

Australian Capital Territory

Children and Young People (Chapter 13A) Delegation 2007 (No 1)*

Instrument of Delegation NI2007-359

made under the

Public Sector Management Act 1994 Division 3.5 (Powers of Delegation)

Under section 36 (4) of the *Public Sector Management Act 1994*, I hereby delegate powers and functions of the chief executive under Chapter 13A of the *Children and Young People Act 1999* to the holders of positions, as specified in the attached table, titled Delegations for Chapter 13A CYPA 1999.

Sandra J Lambert
Chief Executive
Department of Disability, Housing and Community Services

Date: 8 October 2007

*Name amended under Legislation Act, s 60

**Groups of Position Numbers for Chief Executive's Delegation under
*Children and Young People Act 1999.***

Group	Description	Position Level	Position Numbers
A	Executive Director, Children Youth & Family Support	E00386	
B	Director Client & Adolescent Services	E00389	
C	Youth Justice Detention Centre (Senior Manager)	SOG A	P449
D	Community Youth Justice (Senior Manager)	SOG A	P04386
E	Turnaround (Coordinator)	HP 4	P07271
F	Youth Justice Detention Centre (Operations Manager)	SOG C	P00411
G	Youth Justice Detention Centre (Program and Services Manager)	SPOG C	P02344
H	Youth Justice Detention Centre (Case Manager)	ASO 6	P07873
I	Youth Justice Detention Centre (Case Manager)	PO 2	P43705
J	Youth Justice Detention Centre (Unit Manager)	ASO 6	P02885 P02886 P02888
K	Youth Justice Detention Centre (Facilities/Services Manager)	ASO 5	P03294
L	Youth Justice Detention Centre (Team Leader)	ASO 5	P3291 P3292 P3293 P3295 P4497 P4499 P4500
M	Youth Justice Detention Centre (Youth Workers)	ASO 3/4	P03301 P03297 P03300 P03302 P03303 P3304 P03299 P7286 P11441 P43423 P03331 P03305 P03306 P03307 P03308 P03309 P03310 P03311 P03312 P03314 P03315 P03316 P03317 P03327 P03328 P03329 P03330 P43708 P43709 P43710 P43712 P43713
N	Community Youth Justice (Assistant Manager)	SOG C	P11379 P07466
O	Community Youth Justice (Team Leader)	HP 3	P07791 P12022
P	Integrated Court Unit (Youth Justice Court Officer)	HP 3	P12040
Q	Community Youth Justice (Case Manager)	HP 2	P44588 P43690 P11991 P11596 P11426 P11424 P11411 P11409 P07401 P07402 P07403 P07731
R	Community Youth Justice (Community Service Supervisor)	ASO 3	P11462
S	Integrated Court Unit (Court Manager)	L 2	P02789
T	Turnaround (Case Coordinator)	HP 3	P43999 P07457 P07458 P07460

U	Integrated Court Unit (Senior Court Officer/Solicitor)	SPO B	T0201
V	Integrated Court Unit (Senior Court Officer)	SOG C	P10948
W	Integrated Court Unit (Senior Court Officer)	HP 4	P11298 P07517
X	Integrated Court Unit (Court Officer)	HP 3	P10151
Y	Integrated Court Unit (Administration Law Officer)	HP 3	P07817
Z	Integrated Court Unit (Administration Officer)	ASO 4	P07518
AA	Youth Justice Detention Centre (Indigenous Support Worker)	ASO 5	P03296
BB	Youth Justice Detention Centre (Business Manager)	ASO 6	P03519
CC	Youth Justice Detention Centre (Business Support Officer)	ASO 4	P07674

<p>A B C F G</p>	<p>Subject: Powers and/or functions: Reference:</p>	<p>Authorised health professionals</p> <p>(1) The chief executive may authorise a health professional to exercise functions under this chapter.</p> <p><i>Note</i> Health professional includes a doctor and nurse registered under the <i>Health Professionals Act 2004</i>.</p> <p>(2) However, the chief executive must ensure, as far as practicable, that a detainee's treating health professional is not asked to exercise a function as an authorised health professional under this chapter in relation to the detainee.</p> <p>(3) Subsection (2) does not apply if the chief executive believes on reasonable grounds that—</p> <ul style="list-style-type: none"> (a) there is an imminent and serious threat to the personal safety of the detainee or someone else; and (b) compliance with subsection (2) would exacerbate the threat. <p>(4) In this section: treating health professional, in relation to a detainee, means a health professional who has a professional relationship with the detainee for the provision of health services.</p> <p>Section 401AE</p>
<p>C</p>	<p>Subject: Powers and/or functions</p>	<p>Register of searches</p> <p>(1) This section applies to a search under any of the following sections:</p> <ul style="list-style-type: none"> (a) section 401AM (Admission to youth detention centre—strip search for initial assessment); (b) section 401AQ (Strip searches directed by chief executive); (c) section 401AW (Body searches directed by chief executive); (d) section 401AZG (Searches—premises and property generally); (e) section 401AZH (Searches of detainee cells—privileged material); (f) section 401AZI (Searches of detainee cells—suspected privileged material). <p>(2) The chief executive must keep a register containing the following details in relation to each search:</p> <ul style="list-style-type: none"> (a) the name of each detainee searched; (b) the reason for the search; (c) when and where the search was conducted; (d) the name of each person present at any time during the search; (e) details of anything seized during the search; (f) details of any force used for conducting the search, and why force was used; (g) anything else prescribed by regulation. <p>(3) The register may contain any other details the chief executive considers relevant.</p> <p>(4) The register must be available for inspection by any of the following:</p> <ul style="list-style-type: none"> (a) a judge or magistrate; (b) the official visitor; (c) the human rights commissioner; (d) the privacy commissioner; (e) the public advocate;

	Reference:	<p>(f) the ombudsman; (g) anyone else prescribed by regulation.</p> <p>(5) The public advocate must inspect the register at least once every 3 months.</p> <p>Section 401AG</p>
C F G J L	<p>Subject:</p> <p>Powers and/or functions:</p> <p>Reference:</p>	<p>Notice of strip and body searches – person with parental responsibility for a detainee</p> <p>The chief executive must ensure, as far as practicable, that another person with parental responsibility for a detainee is told about any strip search or body search of the detainee—</p> <p>(a) before the search is conducted; or</p> <p>(b) if it is impracticable to tell the person before the search—as soon as practicable after the search.</p> <p>Note 1 <i>In some circumstances the chief executive is a person with parental responsibility for a detainee (see s 224).</i></p> <p>Note 2 <i>A proposed strip or body search need not be conducted in the presence of the person notified (see s 401AM, s 401AQ and s 401AY).</i></p> <p>Section 401AI</p>
C F G J L	<p>Subject:</p> <p>Powers and/or functions:</p> <p>Reference:</p>	<p>Directions for scanning, frisk and ordinary searches</p> <p>(1) The chief executive may, at any time, direct a youth detention officer to conduct a scanning search, frisk search or ordinary search of a detainee if the chief executive believes, on reasonable grounds, that the search is prudent to ensure security or good order at a detention centre.</p> <p>(2) Also, a youth detention officer may conduct a scanning search, frisk search or ordinary search of a detainee if the officer suspects, on reasonable grounds, that the detainee is carrying—</p> <p>(a) a prohibited thing; or</p> <p>(b) something that may be used by the detainee in a way that may involve—</p> <p>(i) an offence; or</p> <p>(ii) a risk to the personal safety of the detainee or someone else;</p> <p>or</p> <p>(iii) a risk to security or good order at a youth detention centre.</p> <p>Section 401AJ</p>
C F G J L	<p>Subject:</p> <p>Powers and/or functions:</p>	<p>Admission to youth detention centre – initial assessment</p> <p>(1)The chief executive must ensure that—</p> <p>(a) each detainee admitted to a youth detention centre is assessed as soon as practicable to identify any immediate—</p> <p>(i) physical or mental health needs or risks; and</p> <p>(ii) safety or security needs or risks; and</p> <p>(b) any needs and risks identified by the assessment are addressed.</p> <p>(2) The assessment under subsection (1) of a detainee’s health needs or risks (the health assessment) must be made within 24 hours after</p>

