

Corrections Management (Detainee Trust Fund Management) Policy 2019

Notifiable instrument NI2019-20

made under the

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

1 Name of instrument

This instrument is the *Corrections Management (Detainee Trust Fund Management) Policy 2019*.

2 Commencement

This instrument commences on the day after its notification day.

3 Policy

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

4 Revocation

This instrument revokes the *Corrections Management (Prisoner Remuneration) Policy 2009* [NI 2009-153], *Corrections Management (Management of Monies) Policy 2007* [NI 2007-443], *Corrections Management (Management of Monies) Procedure 2007* [NI 2007-445] and *Corrections Management (Prisoner Buy-ups) Policy 2010* [NI 2010-627].

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10 January 2019

DETAINEE TRUST FUND MANAGEMENT

POLICY NO. F1

ACT CORRECTIVE SERVICES



ACT
Government

Justice and Community Safety

Contents

1	PURPOSE	4
2	SCOPE.....	4
3	DEFINITIONS	4
4	PRINCIPLES	4
5	USE OF DETAINEE TRUST FUNDS	5
6	ADMISSION	5
7	DEPOSITS.....	6
8	AUTHORISATIONS.....	6
9	WITHDRAWALS.....	6
10	PURCHASES	7
11	EXTERNAL PAYMENTS.....	8
12	AD HOC REQUESTS.....	9
13	DETAINEE EARNINGS	10
14	TRANSFER OF DETAINEE CUSTODY.....	11
15	DISCHARGE	12
16	UNCLAIMED DETAINEE FUNDS	12
17	PUBLIC TRUSTEE OF THE ACT	13
18	GOVERNMENT REDRESS SCHEME	13
19	DEATH IN CUSTODY	13
20	COMPLAINTS	13
21	RELATED DOCUMENTS.....	14

1 PURPOSE

This policy establishes clear guidelines for the management of detainee trust fund accounts by ACT Corrective Services (ACTCS).

2 SCOPE

This policy applies to all ACTCS staff and all contracted service providers to correctional centres in the ACT.

Corporate Business Unit Heads will establish procedures to ensure their respective business unit meets and adheres to this policy.

3 DEFINITIONS

Trust Fund Accounts

An account holding money belonging to a detainee on their behalf who is in the custody of ACTCS.

Holding Account

A separate ledger within detainee trust fund accounts for all earnings and deposits above the maximum allowable balance in a detainee's trust fund.

Electronic Value Card

An Electronic Value Card can be used to make purchases anywhere in Australia where Visa™ is accepted, including online and telephone purchases. Funds can also be withdrawn at an ATM using an Electronic Value Card.

Incentive and Earned Privileges Scheme

An individualised hierarchical incentives based scheme for promoting detainee wellbeing and maximising rehabilitation opportunities.

4 PRINCIPLES

- 4.1 All detainee transactions are managed to ensure safety, security and good order of the correctional centre.
- 4.2 Detainee trust fund accounts are managed according to the requirements of the *Corrections Management Act 2007 (ACT)* and *Financial Management Act 1996 (ACT)*.
- 4.3 ACT correctional centres are cash-free, and detainees must not be allowed to retain cash.

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- 4.4 ACTCS manages a trust fund for each detainee that holds their earnings, and receives deposits from the detainee, family and friends.
 - 4.5 Trust fund expenditure by detainees is managed in accordance with the Incentive and Earned Privileges Scheme.
 - 4.6 No interest will be accrued on detainee trust funds.
 - 4.7 Detainee trust funds must be reconciled each business day.
 - 4.8 ACTCS will determine a general limit of monies that can be received into detainees' trust fund accounts.
 - 4.9 ACTCS will establish appropriate procedures to ensure that detainee trust fund balances do not go into arrears at any time.

5 USE OF DETAINEE TRUST FUNDS

- 5.1 Detainee trust funds allow detainees to make regular purchases of basic goods for personal use or consumption and reasonable access to items not provided by the correctional centre.
- 5.2 The maximum allowable balance for a detainee's trust fund is \$1000.
- 5.3 Any incoming monies that would result in a detainee's trust fund being in excess of \$1000 must be diverted to the detainee's holdings account.
- 5.4 Detainees must receive a copy of their trust fund and holding account statements each week via their email account.

Holding accounts

- 5.5 When there is a credit balance in a detainee's holding account, \$150 is transferred each week to the detainee's trust fund if the detainee has not received a deposit.
- 5.6 Any other deductions from a detainee's holding account must be managed according to section 11 for external payments, or section 12 for ad hoc requests.
- 5.7 All records relating to deductions from a detainee's holding account must be stored in the detainee's trust fund records.

