



NSW POLICE FORCE

Police Prosecutions Command Drug Court of New South Wales Standard Operating Procedures

Police Prosecutions Command

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Drug Court of New South Wales Standard Operating Procedures

Essential Summary

These Standards Operating Procedures (SOPS) are a combination of both the Drug Court of New South Wales and the New South Wales Police Force policy; procedures and practices currently documented and utilised at the three operational Drug Courts in NSW. The Drug Court of NSW sits at the Downing Centre, Parramatta and Toronto Courts. These SOPS aim to assist a relieving Police Prosecutor working at a Drug Court of NSW and facilitates uniformity between the three Courts.

DOCUMENT CONTROL SHEET

DOCUMENT PROPERTIES

TITLE	Drug Court of New South Wales Standard Operating Procedure
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1.0	2013	Sgt Maddison Knight Sgt Amanda Clarke	SOPS Developed
1.1		Sgt Maddison Knight Drug Court Prosecutor	SOPS reviewed and updated
1.2	1 May 2018	Sgt Amanda Clarke Drug Court Prosecutor	Review SOPS

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1. DEFINITIONS

The table below lists abbreviations and contextual specific language used throughout this document.

Item	Description
Act	Drug Court Act 1998
Case Manager	Community Corrections Officer assigned to a participant
Drug Court Program	The conditions that a person has accepted under section 7(2)(d) of the Act
Drug Court Team	A Drug Court Judge, and the Registrar, solicitors for the Legal Aid Commission, the solicitor from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Community Corrections coordinator, the Nurse Manager and nurse, and the senior judge's associate who are attached to the Drug court.
Final Sentence	A sentence under section 12 of the Act
Graduation	Successful completion of a Drug Court Program
Participant	A person accepted into the Drug Court Program
NSWPF	New South Wales Police Force
CCD	Community Corrections Department - Previously known as Probation and Parole
DPP	Office of the Department of Public Prosecutions
ADC PP	Adult Drug Court Police Prosecutor

2. DRUG COURTS

Drug Courts are specialist courts that deal with offenders who are dependent on drugs. Drug Courts aim to assist drug-dependent offenders to overcome both their drug dependence and their criminal offending.

The Drug Court of New South Wales (Parramatta) was the first Drug Court to be trialled and evaluated in Australia. The evaluations of the New South Wales (NSW) Bureau of Crime Statistics and Research have been published and can be found at [here](#).

The Drug Court of NSW has expanded and two additional courts now exist, with Drug Courts now operating in the Hunter Area (March 2011) and the in Sydney Local Government area (February 2013).

2.1 How the Drug Court Operates

The conduct of the Drug Court is governed by:

- The [Drug Court Act 1998](#)
- The [Drug Court Regulation 2015](#)
- Previous [Case law](#)
- [Policies of the Drug Court](#)

The Court has both Local Court and District Court jurisdiction, and operates from three locations: Parramatta, Toronto and the Downing Centre.

2.2 Objectives of the Drug Court

Section 3 of the Act sets out the objectives the Drug Court seeks to achieve. These are:

- to reduce the drug dependency of eligible persons, and,
- to promote the re-integration of such drug dependent persons into the community, and,
- to reduce the need for such drug dependent persons to resort to criminal activity to support their drug dependencies.

This objective is achieved by establishing a scheme, under which drug dependent persons, who are charged with criminal offences, can be diverted into programs designed to eliminate, or at least reduce, their dependency on drugs. Reducing a person's dependency on drugs should reduce the person's need to resort to criminal activity to support that dependency, and should also increase the person's ability to function as a law-abiding citizen.

2.3 The Drug Court Team

The Court works in collaboration with a number of other organisations. These include:

- The Department of Community Corrections,
- The Department of Health, through Justice Health and the Area Health Services. In addition, a large number of residential rehabilitation services provide treatment for Drug Court participants,
- Solicitors from the Office of the Director of Public Prosecutions,
- Prosecutors from the NSW Police Force,
- Solicitors from the Legal Aid Commission.

Part of the role of the Drug Court team is to oversee the progress of participants through the program and jointly formulate strategies to assist participants' rehabilitation. The team consists of the DPP solicitor, the Police Prosecutor, the Clinical Nurse Consultant, the Legal Aid solicitors, the Community Corrections coordinator, the Registrar of the Court, the Judge's associate and the Judge.

3. CONTACT DETAILS AND ACCESS REQUIREMENTS

3.1 Parramatta

The Parramatta Drug Court operates out of the Parramatta Court House and sits from Monday to Thursday. The court operates to a capacity of 150 participants. The Parramatta Drug Court Team is housed together in a nearby office block.

Parramatta Drug Court, Parramatta Local Court House (Court Room 2.1)
12 George Street, Parramatta New South Wales 2150
Telephone: (02) 8688 4525 Fax: (02) 8688 4913

Drug Court of New South Wales
PO Box 92 Parramatta New South Wales 2124 Australia

Police Prosecutor: 0408 169 120 / (02) 9685800 / Fax: (02) 96858080. #DRUGCRT

3.2 Hunter

The Hunter Drug Court operates out of Toronto Court House and sits each Monday and every alternate Tuesday. The court operates to a capacity of 60 drug court participants. The Toronto Drug Court Team is housed within the Toronto Court house.

Hunter Drug Court Toronto Court House (Court Room 2)
140 - 142 Carey Street Toronto New South Wales 228
Telephone: (02) 4935 8338 Fax: (02) 4935 8305
PO Box 994 Toronto New South Wales 2283 Australia

Police Prosecutor: 0413 489 794 / (02) 49358387 / Fax: (02) 49358305. #HUNTERDRUGCRT

3.3 Sydney

The Sydney Drug Court operates out of the Downing Centre and sits each Thursdays. The court operates to a capacity of 40 participants. The Sydney Drug Court Team is housed together in the office block adjacent to the Parramatta Drug Court Team collaborative space at Parramatta

Downing Centre Court House (Court Room 4.7)
Level 4 Downing Centre, 143 – 147 Liverpool Street, Sydney NSW 2000
Telephone: (02) 9287 7752 Fax: (02) 9287 7422

Police Prosecutor: 0429 899 958 (02) 96858025. #SYDNEYDRUGCOURT

3.4 Access Requirements

(MDL) address - -M-MDL-ADCPROSECUTORS
Shared Mail File (SMF) - #ADCPROSECUTORS
'P' Drive - P:\Police Prosecutions Command\City & Specialist Courts\ADC Prosecutors
(All forms mentioned in this document can be located under this drive)

4. THE PROGRAM GENERALLY

4.1 Eligibility and Selection

[Policy 12](#) refers to the selection of participants.

As per the [Drug Court Regulations 2015](#), the following Courts are the only ones permitted to refer matters to the NSW Drug Courts:

- The **District Court** at: Campbelltown, East Maitland, Liverpool, Newcastle, Parramatta, Penrith, or Sydney.
- The **Local Court** at: Bankstown, Belmont, Blacktown, Burwood, Campbelltown, Central, Cessnock, Downing Centre, Fairfield, Kurri Kurri, Liverpool, Maitland, Mount Druitt, Newcastle, Newtown, Parramatta, Penrith, Raymond Terrace, Richmond, Ryde, Toronto, Waverley or Windsor.

[Section 5 of the Act](#) sets out the eligibility criteria, these are:

- 1) Offences involving violent conduct or sexual assault, or **strictly** indictable supply drugs charges are not eligible to be referred to the Drug Court, but all other offences can be,
- 2) The person has pleaded GUILTY or indicated an intention to plead guilty,
- 3) It is highly likely that, if convicted, the person would serve a sentence of full-time imprisonment,
- 4) The person appears to be dependent on the use of prohibited drugs,
- 5) The person's usual place of residence is within the Local Government Areas of Canterbury-Bankstown, City of Blacktown, City of Campbelltown, City of Cessnock, City of Fairfield, City of Hawkesbury, City of Lake Macquarie, City of Liverpool, City of Maitland, City of Newcastle, City of Parramatta, City of Penrith, City of Sydney, Cumberland, Port Stephens, The Hills Shire, ¹
- 6) Be 18 years of age or over
- 7) Be willing to participate

A person is not eligible if he or she:

- Is charged with an offence involving violent conduct,
- Is charged with a sexual offence,
- Is charged with a strictly indictable supply of prohibited drug, or
- Is suffering from a mental condition that could prevent or restrict participation in the program.

¹ The website for the Department of Local Government is the easiest way for Police Prosecutors to ensure an address is within one of the prescribed Local Government Areas. The website is www.dlg.nsw.gov.au, and then follow the prompts on the home page. Additionally, changes to the legislation regarding the Local Government Areas, are currently under consideration, taking into account the amalgamation of several councils within the catchment area.

4.2 The Referral Steps

As the number of referrals each week may exceed the number of Drug Court Program places available, a ballot is held to determine who can be referred from the Local Court to the Drug Court. The steps for the referral process include the following:

- 1) An eligible offender may be identified on any day of the week, so the Judge or Magistrate at the referring Court should direct that the offender be ***“referred to Drug Court Ballot”*** and adjourn the matters, for mention only, to the next available ballot day. At this stage the matters remain at the referring court. Bail is dealt with in the usual way.
- 2) The relevant Drug Court registry must receive the offender’s details not later than 3.30pm on the working day before the ballot day.
- 3) If the offender is SUCCESSFUL in the ballot (though this does **not** mean they have successfully been accepted onto the Drug Court program), the offender’s charges should be adjourned to the Drug Court at the location and on the day specified by the Drug Court registry. Bail is determined in the usual way.
- 4) If the offender was UNSUCCESSFUL in the ballot, then the matters remain in the Local Court to be dealt with.

4.3 Discretionary Refusal

The DPP and/or the ADC PP may object to a person’s entry into a Drug Court program because of matters in the person’s antecedents [s7 (2)(b)]. The Court will be concerned about matters of violence, and may require evidence to be presented about the likelihood of a person committing a violent or dangerous offence while on a program. In such a case a psychiatrist from the Corrections Health Service will be asked to express an opinion based on details of past offences or behaviour, and an examination of the participant. Other evidence may also be obtained.

There is no appeal against a decision made by the Drug Court regarding refusing entry onto a Drug Court program.

4.4 Pre-Screening

The Drug Court registry staff will place all potential participant details on the AGJD Computer as they received the information from the Local or District Court (under ballot nominations). The ADC PP is required to access this data and conduct pre-ballot screenings of potential applicants.

To gain access to the Drug Court Program a person must meet the criteria as set by the relevant Legislation and regulations (as outlined in section 4.1 above). These criteria should be used to examine the potential participant’s eligibility and suitability to come on program.

The ADC PP will complete the pre-screening process, to assess for any eligibility issues. To conduct the pre-screening of applicants the following documents should be obtained, reviewed and then provided to the following organisations:

Documents	DPP	Legal Aid	CCD
Ballot Referral Sheet	√		
Referred Facts	√	√	√
Bail and RTA report	√	√	√
Interstate Check	√		
Existing AVO	√	√	√
Facts of any outstanding charges	√		
Evidence of COPS system residential address	√		

In the team meeting, on the morning of the ballot, the ADC PP will advise the Judge of the pre-screened ballot nominations that do not meet the eligibility criteria, and should be excluded summarily from the ballot.

4.5 Screening

The ballot for Parramatta and Sydney Drug Courts is held at 1pm on Thursdays, and for Hunter at 1pm on Mondays. During the screening process the ADC PP may ask for further information from other police to assist in determining eligibility and/or appropriateness of Drug Court applicants for program entry. Following the completion of the screening process and any subsequent ballot, the ADC PP will supply each organisation their bundle of information (as outlined above).

4.6 Participant's Drug Court Program

Each participant's Drug Court program is individually tailored to address his or her specific needs. The treatment options offered include abstinence, methadone and buprenorphine programs, conducted in either the community or residential rehabilitation settings.

There are four fundamental aspects that are common to each Drug Court program:

- (1) Evidence-based drug treatment;
- (2) Social support and the development of living skills;
- (3) Regular reports to the Court regarding participant progress; and
- (4) Regular testing for drug use.

Each participant's program comprises of three phases. Each phase has distinct goals that must be achieved before the participant can progress to the next phase of their program.

- **Phase 1** is the 'initiation' phase where participants are expected to reduce drug use, stabilise their physical health and cease criminal activity. In this phase, participants are required to undergo drug testing at least three times a week and to report back to the Drug Court once a week (Parramatta participants report back to the court twice per week for approximately the first month, then if they are progressing well, the court will reduce their court report backs to once per week).

- **Phase 2** is the 'consolidation' phase where participants are expected to remain drug-free and crime-free, and develop life and job skills. In this phase, testing for drug use is conducted twice weekly and court report-back appearances occur fortnightly.
- **Phase 3** is the 'reintegration' phase where participants are expected to gain or be ready to gain employment, and to be financially responsible. In Phase 3, drug testing is conducted twice weekly and report-back court appearances are conducted monthly.

4.7 Rewards and Sanctions

[Policy 4](#) deals with Rewards and Sanctions.

The Drug Court Act 1998 allows the Court to confer rewards on a participant when they maintain a satisfactory level of compliance with their Drug Court. Sanctions may be imposed on the participant if they fail to comply with their program. Participants are informed of the types of behaviour that attract rewards and sanctions.

4.7.1 Rewards

Behaviour giving rise to rewards may include:

- Satisfactorily complying with the program for a significant period
- Demonstrating responsibility (eg. Demonstration of trust in the Drug Court/Probation and Parole Officer by notifying of problems as they arise);
- Demonstrating stability (eg. Addressing lifestyle and relationships, obtaining employment/training)
- Displaying an outstanding attitude to the program
- Demonstrating initiative (eg by undertaking courses or study beyond what is required by the program)
- Satisfactorily completing components of the program
- Any other conduct-warranting acknowledgement.

Rewards can include:

- Conferral of specified privileges such as being allowed to engage in employment in Phase 1
- A change in the frequency of counselling or other treatment,
- A decrease in the degree of supervision,
- A decrease in the frequency of testing for drugs,
- A decrease in the amount of any monetary penalty payable to the Drug Court,
- A change in the nature or frequency of the vocational and social services which the drug offender is required to attend.

