

Australian Capital Territory

## **Children and Young People (Local and Interstate Leave) Policy and Procedures 2018 (No. 1)**

**Notifiable instrument NI2018-440**

made under the

***Children and Young People Act 2008*, section 143 youth detention policy and operating procedures**

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**1 Name of instrument**

This instrument is the *Children and Young People (Local and Interstate) Policy and Procedures 2018 (No. 1)*.

**2 Commencement**

This instrument is to commence the day after notification.

**3 Repeal**

NI2015-389 is revoked.

**4 Policies and operating procedures**

Under section 143 of the *Children and Young People Act 2008*, I make the attached Local and Interstate Leave Policy and Procedures to facilitate the effective and efficient management of detention services for young people.

Bernadette Mitcherson  
Director-General  
Community Services Directorate  
7 August 2018

# Local and Interstate Leave Policy and Procedures

## 1. Introduction and Purpose

During the period of a young person's detention, there may be circumstances where it is necessary or reasonable for a young person to be provided with lawful authority to be absent from a detention place. This includes circumstances where granting a young person leave is considered appropriate for:

- a) compassionate reasons (e.g. following the death of a family member to allow the young person to attend the family member's funeral)
- b) the young person's employment as part of a transition plan for the young person's transition to the community
- c) the young person to attend education or training programs that form part of their case management plan
- d) the young person's health (e.g. to receive health services that are not provided at a detention place).

This policy and procedure provides the authority for leave to be granted to a young person in certain circumstances. It allows a young person to be granted leave within the ACT (local leave) or interstate, and provides for escorted and unescorted leave arrangements.

All young people may wear their own clothes while on leave, with the approval of the Director, Bimberi.

## 2. Legal Authority and Obligations

- 2.1 The *Children and Young People Act 2008* (the Act) is the primary source of authority for the operations of a detention place. Part 6.8 of the Act that outlines the legal authority for leave arrangements for young detainees from a detention place, is particularly relevant to this policy and procedure. The provisions of the Act must be complied with at all times by staff exercising functions at a detention place.
- 2.2 The policies and procedures provide specific directions to implement the provisions of the Act and other relevant legislation, including the *Human Rights Act 2004*.
- 2.3 Human rights that are protected by the *Human Rights Act 2004* and that are relevant to this policy and procedure are:

### Section 19 Humane treatment when deprived of liberty

- (1) Anyone deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person.
- (2) An accused person must be segregated from convicted people, except in exceptional circumstances.
- (3) An accused person must be treated in a way that is appropriate for a person who has not been convicted.

#### Section 20 Children in the criminal process

- (1) An accused child must be segregated from accused adults.
- (2) An accused child must be treated in a way that is appropriate for a person of the child's age who has not been convicted.
- (3) A child must be brought to trial as quickly as possible.
- (4) A convicted child must be treated in a way that is appropriate for a person of the child's age who has been convicted.

- 2.4 The following international human rights standards apply in the ACT and are relevant to this policy and procedure:
- (a) United Nations Convention on the Rights of the Child
  - (b) United Nations Standard Minimum Rules for the Administration of Juvenile Justice
  - (c) United Nations Rules for the Protection of Juveniles Deprived of their Liberty
  - (d) Standard Minimum Rules for the Treatment of Prisoners
  - (e) Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
  - (f) United Nations Declaration on the Rights of Indigenous People.

### 3. Authorisations and Delegations

- 3.1 The Manager has authority to make decisions about Local Leave Directions and permits.
- 3.2 The Manager has authority to make decisions about Interstate Leave Permits. If the Director, Bimberi is not available, the Director, Child and Youth Protection Services Operations may make a decision to grant a young person an Interstate Leave Permit.
- 3.3 The Director, Bimberi may make a decision to revoke a local or Interstate Leave Permit in accordance with this policy and procedures.
- 3.4 References to escort officer in this policy and procedures means a youth worker, police officer or a corrections officer in accordance with the Escorts Policy and Procedures.
- 3.5 The Health and Wellbeing Policy and Procedures is to be applied by all persons transporting a young person and/or exercising escort functions under the direction of the Director, Bimberi.

