

OUR REFERENCE

DIRECTOR'S CHAMBERS



YOUR REFERENCE

DATE

20 December 2013

The Hon James Wood AO QC
Chairperson
New South Wales Law Reform Commission
DX 1227
Sydney

Dear Mr Wood,

Encouraging appropriate early guilty pleas

Thank you for the opportunity to provide submissions on the Law Reform Commission's consultation paper.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Lloyd Babb'.

Lloyd Babb SC
Director of Public Prosecutions

NSW Law Reform Commission

Encouraging appropriate early pleas of guilty in indictable criminal matters

Submission of the Office of the Director of Public Prosecutions (ODPP)

Introduction

We strongly agree with the proposition that there is a clear case for a change in NSW. Further and most importantly we agree that changing one factor will not overcome the systemic issues that the NSW criminal courts face today. Building on the preliminary submissions we made to this reference we submit that an end to end change in the approach to the way offences are charged and brought before the court needs to occur.

It is our submission that the system in NSW needs to be fundamentally changed in the way in which offenders are charged with serious offences and brought before the courts. The central tenet of our argument is that there needs to be charge certainty at the outset. In order for this to happen and in our view, the only way to move forward is for there to be one charging decision to be made by the ODPP. Additionally we believe that the Court proceedings should commence only when the charging decision by the ODPP has been made.

There are a number of possible designs for a system whereby the ODPP undertakes the charging decision. The experience in the UK is instructive and many elements of their system could be adapted to meet the particular needs of NSW. At Annexure A to this submission we have proposed a model that we ask the Commission to consider. The model involves some radical changes to the way that charging and remand currently occurs in NSW which obviously demands careful scrutiny and debate. We are not suggesting that this is the only possible model but in our view it offers many advantages over the current system and would address a number of problems that the system is currently experiencing, and particularly from the ODPP (and we suggest other criminal justice government agencies) perspective would be a financially sustainable model, if as we envisage the work currently done by the Local Court in progressing cases that will ultimately be committed for trial or sentence, can be replaced by an administrative model.

Our answers to the questions posed in the consultation paper should be read in the light of the above comments and with regard to the model we have suggested in Annexure A.

Questions asked in the Consultation Paper

Pre-charge bail

Question 3.1

1) Should a pre-charge bail regime be introduced in NSW?

Yes. We would suggest that it be limited to the situation where the ODPP has been referred the matter for a charge decision. We suggest this it is called *charge decision bail* rather than a general power for the Police to grant bail pending investigation.

The police currently investigate matters without the need to put suspects on bail. Until such time as there is confidence that evidence sufficient to support all the elements of an offence will be forthcoming, it is not appropriate for bail conditions to be imposed.

Once the investigator has provided the ODPP with the brief of evidence to make a charging decision, it is appropriate to impose bail conditions to:

- ensure that the alleged offender attends court when the charge/s have been preferred; and
- protect witnesses and victims from any interference.

2) What are your views on the advantages and disadvantages of introducing a pre-charge bail regime?

The advantages

A pre-charge bail regime enables the ODPP to make the charging decision which will ensure that the right charge is laid at the outset. Having the right charge at the outset will achieve the following benefits

- there is no advantage in the offender postponing their plea waiting for a more favorable offer,
- the community and victims have realistic expectations from the outset about how a case is to proceed,
- it addresses the criticism about double dipping on a discount in a plea negotiation, where there is a benefit from pleading to a lesser charge as well as a discount for an early plea,
- it will reduce the award of costs in the Local Court where charges are discontinued or amended,
- the number of matters taken to the District Court will be reduced because the ODPP will be better placed to determine appropriate charges capable of being dealt with in the Local Court when making elections,

- Local Courts will not be managing the matters, awaiting all the evidence to be prepared and served because the brief will be prepared prior to charging; and
- ODPP charge advice will facilitate early identification of matters that can be fast tracked to plea and sentence in the District Court.

The disadvantages

One possible criticism would be that there are inadequate safeguards in such a system to ensure matters do not languish. In our model (Annexure A) we suggest that, charge decision bail would lapse after 6 months. The ODPP would set time standards for making a decision before 6 months. However it could be argued that the offender may be disadvantaged if the matter lapses and some time later further evidence is obtained. But we would argue that this is still a risk in the current system where charges are discontinued without a hearing on the merits.

3) If a pre-charge bail regime were introduced, should it aim to facilitate **a) ongoing police investigations and the finalisation of the police brief of evidence, and/or** **b) ODPP early charge advice?**

Pre charge bail should not be used to facilitate ongoing police investigations, it should be available only after a request has been made of the ODPP for early charge advice.

4) What limits should be applied to any pre-charge bail regime?

Charge decision bail should lapse after a period of 6 months.

The alleged offender should be able to apply to the court to have the bail revoked, reviewed or amended where there are reasonable grounds for doing so.

Early Charge Advice

Question 3.2

1) Should a more extensive scheme of early charge advice between the police and the ODPP be introduced in NSW?

Yes. Our proposal is that ultimately the ODPP should take over the role of determining the charge for all offences that will be dealt with on Indictment.

2) If such a scheme were introduced:

a) what features should be adopted

b) how could it interact with a pre-charge bail regime, and

c) what offences should it relate to?

Please refer to Annexure A for the details of our model where we have also provided an outline of possible ways there could be a staged transition from the current arrangements to a new system.

Briefly, our view is that an early charge advice scheme could work as follows:

When the police have investigated a matter and have formed the view that there is sufficient evidence to charge then the brief is sent to the ODPP for a charging decision. The Police then determine if bail should be granted or dispensed with. The offender would be provided with written information about the process.

The charging decision is made by a senior prosecutor. The brief would be reviewed by a lawyer first who would make recommendations and a senior prosecutor would sign the indictment. Once a charge decision is determined an indictment would be filed in the District Court. The accused is notified by the Police and/or in writing from the ODPP of the court date. For accused on bail the first appearance date would be 21 - 28 days from the charging decision. As soon as the charging decision is made, the ODPP would be in a position to serve the available brief. Any victim would be contacted by the ODPP, conferenced by the prosecutor handling the case, advised of the charges laid and given information about the anticipated process and progress of the matter.

The ODPP would issue guidelines as to the amount of time it will take to make the charge decision, and our performance would be measured against those time standards. Obviously some types of matters will take longer to provide charging advice in than other matters, and a decision may not be able to be made until further evidence is provided by the police or requisitions answered. This process would be carefully managed by the ODPP. As the Police cannot lay a charge unless sanctioned, they will be motivated to complete requests as promptly as possible.

If a decision is not made within 6 months the bail should lapse. Bail will also lapse if the ODPP determines that there is insufficient evidence or no reasonable prospect of conviction and the offender will be advised in writing of the determination.

3) How could such a regime encourage early guilty pleas?

Charge certainty and an end to the practice of over charging is an important part of the package of reform aimed at streamlining and preparing cases more strategically for trial or plea. It gives control to the ODPP to determine the appropriate charge at the outset and not set up false expectations as to the disposition of the matter. It would facilitate the brief preparation before a charge is laid. In that way it would reduce the expenses associated with the current system. Delaying the commencement of proceedings to align with the

readiness of the brief and disclosure of the crown case, would encourage early legal advice about the appropriate plea.

For further advantages of charge certainty see our answer to 3.1 (2) above.

