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| **Disciplinary Process and Prisoner Privileges** | | | |
| **Section** | | 2. Prisoner Management | |
| **CR Number** | 2.3.3 | **Current Issue Date** | June 2021 |
| **Legislation & Policy** | | Corrections Act 1986  Corrections Regulations 2019  Charter of Human Rights and Responsibilities Act 2006  Gender Equality Act 2020  Monetary Units Act 2004 | |
| **Standard** | | Safety and Security Services - Disciplinary Process | |
| **Attachments** | | List of Privileges Approved by the Secretary 2021 | |
| **Forms** | | Checklist for Disciplinary Offers  Checklist for Hearing Officers | |

1. **PURPOSE**

To ensure that just, fair and effective procedures are in place at all prisons when dealing with prison disciplinary matters and to provide prisons with the List of Prisoner Privileges for 2021.

1. **REQUIREMENT**

A General Manager must:

* develop and implement procedures for hearing and adjudicating alleged prison offences;
* develop and implement procedures for recording and dealing with minor infringements; and
* investigate and record all matters of a disciplinary nature.

1. **GUIDING PRINCIPLES**
   1. All staff must properly consider and act compatibly with the *Charter of Human Rights and Responsibilities Act* 2006 when managing prisoner discipline.
   2. The *Corrections Regulations* 2019 require the Commissioner to submit an annual list of prisoner privileges to the Secretary, Department of Justice and Community Safety, for approval.
2. **CONTEXT**
   1. Prisoners must be informed of prison rules and regulations and the consequences of any non-compliance that may result in a disciplinary process.
   2. Prisoners with an intellectual disability or cognitive impairment must be provided with Easy English materials and access to a Corrections Independent Support Officer (CISO) - see paragraph 5.6.4.
   3. Prisoners with English as their second language are to be provided translated materials or the use of an interpreter.
   4. While it is important to provide prisoners with rules and sanction non-compliance to ensure the good order of prisons, the safety of all persons in prisons and the security of prisoners, there are a number of human rights that a disciplinary process engages.
   5. These rights, include, but are not limited to, recognition and equality before the law (s8), protection from torture and cruel, inhuman or degrading treatment, protection of families and children (s17), property rights (s20), humane treatment when deprived of liberty (s22), fair hearing (s24) and the right not to be tried or punished more than once (s26).
3. **INSTRUCTION**
   1. **Disciplinary matters**
      1. Disciplinary Hearings are not intended to resemble Court proceedings, as the rules of evidence do not apply, although the broader principles of procedural fairness are to be upheld.
      2. General Managers must ensure that prisoners are clearly informed of prison rules, the prison offences in the Corrections Regulations 2019 and disciplinary procedures.
      3. Due consideration must be given to a prisoner’s comprehension and understanding, particularly for prisoners with cognitive and psychiatric or mental impairment and those persons who have a limited grasp of English.
      4. Only those staff identified, trained and approved under their powers of delegation can act as a Disciplinary Officer or Hearing Officer. Disciplinary and Hearing Officers must be provided with initial training and be across operational, policy and legal changes. The prison General Manager must also ensure human rights and disciplinary refresher training is provided to staff as required. Records must be retained by prisons, including relevant checklists and staff training records.
      5. A Disciplinary Officer and Hearing Officer must give proper consideration to the *Charter of Human Rights and Responsibilities Act* 2006 and act compatibly with the Charter.
      6. Prisoners will be disciplined in a fair and just manner and, if disciplinary sanctions are warranted, the penalty should be tailored to the individual, where practicable, and be proportionate.
      7. Prison staff must consider options available to sanction prisoners and to also consider an individual approach, which may include reminding the prisoner of prison rules and prison offences; issuing a warning which can be delivered by a Supervisor, or equivalent rank; and developing a behavioural management plan, to assist in managing prisoners who repeat minor prison incidents and offences.
      8. Due consideration must be given to the rights of young people, including prisoners who are under 24 years of age and children who may be impacted by sanctions imposed on prisoners. Telephone and visit contact with children and family cannot be withdrawn as a punishment for disciplinary offences, except where it is demonstrably justifiable.
      9. Due consideration must be given to the rights of prisoners who may have cognitive or psychiatric or mental impairment and a prisoner’s psychiatric and suicide and self-harm ratings, both at the time of the commission of the offence and during a hearing.
      10. In addition to the above, Disciplinary and Hearing Officers must also consider individual penalties and what impact the penalties may have on the prisoner, and their children if to be impacted.
      11. The loss of privileges are considered when all other options are ruled out and in this case, all privileges must be considered when determining a penalty.
   2. **Disciplinary Officer**
      1. A Disciplinary Officer will generally:

