

Australian Capital Territory

Children and Young People (Transfers) Policy and Procedures 2018 (No.1)

Notifiable instrument NI2018-449

made under the

***Children and Young People Act 2008*, section 143 youth detention policy and operating procedures**

1 Name of instrument

This instrument is the *Children and Young People (Transfers) Policy and Procedures 2018 (No.1)*.

2 Commencement

This instrument is to commence the day after notification.

3 Repeal

NI2015-398 is revoked.

4 Policies and operating procedures

Under section 143 of the *Children and Young People Act 2008*, I make the attached Transfers Policy and Procedures to facilitate the effective and efficient management of detention services for young people.

Bernadette Mitcherson
Director-General
Community Services Directorate
7 August 2018

Transfers Policy and Procedures

1. Introduction and Purpose

The transfer of a young person under this policy means the movement of a young person from a detention place to a health facility or correctional centre within the ACT. A transfer of a young person may be necessary for the health, wellbeing, safety or secure custody of the young person or other young people at a detention place.

A young person may require planned or emergency health care treatment or services that can only be provided outside a detention place. A Transfer Direction to a health facility for a young person may be necessary in these circumstances. A young person remains in the custody of the Director-General while receiving treatment or services at a health facility, including during the period of any admission. Arrangements must be made to ensure the safe custody of the young person during any admission to a health facility. A young person may also be granted a Local Leave Permit to receive health services outside a detention place (refer to Local and Interstate Leave Policy and Procedures).

A Transfer Direction to a correctional centre may only be made for a young person who is 18 years or over during the course of their remand, sentence or other detention authority in accordance with this policy. A young person who is 21 years or older must not be detained at a detention place and a Transfer Direction to a correctional centre must be made for the young person. A young person who is 18 years or over must have an opportunity to express their views meaningfully and may choose to request a transfer to a correctional centre. The young person may also have an advocate assist them in the process.

This policy does not address the transfer interstate of young people to health facilities, juvenile detention centres or other interstate facilities.

2. Legal Authority and Obligations

- 2.1 The *Children and Young People Act 2008* (the Act) is the primary source of authority for the operations of a detention place. Division 5.1.3 (Transfers to health facilities), Division 5.1.4 (Transfers of young people who become adults), Division 5.1.5 (Notifying people of transfers) are particularly relevant to this policy and procedure. The provisions of the Act must be complied with at all times by staff exercising functions at a detention place.
- 2.2 The policies and procedures provide specific directions to implement the provisions of the Act and other relevant legislation, including the *Human Rights Act 2004*.
- 2.3 Human rights that are protected by the *Human Rights Act 2004* and that are relevant to this policy and procedure are:

Section 19 Humane treatment when deprived of liberty

- (1) Anyone deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person.
- (2) An accused person must be segregated from convicted people, except in exceptional circumstances.
- (3) An accused person must be treated in a way that is appropriate for a person who has not been convicted.

Section 20 Children in the criminal process

- (1) An accused child must be segregated from accused adults.
- (2) An accused child must be treated in a way that is appropriate for a person of the child's age who has not been convicted.
- (3) A child must be brought to trial as quickly as possible.
- (4) A convicted child must be treated in a way that is appropriate for a person of the child's age who has been convicted.

Section 27 Rights of minorities

- (1) Anyone who belongs to an ethnic, religious or linguistic minority must not be denied the right, with other members of the minority, to enjoy his or her culture, to declare and practise his or her religion, or to use his or her language.

2.4 The following international human rights standards apply in the ACT and are relevant to this policy and procedure:

- (a) United Nations Convention on the Rights of the Child
- (b) United Nations Standard Minimum Rules for the Administration of Juvenile Justice
- (c) United Nations Rules for the Protection of Juveniles Deprived of their Liberty Rule 20, 22, 24, 25, 28, 35, 50
- (d) Standard Minimum Rules for the Treatment of Prisoners
- (e) Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- (f) United Nations Declaration on the Rights of Indigenous People.

3. Authorisations and Delegations

- 3.1 The Director, Bimberi has the authority to make a Transfer Direction to a correctional centre after consultation with the Director. If the Director, Bimberi is not available, the Director, Child and Youth Protection Services Operations may make a Transfer Direction for a young person to a correctional centre.
- 3.2 The Manager has the authority to make a Transfer Direction to a health facility.

