

Magistrates Courts

Practice Direction No. 4 of 2008

Drug Court Act 2000

and

Drug Court Regulation 2006

Adjournments for Indicative Assessment to Drug Court Magistrates

The purpose of this direction is to ensure compliance with section 12A(e) of the *Drug Court Act 2000* (the Act) which provides that Part 3A of the Act ("INDICATIVE ASSESSMENT OF DRUG DEPENDENCY") applies if "the maximum number of intensive drug rehabilitation orders prescribed under a regulation has not been exceeded".

Therefore a defendant must not be referred to appear before a drug court magistrate for indicative assessment under section 12B of the Act if the maximum number of intensive drug rehabilitation orders prescribed under section 10 of the *Drug Court Regulation 2006* (the Regulation) has been attained or exceeded.

Section 10 of the Regulation provides that for the purpose of section 12A(e) of the Act, the maximum number of active intensive drug rehabilitation orders is as follows -

- "(a) for the Magistrates Court at Cairns - 40
- (b) for the Magistrates Court at Townsville - 40
- (c) for the Magistrates Courts at Beenleigh, Ipswich and Southport - a total of 141".

This reflects the fact that the resources only exist for this number of participants in the program at any one time.

It also reflects section 8 of the Regulation which provides:

"Matters that may be considered when referring a person for indicative assessment.

In making a decision mentioned in section 12B of the Act, a magistrate may have regard to-

- (a) the maximum number of active intensive drug rehabilitation orders as prescribed under section 10; and
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- (b) any advice from the person appointed as the court coordinator for drug courts by the chief executive about whether the maximum number has been exceeded.”

From 1 July 2008, the following procedure will apply:

1. The magistrate will confirm on the basis of advice from the relevant Drug Court Co-ordinator that a vacancy exists in the Drug Court program.
2. If no place is available in the Drug Court program for a defendant being considered for referral for indicative assessment, the magistrate must not make an order adjourning the proceedings before a Drug Court magistrate for this purpose in respect of the charges then before the court. The defendant must then be dealt with by way of a further adjournment, by sentencing or by way of a committal hearing, or otherwise according to law.
3. However, if the same defendant appears again on a later date charged with the same offences or different offences, the defendant is not precluded from being referred for indicative assessment only because he or she has previously been refused a remand to the Drug Court on the grounds stated in paragraph 2 above. The process then would be in accordance with paragraphs 1 and 2.
4. When the defendant is currently before the Drug Court for such assessment, and further charges are preferred, the Magistrate need only adjourn the defendant to the Drug Court and no further order for assessment is required.

This direction supersedes Practice Direction No 3 of 2006 as and from this date.

**Judge MP IRWIN
Chief Magistrate
1 July 2008**