

MANDATORY ALCOHOL TREATMENT: DISCUSSION PAPER

Sarah Clifford, Keelin O'Reilly, Professor Kylie Lee,
Professor Alison Ritter & Dr Cassandra Wright



MENZIES SCHOOL OF HEALTH RESEARCH

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Mandatory Alcohol Treatment: discussion paper

Key points

- Mandatory alcohol treatment is a model to provide treatment against someone's will, justified legally and ethically when the person is at immediate and serious risk of harm as a result of severe alcohol dependence.
- New South Wales and Victoria have mandatory treatment for alcohol and other drugs: it is only used in extreme cases when someone is at serious risk of harm (life or death situations) and when voluntary treatment has been ineffective.
- NT had a mandatory alcohol treatment program from 2013 to 2017 focused on addressing public intoxication. It did not have criteria regarding alcohol dependence. As a result, the program was subject to ethical and legal critiques. The evaluation found little difference in outcomes for people who went to Alcohol Mandatory Treatment compared to those who did not.
- Independent assessments of the costs of mandatory treatment show it to be very expensive, costing between three to ten times more than voluntary treatment.
- Mandatory treatment involves the removal of a person's liberty and therefore requires strong checks and balances.
- Research evidence from other places (but not the NT) has shown that for people with severe alcohol dependence mandatory treatment can be as effective as voluntary treatment. However, it is much more expensive than voluntary treatment, and checks and balances are needed to ensure it does not result in harm or trauma.
- If mandatory alcohol treatment is reintroduced in the NT, the model would need to more closely mirror other Australian models and include input from Aboriginal peoples to minimise harms.

This paper

This paper is a review of contemporary evidence on mandatory forms of alcohol treatment, examining issues most relevant to the Northern Territory. A team of five researchers with expertise in alcohol policy and alcohol treatment compiled all relevant literature (18 scientific journal articles and 8 reports, see Appendix A). Here we aim to synthesise the evidence for a public audience.

1. WHAT IS MANDATORY ALCOHOL TREATMENT?

Mandatory alcohol treatment is provided to an individual who has severe alcohol dependence. It is different to voluntary treatment because the person does not have a choice.

“Mandatory” – because the person has no choice.

“Alcohol” – while many people consume alcohol, treatment is necessary for people who are diagnosed with alcohol dependence using clinical assessment criteria. Not all people who drink to intoxication meet this criteria and benefit from treatment.

“Treatment” – treatment for alcohol dependence usually starts with a detox (management of withdrawal) and then can involve counselling or rehabilitation. Sometimes medicines can be prescribed to support abstinence, manage symptoms of withdrawal or to prevent relapse. Treatment provided to people with alcohol dependence is most effective when based on the evidence for what works, as outlined in national clinical guidelines.

There are different types of mandatory treatment in Australia and overseas. Many types of mandatory treatment apply to drugs (not alcohol) and are usually part of the court system. But sometimes, even when there is no crime committed, a person can be forced into treatment as a health response. This is the type of mandatory treatment being talked about here.

In most mandatory treatment models, a health professional or family member will refer someone to mandatory treatment. Sometimes other people (such as police) can refer someone if they believe the person is at risk of serious harm from their alcohol dependence.

Mandatory alcohol treatment is legally and ethically justifiable when:

- The person is experiencing severe alcohol dependence
- There is a risk of serious harm to themselves or to others
- There are no other options

Because it involves the removal of liberty, it requires **excellent checks and balances** to ensure a person is detained for fair, proportionate reasons.

1.1 What are the goals of mandatory treatment?

The main goal of mandatory treatment is to protect someone from serious harm or save their life when they are not able to make decisions for themselves because of their alcohol dependence. This is the overarching goal (e.g. in Norway to “provide life-saving treatment”, in NSW to provide “medical treatment and respite as a last course of action”).

There are other, secondary goals to many programs which include:

- Increase the person’s ability to make decisions about their health and wellbeing
- Increase the likelihood of entering voluntary treatment

- Stabilise their immediate, acute health risks
- Provide opportunity for comprehensive assessment for future care planning

1.2 Who is it suitable for?

There are different types of mandatory alcohol treatment programs, globally and in Australia.

