

Policy for Applying Powers and Responsibilities under the Children (Detention Centres) Act 1987 and Regulation

Essential Summary

This policy is aligned with the formal Secretary's 'Instrument of Delegation' and the Centre Manager's 'Instrument of Delegation' and provides employees with instruction as to how to operationalise the powers and responsibilities, for the management of young people within YJNSW centres.

Instruction on how YJNSW employees operationalise these powers and responsibilities is determined under the Children (Detention Centres) Act and Regulation and is set out by and replicated in all YJNSW policies and procedures.

Specific direction in regards to the application of these powers and responsibilities, in practice within Juvenile Justice Centres, is more clearly defined within this policy to assist YJNSW employees to meet legislative and YJNSW operational requirements.

This policy only includes discretionary decision making powers under the CDC Act and Regulations.

Further operational decision making powers not related specifically to legislation, are contained throughout YJNSW policy and procedures.

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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 YJNSW employees involved in the management of young people in YJNSW custody who are exercising delegated responsibilities of the Secretary or Centre Manager under the Children (Detention Centres) Act 1987 (CDC Act) and Regulation.

2 Purpose

The purpose of this policy is to inform and provide direction for YJNSW employees to carry out the powers and responsibilities specified in the CDC Act and Regulation.

3 Definitions

Authorisation means a person authorised to complete a task does so on behalf of the delegate and can only be authorised to complete administrative tasks such as: sending and receiving reports, making arrangements, etc. A delegate can authorise an employee to complete certain tasks only and all authorisations are specified in policy and procedure.

Centre Manager (role) means the person appointed to the role of Centre Manager at all times.

Centre Manager (person for the time being in charge of the centre) means the person for the time being in charge of the juvenile justice centre in the absence of and as directed by the Centre Manager (role).

Delegated person means a person specified in legislation and the Schedule to Instrument of Delegation approved by the Secretary or Centre Manager, who exercises the powers delegated to them in his or her name and is responsible for all decision and actions made under the delegation, even if he or she did not personally make the decision or complete the action. The delegate must complete all responsibilities that involve discretionary decision making. This includes all approvals. i.e. The person who has been delegated to complete a responsibility cannot legally delegate the responsibility to another employee.

Juvenile justice officer means an employee of the Division who is principally involved in the administration of this or any other Act or Regulation, administered by the Minister, and includes any employee of the Division who is in the branch of the Division known as Youth Justice.

On-call Weekend Duty Director means an employee of the Division known as Youth Justice who is in the role of either Director, Custody; Director, Community, Director, Policy and Practice and Director, Strategy or Engagement who is rostered on-call for the weekend period.

Power means a delegation to a person or body to act in a particular way. The person has the sanction to complete a task on behalf of the delegate

4 Definition of ‘Centre Manager’

The CDC Act defines the term 'Centre Manager' as *‘the person for the time being in charge of the centre’*.

In YJNSW practice and as governed by this policy, some powers must be performed only by the person holding the role of ‘Centre Manager’, while other powers and responsibilities can be performed by the person who for the time being is in charge of the centre.

A person is deemed to be ‘for the time being in charge of the centre’ if:

- the Centre Manager is absent from the centre; and
- the person has been directed by the Centre Manager to be in charge of the centre, during their absence; and
- the person is the most senior officer in the centre at the time

The person directed to be ‘for the time being in charge of the centre’ can perform the powers delegated to them in the Instrument of Delegations only when identified as the ‘decision maker’ in this policy. The delegated person is therefore responsible for all discretionary decision making powers as the decision maker in this policy..

5 What gives employees the power to make a decision?

This policy stipulates which decisions a YJNSW employee is able to make. Before making a decision, employees should satisfy themselves that they are allowed to make the decision by checking this policy and the relevant YJNSW policies and procedures that are relevant to the decision they are seeking to make.

A power in the CDC Act and Regulation can be **delegated**, if it is permitted by this policy and if it is not possible for the person specified in legislation to perform their power. This policy stipulates which powers can be delegated (and to whom) and which powers cannot be delegated. A delegation must be made in writing and signed by the person delegating the power. See below section 6. *The power to delegate under the Act.*

Sometimes instead of a delegation, an employee may be **authorised** to perform a power. A person can be authorised to carry out the power of another person, as that person’s agent, rather than as their delegate. Authorisation can only be used for administrative responsibilities, which do not require an independent discretion. These are not considered decision making and are not subject to the strict delegation rules.

The main difference between a delegated power and an authorised power is that where a person exercises a delegated responsibility, they do so in their own name. A delegated power allows person to use discretion when making decisions. Where a responsibility is authorised, the person is acting in the name of the person who authorised them to do so.

Powers that are usually subject to authorisation are those that involve routine, for example responsibilities that involve receiving reports, providing or ensuring access to programs, recording information or making arrangements, forwarding records or informing people about something.

5.1 Making good government decisions

Government decision making is regulated by administrative law and the CDC Act and Regulation.

All decisions made at YJNSW can be challenged, so it is important that employees make decisions that they have the power to make, and they make decisions in good faith.

A good decision is:

Transparent – you inform the people who will be affected by your decision what is being done or contemplated. Transparency can include giving reasons for a decision and keeping good records of decisions.

Accountable – you inform the people who will be affected by your decision their rights to a review.

Consistent – you make decisions that are consistent with previous decisions about a similar issue, unless there is a particular reason to take a different approach.

Proportional – the decision is reasonable in relation to the outcome sought to be achieved.

Timely – the decision is made in accordance with required deadlines and is not excessively delayed.

YJNSW policies and procedures stipulate the requirements set by YJNSW for employees to make good decisions, including reporting requirements and timely deadlines for decision making

6 The power to delegate under the Act

The CDC Act and Regulation gives certain responsibilities to the Secretary and Centre Manager. The responsibilities of the Secretary are all automatically delegated to the Executive Director.

The CDC Act also allows the Secretary and Centre Manager to delegate powers under the Act, except for his or her power of delegation, and any powers already delegated to him or her by the Executive Director.

