

Briefing Paper #1

**Court Mandated Diversion (CMD)**

**What is the CMD?**

* CMD is a treatment program within a legal framework.
* The Court Mandated Diversion (CMD) program is a sentencing option available in the Supreme Court and the Magistrate’s Court in Tasmania.
* Sentencing to a Drug Treatment Order (DTO) is a decision that is made by the Court.
* It is a therapeutic jurisprudence approach designed to assist people with a demonstrable illicit drug use problem whose drug use is linked with their offending.
* CMD aims to break the drug-crime cycle using the authority of the court to ensure that offenders access the services and treatment necessary to address the issues that contribute to their drug use and offending.

**Eligibility?**

To be *eligible* to be sentenced to a Drug Treatment Order the following conditions must be met:

* + Be 18 years of age or over
  + Have entered pleas of guilty or have been found guilty to all offences referred for assessment to the CMD program
  + Be facing a penalty of imprisonment for the offences that would not otherwise be wholly or partially suspended if they were not being assessed for the program
  + Have a demonstrable history of illicit drug use that contributed to the offences currently before the Court
  + Be willing to participate in supervised treatment with the CMD program

A person is *not eligible* to be sentenced to a Drug Treatment Order if they:

* + Have sexual offences outstanding in any Court
  + Have offences involving the infliction of serious actual bodily harm outstanding in any Court

**General Features**

* A DTO includes a *custodial component*. This is a term of imprisonment that the Court has imposed for the offences attached to the DTO. The custodial component is effectively 'on hold' whilst the participant maintains engagement with CMD and complies with the conditions of the DTO. Should the participant no longer meet these conditions, the Court is able to activate the custodial component of the sentence.
* A DTO has no set time limit; however it must be reviewed by the Court at 24 months from the commencement date.
* Usually, participants will take between 18 and 24 months to complete the program. A DTO is comprised of three phases, which also, have no set time limit. Progression through the phases is a result of the participant's performance. The three phases are:
  + Stabilisation;
  + Consolidation; and
  + Reintegration.

**Obligations**

* Offenders sentenced to a DTO have many restrictions placed on them and are required to meet various obligations, to help support the individual to break the drug-crime cycle and recover from drug abuse. Whilst on a DTO an offender must abstain from all illicit drug use. Other conditions that are generally included on a DTO are that the offender must:
  + Submit to regular, random urinalysis
  + Attend regular face-to-face case management appointments with a Court Diversion Officer (CDO)
  + Attend regular court reviews with a Magistrate
  + Attend individual counselling and group programs Additional conditions added to a DTO during the course of an order to better manage a participant’s progress will be explained to the offender by the court or their supervising CDO
* The *Magistrate* has an ongoing role in regularly reviewing the progress of individuals on a DTO through regular court appearances. They will ask the *Court Diversion Officer* (CDO) to provide progress reports regarding the offender's participation in the program for each court review.

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