

T A S M A N I A
LAW REFORM
I N S T I T U T E

Submission Template

Responding to the Problem of Recidivist Drink Drivers

The TLRI has written an Issues Paper that considers options for reform that may improve the effectiveness of the criminal justice response to drink drivers by exploring sentencing options that are more likely to influence offenders' perceptions of the risks represented by their behaviour and bring about lasting attitudinal change.

Based on the experience in other jurisdictions, evidence indicated that a well-designed Driving While Intoxicated Courts/List (based on a specialist problem-oriented approach) provides a promising alternative to traditional sentencing approaches.

The TLRI is seeking your feedback on the desirability of establishing such court in Tasmania and in determining how such a court should operate.

You can answer any or all of the questions and provide as little or as much information as you wish.

The Template can be filled in electronically and sent by email or printed out and filled in manually and posted.

- The form is designed to be completed electronically by entering responses. The space provided for your answer will expand (if necessary) as you type. You are invited to include as much or as little information as you choose.
- Alternatively, you may print out the form and either fill it in manually or use a separate answer sheet (if you use a separate answer sheet, please ensure that you clearly number your answers to correspond with the questions in the Issues Paper). Again, you are invited to include as much or as little information as you choose.

After you have completed your submission please either email or post the document to the Institute:

Email: law.reform@utas.edu.au

Post: Tasmania Law Reform Institute
Private Bag 89
Hobart TAS 7001

Personal Information

Name:

Organisation (if any):

Address:

Email:

Phone number:

Publication of Submissions

The Institute uses any submissions received to inform its research. Submissions may be referred to or quoted from in a final report which will be published on the Institute's website. However, if you do not wish your response to be referred to or identified, the Institute will respect that wish.

Therefore, when making a submission to the Institute, please tick the applicable box to identify how you would like it to be treated based on the following categories:

Public submission – the Institute may refer to or quote directly from my submission, and name me as the source of the submission in relevant publications .

Anonymous submission – the Institute may refer to or quote directly from my submission in relevant publications, but will not identify me as the source of the submission.

Confidential submission – the Institute will not refer to or quote directly from my submission in any report or publication. Confidential submissions will only be used to inform the Institute generally in its deliberations of the particular issue under investigation.

Questions

Question 1:

Do you consider that there are limitations in the current responses to the problem of repeat drink driving? If so, please outline your concerns

Question 2:

Do you think that a DWI court/list should be established in Tasmania?

Question 3:

If you think that a DWI court/list should be established in Tasmania, do you think that a preliminary pilot DWI court/list would be an appropriate approach to the establishment of the court/list?

Question 4:

If a problem-solving approach is adopted in Tasmania to recidivist drink-driving, should it apply pre-sentence or post-sentence?

Question 5:

If it applies post-sentence, should it rely on an unactivated sentence of imprisonment (as with CMD) or should the problem-solving approach operate by using conditions that can be attached to a community-based sentencing order (as with the Victorian model) or should both options be available?

Question 6:

If the order relies on an unactivated sentence of imprisonment, should the CMD order be expanded to allow for alcohol related offences (that is, should the DWI list be made part of the CMD order) or should a problem-solving approach to repeat drink-driving be established as a stand-alone DWI court/list (separate from CMD)?

Question 7:

Are there any issues you can foresee that arise from any of these approaches that will need to be addressed in the implementation of the model?

Question 8:

What type and level of recidivism should eligibility criteria stipulate? Should first time offenders be included? In what circumstances?

Question 9:

In this regard, should there be minimum and/or maximum limits for the number of offences committed?

Question 10

Should the DWI court's jurisdiction include DWI-related death or serious personal injury cases?

Question 11:

What severity of alcohol abuse should be stipulated by the eligibility criteria?

Question 12:

Should offenders with co-morbidity issues such as illicit drug dependence or mental health problems be eligible to participate in DWI court programs?

Question 13:

Should offenders with any particular criminal history be excluded, such as offenders with prior convictions for crimes involving personal violence?

Question 14:

Do you consider that an alcohol ban should be a mandatory condition for all offenders or for any particular type of order (for example, CMD/stand-alone drink-driving orders)?

Question 15:

Alternatively, do you consider that the court should have a discretion to impose an order to ban alcohol use if appropriate taking into account the vulnerabilities of the offender and his or her treatment requirements?

Question 16:

Do you agree that referrals to the DWI court could come from the prosecution, defence, Tasmania Police or magistrates?

Question 17:

Do you have any observations or comments to make in relation to the assessment process for eligibility and/or the eligibility criteria?

Question 18:

What issues arise in making existing services available to recidivist drink drivers as part of any DWI court program?

Question 19:

Are there any gaps in treatment and rehabilitation services currently available for recidivist drink drivers?

Question 20:

Do you agree that a phased approach for participants engaging in a DWI list is desirable?

Question 21:

Should an offender who makes progress in complying with the order be able to obtain a driver's licence or a restricted licence subject to an interlock condition?

Question 22:

Do you have any other suggestions for sanctions/rewards that may be appropriately applied to offenders for compliance or non-compliance with the program?

Question 23:

How should an alcohol ban be monitored? For example, do you consider that the use of a Secure Continuous Remote Monitor (SCRAM) bracelet is desirable? Should random testing be utilised and if so, how frequently might this occur and/or in what circumstances? What problems do you foresee in relation to monitoring alcohol use and how might these problems be solved?

Question 24:

Do you agree that comprehensive evaluation needs to be built into any model adopted in Tasmania?

Question 25:

Do you think that a community advisory group should be established as part of the process of developing any Tasmanian DWI list?

Question 26:

If so, which stakeholders do you think should be on the community advisory group?