**DRUG COURT OF NEW SOUTH WALES**

|  |  |
| --- | --- |
| ***Policy 8*** | **Mental Health of offenders and participants** |
| ***Last Reviewed*** | **November 2017** |

**1. PURPOSES OF POLICY**

1.1 To clarify both pre-program and on program procedures for dealing with offenders and participants who are, or may be, suffering from a mental condition, illness or disorder.

**2. DEFINITIONS**

***Act*** means the *Drug Court Act 1998*

***Court*** means the Drug Court of New South Wales

***Drug Court program*** means the conditions accepted by a participant and imposed by the Court. See sections 7A, 7B, 7C and 16 of the Drug Court Act

***Drug Court team*** means a Drug Court Judge, the Registrar, the solicitors for the Legal Aid NSW, the solicitors from the Office of the Director of Public Prosecutions, the Police Prosecutor, the Community Corrections co-ordinator, and the Clinical Nurse Consultant who are attached to the Drug Court, and/or the alternates for each

***Offender*** means a person referred to the Drug Court but who is not yet sentenced

***Participant*** means a “drug offender” as defined in the Act

***Treatment plan*** means a plan for therapeutic intervention to address an offender’s drug dependency and related health needs.

***Treatment provider*** means the offender’s principal ongoing treatment provider

**3. POLICY**

3.1 Every offender who is referred to the Drug Court will be assessed by Justice Health to determine whether the person is suffering from a mental condition that could prevent or restrict the person’s active participation in a Drug Court program *(Regulation 4(b))*.

3.2 Every offender who is referred to the Drug Court will be screened by the Drug Court Prosecutor for any information held by the NSW Police Force that may assist in determining whether an offender is suffering from a mental condition that could prevent or restrict the person's active participation on the Drug Court Program. Any such information will be provided to the DPP Solicitor and the Clinical Nurse Consultant.

3.3 It is the responsibility of the Clinical Nurse Consultant and the DPP solicitor on the Drug Court team to identify any offender who may be suffering from such a mental condition, illness or disorder that could prevent or restrict the person’s active participation in a Drug Court program.

3.4 When such an offender is identified, it is the responsibility of the DPP solicitor to request that a Justice Health psychiatrist provide an independent report to the Court for the purpose of assisting the Court to determine whether the person does suffer from such a mental condition. The reporting doctor should be asked to refer to any relevant medication regime, the likelihood that the offender will comply with that regime, and the likely consequences should the person fail to comply with the regime.

3.5 Every participant should have access to psychiatric assessment and ongoing treatment for any mental health needs through Justice Health and/or their treatment provider.

3.6 A participant’s treatment provider is responsible for identifying and notifying the Drug Court of any mental condition which could be affecting the participant’s performance on his/her Drug Court program, and for obtaining any necessary consent to the revelation of such information to the Court.

3.7 The Drug Court Prosecutor is to inform the Drug Court Team of any incidents that come to the attention of the NSW Police Force that involve a participant, and which suggest the person is suffering a mental condition, and which suggest the participant may have become a danger to himself or herself, or to the community.

3.8 When a participant fails to comply with the recommended mental health treatment, the participant’s treatment plan will be reviewed. The review will be conducted so as to assist the participant to fully comply with his or her recommended mental health treatment.

3.9 If a participant remains non-compliant with treatment, or if the non-compliance raises issues of the safety of the community or the participant, it is the responsibility of the participant’s treatment provider and Justice Health to notify the DPP solicitor on the Drug Court team. If considered necessary, the DPP solicitor will then request that the participant’s program be terminated.

- - - - -