* review all reports;
* interview staff and witnesses, including other prisoners;
* seek additional evidence if necessary;
* interview the prisoner; and
* check any relevant registers.
  + 1. The Disciplinary Officer must consider the prisoner’s Psychiatric (P) rating at the time that the offence was committed and, where appropriate, seek advice from health / psychiatric professionals to assist in determining the degree to which the prisoner’s psychiatric condition may have been a factor in the prison offence.
    2. The Disciplinary Officer must take into consideration the maturity of young prisoners, and particularly those under the age of 24.
    3. If the Disciplinary Officer is satisfied that a prison offence has been committed, the Disciplinary Officer may:
* decide that the act is trivial and take no further action, or
* record the offence in the register of offences, and may, in addition, conduct either of the following:
* reprimand the prisoner or withdraw one of the prisoner’s privileges for up to 14 days – complete Checklist for Disciplinary Officers, or
* charge the prisoner with a prison offence to be heard at a General Manager’s Disciplinary Hearing.
  1. **Matters Referred to Police**
     1. In the event that the offence is serious, the Disciplinary Officer may refer the matter to Police for consideration of criminal proceedings. Any matter referred to police will generally not proceed to a General Manager’s Disciplinary Hearing, unless police advise that there will be no further action. Where the police prepare a brief of evidence the incident must be finalised, regardless of the Police outcome.
     2. If the matter is referred to police, staff must ensure that the police investigation is not compromised and interviews with witnesses or the prisoner(s) allegedly involved in the offence do not occur without police consultation.
     3. If the matter is to proceed to a Disciplinary Hearing Process, the Disciplinary Officer must ensure that the prisoner concerned has a reasonable comprehension of the English language. If the Disciplinary Officer has any concerns regarding the prisoner’s capacity to understand, efforts must be made to identify and provide a person to interpret the process. This must be brought to the attention of the General Manager or delegate (Hearing Officer), prior to the commencement of the hearing.
     4. Consideration must also be given to prisoners with an intellectual disability ensuring that a Corrections Independent Support Officer (CISO) representative is to be invited to attend the General Manager’s Disciplinary Hearing, where the prisoner has consented. Staff must arrange for the CISO to be available at the hearing, prior to confirming the hearing date. Where a prisoner does not wish for a CISO to attend, this should be recorded and the Office of the Public Advocate (OPA) informed via [OPA.ITP@justice.vic.gov.au](mailto:OPA.ITP@justice.vic.gov.au). Staff can also contact OPA to discuss cases where a prisoner has significant cognitive impairment, an Acquired Brain Injury (ABI) or mental impairment, to ensure all consideration has been given to prisoners and their individual circumstances.
     5. Consideration must also be given to Aboriginal prisoners being supported by the Aboriginal Wellbeing Officer or Aboriginal Liaison Officer at the General Manager’s Disciplinary Hearing. Staff can also liaise with Corrections Victoria’s Naalamba Ganbu and Nerrlinggu Yilam, to discuss a culturally appropriate response to Aboriginal prisoners.
  2. **General Manager’s Disciplinary Hearing**
     1. The Disciplinary Officer is responsible for providing written information to the prisoner (Notification of Charge of Prison Offence) that the matter will be heard at a General Manager’s Disciplinary Hearing. The information will include:
* the prison offence under which the prisoner has been charged and where relevant, the individual items of contraband seized;
* the informant in the matter;
* the time, date and place of hearing;
* the procedure of a Disciplinary Hearing; and
* the name of the General Manager or delegate (Hearing Officer) who will hear the matter.
  + 1. The Hearing Officer must consider the prisoner’s current Psychiatric (P) rating and, where appropriate, seek advice from health / psychiatric professionals, to determine if it is appropriate to proceed with the General Manager’s Disciplinary Hearing. The Hearing Officer should also consider the prisoner’s psychiatric condition (both in terms of mitigation and likely impact on the prisoner’s mental state) in determining any penalty if the prisoner is found guilty of a prison offence.
    2. The Hearing Officer must take into consideration the age and maturity of a prisoner.
    3. The prisoner must have the opportunity to sign for a “Notification of Charge of Prison Offence”, which is also to be signed by the issuing officer and a witness, noting the date and time the charge was issued.
    4. In preparing a matter to be heard at a Disciplinary Hearing, the Hearing Officer must complete Checklist for Hearing Officers.
