

Magistrates Courts

Practice Direction No. 10 of 2024

Issued: 19 December 2024

DNA Affected Case Callover for Cases in the Brisbane and Surrounding Areas Only

Purpose

1. The purpose of this Practice Direction is to establish a “DNA Affected Case Callover” (“the callover”) in the Brisbane Magistrates Court to effectively case manage criminal cases in the committal stream which are delayed from progressing due solely to the absence of pending DNA evidence. The aim of the callover is to case manage the backlog of pending DNA evidence in the Brisbane region and surrounds.
2. The significant backlog of cases affected by delays in the production of DNA evidence is acknowledged as a concern to those involved in a case, including defendants and complainants, but so too for the courts in the proper administration of justice.
3. A magistrate has an overall supervisory responsibility for committal proceedings, which includes setting timetables and giving directions.¹ It is an overriding principle that the prosecution and defence are expected to case conference on a continuing basis in order to progress such cases. Through case conferencing and appropriate case management by the courts, whether or not, or to what extent, DNA evidence is required prior to any committal proceedings, is to be subject to judicial case management scrutiny at the callover.
4. Nothing contained in this Practice Direction is intended to fetter the discretion of a Magistrate to make orders or directions considered appropriate.

Commencement

5. This Practice Direction commences on 2 January 2025.

¹ Per [s. 103B](#) of the *Justices Act 1886*.

Definitions

6. Terms used in this Practice Direction:

6.1 “**DNA affected case**” is a case that meets all of the following criteria:

- a) consisting of one or more criminal offences proceeding on indictment;
- b) the Brief of Evidence has been ordered and disclosed but the prosecution have advised both the defence and the Court that DNA evidence will form part of the brief but is yet to be produced;
- c) the DNA evidence is the only remaining evidence to be disclosed and no other disclosure of evidence is outstanding; and
- d) either the prosecution or defence, or both, have informed the Court that DNA evidence is required to be produced before the case can progress through committal proceedings.

6.2.” **Related Charges**” are those charges which are linked to the DNA Affected Case but where DNA evidence does not or is unlikely to form part of the Brief of Evidence. These charges are capable of being on the same indictment or being transmitted to a higher court pursuant to ss.651 and 652 of the *Criminal Code (Qld)*.

6.3 “**Prosecution**” includes the Director of Public Prosecutions (Queensland) and the Queensland Police Service. For the purposes of this Practice Direction it does not include the Commonwealth Director of Public Prosecutions.

Application

7. This Practice Direction should be read in conjunction with the *Justices Act 1886* and Practice Directions 8, 9, 10, 12, 13, 14, 15 of 2010 and Practice Direction 7 of 2020. All references to section numbers refer to those in the *Justices Act 1886* unless otherwise stated.

8. This Practice Direction applies to all DNA affected cases lodged only in the following Magistrates Court locations (“the originating court”): -

- Brisbane
- Beaudesert
- Beenleigh
- Caboolture
- Cleveland
- Holland Park
- Ipswich
- Pine Rivers
- Redcliffe
- Richlands
- Sandgate
- Wynnum

DNA Affected Case Callover – Brisbane Magistrates Court

9. A dedicated DNA Affected Case callover is to be heard from 9:00 am in the Brisbane Magistrates Court on the first Friday of every month, unless as otherwise scheduled or directed by the Court.
10. For those cases commenced in Brisbane, the case should initially proceed to the general Committal Callover or the Sexual Assault Indictable Offences Callover. If the case then reaches the criteria of a DNA affected case, it and any related charges should be transferred directly into the DNA Affected Case Callover.
11. For those cases lodged outside of the Brisbane Magistrates Court upon the case reaching the criteria of a DNA affected case, it and related charges should be transferred directly into the DNA Affected Case Callover from court locations in paragraph [8].
12. Where practicable, it is desirable that practitioners who appear at the DNA Affected Case Callover should either be the lawyer who is assigned to a case or a senior practitioner from the relevant prosecution or defence organisation.
13. Practitioners (including prosecutors), particularly those outside the Brisbane metropolitan area, may seek leave to appear by phone or audio-visual link at the callover.
14. At the DNA Affected Callover, the prosecution and defence, should be in a position to advise the Court:
 - (a) if a timeframe is known to the prosecution for the production of DNA evidence;
 - (b) if DNA evidence remains an impediment to progressing a case through committal proceedings (including if agreement has been reached between the prosecution and the defence that obviates the need for DNA evidence pre-committal order);
 - (c) if an interim DNA report has been disclosed and is sufficient to progress the case through a committal proceeding;
 - (d) whether other applications can progress without the pending DNA evidence (e.g., matters outlined in Part 4 Div. 10A and 10B).
15. For those cases transferred into Brisbane upon the DNA evidence being produced and/or the case no longer being a DNA affected case, the case can remain in the Brisbane Magistrates Court or returned to the originating court to allow the case:
 - (a) to proceed by way of Registry Committal pursuant to Part 5 Div.7A; or

- (b) to be listed for a s.110A full hand-up committal hearing (without a no case submission); or
 - (c) to allow an ex officio indictment to be presented.
16. If the case is to proceed by way of contested committal (including a full hand-up committal hearing with a no case submission), at the DNA Affected Callover the following may occur:
- (a) Directions may be made pursuant to s.110B and/or s.83A;
 - (b) An order for the case and related charges to return to the originating court for mention to allow further disposition or, in the case of cases commenced in Brisbane, for the case to be appropriately listed.



Anthony Gett

Acting Chief Magistrate

19 December 2024