

# Youth detention centre

## OPERATIONAL POLICY

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**Title:** YD-2-3 Youth detention – Transfer of a young person

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### Policy statement:

Youth detention centres:

- must transfer young people to an adult correctional facility that are liable for transfer no later than when they turn 18 years and 6 months of age
- may transfer young people to a mental health facility or another Australian youth justice jurisdiction if it is in the young person's best interests
- may transfer young people between youth detention centres for safety and/or operational reasons.

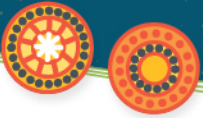
### Principles:

#### 1. General principles:

- 1.1 The young person must be afforded all possible contact with their legal representatives prior to the transfer.
- 1.2 Consultation about the transfer will occur with the young person, their parents or care providers, the youth justice service caseworker and other relevant stakeholders. This includes liaison with the Hospital and Health Service or interstate health authority for any continuing health treatment that the young person requires.
- 1.3 Discretionary transfers must be informed by an assessment of risk and suitability.
- 1.4 All case management documentation must be updated prior to enacting any transfer.
- 1.5 Interstate transfers will only proceed when the sending and receiving state or territory have agreed to the arrangements.
- 1.6 For transfers between youth detention centres:
  - a young person is to be returned to a youth detention centre if or when the factors that led to their transfer are resolved
  - an estimated return date should be established prior to enacting the transfer
  - the young person will be provided with an opportunity to participate and have their views taken into account in planning processes to the fullest extent possible, having regard to age and ability to understand
  - young people who have a court date within the following two weeks are not eligible to be transferred to another centre.

#### 2. Transfer to an adult correctional facility

- 2.1 Youth detention centres must transfer young people to an adult correctional facility that are liable for transfer no later than when they turn 18 years and 6 months of age. A young person is liable to transfer to an adult correctional facility if:



- the young person is younger than 18 years of age at the time of sentence and sentenced to an actual term of custody taking them beyond the age 18 years and 6 months of age; or
  - the young person is between 18 years and 18 years and six months at the time of sentencing, and sentenced to a period of actual custody of 6 months or more; or
  - the young person is 18 years and 6 months old, or older at the time of sentencing and is sentenced to a term of actual custody.
- 2.2 A youth detention centre can issue a Prison Transfer Direction (PTD) at any point for a young person who is liable for transfer.
- 2.3 A transfer to an adult correctional centre can occur at any time from the liable young person's 18th birthday to when they turn 18 years and 6 months old.
- 2.4 Young people who are liable to transfer to an adult correctional facility can make an application for a Temporary Delay of Transfer (TDT) on the day of sentence, or upon receipt of a PTD from Youth Justice.
- 2.5 A young person who is sentenced between 18 and 18 years and 6 months of age, and receives less than 6 months of actual custody is not liable to transfer to an adult correctional facility, even if the sentence would take them beyond 18 years and 6 months of age in youth detention
- 2.6 Only young people who have been sentenced may be liable to transfer to an adult correctional facility. Young people who have been remanded at a youth detention centre and exceed 18 years and 6 months of age will remain at a youth detention centre until their matters are finalised.

### Objectives:

Young people in youth detention can be transferred between youth detention centres or to adult correctional facilities, interstate and to a mental health facility. Accordingly, this policy outlines the key considerations for youth detention staff when actioning these types of transfers.

This policy does not cover:

- transfers to the Queensland Police Service custody - refer to Chapter 2: Admission, External Movement, Transfer and Release, Youth Detention Centre Operations Manual
- extradition matters – refer to Chapter 2: Admission, External Movement, Transfer and Release, Youth Detention Centre Operations Manual.

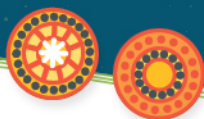
### Scope:

This policy applies to young people sentenced or remanded in a youth detention centre. It is to be read in conjunction with chapter two of the Youth Detention Centre Operations Manual.

Staff actioning interstate transfers should also refer to the Youth Justice procedures.

### Roles and responsibilities:

- The shift supervisor (or delegate) is responsible for:
  - coordinating the transfer movement with the receiving facility, and creating (and/or requesting) the required records about the transfer.
- The caseworker is responsible for:
  - ensuring case management documentation is up to date prior to enacting the transfer (this includes preparing a transfer plan and prison transfer document for any young person being transferred to an adult correctional facility)
  - providing the young person with a signed prison transfer direction, explaining the process, and ensuring the young person is provided information about their ability to apply for a temporary delay of transfer



- assisting the young person contacting Youth Legal Aid concerning prison transfers
- The team leader (casework) is responsible for:
  - coordinating assessments of risk and suitability for discretionary transfers and providing recommendations to the executive director about the transfer
  - ensuring case management documentation is up to date prior to enacting the transfer (this includes preparing a transfer plan and prison transfer document for any young person being transferred to an adult correctional facility)
  - consulting with relevant stakeholders, including the young person, to enact the transfer.
  - consulting with relevant stakeholders regarding prison transfer direction dates and applications for temporary delays of transfer
  - preparation if temporary delay of transfer report
- The deputy director is responsible for:
  - consulting with relevant stakeholders regarding prison transfer direction dates and applications for temporary delays of transfer
  - coordination of temporary delay of transfer reports
- The executive director is responsible for:
  - ensuring practice complies with this policy,
  - approving discretionary transfers
  - deciding to issue a prison transfer direction and seeking Senior Executive Director approval of transfers to adult correctional facilities via a prison transfer direction form.
  - Attending court as required concerning temporary delay of transfer reports
- The Director, Secure Services Operations and Practice is responsible for:
  - providing support to youth detention centres to comply with this policy and reviewing and updating this policy as required.
  - consulting with relevant stakeholders regarding prison transfer direction dates and applications for temporary delays of transfer