Jurisdiction	Who is it for?	How long can someone be held in treatment?
Norway <i>Norwegian Municipal Health Care Act</i>	Patients whose health is seriously at risk due to extensive, prolonged substance use, and when voluntary treatment has been insufficient.	Up to 3 months
Sweden <i>Care of Substance Abusers (Special Provisions) Act</i>	People with life threatening patterns of substance use (called an 'acute intervention'), aiming to motivate them to seek change and voluntary treatment.	Up to 6 months
New Zealand <i>Substance Addiction (Compulsory Assessment and Treatment) Act</i>	People with severe addiction who are unable to make decisions about engaging in treatment. Every person is assumed to be able to decide if they want to engage or not engage in treatment until it can be shown that they are unable to make that decision. It is intended to be used as a last resort for people with the most severe addiction, as part of a planned process and not in response to a crisis.	Up to 56 days (but released once capacity is restored). In the case of a brain injury people may be held for a further 56 days to allow for long term care planning
New South Wales <i>Involuntary Drug and Alcohol Treatment (IDAT)</i>	People with severe substance dependence, for whom treatment is necessary to protect from serious harm.	28 days (but could be up to 84)
Victoria <i>Severe Substance Dependence Treatment (SSDT)</i>	Persons with a severe substance dependence where this is necessary as a matter of urgency to save the person's life or prevent serious damage to the person's health.	14 days
The Northern Territory had a mandatory alcohol treatment program from 2013 to 2017 called 'Alcohol Mandatory Treatment'. It looked very different to other mandatory treatment models.		
<i>Alcohol Mandatory Treatment Act (AMT)</i>	People who are taken into police protective custody for being intoxicated in public three or more times over a two-month period	Up to 3 months (may be extended by the tribunal up to 6 months)

Alcohol Mandatory Treatment (NT)

The purpose of the NT program was to mandate assessment, treatment, and management of people who were repeatedly intoxicated in public. Unlike all other mandatory treatment models, there was no legislative requirement for people to be dependent on alcohol to be mandated into treatment.

People could be detained by police for up to 96 hours awaiting assessment. A clinician would assess the person and then they went to a tribunal.

The tribunal would review the clinical assessment but did not need to follow the clinician recommendations. Then the tribunal could mandate treatment in a secure residential facility (in Darwin, Alice Springs or Katherine), a community treatment facility or other forms of community management, including income management, for a period up to 90 days (income management could be in force for 12 months). Referral to secure residential treatment was the most common outcome.

2. DOES MANDATORY ALCOHOL TREATMENT WORK?

When designed carefully and implemented for an appropriate target group, mandatory treatment can work just as well as voluntary treatment. However voluntary treatment is always preferred because it does not carry the same legal and ethical risks as mandatory treatment. Treatment provided to people with alcohol dependence is most effective when based on the evidence for what works, as outlined in national clinical guidelines.

In most places - including NSW - for people who have refused voluntary treatment, mandatory treatment can be as effective as voluntary treatment at improving wellbeing for people with alcohol dependence. However this was not demonstrated in the NT (see below). Mandatory treatment can give people an opportunity to access health and social welfare services (such as dental, housing, clinical psychology assessments, help with preparing guardianship and NDIS applications and so on). Some people might choose to go to voluntary treatment on discharge from mandatory treatment.

In the Northern Territory there was no difference for people who underwent the **Alcohol Mandatory Treatment (AMT)** program and those who did not when measured by number of emergency department presentations, deaths, or protective custody apprehensions one year later. The group of people ordered to AMT had higher hospital admissions and higher referrals to drug and alcohol treatment, than those who were eligible for AMT but did not receive it. Overall, there was little evidence of better outcomes for those who underwent the AMT compared to those who did not.

There are some things that can be done to make sure mandatory treatment has the best chance of working and is ethical. Aftercare, which means care provided after people exit residential treatment, is an important part of effective treatment and can help make sure people have long-lasting

improvements. In Sweden, housing, work, and education support is provided after people leave mandatory treatment. Aftercare cannot be mandated but can be offered voluntarily so people are supported on discharge from mandatory treatment.

3. HOW MUCH DOES IT COST? AND IS IT VALUE FOR MONEY?

The evidence shows that mandatory alcohol treatment is **not** considered to be value for money. The NSW Involuntary Drug and Alcohol Treatment Program cost \$99,454 per client (2016 AUD). This was ten times more expensive than other alcohol treatment.

In the NT the average cost of Alcohol Mandatory Treatment for each person was \$53,915. This is much more expensive than a person receiving voluntary treatment, which was about \$17,830. This means Alcohol Mandatory Treatment was **three times more expensive** than voluntary treatment but not more effective.

4. ARE THERE ARE RISKS AND HARMS ASSOCIATED WITH MANDATORY ALCOHOL TREATMENT?

Yes, there are risks with mandatory alcohol treatment because it involves the removal of a person's liberty. There must be **excellent checks and balances** to ensure a person is not forced into treatment unnecessarily. This can include a legal review of all applications (for example, in NSW this is done by a magistrate) and the right to appeal the decision.