4.7.2 Sanctions

Behaviour giving rise to Sanctions may include:

- Testing positive for prohibited drugs, other substances that have been prohibited by the program or not disclosed to the Community Corrections Officer;
- Failing to provide a sample (urine, breath or saliva) when requested by a person authorised to collect the sample;
- Failing to punctually attend all Drug Court sittings, treatment, counselling, personal development courses, educational courses, employment interviews, employment or other appointments as directed by the Drug Court, Probation and Parole or the participant's treatment provider;
- Failing to perform a specified component of the participant's program;
- Committing further offences;
- Failing to obey any reasonable direction of the Drug Court, the participant's Probation and parole Officer of the participant's treatment provider; or
- Any other failure to comply with the conditions in the participant's undertaking.

Sanctions can include:

- Withdrawal of privileges
- An increase in the frequency of counselling or other treatment,
- An increase in the degree of supervision,
- An increase in the frequency of testing for drugs,
- A requirement that the drug offender pay a monetary penalty to the Drug Court,
- Imprisonment in a correctional centre,
- A change in the nature or frequency of the vocational and social services the offender is required to attend.

4.8 Appeals

There is no automatic right for a person to enter a Drug Court program, and no appeal is allowed against a decision of the Drug Court to refuse to allow a person to enter a Drug Court program or against the initial sentence imposed [Drug Court Act 1998 s7 (5) & Criminal Appeal Act 1912 s5AF]. When a person is on a program there is no appeal against any decision taken by the Drug Court relating to the conditions of a program or the imposition of rewards or sanctions [s10 (3), 11(2)]. However, appeals against a final sentence imposed after a participant is terminated can be made.

5. THE PROGRAM GENERALLY

5.1 Team Meetings

[Policy 1 deals with Team Meetings](#)

Prior to court sitting and in the absence of the participants, all members of the Drug Court Team meet and discuss the participation, or lack thereof, of the participants in the list that day. The Judge will make a decision based on that information when court commences sitting. This provides a consistent and unified front to the participant and is an integral part of the Program. Team meetings are conducted between 9.15am- 11am on each court sitting day, whereby drug court team members exchange and collect information. At the team meeting the ADC PP is to perform the following duties:

- Prior to the meeting, a COPS check must be done on each participant, to check for any police interactions (events, intels, charges, legal processes, warrants, etc)
- Where appropriate, disclose any intelligence from Police regarding participant conduct
- Make notes in the participant report back files, with the relevant reports from the various stakeholders, including drug test results (In Parramatta and Toronto, the participant report back notes are shared between the DPP and the Police, however in Sydney, Police maintain separate electronic notes regarding participants)
- Engage in legal discussions when necessary
- Promote NSWPF policies and corporate objectives
- Record court outcomes

5.2 Drug Court Policy Making

[Policy 3 deals with Team Meetings](#)

The purpose of Drug Court Policy Making is to facilitate the formulation of policies by the Drug Court team.

- The Drug Court team will develop policies designed to ensure that the team acts in an appropriate and consistent manner when considering matters beyond the traditional scope of the criminal justice process.
- No policy will intrude on a judicial function.
- Each policy will be reviewed regularly.
- The Drug Court team at policy and procedure meetings will decide policies.
- Policy and procedure meetings will be held regularly.
- The Drug Court team may invite interested persons to attend policy and procedure meetings.
- The public will have access to policies via the [Drug Court website](#).

Management/Policy meetings are conducted monthly at all three operational drug courts. The ADC PP is required to record the outcomes of the meetings, and any issues or tasks identified should be actioned accordingly.

5.3 Drug Court 'Report Back' & Case Review Meetings

5.31 'Report Backs'

A "report back" is a short meeting between the participant and the judge during which the participant's progress is reviewed. At a "report back", the ADC PP is required to discuss with the court the participant's progress, this includes (but is not limited to) the following:

- If any sanctions are to be imposed or removed
- If any participants should serve their sanctions
- If the participant should progress or regress
- If the participant should graduate or be terminated
- If the participant deserves a reward for recent program compliance
- Any alteration to the participant's program

5.32 Case Review Meetings

Case Review Meetings are held monthly or as otherwise directed by the Judge. The ADC PP will assist in the same manner as outlined under 'Team Meeting'.

6. ARREST PROCEDURES

6.1 Pre-Program Matters

Participants may be wanted by police (either to be interviewed or charged) regarding offences that were committed before the commencement of the participant's Drug Court Program. The ADC PP should, where possible and in consultation with the officer in charge, advise Legal Aid when this information becomes available.

Arrest for Pre-Program offences may jeopardise the progress of a participant's treatment plan. For this reason it is appropriate for the Drug Court Team, in **certain circumstances**, to advocate that a participant **NOT** be arrested by police but be dealt with as outlined below, however, in all matters the general powers of arrest remain with the police. Generally, this course of action is limited to offences that are deemed eligible offences as per section 5 of the Act.

Upon notification that Police wish to interview or charge a participant, the ADC PP will notify Legal Aid of the details of the allegations, and possible charges, along with the OIC's details and location. Legal Aid will obtain instructions as to whether the participant wishes to be interviewed by the Police or not.

Where the participant **does not** wish to be interviewed, or wishes to record a refusal to be interviewed, Legal Aid will provide written confirmation of this to the ADC PP, who will then forward the notification onto the OIC of the matter. The ADC PP will also advise the OIC of this policy and that if the offence is an eligible offence as per section 5 of the Act, then the ADC PP will recommend that proceedings be initiated by way of Future CAN, to be listed as per usual, at the relevant Local Court.

If this process is adopted the ADC PP will assist in arranging service of the Future Service CAN upon Legal Aid at the Drug Court, providing Legal Aid have given their prior consent to receive service of any documents on the participants behalf.

6.2 OFFENCES committed whilst Participant is ON the Drug Court Program

If the ADC PP becomes aware that a participant is wanted or has been charged with an offence that was allegedly committed whilst the participant is on the drug court program the ADC PP may recommend to the police informant that the procedure outlined within Pre -Drug Court Program Matters are adopted. Before making any recommendations consideration should be given to the seriousness of the alleged offence/s committed, the participant's current progress on program, *Section 99(3) LEPR* and the *Bail Act*.

If a participant is currently on any specific clauses (such as No further offending, No alcohol, No violence) and the ADC PP becomes aware that he/she has been involved in a breach of such clauses or involved in a serious matter that may preclude further participation the Program the ADC PP may request that the charges be generated as a matter of priority or that the informant provide a partial brief at the earliest opportunity. This is to ensure that the Crown Case is prepared in case of a Risk/PTP hearing being set down as a result of such breaches.

7. SUSPECT TARGET MANAGEMENT PLAN

To be classified as an 'eligible person' for a drug court program, two conditions have to be satisfied; the person must be convicted of an offence and be 'highly likely' to receive a sentence of full time imprisonment. This very same eligibility criterion makes the drug court program participant at a higher chance for identification and selection as a repeat offender under the STMP II.

If a LAC places a participant onto a STMP, it is the decision of the LAC as to what extent the services of the ADC PP are used. The ADC PP prosecutor's role is primarily to act as a point of contact and a co-ordinator for drug court matters and represent the interest of the NSWPF in matters concerning drug court and drug court participants.

The success of the STMP in managing targeted offenders relies upon the effective partnership of focussed intelligence and investigations, the ADC PP, can assist in a coordinated approach to the assessment, targeting and management of repeat offenders. Some of the ways an ADC PP can assist includes (but is not limited to):

- Sending a weekly report of current and active drug court participants to intelligence officers.
- Attending local tasking meetings
- Assist in the delivery of any local Drug Court training needs
- Representing the community's and the Police interest in regards to such matters as access to a drug court program, sanctions, rewards, termination and graduation applications.
- Where appropriate, provide intelligence to police on current STMP activities
- Assist in the co-ordination of pre-program and on-program offence management

8. TRANSFERS/INFORMATION REQUESTS

8.1 Transfer of Local Court Matters

In the event that an applicant or participant has entered a Plea of guilty to a matter at the Local Court and requests to have it transferred to the Drug Court it is the responsibility of the Legal Aid Commission to facilitate this request.

8.2 Requests for Information

At times, Team Members may request various court documents (eg. facts sheets) or other material for the purposes of court. This request should be done in writing, either via email or through requesting the information in the ADC PP Document Request Folder (compliance with all NSWPF [‘Information Technology Policies & Procedures’](#) must be adhered to).

The Drug Court registry will also request via email, copies of facts, and other related charge management reports. The Registry will send one email per day, listing all of the charge numbers for the facts sheets they are requesting. The ADC PP will provide these facts in a timely manner (generally first thing the next morning after the request is received) by scanning the requested document/s to the Drug Court shared Scan folder on the AG’s computer system.

There may be a need for the ADC PP to request further information from Police (e.g CCTV, statements, pictures, etc). In such circumstances, the ADC PP should contact the police informants via email (using the relevant shard email).

9 COMPLETION OF A DRUG COURT PROGRAM

9.1 When a Drug Court Program can be terminated

[Policy 6 deals with Completion or Termination of Program](#)

Section 11 *Drug Court Act 1998* sets out when a Drug Court program can be terminated, when:

- The Court decides that the participant has substantially complied with the program, or
- The participant applies to have it terminated, or
- The Court decides that the participant is unlikely to make any further progress in the program, or
- That further participation poses an unacceptable risk to the community that the offender will re-offend.

If appropriate, that sentence can be set aside and another sentence imposed in its place. In deciding the final sentence the Court will take into consideration the nature of the offender's participation in the program, any sanctions that have been imposed and any time spent in custody during the program.

The application to terminate for failing to comply with the program may be made by any member of the Drug Court team. The primary responsibility for identifying participants who should be considered for program termination lies with the solicitors from the Office of the Director of Public Prosecutions and the ADCPP on the Drug Court team.

A participant's legal representative, case manager and treatment provider (if any) are to receive reasonable notice from the solicitor(s) from the DPP, or the ADCPP on the Drug Court team, that the participant's program is to be considered for termination, and are to be afforded the opportunity of making submissions to the court.

Unless the circumstances that have led to a program being considered for termination are admitted, information establishing those circumstances should be available in writing prior to the relevant meeting. If requested, the person providing the information should be available for questioning.

9.2 Warrants

Drug Court warrant matters **should NOT** be bail refused to the Local Court. In all execution of Drug Court warrants, the ADC PP will advise that the participant should be bail refused to the next available Drug Court sitting day and advise the registry so the matter can be added to the list accordingly.

In the event that the Drug Court seeks assistance to execute a Drug Court warrant, the ADC PP will complete a telephone message to the last known address of the participant, The telephone message should be faxed to the relevant LAC and a FAX receipt filed with the message.

Where the Drug Court Team has deemed that the warrant be marked "Urgent", the ADC PP will contact the Operational Support Helpdesk on (02) 88357766 and confirm that the warrant has been received.

If a drug court participant is arrested as a result of a telephone message warrant request but the warrant is not on COPS, the arresting police can contact the After Hours Warrants Support Section on E/N 27766.

9.3 Failed Prosecutions

The ADC PP should review all charges attached to each potential and current drug court participant. There may be times when a charge should be withdrawn, in these circumstances; the matter should be withdrawn in accordance with the current NSW Police withdrawal policy (document owner: Commander, Police Prosecutions). The ADC PP will monitor all fail prosecutions through the use of 'FAILREV' on COPS and acquit any fail prosecutions.

9.4 Graduation Procedure

[Policy 7 deals with Program Goals and Measures](#)

The ADC PP is responsible for completing graduation checks on all potential graduates. These checks are conducted at the following intervals:

- One months prior to graduation
- 2 weeks prior to graduation
- 1 week prior to graduation

Checks are made through COPS to ensure that the potential graduate has complied with the graduation criteria and to ensure there are no outstanding Police matters to be dealt with.

The ADC PP will conduct a review of the referred charges for all graduates and will ascertain if it is appropriate to invite one or more police officers to the graduation ceremony. The Prosecutor will send the information and recommendation to the Drug Court Registrar who then, in consultation with the Drug Court Judge, endorses or refuse the recommendation. The Registrar will let the ADC PP know by email of the outcome.

9.5 Graduation Ceremony

If there is agreement by the ADC PP, Registry, Judge and Graduate that a police officer is to be invited to a graduation ceremony then the Drug Court Registry will write a letter of invitation to the relevant police officer and the Prosecutor will be given a copy. The ADC PP will also send an internal email to inform the police of such invitation.

10 Compulsory Drug Treatment Order

The compulsory Drug Treatment Program (CDTCC) is **NOT** a Drug Court Program. It is a program assisted and administered by the Drug Court of NSW (Parramatta)

The ADC PP is responsible for creating a warning for any person who is the Subject of a Compulsory Drug Treatment Order. The CDTCC Senior Clerk will supply a copy of the order once it is made by the Court. Upon receipt the Prosecutor will create the warning by way of an Intel Report. The ADC PP should access the Intelligence system with their relevant Intelligence access. The warning should read, 'This person is subject to a Compulsory Drug Treatment Order- report all contact to the (relevant court) Drug Court Prosecutor on (Phone number) or (shared email)'. The ADC PP will then be required to self verify the Intelligence report, fast-path "INFEVA".

APPENDIX 1 - DRUG COURT POLICY 1

<i>Policy # 1</i>	Team meetings and Participant Review
<i>Last Reviewed</i>	October 2009

1. PURPOSES OF POLICY

- To clarify the purposes, structure and content of Drug Court team meetings.
- To ensure the current Treatment and Case Management Plan is a highly suitable one.
- To ensure the resources of the program are not expended upon those who cannot succeed.

2. DEFINITIONS

<i>Act</i>	means the Drug Court Act 1998
<i>Case Manager</i>	means a Community Offender Service officer assigned to a participant
<i>Drug Court</i>	means the Drug Court of N.S.W.
<i>Drug Court program</i>	means the conditions accepted by the participant and imposed by the Court under section 7(3)(a) of the Act.
<i>Drug Court team</i>	means a Drug Court judge, the Registrar, the solicitor from the Legal Aid Commission, the solicitor from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Probation and Parole co-ordinator and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each.
<i>Participant</i>	means a “drug offender” as defined in the Drug Court Act 1998
<i>treatment plan</i>	means a plan for therapeutic intervention to address an offender’s drug dependency and related health needs.
<i>Treatment Provider</i>	means a participant’s principal ongoing treatment provider.

