



COMMUNITY TREATMENT ORDERS 13

Mental Health Act 2009

WHAT IS A COMMUNITY TREATMENT ORDER?

A community treatment order (CTO) made under the *Mental Health Act 2009* (the Act), requires a person with a mental illness to comply with treatment for that mental illness even if they do not want to.

A CTO affects the person while they are living in the community. It does not authorise involuntary treatment of a mental illness as an inpatient. For information about inpatient treatment orders see information sheet 12 *Inpatient Treatment Orders (Mental Health Act 2009)*

WHEN CAN A COMMUNITY TREATMENT ORDERS BE MADE?

A CTO can be made for a person when:

- (a) *the person has a mental illness: an*
- (b) *because of the mental illness, the person requires treatment for the person's own protection from harm (including harm involved in the continuation or deterioration of the person's condition) or for the protection of others from harm: and*
- (c) *there are facilities and services available for appropriate treatment of the illness: and*
- (d) *there is no less restrictive means than a community treatment order of ensuring appropriate treatment of the person's illness.*

"No less restrictive means of treatment" means that *consideration must be given, amongst other things, to the prospects of the person receiving all treatment of the illness necessary for the protection of the person and others on a voluntary basis or on a community treatment order* (section 10(2) of the Act).

HOW DOES THE COMMUNITY TREATMENT PROCESS WORK?

There are two levels of community treatment orders:

Level 1: maximum 28 days

A level 1 order can be made initially by a medical practitioner* or an authorised health professional (a nurse, social worker, psychologist or occupational therapist recognised as having special mental health training). *Medical practitioner includes psychiatrists and authorised medical practitioners (medical practitioners recognised to have advanced mental health training).

If the order was not made by a psychiatrist or authorised medical practitioner, the person must be examined and the order reviewed, and confirmed or revoked, by a psychiatrist or authorised medical practitioner within 24 hours, or if that is not possible, as soon as practicable.

A level 1 CTO can be varied or revoked by a psychiatrist or authorised medical practitioner at any time while they are in effect. The South Australian Civil and Administrative Tribunal (the Tribunal) must review level 1 CTOs as soon as practicable after the order is made.

Office of the Public Advocate

The Public Advocate is an independent statutory officer accountable to the South Australian Parliament.

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Level 2: maximum 12 months for an adult and 6 months for a child

A level 2 order is made by the Tribunal, on application from a medical practitioner, a mental health clinician, a guardian, medical agent, relative, friend, carer or any other person who is judged to have a “proper interest” in the matter (i.e. a genuine interest in the welfare of the person). The Public Advocate may also apply for a level 2 CTO. The Tribunal may make a level 2 order in place of other treatment orders when reviewing those orders. The level 2 order may, on application, be varied or revoked by the Tribunal at any time while it is in effect. The Tribunal must review the circumstances of a child after 3 months if a level 2 CTO is still in place.

WHAT RIGHTS DOES THE PERSON UNDER THE ORDER HAVE?

A person subject to a community treatment order must be given a statement of their legal rights and a copy of the order (and subsequent variations or revocations of the order). Assistance must be provided for those who have difficulty understanding any of the information provided, including, where appropriate, interpreter assistance.

A guardian, medical agent, relative, carer or friend of the person should also receive this information unless their whereabouts cannot be located or it is considered not to be in the person’s best interests to release this information. Assistance must be provided for patients who have difficulty understanding the order and information provided. Interpreter services must also be provided if required.

Treatment and Care Plans must be developed for to govern treatment of a person subject to a level 2 CTO. This must be done in collaboration with the person and their support person(s). A person who is subject to an inpatient treatment order may request the involvement of a guardian, medical agent, relative, carer or friend or advocate in significant meetings with treating staff.

WHAT IS THE EFFECT OF A COMMUNITY TREATMENT ORDER?

A person under a CTO can be given psychiatric treatment for a mental illness whether or not they agree to the treatment. This may mean being required to attend appointments with mental health workers or having medication regularly administered.

CAN A COMMUNITY TREATMENT ORDER BE REVIEWED AT ANY TIME ?

Yes. An application for review of a CTO can be made to the Tribunal at any time the order is in effect, and the Tribunal must revoke the order if it is not satisfied there are proper grounds for it to continue. An application for review can be made by the person subject to the order, their guardian, friend, relative or medical agent, the Public Advocate, or any other person the Tribunal considers has a proper interest. Review of a level 1 CTO is undertaken by the Tribunal’s ‘original’ jurisdiction.

Review of a level 2 CTO, made by the Tribunal, is undertaken by senior members of the Tribunal who were not involved in the original decision. The review is a fresh look at the decision, taking into account the information provided when the order was made and any other information accepted by the Tribunal.

A legal representation scheme is provided free of charge to the person who is subject to the ITO being reviewed. The person is entitled to be represented by a lawyer and can be provided with a lawyer or arrange their own representation. Other parties to a review will need to make their own arrangements and payment for legal representation.