

Mail Handling Policy

Essential Summary

Young people in custody are entitled to send and receive letters and parcels and should be encouraged to maintain regular communication with their families and significant others.

Mail handling at youth justice centres can pose a risk to employees and other young people due to the possible handling of hazardous substances and contraband. The safety and security of employees and young people is paramount in the detection and prevention of hazardous and dangerous items entering the centre.

This policy provides employees with a framework for safe mail handling within the Youth Justice Centres.

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1 Scope

The policy applies to all youthyouth justice centre employees.

2 Purpose

The purpose of this policy is to:

- provide consistency in practice across centres
- inform all employees of legislative requirements
- inform all employees of the requirements of the Division.

3 Definitions

Authorisation means an administrative function that has been given by a person (usually the centre manager) to be completed on behalf of that person. The centre manager is responsible for the actions and decisions made by the person authorised and therefore can only authorise functions that are administrative in nature and does not involve discretionary decision making (such as approving or revoking a decision). Employees can be authorised through policy and procedure.

Brief of evidence is a group of documents, including statements and photographs that the police may use as evidence at the hearing or trial.

Censoring means to examine a letter for the purpose of deleting or withholding parts of the wording as it is thought to be objectionable on moral, political, security or other grounds.

Centre manager means the person who is for the time being in charge of the centre.

Contraband means any item that is brought into the secure area of a centre, vehicle dock or custody area of court without the written approval from the centre manager.

Delegation means a function that has been expressed as a delegation in legislation or an instrument of delegation approved by the Office of the General Counsel. A delegate exercises the power delegated to him or her in his or her own name and will therefore be held personally responsible for any decisions or actions made.

Division means the Division of YouthYouth Justice.

Employee means all employees of YouthYouth Justice NSW.

Exempt body and person mean a body or person who is exempt from inspection of mail. See 7.1 of this policy.

YouthYouth justice centre has the same meaning as *detention centre* in the *Children (Detention Centres) Act 1987* and *Children (Detention Centres) Regulation 2015*

YouthYouth justice officer means an employee of YouthYouth Justice NSW who is principally involved in the administration of the *Children (Detention Centres) Act 1987* and *Children (Detention Centres) Regulation 2015*.

Hazardous item means a substance which is listed on the National Occupational Health and Safety Commission's List of Designated Hazardous Substances, or has been classified as a hazardous substance by the manufacturer or importer in accordance with the National Occupational Health and Safety Commission's Approved Criteria for Classifying Hazardous Substances.

Manager means a unit manager or above at a youth justice centre. (See procedures for the allocation of the responsibility to a specific role).

National Security Interest (NSI) Young Person means a young person designated as a national security interest due to one of the following reasons; charged with or convicted of certain terrorism offences; has an association with a terrorist organization; made statements or carried out activities advocating support for terrorists acts or violent extremism and there is a risk that the young person may engage in, or incite activities that constitute a serious threat to the community.

Prohibited item means the legal definition provided in 6.5 of the policy.

Secure area of a centre means all areas within a youth justice centre where there is potential access to young people. This also includes the vehicle dock and custody area of a court; as defined by local signage.

Unit Supervisor means to the person in charge of the unit at the time and includes the Unit Manager, Assistant Unit Manager and Shift Supervisor.

Young person has the same meaning as *child* and *detainee* in the *Children (Detention Centres) Act 1987*.

4 Background

To improve consistency across youth justice centres and reduce the opportunities for contraband to enter the centres, the following process was implemented in all centres on 15 February 2013 as per memo *D13/01320 Detainee Mail, Letters and Parcels*:

- All mail addressed to young people is considered 'likely to adversely affect the security, safety or good order of the detention centre'.
- Young people must be notified that all incoming mail, other than a letter from an exempt body will be opened and checked prior to delivery.
- All mail and parcels addressed to young people must be opened and inspected for contraband by employees.
- Mail addressed to young people cannot be read or censored by employees unless directed to do so by the centre manager.
- When a letter or parcel, or items within, are withheld due to concerns that delivery of the item/s is likely to adversely affect the security, safety or good order of the centre, the young person must be notified.

On 1 September 2015, the *Children (Detention Centres) Regulation 2015* made a change to clause 40 so that youth justice officers could now inspect incoming and outgoing mail addressed to or sent by young people. No level of suspicion was required to inspect the mail.

