

SMART COURT – GUIDELINE

Rewards and Sanctions

1. Purpose

- 1.1 Pursuant to section 24 of the *Substance Misuse Assessment and Referral for Treatment Act* the SMART Court may confer rewards if the offender has maintained a satisfactory level of compliance with the SMART Order or may impose sanctions if the offender has not done so.
- 1.2 A system of sanctions and rewards encourages both participation and achievement of success by participants.
- 1.3 A defined and transparent system for the just and consistent application of those sanctions and rewards assists the Court in fairly administering the process.

2. Policy

- 2.1 To ensure a just and consistent system of sanctions the following table provides a guideline to the level of sanctions that may be imposed by the Court. Sanctions will be decided having regard to the nature of the participant's conduct, the individual circumstances of the participant, the past conduct of the participant, and any other relevant factor.
- 2.2 The Court may decline to impose custodial sanctions for breaches of a SMART Order or may decline to impose such sanctions immediately. The Court may, for example, deal with any breach by way of a warning, by increasing the commitments or level of supervision of the participant, or by requiring the participant to undertake a specific task, or may suspend the imposition of sanction upon the participant complying with conduct requirements.
- 2.3 The Court may also impose additional or higher sanctions in appropriate cases.
- 2.4 As a guide, and at the Magistrate's discretion, custodial sanctions will accrue to a maximum of fourteen suspended days before the sentence must be served.

3. REWARDS

3.1 Behaviour giving rise to rewards

- Satisfactorily complying with the program for a significant period.
- Demonstrating responsibility (eg. demonstration of trust in the SMART Court by notifying of problems as they arise).
- Demonstrating stability (eg. addressing lifestyle and relationships, obtaining employment / training).
- Demonstrating engagement with treatment providers, clinician, support workers or other members of the SMART Court Team.
- Displaying an outstanding attitude to the program.
- Demonstrating initiative (eg. by undertaking course or study beyond what is required).
- Satisfactorily completing components of the action plan, such as rehabilitation programs.
- Any other conduct warranting acknowledgement.

3.2 Pursuant to section 25, rewards may be:

- An appropriate change in the frequency of treatment.
- A decrease in supervision.
- A lengthening of the intervals at which the offender must be tested for the consumption or use of a substance.
- A change in the programs, course or activities in which the offender must participate.
- A change in the services the offender receives.

4. SANCTIONS

4.1 Behaviour giving rise to sanctions

- Committing further offences.
- Using prohibited drugs or alcohol contrary to an Order.
- Using medication, otherwise than in accordance with prescription.
- Testing positive to the use of drugs, alcohol or other substances that have been prohibited under the participant's action plan.
- Failing to disclose the use of drugs, alcohol or other substances that have been prohibited.
- Failing to provide a drug test sample (urine, breath or saliva) when requested by a person authorised to collect the sample.
- Failing to punctually attend or attend any SMART Court review, treatment appointment, counselling or any other appointment as direct by the SMART Court, the participant's clinician or treatment provider.
- Failing to perform a specified component of the participant's program.
- Failing to obey any reasonable direction of the SMART Court, the participant's clinician or the participant's treatment provider.
- Any other failure to comply with the conditions in the SMART Order.

4.2 Pursuant to section 25, sanctions may be:

- An appropriate change in the frequency of treatment.
- An increase in supervision.
- A shortening of the intervals at which the offender must be tested for the consumption or use of a substance.
- A change in the programs, courses or activities in which the offender must participate.
- A change in the services the offender receives.
- A requirement that:
 - (i) if the offender is a youth – the offender be detained for up to 14 days in relation to any one failure to comply with a condition or the order; or
 - (ii) if the offender is an adult – the offender be imprisoned for up to 14 days in relation to any one failure to comply with a condition of the order.

NATURE AND BREACH	GUIDELINE SANCTION
Rehabilitation Attendance	
Absconding from residential rehabilitation centre and attending SMART Court as soon as practicable.	Up to 7 days
Absconding from residential rehabilitation centre and attending SMART Court after a short delay.	7 days
Absconding from residential rehabilitation centre and not attending SMART Court until arrested.	14 days to revocation
Failing to enter residential rehabilitation centre and not attending SMART Court until arrested.	14 days to revocation
Being discharged from residential rehabilitation for breaking rules or using banned drugs or alcohol.	7 days
Being discharged from residential rehabilitation and not attending SMART Court until arrested	14 days to revocation
Failing to attend alcohol and/or drug counselling appointment but calling to reschedule.	Up to 2 days
Failing to attend alcohol and/or drug counselling appointment without rescheduling.	2 days
Attending SMART Court	
Failing to attend SMART Court for review without medical certificate.	2 days
Failing to attend SMART Court as directed and remaining at large for a period in excess of 48 hours, but attending court of own free will.	Up to 4 days
Failing to attend SMART Court as directed and remaining at large until arrested on warrant.	14 days to revocation
Non-compliance with SMART Order / Action Plan	
Unauthorised change of address where required to reside at a particular address, unless in crisis.	Up to 4 days
Failure to keep in contact with Clinician for a significant period.	Up to 4 days
Failure to attend appointment as per action plan.	1 day
Failure to be home or available for home visit by case manager / corrections officer.	1 day
Failing to comply with direction of team member, case manager or treatment provider.	1 day
Repeated failure to be available for home visit or to comply with directions.	3 days
Drug and alcohol use (where alcohol not permitted)	
Using prohibited drugs/alcohol – isolated drug use with free admission.	Up to 1 day
Using prohibited drugs/alcohol - multiple drug use with free admission.	Up to 1 day for each drug on each occasion
Using prohibited drugs/alcohol – isolated use and late admission (eg. when confronted with result).	2 days
Unadmitted drug/alcohol use.	3 days
Using unauthorised prescribed medication – multiple incidents.	2 days

Failure to provide urine sample as agreed in SMART order.	1 day
Using prohibited or non-prescribed drugs and/or alcohol in custody.	14 days immediately
Exceeding a blood alcohol level of .05.	1 day
Pharmacotherapy	
Failure to collect methadone or buprenorphine - isolated incident.	Warning
Failure to collect methadone or buprenorphine – multiple incidents.	4 days
Contempt	
Subverting (or attempting to) urine collection or breath testing.	Revocation
Threatening violence or the perceived threat of violence.	Revocation
Breach of good behaviour.	3 days to revocation