

Australian Capital Territory

Crimes (Sentence Administration) Interstate Transfer of Community Based Sentences to ACT Assessment Procedure 2023

Notifiable instrument NI2023–635

made under the

Crimes (Sentence Administration) Act 2005, s 277 (Community-based sentence transfer—decision on request)

1 Name of instrument

This instrument is the *Crimes (Sentence Administration) Interstate Transfer of Community Based Sentences to ACT Assessment Procedure 2023*.

2 Commencement

This instrument commences on the day after its notification day.

3 Assessment procedure

I make the attached *Interstate Transfer of Community Based Sentences to ACT Assessment Procedure 2023*.

Bruno Aloisi
Acting Commissioner
ACT Corrective Services
The Local Authority
10 October 2023



Procedure	Interstate Transfer of Community Based Sentences to ACT Assessment Procedure
Procedure No.	C34.1
Scope	Community Operations

PURPOSE

To provide instructions to Community Operations staff on the processes involved for interstate transfers of community-based sentences. This instruction covers the formal transfer and registration of Orders from other jurisdictions to the ACT. Upon registration of the order in the ACT, it becomes enforceable in the ACT.

SCOPE

This procedure applies to all Interstate Transfer of Community Corrections Order applications received from other jurisdictions where a corresponding ACT Community Corrections Order has been established. It is noted that this procedure does not apply to Bail Orders or Parole Orders. For information on the transfer of Parole Orders, please refer to the *National Operating Procedures Interstate Transfer of Parole Orders and Parolee Interstate Travel Permits*.

Any applications made in relation to the interstate transfer of community-based orders requires the consideration of victim issues. For more detailed instruction on these related processes, please refer to the *Information for Interstate Transfer of Community Sentences Community Instruction*.

PROCEDURES

1. Interstate transfer applications to the ACT

- 1.1. All actions throughout this process must be case noted as per the *Case Note Policy*.
- 1.2. To initiate the transfer, the offender will inform the sending jurisdiction of their interest in transferring their sentence to the ACT. It is up to the sending jurisdiction to ascertain whether the ACT has a correlating Order and if so, to explain the transfer process, obligations, consequences of breach, and the correlating Order to the offender.
- 1.3. The ACT Corrective Service (ACTCS) Sentence Administration Section (SAS) will receive the transfer application pack and ensure all required documentation and forms have been provided:
 - a. *Annexure C2 – Offender Information Sheet*
 - b. *Annexure C3 – Application Form*

- c. Annexure C4 – Offender Consent Form
 - d. copies of sentence/s to be transferred
 - e. Offender’s Criminal History
 - f. Police Facts and/or Case Statement for the Order offences
 - g. any relevant pre-sentence, psychological, medical or other reports and assessments
 - h. copy of any Protection Order/s
- 1.4. SAS will acknowledge receipt of the transfer application upon confirming that:
- a. the transfer application pack is whole and complete
 - b. the corresponding order has been correctly assessed by the sending jurisdiction
 - c. there are no outstanding appeals or breach actions.
- 1.5. SAS will create a new offender profile in the offender information management system if one does not already exist and attach all application documentation. SAS will allocate a Transfer task to a Community Corrections Team Leader (TL) within 48 hours.
- 1.6. The TL will allocate the Transfer task to a Community Corrections Officer (CCO) within 48 hours.

2. Assessment of interstate transfer application

- 2.1. Once received, the CCO may request via SAS, any further information from the sending jurisdiction to assist in assessing the transfer application.
- 2.2. The CCO must inform the Victim Liaison Officer (VLO) of the application so that the VLO can commence gathering victim input for the completion of the Victim Information Submission Form. This must be done via email to ACTCSVictimLiaisonOfficer@act.gov.au.
- 2.3. The CCO must confirm the offender’s proposed ACT address to ensure the offender can and will reside in the ACT, and if required, conduct a home visit as per the Home and Field Visits Policy and related Home and Fields Visits Community Instruction.
- 2.4. The CCO must conduct collateral information checks to ensure all relevant information is captured to assess the transfer application:
- a. send an email to the ACT Courts Protection Unit at Protection@courts.act.gov.au to ascertain the status of any current protection orders in ACT where the offender is named as the respondent. If there is a current protection order which identifies a victim(s) as a protected person(s), the CCO must obtain a copy and upload it to the offender management system and inform the VLO
 - b. send an email to ACT Policing at ACT-Intel-Corrections@afp.gov.au to ascertain any concerns held by police about the proposed transfer and proposed ACT address
 - c. send an email to Child and Youth Protection Services at CSDCYPChildProtectionInformation@act.gov.au to ascertain any concerns held about the proposed transfer and its potential impact on children/young people known to that service