### 4. Definitions

**Aboriginal person** is defined in the dictionary of the *Children and Young People Act 2008* as a person who is a descendant of the Indigenous inhabitants of Australia; who regards himself or herself as an Aboriginal or if the person is a child, is regarded as an Aboriginal by a parent or family member; and is accepted as an Aboriginal by an Aboriginal community.

**Accredited person** is defined in section 137 of the *Children and Young People Act 2008* and means the young person's Child and Youth Protection Services worker if the Director-General has parental responsibility for the young person, a representative approved by the Manager of an entity

providing a service or program to the young person, a lawyer representing the young person, an Official Visitor, a Commissioner exercising functions under the *Human Rights Commission Act 2005*, the Public Advocate and the Ombudsman.

**All staff** refers to youth workers, authorised persons, other Directorate staff providing services at or visiting a detention place in a work-related capacity and staff of ACT Government agencies providing services to young people in a detention place.

**Authorised person** is a person who has been delegated a power under the *Children and Young People Act 2008* or another Territory law and is exercising a function under the criminal matters chapters of the *Children and Young People Act 2008*. The positions that have delegations as authorised persons are: Executive Director, Senior Director (A), Director, Child and Youth Protection Services Operations (B), Director, Bimberi (B), Deputy Senior Manager (C), Operations Manager (D), Programs and Services Manager (D), Unit Managers (E), Team Leaders (F), Youth Workers (G), Family Engagement Officer (F), Sport and Recreation Officer.

**Child** means a person who is under 12 years of age (as defined under section 11 of the *Children and Young People Act*).

**Child and Youth Protection Service** refers to the branch in the Community Services Directorate that is responsible for the Child Protection and Youth Justice functions of the *Children and Young People Act 2008* and related legislation.

**Detention place** means a declared detention place.

**Direction** means an instruction that may be given by a youth worker under section 146 of the *Children and Young People Act 2008* to a young person about anything related to the criminal matters chapters. A young person must comply with any direction given to the young person by the Director-General or delegate under section 184 of the *Children and Young People Act 2008*. Non-compliance by a young person with a direction is a behaviour breach and may be dealt with through the Behaviour Management Policy and Procedures or Discipline Policy and Procedures.

**Director, Child and Youth Protection Services Operations** refers to the responsible senior executive in the Community Services Directorate.

**Director, Bimberi** refers to the Director of a detention place and the responsible senior executive in the Community Services Directorate.

**Director-General** means the Director-General of the Community Services Directorate with administrative responsibility for the *Children and Young People Act 2008*, unless otherwise specified in this policy and procedure.

**Duty of care** refers to the obligation by youth workers to take reasonable care to avoid injury or loss to a person whom it could be reasonably foreseen might be injured by an act or omission.

**Escort officer** is defined in the dictionary of the *Children and Young People Act 2008* and means a youth worker, a police officer or a corrections officer.

**Family member** is defined in section 13 of the *Children and Young People Act 2008* and means the child's or young person's parent, grandparent or step-parent; or son, daughter, stepson or stepdaughter; or sibling; or uncle or aunt; or nephew, niece or cousin. For an Aboriginal or Torres Strait Islander child or young person, a family member includes a person who has responsibility for the child or young person in accordance with the traditions and customs of the child's or young person's Aboriginal or Torres Strait Islander community.

**Interstate Leave Permit** is a written permit issued by the Manager under section 242 of the *Children and Young People Act 2008* and authorises a young person's leave to travel to and from, and remain in, another State.

**Local Leave Direction** is a written direction issued by the Manager under section 240 of the *Children and Young People Act 2008* that a young person be taken from a detention place to another place in the ACT for any purpose considered appropriate.

**Local Leave Permit** is a written permit issued by the Manager under section 241 of the *Children and Young People Act 2008* and authorises a young person to be absent from a detention place for the purpose for which the direction was given.

**Manager** refers to the Director of a detention place during normal business hours, or in the event this person is unavailable, the Deputy Senior Manager, or in the event this person is unavailable, the Operations Manager, or in the event this person is unavailable, a Unit Manager. Outside normal business hours, this refers to the On-call Manager.

**Mandated reporter** under the *Children and Young People Act 2008* includes staff at a detention place. The Act requires a staff member to report a reasonable belief that a young person who is under 18 years has experienced or is experiencing non-accidental physical injury or sexual abuse.

