

Encouraging earlier guilty pleas

Factsheet – May 2017

Encouraging earlier guilty pleas will reduce undue stress for victims, minimise delays and allow police to return to frontline duties.

Faster, more certain justice

73 per cent of serious criminal cases end with the defendant pleading guilty, yet 23 per cent of guilty pleas are not entered until the day of trial. Late guilty pleas result in undue stress for victims, a backlog of cases in the District Court, and police resources being diverted from frontline duties.

Currently, defendants that intend to plead guilty may delay their guilty plea for a number of tactical reasons. The following reforms will discourage late guilty pleas.

Early disclosure of evidence: The NSW Police Force will provide a simplified brief of evidence to prosecution and defence counsel early in the process, allowing decisions about charges and pleas to be made without delay.

Charge certification: A senior prosecutor will review the brief of evidence and confirm the charges that will proceed as early as possible. This will help prevent charges being withdrawn or amended late in the process, often as late as the first day of trial.

Mandatory criminal case conferencing: The prosecution and defence will be required to conference to discuss the case, maximising opportunities for appropriate early guilty pleas and narrowing the issues in dispute early in the process.

Local Court case management: The substantive decision by a Magistrate to commit a case for trial will be removed. Instead, senior prosecutors will screen cases through charge certification. Cases will be managed better because senior legal

representatives from the prosecution and defence will be responsible for a matter from start to finish.

Statutory sentence discounts: Existing sentencing discounts for guilty pleas will be tightly prescribed by legislation so that large discounts cannot be granted late in the process. Together with earlier certainty about charges, this will discourage late guilty pleas.

Timing of guilty plea	Discount
Local Court	25%
District/Supreme Court but before trial	10%
Day of trial	5%

Judges will retain the discretion to provide no sentencing discount (or a lesser discount) in cases of extreme culpability.

Benefits for victims and the community

- Victims will not suffer undue stress from prolonged criminal proceedings, only to have the offender plead guilty on the day of trial.
- Victims will have a senior prosecutor as a key contact from the start to the end of the process to assist them with understanding their cases.
- Offenders that plead guilty on the day of trial will not receive an inappropriately large sentence discount.
- The backlog of District Court cases will be reduced, leading to swifter justice for the community.
- Reduced wasted costs for prosecution, police, defence and the courts, preparing for trials that do not proceed due to a late guilty plea.
- Safeguards will ensure that guilty pleas are only entered by defendants where appropriate.

This reform builds on recommendations of the NSW Law Reform Commission Report “Encouraging appropriate early guilty pleas”.

For more information go to:
www.justice.nsw.gov.au/reform