



**ACT**  
Government  
Health

# Mental Health, Justice Health and Alcohol & Drug Services (MHJHADS)

## Mental Health Orders



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Fortunately, the majority of people with a mental disorder or mental illness will have decision-making capacity. They are able to choose whether or not they receive treatment, care or support and the form that this takes.

However, at times where a person does not have decision-making capacity and/or where their mental illness or mental disorder is placing them or the community at significant risk, involuntary measures may be required to provide the necessary assessment, treatment, care or support for that person. The following sections outline a number of the processes involved in assessment, treatment, care or support.

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There are a number of mental health orders that the ACT Civil and Administrative Tribunal (ACAT) can make under the *Mental Health Act 2015* including:

- Psychiatric Treatment Orders (for people who have a mental illness);
- Community Care Orders (for people who have a mental disorder);
- Restriction Orders (where a person with a mental illness or mental disorder must reside/ be detained or not approach particular places or people or do particular activities);
- Forensic Psychiatric Treatment Orders; and
- Forensic Community Care Orders.

## **Psychiatric Treatment Order (PTO)**

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The ACAT may make a Psychiatric Treatment Order (PTO) if it finds that:

- the person has a mental illness; and
- the person refuses to receive treatment, care or support where they do not have decision-making capacity or where they do not consent to treatment, care or support and do have decision-making capacity; and
- the person is doing, or is likely to do, serious harm to themselves or someone else, or that they are suffering, or likely to suffer, serious mental or physical deterioration; and
- the harm or deterioration is so serious that it outweighs the person's right not to consent; and
- psychiatric treatment, care or support are likely to reduce the harm or deterioration (or the likelihood of it) or lead to an improvement in the mental illness that the person is experiencing; and

- the treatment care or support cannot be adequately provided to the person in another way which would involve less restriction on their freedom of choice and movement.

## **Information included in the PTO**

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A PTO includes information about the treatment including where and when it is to be provided, the type/s of treatment provided, and who will be involved in providing the treatment. A PTO may be made for any period up to six months but must be reviewed prior to its expiry date or at any time where it is assessed as no longer necessary.

## **What happens if a PTO is granted?**

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Once a PTO has been made, the Chief Psychiatrist (or their delegate) is legally responsible for the treatment, care or support provided to the person who is subject to the order.

## **Determination of treatment, care or support**

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The Chief Psychiatrist (or their delegate) needs to make decisions about the sort of treatment, care or support, which the person will receive through a PTO and must determine:

- what psychiatric treatment, care or support the person is going to be given and ensure that the nature of the treatment, including any side effects are explained to the person;

- whether the person needs to be admitted to an approved mental health facility to receive treatment, care or support. If the person does need to be admitted, the determination must advise if the person can be given leave from that facility;
- when and where the person will need to attend to receive treatment, care or support, if the person is being treated in the community.
- These decisions must be made by the Chief Psychiatrist (or their delegate) within 5 working days of the PTO being made by the ACAT.

## **Consultation on treatment, care or support**

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If a psychiatric treatment order has been made for a person, the Chief Psychiatrist (or their delegate) must consult with that person. They must find out about the person's opinions and views around:

- whether or not they should be treated;
- where treatment is to occur;
- whether the person must be admitted for treatment; and
- the type/s of treatment the person might be given.

There are a range of things that a person might wish to discuss with or ask the Chief Psychiatrist (or their delegate). For example:

- What treatment/s is being considered and why?
- The past treatment, care or support that have worked for person previously;
- What types of treatment, care or support the person may or may not want and their reasons.

The person's opinions and views must be taken into consideration but this does not necessarily mean that the treatment, care or support will be provided according to the person's wishes.

In considering the types of treatment, care or support that the person is to receive, the Chief Psychiatrist (or their delegate) should also consult with the following people, if they are involved in the person's care:

- Parent/s or those who have parental responsibility, if the person is a child;
- the Nominated Person;
- the Guardian;
- the Attorney;
- the Health Attorney;
- the Corrections Director-General, if the person is a detainee, on bail or parole; and
- the Children and Young People's Director-General, if the person is a child who is a detainee or on bail.

The Chief Psychiatrist (or their delegate) must give a copy of their determination to the following people, if they are involved in the person's care:

- the person;
- those who have parental responsibility, if the person is a child;
- the ACAT;
- the Public Advocate;
- the Nominated Person;
- the Guardian;
- the Attorney; and
- the Health Attorney.

## Can a PTO be ceased?

If the Chief Psychiatrist (or their delegate) believes that a PTO is no longer required, they must notify ACAT and give notice to those above in stating the reasons they believe the PTO is no longer required and seek their input.

Either the carer or nominated person is able to:

- make a submission to the ACAT if they believe that the order should not be ceased; and
- apply to the ACAT to attend the hearing.

## Community Care Order (CCO)

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A Community Care Order (CCO) is a type of mental health order for people who experience a mental disorder. CCOs are applied for by a person with authority to give the treatment, care or support proposed to be given to the subject of the order.

The ACAT may make a CCO if it finds that:

- the person has a mental *disorder*; and
- the person refuses to receive treatment, care or support and does not have decision-making capacity or they do not consent to treatment, care or support and do have decision-making capacity; and
- there are reasonable grounds for the ACAT to believe that because of the mental disorder the person is doing, or are likely to do, serious harm to themselves or someone else or that they are suffering, or likely to suffer, serious mental or physical deterioration; and
- the harm or deterioration is so serious that it outweighs the person's right not to consent; and
- a psychiatric treatment order should not be made instead; and

- the treatment care or support cannot be adequately provided to the person in another way which would involve less restriction on their freedom of choice and movement.

