

# Dunn & Baker

## **INFORMATION RELATING TO MODE OF TRIAL PROCEDURE AND PLEA BEFORE VENUE**

In any case where the offence is one of the type known as 'either way', (i.e. it can be dealt with either in the Magistrates Court or the Crown Court), there is a procedure which must be carried out by the Court in order to decide whether the case is suitable to be dealt with by Magistrates or whether it must be committed to the Crown Court. This is called 'mode of trial' procedure, and it is also now combined with a procedure known as 'plea before venue'.

Mode of trial procedure should normally take place in your presence, although there are a few special occasions when it may be carried out in your absence.

Before the Magistrates take a decision as to which Court will deal with the case, you will be asked to indicate whether you intend to plead guilty or not guilty if the offence went to trial (plea before venue). **Please note** that if you indicate that you intend to plead guilty, you will be convicted of the offence as from that moment. In those circumstances, the Magistrates will then consider how to sentence you, if the case is one which they have the power to deal with, and they may either sentence you at that hearing, or put the case off for a pre-sentence report to be prepared by the Probation Service. If they decide that you deserve a more severe sentence than they have power to give you, they may commit you to the Crown Court for sentence, either on bail or in custody, but you will still have been convicted of the offence.

If you indicate that you will be pleading not guilty, or you fail to indicate a plea at all, then the Magistrates must consider whether they can deal with the case, or whether you should be tried by the Crown Court. In order to do this, they will listen to what both the Prosecution and Defence have to say. They will also take into account the type of offence, whether the circumstances make the offence more serious, (e.g. in an assault case, whether weapons were used), whether the punishment which they could inflict would be adequate and any other circumstances which they feel are relevant.

If the Magistrates decide that the case is suitable for them to deal with, they must ask you whether you consent to this. You may still decide that you want to be dealt with by the Crown Court, and the Court will have to agree. However, if the Magistrates decide that the case should go to the Crown Court, you cannot ask for a summary trial in the Magistrates Court.

The procedure is carried out as follows:-

1. The charge will be written down and read out to you by the Clerk.
2. The Clerk, or Magistrate, will explain the procedure to you.

#### 4.7 Mode of Trial/Plea Before Venue

3. You will be asked whether, if the offence went to trial, you would plead guilty or not guilty.
4. If you say that you would plead guilty, then the case proceeds as though you have entered a guilty plea (see above).
5. If you say you would plead not guilty, it is then the turn of the Prosecution and the Defence to tell the Magistrates whether they think the case is suitable for trial in the Magistrates Court or the Crown Court.
6. The Magistrates then consider which type of trial is more suitable (see above).
7. If the Magistrates decide that summary trial is more suitable, the Clerk will explain to you that you can agree to this, or you can choose to be tried in the Crown Court. He will also explain that the Magistrates have the power to commit you to the Crown Court for sentence (see above).
8. You tell the Magistrates whether you agree to a summary trial or wish to go up to the Crown Court. (If the Magistrates have decided that the case should be committed to the Crown Court, then you have no choice).

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