

## Can a meeting with the victim be part of diversion?

In some areas it is possible for an approved restorative justice provider to facilitate a meeting between the victim and the offender.

The Diversion Officer will determine whether a restorative justice process is a suitable way to balance the needs of the victim and/or community and the offender and will find out if the victim is willing for a restorative justice meeting to occur.

Restorative justice meetings enable the victim to explain the impact of the offending on them and learn more about the reasons for the offending. It also means the victim is involved in discussion about what conditions might be appropriate to redress the offending (focusing on the benefits for both the victim and the offender).

Following successful compliance with the conditions agreed at the restorative justice meeting, the charge would be withdrawn.

## What do I have to do before the next Court date?

It is the offender's responsibility to provide evidence that all agreed diversion conditions have been completed. Information must be provided to the Diversion Officer to confirm this by a date agreed by the offender and Diversion Officer.

If the diversion conditions have been satisfactorily completed, the offender does not need to appear in Court. The Prosecutor advises the Court that diversion has been completed and requests that the charge be withdrawn. In some cases, the charge may be withdrawn by the Court Registrar on the papers and it will not need to be discussed in open Court.

An individual who has agreed to diversion can change their mind and subsequently decide to go to Court instead of continuing with diversion.

## What if I can't complete my conditions in time?

In some cases, reparation or counselling can take longer than the agreed timeframe, but the Diversion Officer can request an extension of time from the Court if this is considered appropriate.

If an offender fails to complete the conditions, the Diversion Officer can refer the case back to the Court for the prosecution to continue.

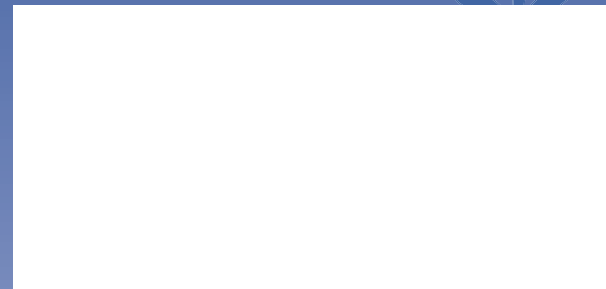
## Can I get name suppression?

Your name can be published unless you successfully apply for name suppression. If you want to apply for your name to be suppressed, you should notify the Court Registrar or Judge. This should be done at your first appearance and any subsequent appearances. You will need to tell the Registrar or Judge why you seek name suppression. The Registrar or Judge will consider your application and advise you whether it is granted or not.

## How can I get more information?

A copy of the diversion policy and other information about diversion (including this pamphlet) can be downloaded from the Police's website

<http://www.police.govt.nz/service/diversion/>



[www.police.govt.nz](http://www.police.govt.nz)



**POLICE ADULT**

**DIVERSION**

**SCHEME**

## What is Diversion?

Diversion is a scheme that allows for some offenders who have been charged to be dealt with in an 'out of Court' way. If the offender completes agreed conditions, the Prosecutor can seek to have the charge withdrawn and a conviction will not be recorded.

The purposes of diversion are to:

- address eligible offenders in a proactive way
- balance the needs of victims, the offender and their communities
- give offenders an opportunity to avoid a conviction
- reduce re-offending.

The Police Prosecution Service is responsible for the Police Diversion Policy as well as administering and operating the diversion scheme.

## When can diversion be considered?

All cases will be considered for diversion, even if only briefly in the case of more serious offending.

Diversion can be used when:

- there is sufficient evidence and it is in the public interest for the matter to be prosecuted
- the offence is either the offender's first offence, or there are special circumstances where it may be appropriate to offer diversion (e.g. the offender's previous Court outcomes are for dissimilar offending or occurred five years or more ago)
- the offence is not serious
- the offender has accepted full responsibility for the offence
- the legal rights of the person being offered diversion have been clearly outlined
- the offender agrees to the terms of diversion.

## What is meant by an offence not being serious?

There are no hard and fast rules on categories of offences (although some offences are so serious they are automatically ruled out).

For every individual circumstance there are different aggravating and mitigating factors that might make someone eligible or ineligible for diversion. For example, if someone has committed a careless driving offence, an important consideration when determining whether diversion might be appropriate is whether he/she has previous traffic offences and/or current demerit points.

## What are the offences for which diversion is generally not considered?

- purely indictable offences (e.g. sexual violation)
- traffic offences that carry a mandatory minimum disqualification or where an offender has current demerit points and would incur further demerits following conviction for the current offence
- burglary (in most circumstances) or dishonesty offences where there has been a breach of trust
- violence offences (in most circumstances)
- family violence offences (in most circumstances)
- sexual offences or offences with sexual overtones
- serious drug offences
- offences for breaching a Court order (e.g. protection orders, restraining orders, name suppression)
- offences specified in the district as 'a high prevalence offence for which diversion is excluded for a specified period'.

## Who decides if diversion should be considered?

No written application for diversion is necessary. Diversion is offered under the Police's discretionary powers. The Police Prosecution Service evaluates the full circumstances, consults the officer dealing with the case and the victim, and makes a decision about whether diversion should be considered.

Where there is a victim, their views are sought before diversion is offered. In some instances, victims are opposed to diversion. The Diversion Officer will consider the victim's views very carefully. In the end, the Diversion Officer makes the decision on whether or not to offer diversion taking into account the views of everyone involved.

## What happens at Court?

The Prosecutor advises Court staff and the offender or their lawyer of offenders appearing that day for whom it may be suitable to adjourn their case to have diversion considered.

Where the offender wishes to be considered for diversion, their case is adjourned allowing enough time for a diversion interview to take place with the Police Diversion Officer and for agreed conditions to be completed.

## What if I am not considered eligible for diversion - can I review?

If an offender is refused diversion or disagrees with the diversion conditions, they have the right to request a verbal or written review of the diversion decision. The request is made to the Prosecutor or the Police Prosecution Service's District Prosecution Manager. A decision is made within five working days of receiving the request.

## What will I have to do for diversion?

The Police Diversion Officer meets with the offender to better understand the offending and the offender's circumstances and to explain what diversion involves. They want to see that the offender accepts responsibility for their offending.

A written agreement is made through the discussion between the Diversion Officer and the offender. The agreement seeks to change behaviour, prevent re-offending and make reparation to the victim or community.

A typical diversion agreement can include any one or a combination of the following conditions:

- making an apology to the victim
- reparation of any reasonable expenses incurred by the victim
- referral to counselling, education programmes, addiction treatment or other programmes that might help the offender deal with personal issues
- undertaking a specified number of hours of service to the community
- donating a specified sum of money to an approved group
- in some cases, a referral for restorative justice (more information below).

The diversion conditions must be appropriate to the offence and offender, achievable in the timeframe and proportionate to the maximum penalty for the offence and what a Court might impose as a sentence.