

Magistrates Court of Queensland

Annexure A to Practice Direction No 25 of 2010

Special Circumstances Court Diversion Program

ELIGIBILITY CHECKLIST

This form is to be used by a Court Case Coordinator checking eligibility and recommending a defendant for further assessment

Defendant:

Instructions: Defendant is eligible to be considered by a magistrate for referral for assessment if 'yes' is answered to all the statements. An answer of 'no' to any of the statements will result in a recommendation that the defendant be declined for referral for a formal assessment

ELIGIBILITY CRITERIA CHECKLIST		
	Yes	No
1. The defendant was an adult (i.e. the defendant is a person to whom the <i>Youth Justice Act 1992</i> does not apply) at the time the alleged offence/s were committed.		
2. The defendant is homeless or has impaired decision-making capacity.		
3. The offence/s charged arise in circumstances that are connected to the defendant's homelessness and/or impaired decision making capacity.		
4. The offence/s charged are alleged to have been committed in the Brisbane Central Division ¹ ; or (i) they are fresh charges for further offences alleged to have been committed outside the Brisbane Central Division and the defendant is before the Special Circumstances Court on charges alleged to have been committed in the Brisbane Central Division; and (ii) the prosecution and defendant consent to the defendant's acceptance into the Program.		
5. The offences charged (i) are able to be dealt with summarily (by right or election); (ii) do not involve allegations of serious personal violence ² or of a sexual nature ³ ; and (iii) are not serious offences. ⁴		
6. The defendant must not have charges pending before a court for offences involving allegations of serious personal violence ⁵ or of a sexual nature ⁶ or for serious offences ⁷ .		
7. The defendant must not have been previously convicted for offences of a sexual nature ⁸ , unless the prosecution and defendant consent to the defendant's acceptance into the Program.		
8. The defendant must not be serving a term of imprisonment other than by way of court ordered parole (not cancelled), post prison parole or a suspended sentence.		

I confirm that the defendant meets/does not meet the eligibility criteria in 1-8 above.

.....
Signed by the Court Case Coordinator Date Place
.....

Instructions: Strike out inapplicable options

(a) I confirm the defendant has been provided information on the Program and has provided informed written consent to participate in the Program and to the exchange of information about the defendant. I recommend that the matter be adjourned to the Special Circumstances Court with provision for formal assessment interview prior to the adjourned date. The defendant has been provided with an appointment to complete a formal assessment interview on:

(insert date) at (am/pm)

at (insert details of the place where the assessment is to take place).

OR

(b) I confirm the defendant has been provided information on the Program and has provided informed written consent to participate in the Program and to the exchange of information about the defendant. A formal assessment interview has already been held with the defendant and a written report of the formal assessment interview will be available for production to the Special Circumstances Court. I recommend that the defendant's matter be adjourned to the Special Circumstances Court.

OR

(c) I consider the defendant is not suitable to participate in the Program and I recommend that the defendant be *declined* entry to the Program.

.....
Signed by the Court Case Coordinator Date Place
.....

Registry use only:-

The defendant is referred for formal assessment interview to be undertaken on

(insert date) at (am/pm)

at (insert details of the place where the assessment is to take place).

This matter is listed for further mention at the Court at
am/pm on the day of .

Registrar/Officer Authorised by Registrar

¹ The area of the Central Division is the area of the following electoral wards of the City of Brisbane – Central, Dutton Park, East Brisbane, Enoggera, Grange, Hamilton, Jamboree, Marchant, McDowall, Morningside, Northgate, Pullenvale, The Gap, Toowong, Walter Taylor – see Schedule 1 *Justices Regulation 2004*.

² An offence involving allegations of serious personal violence is an offence that involves any allegation of serious personal violence whether as an element of the offence or as an act of violence associated with the offence. An offence involving allegations of serious personal violence does not include an offence charged under any of the following provisions:

- Section 335 *Criminal Code* (common assault);

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- Section 340 *Criminal Code* (serious assault);
 - The *Police Powers and Responsibilities Act 2000*

or an offence which the prosecution and defendant consent to being dealt with under the Program.

³ An offence of a sexual nature does not include an offence by a prostitute providing prostitution or accepting an offer to provide prostitution.

⁴ A "serious offence" for the purpose of 5(iii) and 6 above is any offence which carries a maximum penalty of more than 7 years, unless it is:

- (a) an offence that is to be dealt with summarily under s.13 *Drugs Misuse Act 1986* and there is no allegation by the prosecution that the conduct the subject of the charge was for a commercial purpose; or
- (b) an offence that the prosecution and defendant consent to being dealt with summarily under the Program.

⁵ See endnote 2 above.

⁶ See endnote 3 above.

⁷ See endnote 4 above.

⁸ See endnote 3 above.