**Nominated person** is a person nominated by a young person aged 18-21 years at the time of admission to whom the Director-General can give notifications under the *Children and Young People Act 2008*. The details of the nominated person must be entered in the Register of Young Detainees.

**Parental responsibility** is defined at section 15 of the *Children and Young People Act 2008* and means all the duties, powers, responsibilities and authority parents have by law in relation to their children, including daily care and long-term care responsibility for the child or young person. Each parent of

a child or young person aged under 18 years has parental responsibility for the child or young person. A person may have or share parental responsibility for a child or young person under a court order under the *Children and Young People Act 2008* or another law or in the circumstances outlined at sections 17 and 18 of the Act.

**Police** refers to ACT Policing.

**Prohibited thing** is a thing declared under section 148 of the *Children and Young People Act 2008* by the Director-General to be prohibited if the Director-General reasonably believes that the declaration is necessary or prudent to ensure safety and security of a young person or other people at a detention place. The declaration of prohibited things is contained in the Search and Seizure Policy and Procedures.

**Register of Searches and Uses of Force** means the register that must be kept by the Director-General under section 195 of the *Children and Young People Act 2008* as a record of any search, seizure or use of force. All forms recording these activities must be completed and filed in the register.

**Restraint** means body contact or the use of instruments of restraint including restraint belts, flexicuffs, shields, helmets, handcuffs and other approved items.

**Significant person** for a child or young person is defined in section 14 of the *Children and Young People Act 2008* and means a person (other than a family member) who the child or young person, a family member of the child or young person or the Manager considers is significant in the child or young person's life.

**Special Management Direction** is a specific instruction given by the Director, Bimberi relating to the need to implement or maintain special conditions for the management of a young person.

**Staff** refers to youth workers and other authorised persons.

**State** means an Australian State or Territory, including the Northern Territory.

**Transfer escort**, for interstate transfers, is defined at section 114 of the *Children and Young People Act 2008* and means a police officer, a corrections officer, a youth worker or a person acting as a transfer escort with the approval of the Director, Bimberi who is authorised under a transfer agreement, arrangement or order.

**Torres Strait Islander person** is defined in the dictionary of the *Children and Young People Act 2008* as a person who is a descendant of the Indigenous inhabitants of the Torres Strait Islands; who regards himself or herself as a Torres Strait Islander or if the person is a child, is regarded as a Torres Strait Islander by a parent or family member; and is accepted as a Torres Strait Islander by a Torres Strait Islander community.

**Use of force** means the amount of effort required to reduce an immediate risk and to maintain the safety and security of a young person or other people. Use of force is an option of last resort and must be the minimum necessary to achieve the required outcome. The use of force is not a response to achieve compliance with a direction. Use of force includes body contact and the use of instruments of restraint.

**Young person** is defined at section 12 of the *Children and Young People Act 2008* and means a person who is aged 12 years and older, but under 21 years, who is required to be held in the Director-General's custody. A young person who is 21 years or older cannot be detained at a detention place. Young person means the same thing as young detainee, and young person aged 18-21 years means the same things adult young detainee, in the *Children and Young People Act 2008*.

**Youth worker** is defined at section 96 of the *Children and Young People Act 2008* and means an authorised person to whom the Director-General has delegated functions of a youth worker under the criminal matters chapters. The positions that have delegation as a youth worker for the policies and procedures are: Director, Bimberi (B), Deputy Senior Manager (C), Operations Manager (D), Programs and Services Manager (D), Unit Managers (E), Team Leaders (F), Youth Workers (G), Family Engagement Officer (F), Sport and Recreation Officer. Youth worker means the same as youth detention officer in the *Children and Young People Act 2008*.

## 5. Principles

### Legislative Principles

5.1 The Act sets out the principles that must be considered by all decision-makers making decisions under this policy and procedures.

#### Section 8 Best interests of children and young people paramount consideration

- (1) In making a decision under this Act in relation to a particular child or young person, the decision-maker must regard the best interests of the child or young person as the paramount consideration.
- (2) In making a decision under this Act otherwise than in relation to a particular child or young person, the decision-maker must consider the best interests of children and young people.

