



Have You Been Charged With An Offence?

Do you want to know more about the criminal justice system?

Here are some Frequently Asked Questions

What is an 'arrest'?

If a police officer places you under arrest, this means they can lawfully take you into custody. You must accompany them to the police station or watch house for processing.

Can you be charged without being physically 'arrested'?

Police can initiate proceedings against you by issuing you a Notice to Appear (NTA). A NTA is a document which outlines the following:-

- your name and date of birth;
- details of the offence that you have been charged with;
- details of when and where you will have to attend Court; and
- details of the arresting officer.

What if police ask me to participate in an interview?

If you are being questioned by a police officer in relation to a criminal offence, the officer will ask you if you wish to

participate in an interview. This interview will be digitally recorded. You have a number of rights including the:-

Right to remain silent:

This means that you do not have to answer any questions asked by the police officer other than your name, date of birth and address. If you do agree to answer any questions, this may be used later as evidence.

Right to communicate with a friend, relative or lawyer:

If you wish to speak to any of these people, questioning will be delayed for a reasonable time (usually up to two (2) hours).

You should always seek legal advice before you speak to police.

What happens after I have been arrested?

It is a question about whether you will be released on bail or brought before a court. If you are given bail, you will be released

back into the community, awaiting a court date. If you are brought before a court, the Magistrate will determine whether you will be given bail or remanded in custody.

What does the court process involve?

The matter will be listed for mention in the Magistrates Court. If you do not have legal representation you must appear at the mention otherwise a warrant may be issued for your arrest. At the first mention, you have the following options:-

- seek an adjournment in order to obtain legal advice or a copy of the brief material; or
- plead guilty to the charge/s. Before you plead guilty you should understand and accept the facts contained in the Police documents and receive legal advice.

What is a QP9?

The arresting officer will prepare a document called a 'QP9.' This is a document outlining the charge/s and a summary of the alleged circumstances of the offence/s. A copy of the QP9 can be requested from the Police Prosecutor.

What is 'brief material'?

If you wish to see the evidence obtained by the police, you can request a Brief of Evidence. You have two options:-

- you can request a Partial Brief, which means you want to obtain a copy of specific evidence. For example, CCTV footage or victim's statement; or
- you can request a Full Brief, which means you want to obtain a copy of all the evidence against you at that time.

What does pleading not guilty mean?

By pleading not guilty, you do not accept the circumstances of the alleged offence/s and you wish to contest them. This means the matter will be listed for trial. At the trial, you will have the opportunity to hear all the evidence

against you.

What does pleading guilty mean?

By pleading guilty, you are admitting guilt to the offence/s. This means you are accepting the circumstances in the QP9 or as negotiated by your legal representative. As a result of pleading guilty, you will be convicted of the offence/s and the Magistrate/Judge will decide what appropriate penalty should be imposed.

At trial, a jury or Magistrate will listen to the evidence and decide whether there is enough evidence that proves you are guilty of committing the offence, beyond a reasonable doubt.

What are some possible penalties?

The Magistrate/Judge will determine what penalty to impose by taking into account your antecedents, criminal history, facts of offending and comparative cases. Possible penalties include: -

Good Behavior Bond

This is a written promise that you will not commit another offence during the period of the order. If you do commit an offence, you will have to pay money to the Court.

Fine

The Magistrate may order that you pay a sum of money by a certain date. You can pay the Court directly or contact the State Penalties Enforcement Registry (SPER). In some cases, you may be eligible for a Fine Option Order. This means that, instead of paying a fine, you may be eligible for community service.

Restitution/Compensation

This is money paid to the victim for damage that they have suffered.

Community Service

This is unpaid work that the Court orders



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you to complete under the supervision of a corrections officer.

Probation

This is a type of order made by the Court, with your consent, that imposes a number of mandatory conditions. For example:-

- you cannot commit an offence throughout the period of the order;
- you must report to your nominated correctional officer;
- you cannot leave the State without permission;
- you must advise if you have changed your address; and

- you must participate in programs or counseling as required.

Imprisonment

This may be wholly or partly served as a suspended sentence. Eligible offenders may be set a:-

- a. Parole Release Date: This is a date set by the sentencing Court upon which offenders are released on parole.
- b. Parole Eligibility Date: This is a date upon which offenders become eligible to apply to the Parole Board for release.

For more information please contact a TASC solicitor on 07 4616 9700. Your discussion will be confidential. This factsheet is for general information purposes only. You should seek independent legal advice in respect to your specific circumstances.



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