

Magistrates Courts

Practice Direction No. 1 of 2025

Issued: 23 January 2025

Summary proceedings for domestic violence offence – Brisbane Magistrates Court

Introduction

1. This Practice Direction commences on 24 January 2025 and applies to all summary proceedings under the *Justices Act 1886* for a Domestic Violence Offence (“DV offence”) in the Brisbane Magistrates Court. *Domestic Violence Offence* is as defined in s. 103B of the *Evidence Act 1977*.
2. As from 24 January 2025 a summary callover list (“Summary DV List”) will manage all summary DV offences in the Brisbane Magistrates Court.

Aims

3. The aims of the Summary DV List are to:
 - (a) promote faster resolution of DV offences while ensuring matters are dealt with fairly, effectively and efficiently;
 - (b) resolve contested DV offences within six months from the first appearance;
 - (c) ensure that case management practices are applied to support the timely resolution of DV offences; and
 - (d) begin the process of integrating the summary DV List into the Brisbane Magistrates Court Specialist Domestic and Family Violence Court model.

Overview

4. Only DV offences which may be dealt with summarily will be listed in the Summary DV List. If a defendant has other charges, those charges will progress through the usual callover process for criminal matters unless:

- (a) A plea of guilty is indicated and will be entered on those other charge/s after the trial of the DV offences; or
- (b) The charge for the non-DV offence is joinable with the DV offence/s.

The charges in (a) and (b) will be referred to as “eligible non-DV offences”.

- 5. The Summary DV List will be heard on the 2nd and 4th Friday of each month in Court 25.
- 6. Dedicated Magistrates will be assigned to the Summary DV List to ensure consistency in case management.

First appearance – Brisbane Arrest Court (Custody/Bail/Notice to Appear)

- 7. All DV offences and eligible non-DV offences will be adjourned to the next Summary DV List in three weeks unless they are:
 - (a) Finalised as a sentence in the Brisbane Arrest Court; or
 - (b) Listed for a sentence.
- 8. If the matter is listed for sentence, the Court will make directions in accordance with **Annexure A – Summary DV Offence Sentence Directions**
- 9. If the defendant is granted bail, the defendant is to enter a separate bail undertaking for the DV offences/eligible non-DV offences, and other offences.
- 10. Defendants remanded in custody without legal representation are to appear in person in the Summary DV List.

Second appearance – Summary DV List Callover (3 weeks after First Appearance)

- 11. At the second appearance the Court will consider whether to make directions relating to disclosure and case conferencing.
- 12. If such orders are made, the matter will be adjourned for a third appearance in six weeks with directions providing for:
 - (a) Disclosure within three weeks and
 - (b) Case conferencing within three weeks of disclosure.
- 13. The defendant should be ready to indicate pleas at the third appearance.

14. Each defendant is to be provided with a copy of **Annexure B** – Information About Protected Witnesses.
15. If a defendant is unrepresented or represented by a Duty Lawyer an order is to be made in accordance with **Annexure C** – Order for Protected Witnesses.

Third appearance (6 weeks after second appearance)

16. The defendant will be asked to indicate pleas and make required elections.
17. If a plea of guilty is indicated the matter will be listed for sentence.
18. If the matter is listed for sentence, the Court will make directions in accordance with **Annexure A** – Summary DV Offence Sentence Directions
19. If a plea of not guilty is indicated, the parties will advise the Court:
 - (a) which charges can be joined for a summary trial, or if there is to be a contested joinder application;
 - (b) whether the defendant will be legally represented;
 - (c) whether case conferencing has been finalised and issues in contest, determined or narrowed; and
 - (d) witness availability.
20. If the Court is advised that a Defendant will not be legally represented at their summary trial, but want a protected witness cross examined or has not complied with the direction made in Annexure C, an order will be made in accordance with **Annexure D** – Order under s.21O of the *Evidence Act 1977*.

