



Indictable proceedings

The majority of offences are heard in the Local Court of NSW. More serious, or indictable, offences are matters that will be heard in the District or Supreme Court of NSW, usually by way of jury trial. A definitions section is drafted below to assist with some of the technically legal matters raised within this fact sheet.

Some indictable offences will be heard within the Local Court of NSW unless an election is made by either the defence or prosecution to have the matter heard in the District Court by way of trial. There are some significant advantages and disadvantages of a matter proceeding by way of trial before the District Court.

If the matter proceeds to the District Court or the Supreme Court it will nevertheless have the initial matters ("committal matters") determined in the Local Court.

You should obtain legal advice immediately upon being charged with an offence.

Strictly indictable matters are matters which will be heard before either the District Court of NSW or Supreme Court of NSW. For strictly indictable matters, unless a plea of guilty is entered, at the first mention of your matter, Orders will be made for the service of the Brief of Evidence upon you or your legal representative within six weeks and the matter will be listed for further mention before the Court two weeks after the brief has been served (eight weeks after our first appearance before the Court).

At the second mention of the matter, unless a plea of guilty is entered, or unless there is a waiver of committal, your matter will thereafter be adjourned for no longer than a further six weeks to allow any negotiations to occur. This may give the Prosecution and our firm the opportunity to negotiate charges or police facts.

At the third mention of your matter, unless a plea of guilty is entered or the matter is to be preceded by 'waiver of committal' or 'paper committal', the matter is to be adjourned with Orders to be made for the filing of submissions under Section 91 or 93 of the Criminal Procedure Act within two weeks, and your matter will be further adjourned for another four weeks thereafter.

At the fourth mention of your matter the matter will proceed by way of waiver of committal or paper committal. If Section 91 or 93 submissions are filed, then the matter will be listed for a contested Committal Hearing or contested Section 91 or 93 applications.

The matter will proceed before the Local Court of NSW for committal.

When an individual is committed for trial, the matter will thereafter be adjourned for its first Mention before the District Court of NSW. On the first Mention before the Court of NSW, the matter will likely be adjourned for a period of approximately one month for an arraignment date. An arraignment date is where the Court indicates a date for the Trial to be heard before the District Court.

When your matter proceeds to trial before the District/Supreme Court of NSW, unless an application is made, the trial will take place before a jury.