

30 January 2014

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Criminal Procedure Act 2011: first six months – review

Thank you for the Ministry's letter of 16 January 2014, inviting input from the Law Society's Criminal Law Committee on the review of the Criminal Procedure Act's first six months in operation, with a particular focus on the critical components (admin and review stages) of the new process under the Act. The Committee appreciates having the opportunity to comment.

The Committee has considered your letter. The Committee's comments are that the pre-formatted documents are overly formulaic. The Case Review Hearing for jury trial cases and the Case Management Memorandum are both regular targets of complaint.

The general concern is that the Case Review Hearing for jury trial cases and the Case Management Memorandum do not assist in any way in progressing jury trial cases. For example, the Case Management Memorandum is meaningless when disclosure has not been completed for complex cases, all parties are in agreement that more time is needed, and an adjournment is sought. Lawyers have attempted to set this out in a Registrar's Remand form but have been advised the Case Management Memorandum must be filled in and filed regardless.

The profession was also notified, via the Law Society's weekly e-bulletin *LawPoints* on 23 January, of the opportunity to comment but only one response was received. This is reproduced verbatim:

Everything much more regimented and it contributes to a growing backlog of trials with clients electing jury trial as the default option because it's easier to go down than up. Police have to do much more paperwork anticipating not guilty pleas for clients who just need a bit of time to come around to pleading guilty (or who use the time for rehab/counselling etc). Meetings with police at CMM stage tend to be rituals and there is a need for more creativity over alternatives to proceeding remorselessly with the charges. Everyone trying to make it work and it's good for the minority of cases that go the full distance to trial.

The Committee hopes this brief feedback is of assistance to the Ministry. If you wish to discuss it further, please do not hesitate to contact me through the committee secretary, Rhyn Visser (phone (04) 463 2962 or email rhyn.visser@lawsociety.org.nz).

The Committee would also welcome the opportunity to comment on the more comprehensive report that is planned later this year on the Act's 12-month review.

Yours sincerely

A handwritten signature in black ink, appearing to read 'JKrebs', written in a cursive style.

Jonathan Krebs
Convenor,
New Zealand Law Society Criminal Law Committee