    5. The Disciplinary Officer must give the prisoner at least 72 hours notification before the proposed time of the hearing, unless the prisoner and the Hearing Officer agree that the hearing will be heard earlier, or unless the prisoner is due for discharge / prison transfer within seven (7) days of the occurrence of the alleged prison offence or prison charge.
    6. While it may not be necessary for the informant to attend the hearing if the prisoner has pleaded guilty to the charge, if the prisoner then claims, by way of mitigation, that an officer’s conduct contributed to his or her actions, or if the prisoner pleads not guilty, the Hearing Officer should consider adjourning the matter to allow that officer to be present to respond to the allegations. A further 72 hours notice is not required, although the prisoner should be afforded sufficient notice to prepare for the hearing.
    7. In the above scenario, as the hearing had already commenced, the original Hearing Officer should continue to hear the matter, unless there are exceptional circumstances. This is also the preferred process for when a prisoner has transferred to another location.
    8. The hearing will be facilitated both verbally and in writing in the form of Checklist for Hearing Officers.
    9. If the Hearing Officer finds a prisoner guilty of a prison offence, the Officer may impose any **one** of the following penalties:
* a reprimand or
* withdrawal of one or more of the prisoner’s privileges for up to and including 14 days per prison offence to a maximum of 30 days in total or
* a fine up to 1 penalty unit (1 penalty unit is currently $181.74 from 1 July 2021 to 30 June 2022 and will increase annually). The penalty unit applies to the commission date and not the hearing date.
  + 1. The Hearing Officer should record a brief summary of the reason for the disciplinary hearing outcomes and penalties via the Checklist for Hearing Officers. This information, as with other relevant disciplinary information, is to be made available to prisoners upon request.
    2. Where practicable, the Disciplinary Hearing should be resolved prior to transferring the prisoner to another location.
    3. The General Manager must ensure that the incident, the hearing details and the outcome are recorded on PIMS.
  1. **Prisoner Privileges**
     1. Only those privileges approved by the Secretary and referred to in List of Privileges Approved by the Secretary 2021, may be withdrawn by the Disciplinary Officer or Hearing Officer, as a penalty for a prison offence.
     2. Withdrawal of a privilege as a penalty for a prisoner having committed an offence must not be used where other prisoners may be disadvantaged.
     3. Telephone and visit contact with children and family cannot be withdrawn as a punishment for disciplinary offences, except where it is demonstrably justified.
     4. Changes to the Secretary’s List of Prisoner Privileges in 2020, effectively make it an offence for prisoners to use the Prisoner Telephone System (PTS) to, without permission:
* use a telephone call to access the internet, or
* publish material on the internet, or
* permit, authorise, commission, arrange, enable or allow another person to publish material on the internet or on the prisoner’s behalf.
  + 1. The following may also constitute a prison offence:
* A prisoner arranging for an unauthorised third party to access the internet on their behalf by asking that an individual update any of the following: 
  + social media (except where approved by the prison General Manager, Deputy Commissioner, Custodial Operations and Commissioner)
  + a webpage (except where approved by the prison General Manager, Deputy Commissioner, Custodial Operations and Commissioner)
  + messenger applications
  + dating applications
  + video streaming sites;
* requesting that an individual place comments against streamed videos or social media;
* asking that an individual breach or attempt to breach an IVO/FVIO via the internet;
* requesting that gambling be conducted via the internet;
* asking for items to be purchased via the internet, where those items may compromise the good order and security of the prison, or the security or safety of the broader community;
* seeking to have money transferred via the internet to bank accounts where there is reasonable suspicion that the payments are for drug or gambling debts incurred in prison;
* seeking to have money transferred via the internet to a betting account;
* requesting that a third party obtain any personal information (other than case law reported in State or Commonwealth Law Reports) about any person in prison or working in a prison from the internet or in social media holdings.
  + 1. It will not be seen to be a prison offence to:
* request a person to find information on the internet to pass on to the prisoner, or
* cause or commission the publication of material on the internet with the permission of the Commissioner or the prison General Manager.