4. Definitions

Aboriginal person is defined in the dictionary of the *Children and Young People Act 2008* as a person who is a descendant of the Indigenous inhabitants of Australia; who regards himself or herself as an Aboriginal or if

the person is a child, is regarded as an Aboriginal by a parent or family member; and is accepted as an Aboriginal by an Aboriginal community.

Accredited person is defined in section 137 of the *Children and Young People Act 2008* and means the young person's Child and Youth Protection Services worker if the Director-General has parental responsibility for the young person, a representative approved by the Manager of an entity providing a service or program to the young person, a lawyer representing the young person, an Official Visitor, a Commissioner exercising functions under the *Human Rights Commission Act 2005*, the Public Advocate and the Ombudsman.

All staff refers to youth workers, authorised persons, other Directorate staff providing services at or visiting a detention place in a work-related capacity and staff of ACT Government agencies providing services to young people in a detention place.

Authorised person is a person who has been delegated a power under the *Children and Young People Act 2008* or another Territory law and is exercising a function under the criminal matters chapters of the *Children and Young People Act 2008*. The positions that have delegations as authorised persons are: Executive Director, Senior Director (A), Director, Child and Youth Protection Services Operations (B), Director, Bimberi (B), Deputy Senior Manager (C), Operations Manager (D), Programs and Services Manager (D), Unit Managers (E), Team Leaders (F), Youth Workers (G), Family Engagement Officer (F), Sports and Recreation Officer (F).

Child means a person who is under 12 years of age (as defined under section 11 of the *Children and Young People Act*).

Child and Youth Protection Service refers to the branch in the Community Services Directorate that is responsible for the Child Protection and Youth Justice functions of the *Children and Young People Act 2008* and related legislation.

Correctional centre is defined in the dictionary of the *Corrections Management Act 2007* and means a place declared to be a correctional centre under section 24 of that Act. The Alexander Maconochie Centre is declared as a correctional centre under this definition.

Detention place means a declared detention place.

Direction means an instruction that may be given by a youth worker under section 146 of the *Children and Young People Act 2008* to a young person about anything related to the criminal matters chapters. A young person must comply with any direction given to the young person by the Director-General or delegate under section 184 of the *Children and Young People Act 2008*. Non-compliance by a young person with a direction is a behaviour breach and may be dealt with through the Behaviour Management Policy and Procedures or Discipline Policy and Procedures.

Director, Child and Youth Protection Services Operations refers to the responsible senior executive in the Community Services Directorate.

Director, Bimberi refers to the Director of a detention place and the responsible senior executive in the Community Services Directorate.

Director-General means the Director-General of the Community Services Directorate with administrative responsibility for the *Children and Young People Act 2008*, unless otherwise specified in this policy and procedure.

Escort officer is defined in the dictionary of the *Children and Young People Act 2008* and means a youth worker, a police officer or a corrections officer.

Family member is defined in section 13 of the *Children and Young People Act 2008* and means the child's or young person's parent, grandparent or step-parent; or son, daughter, stepson or stepdaughter; or sibling; or uncle or aunt; or nephew, niece or cousin. For an Aboriginal or Torres Strait Islander child or young person, a family member includes a person who has responsibility for the child or young person in accordance with the traditions and customs of the child's or young person's Aboriginal or Torres Strait Islander community.

Health facility means a hospital or other facility where health services are provided, for example, a dental surgery or day surgery clinic.

Manager refers to the Director of a detention place during normal business hours, or in the event this person is unavailable, the Deputy Senior Manager, or in the event this person is unavailable, the Operations Manager, or in the event this person is unavailable, a Unit Manager. Outside normal business hours, this refers to the On-call Manager.

Nominated person is a person nominated by a young person aged 18-21 years at the time of admission to whom the Director-General can give notifications under the *Children and Young People Act 2008*. The details of the nominated person must be entered in the Register of Young Detainees.

Parental responsibility is defined at section 15 of the *Children and Young People Act 2008* and means all the duties, powers, responsibilities and authority parents have by law in relation to their children, including daily care and long-term care responsibility for the child or young person. Each parent of a child or young person aged under 18 years has parental responsibility for the child or young person. A person may have or share parental responsibility for a child or young person under a court order under the *Children and Young People Act 2008* or another law or in the circumstances outlined at sections 17 and 18 of the Act.

