

## Custodial Operations Policy and Procedures

### 6.13 End of life care for inmates

#### Policy summary

Justice Health and Forensic Mental Health Network (JH&FMHN) are obliged to notify CSNSW when it is considered that an inmate is approaching the end of their life.

The Governor must consider any means available by which to ameliorate distress for the inmate and their family and friends, without jeopardising the safety, security and good order of the centre. The inmate must be informed of procedures for applying for compassionate release.

An inmate in end-of-life care may consult a Justice Health medical practitioner to request voluntary assisted dying (VAD).

#### Management of Public Correctional Centres Service Specifications

Service specification	<p>Decency and respect</p> <p>Safe and security</p> <p>Health Services</p>
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## Scope

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

# Table of contents

<b>1</b>	<b>Inmates approaching end of life</b>	<b>4</b>
1.1	Notifications	4
<b>2</b>	<b>Considerations for an inmate in end-of-life care</b>	<b>4</b>
2.1	Visits	4
2.2	Phone calls	4
2.3	Accommodation	5
2.4	Transfer	5
2.5	Designation	5
2.6	Risk of self-harm or suicide	5
<b>3</b>	<b>Voluntary Assisted Dying (VAD)</b>	<b>5</b>
3.1	Requests for VAD	5
3.2	Justice Health Coordinating & Consulting authorised practitioners	6
3.3	Providing access to eligible witnesses	6
3.4	Final request	6
3.5	Administration of prescribed substance	7
3.6	Hospital visits for the administration of prescribed substance	7
3.7	Escorts for administration of prescribed substance	7
3.8	Handling of the VAD Substance	7
<b>4</b>	<b>Quick links</b>	<b>9</b>
<b>5</b>	<b>Definitions</b>	<b>9</b>
<b>6</b>	<b>Document information</b>	<b>10</b>

# 1 Inmates approaching end of life

## 1.1 Notifications

JH&FMHN notifies the Director, Parliamentary and Executive Services (PES) via the statutory notices mailbox [REDACTED] when it becomes apparent that an inmate is approaching the end of their life. The PES notifies the Office of the Commissioner and Deputy Commissioner, Strategy and Governance, and the Governor and Services and Programs Officer (SAPO) at the correctional centre housing the inmate. The SAPO engages the inmate to discuss early release options.

JH&FMHN communicates recommendations to staff of the correctional centre regarding the on-going management of the inmate via the Health Problem Notification Form (HPNF).

The Governor must ensure that the inmate's permission is sought to notify their Next of Kin (NOK). If permission is granted, or the inmate is unable to give informed consent, the NOK must be notified and informed of the inmate's condition.

The Governor must ensure that the most senior Service Integration Officer of the centre, and the FM Accommodation or OIC of the area where the inmate is housed, are informed of the inmate's condition.

## 2 Considerations for an inmate in end-of-life care

### 2.1 Visits

In consultation with the most senior Services Integration Officer, the Governor must consider:

- granting an extra contact visit(s) between the inmate and a family member or friend. Such a contact visit(s) are additional to normal entitlements
- allowing the inmate to receive contact visits outside of normal visiting hours
- allowing the inmate to receive contact visits in a private area outside the normal visits area (such as in the legal visits area).

### 2.2 Phone calls

The Governor must consider, in consultation with the most senior Services Integration officer:

- covering the cost of personal calls by the inmate from the centre's budget
- allowing the inmate to make personal calls of longer than the standard duration (refer to **COPP 8.2 Inmate telephones** subsection **1.8 Call durations**)
- allowing the inmate to make personal calls outside the hours normally permitted

## 2.3 Accommodation

The FM Accommodation or OIC of the area where the inmate is housed must ensure that the inmate is interviewed regarding their accommodation preference (one-out or two-out) and informed of their ability to make a request to share accommodation with another inmate of their choice by submitting an *Inmate application* form (refer to COPP **5.2 Inmate accommodation** subsection **4 Application to share cells**).

## 2.4 Transfer

In consultation with Inmate Classification and Placement, the Governor must consider transferring the inmate to a more suitable centre, such as a lower security centre, Long Bay Hospital or the Aged and Frail Unit.

