

Brett Andrew Imlach has pleaded guilty to one count of assault and a summary offence of destroy property which was committed in connection with the assault.

On Friday 23 December 2022, the complainant had been consuming alcohol and he another male walked to their respective homes in the Glenorchy area. They stopped at the defendant's residence in Bowden Street, Glenorchy, and were invited inside by the defendant's housemate and then continued to consume alcohol. The defendant was asleep and woke to a commotion in the house. He did not know the complainant or why he was there at this house. There was an altercation with the defendant after he opened his bedroom door and found the complainant urinating against his door. He escorted the complainant outside and then closed the flyscreen door. The complainant entered the property in a belligerent state and damaged the fly screen door. There was an altercation, and the complainant threw a number of punches, some of which connected, and the defendant retaliated. The complainant then left the property and began walking away down the street.

At the time, the complainant had an injury which had required surgery to repair damage to his right collar bone. The surgery had involved the insertion of metal plates and screws. He was required to wear a sling to stabilise the joint. At the time of incident, the complainant was intoxicated, and he was not wearing the sling as required. I accept that the defendant was unaware of the complainant's injury.

The defendant was angered by the complainant's conduct and in this state, he collected a skateboard and followed the complainant down the street. The complainant realised the defendant was following him and ran, and the defendant chased him. The defendant threw the skateboard at the complainant, and the complainant fell onto the road.

The complainant tried to get up off the roadway, but the defendant approached him, grabbed him around the neck, and pulled him up. The defendant then threw him back onto the road. The complainant tried to stand again, and the defendant punched him to the head area, causing the complainant to fall forward.

The defendant approached the complainant again while the complainant was on the ground and punched him to the head area. The complainant again tried to stand up, but the defendant pushed the complainant, causing him to fall onto the road. Once the complainant was on the ground, the defendant pushed the complainant, forcing him back down onto the road, and then punched him three times to the head.

The defendant picked up the complainant's mobile phone which was on the road and threw it on the ground, destroying it. He then punched the complainant in the face once more.

The complainant lost consciousness where he lay in the middle of the road. The defendant dragged the complainant to the footpath area and walked away. He returned approximately 20 seconds later to retrieve the skateboard.

Shortly after, the complainant regained consciousness, stood up, and tried to walk. After a short distance, he fell down in the middle of the road.

The violence was captured on CCTV footage.

Concerned members of the public contacted the police and officers found the complainant in the middle of the road and provided him with assistance until Ambulance Services transported him to the Royal Hobart Hospital.

The complainant presented with bleeding from the nose and mouth, pain to the side of his neck, bruising to his abdomen, and increased pain to his injured clavicle. It was noted he had sustained concussion.

Later, the complainant had an orthopaedic review for his shoulder on 27 December 2022. As a result of the assault, he sustained a left clavicle periprosthetic fracture, which is a fracture around the metal work, and required surgery. The surgery was undertaken on 3 January 2023 to remove the original metal work, and additional metal work was inserted to repair this fracture.

The complainant required an extended period of time off work and may need further surgery.

The defendant was interviewed by police and made frank admissions about his conduct.

The defendant was 50 years of age at the time of offending. He has an extensive history of prior convictions, including the following violent offences or crimes: common assault committed in 1997; common assault and destroy property in 2001; two offences of common assault in 2009; wounding in 2010, which attracted four months' imprisonment; and a crime of assault in 2011, for which he was sentenced to 15 months' imprisonment. He has prior convictions from South Australia, including, relevantly, an offence of assault occasioning actual bodily harm, for which he was sentenced to a good behaviour bond in 2005.

He has many prior convictions for drug-related offending. He has a significant history of illicit drug use, and his offending since approximately 2012 involved methylamphetamine. His use increased in connection with significant stress arising from his role as a witness in a very serious trial in 2015.

In 2021, he was sentenced to a drug treatment order for the crime of trafficking in a controlled substance with a custodial term of 18 months. He was subject to that order at the time he committed the crime and offence before the court today. On 9 June 2023, the Supreme Court cancelled that drug treatment order and substituted a suspended sentence of 12 months' imprisonment on condition that he commit no offence punishable by imprisonment for 18 months.

The substituted sentence of suspended imprisonment was imposed in circumstances where he was in fact making good progress under that drug treatment order after an initial poor response.

A report from the court mandated drug program court diversion officer dated 23 March 2023 demonstrates that the defendant began making concerted efforts after the offending before the Court today. As of that date, he had accumulated 147 drug free days and had actively engaged with services as directed by his case officer. The report notes his compliance with his CMD commitments had "improved remarkably" and he was described as expressing an ongoing commitment to address his drug use and as having been pro-active in pursuing employment. His attitude to drug use is described as appearing to have shifted.

