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| COMMUNITY INSTRUCTION | Managing Non-compliance: Intensive Correction Orders |
| COMMUNITY INSTRUCTION NO. | C14.2 |
| SCOPE | Community Corrections |

PURPOSE

To provide instruction to Community Corrections Officers (CCOs) on informing the Sentence Administration Board (SAB) of an offender's alleged non-compliance with the conditions of their Intensive Correction Order (ICO).

PROCEDURES

1. Details of Alleged Non-compliance

- 1.1 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 about alcohol and/or drug use which is not in accordance with their ICO conditions and the CCO has subsequently decided not to direct the offender to undertake alcohol and/or drug testing on the strength of that disclosure
 - 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.
- 1.2 Individual instances of alleged non-compliance should be discussed with the offender as they occur. If the offender provides documentary evidence to excuse their absence, this must be referred to in a case note and uploaded onto the offender information management system.
- 1.3 The CCO must advise the offender as soon as practicable once it has been determined that the SAB will be informed of the alleged non-compliance. Verbally advising the offender of the imminent breach action does not negate the requirement for the CCO to provide the offender with a 7.3.2 ICO Notice of Inquiry as soon as practicable. For further information on this process see Section 3 of this document.
- 1.4 Prior to informing the SAB of the non-compliance the CCO must check the ICO and determine if any or all of the charges include federal offences sentenced under Commonwealth legislation. The CCO can check this by:
 - a. identifying if the offence description is prefixed by CTH
 - b. confirming the Act the offence was sentenced under on ICMS

- c. confirming that the order which has a Commonwealth offence(s) attached was in effect during the instance of non-compliance (offenders may have multiple ICOs, each with their own start and end date)
 - d. seeking guidance from their respective Team Leader (TL).
- 1.5 The SAB does not have jurisdiction to preside over sentences relating to Commonwealth charges. If an offender demonstrates non-compliance in relation to an ICO that refers wholly, or partly, to Commonwealth charges, this must be clearly identified in the ICO Breach Report adhering to the *Managing non-compliance: Commonwealth offences Community Instruction*.

2. Informing the SAB of the alleged non-compliance

- 2.1 All correspondence with the SAB must be conducted via the SAB Secretariat. All email correspondence must be sent through to sab_secretariat@act.gov.au.
- 2.2 In order to inform the SAB of the alleged non-compliance, the CCO must:
- a. provide specific details about the alleged non-compliance (including the specific condition(s) to which the non-compliance relates) using the *7.3.1 ICO Breach Report* template
 - b. contact the SAB Secretariat to advise them that an ICO Breach Report has been written and request a date for the Inquiry/Hearing
 - c. on receiving a date for the Inquiry/Hearing, the CCO must complete the Notice of Inquiry (NOI) using the *7.3.2 ICO Notice of Inquiry* template. In part 3 of the template the CCO must note the condition(s) that relate to the alleged non-compliance, and refer the offender to the ICO Breach Report, which must be attached to the NOI when it is provided to the offender
 - d. in part 4 of the *7.3.2 ICO Notice of Inquiry* template the CCO must record the manner of delivery of the NOI (and a copy of the ICO Breach Report) to the offender
 - e. forward the NOI and ICO Breach Report to the SAB secretariat, the offender, and the Department of Public Prosecutions on dppcorrectiveservices@act.gov.au.
 - f. upload all completed documents to the offender management system.
- 2.3 All documents drafted by the CCO must undergo vetting and approval from a TL prior to being provided to the SAB, the offender, and the Department of Public Prosecutions.
- 2.4 All correspondence with the SAB Secretariat must be carried out as soon as practicable after the alleged non-compliance.

3. Providing the offender with the NOI and a copy of the ICO Breach Report

- 3.1 Where possible, the CCO must provide a copy of the NOI and ICO Breach Report to the offender in person. The CCO must record the provision of these documents in a case note, as per the *Case Note Policy*.
- 3.2 If the CCO is unable to provide the offender with the NOI and ICO Breach Report in person, it must be posted to their approved address utilising an Express Post envelope. The CCO must record the tracking number of the Express Post envelope in a case note and may be required to provide the tracking number to the SAB, or case note their attempts to ascertain the successful delivery of the Express Post envelope. The use of Express Post tracking numbers assists the SAB to satisfy themselves that reasonable attempts were made to notify the offender, before issuing a SAB Warrant, if the offender fails to attend.
- 3.3 The CCO must advise the offender that they are required to continue to comply with their ICO obligations until the alleged ICO Breach Report is considered by the SAB.

4. Appearing before the SAB

- 4.1 CCOs are required to appear before the SAB in relation to submitted ICO Breach Reports.
- 4.2 CCOs will receive a weekly email from the SAB Secretariat outlining the upcoming SAB agenda. This email will include the:
 - a. offender name
 - b. time and date of appearance
 - c. details of the hearing (breach, reinstatement, management, etc)
 - d. required CCO.
- 4.3 The purpose of this appearance is to provide the SAB members with:
 - a. any updated information since the report was submitted
 - b. an opportunity to ask the CCO any questions in relation to the reported non-compliance and greater case management goals/compliance
 - c. an opportunity to discuss the alleged non-compliance with the offender.
- 4.4 It is the responsibility of the SAB to determine if the information provided to them constitutes a breach of a condition(s) and determine an appropriate outcome.

5. Informing the SAB of new charges

- 5.1 The CCO must, via the SAB Secretariat, inform the SAB of any new charges brought against an offender subject to an ICO.
- 5.2 The CCO must complete the *Notification of Further Charges* template, noting the new charge number(s), the new charge(s) and the next in court date for these matters. The CCO must also indicate if the offender has been remanded in custody or made subject to any bail undertakings.
- 5.3 The CCO must monitor the progress of these new charges, as a finding, or plea, of guilt may necessitate the completion of an ICO Breach report.

RELATED DOCUMENTS AND FORMS

- 3.1.3 Work Instruction
- 7.3.2 ICO Notice of Inquiry
- Managing non-compliance: Commonwealth offences Community Instruction
- 7.3.1 ICO Breach Report
- Case Note Policy

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ACT Corrective Services
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Document details

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