

QUICK GUIDE TO DRUG COURT REFERRALS

<p>Referral</p>	<p>The following District Courts can refer matters to the Drug Court – Campbelltown, Liverpool, Parramatta and Penrith.</p> <p>The Following Local Courts can refer matters to the Drug Court – Bankstown, Blacktown, Burwood, Campbelltown, Fairfield, Liverpool, Parramatta, Penrith, Richmond, Ryde and Windsor.</p> <p>Referring Courts must ascertain whether the applicant appears to be an eligible person, whether the applicant wishes to be referred to the Drug Court and if so, to refer to the person to the Drug Court.</p> <p>Breaches of s12 and s9 Bonds can be referred so long as the Bond was originally imposed for a referable offence.</p>	<p>Clause 6 of the <i>Drug Court Regulation 1999</i></p> <p>Section 6 of the <i>Drug Court Act 1998</i></p> <p>Section 8AA of the <i>Drug Court Act 1998</i></p>
<p>Eligibility</p>	<p>There are 5 basic criteria that an applicant must meet:</p> <ol style="list-style-type: none"> 1. All offences are referable apart from strictly indictable supply drugs charges, or offences involving violence or sexual conduct. 2. There must be a high likelihood of a custodial sentence. 3. There must be a plea of guilty. 4. The applicant must be a drug dependant person. 5. The applicant’s usual place of residence must be within the local government areas of Auburn, Bankstown, Baulkham Hills, Blacktown, Campbelltown, Fairfield, Hawkesbury, Holroyd, Liverpool, Parramatta or Penrith (see clause 5 Regs). 	<p>Section 5 of the <i>Drug Court Act 1988</i></p> <p><i>R v Chandler [2000]</i> NSWCA 125 determines that when assessing whether a referred offence involves violent conduct, the Court looks primarily at the elements of the relevant offence. Also see the recent case of <i>R v E [2005]</i> not yet reported.</p> <p><i>R v Duggan [2001]</i> NSWDRGC 5 determined that the usual place of residence criteria applies to immediately prior to the applicant going into custody, or “immediately before they reached that status where they had no choice as to where they were living”. Recent case of <i>R v Gavin [2005]</i> not yet reported.</p>
<p>Violence on Criminal Records</p>	<p>This is not about eligibility, but rather about determining whether the applicant is an appropriate person to take part in a Drug Court Program considering the nature of their antecedents.</p> <p>Matters that the Drug Court might be concerned about on criminal history include assaults, sexual assaults, robberies and dangerous driving charges.</p> <p>An applicant’s appropriateness can be determined by the criminal history itself or the Court may have a hearing to determine the issue.</p> <p>An applicant can also be found to be <u>not</u> appropriate on the basis that they have been on a Drug court program before.</p>	<p>Drug Court Act s7(2)(b) <i>R v Tucker [2001]</i> NSWDRGC 3 – “The mere fact that past violent behaviour is disclosed is not a basis for the exercise of the discretion against entry to the program. Rather it is for the Court to make a judgement whether the behaviour in the antecedent offences suggests that there is an acceptable risk to the Drug Court, its team members, treatment providers, case managers, to the public generally and to the offender if the offender is permitted on a program”.</p> <p>Also see <i>R v Rolfe [2001]</i> NSWDRGC 2 and <i>R v Schoffel [2001]</i> NSWDRGC 11</p> <p>There is useful information to be found at the Drug Court Web site: www.lawlink.nsw.gov.au/drugcrt/drugcrt.nsf/pages/index see links to “For Defendants and Advocates”</p>
<p>General Overview</p>	<p>When screening potential applicants the major questions (after determining matters are PG) are:</p> <ol style="list-style-type: none"> 1. Can the charges be dealt with by the Drug Court? 2. Is the applicant’s usual place of residence within area? 3. Is the applicant in breach of a bond or parole? 4. Does the applicant have matters of violence or risk on their criminal record? 	<p>In re breach of Parole – this often is not a bar to coming onto a Drug Court program. However, before the Drug Court can release a person on a Drug Court program, the matter must be determined by the Parole Board. Often the parole Board will re-grant parole on the condition that the applicant abides by their Drug Court program.</p> <p>REMINDER – Please ensure that when a Table 1 Offence is referred from a Local Court that a conviction is recorded.</p> <ul style="list-style-type: none"> • DPP at Drug Court will often elect to place Local Court matters on Indictment. • Matters can come from District Court Sentences or Severity Appeals