

Leave Policy

Essential Summary

While the *Children (Detention Centres) Regulation 2015* gives young people provision for leave, it is not an entitlement. In order for leave to be approved a young person must meet legislative and Youth Justice Eligibility criteria.

This policy sets out the circumstances and conditions under which young people, subject to a period of control in a youth justice centre may be granted leave under the supervision of an approved person.

All types of leave which a young person may participate in, the requirements, criteria, considerations for approval and conditions regarding the undertaking of leave are explained in this policy.

This policy is written to comply with the *Children (Detention Centres) Act 1987*, the *Children (Detention Centres) Regulation 2015* and the Australasian Youth Justice Administrators (AYJA) Juvenile Justice Standards.

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1 Scope

This policy applies to all Youth Justice NSW (YJNSW) employees that have a role in administering leave for eligible young people from within a YJNSW centre.

2 Purpose

The purpose of this policy is to set out the circumstances and conditions under which young people subject to a period of detention in a YJNSW centre may be granted leave under the supervision of an approved person.

The key objectives of the policy are to

- ensure the application of appropriate standards and principles when making decisions about a young person's eligibility and entitlement to leave
- provide a framework to identify and reduce risk(s) associated with leave
- increase employee compliance with statutory responsibilities related to the administration of leave

3 Definitions

Control order is an order made by the Children's Court committing a person who has been found guilty of an offence to a period of time as it thinks fit (maximum two years).

Detention period means sentence of imprisonment under which the person is detained; ending on the person's earliest release date of the longest concurrent or cumulative sentence.

Earliest release date in relation to a person on a control order: means the first date on which the person is entitled to be released from a detention centre or is eligible for release on parole. In relation to a person on remand means: the next court date

A person on remand means an accused person according to the meaning of the Bail Act 2013 who has not been released on bail under that Act.

4 Managing leave for young people

4.1 Types of Leave

There are four types of leave a young person can undertake when eligible to do so:

1. **Outings / Group Outings:** Approval for a young person or group of young people to leave a detention centre under the supervision of a YJNSW justice employee
2. **Day leave:** A young person has been approved to be absent from a YJNSW centre during specified hours of one day, under the supervision of an approved supervisor; not escorted by a YJNSW justice employee.
3. **Overnight leave:** A young person who has been approved to be absent from a YJNSW centre overnight, under the supervision of an approved supervisor; not escorted by a YJNSW justice employee.
4. **Educational and vocational leave:** A young person who has been approved to be absent from a YJNSW centre to undertake work release or work experience, under the

supervision of the education and Training Unit employee/s or a member of the public who has been approved to supervise the young person.

5 Eligibility for Leave

5.1 Legal Requirements

Leave may be granted to a young person who has been mandated into custody on a:

- Control Order
- Control s19 order (*Children (Criminal Proceedings) Act 1987*)
- Confirmed Revocation of Parole Order
- Control order with additional court matters adjourned with no bail determination, bail dispensed with or bail granted and entered into
- Remand Warrant pending an outcome of an appeal (must be approved by the Director, Custodial Operations)

Clauses 60 and 61 of the *Children (Detention Centres) Regulations 2015* specify dates which must be reached before the young person is eligible to be considered for day or leave and overnight leave. These dates are known in YJNSW as 'critical dates'.

5.2 Critical Dates

The Client Information Management System (CIMS) calculates and displays a young person's critical dates.

For a young person serving multiple control orders during a continuous period of detention, Critical Dates are calculated from commencement of the first control order and expire at the end of the last control order.

In cases where the commencement date of an order is prior to the admission date, critical dates are based on the date of admission, not commencement of the sentence.

When a young person is not eligible for leave, the critical dates are shown on CIMS as not applicable or N/A. This includes young people not subject to a control order who are on remand or have a revocation of parole proceeding before a court and waiting its outcome.

If the young person has not met the critical dates but has special circumstances that justify day leave or overnight leave, the Director Custodial Operations may grant the leave despite not reaching critical dates. See clauses 60(2) and 61(2) of the *Children (Detention Centres) Regulation 2015*.

5.3 Classification and Further Criteria

Outings: Young person must be classified B2 and reached centre requirements to be eligible for outings supervised by YJNSW Justice Employees

Day Leave: Young person must have classification B2, reached critical dates and completed two successful outings under the supervision of YJNSW Justice Employees, to be eligible for day leave.

Overnight Leave: Young person must be classified B3, reached critical dates and completed two successful day or educational leaves when possible to be eligible for overnight leave

Educational and vocational leave: Young person must be classified B3, reached critical dates and be eligible for day leave.

