representation in court.

Some community legal centres may be able to assist with advice on some legal problems. Call [Community Legal WA](#) on **(08) 9221 9322** to find out the name and contact details of your local community legal centre.

If you are unsuccessful in applying for legal aid, you may be able to get assistance from Law Access.

Law Access

[Law Access](#) is a not-for-profit organisation that assists people and community organisations with finding free legal assistance.

Law Access looks at applications for legal assistance and tries to match them up to lawyers offering pro bono (free) assistance. Law Access tries to help people who will benefit most from legal assistance, who can't afford private lawyers or get help from other places (such as Legal Aid WA or CLCs). There are eligibility criteria to determine if the legal problem qualifies for assistance as well as a means test. Call **Law Access** on **(08) 6488 8725** to find out if you can get help with your legal problem and if so, to be sent an application from.

Private lawyers

You can also pay a private lawyer to help you with your legal problem. You will have to pay for this yourself. You should ask what costs you will have to pay when you first talk to the lawyer.

The [Law Society of Western Australia](#) is the professional association for lawyers in WA. You can contact the Law Society on **(08) 9324 8600** to get the names of lawyers who may be able to help you.

Aboriginal prisoners

For more information on services where you may be able to get help, see [Part 12 - Aboriginal prisoners and Torres Strait Islander Prisoners](#).

5. Avoiding problems with lawyers

Legal costs

Ask your lawyer how much it will cost to represent you before your case begins. Different lawyers charge different amounts for preparing your matters and representing you in court. Ask about the cost before you instruct a lawyer.

Talk to your lawyer

The advice you get is only as good as the information you give.

Ask questions when you don't understand. This is your case, it is about you, and you need to know exactly what is going on. It is your lawyer's job to make sure that you do know what is going on.

Ask for legal jargon to be explained to you. Lawyers use special words and phrases



all the time and can often forget that the rest of the world doesn't speak the same way. If you don't understand something, ask for it to be explained in a different way.

Be prepared

If your lawyer asks for information – make sure you get it. If you need reports – make sure they are ordered. If you need references – make sure you get them. If you need an address to live at – try and arrange this before you go to court.

If you are unhappy with your lawyer

Tell your lawyer that you are unhappy and why you are unhappy.

If you have talked to your lawyer and you are still unhappy with them and you have a grant of Legal Aid and would like another lawyer, write to the Director of Legal Aid WA and ask to be transferred to another lawyer. You need to tell Legal Aid WA why you want a transfer. Transfers are not automatically given to everyone who asks because there is often a double up in costs when another lawyer takes over. **An Application to Transfer a Grant of Legal Aid** is in the [Information for Prisoners – Legal Aid WA Services – Kit](#). A copy of this kit can be obtained by contacting **Legal Aid WA's Infoline**.

6. Appearances at court

Video link

At the prison there is a courtroom where there is a TV, a camera and a microphone. When you have a court date, you can make your appearance in court by having your image and words transmitted to the court and the words and images from the court transmitted back to you at the courtroom at the prison.

Outside the courtroom at the prison is a holding area where people who are appearing on the video link will wait until their case is called. The order in which cases are called is controlled by the court and not by the prison officers or the duty lawyer. There is a toilet outside the holding area.

There are telephones available outside the holding area so that your lawyer can telephone you at the video link before court starts. There is also a telephone in the video link courtroom so that you can provide information to your lawyer at the court. If you wish to speak to your lawyer during your court proceeding, put your hand up and say, "excuse me please, I want to talk to my lawyer".

Duty lawyer in the Magistrates Court

If you are appearing in court by video link and do not have a lawyer, then please ask at the prison to speak to a duty lawyer over the telephone.

A duty lawyer service is **not available on the day of your protection and care case** in the Children's Court at Perth. To arrange representation, you would have to contact Children's Court (Protection) Services **before the court date**. If that service cannot help you, it may be able to make a referral to a service that may be able to help.



What to do when appearing in court by video link?

On entering the courtroom at the prison, you should sit down straight away behind the desk. You should not stand up unless told to do so.

If you want to talk to the court, you should raise your hand and wait until the court asks you what you want. You should refer to a magistrate or a judge in the District or Supreme Court as “Your Honour”.

If you cannot hear any of the proceedings, you should raise your hand and say, “excuse me but I cannot hear you properly”.

If you do not understand what has happened in court, you should raise your hand and say, “I do not understand what has happened”. If you had a lawyer they should also be able to explain what happened. The Legal Aid WA prison visiting service may be able to explain what happened if you did not have a lawyer.

When your matter is finished, you will be told to “stand down”.

7. Legal Aid WA publications

Kits

[Information for Prisoners – Legal Aid WA services –Kit](#)

This kit has information on all Legal Aid WA services. This covers assistance available in family law, criminal or civil matters, including visiting services and applying for legal aid.

[District and Supreme Court Appeal Kit – Part 1 - Information kit](#)

This kit covers

- Appeal Notice
- affidavit in support
- filing your documents
- serving your documents
- appellant’s case
- single judge-leave to appeal
- respondent’s answers
- appeal books
- hearing
- discontinuing your appeal.

[District and Supreme Court Appeal – Part 2 Forms and Notices](#)

This kit covers the forms and notices required for an appeal.

[Magistrates Court Appeal Kit – Part 1 – Information kit](#)

This kit covers:

- steps involved in an appeal
- grounds of appeal



Legal help

- appeal notice
- prosecution notice/s and transcript
- affidavit in support
- bail
- filing and serving your documents
- withdrawing your application
- leave to appeal
- appeal books
- outline
- appeal hearing
- legal words explained.

[Magistrates Court Appeal – Part 2 – Forms, notices and affidavit](#)

This kit covers the forms, notices and affidavit required for an appeal.

[Objecting to confiscation - Part 1 - Information kit](#)

This kit covers:

- definitions and terms
- freezing notices
- freezing orders
- what to do after getting a freezing notice
- what to do after getting a freezing order
- how to fill in the documents
- filing and serving the documents
- directions hearing
- objection hearing
- applying for release of confiscated property.