#### Section 9 Principles applying to Act

- (1) In making a decision under this Act in relation to a child or young person, a decision-maker must have regard to the following principles where relevant, except when it is, or would be, contrary to the best interests of a child or young person:
  - (a) the child or young person's sense of racial, ethnic, religious, individual or cultural identity should be preserved and enhanced
  - (b) the child or young person's education, training or lawful employment should be encouraged and continued without unnecessary interruption

- (c) the child or young person's age, maturity, developmental capacity, sex, background and other relevant characteristics should be considered
- (d) delay in decision-making processes under the Act should be avoided because delay is likely to prejudice the child or young person's wellbeing.
- (2) A decision-maker exercising a function under this Act must, where practicable and appropriate, have qualifications, experience or skills suitable to apply the principles in subsection (1) in making decisions under the Act in relation to children and young people.

#### Section 10 Aboriginal and Torres Strait Islander principle

- (1) In making a decision under this Act in relation to an Aboriginal or Torres Strait Islander child or young person, in addition to the matters in section 8 and section 9, the decision-maker must take into account the following:
  - (a) the need for the child or young person to maintain a connection with the lifestyle, culture and traditions of the child or young person's Aboriginal or Torres Strait Islander community
  - (b) submissions about the child or young person made by or on behalf of any Aboriginal or Torres Strait Islander people or organisations identified by the Director-General as providing ongoing support services to the child or young person or the child or young person's family
  - (c) Aboriginal and Torres Strait Islander traditions and cultural values (including kinship rules) as identified by reference to the child or young person's family and kinship relationships and the community with which the child or young person has the strongest affiliation.

#### Section 94 Youth justice principles

- (1) For the criminal matters chapters, in deciding what is in the best interests of a child or young person, a decision-maker must consider each of the following matters that is relevant:
  - (a) if a child or young person does something that is contrary to law, he or she should be encouraged to accept responsibility for the behaviour and be held accountable
  - (b) a child or young person should be dealt with in a way that acknowledges his or her needs and that will provide the opportunity to develop in socially responsible ways
  - (c) a child or young person should be consulted about, and be given the opportunity to take part in making, decisions that affect the child or young person, to the maximum extent possible taking into consideration their age, maturity and developmental capacity
  - (d) if practicable and appropriate, decisions about an Aboriginal and Torres Strait Islander child or young person should be made in a way that involves their community
  - (e) if a child or young person is charged with an offence, he or she should have prompt access to legal assistance, and any legal proceeding relating to the offence should begin as soon as possible

- (f) a child or young person may only be detained in custody for an offence (whether on arrest, on remand or under sentence) as a last resort and for the minimum time necessary
- (g) children and young people should be dealt with in the criminal law system in a way consistent with their age, maturity and developmental capacity and have at least the same rights and protection before the law as would adults in similar circumstances
- (h) on and after conviction, it is a high priority to give a child or young person the opportunity to re-enter the community
- (i) it is a high priority that intervention with children or young people must promote their rehabilitation, and must be balanced with the rights of any victim of the child or young person's offence and the interests of the community.
- (2) The decision-maker may also consider any other relevant matter.
- (3) The youth justice principles are intended to be interpreted consistently with relevant human rights instruments and jurisprudence (e.g. the *Convention on the Rights of the Child*).
- (4) A reference in subsection (1) to a young person includes a reference to a person who is at least 18 years old but is being dealt with in relation to an offence committed, or alleged to have been committed, when he or she was under 18 years old.

## 6. Policy and Procedure

### Local Leave Directions

- 6.1 The Manager may issue a written direction that a young person is taken from a detention place to another place in the ACT. This is a Local Leave Direction.
- 6.2 A Local Leave Direction may be issued for any purpose the Manager considers appropriate, including but not limited to:
  - (a) to attend an education or training program
  - (b) to attend a health or rehabilitation service
  - (c) for compassionate reasons
  - (d) to attend employment or an interview for employment.
- 6.3 In making a decision to issue a Local Leave Direction under 6.1 the Manager must consider the purpose of the leave and the young person's best interests.
- 6.4 In making a decision to issue a Local Leave Direction under 6.1 the Manager may consider each of the following matters that are relevant:
  - (a) the young person's views
  - (b) the views of persons with parental responsibility for the young person
  - (c) the young person's legal status
  - (d) the length of the young person's detention
  - (e) the young person's behaviour
  - (f) the young person's security classification
  - (g) the young person's case management plan
  - (h) any other relevant matter.
- 6.5 The Manager may make conditions to which the direction is subject. Examples of conditions include:

