

# Explanatory Statement

## Children and Young People (Visiting Conditions) Declaration 2008

Disallowable instrument DI2008-231

### 1. Introduction and Purpose

This section outlines the purpose of the Visiting Conditions and the application of the Visiting Conditions. The Visiting Conditions apply at detention places to all persons seeking to visit or visiting a detention place for any purpose.

### 2. Legal Authority and Obligations

The Visiting Conditions are made pursuant to section 228 of the *Children and Young People Act 2008* which allows the Chief Executive to declare conditions that apply in relation to visits to a detention place.

### 3. Authorisations and Delegations

As the Senior Manager is the delegate of the Chief Executive with overall responsibility for the management of a detention place, this section outlines that the Senior Manager is responsible for ensuring the Visiting Conditions are applied at detention places.

### 4. Definitions

This section outlines relevant definitions for the Visiting Conditions. The definitions incorporate terms defined in the *Children and Young People Act 2008*, such as accredited person, family member, prohibited thing, significant person, youth detention officer and visitor. Operational terms used in the Visiting Conditions are also defined in this section, such as Manager.

### 5. Principles

This section outlines the relevant legislative principles under the *Children and Young People Act 2008* that must be considered by all decision-makers making decisions under the Act and all policies and procedures.

### 6. Visiting Conditions – summary of sections

#### *Entitlements for young detainees to visits (section 6.1)*

Section 143 of the *Children and Young People Act 2008* allows the Chief Executive to make youth detention policies and operating procedures, consistent with the Act, to facilitate the effective and efficient management of detention services for young detainees. A Visits, Phone Calls and Correspondence Policy and Procedure is notified under section 143 of the *Children and Young People*

*Act 2008.* The Visits, Phone Calls and Correspondence Policy and Procedure outlines the entitlements of young detainees in relation to visits, phone calls and correspondence and ensures that young detainees have maximum opportunities to maintain relationships with their family members, significant people and accredited people, consistent with the objective of rehabilitation and reintegration of the young detainee into the community.

#### *Approval for visits (sections 6.2-6.3)*

The Visits, Phone Calls and Correspondence Policy and Procedure includes procedures for the approval of people who wish to have personal contact with a young detainee through visits. Only people who have been approved by the Manager may have visits with a young detainee. The names and contact details of persons who have been approved to have visits with a young detainee will be recorded in an Approved Persons Register.

#### *Arrangements for visits (sections 6.4-6.6)*

People who wish to visit a young detainee are required to pre-arrange visits, preferably with 24 hours notice, by contacting the detention place to book a visiting time. There is an obligation for a staff member to inform a person seeking to book a visit for the first time of the procedures that apply for the person's arrival at, and entry to, a detention place.

#### *Venue for visits (section 6.7)*

This section provides that all visits will occur at the Visits Centre, unless a decision is made otherwise by the Senior Manager.

#### *Conditions for visits (sections 6.8-6.9)*

The Manager is required to place appropriate conditions on all visits to safeguard the health and wellbeing of young detainees, staff and visitors and security of a detention place. A record must be kept that documents all conditions, which may include supervision arrangements, number of visitors allowed and physical contact, including reasons for any limitations imposed on a visit. Other necessary conditions may be imposed.

The Manager may also determine the duration of all visits, giving consideration to the health and wellbeing of young detainees, their rehabilitation and reintegration needs, and the safety, security and good order of a detention place.

#### *Visiting schedule (sections 6.10-6.12)*

This section provides that the Senior Manager has responsibility for developing a visits schedule which must be communicated to a visitor seeking to arrange a visit with a young detainee.

#### *Visitor's arrival at a detention place and conditions of entry (sections 6.13-6.17)*

Visitors to a detention place will be provided with a Visiting Conditions Information

Sheet on their arrival for the first time. The Information Sheet will provide visitors with all necessary information including conditions of entry, requirements for visitor conduct and general information. Schedule 1 includes a copy of the Visiting Conditions Information Sheet for general visitors and Schedule 2 includes a copy of the Visiting Conditions Information Sheet for accredited persons.

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. If a person needs assistance to understand the visiting conditions, the person may seek further information from a staff member who will assist them. If a person refuses to sign an acknowledgement form, the Manager has discretion to refuse the visitor entry, after giving consideration to the visitor's reasons/s for refusing to sign and the purpose of their visit.

Visitors will also be required to produce two forms of identification (including one with a photograph) and agree to be enrolled in the biometric system. This may involve a photograph or fingerprint being taken from the visitor.

