



SENTENCING IN THE MAGISTRATES COURT OF VICTORIA

Changes to the Sentencing Act

Changes to the Sentencing Act commencing 16 January 2012. The court's powers when sentencing offenders changed on 16 January 2012.

The court can no longer impose community based orders, intensive corrections orders, combined custody and treatment orders or home detention orders. A new community based sentencing option has been introduced called the Community Correction Order. Further information on the changes can be found on the Department of Justice website.

Sentencing

After taking into consideration all the circumstances of the case, including in some instances the impact upon the victims of the crime and the accused's personal situation, the Magistrate has a number of options available when considering a penalty. Many of these sentences can be imposed with or without conviction.

Conviction and imprisonment

A person can be ordered to serve a term of imprisonment. In some circumstances where the accused is under the age of 21, but at least 17, they can be ordered to be detained in a Youth Justice Centre. The maximum term of imprisonment that a Magistrate can impose for a single offence is two years. The maximum aggregate (total) sentence that can be ordered is five years.

Community Correction Order (CCO)

A CCO can be imposed when a person has been found guilty of an offence punishable by more than 5 penalty units. In the Magistrates' Court, the maximum length of a CCO is two years.

A CCO must contain one or more of the following optional conditions:

- Unpaid community work
- Supervision by Community Correctional Services
- Treatment and rehabilitation
- Non-association with a person or group of people
- Place or area exclusion – ban on offender entering certain places
- Residence restriction – restriction on where an offender can or cannot live
- Alcohol exclusion – restriction on an offender entering licensed premises
- Judicial monitoring – offender has to come back to court so the magistrate can monitor their progress on the CCO



- Bond – the offender has to pay an amount of money into court as a bond, which will be returned on successful completion of the CCO

Community Correctional Services administer the CCO.

Special conditions

The Court can, if recommended by the Office of Corrections, require the offender to attend one or more specific programs designed to address the offending behaviour. Should the offender not comply with the order, or commit further offences during the period of the order, they may be charged with breaching the order. This could result in further penalties or imprisonment.

Community Based Order (CBO)

A CBO can be imposed when a person has been convicted of an offence punishable by imprisonment or a fine of more than \$500. The offender is placed under the control of a Community Corrections Centre and the order must have core conditions and must have at least one of the various program conditions attached:

Examples of conditions:

- to report within 2 days to the specified Community Corrections Centre and report thereafter as lawfully directed by the officer
- not to commit another offence punishable by imprisonment whilst on the order
- not to leave Victoria without permission unpaid community work
- supervision
- attend for educational or other programs
- submit for testing for alcohol or drug use
- any other condition which the court sees fit (except order for payment of compensation, costs or damages).

Fine

A fine is a monetary penalty which can be imposed by the Court. For more information go to the section 'Fines and Penalties' on this website and visit fines.vic.gov.au

With or without conviction, adjourn the hearing on conditions

If the Court has found a charge proven, it may, with or without conviction, adjourn the case for a period of not more than 5 years. The person can enter into an undertaking on the conditions that they may be required to reappear before the Court on the return date if called upon, to be of good behaviour during the period of the bond, and any other special conditions that the Court may order.



Convict and discharge

A court may discharge a person whom it has convicted of an offence.

Source: Magistrates Court of Victoria website, www.magistratescourt.vic.gov.au