

Brisbane Magistrates Court Guidelines

Christmas / New Year Court Closure Period 2022 -2023 & Out of Hours Applications

1.0 Arrest Court - 240 Roma Street, Brisbane

- The Court will sit during the Court closure period Monday 26 December 2022 to Saturday 7 January 2023 excluding Sundays for custody only matters.
- Court will commence **promptly** at 8:30am.
- The Watchhouse keeper is required to ensure that defendants in custody are produced promptly at 8:30am in Court 1.
- Legal Practitioners are required to ensure that they have attended on defendants in custody and taken instructions and can appear for Court to commence at 8:30am.
- The Queensland Police Service must ensure that all Police paperwork is transferred via IJIS prior to 7:30am 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 Brisbane Arrest Courts and make arrangements for appearances by telephone/video before the Brisbane Arrest Court and that notification must be made by 7:30am on the respective date.
- **Watchhouse keepers are to be reminded of their own personal obligations under the Bail Act in respect of granting defendants arrested and charged with watch house bail.**

2.0 Out of hours Applications

- The only applications which may be made to the On Call Magistrates telephone are as follows:
 - 1) Search Warrants – Section 150 (PPRA)
 - 2) Forensic Procedure Orders – Section 458 (PPRA)
 - 3) Extension of Detention Orders – Section 405 (PPRA)
 - 4) Urgent Child Protection Applications

All other Applications are to be made to the Court at 8:30am on a Court sitting day with the Application material being transmitted to the Brisbane Police Prosecution section 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 Brisbane Magistrates Court Registry will have staff who are Justices of the Peace available to take oaths or affirmations at the Brisbane Arrest Courts.)

Alternatively, Applications of a procedural kind which are not urgent are to be lodged by e-mail (noting the requirement for the Application and supporting material to be sworn before a Justice of the Peace) by emailing them to BrisbaneArrestCourts@justice.qld.gov.au

Any Application e-mailed will be reviewed and considered (and if appropriate orders made or warrants issued) at 8:00am on each sitting day of the Courts. Any orders made or warrants issued will be transmitted by email back to the Applicant officer.

NB: 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 8:00am (- note Section 166 (1) PPRA which

requires the Application to be made “as soon as reasonably practicable” ... that does not mean telephoning at 2:00am to make an Application but as soon as reasonably practicable will be the next sitting date of the Court.)

NB: 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 persons consent has been sought and is refused.

The PPRA provides an approved form for consent (Section 455)(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.

3.0 Domestic Violence Applications

Applications for Temporary Protection Orders ought not be made under any circumstances 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 (Section 101)
- Application for Protection Order including release conditions (Section 125) (2)

Police Protection Notice

The Applicant Officer’s Police Protection Notice Application is returnable on the next Domestic Violence callover date for the relevant Court.

Brisbane Magistrates Court’s next callover dates are at 9:00am on:

- 10 January 2023 (A-K) or 11 January 2023 (L-Z) for PPNs issued on 24 December 2022 to and including 31 December 2022, and;
- 17 January 2023 (A-K) or 18 January 2023 (L-Z) for PPNs issued on 1 January 2023 to and including 8 January 2023.

NB: Do not seek a Temporary Protection Order - if the defendant is detained or in Police Custody.

Release Conditions

Where the Respondent is present, and a Police Protection Notice is not sought to be issued an Application can be made to include release conditions (Section 125)(2).

An Application for a Temporary Protection Order in respect of a Respondent served with an application and with release conditions is required to be made if it is more than five days until the next available court date.

The Application for Temporary Protection Order ought not be made by telephone but must be emailed to BrisbaneArrestCourts@justice.qld.gov.au

The Application for the Temporary Protection Order will then be considered pursuant to Section 129(1) on the next sitting date.

If a Temporary Protection Order is made a copy of the Order will be transmitted by email to the central police email address and the Application will remain listed for the next available sitting date (as noted for the Brisbane Magistrates Court 9:00am on 10 or 11 January 2023).

URGENT TPO - IF NOT DETAINED

If a Respondent is not detained by the Police or in the presence of the Police and an urgent Temporary Protection Order is to be sought, contact the Brisbane Arrest courts and email the application to BrisbaneArrestCourts@justice.qld.gov.au

If the application is after hours, please contact the on call magistrate.

ON CALL MAGISTRATES PHONE NUMBER:

(07) 3738 7488

EMAIL ADDRESS FOR SENDING URGENT / NON-URGENT APPLICATIONS TO BE CONSIDERED AT 8:00AM:

BrisbaneArrestCourts@justice.qld.gov.au

EMAIL ADDRESS FOR SENDING URGENT AFTER HOURS APPLICATIONS:

To be obtained from on call magistrate.

CONTACT NUMBER AT BRISBANE ARREST COURTS - ROMA ST:

(07) 3738 8905