There are times when it is not practical for the Executive Director or Centre Manager to perform their responsibilities under the Act and Regulation. For this reason, YJNSW has delegated these responsibilities to other YJNSW employees as specified in the respective 'Instruments of Delegations'.

The power to delegate can only be exercised in the following way:

- a delegation must be in writing and signed by the person who is delegating their responsibilities (i.e. a formal Instrument of Delegation)
- a delegate can perform any task that is incidental to the delegated responsibility
- where a responsibility involves the delegated person to form an opinion, belief, or state of mind on any matter, the delegated person can perform the responsibility based on the delegate's opinion, belief, or state of mind
- a responsibility that has been delegated may, notwithstanding the delegation, be exercised by the person who delegated their responsibility.

The Centre Manager's power to delegate is subject to the direction and control of the Executive Director.

All delegated powers under the CDC Act and Regulation are contained in a formal 'Instrument of Delegation' that has been approved and signed by the delegators and the Office of General Counsel.

6.1 Delegated powers

Delegated powers cannot be further delegated. This means that if a responsibility of the Secretary was delegated to the Centre Manager, the Centre Manager cannot then further delegate this same responsibility to another YJNSW employee. The delegated person must also perform the responsibility as per the delegated instructions.

7 Applying the Powers and Responsibilities under the Act

To ensure YJNSW is executing the responsibilities under the Act and Regulation lawfully, all delegated responsibilities are stipulated in a formal 'Instrument of Delegation'.

This policy relates to two formally approved Instruments of Delegation:

1. Secretary's Instrument of Delegation
2. Centre Manager's Instrument of Delegation

Both the above instruments must be read together with corresponding YJNSW policies and procedures. All delegated responsibilities must be performed as per YJNSW policies and procedures.

To ensure YJNSW employees know whose delegated responsibilities they are exercising, the 'decision maker' column within the tables throughout this policy are colour coded as follows:

- A Secretary's delegated power is highlighted **YELLOW**
- A Centre Manager's delegated power is highlighted **GREEN**

It is important for YJNSW employees to understand when they are exercising the responsibilities under the Act and Regulation as a delegate and who has delegated that power to them. Furthermore, the tables set out within this Policy consist of a delegation number, a description of each responsibility, as well as a reference to the Act or Regulation. This structure allows for effective decision making that is easy to interpret for YJNSW employees.

The tables also include responsibilities which have not been delegated and therefore are not colour coded as explained above.

8 Classification of detainees

#	Description of power or responsibility	Reference	Decision maker
9	<p>Classification of detainees</p> <p>For the purposes of section 16 (1) of the Act, the following classes of detainees are prescribed:</p> <p>(a) Class A—those detainees who, in the opinion of the Secretary, are potentially dangerous and who should therefore be detained within a secure physical barrier at all times,</p>	Clause 7 (a), Children (Detention Centres) Regulation 2015	Manager, Court Logistics, Classification & Placement

Placement of detainees

#	Description of power or responsibility	Reference	Decision maker	
			A1 Detainees	All other
10	<p>Secretary to determine detention centre at which a person subject to control is to be detained</p> <p>As soon as practicable after a detention order has been made with respect to a person the Secretary shall:</p> <p>a) determine the detention centre in which the person is to be detained</p>	Section 11 (1)(a), Children (Detention Centres) Act 1987	Director Custodial Operations	Manager, Court Logistics, Classification and Placement Centre Manager (role)
11	<p>Transfers between detention centres</p> <p>The Secretary may, by order in writing, direct transfer of a person on remand or a person subject to control from one detention centre to another</p>	Section 13, Children (Detention Centres) Act 1987	Director Custodial Operations	Manager, Court Logistics, Classification and Placement Centre Manager (role)

National Security Interest Designation

#	Description of power or responsibility	Reference	Decision maker
12	<p>Designation of national security interest detainees:</p> <p>The Secretary may designate a national security interest detainee</p> <p>The Secretary may at any time revoke the designation of a detainee as a national security interest</p> <p>The Secretary may refer a matter relating to the designation of a detainee as a national security detainee to the Review Panel</p>	Section 7A(1) Children (Detention Centres) Amendment Regulation 2018	Executive Director
13	<p>National security interest detainees may be detained separately from each other</p> <p>The Secretary may direct that a national security interest detainee be detained separately from any other national security interest detainees.</p>	Section 7B(1) Children (Detention Centres) Amendment Regulation 2018	Director Custodial Operations

9 Escorted Absences

NOTE - the Director Custody must be notified of any Escorted Absences for Terrorism Related Offenders (TROs) prior to the absence occurring.

Escorted Absence for Medical Emergency

#	Description of power or responsibility	Reference	Decision maker	
			While in Court Logistics custody	While in custody of Centre staff
14	<p>Removal to hospital of detainees <i>A detainee may by order of the Secretary or, in cases of emergency by order of the centre manager of the detention centre, be removed from the detention centre to a hospital or some other place specified in the order, for medical treatment</i></p>	Section 25, Children (Detention Centres) Act 1987	<p>Manager, Court Logistics, Classification & Placement</p>	<p>Centre Manager (person for the time being in charge of the centre)</p>

Escorted Absences - general purposes

#	Description of power or responsibility	Reference	Decision maker	
			- All SYORP detainees - All detainees on Remand - All A1 detainees	All other detainees
15	<p>Escorted absences <i>Subject to the regulations, the Secretary may, by order in writing, permit a detainee to be absent from a detention centre.</i></p> <p><i>(c) for any other purpose that the Secretary thinks proper.</i></p>	Section 23A (1)(c), Children (Detention Centres) Act 1987	<p>Director Custodial Operations On-call Weekend Duty Director</p>	<p>Centre Manager (role)</p>

Escorted Absence to attend funeral or to visit seriously ill relative

#	Description of power or responsibility	Reference	Decision maker
16	<p>Escorted absences <i>Subject to the regulations, the Secretary may, by order in writing, permit a detainee to be absent from a detention centre.</i></p> <p><i>(a) for the purpose of attending the funeral of a close relative, or</i></p> <p><i>(b) for the purpose of visiting a close relative who is seriously ill,</i></p>	Sections 23A (1)(a) and (1)(b), Children (Detention Centres) Act 1987	<p>Director Custodial Operations On-call Weekend Duty Director</p>