3. POLICY

Team Meetings

- 3.1 Generally, on any day that the Drug Court sits to consider the progress of participants, a Drug Court team meeting will precede the sitting. At that meeting, the Drug Court team will discuss each of the cases listed for that day.
- 3.2 Each Drug Court team meeting is open to members of the Drug Court team, and any invitee of the Drug Court team. Interested persons such as treatment providers or case managers may ask to be present at a meeting.
- 3.3 If a participant has private legal representation, his or her case will not be discussed at a Drug Court team meeting unless the legal representative is present (in person or via conference telephone) or does not wish to be present during discussion about the participant’s case.

- 3.4 Except in very special circumstances, no offender/participant will be present at a Drug Court team meeting when his or her case is discussed.
- 3.5 At Drug Court team meetings, the Drug Court team will discuss matters relating to the special functions conferred on the Drug Court, including:
- (1) whether an offender appears to be eligible
 - (2) treatment plans (implementation and variation)
 - (3) other conditions of Drug Court programs
 - (4) appropriate rewards and/or sanctions
 - (5) prison accommodation arrangements
 - (6) logistical matters, eg the need to call in outstanding charges and the status of matters before the Parole Authority of New South Wales
- 3.6 At Drug Court team meetings, the Drug Court team will not discuss sentencing matters (except to the extent necessary in relation to 3.5 above)
- 3.7 At Drug Court team meetings, the presiding Drug Court Judge may be furnished with documents which the ODPP solicitor, the LAC solicitor or a private legal representative proposes to tender by consent.
- 3.8 The purpose of the Drug Court team meeting about a participant is to reach consensus on any changes to the treatment plan and to identify any contentious issues.
- 3.9 A Drug Court team meeting will be chaired by the Drug Court Judge who will be presiding in the Drug Court on that day.
- 3.10 The Clinical Nurse Consultant is responsible for informing the Drug Court team meeting about drug dependency and treatment matters.
- 3.11 The Probation and Parole coordinator is responsible for informing the Drug Court team meeting about accommodation and compliance with supervision, parole issues, Community Service Orders and other orders.
- 3.12 The DPP solicitor and the Police Prosecutor are responsible for informing the Drug Court team meeting about offence matters, or any contact between police and the Drug Court participant that may affect the Drug Court participant's performance on program.
- 3.13 Justice Health, through the Clinical Nurse Consultant, is responsible for informing the Drug Court team meeting about prison accommodation matters.
- 3.14 The Registrar is responsible for informing the Drug Court team meeting about any issues regarding drug testing at any locations and will inform the Drug Court Team regarding compliance with drug testing regimes, especially participants on Phase 2 and Phase 3.

4. REVIEW MEETINGS

- 4.1 Each month there will be a Review Meeting. That meeting will usually be on the last Monday of the month. At that meeting the following participants will be reviewed:
- Participants on Phase 1 for over 4 months
 - Participants on Phase 2 for over 4 months
 - Participants on Phase 3 for over 4 months
 - Participants who are listed to graduate soon
 - Other participants who warrant consideration can be added when needed, or at the request of a team member, Treatment Provider or Case Manager.

- 4.2 The team will rely on reports provided to the Court for regular report-backs. Generally no additional report will be obtained from a Treatment Provider or Case Manager.
- 4.3 **In respect of each participant, the team will consider if progress is being made against the standards set in Policy #7 *Program Goals and Measures*, and ask:**
- Is the participant substantially complying with the program?
 - Is the participant likely to be able to progress further?
 - Should the participant be promoted to the next Phase, or, if on Phase 3, listed for graduation?
 - What changes could be made to the Treatment and Case Management Plan to assist the participant to succeed?
 - Is a termination hearing or other court action appropriate?

5. REVIEW MEETING PROCEDURE

- 5.1 Judge's Associate will email to the team a list of participants for discussion at the meeting. Team members should consider each participant before the meeting to focus discussion.

APPENDIX 2 - DRUG COURT POLICY 2

<i>Policy # 2</i>	Treatment plans and placement
<i>Last Reviewed</i>	May 2006

1. PURPOSES OF POLICY

- 1.1 To ensure that treatment plans and treatment placement are offered in a consistent and equitable manner.
- 1.2 To ensure that the treatment undertaken by each Drug Court participant is the most appropriate treatment to meet the health needs of that person.

2. DEFINITIONS

<i>Act</i>	means <i>Drug Court Act 1998</i> .
<i>Drug Court program</i>	means the conditions that a participant has accepted under section 7(3)(a) of the Act.
<i>Drug Court team</i>	means Drug Court Judge, the Registrar, the Legal Aid Commission (LAC) solicitor, the solicitor from the Office of the Director of Public Prosecutions (ODPP), the Police Prosecutor, the Community Offender Service (COS), (formerly Probation and Parole) and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternate for each.
<i>Offender</i>	means a person referred to the Drug Court under section 6 of the <i>Drug Court Act 1998</i> but not yet sentenced under section 7 of the Act.
<i>Participant</i>	means a person dealt with under sections 7(2) and (3) of the Act.
<i>Treatment plan</i>	means a plan for therapeutic intervention to address an offender's drug dependency and related health needs.
<i>Treatment provider</i>	means the participant's principal ongoing treatment provider.

3. POLICY

3.1 *Assessment and development of treatment plans*

- 3.1.1 Nothing in this policy is intended to influence the independence or professional standards of any medical practitioner or other health professional.
- 3.1.2 Through the Clinical Nurse Consultant, Justice Health is responsible for assessing the most appropriate therapeutic intervention for each offender and for presenting an appropriate treatment plan to the Drug Court team. In formulating and developing an appropriate treatment plan, the Clinical Nurse Consultant is to adequately consult with the proposed treatment provider. Generally, the Clinical Nurse Consultant will not propose a treatment plan to the Drug Court team unless a representative of the proposed treatment provider has assessed the relevant offender in person and supports the proposed treatment plan.

- 3.1.3 The assessment is to occur in the Metropolitan Reception and Remand Centre, Silverwater (in the case of a male offender), the Mulawa Correctional Centre, Silverwater (in the case of a female offender) or such other facility as Justice Health and the Drug Court approve.
- 3.1.4 In formulating, developing and reviewing a treatment plan for an offender, the paramount consideration is the particular health needs of that offender.
- 3.1.5 An offender or participant is to be consulted in relation to the development of his or her treatment plan. In the course of consultation, he or she is to be fully informed and advised by a qualified health care professional about available treatment options.
- 3.1.6 No offender or participant will be compelled to undertake a treatment plan that he or she does not freely choose to undertake. It is acknowledged that a person's likely success on a particular treatment plan is influenced by the person's motivation to undertake that treatment plan.
- 3.1.7 In formulating and developing a treatment plan, consideration is to be given to the participant's/offender's age, gender, cultural background, religion, proficiency in the English language and responsibilities towards dependant persons.
- 3.1.8 Justice Health, the proposed treatment provider and the Drug Court team will agree on a treatment plan for an offender only if that treatment plan is considered highly suitable for the offender. If the most highly suitable treatment plan cannot be implemented because no treatment place is available, an alternative treatment plan will be agreed only where that treatment plan is also considered to be highly suitable for the offender.
- 3.1.9 An offender or participant will not be released onto a treatment plan unless the plan ensures treatment continuity.
- 3.1.10 Each treatment plan is to be reviewed regularly by the participant's treatment provider in consultation with the participant's case manager. The Drug Court team is to be advised of the outcome of each review.

3.2 *Variations to treatment plans*

- 3.2.1 A participant's treatment plan will only be varied where there is a good therapeutic reason for doing so.
- 3.2.2 A participant's treatment plan and/or treatment provider may be varied by the Court where the participant is failing to make satisfactory progress on his or her treatment plan with his or her current treatment provider.

3.3 *Termination of treatment*

- 3.3.1 Refer to the Court's policy on termination of programs.

APPENDIX 3 - DRUG COURT POLICY 3

<i>Policy #3</i>	Policy Formulation
<i>Last Reviewed</i>	May 2006

1. PURPOSES OF POLICY

- 1.1 To facilitate the formulation of policies by the Drug Court team.

2. DEFINITIONS

Act means *Drug Court Act 1998*.

Drug Court team means Drug Court Judge, the Registrar, the Legal Aid Commission (LAC) solicitor, the solicitor from the Office of the Director of Public Prosecutions (ODPP), the Police Prosecutor, the Community Offender Service, (COS) (formerly Probation and Parole) and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternate for each.

3. POLICY

- 3.1 The Drug Court team will develop policies designed to ensure that the team acts in an appropriate and consistent manner when considering matters beyond the traditional scope of the criminal justice process.
- 3.2 No policy will intrude on a judicial function.
- 3.3 Each policy will be reviewed regularly.
- 3.4 Policies will be decided by the Drug Court team at policy and procedure meetings.
- 3.5 Policy and procedure meetings will be held regularly.
- 3.6 The Drug Court team may invite interested persons to attend policy and procedure meetings.
- 3.7 The public will have access to policies via the Drug Court website.
- 3.8 The senior judge's associate will formulate an agenda for each policy and procedure meeting and will draft minutes of each meeting. In relation to these matters, the associate will consult with the Registrar when necessary.

APPENDIX 4 - DRUG COURT POLICY 4

<i>Policy 4</i>	Sanctions and Rewards
<i>Last Reviewed</i>	February 2016

1. PURPOSE OF POLICY

- 1.1 The Drug Court may impose sanctions and confer rewards as part of the conditions of a Drug Court program.
- 1.2 A system of sanctions and rewards encourage both program participation and the achievement of success by participants on program.
- 1.3 A defined and transparent system for the just and consistent application of those sanctions and rewards assists the court in fairly administering the programs of participants.

2. DEFINITIONS

<i>Act</i>	<i>Means the Drug Court Act 1998</i>
<i>Court</i>	<i>Means the Drug Court of New South Wales</i>
<i>Drug Court program</i>	<i>Means the conditions accepted by a participant and imposed by the Court. See sections 7A, 7B, 7C and 16 of the Drug Court Act</i>
<i>Drug Court team</i>	<i>Means a Drug Court Judge, the Registrar, the solicitors for the Legal Aid Commission, the solicitors from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Community Corrections coordinator, and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each</i>
<i>Participant</i>	<i>Means a "drug offender" as defined in the Act</i>
<i>Registrar</i>	<i>Means the Registrar of the Drug Court</i>
<i>Team meeting</i>	<i>Means meetings convened in accordance with <i>Policy #1 Drug Court Team Meetings</i></i>

3. POLICY

- 3.1 The principal **rewards** conferred by the Court are public acknowledgement of success, applause, and the waiving of suspended sanctions of imprisonment.

- 3.2 The principal **sanctions** for breach of program are a reprimand from the judge, an increase in the level of supervision and other contact, and the imposition of imprisonment for up to 14 days.
- 3.3 To ensure a just and consistent system of sanctions, the following table provides a guideline to the level of sanctions that may be imposed by the court. Sanctions will be decided having regard to the nature of the participant's conduct, the individual circumstances of the participant, the record of good conduct (or otherwise) of the participant, and any other relevant factor.
- 3.4 The Court may decline to impose custodial sanctions for breach of program. The Court may, for example, deal with any breach by way of a warning, by increasing the commitments or level of supervision of the participant, or by requiring the participant to undertake a specific task. The specific task may range from an apology to a treatment provider to homework on the effects of the use of a particular drug or combination of drugs.
- 3.5 The Court may also impose additional or higher sanctions in appropriate cases.

REWARDS

Behaviour Giving Rise to Rewards

- Satisfactorily complying with the program for a significant period
- Demonstrating responsibility (eg demonstration of trust in the Drug Court/Probation and Parole Officer by notifying of problems as they arise)
- Demonstrating stability (eg addressing lifestyle and relationships, obtaining employment/training)
- Demonstrating engagement with treatment providers, Probation and Parole, Counsellor, the Support Worker or other members of the Drug Court team
- Displaying an outstanding attitude to the program
- Demonstrating initiative (eg by undertaking courses or study beyond what is required by the program)
- Satisfactorily completing components of the program, such as mental health treatment compliance, parenting programs, literacy and living skills courses
- Any other conduct warranting acknowledgment

Rewards

Rewards may be:

- Praise from the Judge/Drug Court team, and applause in open court
- Conferring a privilege, such as more flexible drug testing or court attendance
- Graduating to the next phase of the program
- Decreasing the frequency of supervision, court appearances or other program obligations.
- Removing or reducing any existing sanctions
- Allowing return to work or study before the completion of phase one
- Allowing absence during any curfew to take part in an approved positive activity, such as NA meetings or attending a family function.
- Any other appropriate reward of the above general kind

SANCTIONS

Behaviour Giving Rise to Sanctions

- Committing further offences
- Using prohibited drugs
- Using non-prescribed medication
- Testing positive to the use of prohibited drugs, non-prescribed medication or other substances (such as alcohol or pain relief medication) that has been prohibited under the participant's program

For Official Use Only

- Failing to disclose the use of a prohibited drug, prescribed or non-prescribed medication (particularly pain relief medication) or other substances
- Failing to provide a drug test sample (urine, breath or saliva) when requested by a person authorised to collect the sample
- Failing to punctually attend all Drug Court report backs, treatment appointments, counselling, personal development courses, educational courses, employment interviews, employment or any other appointment as directed by either the Drug Court, the participant's case manager or the participant's treatment provider
- Failing to perform a specified component of the participant's program
- Failing to obey any reasonable direction of the Drug Court, the participant's case manager or the participant's treatment provider
- Any other failure to comply with the conditions in the participant's undertaking

Sanctions may be:

- Reprimand or warning from the judge
- Being imprisoned for up to a maximum duration of 14 days for any **one** breach
- Being required to write an essay or make a presentation to the Court
- Increased frequency of drug testing, and/or supervision and/or court appearances
- Repeating a component of the participant's program
- Paying a monetary penalty
- Performing work in the community
- Complying with a curfew
- Demotion to an earlier phase, which automatically increases all aspects of supervision
- Any other sanction which is appropriate in the circumstances

GUIDELINES FOR SANCTIONS

NATURE OF BREACH SANCTION

GUIDELINE

Rehabilitation attendance:

