



Exposure Draft Compulsory Treatment (Alcohol and Other Drugs) Bill 2016

What is compulsory alcohol and other drug treatment?

Compulsory alcohol and other drug (AOD) treatment is the legally sanctioned, involuntary commitment of individuals, and the provision of AOD treatment.

Compulsory treatment programs are different to court diversion programs, which are only accessible to people who are in the criminal justice system, as compulsory treatment programs are open to all.

Does compulsory AOD treatment exist in Australia?

Compulsory alcohol and/or other drug treatment legislation operates in New South Wales, Victoria, the Northern Territory and Tasmania. In addition, a Bill relating to compulsory AOD treatment is currently being debated in Parliament in New Zealand.

Western Australia does not currently have legislation which allows for the compulsory treatment of people with severe AOD addiction. However, the Minister for Mental Health has identified the implementation of a Compulsory AOD Treatment Program in Western Australia, including the development of associated legislation, as a priority for the Liberal-National Government.

The Mental Health Commission (MHC) has the responsibility for developing the program for Western Australia.

What is the aim of compulsory AOD treatment in Western Australia?

The purpose of the proposed Western Australian Compulsory AOD Treatment Program is to provide for the short-term compulsory treatment, stabilisation, care and support for people with a severe alcohol and/or drug addiction.

It aims to protect these people's lives, or prevent serious harm to their health; to provide support so that the person can restore the ability to make informed decisions about their substance use; and to facilitate longer term engagement in voluntary treatment.

What is an Exposure Draft Bill?

An Exposure Draft Bill is prepared by professional legislative drafters and looks just like a Bill (proposed legislation for consideration by Parliament). However, it does not reflect Government's settled position, and is intended for public comment.

The Exposure Draft Compulsory Treatment AOD Bill 2016 (Exposure Draft Bill) provides the legislative authority to implement the Compulsory AOD Treatment Program in Western Australia, in particular in relation to making a compulsory treatment order (CO).

The MHC is seeking stakeholder and wider community feedback, and inviting written submissions. Based on the feedback and input received, the Exposure Draft Bill will be refined (as much or as little as needed) and become a final Bill that is provided to Government for further consideration.

What does the Compulsory Treatment Program in Western Australia include?

The Exposure Draft Bill provides for up to 12 weeks of treatment and support for people with a severe substance use disorder.

Following the completion of the compulsory treatment period, it is intended that the program will include up to a further nine months of voluntary residential rehabilitation, transitional housing and/or aftercare support aimed at responding to the individual's longer term holistic needs and supporting sustained behaviour change.

What consultation has occurred to date?

To facilitate the development of the Exposure Draft Bill, a Community Advisory Group (consisting of 10 consumers and family members) and a Steering Committee (consisting of representatives from key organisations with experience in the delivery of related programs) have been formed.

In addition, Discussion and Background Papers were released by the MHC in September 2016. By the close of the consultation period at 1 December 2016, a total of 53 submissions were received including from those identifying as having a lived experience, family/carers, non-government organisation service providers, member and peak body organisations, health professionals, government health services, and other government agencies.

With consideration to the input received through targeted consultations and public submissions, the groups have played a key role in providing recommendations for the development of the Exposure Draft Bill that has now been released for public comment.

Who will receive compulsory AOD treatment?

The proposed Compulsory AOD Treatment Program is considered an option of last resort for a small number of people who have a severe alcohol or drug dependence. These people are some of the most vulnerable in our community and often have chronic and complex problems including co-occurring mental health illness, cognitive impairment and other health, social and welfare issues such as homelessness.

What are the criteria for compulsory treatment?

It is proposed that a person may be subject to a CO in Western Australia only if the person:

- has a severe substance use disorder; and
- is at significant risk of causing serious harm to their own or any other person's life or health; and
- is in need of treatment; and
- is likely to benefit from treatment; and
- there is no less restrictive means reasonably available.

Are young people included in the proposed legislation?

Young people with a severe substance use problem are a particularly at-risk group and require different and specialised treatment and care. It is proposed that young people will be included within the scope of the legislation; however, only with additional safeguards and requirements.

Who can make an application for a compulsory treatment order?

Under the proposed legislation, a concerned individual, police officer or health practitioner may make an application for a person to be assessed for a compulsory treatment order.