[Objecting to confiscation - Part 2 - Forms](#)

This part includes the forms you need to use if you have received a freezing notice or freezing order and wish to object to the confiscation of property included in the notice or order.

[Parole Information Kit](#)

This kit covers:

- when are you eligible for parole
- what the Prisoner's Review Board considers
- what the Board will receive
- if you are denied parole
- what happens if you receive parole
- suspension of parole
- cancellation of parole



- how to ensure you do not breach parole.

[Prison Offences Information Kit](#)

This kit covers:

- types of prison offences
- penalties for prison offences
- procedure for being charged
- how to represent yourself
- what happens when you admit a prison offence
- what happens when you don't admit a prison offence.

[Removal of Licence Disqualification - Part 1 – Information kit](#)

This kit covers:

- who can apply and when
- before you apply
- filling in the forms
- where to apply and who to notify
- before the hearing
- after the hearing.

[Removal of Licence Disqualification - Part 2 - Forms and affidavits](#)

This has the forms and affidavits you need in your application for removal of licence disqualification.

Infosheets

Any infosheets and kits referred to in this handbook can be obtained from **Legal Aid WA's Infoline**. Infosheets are available on civil, family and criminal law topics, for example:

[Infosheets on restraining orders](#)

- Responding to a restraining order
- Undertakings
- Conduct agreement orders
- Preparing for a restraining order final hearing - respondent
- Representing yourself at a restraining order final hearing - respondent
- After a restraining order is made
- Family violence restraining orders
- Violence restraining orders
- Misconduct restraining orders
- Restraining orders – court process

[Infosheets on protection and care matters](#)

- Protection orders in the Children's Court of WA



Legal help

- Representing yourself in a final hearing in a protection and care case in the Children's Court of WA
- Preparing for a final hearing in a protection and care case in the Children's Court of WA
- Grandparents – protection and care (grandchildren)

Factsheets

There are factsheets online for each of the Blurred Borders kits:

Bail and criminal process

[1. What happens if I am arrested?](#)

[2. Being interviewed](#)

[3. Bail](#)

[4. What happens on your first court date?](#)

[5. Schedule 2 and Bail](#)

[6. What court will I go to?](#)

[7. How do I change my court date or bail in the Magistrates Court?](#)

[8. Getting ready for a criminal trial](#)



[9. Sentencing options](#)

[10. Can I get a spent conviction order?](#)

[11. Serial family violence offender \(SFVO\) declaration](#)

[12. Legal words: Bail & Criminal Process](#)

Family Violence WA

[1. What is family violence?](#)

[2. Family Violence safety planning - getting ready to leave](#)

[3. Types of family violence restraining orders](#)

[4. Family Violence Restraining Order \(FVRO\)](#)

[5. Keeping Kids Safe - getting an FVRO to cover your kids](#)

[6. What to put in your application for an FVRO](#)

[7. Getting ready for an interim FVRO hearing](#)

[8. Going to court for an interim FVRO](#)

[9. Steps you might take after you get an Interim FVRO](#)

[10. When you are served with an interim FVRO or a summons](#)

[11. FVRO conferences - Applicant](#)

[12. FVRO conferences - Respondent](#)

[13. Conduct Agreement Order \(CAO\)](#)

[14. Undertakings - FVRO cases](#)

[15. Getting ready for a Final Order Hearing](#)

[16. Going to court for a Final Order Hearing](#)

[17. What if someone gets an FVRO against me?](#)

[18. Changing or stopping an FVRO](#)

[19. Breaching an FVRO](#)



[20. Reporting Family Violence - As a tenant](#)

[21. Tenants and Family Violence](#)

[22. Family Violence - Changing or ending your tenancy agreement](#)

[23. Legal Words - Family Violence](#)

Keep em Safe Child Protection

[1. What is Child Protection?](#)

[2. It's all about the children](#)

[3. Process Map - Child Protection Pre-Court Notification Procedure](#)

[4. How does the Child Protection work with families to keep children safe?](#)

[5. Why is Child Protection working with me while I'm pregnant?](#)

[6. Safety Plans](#)

[7. Child Protection has taken my children - What can I do?](#)

[8. Who makes the decisions while my children are in care?](#)

[9. Who is talking to my children when they are living with carers?](#)

[10. Who's who in Child Protection?](#)

[11. Who is looking after my children when they are living with carers?](#)

[12. Who makes decisions for my children when they are living with carers?](#)

[13. What is a signs of safety meeting?](#)

[14. Scaling at a Signs of Safety meeting](#)

[15. Child Protection stability and connection planning- making long term plans](#)

[16. What happens in the Children's Court](#)

[17. Children's Court documents](#)

[18. Can I put in my own court documents to the Children's Court?](#)

[19. Grandparents and others having a say in the Children's Court](#)

[20. Children's Court orders to protect your children](#)

[21. How does my Children's Court case finish](#)

[22. What do lawyers do in the Child Protection cases?](#)

[23. What the law says about Child Protection and Aboriginal families](#)

[24. What is a care plan?](#)



- [25. What happens in the Family Court?](#)
- [26. Practical tips for parents on Child Protection](#)
- [27. What's stopping you?](#)
- [28. Legal words for Child Protection](#)

Fines and Work and Development Permits

- [1. Cutting out your court fines](#)
- [2. Cutting out your court fines if you are in custody](#)
- [3. Completing a WDP](#)
- [4. Legal words - Fines - WDP](#)

Tenancy

- [1. Starting a Tenancy - sign up process](#)
- [2. Waitlist](#)
- [3. Inspections - what to expect](#)
- [4. Rent](#)
- [5. Getting things fixed](#)
- [6. Emergency & other repairs](#)
- [7. Fair wear and tear](#)
- [8. Water bills](#)
- [9. Property standards](#)
- [10. Breach notice](#)
- [11. Ending a tenancy](#)
- [12. Evictions](#)
- [13. Abandoned rental houses and goods](#)
- [14. Reporting family violence](#)
- [15. Tenants and family violence](#)
- [16. Family violence - changing or ending your tenancy agreement](#)
- [17. Tenancy issues while in prison](#)
- [18. Disruptive behaviour](#)
- [19. Legal words - Tenancy](#)

Soon there will be Blurred Borders fact sheets on traffic topics.

