



Drug Court Policy 6

Completion or termination of program

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This policy is to be read in conjunction with Drug Court Policy 7 – Program goals and measures.

1 Purpose

The purpose of this policy is:

- To clarify the circumstances in which a participant’s program will be considered completed or requires termination.
- 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.
- To explain the consequences of a program being terminated.

2 Definitions

Term	Definition
Act	means the <i>Drug Court Act 1998</i>
Community Corrections Officer	means a Community Corrections officer assigned to a participant.
Drug Court	means the Drug Court of NSW
Drug Court program	means the conditions that a participant has accepted under section 7(3)(a) of the Act.
Drug Court team	means a 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 Court Coordinator, the Aboriginal Casework Coordinator and the Justice Health NSW clinician attached to the Drug Court, and/or the alternate delegates for each.
Highly Suitable Treatment plan	means a plan for therapeutic intervention to address an offender’s drug dependency and related health needs.
Participant	means a person dealt with under sections 7(2) and (3) of the Act.
Treatment provider	means a participant’s principal ongoing treatment provider – e.g., Local Health District (LHD), residential rehabilitation, supported accommodation.

3 Scope

This policy applies to the completion or termination of Drug Court of New South Wales participants programs.

4 Policy statement

4.1 Completion or substantial compliance

- 4.1.1 The standard expected for a participant to complete their program, and a level of compliance which will be accepted to find that a participant has reached the standard for graduation or has substantially complied with a program, are set out in Drug Court Policy 7 – Program goals and measures.
- 4.1.2 The Drug Court Team will hold regular Review and Management meetings to discuss the progress of participants.
- 4.1.3 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 Management Review meeting.
- 4.1.4 The Drug Court team will consider suitability for completion of program approximately eight weeks prior to the proposed date for final sentencing/graduation.
- 4.1.5 Any participant considered eligible to graduate in the next two months will be advised of that opportunity.
- 4.1.6 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 Corrections officer and Treatment provider.
- 4.1.7 The Continuing Care Plan will address such issues as income security, housing, pharmacotherapy, ongoing rehabilitation or counselling needs, education and family.
- 4.1.8 The Continuing Care Plan is to be effective 1-2 weeks **before** the participant's Drug Court Program is finalised.

4.2 Additional assistance to successful participants

- 4.2.1 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. A 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 to identify any outstanding charges, allegations or incidents to ensure they can be considered prior to graduation.

4.3 Habitual Traffic Offender declarations and license disqualification removal

- 4.3.1 Given the proven rehabilitation of a participant who meets graduation or substantial compliance criteria, the Legal Aid solicitor will check whether there are any Habitual Traffic Offender declarations or removal of license disqualification applications in relation to the participant and consider whether such applications may be made at final sentence.
- 4.3.2 Habitual Traffic Offender declarations may be considered during an earlier phase of the program to support a participant's progress on program.

4.4 Graduation and recognition of achievement

- 4.4.1 Program termination and final sentencing will precede any formal recognition by the Court of completion or substantial compliance.
- 4.4.2 The Court may recognise participants who have completed a program by the award of a certificate at a graduation ceremony. Drug Court Policy 7 sets out the requirements for completion.
- 4.4.3 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.
- 4.4.4 If available, all Drug Court Judges may preside at each ceremony.
- 4.4.5 The Court may recognise participants who have substantially complied with a program by the award of a certificate of achievement. Drug Court Policy 7 sets out the requirements for substantial compliance.

4.5 Termination at a participant's request

- 4.5.1 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.

4.5.2 The Court retains a discretion to grant or refuse such an application, and a discretion to defer consideration of the application.

4.5.3 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.

4.6 Termination after failure to comply with the program

4.6.1 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.

4.6.2 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 there is no apparently highly suitable treatment plan 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.

4.6.3 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.

4.6.4 A participant's legal representative, Community Corrections Officer 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.

4.6.5 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.

4.7 Termination for persistent failure to progress – “Sunset Clauses”

4.7.1 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.

4.7.2 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.

4.7.3 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.

4.7.4. 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.

