

Parole Policy

The Youth Justice NSW (YJNSW) parole policy and related procedure provides employees with information on working with young people subject to a parole order or applying for parole.

Essential Summary

This policy includes information regarding the preparation for release of young people on parole, managing parole supervision in the community and considering changes or variance to parole conditions.

This policy contains content covering the role of YJNSW in:

- supporting safe communities and young people's re-entry into their communities
- providing information to the court for parole applications
- providing supervision to young people on parole
- managing parole for young people turning 18 years of age

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1 Scope

This policy applies to all YJNSW employees involved in the coordination, management and administration of young people who are subject to a parole order, approaching a period of statutory parole or applying for parole at the Children's Court.

2 Purpose

This policy provides employees with an understanding of how to manage and respond to young people approaching a period of parole and while on parole in the community in compliance with:

- *Children (Detention Centres) Act 1987 (CDC Act)*
- *Children (Detention Centres) Regulation 2015 (CDC Regulation)*

3 Definitions

Parole is the additional term on a control order and period of time that is served in the community.

Non-parole period is the minimum term of a control order that must be spent in custody.

Parole authority is the authority that determines matters regarding to release on parole, breach and revocation matters. The Children's Court parole authority manages all juvenile parole matters and the State Parole Authority manages all adult parole matters.

Statutory parole order applies to young people on control orders that are 3 years or less, directing their automatic release from custody at the end of the non-parole period provided they are not subject to any other control orders.

Children's Court parole applies to young people on control orders that are 3 years or more, for which a non-parole period has been set and is considered by the Children's Court parole authority 60 days before the parole eligibility date.

4 Legislative parole requirements

The juvenile parole system in NSW is managed by the Children's Court parole authority and YJNSW under the *Children's (Detention Centres) Act 1987*. A parole order is determined to be either a statutory or Children's Court parole order depending on the length of the order. The interests of the safety of the community must be taken into account when releasing a young person on parole.

4.1 Age-based parole system

The juvenile parole system applies to all young people who are:

- under the age of 18 years of age; or
- are turning 18 years of age during the last 12 weeks of their parole period; or

- A YJNSW Director (as the delegate of the Secretary) determines it appropriate under s.40(3)(c) that Part 4C of the *Children (Detention Centres) Act 1987* continues to apply for a specific individual young person.

The adult parole system, under the *Crimes (Administration of Sentences) Act 1999 (CAS Act)* applies to everyone 18 years and over when the above criteria do not apply.

Once young people on parole reach 18 years of age, unless an *Application to Retain Supervision* is considered and approved, they are to be transferred to Community Corrections NSW (CCNSW) who will supervise their parole under the *Crimes (Administration of Sentences) Act 1999*. The State Parole Authority will manage all parole orders for offenders transferred to CCNSW.

4.2 Parole for young people aged 18 years and over

The age-based system of Parole extends to young people in custody. If a young person is aged 18 years and over and has a control/parole order, their Parole order will be a *CAS Act* order supervised by CCNSW and managed by the State Parole Authority, unless a YJNSW Director (as the delegate of the Secretary) determines it appropriate under s.40(3)(c) that Part 4C of the *Children (Detention Centres) Act 1987* continues to apply for a specific individual young person.

For young people in custody turning 18 years of age, an order for the '*Continued Application of Part 4C of the Children (Detention Centres) Act 1987*' is only required when a young person is:

- subject to a control order longer than three years
- having their parole revoked whilst in custody under Division 5 of the *CDC Act* (see section 4.5 of this policy)
- having their parole revoked while they are in custody under Division 6 of the *CDC Act* (see section 5.2 of this policy)

The Operations Unit completes all '*Continued Application of Part 4C of the Children (Detention Centres) Act 1987*' for young people in custody.

For young people turning 18 years of age and being released on parole or who are already in the community on supervision, an application to retain is required to be completed. For information about retaining supervision of parole in the community, including prior to discharge from custody see the *Community Supervision for Young People 18 years and over Policy*.

Further information about exceptions to transferring to CCNSW, retaining young people under YJNSW supervision and completing a transfer to CCNSW is available in the *Community Supervision for Young People 18 years and over Policy* and related procedure.

4.3 Statutory parole and Children's Court parole orders

Young people with a control order of three years or less are subject to a statutory parole order and are automatically released from custody once the non-parole period is completed provided they are not subject to any other control orders.