There are also short factsheets online (that go with short videos) on many criminal, family and civil law topics.

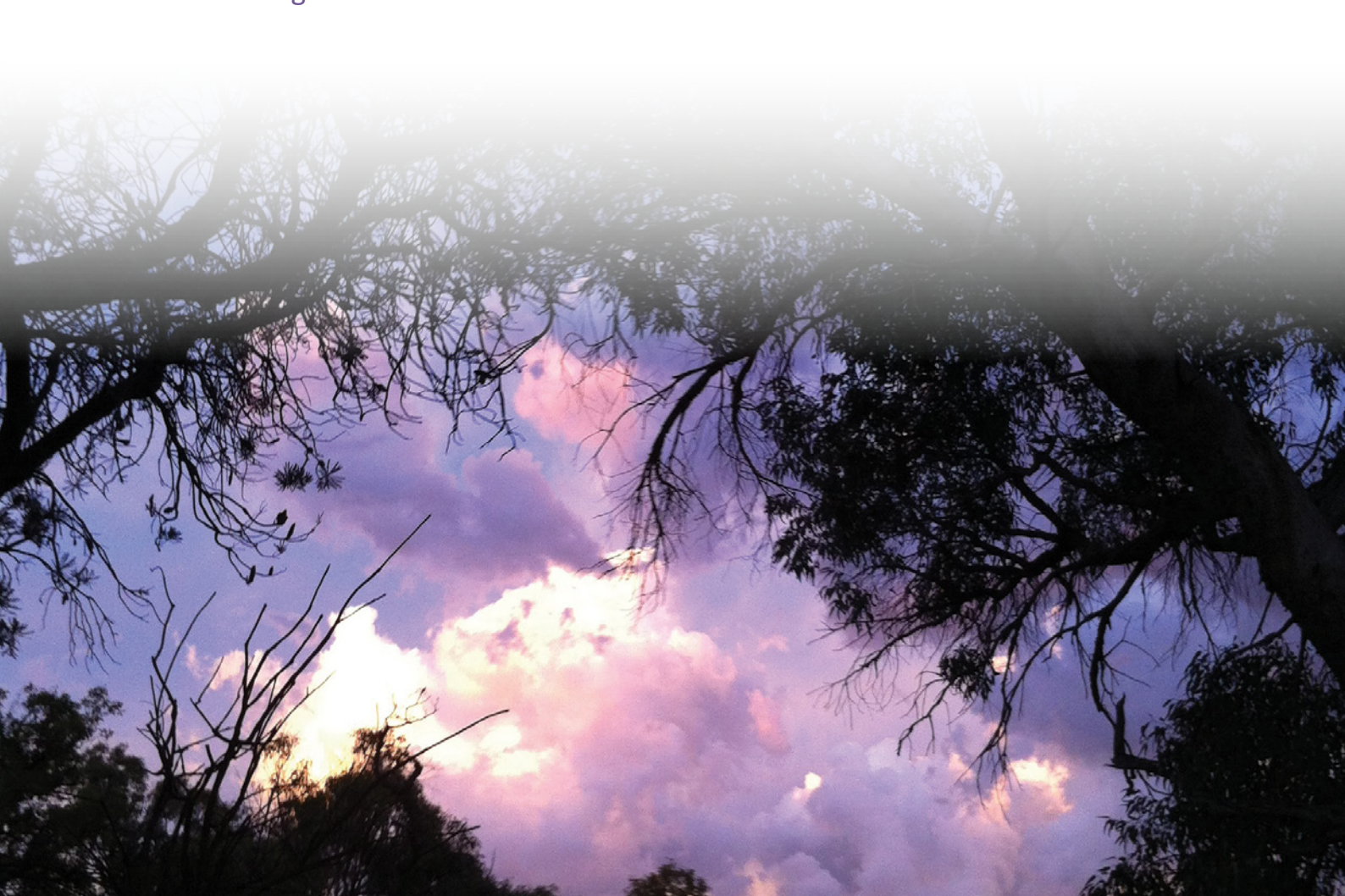


Part 17

Contacts- courts and other agencies

This part covers:

1. The Magistrates Court of WA
2. The Children's Court Perth
3. The District Court
4. The Supreme Court
5. The Department of Communities,
Child Protection
6. Other agencies



Part 17

Contacts - courts and other agencies

See also [Part 9 - Outside contact](#) for useful numbers for services that may be able to help you.

Useful phone numbers – courts and agencies

Magistrates Court of WA

Standard courthouse hours are 8.30am-4.30pm Monday to Friday.

Central Law Courts Perth

Criminal matters

Telephone: **(08) 9425 2222**

Fax: **(08) 9425 2776**

Criminal Listings Fax: **(08) 9425 2776**

Criminal Registry enquiries and for the payment of court imposed fines: **(08) 9425 2222**.

Civil matters

Telephone: **(08) 9425 2222**

Fax: **(08) 9425 2777**

Civil Registry enquiries: **(08) 9425 2222**

Metropolitan Courts

Armadale Courthouse Telephone: (08) 9399 0700 Fax: (08) 9497 1488	Fremantle Courthouse Telephone: (08) 9431 0300 Fax: (08) 9430 4464
Joondalup Courthouse Telephone: (08) 9400 0700 Fax: (08) 9300 2005	Midland Courthouse Telephone: (08) 9250 0200 Fax: (08) 9274 6676
Rockingham Courthouse Telephone: (08) 9527 6433 Fax: (08) 9592 3077	Mandurah Courthouse Telephone: (08) 9583 1100 Fax: (08) 9581 1842



Regional Courts

Locations marked with an asterisk also act as District Court registries for the commencement of civil actions.

