

Youth detention centre

OPERATIONAL POLICY

Title: YD-2-3 Youth detention – Transfers to adult corrective services facilities

Policy statement

It is well recognised in several international conventions, legislative frameworks and in the *Human Rights Act 2019* (HR Act), that young people and adults should be separated in custodial settings. Doing so improves the safety and wellbeing of young people in youth detention and provides a more appropriate rehabilitative environment for adult detainees.

Accordingly, and as per Division 2A of the *Youth Justice Act 1992* (the YJ Act):

- young people in a youth detention centre (YDC) become eligible to transfer to an adult corrective services facility from 18 years of age and will be transferred within 30 days after they turn 18
- young people in a YDC who are sentenced after they turn 18 years will transfer immediately to an adult corrective services facility
- in very limited circumstances, the Senior Executive Director (SED) may exercise discretion to delay a young person's transfer to an adult corrective service facility
- the overriding principle of the YJ Act is that it is in the best interests of the welfare of all detainees at a YDC that adults who are 18 years or older should not be detained with children.

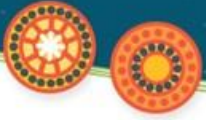
Decision makers will consider the potential impact on human rights, in particular:

- protection of families and children (section 26 of the HR Act)
- children in the criminal process (section 33 of the HR Act) and subsection (1), an accused child who is detained must be segregated from all detained adults
- the human rights of the individual young person, ensuring any limitations are balanced, reasonable and justifiable as outlined under section 13 of the HR Act.

Principles

1. General principles

- 1.1 Young people who are 18 years or older cannot be admitted to a YDC or return to a YDC to complete a period of detention (e.g. returning due to contravention of a conditional release order or supervised release order).
- 1.2 Young people will not be transferred to an adult corrective services facility before they turn 18 years of age.
- 1.3 Young people aged 18 years or older will be transferred to an adult corrective services facility within 30 days after they turn 18 years.
- 1.4 In accordance with section 276A, young people who turn 18 in a watchhouse who are sentenced or remanded into custody will be transported directly to an adult corrective services facility.



1.5 In accordance with 276B(1)(b), young people aged 18 and over who are sentenced to a detention order with further time to serve will transfer immediately to an adult corrective services facility.¹

2. Transfer eligibility and notification

2.1 In accordance with section 276C, if a person turns 18 years while being held on remand or serving a period of detention in a detention centre, the person must be transferred to an adult corrective services facility.

2.2 A Notice of Transfer (NoT) and factsheet will be provided to the young person informing them of the transfer, unless the youth detention centre identifies there is merit to considering a delay of transfer (see section 3 below).

2.3 As soon as the YDC becomes aware that a person is eligible to transfer to an adult corrective services facility, Queensland Corrective Services (QCS) must be given a Notice to QCS of transfer.

2.4 The transfer date must occur within 30² days of:

- a person turning 18, or
- if a previous direction was made by the SED to delay the transfer of a person who has turned 18, the date of the revocation.

2.5 Young people who will be sentenced within 30 days of turning 18 should generally have a transfer date set that falls after their sentencing date, but within the 30 timeframe.³

2.6 In accordance with section 276C(5), once the transfer date has been confirmed, an updated Notice to QCS of transfer to corrective services facility must be provided if the date has changed from the initial notice issued.

2.7 The YDC will:

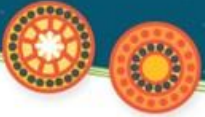
- liaise with QCS to meet with the young person to do an initial assessment prior to the transfer and to discuss any questions or concerns the person may have
- provide a copy of the NoT to the young person's legal representative and youth justice service centre, and arrange for young people to speak with their legal representative if requested
- liaise with Youth Detention Operations for young people with violent-extremist offending profiles, to arrange additional information and/or meetings which may be required with QCS, and
- complete and provide the Transfer to QCS custody form, identifying which information can be shared with the young person's consent.

2.8 After a NoT has been issued, if the YDC is aware the young person has a court date that may result in a direct transfer after sentencing, or potential release from custody, QCS should be notified as soon as possible.

¹ If appearing in court in person, the young person will transfer immediately to an adult corrective services facility. If appearing by videolink, arrangements will be made to transfer as soon as practicable, this may require renegotiation of an earlier transfer date if a transfer date was previously arranged under 276C to facilitate transfer as soon as possible.

² In accordance with section 276C(3)(b), transfers can occur outside the 30 day timeframe. However, this should be by exception, with appropriate justification and rationale provided to the SED.

³ Exceptions apply to young people who present a significant safety and security risk to the YDC, or risks to staff and other young people. Young people who fall into this category should be transferred as soon as practicable.



2.9 In accordance with section 276B(3), the YDC must notify QCS as soon as possible that a young person is transferring to an adult correctional facility after being sentenced, providing the person's name, period of detention liable to serve and custodial end date.

