

PRE-CMM FILE ANALYSIS

Police v

Reference

(Defendant)

Complete the following sections prior to obtaining instructions

Evidential Sufficiency

What are the elements of the offence?

What is the evidence to prove these elements?

What are the possible defences?

Evidence to support a possible defence?

Y	N	N/A	Disclosure consideration checklist (Criminal Disclosure Act 2008)
			Has disclosure been received?
			Is any further disclosure required? (If yes, has it been requested? What is the time-frame it will be provided?)
			Is a written notice of alibi required? Has it been provided? <i>s22 Criminal Disclosure Act</i>
			Is an expert to be called? (If yes, you must disclose any expert brief at least 14 days prior to the hearing) <i>s23 Criminal Disclosure Act</i>

Y	N	N/A	Evidence consideration checklist (Evidence Act 2006) - Is there any evidence that is inadmissible? Is a pre-trial admissibility hearing required? s78 of Criminal Procedure Act 2011
			Is there any Hearsay evidence? s17 Evidence Act
			Is there a previous consistent statement? s35 Evidence Act e.g. recent complaint evidence
			Is there any opinion evidence? s23 Evidence Act
			Is a defendant's statement not admissible against a co-defendant? s27(1) Evidence Act
			Identification. Was formal procedure complied with? (If no, was there a 'good reason' not to have held formal procedure? s45 Evidence Act
			Is there any improperly obtained evidence? s20 Evidence Act e.g. unlawful search
			Is there an unreliable statement or statement influence by oppression? ss 28, 29 Evidence Act
			Is there any propensity evidence? s43 Evidence Act

Y	N	N/A	Victim Impact Statement
			Do Police Have a VIS on file? Y N Is it less than 28 days old? Y N Is it signed? Y N
			Does it comply with the practice guidelines on a VIS? (It must not include the victim's opinion as to penalty, or allegations of additional offending)

Y	N	N/A	Case Management Meeting - Pre-trial matters to raise at the meeting/ identify in the CMM
			Based on the admissible evidence, are the current charges suitable? (If no, what alternative charges could be considered?)
			Is any offence a listed 'protocol offence' or possibly a 'protocol offence' because it meets the criteria of s66 Criminal Procedure Act?
			Are written submissions required in respect of the protocol offence? (If yes, what? (See precedent))
			Are there any matters that could be an agreed fact? s9 Evidence Act e.g. identity

Y	N	N/A	Case Management Meeting - Pre-trial applications to be noted in the CMM s56(2)(a) Criminal Procedure Act
			Is the mode of evidence application required? Screens/ video link/ early evidence? s103 Evidence Act
			Is a hearsay notice required? s22 Evidence Act
			Notice if propose to offer evidence in the proceeding without calling a witness to produce it? s130 Evidence Act

Counsel Name

Date

Client instructions pre-CMM discussions

Client signature

Date

Instructions pre-filing of CMM

Client signature

Date