



Consultation Questions & Answers

Draft Model of Care for Youth Treatment Orders

All materials for the consultation on the draft Model of Care for Youth Treatment Orders and instructions on how to provide feedback is available on the YourSAy website

www.yoursay.sa.gov.au/youth-treatment-orders-model-of-care

This consultation will close at 5:00pm on 31 January 2021

OFFICIAL

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1. Why is the Government establishing Youth Treatment Orders?

Drug dependence can have a devastating impact on children and their families. At the 2018 election the State Government committed to establishing a program to enable parents and others with a proper interest in the child to apply to the Youth Court seeking mandatory drug assessment and treatment for the child. The Model of Care for Phase 1 of Youth Treatment Orders (the Model of Care) implements this commitment.

The draft Model of Care for Youth Treatment Orders aims to treat drug dependence in children as early as possible in the hope of reducing the likelihood and severity of drug related harms.

2. Why is the Government adopting a phased approach for Youth Treatment Orders?

Phase 1 of the Youth Treatment Orders program will apply to children who are already subject to detention in the Kurlana Tapa Youth Justice Centre, formerly known as the Adelaide Youth Training Centre. This will provide access to drug assessment and to treatment to address drug dependency in the most vulnerable children in the Kurlana Tapa Youth Justice Centre.

If the program is successful, consideration will be given to expanding the program to other children in the community. Implementation of Phase 2 of the Youth Treatment Orders program will be contingent on a review of Phase 1, and further decision by government.

3. What is the Model of Care?

The Model of Care for Phase 1 of Youth Treatment Orders sets out how the program will operate, including the principles, governance and service delivery arrangements for the effective implementation of the Youth Treatment Orders program. It sets out agency roles and responsibilities in the delivery of assessment and treatment services, as well as a clear Statement of Rights and obligations of children who are subject to orders. The Model of Care applies only to children already subject to detention in the Kurlana Tapa Youth Justice Centre.

The Model of Care for Youth Treatment Orders is informed by the best available evidence for the treatment and care of children experiencing drug dependency. Importantly, the Model of Care ensures that all processes and services delivered through the program have the best interest of the child as the central and paramount concern.

The Model of Care was developed by SA Health in collaboration and consultation with multiple stakeholders across South Australia. This includes Chief Executive nominees to the Interagency Working Group developing the Model of Care: the Attorney-General's Department, South Australia Police, the Department for Child Protection, the Department for Education, the Courts Administration Authority, the Department of Human Services (Youth Justice), Department of Human Services,

(Disability), and the Department of the Premier and Cabinet (Aboriginal Affairs and Reconciliation).

4. What is the age range for children who can be subject to Youth Treatment Orders?

An application for any order under the *Controlled Substances (Youth Treatment Orders) Amendment Act 2019* may be submitted to the Youth Court for a child between the ages of 10 to 17 years old. An order will still apply if the child turns 18 during the time of the order.

5. Why is the Government focusing on children when drugs are a problem for many adults?

The Government acknowledges that children are less able to take care of themselves and less able to understand the need to do so. Adults, by contrast, are more likely to understand the impact drug use has on their lives and to determine for themselves the benefits of seeking drug treatment.

The Youth Treatment Orders program is focussed on a specific group of vulnerable children in the Kurlana Tapa Youth Justice Centre who:

- do not wish to engage in the voluntary treatment system
- in regards to assessment, are habitually using drugs, or in relation to treatment, are drug dependent
- pose a risk to themselves or others, and
- where no other appropriate and less restrictive means is available.

6. Who can apply to have a child assessed for drug dependency?

Applications to Youth Court for Assessment Orders may potentially be made by the following persons:

- parent or guardian of the child
- spouse or domestic partner of the child
- a person authorised by the Director of Public Prosecutions or the Commissioner of Police
- Public Advocate under the *Guardianship and Administration Act 1993*
- an officer of the Department for Health and Wellbeing
- the Chief Executive of the of the Department of Human Services
- the Chief Executive of the Department for Child Protection
- a medical practitioner who is providing treatment to the relevant child in relation to the child's use of controlled drugs, or
- a person who satisfies the court that they have a proper interest.