3. Decision to delay transfer to adult prison

3.1 In accordance with section 276D, the SED may give a written direction that a person is to be held on remand or detained in a detention centre. In giving this direction, the SED must have regard to the interests of the person, the interest of other detainees and staff at the detention centre and may have regard to any other matters they consider appropriate.

3.2 YDC casework and practice support staff will generally identify any young people who should be considered for a delay of transfer prior to transfer notices being issued to the young person and QCS.

3.3 Information will be collated in a Report to inform Chief Executive decision to delay transfer to adult prison.

3.4 A person being considered for a delay of transfer must not pose a significant safety and security risk to the YDC, and minimal to no risks to staff and other young people. Other considerations may include (but are not limited to):

- an impending release date for a young person who has been sentenced
- to allow for the imminent completion of a significant intervention program, education or treatment (where there has been consistent positive engagement)
- a natural disaster or emergency that significantly affects the ability for QCS to receive a transfer, or the YDCs ability to effect transfer, and
- the young person's vulnerabilities, including health, i.e. a recommended delay until the young person's health allows for the possibility of safe transfer.

3.5 The SED will make a decision and issue a Notification of Chief Executive decision to delay transfer to adult prison if the delay is supported. If a delay is not supported, the person must be transferred in accordance with s276C (and within 30 days of turning 18).

3.6 A SED decision to delay a transfer can be revoked by the SED at any time using a Revocation of Chief Executive decision to delay transfer to adult prison. The SED is not required to provide reasons for the revocation. If this occurs, a young person must be transferred within 30 days of the revocation date (in accordance with the process outlined under section 2).

Objectives

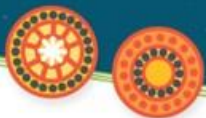
Most detainees who turn 18 years of age whilst in a YDC will be transferred to an adult correctional facility. This policy aims to ensure transfers are administered in accordance with Division 2A of the [Youth Justice Act 1992](#), inclusive of considerations under the [Human Rights Act 2019](#).

Scope

This policy applies to detainees sentenced or remanded in a YDC. It is to be read in conjunction with [Chapter 2: Youth Detention Centre Operations Manual](#).

The following forms support the transfer process:

- [Notice of transfer from youth detention centre to adult prison](#)
- [Notice to QCS of transfer to corrective services facility](#)
- [Consent for information exchange with QCS](#)
- [Report to inform Chief Executive decision to delay transfer to adult prison](#)
- [Notification of Chief Executive decision to delay transfer to adult prison](#)
- [Revocation of Chief Executive decision to delay transfer to adult prison](#)



- [Transfer to QCS custody.](#)

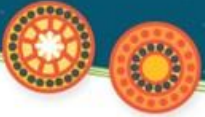
This policy does not apply to transfers:

- between Queensland YDCs
- between other states and territories
- to mental health facilities.

Roles and responsibilities

- Caseworkers and Team Leader, Casework:
 - prepare and issue all documents for eligible young people and QCS as required
 - assist the young person to prepare for transfer and notify relevant stakeholders
 - assist in identifying young people who should be considered for a delay of transfer
 - assist with the collation of relevant documentation to support the ED in making a recommendation to the SED for a potential delay of transfer.
- Client Services Manager, Practice Support Manager, Assistant Director or Senior Practice Leader:⁴
 - coordinate, review and provide advice on transfer documents
 - provide transfer notifications to QCS, and liaise with them in relation to transfer logistics and assessments
 - inform the person of any decision made by a delegate about their transfer and provide them and their legal representative a copy of the decision in writing
 - coordinate, compile and collate relevant documentation to support the ED in making a recommendation to the SED for a potential delay of transfer.
- Deputy Director or Assistant Director:
 - review and provide advice on transfer documents
 - where the Executive Director is unavailable or uncontactable, make recommendations to the SED for a potential delay of transfer.
- Executive Director:
 - ensure all stipulated legislative timeframes and requirements are met
 - review information and endorse or reject recommendations made to the regarding a potential delay of transfer
 - ensure YDC practices comply with requirements in the YJ Act.
- Director and/or Manager, Youth Detention Operations:
 - regularly inform YDC staff about young people who are eligible to transfer, or approaching eligibility
 - provide practice advice and support to YDC staff and management around transfers
 - quality assure transfer documents, including checking that requirements as stipulated under the YJ Act have been met and timeframes around transfers are appropriate
 - review and update this policy, transfer procedures and forms as required.

⁴ As per arrangements at each individual YDC.



- Senior Executive Director, Youth Detention Operations and Reform:
 - review recommendations made to delay the transfer of a person, having considered the requirements outlined in the YJ Act, this policy and giving due consideration to the HR Act
 - record decisions in the Notification of Chief Executive decision to delay transfer to adult prison and Revocation of Chief Executive decision to delay transfer to adult prison documents.
- Shift Supervisor:
 - coordinate the transfer movement with the receiving corrective services facility and create and/or request required records about the transfer.

