



Canberra Health Services

Procedure

Dhulwa Mental Health Unit - Transfer of Custody

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Attachments **Error! Bookmark not defined.**

 Attachment 1 - Transfer of Custody from a Correctional Centre or Place of Detention to Dhulwa Flow Chart **Error! Bookmark not defined.**

 Attachment 2 - Transfer of Custody from Dhulwa to a Correctional Centre or Place of Detention Flow Chart **Error! Bookmark not defined.**

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 Attachment 4 - ACAT Directs Correctional Patient be returned to a Correctional Centre or Place of Detention Flow Chart **Error! Bookmark not defined.**

 Attachment 5 - Transfer of Custody from Dhulwa to Court Flow Chart **Error! Bookmark not defined.**

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Purpose

The purpose of this procedure is to provide Justice Health Services (JHS) and Dhulwa Mental Health Unit (Dhulwa) staff with information regarding processes for transferring people in court ordered detention:

- from a correctional centre or place of detention to Dhulwa, or
- from Dhulwa to a correctional centre or place of detention, or
- from Dhulwa to the courts, or
- from the courts to Dhulwa.

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Alerts

The *Mental Health Act 2015* and *Mental Health (Secure Facilities) Act 2016* refers to the Director-General as having specific functions, powers and reporting requirements. Canberra Health Services (CHS) uses the title of Chief Executive Officer (CEO) instead of Director-General. In accordance with the *Public Sector Management Act 1994*, the position of CEO of CHS has the same functions and authority as a Director-General.

In this document, all references to the Director-General will be replaced with CEO, to reflect the language used by CHS as the person responsible.

This procedure should be read in conjunction with the *Dhulwa Mental Health Unit (DMHU) Referral, Admission and Transfer of Care Procedure* and the *Dhulwa Mental Health Unit (DMHU) Consumer Leave Management Procedure*.

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Scope

This procedure pertains to people who are being transferred between Dhulwa and a correctional centre or place of detention, or the Courts.

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Section 1 – Communication between staff at Dhulwa, Alexander Maconochie Centre (AMC) and Bimberi Youth Justice Centre (BYJC)

All formal communication, e.g. warrants, other court documents, or forms, referred to in this document and any other critical communication to the ACT Corrective Service (ACTCS) staff will be sent to a dedicated distribution list #JACS, ACTCS Dhulwa Transfer. This is to ensure

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that critical information and dates are not missed. All emails are to be followed up either in person or with a telephone call to the nominated contact person in each agency.

All formal communication, e.g. warrants, other court documents, or forms, referred to in this document and any other critical communication to the staff at the Bimberi Youth Justice Centre (BYJC) will be sent to the Senior Manager, BYJC (search in ACT Government Directory, in advance search insert Youth Justice Centre under Unit Name and Senior Manager is the first listing). Check the ACT Government Directory to ascertain the correct email address. This is to ensure that critical information and dates are not missed.

ACTCS and BYJC will send all formal communication to Dhulwa staff to a dedicated email address: DMHU@act.gov.au. All emails are to be followed up either in person or with a telephone call to the nominated contact person in each agency.

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Section 2 – Transfer of custody from a Correctional Centre or Place of Detention to Dhulwa

2.1 Admission

All transfers to Dhulwa will be planned. As such, all transfers for admission or discharge should take place in the mornings when the greatest numbers of staff are available. It is preferable transfers do not occur after 15:30hr (unless the urgency of the admission dictates this must happen on the grounds of risk and clinical need).

On acceptance of a referral from a Psychiatrist working at a correctional centre or place of detention to Dhulwa by the Admissions and Assessment Panel (AAP), a JHS Doctor will submit a *Transfer of Custody Between a Place of Detention or Correctional Centre and Dhulwa or Dhulwa and Court Form*, located on the Clinical Forms Register, and a *Removal Authority and Transfer Direction/Revocation* to the ACTCS or BYJC General Manager (or delegate). The transfer is to be supported and approved by the section 21 Doctor appointed under the *Corrections Management Act 2007*.

