COPP 6.11 Transfer of Detainee to Adult Prison

Youth Detention Centre

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| Principles In the context of the following:  [Australasian Youth Justice Administrators Standards, 2009](http://justus/intranet/department/standards/Pages/ops-standards.aspx):  Children, young people, and families are provided with information about their rights and responsibilities in the justice system.  [Australian Human Rights Commission National Principles for Child Safe Organisations, 2019](http://justus/intranet/department/standards/Pages/ops-standards.aspx):  Risk management strategies focus on preventing, identifying, and mitigating risks to children and young people.  Custodial environments are safe and secure.  The organisation, including staff and volunteers, understands children and young people’s diverse circumstances, and provides support and responds to those who are vulnerable. |

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# Scope

This Commissioner’s Operating Policy and Procedure (COPP) applies to all Youth Detention Centre (YDC) Custodial Officers and staff.

# Policy

The purpose of this COPP is to provide clear procedures for the safe and supportive management and transfer of a detainee who has reached the age of 18 years old to a prison, in accordance with the *Young Offenders Act 1994*[[1]](#footnote-1).

The Commissioner, as the delegated authority for the Director General (Chief Executive Officer), may exercise discretion to not apply the mandatory transfer[[2]](#footnote-2) of a detainee to an adult prison, taking into consideration the interests of the detainee or other detainees detained in YDC or any other matter they consider appropriate.

The YDC Multidisciplinary Team (MDT) shall provide an integrated team approach to develop a brief that informs the Commissioner of the detainee’s circumstances and develop a transfer plan. This will support the transfer of the detainee in a manner that mitigates risk and supports the welfare of the detainee, including notification to the receiving prison of an at-risk detainee. Subject to security considerations, family and/or community supports may be invited to be involved in the plan.

YDC shall ensure timely information sharing with the receiving prison to allow the necessary strategies to be put in place to manage risks and provide the new young prisoner the supports needed to reduce the stresses of entering a new environment.

Appropriate and timely notifications to authorities shall occur for Mentally Impaired Accused (MIA) detainees and those under the care of the Department of Communities CEO.

Custodial staff shall ensure open communication with the detainee and their responsible adult/caregiver around the transfer and shall remain vigilant and actively engage in dynamic security to mitigate risks to the detainee, staff and other detainees.

# Eligibility Identification

### Refer to [Appendix A – Transfer Approval Flowchart](#_Appendix_A_-).

### Section 21 and s 178A of the *Young Offenders Act 1994* mandates that a remand and sentenced detainee must be transferred to a prison when they reach 18 years old, unless otherwise determined.

## Notification

### The identification of eligible detainees is generated by Case Planning and Programs Unit (CPPU) who shall email the Superintendent when a detainee reaches the age of 17 years and 9 months. The Superintendent shall then notify the Deputy Commissioner Women and Young People (DCWYP) via email.

### If the detainee is under the care of the CEO of the Department of Communities (DOC), CPPU shall inform DOC and schedule a meeting(s) to discuss the detainee’s DOC care plan.

### If the detainee is a Mentally Impaired Accused (MIA), CPPU shall inform the Mentally Impaired Accused Review Board (MIARB). The MIARB is the authority that decides where a MIA detainee will be detained[[3]](#footnote-3).

### Following identification, and no later than 8 weeks prior to the detainee reaching the age of 18 years of age, the Superintendent or their delegate shall convene an MDT meeting. The purpose of the MDT is to discuss information of relevance to inform CPPU when completing an [Detainee Summary Brief](https://justus/intranet/prison-operations/Pages/bhdc-copp-forms.aspx) and a [Transfer to Prison Transition Plan](https://justus/intranet/prison-operations/Pages/bhdc-copp-forms.aspx).

### Completion of the [Detainee Summary Brief](https://justus/intranet/prison-operations/Pages/bhdc-copp-forms.aspx) shall include a discussion with the detainee and their responsible adult/caregiver/ DOC representative to identify their preferences and shall include any factors that support the Commissioner making a direction not to transfer the detainee to a prison.

