

# Legal Aid ACT

## FIRST TIME IN COURT?

## ARE YOU ENTERING A PLEA OF GUILTY?

### Reporting to the Court

Arrive early at the Magistrates Court and look at the court list inside the front entrance. The court list will show you if your matter is listed, and which court room to go to. If you can't find your name on the court list ask someone at the counter in the court office for help.

Go to the court room before the court starts. Let the Court Officer or Magistrate's Associate know you have arrived. If you do not have the charge sheet(s) or statement of facts, ask the Prosecutor for copies. The prosecutor is usually at the table in the centre of the court room. Read the statement of facts and check if you disagree with any details. Make a note of any disagreements so you can tell the court later.

You may need to wait for a while before your matter goes before the court. While you are waiting for your name to be called stay near the court room. If you need to leave the area just outside the court room please let the court officer or magistrate's associate know.

### Appearance before the Magistrate

Your name will be called by the Magistrate inside the court room. The Magistrate's Associate will call your name outside the court room. When your name is called go quickly to the table in the centre of the court room. The magistrate will ask you your name, and may read out your charge/s.

The Magistrate will ask you what you wish to do with your charge/s. You usually have 3 options:

1. **Adjourn** the charge(s) for up to 3 weeks, if it is the first time you have been before the court for the charge(s). If it is the second or a subsequent time you have been before the Court for the charge(s) the Magistrate may still agree to adjourn the charge(s) if you have a good reason, but not necessarily for as long as 3 weeks.
2. **Plead not guilty** to the charge(s), in which case the charge/s will be set down for a case management hearing, usually up to ten weeks later.
3. **Plead guilty**, in which case the charge/s will proceed on the day or on a future date, if the Magistrate decides that the Court should be provided with a pre-sentence report.

## **If you plead guilty**

The Prosecutor will read out the statement of facts. The Prosecutor will then tell the court about your prior criminal history. Depending on the seriousness of the charge(s) you may also be asked whether you consent to having your case finalised in the Magistrates Court, rather than having it finalised in the Supreme Court.

## **Plea in Mitigation**

At this point you can tell the Magistrate about yourself and about the circumstances of the offence/s. You can tell the court if you disagree with any part of the statement of facts.

A plea in mitigation allows you to explain your particular circumstances to the court in order that the magistrate may reduce your penalty. The plea in mitigation can be spoken, or written as a letter or statement. You should include the following points:

**Age:** Tell the Magistrate your age.

**DoMestic Arrangements:** Describe to the Magistrate your living arrangements, including the details of any partner or child you are helping to support.

**Work/Financial Status:** Tell the Magistrate if you are working, and your weekly net pay. If you are not working, describe your source of income, amount of income and any likely change to your financial circumstances.

**Circumstances of the Offence:** It is often usual to tell the Magistrate about the background to an offence, particularly where you think you made mistakes and things went wrong.

**Attitude to the Offence:** If the court believes that you feel sorry about committing an offence, the court might reduce the penalty. If you do regret committing the offence, it may benefit you to tell this to the magistrate.

**History of Appropriate Behaviour:** It is useful to tell the Magistrate if the offence is out of character for you. For example, let the Magistrate know if you have a good driving record, or no prior criminal charges, or if you are working to help people in your community.

You can tell the Magistrate about other things that you believe may reduce your penalty. We recommend that you provide the Magistrate with character references.

A character reference **must** show that the writer knows about the charges.



### **Pre-Sentence Report**

For some serious charges, or where the Magistrate seeks further background information about you, the Magistrate may ask for a Pre-Sentence Report. If that occurs, your charge(s) will be adjourned for about 6 weeks. During this 6 week period you will need to attend appointments with ACT Corrective Services.

Before you leave the Magistrates Court, speak with the Adult Corrective Services Liaison Officer located in the office on Level 1 outside Court No.1. Make sure that you attend all of your appointments with ACT Corrective Services.

### **Dress and Behaviour**

Dress neatly, as if you were going to a job interview. You should address the Magistrate as 'Your Honour.' You should only speak when you are spoken to and unless you are speaking to the Magistrate it is polite to remain quiet.

### **Rejecting your plea of guilt**

If it appears from your version of events that you are not guilty of the offence, the Magistrate may reject your plea of guilty, and enter a plea of not guilty on your behalf. The Magistrate will order that your case be adjourned to a case management hearing.

### **Further Advice**

You can make an appointment at Legal Aid ACT in Civic or call the helpline on 1300 654 314, or see the Legal Aid Duty Lawyer located at the ACT Magistrates Court for some free advice and information.