Young people with a control order greater than three years can access parole once the Children's Court parole authority has directed their release on parole. YJNSW provides a *Parole Jurisdiction Report* to assist the court make a decision about the release of young people on parole.

Parole orders all have standard conditions attached and can have additional conditions added by either the court or the parole authority.

4.4 Community safety test

A principle purpose of parole for young people is to promote community safety while recognising that interventions and coordinated support assist the successful re-integration of young people into their communities. YJNSW plays an important role in coordinating post release support and is committed to providing quality service to both the community and young people on parole.

When determining the release of young people from custody on parole, the Children's Court conducts a community safety test to consider whether the release on parole is in the interest of community safety. The Children's Court will not make a parole order unless it is satisfied that it is in the best interests of the young people and community's safety. The community safety test considers:

- safety risks to community members where young people are released
- whether release on parole is likely to reduce the risk of reoffending
- safety risks to community if young people are released without a period of parole or released at a later date for a shorter parole period
- the rehabilitation and reintegration of young people in the community.

It is important the YJNSW provides the Children's Court with all relevant information to ensure the community safety test can be applied. The *Parole Jurisdiction Report* needs to address the above community safety test considerations for young people with a detention order over 3 years.

When the Children's Court is determining a fresh grant of parole following a revocation, YJNSW needs to address the community safety test in the *Update Report for Parole Revocation Review Hearing (Revocation of Parole Report on CIMS)*.

4.5 Parole orders for terrorism related offenders

There are specific legislative requirements regarding parole for terrorism related offenders, defined in the legislation as an offender:

- serving a sentence for a terrorism offence, previously convicted of a terrorism offence or charged with a terrorism offence;
- subject of a control order made under part 5.3 of the Commonwealth Criminal Code;
- who has any associations with a terrorist organisation;
- who has made statements or carried out activities advocating support for terrorist acts or violent extremism; or
- who has associations or affiliation with any persons or groups advocating support for terrorist acts or violent extremism.

When a young person has been deemed a terrorism related offender, the Children's Court has limitations on releasing these young people on parole. Under Division 5 of the *CDC Act*, the Children's Court must not make a parole order directing the release of a young person who is known to the Court to be a terrorism related offender unless they are satisfied that the young person will not engage in, or incite or assist others to engage in, terrorist acts or violent extremism

In these circumstances, specific information may be required from YJNSW during the parole application process. The Children's Court parole authority could request advice from YJNSW staff members, including information concerning:

- the risk that the young person may engage in, or incite or assist others to engage in, terrorist acts or violent extremism, and
- the nature of any associations or affiliation that the young person has with any persons or groups advocating support for terrorist acts or violent extremism gives rise to any such risk.

There may be circumstances when YJNSW is required to make an application to the Children's Court for the revocation of parole prior to release under Division 5. These matters are required to be referred to the *High Risk Young Offender Review Panel (HRYORP)*.

For assistance with any matters related to terrorism-related offenders or young people displaying indicators of violent extremism, advice and support is provided by the CVE Team;



5 Managing young people on parole orders

5.1 Preparation for release on parole

A planned and coordinated approach to discharge planning supports the successful reintegration of young people into their communities once released from custody on parole. Key stakeholders are encouraged to participate and include an YJNSW psychologist, custodial staff, family and carers, cultural supports, health, education and other service providers as well as key government agencies including CCNSW if the parole supervision is to be transferred. Refer to the *Community Supervision for 18 years and over Policy* and related procedure in relation to transferring supervision to CCNSW.

For young people preparing to enter statutory parole the discharge case conference occurs 8 weeks prior to the earliest release date to prepare the discharge case plan.

For young people applying for parole at the Children's Court a parole case conference occurs 16 weeks prior to the earliest release date to source information required to complete the *Parole Jurisdiction Report* as well as develop a discharge case plan.

The *Parole Jurisdiction Report* assists the court to make a decision about releasing young people on parole and provides a recommendation from YJNSW as to whether a parole order be made. YJNSW must submit this report along with supporting documentation to the Children's Court parole authority at least 60 days prior to the earliest release date. Refer to the *Court Report Writing Manual* and the *Parole Procedure* for instructions on completing a *Parole Jurisdiction Report*.

To preserve the relationship between the young person and their YJNSW Psychologist the *Confidential Psychological Report* to accompany the *Parole Jurisdiction Report* must not be completed by the treating psychologist.