- | | | |
|---|--|------------------------|
| 1 | Absconding from residential rehabilitation centre and attending Drug Court as soon as practicable. | up to 7 days |
| 2 | Absconding from residential rehabilitation centre, and attending Drug Court after a short delay | 7 days |
| 3 | Absconding from residential rehabilitation centre, and not attending Drug Court until arrested | 14 days to termination |
| 4 | Failing to enter residential rehabilitation centre and not attending Drug Court until arrested | 14 days to termination |
| 5 | Being discharged from residential rehabilitation centre for breaking rules or using illicit drugs | 7 days |

Attending Drug Court:

- | | | |
|---|--|------------------------|
| 6 | Failing to attend Drug Court – for weekly progress report without medical certificate | 2 days |
| 7 | Failing to attend Drug Court as directed and remaining at large for a period in excess of 48 hours, but attending court of own free will | 4 days |
| 8 | Failing to attend Drug Court as directed and remaining at large until arrested on warrant | 14 days to termination |

Non-compliance with Program:

- | | | |
|----|--|--------------|
| 9 | Unauthorised change of address, unless in crisis | 7 to 10 days |
| 10 | Failure to keep in contact with Case Manager for a significant period | 4 days |
| 11 | Failure to attend counselling, Day Program, Living Skills, PEET program or other required activity | 1 day |
| 12 | Failure to be home and available for home visit by case manager | 1 day |
| 13 | Failing to comply with direction of team member, case manager or treatment provider | 1 day |

- | | | |
|----|---|--------|
| 14 | Repeated failure to be available for home visit
or to comply with directions | 3 days |
|----|---|--------|

Pharmacotherapy:

- | | | |
|----|---|---------|
| 15 | Failure to collect methadone or buprenorphine
isolated incident | warning |
| 16 | Failure to collect methadone or buprenorphine -
multiple incidents | 4 days |

CONTEMPT

- | | | |
|----|--|-----------------------|
| 17 | Subverting (or attempting to) urine collection | termination |
| 18 | Threatening violence or the perceived threat of violence | termination |
| 19 | Breach of good behaviour | 3 days to termination |

RECOMMEND AMOUNT OF SANCTIONS FOR BREACHES:

Breaches	Phase 1	Phase 2	Phase 3
Drug Use (in a report back period)			
One admitted use	1	2	3
Further admitted use	2 (each drug, each occasion of use)	4	5
Late admission	2	3	5
Further late admission	2 (each drug, each occasion of use)	3	5
One unadmitted use	3	4	6
Further unadmitted use	3 (each drug, each occasion of use)	4	6
Failure to attend or provide sample			
One sample	1	4	6
Additional samples	3	4	6
Dilute or Very Dilute Samples			
One dilute sample	1	1	1
Further dilute samples	2	2	2
VERY dilute sample	3	4	6
Prescription Medication			
Use of unauthorised prescribed medication – single incident	Non-custodial	Non-custodial	Non-custodial
Use of unauthorised prescribed medication – multiple incidents	2	2	2
Drug use in custody (on program)			
Use in custody including non-prescribed drugs	14 days immediately	14 days immediately	14 days immediately
Alcohol			
Drinking alcohol when alcohol not permitted	1	2	3
Exceeding .05	2	2	3

APPENDIX 5 - DRUG COURT POLICY 5

<i>Policy Title # 5</i>	Accommodation for Participants
<i>Last Reviewed</i>	June 2017

1. PURPOSES OF POLICY

- 1.1 To ensure that a participant does not reside in the community unless a suitable residence is available.
- 1.2 To clarify the circumstances under which participants can take part in a Drug Court program although not residing within the usual area of the Court's operation.
- 1.3 To define the Drug Court's role in its partnership with FACS - Housing under the Shared Access Operating Agreement with FACS - Housing.

2. DEFINITIONS

<i>Act</i>	Means the Drug Court Act 1998
<i>Case manager</i>	Means a Community Corrections Officer assigned to a participant.
<i>Case management plan</i>	Means a plan for supervision of a participant by the Community Corrections Office
<i>CCO</i>	Means the Community Corrections Officer (formerly Probation and Parole).
<i>Drug Court</i>	Means the Drug Court of N.S.W.
<i>Drug Court program</i>	Means the conditions accepted by the participant and imposed by the Court under section 7(3)(a) of the Act.
<i>Drug Court team</i>	Means Drug Court Judge, the Registrar, the Legal Aid NSW (LA) solicitor, the solicitor from the Office of the Director of Public Prosecutions (ODPP), the Police Prosecutor, the Community Corrections coordinator (formerly Probation and Parole), the Clinical Nurse Consultant and the Senior Judge's associate who are attached to the Drug Court, and/or the alternate for each.
<i>Participant</i>	Means a "drug offender" as defined in the Drug Court Act 1998.
<i>Participant/Client</i>	Means a participant who has been nominated and accepted for social housing under the partnership agreement with Family and Community Services – Housing NSW (FACS – Housing)
<i>Treatment plan</i>	Means a plan for therapeutic intervention to address a participant's drug dependency and related health needs.
<i>Treatment provider</i>	Means a participant's principal ongoing treatment provider.

3. POLICY

- 3.1 Prior to a participant being placed on a Drug Court program which requires that the participant reside at a private residence, the Drug Court team will consider the suitability of the residence.
- 3.2 Generally, the suitability of a private residence will be considered only after the Community Corrections officer has visited the residence, has spoken to the principal residents, and has made a recommendation concerning the suitability of the residence. The recommendation will be provided to the court in writing.
- 3.3 When speaking to the principal residents, the CCO will inform them of the main requirements of the participant's Drug Court program.
- 3.4 Generally, a private residence is unsuitable;
- (a) if the principal residents
 - do not know that the participant is undertaking a Drug Court program,
 - are not willing to have the participant reside at the residence, or a current Apprehended Domestic Violence Order prevents the participant residing at that address,
 - are not prepared to cooperate with the participant's case manager and treatment provider, or
 - (b) if any child protection concerns of the Department of Family and Community Service cannot be addressed, or
 - (c) if occupied or frequented by a person reasonably suspected of engaging in criminal activity.
- 3.5 In urgent circumstances, a case manager may approve a temporary change of residence. Approval should be sought prior to the change, and the participant should be directed to attend the Drug Court at the first reasonable opportunity for further consideration of the change. Consideration must be given to any current Apprehended Violence Orders and any conditions which may prevent the participant residing at that address.

4. RESIDENCE OUT OF AREA

4.1 *Applications for out of area placement*

- 4.1.1 The Court can consider an application by a participant to reside out of the area specified in clause 5 of the Drug Court Regulation 2010.
- 4.1.2 A participant may not move out of area without the prior approval of the court.

4.2 *Residential rehabilitation centres – Out of area*

- 4.2.1 If the application is to be placed in a residential rehabilitation centre approval will be dependent upon:
- (a) The rehabilitation centre meeting the Court's requirement for treatment and supervision of participants, and
 - (b) Appropriate funding arrangements being in place.

4.3 *Community based program – Out of area*

- 4.3.1 If the application is to reside in the general community, approval will be dependent upon:
- (a) The participant having been compliant with their program, and

- (b) Community Corrections being able to provide a suitable level of supervision to the participant, and
- (c) arrangements being made for the provision of an appropriate level of supervised drug testing, and
- (d) appropriate arrangements being made for the provision of addiction counselling and treatment, including pharmacotherapy where needed.

4.3.2 The Court may also permit emergency and short term accommodation arrangements to be made when necessary.

4.4 Continuing Obligations

- 4.4.1 It will remain a requirement for a participant to regularly report to the Drug Court in person, although the frequency of reporting may be reduced.
- 4.4.2 In the event of unsatisfactory compliance with a program by a participant living 'out of area', or of a cessation of any of the requirements mentioned in 4.2 or 4.3 above, the participant may be required to return to an appropriate address within the Court's usual area, or to return to custody in accordance with s 8A of the Act until a suitable treatment plan can be prepared.

5. FACS - HOUSING ACCORD

- 5.1.1 The Drug Court has signed Shared Access Operating Agreements with FACS - Housing to assist nominated participants with complex needs to access secure, affordable and supported social housing.
- 5.1.2 One of the key objectives of the Agreement will be to provide support to nominated participants so as to assist them to sustain a tenancy.
- 5.1.3 To gain assistance under the Agreement, a participant, or potential participant, must be nominated by the Drug Court. The Agreement outlines the number of participants to be assisted.

5.2 Nominations

- 5.2.1 Any team member may suggest or identify a participant, or potential participant, who may be suitable to receive assistance under the Agreement.
- 5.2.3 At any suitable team meeting, the housing needs of a participant can be discussed. That discussion could include, but not be limited to:
 - Whether the participant's current accommodation diminishes their prospects of recovery
 - Whether the participant has other options, such as a return to the home of other family members
 - Whether the participant has the ability, or prospect, of returning to paid employment to fund accommodation
 - The participant's level of engagement in the program, and prospects of remaining on program to receive any offer of housing
 - Any housing history known,
 - Any aspects of safety or danger, such as domestic or family violence
 - The housing needs, and opportunities, of other family or household members,
 - The existence of any other highly suitable treatment options,

- Treatment requirements relating to such issues as pharmacotherapy, mental health or physical disabilities,
 - Special considerations, such as Aboriginality
 - Special needs such as dependants, pram or wheelchair access, literacy, mental health, disability or personality issues.
- 5.2.4 The Registrar or Deputy Registrar will be asked to attend that team meeting, so as to be fully aware of the housing issues discussed.
- 5.2.5 If the Drug Court Team so determines, the Registrar will make the necessary nomination to the Cross-Agency Working Group identified in the Shared Access Operating Agreement.
- 5.2.6 The Registrar may seek the assistance of the Case Manager, the Treatment Provider or other members of the Drug Court Team so as to ensure FACS - Housing is provided with any proof or documentation of special issues (for example, proof of pregnancy, mental health treatment, the existence of a current Apprehended Violence Order, or child contact orders from the Family Court or Children's Court). A Case Conference between the treatment partners may be of great assistance.
- 5.2.7 When a nominated participant is successful (a "participant/client") and is accepted under the Agreement, the Registrar will immediately notify all members of the Drug Court Team by email.

5.3 Participant Support

- 5.3.1 The Registrar or Deputy Registrar will be the only contact for the Drug Court under the Agreement, and any ongoing issues are to be referred to the Registrar.
- 5.3.2 The Registrar will identify the supports being provided, or to be provided, for any participant/client by the Drug Court Program, and will provide a list of those services for inclusion within the Service Level Agreement.
- 5.3.3 The Registrar will participate in tenancy reviews as set out in the Service Level Agreement, and provide relevant information to the tenancy reviews on behalf of the Drug Court
- 5.3.4 The Registrar will notify FACS - Housing of any return of custody of a participant/client, of the successful completion of the Drug Court Program by a participant/client, or the termination of a participant/client's program, (and if such termination has led to any return to custody).

APPENDIX 6 - DRUG COURT POLICY 6

<i>Policy 6</i>	Completion or termination of program
<i>Last Reviewed</i>	August 2008

1. PURPOSES OF POLICY

- 1.1 To clarify the circumstances in which a participant's program will be considered completed or requires termination.
- 1.2 To identify the process by which the Drug Court team will consider program termination, so as to ensure that the participant is afforded procedural fairness.
- 1.3 To explain the consequences of a program being terminated.

2. DEFINITIONS

<i>Act</i>	means the <i>Drug Court Act 1998</i>
<i>Case manager</i>	means a Community Offender Service officer assigned to a participant.
<i>Case management plan</i>	means a plan for supervision of a participant by the Community Offender Service
<i>COS</i>	Means the Community Offender Service
<i>Drug Court</i>	means the Drug Court of N.S.W.
<i>Drug Court program</i>	means the conditions accepted by the participant and imposed by the Court See sections 7A, 7B, 7C and 16 of the <i>Drug Court Act</i> .
<i>Drug Court team</i>	means a Drug Court Judge, the Registrar, the Legal Aid Commission solicitor the solicitor from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Community Offender Service (COS) coordinator, and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each.
<i>Participant</i>	means a "drug offender" as defined in the Drug Court Act 1998
<i>Treatment plan</i>	means a plan for therapeutic intervention to address a participant's drug dependency and related health needs.
<i>Treatment provider</i>	means a participant's principal ongoing treatment provider.

3. POLICY

3.1 *Completion or substantial compliance*

- 3.1.1 The standard expected for a participant to complete his or her program, and a level of compliance which will be accepted to find that a participant has substantially complied with a program, are set out in **Policy #7: Program Goals and Measures**.
- 3.1.2 The Drug Court Team will hold regular Participant Review meetings to discuss the progress of all participants.

- 3.1.3 At the request of any team member, or at the request of the participant, the Drug Court Team will consider the progress of any phase three participant at the next Participant Review meeting.
- 3.1.4 The Drug Court team will consider suitability for completion of program approximately eight weeks prior to the proposed date for final sentencing/graduation.
- 3.1.5 Any participant considered eligible to graduate in the next three months will be advised of that opportunity.
- 3.1.6 To ensure continuity of care for participants who are graduating and those participants who are unlikely to be returned to full-time custody at the conclusion of their Drug Court program, a Continuing Care Plan will be requested from the participant's Community Offender Service Officer and Treatment provider.
- 3.1.7 The Continuing Care Plan will address such issues as income security, housing, pharmacotherapy and ongoing counselling needs.
- 3.1.8 The Continuing Care Plan is to be effective 1-2 weeks **before** the participant's Drug Court Program is finalised.

3.2 *Additional assistance to successful participants*

- 3.2.1 Improvements in forensic investigation techniques have led to graduates and other successful participants being charged with old crimes after the completion of their program. In an effort to minimise this occurring, two actions are to be taken:
 - (a) **When a participant reaches Phase 3**, the Registrar will write to the Commissioner of Police seeking a check of all records and systems so as to ensure any and all outstanding matters or allegations are prosecuted in the near future. 1 copy of that letter will also be directed to the Police Prosecutor and the Legal Aid solicitor.
 - (b) **Two weeks before graduation or the recognition of substantial compliance**, the solicitor from the Office of the DPP in conjunction with the Police Prosecutor will make all necessary inquiries as to any outstanding charges, allegations or incidents so as to ensure they can be considered prior to graduation.