A concerned individual is an adult who maintains a personal interest in the person's welfare either because of a close personal relationship with the person or because of frequent personal contact with the person. This may include the person's spouse, de facto partner, relative or close friend. It also includes someone who acquires a professional interest in the person's welfare as a result of any interaction with the person within a health or social welfare service context.

How do I make an application for a person to be considered for a compulsory treatment order?

A telephone helpline and website-based resources will be available to assist applicants to consider whether someone may be eligible for the program, and to provide referral to other treatment and support services if appropriate. This includes referral for family members.

If the person is likely to be eligible for the program, an application for compulsory AOD treatment may be made to an AOD Liaison Officer (AODLO). An AODLO is a health practitioner with at least three years' experience in treating people with severe AOD addiction issues.

Following an initial screening process, the AODLO may refer a person to be assessed if they reasonably suspect the person meets the criteria.

Who makes the decision to issue a compulsory treatment order?

Under the proposed legislation, if a person is referred for assessment, an Approved Specialist, who is a medical practitioner with significant experience in treating people with severe substance addiction, will assess the person against the criteria. A CO will be made if the Approved Specialist believes the person meets the criteria.

Can the decision to make a compulsory treatment order be reviewed?

It is intended that within 10 days of a CO being made (seven days for young people), the Mental Health Tribunal, an independent, quasi-judicial body, must review the CO. The CO will then also be reviewed every 21 days for adults and every 14 days for children.

What happens if the person refuses to attend the assessment?

Based on experiences in other Australian jurisdictions, it is expected that in the majority of cases, support persons, and/or treatment centre staff will transport the person to the treatment centre or place of assessment. However, the proposed legislation allows an AODLO to seek assistance from a staff member of the treatment centre, transport officer or police officer to facilitate attendance for a specialist assessment.

How many compulsory AOD treatment orders are expected to be issued?

The actual number of participants in the Western Australian compulsory AOD treatment program will be affected by a range of issues, including the number of persons applying for an order and how many are assessed against the criteria as eligible by trained and approved clinicians.

In view of the strict criteria, the complex circumstances often experienced by people with severe AOD dependence problems and the short-term protective nature of the legislation, it is likely that the proposed compulsory AOD treatment program will only be suitable for a relatively small number of people.

How long will a compulsory treatment order be for?

Under the Exposure Draft Bill, the duration of a CO will be dependent on the individual and the nature of their alcohol or drug use. However, it is proposed that an initial CO can be made for up to eight weeks (56 days). The CO may be extended by another four weeks (28 days) for up to a total maximum of 12 weeks (84 days) under certain circumstances.

The CO may be revoked earlier if the individual no longer meets the criteria, including because the person is no longer benefitting from treatment.

Where will compulsory AOD treatment be provided?

The Exposure Draft Bill specifies that only designated treatment facilities may be used to provide compulsory treatment.

Consistent with the overall principles of the legislation, it is intended that the designated treatment centre(s) will adopt a therapeutic approach to the implementation of the legislation and as such the physical environment of services will aim to support this as best as possible.

Possible settings for treatment centres in Western Australia are the subject of further consultation and Government approval.

Can a person be granted leave from compulsory AOD treatment?

The proposed legislation allows for a participant to be granted leave from a treatment centre under certain circumstances including on compassionate or medical grounds and with appropriate safeguards in place.

What if the person leaves the treatment centre without approval?

It is intended that treatment centres will include security measures and supporting infrastructure to discourage individuals leaving the treatment centre without approval.

Under the Exposure Draft Bill, it will not be an offence if a participant does leave the treatment centre without permission. However, an apprehension and return order may be made and responded to by a staff member of the treatment centre, a transport officer or a police officer.

What does compulsory AOD treatment involve?

Compulsory AOD treatment generally involves medical withdrawal and then a period of stabilisation for comprehensive assessment and longer term care planning.

Approaches to treatment by a multidisciplinary team will be trauma-informed and may include a range of supports and interventions to address a person's substance use such as pharmacotherapy, harm reduction, relapse prevention, individual therapy, group therapy and access to neuropsychology and psychology. Any co-occurring medical or mental health conditions will also be addressed and participants will have access to social workers and welfare services during this period.

How will people seeking voluntary AOD treatment be affected by the compulsory AOD treatment program?

Voluntary services in Western Australia provide appropriate treatment opportunities for the vast majority of people with an AOD problem. So as to not displace voluntary clients, it is intended that additional services will be provided for individuals completing compulsory AOD treatment and entering into voluntary treatment.

