



LOCAL COURT PRACTICE NOTE NO. 9

ISSUED: 13 AUGUST 2003

Re-issued pursuant to section 27 Local Court Act 2007

Procedures to be adopted for Committal hearing in the Local Court for proceedings commenced on or after 7 July 2003

The procedures outlined in this Practice Note are intended as best practice to ensure that time standards for cases committed for trial or sentence to the Supreme or District Court, are as far as possible complied with, and to ensure the utilisation of Audio Visual Link technology is conducted in the most efficient manner.

- 1. Case management of matters being heard upon indictment from the first appearance date.**
 - 1.1** This relates to all matters that are either strictly indictable or Table 1 offences.
 - 1.2 On the first appearance date a brief order must be made by the Court.**
 - 1.3** Where the service of a brief involves either service of the results of DNA testing or drug analysis; ERISP transcription or telephone intercepts, directions will be given such as to ensure no undue delays occur, particularly where the defendant is in custody. Order the prosecution to file a Pre-Conference Disclosure Certificate (PCDC) two weeks after the date ordered for service of the brief.
 - 1.4** The Court will adjourn the matter for not less than 10 weeks, allowing six weeks for service of the brief, two weeks for filling of PCDC and two weeks for reply.
 - 1.5** Where relevant, the matter will be adjourned to a suitable DPP date at the relevant centralised committal court approximately seven days from the date of first appearance. Where represented, the defendant may be excused from attending on the second appearance, or if in custody, an order is to be made for the defendant to attend via Audio Visual Link.
 - 1.6** If the matter arises in a court that does not refer committals to a centralised committal court or commences in a centralised committal court, the matter will continue to be case managed in accordance with the following directions, from the first appearance date.

2. Case management after the first appearance.

2.1 On the reply date the Court must make directions for the following:

- a) Order a Compulsory Conference within 14 days
- b) If a s 91 application is to be made filing and service of submissions (in writing) in support of the application on a date 7 days following the CC and for reply by the DPP 7 days thereafter unless the Court otherwise directs.
- c) Adjourn the proceeding for a period of not less than four weeks
A written notice of directions for CC to be served on the defendant's legal representative or defendant if unrepresented.

2.2 On the adjourned date the DPP shall file the Compulsory Conference Certificate and the Court will proceed with:

- a) A s91 application and committal hearing if necessary
- b) A plea of guilty
- c) Committal of proceedings either by paper committal or waiver

3. Listing of committal proceedings for hearing in the Local Court

- 3.1 Committal proceedings are to be completed as expeditiously as possible to enable the transfer of these cases to either the Supreme or District Court.
- 3.2 If the matter is not finalised on the afternoon of the last day allocated for hearing, the case will proceed on the next sitting day of the Court until completed. All committal hearings listed for hearing within the metropolitan area are listed on this basis.
- 3.3 With this in mind, it is imperative that parties provide the Court with an accurate estimate of the time necessary for hearing of the matter.

4. Utilisation of Audio Visual Link (AVL) facilities

- 4.1 Attention is drawn to s5BA(1)(a) of the *Evidence (Audio and Audio Visual Links) Act, 1998*. This section stipulates that after the initial appearance of the defendant in custody, the defendant who remains in custody **must appear by AVL on the next occasion, unless the court otherwise directs. There is no requirement for the defendant or the legal representative to consent to this course.**
- 4.2 Where facilities exist to enable the appearance of defendants in custody via AVL, this technology must be utilised.
- 4.3 It is imperative that the defendant appear by AVL wherever possible. To facilitate this, **the court papers must be clearly endorsed with the letters "AVL" for the defendant to appear by AVL on the next remand date.** If required, an appropriate stamp for this purpose may be requested from the Registrar of the Court.

5. Adjournments

No adjournments of the above procedural timetable will be granted unless compelling circumstances exist in the interests of justice.

Graeme Henson
Chief Magistrate