5 Approving communication

A non-NSI young person may have postal communication with any person outside the centre following approval including:

- a young person at another youth justice centre
- an adult at a corrective services facility
- family or significant other person
- all persons and bodies listed in the exempt bodies and persons (see 7.1 of this policy)

A NSI young person must not communicate by letter with:

- A NSI designated young person in another YJNSW centre or
- A category AA, category 5 or NSI inmate in a correctional centre

5.1 Approving contact with family and significant others

See *Facilitating Contact with Family and Significant Others Procedure* for information on the approval processes for communicating with family, carers and significant others.

The Client Information management System (CIMS) provides a list of people the young person is not allowed to contact and will include people who have requested no contact with the young person.

Youth Justice NSW (YJNSW) must comply with the young person's bail conditions and court orders when assessing the approval of contact.

5.2 Communication between two centres for non- NSI Young people

Communication between young people at different centres must be approved in writing by the centre managers at both centres. Communication between a young person and an adult in a correctional facility must be approved in writing by a centre manager at the youth justice centre and the general manager at the adult corrections facility. See *Mail Handling Procedure* for specific directions. If the sender and recipient are co-offenders or accused, see 5.3 of this policy.

YJNSW must obtain advice on the relationship between the young person and the other person before giving approval. See *Facilitating Contact With Family / Significant Others Procedure*. If the communication is between a youth justice centre and an adult corrections facility, contact with the caseworker at the recipient's custodial centre before approving the communication.

If contact is not supported, the reason behind the decision must be recorded as a case note and include the following details:

- reason the communication was declined
- advice given to the young person
- advice given to the sending centre
- actions regarding the mail sent or received

5.3 Communication between co-accused or co-offenders

Communication between alleged co-accused young people on remand must not be allowed. This is regardless of where the co-accused is located. Similarly, communication between an accused person in custody or community and a victim in custody or community must not be allowed.

Once the court matters are finalised, approval to communicate is subject to the risk assessments of the centre managers and general managers.

Communication between a young person in custody and a co-offender in the community (present co-offender or past co-offender) is subject to approval by the JJCW (Community). See *Facilitating Contact With Family / Significant Others Procedure*.

5.4 Communication with a young person in forensic hospital

While a young person is detained at a forensic hospital, all incoming mail must be approved by the centre manager. All incoming mail must be registered in the *Mail Register* at the youth justice centre and inspected at the youth justice centre prior to being forwarded to the young person at the hospital.

Any mail received directly at the forensic hospital must be forwarded to the youth justice centre for approval.

If a young person is being held for seven days or less, incoming mail may be kept at the centre and given to the young person when he or she returns to the youth justice centre.

See *Forensic Hospital Policy* for further information on the approval process.

6 Inspection of mail

Letters and parcels can be a major source of contraband for youth justice centres. Employees must handle all mail with care and caution, and practice work health and safety at all times due to the potentially dangerous and hazardous nature of the mail contents.

Employees must not personally post any mail on behalf of a young person. All mail must be registered in the *Mail Register* as per the *Mail Handling Procedure*.

6.1 Delegations

Youth justice officers:

- are authorised to open, inspect, and read an incoming letter or parcel received by a young person
- are authorised to confiscate the letter or parcel and its contents if it contains prohibited goods
- are authorised to deal with the confiscated goods in accordance with the general directions of this policy or specific directions of the Director Custodial Operations

Unit managers:

- are authorised to open, inspect, and read an outgoing letter or parcel sent by a young person
- are authorised to confiscate the letter or parcel and its contents if it contains prohibited goods
- are authorised to deal with the confiscated goods in accordance with the general directions of this policy or specific directions of the Director Custodial Operations

Centre managers:

- can direct matters contained in a letter or parcel to be photocopied before the letter or parcel is delivered to the addressee. The direction can only be given if the centre manager or youth justice officer thinks that the written or pictorial matter is likely to prejudice the good order and security of the centre, or is threatening, offensive, indecent, obscene, or abusive
- can require the young person to open the sealed envelope in the centre manager's presence if the centre manager thinks that the sealed envelope might contain prohibited goods
- can take possession of an envelope and its contents if a sealed envelope so opened is found to contain prohibited goods
- can deal with them in accordance with this policy or any directions given specifically or generally by the Director Custodial Operations .

6.2 Inspection requirements for non- NSI young people

Employees may open, read and inspect all non-exempt mail addressed to or sent by a young person in custody. See 7.1 of this policy for correspondence with exempt bodies and persons.

All non-exempt incoming mail addressed to young people must be inspected. The mail can be inspected by employees or by the young person in the presence of an employee.

