

Australian Capital Territory

Children and Young People (Visits, Phone Calls and Correspondence) Policy and Procedures 2018 (No.1)

Notifiable instrument NI2018-452

made under the

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

1 Name of instrument

This instrument is the *Children and Young People (Visits, Phone Calls and Correspondence) Policy and Procedures 2018 (No.1)*.

2 Commencement

This instrument is to commence the day after notification.

3 Repeal

NI2015-401 is revoked.

4 Policies and operating procedures

Under section 143 of the *Children and Young People Act 2008*, I make the attached Visits, Phone Calls and Correspondence 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

Visits, Phone Calls and Correspondence Policy and Procedures

1. Introduction and Purpose

Maintenance of relationships with family members and significant people in the community is very important for young people. Visits, phone calls and correspondence are the means by which these relationships can be maintained. Contact and support from family members and significant people can help support young people during their period at a detention place and also contribute to young people's rehabilitation and successful reintegration into the community following their release from custody.

Young people have statutory minimum entitlements in relation to visits, phone calls and correspondence as outlined in the Minimum Living Conditions Policy and Procedures. Young people must have reasonable access to telephone, mail and other facilities for communicating with people in the community.

Young people must also have reasonable opportunities to receive visits from family members, significant people and accredited people and to communicate with their lawyers. The Manager may not prohibit receipt of a visit, phone call or correspondence with a family member, significant person or accredited person as a punishment for a young person.

Staff have a responsibility to support the maintenance of contact between young people and their families and other appropriate support persons.

Staff should be mindful that some young people's families may be dealing with a range of difficult issues and may require support to maintain their contact with their family member or significant person in the detention place. It is appropriate for staff to assist families in this, including by supportive listening to family members' concerns and referral to appropriate agencies if required. If staff become aware of conflict between a young person and members of the young person's family, staff should discuss options with the family for counselling support.

The Visits, Phone Calls and Correspondence Policy and Procedures are to be read in conjunction with the Visiting Conditions.

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. Sections 173, 174, 175, 177, 178, 179, 201, 202, 203 and Div 6.6.5 and Div 6.6.6 are particularly relevant to this policy and procedures. The provisions of the Act must be complied with at all times by staff exercising functions at a detention place.
- 2.2 The policies and procedures provide specific directions to implement the provisions of the Act and other relevant legislation, including the *Human Rights Act 2004*.

- 2.3 Human rights that are protected by the *Human Rights Act 2004* and that are relevant to this policy and procedure are:

Section 19 Humane treatment when deprived of liberty

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

Section 20 Children in the criminal process

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

- 2.4 The following international human rights standards apply in the ACT and are relevant to this policy and procedure:

- (a) United Nations Convention on the rights of the child
- (b) United Nations Standard Minimum Rules for the Administration of Juvenile Justice
- (c) United Nations Rules for the Protection of Juveniles Deprived of their Liberty
- (d) Standard Minimum Rules for the Treatment of Prisoners
- (e) Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- (f) United Nations Declaration on the Rights of Indigenous People.

3. Authorisations and Delegations

- 3.1 The Manager is responsible for ensuring this policy and procedures and Visiting Conditions are applied at a detention place.
- 3.2 The Manager must ensure that an Approved Persons Register is maintained for each young person recording the name and contact details of each person approved by the Manager to have contact with a young person through visits, phone calls and correspondence.
- 3.3 The Manager holds overall authority for determining the schedule of visits and phone calls at a detention place.
- 3.4 The Manager must ensure, as far as practicable, that young people can send and receive as much mail as they wish.
- 3.5 The Manager may make a direction for the reading of a random selection of incoming and outgoing ordinary mail under this policy in accordance with section 201(3) of the *Children and Young People Act 2008*.

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.

Admission means the reception of a young person into a detention place in accordance with a Court Order, Warrant or other legal authority for their detention.

Approved personal contacts for a young person may include family members, significant people and where relevant, people from the young person's community.

Approved Persons Register means the record that the details of a young person's approved personal and professional contacts, details when contact with a young person has been prohibited, and any conditions of a person's visit and/or phone calls.

Approved professional contacts for a young person may include an accredited person, any other person or agency providing a professional service to a young person who is not a personal contact.