3.3 *Habitual Offender Declarations*

- 3.3.1 Given the proven rehabilitation of a participant who meets graduation or substantial compliance criteria, the Legal Aid solicitor will check as to whether there are any habitual traffic offender declarations in relation to the participant, and consider whether an application to quash such declarations should be made at final sentence.

3.4 *Graduation and recognition of achievement*

- 3.4.1 Program termination and final sentencing will precede any formal recognition by the Court of completion or substantial compliance.
- 3.4.2 The Court may recognise participants who have completed a program by the award of a certificate at a graduation ceremony.
- 3.4.3 A participant's family, treatment provider and case manager may be invited to attend the graduation ceremony. Others with a particular interest in the participant's program should also be invited to attend the participant's graduation.
- 3.4.4 If available, all Drug Court judges will preside at each ceremony.
- 3.4.5 The Court may recognise participants who have substantially complied with a program by the award of a certificate of achievement.

3.5 *Termination at a participant's request*

- 3.5.1 A participant can request the Court to terminate his or her program at any time. This request can be made on two grounds:
- i. The participant no longer wishes to be in the program, and asks that the initial sentence be set aside and a new sentence imposed, or
 - ii. The participant asks the Court to find that the participant has completed or substantially complied with their program.
- 3.5.2 The Court retains discretion to grant or refuse such an application, and a discretion to defer consideration of the application.
- 3.5.3 If the Court is of the view that the participant has not completed a program, or has not substantially complied with the program, the Court may allow the participant to withdraw the application, unless the Court is satisfied that the participant is unlikely to make any further progress on the program.

3.6 *Termination after failure to comply with the program*

- 3.6.1 After any program breach, the Court may consider termination of a program on the application of a team member, case manager, treatment provider or on its own motion.
- 3.6.2 The Court may consider termination of a program if the participant:
- Has been unable to progress past a phase within 3 months of the expected duration of that phase, or otherwise demonstrates a lack of commitment to his or her Drug Court program.
 - Is unlikely to make any further progress because the participant is subject to a treatment plan which appears to be unsuitable, and no apparently highly suitable treatment plan is available.
 - Has absconded from his or her Drug Court program.
 - Is alleged to have committed any offence.
 - Is alleged to have breached any special conditions to his or her program.
 - Has threatened another Drug Court participant, a treatment provider or anyone connected with the Court, or repeatedly disrupts any process related to his or her program.
 - Has deliberately sought to manipulate, by any means, his or her urinalysis testing, or the results thereof.
- 3.6.3 The primary responsibility for identifying participants who should be considered for program termination lies with the solicitors from the Office of the Director of Public Prosecutions and the Police Prosecutor on the Drug Court team.
- 3.6.4 A participant's legal representative, case manager and treatment provider (if any) are to receive reasonable notice from the solicitor(s) from the Office of the Director of Public Prosecutions, or the Police Prosecutor on the Drug Court team, that the participant's program is to be considered for termination, and are to be afforded the opportunity of making submissions to the court.
- 3.6.5 Unless the circumstances that have led to a program being considered for termination are admitted, information establishing those circumstances should be available in writing prior to the relevant meeting. If requested, the person providing the information should be available for questioning.

3.7 *Termination for persistent failure to progress - "Sunset Clauses"*

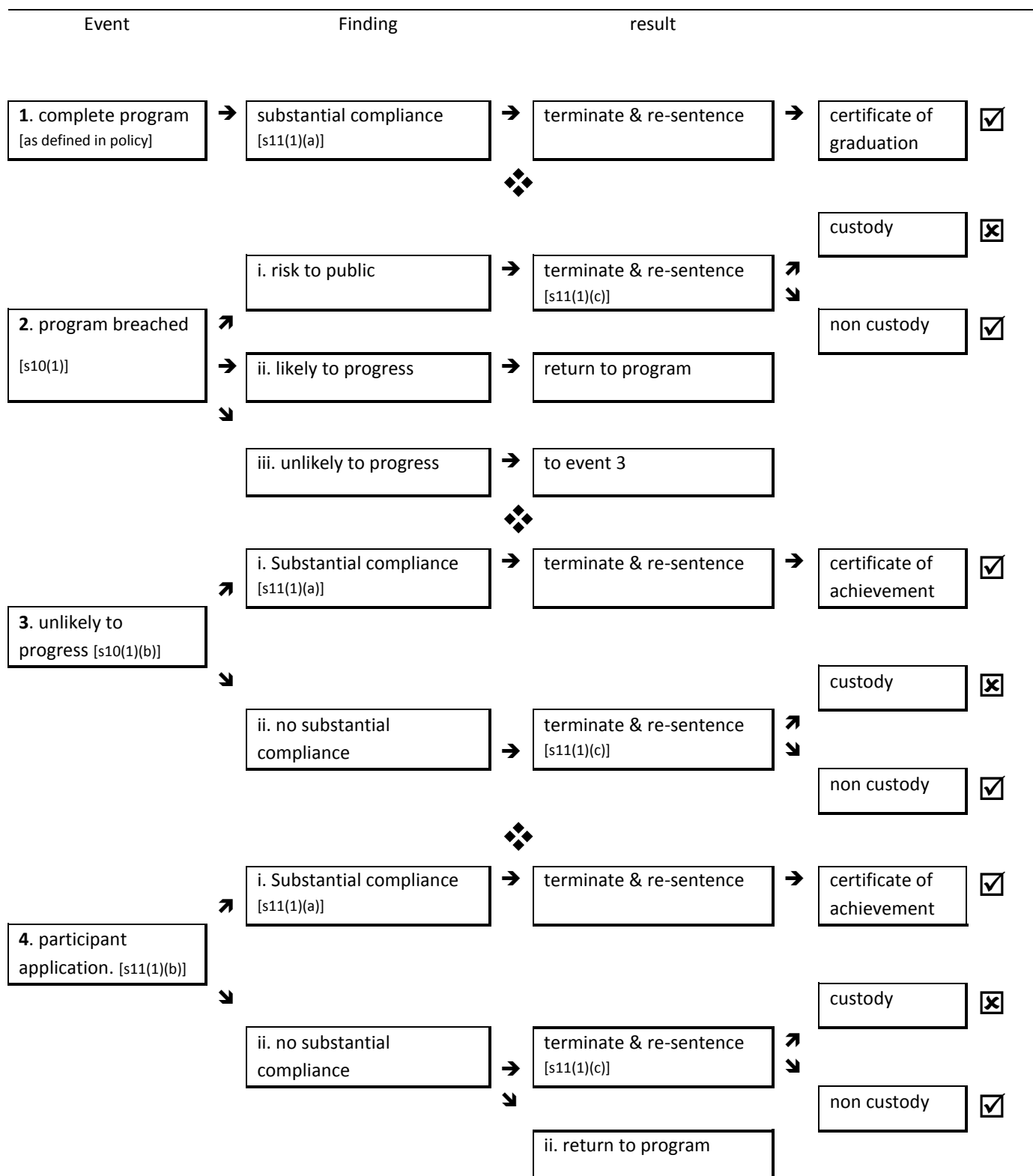
- 3.7.1 The Drug Court may form the preliminary view that UNLESS a participant can progress to the next phase of his or her Drug Court program by a nominated date, then his or her failure to achieve that progression by the nominated date demonstrates a lack of potential to progress on his or her Drug Court program.
- 3.7.2 If the Drug Court forms such a preliminary view, then a date for progression or termination of program should be set. The date selected is to be determined by the judge in consultation with the Drug Court Team and the participant.

- 3.7.3 If the participant has not demonstrated the required potential to progress by the “sunset clause” date, then his or her program may be terminated for lack of potential to progress.
- 3.7.4. The participant may contest the preliminary view reached by the Drug Court as to his or her potential to progress, and if the issue is contested then a potential to progress hearing will be listed for determination by the court.

3.8 *Termination for breach of special program clauses*

- 3.8.1 The Drug Court may chose to place additional or special clauses in the programs of some participants. Such clauses may, for example, specifically prohibit the participant from consuming any alcohol whatsoever, driving any motor vehicle, committing any further offences, being dishonest regarding drug use, being dishonest with the Drug Court Team and treatment providers, or abandoning his or her program.
- 3.8.2 Such special conditions will usually be imposed as the necessary and appropriate response to perceived specific risk factors, or as the result of problem behaviour whilst on program.
- 3.8.3 If the participant is alleged to have breached such a special program clause, then termination of program will be considered as per paragraph 3.4 above. The court may also impose sanctions for any breach of special conditions, and may require the immediate serving of any custodial sanctions.

Flow chart of termination procedure



☒ Although an imperfect measure these cases are counted as program successes.

☒ These cases are counted as unsuccessful

APPENDIX 7 - DRUG COURT POLICY 7

<i>Policy 7</i>	Program Goals and Measures
<i>Last Reviewed</i>	November 2017

1. PURPOSES OF POLICY

- 1.1 To further define the content of Drug Court programs, the goals to be achieved, and the measurement of the achievement of those goals.

2. DEFINITIONS

<i>Act</i>	means the Drug Court Act 1998.
<i>Case manager</i>	means a Community Corrections officer assigned to a participant.
<i>Case management plan</i>	means a plan for supervision of a participant by the Community Corrections.
<i>Drug Court</i>	means the Drug Court of N.S.W.
<i>Drug Court program</i>	means the conditions accepted by the participant and imposed by the Court under section 7(3)(a) of the Act.
<i>Drug Court team</i>	Means Drug Court judge, the Registrar, the Legal Aid Commission (LAC) solicitor, the solicitor from the Office of the Director of Public Prosecutions (ODPP), the Police Prosecutor, the Community Corrections coordinator and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternate for each.
<i>CC</i>	means the Community Corrections.
<i>Participant</i>	means a "drug offender" as defined in the Drug Court Act 1998.
<i>Treatment plan</i>	means a plan for therapeutic intervention to address a participant's drug dependency and related health needs.
<i>Treatment provider</i>	means a participant's principal ongoing treatment provider.

3. POLICY

3.1 *The content of a Drug Court program*

- 3.1.1 The objectives of the Drug Court are set out in section 3 of the Act, and the definition of a Drug Court program is included within section 4 of the Act.
- 3.1.2 The conditions that can be included in a Drug Court program are defined in section 7(3B). The conditions for each participant are set out in the general program undertaking and the participant's treatment and case management plan.

3.1.3 To commence a Drug Court program, a participant will be required to sign an undertaking to accept and comply with all the conditions of the general program and their individual treatment and case management plan. The participant will be provided with a copy of each document.

3.1.4 The treatment and case management plan may be modified progressively throughout the program.

3.2 *The focus of a Drug Court program*

3.2.1 So as to promote re-integration into the community, the program will focus on:

- Housing and income stability
- Health and well being - diagnosis & treatment
- Behaviour modification and living skills appropriate to the ability of the individual
- Education and readiness for employment where possible
- Employment, where possible
- Relationships and child-care responsibilities
- Legal obligations and responsibilities – paying bills, child support and any fines.

3.3 *Program Phases*

3.3.1 Each program will consist of three phases.

3.3.2 The minimum expected duration of each phase is:

Phase 1 - Three months

Phase 2 - Four months

Phase 3 - Five months

3.3.3 The Drug Court team will review each participant's progress at a review meeting in the month before progression to the next phase is expected.

3.3.4 If a participant has not progressed to the next phase within three months of the earliest possible date, the Court may consider the likelihood of further progress in accordance with **Completion or Termination Policy #6**.

3.4 *Phase 1 Engagement and Stabilisation*

3.4.1 The principal goals of Phase 1 are:

- To reduce drug use
- To stabilise physical and mental health
- To commence treatment for drug dependency
- To cease criminal activity
- To identify needs and goals for treatment and reintegration.

3.4.2 To progress from Phase 1 to Phase 2 a participant should have:

- demonstrated a willingness to commence and participate in a treatment program
- developed a case management plan (in consultation with the Community Corrections case manager and treatment provider)
- demonstrated a willingness to accept supervision under the case management plan
- become established as a regular patient of a general practitioner
- be compliant with any psychiatric treatment and medication
- complete group counselling programs (day or transition programs)
- ceased drug use for a minimum of four weeks
- promptly and honestly admitted any drug use
- submitted to three drug tests per week

- attended Court at least once per week
- regularly and punctually attended appointments
- committed no offences, or committed no further offences after a termination hearing.

3.5 Phase 2 – Consolidation

3.5.1 The principal goals of Phase 2 are:

- To remain drug free for significant periods
- To remain crime free
- To stabilise social and domestic environment
- To develop life skills
- To address any major life issues
- To maintain good health

3.5.2 To progress from Phase 2 to Phase 3 a participant should have:

- continued to fully participate in a treatment program
- actively worked towards achieving goals established in the case management plan and worked with the case manager and treatment provider to update that plan
- continued to accept supervision under the case management plan
- submitted to two drug tests per week, as directed
- promptly and honestly admitted any drug use
- ceased drug use and achieved a significant period or periods of abstinence
- ceased criminal activity, or committed no new offences after a termination hearing or the addition of a “no further offending” clause.
- attended Court at least once per fortnight
- regularly and punctually attended appointments with the Court, counsellor, and case manager, and kept all other program commitments
- Completed the Pathways to Employment Education and Training (PEET) course, (if available and if not working or studying)

3.6 Phase 3 - Re-integration

3.6.1 The principal goals of Phase 3 are:

- To remain drug free and accept a drug free lifestyle
- To remain crime free and accept a crime free lifestyle
- To stabilise social and domestic environment, including establishing stable accommodation
- To gain employment or be employment ready, or
- be engaged in full time child care, or other responsible positive activity
- be involved in education, training or other worthwhile activity which could lead to employment
- Be financially responsible.

3.6.2 During this phase a participant will be expected to maintain the standards achieved in Phase 2, and to achieve the standards set for completion of the program.

3.6.3 The Court will identify participants who are likely to complete a Drug Court program two months before completion is due. Those participants will be required to demonstrate their readiness to complete the program by an enhanced drug testing regime for a period of four weeks prior to completion.