The matter will then proceed as follows:

- (a) The matter will be adjourned for eight weeks for further review mention, to allow the defendant time to make an appointment with Legal Aid Queensland.
 - (b) An order made that a full brief of evidence must be made available for collection by the defendant within five weeks.
 - (c) The matter will be allocated a trial listing no earlier than 10 weeks.
21. When the Court is advised the Defendant will be legally represented at their summary trial, the matter will proceed as follows:
 - (a) The matter will be adjourned for eight weeks for further review mention.

- (b) An order made that the full brief of evidence must be available for collection by the defendant within five weeks.
- (c) The matter will be allocated a trial listing no earlier than 10 weeks.

Fourth Appearance – Review mention (8 weeks after Third appearance)

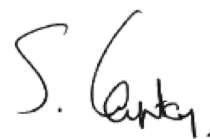
- 22. The defendant must attend in person unless legally represented.
- 23. The purpose of the review mention is to ensure that all pre-trial steps have been completed and all necessary arrangements are in place for the trial to proceed on the date listed. To this end, the parties will be expected to inform the Court:
 - (a) There are no pre-trial issues to be finalised.
 - (b) The complainant has been notified that if the defendant is convicted of a DV offence, the complainant will have the opportunity to present evidence and make submissions about the making or variation of a domestic violence order under s.42 of the *Domestic and Family Violence Protection Act 2012*.
 - (c) Formal admissions have been made and settled under s.148A of the *Justices Act 1886*.
 - (d) The defendant is legally represented, and any grant of legal aid has been finalised.
 - (e) Any special requirements with respect to technology including equipment to play video footage, enable telephone evidence to be given, any pre-recording of evidence, WebEx links to be provided to witnesses.
 - (f) Whether there are any affected child witnesses and whether any draft orders are required for pre-recording of evidence.
 - (g) Pre-trial applications to be made.
 - (h) Any special witness arrangements to be made.
- 24. As to special witness arrangements (noting that a defendant may be a special witness), the parties should have instructions in respect of:
 - (a) Testimony
 - (i) Whether the witness is to give evidence by audio visual link.
 - (ii) Whether pre-recording or recording of the witness' evidence is sought.
 - (iii) Whether a screen is required.

- (b) Supports
 - (i) Whether the witness would be assisted by the presence of a support person when giving their evidence. If yes, who the proposed support person is and what their relationship is to the witness.
- (c) Breaks
 - (i) Whether the scheduling of regular breaks would assist the witness in giving their best evidence.
- (d) Health
 - (i) Whether the witness has any health condition/s which may impact on their ability to give evidence.
 - (ii) Whether the health condition/s (if any) impact on when in the day it would be best for the witness to give evidence or the timing of breaks.
- (e) Communication
 - (i) Whether there is visual, hearing, cognitive, cultural, or other considerations impacting how the witness would be questioned.

Trial

25. Before the trial begins:

- (a) The Court Service Officer is to check that the Registrar has made available to the trial Court any Domestic and Family Violence (civil) file/s relating to the defendant.
- (b) The prosecution is to remind the complainant that if the defendant is convicted of a DV offence, the complainant will have the opportunity to present evidence and make submissions about the making or variation of a domestic violence order under s.42 of the *Domestic and Family Violence Protection Act 2012*
- (c) The prosecution and defendant or their legal representative should advise the Court of the correct pronunciation of names and preferred forms of address in accordance with [Practice Direction 2 of 2023 – Pronunciation of names and preferred forms of address](#).



Stephen Courtney
Acting Chief Magistrate
23 January 2025

ANNEXURE A to Practice Direction 1 of 2025

SUMMARY DV OFFENCE SENTENCE DIRECTIONS

Police v

The Defendant having pleaded guilty/indicated an intention to plead guilty, the sentence hearing is listed for Court at am/pm on/...../.....