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

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

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

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

Commissioner refers to one of the appointed Commissioners exercising functions under the *Human Rights Commission Act 2005*. The functions include the resolution of complaints between users and providers of services for children and young people and to promote improvements for service provision.

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.

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.

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.

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.

Ordinary mail is defined at section 201 of the *Children and Young People Act 2008* and means all mail that is not protected mail.

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.

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

Protected mail is defined at section 201 of the *Children and Young People Act 2008* and means mail between a young person and any of the following: lawyer representing the young person; an Official Visitor, a Commissioner exercising functions under the *Human Rights Commission Act 2005*, the ACT Public Advocate and the Ombudsman.

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).

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

Staff refers to youth workers and other authorised persons.

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.

Visiting conditions means those conditions declared under section 228 of the *Children and Young People Act 2008* that apply in relation to visits to a detention place.

Visitor is defined at section 137 of the *Children and Young People Act 2008* to include a person wishing to enter a detention place as a visitor.

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

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

5. Principles

Legislative Principles

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

Section 8 Best interests of children and young people paramount consideration

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

Section 9 Principles applying to Act

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

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

Section 10 Aboriginal and Torres Strait Islander principle

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

Section 94 Youth justice principles

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

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

6. Policy and Procedure

Young People's Access to Visits, Phone Calls and Correspondence

- 6.1 The Manager must ensure young people have reasonable opportunities for access to visits, phone calls and correspondence, consistent with operational requirements.
- 6.2 The following minimum entitlements for young people to personal visits, phone calls and correspondence:
 - (a) for personal visits from a family member or significant person, one visit of one hour each week
 - (b) for telephone calls, one call on admission (refer to 'Telephone Call at Admission') and four (4) personal calls each week to a family member or significant person
 - (c) for correspondence, mail may be sent to and received from a family member, significant person or other person nominated by the young person and approved by the Director, Bimberi.
- 6.3 These entitlements must not be affected by action taken under the Behaviour Management Policy and Procedures or the Discipline Policy and Procedures and may only be restricted or limited in accordance with the criteria in this policy and procedure.
- 6.4 The Manager must ensure that a young person has reasonable opportunities for visits, phone calls and correspondence with accredited people. This entitlement must not be affected by action taken under the Behaviour Management Policy and Procedures or the Discipline Policy and Procedures and may only be restricted or limited in accordance with the criteria in this policy and procedure.
- 6.5 The Manager must ensure that people approved to have contact with a young person are aware of the:

- (a) processes for booking visits and making phone calls to young people
 - (b) visit and phone call schedule
 - (c) processes for correspondence.
- 6.6 Visits and phone calls will usually only be available during scheduled times, unless otherwise authorised by the Director, Bimberi.
- 6.7 In exceptional circumstances (e.g. if a young person is experiencing significant distress or if there are significant issues in a young person's family), the Manager must consider the provision of additional visits or phone calls. It is expected that staff will be flexible in attempting to meet the needs of a young person and their family at such times.
- 6.8 The Manager will notify the Director, Bimberi of any variation to the authorised contact schedule.
- 6.9 The Director, Bimberi must provide the Director, Child and Youth Protection Services Operations with a copy of the visits and phone calls schedule and of any variation to this schedule.

Telephone call at Admission

- 6.10 A young person may make a telephone call at the time of admission to an accredited person (including a lawyer), a person with parental responsibility, a nominated person, a family member or a significant person, however, a telephone call to one of these persons may be denied if the circumstances at 6.11 apply.
- 6.11 The Manager may make a direction that the young person is not to make a telephone call to a particular person, or not to make a telephone call at the time of admission, if the Manager reasonably suspects:
- (a) the call may undermine safety and security of the young person or other young people or other people at a detention place
 - (b) the call may revictimise a victim
 - (c) the call may undermine a process for the investigation of a complaint or a review of a decision
 - (d) the call has the purpose of causing harm or distress to a community member (including a victim)
 - (e) it is necessary and reasonable to safeguard the best interests of the young person, such as protecting the young person from emotional harm likely to be caused by contact with the person due to the nature of their relationship.
- 6.12 If a direction is made that the young person is not to make a telephone call to a particular person under 6.11, the young person must be given the opportunity to nominate another person outlined at 6.11 to call.
- 6.13 If a direction is made that the young person is not to make a telephone call at the time of admission under 6.12, the young person must be given the opportunity to make a telephone call as soon as practicable thereafter.