3.7 Graduation

3.7.1 To complete a program a participant will have achieved the following standards:

- **Time in treatment:** The participant should have been active in treatment for at least 12 months. It is not expected that treatment would have been completed when the program is completed. Like their addiction, it may continue throughout their lifetime.
- **Progress in program:** The participant should have progressed into Phase 3 (see 3.6 above), and have maintained the standards set for progression to that stage.
- **Engagement in treatment:** The participant should have demonstrated a willingness to identify and deal with any significant life issues in counselling.
- **Reintegration:** The participant should have achieved the re-integration goals which have been set and reviewed during the program.
- **Reduction in drug use:** For at least three months there must be no drug use.
- **Reduction in offending:** The participant must not have committed any crime during the last six months that, if taken to court, could be punished by a term of imprisonment.

3.8 Substantial Achievement

3.8.1 To have substantially complied with a program, a participant should have achieved the following minimum standards:

- **Time in treatment:** The participant should have been on program for at least 12 months and at least 9 months of that time actively in treatment.
- **Progress in program:** The participant should have achieved and currently be maintaining the standard set for Phase 2 (see 3.5 above).
- **Engagement in treatment:** The participant should be currently actively engaged in treatment, and have identified significant life issues.
- **Reintegration.** Substantial compliance for most participants would mean:
 - securing and maintaining housing
 - securing and retaining income
 - accessing medical treatment
 - stabilising relationships
 - completion of outstanding court orders such as a Community Sentence Order, Intensive Correction Order or Home Detention order

For many it would also involve commencement in education or employment, reducing fines or securing a driver's licence.

- **Reduction in drug use:** Drug use would have reduced, with significant periods of abstinence, and a demonstration of having learned skills to deal with relapse.
- **Reduction in offending:** The participant must not have committed any crime during the last six months that, if taken to court, could be punished by a term of imprisonment.

APPENDIX 8 - DRUG COURT POLICY 8

<i>Policy 8</i>	Mental Health of offenders and participants
<i>Last Reviewed</i>	September 2009

1. PURPOSES OF POLICY

- 1.1 To clarify both pre-program and on program procedures for dealing with offenders and participants who are, or may be, suffering from a mental condition, illness or disorder.

2. DEFINITIONS

<i>Act</i>	means the <i>Drug Court Act 1998</i>
<i>Court</i>	means the Drug Court of New South Wales
<i>Drug Court program</i>	means the conditions accepted by a participant and imposed by the Court. See sections 7A, 7B, 7C and 16 of the Drug Court Act
<i>Drug Court team</i>	means a Drug Court Judge, the Registrar, the solicitors for the Legal Aid Commission, the solicitors from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Probation and Parole co-ordinator, and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each
<i>Offender</i>	means a person referred to the Drug Court but who is not yet sentenced
<i>Participant</i>	means a “drug offender” as defined in the Act
<i>Treatment plan</i>	means a plan for therapeutic intervention to address an offender’s drug dependency and related health needs.
<i>Treatment provider</i>	means the offender’s principal ongoing treatment provider

3. POLICY

- 3.1 Every offender who is referred to the Drug Court will be assessed by Justice Health to determine whether the person is suffering from a mental condition that could prevent or restrict the person’s active participation in a Drug Court program (*Regulation 4(b)*).
- 3.2 Every offender who is referred to the Drug Court will be screened by the Drug Court Prosecutor for any information held by the NSW Police Force that may assist in determining whether an offender is suffering from a mental condition that could prevent or restrict the person's active participation on the Drug Court Program. Any such information will be provided to the DPP Solicitor and the Clinical Nurse Consultant.

- 3.3 It is the responsibility of the Clinical Nurse Consultant and the DPP solicitor on the Drug Court team to identify any offender who may be suffering from such a mental condition, illness or disorder that could prevent or restrict the person's active participation in a Drug Court program.
- 3.4 When such an offender is identified, it is the responsibility of the DPP solicitor to request that a Justice Health psychiatrist provide an independent report to the Court for the purpose of assisting the Court to determine whether the person does suffer from such a mental condition. The reporting doctor should be asked to refer to any relevant medication regime, the likelihood that the offender will comply with that regime, and the likely consequences should the person fail to comply with the regime.
- 3.5 Every participant should have access to psychiatric assessment and ongoing treatment for any mental health needs through Justice Health and/or their treatment provider.
- 3.6 A participant's treatment provider is responsible for identifying and notifying the Drug Court of any mental condition which could be affecting the participant's performance on his/her Drug Court program, and for obtaining any necessary consent to the revelation of such information to the Court.
- 3.7 The Drug Court Prosecutor is to inform the Drug Court Team of any incidents that come to the attention of the NSW Police Force that involve a participant, and which suggest the person is suffering a mental condition, and which suggest the participant may have become a danger to himself or herself, or to the community.
- 3.8 When a participant fails to comply with the recommended mental health treatment, the participant's treatment plan will be reviewed. The review will be conducted so as to assist the participant to fully comply with his or her recommended mental health treatment.
- 3.9 If a participant remains non-compliant with treatment, or if the non-compliance raises issues of the safety of the community or the participant, it is the responsibility of the participant's treatment provider and Justice Health to notify the DPP solicitor on the Drug Court team. If considered necessary, the DPP solicitor will then request that the participant's program be terminated.

APPENDIX 9 - DRUG COURT POLICY 9

<i>Policy 9</i>	Drug and Alcohol use by Participants
<i>Last Reviewed</i>	August 2013

1. PURPOSES OF POLICY

- 1.1 To ensure early detection of participant drug use and a swift response by the Drug Court to such use. To promote program compliance and reduce the health risk to which each participant is exposed. To reduce the risk to the community of participant criminal conduct.
- 1.2 To ensure accuracy and consistency in testing for participant drug use.

2. DEFINITIONS

<i>Act</i>	means the Drug Court Act 1998.
<i>Case manager</i>	means the Community Corrections Officer assigned to a participant.
<i>Drug Court program</i>	means the conditions that a person has accepted, having been dealt with under section 7A, 7B and 7C of the Act.
<i>Participant</i>	means a person dealt with under sections 7A, 7B and 7C of the Act
<i>Testing Nurse</i>	means a nurse employed by the Court or by a treatment provider to conduct and supervise testing for drug or alcohol use.
<i>Treatment provider</i>	means a participant's principal treatment provider.

3. POLICY

3.1 Undertaking about any drug use

- 3.1.1 At the commencement of his or her Drug Court program, each participant is to undertake to the Court that he or she:
- will not use or possess any prohibited drug,
 - will not use or possess any synthetic intoxicating drug,
 - will not drink alcohol at all in Phase One of the Drug Court Program,
 - will not use alcohol or any other legal drug in a manner which may interfere with his or her ability to fully participate in a Drug Court program,
 - will provide his or her urine, breath, sweat or saliva for analysis as and when directed to do so,
 - will not use any prescribed medication unless it is prescribed for him or her by a doctor,
 - will admit to using any prescribed or non-prescribed medication at the next drug test.
 - will bring to the drug test location the packet/bottle and a copy of the prescription.
 - will seek to avoid using or being prescribed any pain relief medication which contains codeine.
 - will obtain a letter from any doctor or dentist who has prescribed codeine-based medication that no other pain relief medication would be appropriate.
 - will admit to the use of pain relief medication at the time of drug testing even if this medication has NOT been prescribed. In all cases, the taking of medication must be discussed with a

participant's treatment provider and when requested, a participant will provide the treatment provider with the name and contact of the prescribing Doctor. Treatment providers will discuss, where necessary, the use of medication with the Case Manager.

- will, at the first opportunity, report any breaches of his or her program to the Drug Court, the case manager and the treatment provider.

- 3.1.2 The Drug Court may require a participant not to use a legal drug, including a drug prescribed for the participant by a doctor.
- 3.1.3 The Court regards a blood alcohol concentration of in excess of 0.05 as indicating the participant is consuming alcohol in a manner that may interfere with his or her ability to fully participate in a Drug Court program.
- 3.1.4 The Drug Court may also require a participant to undertake not to use any alcohol beyond Phase One of the program.
- 3.1.5 Prior to commencing Phase Two of the program, the participant must discuss with his or her counsellor responsible alcohol consumption, ie, "controlled drinking".

3.2 *The manner and frequency of testing*

- 3.2.1 The Drug Court may use any reliable means to detect drug use, including urine, breath, sweat, saliva or hair testing that is appropriate in the circumstances of the participant.
- 3.2.2 If directed by the Drug Court or the Registrar, the participant may be required to undertake an instant drug test. The instant test may be referred to the laboratory for confirmation.
- 3.2.3 A participant may be tested for any prohibited drug, synthetic intoxicating drug and/or alcohol use on a random and/or a regular basis.
- 3.2.4 Generally, participants are to be tested:
- During Phase One - a minimum of three times per week, on a pre-programmed basis, which minimises the gap between tests.
 - During Phases Two and Phase Three - a minimum of two times per week, on a programmed basis, which minimises the gaps between tests.
 - During the final four weeks of Phase Three – three times per week as for Phase One, and this testing will include testing for traces of drugs.
- 3.2.5 The Court may vary the frequency and/ or nature of testing where appropriate, depending on the level of the participant's compliance with his or her program.
- 3.2.6 Testing for drug use is to be supervised to prevent the provision of a false sample. Where possible, supervision is to be by means of direct personal observation.
- 3.2.7 When a participant is unable to attend for a drug test, or the participant has attended and cannot provide a sample, the Registrar or the case manager can approve alternate arrangements, which may include a drug test being taken by the treatment provider, case manager or a medical practitioner, or attending the registry between 9am and 10am the next day.
- 3.2.8 Failure to attend for drug testing as required, approved, or directed is a breach of program.

3.3 *Response to drug use*

- 3.3.1 Drug use is a breach of program, and the Drug Court will respond in a therapeutic way to that drug use at the earliest opportunity (see paragraph 3.4 below).
- 3.3.2 Drug use, or failure to provide a sample for testing, is a breach of program, and will result in a sanction or sanctions being imposed.
- 3.3.3 A substantially increased sanction will be imposed for any drug use detected which has not been admitted to a treatment provider, case manager and to the Court at the earliest opportunity.
- 3.3.4 Providing a false sample, tampering with a sample, or attempting to manipulate the taking or administration of any form of drug testing is a very serious breach of program and may result in the termination of the participant's Drug Court program.
- 3.3.5 When a participant admits a drug use to a case manager or treatment provider, or fails to provide a sample for testing when required, the case manager and treatment provider are to liaise as soon as possible, and determine and apply the appropriate therapeutic response. The person to whom the admissions is made is to include all such admissions in the report to the Court, and the participant must be directed to attend court within 7 days of the admission. The Registrar is to be informed immediately of any direction given to attend court.
- 3.3.6 When a participant admits a drug use to a testing nurse, or fails to provide a sample for testing when required, the nurse is to inform the Registrar. The Registrar is to determine the appropriate therapeutic response after consulting the Court's records and if necessary the Clinical Nurse Consultant of the Drug Court team.
- 3.3.7 If a participant fails to attend for drug testing when required, the testing nurse is to notify the Registrar by email, facsimile or telephone. If appropriate the Registrar is to inform the Court.
- 3.3.8 If a participant is detected or suspected of:
- providing a false sample or attempting to do so, or
 - tampering with the testing mechanism or sample, or,
 - if a drug use is detected which has not been admitted at the earliest opportunity, the person supervising the test is to notify the Registrar immediately of the circumstances of the incident, and the Registrar will direct the participant to attend court immediately, or the next sitting day.
- 3.3.9 If a participant misses two consecutive drug tests, or has used illicit drugs and is not due to return to Court for 7 days or more, then the participant is to be directed to attend court immediately, or the next sitting day. The case manager, the treatment provider or the Registrar, upon becoming aware of such circumstances, may make such a direction.

3.4 *Therapeutic response to drug use*

3.4.1 The following principles are to be applied:

- If the drug use indicates a participant who is in physical danger because of a relapse into drug use, immediate action is required.
- If the intoxication is significant immediate medical intervention should be the highest priority.
- If the drug use is indicative of a participant's ongoing struggle with addiction, then support in treatment is the most therapeutic approach.
- If the drug use is indicative of the failure of the present treatment plan, then the Court's intervention in treatment is warranted.
- If the drug use is indicative of someone accepting their level of drug use, or whose drug use could put the participant or the community at risk, the court's early intervention is warranted.

APPENDIX 10 - DRUG COURT POLICY 10

<i>Policy Title #10</i>	Offences committed by participants
<i>Last Reviewed</i>	March 2007

1. PURPOSES OF POLICY

- To outline an appropriate response to offences committed by participants, with a view to protecting the public and maintaining public confidence in the Drug Court.
- To reinforce the requirement of participants on a Drug Court program to remain of good behaviour.

2. DEFINITIONS

<i>Act</i>	means the Drug Court Act 1998.
<i>Case manager</i>	means a Community Offender Service officer assigned to a participant.
<i>Drug Court</i>	means the Drug Court of N.S.W.
<i>Drug Court program</i>	means the conditions accepted by the participant and imposed by the Court under section 7(3)(a) of the Act.
<i>Drug Court team</i>	means a Drug Court judge, the Registrar, the Legal Aid Commission (LAC) solicitor, the solicitor from the Office of the Director of Public Prosecutions (ODPP), the Police Prosecutor, the Community Offender Service coordinator and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternate for each.
<i>COS</i>	means the Community Offender Service.
<i>Participant</i>	means a "drug offender" as defined in the Drug Court Act 1998.

3. POLICY

3.1 Undertaking to be of good behaviour

- 3.1.1 At the commencement of his or her Drug Court program, each participant is to make the following undertakings, amongst others, to the Court:

"I must be of good behaviour. I must commit no criminal offence. I must inform the Drug Court team if I am charged with a crime, or receive a Court Attendance Notice (or any other court process) alleging that I have committed a crime. I must be honest and not attempt to deceive the Drug Court or any member of the Drug Court team, my treatment provider or Case Manager. I must report any breach of my program at the first opportunity I have to do so to my Case Manager, treatment provider and the Drug Court."

- 3.1.2 Section 10 of the Act empowers the Court to act if satisfied that an offender has failed to comply with his or her program. Section 10(2) provides that it is a breach of program to be *charged before*

a court with one of the offences mentioned in s 5(2) - eg violent conduct, sexual assault or strictly indictable supply of drugs.

