

SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY

Practice Direction 2 of 2018

Criminal Case Conferences

The Supreme Court will introduce a scheme of Criminal Case Conferences (“Conferences”) in matters which have been committed for trial. This will commence late August 2018. The working of the scheme will be reviewed after 6 months.

The objectives of establishing this more formal mechanism of conferencing are to:

- Require the early consideration by both parties of the charges and the available evidence with a view to identifying strengths and weaknesses in their cases;
- make better use of Court resources while acknowledging the public and private interests in the administration of the criminal law;
- encourage earlier, structured and more meaningful negotiations;
- reduce the issues in dispute at trial;
- reduce the number of witnesses required at the trial;
- identify any offences to which the accused is willing to plead guilty in satisfaction of other offences; and
- record the outcome of the Conference so that it is available to the sentencing Court.

This Practice Direction sets out the practice and procedures to be followed in the conduct of Conferences.

Coverage

This Practice Direction applies to all matters that have been committed for trial and have not been allocated a trial date as at 20 August 2018, except in the following circumstances:

- (a) the accused has already been arraigned and entered guilty pleas to all counts on the indictment, or in satisfaction of all counts on the indictment;
- (b) the matter has otherwise resolved without the need for a trial;
- (c) the accused has been found unfit to plead; or
- (d) the accused is unrepresented.

Procedure

1. The Registrar will refer the matter to a Conference after the committal documents and the defence questionnaire have been filed.
2. The prosecution's brief of evidence must be served as directed by the Registrar.
3. The Convener for the Conferences will be a Judge who will not be the trial or sentencing Judge.
4. Parties need not robe for the Conference.
5. Conferences will usually be conducted in a courtroom, without recording facilities.
6. Conferences are to be scheduled for a period of two hours to allow careful consideration of the issues in the trial, the evidence to support the elements of the offences and the manner in which evidence can be taken at the trial and its presentation to the jury.
7. The accused person will be required to be present in the court precincts. If bail conditions would not permit this then those conditions may be modified for the purposes of the Conference. If the accused is in custody, a warrant will issue for that accused to be brought to the court to be available in the cells or, alternatively arrangements will be made for telephone or audio-visual link from the AMC. In general, the accused person will not normally be required in the courtroom during the Conference, but within easy reach to quickly obtain instructions.
8. Where more than one accused is the subject of the indictment, the Conference Judge will determine the procedure at the Conference or determine that a separate Conference or separate Conferences will be held.
9. Counsel must attend the Conference.
10. Attending counsel must be familiar with the prosecution's brief of evidence and have instructions, or the capacity to immediately obtain instructions, from the accused about all matters raised at the conference.
11. The prosecutor attending the conference must have the authority to commit to any resolution proposed.
12. Where necessary, the prosecution will consult with victims prior to the Conference. If it is necessary for the prosecution to consult further with victims prior to

committing to the resolution, such consultation must occur within 2 business days or such other time as the Conference Judge allows.

13. Discussions and negotiations concerning offers and ancillary matters made at the Conferences are confidential, except as recorded in the Form attached to this Practice Note. The Form will be completed and sealed by the Conference Judge and opened only on the further order of a Judge of the Court.
14. The Conference Judge may make such orders, directions and notations regarding non-confidential matters that arise incidentally for the proper conduct of the proceedings as may be convenient.
15. The admissibility of proposed tendency or coincidence evidence will not be determined at the Conference, but any proposal to lead tendency or coincidence evidence may inform Conference discussions.
16. The first round of Conferences will be scheduled in the 2 weeks commencing **29 October 2018 and 5 November 2018.**
17. The criminal call-over scheduled on 29 October 2018 has been moved back to **Thursday 15 November 2018 at 9.30am** to accommodate the first round of Conferences.

By direction of the Judges



Annie Glover

Registrar

29 August 2018

SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY

Criminal Case Conference Form

The Queen v [insert]

[file number]

Judge: _____

Date: _____

Crown: _____

Accused: _____

Counsel: _____

Counsel: _____

Instructing: _____

Instructing: _____

Accused present: _____

In custody: _____

1. The offence or offences with which the accused person had been indicted before the case conference:

2. Any offers by the accused person to plead guilty to an offence specified in the indictment:

3. Any offers by the accused person to plead guilty to a different offence or offences including a rolled up plea:

4. Any offers by the prosecution to the accused person to accept a guilty plea or pleas to an offence or offences specified in the indictment as a full discharge of that indictment or alternatively to accept a rolled up plea wholly or partly in discharge of that indictment:

5. Whether the accused person or prosecution has accepted or rejected any such offers:

6. If an offer made to or by the accused person to plead guilty to an offence has been accepted--details of the agreed facts on the basis of which the accused person is pleading guilty and details of the facts (if any) in dispute:

7. Whether or not the prosecutor has notified the accused person of an intention to make a submission to the sentencing court that the discount for a guilty plea should not apply or should be reduced in relation to a particular offence with which the accused person is charged:

8. Any refusal by an accused person to participate in the Conference:

9. Any other matter, arising out of the Conference, which a party wishes to specifically record such as:
- (a) the accused person's consent to measures to facilitate the course of the trial;
 - (b) admissions made;
 - (c) issues not disputed;
 - (d) witnesses not required;
 - (e) or any other matter relevant to the Crimes (Sentencing) Act 2005:

Estimated time saved in the trial from any agreements in 9. above:

Conference commenced:

Conference finished: