

# BREAKING BREAKING THE CYCLE

breaking the cycle of alcohol abuse,  
violence and anti-social  
behaviour

## Q&A

### *Alcohol Court Act 2005*

These questions and answers give some further information about the Alcohol Court. It should be read with Fact Sheet 1 *Alcohol Court Act 2005*, which is available at [www.justice.nt.gov.au](http://www.justice.nt.gov.au).

The Alcohol Court is established by the *Alcohol Court Act 2005*.

#### ***The Alcohol Court will:***

- Only deal with offenders who are dependent on alcohol
- Make alcohol intervention orders, prohibition orders and other types of sentencing orders

The final report of the Alcohol Framework recommended the establishment of an Alcohol Court (recommendation 25, July 2004).

#### ***Q Who will run the Alcohol Court; and will it be part of the Magistrates' Court?***

**A** The Alcohol Court will be constituted by a Magistrate assisted by court clinicians. The Alcohol Court will only be able to deal with offenders who would normally be dealt with by a Magistrate – serious offenders (accused of homicide, rape, armed robbery etc) will continue to be dealt with by the Supreme Court and cannot be referred to the Alcohol Court.

The Alcohol Court is based on the CREDIT program (Court referral and evaluation for drug intervention and treatment) for illicit drug offenders which has operated at Darwin and Alice Springs Magistrates' Courts for the last 2 years. The Alcohol Court will complement the CREDIT program and provide more opportunities for offenders to be referred to assessment and treatment as part of the court proceedings. The Alcohol Court is also based on drug courts operating in other Australian states.

#### ***Q Who can be sent to the Alcohol Court?***

**A** Only people charged with a criminal offence can be referred to the Alcohol Court. The legislation sets out the criteria for referral to the Court, the most important one being that the offender appears to be dependent on alcohol.


The legislation does not affect people who are taken into protective custody by police, or who are 'moved on' by police who are not charged with any criminal offences.

#### ***Q What sort of orders can the Alcohol Court make?***

**A** The Court will be able to make alcohol intervention orders, prohibition orders and sentencing orders (currently available under the *Sentencing Act*).

**Alcohol intervention orders** are a new form of sentencing order, designed to divert people who would otherwise be sentenced to a term of imprisonment for the offence they committed into community based treatment and rehabilitation. The order consists of a term of imprisonment, that is suspended fully or partially, and a treatment and supervision component. The Court can only make an alcohol intervention order where the offender agrees to the order being made, the court clinician advises the court that the





offender is dependant on alcohol and the offender's dependency on alcohol contributed to the commission of the offence.

The Court can only make an alcohol intervention order if it would be appropriate to impose a term of imprisonment for the offence for which the person is before the Court.

**Prohibition orders** are not a sentencing order – but can be used in conjunction with sentencing and bail orders.

The Court can only make a prohibition order if satisfied that the offender is dependent on alcohol and would benefit from withdrawal or a reduction in the consumption of alcohol, or treatment. Before making a prohibition order the Court must also be satisfied that the order is necessary to protect the offender from *severe harm*, or from causing a serious risk to the health and safety of other people. Severe harm means physical or neurological harm, or significant deterioration or damage to the person's mental condition, as a result of regular and excessive consumption of alcohol.

It is not necessary for the offender to consent to a prohibition order. There is no penalty for failing to comply with a prohibition order.

If the order is incorporated into bail conditions, or a sentence (such as a good behaviour bond) then a failure to comply with the prohibition order would be dealt with as a breach of bail, or sentence. Where a prohibition order is incorporated into a good behaviour bond, but the person breaches the prohibition order, the Court cannot impose a punishment on the offender that would exceed the punishment that might otherwise have been given for the original offence. There is no offence for failing to comply with a bail condition, and failure to comply with bail conditions may lead to revocation of bail.

**Q** *How does the Alcohol Court decide whether an offender is dependent on alcohol in order to decide whether to make an alcohol intervention order, or a prohibition order?*

**A** Before the Court can make an alcohol intervention order or a prohibition order it must order an assessment report that is prepared by a court clinician. Court clinicians have the qualifications and experience necessary to give advice about whether a person is dependent on alcohol, whether they are likely to benefit from treatment, and the treatment options that are most appropriate for the offender and are available. Part of the court clinician's assessment will be directed at considering whether the offender is likely to be able to successfully complete treatment.

The court clinicians will work closely with government and non government treatment agencies to ensure that the referral process operates smoothly. Treatment services will not be forced to accept clients and will not be obliged to accept a referral from the Alcohol Court.


When the Court is deciding whether to make a prohibition order it can also take into account the number of times the offender has been taken into protective custody, the criminal history of the offender and whether alcohol was a contributing factor in the commission of the previous offences

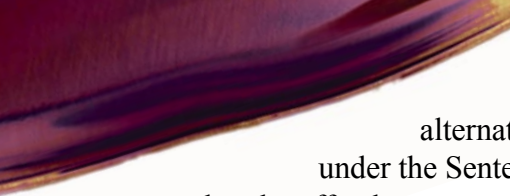
The Court will not make orders where appropriate withdrawal and treatment services are not available for a particular offender. In these cases the Court will simply deal with the offender for the offence, and not make any alcohol intervention order, or prohibition order.

