



FROM THE CHIEF JUDGES OF THE HIGH AND DISTRICT COURTS OF NEW ZEALAND
Na ngā Kaiwhakawā Matua o te Kōti Mātua me te Kōti-a-Rohe o Aotearoa

5 October 2017

Criminal Procedure Act 2011: arrangements for sentence indications for protocol offences

The Criminal Procedure Act 2011 is silent on the timing of sentence indications in relation to court of trial protocol cases. On 23 May 2014 the Chief Judges announced that sentence indications should be given in the court in which the case was to be heard. In practical terms this meant that indications had to occur after the case review hearing.

After consultation with the Executive Judges of both courts about the operation of that arrangement we have concluded that the arrangement should change as it can have the unintended effect of lengthening time to disposal for some cases.

From now the practice will be that the District Court will retain the case file and provide a sentence indication where:

- A sentence indication is sought for a protocol offence or for any group of charges that includes a protocol offence; and
- No order has been made under s 68 of the Criminal Procedure Act.

If the sentence indication is then accepted, the District Court will sentence the defendant on the basis of the indication given. There will be no need to engage the protocol process.

There will be two exceptions to this practice:

- Where timeliness is an issue.
A District Court judge may direct the file and request for a sentence indication be referred to the High Court accompanied by the usual protocol recommendation as well as a note identifying the delay until the next available date for a sentence indication in the District Court; or
- Where the nature of the alleged offending and defendant's history is such that Preventive Detention might be imposed or where the District Court judge might otherwise decline jurisdiction.

A District Court judge will refer the application for an indication to the High Court so the sentence indication is given by the most appropriate court.

The amended practice will begin immediately.

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