People Who May Visit, Make or Receive Phone Calls and Correspond with Young People

- 6.14 Only approved people may have contact with a young person, through visits, phone calls and/or correspondence. The Director, Bimberi is responsible for giving this approval.

- 6.15 A young person's lawyer does not need approval to visit, only approval of dates and times of visits.
- 6.16 The Director, Bimberi must ensure that an Approved Persons Register is maintained for each young person recording the name and contact details of each person approved by the Director, Bimberi to have contact with a young person through visits, phone calls and/or correspondence.
- 6.17 Approved personal contacts for each young person may include family members, significant people and where relevant, people from the young person's community.
- 6.18 Approved professional contacts for each young person may include:
- (a) an accredited person
 - (b) any other person or agency providing a professional service to a young person who is not a personal contact or accredited person.
- 6.19 A young person will only be allowed to correspond or have phone contact with people approved under 6.16 and the addresses and phone numbers recorded on the Approved Persons Register.
- 6.20 In determining whether to approve a person under 6.16, the Manager must consider the best interests of the young person, including:
- (a) the young person's views, age and assessed level of maturity
 - (b) the views of the person with parental responsibility
 - (c) the nature of the relationship between the young person and the person (including the length of the relationship and the likely influence of the person on the young person)
 - (d) any known history of offending by the person, particularly, but not only, any known history of co-offending by the person and the young person
 - (e) any legal recommendations or requirements (e.g. Care and Protection Order, recommendation of a Court)
 - (f) information or recommendations from a professional service provider (e.g. from Care and Protection Services)
 - (g) any other relevant matter.
- 6.21 A known history of offending (including but not limited to, the person having previously been a young person at a detention place) must not be used, in isolation, as a reason to refuse to approve a person under 6.16. If the person being considered for approval is a family member of a young person, a known history of offending must not be used as a reason for refusing approval.
- 6.22 In considering whether to approve a person under the age of 18 years to have contact with a young person through a visit, phone call or correspondence, the Manager must, in addition to considering matters at 6.20, also consider:
- (a) the person's views, age and assessed level of maturity
 - (b) the views of the person with parental responsibility for the child or young person.
- 6.23 The Manager must inform a young person and any person refused contact, of the decision. The Manager must also inform both parties of the reasons for that decision, unless the Manager reasonably believes that doing so is likely to have a detrimental effect on the emotional or mental wellbeing of the young person.
- 6.24 The Manager must provide information in writing to the Director, Child and Youth Protection Services Operations of a decision to refuse

- approval of a person to have contact with a young person. This must include the name of the refused person, details of the relationship between the person and the young person and the reasons for refusal.
- 6.25 The Director, Child and Youth Protection Services Operations must keep a record of decisions reported under 6.24.

Scheduling of Visits and Phone Calls

- 6.26 The Manager holds overall authority for determining the schedule of visits and phone calls.
- 6.27 The visiting schedule must be provided to visitors seeking to arrange a visit with a young person. A person seeking to book a visit to a detention place for the first time must be informed of the procedures for the person's arrival at, and entry to, the detention place.
- 6.28 Visits and phone calls will only be available during scheduled times unless otherwise authorised by the Manager.
- 6.29 Visits are to be pre-arranged with staff, preferably allowing 24 hours notice. A person seeking to book a visit time with a young person must contact either the main reception or the Programs and Services Manager directly. Requests received through the main Reception will be forwarded to the appropriate person or area (either the Programs and Services Manager or Manager).
- 6.30 The Manager will determine the duration of each visit and phone call, giving consideration to:
- (a) the best interests of the young person
 - (b) physical, emotional and mental health of all young people and, where known, visitors
 - (c) the young person's rehabilitation and reintegration needs
 - (d) safety and security of the young person or other people at the detention place
 - (e) operational requirements.
- 6.31 The Manager may approve visits and phone calls out of scheduled times when it is considered appropriate and reasonable to do so.
- 6.32 In the event that there is a change to an arranged visit or phone call, the Manager must ensure all reasonable efforts are made to notify the visitor.
- 6.33 If there is a change to the routine visit schedules, the Manager must ensure all reasonable efforts are made to give sufficient notice to visitors and young people.