On approval of both documents by ACTCS and/or BYJC, the Dhulwa Assistant Director of Nursing (ADON) /Clinical Nurse Consultant (CNC) or delegate will liaise to negotiate a suitable date and time for transfer of the consumer from a correctional centre or place of detention to Dhulwa.

In transferring the consumer, ACTCS or BYJC General Manager (or delegate) will provide Dhulwa with the following documents:

- the warrant or legal authority to hold the person in custody
- *Transfer to/from Dhulwa Security and Escort Risk Assessment*
- *Transfer to/from Dhulwa Brief Risk Assessment*
- a copy of the episode summary and case management plan (or related documents).

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The *Transfer of Custody Between a Place of Detention or Correctional Centre and Dhulwa or Dhulwa and Court* Form is to be photocopied after signature and a copy provided to both agencies involved in the transfer. A copy of this form must be provided to the Tribunal Liaison Officer, at TribunalLiaison@act.gov.au

2.2 Transfer of custody

The Dhulwa ADON /CNC or delegate will notify security of the expected arrival time and the identity of the consumer to be admitted. Security will advise the Dhulwa ADON and CNC when the consumer arrives.

All new admissions will be received in the admission area via the Secure Vehicle Entry (SVE). ACTCS or BYJC will not go past this point.

The Escort Team will check the consumer’s paperwork to ensure that Dhulwa can accept custody of the consumer. Refer to Section 2.1.

ACTCS Escort Officers or BYJC Youth Workers will relinquish custody of the consumer and Dhulwa staff will assume custody of the consumer when the *Transfer of Custody Between a Place of Detention or Correctional Centre and Dhulwa or Dhulwa and Court* Form has been signed by the following:

- ACTCS General Manager (or delegate)
- the senior ACTCS Escort Officer or the senior BYJC Youth Worker
- the Nurse in Charge (NIC) Dhulwa
- Security Supervisor Dhulwa.

2.3 Notification of transfer of custody

The ADON /Administration or delegate will advise the following people, using the *Notification of Admission of a Person to Dhulwa Mental Health Unit* Form, located on the Clinical Forms Register, that the consumer’s care has been transferred to the CEO of CHS:

- if the person is a young detainee, the Children and Young People (CYP) Director-General,
- ACT Civil and Administrative Tribunal (ACAT),
- Public Advocate,
- The person,
- The nominated person, if the person has one, and
- Each person with parental responsibility if the person is a child.

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Section 3 – Transfer of custody from Dhulwa to a correctional centre or place of detention

A consumer may be transferred from Dhulwa to a correctional centre or place of detention if:

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- the consumer no longer requires treatment, care and support in Dhulwa,
- the consumer has a continuing correctional order,
- the ACAT directs that a correctional patient be returned to a correctional centre or place of detention, or
- in accordance with:
 - section 54 4 (b) of the *Corrections Management Act 2007*, the Corrections Director-General (or delegate) directs the detainee be removed from the facility and returned to the correctional centre stated in the direction,
 - section 109 4(b) of the *Children and Young People Act 2008*, the CYP Director-General (for a young detainee) requests that the consumer be returned to a place of detention.

On receiving a direction from the Corrections Director-General (or delegate) that a detainee is be removed from Dhulwa and returned to a correctional centre, or a written request from the CYP Director-General that a young detainee be returned to a place of detention, Dhulwa will provide the *Transfer to/from Dhulwa Security and Escort Risk Assessment*

In most cases, decisions to transfer consumers from Dhulwa to a correctional centre or place of detention are made by the AAP. In these cases, Dhulwa Referral, Admission and Transfer Procedure will be followed.

3.1 ACAT directs correctional patient be returned to a correctional centre or place of detention

A correctional patient may apply to ACAT to be returned to a correctional centre or place of detention (s. 139 (3) *ACAT may return people to correctional centre—Mental Health Act 2015*).

If a correctional patient applies to ACAT to be returned to a correctional centre or place of detention (s. 139(2) *ACAT may return people to a correctional centre –Mental Health Act 2015*), the Dhulwa Administration or delegate will forward a copy of the *Notification of Hearing* to ACTCS or BYJC General Manager (or delegate). This is to ensure that, unless with the agreement by ACTCS General Manager (or delegate), whenever possible, the correctional centre or place of detention has at least 24 hour's notice of the potential discharge of the consumer from Dhulwa (s. 144A(4) *Transfer of custody—secure mental health unit—Mental Health Act 2015*).

