

Australian Capital Territory

Corrections Management (Support for Detainees and Offenders with Additional Needs) Policy 2022

Notifiable instrument NI2022-146

made under the

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

1 Name of instrument

This instrument is the *Corrections Management (Support for Detainees and Offenders with Additional Needs) Policy 2022*.

2 Commencement

This instrument commences on the day after its notification day.

3 Policy

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

Ray Johnson APM
Commissioner
ACT Corrective Services
28 March 2022

SUPPORT FOR DETAINEES AND OFFENDERS WITH ADDITIONAL NEEDS POLICY

POLICY NO. OR01

ACT-CORRECTIVE-SERVICES



ACT
Government

Justice and Community Safety

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1 PURPOSE

ACT Corrective Services (ACTCS) is committed to understanding and meeting the needs of all detainees and offenders, including those with additional needs, to the extent possible within a correctional environment.

This policy outlines ACTCS practice for supporting and managing detainees and offenders with additional needs during their interaction with ACTCS.

2 SCOPE

This policy applies to detainees, offenders, and ACT Corrective Services staff.

3 DEFINITIONS

Additional needs

Detainees and offenders may have additional needs arising from, but not limited to:

- a. trauma
- b. disability
- c. physical health issues
- d. mental health issues
- e. age
- f. pregnancy
- g. low literacy levels
- h. limited cognitive function
- i. culturally and linguistically diverse background
- j. LGBTQI+.

Reasonable adjustments

A change or action taken by ACTCS to enable people with additional needs to access information and services on the same basis as people without additional needs, and within reasonable means of ACTCS to provide.

4 PRINCIPLES

- 4.1 ACTCS is committed to providing reasonable adjustments and supports to enable people with additional needs to access ACTCS services in the community on the same basis as people without additional needs.

- 4.2 ACTCS is committed to the safe, secure, decent and humane management of detainees where their human rights are respected and protected in custody. This includes meeting the additional needs that detainees may have or develop over time within the reasonable means of ACTCS and the constraints of the custodial environment.
- 4.3 ACTCS acknowledges that supporting detainees with additional needs is an evolving area and will continue to consider best practice for improving correctional services to these detainees.
- 4.4 ACTCS recognises that as detainees have different experiences and needs, the age thresholds for a detainee to be considered ageing may be earlier than the thresholds in the general population. When Aboriginal and Torres Strait Islander detainees reach 45 years of age and non-Aboriginal and Torres Strait Islander detainees reach 55 years of age, this may prompt a discussion with health services to consider whether detainees in this age category require extra care and attention on a case-by-case basis.
- 4.5 An individual may present to ACTCS with additional needs on induction to the service or may develop additional needs at a later time. Therefore, identification and consideration of additional needs is applicable throughout an individual's journey through ACTCS services.
- 4.6 Section 53(1)(a) of the *Corrections Management Act 2007 (ACT)* and the *Human Rights Principles for ACT Correctional Centres* require that a detainee must have access to a standard of health care equivalent to that available to other people in the ACT, including, as far as practicable, access to:
- a. specialist health services from health practitioners
 - b. necessary health care programs, including rehabilitation programs.
- 4.7 Where it is not practicable for ACTCS to provide a detainee with community equivalent care within a correctional centre, the detainee may be transferred to a health or correctional facility where an appropriate level of care can be provided.

5 CONSIDERATIONS FOR ADDITIONAL NEEDS ON INDUCTION

- 5.1 Upon admission, the admissions officer will ask detainees about any immediate needs and initiate immediate adjustments where required.
- 5.2 Upon admission, the admissions officer will ask whether an offender has a Public Trustee or Guardian.