I direct:

1. Any material to be relied on at the sentence hearing is to be disclosed and filed by/...../..... (That material may include a victim impact statement, an agreed schedule of facts and/or any reports.)
2. The prosecution is to notify the complainant of the sentence date and advise of their opportunity to present evidence and make submissions about the making or variation of a domestic violence order under s 42 of the *Domestic and Family Violence Protection Act 2012*.
3. The Court Services Officer is to advise the Registrar to have available at the sentence hearing any Domestic and Family Violence (civil) files relating to the Defendant.

Magistrate

Date:

ANNEXURE B to Practice Direction 1 of 2025

INFORMATION ABOUT PROTECTED WITNESSES-

A PERSON WHO IS NOT REPRESENTED BY A LAWYER MAY NOT BE ABLE TO CROSS-EXAMINE A PROTECTED WITNESS AT A HEARING UNDER SECTION 210 OF THE EVIDENCE ACT 1977.

For a summary proceeding for a domestic violence offence a *Protected Witness* is:

- a. An alleged victim of an offence. An alleged victim of an offence means a person, other than you, who is (a) alleged to be a person in relation to whom the offence was committed; or (b) alleged to have been subject to violence in relation to the offence;**
- b. A witness under 16 years of age;**
- c. A witness who is a person with an impairment of the mind;**
- d. For a proceeding for a domestic violence order – related offence a person who:
 - i. is named as the aggrieved, or a relative or associate of the aggrieved, in the domestic violence order; and**
 - ii. the court considers would be likely to be disadvantaged as a witness, or to suffer severe emotional trauma, unless treated as a protected witness.****

If a person is a protected witness you may not cross-examine the protected witness in person and the court will arrange for you to be given free legal assistance by Legal Aid for the cross-examination unless you —

- (i) arrange for legal representation; or**
- (ii) do not want the protected witness to be cross-examined.**

AT THE REVIEW MENTION THE COURT WILL CONSIDER MAKING ORDERS ABOUT PROTECTED WITNESSES

ANNEXURE C to Practice Direction 1 of 2025

ORDER FOR PROTECTED WITNESSES

- I am satisfied that this is a summary proceeding for a domestic violence offence.
- I am satisfied that the following person/s is/are protected witnesses for the proceeding:
 -an alleged victim of a domestic violence offence.
 -a child under the age of 16 years of age
 - A witness who is a person with an impairment of the mind;
 - who is named as the aggrieved, or a relative or associate of the aggrieved [*strike out those that do not apply*], in the domestic violence order and who I consider would be likely to be disadvantaged as a witness, or to suffer severe emotional trauma, unless treated as a protected witness.

Therefore, under s. 21N of the Evidence Act 1977.....,the defendant, may not cross-examine a protected witness in person.

- I advise the defendant who is present before the court that—
 - (a) they may not cross-examine the protected witness(s) in person; and
 - (b) the court will arrange for them to be given free legal assistance by Legal Aid for the cross-examination unless the person charged—
 - (i) arranges for legal representation; or
 - (ii) does not want the protected witness to be cross-examined.
- I require the person charged to advise the Court by[14 days] whether s/he has:
 - Arranged a legal representative to act for them
 - Arranged a lawyer to act for them for cross-examination of the protected witness
 - Has decided not to cross-examine the protected witness.

Magistrate
Date:

ANNEXURE D to Practice Direction 1 of 2025

ORDER UNDER S. 210 OF THE EVIDENCE ACT 1977

Police v

Having not received advice from an unrepresented person as to whether they have arranged for legal representation **or** having been advised that an unrepresented person does not have legal representation and wants the protected witness cross examined:

- [*the defendant*] be given free legal assistance by Legal Aid for the cross-examination of the following protected witness/s by a lawyer:

.....
.....
.....
.....

- The date of the trial is [*At least 6 weeks from today*]

I further request:

- The Registrar of this Court to give to the Director of Grants Legal Aid this order.

Magistrate

Date: