



**THE DISTRICT COURT
OF
WESTERN AUSTRALIA**

**PROTOCOL OF DISTRICT COURT
REFERRALS
TO
START COURT**

2020

PROTOCOL

DISTRICT COURT REFERRALS TO START COURT

1. Purpose

- 1.1 The following protocols set out the procedure to be followed when:
- a) an offender appearing before the District Court is potentially suitable to take part in the Start Court Program (“the Program”);
 - b) an offender appearing before the Start Court in relation to an indictable charge/s, which has yet to be committed to the District Court, is potentially suitable to take part in the Program; or
 - c) an offender appearing before Start Court in relation to Magistrate’s Court charges (“Start Court charges”), who also faces an indictable charge and who is potentially suitable to take part in the Program.
- 1.2 The terms and conditions are to facilitate communication between the two jurisdictions. It is not intended to in any way fetter the discretion of the Sentencing Judge.

2. Responsibility

ELIGIBILITY GUIDELINES

- 2.1 In the circumstances described in paragraph 1.1(a), referral can occur when:
- a) the offender’s primary issue is a mental health condition,
 - b) the offender has pleaded, or intends to plead, guilty,
 - c) the Sentencing Judge might impose a sentence other than immediate imprisonment, if the Program is successfully completed by the offender, and
 - d) the offender is not remanded in custody.
- 2.2 In the circumstances described in paragraph 1.1(b) and (c), the Start Court Magistrate can proceed with an Assessment for the Program when:
- a) the offender’s primary issue is a mental health condition,
 - b) the offender has pleaded, or intends to plead, guilty to the Start Court charges,
 - c) the Start Court Magistrate is satisfied that the District Court may benefit from an assessment of the offender’s suitability to take part in the Program, and
 - d) the offender is not remanded in custody.

REFERRAL PROCESS PURSUANT TO 1.1(a)

- 2.3 Where a referral is instigated by the District Court, the offender must be assessed by the Start Court Team for their suitability for the Program.
- 2.4 The Sentencing Judge should direct the offender to attend a Start Court Information Session at 9.30am on a Wednesday, at Court 55, Perth Magistrates Court.

- 2.5 The Sentencing Judge should set a future District Court date before the same Sentencing Judge (“future Court date”), **a minimum of 8 weeks after the Start Court Information Session**, so the Start Court Assessment can be prepared.

The bail conditions for the future Court date should include the following:

“To report to Perth Start Court on the date as directed by the District Court and thereafter to comply with all lawful directions of the Perth Start Court”

- 2.6 The Sentencing Judge should order a PSR for the future Court date, to be completed by the Start Court CCO.
- 2.7 The Associate to the Sentencing Judge should enter the following results into ICMS:
- **Remanded** to the future Court date (with at least the bail condition in paragraph 2.6) and a PSR ordered (requesting this report to be prepared by Start Court CCO)
- and,**
- **Adjourned** to Magistrates Court Perth on the nominated Wednesday (at 10am) with an appearance outcome of “Application for Start Court”.
- and,**
- A form advising the accused to attend the Information Session at 9.30am should be provided to the offender.
- 2.8 The Associate to the Sentencing Judge should send an email marked “Attention Start Court Coordinator” to perthmagistratescourt@justice.wa.gov.au detailing the referral, attaching relevant transcript and outlining any other instructions.

ASSESSMENT

- 2.9 After the offender attends the Start Court Information Session, and if they are suitable and willing to be assessed, the Start Court will direct the offender to undergo an Assessment Interview with the Start Court Team as soon as an appointment is available.
- 2.10 Approximately two (2) weeks after the Assessment Interview, the Start Court Team will provide an Assessment Report to the Start Court Magistrate, who will determine if the offender is accepted onto the Program.
- If more information is required by the Start Court Magistrate, further time may be needed to complete the Assessment Report.
- 2.11 When preparing the PSR ordered by the Sentencing Judge pursuant to paragraph 2.6, the Start Court CCO will include information from the Assessment Report.
- 2.12 If an offender is not accepted into the Program, the Start Court Magistrate will exit the offender from Start Court, strike the matter from the list, and direct them to answer their bail at the future Court date previously set by the Sentencing Judge.