6 Considerations for Leave

6.1 Factors

When a young person meets the eligibility criteria for day or overnight leave the following factors must be considered prior to leave being approved:

- behaviour and compliance during previous outings or leave:
- does the young person pose a risk to public safety
- are they likely to commit any offence
- will they abide by leave conditions
- suitability of leave supervisor and location of leave; has the leave supervisor been assessed and approved as suitable to supervise the young person
- is the young person likely to interfere with or attempt to interfere with a witness in any criminal proceedings
- relevance of case plan tasks and goals including links between the proposed leave and the young person's case plan
- any Security & Intelligence Unit information that may impact on leave
- whether the young person has been involved in any incidents that are of public interest or may become a media issue
- impact on the victim or victims family; likelihood that granting leave would bring the young person into contact with any victim of the offence in which the person is detained
- whether the young person has restrictions placed on them, e.g. contact with particular people or locations.
- Any previous history of escape or absconding of the young person from lawful custody

6.2 Time and location

Leave can occur on any day of the week. Employees must consider the availabilities of family members and/or significant others and where practicable accommodated.

Every effort must be made to ensure co-offenders do not participate in leave at the same time or location.

Leave should not exceed two overnight periods except when special consideration is recommended. Applications for any leave exceeding two overnight periods must be approved by the Director Custodial Operations.

6.3 Registrable Offender

The NSW Police Child Protection Register (CPR) team must be notified by email the first time a registrable offender accesses day leave and overnight leave. The CPR team may also ask to be notified each time a registrable offender accesses leave. See section 6 of the *Child Protection Register Policy* for further information, and Appendix 1 of the *CPR Policy* for the email template which must be sent to the CPR team.

7 Purpose of Leave

A young person subject to control may be granted leave for the following purposes:

- attending a funeral of a close relative,
- visiting a close relative who is seriously ill,
- applying for employment or being interviewed in relation to an application for employment,
- engaging in employment of a kind specified in the order,
- applying for enrolment in a course of education or vocational training or being interviewed in relation to an application for enrolment in such a course,
- attending a course of education or vocational training at a place specified in the order, or
- any other purpose that the Centre Manager thinks proper, if the purpose is directly associated with the welfare or rehabilitation of the person

Young people on remand, in respect of whom an appeal relating to an offence is pending, or on a control order prior to critical dates being met, may be granted leave by the Director Custodial Operations for any of the above reasons.

8 Conditions of Leave

If leave is approved it must be formalised on the appropriate '*Order for Leave*' form (CIMS).

Any conditions of leave as to non-association and/or place restriction contained in a young person's legal order(s) must be clearly defined using the specific language contained in the order(s), on all leave documents.

Conditions of leave must be clearly explained to the young person and the leave supervisor.

The young person must agree to complete a '*How was My Leave Form*' prior to or upon return to the centre.

The Leave Supervisor must agree to complete a '*Supervisors Leave Undertaking Form*' form prior to or upon returning the young person to the centre.

The young person and the leave supervisor must agree to abide by all conditions before leaving the centre and sign the relevant documentation

9 Serious Offenders

Young people who have been charged with or found guilty of one or more Serious Children's Indictable Offences as described in the *Serious Young Offenders Review Panel (SYORP) Policy*, must have all initial applications for day and overnight leave submitted to the SYORP. (refer to *SYORP Policy*, *SYORP Procedure*)

The SYORP will consider all applications and advise the Director Custodial Operations on the young person's suitability for day and overnight leave in the first instance.

Once initial approval is given, for each type of leave, by the Director Custodial Operations, all following applications may be approved by the Centre Manager (Role).

Any variation on the initially approved leave supervisor/s must be referred in writing to the Director Custodial Operations for approval.

10 Clients with Registered Victims

YJNSW Justice is committed to acknowledging and observing the rights of the victim as prescribed in the *Victims' Rights Act 1996* and the *Charter of Victim Rights*.

The Strategy and Engagement Directorate must be informed of any initial application for supervised outings, day and overnight leave as soon as the application is received.

The Strategy and Engagement Directorate must be informed of the outcome of the leave application at least ten (10) days before leave is undertaken.

11 References

Legislation

Children (Detention Centres) Act 1987

Children (Detention Centres) Regulation 2015

Policy

Case Management Policy

Child Protection Register Policy

Serious Young Offenders Review Panel (SYORP) Policy

Personal Property (Young People) Policy

Victims Register Policy

YJNSW Policy of Applying Powers and Responsibilities under the Children (Detention Centres) Act and Regulations

Procedures

Case Management Procedure

Incentive Scheme Procedure

Leave Procedure

Objective Classification of Young People Procedure

Personal Property (Young People) Procedure

Serious Young Offenders Review Panel (SYORP) Procedure

Urinalysis Procedure

Forms

Request for JJCO Information (CIMS)

How was My Leave? Feedback (Young People) Form

Supervisors Leave Undertaking Form

Pre Leave Interview Form

Order for Leave Form (CIMS)

Application for Leave (CIMS)

Contract for Work Place, Work Experience, TAFE Attendance (Young Person) Form

Work Release, Work Experience, TAFE Attendance Supervisors Agreement Form

Day Leave – Supervision Travel Approval Pass Form

12 Document Information

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13 Document History

Version	Date	Reason for Amendment
0.1	October 2011	New policy
0.2	December 2015	Legislation, position title and centre classifications updated
0.3	February 2019	Legislation, terminology and template updated
0.4	1 July 2019	Legislative delegation changes. Executive Restructure.
0.5	June 2020	Minor change; requirement to notify police when a registrable offender accesses leave. Logo change.
