

# Community Supervision for Young People 18 Years and Over Policy

## Essential Summary

Youth Justice NSW (YJNSW) is committed to working collaboratively with Community Corrections NSW (CCNSW) to provide a continuity of service for young people with community based supervision. The best interests of vulnerable young people should be taken into account when determining the most appropriate supervising division for young people aged 18 years and over.

This policy is in compliance with the *Children (Detention Centres) Act 1987 (CDC Act)* and provides direction on:

- transferring community supervision responsibilities to Community Corrections NSW (CCNSW)
- restrictions that prevent a transfer to CCNSW
- retaining YJNSW supervision of supervised community order(s)
- applying for a young person to remain with YJNSW due to specific vulnerabilities

This policy and the related *Community Supervision for Young People 18 Years and Over Procedure*, provide state wide consistency to the transfer process. The process was agreed to, and developed in, collaboration with CCNSW.

This policy and its related procedure do not apply to custodial transfers to Corrective Services NSW (CSNSW). For all custody transfers, please refer to the *Transfer to Adult Corrections Procedure*.

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Ensure you have the latest version before using this document.

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# 1 Scope

This policy applies to all Youth Justice NSW (YJNSW) employees involved in the administration, management and supervision of community based orders for young people who are 18 years and over.

This policy will provide the criteria for determining which division will hold community supervision responsibilities when a young person:

- turns 18 while subject to a YJNSW supervised community order or
- is 18 years or over when released from custody on a supervised community order.

# 2 Purpose

This policy provides YJNSW employees with an understanding of how to manage the transfer of community supervision for young people aged 18 years and over, while taking into consideration specific vulnerabilities and transfer restrictions.

This policy sets out how employees are to carry out their work to assist the Secretary to discharge his or her functions under the NSW *Children (Detention Centres) Act 1997 (CDC Act)*.

# 3 Definitions

**Parole** is the part of a control order which is spent in the community with conditions attached

**Transfer** refers to the transfer of a young person from YJNSW to Community Correction NSW (CCNSW)

# 4 Overview

YJNSW is responsible for the supervision of all young people under the age of 18 years.

When a young person turns 18 years, and has 12 weeks or more remaining on their order, supervision is to be transferred to CCNSW, unless it is assessed and approved that YJNSW is to retain supervision.

A Director must make an order under Part 4C of the *Children (Detention Centres) Act 1987* for supervision to be retained by YJNSW for a young person 18 years or older on parole who has more than 12 weeks of supervision remaining after their 18<sup>th</sup> birthday. This is included in the '*Application to Retain Supervision*' form.

YJNSW is responsible for supervising young people who turn 18 years and either have orders of less than 12 weeks or have less than 12 weeks remaining on their order. The *Application to Retain Supervision* process is not required in this instance.

# 5 Applying to retain supervision beyond 18 years

If a young person is being considered to remain under YJNSW supervision beyond their 18<sup>th</sup> birthday and they have more than 12 weeks remaining on their order, an *Application to Retain Supervision form* must be completed.

Table 1 below provides a list of factors or circumstances where this is appropriate:

	Circumstance	Action
1	Young person has specific vulnerabilities that warrant continued supervision with YJNSW	<p>If a Youth Justice Caseworker (YJCW) (Community) identifies specific vulnerabilities that warrant continued supervision with YJNSW, the <i>Application to Retain Supervision</i> form must be submitted.</p> <p>If the young person becomes the subject of new charges or has revocation matters, a review of their eligibility to remain under the supervision of YJNSW must be conducted.</p>
2	Young person is subject to an order that can be transferred to CCNSW, <b>and</b> also has an order or youth justice conference which cannot be transferred, (i.e. a Children's Community Service Order, Community Clean Up Order, Youth Justice Conference outcome plan or a section 24(1)(c) order	<p>An <i>Application to Retain Supervision form</i> is required for YJNSW to retain supervision until any of these order types are completed.</p> <p>Once completed, supervision of any further orders (e.g. Good Behaviour Bond or Probation etc) are to be transferred to CCNSW, unless another circumstance in this table is applicable and a further <i>Application to Retain Supervision form</i> is completed and approved.</p>
3	Young person is <b>only</b> subject to an order or youth justice conference, which cannot be transferred to CCNSW (i.e. a Children's Community Service Order, Community Clean Up Order, youth justice conference or a Bail order with YJNSW identified as the Supervising Authority.	An application to retain is not required, as these orders cannot be transferred to CCNSW.
4	Young person has pending Children's Court matters (e.g. revocation, appeal, charges, outcome plan), breach action is required, or breach has not been finalised.	<p>An <i>Application to Retain Supervision form</i> is required for YJNSW to retain any transferable supervised orders while the young person has outstanding court matters.</p> <p>Once any outstanding matters are completed, supervision is to be transferred to CCNSW, unless another circumstance in this table is applicable and a further <i>Application to Retain Supervision form</i> is completed and approved.</p>
5	Young person has a low YLS/CMI-AA score	<p>Parole orders cannot be filed down (even if the YLS/CMI-AA score is low). CCNSW will not supervise any offender with a low YLS/CMI-AA or LS/CMI score. Therefore, these young people require an <i>Application to Retain Supervision form</i> for YJNSW to administer the order.</p> <p>For all other community orders, YJNSW must either file down or</p>