Register of Young Detainees means the register that must be kept by the Director-General under section 185 of the *Children and Young People Act 2008*. The details of every young person who is admitted to a detention place must be recorded on the register at induction. The register comprises of the

young person's individual Bimberi Client residential file and information stored electronically on the Youth Justice Information System (YJIS).

Safe Room Segregation Direction means a Segregation Direction made by the Manager under section 209 of the *Children and Young People Act 2008*. The Safe Room Segregation Direction involves placing the young person in the safe room to prevent an imminent risk of the young person harming himself or herself.

Segregation means the restriction or denial of a young person's opportunity to go into, or be in, a particular part of a detention place or to associate with other young people.

Segregation Direction is a specific instruction given by the Director, Bimberi for the management of a young person in a way that separates the young person from some or all other young people due to safety and security reasons (e.g. health reasons or for the young person's protection). There are four types of directions that may be made by the Manager to authorise the segregation of a young person within a detention place (1) Safe Room Segregation Direction, (2) Safety and Security Segregation Direction, (3) Protective Custody Segregation Direction, (4) Health Segregation Direction.

Staff refers to youth workers and other authorised persons.

Transfer Direction means the instruction provided by the Manager authorising the transfer or movement of a young person to a health facility or correctional centre.

Treating doctor is a doctor appointed under section 97 of the *Children and Young People Act 2008* for a detention place by the Director-General responsible for the administration of the *Health Act 1993*. The treating doctor's functions are to provide health services to young people and to protect the health of young people, including preventing the spread of disease at a detention place.

Torres Strait Islander person is defined in the dictionary of the *Children and Young People Act 2008* as a person who is a descendant of the Indigenous inhabitants of the Torres Strait Islands; who regards himself or herself as a Torres Strait Islander or if the person is a child, is regarded as a Torres Strait Islander by a parent or family member; and is accepted as a Torres Strait Islander by a Torres Strait Islander community.

Young person is defined at section 12 of the *Children and Young People Act 2008* and means a person who is aged 12 years and older, but under 21 years, who is required to be held in the Director-General's custody. A young person who is 21 years or older cannot be detained at a detention place. Young person means the same thing as young detainee, and young person aged 18-21 years means the same things adult young detainee, in the *Children and Young People Act 2008*.

Youth worker is defined at section 96 of the *Children and Young People Act 2008* and means an authorised person to whom the Director-General has delegated functions of a youth worker under the criminal matters chapters. The positions that have delegation as a youth worker for the policies and procedures are: Director, Bimberi (B), Deputy Senior Manager (C), Operations Manager (D), Programs and Services Manager (D), Unit Managers (E), Team Leaders (F), Youth Workers (G), Family Engagement Officer (F), Sports and Recreation Officer (F). Youth worker means the same as youth detention officer in the *Children and Young People Act 2008*.

5. Principles

Legislative Principles

5.1 The Act sets out the principles that must be considered by all decision-makers making decisions under this policy and procedures.

Section 8 Best interests of children and young people paramount consideration

- (1) In making a decision under this Act in relation to a particular child or young person, the decision-maker must regard the best interests of the child or young person as the paramount consideration.
- (2) In making a decision under this Act otherwise than in relation to a particular child or young person, the decision-maker must consider the best interests of children and young people.

Section 9, Principles applying to Act

- (1) In making a decision under this Act in relation to a child or young person, a decision-maker must have regard to the following principles where relevant, except when it is, or would be, contrary to the best interests of a child or young person:
 - (a) the child or young person's sense of racial, ethnic, religious, individual or cultural identity should be preserved and enhanced
 - (b) the child or young person's education, training or lawful employment should be encouraged and continued without unnecessary interruption
 - (c) the child or young person's age, maturity, developmental capacity, sex, background and other relevant characteristics should be considered
 - (d) delay in decision-making processes under the Act should be avoided because delay is likely to prejudice the child or young person's wellbeing.
- (2) A decision-maker exercising a function under this Act must, where practicable and appropriate, have qualifications, experience or skills suitable to apply the principles in subsection (1) in making decisions under the Act in relation to children and young people.