## **What information is included in the CCO?**

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A CCO includes information about the treatment, care or support to be provided to the person. This includes where and when it is to be provided, the type/s of treatment, care or support provided, and who will be involved in providing the treatment. A CCO may be made for any period up to six months but must be reviewed prior to its expiry date or at any time where it is assessed as no longer necessary.

## **What happens if a CCO is granted?**

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Once a CCO has been made, the Care Coordinator is responsible for coordinating the treatment, care or support of the person who is subject to the order. The Care Coordinator will typically delegate coordination of the treatment, care or support to someone else suitably qualified to perform the role.

## **Decisions about treatment, care or support**

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The determination made by the Care Coordinator needs to contain the times when and the place where the person needs to go to:

- receive treatment, care or support (under the order); or
- do a counselling, training, therapeutic or rehabilitation program;



The Care Coordinator (or their delegate) also needs to ensure that the nature of the treatment, care or support, including any side effects are explained to the person in a way that they are most likely to understand.

These decisions need to be made by the Care Coordinator (or their delegate) within 5 working days of the CCO being made by the ACAT.

## **Consultation on treatment, care or support**

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If a CCO has been made, the Care Coordinator (or their delegate) must consult with the person who is subject to the order. The Care Coordinator (or their delegate) must try to find out the person's opinions and views around where and when they will be required to go to receive treatment, care or support or to do a counselling, training, therapeutic or rehabilitation program.

There are a range of things that a person might wish to discuss with or ask the Care Coordinator (or their delegate). For example:

- What treatment, care or support or counselling, training, therapeutic or rehabilitation program is the Care Coordinator considering and why;
- Where and when the treatment, care or support OR counselling, training, therapeutic or rehabilitation program will take place;
- The past treatment, care or support that have worked for person previously including examples;
- What types of treatment, care or support the person may or may not want and the reasons for this.

- In getting the person's opinions and views, this input must be taken into consideration by the Care Coordinator (or their delegate).

The Care Coordinator must not determine the nature of the treatment, care or support the person is to receive. Instead the Care Coordinator will consult other service provider/s that would be responsible for providing the person with treatment, care or support such as 'professional carers', and allied health professionals.

In considering the types of treatment, care or support that the person is to receive, the Care Coordinator (or their delegate) should consult with the following other people and parties if they are involved in the person's care:

- those who have parental responsibility, if the person is a child;
- the Guardian;
- the Attorney;
- the Carer;
- the Nominated Person;
- the Health Attorney;
- the Corrections Director-General, if the person is a detainee, on bail or parole; and
- the Children and Young People's Director-General, if the person is a child who is a detainee or on bail.

The Care Coordinator must give a copy of their determination to the following people, if they are involved in the person's care:

- the person;
- those who have parental responsibility, if the person is a child;
- the ACAT;

- the Public Advocate;
- the Guardian;
- the Attorney; and
- the Nominated Person; and
- the Health Attorney.

### ***Can a CCO be ceased?***

If the Care Coordinator believes that a CCO is no longer required, they must give notice to the ACAT, and those listed above in 4.3.4 stating the reasons they believe the CCO is no longer required and seeking input from them.

Either the carer or nominated person is able to:

- make a submission to the ACAT if they believe that the order should not be ceased; and
- apply to the ACAT to attend the hearing.

## **Restriction Orders**

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A Restriction Order can be made in addition to either a PTO or CCO for a maximum of three months.

In addition to a PTO or a CCO, ACAT may make a Restriction Order on a person if ACAT believes that:

- it is necessary to do so for the person's health and safety or the health and safety of someone else or the public; and
- treatment cannot be adequately provided in a way that involves less restriction of the person's freedom of choice and movement.

The Restriction Order may place restrictions on people or places that the person is allowed to approach, or identify specific activities the person must not undertake. A Restriction Order may also state where the person is to live, or be detained.

## Feedback

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Mental Health, Justice Health and Alcohol and Drug Services encourage and support consumer and carer participation and feedback. If you wish to provide comments your first point of contact should be the team leader of the Mental Health Team you are working with. This will allow you to confidentially discuss the matter, and in the case of a complaint seek a resolution at this point. If your complaint is not resolved to your satisfaction at this point, the Team Leader will provide you with the Consumer Listening and Learning Feedback Form. The form should then be sent to the Consumer Engagement and Feedback Team.

If assistance is required to complete the form and ensuring the relevant information is provided, please contact the Consumer Engagement Feedback Team.



**Phone** 6244 2740



**Fax** 6244 4619



**Hours** 8.30 am to 5.00 pm  
Monday to Friday



**Mail** Consumer Engagement Feedback  
Team, GPO Box 825 Canberra  
ACT 2601



**Email** [HealthFeedback@act.gov.au](mailto:HealthFeedback@act.gov.au)

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**Mental Health Justice Health Alcohol and Drug Services (MHJHADS) is a smoke free environment in line with the ACT Health's Smoke Free Workplace Policy.**

For more information on the smoke-free environment initiative go to:

<http://www.health.act.gov.au/health-services/mental-health-act/smoke-free-environment>







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