

BAIL SUPERVISION AND SUPPORT

POLICY NO. C2

ACT CORRECTIVE SERVICES



ACT
Government

Justice and Community Safety

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1 PURPOSE

ACT Corrective Services (ACTCS) is committed to undertaking bail supervision in line with legislated obligations including under the *Bail Act 1992* and the *Human Rights Act 2004*. ACTCS will monitor the accused persons' compliance with the specific conditions and requirements of their bail undertaking and will provide support to accused persons to assist them to address their basic welfare and social needs, where necessary.

In ensuring that the accused person re-appears in court at the time and date specified in the bail undertaking, ACTCS must also respect the rights of the accused persons. Addressing the accused person's needs early in criminal justice proceedings, may reduce the risk of (re)offending, incarceration, and prevent future contact with the criminal justice system outside of the requirements of the bail. ACTCS' provision of support to accused persons for the duration of the supervised bail undertaking may also positively impact community safety, in addition to assisting the accused person to demonstrate compliance with their bail undertaking.

This policy outlines evidence-based guiding principles for the delivery of effective bail supervision, the provision of support and management for persons subject to bail with an ACTCS supervision condition.

2 SCOPE

This policy applies to ACTCS Community Operations staff in relation to managing bail undertakings subject to an ACTCS supervision condition.

This policy provides guidance to ACTCS staff around monitoring compliance and facilitating access to services and programs that support immediate, basic welfare and social needs. Bail supervision is not designed to address criminogenic risk factors or to assume the outcomes of the Court process. The focus of bail support is to ensure the accused person complies with their bail conditions from registration of the order until completion.

Where required, the Assistant Commissioner, Service Improvement & Community Operations will establish operating procedures under this policy.

3 DEFINITIONS

Accused Person	An accused person can include a person charged with, convicted of, or found guilty of, an offence who is subject to an ACTCS bail supervision condition until the matter has been finalised before a Court.
Bail	<p>Bail is an authorisation for an accused person to remain free in the community until they are brought before a Court to finalise their charges.</p> <p>The decision to grant bail is made by an authorised police officer or by court order and can include certain conditions that the accused person must agree to and comply with. If the accused person does not comply with the conditions of bail, they breach the bail authorisation and can be re-arrested and detained by police.</p>
Bail Officer (BO)	An Officer who has delegations, as stated in legislation, to supervise people subject to supervised bail.
Bail Supervision	<p>Supervision by an ACTCS officer to monitor the accused person's compliance with their bail undertaking when supervision is imposed as a condition of bail.</p> <p>The provision of support and assistance during supervision appointments can aid accused persons to address basic, immediate welfare and social needs. Providing support during bail is an opportunity to provide effective early intervention and can also assist the accused person to maintain compliance with their undertaking.</p>
Bail Support Plan (BSP)	A document which guides individual bail support voluntarily entered into by the accused person. The Bail Support Plan (BSP) assists to identify basic non-criminogenic needs and sets out the steps for engaging in specific support strategies. The BSP can provide an opportunity for early intervention and may assist the accused person to maintain compliance with bail conditions.
Bail Undertaking	A written or verbal undertaking by the accused person to appear before court at a stated time and place and to comply with any specified conditions of bail.
Case Plan (CP)	A document which guides ACTCS individual case management. The Case Plan identifies criminogenic and non-criminogenic needs and set goals for engaging in specific support strategies and interventions to address immediate needs and with a view to reduce the likelihood of reoffending.
Community Corrections Officer (CCO)	An ACTCS Officer who has delegations, as stated in legislation, to supervise people subject to supervised bail orders or undertakings, and offenders on community-based orders.

Cultural Engagement Officer	An ACTCS Officer who provides cultural support to Aboriginal and/or Torres Strait Islander peoples.
Disability Liaison Officer	An ACTCS Officer who provides support and advice in relation to removing barriers for people with disabilities including long-term physical, mental, intellectual or sensory impairments.
Offender	A person convicted and sentenced to a community-based order who is subject to a supervision condition.
Reasonable Directions	Reasonable directions are instructions given by an ACTCS Community Operations Officer to an accused person to support compliance with the conditions of a Bail Order. An example of a reasonable direction could be to comply with a curfew condition.
Supervision Condition	A condition of an order or undertaking, requiring a person to engage with ACTCS Community Operations, and to comply with all reasonable and lawful directions.
Team Leader (TL)	An Officer who leads a team of Bail Officers and/or Community Corrections Officers with delegations as stated in legislation.

