



LOCAL COURT PRACTICE NOTE NO 5 OF 2008

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Amended: 20 October 2008

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Re-issued pursuant to section 27 Local Court Act 2007

Forum Sentencing Programme

Forum sentencing is an additional sentencing option for Courts at the following locations:

- Balmain
- Burwood
- Camden
- Campbelltown
- Liverpool
- Moss Vale/Picton
- Newtown
- Tweed Heads/Murwillumbah/Byron Bay/Mullumbimby
- Fairfield

Additional Courts may be added from time to time.

The programme provides for the referral of offenders who have pleaded guilty or have been found guilty of offences and for whom there is a likelihood of a custodial sentence, to be referred to a forum. At the forum the offender and the victim or victims of the offence are brought together with a forum facilitator in order to develop an intervention plan for the offender.

The eligibility criteria along with the aims of the programme are set out in schedule 5 of *Criminal Procedure Regulation 2005*.

1. Referrals to forum sentencing

- 1.1. Referrals may be made by the Court either on application by the offender or their representative, or by a prosecutor or on its own motion.

- 1.2. If eligible to participate, Court proceedings are to be adjourned for up to 2 weeks for the Forum Sentencing Administrator (**the Administrator**) to assess the offender's suitability.
- 1.3. The Registrar is to provide the Administrator with a statement of facts as approved by the Court.
- 1.4. If assessed suitable, the Magistrate will consider placement of the offender into the programme. Both the offender and the prosecutor may be heard. If **not** considered suitable, the matter will proceed.

2. If a referral to a forum is made

The Court will adjourn the matter for no longer than 8 weeks and:

- (a) Order that the Forum occur
- (b) May consider imposing conditions that the offender attend forums as directed by the Administrator.
- (c) Request the Police supply the victim's name and contact details to the Administrator. The address of the victim is not to be supplied without the written consent of the victim.
- (d) Order a pre-sentence report (if required) and that subject to the consent of the offender, information obtained by Probation and Parole be made available to the forum facilitator.
- (e) Order that the draft intervention plan be filed with the Court at least two days before the adjournment date.

3. Intervention Plans

- 3.1. The content of an **Intervention Plan** and participation at the conference is a matter solely within the discretion of the Administrator and forum facilitator. It may include attendances at the forum, details of agreement reached at the forum, and whether that agreement requires any further action on behalf of the offender that would require supervision by either the Administrator or Probation and Parole. It may also include a recommendation to the Court for an intervention order sentence or further matters to be considered, such as financial compensation, individual and group counselling or psychiatric treatment.
- 3.2. The Court may refer the plan back to the forum Administrator. The Administrator shall take such action as necessary to revise the agreement and report back to the Court within seven days.
- 3.3. No more than one referral to revise the intervention plan is permitted. If the plan is not approved and a revised plan is not approved, sentencing will proceed in the normal manner.

4. On the adjournment date

- 4.1 If the Court is satisfied with the draft intervention plan, the Court may make an order approving the plan.

Following approval of the Intervention Plan the Court may exercise the following options

- a) Make a further order adjourning the proceedings pursuant to s 36A of the *Bail Act* 1978, or s11(1)(b)(2) of the Crimes Sentencing Procedure Act;
or
- b) proceed to sentence pursuant to s 9,10, 10(c) and 12 of the Act. Section 95A of the Act may apply to sentences imposed under these provisions.
- 4.2 Successful completion of the forum sentencing programme is a matter that may be taken into account by the Court upon sentence.
- 4.3 Where the Court makes an order in which an approved plan is part of the sentence, the Court will specify who is to supervise the plan and any other part of the order, and set time limits within which parts of the intervention plan are to be completed. An order of the Court can, if required, be supervised by either the Administrator, by Probation and Parole, or both.

5. After sentencing

- 5.1 The Court is to be advised by the supervising party whether or not the plan is satisfactorily completed.
- 5.2 In the event the Court is advised that the plan has not been satisfactorily completed, the Court may:
- (a) Take no action;
 - (b) Issue a notice of call up; or
 - (c) Issue a warrant.
- 5.3 If the plan is part of a sentence supervised only by Probation and Parole, breach action by Probation and Parole will be dealt with in the usual way.

This Amended Practice Note revises Practice Note issued on 11 July 2008.

Graeme Henson
Chief Magistrate