

# BREACHES OF GOOD BEHAVIOUR ORDERS POLICY

POLICY NO. C36

ACT CORRECTIVE SERVICES



**ACT**  
Government

Justice and Community Safety

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## 1 PURPOSE

This policy sets out the requirements for a Community Corrections Officer (CCO) or Case Manager (CM) if they believe on reasonable grounds that an offender has breached any of their Good Behaviour Order obligations as per s102 of the *Crimes (Sentence Administration) Act 2005*.

This policy establishes the circumstances in which a CCO/CM must report a breach to the sentencing court and where a CCO/CM may exercise discretion to warn an offender about a reportable breach.

## 2 SCOPE

This policy applies to ACTCS Community Operations staff and relates only to breach of good behaviour obligations for Good Behaviour Orders as per s102 of the *Crimes (Sentence Administration) Act 2005*.

Breaches, non-compliance and discretion with regard to Parole, Intensive Correction Orders, Drug and Alcohol Treatment Orders, and Bail conditions are not within the scope of this policy.

## 3 DEFINITIONS

### Case Manager

An Officer who has delegations under the *Crimes (Sentence Administration) Act 2005* and/or *Crimes (Sentencing) Act 2005* to supervise people subject to supervised community-based orders, issue reasonable directions and to notify the sentencing Court of any alleged non-compliance.

A Case Manager specifically provides case management support to offenders.

**Case management** is a coordinated, individualised, goal- and outcome-focused approach, informed by screening and assessment, to implementation, monitoring and review of rehabilitative activities.

### Community Corrections Officer (CCO)

An Officer who has delegations under the *Crimes (Sentence Administration) Act 2005* and/or *Crimes (Sentencing) Act 2005* to supervise people subject to supervised community-based orders,

issue reasonable directions and to notify the sentencing Court of any alleged non-compliance.

**Good Behaviour Obligations** Are conditions of a Court order that is made by the sentencing Court and entered into by an offender as per s85 &86 of the Crimes (Sentence Administration) Act 2005. Good behaviour obligations create a mandatory requirement that the offender comply with the core conditions of a Good Behaviour Order and:

- any additional condition(s) of the order
- any non-association order or place restriction order
- any other requirement under the Crimes (Sentence Administration) Act 2005 or the Corrections Management Act 2007.

Additional conditions or reasonable directions may require an offender to:

- accept the supervision of ACT Corrective Services
- comply with all reasonable and lawful directions
- undertake alcohol and or drug testing
- not consume alcohol or illicit substances
- enter and complete an intervention/program (both residential or otherwise)
- comply with a curfew at stipulated residential address
- undertake community service work.

**Offender** A person convicted and sentenced to a community-based order who is subject to a community service work, probation, or supervision condition.

**Reasonable directions** Additional directions that are issued by a CCO/CM and given to people subject to a Court order which are made to support order compliance and/or address criminogenic need. The direction may be in relation to interventions (e.g., directing the offender to participate in an intervention or program) or containment strategies (e.g., restricting the offender’s association with certain people, or their access to certain places).

<b>Team Leader (TL)</b>	An officer who provides line management, supervision and oversight responsibility for a team of Community Operations staff.
<b>Unreasonable directions</b>	Occur where an offender is directed to comply in circumstances where the CCO/CM knowingly or reasonably suspects that an offender will not be able to comply. This may be attributable to a range of factors such as individual circumstances, language or cultural background, disability, mental or physical health issues, age, socioeconomic status, gender identification, religious beliefs or unrealistic timeframes.

## 4 AUTHORITY

- 4.1 CCOs/CMs have delegation and are required under s102 of the *Crimes (Sentence Administration) Act 2005* to report any reasonable belief that an offender has breached their good behaviour obligations.

## 5 PRINCIPLES

- 5.1 Discretionary measures provide CCOs/CMs with a way to balance rehabilitative goals with the offender's order compliance requirements.
- 5.2 Directions made by Community Operations staff should be made to support the safety of victims and/or the broader community, the offender's compliance with the good behaviour order obligations or addressing criminogenic needs. They must not be made to make compliance unreasonably difficult or onerous.
- 5.3 CCOs/CMs must only allege instances of non-compliance where they believe on reasonable grounds that a breach of good behaviour obligation(s) has occurred. Allegations of non-compliance and subsequent actions must not be a punitive reaction to the individual or their attitude towards supervision.
- 5.4 Discretion must be exercised while considering a victim of crime's right to security of person.
- 5.5 These measures also seek to reduce costs on the Court, criminal justice agencies and other stakeholders where it is both safe and appropriate to exercise a discretion in accordance with this policy.
- 5.6 ACT Corrective Services (ACTCS) is committed to ensuring that all instances of offender non-compliance are identified, recorded, discussed with the offender, and as required, submitted as breaches to the sentencing Court in adherence with the

*Crimes (Sentence Administration) Act 2005, Crimes (Sentencing) Act 2005, the Human Rights Act 2004, and the Good Behaviour Order Breach Guideline.*

- 5.7 This policy complies with the *Human Rights Act 2004* and appropriately balances the rights that are engaged and limited by this policy. The aim of ensuring the timely, rehabilitative, and appropriate management of non-compliance must be balanced against, and not unreasonably limit, any person's human rights including a victim of crime's right to security of person, and the rights of the offender.