- (a) that the young person is to be escorted during the period of the direction
  - (b) that the young person is not to have contact with a stated person or be at or near a stated place
  - (c) that the young person is to be subject to the supervision of a stated person during the direction
  - (d) that the young person is to be subject to restraint (e.g. the use of handcuffs).
- 6.6 Any conditions to which the direction is subject must be stated in the Local Leave Direction.
- 6.7 If the Manager issues a written direction under 6.1 the Manager must give the young person a Local Leave Permit to be absent from a detention place for the purpose stated in the direction.
- 6.8 The Local Leave Permit form must be used.

#### Local Leave Permits

- 6.9 A young person may apply for a Local Leave Permit. Staff must provide assistance to a young person to make an application in writing. The application must state the purpose for which leave is requested.
- 6.10 After receiving an application from a young person or on the Manager's own initiative, the Manager may issue to a young person a Local Leave Permit to be absent from a detention place, and to be in another place in the ACT.
- 6.11 The Local Leave Permit may be issued for any purpose the Manager considers appropriate, including but not limited to:
- (a) to attend an education or training program
  - (b) to attend a health or rehabilitation service
  - (c) for compassionate reasons
  - (d) to attend employment or an interview for employment.
- 6.12 In making a decision to issue a Local Leave Permit under 6.11 the Manager must consider the purpose of the leave and the young person's best interests.
- 6.13 In making a decision to issue a Local Leave Permit under 6.11 the Manager may consider each of the following matters that are relevant:
- (a) the young person's views
  - (b) the views of persons with parental responsibility for the young person
  - (c) the young person's legal status
  - (d) the length of the young person's detention
  - (e) the young person's behaviour
  - (f) the young person's security classification
  - (g) the young person's case management plan
  - (h) any other relevant matter.
- 6.14 The Manager may make conditions to which the Local Leave Permit is subject. Examples of conditions include:
- (a) that the young person is to be escorted during the period of the direction
  - (b) that the young person is not to have contact with a stated person or be at or near a stated place
  - (c) that the young person is to be subject to the supervision of a stated person during the direction

- (d) that the young person is to be subject to restraint (e.g. the use of handcuffs).
- 6.15 Any conditions to which the young person is subject to must be stated in the Local Leave Permit.
- 6.16 The Local Leave Permit form must be used.

#### *Effect of Local Leave Permit*

- 6.17 A Local Leave Permit for a young person is the lawful authority for the young person to be absent from a detention place in accordance with the permit.
- 6.18 A Local Leave Permit may authorise the leave to be unescorted or escorted.
- 6.19 A young person who is absent from a detention place under a Local Leave Permit is in the legal custody of the Director-General. This applies regardless of whether the Local Leave Permit is subject to a condition that the young person is under escort.
- 6.20 A young person who is subject to a Local Leave Permit with a condition that the leave is escorted is in the legal custody of both the Director-General and the escort officer.

#### *Contravention of Local Leave Permit*

- 6.21 A young person who is subject to a Local Leave Permit must carry the Local Leave Permit with them while absent from a detention place under the leave permit.
- 6.22 For a young person on unescorted leave under a Local Leave Permit, the Manager may revoke the Local Leave Permit and notify police if information is received that a young person is not complying with the conditions of the permit.
- 6.23 For a young person on unescorted leave under a Local Leave Permit, the procedures at 'Failure to return to detention place following unescorted leave' must be applied if the young person fails to return to a detention place by the date and time required by the leave permit.
- 6.24 For a young person on escorted leave under a Local Leave Permit, the procedures at 'Attempted escape or escape from custody of escort officer under leave permit' must be applied if the young person escapes or attempts to escape lawful custody.
- 6.25 For a young person on escorted leave under a Local Leave Permit, the procedures at 'Other grounds for revoking leave permit' must be applied if the escort officer has concerns about the safety or secure custody of the young person under escort, their own safety or the safety of another person.
- 6.26 A young person commits a behaviour breach if the young person contravenes a condition of a Local Leave Permit (refer to Behaviour Management Policy and Procedures).

