

GUIDELINE 1 OF 2020
(MADE UNDER PRACTICE DIRECTION 2 OF 2020)
COURT ARRANGEMENTS (COVID-19)
BRISBANE MAGISTRATES COURT (BMC) AND ROMA ST

1. BRISBANE MAGISTRATES COURT AND ROMA STREET ARREST COURT

- Until further notice all callovers will be conducted on the papers, without personal or telephone appearances required from legal representatives or defendants, with matters adjourned for three months from the date of listing.
- A number of courts will continue to operate as outlined in sections [2] – [7] of this Guideline. The Court will continue to monitor capacity with a view to hearing as many matters as possible.
- Any party may choose to appear by telephone at a callover or mention.
- All legal practitioners have leave to appear by telephone or other audio visual link on the following conditions:
 - Notify BMC Registry (courthouse.brisbane@justice.qld.gov.au) no later than 2pm the day prior to the appearance as to how they will appear and their telephone and email contact details and the matter (or matters) it involves.
 - BMC Registry will give a time frame for appearance as advised by the Magistrate.
 - Be available in a quiet place and contactable by email and telephone 1 hour before and after nominated appearance time.
 - Any documents to be relied upon are to be copied to the other party and the Court by email by 3pm the day prior to appearance.
- All non-legally represented parties have leave to appear by telephone or other audio visual link (subject to specific order of a Magistrate) on the following conditions:
 - A written or email notification must be provided to BMC Registry (courthouse.brisbane@justice.qld.gov.au) no later than 48 hours prior to appearance giving contact details and the name of their matter.
 - Be available in a quiet place and contactable on the supplied telephone number from 9am on the day nominated for their appearance.
 - They may be contacted at any time on that day by telephone.
- Defendants in custody who are legally represented will have their appearance excused.
- Defendants in custody who are not legally represented will appear by video link.
- Legal representatives and other parties, including unrepresented defendants, may utilise either electronic adjournment or written requests to seek a specific date or make other requests. Such requests should be copied to all parties with a view to obtaining consent orders. For example, a legal representative or unrepresented defendant may advise the Court by email or in writing of a plea of not guilty. The Court will make orders for service of the brief of evidence if required and advise the legal representative or defendant by electronic means of the order.

- Parties can continue to conference about the progress of the matter and advise the Court of any resolution or change of plea.
- All matters currently listed for hearing will be mentioned on the day listed and will be adjourned. The appearance of parties to these matters is excused or the parties may appear by electronic means. Any party may request the Court hear a matter because of urgency or special circumstances. Such requests can be by electronic means or telephone appearance.
- All matters currently listed for long plea will be mentioned on the day of hearing. The Court will hear those matters where adjournments are not requested. Matters will be mentioned individually to reduce numbers of persons inside the courtroom. All defendants in custody will appear by video-link.
- Civil applications currently listed for hearing will be adjourned on the papers subject to any application by a party to hear a matter because of urgency or special circumstances. Such requests can be by electronic means or telephone appearance.
- An urgent mention, plea or hearing may be requested in accordance with sections 4 and 5 of this guideline.
- Appearances for fresh matters in Arrest Court are required where a party is (i) not on bail or (ii) is not legally represented.
- Nothing in this guideline restricts an individual Magistrate from determining to hear a matter that they have capacity on the day to hear.

2. ROMA STREET ARREST COURTS

- Courts 1 and 3 will sit every day from 9am.
- Court 1 will deal with the following matters:
 - 9am – 10am: Urgent traffic
 - 10am – 1pm: Remands (video) for people in custody, new appearances, bail applications (video or audio links)
 - 2pm: Afternoon arrests and urgent applications.
- Court 3 will deal with the following matters:
 - New arrests (custody)
 - Video remands from BMC for not legally represented persons
 - Urgent bail applications.
- In accordance with Practice Direction 3 of 2015 BMC may have to hear urgent matters from other courts that have had to close.

