

Have you been charged with a

**serious
offence?**

Legal Aid 
NEW SOUTH WALES

Have you been charged with a serious offence?

In 2018 the court procedure for serious criminal offences in NSW changed.

Serious criminal offences are crimes that are finalised in the District Court or Supreme Court.

This brochure explains what will happen if you are charged with a serious criminal offence on or after 30 April 2018.

If you were charged on or after 30 April 2018

If you were charged by police on or after 30 April 2018, this is what will happen:

STEP 1

Your case will start in the Local Court. The police will serve you with (give you) the brief of evidence. The brief of evidence is the evidence the police will use to prove the case against you. It contains:

- the police statements
- statement made by other witnesses, and
- any photos, documents and video recordings.

STEP 2

The NSW Office of the Director of Public Prosecutions (DPP) or the Commonwealth DPP (if you have been charged with a federal offence) will take over the prosecution of your case.

A senior prosecutor will look at the brief of evidence and complete a 'charge certificate'. The certificate shows all the offences the prosecutor intends to go ahead with if your case goes to trial. The prosecutor can also ask the police to charge you with different offences (more or less serious).

STEP 3

After the prosecutor has filed (lodged) the charge certificate in the Local Court, you can apply for a 'witness hearing'. This means you ask the magistrate to order any of the prosecution witnesses to come to court to give evidence so that your lawyer can ask the witness questions.

In most cases, the magistrate can only order a witness hearing if they think there are 'substantial reasons' why the witness should attend.

If you are charged with a violent offence, the magistrate can only order the alleged victim to give evidence at a witness hearing if your lawyer convinces them that there are 'special reasons' why this should happen.

STEP 4

Unless you are pleading guilty to all offences on the charge certificate, the prosecutor and your lawyer must have a 'case conference'. This is to discuss your case and to work out if you want to plead guilty to any offence(s).

The case conference will only be held after your lawyer has spoken with you. You usually don't need to be at the case conference, but you will need to be available by audiovisual link (AVL) or telephone to give your lawyer instructions. Your lawyer will arrange this. Your lawyer must also arrange for you to have a support person or interpreter if you need one at the case conference. There won't be a case conference if you don't have a lawyer.

STEP 5

After the case conference, the prosecutor will complete a 'case conference certificate'. This certificate will set out any offers you made to plead guilty to any offence, and if any of those offers was accepted by the prosecutor.

If the prosecutor accepts your offer to plead guilty, the case conference certificate will also include details of the facts you and the prosecutor agreed to and any facts you dispute (disagree with).

STEP 6

If you plead guilty in the Local Court, the magistrate will send your case to the District Court or Supreme Court to decide what sentence you should get. This is called committing you for sentence.

If you plead not guilty, the magistrate will send your case to the District Court or Supreme Court for a trial. This is called committing you for trial.

You may get a discount on your sentence if you plead guilty

If you plead guilty the court will give you a discount on your sentence (reduce your sentence).

The size of your discount will depend on when you plead guilty:

- If you plead guilty while your case is in the Local Court, the discount will usually be 25%.
- If you plead guilty after you are committed for trial and at least 14 days before your trial date, the discount will usually be 10%. This includes if you enter a guilty plea in court or give the prosecutor a written offer to plead guilty.
- If you plead guilty later than 14 days before your trial date, the discount will usually be 5%.

Sometimes this discount scheme will work differently. You should talk to your lawyer about what could happen in your case.

If you were charged before 30 April 2018

If you were charged by police before 30 April 2018, your case will be very different from the steps set out above.

For example:

- The prosecutor will not file a charge certificate.
- There will not be a case conference.
- The way the court will look at sentencing discounts is different.

You should talk to your lawyer about your case.

Can I get legal aid?

You will need to apply for legal aid. You can get the application form from our website or at any Legal Aid office. Or you can ask a lawyer to help you.

If you are in custody, you can ask your Service and Programs Officer (SAPO) to help you.

Send the application form to:

**Legal Aid NSW
Grants Division
PO Box K847
Haymarket NSW 1240**

We will look at how much money you earn and what property you own. If you get legal aid you will usually need to pay a contribution. The contribution is usually about \$75.

If you don't get legal aid, you can pay for a solicitor or barrister to represent you or represent yourself. Serious criminal cases can be very complex and it is not a good idea to represent yourself.



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This publication is intended as a general guide to the law in NSW. It should not be relied on as legal advice and it is recommended that you talk to a lawyer about your particular situation.

At the time of printing, the information shown is correct but may be subject to change.

If you need more help, contact LawAccess NSW on **1300 888 529** for legal information, referrals and in some cases advice.

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If you are hearing/speech impaired, you can communicate with us by calling the National Relay Service (NRS) on **133 677**.



If you need an interpreter, call TIS and ask to be put through to LawAccess NSW on **1300 888 529**.