### Upon approving the Brief, the Superintendent shall prepare an accompanying memo and forward this with the [Detainee Summary Brief](https://justus/intranet/prison-operations/Pages/bhdc-copp-forms.aspx) via the DCWYP to the Commissioner no later than 5 weeks prior to the detainee turning 18. The purpose of the [Detainee Summary Brief](https://justus/intranet/prison-operations/Pages/bhdc-copp-forms.aspx) is to provide the Commissioner with sufficient information to make an informed decision on whether to make a direction not to transfer a detainee to a prison.

### Commissioner notification is still required when a sentenced detainee is 17 years and 9 months old and their sentence expiry date is within 30 days[[4]](#footnote-4) of turning 18 years old.

### The MDT Chairperson shall contact Adult Male Prisons (AMP) Superintendent Administration to advise of the pending transfer and to inform of the detainee’s risks and needs. This will enable AMP to make an informed decision on placement and allow the YDC Superintendent to commence communication with the receiving prison Superintendent[[5]](#footnote-5).

### A meeting can be requested by the receiving prison and YDC when the Commissioner has supported the transfer by not making a direction for the detainee to remain at a YDC.

## Multi-Disciplinary Team

### The MDT meeting shall include the following attendees:

1. Superintendent (Chairperson)
2. Deputy Superintendent Operations (Chairperson in the absence of the Superintendent)
3. Deputy Superintendent, Rehabilitation and Reintegration
4. Security
5. CPPU
6. Youth Justice Psychological Services
7. Health Services
8. Mental Health
9. Aboriginal Youth Support Officer
10. Assistant Superintendent Specialist Services
11. Assistant Superintendent Operations (ASO)
12. An operational staff member who has worked directly with the detainee
13. Representative from DOC (only for those detainees who are under the CEO’s care)

### The MDT Chairperson may invite additional stakeholders to the meeting as required.

### Where the Commissioner does not make a direction for the detainee to remain at a YDC, the Superintendent shall convene further meetings to enable CPPU to complete a [Transfer to Prison Transition Plan](https://justus/intranet/prison-operations/Pages/bhdc-copp-forms.aspx).

### The Superintendent shall email the transition plan to the DCWYP no later than 7 days prior to the scheduled transfer. The transition plan shall include sufficient information to ensure the DCWYP is aware of the transfer details, including the mitigation strategies for any risks. Where the YDC have been unable to contact the responsible adult/caregiver, this shall be included in the transition plan and recorded in TOMS.

# Planning and Notification

### Where applicable, the treating psychologist and Aboriginal Youth Support Officer shall conduct a termination session with the detainee within 1 week of the transfer.

### All transfers to a prison shall be completed within 30 days of the detainee turning 18 years old[[6]](#footnote-6).

### The Senior Officer Admissions shall remind the receiving prison at least 24 hours prior to the transfer of an at-risk detainee. Refer to [COPP 10.1 – Scheduling Escorts](https://justus/intranet/prison-operations/Pages/bhdc-copps.aspx).

### To minimise detainee disruption, prisons should undertake the Management and Placement Assessment (MAP) at the YDC prior to any transfer to a prison. YDC shall ensure the assessing officer has a valid working with children clearance. Refer to prison [COPP 2.3 – Assessments and Sentence Management](https://justus/intranet/prison-operations/Pages/prison-copps.aspx).

# Transfer Arrangements

## General

### The Superintendent shall ensure the Senior Officer Admissions and ASO are aware in advance of all transfers to a prison.

### The ASO shall inform the relevant staff of the date and time of the scheduled transfer.

### The Senior Officer Admissions shall complete the transfer details in TOMS and notify the YDC Health Centre. Information and transfer arrangements shall include consideration to risks and/or the detainee’s At-Risk status.

### The Senior Officer Admissions shall cancel any official visits preceding the transfer date by providing a cancelled visit report to [banksiahillofficialvisits@justice.wa.gov.au](mailto:banksiahillofficialvisits@justice.wa.gov.au).

### As soon as practicable following transfer, the Senior Officer Admissions shall inform the cancelled official visitor(s) of the prison location the detainee was transferred to.

