

Australian Capital Territory

# Corrections Management (Transitional Release) Policy 2023

Notifiable instrument NI2023–81

made under the

Corrections Management Act 2007, s14 (Corrections policies and operating procedures)

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## 1 Name of instrument

This instrument is the *Corrections Management (Transitional Release) Policy 2023*

## 2 Commencement

This instrument commences on the day after its notification day.

## 3 Policy

I make this policy to facilitate the effective and efficient management of corrections services.

## 4 Revocation

This instrument revokes the *Corrections Management (Transitional Release Program) Policy 2020* [NI2020-746].

Ray Johnson <sup>APM</sup>  
Commissioner  
ACT Corrective Services  
15 February 2023

# TRANSITIONAL RELEASE POLICY

POLICY NO. D26



**ACT**  
Government

Justice and Community Safety

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## 1 PURPOSE

ACT Corrective Services (ACTCS) is committed to ensuring that eligible detainees are provided with reintegrative opportunities through transitional release consistent with their continuing custody, their rehabilitation, and with due consideration to the safety, security, and good order of a correctional centre.

ACTCS is also committed to ensuring community safety as a paramount concern. As such, comprehensive risk assessments and mitigation strategies are undertaken and developed prior to a detainee's participation in the Transitional Release Program (TRP), Transitional Release Centre (TRC) and associated leave activities.

This policy establishes the transitional release processes for detainees in the custody of ACTCS.

## 2 SCOPE

This policy applies to all correctional centres in the ACT.

Where required, the Assistant Commissioner Offender Reintegration may establish operational procedures under this policy.

## 3 DEFINITIONS

### Classification

The categorisation of detainees according to the security conditions appropriate to manage any risks to safety, security, and good order within a correctional centre, and to public safety in the event of an escape.

### Case Manager (CM)

An officer who provides case management support to offenders. There are separate Case Managers for sentenced offenders, people on remand, and offenders in the community

### Case Management Plan (CMP)

A document which guides ACTCS individual case management. The Case Management Plan may identify static and dynamic criminogenic risk factors and non-criminogenic needs, as well as specific strategies and interventions to address these factors and needs.

**Transitional Release**

Approved, planned, and structured release into the community for specific purposes, which occurs prior to release from custody.

**Transitional Release Centre (TRC)**

An accommodation centre available to eligible male detainees; placement in which allows for access to reintegration activities which occur prior to release from custody.

**Transitional Release Program (TRP)**

A program available to eligible female detainees to allow access to comparative reintegration activities as male detainees, who access the Transitional Release Centre.

## 4 PRINCIPLES

4.1 ACTCS recognises:

- a. the importance of transitional release in supporting rehabilitation and preparing detainees for reintegration into the community
- b. the importance for detainees of establishing and/or re-establishing supports in the community, specifically family and kinship connections
- c. that time spent in custody impacts a detainee’s ability to secure employment in the community.

4.2 A detainee’s access to transitional release is discretionary, and not automatic. The detainee must meet prescribed eligibility criteria, must make an application, and this application must be assessed before being approved or denied.

4.3 Detainees applying for transitional release must be subject to a comprehensive risk assessment. They must not be permitted to participate where:

- a. these risks are unable to be mitigated
- b. it would present an unacceptable risk to community safety or a correctional centre, or
- c. it would undermine public confidence in the administration of justice.

4.4 ACTCS must take into consideration the views of victims of an offender when considering the offender’s suitability for transitional release activities.

4.5 Reintegration is a principle of ACTCS case management. AMC Case Managers must work with a detainee towards transitional release as a part of their Case Management Plan, in accordance with the Case Management Policy.

- 4.6 Decisions about a detainee's eligibility and participation in transitional release must be made consistently with human rights, and include the proper consideration of relevant rights in each circumstance.

