

Understanding bail hearings

A guide to the bail process in the ACT if you have been charged with an offence.

If the police charge you with an offence, you will either be:

- given a **summons** to appear at court at a later date, or
- released on **bail** until your court case, or
- held in custody until your court case (held on **remand**).

If you are released on bail, you will be in the community and may have bail conditions.

Bail is not a form of punishment or part of a sentence; it is an agreement to abide by conditions and go back to court when required.

Bail hearings

For some offences, the police can grant bail. You will be released from police custody and will not have a bail hearing at court.

If the police do not grant bail, you will be held in police custody and taken to court for your bail hearing. This is usually the next morning.

You will be able to meet with a lawyer at the court before your hearing.

Who is at a bail hearing?

The people involved in your bail hearing are:

- a **judicial officer** - most bail decisions are made by a judicial officer, who is a magistrate or judge at court.
- a **prosecuting lawyer** who provides information to the judicial officer about the alleged offence, the safety of the community, and victim and witness concerns. They will say if they support or oppose your release on bail, and what they consider your bail conditions should be if bail is granted.
- a **defence lawyer** who provides information to the judicial officer about the reasons you should be released on bail. Before the bail hearing, they will explain the charges to you and inform you if the prosecution plans on opposing bail.
- **you - the defendant**, or person accused of the offence, who is applying for bail.

Bail decisions

The judicial officer has information about your case and you to help them make their decision, including:

- a **statement of facts** - a document from the police about the offence charged and other information police think is important to consider
- a **bail opposition form** from the Director of Public Prosecutions, if they plan to oppose bail
- your **criminal history**, if you have one.

The judicial officer considers:

- how serious the offence is
- if you are likely to attend your next court date
- if it is likely the courts will find you guilty based on the information available
- what the possible punishment is if you are found guilty
- if you have breached any bail conditions before
- your job, health and family circumstances (that is, if you have any dependents you care for or support financially)
- the possibility of you committing offences while on bail
- the safety of victims, witnesses and the community.

There is a presumption that bail will be granted for most offences. The police or the courts may refuse to release you on bail if they think there is a high risk that you will:

- not appear in court
- commit an offence if released on bail
- interfere with witnesses for the court case.

There is a presumption against bail for serious offences (for example, murder or serious assault).


After the court bail decision

If you are **released on bail**, you will be:

- taken to the bail office to go through your bail conditions and sign your bail
- given a copy of your bail conditions so you know what you can and can't do - it is important you keep this
- able to leave court.

If you are **not released on bail**, you will be held on remand and transported to an ACT correctional centre:

- the Alexander Maconochie Centre in Hume for adults, or
- the Bimberi Youth Justice Centre in Kenny for young people.

 Go to www.act.gov.au and search '**understanding bail**' for more information