### The Senior Officer Admissions shall ensure the ASO is informed when the transfer details in TOMS, Health Centre notification, and where applicable, the cancellation of official visits, is completed.

### The detainee’s personal property and cell property shall accompany the detainee to the prison. Refer to section 7.2 below.

### The Superintendent shall inform the Deputy Superintendent (or equivalent where there is no Deputy Superintendent) at the receiving prison when the escort is due to depart the YDC.

### The escort of the detainee shall be conducted by Custodial Officers and managed in accordance with YDC [COPP 10.1 – Scheduling Escorts](https://justus/intranet/prison-operations/DCCOPPS/BHDC-COPP-10.1.docx) and [COPP 10.2 External Detainee Escorts](https://justus/intranet/prison-operations/DCCOPPS/BHDC-COPP-10.2.docx).

## Property

### At the time of communicating with the detainee around the Detainee Summary Brief, Custodial Officers shall explain that property allowances at a prison may not necessarily be the same as a YDC.

### Upon arrival at the prison, a detainee’s property shall be managed in accordance with prison [COPP 3.1 – Managing Prisoner Property](https://justus/intranet/prison-operations/Pages/prison-copps.aspx), and where applicable, the prison’s local Standing Order.

### Prison [COPP 3.1 – Managing Prisoner Property](https://justus/intranet/prison-operations/Pages/prison-copps.aspx) details the amount of property stored and personal property in cell that a prisoner is allowed (one 50 litre plastic tub/box in each area). As such, Custodial Officers shall assist detainees to make arrangements to have any excess property signed out prior to the transfer.

## Medication and Medical Records

### Transfer of detainee medication and medical records shall be managed by Health Services in accordance with Health Services [Policy and Procedure Patient Transfer](https://justus/communities/health-services/Policy%20and%20Procedure%20Documents/Forms/AllItems.aspx).

## Notification to Court Services

### CPPU shall notify Court Services when a remanded detainee is to be transferred to a prison and Court Services will notify the registry at Perth Children’s Court (PCC).

### CPPU shall notify the receiving prison of the date and location of any future court appearances scheduled for after the transfer date.

### All legal documentation (warrants etc.) shall be transferred with the detainee.

# Discussion with Detainee/Responsible Adult/Caregiver/DOC

### The ASO shall meet with the detainee and explain the transfer process where the Commissioner has not made a direction for the detainee to remain at a YDC.

### A range of communication tools and the use of easy language, words and short sentences may assist the detainee in understanding the discussion. It is important to treat the detainee with respect and clearly identify the issue(s) to be discussed in a calm and positive environment.

### Following detainee notification, the ASO shall attempt to contact the detainee’s responsible adult/caregiver/ DOC representative and explain the transfer. The ASO’s contact details shall also be provided as a point of contact.

### The Superintendent shall inform the responsible adult/caregiver in writing of the transfer, when ASO contact is unsuccessful. Each attempt and actual contact shall be recorded in the TOMS Offender Notes.

### All staff shall monitor the detainee’s response to the transfer and manage any risks. When there is concern for a detainee’s risk of self-harm, [COPP 7.4 – Detainees at Risk of Self-Harm or Requiring Additional Support and Monitoring](https://justus/intranet/prison-operations/Pages/bhdc-copps.aspx) shall be applied.

## Requests, complaints and feedback

### Where a detainee or their responsible adult/caregiver express concern about the transfer or wish to make a request, complaint or provide feedback, this shall be in accordance with [COPP 6.6 – Requests, Complaints and Feedback](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.correctiveservices.wa.gov.au%2F_files%2Fprisons%2Fadult-custodial-rules%2Fcopps%2Fbhdc%2FBHDC-COPP-6.6.docx&wdOrigin=BROWSELINK).

# Direction to Remain at a YDC After Turning 18 Years Old

### The Commissioner may direct that a mandatory transfer does not occur[[7]](#footnote-7).

### The decision not to transfer must consider the following:

1. interests of the detainee
2. interests of other detainees
3. regard to any other matter the Commissioner considers appropriate[[8]](#footnote-8).

