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Going to Court?

A guide to the Local Court
for defendants in criminal matters



So, you're going to court...

This guide explains what to do if you have received a Court Attendance Notice (CAN) for a criminal offence and have to go to a NSW Local Court.

Before you go to Court you should...

Get legal advice as soon as you can

It can take time to get legal aid or to see a private lawyer. If you prefer to speak for yourself in court, it is still important to get legal advice before your day in court.

Remember, the court will be making decisions about your future. So getting legal help is a good idea!

Request an interpreter if you need one

Ring the Local Court where your case is to be heard and ask them to book an interpreter in your language. If you are seeking legal aid, the Legal Aid Commission can arrange an interpreter for your appointment with a duty lawyer. Make sure you have your papers ready.

Who gives advice?

The Legal Aid Commission of NSW provides free legal advice to anyone on most matters. If you then have to go to the Local Court, a duty lawyer will represent you if you are eligible for legal aid. To contact Legal Aid, ring your nearest office to make an appointment.

Chamber Registrars are located at most Local Courts. They can give you free information about how the court operates. Chamber Registrars cannot represent you in court. Ring your nearest Local Court to find out when you can see the Chamber Registrar.

Private Lawyers provide legal representation and advice. For criminal, driving or traffic matters, it is best to obtain advice from a law firm or lawyer who specialises in these areas.

Fees for private lawyers vary, so make sure that you understand the likely costs involved at the first interview.

***Aston Legal** specialises in all aspects of criminal, driving and traffic offences. We provide effective, professional advice and we get results. We are available to our clients 24/7 all year round and we are there when you need us.*

The first interview is free and we adjust our fees in most cases!

Getting ready for Court

Get your papers ready

Put all your papers you have been given about the case , such as police fact sheet, Court Attendance Notice, and bail undertaking. You will need to bring them with you to court.

Write down what happened

You should prepare a statement in your own words of everything that occurred relating to your charge. This should include any conversations with police and witnesses. Make sure you do this while the events are fresh in your mind. This is a very important practical step you can take to prepare for your court appearance.

Help us keep courts safe

Sheriff's officers in courts conduct security searches in order to protect public safety. You can help reduce delays caused by security checks by thinking about the items you carry.

Some of the things you won't be allowed to take into court are knives (any type), cameras (including mobiles and watches with cameras), scissors, spray cans, tools, studded belts, syringes, motorcycle helmets. In fact anything that could pose a risk to public safety will be taken away from you while you are in court and they will generally be returned to you when you leave the courthouse.

You are not allowed to use any sound or picture recording devices.

Find out when your court date is

Find out the court date and the address of the court from your Court Attendance Notice or bail form.

Make sure you come to the Local Court on this day. If you don't have the papers and you are not sure about the court date, ring the arresting police officer or police station. If the matter has been to court before, ring the Local Court and ask them to check the date for you. You will need to tell the court the date of your earlier appearance.

Important: If you have not been placed on bail to attend court, you may be able to plead guilty to the Court Attendance Notice without going to the Local Court in NSW. Carefully read the information that comes with your Court Attendance Notice.

Make sure you get legal advice before deciding to handle your case in this way.

Warning: If you don't turn up at court, and you are required to do so, your case might be decided without you and/or a warrant for your arrest could be issued.

On the day!

Most courts start at 9:30am. Many have a Registrar sitting from 9:30am to handle adjournments. Check your papers to see when your case starts.

You should get to the Local Court before court starts especially if you want to see the duty lawyer. Be prepared to wait all day. Cases are heard as soon as possible, but if the court is busy, there is usually long delays.

Your best defence against criminal charges is a good criminal defence lawyer!

Find out which courtroom you are in

The cases to be heard are on a court list. This is usually displayed in the foyer or near the court entrance. This list will tell you which courtroom you are in and give you a matter number. If you can't find your name on the list, ask the court officer to help you.

Go and see the duty lawyer

If you haven't had any legal advice before the day or you want to apply for legal aid, look for the duty lawyer. If you can't find the duty lawyer's room. Ask the court staff to show you where it is. The duty lawyer will generally see people in turn, so it is important to wait with your papers ready.

When is your case on?

This depends on the number of cases in the Local Court on the day. You can wait inside the courtroom where your case is to be heard, or just outside. A court officer will call

your name when your case is ready to be heard. You should listen carefully for this and stay where you can hear your name called. You must tell the court officer you are present.

If you are not sure where to stand when you enter the courtroom ask the court officer to show you. If you don't hear your name called, ask the court officer to help you.

See your lawyer first, if you are represented. Your lawyer will tell you where to wait.

Remember, all cases are listed to start at least by 10am and sometimes 9.30am, so you may have to wait to find out whether or not you have a lawyer.

In the courtroom...

If you have a lawyer, the Magistrate will speak to you through your lawyer.

If you do not have a lawyer the Magistrate will ask you a number of questions.

When answering, you should address the Magistrate as "Sir", "Madam" or "Your Honour". The first questions you are likely to be asked are:

- Are you? (your name)
- Do you have a lawyer representing you?
- Do you wish to have your matter dealt with today?

The Magistrate asks this last question to see if you are ready to deal with your case or need an adjournment for an appropriate reason, eg to get legal advice.

