|  |  |
| --- | --- |
| Our Ref: | **Name Legal Aid Office** |

PHONE:

FAX:

Date

Client

BY HAND

Dear Client,

**RE: Your case at Name Local Court on Date**

We refer to the above matter. You have previously been provided written advice about your current charges and have signed that advice to indicate you understood it on **Date.** You were also given a copy of the advice you signed on that day.

We confirm that **Name**, Barrister, and **Name**, Solicitor, appeared on your behalf at a Case Conference held with representatives of the Office of the Director of Public Prosecutions (“*DPP”)* at **Name** Legal Aid Office on **Date**. You, and **Solicitor**, were present in person, while **Counsel name** and the DPP representatives were on Audio-Visual Link (AVL).

We conferenced with you prior to and on **Date** and explained the Crown case and Brief of evidence to you. This morning, we also had a brief conference confirming your instructions. After receiving our advice about the strengths and weaknesses in the case, you instructed us not to offer to plead guilty to any charge.

Once the conference commenced, the DPP asked if you were willing to plead guilty to the following two offences, if the rest of the charges were withdrawn:

1. **Insert charges, elements of offence and maximum penalty and any Standard Non Parole Period.**

After some discussion regarding the strengths and weaknesses of the case, you indicated you did not wish to agree to plead guilty to these offences and wished to go to trial. On your next court date of **Date**, your case will be committed for trial to the District Court. I am not able to advise at this stage, when your trial will be held.

We are required by law to advise you of certain matters. The following is important information you should consider when deciding whether to plead guilty or not guilty. This document does not, however cover all the information you need from your lawyer for the purposes of the case conference and your decision to plead guilty or not guilty.

The information below is based on the applicable law, and various scenarios which may apply to your case. Should you have questions or need advice on this letter, it is very important that you contact our office.

**Applicable Law**

Pursuant to s.72(2)(b) of the *Criminal Procedure Act* NSW (1986), we are required to advise you of the following:

1. The penalties applicable to the offences certified in the charge certificate are as follows:

* ***Insert charge and penalty***

2. The penalties applicable to the offences the subject of offers made by you during committal proceedings are as follows:

* ***Insert charge and penalty***

3. The penalties applicable to the offences the subject of offers made by the prosecutor in the committal proceedings are as follows:

* ***Insert charge and penalty***

Pursuant to s.72(2)(c) of the *Criminal Procedure Act* NSW (1986) we are required to advise you of the effect on the applicable penalty if you were to plead guilty to an offence at different stages of proceedings for the offence.

The effect on the penalty for the offences certified, or offered as set out above, if the you were to plead guilty, in accordance with the effect of the scheme concerning sentencing discounts is as follows:

a) Offence charged: ***Insert charge and penalty***

i) Plea of guilty to offence charged, entered prior to committal from the Local Court: *25%*

ii) Offer to plead guilty to offence charged, 14 days prior to trial: 10%

iii) Plea of guilty entered thereafter: *5%*

b) Offence/s offered by the prosecution: ***Insert charge and penalty***

c) Offences offered by the accused person**: *Insert charge and penalty***

###### Sentencing Discounts for a Plea of Guilty

The law requires us to explain to you that a plea of guilty entered in the Local Court can reduce the sentence you get in your matter.

Decisions you make during the case conference may affect the sentence you receive if you plead guilty to one or more of the offences you are charged with, or if you are found guilty at trial.

If you plead guilty, the court takes a number of factors into account in deciding the appropriate sentence. One of those factors is called the ‘utilitarian discount’. This is a discount you get off your sentence because you contribute to the efficiency of the criminal justice system.

The size of the discount depends on when you enter the plea or when your lawyer tells the prosecution in writing that you will be pleading guilty.

**The Discounts**

Unless you fall under an exception, if you plead guilty to an offence, the discounts are as set out above:

* 25% if you plead guilty in the Local Court,
* 10% if you plead guilty up to 14 days before your trial is set down to start, and
  + 5% if you plead guilty less than 14 days before your trial is set down to start, or during the trial.

**Exceptions to the Discounts**

The court may decide not to give you the full discount, or any discount, if:

* 1. you dispute the facts for sentence and you lose that dispute, or
  2. the court decides your culpability in committing the offence was extreme.

**What if the prosecution amends a charge, or adds a new charge, after committal?**

In the event the matter is unable to resolved at this case conference stage, then the matter will proceed to Committal for Trial.

After you are committed for trial, the prosecution may change some of the details of the charge (amends the charge) or lay a new charge. If ‘as soon as practicable’ after that happens, your lawyer tells the prosecution in writing that you will plead guilty to that amended or new charge, you are entitled to the 25% discount, except:

1. if you have already refused a written offer by the prosecution in the Local Court to plead guilty to the amended or new charge, or
2. if the amended or new charge is based on substantially the same facts or evidence as the original charge and the maximum penalty is the same or less than for the original charge.

If your lawyer did not tell the prosecution in writing ‘as soon as practicable’ after the charge was amended or laid that you intended to plead guilty, then the discount will be:

* 1. 10% if you plead guilty up to 14 days before your trial is set down to start,
  2. 5% if you plead guilty less than 14 days before your trial is set down to start, or during the trial.

**What if the prosecution rejects an offer by you to plead guilty to a different offence than the one charged, and at trial you are found guilty of that different offence?**

The discount will be 25% if:

1. when you are in the Local Court, your lawyer tells the prosecution in writing that you will plead guilty to an offence which is different to the one charged,
2. the prosecution rejects your offer, and later you are found guilty of that different offence at trial, or an offence that is reasonably the same as the different offence (because the facts are capable of constituting the different offence and the maximum penalty is the same or less than the different offence), and
3. you did not withdraw the offer before being convicted of the different offence.

The discount will be 10% if your lawyer tells the prosecution in writing that you will plead guilty to the different offence after you are committed for trial and up to 14 days before your trial is set down to start.

The discount will be 5% for a plea of guilty, if your lawyer tells the prosecution in writing that you will plead guilty to the different offence less than 14 days before your trial is set down to start, or during the trial.

**What if the prosecution rejects an offer by you to plead guilty to a different offence from the one charged and later accepts the offer?**

The discount will be 25% if:

1. when you are in the Local Court, your lawyer tells the prosecution in writing that you will plead guilty to an offence which is different than the one charged,
2. the prosecution rejects your offer but later changes its mind and accepts the offer, and
3. you do not withdraw the offer to plead guilty to the different offence.

The discount will be 10% if you offer to plead guilty to the different offence after you are committed for trial and up to 14 days before your trial is set down to start, and the prosecution later accepts the offer.

The discount will be 5% if you make an offer to plead guilty to the different offence less than 14 days before your trial is set down to start or during the trial, and the prosecution later accepts the offer.

We will contact you once we have received further information from the DPP. If you have any questions, please contact the writers.

Yours sincerely,

**BARRISTER SOLICITOR**