Albany Courthouse * Telephone: (08) 9845 5200 Fax: (08) 9841 7920	Broome Courthouse * Telephone: (08) 9192 1137 Fax: (08) 9192 1878
Bunbury Courthouse * Telephone: (08) 9781 4200 Fax: (08) 9721 8180	Busselton Courthouse * Telephone: (08) 9754 9666 Fax: (08) 9752 4950
Carnarvon Courthouse * Telephone: (08) 9941 1082 Fax: (08) 9941 2779	Christmas Island Courthouse Telephone: (08) 9164 7901 Fax: (08) 9164 8530
Cocos (Keeling) Islands Courthouse c/- Police Station Telephone: (08) 9162 6600 Fax: (08) 9162 6601	Collie Courthouse Telephone: (08) 9734 2061 Fax: (08) 9734 1817
Derby Courthouse * Telephone: (08) 9191 1406 Fax: (08) 9193 1025	Esperance Courthouse * Telephone: (08) 9071 2444 Fax: (08) 9071 2288
Geraldton Courthouse * Telephone: (08) 9921 3722 Fax: (08) 9964 1864	Kalgoorlie Courthouse * Telephone: (08) 9093 5300 Fax: (08) 9021 2005
Karratha Courthouse * Telephone: (08) 9185 2922 Fax: (08) 9185 2413	Katanning Courthouse Telephone: (08) 9821 1177 Fax: (08) 9821 2210
Kununurra Courthouse * Telephone: (08) 9166 7100 Fax: (08) 9168 1103	Manjimup Courthouse Telephone: (08) 9771 1316 Fax: (08) 9777 1252
Merredin Courthouse Telephone: (08) 9041 5266 Fax: (08) 9041 2604	Moora Courthouse Telephone: (08) 9651 1407 Fax: (08) 9651 1375

Narrogin Courthouse Telephone: (08) 9881 1722 Fax: (08) 9881 3344	Northam Courthouse Telephone: (08) 9622 1035 Fax: (08) 9622 1234
South Hedland Courthouse * Telephone: (08) 9172 9300 Fax: (08) 9172 9330	

Children's Court Perth

Telephone: (08) 9218 0100
Fax: (08) 9221 1705

District Court

PERTH WA 6000
Fax: (08) 9425 2268
Registry Hours: 9:00am - 4:00pm

		Telephone	Fax
Metro Non Trial Enquiries	Case Management Officer	(08) 9425 2150	(08) 9425 2538
	Case Management Officer	(08) 9425 2541	
	Case Management Officer	(08) 9425 2382	
Metro Trial Enquiries	Trial Support Officer	(08) 9425 2514	(08) 9425 2924
	Trial Support Officer	(08) 9425 2539	



		Telephone	Fax
Metro Trials, Judge Allocation, Video Link Bookings Court Allocation	Listings Coordinator	(08) 9425 2275	(08) 9425 2924
	Deputy Listings Coordinator	(08) 9425 2294	
Circuit and Regional Courts	Circuit Coordinator	(08) 9425 2339	(08) 9425 2924
	Circuit Support Officer	(08) 9425 2539	
Fines and Exhibits	Customer Support Officer	(08) 9425 2341	(08) 9425 2268

Supreme Court

Telephone: **(08) 9421 5333**

Registry opening hours: 9am – 4pm

Registry telephone contact: 8am – 5pm

Supreme Court Registry Fax: (08) 94215353

Appeal Court Registry Fax: (08) 9421 5375

Department of Communities, Child Protection

Metropolitan

District Office	Address	Telephone	Facsimile
Armadale	145 Jull Street Armadale WA 6112	(08) 9497 6555	(08) 9497 6500

District Office	Address	Telephone	Facsimile
Cannington	Cnr Grose and Lake St Cannington WA 6107	(08) 9351 0888	(08) 9351 0877
Fremantle	25 Adelaide Street Fremantle WA 6160	(08) 9431 8800	(08) 9431 8803
Joondalup	Joondalup House, 8 Davidson Terrace Joondalup WA 6027	(08) 9301 3600	(08) 9301 3601
Midland	Cale House , Level 1 52 The Crescent WA Midland WA 6056	(08) 9274 9411	(08) 9250 1779
Mirrabooka	8 Sudbury Road Mirrabooka WA 6061	(08) 9344 9666	(08) 9349 3074
Perth	190 Stirling Street Perth WA 6000	(08) 9214 2444	(08) 9214 2445
Rockingham	8 Leghorn St Rockingham WA 6168	(08) 9527 0100	(08) 9527 0101

Country district offices

District Office	Address	Telephone	Facsimile
Albany	25 Duke Street Albany WA 6330	(08) 9841 0777	(08) 9842 1356
Broome	19 Coghlan Street Broome WA 6725	(08) 9193 8400	(08) 9192 1541
Bunbury	80 Spencer Street Bunbury WA 6230	(08) 9722 5000	(08) 9721 9457



Contacts

District Office	Address	Telephone	Facsimile
Busselton	Unit 7, 8-10 Prince Street Busselton WA 6280	(08) 9752 5600	(08) 9752 1519
Carnarvon	6 Robinson Street (first floor Correia's Arcade) Carnarvon WA 6701	(08) 9941 7222	(08) 9941 1905
Collie	68 Wittenoom Street Collie WA 6225	(08) 9734 1699	(08) 9734 4266
Derby	17 Neville Street Derby WA 6728	(08) 9193 3700	(08) 9191 1655
Esperance	86B Windich Street Esperance WA 6450	(08) 9083 2566	(08) 9071 3925
Fitzroy Crossing	Cnr Flynn Dve and Fallon Rd Fitzroy Crossing WA 6765	(08) 9163 9800	(08) 9191 5113
Geraldton	45 Cathedral Avenue Cnr Chapman Road Geraldton WA 6530	(08) 9965 9500	(08) 9921 7421
Halls Creek	71 Thomas Street Halls Creek WA 6770	(08) 9168 6114	(08) 9168 6180
Kalgoorlie	Cnr Boulder Rd and Cheetham St Kalgoorlie WA 6430	(08) 9022 0700	(08) 9021 6917

