

SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY

PRACTICE DIRECTION 2 OF 2018 CRIMINAL CASE CONFERENCES

1. The Supreme Court has a scheme of Criminal Case Conferences (**Conferences**) in matters which have been committed for trial.
2. The objectives of establishing this more formal mechanism of conferencing are to:
 - a. 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;
 - b. Make better use of Court resources while acknowledging the public and private interests in the administration of the criminal law;
 - c. Encourage earlier, structured and more meaningful negotiations;
 - d. Reduce the issues in dispute at trial;
 - e. Identify any offences to which the accused is willing to plead guilty in satisfaction of other offences; and
 - f. Record the outcome of the Conference so that it is available to the sentencing Court.
3. This Practice Direction sets out the practice and procedures to be followed in the conduct of Conferences.

Coverage

4. This Practice Direction applies to all matters that have been committed for trial except in the following circumstances:
 - a. The matter has resolved without the need for a trial;
 - b. The accused has been found unfit to plead; or
 - c. The accused is unrepresented.

Procedure

5. The procedure for a Conference is as follows:
 - a. The Registrar will refer the matter to a Conference after the committal documents and the defence questionnaire have been filed.
 - b. The prosecution's brief of evidence must be served as directed by the Registrar.
 - c. The Convener for the Conference will be a Judge who will not be the trial or sentencing Judge.

- d. The Conference will be listed in Hearing Room 3 unless the Chief Justice otherwise directs.
- e. Parties need not robe for the Conference.
- f. Conferences will not be recorded.
- g. Conferences are to be scheduled with sufficient time 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.
- h. 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 hearing room during the Conference, but within easy reach to quickly obtain instructions.
- i. Where more than one accused is the subject of the indictment, the Conference will include all accused, unless the Registrar considers it appropriate to order that separate Conferences take place.
- j. Counsel must attend the Conference.
- k. 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.
- l. Counsel are expected to attend the Conference having:
 - i. considered what evidence is not in dispute; and
 - ii. obtained instructions to make relevant admissions to obviate the need to call evidence that is not in dispute.
- m. The prosecutor attending the Conference must have the authority to commit to any resolution proposed.
- n. The prosecutor and Counsel are expected to have discussed the matter prior to the Conference, to ensure the Conference can proceed without delay.
- o. Where a matter cannot be resolved at the Conference, but is otherwise progressing towards resolution, the parties are to advise the Conference Judge and Registrar as to when they expect a resolution could be achieved.
- p. Where agreement is reached as to the charges an accused will plead guilty to, the Conference Judge will terminate the conference and adjourn the matter to a courtroom, either on the day of the Conference or shortly thereafter, so that the accused can be arraigned and enter pleas of guilty. Counsel will robe for this appearance unless it is impracticable to do so.
- q. Discussions and negotiations concerning offers and ancillary matters made at the Conference are confidential, except as recorded in the Form which is Attachment 1

to this Practice Direction. The Form will be completed and sealed by the Conference Judge and opened only on the further order of a Judge of the Court.

- r. 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.
- s. 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.

By direction of the Judges.



Registrar

Amendment History

29 August 2018:	Original Practice Direction.
18 September 2019:	This Practice Direction replaces the version of PD 2 of 2018 that was issued on 29 August 2019.
29 April 2021:	This Practice Direction replaces the version of PD 2 of 2018 that was issued on 18 September 2019.
6 December 2021:	This Practice Direction replaces the version of PD 2 of 2018 that was issued on 29 April 2021.

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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. 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: _____