

Australian Capital Territory

## **Children and Young People (Health and Wellbeing) Policy and Procedures 2018 (No.1)**

**Notifiable instrument NI2018-434**

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 (Health and Wellbeing) Policy and Procedures 2018 (No.1)*.

### **2 Commencement**

This instrument is to commence the day after notification.

### **3 Repeal**

NI2015-379 is revoked.

### **4 Policies and operating procedures**

Under section 143 of the *Children and Young People Act 2008*, I make the attached Health and Wellbeing 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

# Health and Wellbeing Policy and Procedures

## 1. Introduction and Purpose

This policy and procedures establishes that young people will have access to a comprehensive range of health care services as well as health promotion services and programs at a detention place that maintain or improve their level of health and wellbeing. Therapeutic services will be performed by a treating doctor appointed by the Director-General, ACT Health. The Director-General, Community Services Directorate and delegates are responsible for facilitating the execution of treating functions by health professionals, maintaining minimum standards of health care and authorising health professionals to exercise non-therapeutic functions under the *Children and Young People Act 2008*.

## 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. The provisions of the Act must be complied with at all times by staff exercising functions at a detention place.
- 2.2 The following sections of the Act provide the legal authority and obligations for health services provided to a child or young person at a detention place:
- (a) Section 97 Treating doctors - health service appointments
  - (b) Section 98 Health professionals - non-treating functions
  - (c) Section 160 Initial assessment
  - (d) Section 161 Health assessment
  - (e) Section 162 Alcohol and drug tests on admission
  - (f) Section 180 Health care
  - (g) Section 181 Director-General's consent to medical treatment
  - (h) Section 182 Injury - notifying people responsible for or nominated by young detainees
  - (i) Section 186 Health reports
  - (j) Section 187 Use of medicines
  - (k) Section 214 Segregation - health
- 2.3 In addition to the Act, the *Health Act 1993*, *Health Records (Privacy and Access) Act 1997* and *Mental Health (Treatment and Care) Act 1994* also guide the provision of health services at a detention place.
- 2.4 The policies and procedures provide specific directions to implement the provisions of the Act and other relevant legislation, including the *Human Rights Act 2004*.
- 2.5 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.

**Section 27 Rights of minorities**

- (1) Anyone who belongs to an ethnic, religious or linguistic minority must not be denied the right, with other members of the minority, to enjoy his or her culture, to declare and practise his or her religion, or to use his or her language.

- 2.6 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 Rule 13.5, 17.3, 26.4
  - (c) United Nations Rules for the protection of Juveniles Deprived of their Liberty Rule 12, 19, 28, 31, 47, 49, 50, 51, 52, 53, 54, 55, 56, 87 (d),(e)
  - (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) Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
  - (g) United Nations Declaration on the Rights of Indigenous People.

**3. Authorisations and Delegations**

- 3.1 The Manager is responsible for ensuring that minimum standards relating to the health and wellbeing of young people outlined in the Act and this policy and procedures are met.
- 3.2 The Manager is responsible for ensuring that only non-treating health professionals are authorised to exercise non-treating functions. The purpose of creating two sets of health professionals (treating or therapeutic and non-treating) is to prevent treating doctors and other treating health professionals from having to engage in health and medical functions that are related to the security of a detention place. This meets human rights standards designed to protect the trust and confidence of young people in a doctor or other health professional who provides treatment to them.

Examples of treating functions	Examples of non-treating functions
Health assessment	Conducting body searches
Health treatment	Assisting at body searches
Referral to specialist services	Sample collection for alcohol and drug testing
Providing advice on segregation directions	Reports on the sexual identity of transgender or intersex young people

- 3.3 The Manager must ensure that a direction given by a treating health professional to protect the health of a young person under section 97(4) of the Act is complied with unless the Manager believes under exceptional circumstances that compliance would undermine safety or security of a young person or other person at a detention place. If the Manager does not comply with a treating health professional's direction, the Manager must report to the Director-General and ACT Public Advocate where a recommendation for treatment has not been actioned in the time recommended by the treating health professional.
- 3.4 This policy and procedures is to be applied by all persons transporting a young person and/or exercising escort functions under the direction of the Manager (refer to Escorts Policy and Procedures and Local and Interstate Leave Policy and Procedures).
- 3.5 The Manager must ensure staff hold current first aid qualifications.
- 3.6 The Manager must ensure staff have regular training on the identification and management of children and young people at risk of self harm and/or suicide, and with mental health problems.

#### 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 (E), Sports and recreation Officer (F). Youth worker means the same as youth detention officer in the *Children and Young People Act 2008*.

**Body search** is a search conducted by a non-treating doctor or non-treating health professional of a young person's body, including an examination of an orifice or cavity of the young person's body (refer to Search and Seizure Policy and Procedures).

**Child** means a person who is under 12 years of age (as defined under section 11 of the *Children and Young People Act 2008*).

**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.

**Code Blue** means a medical emergency.

**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.

**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.

**Health assessment** means an assessment of a young person's physical or mental wellbeing (including an initial health assessment at admission and induction to a detention centre or to a health facility).

**Health treatment** means treatment of an illness, disability, disorder or condition by a health professional.

**Health facility** means a hospital or other facility where health services are provided, for example, a dental surgery or day surgery clinic.

**Health professional** is defined in the dictionary of the *Children and Young People Act 2008* and means a health professional registered under the *Health Professionals Act 2004* or someone who is a health professional registered under a corresponding law of a local jurisdiction within the meaning of that Act. A health professional may be a non-treating health professional who is authorised to exercise non-treating functions or a treating health professional who is authorised to exercise treating or therapeutic functions.

**Health schedule** is a statement of a young person's condition prepared by a treating doctor after assessing a health report provided to detention place staff by a relevant Director-General. Section 186 of the *Children and Young People Act 2008* outlines what the health schedule must include.

**Health Segregation Direction** means a Segregation Direction made by the Manager under section 214 of the *Children and Young People Act 2008*.

**Informed consent** is an indication of consent by a person who has been given enough information to form a 'reasonable understanding' of the situation for which consent is being sought, including all reasonably possible consequences arising from the giving or withholding of consent. A youth worker seeking to determine whether a person has or can form a 'reasonable understanding' must consider the age, the assessed level of maturity and intellectual ability and mental health of the person. Where a youth worker assesses that a young person does not have a 'reasonable understanding' in relation to a matter about which informed consent is sought, the youth worker must seek consent from a person with parental responsibility for the young person.

**Intersex** means a person who, because of a genetic condition, was born with reproductive organs or sex chromosomes that are not exclusively male or female.

**Lock down** refers to the operational response that is an interruption to daily routine. Young people and other people are asked to remain in a particular place for a period of time in order to manage a risk to safety and security of young people or other people at a detention place (e.g. to manage a serious or life threatening injury or health complaint, a lock down may be required to prevent the entry to, or exit from, a detention place by any person other than emergency response services). Lock down does not involve segregation.

**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.

**Non-treating doctor** is defined at section 246 of the *Children and Young People Act 2008* to mean a doctor who is authorised, orally or in writing, by the Director-General to exercise a non-treating health function under section 98 of the Act. Non-treating health functions include conducting and assisting at body searches, identification of transgender young people and sample collecting for alcohol and drug testing.

**Non-treating health professional** is defined at section 98 of the *Children and Young People Act 2008* to mean a health professional who is authorised, orally or in writing, by the Director-General to exercise a non-treating health function. Non-treating health functions include conducting and assisting at body searches, identification of transgender young people and sample collecting for alcohol and drug testing.

**Non-treating nurse** is defined at section 246 of the *Children and Young People Act 2008* and means a nurse who is authorised, orally or in writing, by the Director-General to exercise a non-treating health function under section 98 of the Act. Non-treating health functions include conducting and assisting at body searches, identification of transgender young people and sample collecting for alcohol and drug testing.

**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.

**Register of Young Detainees** means the register that must be kept by the Director-General under section 185 of the *Children and Young People Act 2008*. The details of every young person who is admitted to a detention place must be recorded on the register at induction. The register comprises of the young person's individual Bimberi Client residential file and information stored electronically on the Youth Justice Information System (YJIS).

**Relevant Director General** means a Director-General whose administrative unit is responsible for the following Acts:

- (a) the *Corrections Management Act 2007* (under the Administrative Arrangements, this is the Director-General of the Justice and Community Safety Directorate)
- (b) the *Crimes (Sentence Administration) Act 2005* (under the Administrative Arrangements, this is the Director-General of the Justice and Community Safety Directorate)
- (c) the *Disability Services Act 1991* (under the Administrative Arrangements, this is the Director-General of the Community Services Directorate)
- (d) the *Health Act 1993* (under the Administrative Arrangements, this is the Director-General of the Health Directorate)
- (e) the *Mental Health (Treatment and Care) Act 1994* (under the Administrative Arrangements, this is the Director-General of the Health Directorate).

**Reportable incident** means an incident or event that:

- (a) significantly affects the security, operations or the routine of a detention place
- (b) disrupts or threatens to disrupt or harms or threatens to harm the personal safety of any individual at a detention place including young people, youth workers, staff or visitors
- (d) has the potential to attract media attention
- (e) involves drugs or violence.

**Segregation Direction** is a specific instruction given by the Manager for the management of a young person in a way that separates the young person from some or all other young people due to safety and security reasons (e.g. health reasons or for the young person's protection).

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

**Treating doctor** is a doctor appointed under section 97 of the *Children and Young People Act 2008* for a detention place by the Director-General responsible for the administration of the *Health Act 1993*. The treating doctor's functions are to provide health services to young people and to protect the



health of young people, including preventing the spread of disease at a detention place.