  + 1. It shall be a prison offence for a prisoner to cause, commission, arrange or enable another person to publish material by or about the prisoner on the internet (including on Facebook, Twitter, Instagram and any other website) without the Commissioner’s, Deputy Commissioner, Custodial Operations or prison General Manager’s permission.
    2. Purposes approved by the prison General Manager, Deputy Commissioner, Custodial Operations or Commissioner may include the following:
* a prisoner requesting that a friend or family member assist them with a genuine transitional need (e.g. sourcing employment or accommodation upon release, arranging post-release treatment, rehabilitation, education or program enrolment, arranging for relevant people or bodies such as creditors, housing providers, phone companies, data providers, welfare organisations to be notified of their changed circumstances upon reception into prison, queries with the Australian Tax Office, Australian Electoral Commissioner or Victorian Electoral Commission and applications for Medicare cards, Centrelink pensions);
* seeking legal resources or assistance in relation to outstanding criminal or civil matters in which they are the defendant, plaintiff or respondent;
* organising for bills or fines are paid via the internet, including payments such as child support, rent and restitution;
* asking that items be purchased via the internet, where those items are lawful and do not compromise the good order and security of the prison or the community;
* arranging for licences (such as vehicle, forklift but excluding firearms) to be maintained or details updated via the internet;
* asking that information be obtained via the internet as to their child’s performance in areas such as school and sports (where there are no legal orders in place that state this cannot occur);
* requesting that a friend of family member access education course content, submit assignments or other assessable coursework, or access a range of publicly available information via the internet, to assist with the prisoner’s approved studies;
* requesting that a friend or family member send in a list of new (i.e. not second-hand) books available from on-line stores such as Amazon, Booktopia or eBay, from which the prisoner can then select for purchase via a special spend requests (and where the books would otherwise be approved by the prison General Manager and permitted in prisons).
  + 1. Breaches of the PTS requirements will be treated as in contravention of Regulations (k-p) of the *Corrections Regulations* 2019.
  1. **High Security and Management Units** **- Incentive Based Regimes**
     1. Prisoners transferred to High Security and Management Units are placed on an Incentive Based Regime matched to the reason for the placement.
     2. The privileges available to prisoners accommodated in High Security and Management Units are dependent upon the specific regime as defined within the Sentence Management Manual - Incentive Based Regimes.
     3. A payment plan must be considered for prisoners in High Security and Management Units who are paying off a fine or restitution and experiencing financial hardship.
     4. Prisoners in management and high security units have the right to be treated humanely when deprived of their liberty, and consideration must be given to the conditions and any restrictions that they are held under.
  2. **Restitution**
     1. Regulation 48(5) of the *Corrections Regulations* 2019 allows a General Manager to deduct an amount of money held on behalf of a prisoner, of not more that the cost of replacement or repair of property damaged or lost, as a result of a negligent or wilful act or omission by a prisoner. Where a prisoner is required to make restitution for property lost or damaged (although this is not part of the penalty), the deduction from the prisoner’s money account must be authorised and recorded in accordance with Regulation 48.
     2. If the prisoner was in a shared cell at the time of the offence, staff must be *reasonably satisfied* that the prisoner, or prisoners, were responsible for the damage or loss, prior to ordering restitution. If a prisoner, or prisoners in a shared cell admit guilt, restitution should always be considered to recoup costs for the damage.
     3. When ordering restitution, consideration must be given to any financial impact on the prisoner, including whether the prisoner receives no or limited financial support from family or friends, and the remaining funds the prisoner will have available to support their transition back into the community.
     4. Items on a restitution form under $30.00 and where the prisoner admits damage or loss, can be managed as a Minor Offence without proceeding to a General Manager’s Disciplinary Hearing.
  3. **Recording and documentation**
     1. Disciplinary Officers and Hearing Officers must complete all sections of the relevant checklist and with relevant information and detail required.
     2. Prisoners can access copies of the checklists upon request.

