

Australian Capital Territory

Corrections Management (Remand Detainees) Policy 2025

Notifiable instrument NI2025–28

made under the

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

1 Name of instrument

This instrument is the *Corrections Management (Remand Detainees) Policy 2025*.

2 Commencement

This instrument commences on the day after notification.

3 Policy

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

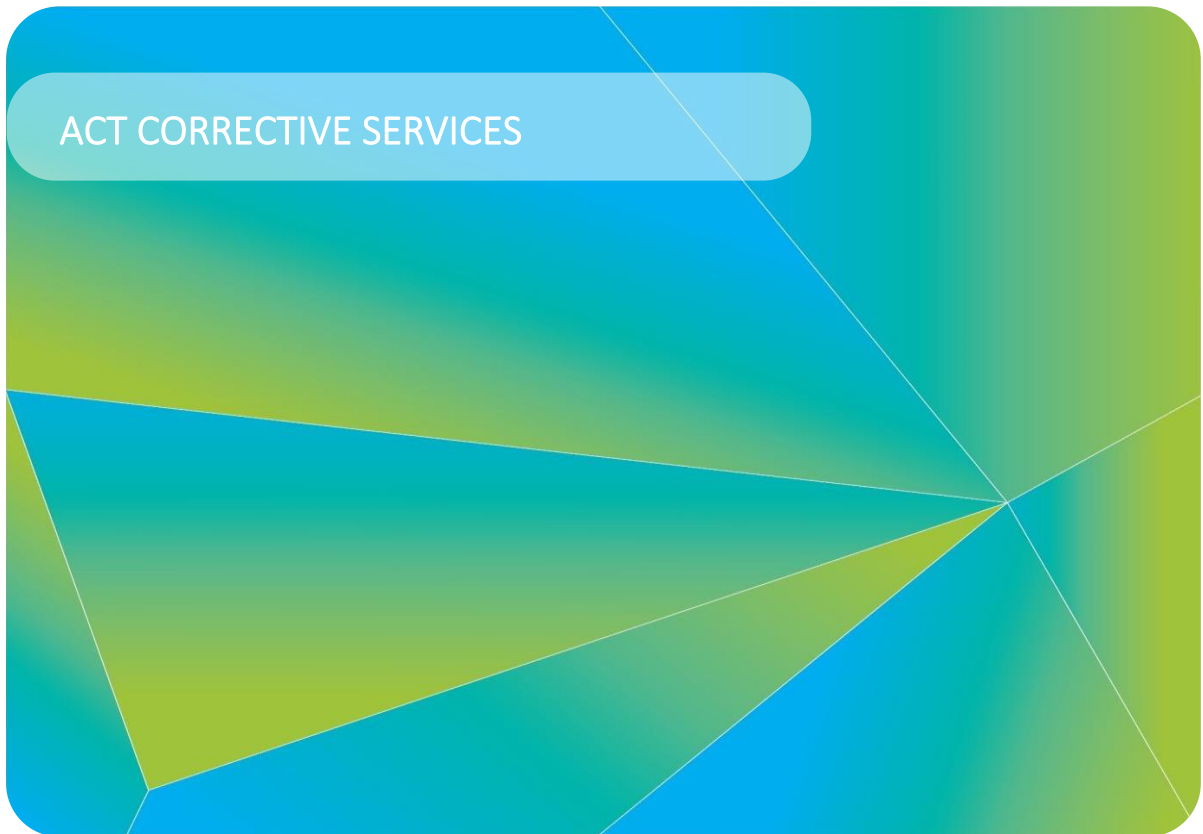
4 Revocation

This instrument revokes the *Corrections Management (Remand Detainees) Policy 2019* [NI2019-377].

Narelle Pamplin
A/g Commissioner
ACT Corrective Services
10 January 2025

REMAND DETAINEES POLICY

POLICY NO. 19



ACT
Government

Justice and Community Safety

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1 PURPOSE

This policy outlines how non-convicted detainees will be treated differently to convicted detainees, and convicted detainees are accommodated separately from non-convicted detainees as far as reasonably possible under section 44 of the Corrections Management Act 2007.

2 SCOPE

This policy applies to all ACT correctional centres.

Where required, the Assistant Commissioner Custodial Operations may establish operating procedures under this policy.