#### Interstate Leave Permits

- 6.27 A young person may apply for an Interstate Leave Permit. Staff must provide assistance to a young person to make an application in writing. The application must state the purpose for which leave is requested.

- 6.28 The Manager may, after receiving an application from a young person or on the Manager's own initiative, issue an Interstate Leave Permit to a young person that authorises the young person's leave from a detention place to travel to and from, and remain in, another state.
- 6.29 In making a decision to issue an Interstate Leave Permit under 6.28 the Manager must consider the purpose of the leave and the young person's best interests.
- 6.30 In making a decision to issue an Interstate Leave Permit under 6.28 the Manager may consider each of the following matters that are relevant:
- (a) the young person's views
  - (b) the views of persons with parental responsibility for the young person
  - (c) the young person's legal status
  - (d) the length of the young person's detention
  - (e) the young person's behaviour
  - (f) the young person's security classification
  - (g) the young person's case management plan
  - (h) any other relevant matter.
- 6.31 The Manager may issue an Interstate Leave Permit for a young person with a high security classification only if the leave is to enable the young person to receive a health service or for a compassionate reason.
- 6.32 The Manager may issue an Interstate Leave Permit for a young person in any other case for any purpose the Manager believes on reasonable grounds is appropriate.
- 6.33 The Manager may prescribe necessary and reasonable conditions to which the Interstate Leave Permit is subject. Examples of conditions include:
- (a) that the young person is to be escorted during the period of the direction
  - (b) that the young person is not to have contact with a stated person or be at or near a stated place
  - (c) that the young person is to be subject to the supervision of a stated person during the direction
  - (d) that the young person is to be subject to restraint (e.g. the use of handcuffs).
- 6.34 Any conditions to which the direction is subject must be stated in the Interstate Leave Permit.
- 6.35 The Interstate Leave Permit form must be used.

*Effect of Interstate Leave Permit*

- 6.36 An Interstate Leave Permit for a young person is the lawful authority for the young person to be absent from a detention place in accordance with the permit.
- 6.37 An Interstate Leave Permit may authorise the leave to be unescorted or escorted.
- 6.38 A young person who is absent from a detention place under an Interstate Leave Permit is in the legal custody of the Director-General. This applies regardless of whether the Interstate Leave Permit is subject to a condition that the young person is under escort.

- 6.39 A young person who is subject to an Interstate Leave Permit with a condition that the leave is escorted is in the legal custody of both the Director-General and the escort officer.

### Escorted Interstate Leave

#### *Legal authority for escort*

- 6.40 An Interstate Leave Permit with a condition that the young person is escorted by an escort officer is the legal authority for the escort officer to escort the young person to and within the state stated in the permit and back to a detention place.
- 6.41 The Interstate Leave Permit also authorises the escort officer to escort the young person through a state to another state.

#### *Powers of escort officers*

- 6.42 An escort officer escorting a young person under an Interstate Leave Permit has powers to take and keep custody of the young person under the permit.
- 6.43 An escort officer may give the young person any direction that the officer believes on reasonable grounds is necessary and reasonable for the safe custody of the young person under the permit. Examples of directions that an escort officer may give include:
- (a) a direction that the young person not have contact with a particular person
  - (b) a direction that the young person remain within sight of the escort officer
  - (c) a direction that the young person remain at a certain place for a stated period.
- 6.44 A young person must comply with any direction given to the young person by the Director-General or delegate.
- 6.45 Non-compliance by a young person with a direction given by the Director-General or delegate is a behaviour breach and may be responded to through the behaviour management policy (refer to Behaviour Management Policy and Procedures).
- 6.46 An escort officer may use force in accordance with the Use of Force Policy and Procedure to keep custody of the young person under the Interstate Leave Permit.
- 6.47 An escort officer escorting a young person under an Interstate Leave Permit may conduct a scanning search, frisk search or ordinary search of the young person if the officer suspects on reasonable grounds that the young person may be carrying a prohibited thing.
- 6.48 For a scanning, frisk or ordinary search under 6.47 an escort officer escorting a young person under an Interstate Leave Permit must apply the search rules outlined in the Search and Seizure Policy and Procedures.