	Reference:	<p>the detainee's admission to a youth detention centre.</p> <p>(3) The health assessment must—</p> <p>(a) be made by a doctor or nurse who is not an authorised doctor or authorised nurse in relation to the detainee; and</p> <p>(b) include an assessment (the <i>self-harm assessment</i>) of the detainee's risk of self-harm.</p> <p>(4) However, the self-harm assessment may be made by a health professional other than the nurse or doctor.</p> <p>Note <i>The Mental Health (Treatment and Care) Act 1994 also includes provision for assessment orders, and emergency detention and care, under that Act.</i></p> <p>Section 401AL</p>
C F G J L	<p>Subject:</p> <p>Powers and/or functions:</p> <p>Reference:</p>	<p>Admission to youth detention centre – strip search for initial assessment</p> <p>(1) The chief executive may direct a youth detention officer to strip search a detainee if the chief executive believes on reasonable grounds that the strip search is necessary for an assessment under section 401AL.</p> <p>(2) The strip search must be conducted in the presence of a person with parental responsibility for the detainee if—</p> <p>(a) the chief executive believes, on reasonable grounds, that it is necessary and prudent for the person to be present; and</p> <p>(b) the detainee agrees to the person being present.</p> <p>(3) In making a decision under subsection (1) or (2), the chief executive must have regard to the detainee's age, maturity and any known history.</p> <p>Section 401AM</p>
C F G J L	<p>Subject:</p> <p>Powers and/or functions:</p>	<p>Strip search on admission – no-one with parental responsibility for detainee available</p> <p>(1) This section applies in relation to a strip search of a detainee under section 401AM if—</p> <p>(a) a person with parental responsibility for the detainee cannot be contacted before the search is conducted; or</p> <p>Note <i>For a requirement to contact a person with parental responsibility, see s 401A1.</i></p> <p>(b) no-one with parental responsibility for the detainee is available to be present at the search; or</p> <p>(c) the detainee does not agree to a person with parental responsibility for the detainee being present at the search.</p> <p>(2) The chief executive must ensure that the strip search is conducted in the presence of someone (a <i>support person</i>) who—</p> <p>(a) the chief executive believes on reasonable grounds can support and represent the interests of the detainee; and</p> <p>(b) the detainee agrees should be present at the search.</p> <p>Note <i>In some circumstances the chief executive is a person with parental responsibility for a detainee (see s 224).</i></p> <p>(3) However, the search may continue in the absence of a support</p>

	Reference:	<p>person if—</p> <p>(a) the detainee does not agree to a support person being present; or</p> <p>(b) the chief executive directs the support person to leave under section 401AO (2).</p> <p>Section 401AN</p>
C F G J L M	<p>Subject:</p> <p>Powers and/or functions:</p> <p>Reference:</p>	<p>Strip search on admission – directing person to leave</p> <p>(1) This section applies if a strip search of a detainee under section 401AM is being conducted in the presence of—</p> <p>(a) a person with parental responsibility for the detainee; or</p> <p>(b) a support person under section 401AN (2).</p> <p>(2) The chief executive may direct the person to leave if the chief executive believes, on reasonable grounds, that the person is preventing or hindering the conduct of the search.</p> <p>Section: 401AO</p>
C F G J L M	<p>Subject:</p> <p>Powers and/or functions:</p> <p>Reference:</p>	<p>Removing people from search area</p> <p>(1) The chief executive may direct a youth detention officer to enforce a direction under section 401AO (2) if the person given the direction contravenes the direction.</p> <p>(2) The youth detention officer may use force that is necessary and reasonable to enforce the direction.</p> <p>Section 401AP</p>
C F G J L	<p>Subject:</p> <p>Powers and/or functions:</p> <p>Reference:</p>	<p>Strip searches directed by chief executive</p> <p>(1) The chief executive may direct a youth detention officer to strip search a detainee only if—</p> <p>(a) the chief executive suspects, on reasonable grounds, that the detainee has something concealed on the detainee that—</p> <p>(i) is a prohibited thing; or</p> <p>(ii) may be used by the detainee in a way that may involve an offence, a risk to the personal safety of the detainee or someone else, or a risk to security or good order at a youth detention centre; and</p> <p>(b) a scanning search, frisk search or ordinary search of the detainee has failed to detect the thing.</p> <p>(2) To remove any doubt, the strip search need not be conducted in the presence of a person with parental responsibility for the detainee.</p> <p>(3) This section does not apply to a strip search under section 401AM (Admission to youth detention centre—strip search for initial assessment).</p> <p>Section 401AQ</p>
C F G J	<p>Subject:</p> <p>Powers and/or functions:</p>	<p>Youth detention officers at strip searches</p> <p>(1) A strip search of a detainee must be conducted—</p> <p>(a) by a youth detention officer of the same sex as the detainee;</p>

