

# Criminal case process

This flowchart sets out the process for an adult criminal case in the District or High Court under the Criminal Procedure Act 2011. Because every case is different not all cases will follow this path exactly.

Offences are categorised **1, 2, 3 or 4** by the seriousness of the offence. The offence categories determine what type of trial is available to the defendant.

- 1** Fine only offences. Judge-alone trial.
- 2** Offences punishable by a community-based sentence or less than two years in prison. Judge-alone trial.
- 3** Offences punishable by two years or more in prison unless listed in Schedule 1 of the Act. Judge-alone trial (or defendant can elect jury trial).
- 4** Offences listed in Schedule 1 of the Act. Jury trial in the High Court.



\* Time between 1st and 2nd appearance:

- Offence category 1 & 2, not later than 10 working days.
- Offence category 3 & 4, not later than 15 working days.

† Time between 2nd appearance and case review hearing:

- Not later than 30 working days: judge-alone trials.
- Not later than 45 working days: jury trials; judge-alone crown prosecutions.

## The new and changed terms introduced by the Criminal Procedure Act 2011.

### Defendant

The person charged with an offence.

### Charging document

Document filed by prosecution alleging an offence.

### CMM – case management memorandum

A memorandum setting out the particulars of a case, including any change in plea or charges, request for sentence indication, transfer to High Court (protocol offence), trial arrangements, disclosure and pre-trial applications. It is jointly completed by prosecution and defence counsel, and filed by the defence counsel.

### Case review hearing

A hearing at which any matters raised in the CMM (case management memorandum) can be addressed.

### Crown prosecution

A proceeding for an offence which must be prosecuted by the Crown.

### Judge-alone trial

A trial conducted by a judge or judicial officer, without a jury. Previously called a defended hearing. This is the default trial for category 1, 2 and 3 offences, although a defendant charged with a category 3 offence may elect jury trial.

### Jury trial

A trial conducted with a jury. This is the default trial for category 4, and by election for category 3.

### Offence categories

Offences are categorised 1–4 by the seriousness of the offence. This categorisation replaces summary/indictable.

### Pre-trial admissibility hearing

A hearing to determine the admissibility of evidence before a trial.

### Prosecutor

The person who is conducting the case against the defendant.

### Protocol offence

Offences that must always be considered for transfer to the High Court.

### TCM – trial callover memorandum

A memorandum setting out the trial management information, including length, pre-trial applications, witnesses and disclosure. It is filed individually, by both the prosecution and defence.

## Key points

- A guilty plea can be entered at any time.
- A sentence indication can be requested at any time before trial.
- Bail issues can be considered on application to the court.
- The court may proceed in the absence of the defendant.
- Appeals against decisions must be filed within 20 working days.
- If one co-defendant elects a jury trial, all will be held as jury trials.
- Multiple offences will follow the procedural track of most serious offence.
- Expert reports filed by defence 10 working days before trial.
- Category 4 cases are transferred to the High Court after the first appearance.
- A High Court judge will determine whether protocol offences should be heard in the District or High Court.