

Guide to jury deliberations



QUEENSLAND
COURTS

Introduction

After final addresses from counsel and the judge's summing up, the jury will be ready to begin deliberations. Please take the time to read this booklet for suggestions on how to organise those deliberations, how to consider the evidence, and how to reach a verdict. Subject to following the judge's directions about the law, you may conduct your discussions in any way you wish. These are suggestions to help you proceed with the deliberations in a smooth and timely way.

Before you get started, it would be useful to consider the following guidelines:

- Respect each other's opinions and value the different viewpoints each juror brings to this case.
- Be fair and give everyone a chance to speak in the deliberations.
- It is okay to change your mind.
- Listen carefully to one another, do not let yourself be bullied into changing your opinion, and do not bully anyone else.
- Do not rush into a verdict to save time. The people in this case deserve your complete attention and thoughtful deliberation.
- Do not make your own inquiries about the case or the defendant (do not use Google, the internet, Facebook, Twitter, or any social media of any kind). (See relevant sections of the *Jury Act 1995* on page 9 of this guide).
- Follow the judge's directions about the law.

Getting started

How do we start?

At first, you might want to:

- discuss your thoughts about the case
- talk about how you want to go ahead with the deliberations and lay out some rules to guide you
- talk about how to handle voting.

The role of the jury speaker

When should the jury speaker be elected?

The judge may direct the jury regarding this, but generally it is suggested you elect your speaker at the first convenient opportunity.

What are the responsibilities of the jury speaker?

The jury speaker should:

- encourage discussion that includes all jurors
- keep the deliberations focused on the evidence and the law
- let the judge know if the jury wants a break
- let the judge know when a verdict has been reached
- speak on behalf of the jury in court.

Once elected, do we have to keep the same jury speaker?

No. The jury can agree to elect a different jury speaker at any time before delivering the verdict.

Getting organised

Are there any set rules to tell us how to deliberate?

No, but here are some suggestions:

- Go around the table, one by one, to talk about the case.
- Have jurors speak up at any time, when they have something to say.
- Try to get everyone to talk by saying something like: Does anyone else have something to add?
- Do not be afraid to speak up and express your views.
- Show respect for the other jurors by letting them express their points of view and carefully consider their opinions.
- Have someone take notes during your deliberations so that important points are not forgotten.
- Write down key points so that everyone can see them (ask for any aids you need: e.g. whiteboard, markers etc.).

Discussing the evidence and the law

What do we do now?

First, review the judge's directions on the law because the directions tell you what you must do.

Is there a set way to examine and weigh the evidence and to apply the law?

The judge's directions will tell you if there are special rules or a set process you should follow. Always keep in mind the judge's directions about who bears the burden of proving various things in the case. Otherwise, you are free to conduct your deliberations in whatever way is helpful. Here are some suggestions:

- Consider the judge's directions that define each charge (or civil claim, in a civil trial) and list each separate element that makes up that charge (or civil claim).
- For each of these elements, review the evidence, both the oral testimony and the exhibits, to see if it has been proven to the required standard.
- Consider the judge's directions about the defences to each charge (or civil claim, in a civil trial).
- For each of the defences, review the evidence, both the oral testimony and the exhibits, to see if its operation has been excluded to the required standard.
- Discuss each charge (or civil claim), and each defence, one at a time.
- Follow the judge's directions about the sequence in which you should consider alternative charges in a criminal trial.
- Vote on each charge (or civil claim).

Voting

When should we take the first vote?

There is no best time. But if you spend a reasonable amount of time considering the evidence and the law and listening to each other's opinions, you will probably feel more confident and satisfied with your eventual verdict than if you rush things.

Is there any correct way to take the vote?

No, any way is okay. You might vote by raising your hands, by a written ballot, or by a voice ballot.

What if we cannot reach a verdict after trying many times to do so?

Ask the judge for advice on how to proceed, as to which, see immediately below.

