

Criminal case process

This flowchart sets out the process for an adult criminal case in the District or High Court under the Criminal Procedure Act 2011. Because every case is different not all cases will follow this path exactly.

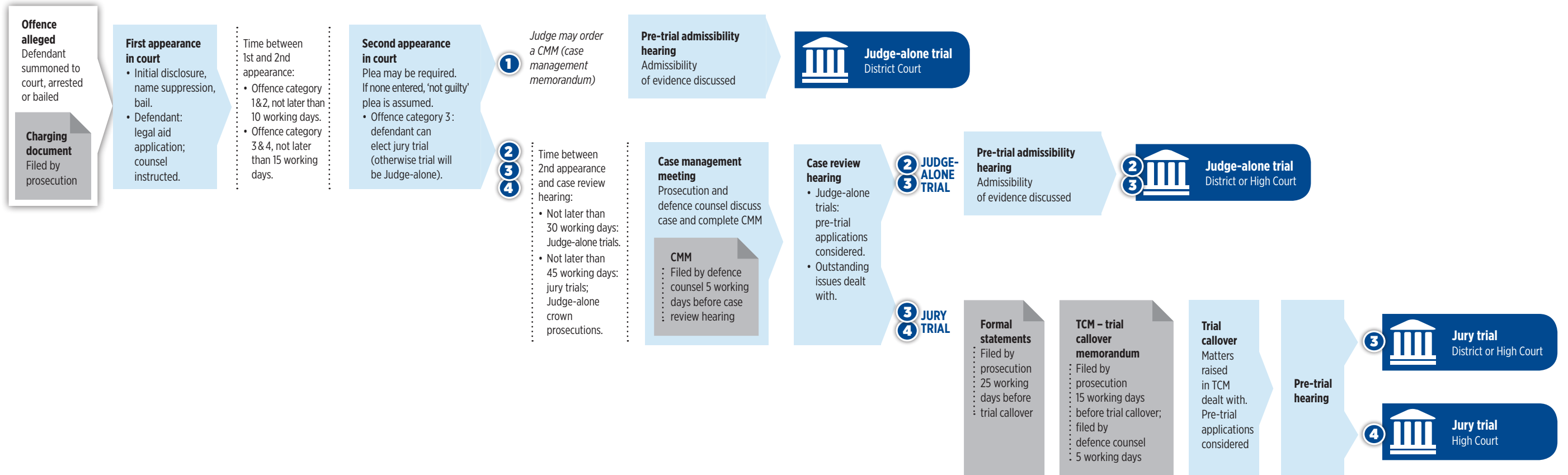
Offences are categorised 1, 2, 3 or 4 by the seriousness of the offence. The offence categories determine what type of trial is available to the defendant.

1 Fine only offences. Judge-alone trial.

2 Offences punishable by a community-based sentence or less than two years in prison. Judge-alone trial.

3 Offences punishable by two years or more in prison unless listed in Schedule 1 of the Act. Judge-alone trial (or defendant can elect jury trial).

4 Offences listed in Schedule 1 of the Act. Jury trial in the High Court.



A guilty plea can be entered at any time.

A sentence indication can be requested at any time before trial.

Bail issues can be considered on application to the court.

The court may proceed in the absence of the defendant.

Appeals against decisions must be filed within 20 working days.

If one co-defendant elects a jury trial, all defendants will be tried by jury.

Multiple offences will follow the procedural track of most serious offence.

Expert reports filed by defence 10 working days before trial.

Category 4 cases are transferred to the High Court after the first appearance.

A High Court judge will determine whether protocol offences should be heard in the District or High Court.

Criminal procedure at a glance

Glossary

The Criminal Procedure Act 2011 introduces the most significant changes to criminal procedure in 50 years. It applies to all charges filed from 1 July 2013.

The changes will require a greater commitment from everyone involved in a case to prepare earlier, to resolve more outside of the courtroom and to progress matters within specified timeframes.

The Act will benefit defence counsel and their clients

EARLIER PREPARATION

Defence counsel will have earlier disclosure than previously. Under the Act, the prosecution must provide initial disclosure by the defendant's first court appearance (or a date when it will be available).

MEANINGFUL EVENTS

There will be more certainty about when events will occur. Lawyers will spend less time waiting at court for cases to come up and defendants will only need to go to court when required to progress a case.

EVIDENTIAL SUFFICIENCY

To ensure charges are appropriate and encourage earlier resolution of cases, prosecution have to consider the evidential sufficiency of each charge. Pre-trial admissibility hearings will mean important matters can be resolved before a trial.

The new and changed terms introduced by the Criminal Procedure Act 2011.

Defendant

The person charged with an offence.

Charging document

Document filed by prosecution alleging an offence.

CMM – case management memorandum

A memorandum setting out the particulars of a case, including any change in plea or charges, request for sentence indication, transfer to High Court (protocol offence), trial arrangements, disclosure and pre-trial applications. It is jointly completed by prosecution and defence counsel, and filed by the defence counsel.

Case review hearing

A hearing at which any matters raised in the CMM (case management memorandum) can be addressed.

Crown prosecution

A proceeding for an offence which must be prosecuted by the Crown.

Judge-alone trial

A trial conducted by a judge or judicial officer, without a jury. *Previously called a defended hearing.* This is the default trial for category 1, 2 and 3 offences, although a defendant charged with a category 3 offence may elect jury trial.

Jury trial

A trial conducted with a jury. This is the default trial for category 4, and by election for category 3.

Offence categories

Offences are categorised 1–4 by the seriousness of the offence. *This categorisation replaces summary/indictable.*

Pre-trial admissibility hearing

A hearing to determine the admissibility of evidence before a trial.

Prosecutor

The person who is conducting the case against the defendant.

Protocol offence

Offences that must always be considered for transfer to the High Court.

TCM – trial callover memorandum

A memorandum setting out the trial management information, including length, pre-trial applications, witnesses and disclosure. It is filed individually, by both the prosecution and defence.