

**MAGISTRATES COURT
PRACTICE DIRECTION
NO. 2 OF 2005**

Committal and *ex officio* Callovers

The purpose of this Practice Direction is to clarify the procedure in relation to the manner of appearance of detainees (defendants in custody) at the court on Committal and *ex officio* callover days.

The *Justices Act 1886* provides for the use of video link facilities for certain proceedings before a Magistrates Court. In particular section 178C provides as follows:-

Use of video link facilities in proceedings

178C(1) This section applies to a proceeding if –

- (a) a detainee is entitled or required to be present before a Magistrates Court for the proceeding; and
- (b) the proceeding is about an offence with which the detainee is charged, including a proceeding for the detainee's bail or remand; and
- (c) video link facilities are available linking the correctional institution where the detainee is in custody and the court.

(2) A proceeding for the detainee's bail or remand **must** be conducted using the video link facilities, unless the court, in the interests of justice, otherwise orders.

(3) In a proceeding, other than a proceeding for the detainee's bail or remand, the court may order the proceeding be conducted using video link facilities only if all parties consent.

(4) The video link facilities may only be used to link the proceeding before the court at the place the court is sitting with the detainee, or the detainee and the detainee's representative, at the correctional institution.

Accordingly, the following procedures will apply –

(1) On the mention day when the matter is originally set down for Committal callover each Monday in court 18 or *ex officio* callover in court 38, the practitioner must apply to the magistrate to have the detainee personally appear on the Committal callover or *ex officio* callover day. The practitioner will be required to satisfy the requirements of section 178C(2) above.

(2) On the Committal callover and *ex officio* callover days, the detainee will appear on video link unless previously excused.

(3) If it is proposed to sentence the detainee for summary offences and the detainee is required to be present in court (i.e. all parties do not consent to the detainee being sentenced at the committal or *ex officio* callover on video link section 178C(3)), the practitioner must, at the callover, inform the magistrate. If the matter is a lengthy plea the magistrate will set the matter down for sentence at the first available opportunity in Court 20.

This direction supersedes Practice Direction No. 4 of 2001 and will apply as from the *ex officio* callover on 28 April 2005 and the Committal callover on 26 April 2005.

Judge Marshall Irwin
Chief Magistrate
18 April 2005