

Magistrates Courts

Practice Direction No. 5 of 2014

Electronic Adjournments for Committal and Summary Callovers

The purpose of this Practice Direction is to give effect to the Administrative Arrangement for Electronic Adjournments for Committal and Summary and Other Callovers.

This Practice Direction applies to criminal matters (excluding applications for bail or variations of bail undertakings) in the Central Division of the Brisbane Magistrate Court being called over at the Committal and Summary Callovers where the prosecution is represented by the Office of the Director of Public Prosecutions (“DPP”) or the Queensland Police Service Police Prosecutions Corps (“PPC”) and the defendant is represented by the Legal Aid Office (Queensland) (“Legal Aid”) or the Aboriginal and Torres Strait Islanders legal Service Incorporated (“ATSILS”) or by counsel who is a member of the Bar Association of Queensland or by solicitor who is a member of the Queensland Law Society Incorporated.

I direct that matters in those courts to which this Practice Direction applies may be adjourned electronically, provided that the conditions of this Practice Direction are complied with.

Definitions

1. In this Practice Direction:
 - 1.1. “Criminal Matters” include summary hearings (sentences or trials) of simple offences as well as indictable offences and Committal proceedings be they full hand-up with or without cross-examination or a registry committal or indictable offences that are to proceed by way of ex officio indictment;
 - 1.2. “Defence” means whichever body (Legal Aid, ATSILS, Counsel or Solicitor) is representing the defendant;
 - 1.3. “Delivered” in reference to a brief or prosecution statements or other documents to be disclosed to the defence means made available by the prosecution for collection by the defence, or delivered electronically by the prosecution to the defence;
 - 1.4. “Partial Brief of Evidence” means a brief which contains copies of signed statements of the prosecution witnesses who will provide the “substantial evidence” in the matter and of exhibits of substantial evidence for the purpose of a committal for sentence;

- 1.5. "Prosecution" means either the DPP or the PPC;
- 1.6. "Represented" means that a counsel or solicitor has previously appeared for a defendant on that matter and currently holds instructions to appear for the defendant;
- 1.7. "Specified statements and/or exhibits" means statements of the prosecution witnesses who will provide the "substantial evidence" in the matter and of exhibits of substantial evidence as requested by the defence or prosecution for the purposes of finalising a case conference;
- 1.8. "Substantial evidence" means the evidence which tends to prove an offence but does not include corroborative evidence or continuity evidence or evidence of ownership (except where it is expected that such evidence will be a major point of the litigation);
- 1.9. "The court's email address" for the purposes of this Practice Direction is:
DL-BrisbaneCriminalCalloverAdjournments@justice.qld.gov.au
- 1.10. "The DPP's email address" for the purposes of this Practice Direction is the email address of the legal office/practitioner with the carriage of the matter on behalf of the DPP;
- 1.11. "The PPC's email address" for the purposes of this Practice Direction is:
Prosecutions.Brisbane@police.qld.gov.au
- 1.12. Words in the singular in this Practice Direction include the plural and words in the plural include the singular.

The Mechanics

5. Where a defendant has been remanded to appear at either the committal or summary callover the requesting party may email its opponent (the requested party) with a request for that party's consent for the following:
 - 5.1. that in accordance with paragraph 6 of Practice Direction ("PD") 9 of 2010 the prosecution will deliver to the defence copies of certain specified statements and/or exhibits by a specified date (not being a date within 14 days of the request) and that the matter be adjourned to a specified date and court being the callover next following the date for delivery of the copied documents;
 - 5.2. That in accordance with paragraph 7.1 or 8.1 of PD 9 of 2010 the requested party will consent to a further adjournment to a specified date;
 - 5.3. That in accordance with Paragraph 10 of PD 10 of 2010 the defence may advise the prosecution that the matter may be a consent committal for sentence and request that the prosecution deliver to the defence a copy of the partial brief of evidence within 14 days and that the matter be adjourned to Court 20 for a Full Hand Up committal proceeding for sentence on a date 28 days or later after the request;

- 5.4. That in accordance with paragraph 10 of PD 10 of 2010 the defence may advise the prosecution that the matter may be a committal for trial and request that the prosecution deliver to the defence a copy of the full brief of evidence within 35 days and that the matter be adjourned to the callover court on a certain date no earlier the 49 days from the request;
 - 5.5. That in accordance with paragraphs 4 and 5 of PD 14 of 2010 the defence may advise the prosecution that the matter is to proceed by way of registry committal for sentence or trial requesting the prosecution file the partial or full brief of evidence as the case may be within 14 days of the request and undertaking to file the Notice of Intention to Proceed via Registry Committal within 28 days of the request and requesting that the matter be adjourned to a certain court and date at least 28 days after the request;
 - 5.6. That the matter be set down for a sentence (lasting less then 30 minutes) on a specified date in Court 20;
 - 5.7. That the matter be set down for a full hand up committal with the lawyer for the defendant consenting to the committal for trial or sentence pursuant to section 110A (6D) of the *Justices Act 1886* on a specified date in Court 20.
6. If the requested party consents to all orders then it shall by reply email advise the same.
 7. Whereupon the requesting party shall:
 - 7.1. forward the emails to the court's email address with a request that the orders set out specifically and numbered (so that they can be properly identified by the court) be made without the need for an appearance by or on behalf of the defendant; or
 - 7.2. Apply for the orders (that are to be set out specifically and numbered so that they can be properly identified by the court) on the dedicated "Apply for an Adjournment" page on the Court's website.
 8. Such email shall be sent to the court's email address or request uploaded to the dedicated Adjournment page on the Court's website by no later then 5.00pm 3 business days¹ before the scheduled mention of the matter at the callover.
 9. A Magistrate will then determine the issue on the papers and either make the orders sought or decline to do so whereupon the decision will be endorsed upon the Bench Charge Sheet or complaint as the case may be and then communicated to the defence and prosecution by email reply.
 10. If the Magistrate grants the orders sought and communicates the same by email by 5.00pm 2 business days² before the callover then the defendant need not appear personally or by lawyer on the appearance date.

¹ For the Monday Committal callover this will be by 5pm on the preceding Wednesday and for the Summary callover this will be by 5pm on the preceding Friday

11. In the event that there are related summary matters charged against the defendant then those summary matters are to be adjourned along with the indictable offences to the certain date requested upon which they will be mentioned and at which the defence is expected to appear for the defendant.

Judge Orazio Rinaudo
Chief Magistrate
27 November 2014

² For the Monday Committal callover this will be by 5pm on the preceding Thursday and for the Summary callover this will be by 5pm on the preceding Monday