4 PRINCIPLES

- 4.1 This policy outlines the management of accused persons subject to bail supervision in line with the *Bail Act 1992 (ACT)* and the *Human Rights Act 2004 (ACT)*. It aligns with the Community Offender Management Framework to provide best practice guiding principles for the effective management of accused persons subject to bail supervision in the community.
- 4.2 ACTCS is committed to facilitating access to a wide range of support services and non-criminogenic interventions to all accused persons. These supports are offered in addition to any specific conditions and obligations of a Bail Order, and are responsive to the individual needs of the accused person.
- 4.3 The bail system is a fundamental part of the criminal justice system and ACTCS is committed to treating all people with dignity and respect and promoting and protecting their human rights, as per s40B(1)(b) of the *Human Right Act 2004*.
- 4.4 ACTCS seeks to empower individuals to participate directly in decisions that affect their lives, health and wellbeing, recognising their agency and right to self-determination. ACTCS facilitates access to non-judgemental and non-discriminatory programs and services to support their individual needs and goals.

5 ALLOCATION AND INDUCTION

- 5.1 The Sentence Administration Section (SAS) is responsible for allocating supervised bail undertakings to Community Operations staff within one (1) business day of the registration of the bail order and any supervision conditions.
- 5.2 Induction should be undertaken face to face within five (5) business days of the bail undertaking being made and no later than ten (10) business days, unless a specific reporting date is nominated on the bail undertaking. The Induction process is undertaken by way of an Intake Appointment.
- 5.3 If the staff member conducting the Intake Appointment has any immediate concerns about the safety and wellbeing of the accused person, they must take appropriate steps and actions. For further detail see the *Intake Community Instruction*.
- 5.4 At the first scheduled appointment, the allocated supervising officer must review the IIF, and begin gathering information around any immediate, basic welfare and social needs of the accused person that may impact capacity to comply with their bail undertaking. This information will assist in the development of the *Bail Support Plan*.
- 5.5 At this time, the allocated supervising officer must also explain the purpose and intent of the *Consent to Obtain and Release Personal Information* form, including the limits of confidentiality, and seek the accused person's signature on the form.

6 METHOD AND FREQUENCY OF CONTACT

- 6.1 After an in-person induction and first scheduled appointment, supervision contacts may occur either in person, via telephone or a combination of both.
- 6.2 ACTCS staff must consider a range of factors when determining the recommended method and frequency of bail supervision appointments. For further detail refer to the *Bail Supervision Community Instruction*.

7 MONITORING COMPLIANCE

- 7.1 As accused persons may be found not guilty, or charges may be withdrawn, the primary focus of bail supervision is monitoring compliance with bail conditions and directions. The development of a Bail Support Plan during the bail supervision period identifies additional supports that may assist the accused person to comply with their bail undertaking, and which may help them avoid further contact with the criminal justice system beyond the current matters.

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- 7.2 Any directions made by ACTCS should be reasonable and made to directly support the compliance of the accused person with the bail order or undertaking. Directions must not go beyond what is necessary to ensure the accused person meets the conditions in the order.
- Example: It is reasonable to direct the accused person to undertake drug and/or alcohol testing, if their bail undertaking states that they are not to use illicit substances and/or alcohol.*
- 7.3 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 has the capacity to comply with.
- 7.4 Certain bail conditions will be monitored by ACT Policing and are outside the scope of Community Operations. For example, a curfew at a specified address, reporting to police or non-association conditions are conditions monitored by police.
- 7.5 Information can be shared between ACTCS and ACT Policing in respect to the supervision and compliance of the bail conditions of the accused person (Information Sharing with AFP Community Instruction).