10 Leave

Leave granted under 24(1)(a) when critical dates have been met

#	Description of power or responsibility	Reference	Decision maker	
			For initial approval of SYORP detainees	All non-SYORP detainees and SYORP detainees after initial approval
17	<p>Granting leave Subject to the regulations the Secretary may, by order in writing:</p> <p>(a) grant a person subject to control leave to be absent from a detention centre for a purpose specified in subsection (1A)</p>	Section 24(1)(a), Children (Detention Centres) Act 1987	Director Custodial Operations	Centre Manager (role)
18	<p>Purposes for leave The purposes for which leave may be granted:</p> <p>(a) attending the funeral of a close relative, (b) visiting a close relative who is seriously ill, (c) applying for employment or being interviewed in relation to an application for employment, (d) engaging in employment of a kind specified in the order, (e) 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, (f) attending a course of education or vocational training at a place specified in the order, (g) any other purpose that the Secretary thinks proper, being a purpose which the Secretary considers to be directly associated with the welfare or rehabilitation of the person concerned.</p>	Section 24(1A)(g), Children (Detention Centres) Act 1987	Director Custodial Operations	Centre Manager (role)
19	<p>Imposing conditions of leave An order under subsection (1) may be made subject to such conditions as the Secretary may specify in the order.</p>	Section 24(4), Children (Detention Centres) Act 1987	Director Custodial Operations	Centre Manager (role)
20	<p>Duration of leave conditions Such a condition shall remain in force:</p> <p>(a) until the person to whom the order relates ceases to be a person subject to control, or (b) for such shorter period as the Secretary may specify in the order.</p>	Section 24(5)(b), Children (Detention Centres) Act 1987	Director Custodial Operations	Centre Manager (role)
21	<p>Revoking leave The Secretary may, by further order in writing, revoke an order under this section.</p>	Section 24(6), Children (Detention Centres) Act 1987	Director Custodial Operations	Centre Manager (role)
22	<p>Determining matters to be taken into consideration when granting leave In deciding whether or not to grant day leave or overnight leave to a person subject to control, the Secretary must have regard to the following matters:</p> <p>(h) any other matter that is, in the opinion of the Secretary, relevant to the decision.</p>	Clause 59, Children (Detention Centres) Regulation 2015	Director Custodial Operations (executed through the approval of leave policy, procedure and forms)	

Leave granted under 24(1)(b) and 24(1)(c) when critical dates have been met

#	Description of power or responsibility	Reference	Decision maker
23	<p>Granting leave through different provisions (including early release) <i>Subject to the regulations the Secretary may, by order in writing:</i> <i>(b) remove a person subject to control from a detention centre and place the person in the care of such person as may be specified in the order, or</i> <i>(c) discharge a person subject to control from detention if the Secretary has made arrangements for the person to serve the period of detention by way of an intensive correction order or made suitable arrangements for the supervision of the person during the period of detention.</i></p>	Sections 24(1)(b) and (1)(c), Children (Detention Centres) Act 1987	Director Custodial Operations

Granting leave for young person on remand or prior to critical dates being met

#	Description of power or responsibility	Reference	Decision maker
24	<p>Day leave <i>Despite subclause (1), the Secretary may grant day leave to a person subject to control at any time if the Secretary is satisfied that exceptional circumstances justify the grant of day leave.</i></p>	Clause 60 (2), Children (Detention Centres) Regulation 2015	Director Custodial Operations
25	<p>Overnight leave <i>Despite subclause (1), the Secretary may grant overnight leave to a person subject to control at any time if the Secretary is satisfied that exceptional circumstances justify the grant of overnight leave.</i></p>	Clause 61 (2), Children (Detention Centres) Regulation 2015	Director Custodial Operations
26	<p>Persons on remand not to be granted leave <i>By order in writing, the Secretary may grant leave to be absent from a detention centre for a purpose specified in section 24(1A) to any person on remand in respect of whom an appeal (including an appeal to the High Court) relating to an offence is pending.</i></p>	Section 23 (2), Children (Detention Centres) Act 1987	Director Custodial Operations

11 Mail Handling

#	Description of power or responsibility	Reference	Decision maker
27	<p>Inspection of mail and parcels</p> <p>A centre manager or a juvenile justice officer authorised by the centre manager may open, inspect and read a letter or parcel sent to or by a detainee and, if it contains prohibited goods, may confiscate the letter or parcel and its contents and deal with them in accordance with the directions of the Secretary.</p>	Clause 40 (1), Children (Detention Centres) Regulation 2015	<p>Centre Manager (role) or Authorised Juvenile Justice Officer may open and inspect the letter or parcel</p> <p>Director Custodial Operations may provide direction regarding how to deal with any prohibited goods found</p>
28	<p>Inspection of mail and parcels</p> <p>A centre manager may direct that any written or pictorial matter contained in a letter or parcel opened, inspected or read under this clause be copied before the letter or parcel containing the matter is delivered to the addressee.</p>	Clause 40 (3), Children (Detention Centres) Regulation 2015	Centre Manager (person for the time being in charge of the centre)
29	<p>Inspection of mail and parcels</p> <p>The direction may be given only if the centre manager or juvenile justice officer is of the opinion that the written or pictorial matter to be copied:</p> <p>(a) contains anything likely to prejudice the good order and security of the centre, or</p> <p>(b) is threatening, offensive, indecent, obscene or abusive.</p>	Clause 40 (4), Children (Detention Centres) Regulation 2015	<p>Centre Manager (person for the time being in charge of the centre)</p> <p>Authorised Juvenile Justice Officer may open and inspect the letter or parcel</p>
30	<p>Correspondence with exempt bodies and persons</p> <p>However, if the centre manager is of the opinion that the sealed envelope may contain prohibited goods, the centre manager may require the detainee to open the sealed envelope in the centre manager's presence.</p>	Clause 41 (4), Children (Detention Centres) Regulation 2015	Centre Manager (role)
31	<p>Correspondence with exempt bodies and persons</p> <p>If a sealed envelope so opened is found to contain prohibited goods, the centre manager may take possession of the envelope and its contents and may deal with them in accordance with any directions given specifically or generally by the Secretary.</p>	Clause 41 (5), Children (Detention Centres) Regulation 2015	<p>The Centre Manager (role) may take possession of the envelope and its contents</p> <p>Director Custodial Operations may provide direction on how to deal with any prohibited goods found</p>
32	<p>Communication with detainees and inmates in other detention centres and correctional centres</p> <p>A detainee may:</p> <p>(a) communicate by letter with a detainee who is detained in another detention centre, but only with the authority of the centre managers of both centres, and</p> <p>(b) communicate by letter with an inmate detained in a correctional centre, but only with the authority of the general manager of the correctional centre and the centre manager of the detention centre.</p>	Clause 42, Children (Detention Centres) Regulation 2015	Centre Manager (role)

