

Referrals to the Compulsory Drug Treatment Correctional Centre

The Compulsory Drug Treatment Correctional Centre at Parklea provides **compulsory treatment and rehabilitation for recidivist male drug offenders**. Prisoner entry is achieved by the referral of apparently eligible prisoners to the Drug Court for the making of a Compulsory Drug Treatment Order “CDTO”.

Which District Courts must make referrals?

Sydney, Parramatta, Penrith and Campbelltown

Those District Courts have a **duty** to ascertain “as soon as practicable” after a person is sentenced to imprisonment as to whether there are grounds upon which the Drug Court **might** find the person to be an “eligible convicted offender”. If the sentencing court is of that view, then the sentencing court **must** refer the person to the Drug Court, which will then determine if the prisoner is eligible and suitable for a CDTO.

A **plea of guilty is not required**, nor is consent, and neither the prosecution nor the offender has a right to object to referral.

The “**recidivism**” **requirement** regarding prior convictions in the last five years has been removed from the legislation.

Which sentenced prisoners are eligible?

There are a number of basic criteria that must be met for eligibility¹. The sentencing court should consider the following:

1. The person has been sentenced to a term of full time imprisonment, and, at the time of sentence, the **unexpired** non-parole period is **at least 18 months**, and the **unexpired** total sentence **is not more than 6 years**.
2. A person is **not** an eligible convicted offender if the offence for which the person has been convicted involved the use of a firearm **or** if the person has been convicted at any time of an offence involving the violent use of a firearm.
3. The person must **not** have been convicted at **any** time of some specified offences. These include murder, attempt murder, manslaughter, sexual assault of an adult or child, or a sexual offence involving a child, or offences involving the supply or manufacture of a commercial quantity of a prohibited drug.
4. The person’s **usual place of residence** must be within the broader Sydney region, extending as far as the Hawkesbury, Hornsby, Northern Beaches, Sutherland, Camden and Penrith Local Government Areas².
5. The matter is not within the Children’s Court’s jurisdiction and the person must be **over 18 years** of age.

The following eligibility criteria will be **considered at the Drug Court**:

6. The person **has a long term dependency** on the use of prohibited drugs.
7. The facts of the offence for which the person has been sentenced, together with his antecedents, indicate that **the offence was related to the person's long-term drug dependency** and associated lifestyle.
8. The person must not suffer from a mental illness or disorder that is “serious” or “leads to the person being violent”, and the illness or condition could prevent or restrict the person's active participation in a drug treatment program.

How is a referral made?

As soon as practicable after sentencing an apparently eligible offender the court file should be endorsed “***referred to Drug Court – CDTCC referral***”. The District Court Registrar will then have a responsibility to immediately forward the court file to the Registrar of the Drug Court.

New and further sentences

All sentencing courts will have a **duty** to refer to the Drug Court offenders who are convicted and sentenced to a **new sentence** while on a current CDTO, providing the new sentence is concurrent or partly concurrent with the sentence grounding the CDTO. The Drug Court may then vary the CDTO so as to apply it to the new sentence, or revoke the CDTO³.

The legislation

The *Compulsory Drug Treatment Correctional Centre Act 2004* and the *Drug Court Legislation Amendment Bill 2014* amends the *Crimes (Sentencing Procedure) Act 1999*, the *Crimes (Administration of Sentences) Act 1999* and the *Drug Court Act 1998*. Various regulations also support the legislation.

Any Enquiries?

Senior Judge: 8688 4512 Registry: 8688 4525 Registrar: 8688 4528

¹ Section 5A of the amended Drug Court Act 1998

² The prescribed Local Government Areas are: Bayside, Burwood, Camden, Canada Bay, Canterbury-Bankstown, City of Blacktown, City of Campbelltown, City of Fairfield, City of Hawkesbury, City of Liverpool, City of Parramatta, City of Penrith, City of Randwick, City of Ryde, City of Sydney, City of Willoughby, Cumberland, Georges River, Hornsby, Hunter's Hill, Inner West, Ku-ring-gai, Lane Cove, Mosman, Northern Beaches, North Sydney, Strathfield, Sutherland Shire, The Hills Shire, Waverley, and Woollahra.

The website for the Department of Local Government is the easiest way for practitioners or the court registry to ensure an address is within one of the prescribed Local Government Areas. The website is <https://www.olg.nsw.gov.au/find-my-council> and then follow the prompts on the home page.

³ Section 106W of the amended Crimes (Administration of Sentences) Act 1999.