

Custodial Operations Policy and Procedures

20.7 Service of legal documents

Policy summary

When there are matters before the court there may be a legal requirement for related documents to be served on inmates.

It is the responsibility of the person serving the documents or party to the proceedings to ensure that service is carried out in line with whichever rules are applicable. There will be times when the assistance of Corrective Services NSW (CSNSW) staff will be needed.

All CSNSW staff must support the process of justice, including assisting in the service of legal documents on inmates.

Management of Public Correctional Centres Service Specifications

Service specifications	Decency and respect
	Professionalism and accountability

Scope

This section applies to all correctional centres and other facilities administered by or on behalf of CSNSW, and all CSNSW employees.

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1 Service of legal documents

1.1 Policy

All CSNSW staff must support the judicial process. Members of the judicial system, the legal profession, and the general public should be given assistance in the administration of the legal process.

When there are matters before the court there may be a legal requirement for related documents to be served on inmates.

When the proceedings are civil, service of those documents will be guided by Part 10 of the *Uniform Civil Procedure Rules 2005*.

When the proceedings are criminal, service of those documents is guided by the legislation governing the jurisdiction of the proceedings, for example if the proceedings are being heard in the Local Court, Part 5 of the *Local Court Rules 2009* will apply.

Legal documents can be provided to inmates in a number of ways including the physical service of papers, or via electronic mail, facsimile or by post.

It is the responsibility of the person serving the documents or a party to the proceedings to ensure that service is carried out in line with whichever rules are applicable. There will be times when the assistance of CSNSW staff will be needed.

If the inmate is available then, when these documents are received by CSNSW, they must be given to them immediately.

Each time a legal document is served on an inmate by CSNSW staff a case note must be entered on the Offender Integrated Management System (OIMS). It must record:

- the date and time the documents were given to the inmate, and
- the name and position title of the staff member who gave them to the inmate.

When there is any doubt as to whether or not to accept any court documents for service, the person attempting service is to be asked to wait while advice is sought from a senior officer or the Department of Communities & Justice Legal (DCJ Legal). DCJ Legal can be contacted on (02) 8346 1388.

1.2 Service if an inmate refuses or is not available

The documents will be also considered as served to the inmate in the following circumstances:

- where an inmate refuses to be served with legal documents, if the documents are placed in front of them and the nature of the documents explained to them
- where an inmate is not immediately available to be served with legal documents, if the Governor accepts them from the authorised person. The documents must be served on the inmate as soon as practicable after and the action taken recorded in a case note on OIMS.

1.3 Procedures

If a document(s) has been accepted by a Governor or Manager of Security (MOS) in charge of a correctional centre to be served on an inmate, the following procedures must be implemented:

	Procedure	Responsibility
1.	Arrange for service on inmate.	Governor/ or a MOS in charge of a correctional centre/Authorised officer
2.	Serve document(s) on inmate on the day received. Note: <ul style="list-style-type: none">• if an inmate refuses service of legal documents, the documents are to be placed in front of them and the nature of the document explained to them.• If the inmate is not available, the document(s) are to be served immediately when the inmate becomes available.	Governor/ or a MOS in charge of a correctional centre/Authorised officer
3.	Enter an OIMS case note recording: <ul style="list-style-type: none">• date and time document(s) served• name and rank of correctional officer who served the document• if the inmate refused service or was not available for service immediately• as soon as practicable after the inmate becomes available, the action taken (where applicable).	Governor/ or a MOS in charge of a correctional centre/Authorised officer
4.	Forward a copy of the signed document to the serving agency.	Governor/ or a MOS in charge of a correctional centre/Authorised officer

2 Quick links

- [Related COPP](#)
- [Forms and annexures](#)
- [Related documents](#)

3 Definitions

Authorised officer	The officer authorised by the Governor to perform the functions set out in this part of the Custodial Operations Policy and Procedures
Case note	A note recording a true, accurate and comprehensive account of all interviews and significant contacts with inmates
COPP	Custodial Operations Policy and Procedures
Correctional centre	Includes any police state or court cell complex in which an offender is held in custody in accordance with the <i>Crimes (Administration of Sentences) Act 1999</i> or any other Act.
CSNSW	Corrective Services NSW
DCJ Legal	NSW Department of Communities & Justice Legal (formerly known as Office of the General Counsel (OGC))
OIMS	Offender Integrated Management System
Service	Service of a document is the process of giving a court or legal document to another person in a way which complies with the relevant legal rules.

4 Document information

Business centre: Custodial Operations

Approver: Kevin Corcoran

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Version	Date	Reason for amendment
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1.0		Initial publication (<i>Replaces section 8.7 of the superseded Operations Procedures Manual</i>)
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1.1	12/03/20	General formatting update and improvements
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