**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.

**Transgender person** means a person who identifies as a member of a different sex by living, or seeking to live, as a member of that sex; or has identified as a member of a different sex by living as a member of that sex whether or not that person is a recognised transgender person.

**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), Sports and Recreation Officer (F). 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
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- (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 child or 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.

### Operational Principles

5.2 The following considerations inform this policy and procedures:

- (a) regardless of age, disability, sexuality, gender, income, and cultural and linguistic background, all young people should receive services in a culturally specific way that is sensitive to gender and appropriate to the individual
- (b) young people in detention frequently have complex health issues and specific needs requiring specialist health service intervention. Life stage, lifestyle, substance issues, family history, and the availability of social support all affect a young person's health
- (c) some young people have experienced physical, sexual, mental and emotional abuse and neglect and, in many cases, have been unable or reluctant to access health services
- (d) health and wellbeing service needs must be assessed and understood within a framework that recognises a young person's individual

strengths in addition to any specific vulnerabilities associated with social, psychological and biological development. Special requirements of young people must be assessed and understood within the context of the young person's age, sex, emotional or psychological state, cultural background, vulnerability, social and family connectedness and individual strengths.

## **6. Policy and Procedure**

- 6.1 In applying the standards set out at section 6.10 and the legal obligations noted above, staff must have an awareness of special requirements for special population groups:

### *Aboriginal and/or Torres Strait Islander young people*

- 6.2 Staff must be aware of the specific considerations and principles in the Aboriginal and Torres Strait Islander Young People Policy and Procedures, particularly:
- (a) the impact that detention and separation can have and feelings of shame and guilt for the young person and family
  - (b) recognition of specific health considerations of Aboriginal and/or Torres Strait Islander young people
  - (c) ensuring young people can access Aboriginal and Torres Strait Islander specific health services.

### *Girls and young women*

- 6.3 Staff must be aware of the specific considerations for young women in custody as they may have untreated physical and mental health problems, for example, eating disorders and histories of sexual abuse, self-harm and suicidal behaviours. Young women may be pregnant or have children and be in need of additional support.

### *Young people with disability*

- 6.4 All sentenced young people spending 14 days or longer in custody will have an individualised case plan to identify and address their specific needs, strengths and special requirements. Staff should be aware that ensuring that the special requirements of young people with disability are addressed may involve the development of a case plan for those young people who have been remanded in custody for less than 14 days.

### *Transgender and intersex young people*

- 6.5 A transgender or intersex young person may identify the sex they choose to be identified with or if they fail to do so, the Manager may make a decision based on the young person's presentation on admission. In addition, a young person may apply to the Manager to change the sex they choose to be identified with.
- 6.6 Before making a decision regarding the sex the young person is to be identified with, the Manager must obtain a report by a non-treating doctor or other non-treating health professional about the young person's sexual identity.

- 6.7 The Manager may also obtain a report as described in 6.6 for transgender or intersex young people who have chosen their sexual identity if it is believed on reasonable grounds that:
- (a) it is in the best interests of the young person
  - (b) is necessary to make a decision in relation to the young person's placement or case management.
- 6.8 The Manager must give written notice of a decision regarding the sex the young person is to be identified with to the young person and ensure that the sex chosen by the young person or the Manager is recorded in the Register of Young Detainees.
- 6.9 In exercising functions under the policies and procedures, the sex of the young person is that entered in the Register of Young Detainees and recorded on his or her file.

#### Minimum Standards related to Health and Wellbeing

- 6.10 Section 180 of the *Children and Young People Act 2008* and the Minimum Living Conditions Policy and Procedures outline the minimum standard of health care to be provided to young people that is an entitlement for each young person at a detention place. As a minimum standard, each young person at a detention place is to have:
- (a) regular health checks
  - (b) assessment and ongoing treatment by health professionals provided in a timely manner, including mental health, medical and nursing professionals when required or requested
  - (c) suitably equipped premises for consultation, including private areas for disclosure of health information, assessment and treatment
  - (d) appropriate medication
  - (e) access to a second opinion in health matters if requested by a young person or person with parental responsibility including the Director-General or the Director, Bimberi
  - (f) rehabilitation services and supports, including specialist equipment if required
  - (g) use of a private or specialist health professional or service as approved by the Manager and hospital care where necessary
  - (h) facilities and resources to maintain personal hygiene and cleanliness
  - (i) educational and living skills programs to foster and support healthy living
  - (j) wherever possible, the provision of special diets which may be identified as medically or culturally necessary.

