



NEW SOUTH WALES

CHIEF MAGISTRATE'S MEMORANDUM (No.4)

FURTHER CLARIFICATION OF LOCAL COURT ARRANGEMENTS FOR EAGP MATTERS DURING PANDEMIC PERIOD

UPDATED AND REISSUED 9 APRIL 2020

1. The following memorandum was originally issued on 20 March 2020 to clarify arrangements in relation to EAGP committal matters. For ease of reference, it has now been updated to include subsequent arrangements set out in *Chief Magistrate's Memorandum (No.6) – Listing Arrangements During the COVID-19 Pandemic* (dated 24 March 2020).
2. I also draw attention to the addition of paragraph [5] in relation to the filing of documents in committal matters.

Appearance of legally represented defendant

3. Where a defendant is legally represented, their physical attendance, if on bail, is not required until the matter is before the court for committal for trial or sentence in accordance with the arrangements below from [23].

Where unable to meet purpose for which matter is adjourned

4. Where a party is unable to meet the purpose for which a matter is adjourned, they are to notify the court and the legal representative for the other side by email not less than 72 hours prior to the date fixed setting out the reasons why the matter is to be adjourned. The court will advise both parties by email of the new date.

Filing of documents

5. All necessary documents are to be delivered in hard copy to the court no later than 24 hours prior to the date the matter is to be mentioned. The registry will not be responsible for printing material on behalf of the DPP. Any charge certificate or case conference certificate must be in a separate envelope with the defendant's name and case number clearly marked.

First return date/ brief service mention:

6. **If defendant legally represented**, no physical appearance is required and matter may be dealt with electronically. The legal representative should communicate the fact of their representation in writing.
7. **If defendant unrepresented (not in custody)**, no physical appearance is required and defendant may email the court a request for adjournment in writing.
8. **If defendant unrepresented (in custody)**, the matter will proceed via AVL.

9. In all scenarios above, the magistrate will make necessary orders/ adjourn matter as per timetable in Local Court Practice Note Comm 2.

Brief confirmation:

10. **If defendant legally represented**, no physical appearance is required and matter may be dealt with electronically. The legal representative should communicate the fact of their representation in writing.
11. **If defendant unrepresented (not in custody)**, no physical appearance is required and defendant may email the court a request for adjournment in writing.
12. **If defendant unrepresented (in custody)**, the matter will proceed via AVL.
13. In all scenarios above, the magistrate will make necessary orders/ adjourn matter as per timetable in Local Court Practice Note Comm 2.
14. **NOTE:** Contrary to existing arrangements, proceedings commenced as committal proceedings are to be adjourned to a hub court at which the DPP and Legal Aid appear irrespective of whether the accused is bail refused or released to bail.

Charge certification/ case conference adjournment:

15. **If defendant legally represented**, no physical appearance is required and matter may be dealt with electronically. The legal representative should communicate the fact of their representation and make any applications in writing.
16. The defendant is not required to be present for the purposes of providing an explanation pursuant to section 59 of the *Criminal Procedure Act* and matters should not be adjourned to facilitate this.
17. See below for arrangements where entering a plea of guilty.
18. **If defendant unrepresented (not in custody)**, no physical appearance is required and defendant may email the court a request for adjournment in writing.
19. **NOTE:** The defendant is not required to be present for the purposes of providing an explanation pursuant to section 59 of the *Criminal Procedure Act* and matters should not be adjourned to facilitate this.
20. **If defendant unrepresented (in custody)**, the matter will proceed via AVL.
21. In all scenarios above, magistrate will make necessary orders/ adjourn matter as per timetable in Local Court Practice Note Comm 2.
22. **NOTE:** Pursuant to section 71(3) of the *Criminal Procedure Act*, I provide my **approval for case conferences to be held by telephone** where necessary and at the discretion of the parties.

Where entering pleas/ at committal

23. **If defendant legally represented (not in custody)**, physical appearance of legal representative and defendant is required when entering pleas/ at committal for all strictly indictable offences and all matters which are to be committed for sentence.

24. Otherwise, where no election is being made, no physical appearance is required by either legal representative or defendant. Legal representative may enter plea in writing.
25. **If defendant legally represented (in custody)**, physical appearance of legal representative is required and defendant is to appear from custody via AVL when entering pleas/ at committal for all strictly indictable offences and all matters which are to be committed for sentence.
26. Otherwise, where no election is being made, no physical appearance is required by legal representative and defendant is not required to appear by AVL. Legal representative may enter plea in writing.
27. **If defendant unrepresented (not in custody)**, physical appearance is required when entering pleas/ at committal for all strictly indictable offences and all matters which are to be committed for sentence.
28. Otherwise, where no election is being made, no physical appearance is required and defendant may enter plea in writing.
29. **If defendant unrepresented (in custody)**, the matter will proceed via AVL.

Where the matter is to be finalised summarily in the Local Court

30. **If the defendant is legally represented**, no physical appearance is required by the defendant, provided full instructions have been given to their legal representative. This advice may be communicated to the court and the DPP by email. The physical appearance by the legal representative will not be required. The court will consider finalisation of the matter in the context of the arrangements for sentencing proceedings set out in *Chief Magistrate's Memorandum (No.9) - Updated and Consolidated Listing Adjustments During Covid-19 Pandemic* (dated 9 April 2020).


Judge Graeme Henson AM
Chief Magistrate