Young Person's Right to Decline a Visit, Phone Call or Correspondence

- 6.34 A young person may decline to receive a visitor, phone call or correspondence. Where a young person declines a visit or phone call, staff will ensure the person seeking to visit or phone the young person is informed of the refusal as soon as practicable. Where a young person declines to receive correspondence, staff must place the correspondence in the young person's property.
- 6.35 Staff must make a record of a young person's decision to decline a visit, phone call or correspondence. The record of the refusal is to be placed in the young person's personal file.

Manager's Right to Prohibit a Visit, Phone Call or Correspondence

- 6.36 The Manager may make a direction to prohibit the receipt of a visit, the receipt or making of a phone call or the receipt or sending of correspondence by a young person to an approved personal contact if the Manager reasonably suspects that the visit, phone call or correspondence may:
- (a) undermine the safety and security of the young person or other people at the detention place
 - (b) revictimise a victim
 - (c) undermine a process for the investigation of a complaint or a review of a decision
 - (d) have the purpose of causing harm or distress to a community member (including a victim)
 - (e) it is necessary and reasonable to safeguard the best interests of the young person, such as protecting the young person from emotional harm likely to be caused by contact with the person due to the nature of their relationship or other consideration.
- 6.37 The Manager may make a direction to prohibit a young person's contact with an accredited person by visit, phone call or correspondence if the Manager reasonably suspects that the contact may undermine safety and security of the young person or other people at the detention place or undermine a process for the investigation of a complaint or a review of a decision. The Manager must inform the young person and accredited person of the decision to prohibit a visit, phone call or correspondence and the reasons for the decision.
- 6.38 If the Manager prohibits a visit, phone call or correspondence under 6.36 or 6.37, the Manager must record this decision and the reasons for it in the Approved Persons Register.
- 6.39 The Manager must inform a young person, and upon request, the person whose contact has been prohibited (other than an accredited person required to be notified under 6.37), of a decision to prohibit a visit, phone call or correspondence. The Manager must also inform both parties of the reasons for this decision, unless the Manager reasonably considers that doing so may have a detrimental effect on the emotional or mental wellbeing of the young person.
- 6.40 If the Manager refuses the receipt of a visit, phone call or correspondence by a young person under 6.36 or 6.37, the Manager must report the decision to the Director, Child and Youth Protection Services Operations in writing.
- 6.41 The Director, Child and Youth Protection Services Operations must keep a record of decisions reported under 6.40.

Conditions of Visits and Phone Calls

- 6.42 The Manager may determine the conditions of a visit including:
- (a) the time and duration
 - (b) the nature of supervision and contact
 - (c) the number of visitors allowed to visit a young person
 - (d) any other conditions considered appropriate.
- 6.43 The Manager may determine the conditions of telephone calls, including:
- (a) the time and duration of the call
 - (b) any other condition considered appropriate.

- 6.44 The Manager may, if requested by a young person, visitor or phone caller, impose additional conditions.
- 6.45 Costs associated with young people's minimum entitlements to telephone calls will be met by the Directorate and telephone calls above the minimum entitlements may be purchased by young people under the incentive scheme (refer Behaviour Management Policy and Procedures).
- 6.46 The Manager will record any conditions of a visit and/or phone calls in the Approved Persons Register.
- 6.47 All visits with a young person will be in one of the categories listed at 6.48. The category of the visit will be determined by a risk assessment that includes consideration of the following:
- (a) security and safety of all young people, visitors and staff
 - (b) health and wellbeing of young people, visitors and staff.
- 6.48 Visit categories will be as follows:
- (a) Casually supervised contact - these visits will take place under the casual visual supervision of a youth worker. Appropriate physical contact between a young person and the young person's visitor/s is permitted. This visit category will be allowed when there are no known risks against the factors at 6.47.
 - (b) Directly supervised contact - these visits will take place in a visiting area under the direct visual observation of a youth worker. Appropriate physical contact between a young person and the young person's visitor/s is permitted. This visit category will be allowed when the Manager assesses that there is some risk against one or more factors at 6.47
 - (c) Supervised non-contact - all supervised non-contact visits shall take place in a visiting area under the direct supervision of a youth worker. No physical contact will be permitted during the visit. This visit category will be allowed when the Manager assesses that there is a considerable risk against one or more factors at 6.47.
- 6.49 Youth workers must ensure that communication at a visit between a young person and any of the following persons is not subject to audio monitoring or recording:
- (a) a lawyer representing the young person
 - (b) an Official Visitor
 - (c) a Commissioner
 - (d) the Public Advocate
 - (e) the Ombudsman.
- 6.50 Staff must not attend a meeting between a young person and his or her legal representative unless requested by the legal representative and/or the young person.
- 6.51 Staff must protect a young person's privacy while the young person is making or receiving phone calls unless to do so is reasonably considered likely to affect the safety or security of a person or a detention place.

