



**Te Tari Ture  
o te Karauna**  
Crown Law

---

## **Case management**

## **Te whakahaere kēhi**

*As at 1 January 2025*

---

*All guidelines should be read alongside the Principal guideline | te Aratohu mātāmua*

## **Introduction | Ngā kupu whakataki**

1. Prosecutors should proactively manage cases after charges have been filed to ensure they can be heard and dealt with as expeditiously as possible.

## **Scope | Te korahi**

2. This guideline does not cover all aspects of the court process. For example, there are specific guidelines about disclosure, bail and sentencing. There is also a separate guideline about cases in which the defendant is self-represented.

## **Guideline | Te aratohu**

### **General**

3. At all stages of a prosecution, the prosecutor has a duty to assist the court. While occasionally that may involve the prosecutor acting as a contradictor at the court's request, prosecutors should not adopt a default position of opposing any application made by a defendant. Each application should be assessed on its merits and should only be opposed if the prosecutor considers the applicable legal test is not met.
4. Prosecutors should only make submissions, whether in support of their own application or in opposition to a defence application, which are supported by the available evidence and the applicable law.
5. The duty to assist the court extends to assisting to ensure the timely and efficient administration of justice. That means, for example, that prosecutors should ensure matters are prepared for trial as quickly as possible and identify any issues which require judicial intervention at an early stage.
6. Prosecutors should be aware that costs awards may be made in the event of a failure to comply with a procedural obligation (such as disclosure obligations or the procedural requirements in the Criminal Procedure Act 2011 and associated Rules). Such awards can be made against the prosecutor personally if they are responsible for the failure. For the avoidance of doubt, prosecutors are not indemnified by the Solicitor-General or by Crown Law in respect of any costs award made against them, whether under the Criminal Procedure Act or the Costs in Criminal Cases Act 1967.

### **Prior to the Case Review Hearing**

7. Prosecutors should use their best efforts to engage in case management discussions with defence counsel for the purpose of completing the Case Management Memorandum (CMM).
8. Where a CMM has not been filed, prosecutors should not file one unilaterally. However, in some cases it may be useful to provide the court with a separate memorandum outlining the matters which require judicial intervention from the prosecution's perspective, and advising the court of the efforts made to engage with defence counsel.

9. Any agreement reached between a prosecutor and defence counsel in the course of case management discussions is generally binding on future prosecutors working on the file, unless there has been a material change in circumstances. Once an agreement has been communicated to the court, it should be departed from only in exceptional circumstances. This must be approved by the Crown Solicitor personally (in Crown prosecutions) or the applicable senior manager (in non-Crown prosecutions).

#### *Commentary*

An example of an exceptional circumstance is where significant new information has come to light since the agreement was reached.

### **Prior to trial**

10. Prosecutors should carefully consider whether and what pre-trial applications are necessary. Crown Solicitors and prosecuting agencies are expected to have effective quality control mechanisms to ensure all such applications are justified, properly supported by relevant law and evidence, and are filed in a timely manner.
11. Prosecutors do not need to file a pre-trial application for an order that evidence they propose to adduce is admissible unless they consider there is an arguable objection to the admissibility of that evidence. An unparticularised objection to the evidence does not warrant the filing of an application.
12. Where there are clear grounds for objecting to the evidence, the prosecutor should consider filing an application for admissibility orders even if the defendant has not objected to the evidence. Doing so may avoid an application having to be filed close to trial (because an objection is notified late) or admissibility of the evidence becoming an issue during the trial or in a post-trial appeal.
13. Trials should generally take place in the court in which the charges were initially filed (or the nearest jury trial court, if the defendant elects a jury trial). Prosecutors should only apply for a matter to be transferred to a different court in exceptional circumstances.

### **Proceeding to trial in the absence of the defendant**

14. Prosecutors should not ask the court to proceed with a trial in the absence of the defendant for a Category 2, 3 or 4 offence unless it is apparent that the defendant has deliberately chosen not to attend their trial. Even where that is clear, prosecutors should carefully consider whether proceeding in the defendant's absence is in the interests of justice, by reference to the factors in s 121 of the Criminal Procedure Act. Proceeding without the defendant will only be in the interests of justice if a fair trial is still possible.

#### *Commentary*

Examples of cases in which it may be appropriate for the prosecutor to seek to proceed in the absence of the defendant for category 2, 3 or 4 offences include:

- proceedings that involve particularly traumatic offending such as sexual or violent offending, where it is likely to be especially distressing for victims and their whānau if the trial is delayed;

- proceedings that involve multiple co-defendants who have attended and want the trial to proceed; and/or
- proceedings where the defendant's counsel has been briefed and is able to represent their interests.

## **Other relevant guidelines | Ētahi atu aratohu e whai pānga ana**

Decisions to prosecute | Te whakatau ki te aru

The relationship between prosecutors and investigators | Te hononga i waenga i te kaiaru me te kaitūhura

Self-represented defendants | Te kaiwawao ka whakakanohi i a ia anō