7. What types of drugs are covered by Youth Treatment Orders legislation?

The Youth Treatment Orders program covers any 'controlled drug' as set out in the *Controlled Substances Act 1984* and its associated Regulations. For example these drugs include amphetamines, opiates, MDMA/ecstasy, cannabis and LSD.

A comprehensive list of controlled drugs is available at: <https://lsc.sa.gov.au/dsh/ch12s05.php>

8. Why is alcohol or nicotine not covered by this program?

Due to the impact and severity of drug dependence on the lives of children, their families and the community, the State Government has determined that drug dependency in children needs to be addressed as a priority.

The Government hopes the Youth Treatment Orders program will address drug dependency in the most vulnerable children as early as possible, reducing the negative impact on their lives and family and the broader community.

9. Will children have legal representation when engaged in court proceedings?

Yes. The legislation provides that a child can receive legal representation at no cost to themselves.

The government has allocated \$2.75 million over six years to establish a government funded Legal Representation Scheme for children subject to court proceedings in relation to Youth Treatment Orders.

10. How are children's rights protected through the Youth Treatment Orders program?

The Model of Care has been developed with the best interest of the child as the paramount concern. This includes ensuring the mental, physical and social development of each child is a priority, including protecting their autonomy and personal liberty as much as possible.

The Model of Care provides ways of protecting children from activities that could harm their development including the use of dangerous drugs. The Model of Care ensures services provided as part of the Youth Treatment Orders program work toward what is best for each child and to protect their right to privacy.

SA Health is committed to providing a Model of Care that delivers safe and high-quality treatment. The Model of Care includes principles underpinning the design and operation of the model, intended to optimise the outcomes for children and their families.

The Youth Court will oversee how and when laws are applied, with extensive experience weighing the various interests of children to determine the best way forward.

All children subject to proceedings of the Youth Court will be provided with a plain language Statement of Rights. The Statement of Rights outlines the responsibilities of assessment and treatment services as part of the Youth Treatment Orders program. This includes support options for children during assessment and treatment, as well as rights to accessing culturally safe and appropriate health services.

The Statement also includes information on free legal representation available to children, as well as information on rights of appeal of Youth Court orders.

11. How will the Youth Treatment Orders Model of Care respond to the needs of at risk or marginalised groups of children in the Kurlana Tapa Justice Centre, including Aboriginal children?

Children from culturally and/or linguistically diverse backgrounds, children with disability and children with co-occurring mental health issues have the right to be treated on an equal basis as other children. The Model of Care also recognises that Aboriginal children require safe and culturally responsive services that are holistic and address a broad range of social and emotional needs as part of treatment for substance dependency.

Assessment and treatment for Aboriginal children under the Youth Treatment Orders program will be accessible, inclusive, culturally appropriate and prioritise connections to family and community. In recognising the strong evidence of the effectiveness of family therapy in reducing substance use in children, the Model of Care recognises the importance of having trained Aboriginal staff to work therapeutically with Aboriginal children and their families and carers and provide linkages to culturally appropriate programs, services and professional staff.

Youth Treatment Orders assessment and treatment processes have been developed to minimise the risk of traumatising, or re-traumatising, children subject to orders. This includes application of trauma informed principles throughout the Model of Care, as well as access to interpreters and the provision for a Youth Court authorised person to accompany the child to program related appointments.

A comprehensive consultation process is being undertaken to ensure a broad range of stakeholders have the opportunity to provide feedback on the draft Model of Care, with a priority of ensuring that the voices of children are heard as part of this consultation. Documents which outline the Model of Care and respond to frequently asked questions have been developed in a format designed to be understood by children. You can access Easy Read and summary documents at yoursay.sa.gov.au/youth-treatment-orders-model-of-care.

12. How did the Government determine that 12 months was an appropriate timeframe for treatment?

While the legislation provides that an order cannot exceed twelve months, the actual period of the order will depend on the decision of the Youth Court in individual cases and may be considerably less than 12 months.

This approach is subject to individual treatment plans and is intended to provide flexibility for the Court and treating clinicians. Treatment approaches will also include post-release and transition planning, and aftercare.