## 5 ELIGIBILITY FOR TRANSITIONAL RELEASE

- 5.1 Detainees must meet the following eligibility criteria in order to apply for transitional release:
- a. a security classification of **Minimum** under the *Detainee Classification Policy*
  - b. an IEP level of **Standard** or **Enhanced** under the *Incentives and Earned Privileges Policy*
  - c. for detainees with a head sentence greater than 5 years – 24 months or less remaining on their non-parole period
  - d. for detainees with a head sentence less than 5 years but greater than 12 months – 12 months or less remaining on their non-parole period
  - e. active engagement in programs and interventions identified in their Case Management Plan (CMP). **Note:** detainees must have completed all offence specific interventions as identified in their CMP. Detainees may still apply even if they have not yet completed their offence related or wellbeing interventions.
- 5.2 Detainees are ineligible to apply for transitional release if they:
- a. have a head sentence shorter than 12 months
  - b. have returned a positive urinalysis test result(s) within the previous six (6) months in accordance with the *Drug and Alcohol Testing in Correctional Centres Policy*
  - c. have received a substantiated *Discipline – Charge Notice* in the previous six (6) months in accordance with the *Detainee Discipline Policy*
  - d. are subject to an immigration hold, notice of intention to cancel visa or intended extradition to another jurisdiction
  - e. have outstanding criminal legal matters, such as appellant matters or interstate charges which are not yet finalised.
- 5.3 If the detainee is subject to a life sentence, they must apply for release on licence within 12 months of approval for transitional release, or their approval will be revoked.

- 5.4 A detainee's application cannot proceed to assessment until all eligibility criteria is met.

## 6 TRANSITIONAL RELEASE PROGRAM ASSESSMENT

- 6.1 The AMC Case Manager (CM) must ensure that:
- a. all eligible detainees are offered a *D26.F1: Transitional Release Application Form* eight (8) weeks prior to eligibility and are supported to complete this where required
  - b. the *D26.F2: Transitional Release Risk Assessment* is completed
  - c. the *D26.F3: Transitional Release Plan* is completed.

### RISK ASSESSMENT

- 6.2 The CM must refer to the *D26.1 Transitional Release Application Operating Procedure* for guidance on identifying and addressing risks and developing mitigation strategies when completing the *D26.F2: Transitional Release Risk Assessment*.
- 6.3 The AMC CM must provide the following completed documents to the AMC Case Management Unit Team Leader (AMC CM TL)
- a. *D26.F1: Transitional Release Application Form*
  - b. *D26.F2: Transitional Release Risk Assessment*
  - c. *D26.F3: Transitional Release Plan*
  - d. any other relevant documents as required.
- 6.4 The AMC CM TL must provide any relevant feedback to the AMC CM regarding the application for quality assurance, prior to it progressing the assessment panel.

### VICTIM SUBMISSION AND CONSIDERATIONS

- 6.5 The Victim Liaison Officer must notify any registered victim of a detainee's transitional release application and offer them seven (7) days' notice to make a submission in response.
- 6.6 The Victim Liaison Officer may provide written feedback on available information in relation to any victim of the detainee.
- 6.7 Any submissions received by the Victim Liaison Officer must be provided directly to the Director Reintegration who is responsible for sharing the submission with the Transitional Release Assessment Panel (TRAP) for consideration.
- 6.8 The Victim Liaison Officer, and members of the TRAP, must ensure that all submissions remain confidential and are not distributed beyond the scope of

this assessment process, and must not upload any submissions to the detainee's electronic records.

#### **TRANSITIONAL RELEASE PLAN**

- 6.9 The CM is responsible for completing the Transitional Release Goals section of the *D26.F3. Transitional Release Case Plan*.
- 6.10 The CM must develop individualised Transitional Release goals, in consultation with the detainee and in line with *D26.1 Transitional Release Application Operating Procedure*.
- 6.11 The Transitional Release Case Plan section of the *D26.F3. Transitional Release Case Plan* will then be developed with the detainee by Transitional Release non-custodial staff within one week of the detainee entering Transitional Release.
- 6.12 The *D26.F3. Transitional Release Case Plan* will be developed by Transitional Release non-custodial staff in line with the *D26.3 Transitional Release Case Planning Operating Procedure*.

#### **PANEL ENDORSEMENT**

- 6.13 The AMC CM TL and/or CM must organise for the TRAP to meet as needed, attend the meeting to take minutes and provide further information as requested.
- 6.14 The TRAP consists of the following members:
  - a. Senior Director Accommodation (or delegate)
  - b. Senior Director Operations (or delegate)
  - c. Director Reintegration (or delegate)
  - d. Team Leader Transitional Services (or delegate)
- 6.15 Aboriginal and Torres Strait Islander detainees may request that an Aboriginal Liaison Officer (ALO) also sits on the TRAP.
- 6.16 The TRAP must refer to the *D26.2 Transitional Release Assessment Panel Operating Procedure* for guidance on the assessment process, what factors need to be considered, and what documentation needs to be reviewed. This includes consideration of any submissions made by the detainee in support of their application.
- 6.17 After reviewing the application, the TRAP may:
  - a. endorse the application (note: it is still subject to approval)
  - b. not endorse the application, or
  - c. request further amendments/clarifications to the application.



