

20 July 2023

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Ref: DSC 103868

Tēnā koe Anthony

### **Pleading guilty under duress**

Thank you for your email of 14 June 2023, requesting under the Official Information Act (the Act), information regarding situations where someone has pleaded guilty under duress/compulsion.

While the Ministry is providing you with the response below, it does not consider it to be a response under the Act.

Section 115(1) of the Criminal Procedure Act 2011 provides that a guilty plea may be withdrawn, by leave of the court, at any time before the defendant has been sentenced or otherwise dealt with. The defendant may consider that a miscarriage of justice has arisen because they pleaded guilty to a criminal charge under improper pressure. They may be able to:

- appeal their conviction; or
- apply to Te Kāhui Tātari Ture Criminal Cases Review Commission (CCRC) to refer their conviction to an appeal court for further consideration.

Generally, a conviction will not be overturned following entry of a guilty plea unless exceptional circumstances apply. More information on how guilty pleas are approached by the criminal courts and the CCRC can be found in the CCRC's position paper on guilty pleas ([ccrc.nz/assets/Position-Papers/Position-paper-guilty-pleas-final.pdf](https://ccrc.nz/assets/Position-Papers/Position-paper-guilty-pleas-final.pdf))

The government may, in its discretion, decide to compensate someone who has been wrongly convicted and served a sentence of imprisonment or detention, by making an ex gratia (voluntary) payment. A person is treated as 'wrongly convicted' if they have received a free pardon in respect of the offence, or if their conviction has been set aside by a court and no further proceedings can be brought against them in respect of the offence (for example, because no retrial was ordered). In order to receive compensation, the applicant must show that they are innocent of the offences of which they were wrongly convicted. Guidelines, as agreed by Cabinet in 2023, can be found at: [justice.govt.nz/assets/Documents/Publications/2023-Compensation-Guidelines-for-Wrongful-Conviction-and-Detention\\_28.02.23.pdf](https://justice.govt.nz/assets/Documents/Publications/2023-Compensation-Guidelines-for-Wrongful-Conviction-and-Detention_28.02.23.pdf)

Finally, you mentioned a scenario where someone may require protection during a proceeding. Protection from harassment is available to anyone who applies to a court for a Restraining Order. For those who are or who have been in a domestic relationship with the

person, they should apply to the Family Court for a Protection Order. Non-Contact Orders are available to victims of violent offences where the offender has been released from prison after a conviction of more than two years. More information can be found at: [justice.govt.nz/courts/civil/restraining-orders](https://justice.govt.nz/courts/civil/restraining-orders).

If you require any further information, please contact Media & Social Media Manager Joe Locke at [media@justice.govt.nz](mailto:media@justice.govt.nz).

You have the right to make a complaint to the Ombudsman under section 28(3) of the Act. The Office of the Ombudsman may be contacted by email at [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz) or by phone on 0800 802 602.

Nāku noa, nā

A handwritten signature in blue ink, consisting of a stylized initial 'A' followed by a long horizontal stroke.

Alida Mercuri  
**General Manager, Criminal Justice Policy**