33	<p>Inspection of mail and parcels</p> <p>The centre manager of a detention centre must open, inspect and read any letter or parcel sent to or by a national security interest detainee and, if it contains prohibited goods, may confiscate the letter or parcel and its contents and deal with them in accordance with the directions of the Secretary</p>	<p>Clause 40(1A) Children (Detention Centres) Amendment Regulation 2018</p>	<p>The Centre Manager (role) must open, inspect and read any letter or parcel and may confiscate the contents</p> <p>Director Custodial Operations may provide direction on how to deal with any prohibited goods confiscated</p>
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12 Misbehaviour

Misbehaviour process

#	Description of power or responsibility	Reference	Decision maker
34	<p>Allegations of misbehaviour <i>An allegation that a detainee is guilty of misbehaviour is to be heard and determined by the centre manager.</i></p>	Clause 78, Children (Detention Centres) Regs	<p>Assistant Manager, Unit Manager, Shift Supervisor/ Assistant Unit Manager (As Inquiry Officer)</p>
35	<p>Inquiry to be held (1) <i>The centre manager must inquire into an allegation as soon as is reasonably practicable but, in any event, within 24 hours after the allegation is made.</i> (2) <i>Before proceeding to inquire into an allegation, the centre manager must inform the detainee of the name of the person who made the allegation and of the substance of the allegation.</i></p>	Clause 79, Children (Detention Centres) Regs	<p>Assistant Manager, Unit Manager, Shift Supervisor/ Assistant Unit Manager (As Inquiry Officer)</p>
36	<p>Adjournments <i>The centre manager may adjourn an inquiry for any reason that seems to the centre manager to be sufficient.</i></p>	Clause 80, Children (Detention Centres) Regs	<p>Assistant Manager, Unit Manager, Shift Supervisor/ Assistant Unit Manager (As Inquiry Officer)</p>
37	<p>Procedure after not guilty plea (1) <i>If the detainee denies his or her guilt, the detainee must be given an opportunity to make a statement to the centre manager in relation to the allegation.</i> (2) <i>The centre manager may question the detainee and any other person the centre manager sees fit to question.</i> <i>If the detainee, or any other person who is to make a statement on the detainee's behalf, cannot speak English to an extent that is sufficient for the purposes of the inquiry, the centre manager must postpone the inquiry until the services of an interpreter can be obtained.</i></p>	Clause 82, Children (Detention Centres) Regulation 2015	<p>Assistant Manager, Unit Manager, Shift Supervisor/ Assistant Unit Manager (As Inquiry Officer)</p>
38	<p>Procedure generally (3) <i>If the detainee refuses or fails to attend the inquiry, the centre manager may deal with the allegation in the detainee's absence.</i> (5) <i>The centre manager may allow such persons to participate in the inquiry as the centre manager thinks fit.</i></p>	Clause 83, Children (Detention Centres) Regulation 2015	<p>Assistant Manager, Unit Manager, Shift Supervisor/ Assistant Unit Manager (As Inquiry Officer)</p>
39	<p>Transfer of inquiries <i>The centre manager of one detention centre may transfer to the centre manager of another detention centre the conduct of an inquiry relating to an allegation concerning a detainee who has been transferred to the other detention centre.</i></p>	Clause 85, Children (Detention Centres) Regulation	<p>Assistant Manager, Unit Manager, Shift Supervisor/ Assistant Unit Manager (As Inquiry Officer)</p>

40	<p>Misbehaviour occurring in other detention centres <i>Misbehaviour may be dealt with by the centre manager even though it occurred, or was alleged to have occurred, while the detainee was detained in another detention centre or in the custody of the centre manager of another detention centre.</i></p>	Clause 84, Children (Detention Centres) Regulation	<p>Assistant Manager, Unit Manager, Shift Supervisor/ Assistant Unit Manager (As Inquiry Officer)</p>
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Punishment for Misbehaviour

#	Description of power or responsibility	Reference	Decision maker
41	<p>Procedure after guilty plea <i>The centre manager may punish a detainee in accordance with section 21 of the Act if the detainee admits his or her guilt and the centre manager is satisfied that the detainee is guilty of the misbehaviour charged in the allegation.</i></p>	Clause 81, Children (Detention Centres) Regulation	<p>Assistant Manager, Unit Manager, Shift Supervisor/ Assistant Unit Manager (As Inquiry Officer)</p>
42	<p>Punishment for misbehaviour <i>A detainee may not be restricted from participation in sport or leisure activities for more than 7 days at a time except with the prior approval of the Secretary.</i></p>	Section 21 (1A), Children (Detention Centres) Act 1987	Director Custodial Operations
43	<p>Punishment for misbehaviour <i>A punishment must not be imposed on a detainee so as to interfere with a visit to the detainee by: (a) a barrister or solicitor (or such other classes of persons as may be prescribed), or (b) any other person, unless the centre manager is of the opinion that the security, safety or good order of the detention centre would be adversely affected if the visit were permitted.</i></p>	Section 21 (3), Children (Detention Centres) Act 1987	Assistant Manager Unit Manager
44	<p>Misbehaviour dealt with by the Children's Court <i>Proceedings for misbehaviour are not to be commenced before the Children's Court except with the approval of the Secretary.</i></p>	Clause 87 (2), Children (Detention Centres) Regs	Director Custodial Operations

