

Magistrates Courts

Practice Direction No. 7 of 2007

COMMITTALS AND EX OFFICIO SENTENCES: Ipswich Magistrates Court

The purpose of this practice direction is to clarify the procedures to ensure that committals and matters intended for *ex officio* sentence proceed through the Ipswich Magistrates Court in a timely fashion.

It is considered that a committal or the presentation of an *ex officio* indictment should be finalised within 6 months of the first mention in court unless special circumstances exist which require an extension, proof of which shall be on the party applying for the extension.

In order to achieve this, the following directions will apply –

1. In matters that must proceed on indictment, or may proceed on indictment by election, the matter may be remanded (on more than 1 occasion) for review only, for up to a total of 4 weeks from the date of the first mention to allow jurisdiction to be considered, as well as whether an *ex officio* plea is to be made.
2. No later than 4 weeks after the first mention, any party having an election as to jurisdiction must indicate that election to the court. Further, if an *ex officio* plea is intended, that must also be indicated to the court at this time (“the Advice Date”).

EX OFFICIO SENTENCES

3. If an *ex officio* sentence is indicated on the Advice Date, the Magistrate will remand the matter to 2pm on a Wednesday eight (8) weeks ahead (“the Remand Date”). This will allow practitioners to liaise with the Office of the Director of Public Prosecutions (DPP) or other relevant prosecuting authority during this period, to ensure that agreement is reached on all issues, so that the matter is ready to proceed to sentence in the Supreme Court or the District Court, upon presentation of an *ex officio* indictment.
4. On the Remand Date the following procedures will apply –
 - a. Upon advice from the DPP that it has consented in writing to present an *ex officio* indictment, the Magistrate will remand the matter to a Committal Callover at least 12 weeks ahead (“the *Ex officio* review”).
 - b. If such written consent has not been given, the Magistrate will list the matter at a Committal Callover 6 weeks ahead (“the Committal Callover Date”).

5. At the *ex officio* review –
 - a. If the *ex officio* indictment has been presented, the Magistrate must be informed that this course has been taken. The Magistrate may then discharge the Defendant on these matters.
 - b. If the *ex officio* indictment has not been presented, the Magistrate will remand the matter to a Committal Callover 2 weeks ahead.

COMMITTALS

6. The matter is to be adjourned to a Committal Callover in **any** of the following circumstances:-
 - a. On the Advice Date (para 2) an *ex officio* plea is not indicated, but the matter is proceeding on indictment;
 - b. On the Remand Date a written consent has not been given (para 4b); or
 - c. On the *ex officio* review date an indictment has not been presented (para 5b)
7. Where para 6 a, applies the date set for Committal Callover is to be 6 weeks
8. On the Committal Callover date, if the Brief of Evidence has not been delivered to the defence, or the defence requests time to consider the Brief of Evidence, the matter may, in the discretion of the Magistrate, be remanded (on more than 1 occasion) for no more than 6 weeks from the Committal Callover Date to a "Final Committal Callover Date". Otherwise, the matter is to proceed as a Hand-Up Committal pursuant to s110A of the Justices Act 1886 or is to be listed for Committal Hearing at the earliest available date.
9. On the Final Committal Callover, the matter is to proceed as a Hand-Up Committal, or is to be listed for Committal Hearing at the earliest available date.
10. The time periods in this Practice Direction will not be extended unless the Magistrate is satisfied that there are special circumstances in the case which justify such an extension.

This Practice Direction will apply to all matters when the Advice date is on or after the 17 August 2007 and will operate until further notice.



Marshall P Irwin
Chief Magistrate
17 August 2007