Because people do not have a choice when forced into mandatory treatment, there is a risk of trauma which can cause more harm. Some people find it humiliating, especially when police are involved, and negative experiences can make people less likely to use health services in the future. If family have referred people to mandatory treatment, sometimes this can damage personal relationships.

In the NT there are added risks because of the large Aboriginal population who may experience racism and discrimination from mandatory treatment and police involvement. There is also a risk associated with keeping people off country to provide mandatory treatment, which can be additionally harmful for Aboriginal peoples. This means extra checks and balances and input from Aboriginal peoples are needed to minimise these risks.

Nearly all (97%) of people who entered Alcohol Mandatory Treatment in the NT were Aboriginal. There were concerns raised that the process (including the entry pathway) was racialised.

5. WHAT DO CLIENTS/CLINICIANS/FAMILIES THINK ABOUT IT?

Clients and families have reported some benefits of mandatory treatment. In NSW, most clients (who had severe alcohol dependence) said they felt their mandatory treatment was justified and was in their best interest. In Victoria and other countries (again, where clients had diagnosed alcohol dependence and where mandatory treatment is only used in life saving circumstances), families and clients said that mandatory treatment can save lives and provide families with options. Clients and families have also said that sometimes mandatory treatment can be a turning point for someone with dependence. Sometimes clients and families do not support mandatory treatment. Clients and families have said they have concerns about the risks and potential harms. This includes damaging family relationships and making people less likely to seek help in the future.

When clients and families support mandatory treatment, it is usually only when the individual is likely to be seriously hurt or die from their drinking.

Some people who received **Alcohol Mandatory Treatment** in the NT were asked what they thought about it:

People that the consultants spoke to reported that it helped them to learn about the impact of alcohol, to improve their sleep and allowed them to access clean clothes, food, and medicines.

They also said they felt better when they left than when they entered, and that they had better ideas about how to manage their alcohol use. These are not necessarily different from benefits reported in voluntary treatment.

There were also negative experiences of mandatory treatment: people reported not really understanding what was happening to them, not understanding the tribunal process, and wanting to leave the treatment facilities to get home to their families. They also reported boredom, a lack of activities, and arguments between people in mandatory treatment.

6. WHAT ARE THE PROTECTIONS AND SAFEGUARDS THAT ARE REQUIRED?

To be mandated to enter treatment there must be serious risks to the person or others (in the realm of life and death). There must also be safeguards, like the use of a magistrate, to make sure the person meets criteria and is protected.

The United Nations recommends that to deliver treatment without consent you must have:

- Two qualified health professionals consider the treatment necessary
- Time limited treatment (maximum seven days)
- A right to appeal
- A medically appropriate, individual plan - that is subject to regular review and is consistent with international evidence-based best practice

7. IS IT SUITABLE FOR THE NORTHERN TERRITORY/ PEOPLE OF NORTHERN TERRITORY?

A well-designed and implemented model of mandatory treatment might provide some benefit to a small population of people with alcohol dependence, but it would need to be in line with the international evidence on such programs to ensure effectiveness and safety. To provide benefit, evidence suggests it is best implemented as a health intervention, and only targeted at people who are at risk of serious harm due to their alcohol dependence.

Given the context of colonisation and history of institutionalisation, there are additional ethical concerns surrounding mandatory treatment for Aboriginal peoples. If mandatory treatment is used in the NT, it should be developed with Aboriginal experts, and treatment should use bi-cultural models of care. It is important that mandatory treatment is targeted at people with severe alcohol dependence whose ability to make decisions about engaging in treatment is impaired. In an ideal model, every person would be assumed to be able to decide if they want to engage or not engage in treatment until it can be shown that they are unable to make that decision.

An evidence-informed NT mandatory alcohol treatment program would have all of the following features:

- To be eligible a person must be diagnosed as having severe alcohol dependence by two qualified health professionals
- It should only be used for people in life threatening situations
- High quality voluntary treatment should be offered first
- Mandatory treatment is time limited and ceases once a person's capacity is restored, at which time transition to high-quality care voluntary should be supported
- The program is designed in consultation with Aboriginal peoples
- Assessment and treatment provided is culturally appropriate
- The program is provided in a safe, clinical environment where high quality health/clinical care is provided
- There is judicial oversight and avenues of appeal
- Aftercare and follow-up is provided as a standard voluntary option to all clients.

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