5.2 Refusal of parole / revocation of parole at Children's Court

If the Children's Court refuses to make or revokes a parole order, the court must:

- specify a new eligibility date for parole
- specify a new date for a parole hearing
- specify a date for when a young person may apply for parole
- defer making a decision for up to 3 months and on 1 or more occasions

Young people can apply for reconsideration of a parole matter prior to the above dates if new information has become available or their situation has changed.

The Children's Court can revoke a parole order prior to the release from custody if it is satisfied the young person would pose a serious and immediate risk to their own or the community's safety. The Children's Court can do this on its own initiative, at the request of young people themselves or on the recommendation of YJNSW using a *Specific Purpose Report*.

The YJNSW HRYORP may instruct that a revocation of parole is submitted prior to release. If this occurs, refer to the *Court Report Writing Manual* for instructions on completing a *Specific Purpose Report*.

5.3 Release on parole

Prior to being released on parole the discharge case plan should be reviewed collaboratively between community and custody staff and modified in preparation for the release date if needed. Refer to the *Parole Procedure* for the preparation for release from custody and *Admissions and Discharge Procedure* for tasks required when releasing young people from custody.

For young people released on parole while at court, the most senior YJNSW representative to the Centre Manager at the court, generally the Court Supervisor, can sign the young person into their parole. If a JJNSW representative is not present, the young person must attend their local YJNSW community office within one business day to sign their parole paperwork. The paperwork must be provided to the young person, the centre and copy placed on C File.

For a young person who is 18 years of age or over being release on parole to CCNSW, it is important that YJNSW provides the young person with a copy of the *CAS Act* standard parole conditions. The *CAS Act* standard parole conditions can be found on The Operations Manual (TOM).

All parole conditions must be explained to the young person in plain English.

5.4 Supervision of parole

All young people are required to be supervised while on parole. The *Children (Detention Centres) Act 1987* requires supervision as a standard condition for all parole orders.

Young people released from custody on parole must receive at a minimum a medium-high level of service (4 direct contacts per month) for the first 3 months of their parole supervision. Following this, the level of service should be adjusted according to the YLS/CMI-AA. Parole orders cannot be filed down, regardless of the YLS/CMI-AA score.

When providing direction on supervision condition obligations, YJNSW must ensure that any direction does not have a significant impact on young people's access to public transport and essential services nor impede their connections with family and culture.

In circumstances where young people are non-compliant, breach their parole supervision or YJNSW is recommending a revocation of the parole order, refer to the *Non-Compliance and Breach Policy and Procedure*.

5.5 Varying or suspending additional conditions by Children's Court

The Children's Court cannot revoke or vary any standard conditions of parole. They can however, vary or revoke additional conditions as long as they are consistent with the standard conditions of parole. YJNSW can make applications to the Children's Court to vary additional parole conditions by submitting a *Specific Purpose Report*.

When varying or revoking any additional conditions, the Children's Court must consider if the change will:

- assist in the management of risk to community safety
- affect any victim and victim's family
- assist in supporting participation in programs and managing community reintegration

5.6 Suspension of additional parole conditions by JJNSW

YJNSW has the authority to suspend a place restriction or non-association condition issued by the Children's Court. The suspension of these conditions must be completed in writing using the *YJNSW Submission* template and be approved by the Area Manager.

Young people must be notified in writing of the approved suspension of any place restriction and or non-association condition using the *YJNSW Suspension of Parole Conditions Letter*.

When suspending these additional parole conditions, YJNSW must give consideration to:

- the level of risk of reoffending
- the seriousness of the criminal history and offending behaviour
- the requirement that standard conditions including supervision cannot be suspended.

6 References

Legislation

Children (Detention Centres) Act 1987 No 57

Children (Detention Centres) Regulation 2015

Children (Criminal Proceedings) Act 1987

Crimes (Administration of Sentences) Act 1999

Policy

Community Supervision for 18 years and over Policy

Non Compliance and Breach Policy

Procedure

Community Supervision for 18 years and over Procedure

Non-Compliance and Breach Procedure

Admissions and Discharge Procedure

Forms:

Parole Jurisdiction Report (CIMS)

7 Document information

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8 Document history

Version	Date	Reason for Amendment
01	18/01/2018	New policy created due to legislative changes regarding parole
02	20/11/2019	Updated policy due to legislative amendments to Part 4C, Section 40 of the Children (Detention Centres) Act 1987