13 Parole

#	Description of power or responsibility	Reference	Decision maker
45	<p>Application of Part (Parole for 18 years+) <i>This Part applies to a juvenile offender if the offender is under the age of 18 years when the offender first becomes eligible for parole or at any later time when the offender is considered for parole.</i> <i>(2) This Part ceases to apply to a juvenile offender when the juvenile offender reaches the age of 18 years.</i> <i>(3) Despite subsection (2), this Part continues to apply to a juvenile offender if:</i> <i>(a) the offender reaches the age of 18 years while on parole and the birthday occurs during the last 12 weeks of the parole period, or</i> <i>(b) the Secretary considers that it is appropriate that the offender, or a class of offenders of which the offender is a member, continue to be dealt with under this Part.</i></p>	Section 40 (3)(b), Children (Detention Centres) Act 1987	<p>Director Custodial Operations For a 'class' of offenders</p> <p>Director Community For individual offenders</p>
46	<p>Revocation of parole before release <i>The Attorney General, the Minister, or the Secretary may request the Children's Court to revoke a parole order under this section.</i></p>	Section 63 (3), Children (Detention Centres) Act 1987	<p>Juvenile Justice Caseworker (Note - any information provided to the Court must be approved by an Assistant Manager)</p>
47	<p>Actions by Secretary on non-compliance <i>The Secretary may take actions specified in this section if he/she is satisfied that a juvenile offender has failed to comply with his/her obligations under a parole order.</i></p>	Section 64, Children (Detention Centres) Act 1987	<p>Juvenile Justice Caseworker (Note - any information provided to the Court must be approved by an Assistant Manager)</p>
48	<p>Submissions by Secretary <i>The Secretary may at any time make submissions to the Children's Court concerning release on a parole of a juvenile offender, as per requirements of this section.</i></p>	Section 87, Children (Detention Centres) Act 1987	<p>Juvenile Justice Caseworker (Note - any information provided to the Court must be approved by an Assistant Manager)</p>
49	<p>Delegation of functions <i>A function conferred or imposed by this Part on the centre manager of a detention centre may be delegated to a juvenile justice officer.</i></p>	Clause 107, Children (Detention Centres) Regulation 2015	<p>Centre Manager (role)</p>

14 Property

#	Description of power or responsibility	Reference	Decision maker
50	<p>Detainee property The centre manager may refuse to allow a detainee to use or otherwise have possession of the detainee's approved property if, in the opinion of the centre manager, the possession of the property by the detainee is a risk to security, safety or good order</p>	Clause 12(1), Children (Detention Centres) Regulation 2015	Centre Manager (person for the time being in charge of the centre)
51	<p>Appropriate use of detainee property Any approved property in the possession of a detainee: (a) must be kept by the detainee in a tidy and orderly manner, and (b) must be used only in a manner approved by the centre manager.</p>	Clause 12(2), Children (Detention Centres) Regulation 2015	Centre Manager (role)
52	<p>Property Any approved property of a detainee that, in the opinion of the centre manager, is kept or used in such a manner as to be a risk to security, safety or good order may be retained by the centre manager.</p>	Clause 12 (3), Children (Detention Centres) Regulation 2015	Centre Manager (person for the time being in charge of the centre)
53	<p>Approval of inventory and record requirements for transfer of property The property of a detainee transferred from one detention centre to another must be transferred from the custody of the centre manager of the former detention centre to the custody of the centre manager of the new detention centre, together with such inventories and records as may be directed by the Secretary</p>	Clause 12(6), Children (Detention Centres) Regulation 2015	<p>Executive Director may direct inventory and record requirements - this is executed by approving relevant policy and procedures and through CIMS</p> <p>The Centre Manager responsibility for transferring custody of property is fulfilled by relevant staff as per policy and procedure.</p>
54	<p>Approval of detainee property record keeping requirements A record must be kept by the centre manager, in a manner approved by the Secretary, of any property of a detainee or visitor: (a) surrendered to, or taken and retained by, the centre manager (b) sent away by the centre manager (c) forfeited to the Crown (d) disposed of by the centre manager (e) destroyed by the centre manager (f) transferred by the centre manager to the custody of the centre manager of another detention centre (g) allowed to be retained by the detainee (h) returned to the detainee on discharge.</p>	Clause 17, Children (Detention Centres) Regulation 2015	<p>Executive Director (may approve record keeping requirements - this is executed through policy and procedure)</p> <p>The responsibility of recording property details is fulfilled by relevant staff as per policy and procedure.</p>

15 Routines

#	Description of power or responsibility	Reference	Decision maker	
			Set Routines	One-off changes to set routines
55	Approval of centre routines <i>The general routine for each detention centre is to be as determined by the Secretary.</i>	Clause 4 (1), Children (Detention Centres) Regulation 2015	Director Custodial Operations	Centre Manager (role)
56	Approval of routines for different parts of a centre <i>The Secretary may determine different general routines for different parts of a detention centre.</i>	Clause 4 (2), Children (Detention Centres) Regulation 2015	Director Custodial Operations	Centre Manager (role)
57	Visiting days and times <i>The normal days and times for visiting for each detention centre are to be as determined by the Secretary.</i>	Clause 24, Children (Detention Centres) Regulation 2015	Centre Manager (role)	
58	Visiting days and times <i>The normal days and times for visiting for each detention centre are to be as determined by the Secretary.</i>	Clause 24, Children (Detention Centres) Regulation 2015	Centre Manager (role)	
59	Determining languages routines are to be displayed in <i>The centre manager of a detention centre is to ensure that a notice setting out the general routine for the centre: (a) is written in English, and in such other languages as are determined by the Secretary in relation to the centre</i>	Clause 4 (3)(a), Children (Detention Centres) Regulation 2015	Centre Manager (role)	
60	Publishing centre routines <i>The Secretary may require the general routine for a detention centre to be published in such other manner as the Secretary thinks fit.</i>	Clause 4 (5), Children (Detention Centres) Regulation 2015	Centre Manager (role)	

