

Encouraging earlier appropriate guilty pleas

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Disclaimer

- Early stages.
- Not set in stone.
- Subject to change.
- Wait and see.

Sentencing discounts – in summary

- 25% discount on pleas in the Local Court.
- 10% discount on pleas in the District or Supreme Court before trial.
- 5% discount on the day of trial.

- Based on the timing of the plea.
- Prescribed by Legislation.
- Discretion remains to provide No, or a lesser, discount. For example, if there was a higher culpability or if an offer by the defence was rejected by the prosecution.

Changes to procedure

- Early disclosure of evidence by the police.
- Charge certification by a senior prosecutor.
- Mandatory Criminal Case Conferencing.
- Local Court Case Management.
- Increased funding for the DPP and Legal Aid.

Early disclosure of evidence by the police

- The initial brief will be provided to the prosecution and the defence.
- The initial brief will contain all the evidence to satisfy all the elements of the offence.
- The initial brief will be provided early in the process to allow proper informed decisions about early pleas.
- The evidence does not have to be in admissible form.
- May contain summaries of evidence.

Charge certification by a senior prosecutor

- The police will charge as they seem appropriate.
- Bail will be determined in the normal course.
- The case may not proceed far in the local court until a senior prosecutor certifies the charges.
- The “Bill” finding process will occur early in the procedure.
- This should help charges being withdrawn, amended, or substituted.

Mandatory Criminal Case Conferencing

- Requires a face to face meeting between the prosecution and the defence.
- AVL conferencing is appropriate.
- A meaningful discussion about the case.
- The objective is to discuss the case, narrow the issues in dispute, and to raise the possibility of an early guilty plea.
- The decisions made are binding on the course the case will take.

Local Case Management

- Comittal decisions by the Local Court be abolished.
- Replaced by a more flexible case management system.
- Time saving in the Local Court.
- Testing the prosecution case remains.
- Case management by prosecution and defence from the beginning.

Increased funding for the DPP and Legal Aid

- Funding will be increased which allows more senior prosecutors and defence lawyers to be involved from the beginning.
- Legal Aid funding will allow for barristers and solicitors to be engaged to ensure senior representation in the Local Court.
- Advocates will be briefed earlier on the matter than just before trial.

The new changes mean.....

- Increased efficiency and reduced delays with more appropriate guilty pleas.
- Decreased length of trials through case conferencing.
- Reduced wasted costs.
- Improved streamlined process, efficiency *and job satisfaction*.
- Better outcome for victims as a result of reduced delays, reduced stress, fewer last minute changes, greater continuity with a senior prosecutor being a contact point from start to finish.

Side note on Sentencing

- Intensive Correctional Order (ICO) replaces home detention orders and suspended sentences.
- Community Correction Order (CCO) replaces community service orders and good behaviour bonds.
- Conditional Release Order (CRO) replaces non-conviction bonds.

Traversal of guilty pleas

- The new procedure makes traversal of a guilty plea more difficult.
- More involvement of senior lawyers at the start.
- More discussions and negotiations earlier.
- Entering a guilty plea on advice, or to gain a sentencing discount not enough.

Some hints

- Don't let the new procedure pressure an early plea.
- Duty to discharge our duty to clients.
- If the evidence is not produced it's not produced.
- Satisfy yourself on the quality and integrity of the evidence.