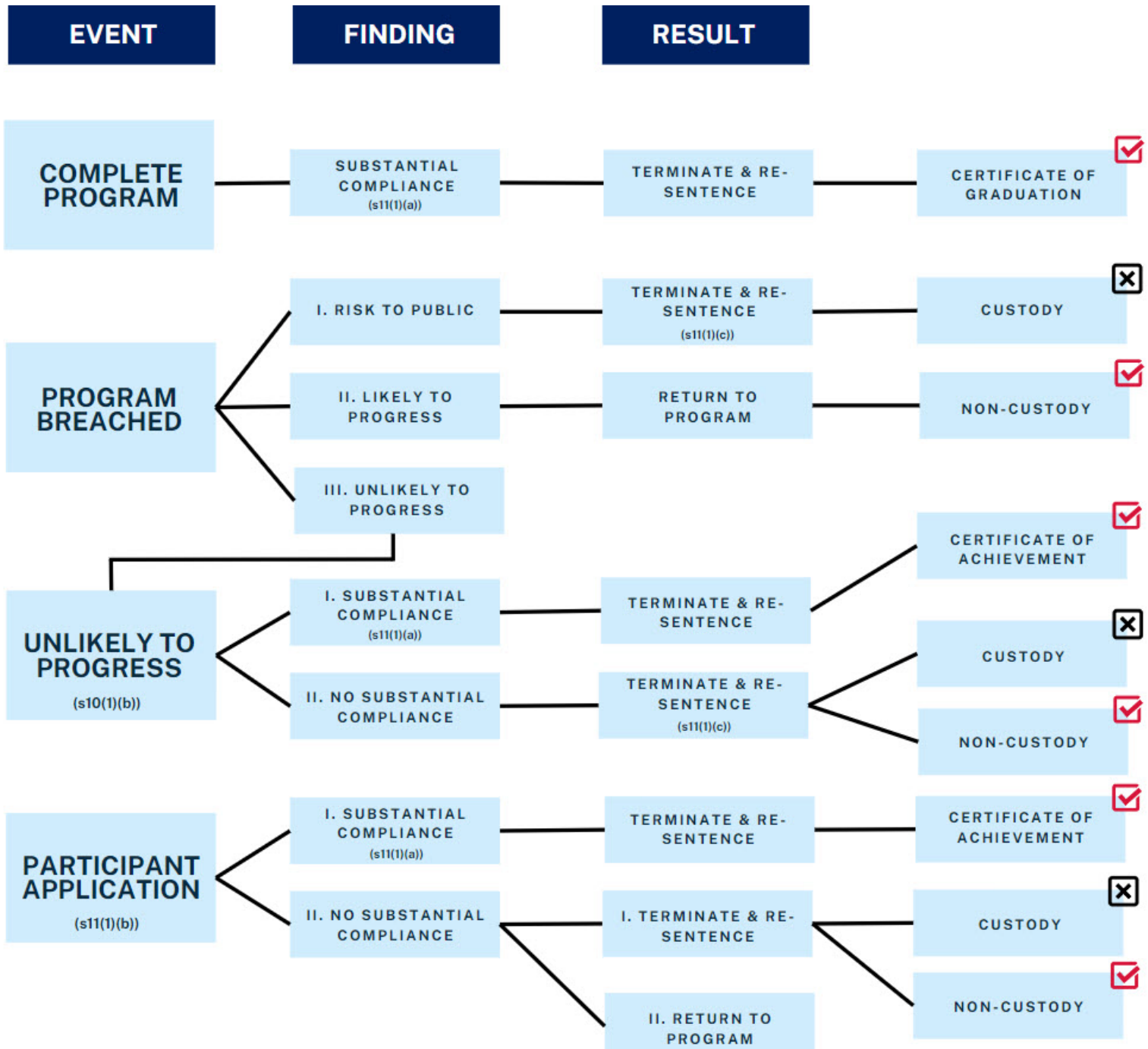
4.8 Termination for breach of special program clauses

4.8.1 The Drug Court may choose 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, committing any driving offences, 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.

4.8.2 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.

4.8.3 If the participant is alleged to have breached such a special program clause, then termination of program will be considered. The court may also impose sanctions for any breach of special conditions and may require the immediate serving of any custodial sanctions.

5 Flow chart of termination procedure



✓ Although an imperfect measure, these cases are counted as program success.

✗ These cases are counted as unsuccessful.

6 Related legislation/regulation and other documents

- Drug Court Policy 7 – Program goals and measures

7 Document information

Document name	Drug Court Policy 6 – Completion of termination of program
Applies to	All Drug Courts of New South Wales
Policy administrator	Senior Judge of the Drug Court of NSW
Approval	Senior Judge Mottley, March 2024

8 Version and review details

Version	Effective date	Reason for amendment	Due for review
1	04/04/2024	Policy reviewed, updated and re-formatted.	04/04/2026