

9: Overview of Mental Health Orders

Most people with a mental illness or mental disorder willingly and actively seek help and you can usually make decisions about what kind of treatment, care or support you want. There may however be times when you become unwell because of your mental illness or mental disorder and cannot make those decisions (you don't have decision-making capacity), or you refuse help, despite there being a risk of harm to yourself, someone else or the community. In these situations, a Mental Health Order may be made.

Types of Mental Health Order:

Psychiatric Treatment Order (PTO)

A PTO may be made for a person with a diagnosed mental illness.

Community Care Order (CCO)

A CCO may be made for a person with a diagnosed mental disorder

Restriction Order (RO)

An RO may be used to limit where a person can go, what they can do and/or who they can see.

Mental Health Orders are made by the ACT Civil and Administrative Tribunal (ACAT).

ACAT

ACAT is an independent entity that has the legal authority under the Act to make decisions about your mental health treatment, care, and support, including making Mental Health Orders which authorise involuntary (against your will) treatment, care, and support. The Tribunal usually includes a lawyer, psychiatrist, and a community member.

Making a Mental Health Order

If a Mental Health Order is made for you the Chief Psychiatrist or the Care Coordinator (or their delegate) is responsible for coordinating your treatment, care, and support and make decisions about what treatment, care and

support will be given and where it is to be provided. While your opinions and views will always be considered, your treatment plan will need to accommodate your clinical needs and the treatment given and/or the location may be different to what you request. Under the Act, most Mental Health Orders for compulsory (involuntary) treatment must be for the shortest time possible and whilst they can be made for any period up to six months, they are frequently shorter.

Leave on a Mental Health Order

If you are subject to a Mental Health Order and need to stay at an approved mental health facility, you have the right to apply for leave. Leave is:

- an agreed amount of time able to be spent outside the facility that has been agreed between you and your treating team
- designed to enhance recovery and help you return to your usual life in the community.

Your treatment plan should state whether you are entitled to leave and if not, why. If leave is requested, the specific type, length and other conditions of leave are decided on a case-by-case basis.

The Chief Psychiatrist or the Care Coordinator can also cancel your leave and if leave is cancelled you will be invited to return to the approved mental health facility voluntarily.

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If you do not return from leave then a Mental Health Officer, doctor, authorised ambulance officer or police officer can apprehend you and take you back to the facility.

Limits on communication

As part of a Mental Health Order, limits can be placed on who you are able to communicate with. The limits must be consistent with the Order, necessary and reasonable and must not reduce the effectiveness of your treatment, care, and support.

If a limit is imposed on your communications, you will be told the reasons for the limitation, what the limitations are and how long they will remain in place (a maximum of seven days at a time).

These limits are imposed by the Chief Psychiatrist (or their delegate) for PTOs or by the Care Coordinator (or their delegate) for CCOs.

Review of a Mental Health Order

All Mental Health Orders must be reviewed. This includes PTOs, CCOs and ROs. There are several ways the review process can begin. These include:

- you, or your representative, can apply for a review
- the Chief Psychiatrist or the Care Coordinator (or their delegates) think that the Order is no longer needed
- ACAT decides to initiate a review itself
- you contravene (break) a RO.

A hearing may be held by ACAT if you, your representative or ACAT initiate the review. A written notice will be sent advising when the review is scheduled for.

When ACAT reviews a Mental Health Order it can:

- confirm the Order (keep it the same)
- change or cancel the Order
- make additional Orders (for example a new PTO or CCO); or
- make an Assessment Order, requiring you to have a mental health assessment to decide what course of treatment, care and support is needed.

Contravention of a Mental Health Order

Contravention (sometimes referred to as a breach) is the term used when you do not comply with the conditions written in the Treatment Plan as part of your PTO or CCO.

This might mean that you have not done what you were required to do under the Order. It may be a condition of your Order that you attend an approved mental health facility for treatment, for example to receive depot injection, but you fail to attend the facility at the agreed time and do not attend despite reminders.

Where the Chief Psychiatrist is notified of a contravention of a PTO or the Care Coordinator of a contravention of a CCO, a formal process will be put in place to locate you in the first instance, and possibly apprehend and detain you as a follow-up action.

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