

Drug and Alcohol Court

Form 1 – Referral form

This form is to be used to assess the eligibility of a defendant to be referred to the Drug and Alcohol Court. Once the defendant's details and preliminary checklist is completed by the referrer, the form is to be provided to the magistrate to seek an order for referral to the Drug and Alcohol Court. For information on the referral process, refer to Practice Direction 1 of 2018.

Defendant's Details

Surname	<input type="text"/>	Given Name/s	<input type="text"/>			
Date of Birth	<input type="text"/>	Age	<input type="text"/>			
Gender	<input type="checkbox"/>	Male	<input type="checkbox"/>	Female	<input type="checkbox"/>	X
Address	<input type="text"/>		Phone:	<input type="text"/>		
Defendant identifies as:	<input type="checkbox"/> Aboriginal	<input type="checkbox"/> Torres Strait Islander	<input type="checkbox"/> Neither			
Interpreter required:	<input type="checkbox"/> No	<input type="checkbox"/> Yes – Language:	<input type="text"/>			
Remand status:	<input type="checkbox"/> On bail	<input type="checkbox"/> In custody at:	<input type="text"/>			
Legal representative/referrer:	<input type="text"/>	Self-represented:	<input type="checkbox"/> NO <input type="checkbox"/> YES			
Firm/organisation:	<input type="text"/>					
Referring court:	<input type="text"/>					

Preliminary Eligibility Screening Checklist

For referrer to complete: the defendant may be eligible for the Drug and Alcohol Court as the defendant:

- has indicated a guilty plea to an eligible offence and resides within the court district;
- has disclosed they have a serious substance use disorder which has contributed to the commission of an eligible offence;
- is not subject to a parole order;
- is not subject to a cancelled parole order and required to serve an unexpired period of imprisonment;
- is not serving a term of imprisonment in a corrective services facility;
- is not charged with a sexual assault offence; and
- has agreed to be referred to the court.

Completed by:	<input type="checkbox"/> Legal representative	<input type="checkbox"/> Magistrate	<input type="checkbox"/> Defendant	<input type="checkbox"/> Other:	<input type="text"/>
Name:	<input type="text"/>			Date:	<input type="text"/>

Case Conferencing, Analysis Certificates and Prosecution Elections should not delay referral to QDAC as these issues will be managed by the specialised prosecution and defence representatives in QDAC.

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For the Magistrate to complete:

I am satisfied the Defendant appears to be eligible for a treatment order and it may be appropriate to sentence the Defendant to a term of imprisonment for an eligible offence.

I order the matter be adjourned to the Drug and Alcohol Court in the Brisbane Magistrates Court for an eligibility hearing on ____ / ____ / 2018 at 2 pm in Court 32 (Tuesday and Thursdays only – note at least 5 working days required from adjournment to eligibility hearing).

I further order the defendant is referred for an eligibility screening to be conducted by representatives of the Drug and Alcohol Court Review Team.

I am not satisfied the defendant is eligible to be referred to the Drug and Alcohol Court
Reasons for not referring the defendant:

- Intention to plead withdrawn
- Agreement to referral withdrawn
- Addiction issues not sufficiently related to offences before the Court
- Offences not to be dealt with summarily
- Other:

I order the matter be adjourned for mention/sentence on ____ / ____ / 2018 in Court ____.

The defendant will be sentenced according to law.

Signed:

Date:

For Office Use Only

Once completed, this form with copies of the Bench Charge Sheet(s) and Verdict and Judgment Record are to be provided to the Drug and Alcohol Court Team at DrugandAlcoholCourt@justice.qld.gov.au.

Form received by:

Date:

Additional Form Information

*Eligible offence

For a referral to be made to the Drug and Alcohol Court, an offender must indicate an intention to plead guilty to an *eligible offence*.

An eligible offence is defined as a summary offence or an indictable offence dealt with summarily. An indictable offence dealt with summarily includes:

- proceedings for a charge of the offence that may be taken summarily under the *Drugs Misuse Act 1986* (DMA); or
- an indictable offence against the *Criminal Code* if, under section 552A, the prosecution has elected to have a charge for the

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- offence heard and decided summarily; or
- an indictable offence against the *Criminal Code* if, under section 552BA, the charge for the offence must be heard and decided summarily.

For the purposes of sentencing an offender to a Drug and Alcohol Treatment Order, an indictable offence that may be dealt with summarily has been extended under section 13A *Drugs Misuse Act 1986* to include:

- Section 6(1) (supplying a dangerous drug), if the offence is punishable under paragraph (c);
- Section 8(1) (producing a dangerous drug), if the offence is punishable under paragraph (b)(i), (c) or (d);
- Section 9 (Possessing a dangerous drug), if the offence is punishable under paragraph (b)(i) or (c).

***Sexual assault offence**

A referral cannot be made to the Drug and Alcohol Court if the offender is charged with a sexual assault offence.

A sexual assault offence is defined in the *Penalties and Sentences Act 1992* as an offence against the following:

- *Criminal Code*, chapter 22 (Offences against morality) , other than section 224, 225 or 226 (relating to abortion); or
- the *Criminal Code*, chapter 32 (Rape and sexual assaults).

***District of the Brisbane Magistrates Court**

For a Drug and Alcohol Treatment Order to be made, a person must reside within the district of the Brisbane Magistrates Court as prescribed in *Justices Regulation 2014* (Schedule 1). The divisions of the Brisbane Magistrates Courts District are Central division, Holland Park division, Richlands division, Sandgate division and Wynnum division.