- 5.3 This information will be recorded and where required the Public Trustee or Guardian will be informed of the detainee's admission to a correctional centre.
- 5.4 During the induction process, inductions staff will identify whether an offender has a:
- a. Public Trustee or Guardian or other relevant legally appointed decisionmaker
 - b. NDIS plan or NDIS co-ordinator.
- 5.5 This information will be recorded and where possible a copy of the Guardianship orders obtained to ensure conditions are taken into consideration in case management.
- 5.6 If it becomes apparent or a detainee discloses that they require additional support to improve their access to, or understanding of, information, the Disability Liaison Officer or other specialist staff must be consulted to facilitate discussions with the detainee to identify any reasonable adjustments or modifications to assist.
- 5.7 Inductions staff will identify additional needs, make appropriate referrals and initiate any reasonable adjustments resulting from these needs during the induction process.

6 WHERE A STAFF MEMBER IDENTIFIES A CHANGE IN HEALTH, BEHAVIOUR OR ABILITIES

- 6.1 Where a staff member believes there is a change in a detainee's health, behaviour or abilities, the staff member must request advice from specialist services within ACTCS as appropriate. Services may include (but are not limited to) the Disability and Complex Care Coordinator, the Aboriginal and Torres Strait Islander Services Unit and the Programs and Interventions teams as relevant.
- 6.2 Informal advice may also be sought from Justice Health Services (JHS) or Winnunga Nimmityjah Aboriginal Health and Community Service (Winnunga) staff.
- 6.3 If advice received suggests the individual is experiencing changes in their health, behaviour or abilities that may require additional supports, a referral to JHS or Winnunga must be made as outlined in section 7.

7 REFERRALS TO JUSTICE HEALTH SERVICE OR WINNUNGA NIMMITYJAH ABORIGINAL HEALTH AND COMMUNITY SERVICE

- 7.1 Any staff member must seek advice from or make a referral to JHS or Winnunga for a relevant assessment where they are concerned about a detainee.
- 7.2 Where a staff member notices a change in a detainee's health, behaviour or abilities and has sought advice (section 6), the staff member must:
- a. refer the detainee to JHS or Winnunga
 - b. report the change to their supervisor
 - c. if appropriate, recommend to the Senior Director Accommodation that the detainee's accommodation placement be reviewed.
- 7.3 Detainees must be referred to the relevant health service for regular health screenings after their initial health screening, where required.

Recommended adjustments

- 7.4 Following a referral, JHS or Winnunga may provide advice on recommended adjustments for the detainee.
- 7.5 ACTCS must consider the advice from JHS or Winnunga and:
- a. follow up and implement reasonable adjustments where practicable through external or internal arrangements, whilst maintaining the safety, security, and good order of the Alexander Maconochie Centre
 - b. seek advice from internal specialists (such as the Disability Liaison Officer or Disability and Complex Care Coordinator) or relevant service providers
 - c. facilitate access to specialist assessments and treatment.
- 7.6 Advice from JHS or Winnunga may need to be translated from a health context to a functional environmental context through a risk assessment in consultation with JHS, Winnunga or the Disability and Complex Care Coordinator where required and reflected in the detainee's case plan by the Sentence Management Officer.

Where ACTCS is not reasonably able to make a recommended adjustment

- 7.7 Where an ACTCS staff member believes ACTCS is not reasonably able to make an adjustment recommended by JHS, Winnunga or an internal specialist, they must escalate the matter to their manager. A decision that ACTCS is not able to make a recommended adjustment must be approved by a Senior Director or above.
- 7.8 Where ACTCS is not reasonably able to make a recommended adjustment, the Senior Director or above who approves the decision must ensure that the detainee

is given timely notice of the decision and the reasons in writing. The detainee's Sentence Management Officer must also be informed.

- 7.9 On being informed of a decision that ACTCS is not reasonably able to make a recommended adjustment, the Sentence Management Officer must seek advice from internal specialists and, where appropriate, JHS or Winnunga on alternative options and discuss these with the detainee. Alternative options may include those set out in section 12 of this policy.