## 2.5 Designation

Where an inmate is designated High Security, Extreme High Security, Extreme High Risk Restricted, or National Security Inmate, and where these designations place restrictions on visits, phone calls, mail and accommodation, the Governor may make a submission to the Deputy Commissioner Security and Custody (via the relevant Assistant Commissioner Custody) for these restrictions to be lifted in part or in full.

## 2.6 Risk of self-harm or suicide

The FM Accommodation or OIC of the area where the inmate is housed must ensure that staff are vigilant for any signs of the inmate being at risk of self-harm or suicide, and that the processes outlined in COPP **3.7 Management of inmates at risk of self harm or suicide** are adhered to.

# 3 Voluntary Assisted Dying (VAD)

## 3.1 Requests for VAD

An inmate who has been deemed by JH&FMHN as approaching the end of their life may be eligible for VAD under the Voluntary Assisted Dying Act 2022. Under the Act, the first request for VAD must be made by the inmate to a Justice Health medical practitioner. Any CSNSW staff member who is approached by an inmate with an enquiry about VAD is to advise the inmate to discuss the matter with their Justice Health treating team or refer them to general information available on the inmate tablets. No further advice from CSNSW staff may be given.

An enquiry about VAD from an inmate to a CSNSW staff member does not automatically trigger a mandatory notification of risk of self-harm or suicide. Staff are obliged to determine that there is an actual risk of self-harm or suicide before submitting a notification (see COPP **3.7 Management of inmates at risk of self harm or suicide**).

The submission of a request for VAD and the approval process is entirely a matter for Justice Health and the VAD Board. CSNSW has no part to play in the approval

process beyond allowing the inmate access to Justice Health medical practitioners and to eligible witnesses.

### **3.2 Justice Health Coordinating & Consulting authorised practitioners**

If the Justice Health medical practitioner who receives the inmate's request for VAD approves the request, they become the coordinating practitioner for the inmate. If the Justice Health medical practitioner who receives the request cannot or does not accept, a referral will be made to an alternative Justice Health authorised practitioner who becomes the coordinating practitioner.

For an inmate in CSNSW custody, the coordinating practitioner must be a Justice Health authorised practitioner. The coordinating practitioner must keep the CSNSW VAD Coordinator informed of the inmate's application for VAD and its progress towards approval by the VAD Board. This allows the CSNSW VAD Coordinator to inform the Governor/OIC of the centre for consideration and discussion of arrangements such as escort risk assessments and hospital visits in anticipation of VAD approval.

The Justice Health Coordinating Practitioner will seek the advice from another Justice Health authorised practitioner who will become the inmate's Consulting Practitioner. The Consulting Practitioner will confirm the eligibility of the inmate requesting VAD.

### **3.3 Providing access to eligible witnesses**

If both the Justice Health coordinating and consulting authorised practitioners approve the inmate's application for VAD, the inmate is required to make a written declaration on an authorised form stating that they wish to proceed with VAD. The inmate must sign the form, and have their signature certified by two eligible witnesses. A witness is not eligible if they are the Justice Health authorised practitioner for the inmate requesting VAD, or a member of the Justice Health authorised practitioner's team, or are a member of the inmate's family, or may benefit financially from the inmate's death.

Justice Health will coordinate an appropriate witness from a Nurse Unit Manager and/or an independent agency (e.g. Dying with Dignity).

CSNSW staff may be in a conflict of interest if witnessing signatures.

### **3.4 Final request**

The inmate must make a final request for VAD to the Justice Health Coordinating Practitioner, which is submitted to the VAD Board via the Portal. In consultation with the Justice Health Coordinating Practitioner, the inmate will make an administration decision (self-administration or practitioner administration) regarding the VAD substance. The Justice Health Coordinating Practitioner will complete a final review and submit all relevant documents to the VAD Board via the Portal.

When approval has been received by the VAD Board to prescribe the VAD substance, the Justice Health VAD Lead will notify the CSNSW VAD Coordinator.

### **3.5 Administration of prescribed substance**

Under no circumstances is the administration of the prescribed substance, causing death to the inmate, to be undertaken within any facility owned or administered by CSNSW.