District Office	Address	Telephone	Facsimile
Karratha	WA Government Administration Building Cnr Welcome and Searipple Rds Karratha WA 6714	(08) 9185 0200	(08) 9185 0222
Katanning	Reidy House, 25 Amherst St Katanning WA 6317	(08) 9821 9000	(08) 9821 2614
Kununurra	State Government Building Cnr Konkerberry Dve & Messmate Way Kununurra WA 6743	(08) 9168 0333	(08) 9168 3607
Laverton	Laver Place Laverton WA 6440	(08) 9088 2900	(08) 9031 1306
Leonora	Lot 40 Cnr Tower and Rajah Sts Leonora WA 6438	(08) 9037 2300	(08) 9037 6369
Mandurah	Cnr Tuckey and Sutton Streets Mandurah WA 6210	(08) 9583 6688	(08) 9581 1126
Manjimup	Lot 432 South West Highway Manjimup WA 6258	(08) 9771 6000	(08) 9771 2944
Meekatharra	Lot 83 Main Street Meekatharra WA 6642	(08) 9981 0300	(08) 9981 1298
Merredin	113 Great Eastern Highway Merridin WA 6415	(08) 9041 1622	(08) 9041 2572



Contacts

District Office	Address	Telephone	Facsimile
Moora	49 Dandaragan Street Moora WA 6510	(08) 9653 0100	(08) 9651 1666
Mullewa	12 Main Street, Cnr Burgess St Mullewa WA 6630	(08) 9961 1004	(08) 9961 1208
Narrogin	Government Buildings, Park St Narrogin WA 6312	(08) 9881 0123	(08) 9881 2040
Newman	Cnr Newman Drive and Abydos Way Newman WA 6753	(08) 9175 4600	(08) 9175 1935
Norseman	80 Princep Street Norseman WA 6443	(08) 9039 1129	(08) 9039 1539
Northam	Cnr Fitzgerald and Gairdner Sts Northam WA 6401	(08) 9621 0400	(08) 9622 3779
Onslow	Third Avenue Onslow WA 6710	(08) 9184 3900	(08) 9184 6137
Roebourne	Lot 37 Sholl Street Roebourne WA 6718	(08) 9182 0500	(08) 9182 1375
South Hedland	1st Floor State Government Building Cnr Brand and Tonkin Streets South Hedland WA 6722	(08) 9160 2400	(08) 9172 3351

District Office	Address	Telephone	Facsimile
Southern Cross	11a Antares Street Southern Cross WA 6426	(08) 9049 1016	(08) 9049 1016
Tom Price	Lot 247 Poinciana Street Tom Price WA 6751	(08) 9189 1592	(08) 9189 2311
Wyndham	Lot 994 Great Northern Hwy Wyndham WA 6740	(08) 9161 1110	(08)9161 1049

Other agencies

AccordWest (South West)

(08) 9729 9000 or 1800 155 799 (freecall)

26-28 Forrest Avenue, SOUTH BUNBURY WA 6230

For people exiting prison in the Peel and South West regions.

Link: <https://www.accordwest.com.au/>

Centacare Kimberley

(08) 9192 1325

25 Robinson Street, BROOME WA 6725

Offers pastoral and social welfare care.

Link: <https://www.centacarewa.com.au/>

Centrecare Kalgoorlie

(08) 9080 0333

168 Egan Street, KALGOORLIE WA 6430

Offers pastoral and social welfare care.

Link: <https://www.centrecare.com.au/>



Centrelink:

132 468 (recorded information)

131 202 for languages other than English

1800 136 380 Indigenous Call Centre (freecall).

132 850 Newstart Allowance

Link: <https://www.servicesaustralia.gov.au/>

Outcare:

(08) 6263 8622 Fax: (08) 6263 8611

27 Moore Street, EAST PERTH WA 6004

Provides a wide range of programs to support clients throughout their journey to reintegration.

Link: <https://www.outcare.com.au/>

Pilbara Community Services Ltd (PSCL) (Pilbara)

(08) 9187 0070

Shop 3 Wickham Shopping Centre, Wickham Drive, WICKHAM WA 6720

PCSL works with a network of partners, service providers and community organisations to provide the rehabilitation and reintegration services.

Link: <https://pilbaracommunityservices.com.au/>

Pivot Support Services (Great Southern)

(08) 9842 9699

Unit 2 / 121 Aberdeen Street, ALBANY WA 6330

Provides rehabilitation and reintegration services to prisoners and ex offenders.

Link: <https://www.pivotsupport.com.au/>

Regional Alliance West Inc (Gascoyne, Mid-West and Murchinson)

(08) 9938 0600

Unit 1 / 114 Sanford Street, GERALDTON WA 6530

Provide assistance with: planning your move, finding a place to live, sorting out your income and budgets, connecting you with other support services, counselling services, employment, training and volunteer opportunities.

Link: <https://raw.org.au/>

ReSet (Wungening Aboriginal Corporation) (Metropolitan area)

(08) 9221 1411

211 Royal Street, EAST PERTH WA 6004

Work with people in prison to prepare them for release. All referrals need to be through a Transitional Manager at a relevant prison. Family members or others can fill in an online contact form at: <https://www.wungening.com.au/forms/get-in-touch-with-wungening>

Link: <https://www.wungening.com.au/>

Uniting WA

(08) 9220 1244

Provides:

- reintegration services to recently released prisoners and ex-offenders including youth
- support in financial counselling, employment, education, training, accommodation and family relationships.

Link: <https://unitingwa.org.au/>



Part 18

Legal words explained



Part 18

Legal words explained

Accused: A person charged with an offence.

Acquit: When a magistrate or a jury finds an accused person to be not guilty of an offence.

Act: Acts of Parliament are what make the laws of Australia. An Act is another name for a statute. Both Federal and State Governments can make laws by passing Acts.

Adjourn: To suspend a court hearing to a future time, day, or date. There are three main types of adjournments:

- The lunch adjournment (from 1.00pm to 2.15pm).
- The adjournment to a set day. This may happen because the defendant needs more time to prepare their defence, or because the prosecution need to prepare their case.
- Adjournment sine die (civil proceedings). This is when the judge does not set a day for the case to be heard and generally, it is for the parties to re-list the case.