8 BAIL SUPPORT PLAN

- 8.1 Accused persons on supervised bail for a period of four weeks or greater will have a Bail Support Plan (BSP). The allocated supervising officer will work with the accused person to develop an individualised BSP that identifies their immediate, basic welfare and social needs and sets goals that may assist successful completion of their bail period.
- 8.2 The accused person must be given the opportunity to provide input and review the BSP.
- 8.3 The BSP must be developed within two weeks of allocation using the approved Bail Support Plan Template.
- 8.4 If the accused person is also subject to conditions that mandate attendance at a specific program or service, these mandatory requirements must be clearly articulated on the BSP. The allocated supervising officer must ensure that the accused person understands that compliance with mandatory requirements is not voluntary.
- 8.5 An accused person's failure to comply with mandatory requirements noted in the BSP will be dealt with as a demonstration of non-compliance.

8.6 The allocated supervising officer will seek to respond to any identified needs by assisting the accused person to contact or be referred to appropriate supports, services, and agencies. Suggested supports may increase the capacity of the accused person to meet the requirements of their bail conditions and may include liaison with:

- a. Disability Liaison Officer
- b. Cultural Engagement Officer
- c. AMC Case Manager
- d. Reintegration Unit
- e. Programs Unit
- f. External / Community-based agencies.

8.7 The development of the BSP must align with the range of ACTCS frameworks and documents that guide our work, including:

- a. Integrated Offender Management Framework
- b. Community Offender Management Framework
- c. Community Operations Practice Guide (in development)
- d. Community Operations Supervision and Resource Handbook (in development)
- e. Rehabilitation Framework
- f. Walking with Women on the Pathway to Change Framework
- g. Aboriginal and Torres Strait Islander Framework (in development)
- h. ACTCS Disability Action and Inclusion Plan

8.8 In being guided by the existing frameworks and documents, the accused person's BSP will include supports that are gender specific, culturally responsive, trauma informed, and inclusive of the additional needs required by those accused persons with disabilities.

9 PROGRAMS AND INTERVENTIONS

9.1 Where a bail condition specifies that the accused person engages with a specific program or service, the allocated supervising officer must assist the accused person to make contact with the listed service. The allocated supervising officer must support and encourage participation and undertake collateral checks with the relevant agency to monitor compliance with the condition.

9.2 With the accused person's consent, the allocated supervising officer will assist with referrals to non-criminogenic interventions and support services that address any

immediate, basic social and welfare needs that may hinder an individual's compliance with their Bail Order.

10 MANAGING NON-COMPLIANCE

- 10.1 ACTCS will report non-compliance with bail conditions or reasonable directions to police and the relevant court, 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.
- 10.2 Once non-compliance has been determined by a delegated staff member, an *Alleged Breach of Bail Report* must be approved by a Team Leader and submitted to relevant parties at the earliest opportunity following that determination, not exceeding three (3) business days.
- 10.3 Where the act of non-compliance has potential to cause imminent harm or risk to a community member, the victim/s or the accused person, an *Alleged Breach of Bail Report* must be approved by a Team Leader and submitted to relevant parties within one (1) business day of that determination.
- 10.4 Consultation with the Cultural Engagement Officer may assist in addressing alleged non-compliance for Aboriginal and Torres Strait Islander peoples prior to submitting an *Alleged Breach of Bail Report*.

11 BAIL PROGRESS REPORTS

- 11.1 Bail Progress Reports (BPRs) requested by the court must be prepared by a delegated staff member, approved by the Team Leader and provided to the court two (2) business days prior to the scheduled court date. The report must provide an accurate account of the accused person's compliance with their bail order or undertaking including any special conditions.
- 11.2 Requests for BPRs are registered by SAS and will be allocated directly to the supervising officer, as per regular process.

12 RELATED DOCUMENTS

- Bail Act 1992
- Human Rights Act 2004
- Bail Community Instruction
- Intake community Instruction
- Information Sharing with AFP Community Instruction

- Alleged Breach of Bail Report Integrated Offender Management Framework
- Community Offender Management Framework
- Community Operations Practice Guide (in development)
- Community Operations Supervision and Resource Handbook (in development)
- Rehabilitation Framework
- Walking with Women on the Pathway to Change Framework
- Aboriginal and Torres Strait Islander Framework (in development)
- ACTCS Disability Action and Inclusion Plan



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 Ag/Commissioner
 ACT Corrective Services
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