If ACAT orders the correctional patient be returned to a correctional centre or place of detention, the ADON/CNC or delegate will forward a *Notification of Intent to Discharge Person from Dhulwa Mental Health Unit (Dhulwa) to a Correctional Centre or Place of Detention* Form, located on the Clinical Forms Register, to ACTCS or BYJC General Manager (or delegate) as soon as practicable.

The ACTCS or BYJC General Manager (or delegate) will liaise with the Dhulwa ADON/ CNC or delegate to negotiate a suitable date and time for the transfer of the consumer from Dhulwa to a correctional centre or place of detention.

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The Corrections Director-General or CYP Director-General will revoke the Transfer Direction under s. 54 of the *Corrections Management Act 2007* or s. 109 *Children and Young People Act 2008*.

The transfer of care will occur as set out in section 3.3 of this procedure.

3.2 Risk assessment

Prior to the transport of a consumer from Dhulwa, the Transfer to/from Dhulwa Security and escort risk assessment must be completed by the consumer's allocated nurse and documented in the consumer's Digital Health Record (DHR). This document is available on the Clinical Forms Register.

A copy of the Transfer to/from Dhulwa Security and escort risk assessment will be emailed to ACTCS or BYJC General Manager (or delegate) 24 hours prior to any transfer, wherever possible. This is to provide ACTCS with sufficient time to determine the most appropriate mode of transport. Any change to the risk assessment prior to the transfer should be notified to AMC or BYJC Operations Manager or above, via telephone and confirmed in writing.

3.3 Transfer of care

In preparing for the discharge of a consumer from Dhulwa to a correctional centre or place of detention the Dhulwa Referral Admission and Transfer of Care Procedure should be followed. Prior to discharge from Dhulwa, a meeting with the Dhulwa treating team and Custodial Custodial Mental Health Services will occur regarding the transfer to care.

3.4 Transfer of Custody

In transferring the consumer, ACTCS or BYJC General Manager (or delegate) will provide Dhulwa with a copy of the *Removal Authority and Transfer Direction/Revocation*. The ACTCS or BYJC General Manager (or delegate) will liaise with the Dhulwa ADON or CNC to negotiate a suitable date and time for the transfer of the consumer.

Prior to discharge, Dhulwa will prepare the following documents:

- *Transfer to/from Dhulwa Security and Escort Risk Assessment*
- A discharge summary, including a summary of the consumer's treatment and discharge treatment plan.

All discharges from Dhulwa will occur via the Secure Vehicle Entry.

Dhulwa will relinquish custody and ACTCS Escort Officers or BYJC Youth Workers will assume custody of the consumer when the *Transfer of Custody Between a Place of Detention or Correctional Centre and Dhulwa or Dhulwa and Court Form* has been signed by:

- NIC Dhulwa, and
- Dhulwa Senior Security Officer, and
- the senior ACTCS Escort Officer or senior BYJC Youth Worker, and

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- ACTCS General Manager (or delegate), BYJC general manger (or delegate)

The *Transfer of Custody Between a Place of Detention or Correctional Centre and Dhulwa or Dhulwa and Court Form* is to be photocopied after signature and a copy provided to both agencies involved in the transfer. A copy of this form must be provided via email to the Tribunal Liaison Officer at TribunalLiaison@act.gov.au.

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Section 4 – Transfer between Dhulwa and Courts

A consumer admitted to Dhulwa may be required to attend a court, tribunal or the Sentence Administration Board (SAB) during their admission.

4.1 Preparation to attend court

If a consumer is required to attend court, the Correction Director-General or CYP Director-General (or delegate), will notify the Dhulwa ADON or CNC of the requirement as soon as possible, and will forward a copy of the warrant to the ADON or CNC.

The ACTCS or BYJC General Manager (or delegate) will advise the ADON or CNC of the escort arrangements.