- The Queensland Police Service must ensure that all Police paperwork is transferred via IJIS prior to 07:30am on the respective date or provided to the Brisbane Police Prosecutions if matters are from other Magistrates Court Districts within the region.
- In respect of Defendants in custody from centres outside Brisbane, the Queensland Police Service will need to notify Brisbane Police Prosecutions and make arrangements for appearances by telephone/video before the Brisbane Magistrates Court Arrest Court and that notification must be made by 07:30am on the respective date.

3. DOMESTIC VIOLENCE APPLICATIONS: COURT 25

- Court 25 will continue to sit Monday to Friday. It will hear urgent applications for domestic violence orders Monday – Friday. It will also hear listed domestic violence applications in accordance with the schedule on Tuesday (A-K Police applications), Wednesday (L-Z Police applications), and Thursday (Private applications).
- All appearances by legally represented parties are excused.
- All appearances by aggrieved in police applications for domestic violence orders are excused.
- However, any aggrieved or respondent may appear in a matter. To reduce risk, appearance by telephone is preferred but if this is not possible appearance at Court 25 is permitted.
- All parties may appear by telephone in accordance with section 1 of this Guideline.

Urgent Police Applications

- Applications for Temporary Protection Orders ought not be made if the Respondent is detained or is located and is in the company of the Police. In those circumstances the Applicant Police officer ought to proceed by
 - Police Protection Notice (s101 *Domestic and Family Violence Protection Act 2012* (DFVPA))
 - Application for Protection Order including release conditions (s125) (2) DFVPA)

Police Protection Notice

- The Applicant Police officer ought to issue a Police Protection Notice and make the application returnable on the next Domestic Violence Call-over date for the relevant Court (BMC Court 25, A-K Tuesday, L-Z Wednesday).

Release Conditions and Applications for Temporary Protection Order

- Section 129 DFVPA provides for the circumstances when a police officer must apply for a Temporary Protection Order. Under s118, a police officer must, as soon as practicable after a person is taken into custody, prepare an application for a protection order. The application for a protection order must be e-mailed to courthouse.brisbane@justice.qld.gov.au.
- Under s125 DFVPA, where a person is detained and a Police Protection Notice is not issued, and the releasing police officer reasonably believes a domestic violence order has been made, the releasing police officer can release the person on release conditions (s125(2)).

- The Application for the Temporary Protection Order will then be considered pursuant to s129 (1) of the DFVPA on the next sitting date.
- If a Temporary Protection Order is made a copy of the Order will be transmitted by e-mail to the designated police email address for the relevant police station and the Application will remain listed for the next available sitting date.
- After hours urgent applications can still be made to the After Hours on call Magistrate as required.

Filing of New Applications by Private Parties

- If the application is not urgent, the Applicant should file the application by post to the BMC Registry.
- If the application is urgent, the Applicant should first contact the Queensland Police Service and request them to obtain an urgent temporary protection order or issue a Police Protection Notice (PPN) on behalf of the Applicant.
- Where:
 - i. QPS determine and advise the person that it is not appropriate for them to issue a PPN (*NB If QPS decide to issue a PPN, the PPN takes effect from when a police officer tells a respondent about the existence of the PPN in any way, including by telephone, emails, SMS message, a social networking site or other electronic means –see s113 DFVPA*) or to seek an urgent temporary protection order on behalf of that person; and
 - ii. The person believes they have urgent grounds to seek a temporary or other protection order, but cannot attend court to file their application due to the emergent situation notified by the Court
 THEN such person may lodge their application electronically (at the email address specified for that courthouse in a Notification published on the Queensland Court website) for consideration by the Court, and include email addresses and telephone contact details for all parties and relevant witnesses to the proceeding.
- Rule 9 of the *Domestic and Family Violence Protection Rules 2014* (DFVPR) prescribes that documents under the *Domestic and Family Violence Protection Act 2012* may be filed in person or by post. The Court however has discretion under rule 6 DFVPR to waive compliance with this rule and accept applications filed electronically.
- Applicants will be notified by email as to whether the Court has determined to waive compliance with rule 9 DFVPR and accept their application. Where the application has not been accepted, the Applicant must file their application by post during the emergent period notified.
- Where the application has been accepted, the Applicant and Respondent (unless the Applicant has requested under section 36 or 90 of the DFVPA that a Temporary Protection Order be made before the application is served on the respondent)) will be notified by email of the date and time and place where the application will be heard. This may be at Court 25, another courthouse, or it may be heard by a Magistrate constituting the Magistrates Court remotely. The Applicant and other parties will also be advised as to how and when the Court may call upon them to provide further evidence, which may be by email or phone or other means, for the purpose of supporting or responding to the relevant application.