16 Searches and Contraband

#	Description of power or responsibility	Reference	Decision maker
61	<p>Approval of hand-held metal detector type <i>A search of a detainee may be conducted by the following means only:</i> (a) <i>running a hand-held metal detector (of a kind approved by the Secretary) over the detainee's outer garments,</i></p>	Clause 11A(2)(a), Children (Detention Centre) Regulation	Executive Director
62	<p>Searching detainee process <i>A search under this clause must be conducted in accordance with any directions of the Secretary about the conduct of searches under this clause, including in relation to the times at which and the circumstances in which a search may be conducted.</i></p>	Clause 11A(7), Children (Detention Centre) Regulation	Executive Director
63	<p>Unauthorised possession of property <i>Any property found in the possession of a detainee at any time after the detainee has been admitted to the detention centre is forfeited to the Crown unless:</i> (a) <i>the property was issued to the person by the centre manager or is the detainee's approved property, or</i> (b) <i>the Secretary otherwise directs.</i></p>	Clause 15, Children (Detention Centres) Regulation	Centre Manager (role)
64	<p>Disposal of property <i>Any property of a detainee that is retained by the centre manager may be disposed of by the centre manager in accordance with a request made by a detainee, and other reasons specified in this clause.</i></p>	Clause 16, Children (Detention Centres) Regs	Centre Manager (role)
65	<p>Books, newspapers, magazines, and other printed material (1) <i>A detainee may acquire any books, newspapers, magazines or other printed material approved by the centre manager.</i> (2) <i>Any book, newspaper, magazine or other printed material in the possession of a detainee which, in the opinion of the centre manager, is likely to adversely affect the security, safety or good order of the detention centre may be disposed of or otherwise dealt with by the centre manager in such manner as is reasonable in the circumstances, taking into account the nature of the material.</i></p>	Clause 13, Children (Detention Centres) Regs	Centre Manager (role)
66	<p>Radios and other electronic equipment (1) <i>A detainee may acquire any radio or other item of electronic equipment or any related accessory approved by the centre manager.</i> (2) <i>Any such radio, item of electronic equipment or accessory in the possession of a detainee which, in the opinion of the centre manager, is likely to adversely affect the security, safety or good order of the detention centre may be disposed of or otherwise dealt with by the centre manager in such manner as is reasonable in the circumstances, taking into account the nature of the radio, item or accessory.</i></p>	Clause 14, Children (Detention Centres) Regs	Centre Manager (role)
67	<p>Articles not to be conveyed between visitors and detainees <i>The centre manager, or a juvenile justice officer authorised by the centre manager for that purpose, may permit a visitor to deliver an article to a detainee or a juvenile justice officer at the detention centre for delivery to a detainee.</i></p>	Clause 32 (2), Children (Detention Centres) Regs	Centre Manager (role)
68	<p>Unauthorised use of cameras or recording equipment <i>A visitor must not take photographs of, or operate video or audio recording equipment at, a detention centre without the prior approval of the centre manager.</i></p>	Clause 36 (1), Children (Detention Centres) Regs	Centre Manager (role)

69	Unauthorised use of cameras or recording equipment <i>The centre manager may confiscate any photograph, film, tape or other recording, or delete any digital recording, taken or made by a person in contravention of this clause.</i>	Clause 36(2), Children (Detention Centres) Regs	Centre Manager (person for the time being in charge of the centre)
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70	Unauthorised use of cameras or recording equipment <i>The centre manager may destroy any part of a confiscated photograph, film, tape or recording which the centre manager is satisfied is likely to prejudice the security, safety or good order of a detention centre or place anyone's personal safety at risk.</i>	Clause 36(3), Children (Detention Centres) Regs	Centre Manager (role)
71	Unauthorised use of cameras or recording equipment <i>Any part of the photograph, film, tape or recording that the centre manager is satisfied is not likely to prejudice the security, safety or good order of a detention centre, or place anyone's personal safety at risk, may be returned to the person from whom it was taken.</i>	Clause 36(4), Children (Detention Centres) Regs	Centre Manager (role)
72	Unauthorised use of cameras or recording equipment <i>Before returning any photograph, film, tape or recording, the centre manager may charge the person for payment of any costs incurred in processing or developing it.</i>	Clause 36(5), Children (Detention Centres) Regs	Centre Manager (role)

17 Segregation

#	Description of power or responsibility	Reference	Decision maker	
			Up to 3 hours	Over 3 hours
74	<p>Segregation of detainees for protection</p> <p><i>If the centre manager of a detention centre believes on reasonable grounds that a detainee should be segregated in order to protect the personal safety of that or any other detainee, or of any other person, the centre manager may, whether or not with the consent of the detainee, direct the segregation of the detainee, subject to the following conditions:</i></p> <p><i>(b) the duration of the segregation is to be as short as practicable and, in any case, must not exceed 3 hours except with the approval of the Secretary</i></p> <p>A detainee shall not be segregated under this section unless the centre manager of the detention centre is satisfied that there is no practicable alternative means to protect the personal safety of the person or persons for whose protection the detainee is to be segregated.</p>	Section 19 (1), Children (Detention Centres) Act 1987	Centre Manager (person for the time being in charge of the centre)	Director Custodial Operations On-call Weekend Duty Director

18 DRMP with Segregation

#	Description of power or responsibility	Reference	Decision maker	
			DRMPs with segregation	DRMPs without segregation
75	<p>DRMPs that include periods of segregation</p> <p>The segregation is carried out in accordance with a plan that is subject to monitoring by a psychologist and the person employed in the Department of Justice as Assistant Manager, Client Services</p>	Clause 10(2)(b), Children (Detention Centres) Regulation 2015	Director Custodial Operations On-call Weekend Duty Director	Centre Manager (role)