3 DEFINITIONS

| | |
|--|---|
| Appellant | A detainee appealing a decision made by a court. Appellants are considered sentenced detainees until a Court orders otherwise. |
| Best interest of the detainee | An individual or case-by-case approach to decision making that prioritises the wellbeing of an individual in custody while balancing the security and operational needs of the correctional centre. A detainee's wishes may be considered as a factor in the decision-making process. |
| Convicted (Sentenced) detainee | A detainee who has been found guilty of an offence for which they are serving a sentence of imprisonment by full-time detention. |
| Non-convicted (Remand) detainee | A detainee who: <ul style="list-style-type: none">• has not been convicted or found guilty of the offence for which the detainee is remanded or• is not serving a sentence of imprisonment by full-time detention for another offence. |
| Safety | Considers identified risks to the detainee, of the detainee to others or the security or good order of a correctional centre. |

4 PRINCIPLES

- 4.1 There is a difference in legal status between remand detainees and sentenced detainees and a legal obligation to treat remand detainees differently to sentenced detainees.
- 4.2 Remand detainees are innocent until proven guilty.
- 4.3 Detention is not imposed as a punishment of the remand detainee.
- 4.4 Remand detainees will be accommodated separately from sentenced detainees.
- 4.5 A remand detainee may be accommodated with sentenced detainees only if it is reasonably necessary to do so:
- a. to protect the safety of the detainee or anyone else, or
 - b. in the best interests of the detainee.
- 4.6 Remand detainees are subject to less restrictions than sentenced detainees, provided that the conditions under which they are managed do not adversely affect the good order, security and management of the correctional centre and the safety of the detainee.
- 4.7 All detainees receive more than the minimum living standards as outlined in the *Corrections Management Act 2007*. Sentenced detainees will not have their living conditions reduced to provide remanded detainees with less restrictions than sentenced detainees. Entitlements (living standards) must not be affected by disciplinary or behaviour management action taken against the detainee.
- 4.8 The *Human Rights Act 2004* requires staff to act compatibly with human rights and carefully consider human rights when making decisions.
- 4.9 Actions to accommodate remand detainees separately to sentenced detainees and treat remand detainees differently to sentenced detainees must not unreasonably limit other human rights.

5 MANAGEMENT OF REMAND DETAINEES

Accommodation

- 5.1 Under sections 44(2) and 44(4) of the *Corrections Management Act 2007* remand detainees must be accommodated separately from sentenced detainees except where it is reasonably necessary to accommodate sentenced and remand detainees together in instances:
- a. to protect the safety of the detainee or anyone else or
 - b. where it is in the best interests of the detainee.

- 5.2 Factors that may, depending on the individual circumstances, justify a decision to accommodate a remand detainee with sentenced detainees to protect the safety of the detainee or anyone else (including, for example, under the Work Health and Safety Act 2011) include, but are not limited to:
- a. significant history of violent offending
 - b. history of violence or coercion against other detainees while in custody
 - c. current aggressive or bullying behaviour
 - d. current non-associations with detainees in custody
 - e. requests from a Court or Tribunal, ACT Policing, the Director of Public Prosecutions or other justice agencies, to separate detainees, including co-offenders, in order to not interfere with investigations and/or witnesses.
- 5.3 Factors that may, depending on the individual circumstances, justify a decision to accommodate a remand detainee with sentenced detainees where it is in the best interests of the detainee include, but are not limited to:
- a. familial ties, including kinship
 - b. health
 - c. access to programs
 - d. culture
 - e. ethnicity
 - f. race
 - g. disability and reasonable adjustments
 - h. environmental risks (e.g., maintenance issues, emergencies, etc.).
- 5.4 All placement decisions will be made in accordance with this policy and the Placement and Shared Cell Policy.
- 5.5 All decisions to accommodate remand detainees with sentenced detainees under section 44 of the Corrections Management Act 2007, and in accordance with the Placement and Shared Cell Policy, must be recorded, including the reasons for decisions.

Clothing

- 5.6 All detainees, including remand detainees, are required to wear correctional centre clothing while at the Alexander Maconochie Centre to maintain the security of the correctional centre.
- 5.7 All detainees, including remand detainees, may wear their own clothes to Court.

- 5.8 All detainees, including remand detainees, may wear their own clothes while on approved leave with the approval of the Assistant Commissioner Custodial Operations or the Commissioner.

Property

- 5.9 All detainees, including remand detainees, as far as practicable, should be allowed to keep in their possession items of personal property that do not jeopardise security and good order at a correctional centre in accordance with the *Detainee Property Policy*, including during an approved escort.