Non-exempt outgoing mail by a young person must only be inspected if there is a suspicion that the mail may contain prohibited items. Only a unit manager or higher can make this decision and open the suspicious outgoing mail as per the *Mail Handling Procedure*.

6.3 Inspection requirements for NSI young people

Employees must open, inspect and read any letter or parcel sent to or by a NSI designated young person.

If the mail opened is found to contain prohibited goods, the centre manager may take possession of the mail and its contents and deal with them in accordance with any directions given specifically or generally by the Director Custodial Operations.

6.4 Protective equipment and safety

Employees must wear protective equipment at all times when opening and inspecting mail. At a minimum, employees must wear gloves, a mask, use a letter opening implement and have a sealable bag for disposing of prohibited items.

Mail must be opened in an area approved by the Centre Manager to ensure containment of suspicious substances.

Employees must:

- be provided with sealable plastic bags for mail inspections
- be provided with equipment such as gloves, facial masks, and letter opening implement; additional equipment may include lab coats and goggles
- keep hands away from nose and mouth when handling mail
- always wash hands after handling mail

6.5 Mail from couriers and external agencies

Mail from unfamiliar sources and external agencies delivered by couriers must be treated with caution as it may contain dangerous or hazardous items. Employees must utilise protective equipment and follow the steps of the *Mail Handling Procedure*.

6.6 Prohibited items

The term *prohibited goods* is defined in legislation as:

- money
- anything that is likely to prejudice the good order and security of a detention centre
- any threatening, offensive, indecent, obscene or abusive written or pictorial matter
- any offensive, indecent or obscene article
- anything that is intended to facilitate, incite or be used in connection with any unlawful activity

If mail is found to contain a prohibited item or something that is likely to adversely affect detention centre's security, safety or good order, the employee may:

- store the item(s) with the young person's property, to be given to the young person at time of discharge
- dispose the offending item, if the item cannot be kept in the young person's property until discharge (for example perishable goods) or prohibited (for example pornographic materials)
- if drugs are found, it may be necessary to surrender them to police. Employees must not dispose of any drug related items or substances found during searches, as they may be used as evidence. See Contraband Policy.

Employees must record all disposals or storages on the young person's property record, which is maintained by Admissions. See *Admissions and Discharge Procedure*.

A young person must be notified of all mail withheld via the *Notice of Prohibited Mail*.

Employees must also explain verbally to the young person the reason why the communication was not supported and the action that was taken.

6.7 Reading and censoring mail

Employees must not censor a letter. This means that an employee must not delete or withhold some wording of the letter for any reason.

Mail can only be read if an employee believes that the written content of the mail may adversely affect the centre's security, safety or good order. An employee must seek the approval of a centre manager before reading a young person's incoming or outgoing mail.

If an employee reads something that may adversely affect the centre's security, safety or good order, the employee may place the letter in the young person's property and inform the young person (see 5.2 of this policy).

If the letter was written by the young person, the employee may suggest the young person re-write the letter. However this does not apply to written material which would constitute an offence (e.g. terrorist propaganda, pornographic material, specific details of an offence).

An exception to censoring is pornographic illustration attached to a letter. This is because pornography is contraband. See *Contraband Policy and Contraband Procedure*.

6.8 Copying written or pictorial matters in mail

Centre managers can make a direction to copy any written or pictorial matter contained in a letter or parcel that has been opened, inspected or read before the letter or parcel is delivered to the addressee.

The direction can only be given if an employee thinks that:

- written or pictorial matter contains anything likely to prejudice the good order and security of the centre, or
- written or pictorial matter is threatening, offensive, indecent, obscene or abusive.

The employee must obtain approval from the centre manager before copying the matter.

Letters or parcels address to or received from an exempt body or exempt person must not be opened and must not be copied. This section does not apply to mail to/from exempt bodies/people. See 7.1-7.5 of this policy.

6.9 Record keeping and notification

All mail must be registered in the *Incoming Mail Register* and *Outgoing Mail Register*.

All inspections must be registered in the *Incoming Mail Register* and *Outgoing Mail Register*.

Young people must be informed of the confiscation of any letter, parcel, or prohibited goods. See the *Mail Handling Procedure* for steps and responsibilities.

7 Exemptions

7.1 Exempt bodies and persons

Mail addressed to an exempt body or an exempt person from a young person, must not be opened, inspected or read by anyone. The mail must be sent immediately to the body or person to whom it is addressed.