Section 10, Aboriginal and Torres Strait Islander principle

- (1) In making a decision under this Act in relation to an Aboriginal or Torres Strait Islander child or young person, in addition to the matters in section 8 and section 9, the decision-maker must take into account the following:

- (a) the need for the child or young person to maintain a connection with the lifestyle, culture and traditions of the child or young person's Aboriginal or Torres Strait Islander community
- (b) submissions about the child or young person made by or on behalf of any Aboriginal or Torres Strait Islander people or organisations identified by the Director-General as providing ongoing support services to the child or young person or the child or young person's family
- (c) Aboriginal and Torres Strait Islander traditions and cultural values (including kinship rules) as identified by reference to the child or young person's family and kinship relationships and the community with which the child or young person has the strongest affiliation.

Section 94, Youth justice principles

- (1) For the criminal matters chapters, in deciding what is in the best interests of a child or young person, a decision-maker must consider each of the following matters that is relevant:
 - (a) if a child or young person does something that is contrary to law, he or she should be encouraged to accept responsibility for the behaviour and be held accountable
 - (b) a child or young person should be dealt with in a way that acknowledges his or her needs and that will provide the opportunity to develop in socially responsible ways
 - (c) a child or young person should be consulted about, and be given the opportunity to take part in making, decisions that affect the child or young person, to the maximum extent possible taking into consideration their age, maturity and developmental capacity
 - (d) if practicable and appropriate, decisions about an Aboriginal and Torres Strait Islander child or young person should be made in a way that involves their community
 - (e) if a child or young person is charged with an offence, he or she should have prompt access to legal assistance, and any legal proceeding relating to the offence should begin as soon as possible
 - (f) a child or young person may only be detained in custody for an offence (whether on arrest, on remand or under sentence) as a last resort and for the minimum time necessary
 - (g) children and young people should be dealt with in the criminal law system in a way consistent with their age, maturity and developmental capacity and have at least the same rights and protection before the law as would adults in similar circumstances
 - (h) on and after conviction, it is a high priority to give a child or young person the opportunity to re-enter the community
 - (i) it is a high priority that intervention with children or young people must promote their rehabilitation, and must be balanced with the rights of any victim of the child or young person's offence and the interests of the community.
- (2) The decision-maker may also consider any other relevant matter.
- (3) The youth justice principles are intended to be interpreted consistently with relevant human rights instruments and jurisprudence (e.g. the *Convention on the Rights of the Child*).

- (4) A reference in subsection (1) to a child or young person includes a reference to a person who is at least 18 years old but is being dealt with in relation to an offence committed, or alleged to have been committed, when he or she was under 18 years old.

6. Policy and Procedures

Transfers Generally

- 6.1 The young person must have opportunity to meaningfully express their opinion regarding a transfer, with the aid of an advocate if appropriate, and this opinion must be considered before making a decision to transfer a young person to a health facility or correctional centre except in urgent circumstances where this would create a risk to the young person or another person.
- 6.2 The Director, Bimberi is responsible for ensuring that all relevant information on the young person is provided to the receiving facility in order to ensure continuity of care.

Transfer to Health Facility for Health Services

- 6.3 A transfer to a health facility may be necessary in circumstances where a young person requires planned or emergency health services outside a detention place. The Health and Wellbeing Policy and Procedures outline these circumstances.
- 6.4 The Director, Bimberimay, in writing, direct that a young person be transferred to a health facility if the Director, Bimberi believes on reasonable grounds that it is necessary for the young person to receive health services at a health facility.
- 6.5 In making a decision to transfer a young person to a health facility, the Manager must consider:
- (a) the advice of a treating doctor
 - (b) the health, safety, wellbeing and secure custody of the young person
 - (c) the health, safety and wellbeing of other young people at a detention place
 - (d) any recommendations made by health or other professionals in relation to the Transfer Direction.
- 6.6 For planned health services requiring a Transfer Direction to a health facility, the treating doctor is responsible for making arrangements with the health facility for the provision of service to the young person, including admission if necessary.
- 6.7 The Director, Bimberi may direct an escort officer to escort the young person to or from the health facility, and remain with the young person while at the facility, including during any period of admission to the health facility.