6 ADMISSION

- 6.1 All cash in a detainee's possession on admission into ACTCS custody is credited to their trust fund within 48 hours.
- 6.2 A monetary advance is available to detainees on admission to a correctional centre. This advance equates to the value of:

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- a. \$5 of phone credits; and
 - b. the current value of one (1) pouch of tobacco and one (1) pack of rolling papers.
 - 6.3 Detainees must be informed that the advance is recovered by ACTCS when monies are deposited into their trust fund.
 - 6.4 Detainees must be advised on admission that their trust fund is monitored by ACTCS.

7 DEPOSITS

- 7.1 Detainees are eligible to receive up to a total of \$150 per week deposited into their trust fund via:
 - the ACTCS website: http://cs.act.gov.au/detainee_payments ; or
 - telephone banking: [1300 546 086](tel:1300546086)
- 7.2 Deposits are only accepted from family and/or friends using debit cards or bank account transfers.
- 7.3 Detainees can request up to \$150 per week from their external bank account be transferred to their trust fund.
- 7.4 All monies received on behalf of a detainee by the Head of Business Services must be deposited in that detainee's trust fund, unless the deposit is managed under section 5.3 of this policy.

8 AUTHORISATIONS

- 8.1 Withdrawals from a detainee's trust fund will not occur without the detainee's signed authorisation, unless the withdrawal is authorised under section 9 of this policy.

9 WITHDRAWALS

Disciplinary breaches

- 9.1 ACTCS will withdraw up to \$500, or as prescribed under section 49 of the *Corrections Management Regulation 2010*, from a detainee's trust fund following a disciplinary breach, if:
 - a. the General Manager or delegate has provided written advice of a disciplinary decision ordering reparation or financial penalty; and

- b. the disciplinary process has been finalised according to the *Detainee Disciplinary Policy*.

9.2 All records relating to the decision to order reparation or financial penalty must be stored in the detainee's trust fund records.

Board

9.3 ACTCS deducts monies for board from earnings paid to a detainee who is participating in work outside a correctional centre.

9.4 Board monies are deducted from a detainee's holding account according to the gratuities paid to the detainee.

Gratuities (equivalent weekly earnings)	Board deduction
\$400 or less	15% of earnings
Over \$400	20% of earnings

9.5 Board deductions for detainees participating in part-time work are calculated on a pro-rata basis.

9.6 Board monies will be deducted at the same rate of frequency as earnings are received.

Note: Weekly if paid weekly, fortnightly if paid fortnightly.

9.7 The Head of Business Services must ensure an annual audit of board is conducted each year.

Incidental expenses

9.8 ACTCS will recoup incidental expenses from earnings credited to detainees from art and craft sales or paid work outside a correctional centre.

9.9 Incidental expenses include, but are not limited to, public transport, work clothing and equipment, art and craft materials.

9.10 All incidental expenses must be linked to a detainee to enable cost recovery.

9.11 Receipts and *Detainee Request Forms* are used to calculate incidental expenses.

9.12 Incidental expenses will be deducted from a detainee's trust fund at the same rate of frequency as earnings are received.

10 PURCHASES

Buy-ups

10.1 Correctional centres must facilitate a 'buy-ups' process for purchasing groceries, toiletries, stationery, clothing and miscellaneous items.

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- 10.2 Buy-ups lists are printed and distributed to detainee's each week.
- 10.3 The maximum value of a buy-ups order cannot exceed \$100 each week.
- 10.4 Staff receive completed buy-ups forms from detainees according to the *Regime Planning Policy*.

Activities buy-ups

- 10.5 Correctional centres must facilitate an 'activities buy-ups' process for purchasing clothing, fitness equipment and other activity-based items.
- 10.6 The maximum value of an activities buy-ups order cannot exceed \$150 each month.

Canteen items

- 10.7 Correctional centres must facilitate a canteen each week for detainees to purchase basic items including perishables and selected grocery items.
- 10.8 Canteen purchases are limited to a maximum of five (5) items each week, excluding tobacco, tobacco papers and lighters.

Newsagency

- 10.9 Detainees are able to purchase newsagency items including magazines and periodicals each week.
- 10.10 The maximum value of newsagency purchases must not exceed \$50 each week.

Phone credits

- 10.11 Detainees are able to purchase phone credits each week by completing a request form.
- 10.12 The maximum value of phone credits that a detainee can purchase cannot exceed \$150 each week.
- 10.13 All other purchases are considered to be ad hoc requests.