		administer until they are completed.
6	Young person proposes a residential address that is interstate	<p>When a young person 18 years or over proposes a residential address that is interstate, YJNSW must complete the interstate transfer process. An <i>Application to Retain Supervision</i> must also be completed to acknowledge that YJNSW is maintaining oversight of the order.</p> <p>Further information regarding the process for representative supervision and transfers for young people 18 years and over is in the <i>Relocation and Travel Policy</i>.</p>

If the young person is in the community, the *Application to Retain Supervision form* must be completed 12 weeks prior to the young person turning 18.

If the young person is in custody, the *Application to Retain Supervision form* must be completed:

- 12 weeks prior to their discharge, or
- 12 weeks prior to the parole case conference if they are applying for parole at the Children’s Court

See *Appendix 1 – Other Transfer Scenarios* for further information about a range of scenarios that could occur and the expected transfer arrangements.

## 5.1 Application to Retain Supervision

The *Application to Retain Supervision form* is required anytime a young person is being considered to remain under YJNSW supervision beyond their 18<sup>th</sup> birthday, with more than 12 weeks remaining on their order; this includes when specific vulnerabilities have been identified for young people aged 18 years or over and the ongoing supervision of YJNSW is considered appropriate.

The *Application to Retain Supervision form* includes:

- details of why the young person will be particularly vulnerable if transferred to CCNSW (if applicable)
- other details of why it is appropriate for YJNSW to retain supervision
- why YJNSW will be best placed to meet the particular needs of the young person
- details of their current legal order(s)

The provision to retain supervision with YJNSW is aligned with legislative requirements and research demonstrating that transition periods are likely to increase a young people’s vulnerability/risk<sup>1</sup>. This can include a transition from one supervising agency and caseworker to another supervising agency.

In order to give young people a better chance at a successful transition to CCNSW, any additional risk factors or vulnerabilities that YJNSW is currently addressing should be resolved, or additional supports put in place before the transfer occurs.

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<sup>1</sup> Commissioner for Children and Young People Western Australia. (2011). *Report of the Inquiry into mental health and wellbeing of children and young people in Western Australia*. Retrieved from <https://www.cryp.wa.gov.au/media/1452/report-mental-health-inquiry-april-2011.pdf>

National Institute for Health and Care Excellence. (2016). *Transition from children’s to adults’ services for young people using health or social care services NICE guideline*. Retrieved from: [www.nice.org.uk](http://www.nice.org.uk)

Circumstances where young people might have specific vulnerabilities that would benefit from continued supervision with YJNSW includes, but are not limited to:

- a need to complete a therapeutic intervention/program not available at CCNSW
- a specific cognitive impairment, mental health issue or other disability that YJNSW is currently providing specific assistance with
- a current period of homelessness and or transience
- substance misuse that YJNSW is providing specific assistance with
- geographic isolation (limited or no access to other services or supports) that would be further exacerbated by a transfer to CCNSW
- current disengagement from or limited access to education and training programs that YJNSW is providing specific assistance with
- transitioning out of an out-of-home care environment/agency
- absence of cultural support that YJNSW is providing assistance with through a specific program or other immediate support

The above vulnerability considerations and whether these warrant an application to retain supervision must be assessed on a case by case basis. If further clinical assessment is required to support an application, a YJNSW psychologist should be consulted to support this.

Decisions made to approve the application are informed by both the identified vulnerability issues and the community office's capacity to continue to supervise the young person.

### **5.1.1 Approvals for Application to Retain Supervision**

The Director, Community is responsible for approving the *Application to Retain Supervision form* for parole orders. In doing this, the Director is acting as the delegate of the Secretary under s.40 (3)(c) in determining it appropriate that Part 4C of the *Children (Detention Centres) Act 1987* continues to apply.

The Area Manager approves applications for all other supervised community orders.

If approved, all applications to retain supervision must have a **set expiry date or expiry circumstance** which is based upon the circumstances and reason for retaining a young person under YJNSW supervision.

At the set expiry, one of the following must occur:

- a further *Application to Retain Supervision* form must be completed, or
- the young person's legal order expires and supervision is ended, or
- the young person is transferred to CCNSW.

There may be circumstances when YJNSW needs to consider transferring a young person who has had their supervision retained, prior to the set expiry.

Reasons for transferring before the established expiry date could include:

- the young person requesting to be transferred
- the specific vulnerability issues have been addressed or
- new charges or circumstances have occurred that require transfer to CCNSW.

When a young person on parole needs to be transferred to CCNSW prior to the expiry date, the *Review of Application for YJNSW to retain young person aged 18+ form* needs to be completed. The *Review of Application to Retain* is not required for any other community-based order.