- 6.18 More than half of the panel members must be in agreement in order for a recommendation to be submitted for consideration.
- 6.19 If the TRAP recommends the detainee's application, they may include any relevant conditions or limitations which mitigate identified risks for consideration by the Assistant Commissioner Custodial Operations as the final decision maker.
- 6.20 If the TRAP does not recommend the application, the Panel must document the reasons clearly in writing, and indicate how the detainee could improve their eligibility for consideration by the Assistant Commissioner Custodial Operations as the final decision maker.

## **7 APPROVAL OF TRANSITIONAL RELEASE**

- 7.1 The TRAP must inform the Assistant Commissioner Custodial Operations of their decision to recommend or not recommend the detainee's application and must hand over all documentation.
- 7.2 The Assistant Commissioner Custodial Operations must refer to the D26.2 Transitional Release Assessment Panel Operating Procedure for the full list of considerations before approving or denying a detainee's application for transitional release.
- 7.3 The detainee must be notified of the outcome of their application in writing by the CM, and this must be documented on the detainee's electronic file.
- 7.4 The detainee may appeal the decision made about their application in accordance with the Detainee Requests and Complaints Policy.

## **8 LEAVE**

- 8.1 Detainees approved for Transitional Release may access leave for the following reasons:
- a. community reintegration activities (including accessing government services, familiarisation with the detainee's intended local area upon release etc)
  - b. community-based rehabilitation
  - c. re-establishing family and kinship connections
  - d. accessing education and/or vocational studies
  - e. employment

f. medical/health

- 8.2 Transitional Release staff must support detainees to complete the D26.F5: Transitional Release Leave Application to identify their reason for leave.
- 8.3 All D26.F5: Transitional Release Leave Applications must be completed and assessed in relation to the detainee's Transitional Release Plan, their goals for reintegration and the D26.12 Transitional Release Leave (ex community-based employment) Operating Procedure and D26.11 Transitional Release Leave (community-based employment) Operating Procedure.
- 8.4 Where the detainee's finalised D26.F3: Transitional Release Plan includes Interstate Leave, the Assistant Commissioner Custodial Operations must provide a recommendation to the Commissioner regarding the application. The Commissioner must consider the relevant risk factors and identified mitigation strategies before approving or refusing the leave.

#### **SPONSORED AND UNSPONSORED LEAVE**

- 8.5 In general, a detainee's Leave Permit must identify a sponsor who is to collect the detainee from the Correctional Centre.
- 8.6 Approval of the sponsor is subject to risk assessment and approval (see D26.9 Transitional Release Sponsors (family and kinship) Operating Procedure and D26.10 Transitional Release Sponsors (community-based employment) Operating Procedure).
- 8.7 In some circumstances the Assistant Commissioner Custodial Operations may approve leave without sponsorship or escort. An example of these circumstances includes when a detainee has requested transitional leave to attend education or vocational study.
- 8.8 The Assistant Commissioner Custodial Operations must specify the frequency of compliance checks to be completed by a Custodial Officer or Transitional Release Staff member, when approving unsponsored or unescorted leave.

#### **VICTIM CONSIDERATIONS**

- 8.9 As part of any leave application for Transitional Release, Transitional Release staff must notify the VLO of potential transitional release sites.
- 8.10 The VLO must liaise with any registered victims to make sure the location does not pose a risk, and to invite any concerns they may have regarding the proposed leave sites.

- 8.11 Detainees must not be approved to spend time with registered victims unless this has been specifically requested by the victim, and relevant mitigation strategies are in place.

#### **RETURNING TO A CORRECTIONAL CENTRE AFTER TRANSITIONAL LEAVE**

- 8.12 All detainees who return to a correctional centre from transitional release may:
- a. have their person and/or property searched in accordance with the *Searching Policy*
  - b. be subject to a alcohol and/or drug test in accordance with the *Drug and Alcohol Testing in Correctional Centres Policy*

## **9 SPONSORSHIP**

- 9.1 Following receipt of the *D26.F8: Sponsor Nomination Form* from a detainee, the Transitional Release Team Leader must assess the application, and provide a recommendation to the Director Reintegration for a decision in line with the *D26.9 Transitional Release Sponsors (family and kinship) Operating Procedure* and *D26.10 Transitional Release Sponsors (community-based employment) Operating Procedure*.
- 9.2 As far as practicable, personal sponsorship arrangements must be finalised within stage one of Transitional Release and workplace sponsorship arrangements must be finalised within stage two of Transitional Release.
- 9.3 Sponsors are required to meet the following minimum criteria to be considered for eligibility under this policy:
- a. sponsors must be 25 years of age or older
  - b. sponsors must not have any pending charges and must disclose any previous offences they may have been convicted of, and
  - c. sponsors must be able to comply with the conditions of the *D26.F9: Sponsor Agreement*.
- 9.4 Where a sponsor has been rejected, reasons must be provided to the detainee and nominated sponsor, unless when doing so would jeopardise the safety of any person, or security and good order at a correctional centre.