ADR: Alternative dispute resolution (Legal Aid WA offers a dispute resolution service).

Adversarial: A system of law where the two sides in a dispute argue their case.

Advocate: An advocate is the person who speaks for another in court such as a lawyer or ALS Court Officer.

Affidavit: An affidavit is a statement in writing and on oath, sworn or affirmed before someone who has authority to administer it, such as a justice of the peace, a magistrate or a Commissioner for Affidavits.

Affirmation: A declaration or solemn promise that the evidence to be given in court is the truth – made instead of taking a religious oath.

Appeal: To ask a higher court to review the decision of a lower court.

Applicant: A person who applies for a court order including a restraining order or family court order.

Arraignment: This is when the registrar of the courts

- calls you by name
- reads the charge, and
- you plead “guilty” or “not guilty.”

Arrest: To be taken into the custody of the police.

Arrest warrant:

An arrest warrant is a legal paper that a magistrate or judge gives to the police.



Legal words explained

A warrant gives the police the power to arrest a person and bring that person to court.

If you don't go to court or follow your bail rules, you might get arrested.

Assets/liabilities: An asset is an item which

- has some economic value to its owner
- may be money, or
- can be converted into money for the owner's benefit.

An example of an asset is a bank account, a house, a car etc. Assets may be used for the payment of debts.

A liability is something a person

- is obliged to do, or
- is responsible for.

An example of a liability is a mortgage or debt.

Bail: The release of a person who has been charged with a criminal offence on condition that they appear in court later to answer the charge. Conditions may be attached.

Bail undertaking: When a magistrate, judge or police officer decides to give you bail, you must sign a paper called a bail undertaking. This means you agree to come back to court on the day written on the bail paper, and to follow all the rules written on it. If you don't follow the rules, you might get arrested.

Bailiff: An officer who does a number of jobs ordered by the courts. They can:

- serve summons and writs
- take a person's property and sell it, and
- serve eviction notices.

A police sergeant can act as a bailiff.

Bailment: A delivery of goods from one person (the bailor) to another (the bailee) for some purpose on the understanding that they will be returned when that purpose has been achieved.

Balance of probabilities: Level of proof needed in civil law (including protection and care and restraining order) cases to decide which version of events is more likely to have happened.

Bankruptcy: Once a person is bankrupt, their property is administered for and divided among their creditors.

Barrister: A lawyer who argues cases in court.

Bench: Area where the judge or magistrate sits in court.



Bench warrant: When a person does not appear in court as promised in the bail undertaking, the police can request from the court that a bench warrant be issued. A bench warrant allows any police officer in the State to arrest the person and hold them in custody until the first available opportunity to take them before a court.

Bill: A draft of a proposed law presented to parliament but not yet passed and made law.

Breach: To break a law or court order.

Brief:

1. The instructions given by an arresting officer to the police prosecutor about the case.
2. The instructions given by a lawyer to a barrister.

Bond: A contract or undertaking in which a person binds themselves to do or not do certain things.

Burden of proof: The obligation to prove what is alleged. In criminal cases this obligation rests on the prosecution, which must prove its case beyond reasonable doubt. In civil cases, it rests on the claimant or plaintiff who must prove their case on the balance of probabilities. Sometimes, however this burden shifts, for example where the defendant raises certain defences.

By-law: A law made by an authority that only applies within the boundaries of that authority's jurisdiction, for example a council by-law.

Charge: A charge is an accusation that a person has committed an offence.

Child support: Child support is financial support for a child paid by a parent to the other parent or carer of the child.

Civil law: The area of law that covers matters between people where the wronged party seeks action against the party who caused hardship or inconvenience, for example the law of negligence, or recovery of money owed.

Claimant: The party who starts a civil claim in the Magistrates Court.

Committal mention: When an accused pleads not guilty to a serious (indictable) offence in the Magistrates Court, a committal mention date is set. On this date the prosecution must show the court and the accused what evidence they have.

Committal proceedings: Proceedings in which a Magistrates Court hears evidence on an indictable charge and decides whether the accused should be sent for trial (also called a preliminary hearing).

Common law: Law made through judgments made in court/precedent.

Communicates with: A term used in family law for arrangements about how a child will keep in contact with the parent they are not living with, for example by phone, letter, and email.



Community based order: A sentencing order which a court may make requiring a person to undertake unpaid community work and/or educational programs under the supervision of a community corrections officer.

Compensation: Paying money for the damage or hurt done.

Complainant: A person who begins a prosecution against another in courts of criminal jurisdiction.

Concurrent: Existing together, for example Victoria is convicted of two offences at the same time. The magistrate may give a sentence of imprisonment for 2 months for one of the offences and 4 months for the other offence. They may make an order that terms run concurrently, then both sentences will run together and Victoria will only have to serve a total of 4 months. However, if the magistrate orders that the terms be served cumulatively, then Victoria is liable to serve the terms one after another, which gives a total of 6 months.

Conduct agreement order (CAO):

This is the name given to a family violence restraining order (FVRO) that the respondent agrees to without having to say that they did family violence. The respondent and the protected person agree on rules, such as that the respondent is to stay away from the protected person. A CAO can be made by a magistrate or a registrar if you go to a conference. The CAO will be the legal paper with the rules you must follow. It is essentially the same as an FVRO.

Consent orders: an agreement made between parties which is approved by the court and then made into a court order.

Conspiracy: When two or more people plan to commit an offence. A conspiracy is an agreement to commit an offence.

Contempt of Court: An act that shows disregard for the authority of a court or judge.

Convict: A person is convicted once they are found guilty or plead guilty to an offence.

Corroboration: Independent evidence that supports or confirms other evidence.

Costs: This is the money claimed by the successful side at the end of a case for costs incurred in going to court or for part of a court case.

Counterclaim: A claim in a civil action made by a defendant who alleges that they have a claim against the claimant or plaintiff or is entitled to any relief or remedy against a claimant or plaintiff.

Court: A place where a hearing or a trial is held. The lowest criminal and civil court in WA is the Magistrates Court. The next court up is the District Court then the Supreme Court.

