



Policy Directive 39

Independent Prison Visitors – Protocols

Legislation referred to: [Inspector of Custodial Services Act 2003](#) s 39, 40(1)(b)
 [Prisons Act 1981](#) ss 23(1), 57, 58 and 95
 [Operational Instruction 18](#)

Table of Contents

1. Introduction	1
2. Protocols for Independent Prison Visitors	1
3. Superintendent's Responsibilities	2
4. Critical Incidents	2
Applicability	2
References.....	2
Policy Sponsor	2
Contact Person	2
Schedule	3
Appointment	3
Identification of Independent Prison Visitors	3
Entry to prisons	4
Duties and responsibilities of Independent Prison Visitors	4
Relationship with Superintendent	5
The role of the Commissioner of the Department of Corrective Services.....	5
Monitoring Critical incidents	6
De-briefs following inspections by the Office of the Inspector of Custodial Services	6
Review	6

1. Introduction

Section 39 of the *Inspector of Custodial Services Act 2003* provides for the appointment of persons as Independent Prison Visitors. Responsibility for all aspects including recruitment, administration and recommendations to the Minister of Corrective Services for appointment of volunteers lies with the Inspector of Custodial Services.

2. Protocols for Independent Prison Visitors

The Chief Executive Officer of the Department of Corrective Services and the Inspector of Custodial Services have agreed on the protocols for Independent Prison Visitors and these are contained in the schedule to this Directive. The protocols are incorporated into and form part of this Directive. References to a Superintendent in this directive or in the protocols are to be interpreted as including the Director of Acacia Prison.

3. Superintendent's Responsibilities

The protocols require Superintendents to provide assistance to the Independent Prison Visitors when required and to respond to the Inspector's Office on any queries or issues that may arise out of a visit. Superintendents are required to respond to any such requests with a minimum of delay. All prison staff, particularly those rostered for duty at the Front Gate of the prison, need to be familiar with the protocols contained in the [schedule](#) to this Directive.

4. Critical Incidents

In the event of a critical incident, paragraph 19 of the protocols makes provision for an Inspections Officer from the Inspector of Custodial Services Office to attend the prison and monitor the incident. In regional areas, this function may initially be undertaken by an Independent Prison Visitor who has been authorised by the Inspector but it is likely that this authorisation would only be given in exceptional circumstances. In the event that an Independent Prison Visitor is authorised by the Inspector, the authorisation will continue until such time as an Inspections Officer is able to attend.

Independent Prison Visitors do not have this status unless it is formally given by the Inspector of Custodial Services and the Superintendent (or in the case of Acacia Prison, the Director) has been notified of the appointment by the Inspector.

Applicability

This policy applies to all public and private prisons.

References

- [Inspector of Custodial Services Act 2003](#) ss 28, 39, 40(1)(b)
- [Prisons Act 1981](#) ss 23(1), 57, 58 and 95
- [Operational Instruction 18](#)

Policy Sponsor

Assistant Commissioner Custodial Operations

Contact Person

Principal Operational Policy Officer
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Schedule

Protocols for Independent Prison Visitors appointed under s 39 of the *Inspector of Custodial Services Act 2003*

Appointment

1. Independent Prison Visitors may be appointed by the Minister for Corrective Services. Appointments are for a finite term of two years, and may be renewed. An Independent Prison Visitor can resign at any time by notice in writing delivered to the Minister.
2. Prior to consideration as an Independent Prison Visitor a formal written application, either in relation to a nominated prison or generally, is required. This will be followed by an interview between the applicant and staff designated by the Inspector. An approved applicant will be subject to a police check prior to recommendation for appointment. However, a criminal record is not in itself a bar to being appointed.
3. The above procedure does not prevent any person from nominating himself or herself directly to the Minister or doing so through some other person or organisation.
4. The Office will advise the Minister upon non-renewal of appointments and the reason for its recommendation.
5. The broad objectives of the Office, in making recommendations for appointment and non-renewal to the Minister, are as follows:
 - to ensure that there are sufficient Independent Prison Visitors for each prison to enable regular and reasonably frequent visits to occur
 - to ensure that persons appointed are performing their roles appropriately and in such a way as to achieve statutory objectives
 - to ensure that there is a spread of age, gender, experience, and ethnic and socio-economic representation amongst Independent Prison Visitors
 - to ensure, particularly in non-Metropolitan prisons, that the interest of local communities in the operation of prisons is properly reflected.

Identification of Independent Prison Visitors

6. A photographic identification, signed by the Inspector of Custodial Services, will be issued to all Independent Prison Visitors. This will indicate the name of the prison and the expiry date of the Visitors appointment. Photos of Independent Prison Visitors will be supplied to the Department of Corrective Services to facilitate identification and entry to the prison. Cards should be worn throughout the period of the visit.

The Department will be advised when an Independent Prison Visitor is not re-appointed or, conversely, is re-appointed for a further two-year term.

Entry to prisons

7. The *Prisons Act 1981* provides that an "independent prison visitor may, upon providing satisfactory proof of identity to the superintendent, enter and examine a prison at any time s/he thinks fit". As stated in the Department's [Operational Instruction 18](#), Independent Prison Visitors are exempt from any search requirements.