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| Larissa Strong  **Acting Commissioner** |

**Information below this point is administrative supporting detail**

**only and not subject to Commissioner’s review or approval.**

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| **Acronyms** | |
| ABI | Acquired Brain Injury |
| CISO | Corrections Independent Support Officer |
| GMDH | General Manager’s Disciplinary Hearing |
| IBAC | Independent Broad-based Anti-corruption Commission |
| OPA | Office of the Public Advocate |

| **Definitions** | |
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| **Associated Commissioner’s Requirements** |
| 1.3.1 - Incident Reporting |

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| **Document Detail** | |
| Title: | Disciplinary Process and Prisoner Privileges |
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**checklist for disciplinary officers**

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| **DISCIPLINARY OFFICER / PRISONER DETAILS** | | | |
| CRN: | PRISONER’S GIVEN NAME & SURNAME: | | PRISON & UNIT: |
| PRINT DISCIPLINARY OFFICER’s FULL NAME: | | DATE: |  |

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| **INITIAL ACTIONS REQUIRED COMMENT** | | |
| Obtain and review all reports; footage or other evidence. | Yes 🞎 No 🞎 |  |
| Entered into PIMS Incident module | Yes 🞎 No 🞎 |  |
| Interview relevant staff and record details | Yes 🞎 No 🞎 |  |
| Gather additional evidence & seek additional reports where necessary | Yes 🞎 No 🞎 |  |
| Interview prisoner, put details of alleged offence to them and make record of response – ensure to properly consider human rights. | Yes 🞎 No 🞎 | “interviewed prisoner on ………….., they said that….” |
| Details entered in the Use of Force Register | Yes 🞎 N/A 🞎 | If applicable |
| Details entered in the Seizure Register and transferred to Charge Sheet | Yes 🞎 N/A 🞎 | If applicable |

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| **SPECIAL NEEDS CONSIDERATIONS** | |
| At the time of the offence, did the prisoner have a **P Rating**? If yes, list \_\_\_  If the prisoner had a P1 or P2 rating, refer to health / psychiatric professionals, to assist in determining:   * If this could be a factor which contributed to the offence. * Whether the prisoner was responsible for his or her actions. * Whether an alternative to the disciplinary procedure is more appropriate (case management response). | Yes 🞎 No 🞎 |
| Does the prisoner have an **intellectual disability**?  If proceeding to a hearing, has an advocate for the prisoner been arranged? Note – a CISO is requested with the prisoner’s consent.  If this could be a factor in the offence, has specialist advice\*\* been sought as to -   * whether the prisoner was responsible for his or her actions? * whether an alternative to the disciplinary procedure is more appropriate (case management response. * Consider ABI, mental health and cognitive impairment. | Yes 🞎 No 🞎 |
| Was the prisoner under 24 years of age at the time of the offence?  If yes, consider:   * whether the prisoner’s maturity was a factor in the commission of the offence? * whether the prisoner was influenced by other prisoners? * any other information relevant to the young person. | Yes 🞎 No 🞎 |
| Other (list eg witness name and details): | Yes 🞎 No 🞎 |

\*\* Depending on location and individual circumstances, specialist advice may include one or more of the following: nominated representative, senior psychologist at the location, DHS caseworker (if IDS registered), prison caseworker, AWO, Yilam etc.

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| **DECISION OF THE DISCIPLINARY OFFICER** | | |
| Has the disciplinary officer determined that an offence has occurred? | Yes 🞎 No 🞎 | If no - no further action required. |
| Could the offence be considered trivial or of an inconsequential nature? | Yes 🞎 No 🞎 | If yes – no further action required. Prisoner may be cautioned. Could this be managed as a Minor Offence?  Comment: |
| Has the disciplinary officer determined that an offence has been committed and recorded the matter in the ‘Register of Offences”? | Yes 🞎 No 🞎 | Resulting action:   * Reprimand the prisoner, or * Withdrawal of a privilege for less than 14 days, or * Charge the prisoner with a prison offence, or * Take steps to have the matter dealt with under the Criminal Law * Complete Incident Report (eg 1.19(1)).   Comment: |
| Has the disciplinary officer determined that the prisoner should be charged with a prison offence? | Yes 🞎 No 🞎 | Resulting action:   * Liaise with nominated General Manager/delegate to hear the charge. * Confirm witness availability * Phone link required? * Video link required? * Ensure that all evidence is available. * Complete formal notification of charge to the prisoner, including the details of the specific alleged incident or behaviour and where relevant, itemize contraband seized.   Comment: |
| Can the charge be heard within 14 days? |  | Yes 🞎 No 🞎  Comment: |
| Has the prisoner been given the opportunity to list all witnesses they might wish to call? |  | Yes 🞎 No 🞎  Comments, including if witnesses are permitted & if not, the reason: |
| Does the prisoner wish to be represented by another prisoner? |  | Yes 🞎 No 🞎  Comment: |
| Does the offence involve damage for which restitution might be sought? |  | Yes 🞎 No 🞎  If yes, refer to CSM (or other) to determine cost of damage.  Cost:  Assessed by: |