Criminal law: Law dealing with offences which are considered to be offences against the community as a whole. For example, burglary, drug offences, murder. Compare with civil law.



Criminal trial: If you say you are “not guilty” a magistrate, judge or jury will listen to people tell their stories about what happened. Then the magistrate, judge or jury will decide if you have broken the law. This is called a trial.

You can tell your story to the court if you want to, and/or a lawyer can speak for you.

Cross-examination: When the opposing party, or their lawyer, questions a witness.

Cumulative: When the court orders that two or more sentences be served one after the other.

Damages: Money which the court orders someone to pay for loss or injury they have caused to another person.

De facto: A Latin term that means the actual state of things, for example a person has a de facto partner if they live together as if they were married, even though they are not married.

Default: To fail in some duty or obligation, for example in default of an appearance means when one party fails to appear in court in a civil case.

Defendant: A person who has been charged with a criminal offence, or against whom a civil action has been brought.

Dependant: A person who depends on another person for some or all of the ordinary necessities of life: food, clothes, shelter, medical attention, etc. Usually, a person’s dependants are their children and their partner if the partner is out of work.

Divorce: When a court makes an order that a couple are no longer legally married.

Eviction: The action of recovering land or property by legal proceedings, involving the expulsion of a person (especially tenant from land).

Evidence: When a fact has to be proved in court, a party who wants to prove that fact usually has to call a witness to give evidence about it. The evidence is usually given verbally, although sometimes it can be in writing. When the party seeking to prove this fact calls the witness, their evidence is referred to as evidence-in-chief. The other party is also allowed to ask questions of the witness; when they do so, it is called cross-examination.

Examination-in-chief: The questioning of a witness in court by the party who called the witness to give evidence.

Exhibit: A document or an object used as evidence in court, for example a screwdriver used to break into a car.

Extradition: The process used to send a person from one State or country to another to stand trial for an offence committed there.

Family consultant: A family consultant is a psychologist/social worker employed by the Family Court who specialises in child and family issues after separation and divorce.



Their role includes helping parties resolve their dispute and assisting and advising the court.

Family Court: A court that makes decisions about family problems. When mums and dads or other carers cannot agree about looking after the children, they might go to this court to ask the magistrate or judge to decide.

The magistrate or judge has the power to decide about things like:

- where your children will live
- who must look after your children
- when your children will stay with mum
- when your children will stay with dad, or
- when they will stay with another carer.

The magistrate or judge also decides who can make the big decisions for your children and who must pay for the things your children need.

Family violence restraining order: A family violence restraining order (FVRO) tells someone not to hurt, threaten, control or scare another person in their family. The order tells someone to follow rules like:

- Stay away from another person, their home or workplace.
- Find another place to live.
- Don't let children see and hear violence.

Fine: A fine is when a magistrate or judge punishes you for breaking the law by telling you to pay some money to the government. The money that is paid to the government is called a fine. You might be at court when the fine is given, or you might not be in court.

You will be told how much the fine is when you are in court or in a letter from the court.

Guardian: A responsible person appointed by the State Administrative Tribunal to make decisions for a person with a decision-making impairment.

Hearing: This is when a matter is heard before the court. An example of a hearing is a trial. Trials can be before the Magistrates Court, the District Court or the Supreme Court. There are also other types of hearings, for example sentence mention hearings or hearings of different types of applications such as applications for an extraordinary driver's licence or a restraining order.

Indictable offence: A serious crime, which is triable before a judge and jury.

Indictment: A written document describing the offence with which a person has been charged.

Injunction: A court order directing a person to do, or not to do, a particular thing.

Interrogatories: Written questions put by one party in a civil action to another on relevant points of the dispute prior to the court hearing.



JP: The abbreviation for justice of the peace.

Judge: A person who has the power to decide legal problems in the District Court and the Supreme Court. The judge decides what happens to you if you break the law. The President of the Children's Court is also a judge.

Judgment: The decision, sentence, or order of the court in a civil or criminal case.

Jurisdiction: The limit of the authority of a court.

Juror: A member of the jury.

Jury: Usually 12 citizens who hear a case with a judge. If that case is criminal, they must decide whether they are satisfied beyond reasonable doubt whether the accused person is guilty of an offence.

Liability: Legal responsibility, for example for breaking a contract, committing a crime. It may be civil or criminal, according to whether it is enforced by the civil or criminal court.

Live with order: A type of parenting order made in the Family Court about who a child will live with.

Locus standi: A Latin term which means "place to stand". The right to be heard in a court or other proceeding.

Mandamus: A prerogative writ. An order of a superior court to compel an official to perform their public duty.

Magistrate: A person who has the power to decide legal problems in the Magistrates Court. The magistrate decides what happens to you if you break the law. A magistrate can sit in different courts including the Children's Court, the Family Court of WA or in the Magistrates Court.

Mandatory: Binding, not optional. Usually, a court that finds a person guilty has a discretion about the sentence that is imposed. However, sometimes the court does not have any discretion about what the sentence will be. This is because the Act says that the offence has a mandatory penalty. In the case of a mandatory penalty, the magistrate has no discretionary powers to lessen the penalty.

Mens rea: A Latin term meaning "guilty mind". It refers to the intention someone had when committing a crime, for example intention, knowledge (that an act is wrong), or recklessness.

Mitigation: Circumstances put forward by an advocate (lawyer or court officer), which go towards reducing the damages, or punishment, which the court may order against a defendant or prisoner. The purpose is to get the least harsh penalty as possible for the defendant. Mitigation means to place the offence into perspective and also talk about the personal details of the defendant.

Minor: A person less than 18 years old, also known as a child or a young person.



Natural justice: The principles to be followed by a person or body with the power to settle disputes. They include the duty to act fairly, without bias, and the right of all parties to be heard.

Negligence: Lack of proper care or attention. A civil action which one person can bring against another person who has caused them damage because they have failed to observe a duty of care.

Nolle prosequi: A Latin term which means “unwilling to pursue”. When the prosecution in an indictable charge do not want to continue to prosecute, they file a document with the court called a nolle prosequi. If it is accepted, the accused is discharged.

