



AFP Practical Guide on drug diversions (ACT Policing)

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1. Disclosure and compliance

This document is classified **UNCLASSIFIED** and is intended for internal AFP use.

Disclosing any content must comply with Commonwealth law and the [AFP National Guideline on disclosure of information](#).

Compliance

This instrument is part of the AFP's professional standards framework. The [AFP Commissioner's Order on Professional Standards \(CO2\)](#) outlines the expectations for appointees to adhere to the requirements of the framework. Inappropriate departures from the provisions of this instrument may constitute a breach of AFP professional standards and be dealt with under Part V of the [Australian Federal Police Act 1979](#) (Cth).

2. Acronyms

ACT	Australian Capital Territory
AFP	Australian Federal Police
MDMA	Methylenedioxymethamphetamine

3. Definitions

Adult offender - means an offender who was an adult (at least 18 years of age) when the offence was committed.

Case officer - means the arresting member, the member in charge of an incident, the informant, or the member responsible for compiling a brief of evidence.

Caution - means a caution issued by a member to:

- an adult for any offence or
- a young person for any offence with due regard to s. 94 of the *Children & Young People Act 2008* (ACT).

Member - for the purposes of this guideline, means a sworn appointee of the Australian Federal Police.

Parent of a young offender - means a person with parental responsibilities for the young person within the meaning of the [Children and Young People Act 2008](#) (ACT).

Young offender - means an offender who was at least 12 but less than 18 years old when the offence was committed.

4. Authority

This Practical Guide was issued by the Chief Police Officer for the ACT under s. 37(1) of the [Australian Federal Police Act 1979](#) (Cth) as delegated by the Commissioner under s. 69C of the Act.

5. Introduction

This guideline outlines the roles, obligations and processes for appointees referring cases to the Drug Diversion Program.

6. Policy

The ACT Policing [Early Intervention and Diversion Program](#) ('the Drug Diversion Program') is funded by ACT Health and governed by a [memorandum of understanding](#) between ACT Health and the AFP.

7. Consideration for drug diversion

The drug diversion program should be considered:

- in all instances where the criteria for a diversion (as outlined in the eligibility section of this guide) can be met
- for persons who are found to be in possession of prohibited drugs, drugs of dependence or involved in the natural cultivation of 1 or 2 cannabis plants, contrary to Part 10 of the [Drugs of Dependence Act 1989](#) (ACT)
- for persons who are found to be unlawfully in possession of pharmaceutical drugs and poisons and chemicals controlled under the [Medicines, Poisons and Therapeutic Goods Act 2008](#) (ACT)
- for all young persons having been apprehended for minor possession of drug offences under the *Drugs of Dependence Act 1989* where the drugs were for personal use only.

Young offenders - considerations

The definition of 'young offender' is provided in the Definitions section of this instrument. Members should consider the relevant legislative and policy criteria for taking action on offences committed by young persons, including relevant sections of the [Criminal Code 2002](#) (ACT) and the [Crimes Act 1900](#) (ACT).

8. Eligibility criteria for drug diversion

A drug diversion will be considered for a person in circumstances where:

- the person has:
 - been apprehended for minor drug possession offences, and the drugs were for personal use only under the *Drugs of Dependence Act 1989* (ACT)
 - acknowledged ownership of the drug
 - admitted to the offence
 - consented to take part in a drug diversion after being informed of their responsibilities to attend one assessment and one treatment session to comply with the requirements of the program
 - not previously participated in the drug diversion program on more than two occasions.
- the offence was not committed in circumstances involving violence
- a drug diversion is in the:
 - public interest
 - interest of the individual involved and their immediate family
- the offence does not involve artificially grown (hydroponic) cannabis
- the weight of cannabis is no more than 25 grams or 2 plants
- there is no more than two amphetamine type stimulant tablets (often purporting to and/or

- containing MDMA), or other controlled substances sold in tablet form as ecstasy
- for all other drug types, there is only a small amount for personal use (approximately 25% of the trafficable amount).