8 SUPPORT FOR DETAINEES WITH ADDITIONAL NEEDS

Accommodation

- 8.1 The Senior Director Accommodation must ensure identified additional support needs are considered when assigning a detainee accommodation.
- 8.2 Where it has been identified that a detainee is vulnerable and at risk of exploitation or abuse due to their additional needs, strategies supporting protection must be considered and implemented where possible.

Aids and equipment

- 8.3 Any aids or equipment that a detainee may require will be considered on a case-by-case basis in a timely manner. To ensure safety and security risks are considered, the Senior Director Accommodation must be consulted before providing any aids and equipment to a detainee and may reject provision of an item, where the item would create a safety or security risk. Alternative items or supports may be considered where provision of an item would create a safety or security risk.

Diet

- 8.4 Where JHS or Winnunga recommend that a detainee transition to a medically appropriate diet, and the detainee consents, ACTCS will undertake to supply the diet.
- 8.5 Where a detainee requests changes to their diet for health or religious reasons, the Area Manager will consider the request and may seek the advice of JHS or Winnunga before providing a decision.

Mental health

- 8.6 Detainees have access to mental health care in accordance with the [Access to Health Care Policy](#) and the [Transfer to a Secure Mental Health Facility Policy](#).

Hygiene related additional needs

- 8.7 ACTCS must consider whether detainees with additional needs require modified access to showers, clean bedding and clothing due to physical health needs, (*Detainee Property Policy* and *Detainee Hygiene Policy*) and make reasonable adjustments where required.
- 8.8 Detainees experiencing incontinence must be provided with disposable undergarments and disposal bins and referred to JHS or Winnunga by ACTCS staff for assessment.

Communication

- 8.9 ACTCS must make all reasonable efforts to provide communications to detainees in a form that the detainee can understand. For example:
- a. Information read to them
 - b. Information repeated
 - c. Assistance to fill in forms.

Interview Support Person

- 8.10 Detainees may request a support person to attend interviews with ACTCS to provide emotional support to the detainee and support the detainee to understand the content of an interview, in accordance with the *Interview Support Person Policy*.

Reasonable adjustments for women and LGBTQI+ detainees

- 8.11 Reasonable adjustments for women and LGBTQI+ detainees will be considered on a case-by-case basis in accordance with the Integrated Offender Management Model and the *Management of Transgender Detainees and Detainees Born with Variations in Sex Characteristics Policy*.

9 USE OF FORCE AND RESTRAINTS

- 9.1 In accordance with the *Use of Force and Restraint Policy*, force and restraint are only used as a last resort where necessary and using no more force than is reasonable and proportionate to the circumstances. When the use of force or restraints is required for detainees with additional needs, officers must consider whether the detainee's additional needs increase the risk of harm to the detainee from the use of force.
- 9.2 When planning escorts for detainees with additional needs, ACTCS staff should consider the type of transport required, and when and for how long restraints must be applied.

10 REHABILITATION AND REINTEGRATION

10.1 Sentence Management Officers must work with the detainee to develop a sentence management plan that is specific to their rehabilitation and reintegrative risks/needs, including any additional needs.

Purposeful activity

10.2 Programs and activities should reflect consideration of the abilities and needs of detainees and their ability to meaningfully engage and participate. Handouts, reference material and other reasonable adjustments may be provided to assist detainees experiencing difficulties.

Pre-release planning

10.3 The individual needs of a detainee must be addressed during the release planning phase of the sentence by the detainee's Sentence Management Officer. Such considerations may include:

- a. identification of services and support relevant to the additional needs of the detainee, such as the National Disability Insurance Scheme or Aged Care Assessment Team
- b. seeking advice from internal specialists (such as the Disability Liaison Officer or Disability and Complex Care Coordinator) or relevant service providers
- c. if a detainee is being released to a period of community supervision, the Sentence Management Officer, with the consent of the detainee, may also inform Community Corrections of the detainee's additional needs and community supports.

