

Australian Capital Territory

Corrections Management (Human Rights) Policy 2010

Notifiable instrument NI2010-281

made under the

***Corrections Management Act 2007*, section 14(1) (Corrections policies and operating procedures)**

1 Name of instrument

This instrument is the *Corrections Management (Human Rights) Policy 2010*.

2 Commencement

This instrument commences on the day after it is notified.

3 Policies and operating procedures

Under section 14 of the *Corrections Management Act 2007* (the Act), I make the

HUMAN RIGHTS POLICY

attached to this instrument, to facilitate the effective and efficient management of correctional services.

4 Revocation

This instrument revokes notifiable instrument NI2007-440.

James Ryan
Executive Director
ACT Corrective Services
13 May 2010



ACT Corrective Services
All Facilities and Operations



HUMAN RIGHTS POLICY

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Purpose

To ensure observance of the human rights of persons accommodated and working in a correctional centre, consistent with the *Human Rights Act 2004* as amended by the *Human Rights Amendment Act 2008*.

Authority

Legislation

Corrections Management Act 2007, preamble, chapters 2, and 6, section 14
Human Rights Act 2004

Policy

1 Operating philosophy

- 1.1 The human rights of staff, prisoners, and visitors must be protected and, as such, ACTCS is committed to working proactively to develop, maintain, and continuously improve an operational and service delivery framework where:
- ACTCS managers and staff recognise that they are uniquely placed to ensure the human rights of others are maintained; and
 - ACTCS managers and stakeholders encourage, guide and support staff, prisoners and visitors to exercise their human rights.

2 Rights protected under the *Human Rights Act 2004*

- 2.1 ACTCS is committed to meeting or exceeding the minimum standards for the treatment of prisoners in accordance with the *Human Rights Act 2004*, which reflects the internationally agreed framework of human rights standards.

2.2 The following rights are protected by the *Human Rights Act 2004*:

- recognition and equality before the law;
- right to life;
- protection from torture and cruel, inhuman or degrading treatment;
- protection of the family and children;
- privacy and reputation;
- freedom of movement;
- freedom of thought, conscience, religion and belief;
- peaceful assembly and freedom of association;
- freedom of expression;
- taking part in public life;
- right to liberty and security of person;
- humane treatment when deprived of liberty;
- rights of children in the criminal process;
- fair trial;
- rights in criminal proceedings;
- compensation for wrongful conviction;
- right not to be tried or punished more than once;
- retrospective criminal laws;
- freedom from forced work; and
- rights of minorities.

2.3 These rights are not exhaustive. The rights of a person cannot be limited on the basis that a right is not recognised under the *Human Rights Act 2004* or that it is recognised to a lesser extent.

3. Limiting Human Rights of Prisoners

3.1 Prisoners human rights may be limited if it is demonstrably justified. Prisoners are not in custody to be punished, their punishment is the restriction of liberty imposed by the courts. Therefore only restrictions that are an inevitable consequence of imprisonment, or where there is a clear need in the interests of good order and security of the correctional centre, are permissible.

3.2 The limit imposed on a person must be proportionate to the result that is sought to be achieved. In determining whether a human right should be limited, due regard must be given to whether:

- the limit achieves a relevant objective;
- the means, even if rationally connected to the objective, must be the least restrictive possible; and
- any limit must not have a disproportionately severe effect on the person to whom it applies.

References

ACTCS Human Rights Policy Statement (4 June 2005)

ACTCS Human Rights Policy and Implementation Framework (4 June 2005)

ACT Human Rights Commission Factsheet: *Public Authorities Factsheet*

Related policies and procedures

Aboriginal and Torres Strait Island Policy

Reception and Management of Female Prisoners

Reception and Management of Transgender and Intersex Prisoners

Reception and Management of Non-English Speaking Prisoners