Transfer to Health Facility for Body Search

- 6.8 A Transfer Direction may be made for the transfer of a young person to a health facility for a body search (refer to Search and Seizure Policy and Procedures).

Transfer to Health Facility following Safe Room Segregation Direction

- 6.9 Following the making of a Safe Room Segregation Direction, the Director, Bimberi must review the Safe Room Segregation Direction after it has been in force for 2 hours (initial review) and at the end of every subsequent 2 hour period it has been in force (each subsequent review). The direction may be reviewed at any other time (refer to the Segregation Policy and Procedures).
- 6.10 After any one of these reviews, the Director, Bimberi must make one of the following decisions:
- (a) to confirm the Safe Room Segregation Direction
 - (b) to make a further Safe Room Segregation Direction if the grounds exist
 - (c) to revoke the direction
 - (d) to make a direction that the young person be transferred to a health facility.
- 6.11 Before making a direction that the young person be transferred to a health facility, the Director, Bimberi must have regard to the advice of a health professional.
- 6.12 A direction that the young person be transferred to a health facility may be necessary in the following circumstances:
- (a) the young person requires emergency medical assessment and/or treatment during the Safe Room Segregation Direction
 - (b) the young person's behaviour remains escalated following multiple Safe Room Segregation Directions and it is reasonably believed that the young person remains at imminent risk of harming himself or herself.

Effect of Transfer of Young Person to Health Facility

- 6.13 A young person is in the legal custody of the Director-General for the period the young person is at a health facility, including during any period of admission, while the young person remains subject to a legal authority for detention.
- 6.14 If the legal authority for the young person's detention lapses or ceases to exist for any reason (e.g. a successful bail application) during the person's admission to a health facility, the Director, Bimberi must ensure that health facility staff are notified as soon as practicable and necessary arrangements are made for the person's transition from the custody of the Director-General to the care of the health facility.
- 6.15 If the young person is admitted to a health facility, the Director, Bimberi must make directions for the safe custody of the young person at the health facility including:
- (a) arrangements for the young person's supervision and observation
 - (b) communication with health facility staff about arrangements for the young person's care and custody, including arrangements for consent to the young person's health care assessment and treatment
 - (c) arrangements for the young person to have contact with family members, significant people and accredited persons (refer to 'Visits to a Young Person at a Health Facility').
- 6.16 In circumstances where a young person leaves or attempts to leave a health facility without approval of the Director, Bimberi, the procedures at 'Escapes and Attempted Escapes' in the Safety and Security Policy and Procedures must be applied by escort officers.

Visits to a Young Person at a Health Facility

- 6.17 A young person transferred to a health facility under a Transfer Direction may receive visitors as approved by the Director, Bimberi.
- 6.18 The Director, Bimberi may restrict, cancel, or refuse a visit to a young person in hospital if it is considered appropriate. Reasons for such a decision may include:
- (a) ensuring the health, safety, wellbeing and secure custody of the young person
 - (b) ensuring the health, safety and wellbeing of other patients, staff and visitors of the hospital
 - (c) supporting a recommendation or direction by hospital staff
 - (d) following a recommendation or direction by a Court, Care and Protection Services, police
 - (e) for any of the reasons that would apply had the visit occurred at a detention place.
- 6.19 In circumstances where the health or medical needs of the young person are serious, staff must support and if necessary, facilitate contact with family members, significant persons and accredited persons.

Discharge of Young Person from Health Facility

- 6.20 Following the young person's admission to a health facility, the young person may be discharged from the health facility only if:
- (a) the discharge is approved by the health professional in charge of the young person's care
 - (b) the Director, Bimberi directs in writing that the young person be removed from the facility.
- 6.21 In making a decision to direct the discharge of the young person from the health facility, the Director, Bimberi must consider:
- (a) the health of the young person, including any advice from health professionals involved in the young person's health care
 - (b) the safety and secure custody of the young person within the health facility
 - (c) the safety and wellbeing of other persons within the health facility.
- 6.22 The Director, Bimberi may give a direction for ensuring that a young person discharged from a health facility is returned to a detention place stated in the direction.
- 6.23 The Director, Bimberi must ensure that a young person returned to a detention place in accordance with a direction made under 6.20(b) is provided with health care considered necessary by treating health professionals following their discharge from a health facility.