#### Consent to health assessment and treatment by young people

- 6.11 In all matters that relate to health assessment and health treatment of young people, if a young person has been assessed as having a level of maturity, intellectual functioning and mental health status required to make a reasoned decision regarding the provision of consent, their informed consent must be sought.
- 6.12 If a young person's assessed level of maturity, intellectual functioning and/or mental health is of a level that would not make this possible, consent must be sought from a person with parental responsibility for the young person. This may include the young person's Child and

- Youth Protection Services case manager where the Director-General has parental responsibility for the young person.
- 6.13 Where the need for health assessment or health treatment is considered urgent and a person with parental responsibility (other than the Director-General) cannot be located to provide consent, the Manager must be notified as soon as possible. The Manager must undertake all necessary or appropriate actions to address the young person's health needs, including consenting to medical treatment under section 181 of the *Children and Young People Act 2008* if delaying the treatment would be detrimental to the young person's health.

#### General Protocols

- 6.14 The Manager and staff are responsible for the promotion, development and maintenance of the health of young people, including responding to their physical, psychological, emotional and social needs, including drug and alcohol issues and self harm and suicide.
- 6.15 The Manager and staff will also provide opportunities for young people to develop in socially responsible ways. The therapeutic treatment model used at a detention place provides a framework within which all staff will contribute to these goals.
- 6.16 The Program and Services Manager is responsible for overseeing the coordination of service delivery with a focus on prevention and early intervention, so that all young people are provided with appropriate support, referral and guidance to best meet their specific individual needs.
- 6.17 The Manager must ensure adequate provision of first aid equipment and supplies throughout a detention place. Designated staff must regularly audit the contents of all first aid kits and restock them as necessary.
- 6.18 Prior to undertaking an escort, the escorting staff must ensure that they are in possession of a fully stocked first aid kit.
- 6.19 Prescription medication must only be given to a young person in accordance with the dosage guidelines prescribed by a medical practitioner.
- 6.20 Youth workers must only provide young people with prescription medication that has been placed in an approved container (Webster Pack or similar) and clearly marked with the young person's name, dosage details and instructions regarding how to respond if a young person refuses to take their medication or incorrectly takes their medication.
- 6.21 The Unit Manager or Manager may approve the giving of non-prescription medication (e.g. Panadol) to a young person if appropriate. The Unit Manager or Manager, if unsure, must seek advice from a treating doctor or treating nurse and provide advice to the youth worker giving the non-prescription medication regarding dosage and frequency. The youth worker giving the medication must record the approval and the reasons for it in the Register of Young Detainees.
- 6.22 Youth workers required to assist with giving any medication to a young person must ensure that:

- (a) medication is issued at the correct times and frequency/intervals (as stated on the package, or as prescribed on the Webster Pack or Medication Log)
  - (b) the medication issued is consumed by the young person
  - (c) an accurate record is made on the appropriate register of medication taken or refused, including the time and date it was given (or refused), the name of person who authorised it, and the name of the person who issued it
  - (d) refusal by a young person to take prescribed medication must be reported to a relevant health professional as soon as practicable unless written directions stipulating otherwise have been provided by the health professional who prescribed the medication (as outlined at 6.19).
- 6.23 The Manager must ensure staff receive appropriate training in the disposal of syringes and other sharps.
- 6.24 When disposing of syringes or other sharps, staff must exercise care and follow procedures outlined in training.
- 6.25 Any injury from a syringe or other sharp to any person at a detention place is to be considered a serious injury and managed in accordance with 'Serious or life threatening injury or health concern at a detention place'.
- 6.26 A needle-stick injury or the discovery of a syringe or sharp instrument is a Reportable Incident (refer to Records and Reporting Policy and Procedures).
- 6.27 The Manager must ensure staff receive regular training in the management of blood and other bodily fluid spills.
- 6.28 In responding to a blood or bodily fluid spill (e.g. semen, vaginal secretions, urine, faeces, pus, breast milk, saliva, vomit, sweat etc.) staff must exercise care and follow the procedures outlined in training.
- 6.29 In the management of blood and other bodily fluid spill, staff must also consider whether the body fluid/s need to be preserved as evidence in the investigation of a crime.
- 6.30 Body fluids are to be treated and removed as soon as possible once they are no longer required as evidence for a criminal investigation.
- 6.31 The Manager must ensure that staff receive regular training in communicable and infectious disease prevention and treatment.
- 6.32 If a young person or staff member is diagnosed with an infectious disease, the Manager must seek advice from a relevant health professional. The Manager must then issue instructions regarding the safe management of a detention place. Staff must comply with such instructions.
- 6.33 A Health Segregation Direction may be made by the Manager to prevent the spread of disease (refer to Segregation Policy and Procedures).