Minimum living conditions

- 5.10 For all detainees, including remand detainees, the minimum living conditions set out at section 12 of the *Corrections Management Act 2007* and in associated ACTCS policy and procedures must be applied in a way that supports continuity in the detainee's family and community relationships.
- 5.11 All detainees, including remand detainees must be allowed the maximum amount of time out of cell that is operationally possible.
- 5.12 All detainees, including remand detainees, are permitted to purchase additional food items at their own expense subject to items being available through correctional centre buy ups.
- 5.13 All detainees, including remand detainees, are permitted to purchase additional books and writing materials at their own expense subject to items being available through correctional centre buy ups.

Health and wellbeing

- 5.14 All detainees, including remand detainees, are considered clients of Justice Health Services (JHS) on admission to a correctional centre and provided with specialist services as required.
- 5.15 All detainees, including remand detainees may request to be clients of Winnunga Nimmityjah Aboriginal Health and Community Services in accordance with the *Access to Health Care Policy*.
- 5.16 All detainees, including remand detainees, are permitted to procure private therapeutic treatment from a doctor or dentist of their choice at their own expense where approved by ACTCS or JHS.

Case management

- 5.17 The development of a case management plan for a remand detainee is optional under the *Corrections Management Act 2007*. Case Managers and Supports and

Intervention Unit staff provide support for all detainees, convicted or non-convicted. A remand case management plan is developed for all remand detainee who have spent four (4) weeks in custody.

- 5.18 A case management plan and interventions or strategies forming part of case management for a remand detainee must not aim to directly address an alleged offence or offences if the detainee has not been convicted.

Employment program

- 5.19 Remand detainees are not required to engage in employment but have the opportunity to if they wish. However, subject to the completion of any required work health and safety training and ensuring that remand detainees are informed that they are not obliged to work, undertaking employment programs should be encouraged.

Visits and community connection

- 5.20 Senior Directors may approve enriched personal visiting conditions for a remand detainee, especially where:
- a. children under the age of 16 years are involved
 - b. the visits schedule would otherwise not allow a remand detainee to receive a personal visit within 24 hours of admission.
- 5.21 Enriched personal visiting conditions may be in the form of longer visiting sessions, additional visiting sessions, and/or an increased number of eligible visitors, where operationally possible and taking into account safety and security.
- 5.22 Senior Directors must ensure that all remand detainees are provided the opportunity to be enrolled to vote in Territory and Federal elections according to the *Commonwealth Electoral Act 1918 (Cth)*.

6 MANAGEMENT OF ALL DETAINEES WHO HAVE LEGAL MATTERS PENDING (SENTENCED OR ON REMAND)

- 6.1 Senior Directors will:
- a. allow visits (including via audio-visual link (AVL)) and telephone calls to detainees' lawyers, taking into account security requirements as required
 - b. allow visits (including via AVL) with co-accused people, consistent with requests from police and security requirements (e.g., subject potentially

to legal representatives also being present throughout the visit), and any consideration related to the administration of justice

- c. provide access to legal resources as outlined in the *Detainee Access to Education, Library and Information Communication Technology Policy*
- d. where resources allow and in accordance with the *Prohibited Things, Restricted, Excess, and Non-Standard Items Operating Procedure*, provide access to equipment that allows evidentiary material provided in electronic formats to be viewed
- e. where resources allow consider in-cell computers where access to a computer will assist the detainee in their preparation for trial, particularly where the detainee is self-represented
- f. where resources allow, provide access to photocopying and printing on a cost recovery basis.

6.2 Remand and sentenced detainees accommodated in restricted regimes, such as the management and crisis support units, will have equitable access to the above listed resources for legal matters.

7 RELATED DOCUMENTS

- Detainee Access to Education, Library and Information Communication Technology Policy
- Detainee Discipline Policy
- Detainee Property Policy
- Incentives and Earned Privileges Policy
- Placement and Shared Cell Policy

Narelle Pamplin
Acting Commissioner
ACT Corrective Services
10 January 2025

Document details

| Criteria | Details |
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| Document title: | <i>Corrections Management (Remand Detainees) Policy 2025</i> |

| Criteria | Details |
|--------------------------|---|
| Document owner/approver: | Commissioner, ACT Corrective Services |
| Date effective: | The day after the notification date |
| Review date: | Five years after the notification date |
| Compliance with law: | This policy reflects the requirements of the <i>Corrections Management (Policy Framework) Policy 2024</i> |
| Responsible officer: | Senior Director Accommodation |

| Version Control | | | |
|-----------------|-------------|----------------|----------|
| Version no. | Date | Description | Author |
| V1 | February-19 | First draft | L Kazak |
| V2 | January 25 | Major revision | H Cheney |