Plea negotiations

Question 4.1

1) How could charge negotiations in NSW be more transparent?

If the ODPP takes over charge decisions, then the current practice of accepting a plea to a lesser count would be infrequent. Our proposition is that a charge decision be a realistic assessment of the appropriate charges and only a significant change in circumstances would change that decision. Although there will always be room to move in respect of Form 1's and the agreed facts.

2) If charge negotiations are made more transparent, what impact would this have upon the likelihood that defendants will seek out a plea agreement?

If most of the unknowns are taken out of the process i.e. there is charge certainty and a likely sentence outcome, that will encourage an early plea.

It is important that negotiation can be initiated by either party, but it will be part of ODPP policy to do so, as early as possible in the process while the offender has an incentive to resolve the matter.

Question 4.2

1) Should NSW Crown prosecutors be able to incorporate sentencing outcomes into plea agreements?

The ultimate decision about the appropriate sentence should always lie with the Court. It would result in increased pleas of guilty if the Crown were more willing to put up a joint submission on the appropriate sentencing range. This not only requires a change in what is perceived to be professional ethics, but also a cultural change.

2) How could NSW Crown prosecutors incorporate sentencing outcomes into plea agreements?

This is an area where there is not a one size fits all approach, different types of cases with different complexities may demand a different approach. The agreement may be limited to the prosecution conceding a custodial sentence is not appropriate or that a range of sentences are appropriate. At present we favour submissions going to a range rather than agreement on a specific sentence.

3) What would be the impact of incorporating sentencing outcomes into plea agreements on the number of early appropriate guilty pleas?

It is hard to estimate the impact of incorporating sentencing outcomes or the number of cases where this might be done. But it seems likely that it will be a useful tool in some cases and it would, if the court agrees with the ranges proposed, achieve significant efficiencies in the sentencing process.

Question 4.3

Should the courts supervise/scrutinise plea agreements?

The Courts should not determine the charge that proceeds to sentence. It is important that the ultimate sentence imposed be a court determination. Any concession made by the prosecution about the appropriate sentence should not be binding on the court.

Case Conferencing

Question 5.1

1) Should NSW reintroduce criminal case conferencing? If so should case conferencing be voluntary or compulsory?

Case conferencing should be reintroduced into NSW. It should be compulsory, and we would suggest that it becomes a feature of criminal procedure that is utilised in all cases. Following on from the case conference an advocates questionnaire (similar to the English questionnaire see annexure B) should be completed by the parties and filed with the Court.

To reintroduce it, without the other changes proposed will require funding to Legal Aid and the ODPP. Savings need to be found by streamlining the current system and case conferencing should become a natural part of the process.

2) What are your views on the advantages and disadvantages of reintroducing criminal case conferencing?

In our submission it has to be part of a package of reform. The advantage of case conferencing is that it forces early determination of the issues by the parties. In our view there needs to be significant cultural change to the way cases are identified for trial in NSW and an important part of this is open and ethical discussion between the parties about the issues in dispute at an early stage of the proceedings. There are no disadvantages in our view.

3) If criminal case conferencing were introduced, how could it be structured to improve efficiency?

The way a case conference is conducted need not be formal, it could happen after a charge decision or even during that process the defence could make representations to the ODPP.

Case conferencing as a process applied only when the defence has been provided full disclosure of the brief before talking to the ODPP has significant limitations in our suggested model, as it would require the Police to attend to possibly ultimately unnecessary evidence/statement gathering. Once the ODPP has adequate evidence to charge, then there should be adequate evidence for a meaningful discussion with the defence about what is in dispute and what further evidence is required.

Fast Tracking

Question 6.1

1) Should NSW adopt a fast-track scheme for cases likely to be resolved by a guilty plea?

Yes.

2) If a fast-track system were to be introduced in NSW, how would it operate?

One of the key features of the way a two track system could work would be for the Court to inquire about whether the prosecution consent to a matter being listed for trial. The ODPP would assess and identify cases from the outset that should resolve in pleas. If the prosecution anticipates that the case can be resolved by negotiation, conferencing or mediation then these avenues should be explored prior to the case going down a case management for trial route.

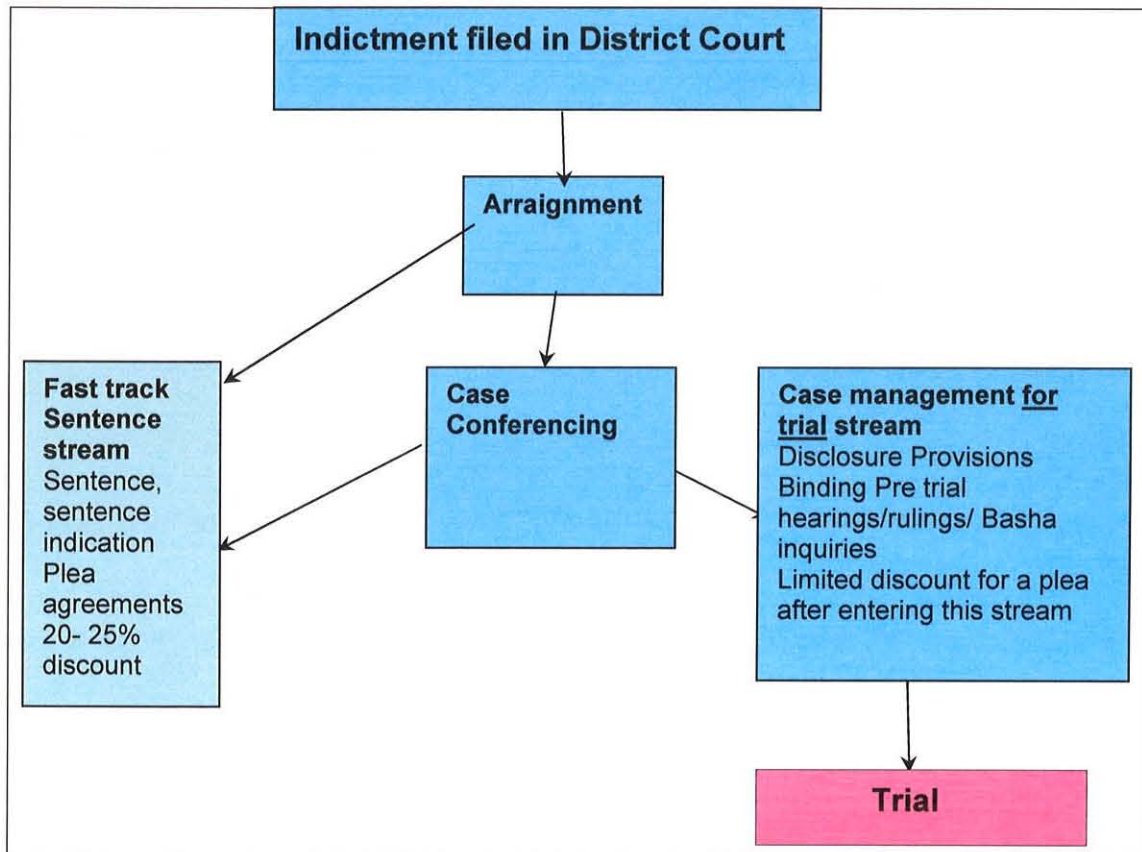


Diagram 1 Differential case management in the District Court

3) How would sentence discounts apply to a fast-track scheme?