### Management of Health Needs

#### *Initial health assessment at admission*

- 6.34 The Manager must ensure that every young person, as soon as practicable and not later than 24 hours after admission to a detention place, has:
- (a) a physical health assessment by a treating doctor or nurse

- (b) an assessment of the young person's risk of self harm and/or suicide and mental health status by a treating doctor, nurse or a health professional with expertise in the treatment of self harm, suicide and mental health issues.
- 6.35 A treating doctor must review an assessment made by a nurse or health professional of the young person's risk of self harm and/or suicide and mental health status.
- 6.36 A treating doctor who makes an assessment or reviews an assessment under 6.34 or 6.35 must provide a report of the assessment to the Manager.
- 6.37 The Manager must ensure that any physical or mental health needs or risks identified by the assessments at 6.35 and/or report provided by the treating doctor at 6.36 are addressed as soon as practicable.
- 6.38 The Manager must ensure that any physical or mental health needs and risks identified as ongoing are addressed in the young person's case management plan, where appropriate.

*Ongoing management of health needs*

- 6.39 Health assessments and treatment will be available throughout a young person's time at a detention place to meet their physical, psychological, emotional and social needs, including drug and alcohol issues and self-harm and suicide behaviours. Health information, where appropriate, shall inform:
  - (a) the day to day management of a young person
  - (b) the young person's classification, placement and observation regime and any special management directions
  - (c) the young person's case management plan.
- 6.40 If staff become aware of health information of relevance to a young person's classification, observation, placement, special management directions or case management plan that does not pose an imminent risk to the young person's health or wellbeing, the staff member must provide this information to the Manager as soon as possible.
- 6.41 If staff become aware of imminent danger to a young person (e.g. a threat to the young person's safety or risk of self harm), the staff member must immediately:
  - (a) undertake whatever action is required to minimise the risk to the young person's safety (e.g. increase the frequency of observations, change placement of the young person)
  - (b) inform the Manager.
- 6.42 The Manager must request assistance from a relevant health service (e.g. Child and Adolescent Mental Health Service or the nursing service) where appropriate.
- 6.43 The Segregation Policy and Procedures apply in relation to the making of a health segregation direction for a young person.
- 6.44 The Manager must consider the recommendations and advice of health professionals in deciding on an appropriate response.
- 6.45 All young people must have access to counselling and support.



*Management of young person's health needs outside a detention place including escorts*

- 6.46 Any non-emergency need for a young person to leave a detention place for health assessment or treatment must be approved by the Manager by making a transfer direction to a health facility (refer to the Transfers Policy and Procedures). If a young person is to be transported to a health service, the transportation method should consider the nature of the illness or condition of the young person.
- 6.47 A young person should not be informed about the details of the time and location of a health appointment that is outside a detention place, although staff should inform the young person of the reason for the appointment and the day it is scheduled to occur.
- 6.48 Wherever possible a young person should be prepared for their health appointment outside a detention place by discussing with the young person whether they are comfortable wearing a detention place's clothing or would prefer to wear his or her own clothing. Where a young person expresses a preference to wear his or her own clothing, staff must facilitate this, unless the Manager believes that this would create a risk to the safety of a person or security.
- 6.49 Staff escorting a young person to a health appointment outside a detention place should, when appropriate, wear clothing that does not identify the staff as employees of a detention place.
- 6.50 Where a young person is to be transported or transferred from a detention place, the Manager must ensure that sufficient information relating to their risks (such as risk of escape, harm to themselves or others and/or suicidal and risk-taking behaviour) is provided to the transporting and receiving agency's officer/s (e.g. ambulance service, health facility) to ensure that the young person is appropriately managed and/or supported.
- 6.51 Staff escorting a young person to a health facility outside a detention place must carry Directorate identification at all times. Staff must identify themselves to relevant health staff, and if possible, provide contact details of any additional staff member likely to assume responsibility for the young person.
- 6.52 If escorting staff are issued with a health facility identification card they must comply with the health facility policy for wearing or carrying the identification.
- 6.53 Staff should assess the health facility where the young person is being assessed and/or treated and be aware of, and respond appropriately to, any potential safety or security risks.
- 6.54 After a careful assessment of the environment, consideration of the risk status of the young person, and consideration of the sensitivity of the health assessment or treatment, or if requested by a treating health professional, an escorting officer may permit a patient to be examined and/or treated outside the officer's view.
- 6.55 If a young person is at serious risk of escape, harm to themselves or others and/or suicide, examination and/or treatment must not occur outside of the officer's view. In such instances, staff must maintain appropriate contact with that young person at all times.

- 6.56 The escorting staff must be respectful of the dignity of the young person and where appropriate must be of the same sex as the young person.
- 6.57 Staff must ensure that a young person does not gain access to an unauthorised item. If staff reasonably suspect that a young person has in their possession something that may warrant a search to occur, the requirements set out in the Search and Seizure Policy and Procedures must be applied.
- 6.58 Where necessary, escorting staff must inform the staff of the health facility of their authority to conduct a search of a young person.
- 6.59 A young person detained in a health facility outside of a detention place may receive visitors as approved by the Manager. Staff must comply with the requirements of the Visits, Phone Calls and Correspondence Policy and Procedure.
- 6.60 A young person may only be discharged from a health facility after approval has been given by a health professional responsible for the care of the young person, or after direction of the Manager for the removal of the young person from the health facility.

