

Visiting Clients in Prison –

KNOW THE RULES!

With the opening of the new Correctional facility at Holtz, and the enactment of the *Correctional Services Act 2014*, many Legal Practitioners may not be aware of the new rules that now apply.

Law Societies around Australia are sometimes required to investigate the conduct of a practitioner arising out of the practitioner’s visit to a correctional facility.

The right of a legal practitioner to visit a prisoner held in a Northern Territory correctional centre is contained in s.96 of the *Correctional Services Act 2014*.

Broadly, that provision provides that a legal practitioner may visit:

- At any reasonable time, by appointment with the General-Manager¹;
- May be accompanied by one or more persons to provide translation, legal or administrative assistance.

All visitors must comply with the rules relating to prison visits².

As well as the *Correctional Services Act* and *Correctional Services Regulations*, practitioners intending to visit a correctional centre should make themselves aware of any Commissioner’s Directions for the relevant centre.

It is important to note different requirements may exist at different centres.

For example, for entry to the new Correctional Facility in Darwin you will need to adhere to additional requirements, such as:

- ✓ bringing photo identification;
- ✓ bringing a letter of introduction from your place of employment;
- ✓ being prepared to have your biometrics recorded (fingerprints and iris scan);
- ✓ being prepared to go through a metal detection system;
- ✓ being prepared for your items to go through an x-ray machine;
- ✓ being prepared to be searched; and
- ✓ being prepared to be tested for drugs and alcohol³.

Contraband

Practitioners intending to visit a prisoner should make themselves aware of items which are not permitted to be taken into the facility. Generally, as well as the more obvious items such as weapons and illegal substances, the following types of items are prohibited:

- cigarettes or tobacco products;
- lighters or matches;
- jewellery (apart from wedding bands);
- alcohol;
- mobile phones;
- electronic devices including laptops, iPads or tablets;
- money or bank cards;
- glass;
- ceramics;
- aerosol cans;
- film;
- computer games;
- cameras and other photographic devices;
- USB storage; and
- any other item that may threaten the security and good order of the facility.

You may make a special request to bring a laptop or Dictaphone when you are making your booking.⁴



Handing items over to a prisoner

Before handing anything over to your client, ensure you check that it is not a prohibited item or thing. Items handed to your client may be inspected if there is a reasonable belief that the item or thing is a prohibited item or thing.

Mail

Changes to the *Corrections Act* authorise the inspection of mail going between a Legal Practitioner and their client, if there is reasonable belief that the mail contains a prohibited item.

Summary

The General-Manager of a correctional facility has wide powers to ensure the security and good order of the facility. Depending upon the seriousness of a contravention of the rules and regulations relating to prison visits, a practitioner could be banned from visiting a Northern Territory correctional facility for a specified period. It goes without saying that a deliberate breach would in all likelihood result in prosecution. Furthermore, a practitioner's contravention may constitute unsatisfactory professional conduct or professional misconduct under the provisions of the *Legal Profession Act* including where a practitioner uses their practitioner status to take advantage of lawyer/client privileges and when the visit is not related to a clients' legal matter.



Practitioners intending to visit one of the correctional facilities are encouraged to make themselves aware of the legislative and other provisions relating to the types of items and material that may not be taken into the facility. Given how easy a prohibited item could be carried into a correctional facility inadvertently (a USB on a key ring in the bottom of a brief case or handbag), it is suggested that practitioners carefully check to ensure they do not take any prohibited item into a correctional facility.

Further, practitioners are advised to check with a prison officer before handing anything over to a prisoner. It is also recommended practitioners make and retain a contemporaneous note for their file of any items handed over. ●

(Endnotes)

1. Note: 24 hours' notice is required via phone or email
2. More information can be found at www.correctionalservices.nt.gov.au
3. This may include a breath, saliva and/or blood test. See Part 3 *Correctional Services Regulations*
4. See. www.correctionalservices.nt.gov.au

