

The Drug Court commences sitting at the Downing Centre

His Honour Judge Roger Dive

Senior Judge, Drug Court

The Drug Court of NSW commenced sittings at the Downing Centre on 14 February 2013. The *Drug Court Regulation 2010* was amended from 7 January 2013 to enable referrals to be made before the opening date, thereby creating a group of potential participants to start working with from day one.¹

The Drug Court will sit in Court 4.7 at the Downing Centre every Thursday. The court and our program partners, such as the Area Health Service and Community Offender Services, are funded to provide a Drug Court program for 40 participants at any one time. Her Honour Judge Elizabeth Corbett has been appointed an Acting District Court Judge and a Judge of the Drug Court to assist their Honours Judges Barnett, Cloran and myself in the jurisdiction, with sittings now at the Downing Centre, Parramatta and Toronto (until the new courthouse is built in Newcastle).

Making Drug Court referrals

The list of referring courts for a Drug Court program has now expanded to include several courts in or close to the CBD,² and offenders can now ordinarily reside in the Local Government Area of the City of Sydney, as well as the long list of Local Government areas previously set out in the regulations.³ An easy way for the practitioners or the registry to check if an offender lives within the Local Government Areas prescribed is to use the Division of Local Government website at www.dlg.nsw.gov.au and follow the prompts.

Judges and magistrates are asked to particularly note what we have loosely called the “cross-vesting provisions”. Potential participants do not have to live and also offend close to their “home” Drug Court. So an otherwise suitable offender who lives in Parramatta, offends in the Sydney CBD, and is brought before Central Local Court is potentially eligible. Similarly, an offender living in Waterloo, who commit crimes in Campbelltown and appears before the District Court at Campbelltown, is also potentially eligible. This will make the referral process much easier for our referring courts and removes an arbitrary and unnecessary barrier to entry.

The flexible jurisdiction of the Drug Court is another important aspect to note. The Drug Court can deal with strictly indictable matters, purely summary matters, and any breaches of conditional liberty that come from either the District or the Local Courts. Given the chaotic lives of

our participants, it is not uncommon for the Drug Court to deal with, in the one sentencing hearing, aggravated break enter and steal offences, driving matters, a breached CSO from the District Court, and a bond which was imposed in the Local Court at a remote location.

The Drug Court also sees some very swift pleas to strictly indictable matters. Many such matters bypass the District Court entirely, coming straight to the Drug Court from an early mention in the Local Court. The “guilty” plea may even be indicated before a magistrate at a weekend bail court and come straight to the Drug Court — thereby almost bypassing the Local Court as well.

The Drug Court has an ongoing working relationship with the State Parole Authority, whereby, in the ordinary course of events, the State Parole Authority will usually make orders to restore a parole order that has been revoked and allow an otherwise suitable offender to undertake a Drug Court program. Similarly, the Parole Authority can make orders to allow access to a Drug court program for an offender who has breached an Intensive Correction Order.

The number of referrals each week may exceed the number of Drug Court program places available, so a ballot is held to determine who can be referred to the Drug Court. The ballot for Parramatta and Sydney Drug Courts is held at 1:00 pm on Thursdays, and for Toronto at 1:00 pm on Mondays.

If the referred offender is successful in the ballot, the offender’s charges should be adjourned to the Drug Court at the location and on the day specified in a fax message sent to the referring court. The referring judge or magistrate determines bail in the usual way. If the offender is unsuccessful in the ballot, then the matter remains in the District or Local Court to be finalised in the usual way.

The administrative procedures for making a referral are set out in a checklist previously circulated — laminated copies, which fit into your bench book, are available at any time from my associate. The Judicial Commission has also included the checklist on the Judicial Information Research System (JIRS). Click on the “Services Directory” in the left bar, then “Diversion and Intervention Programs” then “Adult Drug Court”.

Please also feel free to contact me by email jdive@courts.nsw.gov.au or by phone 8688 4512 if we can assist in coming to grips with any aspect of a Drug Court referral.

¹ By the *Drug Court Amendment (Court Expansion) Regulation 2012*. LW 7.12.2012.

² The referring courts are the District Court sitting at Campbelltown, East Maitland, Liverpool, Newcastle, Parramatta, Penrith, and Sydney. The Local Courts 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 and Windsor must also make referrals for eligible offenders.

³ The person’s usual place of residence must be within the Local Government Areas of Auburn, Bankstown City, Blacktown City, Campbelltown City, Cessnock City, Fairfield City, Hawkesbury City, Holroyd City, Lake Macquarie City, Liverpool City, Maitland City, Newcastle City, Parramatta City, Penrith City, Port Stephens, City of Sydney, or The Hills Shire.