#### *Prohibited Things (sections 6.18-6.21)*

This section outlines that 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 detainee or remove a prohibited thing from a detention place. In addition to signage at the entrance to a detention place, a list of prohibited things will be provided to each visitor with the Visiting Conditions Information Sheet. A scanning, frisk or ordinary search of a visitor may be directed in accordance with the Search and Seizure Policy and Procedures. Any prohibited things discovered will be seized.

#### *Property of visitors (sections 6.22-6.29)*

In order to ensure prohibited things are not admitted into the Centre, this section outlines that it is a condition of entry that a visitor submits their property for a scanning search prior to entering the Centre. A visitor's property may also be searched after entry to the Centre. A refusal by a visitor to submit their property for a search may result in the visit being refused or the imposition of restrictions on the visit or admission of the property.

Storage will be provided for all property not being taken into a visit, generally in coin-operated lockers.

#### *Personal Searches of Visitors (sections 6.30-6.34)*

In order to ensure prohibited things are not admitted into the Centre, this section outlines that a visitor may be subject to a scanning, frisk or ordinary search prior to entering the Centre or while at the Centre. Definitions of scanning, frisk and ordinary searches are included in the definitions. The rules contained in Part 7.6 of the *Children and Young People Act 2008* for conducting frisk and ordinary searches apply.

*Gifts for Young detainees and Bringing of Items to and From Visits by Young detainees (sections 6.35-6.39)*

Visitors will be required to present gifts for approval by staff prior to a visit with a young detainee. Only items approved by the Manager will be permitted into the Visits Centre. The Manager will restrict items that may cause a risk to the safety and security of a detention place or pose a risk to the physical or mental health and wellbeing of young detainees, staff or other visitors.

*Conduct of visitors (sections 6.40-6.41)*

This section describes acceptable conduct during a visit. Visitors are required to comply with directions given by a youth detention officer, comply with any conditions for the visit and not engage in disruptive or offensive behaviour.

*Monitoring (sections 6.42-6.43)*

This section outlines that, in accordance with Division 6.6.2 of the *Children and Young People Act 2008*, a visitor may be subject to monitoring by a person or by electronic means and their actions and voice may be recorded. However, communication at a visit between a young detainee and the listed accredited people will not be listened to, or recorded, consistent with section 179 of the *Children and Young People Act 2008*.

*Mandatory Reporting of Threats to Security (section 6.44)*

This section outlines the requirement at section 193 of the *Children and Young People Act 2008* for an adult who works at, or provides services at, a detention place to report to a youth detention officer their reasonable suspicion that a young detainee or another person at the Centre poses a significant threat to security or good order or has a prohibited thing or dangerous item concealed on their person.

*Directions to visitors (sections 6.45-6.47)*

This section includes examples of directions that may be given to a visitor by a youth detention officer pursuant to section 231 of the *Children and Young People Act 2008*.

*Visitor's departure from a detention place (sections 6.48-6.49)*

This section requires a visitor leaving a detention place to hand over any item, at the direction of a youth detention officer, that an officer believes to be removed from the detention place without permission, including a prohibited thing.

*Refusal or Termination of Visits and Directions to Leave Detention Place  
(sections 6.50-6.53)*

This section outlines the circumstances in which a visit may be cancelled, postponed or terminated. It also outlines when a direction may be made by the Manager to refuse entry of a visitor to a detention place or to direct a visitor to leave a detention place. Decisions to refuse or terminate a visit include: reasonable suspicion of intoxication or drug influence, possession of a prohibited thing, security and good order reasons, protecting the best interests of a young detainee or contravention of a direction to comply with the Visiting Conditions and/or any reasonable direction given by a youth detention officer.

*Removal by Force (sections 6.54-6.55)*

In accordance with section 232 of the *Children and Young People Act 2008*, the Manager may direct a youth detention officer to use force to enforce a direction made to a visitor to not enter or to leave a detention place if the person contravenes the direction.

In such circumstances, youth detention officers are to comply with the Use of Force Policy and Procedure in applying necessary and reasonable force to enforce the direction. The Use of Force Policy and Procedure requires a warning to be given to a person of an intention to use force prior to the application of force and the provision of further opportunity for the person to comply with the direction after the warning has been given.

**Schedule 1 Visiting Conditions Information Sheet for General Visitors**

This Visiting Conditions Information Sheet will be given to all visitors entering a detention place for the first time. It outlines conditions of entry, requirements for visitor conduct and general information. 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 the acknowledgement form at the bottom of the Information Sheet. A list of prohibited things will be printed on the reverse of the Information Sheet.

**Schedule 2 Visiting Conditions Information Sheet for Accredited Persons**

This Visiting Conditions Information Sheet will be given to accredited persons entering a detention place for the first time. It outlines conditions of entry and general information. 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 the acknowledgement form at the bottom of the Information Sheet. A list of prohibited things will be printed on the reverse of the Information Sheet.