Refunds

- 10.14 Detainees can request refunds for disputed purchases using a *Detainee Request Form*. Detainees must attach relevant documentation to requests for a refund.
- 10.15 All refunds will be processed at the discretion of the Head of Business Services, and the detainee advised of the outcome.

11 EXTERNAL PAYMENTS

- 11.1 Detainees are able to send money to family, friends, or approved suppliers, in order to maintain personal financial affairs that will assist with reintegration into the community on discharge.

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- 11.2 External payments include payments to family members housed in correctional centres in the ACT.
- 11.3 External payments include payments from a detainee's external bank account while in custody (F1.F3: Direct Debit Request Form).
- 11.4 The purpose of external payments is to allow a detainee to maintain their personal financial affairs while in a correctional centre that will assist with reintegration into the community on discharge.

Note: external payments can include rent arrears and other payments and transactions related to maintaining housing in the community.

- 11.5 The following restrictions and conditions apply to external payment requests:
- a. all external payment requests must be accompanied by documentation and include the reason for the payment/s (F1.F2: Detainee Request for Payment);
 - b. detainees under sentence are not permitted to make external payments that are:
 - transactions in order to run a business;
 - any stock or share purchases or unauthorised sales;
 - entering into any loan or credit arrangements; or
 - any form of gambling.
 - c. The Intelligence and Integrity Unit must review all external payment requests and provide further information as necessary.
 - d. The Head of Security must review all external payment requests and grant or deny the request. In making a decision, the Head of Security must give consideration to the following:
 - safety, security and good order of the correctional centre;
 - information provided by the Intelligence and Integrity Unit;
 - community safety; and
 - consistency with other like decisions.

12 AD HOC REQUESTS

- 12.1 Detainees can apply to withdraw or spend monies for ad hoc purposes.
- 12.2 The following restrictions and conditions apply to ad hoc requests:
- a. all requests must be made using a F1.F1: Detainee Request Form - Finance and include the reasons for the withdrawal;

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- b. ad hoc expenditure is limited to \$500 per month;
 - c. applications for amounts at and over \$500 per month require supporting documentary evidence.
 - d. the Intelligence and Integrity Unit must review all applications under this section and provide further information where necessary to the Head of Security.
- 12.3 Decisions to grant or deny ad hoc requests will be made by the Head of Security on a case by case basis.
- 12.4 The Head of Security must give consideration to the following before ad hoc requests are approved:
- safety, security and good order of the correctional centre;
 - information provided by the Intelligence and Integrity Unit;
 - community safety; and
 - consistency with other like decisions.

Note: Ad hoc requests include public competitions to exhibit artwork or other works for which a fee is required.

13 DETAINEE EARNINGS

- 13.1 Detainees will receive earnings:
- a. credited to a detainee as remuneration for work done in a correctional centre activity (*Annex A – Remuneration Rates*);
 - b. as a gratuity for participating in programs and/or educational and vocational courses offered by the correctional centre;
 - c. from the sale of arts and crafts under the *Art and Craft Policy*;
 - d. payable to a detainee participating in paid employment outside a correctional centre; and/or
 - e. as an unemployment allowance for detainees who:
 - i. provide a medical certificate confirming they are temporarily or permanently medically unfit for work; or
 - ii. for whom a work activity is not currently available, including due to protection status, segregation or separate confinement; or
 - iii. are on remand and not receiving earnings under section 13.1(b).
- 13.2 The General Manager Custodial Operations will maintain an earnings schedule to determine the level of remuneration for each activity.

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- 13.3 The Executive Director will conduct an annual review of remuneration rates in September of each year.
 - 13.4 Detainee earnings must be paid into a detainee's trust fund according to section 5 of this policy.
 - 13.5 Detainee earnings under 13.1(a) and 13.1(b) are calculated according to the Prisoner Employment Policy and the attendance hours recorded in the electronic detainee record system.
 - 13.6 Detainee earnings under 13.1(c) are calculated according to the Art and Craft Policy.
 - 13.7 Detainee earnings under 13.1(d) are calculated according to the Transitional Release Policy.

Management of detainee earnings

- 13.8 A detainee's eligible earnings will be confirmed and credited to their trust fund each week.
- 13.9 The maximum amount of remunerated hours for detainees participating in work according to section 13.1(a) is 42 hours each week.
- 13.10 Detainees earnings accrued under section 13.1 on a public holiday in the ACT will be remunerated at the same level as any other day.
- 13.11 The General Manager Custodial Operations will ensure that staff monitor and record a detainee's participation in activities under section 13.1 on their electronic record system.
- 13.12 The Head of Business Services or delegate will confirm a detainee's earnings each week according to the number of activity hours recorded in the detainee's electronic record system for each activity.
- 13.13 Detainees will not receive earnings for any unauthorised absence from an activity under section 13.1(a)-(d).