### Contravention of Interstate Leave Permit

- 6.49 A young person who is subject to an Interstate Leave Permit must carry the Interstate Leave Permit with them while absent from a detention place under the leave permit.

- 6.50 For a young person on unescorted leave under an Interstate Leave Permit, the Manager may revoke the Interstate Leave Permit and notify police if information is received that a young person is not complying with the conditions of the leave permit.
- 6.51 For a young person on unescorted leave under an Interstate Leave Permit, the procedures at 'Failure to return to detention place following unescorted leave' must be applied if the young person fails to return to a detention place by the date and time required by the leave permit.
- 6.52 For a young person on escorted leave under an Interstate Leave Permit, the procedures at 'Attempted escape or escape from custody of escort officer under leave permit' must be applied if the young person escapes or attempts to escape lawful custody.
- 6.53 For a young person on escorted leave under an Interstate Leave Permit, the procedures at 'Other grounds for revoking leave permit' must be applied if the escort officer has concerns about the safety or secure custody of the young person under escort, their own safety or the safety of another person.
- 6.54 A young person commits a behaviour breach if the young person contravenes a condition of an Interstate Leave Permit (refer to Behaviour Management Policy and Procedures).

#### Failure to Return to Detention Place Following Unescorted Leave

- 6.59 A young person who fails to return to a detention place by the required date and time following a period of unescorted leave under a Local Leave Permit or Interstate Leave Permit is in contravention of the permit.
- 6.60 If a young person fails to return to a detention place from unescorted leave by the required date and time, the Unit Manager must:
- (a) attempt to contact the young person by telephone at the location of the approved leave and determine if there is a reason why the young person has been delayed. If the young person is contacted, the Unit Manager must arrange for the young person to be picked up and escorted back to the detention place immediately
  - (b) if unable to contact the young person, the Unit Manager must contact the identified contact person with whom the young person is on leave (e.g. parent, school or service provider) and determine if there is a reason why the young person has been delayed in returning to the detention place. If the Unit Manager identifies the young person is still at the leave location and has been delayed, the Unit Manager must arrange for the young person to be picked up and escorted back to the detention place immediately
  - (c) if the Unit Manager is unable to contact either the young person, the contact person or another suitable person, the Unit Manager must notify the Manager and then call the police to advise them that a young person is in contravention of a leave permit and provide all necessary details to assist the police in locating the young person
  - (d) the Unit Manager must continue to attempt to contact the young person or contact person until they make contact, return or are located by the police

- (e) the Unit Manager must continue to keep the Manager informed of the situation and any progress or changes.

#### Attempted Escape or Escape from Custody Under a Leave Permit

- 6.61 If a young person attempts to escape or escapes from the custody of an escort officer during escorted leave under a Local Leave Permit or Interstate Leave Permit, the escort officer must:
- (a) make all attempts to prevent the young person from escaping, including using such force as is necessary to prevent the young person escaping. Any use of force must be consistent with the Use of Force Policy and Procedures
  - (b) if the young person successfully escapes, contact the detention place (Control Room) and notify the Unit Manager or if unavailable, the most senior staff member of the situation and where appropriate seek and/or follow further direction
  - (c) where possible and safe to do so (without risk of harm to the young person, staff member or any other person) attempt to follow the young person and persuade them to stop and return to the detention place
  - (d) notify the police in the local jurisdiction of the young person escaping from custody and provide all necessary details to assist the police in locating the young person
  - (e) provide regular updates to the police and the detention place on the situation including any changes or progress.
- 6.62 Upon receiving notification from an escort officer that a young person has escaped from the custody of the escort officer, the Unit Manager or next most senior operational officer must:
- (a) notify the Manager immediately who must revoke the leave permit and give further directions and conditions for the escort
  - (b) maintain regular contact with the escort officer and provide directions with respect to further actions to be undertaken
  - (c) arrange for the notification of the young person's person with parental responsibility
  - (d) continue to keep the Manager and person with parental responsibility informed of the situation and any progress or changes.