11 WHERE APPROPRIATE CARE FOR DETAINEES WITH ADDITIONAL NEEDS CANNOT BE PROVIDED IN AN ACT CORRECTIONAL CENTRE

Transfer

11.1 Where it is established that ACTCS is not reasonably able to make necessary adjustments (in accordance with section 7 above) to meet the personal, functional and/or physical needs of a detainee and this is a critical factor in maintaining their health, dignity or ongoing care, the detainee may be transferred to an NSW correctional centre under the *Relocating a Detainee to a NSW Correctional Centre Policy* and/or an appropriate health facility (*Access to Healthcare Policy* and *Transfer to a Secure Mental Health Facility Policy*).

11.2 This decision must be made by ACTCS on a case-by-case basis and after considering advice from JHS and Winnunga, and any other relevant specialist services as appropriate. The views of the detainee must also be considered.

11.3 A decision to transfer a detainee to NSW will be made in accordance with the *Relocating a Detainee to a NSW Correctional Centre Policy*.

Leave, early release or parole on compassionate grounds

11.4 The Commissioner or delegate may grant a detainee a local leave permit on compassionate grounds for the purpose of receiving long-term medical treatment or palliative care, where supported by health advice, for a period up to 3 months in accordance with section 205 of the *Corrections Management Act 2007*.

11.5 The Commissioner may direct that a detainee be released early for reasons of compassionate or health-related circumstances in accordance with section 31 of the *Crimes (Sentence Administration) Act 2005*.

11.6 A detainee whose needs cannot be reasonably met in an ACT correctional centre and who is not eligible for parole, may in exceptional circumstances submit a special parole application to the Sentence Administration Board at any time before the detainee's parole eligibility date in accordance with section 121 of the *Crimes (Sentence Administration) Act 2005*.

12 SUPPORT PROVIDED BY COMMUNITY CORRECTIONS

Considerations for Additional Needs on Intake

12.1 Upon intake, Community Corrections will ascertain whether an offender has a:

- a. Public Trustee or Guardian
- b. NDIS plan or NDIS co-ordinator.

12.2 This information will be recorded and where possible a copy of the Guardianship orders obtained to ensure compliance with the conditions in this order.

Interview Support Person or Companion Animal

12.3 Offenders may request a support person to attend interviews with ACTCS to provide emotional support to an offender and support the offender to understand the content of an interview, in accordance with the *Interview Support Person Policy*.

12.4 Offenders may also request to attend an interview with a companion animal. Attendance of a companion animal must be approval by a Team Leader.

Identifying reasonable adjustments

12.5 If during a period of contact with Community Corrections it becomes apparent or an offender discloses they require additional support to improve their access to, or understanding of, information, the Community Disability Liaison Officer must be consulted where possible to facilitate appropriate discussions with the offender to identify what reasonable adjustments or modifications can be made, where practicable.

Preparing for release

12.6 In accordance with the *Court Assessment, Pre-Sentence Report and Pre-Release Report Policy*, detainees will be read their pre-release report prior to this report being submitted to the Sentence Administration Board.

12.7 Prior to an offender attending a hearing by the Sentence Administration Board Community Corrections Officers must discuss with the offender:

- a. any reasonable adjustments that the offender may need to request for the hearing
- b. offenders may request a support person at the hearing, subject to the discretion of the Sentence Administration Board.

13 RELATED DOCUMENTS AND FORMS

- A – Placement and Shared Cell Policy
- B – Use of Force and Restraint Policy
- C – Access to Healthcare Policy
- D – Transfer to a Secure Mental Health Facility Policy
- E – Detainee Property Policy
- F – Detainee Hygiene Policy
- G – Relocating a Detainee to a NSW Correctional Centre Policy
- H – Interview Support Person Policy
- I – Management of Transgender Detainees and Detainees Born with Variations in Sex Characteristics Policy
- J – Court Assessment, Pre-Sentence Report and Pre-Release Report Policy

Ray Johnson, APM
Commissioner
ACT Corrective Services
28 March 2022

Document details

Criteria	Details
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