If a child subject to a Treatment Order is released from the Kurlana Tapa Youth Justice Centre, the order will expire at the time of release. The child will be supported to continue voluntarily treatment through transition planning and aftercare.

13. How many children are expected to be part of the Youth Treatment Orders program?

Drug-related harms exist across a continuum. It is anticipated that children subject to Youth Treatment Orders will be the children most at risk of experiencing drug-related harms.

The program will be used as a last resort option and therefore it is anticipated that only a small number of children will be subject to a Treatment Order.

14. Who will be responsible for assessment and treatment?

Assessment and treatment will be led by medical consultants with a high level of clinical expertise in the field of addiction medicine, child and adolescent psychiatry, and paediatric health.

Medical consultants providing assessment and treatment under the Youth Treatment Orders program will consider the full range of health issues which may be related to a child's drug use, and their cognitive capacity for decision making and treatment engagement. This information will guide treatment plan development.

The Youth Court will be provided with a treatment plan appropriate to the child's needs before a Treatment Order is made.

15. Where will children subject to Youth Treatment Orders in the Kurlana Tapa Justice Centre receive assessment and treatment?

All assessments and treatment provided as part of the Youth Treatment Orders program will be held in the Kurlana Tapa Youth Justice Centre health centre.

16. What is an Assessment Order?

The Youth Court can make an Assessment Order in respect of children who are already subject to detention in a training centre at the time the order is made. The Youth Court may make an Assessment Order if satisfied that:

- there is a reasonable likelihood that the child is habitually using one or more controlled drugs; and
- the child may be a danger to themselves or to others; and
- the child has refused to voluntarily seek a relevant assessment; and
- no other appropriate and less restrictive means is available to ensure the child receives a relevant assessment.

The assessment will take place within 2 business days of order being received. Assessment will be undertaken in the Kurlana Tapa Youth Justice Centre health centre, a separate environment within the Centre campus that provides rooms for confidential assessment, treatment and counselling.

The child will attend an appointment where they will be assessed by a Child Psychiatrist, Paediatrician, and Addiction Medicine Specialist who will be assessing factors relevant to their speciality. The appointment will be conducted in one location for the minimum reasonable time required for an appropriate assessment. A consolidated report will be provided to the Youth Court.

The assessing medical consultants will consider underlying medical, trauma and mental health issues which may be related to a child's drug use. This information will be used to develop a comprehensive treatment plan for the child.

A child subject to an Assessment Order may request independent medical drug assessment for submission as evidence to the court. The legal representative, support person or advocate of the child will facilitate this process. The Legal Representation Scheme, to be established under the *Controlled Substances (Youth Treatment Orders) Amendment Act 2019*, will fund costs associated with obtaining independent evidence.

17. What is a Treatment Order?

The Youth Court may make a Treatment Order if a child has been assessed as being drug dependent in accordance with International Classification of Diseases 10 (ICD-10) diagnostic criteria, and the Court is satisfied that:

- the child may be a danger to themselves or to others; and
- the child has refused to voluntarily seek relevant treatment; and
- no other appropriate and less restrictive means is available to ensure the child receives relevant treatment; and
- the treatment and care of the child will be governed by an appropriate treatment and care plan directed towards treating the child's dependency on controlled drugs.

The assessing medical consultants will develop a treatment plan as part of the assessment process. The treatment plan will identify goals, risks, and appropriate treatment options. The treatment plan requires regular review and updates over time in line with the child's progress towards treatment goals and ongoing requirements.

Evidence-informed treatment options include:

- withdrawal management followed by discharge into continuing treatment
- psychosocial interventions including comorbidity interventions e.g.
 - Cognitive Behavioural Therapy (including relapse prevention)
 - Motivational Interviewing
 - Case Management
 - Social Skills Training (focussing on issues relating to drug dependence), building social network/social capital
 - harm reduction education
 - relapse prevention planning
 - youth therapeutic interventions for mental health comorbidities (integrated care with substance use treatment)
- family support and counselling
- medication assisted treatment (where required)
- aftercare
- program engagement enhanced by reward strategies (positive reinforcement, avoiding punishment orientated approaches).