Mail addressed to a young person from an exempt body or person must not be opened, inspected or read by anyone except the young person to whom it is addressed, or some person authorised by the young person. The authorisation must be in writing and filed on the young person's 'D' file.

Exempt bodies and persons include: the New South Wales Ombudsman

- the Commonwealth Ombudsman
- the Judicial Commission
- the Australian Crime Commission
- the New South Wales Crime Commission
- the Independent Commission Against Corruption
- the Anti-Discrimination Board
- the Civil and Administrative Tribunal
- the Australian Human Rights Commission
- the Privacy Commissioner
- the Legal Aid Commission of New South Wales
- the Legal Services Commissioner
- an Official Visitor
- the Inspector of Custodial Services
- a member of Parliament
- a legal practitioner
- a police officer
- . Suspicious exempt mail

If a centre manager believes that mail from an exempt body or person may contain prohibited goods, the centre manager may require the young person to open the mail in the centre manager's presence. The centre manager must not read the content of the mail.

If the mail opened is found to contain prohibited goods, the centre manager may take possession of the mail and its contents and deal with them in accordance with any directions given specifically or generally by the Director Custodial Operations.

7.2 Legal letters and briefs of evidence

Young people have a legal right to access their brief of evidence. This right is important because it allows young people to be fully aware of the prosecution case against them and they can provide their legal representative with well-informed instructions before their next court appearance. The brief of evidence is a confidential document and employees must retain its confidentiality at all times.

Receipt of a brief of evidence must be brought to the attention of the Duty Manager immediately. The package can be identified by its large size and sender's identification – Legal Aid Commission, Aboriginal Legal Service, Children's Legal Service, a private solicitor or barrister. The package must not be opened. Some briefs may contain only a few pages and may not be identifiable by its package size. Therefore, employees must apply the following rules to all legal letters and parcels (not just briefs of evidence).

Rules for opening legal letters and briefs of evidence:

- The legal letter and/or brief must be kept secure and inaccessible to all employees until the young person has had an opportunity to read it.
- The letter and/or brief must be treated as strictly confidential and must not be discussed with any person including the manager who is supervising the young person. Following the meeting between the young person and their legal representative (see 7.4 of this policy), the letter and/or brief must be registered into the young person's property register in CIMS.
- All briefs of evidence must be secured in the young person's property. Young people must not access their brief if it is not as set out below.

The young person must be provided with:

- access to read the letter and/or brief as soon as practicably possible and at a minimum within 48 hours of its initial receipt at the centre
- a private area within the centre to read the letter and/or brief
- close supervision by a manager as specified in the Mail Handling Procedure
- privacy when reading the brief. The manager supervising the young person must not make any comments or provide any legal advice about the contents of the letter and/or brief, even at the request of the young person. If the young person cannot read, see 7.5 of this policy

7.3 Legal visit following receipt of brief of evidence

The young person's legal representative must be contacted as soon as the brief is received, to arrange a suitable time for them to visit the centre, for the purpose of going through the brief with the young person. If the young person does not have an identified legal representative, the legal organisation that last represented the young person in court must be contacted. See *Visits by Legal Representatives Procedure*.

7.4 Young people who require assistance reading

Young people who cannot read are especially vulnerable and extra care must be made so that their rights to confidentiality are retained at all times.

If a young person cannot read, the young person must be asked if they would prefer a lawyer, a family member or carer, or an employee of their choice to read the mail for them. To the best of the employees' abilities, the young person's desires must be respected and carried out.

Exempt mail must not be opened by an employee without written authorisation from the young person. The authorisation must be in writing and filed in CIMS and the young person's 'D' file.

8 References

8.1 Legislation

Children (Detention Centres) Regulation 2015

Children (Detention Centres) Act 1987

8.2 Policy

Contraband Policy

YYJNSW Policy of Applying Powers and Responsibilities under the Children (detention Centres) Act and Regulations.

8.3 Procedures

Mail Handling Procedure

Contraband Procedure

Dangerous Items Procedure

Exhibits Procedure

8.4 Executive memorandum

D13/01320: Detainee mail, letters and parcels

D15-18210: Changes to exchange of information with courts from 5 October 2015

9 Document Information

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10 Document History

| Version | Date | Reason for Amendment |
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| 0.1 | 18/02/2019 | Review and update into new format in line with the Operations Manual redesign. |
| 0.2 | 1 July 2019 | Legislative delegation changes due to Executive restructure. |