

Magistrates Courts

Practice Direction No. 11 of 2024

Issued: 19 December 2024

Sexual Assault Offence Callover (Brisbane Magistrates Court cases only)

Purpose

1. The purpose of this Practice Direction is to establish a “Sexual Assault Offence Callover” (“the callover”) in the Brisbane Magistrates Court to effectively case manage and facilitate procedural consistency in sexual assault cases.
2. Delays and adjournments in Court proceedings for sexual assault offences can increase anxiety and distress for all persons involved including complainants and defendants. The appropriate judicial case management of applications and hearings, including the setting of timelines¹ and identification of certain case needs, is important to the effective administration and streamlining of sexual assault cases.

Application

3. 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.
4. This Practice Direction is only applicable to cases lodged in the Brisbane Magistrates Court. It applies to sexual offence cases which are proceeding either summarily or on indictment.
5. Nothing contained in this Practice Direction is intended to fetter the discretion of a Magistrate to make orders or directions considered appropriate.

Commencement

6. This Practice Direction commences on 2 January 2025.

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

Definitions

7. Terms used in this Practice Direction:

7.1 “**Sexual Assault Offence**” is: -

- a) an offence contained in Chapter 22 and 32 of the *Criminal Code (Qld)*;
- b) a “sexual offence” as defined in the *Corrective Services Act 2006 (Qld)*; and/or
- c) a “sexual offence” under a law of the Commonwealth.

7.2.” **Related Charges**” are those charges which are linked to the sexual assault offence case and which are capable of being: -

- a) joined on the same complaint²; or
- b) on the same indictment or transmitted to a higher court pursuant to ss.651 and 652 of the *Criminal Code (Qld)*; or
- c) subject to a s.16BA Crimes Act 1914 (Cth) proceeding.

7.3 “**Prosecution**” includes the Commonwealth Director of Public Prosecutions; Director of Public Prosecutions (Queensland); and the Queensland Police Service.

Sexual Assault Offence Callover – Brisbane Magistrates Court

8. The callover is to be heard from 9:00 am in the Brisbane Magistrates Court on the third Friday of every month, unless as otherwise scheduled or directed by the Court.

9. Upon a case being first mentioned (e.g., the Roma Street Arrest Court or the Commonwealth Callover) it can then proceed to be directly listed in the Sexual Assault Offence Callover.

10. At the first mention in the callover:

- (a) directions concerning the setting of timetables including the ordering of Briefs of Evidence will be considered; and
- (b) orders or directions concerning charges not fitting the criteria of “related charges”³ being transferred to another appropriate callover or listing will be considered.

11. At any stage during the progress of the case and prior to the setting down of a committal hearing, the prosecution and defence at the callover, should be in a position to advise the Court:

- (a) if an application for Legal Aid has been lodged and the progress of the application;

² As per s.43(1) of the *Justices Act 1886*.

³ Per the definition in paragraph 7.2 above.

- (b) if counsel has been briefed by either party and the name of counsel;
- (c) the progress of the preparation and disclosure of the Brief of Evidence (including time estimates for outstanding items (e.g., forensic evidence));
- (d) whether a disclosure request or submission has been made and the status of the response;
- (e) whether a pending response to a disclosure request or submission prevents the case from further progressing;
- (f) whether any issue concerning sexual assault counselling privilege may arise from compelled material from subpoena or otherwise⁴ as per Practice Direction 3 of 2021;
- (g) whether at any stage of the proceeding evidence of:
 - (i) a “special witness”⁵ or an “affected child”⁶ is to be given in person and the arrangements that have been made or required to accommodate such a witness;
 - (ii) an intermediary⁷ is required and Practice Direction 4 of 2021 has been followed; and/or
 - (iii) a “protected witness”⁸ is sought or agreed by consent to be cross-examined and the arrangements that have been made for the receipt of that person’s evidence, including any directions or orders required to be given.⁹
- (h) whether for a Commonwealth offence, at any stage of the proceeding a “vulnerable person”, as per Part IAD of the *Crimes Act 1914 (Cth)* is sought or required to give evidence and whether in such case the person is represented by counsel¹⁰;
- (i) whether the receipt of evidence from a witness is proposed to be given from a location outside of the courtroom and whether a support person has been arranged for this witness;
- (j) whether an interpreter is required at any stage of the proceeding;

⁴ Per [Evidence Act 1977, Part 2, Division 2A, Subdivision 2](#).

⁵ Per [Evidence Act 1997, Part 2, Division 4](#).

⁶ Per [Evidence Act 1977, Part 2, Division 4A](#).

⁷ Per [Evidence Act 1977, Part 2, Division 4C](#).

⁸ Per [Evidence Act 1977, Part 2, Division 6](#).

⁹ Per [s.21S](#) of the *Evidence Act 1977*.

¹⁰ See [ss.15YH](#) and [15YHA](#) of the *Crimes Act 1914 (Cth)*.

- (k) if DNA evidence is or is likely to form part of the Brief of Evidence;
 - (l) if DNA evidence remains an impediment to progressing a case through committal proceedings;
 - (m) if an interim DNA report has been disclosed and is sufficient to progress the case through a committal proceeding;
 - (n) whether other applications can progress without pending DNA evidence (e.g., matters outlined in the *Justices Act 1886* Part 4, Divisions 10A Direction hearing and 10B Disclosure obligation directions; and
 - (o) if the case is capable of proceeding summarily to sentence and a listing is sought, whether:
 - (i) a victim impact statement is to be relied upon at sentence;
 - (ii) whether the victim wishes to read their statement aloud; and
 - (iii) whether any special arrangements are required for the reading aloud of their statement.¹¹
12. If the case then reaches the criteria of a DNA affected case, as per Practice Direction 10 of 2024 it and any related charges are to be transferred to the DNA Affected Case Callover.
13. If a Registry Committal is to be executed for a case, the Court may consider making directions as to timelines to be followed by the parties.
14. If there is consent between the parties to cross-examine witnesses at a committal hearing and a committal hearing listing is sought by the parties, a draft order should be filed in the registry at least two (2) business days prior to the mention.



Anthony Gett

Acting Chief Magistrate

19 December 2024

¹¹ Per *Penalties and Sentences Act 1992* [Part 10B](#) or [ss.16AAAA](#) and [16AB](#) of the *Crimes Act 1914 (Cth)*.