

6 August 2023

Department of Justice  
Office of the Secretary  
GPO Box 825, Hobart, TAS, 7001

**Sent to:** [haveyoursay@justice.tas.gov.au](mailto:haveyoursay@justice.tas.gov.au)

### Sentencing Amendment (Alcohol Treatment Order) Bill 2023

TasCOSS welcomes the opportunity to provide feedback to the Department of Justice ('the Department') on the proposed amendments to the *Sentencing Act 1997 (Tas)* ('the Act'), which relates to the Drug Treatment Order ('DTO') as a sentencing option in Tasmania.

TasCOSS's vision is for one Tasmania, free of poverty and inequality where everyone has the same opportunity. Our mission is two-fold: to act as the peak body for the community services industry in Tasmania; and to challenge and change the systems, attitudes and behaviours that create poverty, inequality and exclusion. Our membership includes individuals and organisations active in the provision of community services to Tasmanians on low incomes or living in vulnerable circumstances. TasCOSS represents the interests of our members and their service users to government, regulators, the media and the public. Through our advocacy and policy development, we draw attention to the causes of poverty and disadvantage, and promote the adoption of effective solutions to address these issues.

A DTO is a therapeutic sentencing option which allows eligible offenders to engage in treatment and rehabilitation in the community, rather than serving a custodial sentence. The DTO was introduced into the sentencing landscape in Tasmania as an opportunity to provide intensive intervention to support offenders and to provide an alternative to a custodial sentence. Through the DTO, people who have been convicted for offences which relate to their substance use or dependency are offered the opportunity to engage in intensive, therapeutic treatment offered by a multidisciplinary team and monitored by the Court. The Drug Court model has been evaluated in other jurisdictions and found to have a positive impact on both participants and the community, with a recent Victorian review finding the Drug Court had positive impacts on the rates and seriousness of instances of reoffending for participants, as well as being cost effective when compared to the potential expense of custodial sentences.<sup>1</sup>

The expansion of the Tasmanian drug court to include offenders with alcohol treatment needs has been recommended by several bodies and community groups, including the Sentencing Advisory Council,<sup>2</sup> the Tasmania Law Reform Institute,<sup>3</sup> Alcohol, Tobacco and other Drugs Council (ATDC) Tasmania,<sup>4</sup> and Community Legal Centres Tasmania.<sup>5</sup> TasCOSS has also previously advocated for the expansion of the Drug

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<sup>1</sup> KPMG, *Evaluation of the Drug Court of Victoria: Final Report* (18 December 2014).

<sup>2</sup> Sentencing Advisory Council, *Phasing Out of Suspended Sentences: Final Report No. 6* (March 2016), recommendation 6.

<sup>3</sup> Tasmania Law Reform Institute, *Responding to the Problem of Recidivist Drink Drivers Final Report No. 24* (March 2018), p. 61.

<sup>4</sup> Alcohol Tobacco and other Drugs Council (ATDC) Tasmania, *Strengthening Tasmania's Justice Response to Problematic Alcohol and other Drug Use* (September 2019).

<sup>5</sup> Community Legal Centres Tasmania, *Submission to the Department of Health, Tasmanian Drug Strategy 2023-28 Consultation* (4 August 2023).

Court and the legislative provisions of the Act to extend the DTO to potential participants with alcohol-related treatment needs.<sup>6</sup>

TasCOSS strongly supports legislative and social reform to provide greater support for Tasmanians to receive community-based treatment and care. Many people come into contact with the criminal justice system as a result of substance use and misuse, and that the expansion of alternative sentencing options — including therapeutic models such as the Drug Treatment Order — are more cost-effective, have lower recidivism rates, and promote rehabilitation and the development of stronger pro-social behaviours and networks.<sup>7</sup> We have also noted the high rates of prisoners who are in need of treatment and intervention relating to alcohol and substance use, and have raised concerns about the significant limitations for appropriate and effective treatment in the custodial environment.

Community Legal Centres Tasmania has recently highlighted the crucial need for prison-based treatment,<sup>8</sup> citing research demonstrating that 46% of detainees who had used drugs attributed their detention to alcohol and/or other drug (AOD) use,<sup>9</sup> and that recent reports outline concerns the current AOD treatment service in prison cannot adequately meet demand.<sup>10</sup> Concluding that, ‘the reality is there are a number of prisoners that enter custody and request support for alcohol and drug related issues but cannot access it due to staffing limitations.’<sup>11</sup>

TasCOSS is therefore supportive of the Bill. Alongside this legislative reform, we urge the Tasmanian Government to provide additional funding and resources to ensure the Drug Court is adequately equipped to cope with any increase in demand due to this change and to ensure all participants receive effective, evidence-based treatment.

However, a focus on tertiary responses (such as sentencing) is insufficient to address the existing need for Tasmanians to receive comprehensive support for issues relating to alcohol and other drug use. We therefore also recommend the Government provide greater investment into community-based programs and initiatives to offer greater opportunities for early intervention, prevention and treatment, as well as ensuring community organisations who provide these services are adequately funded and resourced.

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<sup>6</sup> TasCOSS, *Submission to the Department of Health, Tasmanian Drug Strategy 2023-28* (August 2023).

<sup>7</sup> For example, the Sentencing Advisory Council Tasmania noted that, ‘[h]ome detention is an effective sentencing option in other jurisdictions with high completion rates and low recidivism rates... able to address multiple aims of sentencing and provides an onerous sentencing order that both punishes an offender, deters the offender and others from committing offences and assists in addressing the offender’s rehabilitative needs.’ Sentencing Advisory Council, *Phasing Out of Suspended Sentences*, (March 2016), xi.

<sup>8</sup> Community Legal Centres Tasmania, *Submission to the Tasmanian Department of Health, Tasmanian Drug Strategy 2022-27*, July 2022, p. 2-4.

<sup>9</sup> Voce, A & Sullivan, T 2021, [Drug Use Monitoring in Australia: Drug Use Among Police Detainees](#), *Australian Institute of Criminology*, p. 2.

<sup>10</sup> Office of the Custodial Inspector 2018, *Inspection of Adult Custodial Services in Tasmania 2017: Care and Wellbeing Inspection Report* (October 2018), p. 106.

<sup>11</sup> *Ibid.*

If you have any questions in relation to this submission, please reply via email or contact the office on (03) 6231 0755.

Yours sincerely,



**Adrienne Picone**  
Chief Executive Officer, TasCOSS