- If an aggrieved has no access to email a private application may be lodged in the BMC Registry. The application will be reviewed by a Magistrate and, if required, an immediate hearing for a Temporary Protection Order will be heard. If no urgent order is sought the hearing of the application will be given a date and time.

4. **URGENT PLEAS AND BAIL APPLICATIONS**

- On Monday and Friday Court 25 (or other Court as notified) will hear urgent long pleas and urgent bail applications. Arrest Court 1 and 2 will also hear urgent bail applications and, subject to capacity, urgent pleas.
- Appearances for these matters will be in accordance with section 1 of the Guideline. A defendant in custody will appear by video link.
- Urgent pleas will be listed when:
 - the defendant is in custody and there is an expectation that the defendant may be released on or near the sentence date; or
 - other special circumstances.
- Other special circumstances may include where a defendant has urgent obligations in another jurisdiction, the type of matter involved or there is some special hardship (for example, traffic matter where the defendant is suspended from driving).
- To arrange a hearing the defendant or the defendant's legal representatives must contact the Brisbane Registry (courthouse.brisbane@justice.qld.gov.au) giving the reasons for such a listing. A Magistrate will consider the request and direct a hearing date. All material to be relied upon is to be provided to the prosecution and BMC Remand Court (courthouse.brisbane@justice.qld.gov.au) two clear business days before the hearing.
- Appearances are in accordance with section 1.

5. **AUDIO/VIDEO COURT**

- Court 4 will hear all urgent matters or matters with special circumstances listed by arrangement with BMC Registry and approved by a Magistrate.
- Urgent matters or matters with special circumstances may be criminal or civil matters. Subject to availability of a court and parties an urgent hearing or other application may be listed.
- To arrange a hearing the party or the party's legal representatives must contact the Brisbane Registry (courthouse.brisbane@justice.qld.gov.au) giving the reasons for such a listing. All other parties must be copied into the email.
- All appearances in the Court will be by audio or video link.
- If a matter is listed the parties will be notified by email of the date and time of the listing.

- All material to be relied upon is to be provided to the prosecution and BMC Remand Court (courthouse.brisbane@justice.qld.gov.au) two clear business days before the hearing.
- The Magistrate may require the parties to appear by audio link or video link to determine whether the matter will be listed and what special arrangements can be made to facilitate the hearing with reduced risk of contagion.

6. QDAC

- All case management (Department of Corrective Services) – required weekly for most participants – will be conducted by phone.
- Queensland Health will conduct individual counselling sessions (required weekly for most participants) by phone.
- Testing – off site testing will be notified.
- Court – All defendants will only appear by telephone. Other parties have leave to appear by telephone subject to further Court direction.

7. CHILDRENS COURT

- Until further notice all legal practitioners have leave to appear by telephone or other audio visual link conditioned :
 - Notify BMC Registry (courthouse.brisbane@justice.qld.gov.au) no later than 2pm the day prior to the appearance as to how they will appear and their telephone and email contact details and the matter (or matters) it involves
 - BMC Registry will give a time frame for appearance as directed by the Magistrate
 - Be available in a quiet place and contactable by email and telephone 1 hour before and after nominated appearance time
 - Any documents to be relied upon are to be copied to the other party and the Court by email by 3pm the day prior to appearance.
- All matters other than urgent matters will be adjourned on the papers, without personal appearances, for three months from the date of listing.
- All appearances by legally represented parties are excused.
- All matters involving non-legally represented parties before the Court will be adjourned on the papers with personal appearances excused. The adjournment date will be for a minimum of 3 months.
- Appearances for new Childrens Court charges can be by telephone unless the Magistrate orders otherwise.
- All non-legally represented parties in child protection matters have leave to appear by telephone or other audio visual link (subject to specific order of a Magistrate) on the following conditions:

