



Diversions Options for Drug Offenders – an overview for teachers

Introduction

In August 2000, the Deed of Agreement between the Commonwealth and Victoria was signed, and the Prime Minister and Victorian Premier launched the National Illicit Drug Strategy (NIDS) Drug Diversion Initiative in Victoria.

These include drug diversion programs operating in Victoria aimed to target offenders for diversion into drug treatment -- by the police at the point of arrest and by the courts at either bail or sentencing. The programs are:

- Victoria Police Cannabis Cautioning Program
- Victoria Police Drug Diversion Program
- Court Referral and Evaluation for Drug Intervention and Treatment (CREDIT)

The scheme emphasises diversion of offenders at apprehension by police, intervening early in a drug user's relationship with the criminal justice system. It provides an opportunity for those people using illicit drugs to access education, treatment and support to address their drug



problem, and at the same time, avoid incurring a criminal record.

Breaking the cycle of drug use and crime also requires opportunities for offenders appearing before the court to access assessment and treatment.

Cannabis Cautioning Program

The Cannabis Cautioning program is a police diversion program that involves the provision of a cautioning notice for use/possess cannabis offences to offenders 17 years and over. The offender must only be in possession of a small (non-traffickable) amount of cannabis and admit to the offence. The offender must consent to the caution and not be involved in any other offence at time of apprehension by the police. A person can accumulate two drug-related cautions only.

The Cannabis Cautioning program is well received by police members as an expedient way to deal with cannabis offenders. Victoria Police supports operational members to implement this program with education, training and resources.

A voluntary cannabis education program, *Cautious with Cannabis*, is offered to offenders as part of the cautioning process.



Drug Diversion Program

The Drug Diversion program involves the provision of a police cautioning notice for the use or possession of illicit drugs other than cannabis to those offenders aged ten years and over. The caution carries the condition of undertaking a clinical drug assessment and a session of any prescribed drug treatment by the offender.

The program is aimed at low-level or first time offenders and a person can accumulate two cautions only. To be eligible for a drug diversion the offender must admit to the offence and not be involved in any other offence at the time of apprehension. Prior convictions for any offence do not exclude a person from eligibility for the Drug Diversion Program.

The Drug Diversion and Cannabis Cautioning programs enable police to refer illicit drug users to timely health interventions. An arrest by police can provide the impetus to address illicit drug use. Providing opportunities to access drug education, assessment and treatment during such a critical moment takes full advantage of any momentum to change behaviour.



Credit Program

Currently when police apprehend and charge a person with an offence and the person has an immediately presenting illicit drug problem, the police are able to refer to the CREDIT program in cases where bail is granted. A drug assessment is carried out by a Drug Clinician based at the Magistrates' Court and (where appropriate and the offender agrees) the Magistrate as a condition of bail refers the offender into a recommended treatment regime. The Community Offenders Advice and Treatment Service (COATS) arrange an appointment with the drug treatment services(s) in a timely manner and purchase the treatment.

The CREDIT program does not target particular age groups or stages of illicit drug use, and is open to first time offenders along with those with previous criminal and/or illicit drug use history. Currently, to be eligible for the CREDIT program, the offender must have an illicit drug problem, be eligible to be released on bail i.e. does not present a risk to themselves or the community, and not be subject to any other court order with a drug treatment component. There is no maximum number of times a person can be referred to or participate in the CREDIT program and a guilty plea is not a requirement. Successful participation in the CREDIT program may be taken into account at the time of sentencing and sway a Magistrate into sentencing at the lesser end of the scale.



Police Cautioning

In addition to the above drug specific diversion programs the Police Cautioning Program provides police with an option of dealing with an offender alternative to progressing through the courts. Specific criteria must be met before a caution can be administered as an option. A caution may be administered to children for any offence.

Eligibility Criteria

For an offender to be eligible to receive a caution, all the following criteria must be met:

- identity of the offender must be verified
- there must be sufficient admissible evidence to establish the offence
- the offender must admit the offence
- generally the offender should have no prior criminal history
- the offender, and in the case of a child offender the parent/guardian, must consent to the caution
- a caution must be appropriate in the circumstances.
- a parent/guardian must be present at the time of giving the caution

This option can be used for any offence except murder, manslaughter or treason. Police often use it for first time offenders.