We suggest that if committals are abolished and proceeding commence in the District Court then a matter could be fast tracked on the application of both or either party. If it is a plea of guilty then the matter could be immediately listed for sentence. If it may be a plea, it could be adjourned for a case conference and/or possible filing of a plea agreement and/or a sentence indication might be sought. If the matter follows this route then the offender should be eligible for a full (20%- 25%) discount on sentence for an early plea.

Sentence discounts should be provided for by statute. The greater utilitarian discount reserved for matters where the offender has admitted the offence from the outset and Police and prosecution resources have been saved in the preparation of the brief.

Where a matter is listed for trial then the statute should provide for no greater discount than 12%. A plea on the eve of Trial would receive no more than a 5% discount.

Question 6.2

Should NSW adopt a program of differential case management?

Yes see the above diagram.

If a program of differential case management were introduced

a) what categories should be created

- Fast track sentence stream
- Case Management for trial stream

b) how should each of these categories be managed?

- Fast track sentence matters where a plea is immediately entered before a Registrar or a List Judge, upon the first appearance in the District Court. The plea would be entered/or indicated and Pre Sentence reports ordered. The matter would be fixed for sentence.
- For overwhelming crown cases, even where a plea of not guilty is entered the matter should not be listed for trial until all attempts to resolve the matter in a plea are exhausted. If despite all endeavours the not guilty plea remains, then the defence must specify with precision what the issue at trial will be, so that a trial on those narrow issues only proceeds or a pre-trial hearing can determine the admissibility of contested evidence.
- For complex/lengthy matters where the ODPP agrees the matter is likely to proceed to trial, there should be early allocation to the trial judge who will case manage the proceedings.
- For other trial matters where the ODPP agrees the matter is likely to proceed to trial, active management by the List Judge until the matter is either ready for listing of a short trial or if a long trial allocation to the Trial Judge. Case management should involve resolution of pre-trial issues prior to the listed trial date. In some cases resolution of the pre-trial issues may resolve the trial (with a plea following the admission of the evidence). Resolution of pre-trial issues will ensure trials start on the listed day before the jury.

Abolishing Committals

Question 7.1

1. Should NSW maintain, abolish or change the present system of committals?

Committal proceeding should be abolished. As we submitted in our preliminary submission:

“Forcing parties to progress matters forward in the Local Court is futile as neither party to the proceedings has any control over the preparation of brief of evidence, and the receipt of crucial evidence might be genuinely delayed by factors beyond the courts, parties, and Police’s control. All that is occurring is the parties and the court, are waiting for adequate information to be available. In our submission the process does little to add to the quality of

the prosecution and only serves to generate legal costs by way of appearances for both parties. It is still the case that briefs are not entirely complete after the committal process and the expectation is that the brief and disclosure process will not be complete until the trial commences. So notwithstanding the time and legal costs spent in the Local Court ultimately there are still unresolved issues with a matter in the District Court.”

Further in our view, one of the ways (and possibly the only way) to find savings across the criminal justice sector to enable a transition to a new criminal procedure can be achieved by abolishing committal hearings and have a purely administrated assessment of the brief of evidence. An in chambers administrative review of the papers to ensure there is a case to go before a jury would be a sufficient substitute for committal, if where a witness needs to be cross examined before trial an application could be made to the trial or case management judge and an order made (on sufficient grounds) for a witness to be compelled to give limited evidence by way of depositions before a registrar.

2. If a case management system were introduced, what would it look like?

A case management system should have compulsory and optional features to allow for maximum flexibility in managing different types of cases. The current provisions in the Criminal Procedure Act appear to be all that is required legislatively for case management. However under our preferred model for a revised criminal justice system, we would seek to have case management only for matters identified as appropriate for the case management stream. It is not efficient to case manage matters in preparation for trial where the matter resolves in a plea of guilty.

Disclosure by both parties should be central to case management. The court should determine pre trial applications and make binding determinations on the evidence in advance of trial.

An important additional feature of case management would be the completion of an “advocates questionnaire” see Annexure B and the preparation for trial document, see annexure C. It is essential that the real issues at trial are clear well before the start of a trial.

Question 7.2

When in criminal proceedings should full prosecution and defence disclosure occur?

It is important for the system to strike a balance between minimising the amount of paperwork and formal proofs the police are required to prepare in creating the brief and maximising the quality of information the offender, defence and prosecution lawyer have on which to make a decision.

The current requirements for committal hearings requiring written statements needs to be reviewed under a new system, to avoid Police wasting time on formalising evidence that may not be required or is not in issue. For instance note book statements, presumptive drug tests and summaries of material may be all that is required if a plea of guilty is indicated.

As soon as a charge decision is made the prosecution would be in a position to serve all the material on which that decision was based. If a presumptive charge is laid then the evidence can be served as it becomes available. Matters that are case managed will have tailor made disclosure orders, to ensure the balance is achieved.

Sentence Indication

Question 8.1

1) Should NSW reintroduce a sentence indication scheme?

Yes.

2) If a sentence indication scheme were introduced, what form should it take?

Features of a sentence indication scheme should include:

- The defence file a request for sentence indication document. The papers include the Indictment, agreed facts and any statements.
- If the victim wished to put in a victim impact statement on the indication, it should be "without prejudice" if the sentence indication is rejected.
- The defence may submit subjective material on the indication, again this is "without prejudice" if the indication is rejected.
- An agreed sentence range may be submitted jointly by the parties: e.g. a non custodial sentence or a range of prison terms.
- In other cases the parties might be unable to agree on sentence range or are so far apart on the facts as to be irreconcilable.
- The Prosecutor should be prepared to indicate when in their view a sentence indication is manifestly inadequate. But that would not stop the Judge from proceeding to sentence; it is ultimately up to the accused to accept the indication or not.
- If the sentence indication is not accepted then the fact of the indication is inadmissible and not binding.
- Legislation should provide that the matter need not be allocated to a different Judge if the sentence indication is not accepted.

Question 8.2

Once a defendant accepts a sentence indication, in what circumstances should it be possible to change it?

The normal rules in relation to Crown Appeals should apply. Crown Appeals should be rare, but still available on a sentence indication sentence.

Sentence Discounts

Question 9.1

1) Should NSW introduce a statutory regime of sentence discounts?

Yes, we consider that the statutory limit to the full discount in the Criminal Case Conferencing provisions encouraged pleas. No significant discount should be available but for a genuinely early guilty plea.

2) If a statutory regime of sentence discounts were introduced:

a) what form could it take, and

b) to what extent should it be a sliding scale regime?

If a statutory scheme was introduced then on our model the maximum discount range 20 – 25% would apply to fast track stream sentences.

For matters in the case management stream where a plea is entered after the matter has been listed for trial a maximum discount of 12% would be available.

A very late guilty plea should have a 5% maximum discount.

In our view a statutory sentencing discount is more likely to be effective and transparent in a sentence indication scheme as the Judge can explain what the discount is, which in turn means the offenders legal representative can explain to the offender in concrete terms the value of the early plea.

Summary case conferencing

10.1

1) Should the Local Court of NSW introduce case conferencing as part of its case management processes?

Yes, for the more serious matters heard in the Local Court. It would be of benefit in the types of matters that the ODPP prosecutes in the Local Court, although we note that the matters the ODPP prosecutes are a relatively small percentage of the matters the Court deals with.

