



Children's Court of Western Australia

Information Note

Committal of Criminal Matters to a Judge

Sentencing before a judge

In accordance with s 21 of the *Childrens Court of Western Australia Act 1988* (WA), offenders must be committed to the President's sentencing list for sentencing by a judge if a magistrate concludes that their sentencing jurisdiction is inadequate. In other words, where the offender is likely to receive:

- Longer than 12 months detention; or
- Longer than 3 months imprisonment for an offender under 18 years; or
- Longer than 6 months imprisonment for an offender 18 years or over.

Borderline matters may be committed to the President's sentencing list if there is a public interest in the matter being heard by a judge.

Unless they are urgent, regional sentencing committals should be adjourned to the Magistrate's criminal combined list in Perth Children's Court within 14 days of entry of the plea. This is to enable the Office of the Director of Public Prosecutions (DPP) to assume conduct of the prosecution.

Urgent sentencings (for example where an offender is about to turn 18 years old), may be committed directly to the President provided a suitable date is first obtained from the President's associate (email to: ChildrensCourt@justice.wa.gov.au).

Trial before a judge:

The primary consideration in committing a matter to a judge for trial is whether the matter is so serious that a magistrate's sentencing power will be inadequate upon any conviction.

A magistrate may seek an extension of power in an appropriate case to hear a trial pursuant to s 22 of the Act. The President may also extend power to a magistrate when the court has no capacity to deal with an urgent trial.

Further, all charges of sexual offences which carry a maximum penalty of 14 or more years imprisonment AND where the complainant is **currently** under 13 years old or where a ground rules hearing is necessary, should be committed to a judge for trial.

Time of committal for trial

Perth and metropolitan matters fitting the criteria for committal to a judge for trial should be committed to a President's status conference list once s 19B papers have been served, disclosure is complete and the plea of not guilty recorded.

Regional matters should be adjourned to the Magistrate's combined list in Perth Children's Court at the time s 19B papers are ordered and a plea of not guilty is indicated as likely. This is to enable the DPP to assume conduct of the prosecution.



Judge Hylton Quail

President of the Children's Court of Western Australia

6 February 2023