

Going to court

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611, drop into our Hobart or Launceston office (no appointment necessary) or use the Legal Talk chat function on our website. We are open Monday to Friday, 9am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

Going to court can be stressful. Be prepared and get advice early. Below is information to help you if you need to go to court.

Why should I get legal advice?

You should get legal advice so that you understand your options. You can speak directly to a lawyer for free by calling our free legal advice line on 1300 366 611 during business hours. Getting legal advice early means that you will have time to prepare.

Do I have to go to court?

Yes, you must turn up on the right day, time and at the right court location. If you were bailed to appear and do not turn up, you may face a further charge of breach of bail. If you were summonsed to appear and do not turn up, you may face a further charge of fail to appear. Whether you were bailed or summonsed to appear, if you fail to turn up the court may also issue a warrant for your arrest.

What if I can't get to court and need to put it off?

As soon as you know that you cannot attend court, you should contact [Police Prosecution](#). If they accept your explanation for why you cannot appear at court and they agree to moving your court appearance to another date, you can lodge a [Consent to Adjournment Form](#) with the court. You should make arrangements with Police Prosecution in relation to them signing this form, before you lodge it with the court.

What if there is a mistake on the complaint (the document outlining your charges)?

Simple mistakes such as a 'typo' can be fixed by the court, if Prosecution acknowledge the mistake. Sometimes Prosecution will ask the court to allow them time to correct the mistake before the matter recommences. If Prosecution do not acknowledge the mistake or it is a mistake that Prosecution cannot fix, you should seek legal advice.

Should I plead guilty, not guilty or ask for an adjournment?

Before making this decision, you should obtain a copy of the Prosecution's case against you, this is called disclosure. To obtain a copy of the disclosure, you will need to complete a [request for disclosure form](#).

How can I find out Prosecution's case against me?

Prosecution must give you effective disclosure, which is all the evidence they have to prove their case. Once you have this information you can make an informed decision about whether you are pleading guilty or not guilty.

Brief disclosure is free and includes the Complaint, Facts for the Prosecutor, your Prior Convictions (if you have any) and if you participated in an interview the notes, recording or transcript of that interview.

If you intend to plead not guilty, then you should make a request for full disclosure, even though there is a fee. Full disclosure includes witness statements, and any other evidence Prosecution wish to rely upon.

Carefully read all the information provided to you, because it is the Prosecution's case against you. Prosecution must prove their case beyond reasonable doubt. This is because you are presumed to be innocent until proven guilty.

You may have evidence that shows Prosecution will not be able to prove their case. For example, you may have evidence that proves you did not do what the Prosecution allege.

What if I only want to plead guilty to some charges and not guilty to others?

It may be possible to negotiate with Prosecution. For example, Prosecution may withdraw a charge(s) provided you plead guilty to another charge(s). A lawyer can advise you on a potential outcome and how to go about negotiating.

How should I prepare for the first time I go to court?

Dress as if you were going to a job interview. Make sure you have the correct details, time, date and the address of the courthouse. You can check that you have the correct details by visiting [Magistrates Court – Court Lists](#).

Arrive 15 minutes earlier than stated on your summons/bail document. To make sure you pass through the security check, obey the court staff's instructions. Take only the bags you need, avoid taking children, if possible, avoid carrying any metal objects and of course do not take weapons. Check the court lists to find out which court room your case will be heard in. Make sure you wait nearby so you will hear your name being called.

If you need help, ask the reception or security staff. If you wish to speak to the Duty Lawyer ask reception staff to point you in the direction of the duty lawyer on that day.

Who else will be in the room?

When you enter the room there will be a Magistrate, Police Prosecutor, Security Officer, Court Clerk, members of the public and sometimes journalists called Court Reporters.

Your name will be read out and you need to stand facing the Magistrate. The Court Clerk will read out the charges and will ask you what you plead; guilty or not guilty. If you are still unsure if you should plead guilty or not guilty, ask the Magistrate if you can have your case postponed to a later date by seeking an adjournment. On your second appearance the Magistrate may expect you to plead guilty or not guilty to the charge(s).

What is an 'Adjournment'?

An adjournment is when your matter is postponed to a later date. You only have a right to an adjournment on the first time you go to court. To request an adjournment at your first appearance simply say, "Your Honour, this is my first appearance on this charge(s), and I seek an adjournment".

You can learn more about adjournment by clicking on the relate resource button.

Can I have a support person with me?

Whilst you can have a support person with you, they must not interfere with the proceedings. Like you, they must not record or take photographs/video without specific permission from the Magistrate. A support person cannot stand for you or be called as a witness because witnesses must stay out of the court room until they are called.

Can I get it over and done with the first time I go to court?

If you plead guilty, the Magistrate may deal with the matter straight away and decide on a sentence.

The court clerk will read out the charges. Again, make sure the charges are what you expected before you enter your plea. The Magistrate will then give you an opportunity to enter a plea in mitigation, make sure you have this ready before you go to court. A plea in mitigation should help you explain why the sentence should be less in your particular circumstances. See our Self Help guide on preparing a **plea in mitigation**.

If you plead not guilty to the charge or charges the Magistrate will need time to hear your case properly. The Magistrate will require you to return to court and will provide the date and time, this is normally called a mention date.

It is important to remember that if you plead guilty but seem to have a defence, the Magistrate will not accept your plea of guilty. You will be told to seek legal advice. The Magistrate will then set a date for you to return to court.

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.