Procedures for Visitors on Arrival at and Departure from a Detention Place

- 6.52 A Visiting Conditions Information Sheet outlining conditions of entry, requirements for visitor conduct and general information must be

- provided to each visitor on their arrival at a detention place for the first time.
- 6.53 It is a condition of entry that all visitors aged 16 years and over, acknowledge they have read and understood the Visiting Conditions Information Sheet and agree to the Visiting Conditions by signing an acknowledgement form. Staff must assist a visitor to understand the visiting conditions if a visitor requests assistance.
- 6.54 A refusal by a visitor to sign an acknowledgement form must be reported to the Manager. The Manager must decide whether to allow the visitor entry to a detention place or direct the person to leave a detention place. In making this decision, the Manager must have regard to the visitor's reason/s for refusing to sign an acknowledgement form and the purpose of their visit.
- 6.55 At the time of a visitor's first visit to a detention place, it is a condition of entry that the visitor is required to produce photographic identification.
- 6.56 Visitors must wait in the reception area until the visit is approved. A visitor may be escorted to the Visits Centre by a youth worker.

Prohibited Things

- 6.57 It is a condition of entry that a visitor does not bring a prohibited thing into a detention place, give a prohibited thing to a young person or remove a prohibited thing from a detention place.
- 6.58 A list of prohibited things will be provided to each visitor with the Visiting Conditions Information Sheet.
- 6.59 The Visiting Conditions Information Sheet must include information that it is an offence under section 230 of the *Children and Young People Act 2008* for a person to take a prohibited thing into a detention place, give a prohibited thing to a young person or remove a prohibited thing from a detention place.
- 6.60 If a youth worker reasonably suspects that a person has possession of a prohibited thing at a detention place, the officer must report the suspicion to the Director, Bimberi. The Director, Bimberi may direct a scanning, frisk or ordinary search of the person in accordance with the Search and Seizure Policy and Procedures. A prohibited thing that is discovered must be seized and the police must be notified.

Conduct by Visitors During Visits

- 6.61 During a visit, visitors must:
- (a) comply with all directions given by a youth worker (refer to 'Directions to Visitors')
 - (b) comply with any conditions for the visit
 - (c) not engage in physical contact, behaviour or use language that may offend staff, other young people or visitors
 - (d) be considerate of, and not cause disruption to, other visits.
- 6.62 Adult visitors or primary caregivers are responsible for the care and behaviour of any children brought into the Visits Centre.
- 6.63 Youth workers must make reasonable attempts to restrict/prohibit inappropriate behaviour. Inappropriate behaviour is behaviour that is reasonably considered as potentially causing harm or offence to any person present in the visits area.

Personal Searches of Visitors

6.64 The Search and Seizure Policy and Procedures outline the authority for a scanning, frisk or ordinary search of a visitor.

Property of Visitors

- 6.65 It is a condition of entry that a visitor submits their property for a scanning search prior to entering a detention place to detect for prohibited things.
- 6.66 A visitor's property may also be subject to a search after entry to the detention place.
- 6.67 While conducting a search of a visitor's property under 6.65 or 6.66 youth workers must ensure all reasonable attempts are made to respect the privacy and confidentiality of the visitor.
- 6.68 A visitor who, without reasonable excuse, refuses a reasonable request given by a youth worker to submit his or her property for a search, may have the visit refused or be required to place their property in a locker provided and/or have restrictions regarding supervision and/ or contact placed on their visit.
- 6.69 In cases where an accredited person or other professional visitor refuses to submit to a property search, the Manager may refuse to authorise the visit. Decisions made under this section need to be reported to the Manager.
- 6.70 If a lawyer representing a young person refuses a property search on the basis of legal privilege, only essential items (paperwork and folders) may be taken into the consultation with the young person. The lawyer must secure all other property in the locker provided. If a lawyer representing a young person refuses to follow a reasonable request by a youth worker, the Manager may refuse to authorise the visit. Decisions made under this section must be reported to the Manager.
- 6.71 Before the visit, visitors must secure their items of property not authorised to be taken into a visit in the locker provided.
- 6.72 Appropriate secure storage for larger items of property will be made available where necessary.
- 6.73 The visitor's property must be retrieved by the visitor at the completion of the visit.
- 6.74 A visitor leaving a detention place following a visit may be required to handover any item/s that staff believe to be item/s removed from the detention place without permission, and/or unauthorised items believed to have been given to them by a young person during the visit.
- 6.75 If a visitor refuses such a request, staff must allow the visitor to leave and must notify the Manager.
- 6.76 The Manager must report decisions to the Director, Child and Youth Protection Services Operations in writing.