Generally visits will be scheduled in advance, the arrangements either being made through the Coordinator of the Scheme or directly with the Superintendent (in which case the Coordinator should be notified). The Superintendent will ensure that notification is given to all prisoners and officers so as to facilitate the necessary contacts. Advance scheduling should enable the Superintendent to make an officer available for escorting Visitors, as required. Section 58 of the *Prisons Act 1981* requires that every officer shall give full assistance to and cooperate fully with an Independent Prison Visitor.

A Prison Visitor's authorisation extends to visiting external facilities associated with the prison to which they have been appointed, eg workcamps, Section 95 worksites, etc for the purpose of reporting to the Inspector on their function.

8. If a Visitor considers that there is a basis for making an unscheduled visit, s/he should first consult with the Co-ordinator, who will discuss the matter with the Inspector and advise the Visitor upon the matter.

Duties and responsibilities of Independent Prison Visitors

9. Each Independent Prison Visitor is required "to visit and inspect the prison for which s/he is appointed" at least once every 3 months. An informal rostering system will be facilitated through the Co-ordinator of the Scheme. Visits will be scheduled through the Co-ordinator so that reasonable notice of visits can be given to Superintendents. Visitors may visit as a group.
10. Initial familiarisation visits by newly-appointed Independent Prison Visitors will normally be made in the company either of an Inspections Officer who is a designated Liaison Officer for the particular prison or the Coordinator of the Scheme or another Independent Prison Visitor. Newly appointed Independent Prison Visitors will also receive security orientation, provided by the prison to which they have been appointed, prior to commencing formally in the role.
11. The *Inspector of Custodial Services Act 2003* requires that Independent Prison Visitors should "furnish a report in writing to the Inspector after each visit and inspection". No more than 14 days should lapse before submitting the report, which should broadly reflect their observations in relation to the following interconnected functions:
 - to provide a safeguard for the care, wellbeing and rights of prisoners
 - to provide information to prisoners concerning access to prisoner services such as grievance procedures, support agencies and welfare

- to speak, when requested, on a prisoner's behalf to senior prison officers and/or the Superintendent
- to observe and record matters that seem to bear upon the general operations of the prison.

Independent Prison Visitors are also required to make a record of any complaint made to him/her by or on behalf of a prisoner. Section 40(1)(b) of the *Inspector of Custodial Services Act 2003* allows for Visitors to record prison officer complaints.

12. Whilst an interview room will normally be available for discussions between Independent Prison Visitors and prisoners or officers, nevertheless the Superintendent should as far as possible facilitate meetings at settings of the interviewee's choice.
13. The agreed protocol is that these reports will be sent to the Inspector. The Coordinator identifies the most significant themes, and requests follow-up information from the Department's Adult Custodial Division. A summary document of emerging prison issues is sent quarterly to the office of the Minister. In this way the requirement of the Act that the Inspector report to the Minister the content of, and matters arising, will be met. The Minister is in a position to follow up any particular matters directly or through the Office of the Inspector.
14. Correspondence from the Inspector's office to Superintendents will be copied to the Commissioner of the Department of Corrective Services.

Relationship with Superintendent

15. The scheduling of visits should mean that the Independent Prison Visitor would be able to meet the Superintendent or nominee upon arrival at the prison. An escort officer will normally be made available, as required.
16. The reporting line will be to the Office of the Inspector, which will then deal with Adult Custodial as set out in paragraph 13 above. However, individual complaints should be discussed with the Superintendent or his/her authorised delegate at the conclusion of the visit, if the prisoner or officer making the complaint agrees. It is in the best interests of all parties that matters should be resolved as informally and promptly as possible, and immediate discussion may be a means of doing so.
17. Independent Prison Visitors should not interfere with the management or discipline of the prison nor give or purport to give any instructions to an officer. Independent Prison Visitors should note that the Superintendent ultimately carries a duty of care in relation to their safety, so that any instructions or restrictions imposed upon this basis must be accepted. Any such restrictions should be reported to the Coordinator to enable the Inspector if necessary to take up the issue at an appropriate level within the Department of Corrective Services.

The role of the Commissioner of the Department of Corrective Services

18. An independent Prison Visitor may communicate complaints of a prisoner or officer, or report on his/her visit, directly to the Commissioner. If an Independent Prison Visitor should choose to take this course, it will be for the Commissioner to

decide whether to inform the Minister or the Office of the Inspector about the matter.

Monitoring Critical incidents

19. The Office of the Inspector of Custodial Services, as part of its normal modus operandi, monitors critical incidents within the prison system. When these incidents occur in the Metropolitan or near Metropolitan area, an Inspections Officer will carry out that function. In the event of a critical incident occurring in a Regional Prison and requiring to be monitored before the Office of the Inspector is able to arrange for an Inspections Officer to attend, an Independent Prison Visitor in relation to that prison may exceptionally be authorised by the Inspector under s 28 to attend and observe on his behalf. The Inspector will notify the Commissioner of the Department and the Superintendent of the prison that such authorisation has been given. The provisions of paragraph 17, above, are applicable to the discharge of any such function.

De-briefs following inspections by the Office of the Inspector of Custodial Services

20. Independent Prison Visitors will be invited to attend de-briefing sessions held at the conclusion of inspections of the prison/s to which they have been appointed.

Review

21. Protocols for independent prison visitors will be reviewed, updated and re-issued on 1st January 2008.