- A written or email notification must be provided to BMC Registry (courthouse.brisbane@justice.qld.gov.au) no later than 48 hours prior to appearance giving telephone contact details and the name of their matter.
 - Be available in a quiet place and contactable on the supplied telephone number from 9am on the day nominated for their appearance.
 - They may be contacted at any time on that day by telephone
- In Child matters the Court may not be able to list child protection hearings or Youth Justice hearings and only urgent hearings or matters with special circumstances will be considered for listing.
 - An urgent mention or hearing may be requested.
 - To arrange a hearing the party or the party's legal representatives must contact the Brisbane Registry (courthouse.brisbane@justice.qld.gov.au) giving the reasons for such a listing. The request will be considered by a Childrens Court Magistrate.
 - If an urgent hearing is listed all material to be relied upon is to be provided to the prosecution and BMC Remand Court (courthouse.brisbane@justice.qld.gov.au) two clear business days before the hearing.

8. PPRA APPLICATIONS FOR ORDERS AND WARRANTS

- The Court 4 Magistrate will also hear police applications for warrants and orders.
- The only applications which should be made to the On Call Magistrates telephone are as follows:
 - 1) Search Warrants – s150 (PPRA)
 - 2) Forensic Procedure Orders – s458 (PPRA)
 - 3) Extension of Detention Orders – s405 (PPRA)
- All other Applications are to be made to the Court at 9am on a Court sitting day with the Application material being transmitted to the BMC Registry (courthouse.brisbane@justice.qld.gov.au) to be heard before the Court.
- Any Application or supporting material must be arranged to be sworn before a Justice of the Peace prior to the Application being lodged. If the QPS cannot access Justices of the Peace at Police Stations or elsewhere the Roma Street Arrest Court will have staff who are Justices of the Peace available to take oaths or affirmations.
- Any Application e-mailed will be reviewed and considered (and if appropriate orders made or warrants issued) at 9am and 2pm on each sitting day of Court 4. Any orders made or warrants issued will be transmitted by e-mail back to the Applicant officer.
- The Applicant officer should be available, if required, to appear by telephone link in Court 4 to address any issues.

Crime Scene Warrants

- If a Police Officer establishes a crime scene and it is necessary to apply for a Crime Scene Warrant that is to be undertaken on the next following sitting day at 9 am (– note s166 (1) PPRA which requires the Application to be made “as soon as reasonably practicable”).

Forensic Procedure Orders

- Chapter 17 part 1 of PPRA authorises forensic procedure orders where a party gives a forensic procedure consent.
- In any application to a Magistrate for a forensic procedure order the Applicant ought to depose as to whether or not the person’s consent has been sought and is refused.
- The PPRA provides an approved form for consent (s455) (4)) in circumstances where a person detained consents to a forensic procedure. That written form of consent ought be used and an application for a forensic procedure order ought not be made.

EMAIL ADDRESS FOR SENDING URGENT DOMESTIC VIOLENCE APPLICATIONS TO BE CONSIDERED:

courthouse.brisbane@justice.qld.gov.au

EMAIL ADDRESS FOR SENDING URGENT REQUESTS:

courthouse.brisbane@justice.qld.gov.au

EMAIL ADDRESS FOR SENDING APPLICATIONS FOR ORDERS AND WARRANTS:

courthouse.brisbane@justice.qld.gov.au

CONTACT NUMBER AT ROMA ST, BRISBANE MAGISTRATES COURT:

1800 325 085

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1800 325 085



Deputy Chief Magistrate Brassington

Brisbane Co-Ordinating Magistrate

18 March 2020