## **10 EMPLOYMENT**

- 10.1 Detainees are eligible to access work experience and paid work placements in the community as identified in their *D26.F3: Transitional Release Plan*. For

detainees participating in either the TRP or TRC this may occur in stage three of Transitional Release.

- 10.2 The following work provider placements must not be approved, as ACTCS cannot adequately mitigate the inherent risks to community safety or a correctional centre, or the risks to public confidence in the administration of justice:
- a. pubs, bars, or nightclubs
  - b. sex work industry
  - c. a gambling establishment
  - d. security work, or
  - e. work that includes unsupervised contact, or potential contact, with children or vulnerable adults.
- 10.3 Any work placement in the community must be approved by the Director Reintegration and monitored based on risk assessment of both the provider and the detainee by an Offender Reintegration Employment Officer in line with the *D26.8 Transitional Release Community-based Employment Operating Procedure*.
- 10.4 Potential employers must complete a *D26.F7: Work Provider Agreement* and *D26.F10 Workplace assessment* and must be registered with the ACT Insurance Registry (and be issued with a public liability certificate) in line with the *D26.8 Transitional Release Community-based Employment Operating Procedure*.
- 10.5 Detainees undertaking paid employment must be remunerated equally as someone in the community.
- 10.6 Board monies will be deducted by ACTCS from earnings paid to a detainee who is participating in work in the community in accordance with the *Detainee Trust Fund Management Policy*.

## **11 MONITORING AND REVIEW**

- 11.1 Case Managers must meet with their assigned transitional release participant at regular intervals as identified in the *D26.5 Transitional Release Staged Approach to Reintegration Operating Procedure*.
- 11.2 The purpose of these meetings under section 11.1 is to:
- a. review the leave accessed by a detainee under their *D26.F3: Transitional Release Plan*
  - b. discuss any supports required to assist the detainee, and

- c. monitor progress against the reintegration goals in the detainee's Case Management Plan and outcomes derived from the D26.F3: Transitional Release Plan.

11.3 Where changes to a detainee's D26.F3: Transitional Release Plan are identified in meetings under section 11.1, an updated plan must be provided to the Transitional Release Team Leader (or above) for approval.

#### **SUSPENSION**

11.4 The Custodial Officer in Charge or Transitional Release Team Leader, may immediately suspend a detainee's participation in transitional release where:

- a. there is a reasonable belief that the detainee's participation in the transitional release activity has created a risk to a person's safety (including that of a victim or the broader community), the correctional centre or risk of escape from custody, and
- b. the Assistant Commissioner Custodial Operations is not immediately available.

11.5 A detainee who has been suspended from accessing Transitional Release must have their participation reviewed in accordance with section 12 as soon as practicable.

11.6 Suspension from Transitional Release may result in a detainee being returned to secure accommodation in a correctional centre pending a review under section 12.

## **12 CANCELLATION**

12.1 On receipt of relevant information in relation to a detainee (including their suspension from Transitional Release), the Assistant Commissioner Custodial Operations or above may propose to cancel a detainee's participation in Transitional Release where necessary, including but not limited to the following reasons:

- a. a detainee failed to return from leave at the specified time without reasonable grounds for the delay
- b. any breach of the conditions of a detainee's leave permit
- c. any risk to the safety of any person, or to security or good order at the correctional centre

- d. the detainee is found to have committed a disciplinary breach (*Discipline Policy*)
  - e. the detainee returns a positive result to a test under the *Drug and Alcohol Testing in Correctional Centres Policy*
  - f. the detainee is managed under the *Management of Detainees at risk of Suicide or Self-harm Policy*
  - g. there is a change in the circumstances of the detainee, or their sponsor where applicable
  - h. the detainee poses an unacceptable risk of reoffending, or
  - i. for any other reason the Assistant Commissioner Custodial Operations or above considers reasonable.
- 12.2 The detainee must be provided with a *D26.F4: Cancellation Notice* within two (2) business days of the decision to propose cancellation. The detainee must be supported by the Case Manager (where required) to provide any response they wish to the proposed cancellation.
- 12.3 If a detainee's participation in transitional release is cancelled, they will be ineligible to re-apply for a six (6) month period (*D26.F4: Cancellation Notice*).
- 12.4 The detainee's Case Manager must ensure written reasons for the cancellation are provided to the detainee and documented on the detainee's electronic record system.
- 12.5 Where a detainee's participation in Transitional Release is not cancelled, the Assistant Commissioner Custodial Operations may direct that the detainee's participation continues to be suspended until the risks identified in section 12.1 are adequately mitigated. The Transitional Release Team Leader is also able to return the detainee to an earlier stage of Transitional Release which may limited access to certain types of leave (i.e. overnight family leave).