L	Reference:	<p>and</p> <p>(b) in the presence of 1 or more other youth detention officers each of whom must be the same sex as the detainee.</p> <p>(2) However, the number of youth detention officers present during the search must be no more than is necessary and reasonable to ensure the search is carried out as safely and effectively as possible.</p> <p>(3) The youth detention officer conducting the search may direct another youth detention officer mentioned in subsection (1) (b) to provide assistance that the conducting officer believes, on reasonable grounds, is necessary and reasonable for the search.</p> <p>(4) The requirement in subsection (1) (b) that a youth detention officer be the same sex as the detainee does not apply if the chief executive believes on reasonable grounds that—</p> <p>(a) there is an imminent and serious threat to the personal safety of the detainee or someone else; and</p> <p>(b) compliance with that requirement would exacerbate the threat.</p> <p>Section 401AS</p>
C F G J	<p>Subject:</p> <p>Powers and/or functions:</p> <p>Reference:</p>	<p>Body searches directed by chief executive</p> <p>(1) The chief executive may direct an authorised doctor to conduct a body search of a detainee if the chief executive suspects, on reasonable grounds, that the detainee—</p> <p>(a) has ingested or inserted something in the detainee's body that may jeopardise the detainee's health or wellbeing; or</p> <p>(b) has a prohibited thing concealed within the detainee's body that may be used in a way that may pose a substantial risk to security or good order at a youth detention centre.</p> <p>(2) In making a decision under subsection (1), the chief executive must have regard to the detainee's age, maturity and any known history.</p> <p>Section 401AW</p>
C F G J L M	<p>Subject:</p> <p>Powers and/or functions:</p> <p>Reference:</p>	<p>Obligations of chief executive before body search</p> <p>(1) This section applies if the chief executive proposes to direct a body search of a detainee under section 401AW.</p> <p>(2) The chief executive must tell the detainee—</p> <p>(a) whether the detainee will be required to remove clothing during the search; and</p> <p>(b) if the detainee will be required to remove clothing, why the removal is necessary.</p> <p>(3) If the detainee asks why the search is to be conducted in a particular way, the chief executive must tell the detainee the reasons.</p> <p>(4) The chief executive must ask for the detainee's cooperation for the search.</p> <p>(5) The chief executive must ensure that a body search is conducted—</p> <p>(a) in a private area or an area that provides reasonable privacy for the detainee; and</p> <p>(b) in a way that provides reasonable privacy.</p> <p>Section 401AX</p>