Getting assistance from the court

How do we go about getting assistance?

Any question regarding the trial, including evidence and trial procedure, must be put to the judge. The bailiff cannot answer these questions. Write your question or request down on paper and ask the bailiff to give it to the judge. Do not talk to the bailiff about your question or the case.

What if we don't understand or are confused by something in the judge's directions, such as a legal principle or definition?

Ask the judge, because each juror must understand the judge's directions on the law in order to do the job properly.

Is there any other assistance we can ask for from the judge?

Yes, for example, you could ask:

- That the whole or part of the testimony of a witness be read back to the jury
- Whether some part of the directions given to you by the judge could be further explained.

Finishing deliberations for the day

When will our deliberations finish for the day, should they extend into the evening?

The judge will decide when your deliberations will finish for the day.

If deliberations extend into the evening, you will be given an evening meal. At this time the bailiff will arrange for you to complete a form (if necessary), so that a message can be sent to your family or friends to inform them that you are still on jury service.

Usually, when deliberations conclude for the day, you are able to return home for the night and return the next day at the appointed time to continue deliberations.

On some occasions, if thought appropriate, the judge will have the sheriff or deputy sheriff make arrangements for the jury to be accommodated overnight. Arrangements will then be made through the bailiff for your clothes and personal effects to be collected from your home. At the same time another message can be sent to your family or friends.

The verdict

After we have agreed on our verdict/s, how do we give our verdict to the court?

The following steps are usually followed:

- The jury speaker tells the bailiff that a verdict on each charge has been reached.
- The judge calls everyone, including the jury, back into the courtroom.
- The judge's associate asks the jury speaker if the jury has agreed on a verdict.
- The associate will then ask for the verdict on each charge.
- Once the jury speaker has stated the verdict, the associate will ask the jury collectively whether they each agree with what the speaker has stated.

After the verdict

What happens after we have delivered our verdict?

The judge will discharge the jury from that trial, but jury service may not be completed and you should carry out the instructions you have been given to check when you are next required for jury service.

If the defendant is found guilty, you are entitled to be present in the public gallery of the courtroom to listen to the sentencing proceedings, if you wish.

Once jury service is over

Now that the case is over, what happens after the judge discharges the jury?

The bailiff will take the jurors back to the jury room to collect their personal belongings and escort them from the court. If the deliberations have extended into the night, arrangements will be made to transport you home, if necessary. Any juror who is concerned about travel arrangements at the end of the trial should tell the bailiff.

Can we talk to others about the case once we have been discharged?

Generally, no. You should read section 70 of the *Jury Act 1995* (on pages 9-12 of this guide) dealing with confidentiality of jury deliberations. Once the judge has discharged you from trial, you have completed your role. You cannot be asked to explain how you reached your verdict. You cannot reveal anything that was discussed by you during your deliberations. If any approach is made to you to talk, by anyone who was not on your jury, you should report the approach to the sheriff or registrar. Once the trial is over you may talk to a registered medical practitioner or psychologist about your experiences if you need advice or treatment as a result of your jury service. You may wish to access the Juror Support Program.

How do we know we've done the right thing?

If you have tried your best, you have done the right thing. Making decisions as jurors about the lives, events and facts in a trial is always difficult. Regardless of the outcome of this case, you have performed an invaluable service for the people in this case and for the system of justice in your community. Thank you for your contribution.

Most jurors walk away from court feeling a sense of accomplishment. However, it is also common to feel a little detached or confused after facing the intensity of the courtroom and having been confined to a jury room with a group of strangers. You may also feel drained by the high level of concentration required. These feelings are a natural response to a different and challenging situation, and they generally pass in a couple of days. However, if you do experience ongoing distress or are concerned about how you are feeling, the Juror Support Program may help you.

A brochure about the program is supplied to all jurors after they are discharged. If you do not receive one, contact the court and ask for one to be sent to you.