- d. in circumstances where the corresponding order requires Court supervision:
- for orders akin to a Drug and Alcohol Treatment Order, send an email to the Drug and Alcohol Sentencing List (DASL) Coordinator at DASL.Coordinator@courts.act.gov.au to obtain information on whether there is space within DASL to accommodate the transfer;
 - for all other such orders, send an email to ACT Supreme Court at SCRegistrar@courts.act.gov.au to obtain information on whether the Court can accommodate the transfer.
- 2.5. Information received from all collateral checks must be clearly documented in the offender information management system by the CCO and with considerations to the *Victim Information for Interstate Transfer of Community Sentences Community Instruction*.
- 2.6. As the assessing officer, the CCO will consider all the information provided to form their recommendation regarding the application. In reaching their recommendation, the CCO must make considerations including:
- a. all collateral information submissions and recommendations including any additional Order condition/s
 - b. ACT residence information
 - c. satisfaction that the order can be effectively administered in ACT
 - d. the *Victim Submission Information Form*.

For additional guidance refer to *Table 1 Factors affecting interstate transfer*.

- 2.7. The CCO must make a recommendation to decline or approve the transfer and forward their recommendation along with the application pack and *Victim Information Submission Form* to the TL.
- 2.8. If the recommendation is to decline the transfer, the CCO must provide clear reasons for the recommendation to decline.
- 2.9. If the recommendation is to approve the transfer, the CCO must outline all preconditions to be met prior to final approval and registration, including the mandatory precondition for the offender to report to ACTCS Community Corrections on at least one occasion.
- 2.10. The TL will review and endorse the transfer pack ensuring all relevant information is provided and clear.
- 2.11. The TL will submit the transfer application to the Assistant Commissioner, Service Improvement and Community Operations (ACSICO) as the Local Authority for preliminary approval, pending precondition interview if the recommendation is to accept the transfer.
- 2.12. The ACSICO will assess the transfer application, complete and sign the *Annexure C5 – Approval Decision Form*. If the ACSICO requires more detail about the Victim Information Form to make their decision, they can request that the VLO grants them access to the full victim submission, however this will not be referred to in detail in the decision form. The ACSICO will forward the

completed and signed Annexure C5 – Approval Decision Form and the application to SAS, copying the TL, CCO and VLO into the email.

- 2.13. SAS will inform the sending jurisdiction of the decision, update the offender information management system as required and manage any additional information requests from the sending jurisdiction. SAS will advise the sending jurisdiction that the CCO named on the Annexure C5 – Approval Decision Form can be contacted directly in regard to any precondition appointment details, if required.
- 2.14. The ACTCS officer responsible for each action in this section must ensure the offender information management system is updated to reflect the progress of the application.

3. Pre-condition supervision appointment

- 3.1. The CCO will be contacted by the sending jurisdiction to obtain reporting instructions and confirm a suitable time for the precondition supervision appointment. The CCO should confirm that the offender will receive and understand the preconditions and reporting instructions ahead of the scheduled appointment.
- 3.2. If the offender fails to report and does not make contact within 24 hours of the appointment the CCO must notify the relevant officer from the sending jurisdiction. If contact can be made with the offender, an alternative appointment may be offered. If contact cannot be made with the offender, the CCO can follow the steps to formally decline the application i.e., see from step 2.7:
 - a. update Annexure C5 – Approval Decision Form and send to TL.
 - b. TL checks and forwards to the Local Authority to endorse the decision to decline.
 - c. the Local Authority will reassess and make a decision as per step 2.11.
- 3.3. If the offender reports at the precondition supervision appointment, the CCO will confirm that the offender:
 - a. understands the implications of the transfer
 - b. understands and agrees to obligations under the ACT Community Corrections Order
 - c. has met all preconditions set out in the preliminary approval
 - d. completes ACTCS Community Corrections induction and assessment
- 3.4. If the offender has not met all preconditions, a follow up appointment may be offered if preconditions can be met in a timely manner. If the preconditions cannot be met, the CCO can follow the steps to formally decline the application i.e. see from step 2.6, update Annexure C5 – Approval Decision Form and send to TL.
- 3.5. Once the offender has met all preconditions for registration, the CCO will notify SAS to trigger final approval.

