DRUG COURT OF NEW SOUTH WALES

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| ***Policy 14*** | **Parole for Participants of the Compulsory Drug Treatment Correctional Centre** |
| ***Commenced*** | June 2010 |

# **PURPOSES OF POLICY**

* To define procedures regarding the consideration of parole for offenders who are subject to a Compulsory Drug Treatment Order (CDTO) at the Compulsory Drug Treatment Centre (CDTCC).
* To define the expectations of Drug Court, which constitutes the Parole Authority for offenders on a CDTO, as to the completion of the program prior to a grant of parole being considered.

# **DEFINITIONS**

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| ***Act*** | means the Drug Court Act 1998 |
| ***Case Coordinator*** | means delegated CDTCC member of the multi-disciplinary team |
| ***CDTCC*** | means the Compulsory Drug Treatment Correctional Centre |
| ***CDTO*** | means Compulsory Drug Treatment Order |
| ***CDTP*** | means Compulsory Drug Treatment Program |
| ***CDTP Participant*** | means an offender who has received a CDTO |
| ***Drug Court*** | means the Drug Court of N.S.W. |
| ***Multi-disciplinary***  ***team*** | means the Director (or delegate) of the CDTCC, a probation and parole officer and an appointee of Justice Health |
| ***Registrar*** | means the Registrar of the Drug Court |

### POLICY

### *1 BACKGROUND*

1.1 CDTP participants have a unique and special opportunity to achieve rehabilitation. In addition to intensive programs at the CDTCC, participants have early access to freedoms in the community to attend to education, employment, community and social activities.

1.2 The CDTP not only provides support to participants during the currency of the order, but also after the expiry of the order, including when released to parole.

1.3 With such opportunity comes a responsibility for participants to fully engage in the CDTP, and to maximise the benefits of the program for both the participant and the community.

1.4 Participants are expected to complete their total sentence by way of CDTO, however parole will be considered if circumstances suggest parole is more appropriate.

#### *2 PAROLE FOR OFFENDERS ON A CDTO*

2.1 The Drug Court is the parole authority for offenders in compulsory drug treatment detention.[[1]](#footnote-1) Exercising that jurisdiction, the Drug Court applies the ordinary law in relation to the granting of parole, including the general duty that the release of the offender is appropriate in the public interest.[[2]](#footnote-2) To meet the public interest need, and having regard to the statutory considerations regarding parole[[3]](#footnote-3), including the need to be satisfied of the likelihood of the offender being able to adapt to normal lawful community life, the Drug Court will expect the offender:

* To have complied with the CDTO and advanced through the CDTP.
* To have made a genuine effort to engage in the treatment programs of the CDTP.
* To have completed as many Stages of the CDTP as the length of their sentence reasonably allows.
* If their sentence is of sufficient length, to have advanced to Stage 3 and completed six continuous successful months in the community on Stage 3.
* To have achieved a secure and stable income, with a clear expectation of being engaged in paid employment (unless either in full-time education or requiring the support of a Disability Support Pension).
* To have suitable and approved accommodation.

# ***3 SENTENCES OF THREE YEARS OR LESS***

3.1 When a sentencing court imposes a sentence of three years or less, being a sentence that has a non-parole period, it must make an order directing the release of the offender on parole at the end of the non-parole period (Section 50 *Crimes (Sentencing Procedures) Act 1999*).

3.2 However, the making of a CDTO has the effect of revoking any parole order made under s 50 referred to above[[4]](#footnote-4), and participants can expect to remain on a CDTO until their total sentence expires.

3.3 Therefore, as there is no date upon which parole is to be granted, or can be expected to be granted, the Drug Court does not require the preparation of any reports or recommendations regarding parole, unless such a report is requested by the court.

#### *Application for Parole – Sentences of three years or less*

3.4 If a CDTP participant with a sentence of three years or less wishes to be considered for parole, a written application is to be completed, on the required form, and the application is to be filed with the Registrar of the Drug Court. The participant’s Case Coordinator will provide assistance in the preparation of that application, if requested.

3.5 The Registrar will refer the application to a Drug Court judge in chambers. The judge may either:

* Refuse the application, or
* Seek a Short Pre-Release report from the Multi-Disciplinary Team.

