
CLIENT INFORMATION · CRIMINAL LAW

EAGP

Early Appropriate Guilty Plea

GENERAL INFORMATION

The purpose of the EAGP process is to reduce the number of Accused persons taking their matter to Trial by encouraging negotiation with a long period during which the 25% discount remains available.

In the ordinary, non-EAGP system, if you plead guilty to a charge on the first day of Court, you are entitled to a 25% discount on your Sentence. The longer you take to plead guilty, the smaller your discount gets.

However, with the EAGP scheme, **your 25% discount can stay alive for several months, all the way up until you decide the matter must go to the District Court.** While your matter is still in the Local Court, even if it remains defended, then your entire discount is still intact. However, as soon as your matter is committed to the District Court for Trial, your discount begins to deteriorate.

From the very first day that your matter reaches the District Court, if it is still defended, your discount is reduced automatically from 25% down to **15%**. This can end up being equal to significant time in custody, or on good behaviour bond.

If your matter is successfully negotiated leading up to your Trial, then your discount will be in between 15% and 10%. If you enter a plea of guilty on the day of your Trial, then your discount will likely be closer to 5%, because the only time you have saved the Court is however long your Trial was expected to be.

WHEN DOES IT APPLY?

The EAGP process only applies to Strict Indictable matters (meaning matters that **must** end up in the District Court), or eligible matters which the ODPP decides they want to take to the District Court.

WHEN DOES IT BEGIN?

On your first day of Court in the EAGP scheme, you will not actually be allowed to enter a plea of guilty; the Court **presumes a plea of not guilty**, while maintaining the 25% discount. Your matter will be adjourned for Brief Status, and the EAGP process officially begins from there.

Given that it can be quite lengthy, the matter of Bail is ordinarily determined prior to the EAGP process.

THE EAGP PROCESS

TYPE OF LISTING	PURPOSE OF LISTING	WHAT HAPPENS NEXT
FIRST MENTION	The Court will order that the Police must serve the Brief of Evidence on both the Defence (your lawyers) and the ODPP (Office of the Director of Public Prosecutions). The matter will be listed for Brief Status.	The Police will work to create a logical, clear and complete Brief of Evidence which they will then serve on the Defence and the ODPP.
BRIEF STATUS (MENTION)	For the Magistrate to be informed whether the Police have successfully created and served a complete Brief of Evidence on the Defence and the ODPP. If a Brief has not been served (it is not “compliant”), then the Police will seek an adjournment to the Brief Status Mention to be allowed further time. If the Brief has been served, the Magistrate will list the matter for Charge Certification in 6 weeks.	If the Brief had not been served, and an adjournment was granted, Police will continue to form the Brief and then serve it. If the Brief had been served, and the matter was listed for Charge Certification, the ODPP must now review the Brief and determine whether the Police have laid all the correct charges. They may remove some charges, they may add some charges. The ODPP must then provide the Defence and the Court a document called a Charge Certificate.
CHARGE CERTIFICATION (MENTION)	For the Court to be informed whether a Charge Certificate has been completed and provided to the Court and the Defence. If a Charge Certificate is ready, the matter will be adjourned for 8 weeks for Committal. Otherwise, the ODPP will seek an adjournment.	If a Charge Certificate was not ready, the Court ordered an adjournment, the ODPP will be required to continue reviewing the Brief until they are able to provide a Charge Certificate. If the Court adjourned the matter for Committal, then the Defence and the ODPP are now required to have something called a Case Conference.
COMMITTAL (CASE CONFERENCE MENTION)	For the Court to officially send the matter to the District Court. If negotiations have been successful, a plea of guilty is entered to one or more charges and the matter is listed in the District Court for Mention with the purpose of getting a Sentence date. If negotiations have been unsuccessful, the matter will be listed in the District Court for Mention with the purpose of getting a Trial date.	If the matter is adjourned to allow more time for negotiations, then parties will be required to continue making and reviewing offers of resolution. If the matter is adjourned to the District Court, i.e. <i>committed</i>, then parties must simply wait for the next listing in the District Court.

