

Going to Court – Sentencing

This free eBook provides guidance on how to get ready for the sentencing process.

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This eBook refers generally to sentencing in the New Zealand District Courts. Different jurisdictions have different rules. In all cases a person going to Court should seek competent legal advice. This eBook does not provide legal advice nor does it replace the legal advice a person should get from their own lawyer.

GOING TO COURT - SENTENCING

- 1 Get advice
- 2 Prepare
- 3 Attitude
- 4 Dress Sense
- 5 Making it right early
- 6 Reflect and take action now
- 7 Avoid Strife
- 8 Put your case forward

1 GET LEGAL ADVICE

Either:

- Engage a lawyer privately or
- Get legal aid (in some cases a person can have a lawyer or a friend appointed by the Court to assist them)

Do this well before your sentencing day.

If you do not get your own lawyer there is usually a Duty Solicitor at Court who may be able to provide some assistance.

Be aware though that using a Duty Solicitor is not the same as your own lawyer, their role is limited and they may be unable to devote as much time to your case as you might like.

If you choose to represent yourself make sure you file any paperwork that you intend relying on and have told the Court in advance of any special needs you might have such as (but not limited to):

- will you need an interpreter?
- do you have mobility or health issues?
- are you intending to ask other persons to support you in Court or speak to the Court?

2 PREPARE

It is your responsibility to be ready.

Have all your paper work organised and available. If there is something important that you need for sentencing and it is not ready – tell your lawyer early. If it is important the Court may delay sentencing.

If you are going to be disqualified, do not drive to Court.

If imprisonment is a risk, make sure that you have made all necessary arrangements ahead of sentencing.

Make sure you understand what will happen on the day and what the process will be for you.

3 ATTITUDE

Check this in at the door. No one gets a better sentence by being disrespectful, abusive, rude, pointlessly argumentative, generally unreasonable, unempathetic or by trying to be smart. If you have points you need to make then do so politely. Take advice from your lawyer.

4 DRESS SENSE

Dress smartly and appropriately.

5 MAKING IT RIGHT EARLY

IMPORTANT – If you are prohibited by bail conditions, Court orders, trespass notices or other lawfully imposed restrictions from having contact with certain people or going to certain locations, your lawyer, the Police and the Court can help you with the things mentioned below.

After taking legal advice:

- the general rule is - if you are in the wrong, try and make it right as best you can, as early as you can.
- if you intend paying reparation, sort that out well before you go to Court and keep receipts. Do not leave it to see what happens – that shows a lack of empathy and laziness. Check the figures. Do you accept them? If not, why not? Be precise - be reasonable.
- if an apology is called for then follow your legal advice about how and when you can go about making it.

Often the Court will consider a restorative justice referral so that you can have the chance to apologise. Ask about this process.

6 REFLECT AND TAKE ACTION NOW

Why did this happen? If you are pleading guilty or if you have been found guilty then you are criminally culpable for the offending.

What are you going to do about it so that it does not happen again? What are the issues that you need to address? If you need help, ask for it. Do something about it.

7 AVOID STRIFE

Do not make life harder for yourself on what will be a difficult day. Be on time. Don't wander off. Do discuss your case with your lawyer early. Do provide your lawyer with adequate instructions.

Co-operate in the preparation of any pre-sentence reports and/or restorative justice processes that the Court has ordered.

What do you want to submit to mitigate sentence? Be careful not to try and defend the indefensible. Will you be better off if you make timely and appropriate concessions? Are the things you want to submit sensible, reasonable and appropriate?

Take advice from your lawyer.

8 PUT YOUR CASE FORWARD

Speak up. If something needs to be said or if something is not right, tell your lawyer and the Judge.

CHECKLIST

Have you	Yes	No
1 taken steps to make amends	<input type="checkbox"/>	<input type="checkbox"/>
2 got all your paper work in order	<input type="checkbox"/>	<input type="checkbox"/>
3 identified problem issues	<input type="checkbox"/>	<input type="checkbox"/>
4 done something about them	<input type="checkbox"/>	<input type="checkbox"/>
5 read all the paperwork	<input type="checkbox"/>	<input type="checkbox"/>
6 pointed out any disputes	<input type="checkbox"/>	<input type="checkbox"/>
7 given your lawyer instructions	<input type="checkbox"/>	<input type="checkbox"/>

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Generally a solicitor's referral will be required before a new brief can be considered. Appointments by arrangement.

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