3.2 Procedure on notification of an offence to the Court

3.2.1 When informed that a participant has been charged with an offence, the Court will ask the Legal Aid solicitor to advise the court if the participant intends to:

- admit or deny that the charge has been preferred
- admit or deny that the offence has been committed
- ask that the charge be dealt with at the Drug Court or elsewhere.

3.2.2 If the participant intends to plead guilty, the Legal Aid solicitor should advise the Drug Court Police Prosecutor by email or in writing. The Drug Court Police Prosecutor will then arrange for the new charge/s to be brought before the Drug Court on the participant's next court day.

3.2.3 The Court will conduct whatever inquiry is necessary to determine on the balance of probabilities whether the participant has failed to comply with his or her program because of the commission of, or being charged before a court with an offence.

3.2.4 When satisfied that a participant has failed to comply with his or her program because of the commission of, or being charged before a court with, an offence

- Referred to in s 5(2), or
- involving serious harm or the risk of serious harm to a member of the community
- the repetition of a serious offence of a similar nature to an offence for which the participant was referred to the Drug Court,

the Court **will** conduct a hearing to consider the question of "unacceptable risk" to the community of re-offending.

3.2.5 When satisfied that a participant has failed to comply with his or her program because of the commission of an offence other than an offence mentioned in 3.2.3 above, the Court, on its own motion, or on application of a member of the Drug Court Team, **may** conduct a hearing to consider the question of "unacceptable risk" under s10 (1)(b).

3.2.6 While awaiting an "unacceptable risk" hearing the Court may either

- refuse bail on the fresh charge,
- require the participant to be held in custody serving any sanctions, or
- allow the participant to continue his or her program, either unchanged, or with added conditions (such as more intensive supervision).

3.3 Sanction proceedings for breach of program by commission of criminal offence

3.3.1 The imposition of a sanction where a Drug Court Program has been breached by the commission of an offence does not create a situation where the law of "double jeopardy" would prevent the subsequent imposition of a penalty at law for the offence. The Court does not regard a decision in sanction proceedings to be a "decision of a court in proceedings for a criminal offence".

3.3.2 Generally, the Court will conduct sanction proceedings as soon as possible after the commission of any offence committed on a program.

3.4 *Special Conditions*

- 3.4.1 If the Court does not find the risk unacceptable, despite the commission of an offence on program, it may include in the participant's program a condition that a further offence, or further offence of a particular type, will demonstrate that offender's further participation in the program poses an unacceptable risk to the community. If such an order is made and a further offence is committed, the participant's program may be terminated without further hearing.

3.5 *Penalties for offences committed in breach of program*

- 3.5.1 The commission of an offence by a participant is a serious breach of conditional liberty.
- 3.5.2 Section 15(3) of the Act enables the Drug Court to impose a consecutive sentence for any offence committed by a person whilst on a program.
- 3.5.3 In sentencing a person following the termination of a program the Court is required to take into consideration the nature of the person's participation on the program and any sanctions imposed on the participant during the program.
- 3.5.4 The Court will ordinarily backdate the final sentence to reflect custodial sanctions served, and will take other forms of sanction into consideration.

4 *Arrest Procedures for Participants*

4.1 *Arrest for Offences*

Participants may be wanted by police officers for offences committed on program, or for offences committed prior to commencing the program. Where possible, contact with the participant in relation to being wanted by police for questioning will be made through Legal Aid.

- 4.1.2 If any Drug Court Team member becomes aware that police are seeking contact with a participant, then the Drug Court Prosecutor and Legal Aid are to be notified as soon as possible.

4.2 *Arrest for Pre-Program Offences*

- 4.2.1 The Drug Court Prosecutor is to take steps to encourage police to notify the Drug Court Prosecutor when a Drug Court Participant is wanted by police. Arrests for 'pre-program' matters may jeopardise the progress of a participant's treatment plan, and can result in missed pharmacotherapy dosing or other appointments. For this reason, it is appropriate for the Drug Court Team, in certain circumstances, to advocate that participants *NOT* be arrested by police but be dealt with as outlined in paragraphs 4.2.2 to 4.3.3.
- 4.2.2 Upon notification by police, the Drug Court Prosecutor will notify Legal Aid of the details of the allegations and possible charges, the informant's name and station.
- 4.2.3 Legal Aid will obtain instructions as to whether the participant wishes to be interviewed by police.

- 4.2.4 Where the participant **does not** wish to be interviewed, or wishes to record a refusal to be interviewed, Legal Aid will provide written confirmation of this to the Drug Court Prosecutor and the informant.
- 4.2.5 In the above circumstances, the Drug Court Prosecutor will contact the informant and recommend proceeding by way of Future Court Attendance Notice (FCAN).
- 4.2.6 If this recommendation is accepted, an appointment will be made for the participants to attend at the informant's police station for service of the FCAN on the participant. The time of this appointment will be agreed after consultation between the informant, the Drug Court Prosecutor, the Legal Aid Solicitor and the participant.
- 4.2.7 Where the participant **does** wish to attend to be interviewed by police, an appointment will be made for the participant's attendance at the informant's police station. The time of this appointment will be agreed after consultation between the informant, the Drug Court Prosecutor, the Legal Aid Solicitor and the participant.

4.3. *Arrest for On Program Offences*

- 4.3.1 If the Drug Court Prosecutor becomes aware that a participant is wanted by police for an "on program" offence, the Drug Court Prosecutor may recommend to the police informant that the procedure outlined in 4.2 be followed (i.e. the recommended procedure for pre-program allegations) as an alternative to arrest.
- 4.3.2 When making such a recommendation, the Drug Court Prosecutor will take into consideration the seriousness of the alleged offence, the participant's current progress on the program, the likelihood of bail, and the risk of contamination of the investigation.
- 4.3.3 If a Drug Court participant is arrested or charged with an offence, without prior notification to the Drug Court Prosecutor, either for an on program or pre-program offence, the Drug Court Prosecutor will notify Legal Aid immediately if possible, and will notify the Drug Court Team at the next Team Meeting.

APPENDIX 11 - DRUG COURT POLICY 11

<i>Policy Title #11</i>	Employment
Last Reviewed	<i>May 2006</i>

1. PURPOSES OF POLICY

- 1.1 To clarify the circumstances under which participants can enter paid employment.

2. DEFINITIONS

Act	means the Drug Court Act 1998
Case manager	means a Community Offender Service officer assigned to a participant.
Case management plan	means a plan for supervision of a participant by the Community Offender Service.
Drug Court	means the Drug Court of N.S.W.
Drug Court program	means the conditions accepted by the participant and imposed by the Court under section 7(3)(a) of the Act.
Drug Court team	means Drug Court judge, the Registrar, the Legal Aid Commission (LAC) solicitor, the solicitor from the Office of the Director of Public Prosecutions (ODPP), the Police Prosecutor, the Community Offender Service (COS) coordinator, the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternate for each.
COS	means the Community Offender Service.
Participant	means a "drug offender" as defined in the Drug Court Act 1998.
Treatment plan	means a plan for therapeutic intervention to address an participant's drug dependency and related health needs.
Treatment provider	means a participant's principal ongoing treatment provider.

3. POLICY

- 3.1 As part of its role in facilitating the reintegration of offenders into the community, the Court encourages the participant to make every effort to achieve financial, social and domestic stability. *[see Policy #7 "Programs Goals and Measures"]*. The Court encourages participants to gain qualifications that may lead to worthwhile employment, or, if fully engaged in child care, to increase their parenting, living and social skills. When ready, participants will be encouraged to move into paid employment, particularly if the employment is likely to lead to long-term employment.
- 3.2 The Court will seek to protect the public from harm while participants are on conditional liberty from prison. The Court is aware that there could be a legitimate concern that some Drug Court participants pose an unacceptable risk in employment. Whilst all potential employers have the opportunity to make diligent inquiries into the antecedents of applicants for employment, it may not be reasonable to expect that all employers, (for example small businesses) have the resources to do so. Accordingly the Court has a role in supervising employment arrangements.

3.3 The Court also understands that many people in the community have prejudices against people who are addicted to illicit drugs or who have a history of criminal offending, so the Court will work to ensure that prejudice of this nature does not jeopardise the rehabilitation of participants.

3.4 It is part of the role of the Community Offender Service to supervise participants –

- to ensure containment and compliance within the treatment plan
- to promote reintegration into the community

Therefore it is a condition of the program, and included in the undertaking, that Drug Court participants will inform their Community Offender Service case manager before any paid employment is undertaken.

3.5 The Community Offender Service will then supervise that employment as it would for other offenders who are on conditional release from prison, (eg Home Detention or parole). The extent to which this supervision will involve liaison with an employer will depend on the judgment of that service in the individual case, and in accordance with the Community Offender Service policy.

APPENDIX 12 - DRUG COURT POLICY 12

<i>Policy 12</i>	Selection of participants
<i>Last Reviewed</i>	June 2014

PURPOSES OF POLICY

- To ensure that the process of selection of participants for Drug Court programs is transparent, equitable and efficient.
- To enable participants to be selected for programs expeditiously, so as to reduce delay which can interfere with the effectiveness of treatment.
- To enable referring courts to finalise cases of offenders who are not accepted by the Drug Court efficiently and expeditiously.

DEFINITIONS

<i>Act</i>	means the Drug Court Act 1998
<i>Applicant</i>	means a person who is willing to be referred to the Drug Court under Section 6 of the Drug Court Act 1998
<i>Drug Court</i>	means the Drug Court of N.S.W.
<i>Drug Court program</i>	means the conditions accepted by the participant and imposed by the Court under section 7(3)(a) of the Act.
<i>Drug Court team</i>	means a Drug Court judge, the Registrar, the solicitor from the Legal Aid Commission, the solicitor from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Community Corrections co-ordinator and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each.
<i>Participant</i>	means a "drug offender" as defined in the Drug Court Act 1998

POLICY

1 Referral of applicants

- 1.1 To be eligible to enter a Drug Court program a person must meet the criteria set out in Section 5 of the Drug Court Act 1998, and clause 5 of the Drug Court Regulation.
- 1.2 If a person appearing before a referring Court appears eligible and willing to take part in a Drug Court program, that Court must refer the person to the Drug Court.
- 1.3 If a sentencing Judge or Magistrate directs that a person be referred to the Drug Court, the Court Officer at the referring court advises the Drug Court registry by telephone of the name and case details of the applicant.
- 1.4 As the program resources are limited, a ballot may need to be held to determine which referred offenders can be considered for a Drug Court program.

2 The manner of selection

- 2.1 Once each week the Registrar, in consultation with the Drug Court team, will determine the number of program places available for females and for males.
- 2.2 If there are sufficient places available, all applicants will be accepted.
- 2.3 If there are more referred applicants than available places, the names of apparently eligible applicants for entry will be placed in a ballot.
- 2.4 The Registrar will not include in the ballot the name of any applicant who has been referred to the Drug Court by a Court that is not a referring Court as defined in the Regulation.
- 2.5 The Registrar will not include in the ballot the name of an applicant who appears to have had their case or cases adjourned to a referring Court for the sole purpose of gaining access to a Drug Court program. This clause does not prevent a participant being included in the ballot who has been granted an appropriate adjournment to a referring court (for example, to allow the adjourned matters to link up with other matters properly at a referring court).
- 2.6 A computer generated random selection will be made from the pool of eligible applicants to meet the number of available places.
- 2.7 If there are sufficient places available for all applicants of a particular gender, applicants of that gender may be accepted without being placed in a ballot, even though a ballot may be necessary for applicants of the other gender.

Applicants who may not be “eligible” offenders

- 2.8 If it is apparent to the solicitor for the ODPP or the Police Prosecutor that a referred person is not an eligible offender, the ODPP solicitor or Police Prosecutor will advise the Registrar and the solicitor for the LAC of that fact as soon as possible, preferably by email.
- 2.9 The Registrar will submit that information, together with any available documents, to the Judge in chambers or in court. The Judge will then determine whether or not the referred person should be included in any ballot conducted.
- 2.10 The Judge may also decide that the referred person’s application to the Drug Court be deferred to a later ballot, so as to allow any necessary information regarding eligibility to be obtained.
- 2.11 If it is later found that a referred person has been incorrectly excluded from the ballot, then the judge may determine that the offender (if still unsentenced) be included in a subsequent ballot.

Applicants who may not be “appropriate”

Pre-ballot:

- 2.12 So as to ensure that persons who are apparently inappropriate for the program do not displace persons who are apparently “appropriate” for a Drug Court in the ballot, the Drug Court will, before the ballot is run, scrutinise the question of the “appropriateness” of the referred applicants.

- 2.13 Previous participation in a Drug Court program, or the previous opportunity of undertaking a Compulsory Drug Treatment Order, is relevant to the question of being “appropriate”. This factor is to be taken into account when the number of applicants and/or the number of participants currently on program is high. See also paragraph 6 of this policy.
- 2.14 If it is apparent to the solicitor for the ODPP or the Police Prosecutor that a referred person may not be an “appropriate” person, given his or her antecedents, the ODPP solicitor or Police Prosecutor will advise the Registrar and the solicitor for the LAC of that fact as soon as possible, preferably by email.
- 2.15 The Registrar will submit that information, together with any available documents, to the Judge in chambers or in court. The Judge will then determine whether or not the referred person should be included in any ballot conducted. If the Judge determines that the referred person is inappropriate for program, the Registrar, DPP and Legal Aid will be advised. The Registrar will record that determination as a Pre-Ballot exclusion and make the notation in the Court Registry System as “Held not to be appropriate”.
- 2.16 The Judge may also decide that the referred person’s application to the Drug Court be deferred to a later ballot, so as to allow any necessary information regarding appropriateness to be obtained.
- 2.17 If it is later found that a referred person has been incorrectly excluded from the ballot, then the judge may determine that the offender (if still un-sentenced) be included in a subsequent ballot.

Post-ballot:

- 2.18 Every applicant who is successful in the ballot will be assessed by a solicitor for the ODPP as to whether he or she is an “appropriate” person for a Drug Court program.
- 2.19 In respect of each applicant, the solicitor for the ODPP may submit that the applicant is;
- an “appropriate” person,
 - not an “appropriate” person, or,
 - a person who may or may not be “appropriate”, and requests that the court determine that issue.
- 2.20 The Court will make a determination as to “appropriateness”. That decision may be made either immediately or on a later date.
- 2.21 The Court may find that;
- on the information available, the person is appropriate for a Drug Court program.
 - on the information available, the person is not appropriate for a Drug Court program.
 - the person is an appropriate person, but only if additional special conditions are added to his or her program plan.
 - a hearing is to be held to determine appropriateness. If a hearing is required, the Court will hear submissions and determine whether the Court would be assisted by the preparation of a psychiatric report.

