

BAIL

POLICY NO. C2

ACT CORRECTIVE SERVICES



ACT
Government

Justice and Community Safety

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1 PURPOSE

ACT Corrective Services is committed to undertaking bail supervision in line with legislated obligations including under the *Bail Act 1992* and the *Human Rights Act 2004*.

This policy provides the principles of management for people subject to bail with an ACTCS supervision condition.

2 SCOPE

This policy applies to ACTCS Community Corrections staff.

Where required, the Assistant Commissioner Community Corrections will establish operating procedures under this policy.

3 DEFINITIONS

Bail

Bail is an authorisation for an accused person who has been detained or arrested to remain free in the community until they are brought before a Court to have their charges finalised. The bail system promotes the human rights of people to liberty (see s 18(5) *Human Rights Act 2004*) and to be presumed innocent until proven guilty (see s 22(1) *Human Rights Act 2004*) and is a fundamental part of the criminal justice system.

The focus of the bail process is to respect the rights of the accused while ensuring that the accused re-appears in court either to face charges or be sentenced, and keeping the community safe in the meantime.

The decision to grant bail is made by either an authorised police officer or by court order and can include certain conditions that the accused needs to comply with such as reporting to ACT Policing; the direction to reside at a particular address; and/or undertake drug testing. If the accused does not comply with the conditions of bail, they breach the bail authorisation and can be re-arrested and detained by police.

Supervision Condition

A condition of an order or undertaking, requiring a person to engage with ACTCS Community Corrections, and to comply with all reasonable and lawful directions.

Reasonable Directions

Reasonable directions are additional directions given to people subject to a supervision condition to support compliance. Reasonable Directions must be necessary and have a basis in law. Directions that are not necessary or not relevant to achieving compliance with the bail order may be challenged.

Accused Person

A person charged with an offence who has not been convicted.

Offender

A person convicted and sentenced to a community-based order who is subject to a supervision condition.

Bail Officer (BO)

An Officer who has delegations, as stated in legislation, to supervise people subject to supervised bail.

Community Corrections Officer (CCO)

An Officer who has delegations, as stated in legislation, to supervise people subject to supervised bail orders or undertakings, and offenders on community based orders.

Team Leader (TL)

An Officer who leads a team of BOs and/or CCOs with delegations as stated in legislation.

4 PRINCIPLES

- 4.1 The objective of bail supervision is to monitor an accused's compliance with the conditions of their bail order or undertaking.
- 4.2 Directions made by Community Corrections should be made to support the accused's compliance with the bail order or undertaking and should not be made to make compliance unreasonably difficult or onerous. Directions cannot go beyond what is necessary to ensure the accused meets the conditions in the order.
- 4.3 Bail supervision contact with an accused person is not designed to address criminogenic factors or to punish the accused person.
- 4.4 There is no finding of guilt in respect to an accused person, and the rights of the accused person, including to liberty, privacy, freedom of movement and association and non-discrimination must not be limited except to the extent the person is required to comply with bail conditions and reasonable and lawful directions.
- 4.5 Reasonable directions given by ACTCS staff to support compliance with bail conditions should be given in a way that the accused person can understand and comply with. ACTCS staff should take into consideration and make reasonable accommodations for the individual circumstances and needs of the accused such as language or cultural background, disability and health issues, age, pregnancy.
- 4.6 An accused person may be found not guilty, or charges may be withdrawn. Bail supervision practice should take this into consideration and remain neutral to the accused person, focusing only on compliance with bail conditions and directions.
- 4.7 Community Corrections will report any noted non-compliance with bail conditions to police, noting that the application of powers, including the power to arrest a person without warrant for a suspected breach of bail, is exclusively a matter for police.

5 ALLOCATION AND INDUCTION

- 5.1 The Sentence Administration Section will allocate supervised bail undertakings to Community Corrections staff within one (1) business day of the registration of the bail order and any supervision conditions.
- 5.2 Inductions for the accused will be undertaken by Bail Officers/Community Corrections Officers within ten (10) business days of the court date. During this face-to-face meeting, the obligations of the accused and the processes followed if there is non-compliance with reasonable directions or any breach of bail conditions, will be explained.

6 METHOD AND FREQUENCY OF CONTACT

- 6.1 After induction, supervision contacts will occur either in person or via telephone, dependent on the conditions of the bail order or undertaking.
- 6.2 Preference will be given to supervise the accused via telephone, where deemed appropriate (*section 2.2 of Bail Community Instruction*).

7 MONITORING COMPLIANCE

- 7.1 Supervision of an accused will not involve discussions around the alleged offence/s.
- 7.2 Monitoring of certain bail conditions are outside the scope of Bail Officers/Community Corrections Officers. Compliance of these conditions will be monitored by the Australian Federal Police.
Example: A curfew at a specified address, reporting to police or non-association conditions.
- 7.3 Information can be shared between Bail Officers/Community Corrections Officers and the Australian Federal Police in respect to the supervision and compliance of an accused's bail conditions (*Information Sharing with AFP CI*).

8 MANAGING NON-COMPLIANCE

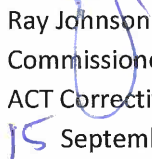
- 8.1 Once non-compliance with a bail condition/s or a reasonable direction has been determined by a Bail Officer/Community Corrections Officer, an alleged breach of bail report will be submitted to the Australian Federal Police within one (1) business day of that determination.
- 8.2 All alleged breach of bail report must be approved by a Team Leader before being submitted to the Australian Federal Police.
- 8.3 Any decision to arrest a person for a suspected breach of bail is exclusively a matter for police.

9 BAIL PROGRESS REPORTS

- 9.1 Bail Officers/Community Corrections Officers will prepare a Bail Progress Report if requested by the Court.
- 9.2 The report should include comment on the accused's compliance with their bail order or undertaking and any specific conditions.
- 9.3 The report must be sent to the court two (2) business days prior to the scheduled Court date.
- 9.4 The report must be approved by a Team Leader before being sent to the Court.

10 RELATED DOCUMENTS

- Bail Act 1992
- Bail Community Instruction
- Information Sharing with AFP Community Instruction


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Commissioner
ACT Corrective Services
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