Authority

Youth Justice Act 1992

Human Rights Act 2019

Delegations

Relevant sections	
<i>Youth Justice Act 1992</i> Section 276B(3) – Must as soon as practicable after becoming aware that a person is to enter a corrective services facility under this section, give the chief executive (corrective services) a notice as stipulated	Refer to the Statutory delegations which detail positions with delegated authority.
<i>Youth Justice Act 1992</i> Section 276C(4) – Must give notice to the chief executive (corrective services) that a person is likely to be transferred under this section as soon as practicable after becoming aware	
<i>Youth Justice Act 1992</i> Section 276C(5) – Must give notice to the chief executive (corrective services) that a person is likely to be transferred under this section as soon as practicable after becoming aware	Relevant statutory delegations align with the roles and responsibilities outlined in this policy.
<i>Youth Justice Act 1992</i> Section 276D(2) – May give notice that a person be held on remand or detained in a detention centre, having regard to (3)(a) and (3)(b)	
<i>Youth Justice Act 1992</i> Section 276D(5) – May revoke a direction issued under (2)	
<i>Youth Justice Act 1992</i> Section 276D(6) – Must notify the person that a direction has been made or revoked under this section	

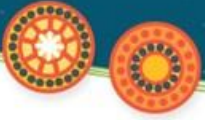
Definitions

For the purpose of this policy, the following definitions shall apply:

Term	Definition
Eligible to transfer	Refers to detainees who are 18 years or over who are not scheduled to be released from custody within 30 days of turning 18
Notice of transfer from youth detention centre to adult prison	Form issued to young people to advise them of the date they will be transferred to QCS

Human rights compatibility statement

Youth Justice is committed to respecting, protecting and promoting human rights. Under the [Human Rights Act 2019](#), Youth Justice has an obligation to act and make decisions in a way that is compatible with and properly considers human rights. When making a decision about the care and management of young people, decision-makers must comply with that obligation.



Multicultural Queensland Charter

Youth Justice supports the [Multicultural Queensland Charter](#), established under the *Multicultural Recognition Act 2016* (Qld). The Charter seeks to promote Queensland as a unified, harmonious and inclusive community.

Child safe standards

The Royal Commission into Institutionalised Responses to Child Sexual Abuse developed several national [child safe standards](#) for institutions and organisations working with children. Youth Justice is cognisant of these standards when considering operational practice guidelines and service delivery in community and youth detention centres.

State disability plan

Youth Justice will work with our partners to build a fairer, more inclusive Queensland where people with a disability, their families and carers are able to access the same opportunities, on the same basis as everyone else. We will take actions to progress the priorities of the [All Abilities Queensland: opportunities for all](#) state disability plan and support improved access to services for Queenslanders with disability.

Feedback and reflective practice

YJ recognise that best practice is a constantly evolving process. The YJ Framework for Practice posits that our values guide us in all aspects of our work, including a departmental commitment to continuous improvement and effectiveness. To that end, all YJ staff are encouraged to provide feedback about operational policy and procedure to inform routine review of our work to maintain a high standard of service delivery. Please make your views known through your management team or by emailing YDCPracticeEnquiries@youthjustice.qld.gov.au.

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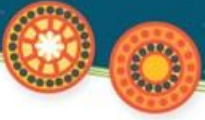
Date of approval: 5 February 2025

Approved by:

- 1.0 Director-General (23 September 2013)
- 1.1 Assistant Director-General (11 August 2014)
- 1.2 Director, Practice, Program and Design (16 November 2017)
- 1.3 Director, Secure Services Operations and Practice (27 February 2020)
- 1.4 Director, Statewide Intel and Secure Services Support (17 March 2023)
- 2.0 Senior Executive Director, Youth Detention Operations and Reform (24 May 2024)
- 3.0 Senior Executive Director, Youth Detention Operations and Reform (25 September 2024)
- 3.1 Director, Youth Detention Operations (5 February 2025)

Date of operation: 5 February 2025

Date to be reviewed: 3 years from the date of approval



Office: Youth Detention Operations

Help contact: YDCPracticeEnquiries@youthjustice.qld.gov.au

Communication strategy

- ☒ publish on intranet
- ☒ publish on internet
- ☒ advise staff to read
- ☒ supervisors discuss with direct reports

Links

[Australasian Youth Justice Administrators \(AYJA\) service standards for juvenile custodial facilities](#)

[Human Rights Act 2019](#)

[Transferring from youth detention to prison](#)

[United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters](#)

[United Nations Rules for the Protection of Young People Deprived of Their Liberty \(Havana Rules\)](#)

[United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders \(Bangkok Rules\)](#)

[United Nations Standard Minimum Rules for the Administration of Juvenile Justice \(Beijing Rules\)](#)

[United Nations Standard Minimum Rules for the Treatment of Prisoners \(Mandela Rules\)](#)

[Youth Detention Centre Operations Manual](#)

[Youth Justice delegations](#)

[Youth Justice policies](#)

Bob Gee

Director-General