The defendant has some outstanding court matters in the Magistrates Court but no convictions as yet.

After the cancellation of the drug treatment order, he has periodically returned to drug use. It is significant though that he has continued to make efforts to abstain, and he has demonstrated the ability to achieve abstinence for substantive periods of time. I note too that the efforts he has made have not been mandated by court orders and I consider that he has demonstrated he would benefit from intervention and support in relation to his drug use.

I have a report from Community Corrections indicating that the defendant is assessed as suitable for the imposition of a Home Detention Order. He expressed a willingness to engage in counselling with drug and alcohol services if given that opportunity. He stated that he has been abstinent from all illicit substances since September 2024.

Mr Imlach, you are motivated to stay out of prison, which would be a particularly stressful environment for you more than most. Your daughters provide you with an incentive to reform.

This is a serious case of assault. I acknowledge the complainant was intoxicated, and his behaviour was very disrespectful and offensive, but you lost control. You pursued him and carried out a sustained, persistent, and sickening attack on a defenceless man. Any one of the multiple blows to the head inflicted by you could have resulted in a head or brain injury. You left him unconscious, bleeding, and alone. After you left, he staggered onto the road and could easily have been run over. The injury you caused to his collarbone was significant and required surgery.

General deterrence and denunciation are important sentencing factors. An immediate sentence of imprisonment would be completely warranted given the nature of your attack. I have had to think very carefully about the sentence and whether an actual gaol sentence can be avoided.

I take into account your circumstances, noting in particular, that an immediate term of imprisonment would undermine the efforts you have made during the drug treatment order and since then. In my view, the need for general deterrence, denunciation, and punishment is met by sentencing orders that combine a Home Detention Order and a Community Correction Order.

A Home Detention Order would represent a significant punishment, restricting your liberty and mandating compliance with strict conditions, such as drug testing and abstinence, with a consequence of imprisonment in the event of non-compliance. But it would also allow you to have support and access to services that would promote your rehabilitation.

I record convictions on the crime of assault and the summary offence of destroy property.

For the crime of assault, I impose a Home Detention Order of 12 months. You must, during that period, remain at [address specified] at all times unless approved by a probation officer. I impose all the core conditions set out in s 42AD(1) of the Sentencing Act.

Further, you are subject to a condition that you must submit to electronic monitoring for the operational period of twelve months, and the statutory conditions concerning electronic monitoring set out in s 42AD(1)(h) are imposed.

I also impose as conditions of the Home Detention Order, all of the special conditions that have been recommended by Community Corrections. You must attend Community Corrections at

Level 1, 75 Liverpool Street, Hobart, immediately once the order has been made. You must maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections, and be accessible for contact by this device at all times. You must submit to the supervision of a Community Corrections officer as required by that officer.

You must not, during the entirety of the 12-month period, take any illicit or prohibited substances. Illicit and prohibited substances include: any controlled drug as defined by the *Misuse of Drugs Act 2001*; any medication containing an Opiate, Benzodiazepine, Bupropion, Hydrochloride, or Pseudoephedrine, unless you provide written evidence from your medical professional that you have been prescribed such medication.

You must not, during the operational period of the order, consume alcohol at all, and you must, if directed to do so by a police officer or Community Corrections officer, submit to a breath test, urine test, or other test, for the presence of alcohol. You must undergo assessment and treatment for drug dependency as directed by your probation officer.

For the offence of destroy property I impose a Community Correction Order for 18 months. You must submit to the supervision of a probation officer as required, and you must not commit an offence punishable by imprisonment for that period. The Community Correction Order is subject to all of the statutory core conditions. You must report to a probation officer at Community Corrections at 75 Liverpool Street, Hobart, no later than 4.00 pm today and, subsequently, you must report as required. You must give notice to your probation officer of any change of address or employment before, or within two working days after, the change. You must not leave or remain outside Tasmania without the permission of a probation officer.

Further, you must attend anger management counselling as directed by your probation, including the EQUIPS aggression program.

You must submit to medical, psychological, and psychiatric assessment or treatment, and counselling, as directed by a probation officer

You must submit to testing in relation to drug use as directed by a probation officer

You must submit to drug and alcohol counselling and treatment as directed by a probation officer, including relapse prevention counselling and support and the EQUIPS Addiction program.

I make a compensation order in the amount of \$320 in favour of [complainant named].