14 TRANSFER OF DETAINEE CUSTODY

- 14.1 A detainee that is transferred to another correctional or health centre will have their total trust fund balance remitted to the receiving centre, including any outstanding employment benefits.
- 14.2 Outstanding buy-ups purchases, reparations or financial penalties will be deducted from a detainee's trust account prior to remittance.

15 DISCHARGE

- 15.1 Detainees who have been discharged receive all monies and valuables to which they are entitled on leaving a correctional centre.
- 15.2 On discharge from a correctional centre, the total credit balance in the detainee's trust fund must be paid to the detainee, including any outstanding employment benefits.
- 15.3 Outstanding buy-ups purchases, reparations, advance payments or financial penalties will be deducted from a detainee's trust fund.
- 15.4 ACTCS will deposit the credit trust fund balance to a detainee's nominated external bank account, except for:
 - a. an Electronic Value Card with a maximum balance of \$500 and minimum balance of \$20.
- 15.5 The balance of the Electronic Value Card will differ according to the monies in a detainee's trust fund at the time of discharge.
- 15.6 Detainees with less than \$20 in their trust fund will not receive an Electronic Value Card on discharge. When this occurs, the detainee's case manager will facilitate alternative arrangements.

16 UNCLAIMED DETAINEE FUNDS

- 16.1 Under previous policies, detainees have been released and left behind an amount of money in their trust fund.
- 16.2 If a former detainee who is entitled to claim monies held in trust has not requested for it to be paid under their direction for a period of six (6) years, or as defined under section 53A of the *Financial Management Act 1996 (ACT)*, the monies will be processed as unclaimed funds.
- 16.3 ACTCS publishes unclaimed detainee trust fund monies each year in the *Financial Management (Unclaimed Trust Money – JACS Directorate) Statement*.
- 16.4 ACTCS will retain and release unclaimed trust fund monies according to the *Financial Management Act 1996 (ACT)*.
- 16.5 Each month the Head of Business Services must review any credit or debit balance remaining in a trust fund for a former detainee who is no longer at a correctional centre.

17 PUBLIC TRUSTEE OF THE ACT

- 17.1 The following applies if the Public Trustee of the ACT is responsible for managing a detainee's property under the Public Trustee and Guardian Act 1985 (ACT):
- a. ACTCS does not require the consent of the Public Trustee of the ACT for transactions made through a detainee's trust fund account;
 - b. it is not necessary for the Public Trustee of the ACT to discontinue management under section of the Public Trustee and Guardian Act 1985 (ACT) while a detainee is in custody;
 - c. the Public Trustee of the ACT will continue to provide a detainee with an annual statement; and
 - d. any credit balance in a detainee's trust fund on discharge will be forwarded to the Public Trustee of the ACT.

18 GOVERNMENT REDRESS SCHEME

- 18.1 Detainees may receive payments under a government redress scheme.
- 18.2 There is no limit on the amount that may be received as a payment under a government redress scheme, but amounts over \$1000 will be treated according to section 5.3.
- 18.3 If a government redress scheme payments takes the detainee's trust fund balance over \$1000, the remainder will be set aside in a holding account according to section 5 of this policy.

19 DEATH IN CUSTODY

- 19.1 The release of trust fund monies belonging to a deceased detainee will be authorised by the General Manager to the detainee's next of kin in accordance with the Death in Custody Procedure.

20 COMPLAINTS

- 20.1 A detainee wanting to make a complaint relating to their trust fund or purchases must do so in writing according to the Detainee Handbook and Detainee Complaints and Grievances Policy.
- 20.2 The Executive Director or delegate must ensure that complaints are investigated and responded to in a timely manner according to the Detainee Complaints and Grievances Policy.

21 RELATED DOCUMENTS

- A – Annex A – Remuneration Rates
- B – Detainee Disciplinary Policy
- C – Detainee Disciplinary Procedure
- D – Art and Craft Policy
- E – Prisoner Work Policy
- F – Death in Custody Procedure
- G – Detainee Complaints and Grievances Policy
- H – Detainee Handbook
- I – Detainee Request Form
- J – Regime Planning Policy
- K – F1.F1: Detainee Request Form - Finance
- L – F1.F2: Detainee Request for Payment
- M – F1.F3: Direct Debit Request Form



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