19 Separation

Separation of groups of detainees

#	Description of power or responsibility	Reference	Decision maker	
			Up to 3 hours	Over 3 hours
12	<p>Separation of groups of detainees <i>For the purpose of ensuring the security, safety and good order of a detention centre, the Secretary may direct that different detainees or groups of detainees be detained separately from other detainees</i></p>	Section 16 (3), Children (Detention Centres) Act 1987	<p>Centre Manager (person for the time being in charge of the centre)</p>	<p>Director Custodial Operations On-call Weekend Duty Director</p>

Separation of individual detainees

#	Description of power or responsibility	Reference	Decision maker	
			Up to 3 days	Over 3 days
76	<p>Separation of individual detainees <i>For the purpose of ensuring the security, safety and good order of a detention centre, the Secretary may direct that different detainees or groups of detainees be detained separately from other detainees</i></p>	Section 16 (3), Children (Detention Centres) Act 1987	<p>Centre Manager (person for the time being in charge of the centre)</p> <p>NOTE any young person placed in individual Separation must participate in a routine approved by the Director Custodial Operations</p>	<p>Director Custodial Operations</p> <p>NOTE any young person placed in individual Separation must participate in a routine approved by the Director Custodial Operations</p>

Medical separation

#	Description of power	Reference	Decision maker
77	<p>Health and medical attention <i>The centre manager may isolate a detainee from other detainees if:</i> (a) <i>the detainee is suffering from an infectious medical condition, and</i> (b) <i>there is a risk of other detainees becoming infected with that condition, and</i> (c) <i>the condition is, in the opinion of a medical officer or a registered nurse, sufficiently serious as to require the detainee's isolation.</i></p>	Clause 8 (5), Children (Detention Centres) Regulation 2015	<p>Centre Manager (person for the time being in charge of the centre)</p>

20 Telephone Calls and Arunta

#	Description of power or responsibility	Reference	Decision maker
78	Telephone calls generally <i>This clause does not prevent the centre manager from authorising telephone contact with persons or bodies not referred to in this clause.</i>	Clause 43 (4), Children (Detention Centres) Regulation 2015	Centre Manager (role)
79	Monitoring of telephone calls <i>The Secretary may cause an officer authorised for the purpose to monitor one or more of a detainee's telephone calls.</i>	Clause 44(1), Children (Detention Centres) Regulation 2015	Director Custodial Operations
80	Monitoring of telephone calls <i>The Secretary may determine the procedure for monitoring telephone calls.</i>	Clause 44 (2), Children (Detention Centres) Regulation 2015	Director Custodial Operations
81	Monitoring of telephone calls <i>The Secretary must ensure that procedures are in place so that both the maker and the recipient of a telephone call that is monitored are informed that the call is being monitored before the call is made or at the start of the call.</i>	Clause 44 (3), Children (Detention Centres) Regulation 2015	Director Custodial Operations
82	Monitoring of telephone calls <i>The Secretary must arrange for an officer authorised for the purpose to monitor all telephone calls made by a national security interest detainee</i>	Section 44(1A) Children (Detention Centres) Amendment Regulation 2018	Director Custodial Operations

21 Visits

#	Description of power or responsibility	Reference	Decision maker
83	Procedure for visits <i>The centre manager may determine the procedure to be observed by detainees and visitors during visits.</i>	Clause 31 (1), Children (Detention Centres) Regulation 2015	Centre Manager (role)
84	Procedure for visits <i>A visit to a detainee may, with the consent of the Secretary or the centre manager, take place outside the sight and hearing of a juvenile justice officer.</i>	Clause 31 (3), Children (Detention Centres) Regulation 2015	Centre Manager (role)
85	Procedure for visits <i>The Secretary may permit a person:</i> <i>(a) to visit a detention centre, and</i> <i>(b) to conduct research in the centre, and</i> <i>(c) to be afforded facilities to interview, talk to and examine any detainee (but only with the detainee's consent) outside the sight and hearing of a juvenile justice officer.</i>	Clause 31 (5), Children (Detention Centres) Regulation 2015	Centre Manager (role)
86	Other visits <i>(1) The centre manager may authorise visits, in addition to other visits authorised by this Division, in any circumstances in which the centre manager considers it appropriate.</i> <i>(2) Without limiting the generality of subclause (1), the centre manager may authorise additional visits to a detainee if a medical officer has reported to the centre manager that the detainee is ill.</i>	Clause 30. Children (Detention Centres) Regulation 2015	Centre Manager (role)
87	Visits by relatives and friends <i>A detainee may be visited by relatives and friends at least once immediately after admission and, with the permission of the centre manager, at such intervals after that as the Secretary may determine for the centre in which the detainee is detained.</i>	Clause 25 (1), Children (Detention Centres) Regulation 2015	Centre Manager (person for the time being in charge of the centre)
88	Visits by legal practitioners and their clerks <i>The centre manager may, if of the opinion that it is convenient and practicable to do so, permit a visit to take place outside business hours.</i>	Clause 26 (3), Children (Detention Centres) Regulation 2015	Centre Manager (person for the time being in charge of the centre)

22 Visits to NSI Detainees

#	Description of power or responsibility	Reference	Decision maker
89	Visit to NSI detainee <i>A person may visit a national security interest detainee only if the person has been approved by the Secretary as a visitor to that detainee.</i>	Clause 30A(1) Children (Detention Centres) Amendment Regulation 2018	Director Custodial Operations
90	Visit to NSI detainee <i>The Secretary may require a visitor to undergo a criminal record check before approving the person as a visitor to a national security interest detainee.</i>	Clause 30A(2) Children (Detention Centres) Amendment Regulation 2018	Director Custodial Operations
91	Visit to NSI detainee <i>The Secretary is to ensure that any criminal record check of a visitor to a national security interest detainee is carried out as quickly as is practicable.</i>	Clause 30A(3) Children (Detention Centres) Amendment Regulation 2018	Director Custodial Operations
92	Visit to NSI detainee <i>The Secretary may refuse to approve a person as a visitor to a national security interest detainee on the basis of a criminal record check or national security concerns. Note. The Secretary may also ban a person from visiting a particular detention centre or detention centres generally or from visiting a particular detainee or detainees generally under clause 37 - see 'Visits - Restrictions' powers in the next section.</i>	Clause 30A(4) Children (Detention Centres) Amendment Regulation 2018	Director Custodial Operations
93	Visit to NSI detainee <i>The Secretary may revoke an approval of a person as a visitor to a national security interest detainee at any time.</i>	Clause 30A(5) Children (Detention Centres) Amendment Regulation 2018	Director Custodial Operations