2) Should the Local Court of NSW incorporate a summary sentence indication scheme?

Yes, although a sentence indication scheme does not need to be as formal in the Local Court. It could be limited to whether or not a custodial sentence would be imposed.

3) If a summary sentence indication scheme were introduced:

a) what form should it take, and

b) what type of advance indication would be appropriate?

See above.

4) What effect will case conferencing have on the Local Court's efficiency and guilty plea rate?

It is difficult for us to comment as the police prosecutors conduct all but a small number of summary prosecutions, however, we believe it would improve efficiency.

***Office of the Director of Public Prosecutions
December 2013***

Suggested ODPP Model for sanctioning charges

Introduction	1
Diagram 1: Proposed ODPP Model.....	2
A. The first aspect of the reform - Charging decisions by the ODPP	3
1. The investigation scenario: Police have sufficient evidence to charge serious offence/s	3
2. Response to an incident scenario - Police have a reasonable suspicion that a serious offence has been committed.....	4
3. DPP Charging decisions	4
Matter suitable for Charge decision bail	4
Matters where bail should be refused.....	5
B. Transition to the new model.....	6
4. A staged approach	6

Introduction

This model proposes that the ODPP would be responsible for determining the charge laid in all criminal cases that will progress to the District or Supreme Courts for determination. In order to achieve this reform:

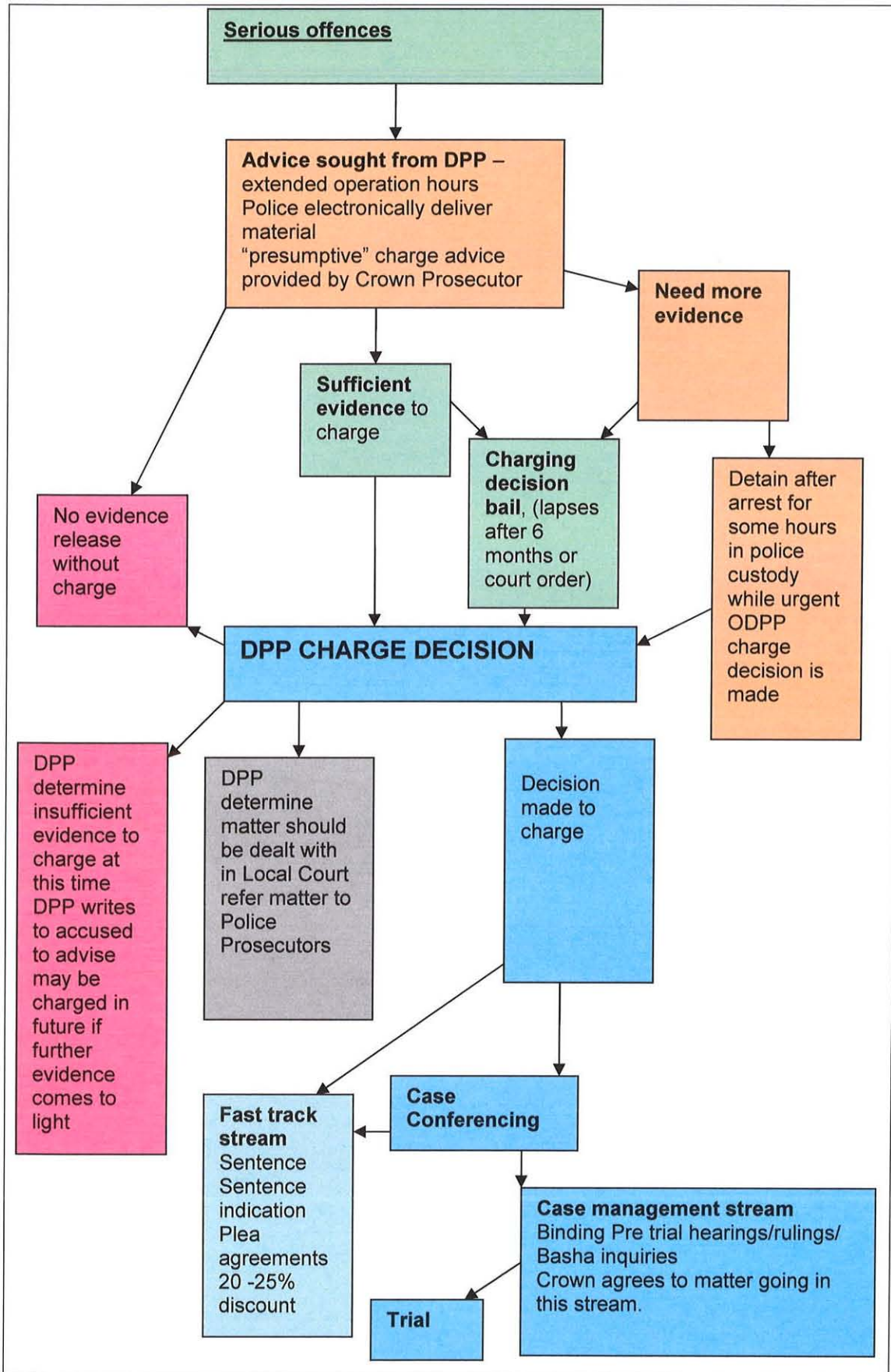
- the ODPP will reform and change our practices to use senior prosecutors to make the charging decision and to provide continuity of prosecution representation in most lengthy and complex matters, and
- greater collaboration and communication will be required between the ODPP and the police prior to charging.

We have also considered a number of ways that there could be a transition from the current system to a new system.

The ODPP is committed to building a more sustainable criminal justice system. Our budget situation is such that we can barely meet the level of service that the current system demands. Without procedural and legislative changes to the criminal justice system, the current problems the system is experiencing, including increase in trial numbers, delays due to cases being unprepared, late briefing, costs awarded and inefficiencies brought about by late pleas will only increase.

The reforms required in our view are multi-faceted and not only challenge long held traditions and practices of the Police but strike to the heart of the culture of criminal legal practice. We have no doubt however that this is the way forward.

Diagram 1: Proposed ODPF Model



Definition of terms used in Diagram 1

Charge decision: means a determination by the ODPP of the appropriate charge. The prosecution guidelines will stipulate the circumstances in which the prosecution will change the charge.

Charging Decision Bail: means bail authorised by the police pending a charge decision. Charging decision bail lapses after 6 months if there is no charge laid or Indictment filed. Application may be made to the Court to vary the bail conditions if the Police and ODPP oppose a defence request. The Court would have the authority to dispense with charging decision bail.

Serious Offences: means offences that warrant disposition in the Supreme or District Courts (Strictly Indictable or Table offences).

Sufficient evidence: means where there has been an investigation prior to “arrest” and documentary evidence is available to satisfy all the elements of the offence. Corroborative statements are not necessary. Presumptive tests for drugs etc would suffice.

Need more evidence: means if following arrest the Police/DPP determine more evidence is required before a charge can be laid, then there are two options-either the suspect can be released or detained after arrest in police custody for some hours.

A. The first aspect of the reform - Charging decisions by the ODPP

Currently, and broadly speaking the Police arrest and charge either after:

- 1) an investigation, or
- 2) after a specific incident where an immediate response is required.

