

6: Potential Exclusionary Issues For TTO Response: Youth 15-18 Years



Background

Since 2007, youth aged between 10 and under-15 years have been eligible for a Therapeutic Treatment Order (TTO) response when they have engaged in Sexually Abusive Behaviours (*Children Youth and Families Act, 2005 s. 249*). In the 10 years to 2017 there have been approximately 250 TTOs in total, and approximately 1000 youth treated voluntarily *each year* under this legislation.

The Department of Health and Human Services (“The Department”) is currently extending the TTO system to include youth aged 15 to under-18 years of age. For the past ten years, older youths have been provided therapy by the Male Adolescent Program for Positive Sexuality (MAPPS) in situations where they have received a conviction for a sexual offence. Additionally, three SABTS provider-agencies have worked with this age group voluntarily for several years, since 2008. The approach was legitimised and formalised (although still referred to as a pilot) via funding of an additional 40 therapeutic targets per annum from 2008. This funding is in place and ongoing.

There is a level of concern amongst the SABTS providers about commencing work with the older age group. Some of this concern regards diverting older youth from the criminal justice system for what are often quite serious crimes, with other concerns stemming mainly from issues of age – what does treating older adolescents bring to the table?

Much concern is focused on the changes potentially resulting in a diversionary program for sexual assault matters with an older cohort of youth - some of whom may more closely adult sex offenders than their younger cohort does.

Potentially, the changes could lead to negative consequences. Obviously, older youth are closer to adulthood than the 10-14 year olds. They may be more difficult to manage as they are more independent, bigger, stronger and generally should be more cognitively and emotionally mature. Their behaviours may be more entrenched. The sector is aware that public perception has the potential to ‘damage’ the TTO system should treatment not be successful and recidivism occur within this older age group.

SABTS providers within the TTO system are committed to retaining the level of integrity, quality and success rates with this older group that has been achieved with the younger group over the past ten years. What is required to support the workforce of SABTS providers in this transition?

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The Issue

As part of the shift to the provision of TTOs for this older group, the following questions have been asked:

1. What would exclusion criteria be for a youth who is eligible for a TTO response?
2. What would make a young person unsuitable for a SABTS intervention?

A proposed model

Over the past 30 years, research has highlighted that an individual assessment and treatment approach to youth engaging in SABs is a 'best-practice' approach. "One-size for all" assessment and treatment approaches may result in:

- Incorrect diagnosis,
- A poor approach to management and treatment, and
- Treatment of the symptomology of sexual assault rather than the underlying issues.

Given the individualised assessment and treatment approach taken within the TTO system broadly, it is clear that a 'shopping-list' of exclusionary criteria does not fit with this approach.

Additionally, the use of an exclusion list risks the potential for varied interpretations across the state. For example, if the situation is one where "extremely serious behaviour" would exclude a young person from a SABTS intervention, what exactly does that mean? It will mean different things to different people, and potentially there will be no consistent system for decisions about youth. A decision about a youth made by therapist A in Northern Victoria should be the same as a decision made by Child Protection Practitioner B in South East Victoria.

The proposed model is based on two broad criteria:

- a) *The youth has little or no potential to successfully complete treatment, and*
- b) *The behaviour is so 'heinous' as to create potential public outrage and thus place the TTO system at risk.*

Any proposal must result in a decision-making process where the outcomes are anchored within the following beliefs:

- a) *The referral does not meet the criteria for exclusion under a) or b) and is referred on for a TTO response,*
- b) *There is potential for exclusion, and the referral is assessed by one of a small number of recognised 'expert' assessors to provide advice to the panel on the exclusion question. There would need to be timelines and criteria written up.*

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After receiving any potential assessment, the potential service provider must apply a critical lens through which to make these decisions. It is unlikely there will be an excessive number of potential exclusion cases.

There may also be some value in the expert panel having some interaction with the TTB.

Diversion program youth referrals to SABTS providers

- Currently diversion programs allow for 4 months of treatment for a youth under the program,
- Practitioners within SABTS agencies need to take into account at assessment, whether 4 months will provide time to successfully complete a meaningful intervention,
- Practitioners **must** ensure ethical practice and, as such, they do not simply comply with a court order where no possibility of successful treatment outcome exists within the timeframe offered,
- Liaison with senior practitioners and agency managers must take place in such circumstances.

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