#### *Discharge planning*

- 6.61 Child and Youth Protection Services must ensure that discharge planning for a young person completing a sentence includes appropriate referrals and arrangements for the ongoing management of their health and wellbeing needs.
- 6.62 Child and Youth Protection Services must ensure, where appropriate, referrals and arrangements are made, for the ongoing management of the health and wellbeing needs of a young person who is to be released following a period of remand.

#### Incident Management

##### *Minor injury/health concern at a detention place or on an escort*

- 6.63 In the event a young person presents with, or reports to, a staff member, to have a minor injury or health complaint, the staff member shall:
- (a) assess the situation
  - (b) if necessary, provide the appropriate first-aid response (e.g. cleaning of a minor cut or abrasion, applying a basic dressing)
  - (c) if necessary, refer the young person to a health professional
  - (d) if necessary, report the incident and treatment to the Unit Manager
  - (e) if necessary, administer non-prescription medicine (e.g. Panadol), in accordance with 6.21 and 6.22.
- 6.64 In the event a young person, while on an escort, presents with, or reports to, a staff member to have a minor injury or health complaint, the staff member shall:
- (a) assess the situation
  - (b) if necessary, provide the appropriate first-aid response (e.g. cleaning of a minor cut or abrasion, applying a basic dressing)
  - (c) if necessary, contact the Control Room and return the young person to a detention place (or another place, if so directed).

- 6.65 In the event the Control Room receives a communication from an escorting staff member, they must inform the Unit Manager who must provide direction for and/or arrange for necessary assessment or treatment.

*Serious or life threatening injury or health concern at a detention place*

- 6.66 If a young person presents with or reports a serious or life threatening injury or health complaint, the staff who first becomes aware of this information shall:
- (a) assess the seriousness of the injury or health complaint
  - (b) notify the Control Room Officer, advise of the situation, activate a Code Blue and request assistance
  - (c) as soon as it is safe to do so, immediately commence first aid and continue until the arrival of a health professional or ambulance officer
  - (d) remain with the young person at all times, if it is safe to do so
  - (e) provide support to the young person, if it is safe to do so
- 6.67 In the event the Control Room Officer receives a request following a serious or life threatening injury or health complaint, the Control Room Officer will:
- (a) Commence log entries
  - (b) request assistance from relevant health professionals and/or ambulance, police, and/or the fire brigade
  - (c) direct staff assistance to the location of the incident and notify the Unit Manager and Director, Bimberi
  - (d) prevent the entry to, or exit from, a detention place by any person other than emergency response services, until authorised by police and/or the Manager
  - (e) notify relevant support agencies if requested to do so by the Manager or Unit Manager
  - (f) provide the Unit Manager and Manager with contact details for the person with parental responsibility or nominated person
  - (g) undertake any other necessary or appropriate action.
- 6.68 The Unit Manager must give directions and guidance to staff for the management of the situation and undertake all other relevant actions, which may include:
- (a) secure the location of the incident and all young people and/or visitors
  - (b) advise staff what information about an incident can and cannot be given to young people
  - (c) if so directed by an appropriate person (e.g. ambulance officer or police officer), request the attendance of a medical practitioner for the purpose of deciding whether or not the injured person has died
  - (d) coordinate any further actions in accordance with the Emergency Response Plan
  - (e) provide regular updates on the situation to the Manager
  - (f) ensure staff complete all necessary reports before they leave a detention place, unless otherwise approved by the Manager
  - (g) undertake any other relevant action.
- 6.69 The Manager must:

- (a) arrange for the contacting of the person/s with parental responsibility (including Child and Youth Protection Services if the Director-General has parental responsibility for the young person) or the nominated person
- (b) advise Unit Managers what information about an incident can be given to visitors explaining the reason for lock down or securing the facility
- (c) appoint a senior member of staff who shall record on a separate and independent log all events and movements as they occur
- (d) if necessary, arrange for debriefing of staff, and for access to support and counselling for young people and visitors
- (e) notify the Director, Child and Youth Protection Services Operations of the situation as soon as possible.

*Encountering a seriously injured or ill young person by a person other than a staff member*

- 6.70 A person, other than an operational staff, may encounter a young person who has suffered a serious or life threatening injury. Upon advising a staff member, the person should be accompanied to another secure area away from the location of the incident and be supervised and supported appropriately by staff.
- 6.71 If the person is a tradesperson, visitor, professional or other service provider, the person is to remain on the premises, where appropriate monitoring and support will be given until police or the Manager have authorised the person's exit from a detention place.
- 6.72 When securing visitors or non-operational staff, staff must attempt to separate them as appropriate to allow the most effective response to the individual.
- 6.73 The Unit Manager may approve a person mentioned in 6.71 to make a phone call, giving consideration to the circumstances. The Unit Manager must also instruct what information can or cannot be discussed in the situation, also informing potential witnesses that they may have to provide a statement to the police.
- 6.74 If the discovery of an injured young person is made or witnessed by another young person, they may be escorted to their room and placed on high level observations by staff. Support and counselling must also be offered to the young person, however, the manner in which this is provided must be sensitive to the possibility that the police may wish to interview the young person.