If you plead "NOT GUILTY"

If you plead **not guilty**, the Magistrate will order a brief of evidence to be served upon you, or your legal representative. The brief contains all the evidence the police will rely on to prove their case. You will be given a date to come back to court after the brief has been served, to confirm you are pleading not guilty. You will then be given a date for hearing.

On the day of the hearing

The police will present their case first. They call their evidence, for example from the police officer who arrested you and any eyewitnesses. After each witness gives evidence, you or your lawyer have the right to cross-examine them. This is not an opportunity for you to give evidence but for you to test the police evidence using questions. Your case (as the defendant) is put to the court after the police have presented their case. You and any of

your witnesses can give evidence. Make sure your witnesses are at court on the day of the hearing to give evidence in person. The police prosecutor also has the opportunity to test your evidence and any witnesses you call to give evidence, by asking questions in cross-examination. The Magistrate, after hearing both the police and defence case will decide either that:

- Your case is dismissed, which means you are free to go and you have been found not guilty, or
- You have been found guilty. If this happens the Magistrate will then consider the penalty.

If you plead “GUILTY”

If you plead **guilty**, the police facts sheet will be provided to the court. This tells the Magistrate what the police say happened. The Magistrate may also read statements from any witnesses, your handwritten statement or record of

interview and a copy of your criminal record if you have one.

You (if you are unrepresented) or your lawyer will then give an explanation about how and why the offence(s) happened and some information about yourself, your current financial situation, personal circumstances and general character.

Penalties

The Magistrate will then consider the penalty. Penalties range from dismissal without conviction through to conviction with a fine, good behaviour bond, community service order, suspended sentence, periodic detention, home detention or full time gaol.

If the Magistrate is considering a more serious penalty or wants further information, you may be referred to the Probation and Parole Office to get a pre-sentence report (PSR). This report tells the court about you and what sort

of penalties are suitable for you. Some Local Courts have a duty officer from Probation and Parole and this report can be prepared the same day.

When there is no duty officer, or if a comprehensive report is needed, your case will be adjourned for several weeks so the report can be prepared. It is important to keep your appointment with the Probation and Parole Office. Your co-operation could help you.

Once the Magistrate has decided on the penalty in your case, make sure you understand what it is. If you don't have a lawyer, ask the Magistrate or court staff to explain the penalty to you.

If you receive a fine, there will be a set time to pay, usually 28 days.

Fines

If you have been given a fine and cannot pay within the set time, you can make a "time to pay" arrangement with the court. Go and speak to the court staff before you leave.

If you do not pay the fine to the court within the time set, the State Debt Recovery Office (SDRO) can impose a range of penalties against you such as cancelling your driver's licence or selling your property. The SDRO will add extra costs to the fine set by the court.

If the SDRO takes action against you and you still cannot pay the fine or you need more information you should ring the SDRO Finline on 1300 655 805.

After the court hearing

Before you leave the Local Court, find out whether you have to sign any documents such as a good behaviour bond, community service order or periodic detention order and do this before you leave.

Appeals

If you are not happy about the Magistrate's decision and you want to appeal, speak to your lawyer or ask the court staff about this. There is usually a court fee to pay if you wish to appeal.

Remember that there is a time limit of 28 days from the date of sentencing to lodge an appeal to the District Court, so act quickly.

Legal aid for appeals from the Local Court is not available in every case. A separate application for legal aid should be

made. See the duty lawyer or contact your nearest Legal Aid office about this.

Who is who in the Local Court?

The Magistrate

The Magistrate decides whether you are guilty or not guilty. If you plead guilty or are found guilty, the Magistrate will decide what the penalty will be.

You (defendant)

You can represent yourself or have a lawyer represent you. If you don't have a lawyer, go to the microphone towards the front of the court beside the bar table, when your case is called

by the court officer. Speak clearly and loudly. Listen carefully to everything and if you don't understand something, ask the Magistrate or your lawyer to explain it

to you. If you are not ready for your case to go ahead because you need legal advice, an interpreter or information that will help you, ask the Magistrate to delay your case until another day. This is called an adjournment. If you are given any papers relating to your court case, make sure you read them or have them read for you.

Bring your papers with you every time you go to court.

Your lawyer

The person who represents you at court. The lawyer will enter a plea of guilty or not guilty, conduct your case at the hearing and/or tell the court about you in sentencing.

The police prosecutor

S/he represents the police in criminal matters. In serious cases, the prosecutor may be a lawyer from the Director of Public Prosecutions

The court officer

S/he organises the court lists and calls people into the courtroom. When the court officer calls your name, tell them who you are, then go into court. S/he will show you where to stand if you are not sure.

Witnesses

Witnesses give their version of the events which caused your case to be in court. If you are pleading not guilty, you can bring your own witnesses to help with your case. The police prosecutor can also call witnesses. Witnesses can be questioned by you or your lawyer, the prosecutor or the Magistrate.

Witnesses must stay outside the courtroom until their name is called. When a witness enters the court they stand in the witness box .

The public

Most cases heard in the Local Court are open to the public. You can bring friends or family with you for support when your case is on.

Getting help

Legal Aid NSW

Contact your nearest Legal Aid office (under L-Z in the telephone directory) or ring LawAccess NSW on 1300 888 529 or TTY 1300 889 529 (9am to 5pm Mon- Fri).

Private lawyers

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