The Justice Health Coordinating Practitioner will convene the Multidisciplinary Team which includes CSNSW, South Eastern Sydney Local Health District (SESLHD) & Justice Health to agree on a date for the admission of the inmate to a NSW Health facility for VAD substance administration purposes.

### **3.6 Hospital visits for the administration of prescribed substance**

Prior to an escort for the administration of the prescribed substance, the Governor/OIC of the centre, in consultation with the Justice Health Coordinating Practitioner, must ascertain the inmate's wishes regarding any persons to be present at the administration.

Any persons present at the VAD administration will be subject to policy and procedures in COPP **19.6 Medical escorts** subsection **6.2 Visits**

### **3.7 Escorts for administration of prescribed substance**

The Governor, in consultation with the Justice Health Coordinating Practitioner must arrange for the transfer of the inmate to a hospital or other medical facility for the administration of the prescribed substance. The officer undertaking the escort assessment must be mindful of the physical condition of the inmate and the purpose of the escort when recommending the level of security and use of restraints. Justice Health will provide CSNSW advice on the appropriate transport option which may be NSW Ambulance.

Escorting officers should be in plain clothes. Escorting officers must be informed of the nature of the escort, and every officer (including the officer undertaking the escort assessment) has the right to raise with the Governor any objection they may have to participation in the escort. An officer who participates in a VAD escort must not be asked to undertake another VAD escort for a period of twelve months thereafter.

As the inmate on such an escort remains under the custody of CSNSW, procedures outlined in COPP **13.3 Death in custody** must be followed.

### **3.8 Handling of the VAD Substance**

There are restrictions on how inmates in custody can possess and take medication, which will impact on how they can access voluntary assisted dying:

- an inmate who elects to self-administer the substance will not be permitted to have possession of the voluntary assisted dying substance until they are ready to administer it ([Section 149 of the Crimes Act](#))
- an inmate who is accessing voluntary assisted dying via self-administration cannot nominate a contact person to handle the substance on their behalf. The inmate's Justice Health Coordinating Practitioner will become the

contact person who will be in possession of the voluntary assisted dying substance until the substance is required.

If the inmate decides not to proceed with voluntary assisted dying (the inmate has no obligation to continue with the process as per Section 54 of the Voluntary Assisted Dying Act 2022), the Justice Health Coordinating Practitioner will take carriage of the VAD substance for the appropriate storage or disposal. The inmate will be returned to the correctional centre.

In the event of spillage or skin contact, usual Work Health and Safety processes apply. Any skin contact with the VAD substance will cause mild irritation only and should be thoroughly washed off with warm water.

### **3.9 Following death**

Following administration of the substance escorting officers must retain charge of the body, remain on duty, and continue supervision until such a time as the body has been removed to be transported to the morgue. Policy and procedures at COPP section **13.3 *Death in custody*** applies including reporting and post incident support.



## 4 Quick links

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

## 5 Definitions

Authorised officer	The officer authorised by the Governor to perform the functions prescribed as part of the Custodial Operations Policy and Procedures
CSNSW VAD Coordinator	The officer appointed by the Commissioner to communicate with NSW Health on matters relating to VAD applications by inmates in NSW correctional facilities or people in the community under Community Corrections orders
COPP	Custodial Operations Policy and Procedures
FM	Functional Manager
Justice Health Coordinating Practitioner	An authorised medical practitioner who accepts the patient's first request to access voluntary assisted dying, or an authorised medical practitioner who accepts a transfer of the role of coordinating practitioner for the patient.
Justice Health Consulting Practitioner	An authorised medical practitioner who accepts the patient's second request to access voluntary assisted dying, or an authorised medical practitioner who accepts a transfer of the role of coordinating practitioner for the patient.
OIC	Officer in Charge
SESLHD	South Eastern Sydney Local Health District
VAD	Voluntary Assisted Dying

## 6 Document information

<b>Business centre:</b>	Custodial Operations	
<b>Approver:</b>	Anne Marie Martin	
<b>Date of effect:</b>	24/11/2023	
<b>EDRMS container:</b>	23/24213	
<b>Version</b>	<b>Date</b>	<b>Reason for amendment</b>
1.0	24/11/23	Initial publication