*Serious or life threatening injury or health concern on an escort*

- 6.75 In the event a young person sustains a serious or life threatening injury whilst on an escort (e.g. as a result of a vehicle accident or assault), the staff member who first becomes aware of the situation and/or any other staff member undertaking an escort must:
  - (a) assess the seriousness of the injury or health complaint
  - (b) if necessary, call an ambulance, police and/or fire brigade and if required remain in communication with the relevant emergency service
  - (c) notify the Control Room, advise of the situation and request assistance

- (d) as soon as it is safe to do so, one or both escorting staff must immediately commence first aid and continue until the arrival of a health professional or ambulance officer
  - (e) wherever possible, maintain the safe and secure custody of all young people on escort
  - (f) if it is appropriate and safe to do so, return to a detention place or another place if so directed, as soon as possible
  - (g) undertake any other appropriate action.
- 6.76 In the event the Control Room receives a notification of a young person suffering a serious or life threatening injury or health complaint while on an escort, Control Room staff must:
- (a) notify the Unit Manager and Manager
  - (b) request ambulance and/or police and/or fire brigade assistance
  - (c) notify relevant support agencies if requested to do so by the Manager or Unit Manager
  - (d) provide the Manager with contact details for a person with parental responsibility or nominated person for a young person
  - (e) undertake any other necessary or appropriate action.
- 6.77 The Unit Manager must give directions and guidance to staff for management of the situation and undertake all other relevant actions, which may include:
- (a) directing staff to the location of the incident and securing a detention place if necessary to enable staff to attend the location
  - (b) requesting further assistance
  - (c) coordinating further actions in accordance with the Emergency Response Plan
  - (d) providing regular updates on the situation to the Manager
  - (e) ensuring staff return to a detention place and complete all necessary reports before they leave a detention place, unless otherwise approved by the Manager
  - (f) undertake any other relevant action.
- 6.78 The Manager must:
- (a) arrange for the contacting of the with parental responsibility (including Child and Youth Protection Services, if the Director-General has parental responsibility for the young person) or the nominated person for a young person
  - (b) if necessary, arrange for debriefing of staff, and for access to support and counselling for young people, staff and visitors
  - (c) notify the Director, Child and Youth Protection Services Operations of the situation as soon as possible.

*Minor, serious or life threatening injury or health complaint to person other than a young person*

- 6.79 If staff, Unit Manager, Manager or Control Room become aware of an injury or health complaint to a person at a detention place or on an escort who is not a young person, the staff, Unit Manager, Manager or Control Room must apply procedures outlined in the relevant sections of this policy and procedures, with any changes that are appropriate, due to the injured or unwell person not being a young person.

### Responsibility of Staff to Preserve Evidence for the Investigation of a Crime

- 6.80 Staff responding to an injury at a detention place or on an escort must, wherever possible, respond to the situation in a manner that preserves any evidence or information that may be used in an investigation, including a police investigation, of the circumstances in which the injury occurred.
- 6.81 The responsibility of staff under 6.80 is secondary to the responsibility to provide first aid or other medical assistance and maintain the safety and security of the young person and other people of a detention place.

### Notification of Young Person's Health Condition

- 6.82 If a young person has an illness or injury that requires clinical care for 24 hours or more or transfer to a health facility, the Manager must take reasonable steps to notify the following people about the young person's condition:
- (a) a person with parental responsibility (including Child and Youth Protection Services if the Director-General has parental responsibility) (note: if the Director-General and another person share parental responsibility for the young person by Court Order, Child and Youth Protection Services and the other person/s should be notified).
  - (b) a nominated person.

### Health Assessment and Treatment after Use of Force

- 6.83 If force has been used against a young person that has caused an injury to the young person, the Manager or Team Leader must ensure the young person is examined as soon as practicable following the use of force by a treating doctor and that appropriate health care is available to the young person consistent with this policy and procedure and the Use of Force Policy and Procedures. An injury includes any injury to the young person's body observed by staff, such as bruising or marks, or any injury or potential injury identified by the young person, such as a complaint of pain to a body part.
- 6.84 If force has been used against a young person that has not caused an injury to the young person, the Manager or Team Leader must ensure the young person is offered a medical examination by a treating doctor or nurse as soon as practicable following the use of force. If the young person accepts the offer of a medical examination, the Manager or Team Leader must ensure the medical examination is arranged as soon as practicable and that appropriate health care is available to the young person consistent with this policy and procedures.