<p>C F G J L</p>	<p>Subject: Powers and/or functions: Reference:</p>	<p>People present at body searches</p> <p>(1) An authorised nurse must be present during the body search of a detainee.</p> <p>(2) If the authorised doctor conducting the body search is not the same sex as the detainee, the authorised nurse present must be the same sex as the detainee.</p> <p>(3) The chief executive may direct 1 or more youth detention officers to be present during the search, each of whom must be the same sex as the detainee.</p> <p>(4) However, the number of youth detention officers present during the search must be no more than is necessary and reasonable to ensure the search is carried out as safely and effectively as possible.</p> <p>(5) The requirement in subsection (3) that a youth detention officer be the same sex as the detainee does not apply if the chief executive believes on reasonable grounds that—</p> <p style="padding-left: 20px;">(a) there is an imminent and serious threat to the personal safety of the detainee or someone else; and</p> <p style="padding-left: 20px;">(b) compliance with that requirement would exacerbate the threat.</p> <p>(6) The search must be conducted in the presence of a person with parental responsibility for the detainee if—</p> <p style="padding-left: 20px;">(a) the chief executive believes that it is necessary and prudent for the person to be present; and</p> <p style="padding-left: 20px;">(b) the detainee agrees to the person being present.</p> <p>(7) In making a decision under subsection (6), the chief executive must have regard to the detainee's age, maturity and any known history.</p> <p>Section 401AY</p>
<p>C F G J L</p>	<p>Subject: Powers and/or functions:</p>	<p>Body searches – no-one with parental responsibility for detainee available</p> <p>(1) This section applies in relation to a body search of a detainee if—</p> <p style="padding-left: 20px;">(a) a person with parental responsibility for the detainee can not be contacted before the search is conducted; or</p> <p style="padding-left: 20px;"><i>Note For a requirement to contact a person with parental responsibility, see s 401AI.</i></p> <p style="padding-left: 20px;">(b) no-one with parental responsibility for the detainee is available to be present at the search; or</p> <p style="padding-left: 20px;">(c) the detainee does not agree to a person with parental responsibility for the detainee being present at the search.</p> <p>(2) The chief executive must ensure that the body search is conducted in the presence of someone (a support person) who—</p> <p style="padding-left: 20px;">(a) the chief executive believes on reasonable grounds can support and represent the interests of the detainee; and</p> <p style="padding-left: 20px;">(b) the detainee agrees should be present at the search.</p> <p style="padding-left: 20px;"><i>Note</i> In some circumstances the chief executive is a person with parental responsibility for a detainee (see s224).</p> <p>(3) However, the body search may continue in the absence of a support person if—</p> <p style="padding-left: 20px;">(a) the detainee does not agree to a support person being present; or</p> <p style="padding-left: 20px;">(b) the chief executive directs the support person to leave under</p>

	Reference:	section 401AZA (2). Section 401AZ
C F G J L M	Subject: Powers and/or functions: Reference:	Body search – directing person to leave (1) This section applies if a body search of a detainee is being conducted in the presence of— (a) a person with parental responsibility for the detainee; or (b) a support person under section 401AZ. (2) The chief executive may direct the person to leave if the chief executive believes, on reasonable grounds, that the person is preventing or hindering the conduct of the search. Section 401AZA
C F G J L M	Subject: Powers and/or functions: Reference:	Removing people from search area (1) The chief executive may direct a youth detention officer to enforce a direction under section 401AZA (2) if the person given the direction contravenes the direction. (2) The youth detention officer may use force that is necessary and reasonable to enforce the direction. Section 401AZB
C F G J L M	Subject: Powers and/or functions: Reference:	Help for body searches (1) This section applies if the authorised doctor conducting a body search of a detainee asks the chief executive for assistance that the doctor believes on reasonable grounds is necessary and reasonable for the search. (2) The chief executive may direct, a youth detention officer, or authorise someone else present at the search (the <i>assistant</i>), to assist in the conduct of the search. (3) However, the assistant must be the same sex as the detainee. (4) Subsection (3) does not apply if the chief executive believes on reasonable grounds that— (a) there is an imminent and serious threat to the personal safety of the detainee or someone else; and (b) compliance with subsection (3) would exacerbate the threat. Section 401AZC
C F G J L	Subject: Powers and/or functions:	Searches – premises and property generally (1) The chief executive may, at any time, direct a youth detention officer to search— (a) any part of a youth detention centre; or (b) anything at a youth detention centre, including anything in the custody or possession of anyone at a youth detention centre; or (c) any vehicle used for transporting a detainee. Examples of searches under this section <i>a search of any of the following for a prohibited thing:</i> • any area or building or part of a building (including a cell) at