TYPE OF LISTING	PURPOSE OF LISTING	WHAT HAPPENS NEXT
DISTRICT COURT FIRST MENTION	If the matter was resolved, then the Court will simply pick a date which is suitable to all parties and list the matter for Sentence Hearing. This may be a couple of months in the future. If the matter was not resolved, then the Court will set the matter for Trial. This may be over a year into the future. On this date, you may also be arraigned (see FAQs).	You and your legal team must now prepare for Sentence or Trial. Preparing for Sentence may include writing a letter to the Court, seeing a psychologist and having a report prepared, or obtaining references from people who know you. Preparing for Trial may include reviewing the Brief of Evidence and practising giving evidence (going in the box) at the coming Trial.
TRIAL	For a jury to view all the evidence which the prosecution wishes to present, hearing arguments from both sides, and then delivering a verdict of Guilty or Not Guilty. Trials can take between a few days to several weeks. At trial, in addition to your solicitor, you are likely to be represented by a Barrister, also known as Counsel.	At the conclusion of your trial, if you are found Not Guilty of all offences, your matter is now concluded, and you are free to go. If you are found Guilty of one or more offences, then your matter will be adjourned for Sentence Hearing.
SENTENCE HEARING	A Sentence Hearing is for the purpose of a Sentencing Magistrate or Judge hearing all the arguments from both sides for what penalty you should receive. The ODPP will argue for why you should receive a harsher penalty, while your lawyer will argue for why the Court should be more lenient with you.	If the Sentencing Magistrate or Judge decides to announce the penalty (Judgement) on the same day of your Sentence Hearing, then this will be the final listing of your matter. However, if they decide to take some time to reflect on the arguments they have heard, then your matter will be adjourned for Judgement.
JUDGEMENT	A Judgement is simply the announcing (also known as “handing down”) of the penalty you will receive by the Sentencing Magistrate or District Court Judge.	This is the final listing for your matter.

FREQUENTLY ASKED QUESTIONS

Who are the ODPP?

The ODPP (or DPP) is the Office of the Director of Public Prosecutions. It is another office of prosecutors which operate at a level above the NSW Police, handling more serious and complicated matters.

Unlike the Police, they are not composed of officers, but of qualified lawyers who are more competent than Police at identifying strengths and flaws in a case.

What is the Brief of Evidence?

The Brief of Evidence is simply the collection of all material which the prosecution believes contributes to proving your guilt of the offences charged in Court.

It may contain statements from witnesses or Police, photographs, telephone data, forensic evidence such as DNA or fingerprint evidence, or electronic evidence such as CCTV footage, Body Worn Video, mobile phone records, or anything else.

What is a Charge Certificate?

A Charge Certificate is simply a document which lists out your charges. It is different to your Court Attendance Notice because it is provided by the ODPP instead of the Police.

The Charge Certificate reflects all the offences which the ODPP believe have a decent chance at being proven beyond reasonable doubt. As such, the ODPP cannot provide a Charge Certificate until they have reviewed the Brief of Evidence.

What is a Case Conference?

A Case Conference is a meeting between the Defence and the ODPP Solicitor and Barrister (sometimes called the Crown) who are involved in your case.

It is a chance for both sides to see whether there is a chance for a successful negotiation. It is mandated by law that a case conference is held, even if there is little chance for a resolution. For this reason, some last only a couple of minutes.

What is Committal?

Committal is a word used by the Courts to describe moving from one Court to another. Cases are generally described as being “committed” from the Local Court to the District Court.

The Court requires a Case Conference Certificate to be provided which will include details of all offers made during negotiations, and also how it is agreed that the charges will proceed at the Committal listing.

What is an Arraignment?

An arraignment is the formal entering of a plea in response to charges against you in Court. It is often done on the First Mention day in the District Court.

The Judge or their Associate will formally read aloud the charges against you, and you must respond either Guilty or Not Guilty.