



<b>COMMUNITY INSTRUCTION</b>	<b>Managing non-compliance: Commonwealth Orders</b>
<b>COMMUNITY INSTRUCTION NO.</b>	<b>C14.5</b>
<b>SCOPE</b>	<b>Community Corrections</b>

## PURPOSE

To provide instruction to Community Corrections Officers (CCOs) on informing the Commonwealth Director of Public Prosecutions (CDPP) and the Court of an offender's alleged non-compliance with the conditions of their Commonwealth Order.

## PROCEDURES

### 1 General

- 1.1 Commonwealth Breach Reports are submitted to the CDPP who determine if the alleged non-compliance satisfies initiating breach action with the court.
- 1.2 Breach action must be commenced before the expiry date of Recognisance Orders unless the breach arises by the commission of further offending.
- 1.3 Breach action can be initiated past the expiry date of Intensive Correction Orders and Community Service Orders for all instance of non-compliance.

### 2 Details of alleged non-compliance

- 2.1 All instances of alleged non-compliance must be recorded on the offender information management system. This may include, but is not limited to, instances where the offender has:
  - a. failed to attend supervision as directed and has failed to notify of their inability to attend.
  - b. returned a positive urinalysis result, and this result cannot be attributed to prescribed medication that has been recorded on the offender information management system.
  - c. made a disclosure or provided a positive test result for alcohol and/or drug use which is not in accordance with their commonwealth order conditions.
  - d. failed to comply with a reasonable direction (e.g., a referral has been made to an offence specific program and the offender has failed to participate as directed).
  - e. failed to attend Community Service Work (CSW) as directed on their 3.1.3 Work Instruction without notifying of their inability to attend or providing a reasonable excuse for their absence.
- 2.2 Individual instances of alleged non-compliance should be discussed with the offender as they occur. If the offender provides written evidence to excuse their absence, this must be recorded in a case note in accordance with the *Case Note Policy 2021* and uploaded onto the offender information management system.
- 2.3 In determining whether to inform the CDPP of the offender's alleged non-compliance, consideration should be given to demonstrated patterns of behaviour that may indicate poor compliance, or poor engagement with supervision. Examples of such may include, but are not limited to:

- a. the offender's propensity to request that appointments be rescheduled, to the extent that they are not attending face-to-face appointments and contact is only maintained via telephone calls.
- b. the offender's demonstrated opposition to engage in meaningful conversations in relation to their criminogenic risk factors during supervision, or to engage in interventions as identified on their case management plan.

### **3 Informing the CDPP and Court of the offender's alleged non-compliance**

- 3.1 The CCO must inform the CDPP if they believe, on reasonable grounds, that the offender has breached any of their obligations. This is done by completing form 1.4.5 Commonwealth Breach Report. The Breach report must have the following attachments:
  - a. The offender's criminal history
  - b. Copy of the Commonwealth Order/s subject to breach action
- 3.2 All 1.4.5 Commonwealth Breach Reports must be approved and signed by a Team Leader (TL). The TL must ensure information in the report matches information in case notes or other Service records, and that the instance or instances constitute non-compliance.
- 3.3 The finalised 1.4.5 Commonwealth Breach Report must be scanned and emailed as a PDF document to the CDPP. A copy of the relevant Order/s and the offender's criminal history must also be attached to the email. Emails must be sent to: [ACTPros.Paralegal@CDPP.gov.au](mailto:ACTPros.Paralegal@CDPP.gov.au)
- 3.4 The CCO must case note that the 1.4.5 Commonwealth Breach Report was sent to the CDPP and upload the scanned document in the offender information management system.
- 3.5 The CDPP will assess the alleged breach. If the CDPP decides that breach action should be commenced against the Offender, the CDPP will draft an Information and Summons and Statement of Facts, and return the draft to the CCO to be laid before a Magistrate or Registrar.
- 3.6 The CCO must perform the following steps to lay the Information and Summons:
  - a. contact the Magistrates Court on (02) 6205 4902 to schedule an appointment.
  - b. take one copy of the Information and Summons to the appointment.
  - c. the Magistrate or Registrar will sign the Information and Summons.
  - d. once signed the Registry will make copies from the original Information and Summons, for the following purpose:
    - (i) one (1) copy is filed at the Registry Counter
    - (ii) one (1) copy is filed with the Sheriff's Office who will serve the Summons
    - (iii) one (1) copy is scanned and emailed to the CDPP and uploaded to the offender information management system.

### **4 Advising the offender of the notification made to Court**

- 4.1 Further to the conversations as per section 2.2 of this document, the CCO must also make reasonable attempts to inform the offender that their alleged breach has been referred to the CDPP for the matter to return to Court to deal with the breach, and case note that conversation.



**5 Continuing to work with the offender**

- 5.1 Commencing breach proceedings before the Court does not preclude the CCO from continuing to work with the offender, unless there is a warrant issued for their arrest.
- 5.2 If there is an active warrant issued, the CCO should encourage the offender to present themselves to Court or to the City Police station to have the warrant dealt with prior to re-engaging with Community Corrections.
- 5.3 The CCO must make reasonable attempts to engage the offender who has been summoned to Court in relation to an alleged breach. If the offender remains engaged in the period leading up to attending Court, the Breach Officer in attendance will be able to provide an update to the Court about any progress the offender has made since the Commonwealth Breach Report was submitted. Alternatively, the CDPP may request an updated report be provided prior to the Court hearing.
- 5.4 If the alleged breach is in regard to non-attendance at CSW, the CCO must consult with the CSW Co-ordinator to determine if the offender is able to resume CSW as per the existing Work Instruction. In some instances, the offender will be required to sign a new 3.1.3 CSW Work Instruction and may not be offered CSW on the same terms as previously agreed upon.

**RELATED DOCUMENTS AND FORMS**

- 3.1.3 CSW Work Instruction
- 1.4.5 Commonwealth Breach Report
- Case Note Policy 2021



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