Relevant sections of the *Jury Act 1995*

s69A Inquiries by juror about accused prohibited.

- 1** A person who has been sworn as a juror in a criminal trial must not inquire about the defendant in the trial until the jury of which the person is a member has given its verdict, or the person has been discharged by the judge. Maximum penalty—two years imprisonment.
- 2** Subsection (1) does not prevent a juror making an inquiry being made of the court to the extent necessary for the proper performance of a juror’s functions.
- 3** In this section—“inquire” includes—
 - (a) search an electronic database for information, for example, by using the internet; and
 - (b) cause someone else to inquire.

s70 Confidentiality of jury deliberations

- 1 [Subsection (1) has been repealed.]
- 2 A person must not publish to the public jury information. Maximum penalty—two years imprisonment
- 3 A person must not seek from a member or former member of a jury the disclosure of jury information. Maximum penalty—two years imprisonment
- 4 A person who is a member or former member of a jury must not disclose jury information, if the person has reason to believe any of the information is likely to be, or will be, published to the public. Maximum penalty—two years imprisonment
- 5 Subsections (2) to (4) are subject to the following subsections.
- 6 Information may be sought by, and disclosed to, the court to the extent necessary for the proper performance of the jury's functions.
- 7 If there are grounds to suspect that a person may have been guilty of bias, fraud or an offence related to the person's membership of a jury or the performance of functions as a member of a jury, the court before which the trial was conducted may authorise—
 - (a) an investigation of the suspected bias, fraud, or offence; and
 - (b) the seeking and disclosure of jury information for the purposes of the investigation.

- 8** If a member of the jury suspects another member (the “suspect”) of bias, fraud or an offence related to the suspect’s membership of the jury or the performance of the suspect’s functions as a member of the jury, the member may disclose the suspicion and the grounds on which it is held to the Attorney-General or the director of prosecutions.
- 9** On application by the Attorney-General, the Supreme Court may authorise—

 - (a) the conduct of research projects involving the questioning of members or former members of juries; and
 - (b) the publication of the results of the research.
- 10** The Supreme Court may give an authorisation under subsection (9) on conditions the court considers appropriate.
- 11** Information identifying or likely to identify a person as, or as having been, a juror in a particular proceeding may be disclosed—

 - (a) in the course of the proceeding—by any person with the court’s permission or with lawful excuse; or
 - (b) after the proceeding has ended—by the juror or someone else with the juror’s consent.
- 12** A former member of a jury may disclose jury information to a health professional who is treating the former member in relation to issues arising out of the former member’s service on the jury.
- 13** The health professional may ask the former member to disclose jury information for the purpose of treating the former member in relation to issues arising out of the former member’s service on the jury.

- 14 The health professional must not disclose jury information to anyone else unless the health professional considers it necessary for the health or welfare of the former member. Maximum penalty— two years imprisonment.
- 15 Subsection (14) does not apply in as far as the health professional discloses information that identifies the health professional’s patient to the sheriff for the purpose of the sheriff advising whether the patient was a former member of a jury.
- 16 The sheriff may disclose to the health professional information advising whether the patient was a former member of a jury.
- 17 In this section—

health professional means a person who practises a profession prescribed under a regulation for the definition, and includes a doctor and a psychologist.

jury information means—

- (a) information about statements made, opinions expressed, arguments advanced, or votes cast, in the course of a jury’s deliberations; or
- (b) information identifying or likely to identify a person as, or as having been, a juror in a particular proceeding.

psychologist means a person registered under the Health Practitioner Regulation National Law to practise in the psychology profession, other than as a student.

treat, in relation to a patient of a health professional, means provide a service to the patient in the course of the patient’s seeking or receiving advice or treatment.

This publication has been approved by the Supreme Court of Queensland and the District Court of Queensland as a general guide to jury deliberations. The Queensland Courts gratefully acknowledge use of some material from a similar guide published by the American Judicature Society and assistance from the Victorian Supreme and County Courts.