

*Recommendations from the Council for the Administration of Criminal Justice and Protection of Juveniles*

*title* : *detention under a conditional hospital order*  
*submitted to* : *the State Secretary of Justice*  
*date* : *1 October 2007*

The conditional hospital order is considered by many to have little use, thus is applied relatively little. Based on this, the Council assumes that the intended adjustments to the conditional hospital order will benefit application of the measure. In general, the Council expects the adjustments to provide more tailor-made solutions for implementation, and to heighten social safety. However, a number of caveats must be taken into consideration, and the Council wishes to make a number of proposals for enforcing the measure.

The minister proposes increasing the maximum duration of the measure from four to a maximum of nine years. The Council believes that this offers scope for more tailor-made orders and for increasing social safety. However, the term of nine years is arbitrary. Given a system of periodical judicial monitoring, the maximum duration could be determined per case. In this context, a construction of '*long-term care*' could be a constructive addition. The Council considers a long(er) duration not necessary for every individual subject to a hospital order. For this reason, the Council argues for a further elaboration of target groups. In terms of a practical improvement, it has been suggested to give the extension judge the option of extending the measure by two, not just one, years. With an extension of the measure, the Council considers simplification of the procedure of interim adjustment of the conditions, essential. The Council is critical of the requirement that the suspect's consent is required for the conditions to be imposed. The consent requirement could be limited to the framework of treatment objectives. If the suspect 'refuses care initially' a sentence could be based on an expert opinion that, after a certain time, the suspect might be motivated to undertake treatment.

Increasing the maximum prison sentence that can be imposed in combination with the measures is expected to have a positive affect on the efficacy of the measure. It is primarily a good thing that, with this, individuals who are currently sentenced to compulsory (psychiatric) treatment, would now also be eligible for the lighter variant of the measure. Formulating conditions will, however, be more difficult at the moment of sentencing if a longer prison sentence precedes commencement of the measure. Therefore the Council advises only setting up a framework of treatment objectives at the sentencing. The judge will need to flesh out the concrete terms of the conditions three to six months before the order begins.

The Court considers the proposed temporary emergency admission valuable for the conditional hospital order. This would in some cases avoid transmuting the measure to compulsory (psychiatric) treatment. Furthermore, current treatment can be continued after an emergency admission. The advice is to suggest the temporary emergency admission to the delegated judge beforehand, followed by monitoring by the court sitting in chambers.

The Council endorses compulsory advising by the Municipal Medical and Health Service. This construction is expected to accelerate commencement of the treatment. Introducing a statutory acceptance obligation for forensic psychiatric clinics is not the Council's preference. Contractual obligations are more appropriate to Justice's current plans for purchasing Municipal Medical and Health Service

beds. The Council proposes replacing statutory acceptance obligation by an admissions guarantee on the part of the Municipal Medical and Health Service institutions which advise on treatment.

The proposed expansion and improvement of probation supervision will, in the view of the Council, contribute to more efficient, reliable supervision. The intensive probation supervision does, however, need further elaboration, at least regarding developing supervision trajectories for various target groups and systematic, gradual phasing out of supervision. Probation efforts should not be limited to monitoring. Where necessary, probation should also focus on re-socialisation. With a view to the treatment and probation supervision, the Council proposes improving probation officers' expertise in forensic psychiatry and the improved design of treatment and care trajectories. In addition, it underlines the possibility of devising a monitoring system aimed at individuals with a hospital order, and at the implementing bodies.