

Going to Court

(Criminal matters at the Magistrates Court)

How will I know that I must go to court?

If you have not been arrested, there are two ways you can be notified about going to court:

1. You are given a Court Hearing Notice; **or**
2. You are given a Summons.

1. You are given a Court Hearing Notice

A Court Hearing Notice is for less serious charges. If you receive a court hearing notice you can decide if you want to attend court or not.

Option 1: You decide not to attend court

If you choose to not attend court, you will need to tell the court you will not be coming on the date shown on the court hearing notice. You will also need to tell them whether you want to plead guilty or not guilty.

Guilty

If you plead guilty, then the matter will be heard without you being there. You will then be notified in writing of what you are sentenced.

Not Guilty

If you plead not guilty, then the court will notify you in writing of your trial date.

Option 2: You decide to attend court

If you choose to attend court, you will need to tell the court you will be coming on the date shown on the court hearing notice. You will also need to tell them whether you will be pleading guilty or not guilty.

Guilty

If you decide to attend court and plead guilty, you will then have an opportunity to tell the court anything you think they should know when they sentence you.

Not Guilty

If you decide to attend court and plead not guilty, then the court will give you another date for when you will need to come back to organise a trial date or attend a trial.

How to tell the court what you want to do:

You will need to complete the form given to you with the Court Hearing Notice. The form is called a 'Written Plea by Accused'. You will then need to submit the form to the court noted at the bottom of the form.

What if I don't respond?

If you do not respond to the Court Hearing Notice at all, the Court may -

- a) Go ahead without you and find you guilty. They will tell you of your sentence in writing; or
- b) Put your matter off to another day ('adjourn') and send you a Summons, which means you must go to court on another day; or
- c) Adjourn your matter and issue an arrest warrant.

2. You are given a Summons

A Summons is used for more serious charges.

You **MUST** attend court on the date written on the Summons. It is not an option for the court to hear the matter without you.

If you do not attend court on that date, the court will either –

- a) Adjourn the matter and issue an arrest warrant for you; or
- b) Adjourn the matter and issue another summons.

Deciding whether to plead guilty or not guilty

You can only make an informed decision about pleading guilty or not guilty after you have reviewed all of the documents relating to the charge and the evidence the police say they have against you.

Documents relating to the charge should be provided to you by the police. They include:

- The Prosecution Notice (PN) which is the details of the offence the police said you committed
- Statement of Material Facts (SOMF) which is the police's version of what they say happened
- Your Criminal Record

If you do not have these documents, you will need to request them from the police.

Adjournments

Sometimes court cases are not ready to go ahead on the date allocated by the court. For example, you may be waiting on more evidence to support your case, or the Police may need more time to get a witness statement. An adjournment will put off your case to a different day and give you a new date.

You will need to provide a valid reason about why your matter should be put off. A valid reason can be that you need more time to obtain legal advice.

Pleading guilty

This means you agree to what the police have said you did. Pleading guilty early on may impact your overall sentence and allow you to enter special programs depending on the offence. Multiple things can happen if you are found to be guilty to an offence, you may end up with a criminal record, pay a fine, and/or as a last resort, spend time in jail. There may also be unforeseen consequences such as restrictions on overseas travel.

Pleading not guilty

This means you do not agree to what the police have said you did. If you plead not guilty, you will have to go to trial, where you will argue your case. The Legal Aid Duty Lawyer will not be able to assist you at a trial.

Street Law highly recommends that you seek legal advice before entering a plea.

Where to get legal advice

See a Legal Aid Duty Lawyer

If you cannot afford a lawyer, you may be able to see a duty lawyer to get legal advice on the morning of your court appearance. Depending on your circumstances, how serious your case is, and how busy they are on the day, they may be able to tell you what to do next, or who else you can talk to for advice. Be sure to phone the court to check if one will be available to see you.

Legal Aid Infoline (1300 650 579)

Legal Aid WA gives information over the phone on everyday legal issues.

Community Legal Centres

A Community Legal Centre (CLC) may be able to help you. They may be able to help you get your documents from police, and they can provide you with legal advice. In some circumstances, some CLC's will assist you with court representation.

For more information on CLC's, visit <https://www.communitylaw.net/>

Pay for a lawyer

If you can afford a lawyer, you should call the Law Society to find one that is appropriate to you and your circumstance: (08) 9324 8600. Be sure to check the charges, some lawyers won't charge for the first meeting.

Other preparation for your hearing

Request an Interpreter

You may request an interpreter if you are deaf, hearing impaired, speech impaired and/or English is not your first language. If you will need an interpreter on the day you will need to contact the court in advance of your hearing.

Child minding

Court can be a very stressful environment, and it is not recommended that children are brought to a hearing. You may also be waiting for your turn for a very long time on the day. Make sure to organise someone to mind your children. It is important you can give the Court your attention so you understand everything going on.

What to do on the day of your hearing

Make sure to arrive early for your hearing to give you time to get through security. If you are late or do not show up a warrant may be issued for your arrest.

Find out what courtroom you need to be in - there may be a list on the wall or it will be on a screen.

Find the Court Orderly when you arrive to have your name checked off.

Wait to be called - you can wait inside the courtroom or outside in the foyer.

Before you go into the court room:

- Turn your phone off
- Dress neatly
- Take your hat and sunglasses off
- Do not eat or drink in Court
- Stand when you are spoken to or when you wish to speak
- Call the Magistrate or Judge 'your Honour'
- Do not interrupt or talk over anyone
- It is polite to bow towards the Magistrate or Judge when you enter and leave the courtroom.

What if I can't come to court that day?

I am unavailable on that date

If you have a good reason why you can't come to court on your allocated day, you will need to contact the court as soon as possible. The court will tell you how to have your hearing put on another day.

You must provide a genuine and reasonable excuse as to why you cannot attend, such as being booked in for surgery. Remember, lying to the court is a very serious crime.

Unforeseen circumstances

If you can't attend court due to illness, you will need to get a medical certificate which states the reason you cannot attend. Your illness or injury will need to be significant. If you are in hospital, you will need to notify hospital staff. Of your hearing and ask them to contact the court with a medical certificate on your behalf.

What if I miss Court?

If you miss your hearing, an arrest warrant may be issued.

What you should do:

1. Contact the Court find out what happened when your charge was heard in Court
2. The Court will be able to tell you what happened (for example, your case may have been put off to a new date, or a warrant may have been issued for your arrest)
3. If a warrant has been issued, you may be arrested by police at any time.
4. You should, as soon as possible, hand yourself in to the Court.

The information provided within this fact sheet is to be used as a general guide only. It is not legal advice. Unless we speak to you, we cannot guarantee the information provided on this website will apply to your situation. Please call 1800 752 992 if you require further assistance.

Information is correct as at February 2020.