Young Person's Clothing During Visits

6.77 During visits, unless otherwise authorised by the Manager, a young person must wear clothing issued by a detention place.

Gifts and Bringing of Items to and from Visits by Young People

- 6.78 The Manager may authorise the giving of gifts to a young person, following consideration of the safety and security of the young person and other people at the detention place.
- 6.79 Any approved gifts for a young person must be presented by a visitor to staff for inspection prior to the visit.
- 6.80 Any gift regarded as unsuitable must be returned to the person offering the gift.
- 6.81 A young person shall not be permitted to take an item into a visit, unless authorised by the Manager.
- 6.82 A young person shall not be permitted to take an item from a visit into the residential area unless authorised by the Manager.

Refusal or Termination of Visits

- 6.83 The Manager may cancel, postpone or terminate any, or all, visits to a detention place if the Manager reasonably believes it is necessary to do so, to safeguard the health and safety of a young person or other people at a detention place.
- 6.84 The Manager may make a direction to refuse entry of a visitor to a detention place for a scheduled visit or terminate a visit and direct a visitor to leave a detention place if the Manager reasonably suspects that:
- (a) the visitor is, or appears to be, under the influence of alcohol or drugs
 - (b) the visitor has possession of a prohibited thing
 - (c) the direction is necessary and reasonable for safety and security of the young person or other people at a detention place
 - (d) the direction is necessary and reasonable to protect the best interests of a young person (e.g. in circumstances where the visitor is being verbally abusive)
 - (e) the visitor has contravened a direction to comply with the Visiting Conditions, and/ or any reasonable direction given by a youth worker, including a direction to leave a search if the person is preventing or hindering the conduct of the search.
- 6.85 A visitor must comply with a direction given to them not to enter or to leave a detention place. It is an offence under the *Children and Young People Act 2008* if a person fails to comply with a direction not to enter or to leave. The penalty is up to 50 penalty units (\$5,000), imprisonment for 6 months or both.
- 6.86 Where a youth worker determines it is necessary to exercise powers under 6.84 or 6.85, the officer must seek authorisation from the Manager. If the Manager is unavailable they may exercise the powers under 6.84 or 6.85 and report the matter to the Manager as soon as practicable.
- 6.87 The Manager must ensure the young person is informed of the reasons for a decision to refuse to allow a visit to proceed or to terminate a visit unless the Manager reasonably considers doing so may have a detrimental effect on the emotional and/or mental wellbeing of the young person.
- 6.88 Decisions made under 6.84 or 6.85 must be reported to the Manager as soon as practicable.
- 6.89 The Manager must report decisions under 6.84 or 6.85 to the Director, Child and Youth Protection Services Operations in writing.

Directions to Visitors

- 6.90 A youth worker may give a visitor a lawful direction to do or not do something to ensure compliance with the Visiting Conditions. It is an offence if a visitor fails to comply with a direction given to them by a youth worker.
- 6.91 Examples of lawful directions that may be given to a visitor by a youth worker include:
- (a) a direction that the visitor comply with conditions for the visit
 - (b) a direction that the visitor stop certain behaviour such as using offensive language
 - (c) a direction that the visitor not take an item into a visit.

Removal by Force

- 6.92 If a visitor does not comply with a direction to not enter or to leave a detention place, the Manager may direct a youth worker to use force to ensure the direction is complied with.
- 6.93 A youth worker may use force in relation to a visitor only in accordance with the Use of Force Policy and Procedures.
- 6.94 Any direction to use force under 6.92 must be reported to the Manager as soon as practicable. Youth workers must also report in accordance with the Records and Reporting Policy and Procedures.
- 6.95 The Manager must report the use of force to remove a visitor from a detention place to the Director, Child and Youth Protection Services Operations in writing as soon as practicable.