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| **OFFENCES COMMITTED AT OTHER LOCATIONS** | |  |
| Investigation completed by the original location | Yes 🞎 No 🞎 |  |
| Notification of charge issued by the original location | Yes 🞎 No 🞎 |  |
| Positive UDS (Urine Drug Screen) that occurred at previous location | Yes 🞎 No 🞎 | may be action and completed by the current location |

**Signed: …..……………………………………..**

(Disciplinary Officer)

**FULL NAME** (print)**: .……………………………**

**DATED: ….….….………………………………..**

Note: additional information or evidence to be referenced or attached to the checklist.

**checklist for hearing officers**

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| **HEARING OFFICER / DISCIPLINARY OFFICER / PRISONER DETAILS** | | |
| CRN: | PRISONER’S GIVEN NAME & SURNAME: | PRISON & UNIT: |
| PRINT DISCIPLINARY OFFICER’s FULL NAME: | HEARING OFFICER: | HEARING OFFICER #2 (if referred to another Hearing Officer by initial Hearing Officer [s51(b)] or prisoner [s52(1)] of the Act: |

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| **TIMELINESS OF HEARING – Target within 14 Days** | |  |
| DATE OF CHARGE: ….. / ….. / 20….. | If hearing not achieved within 14 days, list reason: | |
| DATE OF HEARING: … .. / ….. / 20….. | 🞎 Unavailability of informant | 🞎 Unacceptable delays |
| 🞎 Unavailability of witnesses | 🞎 Prisoner unfit to plead |
| Achieved within 14 days Yes 🞎 No 🞎 | 🞎 Unavailability of defendant | 🞎 Other |

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| **PRE-HEARING PREPARATION** | | |
| Has at least 72 hours notice of the hearing been given to the prisoner, unless   * Shorter period agreed [s53(1)(b)] * Imminent discharge or necessitated by good order [s53(1)(c)] | Yes 🞎 No 🞎 |  |
| Does the charge emanate from another prison? | Yes 🞎 No 🞎 | If so, where?  Has consideration been given to using video-conferencing so that the prison where the incident occurred can hear the matter? |
| Has the prisoner requested hearing to be conducted by other hearing officer? [s52(1)] | Yes 🞎 No 🞎 | If not approved, why not? Note who refused by Secretary/Commissioner/Deputy Commissioner, Custodial Operations and note date given to GM. |
| Has a witness list been provided by the prisoner? [s53(2)] | Yes 🞎 No 🞎 | List witnesses (full name and CRN where relevant)  This list needs to include any witnesses that were nominated by the prisoner and disallowed by the Hearing Officer. In circumstances where this occurs, the reason for excluding the witness should also be clearly documented. |
| Have the reports been reviewed and deemed acceptable?   * Charge not trivial * Appropriate charge cited * Sufficient level of detail * Adequate evidence to be presented | Yes 🞎 No 🞎  Yes 🞎 No 🞎  Yes 🞎 No 🞎  Yes 🞎 No 🞎  Yes 🞎 No 🞎 |  |

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| Has prisoner requested prisoner representation? [s53(3)] | Yes 🞎 No 🞎 | If not approved, why not? |
| Is it appropriate to refer back to the Disciplinary Officer for further action? [s51(a )] | Yes 🞎 No 🞎 |  |
| Is it appropriate to refer to Police for criminal investigation? [s51(d)] | Yes 🞎 No 🞎 | If so, DH not to proceed. |

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| **SPECIAL NEEDS CONSIDERATIONS** | |
| At the time of the hearing, identify if the prisoner has a **P Rating**? If yes, list ……..  If the prisoner has a P1 or P2 rating, refer to health / psychiatric professionals, to assist in determining:   * Whether the hearing should proceed or be deferred; and * If the hearing is to proceed -   + the degree to which the prisoner’s psychiatric condition should be taken in mitigation, and   + the impact on the prisoner’s mental state of certain sanctions should he or she be found guilty. | Yes 🞎 No 🞎 |
| Does the prisoner have an **intellectual disability**?  Has an advocate for the prisoner been arranged? Note – a CISO is requested with the prisoner’s consent.  If this could be a factor in the offence, has specialist advice\*\* been sought as to -   * whether the prisoner was responsible for his or her actions? * The capacity of the prisoner to understand/cope with the sanctions should he or she be found guilty? * Consider ABI, mental health and cognitive impairment. | Yes 🞎 No 🞎 |
| Is the prisoner **aged under 24 years**?  Has the prisoner been advised that another prisoner can represent him or her at the hearing?  Has an independent third party (e.g. independent prison visitor, representative Commission for Children and Young People been invited to attend the hearing?  Consider:   * any other information relevant to the young person, such as the impact of any sanctions. | Yes 🞎 No 🞎 |
| Is the prisoner from a **non-English speaking** background?  If so, has the use of an interpreting service been (a) considered and (b) arranged? | Yes 🞎 No 🞎 |
| Is the prisoner an **Aboriginal**?  If so, has the Aboriginal Welfare Officer been informed?  Can consult the Yilam. | Yes 🞎 No 🞎 |
| Does the prisoner have a **child in custody** with her?  If so, have alternative custody arrangements tentatively been made in the event that she is found guilty? | Yes 🞎 N/A 🞎 |
| Other (list): | Yes 🞎 No 🞎 |

\*\* Depending on location and individual circumstances, specialist advice may include one or more of the following: nominated representative, senior psychologist at the location, DHS caseworker (if IDS registered), prison caseworker, AWO, Yilam etc.

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| **TRANSPARENCY** | |
| Has an independent person (eg) been requested by the prisoner to attend the hearing? Who? | Yes 🞎 No 🞎 |
| If so, has this been arranged? | Yes 🞎 No 🞎 |
| If requested but denied or unable to be facilitated, please list reason(s): |  |

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| **CONDUCT OF HEARING** | | |
| Does the prisoner seek or agree to an abridged hearing process (for guilty pleas only)? | Yes 🞎 No 🞎 | If so, prisoner to sign here: |
| Process explained to prisoner?   * Charge(s) read and explained * Name of informant * Details of alleged offence - location, time, specific acts or omissions etc * Regulation(s) allegedly breached * Hearing process explained, including prisoner’s ability to cross examine informant and witnesses | Yes 🞎 No 🞎 |  |
| Plea(s) entered |  | Charge 1: Guilty 🞎 Not Guilty 🞎  Charge 2: Guilty 🞎 Not Guilty 🞎 |
| In response to a Plea of Guilty – have the requirements of Regulation 69 (see right) been satisfied by the Hearing Officer | Yes 🞎 No 🞎 | Review circumstances of the case 🞎  Consider mitigating factors 🞎  Invite prisoner to make a plea regarding penalty 🞎 |
| Has the prisoner been given opportunity to cross examine informant and witnesses? [s52(2)] | Yes 🞎 No 🞎 |  |