### Authority:

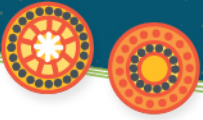
*Youth Justice Act 1992*

*Youth Justice Regulation 2016*

### Definitions:

For the purpose of this policy, the following definitions shall apply:

Term	Definition
Discretionary transfers	Transfers: <ul style="list-style-type: none"> <li>• between youth detention centres</li> <li>• to mental health facilities, or</li> <li>• to another Australian jurisdiction (excluding extradition).</li> </ul>
Executive director	The director of the youth detention centre.
Prison transfer direction	A form that must be endorsed by the executive director and approved by the Senior Executive Director, Youth Justice which states the young person's transfer date to a specific adult correctional facility and that the unserved period of detention must be served as a period of imprisonment.
Youth detention operational staff	A staff member who has direct care responsibility for young people, e.g. a youth worker or section supervisor.



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1.1 Assistant Director-General (11 August 2014)  
1.2 Director, Practice, Program and Design (16 November 2017)  
1.3 Director, Secure Services Operations and Practice (27 February 2020)

**Date of operation:** 11 August 2013

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**Office:** Youth Justice Secure Services Operations and Practice

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**Links:**

[Australasian Youth Justice Administrators \(AYJA\) service standards for juvenile custodial facilities](#)

[United Nations Rules for the Protection of Young People Deprived of Their Liberty 1990](#)

[Human Rights Act 2019](#)

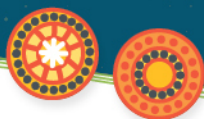
[Queensland Human Rights Commission](#)

[Youth Justice policies](#)

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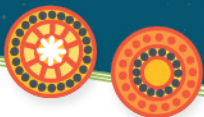
Bob Gee

Director-General



## Appendix A. Overview of transfer options

Transfer type	Legal basis	Overview
Transfers between youth detention centres	Section 263 of the <i>Youth Justice Act 1992</i>	<p>Factors that can lead to a transfer between youth detention centres include:</p> <ol style="list-style-type: none"> <li>1. nil bed vacancies at the allocated youth detention centre</li> <li>2. safety and/or security risks related to the young person.</li> </ol> <p>Transfers in the case of point one above include re-directions from court.</p> <p>For more information, refer to chapter two of the Youth Detention Centre Operations Manual.</p>
Transfer to an adult correctional facility	<p>Section 276B of the <i>Youth Justice Act 1992</i></p> <p>Section 276C of the <i>Youth Justice Act 1992</i></p>	<p>A sentenced young person is liable to be transferred to an adult correctional facility if:</p> <ul style="list-style-type: none"> <li>• the young person is less than 18 years of age at the time of sentence and sentenced to an actual term of custody taking them beyond the age 18 years and 6 months of age; or</li> <li>• the young person is between 18 years and 18 years and six months at the time of sentencing, and sentenced to a period of actual custody of 6 months or more; or</li> <li>• the young person is 18 years and 6 months old, or older at the time of sentencing and is sentenced to a term of actual custody.</li> </ul> <p>Within 28 days after the child is sentenced to serve a period of detention, the chief executive must give a written direction (a prison transfer direction) to the:</p> <ul style="list-style-type: none"> <li>• young person</li> <li>• chief executive (corrective services).</li> </ul> <p>If the child cannot be transferred on the transfer day, the child must be transferred as soon as practicable after that day.</p> <p>For more information, refer to:</p> <ul style="list-style-type: none"> <li>• chapter two of the Youth Detention Centre Operations Manual</li> <li>• Youth Justice procedures.</li> </ul>
Transfer from an adult correction facility	Section 139 of the <i>Youth Justice Act 1992</i>	<p>A detained young person may apply to a Childrens Court for an order that the young person is held on remand or detained in a youth detention centre and not an adult correctional facility.</p> <p>For more information, refer to Youth Justice procedures</p>
Transfer interstate	A young person detained in one state may seek to have their youth justice orders transferred to another state, as long as Queensland has a transfer agreement in place with that state.	<p>Interstate transfers are the responsibility of the youth justice service centre caseworker with case responsibility for the young person.</p> <p>For more information, refer to Youth Justice procedures.</p>
Transfers to a mental health facility	<p>Section 264 of the <i>Youth Justice Act 1992</i></p> <p>Young people in youth detention will be transferred to speciality care, under the <i>Mental Health Act 2000</i>, when it</p>	<p>Mental health transfers can be actioned by the department or the Hospital and Health Service.</p> <p>For more information, refer to chapter two of the Youth Detention Centre Operations Manual.</p>



Transfer type	Legal basis	Overview
	is deemed in their best interests.	
Transfers to Queensland Police Service custody	As a suspect – section 399 of the <i>Police Powers and Responsibilities Act 2000</i>	Not covered in this policy. For more information refer to chapter two of the Youth Detention Centre Operations Manual.