#### Other Grounds for Revoking Leave Permit

- 6.63 If, during an escort of a young person under a Local Leave Permit or Interstate Leave Permit, an escort officer has concerns about the safety or secure custody of the young person under escort, their own safety or the safety of another person (e.g. due to the behaviour of the young person or another person), the escort officer must:
- (a) where possible and safe to do so, take necessary action to maintain safe and secure custody of the young person, including using necessary and reasonable force consistent with the Use of Force Policy and Procedure
  - (b) contact the detention place (Control Room) and notify the Unit Manager or if unavailable, the most senior staff member of the situation
  - (c) follow further directions and conditions for the escort, which may include a direction for the escort officer to return the young person to a detention place or take the young person to another place.

- 6.64 Upon receiving notification from an escort officer of the escort officer's concerns for the safety and security of the escort, the Unit Manager or next most senior operational officer must:
- (a) notify the Manager immediately who may revoke the leave permit and give further directions and conditions for the escort, including a direction for the escort officer to return the young person to a detention place or take the young person to another place
  - (b) maintain regular contact with the escort officer and provide directions with respect to further actions to be undertaken
  - (c) continue to keep the Manager informed of the situation and any progress or changes.

#### Reporting Contravention of Leave Permits

- 6.65 Upon receiving notification that a young person has contravened a Local Leave Permit or Interstate Leave Permit, the Manager must immediately notify the Director. The Manager must also, if the Director-General has parental responsibility for the young person, notify Child and Youth Protection Services.

#### Provision of Information, Review of Decisions and Complaints

- 6.66 Following an application received from a young person for a Local Leave Permit or Interstate Leave Permit and a decision by the Manager to refuse to issue a leave permit, the Manager must ensure the young person is informed of the decision and the reasons for the decision.
- 6.67 After making a decision to issue a Local Leave Permit or Interstate Leave Permit for a young person, the Manager must arrange for a person with parental responsibility for the young person or nominated person to be notified of the leave permit.
- 6.68 Staff must ensure young people, people with parental responsibility, nominated persons, family and visitors are provided with information about matters that affect them in a timely manner and in a manner that is likely to be understood.
- 6.69 A young person, person with parental responsibility, nominated person, family and visitors are able to request a review of a decision or make a complaint about something that happens at a detention place to a youth worker, Manager, the ACT Public Advocate, the Official Visitor, the Children, Youth and Families Complaints Unit, or the Supreme Court under the *Administrative Decisions (Judicial Review) Act 1989*.
- 6.70 Staff must ensure that the Complaints Management Policy and Procedures is followed.

#### Records and Reporting

- 6.71 The Manager must notify the Director, Child and Youth Protection Services Operations of the following decisions under this policy and procedures:
- (a) a decision to grant a Local Leave Permit or Interstate Leave Permit to a young person
  - (b) a decision to refuse to issue a Local Leave Permit or Interstate Leave Permit to a young person

- (c) a decision to revoke a young person's Local Leave Permit or Interstate Leave Permit.
- 6.72 Any actions taken under this policy and procedure must be recorded according to the requirements set out in the Records and Reporting Policy and Procedures
- 6.73 All staff are mandated reporters under the *Children and Young People Act 2008*. A report must be made to Child and Youth Protection Services if a staff member reasonably believes that a young person who is aged under 18 years has experienced or is experiencing sexual abuse or non-accidental physical injury by any person.

## **7. Forms and Templates**

Incident report form  
Interstate leave permit form  
Local leave permit form  
Request for local and interstate leave form

## **8. Related Policies and Procedures**

### Policies and Procedures under the *Children and Young People Act 2008*

Behaviour Management Policy and Procedures  
Complaints Management Policy and Procedures  
Death in Custody Policy and Procedures  
Discipline Policy and Procedures  
Escorts Policy and Procedures  
Search and Seizure Policy and Procedures  
Transfers Policy and Procedures  
Use of Force Policy and Procedures

### Policies and Procedures in Child and Youth Protection Services

Single Case Management Policy and Procedures

## **9. Further References**

NA

## **10. Review**

- 10.1 This policy and procedure will be reviewed at least once every two years.