

CRIMINAL JURY TRIALS PRACTICE NOTE – DISTRICT COURT

1. This Practice Note addresses pre-trial procedures in criminal jury trials in the District Court, with the following purposes:
 - To improve judicial management of trials;
 - To achieve greater certainty and efficiencies in the disposal of trials;
 - To minimise late pleas of guilty and late adjournments;
 - To improve trial time estimates.
2. The time limits which are prescribed in this Practice Note are maximum time limits and may be reduced to meet local requirements.
3. The committing Court will provide copies of the depositions to the trial Court, the Crown Solicitor and counsel for the accused no later than 21 days after committal.
4. The Crown Solicitor will file and serve an indictment within 42 days (six weeks) after committal, as required by s.345A Crimes Act 1961.
5. A first trial callover will take place in Court no later than 84 days (12 weeks) after committal.
6. At least 21 days (three weeks) **before** the first trial callover the Crown Solicitor will file and serve a trial callover memorandum together with a summary of the alleged facts.
7. The Crown memorandum is to address the following issues:
 - [a] The names of the Crown witnesses and how their evidence could be given (i.e. viva voce, by consent, etc).
 - [b] Whether it is aware of any additional witnesses who it may call at trial (i.e. whose evidence was not adduced at the preliminary hearing).
 - [c] Any dates or time periods when any witnesses will be unavailable.
 - [d] Whether any expert evidence is to be called.
 - [e] Whether any further investigations (e.g. ESR analysis) are being or are to be made.
 - [f] Whether disclosure been completed, and (if not) what further disclosure is to be made or is envisaged.

- [g] Whether there are any logistical issues relating to the trial, e.g. interpreters (if so, for whom and which language), videotapes, audiotapes, views, video links, etc.
 - [h] Whether it seeks admissions of any facts, e.g. identity, date of birth of complainant, ESR analysis, "chain" evidence.
 - [i] Whether any pre-trial issues have been identified, e.g. relating to admissibility of evidence, editing of transcripts, mode of evidence, change of venue, severance.
 - [j] Whether, in the event of an offer by the defence to that effect, it would accept a guilty plea to any alternative charge in the indictment.
 - [k] Its estimate of the duration of the trial.
 - [l] Any other issue which it has identified and which will or may require determination before trial.
 - [m] Any notice of intention to offer hearsay evidence per s.22 Evidence Act 2006.
8. Defence counsel is to file and serve a response to the Crown memorandum no less than seven days (one week) **before** the first trial callover.
9. The defence memorandum is to address and respond to every issue which is mentioned in the Crown memorandum, and in addition it is to address:
- [a] Whether counsel is assigned on legal aid or has been instructed on private retainer.
 - [b] Whether there is any possibility of a guilty plea (including to any alternative charge in the indictment), and (if so) whether an adjournment for discussions with the Crown is sought.
 - [c] Whether there is or may be a request for a sentence indication hearing.
 - [d] Whether the accused has been advised about credit for an early guilty plea.
 - [e] Whether there are any facts or issues which will not be in dispute at trial, e.g. identity, date of birth of complainant, ESR analysis, "chain" evidence.
 - [f] If appropriate, the likely issue(s) at trial (any such indication would **not** constitute an admission of facts pursuant to s.9 Evidence Act 2006).
 - [g] Any issue of suppression of name.

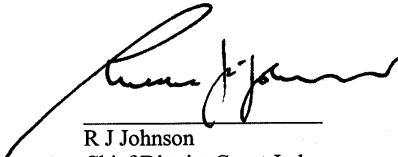
- [h] Any dates or time periods when counsel or any defence witness will be unavailable.
- [i] Whether defence expert evidence is to be called.
- [j] Whether there are any logistical issues relating to the trial, e.g. interpreters (if so, for whom and which language), views, video links, etc.
- [k] Its estimate of the duration of the trial.
- [l] Any other issue which it has identified and which will or may require determination before trial.
- [m] Any notice of intention to offer hearsay evidence per s.22 Evidence Act 2006.

10. At the first trial callover the accused (unless earlier excused by the Judge) and his/her counsel are to be present. The presiding Judge will review the memoranda and, following discussion with Crown and defence counsel, will decide whether any pre-trial hearings are required (if so, timetable directions will be given). If a sentence indication is sought, a hearing date will be allocated.

11. If the accused is arraigned at a callover and pleads guilty, a sentencing date will be allocated.

12. If at a first callover a case is not ready to be allocated a trial date, or if for any reason oversight of the case is required, it will be adjourned to a further callover so that the outstanding issue(s) can be addressed.

13. When a trial date is set, a final trial callover will be scheduled for the week before trial. The accused and his/her counsel must also be present at that callover.



R J Johnson
Chief District Court Judge

1 October 2007