4. Final approval and registration of order

- 4.1. SAS will register and allocate the order in the offender information management system as per the Registering and Allocating Community Based Orders Community Instruction.
- 4.2. Following registration:
 - a. SAS will complete Annexure C7 – Notice of Registration Interstate Transfer and provide a copy of the notice of registration to the sending jurisdiction and upload a copy to the offender information management system within one (1) business day.
 - b. SAS will alert the relevant ACT Court about the transfer of the order(s) and will request that Courts add an alert to ICMS capturing the date of transfer and the details of the sending jurisdiction.
 - c. The CCO must provide the offender a copy of Annexure C7 – Notice of Registration Interstate Transfer within five (5) business days.
 - d. ACTCS will be responsible for all supervision requirements of the community-based sentence, including all ongoing case management and non-compliance actions.

RELATED DOCUMENTS AND FORMS

- National Operating Procedures Interstate Transfer of Parole Orders and Parolee Interstate Travel Permits
- Victim Information for Interstate Transfer of Community Sentences Community Instruction
- Home and Field Visits Policy
- Case Note Policy
- Early Termination of Supervision – Good Behaviour Order Community Instruction
- 2.1.19 Obligations Whilst Under Supervision
- Annexure C2 – Offender Information Sheet
- Annexure C3 – Application Form
- Annexure C4 – Offender Consent Form
- Annexure C5 – Approval Decision Form
- Annexure C6 – Reporting Instructions
- Annexure C7 – Notice of Registration Interstate Transfer
- Annexure C11 – Departmental Recommendation Form
- Annexure C12 – Home Visit Assessment Form

Vanessa Akyol-Quinn

A/g Assistant Commissioner, Service Improvement & Community Operations

ACT Corrective Services

10 October 2023

Document details

Criteria	Details
Document title:	<i>Interstate Transfer of Community Based Sentences to ACT Assessment Procedure 2023</i>
Document owner/approver:	Assistant Commissioner, Service Improvement & Community Operations
Date effective:	The day after the approval date
Review date:	3 years after the approval date
Responsible Officer:	Director, Community Operations
Compliance:	This operating procedure reflects the requirements of the <i>Corrections Management (Policy Framework) Policy 2020</i>

Version Control			
Version no.	Date	Description	Author
V1	October 2022	First Issued	W Stuart
V1.1	February 2023	Minor updates	M Butler
V1.2	October 2023	Minor updates	M Butler

Table 1. Factors affecting interstate transfer

Criterion	Consideration	Examples
Criteria (a) Safety	<ul style="list-style-type: none"> a. General Community Safety b. Victim access c. Identified victims and their family d. Domestic and Family Violence (DFV) harm e. ACTCS Staff safety - reported incidents f. Other victim(s) of unrelated offences 	<p>Consider the impacts to safety that accepting the transfer to ACT may have to the community, identifiable victims including DFV harm and Community Corrections staff.</p> <p>Consider all relevant information including known associations or links to groups of interest which may need to be requested from the interstate authority as additional information.</p> <p>Example circumstance that may not meet this criterion:</p> <ul style="list-style-type: none"> a. The individual has had several Family and Domestic Violence Orders in the ACT. The victim currently resides in the ACT and is reported to be fearful of the individual. Information available notes the victim has previously relocated for their own safety.
Criteria (b) Effectively – Observed	<ul style="list-style-type: none"> a. Additional/special conditions outstanding b. Availability of community service projects c. Proximity to Community Corrections office d. Testing facilities - if relevant e. Order conditions 	<p>Consider the ability for the individual to observe the conditions of the order in the ACT. This includes consideration of whether any special conditions attached to the order and/or assessed rehabilitative needs outlined by the interstate authority can be managed effectively in the ACT. Consider if appropriate community service work is available. In some instances, approval may be subject to preconditions, or liaison with the interstate jurisdiction in relation to amending the order prior to transfer may be required.</p> <p>Example circumstance that may not meet this criterion:</p> <ul style="list-style-type: none"> a. The order has a special condition to complete a specific program that is not readily available in the ACT.
Criteria (c) Effectively - Administered	<ul style="list-style-type: none"> a. Timeframe left on order b. Supervision requirements (e.g. program and intervention required) c. Administration (e.g. the individual plans on relocating again within a short timeframe of arriving) d. Community service hours remaining 	<p>Consider whether the order can be effectively administered in the ACT, which may include factors relevant to the administration or supervision of the order.</p> <p>Example circumstance that may not meet this criterion:</p> <ul style="list-style-type: none"> a. An individual living in Queensland requests to relocate to the ACT for a three-month temporary employment contract to work in ACT and NSW, before relocating to NSW permanently for a longer-term contract. The administrative effort to process the incoming application, the regular travel in and out of the state, and the outgoing application a short time later may be considered inefficient. b. The ACTSC (via the DASL Coordinator) advises that there is no capacity within DASL to accommodate the transfer.