	Reference:	<p><i>a youth detention centre</i></p> <ul style="list-style-type: none"> • <i>any storage area, including an area used by detainees or youth detention officers, at a youth detention centre</i> • <i>any vehicle, machinery or equipment at a youth detention centre</i> <p><i>Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s126 and s132).</i></p> <p>(2) However, this section does not authorise a search of— (a) anyone at a youth detention centre; or (b) any clothing being worn at the time of the search by anyone at a youth detention centre.</p> <p>(3) In this section: search includes search— (a) with a device using electronic or other technology; and (b) by physical means.</p> <p>Section 401AZG</p>
C F G J L	Subject: Powers and/or functions: Reference:	<p>Searches of detainee cells – privileged material</p> <p>(1) This section applies if a detainee has privileged material at a youth detention centre.</p> <p>(2) A youth detention officer may search the detainee's cell under section 401AZG in the absence of the detainee if— (a) the detainee removes the privileged material from the cell; or (b) the privileged material is stored in accordance with arrangements under subsection (3).</p> <p>(3) The chief executive may make arrangements for the secure storage at a youth detention centre of privileged material for detainees.</p> <p>Section 401AZH</p>
C F G J L M	Subject: Powers and/or functions: Reference:	<p>Searches – managing use of force</p> <p>(1) The chief executive must ensure, as far as practicable, that the use of force in relation to a detainee under this chapter is always— (a) the last resort and does not involve more force than necessary and reasonable in the circumstances; and (b) by a youth detention officer of the same sex as the detainee; and (c) in accordance with— (i) this section; and (ii) the standing orders.</p> <p>(2) The standing orders may make provision in relation to the use of force, including provision in relation to the following: (a) the circumstances in which, and by whom, force may be used; (b) the kinds of force that may be used; (c) the use of restraints and weapons; (d) requirements for medical examination after the use of force.</p> <p><i>Note The power to make standing orders includes power to make different provisions in relation to different matters or different classes of matters, and provisions that apply differently by reference to stated exceptions or factors (see Legislation Act, s 48).</i></p>

	Reference:	<p>(ii) after making reasonable efforts (given the thing's apparent value), the thing cannot be returned to the owner; or</p> <p>(b) that—</p> <p>(i) possession of the thing by a detainee is an offence; or</p> <p>(ii) it is necessary to keep the thing to stop it being used for the commission of an offence; or</p> <p>(iii) the thing is inherently unsafe.</p> <p>(2) The chief executive may deal with a thing forfeited to the Territory under this section, or dispose of it, as the chief executive considers appropriate.</p> <p>Examples</p> <p><i>1 giving a forfeited weapon to a youth detention officer</i></p> <p><i>2 dumping a forfeited thing of little value</i></p> <p><i>Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s126 and s132).</i></p> <p>(3) However, subsection (2) is subject to any order under the <i>Crimes Act 1900</i>, section 249 (Seizure of forfeited articles).</p> <p><i>Note 1 The Crimes Act 1900 also provides for articles forfeited under any law in force in the ACT to be seized by a member of the police force, taken before the Magistrates Court and for the court to order disposal of the article by the public trustee (see s249 and s250).</i></p> <p><i>Note 2 The Uncollected Goods Act 1996 provides generally for the disposal of uncollected goods, including goods abandoned on premises controlled by the Territory.</i></p> <p>Section 401AZO</p>
C F G J L M	<p>Subject:</p> <p>Powers and/or functions:</p> <p>Reference:</p>	<p>Return of things seized but not forfeited</p> <p>(1) If a thing seized under section 401AZL (Seizing mail etc) or section 401AZM (Seizing property—general) is not forfeited, the chief executive must return it to its owner—</p> <p>(a) at the end of the 6 months after the day it was seized; or</p> <p>(b) if a proceeding for an offence involving the thing is started within the 6 months—at the end of the proceeding and any appeal from the proceeding.</p> <p>(2) However, if the thing was being kept as evidence of an offence and the chief executive believes, on reasonable grounds, that its retention as evidence is no longer necessary, the chief executive must return the thing immediately.</p> <p>(3) In this section:</p> <p>owner, of a thing, includes a person entitled to possession of the thing.</p> <p>Section 401AZP</p>