It is our submission that the system in NSW needs to be fundamentally changed in the way in which offenders are charged with serious offences and brought before the courts. The central tenet of our argument is that there needs to be charge certainty at the outset. In order for this to happen and in our view, the only way to move forward is for there to be one charging decision to be made by the ODPP. Additionally we believe that the Court proceedings should commence only when the charging decision by the ODPP has been made.

1. The investigation scenario: Police have sufficient evidence to charge serious offence/s

Where the police have formed the view that there is sufficient evidence to charge a serious offence, the matter must be referred to the ODPP for a decision about the appropriate charge and jurisdiction.

The assessment by the ODPP will include advice as to whether summary disposal is appropriate (if that is the case the decision about charges is referred to the Police Prosecutors), and advice about deficiencies in evidence that need to be addressed.

The matter will be allocated to a senior (level 2 or 3) ODPP lawyer to prepare advice and a recommendation to a senior Prosecutor as to a charge decision.

Where appropriate charging decision bail is granted by the Police while the matter is with the ODPP for a charging decision.

If no charging decision is made within 6 months the charging decision bail automatically lapses.

Where the Police are conducting complex, large or on going investigations, we contemplate an alignment of particular senior Prosecutors to facilitate a reasonably quick turn around of charging decisions.

2. Response to an incident scenario - Police have a reasonable suspicion that a serious offence has been committed.

Police resources would be deployed to complete investigations to a prima facie level as soon as possible after the charge.

Where the police do not have sufficient evidence but have a reasonable suspicion that a serious offence has occurred they may either:

- investigate the offence without bail or remand, or
- detain after arrest for some hours while ODPP charge advice is sought and if the ODPP sanction charging the accused may apply for bail if it has not been granted by the Police.

3. DPP Charging decisions

In order to realign our most experienced resources to the beginning of the criminal trial process there will need to be changes to the way the ODPP manages its resources and allocates work, our work practices and modification to our prosecution guidelines. One of the most critical changes will be to create an ODPP advice of charges system.

Matter suitable for Charge decision bail

Where the alleged offender is on charge decision bail and the brief has been supplied to the ODPP it will be allocated to a lawyer for initial advice and the final charging decision will be made by a senior prosecutor. Sensitive, or complex matters will be allocated to a Crown Prosecutor who will retain carriage of the matter.

If sufficient evidence is unlikely to come to light the ODPP will make a determination not to charge and issue a written notice to the suspect that no charges will be laid at this time but the case may be reviewed if further evidence comes to light.

Charging decisions for bail matters will be made by the ODPP as soon as possible. The ODPP will set time standards against which our performance can be measured, but an added protection will be that charging decision bail will lapse after 6 months. The ODPP may issue requisitions to the Police during the decision making process.

The aim is to create a system where the accused and his lawyer are confident from the beginning that the appropriate and final charges have been laid. There will be no advantage in delaying a plea hoping for a more favourable offer.

Complainants will be advised and conferenced by the Crown handling the case after a charging decision is made (or in some cases before if it is necessary to clarify their evidence). They will be provided information about the court process and possible outcomes of the case.

Matters where bail should be refused

The ODPP will likely need to provide a 24 hour service. The police could provide information electronically to the ODPP. In order for the best possible advice to be provided on a charging decision, and in cases where the Police are responding to an incident and need time to investigate, then we suggest that a 24 - 48 hour period be provided for an accused to be detained after arrest, in order for a charging decision to be made. This is a significant change from the current 8 hour period provided in LEPR, but we justify this change on the following basis:

- The trade off is that ultimately a fairer charge decision will be made for the offender,
- The longer period would provide further time for the offender to obtain legal advice (within normal working hours) while in custody and provide an opportunity for the legal representative to speak with the Prosecutor while a charging decision is being made, and
- Legislation can provide appropriate safeguards for the well being of the offender, and could include the requirement for an authorised justice to approve any detention beyond a certain number of hours.

There will be ongoing collaboration between the ODPP and the Police as the evidence becomes available. To ensure that Police resources are not unnecessarily expended in the preparation of a full brief of evidence the ODPP may rely on "presumptive" testing, hand written

statements or video recorded statements, summaries and other short forms of evidence to make our decision. In particular where the offender has made full admissions and a plea seems to be likely, the brief may be in short form. As part of the reform process and the abolition of committals, the requirements for typed statements to be prepared can be reviewed.

B. Transition to the new model

This is perhaps the most significant and difficult aspect of this proposal to design, as to transform the system without incurring unfunded additional expenses by running two systems concurrently will not be possible for the ODPP or Legal Aid .

A major impediment from our perspective is because of the ODPP's current budget allocation, the need to find efficiency dividends and the increased number of trials on hand in the District Court, we are not presently in a position to allocate any resources to implement a new system.

Further, we are most concerned that we are in the best position to give a new system our "best shot". It will be extremely important to engage with our key stakeholders and the community at large and get this right. For this reason we think it is essential, for an initial period to dedicate our most senior resources to establish relationships with police commands, write and develop protocols and policies, provide education and constantly evaluate and adjust internal procedures to create the most sustainable and transparent system.

The following suggestions examine ways a new system could be implemented with the minimum "doubling up" expenses.

4. A staged approach

We recommend the abolition of committals in order that we can redeploy the resources currently expended in that process to the charge decision process.

We suggest that the new model could be commenced in stages, with ODPP charge decisions for strictly indictable offences being rolled out first. This will still have a significant impact on the District Court and Local Court practices. When the system reaches the point where the back log of committal work for strictly indictable offences is completed and the ODPP has made charging decisions in all matters entering the District Court, then the process of how Table offences are handled could be addressed.

Initially we will set up the "ODPP advice of charges system" with a number of senior prosecutors. To do this we would move them out of committal and District Court trial work. The rationale for moving senior prosecutors out of trial work is to ensure that charge decisions are made by very experienced lawyers. As there will be new systems, legislation, and processes implemented at the same time, there will be a need to draft and revise prosecution policies and procedures, and engage with the Police. The involvement of senior prosecutors early will facilitate those lawyers being able to retain carriage of the more complex matters they advise on that do proceed to trial.

The senior prosecutors will pro-actively foster a close working relationship with particular Police commands, to facilitate advice on charging shortly after the investigation stage, particularly for large scale investigations.

We are reluctant to go down the path of a pilot. It could not be done without specific funding to the ODPP and it would not assist the ODPP in finding the savings that need to be found. Other agencies in the criminal justice sector are in similar positions. We are also of the view that there is an overwhelming case for change and that it should be implemented across the board as soon as possible.

Office of the Director of Public Prosecutions
December 2013

The Crown Court

Plea and Case Management
HearingCC Case Number D1 Date of trial Fixed Warned

Advocates' Questionnaire

■ Parties must complete this form.

■ This form is to be used at all Crown Court Centres, without local variation.