3 *Aboriginal or Torres Strait Islander referrals*

- 3.1 The Drug Court acknowledges the overrepresentation of Aboriginal persons in the criminal justice system, and the proven need to improve access to such programs as the Drug Court program for Aboriginal or Torres Strait Islander ("ATSI") identifying offenders. The recognition and addressing of special needs is specifically authorised by section 21 of the *Anti Discrimination Act 1977*.
- 3.2 To increase the opportunity for ATSI identifying offenders to take part in a Drug court program, the Registrar and the Drug Court team will have regard to the number of ATSI identifying applicants when determining the number of program places available. The number of available places will be increased by one place in each gender for which there are ATSI identifying offenders.
- 3.3 The computer generated random selection will then allocate places. That selection will allocate a minimum of one place to an ATSI identifying offender in each gender for which there are ATSI identifying offenders.

4 *Applicants who are selected*

- 4.1 The Registrar will notify the referring Court if an applicant has been accepted, and request that Court to remand the applicant to the Drug Court on a specified date within the next week.

5 *Applicants who are not selected*

- 5.1 The Drug Court will not accept an applicant who is not selected in accordance with clause 2 or 3.
- 5.2 The Registrar will notify the referring Court if an applicant has been unsuccessful in a ballot, or if the applicant's referral has been deferred.
- 5.3 An applicant who was not selected in a ballot will not be placed in a subsequent ballot unless the applicant is referred to the Drug Court in respect of an offence other than one related to the unsuccessful ballot.

6 *Previous participants*

- 6.1 The Drug Court acknowledges that a drug-addicted person may need many episodes of treatment to achieve long-term recovery.
- 6.2 As the resources of the Drug Court are limited, preference will be given to applicants who have not been Drug Court participants previously.
- 6.3 An applicant who has previously been a Drug Court participant is not an appropriate person for a Drug Court program if it is less than three years since final sentence was imposed in relation to the participant's last Drug Court program, or if it is less than three years since the completion of the non-parole period of any final sentence that was imposed (not suspended), whichever is the later.
- 6.4 If the number of referred applicants exceeds the number of available places for the ballot, the judge may decide to exclude from the ballot any or all applicants who have previously had the opportunity of a Drug Court program, or a Compulsory Drug Treatment Order.

7 *Previously refused applicants*

- 7.1 To take part in a Drug Court program, the Drug Court must be satisfied that, having regard to the person's antecedents, it would be appropriate for the person to participate in a Drug Court program.
- 7.2 From time to time the Drug Court conducts hearings and makes determinations as to whether individuals are appropriate for a Drug Court Program.
- 7.3 If an applicant referred to the Drug Court has, within two years of the date of referral, been formally found to not be an appropriate person under s 7A(2) [or the previous section, s 7(2)], the applicant is not an appropriate person for a Drug Court program, and the Registrar will notify the referring Court that the applicant has not been accepted. The two year exclusion does not apply to applicants who have only been "held not to be appropriate" and excluded pre-ballot in accordance with clause 2.15 above.

APPENDIX 13 – DRUG COURT POLICY 13

<i>Policy 13</i>	Travel by participants
<i>Commenced</i>	October 2009

1. PURPOSES OF POLICY

- The Drug Court accepts that allowing a participant to travel intrastate, or even interstate, in some circumstances can be important in the achievement of rehabilitation. The Drug Court may, for example, grant travel permission for a participant to attend a funeral, visit a sick relative, or collect a child from another location.
- Similarly, allowing a participant to visit a close relative or someone who is very significant in their life who is in gaol may also assist in achieving rehabilitation.

2. DEFINITIONS

<i>Act</i>	means the Drug Court Act 1998
<i>Case Manager</i>	means a Community Offender Service officer assigned to a participant
<i>Drug Court</i>	means the Drug Court of N.S.W.
<i>Drug Court program</i>	means the conditions accepted by the participant and imposed by the Court under section 7(3)(a) of the Act.
<i>Drug Court team</i>	means a Drug Court judge, the Registrar, the solicitor from the Legal Aid Commission, the solicitor from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Probation and Parole co-ordinator and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each.
<i>Participant</i>	means a “drug offender” as defined in the Drug Court Act 1998

POLICY

3. *Travel*

- 3.1 Any travel outside the Sydney Metropolitan area must be approved by the Drug Court in advance, even if no overnight stay is required.
- 3.2 Each individual trip requires specific approval. Approval will depend upon the current stability of the participant, the importance or validity of the purpose of the trip, an assessment of the difficulty involved in the planned travel, and whether adequate and proper arrangements can be put in place.

- 3.3 The participant is to complete the Drug Court's *"Travel Check List"* and discuss the details with his or her Case Manager. The Travel Check List addresses such issues as travel times and mode of travel, urinalysis arrangements, contact addresses and phone numbers, and any pharmacotherapy arrangements required.
- 3.4 Participants considering any interstate or intrastate travel should not purchase plane or other tickets prior to approval being discussed with the Drug Court.
- 3.5 Interstate travel will only be approved in exceptional circumstances, and overseas travel will not be approved.

4. *Gaol visits*

- 4.1 The Drug Court accepts that it may be appropriate for a participant to be allowed to visit a person who is in a NSW gaol. The prisoner to be visited must be a close relative or a person who is significant in the participant's life.
- 4.2 The participant will be required to complete the *"Travel Check List"* referred to above if the visit is interstate or in a regional location.
- 4.3 The Drug Court may support, or not oppose, the participant visiting a prisoner; however such approval does not in any way indicate that the Governor of the Corrective Centre will or should approve the visit.
- 4.4 The participant will be required to provide his or her Case Manager with the details of the prisoner to be visited. The Case Manager will then contact the Governor of the Corrective Centre and advise the Governor of the Drug Court's support for the visit, and of the participant's progress on the Drug Court program.
- 4.5 The Drug Court may decide to support a gaol visit as a "once only" visit, or express support for ongoing visits. The Drug Court can withdraw support for gaol visits at any time.
- 4.6 The Drug Court will not approve any visits to a gaol interstate.

APPENDIX 14 – DRUG COURT POLICY 14

<i>Policy 14</i>	Parole for Participants of the Compulsory Drug Treatment Correctional Centre
<i>Commenced</i>	June 2010

PURPOSES OF POLICY

- To define procedures regarding the consideration of parole for offenders who are subject to a Compulsory Drug Treatment Order (CDTO) at the Compulsory Drug Treatment Centre (CDTCC).
- To define the expectations of Drug Court, which constitutes the Parole Authority for offenders on a CDTO, as to the completion of the program prior to a grant of parole being considered.

DEFINITIONS

<i>Act</i>	means the Drug Court Act 1998
<i>Case Coordinator</i>	means delegated CDTCC member of the multi-disciplinary team
<i>CDTCC</i>	means the Compulsory Drug Treatment Correctional Centre
<i>CDTO</i>	means Compulsory Drug Treatment Order
<i>CDTP</i>	means Compulsory Drug Treatment Program
<i>CDTP Participant</i>	means an offender who has received a CDTO
<i>Drug Court</i>	means the Drug Court of N.S.W.
<i>Multi-disciplinary team</i>	means the Director (or delegate) of the CDTCC, a probation and parole officer and an appointee of Justice Health
<i>Registrar</i>	means the Registrar of the Drug Court

POLICY

1 BACKGROUND

- 1.1 CDTP participants have a unique and special opportunity to achieve rehabilitation. In addition to intensive programs at the CDTCC, participants have early access to freedoms in the community to attend to education, employment, community and social activities.
- 1.2 The CDTP not only provides support to participants during the currency of the order, but also after the expiry of the order, including when released to parole.
- 1.3 With such opportunity comes a responsibility for participants to fully engage in the CDTP, and to maximise the benefits of the program for both the participant and the community.

- 1.4 Participants are expected to complete their total sentence by way of CDTO, however parole will be considered if circumstances suggest parole is more appropriate.

2 PAROLE FOR OFFENDERS ON A CDTO

- 2.1 The Drug Court is the parole authority for offenders in compulsory drug treatment detention.² Exercising that jurisdiction, the Drug Court applies the ordinary law in relation to the granting of parole, including the general duty that the release of the offender is appropriate in the public interest.³ To meet the public interest need, and having regard to the statutory considerations regarding parole⁴, including the need to be satisfied of the likelihood of the offender being able to adapt to normal lawful community life, the Drug Court will expect the offender:

- To have complied with the CDTO and advanced through the CDTP.
- To have made a genuine effort to engage in the treatment programs of the CDTP.
- To have completed as many Stages of the CDTP as the length of their sentence reasonably allows.
- If their sentence is of sufficient length, to have advanced to Stage 3 and completed six continuous successful months in the community on Stage 3.
- To have achieved a secure and stable income, with a clear expectation of being engaged in paid employment (unless either in full-time education or requiring the support of a Disability Support Pension).
- To have suitable and approved accommodation.

3 SENTENCES OF THREE YEARS OR LESS

- 3.1 When a sentencing court imposes a sentence of three years or less, being a sentence that has a non-parole period, it must make an order directing the release of the offender on parole at the end of the non-parole period (Section 50 *Crimes (Sentencing Procedures) Act 1999*).
- 3.2 However, the making of a CDTO has the effect of revoking any parole order made under s 50 referred to above⁵, and participants can expect to remain on a CDTO until their total sentence expires.
- 3.3 Therefore, as there is no date upon which parole is to be granted, or can be expected to be granted, the Drug Court does not require the preparation of any reports or recommendations regarding parole, unless such a report is requested by the court.

² Section 106T Crimes (Administration of Sentences) Act 1999

³ Section 135 Crimes (Administration of Sentences) Act 1999

⁴ Section 135 Crimes (Administration of Sentences) Act 1999

⁵ Section 18G (b) Drug Court Act 1998

Application for Parole – Sentences of three years or less

- 3.4 If a CDTTP participant with a sentence of three years or less wishes to be considered for parole, a written application is to be completed, on the required form, and the application is to be filed with the Registrar of the Drug Court. The participant's Case Coordinator will provide assistance in the preparation of that application, if requested.
- 3.5 The Registrar will refer the application to a Drug Court judge in chambers. The judge may either:
- Refuse the application, or
 - Seek a Short Pre-Release report from the Multi-Disciplinary Team.
- 3.6 If the Judge seeks a Short Pre-Release Report, a date will be set for the consideration of the grant of parole, and the Registrar will notify the CDTCC and the CDTTP participant of that date.
- 3.7 The CDTCC and the CDTTP participant may provide further written or documentary material to the Drug Court for consideration of parole.
- 3.8 The Drug Court judge will usually consider the question of parole in chambers, and the CDTTP participant will be notified of the outcome by the Drug Court Registry.
- 3.9 If the Drug Court judge is of the opinion that the hearing of evidence and/or oral submissions would assist in the determination of the question of parole, the matter will be set down for hearing. The Registrar will notify all parties of the Judge's directions and of the hearing date set.

4 SENTENCES OF OVER THREE YEARS

- 4.1 When a sentencing court imposes a sentence of more than three years, the sentencing court specifies a date upon which the offender is eligible for release on parole. For offenders who have received a CDTO, the Drug Court becomes the Parole Authority, and is required to determine if and when the offender should be released to parole.
- 4.2 Participants are expected to complete their sentence by CDTO, however the legislation requires the Drug Court to consider the question of release on parole at least 60 days before that participant's parole eligibility date.
- 4.3 To allow that to occur, four months before the participant's parole eligibility date, the Multi-Disciplinary Team will discuss the issue of parole with the participant. A CDTTP participant may be seeking parole, or may not wish to be granted parole, preferring instead to retain the advantages of a CDTO.
- 4.4 There are two possible outcomes from those discussions:
- (a) If the participant does not wish to be considered for parole, a short report stating such will be prepared and provided to the Registrar of the Drug Court. The Drug Court will take no further action.
- (b) If the participant does wish to be considered for parole, a CDTCC probation and parole officer will prepare a Pre-Release report and include a recommendation from the multi-disciplinary team. That report is to be provided to the Drug Court 10 weeks before the participant's parole

eligibility date, so as to allow the Drug Court to consider the question of parole at least 60 days before the eligibility date⁶.

- 4.5 If at a later date a CDTP participant who did not want to be considered for parole now wishes to be considered, a written application is to be completed, on the required form, and the application is to be filed with the Registrar of the Drug Court. The participant's Case Coordinator will provide assistance to the participant in the preparation of that application, if requested.
- 4.6 On receipt of the application, the Drug Court will request a Pre-Release report and recommendation from the Multi-Disciplinary Team. That report is to be provided to the Drug Court within 1 month of the request for the report.

5 FURTHER APPLICATIONS FOR PAROLE

- 5.1 Participants who have been refused parole may make further applications to the Drug Court for parole. Unless there are exceptional circumstances, no further application will be considered within 3 months of the last determination of parole.
- 5.2 The Registrar will refer all such applications for parole to a Drug Court judge in chambers. The judge may either:
 - (a) Refuse the application, or
 - (b) Seek a Pre-Release report and recommendation from the Multi-Disciplinary Team.
- 5.3 If the Judge seeks a Pre-Release Report, a date will be set for the consideration of the grant of parole, and the Registrar will notify the CDTCC and the CDTP participant of that date.
- 5.4 The CDTCC and the CDTP participant may provide further written or documentary material to the Drug Court for consideration of Parole.
- 5.5 The Drug Court judge will usually consider all parole matters in chambers, and the Drug Court Registry will notify the CDTCC participant of the outcome.
- 5.6 If the Drug Court judge is of the opinion that the hearing of evidence and/or oral submissions would assist in the determination of the question of parole, the matter will be set down for hearing. The Registrar will notify all parties of the Judge's directions and of the hearing date set.

⁶ Section 137(1) Crimes (Administration of Sentences) Act 1999

APPENDIX 15 – DRUG COURT CATCHMENT MAPS (NEEDS UPDATING WITH RECENT AMENDMENTS TO REGULATIONS)