How does compulsory AOD treatment relate to existing diversion programs such as the Perth Drug Court?

The Perth Drug Court is an existing program that considers treatment options as an alternative to sentencing for individuals in the criminal justice system. The Exposure Draft Bill does not provide for participation in the compulsory AOD treatment program as an alternative to bail or sentencing. The intended focus of the program is on providing medical and other treatments for people with complex care needs related to their severe substance use disorder.

Will individuals be excluded from the program if they have committed a criminal offence?

It is not intended that individuals be excluded as a result of pending offences or offences they have committed, unless these offences are of such a serious nature that the person is considered likely to be a danger to the staff and participants in the treatment centre.

Why isn't the *Mental Health Act 2014* being amended to enable compulsory AOD treatment?

It is important to tailor any legislation to the specific needs of the individuals it is intended to protect. Existing compulsory AOD treatment legislation in Australia is separate to mental health legislation. This is due to the complexity of mental health legislation and the different needs and treatment for those with mental illness compared to people with AOD problems.

Will culturally appropriate services and treatment be provided?

The Western Australian Program aims to provide individualised care to address the unique circumstances of participants. Specific provisions are included within the Exposure Draft Bill as follows:

- for Aboriginal and Torres Strait Islander participants, the involvement of Elders and traditional healers in specialist assessment and the making of treatment decisions;
- accessing culturally appropriate supports and advocacy services, including access to interpreter services and trauma-informed treatment and care; and
- the consideration of all cultural and spiritual beliefs in determining if an order for compulsory treatment is likely to be of benefit to the person.

Will there be an evaluation of the program?

Following three years of operation, it is proposed that an evaluation be undertaken to review the effectiveness of the legislation and the Compulsory AOD Treatment Program in Western Australia.

What rights and safeguards are included in the Exposure Draft Bill?

The proposed legislation includes a number of rights and safeguards for individuals subject to a CO including (but not limited to):

- a clear referral process that must be followed before a CO can be made;
- a right to the review of a CO by an independent Tribunal;
- automatic access to individual advocacy support;
- support persons to be informed and involved in assessment and treatment;
- a right to legal representation;
- freedom of lawful communication, subject to exceptions; and
- a right to lodge a complaint about the treatment centre.

What is the timeline for the compulsory AOD treatment program's development?

The timeframe for the introduction of a final Bill will depend on the extent and nature of feedback received during the consultation period, and a range of other factors including Parliamentary processes.

How are voluntary AOD treatment services being developed?

The State Government continues to develop the voluntary system of AOD treatment services in line with the Mental Health, Alcohol and Other Drug Services Plan 2015-2025: Better Choices. Better Lives, subject to regular government budgetary processes. This includes investment of \$14.9 million over the next two years as part of the Western Australian Meth Strategy 2016 (the Meth Strategy) to expand voluntary prevention, treatment and support services.

The Meth Strategy includes an additional eight low medical withdrawal (detoxification) beds, 52 residential rehabilitation beds and the expansion of community based AOD prevention and treatment services across Western Australia.

What are the key challenges that have been identified in the development of the Program?

Consultation to inform the development of the Exposure Draft Bill to date has highlighted a number of particular challenges that require further feedback and consideration. These issues include:

- the location and appropriate setting for treatment centres, including access to medically supervised withdrawal services where required;
- regional access and transport;
- the need to prevent people being drawn into the criminal justice system as a result of compulsory AOD treatment;
- the provision of culturally appropriate services;
- support for families throughout the provision of compulsory AOD treatment;
- the extent to which 'harm to others' in the criteria includes harm to an unborn child of a pregnant woman being considered for compulsory treatment; and
- additional considerations for the inclusion of young people in the legislation.

How can I access further information?

The following documents are available on the MHC website www.mhc.wa.gov.au:

- Background Paper
- Summary Model of Service
- Exposure Draft Compulsory Treatment (AOD) Bill 2016.

How do I provide feedback?

Feedback can be provided in the following ways:

Online www.mhc.wa.gov.au

Email Compulsory.Treatment@mhc.wa.gov.au

Post Compulsory AOD Treatment Team
Mental Health Commission
Reply Paid
GPO Box X2299
Perth Business Centre WA 6487

Telephone If you would like to provide your feedback as a voice message, up to a maximum of five minutes, or to request a copy of the Exposure Draft Bill and associated documents be sent to you, telephone (08) 6553 0561.