There is an electronic version of the form on the Ministry of Justice website, at:

www.justice.gov.uk/courts/procedure-rules/criminal/formspage**PART ONE***(Questions 1 to 15 are to be completed in all cases, together with question 37 'Witness List')***1 Date of trial and custody time limits**

1.1	Date of PCMH <input type="text"/>	PTI URN <input type="text"/>
	Judge <input type="text"/>	Estimated length of trial <input type="text"/>

1.2 What are the custody time limit expiry dates as agreed between the parties? *(If different custody time limits attach to different offences or defendants, please give details.)*1.3 Can an application to extend any custody time limit be made today? No Yes**2 Parties**

	Prosecuting authority		Advocate		
P	<input type="text"/>	<input type="text"/>	<input type="text"/>		
	Defendant's name	Age	Remand status	Trial Advocate	PCMH Advocate (if different)
D1	<input type="text"/>	<input type="text"/>	C <input type="checkbox"/> B <input type="checkbox"/>	<input type="text"/>	<input type="text"/>

3 Contact details

3.1 Parties

<i>P</i> Office	Name	Phone
	Email	

Advocate	Name	Phone
	Email	

<i>D1</i> Solicitor	Name	Phone
	Email	

Advocate	Name	Phone
	Email	

3.2 Case progression officers

<i>P</i>	Name	Phone
	Email	

<i>D1</i>	Name	Phone
	Email	

<i>Court</i>	Name	Phone
	Email	

4 Readiness for PCMH

4.1 Which, if any, of the orders made at the magistrates' court have not been complied with?

<i>P</i>	
----------	--

<i>D1</i>	
-----------	--

4.2 Are the parties ready for the PCMH? If not, why not?

<i>P</i>	
----------	--

<i>D1</i>	
-----------	--

5 Has the defendant been advised that he or she will receive credit for a guilty plea?

<i>D1</i>	<input type="checkbox"/> No <input type="checkbox"/> Yes
-----------	--

6 Has the defendant been warned that the case may proceed in his or her absence?

<i>D1</i>	<input type="checkbox"/> No <input type="checkbox"/> Yes
-----------	--

7 What guilty plea(s) (if any) is the defendant offering?

<i>D1</i>	
-----------	--

8 Should the case be referred to the Resident Judge for a trial judge to be allocated? No Yes

9 Give details of any issues relating to the defendant's fitness to plead or to stand trial.

D1

10 Prosecution evidence

10.1 Has the prosecution served the principal evidence on which the prosecution case relies, and if so when (give the date)? If not, why not?

P

10.2 What further evidence (if any) does the prosecution expect to serve? By when is it reasonably practicable to serve it (give the date)?

P

10.3 Defence comments (if any) on the prosecution replies to 10.1 and 10.2:

D1

11 Disclosure, defence statement and defence witness notice

11.1 Has the prosecution made statutory disclosure and if so when (give the date)? If not, why not?

P

11.2 When does / did the time expire for service of a defence statement and witness notice (give the date)?

P

11.3 Defence comments (if any) on the prosecution replies to 11.1 and 11.2:

D1

11.4 Has the defence served (a) a defence statement and (b) a witness notice, and if so when (give the date(s))? If not, why not?

D1

11.5 Do the defence statement and witness notice comply with the statutory requirements?

P

Prosecution comments (if any):

11.6 Has the defendant been warned of the consequences of any failure to serve a defence statement and witness notice (a) within the time prescribed and (b) complying with the statutory requirements? No Yes

11.7 If the defendant has served a defence statement, does the defendant expect to apply for further prosecution disclosure? No Yes

11.8 If not clear from the defence statement, what are the real issues?

D1

P

Prosecution comments (if any):

12 Expert evidence

- 12.1 Give details of any expert evidence likely to be relied upon, including why it is required and by when it is reasonably practicable to serve this.

P

D1

- 12.2 Is a note of agreement / disagreement required?

13 Witnesses

- 13.1 Have the parties completed the Witness List (see 37)? No Yes
- 13.2 Are the parties satisfied that all the listed witnesses are needed (see 37)? No Yes
If 'no', give details.

- 13.3 Are the parties satisfied that the time estimates for questioning witnesses are realistic (see 37)? No Yes
If 'no', give details.

- 13.4 Is any witness summons necessary? No Yes
If 'yes', give particulars:

- 13.5 Can a timetable be fixed now for the calling of witnesses? No Yes
If 'no', why not?

14 Timetabling of the trial

- 14.1 Are there matters which need to be determined at the start of the trial, which may affect the timetable? No Yes
If so, when will (1) the jury and (2) the witnesses be required?

What timetable can now be set for the conduct of the trial (see rule 3.10)?

The indictment

14.2

- 15**
- 15.1 Has the indictment been signed and dated as required by Part 14 of the CrimPR? No Yes
- 15.2 Is any amendment of the indictment required? No Yes

PART TWO

Question 37 (Witness list) is to be completed in every case
Answer the remaining questions only where relevant

16 Admissions and agreed facts

What matters can usefully be admitted or put into schedules, diagrams, visual aids etc.?

17 Case summary

- P* Is it proposed to serve a case summary or note of opening? No Yes

18 Measures to assist witnesses and defendants in giving evidence

18A Measures to assist a witness in giving evidence.

Each of these issues must be addressed separately in respect of each young vulnerable or intimidated witness who is or may be required to give evidence in person. (If completed electronically, the form will expand to deal with each separate witness separately. If completed manually, attach separate sheets if necessary.)

Name and age of witness:

Name:

Age:

What arrangements have been made for a pre-trial visit?

What arrangements have been made to ensure that the witness sees the video of their evidence BEFORE the trial (i.e. not immediately before giving their evidence over the live link)?

Has the witness been offered a 'supporter'?
If 'yes', give particulars:

No Yes

Does the witness need an intermediary?
If 'yes', give particulars:

No Yes

What arrangements have been made for the witness to access the court building other than by the main public entrance?

What are the arrangements to ensure that this witness can give evidence without waiting or at least by reducing waiting to a minimum (*e.g. by ensuring that the opening and any preliminary points will be finished before the time appointed for the witness to attend or by agreeing and fixing a timed witness order in advance*)?

Have the views of the witness been sought and, if so, has s/he expressed any particular view or concerns?

No Yes

If 'yes', give particulars:

If views not sought, why not?

What material (if any) needs to be available to the witness in the video suite?

18B Defendant's evidence direction

Is any defendant's evidence direction to be sought?

No Yes

If so, has the necessary application been made, complying with Section 4 of CrimPR Part 29?

No Yes

If so, give details

18C Witness anonymity order

Is any witness anonymity order sought / to be made?

No Yes

If so, has an application been made, complying with Section 5 of CrimPR Part 29?

No Yes

If so give details (subject to the restrictions in Section 5 of CrimPR Part 29).

19 Young or vulnerable defendants

Are any other arrangements needed for any young or vulnerable defendants?

D1

20 Reporting restrictions

State type and grounds of any reporting restriction sought.

P

D1

21 Third party material

Is any application to be made for the production of third party material?

No Yes

22 Defendant's interview(s)

22.1 Specify any issue relating to the admissibility of all or any part of the defendant's interview(s). Can the issue be resolved now? If not, when? Are skeleton arguments needed and, if so, when?

22.2 By how much can the interview(s) be shortened by editing / summary for trial? Give a timetable for the service of any proposed summary by the prosecution and agreement / counter-proposal by the defence.

22.3 Specify any other issues concerning the defendant's interview(s).

23 Witnesses giving evidence by video or DVD interview

23.1 Is there video or DVD evidence of any young / vulnerable / intimidated witness yet to be served?

23.2 Has each video been transcribed?

23.3 Is there an issue in relation to the accuracy / admissibility / quality / length of any video or transcript?

24 Witness interview(s)

24.1 Are there any videos / audio tapes of witness interviews which, if they meet the disclosure test, are yet to be disclosed as unused material?