Police Interviews

- 6.96 Interviews of young people by police officers must follow the procedures set out under Police Interviews Policy and Procedures.

Visits to a Young Person at a Health Facility

- 6.97 A young person transferred to a health facility under a transfer direction may receive visitors as approved by the Manager.
- 6.98 The Manager may restrict, cancel, or refuse a visit to a young person in hospital if it is considered appropriate. Reasons for such a decision may include:
- (a) ensuring the health, safety, wellbeing and secure custody of the young person
 - (b) ensuring the health, safety and wellbeing of other patients, staff and visitors at the health facility
 - (c) supporting a recommendation or direction by hospital staff
 - (d) following a recommendation or direction by a Court, Care and Protection Services, police
 - (e) for any of the reasons that would apply had the visit occurred at a detention place.
- 6.99 In circumstances where the health or medical needs of the young person are serious, staff must support and if necessary, facilitate contact with family members and significant persons.

Young People's Ordinary and Protected Mail

Monitoring ordinary mail

- 6.100 Youth workers are authorised to monitor a young person's ordinary mail under section 201 of the *Children and Young People Act 2008*. A youth worker may open and search a young person's ordinary mail. A search of a young person's ordinary mail includes a search with a device using electronic or other technology, by physical means or with the assistance of a search dog (refer to the Search and Seizure Policy and Procedures).
- 6.101 A youth worker may read a young person's ordinary mail only if the youth worker suspects on reasonable grounds that the mail:
- (a) may undermine safety and security of a young person or other people at the detention place
 - (b) may revictimise a victim
 - (c) may circumvent any process for investigating complaints or reviewing decisions under this Act
 - (d) may not be in the best interests of the young person (e.g. if it is suspected to contain inappropriate content).
- 6.102 Inappropriate content within correspondence may include, but is not limited to, content that may:
- (a) jeopardise the physical, emotional or mental safety or wellbeing of a young person or other person
 - (b) be sexually explicit
 - (c) be racially vilifying
 - (d) be degrading in nature
 - (e) be information that relates to crime, committed or planned
 - (f) be inappropriate in another way, as determined by the Director, Bimberi.
- 6.103 Following a young person's ordinary mail being read under 6.102, the following details must be recorded:
- (a) the name of the young person
 - (b) the name of the youth worker reading the mail
 - (c) the reason/s for the mail being read
 - (d) details of any item found and seized in accordance with the Search and Seizure Policy and Procedure.
- 6.104 Following a search of a young person's ordinary mail, the mail must be delivered to the addressee as soon as practicable, unless 6.107 applies.
- 6.105 In considering how to respond to correspondence that contains inappropriate material, a youth worker must consider:
- (a) the best interests of the young person
 - (b) physical, emotional and mental health of all young people and, where known, anyone else
 - (c) the young person's rehabilitation and reintegration needs
 - (d) safety and security of the young person or other people at the detention place
 - (e) the status and conditions of the sender as an approved contact under 6.15
 - (f) the young person's views, age and assessed level of maturity
 - (g) the views of the young person's parent or person with parental responsibility for the young person

- (h) the nature of the relationship between the young person and the person (including the length of the relationship and the likely influence of the person on the young person)
 - (i) any known history of offending by the person, particularly, but not only, any known history of co-offending by the person and the young person
 - (j) any legal recommendations or requirements (e.g. Care and Protection Order, recommendation of a Court, a requirement to provide information relating to the investigation of a crime to the police)
 - (k) information or recommendations from a professional service provider (e.g. from Child and Youth Protection Services)
 - (l) any other relevant matter.
- 6.106 If ordinary mail is searched and/ or read under 6.102 or 6.103 and inappropriate or illegal material is discovered, a youth worker may:
- (a) seize ordinary mail or items found in a young person's ordinary mail in accordance with the Search and Seizure Policy and Procedures
 - (b) as far as possible, censor inappropriate material in ordinary mail addressed to a young person and forward the remaining correspondence to the young person. If an item is entirely inappropriate and cannot be censored, it must be seized in accordance with the Search and Seizure Policy and Procedures or returned to the sender or stored with the young person's property until the young person is released.
- 6.107 If a search of a young person's ordinary mail reveals information about, or evidence of the commission of an offence, the Manager must give the information to police.
- 6.108 Youth workers must provide the young person with an explanation for the censoring, withholding or returning to sender of any correspondence, unless doing so would reasonably be considered to pose a risk to the physical or mental health and wellbeing of the young person or unless requested not to do so by the police.
- 6.109 The Director, Child and Youth Protection Services Operations may arrange for audits of the censoring of correspondence to occur to ensure its compliance with this policy and procedure and any other relevant guidelines or requirements.