Treatment will be delivered in the Kurlana Tapa Youth Justice Centre health centre. Treatment will be offered at times that suit the child's overall program at the Centre.

18. When is treatment completed?

Treatment is completed when:

- the Treatment Order expires
- significant goals of the treatment plan are met, or
- the term of custody expires.

If a Treatment Order is completed by a child in the Kurlana Tapa Youth Justice Centre the child will continue to receive follow up and aftercare for up to 12 months.

If an order expires because a child is released from the Kurlana Tapa Youth Justice Centre, the child will be supported to engage in voluntary community-

based treatment. The child will also be supported to engage in follow up and aftercare provided by the Case Coordination Team post-release.

19. Will a Youth Treatment Order appear on the criminal record of a child who has been part of the program?

No. As drug dependence is a health issue, all aspects of the Youth Treatment Orders program have been developed to provide an evidence informed, therapeutic response to drug dependency in children. The program is not a youth justice response to drug dependency and is not a punishment.

Any information about a child and their involvement in the program will only be used for the purpose of treatment or reporting to the Youth Court as required under the *Controlled Substances (Youth Treatment Orders) Amendment Act 2019*.

20. Could the duration of a child's stay in the Kurlana Tapa Youth Justice Centre be extended because they are subject to an Assessment or Treatment Order?

No. Assessment and Treatments Orders expire when a child is released from the Kurlana Tapa Youth Justice Centre. The Youth Treatment Orders program has been designed to provide evidence informed, therapeutic treatment for children experiencing drug dependency. The program is not a youth justice response to drug dependency and is not a punishment.

21. Could an Assessment or Treatment Order be revoked or varied during the time period of the order?

Yes. The Youth Court may vary an Assessment or Treatment Order during the period of the order if the child's circumstances change.

A child subject to an Assessment or Treatment Order may apply to the court for a variation or revocation of an order, which may be granted if the Youth Court is satisfied there has been a substantial change in the relevant circumstances since the order was made or last varied.

The legislation also allows that an application for variation or revocation of an order may be made by:

- parent or guardian of the child
- spouse or domestic partner of the child
- a person related to the child according to Aboriginal or Torres Strait Islander kinship
- a person authorised by the Director of Public Prosecutions or the Commissioner of Police

- Public Advocate under the *Guardianship and Administration Act 1993*
- an officer of the Department for Health and Wellbeing
- the Chief Executive of the Department of Human Services
- the Chief Executive of the Department for Child Protection
- a medical practitioner who is providing treatment to the relevant child in relation to the child's use of controlled drugs, or
- a person who satisfies the court that he or she has a proper interest.

22. How will children exiting the program be supported?

A transition plan is developed alongside the treatment plan to support the child's continuity of care following release from Kurlana Tapa Youth Justice Centre. Transition plans are regularly reviewed for all children engaging in treatment as part of a Treatment Order.

Children subject to Treatment Orders are involved in pre-release transition planning and linked with a relevant community based service(s) for drug treatment prior to release whenever possible.

Aftercare will be provided for up to 12 months by treatment providers, in the form of follow up, support for relapse prevention and residential rehabilitation as required. As an additional measure, a Case Coordination Team established as part of the program will coordinate follow up and aftercare for children and their families. This involves providing outreach to homes, other services, or public places to connect with children and family members. Continued support is provided post-treatment including harm reduction and relapse prevention strategies, referral to relevant services and case management. These services are provided based on voluntary engagement in this treatment and support.

The Case Coordination Team can also coordinate support to children and families who are waiting for available services or children who experience barriers engaging in treatment services.

The Case Coordination Team is not able to provide face to face services in rural and remote areas, however it can coordinate Drug and Alcohol Services South Australia and Child and Adolescent Mental Health Service staff (in person or via tele-health) to provide follow up in regional areas.

Community based services provided as part of the Youth Treatment Orders program will be made available to other children in the community if they are not being utilised by children being released from the Kurlana Tapa Youth Justice Centre.

23. What if a child does not think they are drug dependent?

Any child who disagrees with a finding of the Youth Court can appeal the decision to the Supreme Court of South Australia. Children will be provided with

a lawyer at no cost to represent them in court if they choose to challenge an Assessment or Treatment Order.