Nominal damages: Damages of a small amount ordered where a right has been affected.

Oath: A pledge by a person that the statements they are going to make are true. An oath can be made with one hand on the bible. Alternatively, if one has no religious belief, an affirmation may be taken instead. Witnesses in court are required to take an oath before giving evidence.

Offence: Every breach of the law is an offence.

Ombudsman: A person appointed by the government to investigate peoples' complaints about administrative actions of government departments and agencies.

Onus of proof: In criminal cases, the prosecution has the onus of proving the offence. In civil cases, the applicant has to prove the case.

Order to review: An appeal to a higher court.

Open court: All cases, unless otherwise ordered by the magistrate or judge to be closed proceedings, must be held in open court and are open to the general public.

Parental responsibility: Defined in the *Family Law Act 1975* (Cth) as all the duties, powers, responsibilities and authority, which, by law, parents have in relation to their children. Until a court order is made to the contrary, each of the parents of a child who has not reached the age of 18 ordinarily has parental responsibility for the child. This remains the case whether the parents were married or de facto, separated or either parent remarries.

Parole: The procedure of permitting a prisoner to leave prison before their full sentence has been served in order to complete the sentence in the community.

Party to an offence: If you aid, encourage or assist another person to commit an offence, you are a party to the offence.

Penalty: The punishment handed down by the court to a person who pleads guilty or is found guilty of an offence.

Perjury: Lying while under oath or affirmation when questioned in court proceedings. A person found guilty of perjury may face imprisonment. Perjury can also be committed by



signing your name to a document knowing it is not true.

Plaintiff: Person who initiates legal proceedings against another in a civil dispute in the District Court or the Supreme Court.

Plea: A statement made by a prisoner or defendant to the court after the magistrate or judge has read the charge and asks the accused person “Are you guilty or not guilty?” The accused person will enter their plea of guilty or not guilty.

Pleadings: Written or printed statements delivered by parties to a case to one another concerning questions of fact and law to be decided eventually in a court.

Possession: To have or hold an object in one’s possession. If the object is on them and they know it is there, it is in their possession.

Power of attorney: A formal, written, legal document by which one person gives another power to represent them, to act in their place for certain purposes.

Quash: To reject as not valid. If a convicted person appeals to a higher court and that court agrees with them that the court in the first instance was wrong, the higher court will quash the judgment of the first court and may order a re-trial or make a new decision itself.

Release: A document signed by a person accepting compensation and which releases the other person from any further obligation.

Remand in custody: Order that a person who is charged with an offence is detained or imprisoned until a court hears the charge.

Remission: For prisoners – a reduction in the time to be served on a sentence of imprisonment.

Respondent: A person against whom a summons has been issued or an appeal brought. The person against whom a restraining order application is made. Parents are the respondents in a case brought in the Children’s Court by the Department of Communities, Child Protection.

Returnable (summons): A summons specified to be heard on a particular day.

Search warrant: A document authorised by a magistrate allowing police to enter and search premises as part of an investigation into a crime, for example the police can obtain a search warrant to search a house for stolen goods.

Security: Something given as a pledge to guarantee performance, such as the payment of a loan.

Sequestration order: An order that property be seized to satisfy a debt.

Sine die: A Latin term which means “without day.” When court proceedings are adjourned sine die, no specified date is set for them to resume.

Spend time with order: A type of parenting order made in the Family Court which covers who a child will spend time with. It can include when, where and how the child is



to spend time with a parent.

Statutory declaration: A written statement of facts, which the person making it signs and solemnly declares to be true before a person authorised to take declarations.

Statute: Law made by parliament (State or Commonwealth).

Stay of proceedings: An order that a particular course of legal action ceases. A stay may be for a fixed period, that is, until a certain event occurs or it may be permanent.

Strict liability: Liability incurred regardless of fault or ignorance of the law.

Sue: To take legal action against a person.

Summary offence: An offence heard and decided in a Magistrate's Court and not sent to trial before a judge and jury.

Summary conviction: A conviction by a magistrate.

Summary jurisdiction: This is the jurisdiction exercised by a magistrate. All simple offences are tried summarily within the summary jurisdiction of the magistrate. In some circumstances indictable offences can be tried summarily.

Summing up: A judge must direct the jury on the law, after all the evidence has been given and before they deliver their verdict.

Summons: A document which is issued by a court requiring the person named in the summons to attend at court on a specified date to give evidence or produce a document.

Surety: A person who helps you get bail by promising the magistrate or judge that they will pay money if you do not come to your next court date. They do not have to pay the money straight away.

The surety will sign a written promise and if you do not come back to court on the right date, they will lose that money.

Tort: A civil wrong; an act that causes harm, intentionally or otherwise, for which the remedy is an action for damages.

Trial: See "Criminal trial" and "Hearing."

Tribunal: A body set up to hear and decide disputes (for example, the State Administrative Tribunal).

Ultra vires: A Latin term which means "beyond the powers." An act which is in excess of the authority conferred by law and is therefore invalid.

Undertake: To promise in the course of legal proceedings, for example restraining order proceedings, to do or not do something.

Unliquidated: Undetermined, unascertained, for example when damages are left to a court to decide.

Verdict: The answer given to the court by a jury: guilty or not guilty.

Void: Of no legal effect.

Warrant: There are varying kinds of warrants. All warrants order someone, usually a police officer or all police officers, to do something.



- An arrest warrant orders the police to arrest someone.
- A search warrant allows the police to search a house.
- A bench warrant orders the police to bring in a person who has failed to appear in court.
- A warrant of commitment orders the police to take a person to prison if they have not paid their fines.
- A warrant of deliverance orders a Superintendent of a prison to release a prisoner because they have been admitted to bail.
- A warrant from the Children's Court can order a child to be taken into the temporary care of the Department of Communities, Child Protection.

Witness: A witness is a person who gives sworn/affirmed testimony to something they saw or something they know that will assist the case of the defendant, prosecution, the applicant, or the respondent.



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