At least 24 hours before a court hearing, wherever possible, the consumer's allocated nurse will complete the Transfer to/from Dhulwa Security and escort risk assessment and document this in the consumer's DHR. The allocated nurses or Administration Manager or delegate will also send a message via DHR, to the Mental Health Court Assessment Liaison (MHCAL) service advising them of the court hearing.

A copy of the Transfer to/from Dhulwa Security and escort risk assessment will be emailed to ACTCS or BYJC General Manager (or delegate) 24 hours prior to any transfer, wherever possible. This is to provide ACTCS with sufficient time to determine the most appropriate mode of transport. Any change to the risk assessment prior to the transfer should be notified to the ACTCS or BYJC Operations Manager or above, via telephone and confirmed in writing.

4.2 Transfer of custody to attend court

Dhulwa will relinquish custody of the consumer and the ACTCS Escort Officers or BYJC Youth Workers will assume custody of the consumer when the *Transfer of Custody Between a Place of Detention or Correctional Centre and Dhulwa or Dhulwa and Court Form* is signed by:

- Dhulwa NIC
- Dhulwa Senior Security Officer
- the senior ACTCS Escort Officer or senior BYJC Youth Worker
- ACTCS or BYJC General Manager (or delegate).

A clinician from Dhulwa will also attend the court hearing.

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The *Transfer of Custody Between a Place of Detention or Correctional Centre and Dhulwa or Dhulwa and Court* Form is to be photocopied after signature and a copy provided to both agencies involved in the transfer. A copy of this form must be provided via email to the Tribunal Liaison Officer, TribunalLiaison@act.gov.au.

When a consumer is transferred from Dhulwa for the purpose of attending court, the consumer is taken to be in the custody of:

- Corrections Director-General (or delegate) if the consumer is a detainee; or
- CYP Director-General (or delegate), if the consumer is a young detainee (s. 144B(3) *Taking to appear before court–Mental Health Act 2015*).

Note:

The consumer is not discharged from Dhulwa for the purpose of attending court and a leave application is not required, as custody is being transferred to the Corrections of CYP Director-General.

4.3 Transfer of custody returned from court

When the consumer is returned to Dhulwa, the ACTCS General Manager (or delegate) will provide Dhulwa with a Transfer to/from Dhulwa Security and escort risk assessment.

The ACTCS Escort Officers or BYJC Youth Workers will relinquish custody and Dhulwa will assume custody of the consumer, as per the process outlined in 2.2.

A consumer returned to Dhulwa from court will be returned via the SVE.

4.4 Consumer released from court ordered custody

4.4.1 Consumer deemed to require ongoing treatment, care and support

A consumer on a custodial order will be released from that order if:

- the consumer’s sentence expires
- the consumer is released on parole
- the consumer is otherwise released on the order of the court
- the relevant charge against the consumer is dismissed
- the Director of Public Prosecution notifies the ACAT or the Court that proceedings against the consumer will not proceed, and
- the consumer is not required to be detained under another court order.

ACTCS or BYJC will immediately notify Dhulwa of the detainee’s impending bail or release from full-time custody, and undertake their procedure, to release the person from full-time custodial custody.

ACTCS or BYJC have no legal authority to hold, detain or escort a person bailed or released from full-time custodial custody.

If a consumer is released from court ordered custody and the Consultant Psychiatrist believes that they still require involuntary treatment, care and support in Dhulwa, the

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consumer’s return to Dhulwa is the responsibility of the Dhulwa escort team, and the person must be involuntarily detained under the *Mental Health Act 2015*.

If the consumer no longer requires secure care and can be treated in another inpatient facility or in the community, the Dhulwa treating team will facilitate a referral and handover.

4.4.2 Consumer released from the court order custody requesting ongoing treatment, care and support

If the consumer is released from court ordered custody and they, or the person with parental responsibility for them, continues to request treatment, care and support in an approved mental health facility, the CEO’s delegate must continue the treatment, care or support in an approved mental health facility (*s. 144C(2) Release on change of status of person—Mental Health Act 2015*).

The consumer’s Dhulwa Consultant Psychiatrist will arrange to review the consumer and recommend the least restrictive care required to meet their care needs. This may include continued treatment in Dhulwa, or another inpatient unit or in the community.

