



Drug Court of NSW

Guide to referring eligible persons

Referring eligible persons to Drug Court

The Drug Court of NSW is a specialist court that sits at Parramatta, Hunter, Sydney and Dubbo. It supervises the rehabilitation of eligible drug-dependent offenders ('eligible persons'). Instead of full-time imprisonment, these offenders participate in the Drug Court program.

The Local Court and District Court have a duty to make enquiries and refer persons to the Drug Court. All Local and District Courts in NSW must refer persons who appear eligible and willing.

This guide outlines this duty, the relevant eligibility criteria, and the referral process.

Duty of referring courts

It is the duty of a court dealing with a person charged with an offence or to which a sentence is appealed:

- To make inquiries to find out whether a person appears to be an eligible person, and
- If so, to find out whether the person is willing to be referred to the Drug Court to be dealt with for the offence, and
- If so, to refer the person to the Drug Court to be dealt with for the offence (s 6, Drug Court Act 1998).

This duty applies to all Local Courts and District Courts in NSW. The referring court must refer offenders who appear to be eligible against the criteria. Once referred, the Drug Court will assess the person's eligibility and appropriateness.

Eligibility

Who is an eligible person?

To be eligible for the Drug Court a person must:

- be charged with an eligible offence
- have pleaded guilty, or indicated they will plead guilty, to the offence
- be highly likely to be sentenced to a full-time imprisonment if convicted
- be dependent on the use of illicit drugs
- be 18 years of age or over
- be willing to participate
- be referred to the Drug Court by a Local Court or District Court in NSW

The person must also live in one of the following Local Government Areas:

- Bayside, Blacktown, Burwood, Canada Bay, Canterbury-Bankstown, Campbelltown, Cessnock, Cumberland, Dubbo Regional, Fairfield, Georges River, Hawkesbury, Hunters Hill, Inner West, Lake Macquarie, Lane Cove, Liverpool, Maitland, Mosman, Newcastle, North Sydney, Parramatta, Penrith, Port Stephens, Randwick, Ryde, Strathfield, Sydney, the Hills Shire, Waverley, Willoughby or Woollahra.

Which offences are eligible?

An eligible offence includes all state offences, except those involving:

- violent conduct
- sexual assault, or
- strictly indictable drug offences (s 5(2), Drug Court Act 1998).

Commonwealth offences are not eligible.

Referrals

How is a referral made?

Once a person who appears to be eligible and willing is identified, the judicial officer at the referring court should make orders:

- Referring the matter to the Drug Court closest to where the person resides and marking the papers 'referred to Drug Court ballot at [specify location]'.
• Adjourning the matter for mention at the referring court on the next available sitting day on or after the Drug Court ballot day. (Mondays (Hunter and Dubbo) and Thursdays (Parramatta and Sydney)).
• Dealing with bail in the usual way.

The Court Officer must contact the Drug Court registry closest to where the person resides. Details of the referral must be provided by the following cut-off times:

Parramatta and Sydney Drug Courts

- By 12pm each Wednesday (for Thursday ballot day)

Hunter and Dubbo Drug Courts

- By 12pm each Friday (for Monday ballot day)

These details are then added to the 'ballot'.

Matters are retained at the referring court pending the outcome of the referral. Court papers should not be sent to the Drug Court at this point.

The 'ballot day'

Limited program places are available. Where there are more referrals than available places, a randomised ballot is conducted. The Drug Court registry will notify the referring court of the outcome of the referral.

This occurs after the team meeting is completed and ballot discussions have been finalised on the 'ballot day'.

If the referral is successful, the referring court must adjourn the matter to the Drug Court location on the date specified in the notification. Bail is to be determined in the usual way by the referring court.

If the referral is unsuccessful, the matter remains at the referring court to be dealt with.

After the ballot

Following success in the ballot, the Drug Court will determine eligibility and appropriateness. Where necessary, the matter will be listed for an eligibility and appropriateness hearing.

Once found to be eligible and appropriate, an initial sentence date is set by the Drug Court. The person must complete detoxification and assessment in custody and a tailored treatment plan is developed.

The eligible person is then brought to appear before the Drug Court to confirm a plea of guilty. The Drug Court imposes an initial sentence of imprisonment and makes orders for a suspended sentence. The person is then released to undertake their program. This is subject to the conditions imposed by the Court.

Matters returned after successful referral

Before initial sentence, a successful referral may be returned to the referring court. This occurs if:

- issues about eligibility or appropriateness arise,
- a treatment plan is not available, or
- the person withdraws from the program.

Should this occur the Drug Court will adjourn the matter back to the referring court.

Further information

Further information about the Drug Court, referrals and contact details are available at drugcourt.nsw.gov.au.