



Taking your traffic fine to Court

This factsheet explains your options if you elect to take your traffic fine to court. You should get some legal advice before electing to take your traffic fine to court.

Court Procedure

When you elect to take a matter to Court, you will receive a Court Attendance Notice (CAN) with a date to attend court. This attendance is called the *first mention*.

At the first mention, tell the Magistrate that you are representing yourself. You will be asked if you plead Guilty or Not Guilty. Tell the Magistrate what you are pleading.

Pleading Not Guilty

Pleading Not Guilty means you want to defend the alleged offence and argue that you did not commit the offence. If you plead Not Guilty you will be given a date to come back to court for the hearing. The hearing will not be on the first mention date.

Pleading Guilty

Pleading Guilty means you are admitting that you committed the offence. However, in your "plea" you can ask for leniency and provide reasons as to why you committed the offence. These reasons are called "mitigating circumstances".

The Police Prosecutor or RTA will read out a summary of the evidence against you. The Magistrate will then ask you whether you have anything to say. This is your chance to give your version of events, correct any errors in the evidence against you, and state why the Magistrate should have leniency on you in deciding a penalty.

If you plead guilty, it is likely that the Court will deal with the offence that day. As such, it is important that you are prepared when you attend court on

the first occasion.

What to tell the Magistrate

During your plea you should not tell the Magistrate that you did not commit the offence, because you already have admitted to it by pleading Guilty.

By preparing your plea, you are showing the court that you have taken the charge very seriously. Your plea should address each of the following issues.

1. *Your account of the incident and any reasons why you committed the offence*

You should acknowledge that there are no excuses for breaking the law. However, if there are reasons why you committed the offence, you should say so. For example, you may have had to get a sick child to the hospital.

2. *An explanation of any prior traffic offences*

If you do not have any prior traffic offences, you should tell the court that you have a good driving record and that this is evidence of your good character.

If you have prior traffic offences, try to explain to the court why they should not be taken into account in deciding a penalty.

3. *Character evidence*

The purpose of character evidence is to show the Court that you are a respected and responsible member of society. For example, you may choose to mention:

- Your present employment and its duration
- If you are not presently employed, you should tell the court what your previous employment was, what job you are hoping to obtain, and explain why you are not currently employed

- If you are studying, what it is that you are studying, where you are studying and where you are up to in your studies
- Whether you are in a relationship and if you have any children who are dependent upon you for financial support

4. References

If possible, try to organise some references that show your good character. These references might be from previous or current employers.

The references should be typed or neatly handwritten and addressed to the Magistrate. Make sure that the person giving you the reference includes in the reference that he or she is aware of the offence that you are facing.

Make three copies of any material that you intend to hand up to the court. One is for the Magistrate, one is for the Prosecutor or the RTA and one copy is for your records.

5. Your financial situation

It is important to tell the Magistrate how much you earn per week, and what financial commitments you have. For example, you should tell the Magistrate if you are supporting a family or have other debts that you need to pay.

You can ask the Magistrate to impose as small a fine as possible. Give reasons to the Magistrate as to why you cannot afford to pay a large fine.

6. Why you need your licence

For some traffic offences, there is a compulsory minimum suspension period. If you are Guilty of one of these offences, you should inform the Magistrate why he or she should only suspend your licence for this minimum period. For example:

- You may need your licence to get to and from work or you may be required to travel for work. You should try to get a letter from your employer stating how your employment will be affected if you lost your licence.
- You may live a long way from public transport. If so, losing your licence could affect your ability to shop, visit relatives, and leave you isolated.

- You may need your licence to transport your family to and from school, sport or work, or you may care for a sick relative.

What happens next?

Remain standing after you have finished your plea. The police prosecutor or RTA representative will tell the court about your driving record and explain what penalty they think the court should give you.

The Magistrate will decide what penalty he or she thinks is appropriate. The Magistrate may seek more information about your driving record from the police prosecutor or RTA representative.

Driving to Court

If you have a driving matter at court which carries a possible suspension, don't drive to court on that day. If the court suspends your licence and you are caught driving unlicensed and/or driving whilst suspended, you will receive a further penalty and/or suspension.

Get a friend to drive you or take public transport.

Paying a Court Fine

A fine imposed by a Court is a penalty and must be paid. If you cannot pay the full amount within the 28 days allowed, contact the court to apply for more time to pay.

You will need to complete a form called Application for Time to Pay. You may be asked for details about your income and expenses. If you have a Centrelink or Veterans Affairs concession card, show this to court staff when completing the form.

If the court agrees to your application, pay the instalments or full amount by the due date. If you cannot make a payment that you have agreed to, contact the Local Court straight away.

If you do not pay the court fine, the fine will be sent to the State Debt Recovery Office (SDRO), which manages the fine enforcement system and collects unpaid fines, including those imposed by the courts. Our fact sheet "What to do about your traffic fine" provides more information about enforcement of fines by the SDRO.