The Consultant Psychiatrist will advise the following people, using the *Notification of Action Following Release from Court Ordered Custody Form*, of their decision:

- ACAT
- Public Advocate
- the consumer
- nominated person, if the consumer has one
- each person with parental responsibility, if the consumer is a child
- guardian, if the consumer has one
- Enduring Power of Attorney, if the consumer has one.

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Section 5 – Reporting Requirements

5.1 Transferring a consumer to Dhulwa or between Dhulwa and courts

If an incident that may have an effect on the consumer’s physical or mental health occurs while transferring a consumer to Dhulwa or between Dhulwa and courts, ACTCS or BYJC must provide the CEO’s delegate a written statement about the incident (*s. 144(A)(5) Transfer of Custody—secure mental health facility—Mental Health Act 2015*). The *Transfer of Custody between a Place of Detention or Correctional Centre and Dhulwa or Dhulwa and Court Form* will be used to provide the written notification.

5.2 Prior to transferring from Dhulwa to a place of detention or correctional centre or Court

If an incident that may have an effect on the consumer’s physical or mental health occurs in Dhulwa on the day of transferring a consumer to ACTCS or BYJC custody or to court, CHS will inform either the Corrections or CYP Director-General, via the *Transfer of Custody between a Place of Detention or Correctional Centre and Dhulwa or Dhulwa and Court Form*.

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5.3 Documentation

If the CEO’s delegate receives notification that an incident that may have an effect on a consumer’s physical or mental health occurred while transferring to Dhulwa or between Dhulwa and court, they must:

- record this information in the consumer’s DHR ,
- register any episode of restraint, involuntary seclusion or forcible giving of medication reported in the *Involuntary Restraint and Forcible Giving of Medication Register*,
- advise the Public Advocate, using the *Mechanical, Physical Restraint, or Forcible Giving of Medication Form*, of any episode of restraint, involuntary seclusion or forcible giving of medication reported, and
- Report the incident as a clinical incident on Riskman.

The ADON is responsible for ensuring reports are completed on Riskman and that the investigation and controls implemented fields are completed within five working days of the report being made.

As part of the transfer process any events that occurred during transfer are to be documented in the consumer’s DHR and reported at shift handover and at the next clinical MDT meeting.

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Evaluation

Outcome

- Completed transfer of custody process and paperwork
- Referrals are processed as soon as practicable

Measures

- Compliance with legislative paperwork of transfers of custody

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Related Policies, Procedures, Guidelines and Legislation

Policies

- CHS Work Health and Safety Policy
- CHS Work Health and Safety Management System
- CHS Incident Management Policy
- Australian Commission on Safety and Quality in Healthcare, Australian Charter of Healthcare Rights

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- CHS Incident Management Procedure
- CHS Clinical Handover Procedure
- CHS Incidents Reportable to the Executive Director and Intervention Following the Death or Potential Death of a Person (MHJHADS) Procedure
- CHS Dhulwa Mental Health Unit Referral, Admission and Transfer of Care Procedure
- CHS Dhulwa Mental Health Unit Consumer Leave Management Procedure
- CHS Dhulwa Mental Health Unit Perimeter Security Procedure (See CHS Dhulwa Mental Health Unit Security Policy and Procedures)

Legislation

- *Mental Health Act 2015*
- *Mental Health (Secure Facilities) Act 2016*
- *Children and Young People Act 2008*
- *Human Rights Act 2004*
- *Health Records (Privacy & Access) Act 1997*
- *Guardianship and Management of Property Act 1991*
- *Work Health and Safety Act 2011*
- *Corrections Management Act 2007*
- *Security Industry Act 2003*

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Search Terms

Dhulwa, transfer to court, transfer, escort officer, custody transfer, court attendance, transfer to Dhulwa, transfer back to Dhulwa, correctional patient.

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Policy Team ONLY to complete the following:

<i>Date Amended</i>	<i>Section Amended</i>	<i>Divisional Approval</i>	<i>Final Approval</i>
<i>27/01/2021</i>	<i>Complete Review</i>	<i>Karen Grace, ED MHJHADS</i>	<i>CHS Policy Committee</i>

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