If an *Application to Retain* is not approved, or a decision to transfer is made on the *Review of Application to Retain*, then the young person must be transferred to CCNSW.

YJNSW does not supervise a young person past the age of 21. All young people who have not completed their orders must be transferred to CCNSW before 21 years of age.

## 5.2 Transfers to Community Corrections NSW

Upon identifying that a young person should be transferred to CCNSW, YJNSW must engage with the relevant CCNSW office at the earliest opportunity to discuss the referral and supervision arrangements.

YJNSW must contact the CCNSW office **at least eight weeks** prior to the proposed transfer date and provide all relevant information including:

- background reports
- police facts
- criminal history
- case plan
- psychologist reports

If the young person is supervised in the community, YJNSW must arrange and facilitate a transfer case conference with the young person, their family and the CCNSW officer at least four weeks prior to the proposed date of transfer.

If the young person is in custody, CCNSW must be invited to the discharge case conference and/or parole case conference and a pre-release home visit must be conducted with CCNSW. Any issues arising from the home visit must be discussed as soon as possible to allow time for alternative accommodation to be organised. CCNSW are an integral part of discharge planning and the discharge case conference.

If a transfer has been arranged with CCNSW prior to sentencing or a parole hearing, any court reports must include the details regarding the transfer of supervision to CCNSW.

Young people subject to parole who are transferring to CCNSW will have their parole matters managed by the State Parole Authority upon transfer, and they will be subject to parole under the Crimes (Administration of Sentences) Act 1999 (CAS Act) instead of the CDC Act. A copy of standard CAS parole conditions must be provided to young people who are transferring, or exiting custody into CCNSW supervision.

For more information regarding parole, refer to the *Parole Policy and Procedure*.

YJNSW must provide young people with details of their first appointment with CCNSW. The transfer will not commence until they have attended CCNSW for their first appointment.

## 6 References

### Legislation

*Children (Detention Centres) Act 1987*  
*Children (Detention Centres) Regulation 2015*  
*Crimes (Administration of Sentences) Act 1999*

### Policy

*Parole Policy*  
*Relocation and Travel Policy*  
*Case Management Policy*

### Procedure

*Community Supervision for Young People 18 Years and Over Procedure*  
*Parole Procedure*  
*Case Management Procedure*  
*Representative Supervision Procedure*  
*Transfer to Adult Corrections Procedure*

### Forms

*Application to Retain Supervision Form*  
*Review of Application for YJNSW to retain young person aged 18 years and over (Parole only)*

### Resources

*Other Transfer Scenarios (Appendix 1)*

## 7 Document Information

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<b>Title:</b>	Community Supervision for 18 and Over Policy
<b>Business Centre:</b>	Operations Unit
<b>Author:</b>	Project Officer, Operations Unit
<b>Approver:</b>	Director, Policy and Practice
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## 8 Document History

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Version	Date	Reason for Amendment
0.4	06/02/2020	Minor changes made to policy
0.3	26/11/2019	Updated policy due to legislative changes regarding parole
0.2	26/02/2018	Updated policy due to legislative changes regarding parole
0.1	1/12/2016	New policy Supervision considerations for over 18's

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## 9 Appendix 1- Transfer scenarios

Transfer scenarios	
Young people aged 18 and over from YJNSW to CCNSW	
Circumstance	Outcome
<p>1. <b>Young person has a supervised community order and is aged 18 and over but retained under YJ supervision due to meeting one of the circumstances in Table 1.</b></p> <p><b>New adult offences are committed and the young person is admitted to Corrective Services NSW (CSNSW) facility.</b></p>	<p>YJNSW will formally transfer supervision to CCNSW upon the finding/plea of guilt for the new charge.</p> <p>YJNSW will not maintain custodial support of a young person in adult custody. However, while the young person is in adult custody (prior to a finding/plea of guilt), YJCW (Community) will monitor the case and ensure the Children's Court is informed of the new charges and the outcome. The YJCW may need to contact the young person for the purpose of gathering information for a report.</p>
<p>2. <b>Young person has a supervised community order and is aged 18 and over but retained under YJ supervision.</b></p> <p><b>Application to revoke/breach submitted to Children's Court.</b></p>	<p>Young person must remain with YJNSW until the revocation/breach matter is finalised.</p> <p>Any revocation/breach matter will trigger a review of whether the young person's should be transferred to CCNSW.</p>
<p>3. <b>Young person has a supervised community order and is aged 18 and over but retained under YJ supervision.</b></p> <p><b>Arrested on old juvenile offences.</b></p>	<p>YJNSW will retain supervision. New pleas/findings of guilt must trigger a review of the young person being transferred to CCNSW.</p>
<p>4. <b>Young person aged 18 years and over is transferred to CCNSW supervision.</b></p> <p><b>Arrested on old juvenile offence.</b></p>	<p>CCNSW will retain supervision of young person.</p> <p>YJNSW will assist with completing the Background Report (the report should state the young person will be supervised by CCNSW).</p>