9. Visitors to correctional facilities excluded

In accordance with the [Memorandum of Understanding the ACT Department of Corrective Services and the Australian Federal Police working relationships](#), visitors to the Alexander Maconochie Centre and Bimberi Youth Justice Centre found in possession of a prohibited substance or drug of dependence will *not* be issued with a Drug Diversion.

A drug diversion should also not be issued when persons are in possession of drugs in the car parks and immediate surroundings of corrections centres that may not actually fall within the grounds.

A prosecution in these circumstances should be commenced in relation to offences against the:

- [Corrections Management Act 2007](#) (ACT)
- [Drugs of Dependence Act 1989](#) (ACT) and/or
- [Medicines, Poisons and Therapeutic Goods Act 2008](#) (ACT).

10. Issuing a Drug Diversion Caution Notice

Where the eligibility criteria have been met and it is decided by the case officer that a Drug Diversion Caution Notice will be issued, the following actions must be undertaken:

- Inform the offender or parent/guardian that the incident will be officially recorded on AFP systems, however **will not** appear on national police checks.
- If the person is lodged in protective custody, the person should be spoken to once the person is sober and sufficiently able to understand the diversion process.
- Explain that to satisfy the conditions of the diversion, the person must attend an assessment (which generally occurs within 4 days of the referral) as well as the first treatment session as determined by the ACT Health Diversion Service.
- Enter all details of the diversion into the SupportLink referral network.
- Ensure the offender (or for a young offender, the parent or guardian) signs the Drug Diversion Caution Notice. Where verbal consent is given, mark the 'verbal consent given' box.
- Enter all relevant circumstances and incident details in the s37(2)(b) within 48 hours and complete a statement of facts and clear the offence by Drug Diversion (note that sufficient information to initiate a successful prosecution should be entered into the statement of facts).
- Lodge the drug seizure in accordance with the [AFP National Guideline on property and exhibits](#) s37(2)(b)
- Issue a Preservation Order Notice in accordance with the [AFP National Guideline on property and exhibits](#).

11. Record decisions not to undertake diversion

Where one or more of the eligibility criteria have not been met the case officer must:

- specify the reasons why the offender did not meet the eligibility criteria on PROMIS
- consider alternative means to progress the matter, for example issuing a Simple Cannabis Offence Notice or initiating a prosecution.

s37(2)(b)

12. Compliance or non-compliance with diversion

The Police Early Diversion Clinician, Diversion Service, will notify the case officer of the offender's compliance or non-compliance of a drug diversion.

In the instance of compliance, the case officer will be notified the matter is finalised and advised to arrange for the substance to be destroyed via the ACT Drug Registrar.

Where there has been non-compliance, the case officer should pursue alternative action via the court.

s37(2)(b)

A Simple Cannabis Offence Notice must not be issued as an alternative action for non-compliance in the drug diversion program.

A formal police caution must not be issued as:

- an alternative action for non-compliance in the drug diversion program
- a means of resolving a drug related offence as the only means of cautioning is via the drug diversion program.

13. Further advice

Any queries relevant to the content of this Practical Guide should be referred to the Drug and Alcohol Coordinator.

14. References

Legislation

- [*Australian Federal Police Act 1979*](#) (Cth)
- [*Children and Young People Act 2008*](#) (ACT)
- [*Corrections Management Act 2007*](#) (ACT)
- [*Crimes Act 1900*](#) (ACT)
- [*Criminal Code 2002*](#) (ACT)
- [*Drugs of Dependence Act 1989*](#) (ACT)
- [*Medicines, Poisons and Therapeutic Goods Act 2008*](#) (ACT).

AFP governance instruments

- [AFP National Guide on property and exhibits](#)
- [Memorandum of Understanding the ACT Department of Corrective Services and the Australian Federal Police working relationships](#)

[Memorandum of Understanding between the AFP and the Health Protection Service.](#)