23 Visits – Restrictions and Banning Orders

Making a banning order

#	Description of power or responsibility	Reference	Decision maker	
			Up to 1 month	Over 1 month
94	<p>Banning Orders <i>The Secretary may, by order in writing served on any person, ban that person:</i> <i>(a) from visiting detention centres generally or from visiting any specified detention centre</i> <i>(b) from visiting detainees generally or from visiting any specified detainee or class of detainees.</i></p> <p><i>The centre manager for a detention centre may, by order in writing served on any person, ban that person:</i> <i>(a) from visiting the detention centre, or</i> <i>(b) from visiting detainees generally, or from visiting any specified detainee or class of detainees, in the detention centre.</i></p>	Clause 37(1) and 37(2) Children (Detention Centres) Regulation 2015	Centre Manager	Director Custodial Operations

Review decisions of banning orders

#	Description of power or responsibility	Reference	Decision maker
95	<p>Review of decision to make banning order <i>A person in respect of whom a banning order is made may apply to the Secretary for a review of the decision to make the banning order.</i></p>	Clause 38 (1), Children (Detention Centres) Regs	Executive Director
96	<p>Review of decision to make banning order <i>The application is to be in writing and must be made within 28 days after the applicant is notified of the making of the banning order or within such further period as the Secretary may allow.</i></p>	Clause 38 (2), Children (Detention Centres) Regs	Executive Director
97	<p>Review of decision to make banning order <i>The review is to be conducted by the Secretary or a person authorised by the Secretary to conduct the review.</i></p>	Clause 38 (3), Children (Detention Centres) Regs	Executive Director

24 Refusal or termination of visits

#	Description of power or responsibility	Reference	Decision maker
98	<p>Refusal and termination of visits</p> <p>The centre manager may, despite any other provision of this Division, refuse to permit a visit if, in the opinion of the centre manager, the security, safety or good order of the detention centre, or the health or well-being of a detainee, is likely to be adversely affected if the visit is permitted.</p>	<p>Clause 33 (2), Children (Detention Centres) Regulation 2015</p>	<p>Centre Manager (person for the time being in charge of the centre)</p>
99	<p>Refusal and termination of visits</p> <p><i>The centre manager may terminate a visit to a detainee and direct the visitor to leave the detention centre if, in the opinion of the centre manager :</i></p> <p>(a) <i>the visitor or detainee has, during the visit, contravened the Act, this Regulation, the general routine of the detention centre or the procedure for visits, or</i></p> <p>(b) <i>the security, safety or good order of the detention centre, or the health or well-being of a detainee, is likely to be adversely affected if the visit continues.</i></p>	<p>Clause 33 (3), Children (Detention Centres) Regulation 2015</p>	<p>Centre Manager (person for the time being in charge of the centre)</p>

25 Other Decision Making Powers

#	Subject	Description of power or responsibility	Reference	Decision maker
116	General	Work to be performed by detainees The centre manager may require a detainee to carry out any work or activity that complies with the requirements of this section.	Section 18, Children (Detention Centres) Act 1987	Centre Manager (role)
117	Searching Employees	Juvenile justice officers may be searched The centre manager of a detention centre may require a juvenile justice officer who is on the premises of the centre: (a) to submit to any of the following: (i) an inspection and search of the officer's personal possessions, (ii) scanning by an electronic scanning device, (iii) being sniffed by a dog, and (b) to empty the pockets of the officer's clothing, and (c) to make available for inspection and search any room, locker or vehicle under the officer's control at the centre.	Clause 153, Children (Detention Centres) Regulation 2015	Centre Manager (role)
118	Use of Force, Protective Equipment and Instruments of Restraint Use of Instruments of Restraint	Definitions (instrument of restraint) instruments of restraint includes handcuffs, ankle cuffs, flexi cuffs, restraining belts, riot shields and such other articles, or classes of articles, as are declared by the Secretary, by order published in the Gazette, to be instruments of restraint for the purposes of this Regulation.	Clause 62, Children (Detention Centres) Regulation 2015	Executive Director
119	General	Definitions: Field Officer A field officer from an organisation other than the Aboriginal Legal Service must be approved by the Secretary.	Clause 3, Children (Detention Centres) Regulation 2015	Executive Director
120	Escape	Arrest of escapees The Secretary may make an order for the arrest of an escapee person as per the requirements of this section.	Section 98 (2), Children (Detention Centres) Act 1987	Centre Manager (person for the time being in charge of the centre)
121	Quality Assurance	Inspection of detention centres by juvenile justice officer appointed by Secretary Each detention centre shall be inspected at least once every 12 months by a juvenile justice officer appointed by the Secretary for the purposes of this section.	Section 7(1), Children (Detention Centres) Act 1987	Director, Policy and Practice
122	Client Complaints	Complaints guideline The Secretary may issue guidelines as to how complaints, and applications for the review of decisions on complaints, are to be dealt with.	Clause 57 (1), Children (Detention Centres) Regulation 2015	Executive Director

26 Document information

Title:	Policy for Applying Powers and Responsibilities under the Children (Detention Centres) Act and Regulations
Business Centre:	Operations Unit
Author:	Operations Unit
Approver:	Executive Director; Director Policy & Practice; Director Statewide Operations
Date of Effect:	18 February 2019
Next Review Date:	September 2020
File Reference:	18/00764 Doc: D18/09570
Key Words:	delegations; functions; powers; secretary; centre managers; instrument of delegation

27 Document history

Version	Date	Reason for Amendment
0.1	18 February 2019	New policy developed to assist centre employees to understand their legislative powers and responsibilities under the CDC Act and Regs
0.2	1 July 2019	Updated to reflect new Youth Justice executive structure and roles