Transfer of a Young Person aged 18 to 21 years to a Correctional Centre

- 6.24 A Transfer Direction to a correctional centre may only be made for a young person who is aged 18 years or over, but aged under 21 years.
- 6.25 A Transfer Direction may be made for a young person who is on remand, under a sentence of imprisonment or subject to any other legal authority for admission at a detention place.

- 6.26 A young person aged 18-21 years may apply for a transfer to a correctional centre. The application must state the reasons for which the transfer is requested.
- 6.27 After receiving an application from a young person or on the Director Bimberi own initiative, the Director, Bimberi may in writing direct that a young person be transferred to a correctional centre. Before making a direction that a young person aged 18-21 years is transferred to a correctional centre, the Director, Bimberi must consult with the Director, Child and Youth Protection Services Operations.
- 6.28 In making a direction, the Director, Bimberi must be satisfied that the transfer is in the best interests of the young person or other young people at a detention place.
- 6.29 In deciding whether the transfer is in the best interests of the young person or other young people, the Director, Bimberi must consider the following:
- (a) the young person's views and wishes
 - (b) the young person's maturity and known history
 - (c) the young person's developmental needs and capacity
 - (d) if the young person is serving a sentence of imprisonment - the time remaining to be served by the young person
 - (e) the behaviour of the young person, particularly if the behaviour presents a risk to the safety of other young people or staff at a detention place
 - (f) whether the young person is likely to be vulnerable in a correctional centre
 - (g) the availability of services or programs appropriate for the young person at the correctional centre
 - (h) whether the young person is more likely to be rehabilitated at a detention place or correctional centre.
- 6.30 The Director, Bimberi may consider any other relevant information, including the remaining duration of the legal authority for the young person's detention and the young person's relationships with family members and significant people.
- 6.31 Before making a Transfer Direction for a young person to a correctional centre, the Director, Bimberi must consult with the officer in charge of a correctional centre regarding the following:
- (a) information known about the young person recorded in the register of young detainees, including behaviour, known risks and security classification
 - (b) the Director, Bimberi's reasons for making a Transfer Direction to a correctional centre for the young person
 - (c) arrangements for the Transfer Direction to be given effect, including arrangements for the young person's escort to the correctional centre and transfer of the young person's property.
- 6.32 Before making a Transfer Direction for a young person to a correctional centre, the Director, Bimberi must advise the ACT Public Advocate of the intention to consider a Transfer Direction.
- 6.33 If the young person is aged 18 years or older, but aged under 21 years, a case conference is to be conducted with correctional centre staff, where the considerations outlined in 6.29 are to be discussed. In

addition, the young person's current case plan and health information are to be included in the conference.

Arrangements for Transfer of a Young Person to Correctional Centre

- 6.34 If the Director, Bimberi makes a direction for a young person aged 18-21 years to be transferred to a correctional centre, the Manager must ensure the young person is provided with information about the Transfer Direction and the arrangements for the Transfer Direction to be given effect with as much notice as possible before the young person's transfer.
- 6.35 The Director, Bimberi may direct an escort officer to escort the young person from a detention place to the correctional centre.
- 6.36 The Transfer Direction must be signed by the Manager and must accompany the young person on admission to a correctional centre.
- 6.37 In circumstances where the young person is refusing to comply with the Transfer Direction, the Director, Bimberi may direct a youth worker to use force in accordance with the Use of Force Policy and Procedures to enforce a Transfer Direction.
- 6.38 Custody for the young person aged 18-21 years transfers to the person responsible at the correctional centre at the time of the person's admission to the correctional centre. The young person must be dealt with as a detainee under the *Corrections Management Act 2007* once the young person is admitted to the correctional centre for the remainder of the legal authority for detention.
- 6.39 A Transfer Direction made by the Director, Bimberi for a young person to be transferred to a correctional centre may include a direction that the young person will not be admitted to a detention place under any subsequent legal authority for the person's detention while they are aged under 21 years. The Director, Bimberi must be satisfied that such a direction is in the best interests of the young person or other young people at a detention place after considering the criteria at 6.29.
- 6.40 Following a Transfer Direction to a correctional centre being made for an young person who is serving a remissions-eligible sentence (that is, a sentence of committal made prior to 27 February 2009), the young person remains eligible for remissions under section 127 of the *Children and Young People Act 1999*, in accordance with Schedule 1, Part 1.3, section 710 of the *Children and Young People (Consequential Amendments) Act 2008*.
- 6.41 Following a Transfer Direction to a correctional centre being made for a young person who is sentenced to a sentence of imprisonment on or after 27 February 2009, the young person is not eligible for parole as the person was sentenced as a young person, in accordance with Schedule 1, Part 1.5, Amendment 1.77 of the *Children and Young People Act 2008*. The young person may be subject to a combination sentence of imprisonment and a good behaviour order with a supervision condition.