3.6 If the Judge seeks a Short Pre-Release Report, a date will be set for the consideration of the grant of parole, and the Registrar will notify the CDTCC and the CDTP participant of that date.

3.7 The CDTCC and the CDTP participant may provide further written or documentary material to the Drug Court for consideration of parole.

3.8 The Drug Court judge will usually consider the question of parole in chambers, and the CDTP participant will be notified of the outcome by the Drug Court Registry.

3.9 If the Drug Court judge is of the opinion that the hearing of evidence and/or oral submissions would assist in the determination of the question of parole, the matter will be set down for hearing. The Registrar will notify all parties of the Judge’s directions and of the hearing date set.

##### 4 SENTENCES OF OVER THREE YEARS

4.1 When a sentencing court imposes a sentence of more than three years, the sentencing court specifies a date upon which the offender is eligible for release on parole. For offenders who have received a CDTO, the Drug Court becomes the Parole Authority, and is required to determine if and when the offender should be released to parole.

4.2 Participants are expected to complete their sentence by CDTO, however the legislation requires the Drug Court to consider the question of release on parole at least 60 days before that participant’s parole eligibility date.

4.3 To allow that to occur, four months before the participant’s parole eligibility date, the Multi-Disciplinary Team will discuss the issue of parole with the participant. A CDTP participant may be seeking parole, or may not wish to be granted parole, preferring instead to retain the advantages of a CDTO.

4.4 There are two possible outcomes from those discussions:

(a) If the participant does not wish to be considered for parole, a short report stating such will be prepared and provided to the Registrar of the Drug Court. The Drug Court will take no further action.

(b) If the participant does wish to be considered for parole, a CDTCC probation and parole officer will prepare a Pre-Release report and include a recommendation from the multi-disciplinary team. That report is to be provided to the Drug Court 10 weeks before the participant’s parole eligibility date, so as to allow the Drug Court to consider the question of parole at least 60 days before the eligibility date[[5]](#footnote-5).

4.5 If at a later date a CDTP participant who did not want to be considered for parole now wishes to be considered, a written application is to be completed, on the required form, and the application is to be filed with the Registrar of the Drug Court. The participant’s Case Coordinator will provide assistance to the participant in the preparation of that application, if requested.

4.6 On receipt of the application, the Drug Court will request a Pre-Release report and recommendation from the Multi-Disciplinary Team. That report is to be provided to the Drug Court within 1 month of the request for the report.

#### *5 FURTHER APPLICATIONS FOR PAROLE*

5.1 Participants who have been refused parole may make further applications to the Drug Court for parole. Unless there are exceptional circumstances, no further application will be considered within 3 months of the last determination of parole.

5.2 The Registrar will refer all such applications for parole to a Drug Court judge in chambers. The judge may either:

(a) Refuse the application, or

(b) Seek a Pre-Release report and recommendation from the Multi-Disciplinary Team.

5.3 If the Judge seeks a Pre-Release Report, a date will be set for the consideration of the grant of parole, and the Registrar will notify the CDTCC and the CDTP participant of that date.

5.4 The CDTCC and the CDTP participant may provide further written or documentary material to the Drug Court for consideration of Parole.

5.5 The Drug Court judge will usually consider all parole matters in chambers, and the Drug Court Registry will notify the CDTCC participant of the outcome.

5.6 If the Drug Court judge is of the opinion that the hearing of evidence and/or oral submissions would assist in the determination of the question of parole, the matter will be set down for hearing. The Registrar will notify all parties of the Judge’s directions and of the hearing date set.

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1. Section 106T Crimes (Administration of Sentences) Act 1999 [↑](#footnote-ref-1)
2. Section 135 Crimes (Administration of Sentences) Act 1999 [↑](#footnote-ref-2)
3. Section 135 Crimes (Administration of Sentences) Act 1999 [↑](#footnote-ref-3)
4. Section 18G (b) Drug Court Act 1998 [↑](#footnote-ref-4)
5. Section 137(1) Crimes (Administration of Sentences) Act 1999 [↑](#footnote-ref-5)