## 6 NON-COMPLIANCE

- 6.1 Early identification of non-compliance is an essential part of case management and acting on non-compliance is vital to maintain victim and community safety and promote offender accountability.
- 6.2 CCOs/CMs must recognise the impact of an offender's non-compliance upon victim safety and respond accordingly, particularly in domestic and family violence and sexual violence matters where non-compliance may compromise a victim's safety and be used as means of ongoing violence towards victims.
- 6.3 Understanding non-compliance will assist in case management to:
- a. address the impact of non-compliance or potential non-compliance on the safety of victims and/or the broader community
  - b. re-engage the offender
  - c. review and mitigate criminogenic factors that have led to an escalation in risk of re-offending behaviour
  - d. build offender responsibility and motivation to comply with the requirements of the order
  - e. address specific responsivity issues relating to non-compliance, as there may be a number of individual, cultural, disability, socioeconomic, or situational factors that may present barriers to compliance
  - f. remind the offender of the consequences of repeated non-compliance.
- 6.4 Non-compliance refers to those circumstances where an offender fails to comply with their good behaviour obligations. Dependent on the relevant supervision condition, non-compliance may be represented by failure to:
- a. attend a supervision appointment or not attend at the scheduled time
  - b. attend for a specific program/treatment
  - c. attend for community service work

- d. reside at an approved accommodation or to notify around a change in accommodation
  - e. comply with curfew requirements
  - f. submit to alcohol or illicit substance testing or a positive confirmatory test result for alcohol or illicit substance use where this is a specific Good Behaviour Order condition
  - g. comply with a reasonable direction provided by a CCO/CM or
  - h. inability to be contacted.
- 6.5 In circumstances where an offender has engaged in further offending behaviour or is charged with an offence, the offender is taken to have breached their good behaviour obligations and no discretion to warn the offender can apply.
- 6.6 The Good Behaviour Order Breach Guideline provides instruction to CCOs/CMs if they believe on reasonable grounds that an offender has breached any of their Good Behaviour Order obligations, including:
- a. initial responses to non-compliance
  - b. when discretion cannot be exercised
  - c. factors to consider in assessing non-compliance and the use of warning discretion
  - d. possible courses of action in responding to non-compliance
  - e. reporting a breach to the sentencing court
  - f. providing a warning to an offender.
- 6.7 As per s102 (1,2) of the Crimes (Sentence Administration) Act 2005, if a CCO/CM believes on reasonable grounds that an offender has breached their good behaviour obligations (and discretion is not exercised to warn the offender as per the Good Behaviour Order Breach Guideline), the CCO/CM must:
- a. make a record of the reportable breach and
  - b. report the reportable breach to the sentencing court.

## 7 SUPPORTING COMPLIANCE

- 7.1 CCOs/CMs must notify the offender of the offender's obligations, both under the Court order and the requirements of supervision. Offenders must be informed of the potential consequences of non-compliance and the CCO's/CM's responsibilities to notify the sentencing Court.

- 7.2 To promote compliance, ACTCS staff must make reasonable accommodations for the individual circumstances and needs of the offender, such as language or cultural background, disability, health issues, mental health conditions, socioeconomic status, religious beliefs, gender identification, age, and pregnancy. This includes when CCOs/CMs are making reasonable directions.

*Example: CCOs/CMs must consider circumstances that may impact their ability to contact an offender or for the offender to attend an appointment and explore other contact methods or alternative arrangements for appointments, if safe and appropriate to do so.*

- 7.3 In supporting compliance, ACTCS staff must consider the cultural and family connections of Aboriginal and Torres Strait Islander Peoples. CCOs/CMs must also consider issues which disproportionately affect Aboriginal and Torres Strait Islander Peoples, including:

- a. poverty
- b. unemployment
- c. homelessness/unstable accommodation
- d. disability
- e. mental health issues and
- f. mobility/access to public transport.

*Example: a CCO/CM with input from an ACTCS Cultural Engagement Officer will consider liaising with relevant family or other Aboriginal organisations to help establish contact or re-engage with an Aboriginal offender.*

## **8 RELATED DOCUMENTS**

- Crimes (Sentence Administration) Act 2005
- Crimes (Sentencing) Act 2005
- Human Rights Act 2004
- Case Note Policy
- Good Behaviour Order Breach Guideline
- Good Behaviour Order Breach Warning Template 2023
- Good Behaviour Order Breach Reporting Template 2023





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A/g Commissioner

ACT Corrective Services

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