### The ASO shall inform the detainee and their responsible adult/caregiver/DOC representative if the Commissioner issues a direction under s s21A or s178B of the *Young Offenders Act 1994* that the detainee is not transferred to a prison.

## Review of Detainee Remaining at a YDC

### The ASO shall explain to the detainee that a transfer to a prison can still be considered by the Commissioner should there be a change to their circumstances in relation to the criteria in section 7.1.2.

### The Superintendent shall be informed if a detainee engages in unacceptable behaviour that requires the completion of an incident report (refer to [COPP 8.1 – Incident Reporting](https://justus/intranet/prison-operations/Pages/bhdc-copps.aspx)). The detainee shall be managed in accordance with [COPP 6.1 – Behaviour Management](https://justus/intranet/prison-operations/Pages/bhdc-copps.aspx).

### Where the Superintendent deems it necessary to further review the detainee’s transfer, with consideration of the factors in section 7.1.2, CPPU shall complete an updated [Detainee Summary Brief](https://justus/intranet/prison-operations/Pages/bhdc-copp-forms.aspx) and forward this with a memo to the Commissioner via the DCWYP.

# Annexures

Referenced COPPs

* [COPP 2.3 – Assessments and Sentence Management (Prison)](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 3.1 - Managing Prisoner Property (Prison)](https://justus/intranet/prison-operations/Pages/prison-copps.aspx)
* [COPP 6.1 - Behaviour Management](https://justus/intranet/prison-operations/Pages/bhdc-copps.aspx)
* [COPP 6.6 - Requests, Complaints and Feedback](https://justus/intranet/prison-operations/Pages/bhdc-copps.aspx)
* [COPP 7.4 - Detainees at Risk of Self-Harm or Requiring Additional Support and Monitoring](https://justus/intranet/prison-operations/Pages/bhdc-copps.aspx)
* [COPP 8.1 - Incident Reporting](https://justus/intranet/prison-operations/Pages/bhdc-copps.aspx)
* [COPP 10.1 - Scheduling Escorts](https://justus/intranet/prison-operations/Pages/bhdc-copps.aspx)
* [COPP 10.2 - External Detainee Escorts](https://justus/intranet/prison-operations/Pages/bhdc-copps.aspx)

Other documents

* [Australasian Youth Justice Administrators Standards, 2009](http://justus/intranet/department/standards/Pages/ops-standards.aspx)
* [Australian Human Rights Commission National Principles for Child Safe Organisations, 2019](http://justus/intranet/department/standards/Pages/ops-standards.aspx)
* [Policy and Procedure Patient Transfer](https://justus/communities/health-services/Policy%20and%20Procedure%20Documents/Forms/AllItems.aspx) (Health Services)