24.2 If so, is any application made for that video / audio tape to be transcribed and, if so, why?

25 CCTV evidence

25.1 Are there any outstanding issues in relation to service or disclosure of CCTV footage? *If the material is in the possession of a third party, complete 21 instead.*

25.2 Is an edited version to be served / used?

26 Electronic equipment

26.1 Give details of any special equipment (e.g. CCTV, live link, audio recordings, DVD) required in the trial courtroom.

P

D1

26.2 Is the evidence in its present form compatible with the equipment in court?

27 Cross-examination on sexual history

If an application has not already been made, does the defence intend to make an application under section 41 of the Youth Justice and Criminal Evidence Act 1999 to cross-examine a witness about his or her sexual history?

D1

28 Bad character

Are any directions necessary in relation to bad character applications? Are there to be any further applications?

P

D1

29 Hearsay

Are any directions necessary in relation to hearsay applications? Are there to be any further applications?

P

D1

30 Admissibility and legal issues

What points on admissibility / other legal issues are to be taken? Is it necessary for any to be resolved before trial?

P

D1

31 Public interest immunity

Is any 'on notice' public interest immunity application to be made?

P

32 Jury bundle

What proposals do the prosecution make for a jury bundle?

P

33 Concurrent family proceedings

Give details of any concurrent family proceedings.

34 Other special arrangements

Give details of any special arrangements (e.g., interpreter, intermediary, wheelchair access, hearing loop system, breaks) needed for anyone attending the trial.

35 Linked criminal proceedings

Are there other criminal proceedings against the defendant or otherwise linked?

36 Additional orders

Are any additional orders required?

37 Witness List (see table for completion, over page)

37 Witness List

The parties should indicate here which prosecution witnesses are required to give evidence at trial. The attendance of any witness is subject to the judge's direction.

Name of witness	Page No.	Required by	What is the relevant, disputed issue?	Estimated time for questioning	
				Chief	X - exam

..... Magistrates' Court

Preparation for trial

- This form:
 - collects information about the case that the court will need to arrange for trial: Criminal Procedure Rules 3.2 and 3.3
 - records the court's directions: Criminal Procedure Rules 3.5.

See the separate notes for guidance on the use of this form.

- After the court gives directions for trial, if:
 - information about the case changes, or
 - you think another direction is needed**you must tell the court at once.**

- If the defendant pleads not guilty, and the court requires:
 - the prosecutor must complete Parts 1 and 3
 - the defendant must complete Parts 2 and 3
 - the court will record directions in Parts 3 and 4.

The prosecutor may start filling in the form earlier.

Attach extra sheets if required. The electronic version of this form will expand.

There is a list of case preparation time limits on page 6.

Part 1: to be completed by the prosecutor

Defendant			
	<input type="checkbox"/> Summons	<input type="checkbox"/> Bail	Time limit expires: _____
	<input type="checkbox"/> Requisition	<input type="checkbox"/> Custody	
Offence(s)			
Police / CPS URN		Date of first hearing	

1 Prosecution contact details

Prosecuting authority		Phone Fax
	Email	

2 Case management information

- 2.1 Is the investigation complete ? Yes No
 If no, give brief details: _____
- 2.2 Does the prosecutor intend to serve more evidence ? Yes No
 If yes, give brief details: _____
- 2.3 The prosecution will rely on: []
- | | | |
|-------------------------------------|---|-----|
| <i>Tick / delete as appropriate</i> | defendant's admissions in interview | [] |
| | defendant's failure to mention facts in interview | [] |
| | [a summary] [a record] of the defendant's interview | [] |
| | [expert] [hearsay] [bad character] evidence | [] |
| | [CCTV] [electronically recorded] evidence | [] |
- What equipment (tape / DVD player, etc.) will be needed in the trial courtroom ? _____

3 Application for directions

- 3.1 Does the prosecutor want the court to vary a case preparation time limit ? Yes No
 If yes, give details: _____
- 3.2 Does the prosecutor want the court to make any other direction ? Yes No
 If yes, give details: _____

Part 2: to be completed by defendant or defendant's legal representative

4 Defendant's contact details

Defendant	Address	Phone Mobile
	Email	

5 Defendant's representative (if applicable)

Solicitor		Phone Fax Ref
	Address	
	Email	

Representation is:

<i>Defendant's representative to complete</i>	granted	<input type="checkbox"/>
	applied for	<input type="checkbox"/>
	privately funded	<input type="checkbox"/>

6 Advice on plea and absence

Does the defendant understand that:

- (a) he or she will receive credit for a guilty plea ? Yes No
A guilty plea may affect the sentence and any order for costs
- (b) the trial can go ahead even if he or she does not attend ? Yes No
CrimPR rule 37.11

7 Partial or different guilty plea

- If more than one offence is alleged, does the defendant want to plead guilty to any of them ? Yes No N/A
- If yes, which offence(s) ?
- Does the defendant want to plead guilty, but not on the facts alleged ? Yes No
- If yes, attach a written basis of plea.
- Does the defendant want to plead guilty, but to a different offence ? Yes No
- If yes, what offence ?

8 Case management information

- 8.1 Which of the following (if applicable) is **AGREED** ? *Tick / delete as appropriate*
- The defendant [carried out] [took part in] the conduct alleged (i.e. identification) Yes No N/A
 - The defendant was present at the scene of the offence alleged Yes No N/A
 - The defendant was arrested lawfully Yes No N/A
 - [Nature of injury] [extent of loss or damage]
If not agreed, explain what is in dispute: Yes No N/A
 - [Fingerprint] [DNA] evidence
If not agreed, explain what is in dispute: Yes No N/A
 - [Medical] [identification of drug] [other scientific] evidence
If not agreed, explain what is in dispute: Yes No N/A
 - The [alcohol] [drug] testing procedure was carried out correctly
If not agreed, explain what is in dispute: Yes No N/A

Exhibits and samples were collected and delivered as stated (i.e. continuity)
If not agreed, explain what is in dispute: Yes No N/A

Defendant's interview [summary] [record] is accurate
If not agreed, explain what is in dispute: Yes No N/A

The defendant was [disqualified from driving] [subject to the alleged court order] at the time of
the offence alleged Yes No N/A

The list of the defendant's previous convictions is accurate
If not agreed, explain what is in dispute: Yes No N/A

8.2 Other **AGREED** facts or issues are:
Give details

8.3 Can **AGREED** facts be recorded in a written admission ? Yes No
If yes, a written admission [is set out here] [is attached] [will be served later].
If no, explain why:

8.4 What are the **DISPUTED** issues of fact or law for trial, in addition to any identified in
paragraph 8.1 ? *CrimPR rules 3.2(2)(a), 3.3(a)*

8.5 Will the defendant give a defence statement ? Yes No
*A defence statement must include particulars of facts relied on for the defence: Criminal
Procedure and Investigations Act 1996, s.6A; Criminal Procedure Rules, r.22.4. There is a
form of defence statement for use in connection with the rule.
Whether or not the defendant gives a defence statement, the defendant must give a notice
indicating whether he or she intends to call any person (other than him or herself) as witnesses
at trial and, if so, identifying them: Criminal Procedure and Investigations Act 1996, s.6C.*