24. What voluntary drug assessment and treatment services are currently available to children in the Kurlana Tapa Justice Centre?

Children in the Kurlana Tapa Youth Justice Centre can have access to voluntary drug assessment and treatment services. Children with a drug problem can currently receive assessment and counselling services in the Kurlana Tapa Youth Justice Centre.

Children receiving services from Drug and Alcohol Services South Australia who are released from the Kurlana Tapa Youth Justice Centre may be referred to non-government specialist drug treatment providers on a voluntary basis. This may include ongoing case management, residential rehabilitation or access to community based services.

25. What community based voluntary assessment and treatment services are currently available to children experiencing drug dependency in South Australia?

Children in the community experiencing drug dependency can receive voluntary treatment. In South Australia, drug treatment is provided by the government and non-government sectors.

A comprehensive, up-to-date online directory of the range of government and non-government treatment services available in South Australia can be accessed via the Know Your Options website. <https://knowyouroptions.sa.gov.au/>.

The Alcohol and Drug Information Service provides confidential telephone counselling, information, and referral for the general public, concerned family and friends, students and health professionals. To contact the Alcohol and Drug Information Service call 1300 13 1340 (8:30am to 10:00pm everyday).

There are a range of SA Health funded outpatient counselling services available to assist people in metropolitan Adelaide and across regional locations. SA Health also funds the Integrated Youth Substance Misuse Specialist Service to support children and young people aged 12 to 24 years old by providing residential rehabilitation, outpatient counselling and sobering up beds.

The Youth Treatment Orders program does not replace voluntary treatment. The program is focussed on a very specific group of children who are unwilling to engage in the voluntary treatment system, and are at risk and there are no other appropriate or less restrictive means available.

26. Who will have access to information about children engaged in the program?

All information about children on Youth Treatment Orders is confidential and subject to the same restrictions as any other personal medical information. Information sharing between the Kurlana Tapa Youth Justice Centre, health service providers and the Youth Court will conform to current privacy legislation and information sharing guidelines.

Access to information on individual cases will be strictly limited to health professionals and other relevant professionals requiring access to support assessment and treatment, the Youth Court, the child's legal representative. The applicant may receive information where appropriate.

In instances where an application has originated from a person with a proper interest in the child (as determined by the Youth Court) who is not family, information about the child's engagement in the Youth Treatment Orders program will only be shared in accordance with the requirements of the Commonwealth *Privacy Act 1988*.

All children engaged in the program will have the opportunity to nominate an advocate or family member who they wish to be kept informed about their progress in the program and to access information about their treatment progress.

27. What consultation has the Government undertaken already?

The *Controlled Substances (Youth Treatment Orders) Amendment Act 2019* was passed on 14 November 2019 and gives effect to the Government's commitment to establish the Youth Treatment Orders programs.

The Government has received feedback from health organisations, legal and law enforcement bodies, and non-government peak bodies and service providers, including:

- South Australian Network of Drug and Alcohol Services
- Australian Medical Association (SA)
- Law Society of South Australia
- Commissioner for Children and Children
- Commissioner for Aboriginal Children and Children
- Royal Australian and New Zealand College of Psychiatrists - South Australian Branch
- Guardian for Children and Young People
- Child Development Council
- Aboriginal Health Council of South Australia
- Uniting Communities
- Centacare
- Youth Affairs Council of South Australia
- South Australian Council of Social Service
- Aboriginal Legal Rights Movement
- Alcohol and Drug Foundation
- Legal Services Commission of South Australia.

The government has incorporated much of the feedback received in framing the legislation and in the draft Model of Care.

28. Where can I go if I have questions about the Youth Treatment Orders Model of Care?

The government is undertaking a comprehensive consultation on the draft Model of Care for Phase 1 of Youth Treatment Orders. There are a range of documents available on the YourSAy website [yoursay.sa.gov.au/youth-treatment-orders-model-of-care] which provide further information about the Mode of Care and the consultation. You can also find out more about the consultation by contacting Drug and Alcohol Services South Australia by email DASSAHealthPolicy@sa.gov.au or phone (08) 7425 5099.