Transfer to Correctional Centre of Young Person aged 21 years

- 6.42 A young person who is aged 21 years old or older cannot be detained at a detention place.

- 6.43 At the time of a young person's admission to a detention place, consideration must be given to whether the legal authority for detention will extend beyond the young person turning 21 years. In circumstances where the legal authority for detention will extend beyond the young person turning 21 years, arrangements must commence as far as possible in advance of the young person turning 21 years to prepare for their transfer to a correctional centre.
- 6.44 The Director, Bimberi must make a Transfer Direction for a young person who turns 21 years to be transferred to a correctional centre as soon as practicable.
- 6.45 The procedures in relation to 'Notifications of Transfer Directions' must be applied.

Notifications of Transfer Directions

- 6.46 Before making a Transfer Direction for a young person to a health facility or correctional centre, Director, Bimberi must ensure that reasonable steps are taken to notify the following people about the transfer:
- (a) for a young person who is aged under 18 years old, a person with parental responsibility. This includes Child and Youth Protection Services if the Director-General has parental responsibility. If the Director-General and another person share parental responsibility for the young person, both Child and Youth Protection Services and the other person or persons should be notified
 - (b) a young person's nominated person recorded in the register of young detainees
 - (c) the ACT Public Advocate.
- 6.47 In circumstances of urgency where it is not practicable to make the notification prior to the Transfer Direction being made, the Director, Bimberi must ensure that reasonable steps are taken to notify the persons at 6.46 as soon as practicable after the Transfer Direction, but in any event within 24 hours of the direction being made.
- 6.48 The following details of the notification must be recorded in the Register of Young Detainees:
- (a) the person or persons who were notified
 - (b) the date and time they were notified
 - (c) the information provided in the notification.

Provision of Information, Review of Decisions and Complaints

- 6.49 Staff must ensure young people, people with parental responsibility, nominated persons, family and visitors are provided with information about matters that affect them in a timely manner and in a manner that is likely to be understood.
- 6.50 A young person, person with parental responsibility, nominated person, family and visitors are able to request a review of a decision or make a complaint about something that happens at a detention place to a youth worker, Manager, the ACT Public Advocate, the Official Visitor, the Children, Youth and Families Complaints Unit, or the Supreme Court under the *Administrative Decisions (Judicial Review) Act 1989*.

- 6.51 Staff must ensure that the Complaints Management Policy and Procedures is followed.

Records and Reporting

- 6.52 Any actions taken under this policy and procedure must be recorded according to the requirements set out in the Records and Reporting Policy and Procedures
- 6.53 All staff are mandated reporters under the *Children and Young People Act 2008*. A report must be made to Child and Youth Protection Services if a staff member reasonably believes that a young person who is aged under 18 years has experienced or is experiencing sexual abuse or non-accidental physical injury by any person.

7. Forms and Templates

Application by young person for transfer to correctional centre
Transfer Direction to correctional centre for adult young person

8. Related Policies and Procedures

Policies and Procedures under the *Children and Young People Act 2008*

Admission and Classification Policy and Procedures
Complaints Management Policy and Procedures
Health and Wellbeing Policy and Procedures
Local and Interstate Leave Policy and Procedures
Safety and Security Policy and Procedures
Search and Seizure Policy and Procedures
Use of Force Policy and Procedures
Visits, Phone Calls and Correspondence Policy and Procedure s

Policies and Procedures in Child and Youth Protection Services

Single Case Management Policy and Procedures
Transfer of young people from Bimberi Youth Justice Centre to the Alexander Maconochie Centre Procedures

9. Further References

NA

10. Review

- 10.1 This policy and procedure will be reviewed at least once every two years.