9 Application for directions

9.1 Does the defendant want the court to vary a case preparation time limit ? Yes No
If yes, give details:

9.2 Does the defendant want the court to make any other direction ? Yes No
If yes, give details:

Part 3: to be completed by prosecutor, defendant (or representative) and court

10 Prosecution witnesses

10.1	<i>Prosecutor to complete</i>			<i>Defendant to complete</i>		<i>For the court</i>
	Name of witness	Tick if under 18	Attendance proposed	Can the evidence be read to the court ?	If no, what disputed issue in the case makes it necessary for the witness to give evidence in person ?	Attendance justified
1)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/>
2)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/>
3)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/>
4)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/>
5)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/>
6)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/>
7)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/>
8)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/>
9)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/>
10)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/>

10.2 *Prosecutor to complete*

- Does the prosecutor want special measures for a witness ? Yes No
 If yes, give details:
- If the defendant is not represented, does the prosecutor want the court to prohibit cross-examination of a witness ? Yes No
 If yes, give details:
- Does any witness need an interpreter ? Yes No
 If yes, in what language ?

11 Defence witnesses

Defendant to complete

- Is the defendant likely to give evidence ? Yes No
- How many other defence witnesses are likely to give evidence in person ?
The defendant must give details separately of intended defence witnesses: see paragraph 8.5.
- Does the defendant want measures to assist him/herself, or for a defence witness ? Yes No
 If yes, give details:
- Will the defendant or any defence witness need an interpreter ? Yes No
 If yes, in what language ?

Signatures

Signed: for prosecution
 Date:

Signed: [defendant] [defendant's solicitor]
 Date:

Part 4: court's directions for trial

12 Directions for trial

- 12.1 The prosecutor must serve any further evidence by: (date)
- 12.2 The prosecutor must complete initial disclosure by: (date)
- 12.3 The court expects those prosecution witnesses to give evidence in person whose names it has ticked in paragraph 10.1.
- 12.4 The court expects the evidence of other prosecution witness listed in paragraph 10.1 to be read.
- 12.5 Witness [summons] [warrant] for witness(es): insert name(s) CrimPR Part 28

12.6 Interpreter in language(s): _____ for: _____ arranged by: specify court, prosecution or defence
 prosecution witness(es) _____
 defendant _____
 defence witness(es) _____

- 12.7 Special measures of: tick as appropriate for witness(es): insert name(s) CrimPR Part 29
 - screening witness from defendant _____
 - evidence by live link _____
 - evidence in private _____
 - video recorded interview as evidence in chief _____
 - intermediary _____

12.8 Defendant may not cross-examine witness(es): insert name(s) CrimPR Part 31
 and the court directs representation by: name representative

12.9 Other arrangements for defendant or witnesses (specify): CrimPR rule 3.8(4)
CrimPR Part 29

12.10 Standard case preparation time limits apply [except] [with these variations]: CrimPR Part 3 etc

12.11 Other directions:

12.12 Arrangements for hearing

Date:	
Time:	
Court:	
Time estimate: hours

A detailed trial timetable may be needed: CrimPR rules 3.8 & 3.10

Signed:
 Name: (block capitals) [on the direction of] [court]
 Date:

Standard case preparation time limits

*The court can vary any of these time limits. Time limits marked * are not prescribed by rules.*

The total time needed to comply with all these time limits is 6 weeks (9 weeks if paragraph m applies).

Written admissions (Criminal Procedure Rules, r.37.6; Criminal Justice Act 1967, s.10)

- a. The parties must serve any written admissions of agreed facts within **14 days**.*

Defence statement (Criminal Procedure Rules, r.22.4; Criminal Procedure and Investigations Act 1996, s.6)

- b. Any defence statement must be served within **14 days** of the prosecutor completing or purporting to complete initial disclosure.

Defence witnesses (Criminal Procedure and Investigations Act 1996, s.6C)

- c. Defence witness names, etc. must be notified within **14 days** of the prosecutor completing or purporting to complete initial disclosure.

Application for disclosure (Criminal Procedure Rules, rr.22.2 & 22.5; Criminal Procedure and Investigations Act 1996, s.8)

- d. The defendant must serve any application for prosecution disclosure when serving any defence statement.*
e. The prosecutor must serve any representations in response within **14 days** after that.

Witness statements (Criminal Procedure Rules, r.27.4; Criminal Justice Act 1967, s.9)

- f. The defendant must serve any defence witness statement to be read at trial at least **14 days before the trial**.*
g. Any objection to a witness statement being read at trial must be made within **7 days of service of the statement**. *This does not apply to the statements listed in paragraph 10.1.*

Measures to assist a witness or defendant to give evidence (Criminal Procedure Rules, rr.29.3, 29.13, 29.17, 29.22, 29.26)

- h. Any [further] application for special or other measures must be served within **28 days**.
i. Any representations in response must be served within **14 days after that**.

Cross-examination where defendant not represented (Criminal Procedure Rules, rr.31.1, 31.4)

- j. The defendant must serve notice of any representative appointed to cross-examine within **7 days**.
k. The prosecutor must serve any application to prohibit cross-examination by the defendant in person as soon as reasonably practicable.
l. Any representations in response must be served within **14 days after that**.

Expert evidence (Criminal Procedure Rules, rr.33.4, 33.6)

- m. If either party relies on expert evidence, the directions below apply.
(i) The expert's report must be served within **28 days**.*
(ii) A party who wants that expert to attend the trial must give notice within **7 days after (i)**.*
(iii) A party who relies on expert evidence in response must serve it within **14 days after (ii)**.*
(iv) There must be a meeting of experts under rule 33.6 within **14 days after (iii)**.*
(v) The parties must notify the court **immediately after (iv)** if the length of the trial is affected by the outcome of the meeting.*

Hearsay evidence (Criminal Procedure Rules, rr.34.2, 34.3)

- n. The prosecutor must serve any notice to introduce hearsay evidence within **28 days**.
o. The defendant must serve any notice to introduce hearsay evidence as soon as reasonably practicable.
p. Any application to determine an objection to hearsay evidence must be served within **14 days of service of the notice or evidence**.

Bad character evidence (Criminal Procedure Rules, rr.35.2, 35.3, 35.4)

- q. The prosecutor must serve any notice to introduce evidence of the defendant's bad character within **28 days**.
r. Any application to determine an objection to that notice must be served within **14 days after that**.
s. Any application to introduce evidence of a non-defendant's bad character must be served within **14 days of prosecution disclosure**.
t. Any notice of objection to that evidence must be served within **14 days after that**.

Previous sexual behaviour evidence (Criminal Procedure Rules, rr.36.2, 36.3, 36.4, 36.5)

- u. The defendant must serve any application for permission to introduce evidence of a complainant's previous sexual behaviour within **28 days of prosecution disclosure**.
v. The prosecutor must serve any representations in response within **14 days after that**.

Point of law (Criminal Procedure Rules, rr.3.3, 3.9)

- w. Any skeleton argument must be served at least **14 days before the trial**.*
x. Any skeleton argument in reply must be served within **7 days after that**.*

Trial readiness (Criminal Procedure Rules, rr.3.3, 3.9)

- y. The parties must certify readiness for trial at least **14 days before the trial**, confirming which witnesses will give evidence in person and the trial time estimate.*