### Health Information

- 6.85 The confidentiality of each young person's health information must be maintained to preserve each young person's privacy. Staff must not disclose a young person's health information without the consent of the young person unless required or allowed by law to do so and the disclosure is in the best interests of the young person.
- 6.86 In accordance with section 186 of the *Children and Young People Act 2008*, the Manager may seek a written report about a young person's health from any relevant Director-General where the Manager

- considers that the Director-General's agency has health information about the young person relevant to managing the young person's health needs and risks in custody.
- 6.87 Any request made by the Manager under 6.86 must be complied with by the relevant Director-General as soon as practicable.
- 6.88 The report must include personal health information about the young person that is in a health record held by the Director-General's agency or to which the relevant Director-General has access through any arrangement with another Director-General.
- 6.89 To ensure that the health information received following a request is appropriately reviewed and responded to, the Manager must ensure that a treating doctor assesses the report and prepares a health schedule for case management and inclusion in the young person's case plan, if one exists. The health schedule must include the following:
- (a) a summary of the young person's condition and health risks, including any likelihood of the condition resulting in a medical emergency or the onset of significant health problems and any associated symptoms, and a treatment regime for the young person
  - (b) details of any non-prescription medicine approved by the Unit Manager or Manager under 6.21 for use by the young person.
- 6.90 The health report and health schedule are to be placed on the young person's securely stored case management file. Access by a staff member to the young person's health report and health schedule must be authorised by the Manager.
- 6.91 In making a decision to provide access to the young person's health report and health schedule, the Manager must balance the following considerations:
- (a) the young person's privacy
  - (b) the best interests of the young person and other young people
  - (c) the Director-General's duty of care to the young person, including the need to ensure the young person's health needs and risks are appropriately responded to
  - (d) safety and security of a young person or other people at a detention place.

#### Death in Custody

- 6.92 In responding to a young person who is seriously injured or suspected to be deceased, staff must make every effort to preserve and maintain life in accordance with this policy and procedures and the Death in Custody Policy and Procedures.
- 6.93 Staff must be mindful that the only person who can make the declaration that a person is deceased is a doctor.
- 6.94 If a young person dies while at a detention place, at a health facility, under escort, or on approved leave, whether within or outside the ACT, the provisions of the Death in Custody Policy and Procedures must be applied.

### Non-Treating Functions

- 6.95 The Manager is responsible for ensuring that only non-treating health professionals are authorised to exercise non-treating functions under section 98 of the *Children and Young People Act 2008* and this policy and procedure.
- 6.96 Non-treating health professionals may be authorised on an individual case basis to undertake the following non-treating functions (e.g. body searches, reports on the sexual identity of transgender or intersex young people).

### Body searches

- 6.97 The Manager must ensure that a non-treating doctor is authorised to conduct a body search of a young person and that a non-treating nurse is present during the search.
- 6.98 If the non-treating doctor conducting the body search is not the same sex as the young person, the non-treating nurse must be the same sex. Only the health professional of the same sex as the young person is authorised to touch and examine the young person's body.

### Public Health Inspections at a Detention Place

- 6.99 For information in relation to public health inspections at a detention place, refer to Records and Reporting Policy and Procedures.

### Smoking Policy

- 6.100 A detention place is a public place under the *Smoking (Prohibition in Enclosed Public Places) Act 2003* and smoking is prohibited at a detention place.

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

- 6.101 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.
- 6.102 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*.
- 6.103 Staff must ensure that the Complaints Management Policy and Procedures is followed.

### Records and Reporting

- 6.104 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.
- 6.105 Staff responding to, or encountering an injured young person, must complete an Incident Report before leaving a detention place, unless otherwise approved by the Manager.



6.106 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  
Medication Log  
Register of Young Detainees  
Request for Health Report from Relevant Director-General form

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

Policies and Procedures under the *Children and Young People Act 2008*  
Aboriginal and Torres Strait Islander Young People Policy and Procedures  
Admission and Classification Policy and Procedures  
Complaints Management Policy and Procedures  
Death in Custody Policy and Procedures  
Escorts Policy and Procedures  
Local and Interstate Leave Policy and Procedures  
Minimum Living Conditions Policy and Procedures  
Records and Reporting Policy and Procedures  
Reporting and Investigation Procedures  
Search and Seizure Policy and Procedures  
Segregation Policy and Procedures  
Transfers Policy and Procedures  
Use of Force Policy and Procedures  
Visits, Phone Calls and Correspondence Policy and Procedures

Policies and Procedures in Child and Youth Protection Services  
Single Case Management Policy and Procedures

## **9. Further References**

ACT Mental Health Services Plan 2009–2014  
National Aboriginal and Torres Strait Islander Health Plan 2013–2023  
Royal Commission on Aboriginal Deaths in Custody

## **10. Review**

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