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| **HEARING OUTCOME – CHARGE 1** |
| 🞎 Charge dismissed  🞎 Charge proven  Where proven, factors taken into account in determining penalty:  🞎 Previous findings of guilt at GMDH 🞎 General deterrent  🞎 Prior record of good behaviour 🞎 Time served in a management unit pending hearing  🞎 Potential for actions to incite breaches of discipline by other prisoners  🞎 Special needs 🞎 Other |
| **Penalty** – Note: One only in accordance with Section 53(4), *Corrections Act* 1986  🞎 Reprimand  🞎 Withdrawal of privileges – Privileges withdrawn ……………………………………………………... for …….….. days  🞎 Fine - $.............  Comments, including a brief summary of the reason for the disciplinary hearing outcomes and penalties: |
| **Referrals**   * Where drug offence, referral for action in accordance with Corrections Alcohol and Drug Strategy 2015 * Where reprimand given (not applicable to Drug Charges) * Recommend to General Manager that the prisoner’s contact visit eligibility be unaffected by finding of guilt * Make no recommendation to GM (i.e. prisoner’s eligibility for contact visits is affected by finding of guilt). * Where property damaged, referral to General Manager (or exercise delegation) to recover cost of damage pursuant to Regulation 48 of the *Corrections Regulations* 2019 |
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| **HEARING OUTCOME – CHARGE 2** |
| 🞎 Charge dismissed  🞎 Charge proven  Where proven, factors taken into account in determining penalty:  🞎 Previous findings of guilt at GMDH 🞎 General deterrent  🞎 Prior record of good behaviour 🞎 Time served in a management unit pending hearing   * Potential for actions to incite breaches of discipline by other prisoners * Special needs 🞎 Other |
| **Penalty** – Note: One only in accordance with Section 53(4), *Corrections Act* 1986  🞎 Reprimand  🞎 Withdrawal of privileges – Privileges withdrawn ……………………………………………………... for …….….. days  🞎 Fine - $.............  Comments including a brief summary of the reason for the disciplinary hearing outcomes and penalties: |
| **Referrals**  🞎 Where drug offence, referral for action in accordance with Corrections Alcohol and Drug Strategy 2015  🞎 Where reprimand given (not applicable to Drug Charges):   * Recommend to General Manager that the prisoner’s contact visit eligibility be unaffected by finding of guilt * Make no recommendation to GM (i.e. prisoner’s eligibility for contact visits is affected by finding of guilt)   🞎 Where property damaged, referral to General Manager (or exercise delegation) to recover cost of damage pursuant to Regulation 30 of the *Corrections Regulations* 2019.  🞎 Where prisoner is aged under 18 years, referral to General Manager to consider impact of any loss of privileges (where imposed), and to consider any steps that may need to be taken to limit negative impact of the prisoner’s social isolation. |

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| **SUBSEQUENT ACTIONS** |
| 🞎 Prisoner not in attendance. Schedule 1.16(4) completed for prisoner.  🞎 Fine imposed. Payment to be authorised by GM and withdrawal recorded.  🞎 Full Loss of Privileges imposed. Separation order prepared and authorisation received.  🞎 Checklist attached to file documentation.  🞎 PIMS Incident Module updated with decision. |

Hearing Officer’s Comments / notes

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**Signed ………………………………………..**

(Hearing Officer)

**FULL NAME** (print) **……………………………**

**DATED: ……….………………………………..**

LIST OF PRIVILEGES APPROVED BY the secretary 2021

**To 31 December 2021**

SECTION 48, CORRECTIONS ACT 1986

REGULATION 33, CORRECTIONS REGULATIONS 2019

Pursuant to regulation 33 of the Corrections Regulations 2019, the Secretary of the Department of Justice and Community Safety, has approved the following list of prisoner privileges for 2021:

1. Access to private monies.
2. Access to special spends.
3. Access to full canteen spends and canteen spend items other than essential toiletries.
4. Access to telephone calls (other than to the prisoner’s legal representative(s); the Victoria Ombudsman; the Independent Broad-based Anti-corruption Commission (IBAC); the Victorian Inspectorate; the Commission for Children and Young Persons; the Victorian Equal Opportunity and Human Rights Commission; the Mental Health Complaints Commissioner; the Health Complaints Commissioner; a person authorised to act on behalf of that person or body; or any other free call number).
5. Access to all in-cell electrical appliances (other than a jug/kettle, radio and fan, subject to note #3, below)
6. Access to television, including DVD/videotapes where available.
7. Access to shared unit computers and unit electronic games consoles.
8. Access to sporting and recreational activities.
9. Access to hobby activities and items.
10. Access to extended out-of-cell hours or night activities, where offered.
11. Access to personal in-cell property in excess of 50 points.
12. Association with other prisoners at the same prison location who are subject to the same regime.
13. Access to full out-of-cell hours as approved for the prison.

Notes:

1. The full list of privileges for prisoners above may not apply to prisoners classified to a management or high security unit, given the regime under which the prisoner is accommodated. Such prisoners must be afforded access to hot beverages.
2. The full list of privileges for prisoners above may not apply to prisoners classified as on an intermediate regime, given the conditions under which the prisoner is accommodated.
3. In relation to paragraph (e), a Disciplinary Officer or a Hearing Officer at a General Manager’s Disciplinary Hearing, will be able to consider removing a jug/kettle, radio or fan, if the jug/kettle, radio or fan is misused or deliberately damaged.
4. A Disciplinary Officer and a Hearing Officer must consider what is in the best interests of a prisoner who is under the age of 24.
5. When making decisions to remove a privilege, staff must consider human rights and the impact on the prisoner and if there are children concerned, that the decision does not impact upon the children.