The Start Court Magistrate will request a copy of the transcript of proceedings in Start Court be sent to the Sentencing Judge.

PROGRAM

- 2.13 If the offender is accepted into the Program, they will be judicially case managed and required to attend Start Court as often as directed by the Start Court Magistrate.

- 2.14 If the Sentencing Judge places the offender on a PSO at the future Court date, the Sentencing Judge should order PSO Review Reports in the usual manner, requesting they be prepared by the Start Court CCO. The Start Court CCO will complete these reports.
- 2.15 When remanding the offender to future Court dates, the same bail conditions in paragraph 2.5 should be imposed.
- 2.16 Notification should be given to Start Court of any future Court dates by the process set out in paragraph 2.8, including when a final sentencing date is set.
- 2.17 When a final sentencing date is set, the Sentencing Judge should order a PSO Sentencing Report, requesting it be prepared by the Start Court CCO. The Start Court CCO will complete this report and will include the Start Court Exit Report.
- 2.18 At the completion of the Program and when notified that a final sentencing date has been set in the District Court, the Start Court Magistrate will strike the matter from the list and direct the offender to answer their bail at the final sentencing date set by the Sentencing Judge.

PROCESS PURSUANT TO 1.1(b)

- 2.19 Where an offender has already been assessed as suitable for the Program and the indictable charge is committed to the District Court for sentence, the Start Court Magistrate, when committing the indictable charge should order a PSR for the Sentence Mention Date to be prepared by the Start Court CCO.
- 2.20 The Start Court CCO will include in the PSR ordered by the Start Court Magistrate information from the Assessment Report including a recommendation as to whether the offender is suitable to take part in the Program.
- 2.21 If at the Sentencing Date in District Court, the Sentencing Judge is willing to have the offender participate in the Program and the information from the Assessment Report indicates the offender is suitable for the Program, the Sentencing Judge should set a future Court date before the same Sentencing Judge, **in approximately 6 weeks.**

The bail conditions for the future Court date should include:

“To report to Perth Start Court on the date as directed by the District Court and thereafter to comply with all lawful directions of the Perth Start Court”

- 2.22 The Sentencing Judge should also direct the offender to attend Start Court on a Wednesday, at Court 55, Perth Magistrates Court **in approximately 1-2 weeks.**
- 2.23 The Associate to the Sentencing Judge should enter the following results into ICMS:
Remanded to the future Court date (with at least the bail condition in paragraph 2.22);
and,
Adjourned to Magistrates Court Perth on the nominated Wednesday (at 10am) with an appearance outcome of “Assessment for Start Court”.
- 2.24 The Associate to the Sentencing Judge should send an email marked “Attention Start Court Coordinator” to perthmagistratescourt@justice.wa.gov.au detailing the future Court Date and the next Start Court date on a Wednesday, and attaching relevant transcript and outlining any other instructions.

- 2.25 If an offender is not accepted into the Program, the Start Court Magistrate will exit the offender from Start Court, strike the matter from the list, and direct them to answer their bail at the future Court date previously set by the Sentencing Judge.
- The Start Court Magistrate will request a copy of the transcript of proceedings in Start Court be sent to the Sentencing Judge.
- 2.26 If the offender is accepted on the Program, they will be judicially case managed and required to attend Start Court as often as directed by the Start Court Magistrate.
- The Start Court Magistrate will request a copy of the transcript of proceedings in Start Court be sent to the Sentencing Judge.
- 2.27 If the Sentencing Judge places the offender on a PSO, the Sentencing Judge should order PSO Review Reports in the usual manner, requesting they be prepared by the Start Court CCO. The Start Court CCO will complete these reports.
- 2.28 If the Sentencing Judge wishes to defer sentencing until after an offender has participated in the Program, the Sentencing Judge should remand the offender to future Court dates as is convenient, and the same bail conditions in paragraph 2.21 should be imposed.
- 2.29 Notification should be given to Start Court of any future Court dates by the process set out in paragraph 2.24, including when a final sentencing date is set.
- 2.30 When a final sentencing date is set, the Sentencing Judge should order a PSO Sentencing Report or a PSR, requesting it be prepared by the Start Court CCO. The Start Court CCO will complete this report and will include the Start Court Exit Report.
- 2.31 At the completion of the Program and when notified that a final sentencing date has been set in the District Court, the Start Court Magistrate will strike the matter from the list and direct the offender to answer their bail at the final sentencing date set by the Sentencing Judge.