## **13 APPEALS**

- 13.1 A detainee may appeal decisions under this policy in accordance with the *Detainee Requests and Complaints Policy*.
- 13.2 Registered victims have the right to appeal any decision to approve a detainee's application for transitional release insofar as the decision may affect them. Should a registered victim wish to lodge an appeal, they may do so via the VLO.

- 13.3 An appeal under this policy must be provided to the Commissioner as appropriate and a written response must be provided to the detainee.

## 14 RECORDS AND GOVERNANCE

- 14.1 The Assistant Commissioner Offender Reintegration must submit a monthly report to the Commissioner and Executive Governance Committee each month, including:
- a. the number of detainees approved for transitional release in the previous month by:
    - i. gender
    - ii. Aboriginal and Torres Strait Islander status, and
    - iii. disability status
  - b. the number of detainees who applied for TRP, including how many were approved and rejected
  - c. the number of hours of transitional release by type of leave
  - d. the number of transitional release applications received in the previous month
  - e. the number of detainee appeals that were lodged, including how many were upheld and dismissed
  - f. the number of suspensions and cancellations of applications
  - g. how many applications were deemed ineligible and a basic summary of reasons
  - h. how many applications were re-submitted after initial rejection, and how many of these were accepted or rejected again, and basic summary of reasons
- 14.2 The Senior Director Offender Reintegration must establish a live register of all places where transitional leave may occur. This register must be made available to Official Visitors, as the places identified fall under the definition of a 'visitable place' in accordance with the *Official Visitors Act (2012)*.

## 15 RELATED DOCUMENTS

- Annex A – Transitional Release Centre Rules
- Transitional Release Application Operating Procedure

- Transitional Release Assessment Panel Operating Procedure
- Transitional Release Case Planning Operating Procedure
- Transitional Release Supervision & Case Plan Review Operating Procedure
- Transitional Release Staged Approach to Reintegration Operating Procedure
- Transitional Release Escorts Operating Procedure
- Transitional Release AMC-based Employment Operating Procedure
- Transitional Release Community-based Employment Operating Procedure
- Transitional Release Sponsors (Family and Kinship) Operating Procedure
- Transitional Release Sponsors (Community-based employment) Operating Procedure
- Transitional Release Leave (Community-based employment) Operating Procedure
- Transitional Release Leave (ex Community-based employment) Operating Procedure
- Transitional Release Centre Induction & Orientation Operating Procedure
- Transitional Release Visits Operating Procedure
- Transitional Release Centre Detainees Exiting Operating Procedure
- Transitional Release Breach of Rules or Conditions Operating Procedure
- D26.F1: Transitional Release Application
- D26.F2: Transitional Release Risk Assessment
- D26.F3: Transitional Release Plan
- D26.F4: Cancellation Notice
- D26.F5: Transitional Release Leave Application
- D26.F6: Work Provider Application
- D26.F7: Work Provider Agreement
- D26.F8: Sponsor Nomination
- D26.F9: Sponsor Agreement
- D26.F10: Workplace Assessment
- Temporary Leave Policy
- Incident Reporting, Notifications and Debriefs Policy
- Detainee Classification Policy
- Drug and Alcohol Testing in Correctional Centres Policy
- Authorised Absences Policy
- Sentence Management Policy
- Searching Policy



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ACT Corrective Services  
16 February 2023

### Document details

Criteria	Details
Document title:	<i>Transitional Release Program Policy 2023</i>
Document owner/approver:	Commissioner, ACT Corrective Services
Date effective:	The day after the notification date
Review date:	Three years after the notification date
Compliance with law:	This policy reflects the requirements of the <i>Corrections Management (Policy Framework) Policy 2022</i>
Responsible officer:	Senior Director Offender Reintegration

Version Control			
Version no.	Date	Description	Author
V1	April-19	First issued	L Kazak
V2	May-22	First revision	S Fitzmaurice
V3	Sep-22-Jan-23	Ongoing revision	J Papadopoulo