

# Information Sheet: Community Treatment Orders



## What is a Community Treatment Order (CTO)?

A Community Treatment Order (CTO) is a legal order made by either the Mental Health Review Tribunal or, in very limited circumstances by a Magistrate. Under a CTO a patient may be ordered to accept treatment, care and management to be provided in the community by a nominated mental health facility. CTOs are intended to allow people, who might otherwise be detained in a mental health facility, to live in the community and get the treatment, care and support they need in a less restrictive setting.

## What is a Treatment Plan?

This is a plan which sets out how a person will be managed while on the CTO. This plan is usually prepared by the psychiatric case manager and must be presented to the Tribunal for approval when a CTO is being applied for or to a Magistrate if a CTO is being considered as part of a Court hearing. The treatment plan should be personalised and adapted to include conditions that fit the particular circumstance of the individual and should comply with the specific requirements of the Mental Health Act 2007. The treatment plan should clearly outline the obligations of both the client and the treating team. The implementation of this plan is the responsibility of the case manager and the client.

## When can a CTO be made?

A CTO can be made by the Tribunal for a person who is detained in, or is a patient in a mental health facility, or a person who is living in the community. A Magistrate can make a CTO for someone who is a mentally ill person and has a matter before the Court. The Tribunal or Magistrate must consider whether the person would benefit from an order that provides safe and effective care in the least restrictive environment. The Tribunal must also be satisfied that the community mental health team has an appropriate treatment plan and is capable of implementing it.

## Who can apply to the Tribunal for a CTO?

The following persons may apply for a CTO:

- The Authorised Medical Officer of a mental health facility;
- A Medical Practitioner who is familiar with the clinical condition of the person;
- A Director of Community Treatment of a mental health facility who is familiar with the clinical condition of the person;
- A designated carer or a principal care provider of the person.

Written notice of the application and a copy of the treatment plan must be provided to the client. If the client is not on a current CTO or detained in a mental health facility at the time of the hearing, the application may generally only be heard 14 clear days after the notice is given, unless the Tribunal decides that an earlier hearing is in the best interests of the client. In all other cases notice should be given with sufficient time to allow the subject person to adequately prepare for the hearing and to seek legal or other assistance if they wish.

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The client's designated carer(s) or principal care provider should also be notified of the application for a CTO.

## How does the Tribunal decide about a CTO application?

Before making a CTO the Tribunal must be satisfied that:

- The person would benefit from the CTO as the least restrictive form of care that is safe and effective;
- The mental health facility has an appropriate treatment plan and is capable of implementing it; and
- If the person has been previously diagnosed as suffering from a mental illness, the person has a previous history of refusing to accept appropriate treatment;
- If the person has within the last 12 months been the subject of a CTO, the Tribunal is not required to make a determination in relation to the previous point but it must be satisfied that the person is likely to continue in or to relapse into an active phase of mental illness if the order is not granted.

The Tribunal will consider medical or other reports as well as the evidence of the client and their carers. The client may be legally represented at the Tribunal's hearing.

## When does a CTO come to an end?

A CTO can be made for a period of up to 12 months and ends on the date stated on the order, or if no date is specified, 12 months after the order was made. An application can be made for a new order if a previous CTO has expired.

A CTO can also end if:

- The Director of the mental health facility revokes the CTO; or
- The person successfully appeals to the Supreme Court, or if on a Magistrates order to the MHRT; or
- The Tribunal revokes the CTO.

## Varying or revoking a Community Treatment Order

It is possible to apply to the Tribunal to vary or revoke a CTO. However an application may only be made if:

- There has been substantial or material change in the circumstances surrounding the making of the order; or
- Relevant information not available when the order was made has become available.

An application to vary or revoke the CTO may only be made by the affected person or the psychiatric case manager implementing the order or by a person who could have applied for the order. The application should be in writing and should explain how the circumstances have changed or what new evidence is now available. Legal assistance may be available from the Mental Health Advocacy Service on (02) 9745 4277.

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A CTO may need to be varied when the client has moved into a different area, or there has been a substantial change in the treatment plan. For example, a new medication has been introduced which requires regular blood tests that was not in the original treatment plan.

## What happens if the client does not follow the order?

If the person who is subject to the CTO refuses or fails to comply with the treatment plan and there is a significant risk of mental or physical deterioration they can be in breach of the order. This means that the Director of the mental health facility can warn them that if they do not comply with the order they can be taken to a specified mental health facility and treated there. If the person continues to refuse treatment, he or she can be given written breach notice that they must go with a member of staff to the mental health facility and that the police can be called to assist. If the person refuses to comply with the breach notice, the Director may issue a breach order for the person to be taken to a specified mental health facility to receive treatment.

Once at the mental health facility the person may be released if treatment is accepted or they can be taken to another mental health facility. The mental health facility must assess the person, decide if treatment is appropriate and, if so, provide it. The person can then be either discharged or detained on an involuntary basis while remaining under the CTO, providing they meet the legal definition of a “mentally ill” or “mentally disordered” person. If taken to a mental health facility the person must be given notice of his or her rights to a review by the Tribunal, the appeal process and how to apply for discharge from the mental health facility.

## Appealing against a Community Treatment Order

If the CTO was made by the Tribunal the client may appeal to the Supreme Court on any question of law or fact arising from the order or against the duration of the order if it is more than six months, or if no expiry date was set. Legal assistance may be available from Legal Aid on (02) 9745 4277.

If the CTO was made by a Magistrate then an appeal can be made to the Tribunal. Clients wishing to appeal to the Tribunal should write to the Tribunal and explain the reasons for their appeal.

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