## Definitions

| Term | Definition |
| --- | --- |
| Assistant Superintendent Operations (ASO) | Officer designated by the Superintendent to be responsible for Operations functions at Banksia Hill Detention Centre. |
| Case Planning and Program Team | Responsible for liaising with internal and external service providers and while coordinating and scheduling any program delivery for detainees. |
| Chief Executive  Officer (CEO) | Means the Chief Executive Officer of the Department. |
| Commissioner’s Operating Policy and Procedure (COPP) | COPPs are policy documents that provide instructions to staff as to how the relevant legislative requirements are implemented. |
| Custodial Officer | An officer with custodial functions, appointed under section 11(1) of the *Young Offenders Act 1994*; or a person who is appointed under section 11(1a)(a) as a custodial officer or a Prison Officer assisting under 11E. This includes but is not limited to Youth Custodial Officers, Unit Managers and Senior Officers. |
| Detainee | Means a person who is detained in a detention centre as defined in s.3 of the *Young Offenders Act 1994*. |
| Direction | The Commissioner, as the delegated authority for the Director General (Chief Executive Officer), may exercise discretion, and issue a direction, to not apply the mandatory transfer of a detainee to an adult prison, and taking into consideration the interests of the detainee or other detainees detained in the YDC or any other matter they consider appropriate. |
| EcHO | Electronic Health Online – the electronic medical records system used within Health Services. |
| Officers and Employees of Particular Classes | The following descriptions of classes of officers and employees are prescribed for the purpose of s. 11(1a) (b) *Young Offenders Act 1994*, in r. 49(2) *Young Offender Regulations 1995*:  Medical staff persons who have undergone medical, nursing or health training and hold qualifications indicating successful completion of that training.  Teaching staff persons who provide recreation or sports supervision, teachers, vocational trainers and social trainers.  Program support staff counsellors, program facilitators and librarians.  Centre support staff cleaning staff, laundry staff, gardening staff, vehicle driving staff, maintenance staff and hairdressers. |
| Remand Detainees | Detainees at YDC who are either awaiting court outcomes and are not sentenced or a detainee who is sentenced and awaiting a Court outcome. |
| Responsible Adult | In relation to a young person means parent or guardian, or other person having responsibility for the day-to-day care of the young person but does not include a person who the regulations may provide is not a responsible adult. |
| Senior Officer (SO) | A Youth Custodial Officer who is substantive to this rank, or a Unit Manager, or Youth Custodial Officer acting in the capacity of Senior Officer, appointed by the Chief Executive Officer with reference to s.11 *Young Offenders Act 1994.* |
| Staff | Any employee or officer of the Department of Justice, including a Public Service Officer, Youth Custodial Officer or an employee of a particular class; and any contractor who provides services to the Department of Justice. |
| Superintendent (YDC) | In accordance with s. 3 *Young Offenders Act 1994, ‘*The person in charge of a detention centre’. |
| Superintendent (Prison) | The Superintendent as defined in s. 36 [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html)and includes any reference to the position responsible for the management of a private prison under Part IIIA [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html). Does not extend to the Officer in Charge of a prison. |
| The Department | The department of the Public Service principally assisting the Minister in the administration of the *Young Offenders Act 1994* |
| Total Offender Management Solution (TOMS) | An electronic database used by the Department of Justice to record and manage comprehensive information relating to prisoners and young persons. |
| Youth Custodial Officer (YCO) | In accordance with s.11(1a) (a) *Young Offenders Act 1994*, a Youth Custodial Officer is a person appointed as a custodial officer for non- administrative functions. |
| Youth Detention Centre | A gazetted detention centre declared by the Minister to be a detention centre to accommodate male and female, remanded or sentenced detainees. Refer to section 13 of *Young Offenders Act 1994.* |

## Related legislation

* *Young Offenders Act 1994*
* *Young Offenders Regulation 1995*
* [*Prisons Act 1981*](http://www.slp.wa.gov.au/legislation/statutes.nsf/main_mrtitle_751_homepage.html)

# Assurance

It is expected that:

1. The YDC will undertake local compliance in accordance with the [Compliance Manual](http://justus/intranet/department/standards/Pages/monitoring.aspx).
2. The relevant Deputy Commissioner within Head Office will undertake management oversight as required.
3. Operational Compliance will undertake checks in accordance with the [Operational Compliance Framework.](https://justus/intranet/department/standards/Pages/monitoring.aspx)

Independent oversight will be undertaken as required.

# Document Version History

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| --- | --- | --- | --- | --- |
| Version no | Primary author(s) | Description of version | Date completed | Date effective |
| 1.0 | Operational Policy | Approved by the Commissioner | 3 July 2023 | 6 July 2023 |

Appendix A - Transfer to Prison Flowchart



1. s. 21(2) and 178A *Young Offenders Act 1994* [↑](#footnote-ref-1)
2. s. 21A and 178B(1) *Young Offenders Act 1994* [↑](#footnote-ref-2)
3. s 26 *Criminal Law Mentally Impaired Accused) Act 1996* [↑](#footnote-ref-3)
4. s 178A(3) *Young Offenders Act 1994* [↑](#footnote-ref-4)
5. s 15A(7A) *Young Offenders Act 1994* [↑](#footnote-ref-5)
6. s.178A(3), 235B & 235C *Young Offenders Act 1994* [↑](#footnote-ref-6)
7. s.21A and 178B(1) *Young Offenders Act 1994* [↑](#footnote-ref-7)
8. s 178B(2) *Young Offenders Act 1994* [↑](#footnote-ref-8)