PROCESS PURSUANT TO 1.1(c)

- 2.32 Where an offender has already, or is in the process of being assessed for the Program in Start Court in relation to Start Court charges, and an indictable charge is committed to the District Court for sentence, the Start Court Magistrate, when committing the indictable charge should order a PSR for the Sentence Mention Date to be prepared by the Start Court CCO.
- 2.33 The Start Court CCO will include in the PSR ordered by the Start Court Magistrate information from the Assessment Report including whether the offender has been deemed to be suitable to take part in the Program.
- 2.34 If the offender is not accepted on the Program, the Start Court Magistrate will request a copy of the transcript of proceedings in Start Court be sent to the Sentencing Judge.
- 2.35 If the offender is accepted on the Program, they will be judicially case managed and required to attend Start Court as often as directed by the Start Court Magistrate.
- 2.36 If on the Sentencing Date the Sentencing Judge places the offender on a PSO, any PSO Review Reports ordered may be requested to be prepared by the Start Court CCO.
- 2.37 If the Sentencing Judge places the offender on a PSO, the same bail condition in paragraph 2.5 may be imposed, and the same process described in paragraph 2.16– 2.17 may be followed.
- 2.38 At the completion of the Program, the Start Court Magistrate will sentence the offender in respect of the Start Court charges. If this occurs prior to the District Court Sentencing Date, the Start Court Magistrate will request a copy of the transcript of proceedings in Start Court be sent to the Sentencing Judge.

NON COMPLIANCE

2.39 If an offender, during their participation in Start Court during the process described in paragraph 1.1(a), (b) or (c);

- fails to comply with lawful directions of the Start Court Team;
- fails to attend Start Court as directed;
- fails to comply with the conditions of a PSO;
- commits further offences, or

if there is concern for their safety or wellbeing, or the safety or wellbeing of others, the Start Court Magistrate may exit the offender from the Program.

2.40 The Start Court Prosecutor will advise the DPP of the non-compliance and, if the non-compliance consists of a breach of bail conditions, request an application be made to the District Court for the revocation of bail.

2.41 Once the Start Court Magistrate is satisfied the DPP have been advised, and if there are no Start Court charges listed in Start Court, any remaining matters will be struck from the list.

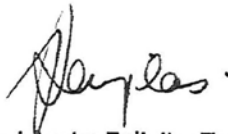
2.42 If an offender is placed on a PSO by a Sentencing Judge during the process described in paragraph 1.1(a), (b) or (c) and fails to comply with a condition of the PSO such that the CEO (Corrections) issues a Warrant for non-compliance, the Start Court CCO will send an email marked "Attention Start Court Coordinator" to perthmagistratescourt@justice.wa.gov.au attaching a copy of the Warrant, Certificate of Breach and Progress Report (if applicable).

2.43 When the offender is apprehended on the Warrant and after they have appeared before the General Duties Judge, the offender will be required to appear before the Sentencing Judge. The Associate to the Sentencing Judge should send an email marked "Attention Start Court Coordinator" to perthmagistratescourt@justice.wa.gov.au detailing the outcome of the appearance and any future court dates, attaching relevant transcript and outlining any other instructions.

Dated 21 July 2020



Her Honour Judge Julie Wager
Chief Judge of the District Court



Magistrate Felicity Zempilas
Magistrates Court of Western Australia