**Q** *Why are the conditions of alcohol intervention orders strict? Why do they include a condition that the offender must not consume alcohol while they undertake the treatment and supervision component of the order?*

**A** Alcohol intervention orders are designed to act as an alternative to imprisonment, and allow an offender to undertake community based treatment and rehabilitation.

The core conditions of an alcohol intervention order are that the person must

- stay in the Territory;
  - not commit other offences punishable by imprisonment;
  - not consume alcohol;
  - undergo specified treatment; and
  - be supervised by correctional services.
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Like home detention, the conditions attached to an alcohol intervention order need to be fairly strict, otherwise they could not operate as a realistic alternative to a term of imprisonment. Home detention orders, currently available under the Sentencing Act as an alternative to actual imprisonment, also have a requirement that the offender not consume alcohol during the period of the home detention order.

By contrast, prohibition orders do not have to include such strict conditions. For example a prohibition order might restrict the offender's consumption and access to alcohol, as an alternative to an outright prohibition on the consumption of alcohol.

***Q Don't courts already require offenders to undergo treatment for alcohol misuse as part of their bail or sentence?***

***A*** The operation of the Alcohol Court won't affect the capacity of other courts, and correctional services, to refer an offender to assessment and treatment. The Alcohol Court provides a formal and transparent process so that community based treatment and rehabilitation can be incorporated into sentencing and bail orders.

The legislation also allows the Alcohol Court to monitor the progress of offenders as they progress through their treatment. Under an alcohol intervention order the Court will be able to monitor the offender's progress and vary the terms of the supervision and treatment component – including relaxing the terms of the order to reward the offender where appropriate.

***Q Who will monitor offenders subject to alcohol intervention orders and prohibition orders?***

***A*** While an offender is on an alcohol intervention order they will be supervised by Community Corrections.

The court clinicians will also be involved in monitoring people on both alcohol intervention orders and prohibition orders while they undertake withdrawal and treatment. Part of the role of the court clinician is to enhance the offender's motivation to address their alcohol problem, and to monitor and encourage the offender to successfully complete their treatment program.

Where an offender fails to comply with an alcohol intervention order a prosecutor, or the Director of Community Corrections can make an application to the Alcohol Court for action under the breach provisions.

The police may arrest an offender who they believe has contravened an alcohol intervention order. The Alcohol Court can also issue a warrant for the arrest of an offender who has breached the terms of an alcohol intervention order.

The police can only arrest an offender for breach of a prohibition order when it is incorporated into the terms of a good behaviour bond, or bail conditions.

***Q How effective is coercive treatment?***


***A*** Treatment is the most intensive form of intervention for alcohol misuse. Overall, treatment has a success rate of 20%, whether it is voluntary or court mandated. This does not mean that treatment does not work – it can have very successful outcomes for individuals, their families and the community. The success rate needs to be balanced against the costs, both economic and social, to the community of doing nothing to deal with alcohol addiction.


***Q Can people from across the Territory access the Alcohol Court?***

***A*** The Alcohol Court will be based in Darwin and Alice Springs but will be able to deal with offenders from across the Territory as long as they attend court in Darwin or Alice Springs, and are prepared to undertake treatment at a service in those places. Once an offender has completed the treatment component of an alcohol intervention order, or prohibition order, they may return to live in their community.

***Q What about offenders who have problems with both alcohol and other drugs (illicit drugs, or volatile substances)?***

***A*** The Court will be able to deal with people who have problems with alcohol and other drugs – as long as they still meet the criteria in the legislation in relation to dependence on alcohol. Alternatively they might use the CREDIT program which is available for illicit drug users.





***Q What are the duties of a licensee in relation to people subject to a prohibition order? How will they find out who has an order?***

*A* The Alcohol Court must inform the Director of Licensing when it makes a prohibition order. The Director of Licensing must then advise all relevant licensees about the order, and give information to those licensees about their obligations in relation to the order.

A licensee who is advised about an order must take reasonable steps to ensure that the person subject to the order is not permitted to enter or remain at the licensed premises, or sold alcohol, other than in accordance with the order.

***Q Will it be an offence to supply alcohol to someone subject to a prohibition order? What if the licensee is unaware that there was an order in force against someone?***

*A* Only a licensee who has been advised by the Director of Licensing can commit an offence of supplying alcohol to a person subject to a prohibition order. Failure to comply with a prohibition order would be a breach of the licence. However a licensee would only be guilty of an offence if they knowingly breached their licence. They must have been aware of the prohibition order, and that they were in fact not meeting their obligations in relation to the order.