Reading a random sample of ordinary mail

- 6.110 In addition to the circumstances outlined in 6.102, the Manager may direct that a youth worker read a random selection of incoming and outgoing ordinary mail if it is considered necessary to maintain the safety and security of young people and others and/or a detention place. This does not require the Manager to form a suspicion of the matters outlined in 6.102.
- 6.111 A direction may take one of the following forms:
- (a) at periodic intervals determined by the Manager, a sample of all incoming and outgoing ordinary mail is opened and read
 - (b) a sample of incoming and outgoing ordinary mail is opened and read following a certain number of incoming and outgoing mail items (e.g. after every 10 items of incoming ordinary mail, the next 2 items of incoming ordinary mail are opened and read).
- 6.112 The Manager must report to the Director, Child and Youth Protection Services Operations any decision made under section 6.111.

6.113 The Director, Child and Youth Protection Services Operations may overturn a decision made by the Manager under section 6.110.

Monitoring protected mail

- 6.114 A youth worker may open and search a young person's protected mail in the young person's presence if the youth worker suspects on reasonable grounds that the mail contains:
- (a) something that may physically harm the addressee or
 - (b) a prohibited thing.
- 6.115 A search under 6.114 of a young person's protected mail includes a search with any device using electronic or other technology, by physical means or with the assistance of a search dog (refer to the Search and Seizure Policy and Procedures).
- 6.116 However, a youth worker must not read a young person's protected mail without the young person's written consent. Assistance must be provided to young people to understand the contents of any correspondence they receive.
- 6.117 Following a search of a young person's protected mail, the mail must be delivered to the addressee as soon as practicable. A thing in a young person's protected mail, but not the mail item itself, may be seized if the youth worker reasonably believes it may physically harm the addressee or anyone else or is a prohibited thing (refer to the Search and Seizure Policy and Procedures).
- 6.118 If a search of a young person's protected mail reveals information about, or evidence of the commission of an offence, the Manager must give the information to the police.

Assistance to young people

- 6.119 The Manager must ensure that all reasonable efforts are made to assist a young person to understand the contents of any correspondence they receive. In relation to legal or professional correspondence, the Manager may seek assistance from:
- (a) the legal practitioner or service provider who authored the correspondence
 - (b) another person approved by the legal practitioner or service provider.

Young People's Contact with their Children

- 6.120 If a young person is a parent or primary carer of a child, contact between the young person and the child will be facilitated in the manner considered to be in the young person's and their child's best interests.
- 6.121 An individual plan for such contact will be developed by the Manager in conjunction with Child and Youth Protection Services, the young person, the child (if to do so is meaningful, given the age and maturity of the child) and, where relevant, other family members.
- 6.122 The Manager must give necessary consideration to the welfare, safety and security of all young people at a detention place in developing the plan.

Provision of Information, Review of Decisions and Complaints

- 6.123 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.
- 6.124 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*.
- 6.125 Staff must ensure that the Complaints Management Policy and Procedures is followed.

Records and Reporting

- 6.126 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.
- 6.127 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.
- 6.130 The Manager must ensure that a record of searched correspondence is maintained including the results of the search. Where appropriate a record of the search must be kept on the Approved Persons Register, (i.e. contraband or illegal content sent by personal contacts).

7. Forms and Templates

Approved Persons Register
Visiting Conditions

8. Related Policies and Procedures

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

Admission and Classification Policy and Procedures
Complaints Management Policy and Procedures
Minimum Living Conditions Policy and Procedures
Safety and Security Policy and Procedures
Search and Seizure Policy and Procedures
Records and Reporting Policy and Procedures
Use of Force Policy and Procedures

Policies and Procedures in Child and Youth Protection Services

Single Case Management Policy and Procedures

9. Further References

NA

10. Review

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