

DISTRICT COURT OF QUEENSLAND
PRACTICE DIRECTION NUMBER 3 OF 2024

SEXUAL VIOLENCE CASE MANAGEMENT

Purpose and Application

1. The purpose of this Practice Direction is to better manage sexual violence offence proceedings in the District Court of Queensland to minimise delay in the Court process, provide greater certainty to all Court users and reduce the potential for re-traumatisation of witnesses.
2. It is acknowledged delays and adjournments in Court proceedings for sexual violence offences increase anxiety and distress for both complainants and accused persons.
3. This Practice Direction is to be read in conjunction with [Practice Direction 7 of 2021 Intermediaries: District Court](#); [Amended Practice Direction 5 of 2021 Protected Counselling Communications](#) and [Practice Direction 8 of 2019 Evidence Act – Division 4A Evidence of affected children](#).
4. Part A of this Practice Direction applies to all sexual violence offence proceedings in the District Court of Queensland.
5. Part B of this Practice Direction applies only to matters that are part of the Sexual Violence Case Management Pilot in Brisbane and Ipswich. A workflow diagram of the case management process and timeframes is available on the last page of this Practice Direction.

Commencement

6. This Practice Direction commences on 2 September 2024. Part A applies to all sexual violence offence proceedings in the District Court commenced by an indictment presented on or after that date. Part B applies only to sexual offence proceedings in the Brisbane and Ipswich District Courts commenced by an indictment on or after that date.

Definitions

7. Terms used in this Practice Direction:

- 7.1. “**Case Manager**” is a staff member who provides administrative support for the Sexual Violence Case Management Pilot. The case managers are the first point of contact for enquiries about listings and availability of dates.
- 7.2. “**Case Review Hearing**” is a pre-trial hearing to ensure timely progression of the matter, where the parties advise of all outstanding pre-trial issues and set dates for key Court events (including a trial date).
- 7.3. “**Mediated Case Conference**” is a ‘without prejudice’ opportunity for the parties to narrow issues, settle agreed facts, test the strengths and weakness of their respective cases, and for the prosecution to provide a draft trial plan and indications as to sentence.
- 7.4. “**Case Conference Registrar**” is a senior registrar who will mediate case conferences between parties for matters that are part of the Sexual Violence Case Management Pilot.
- 7.5. “**Sexual Violence List**” means a list within the District Court Criminal Jurisdiction (Brisbane and Ipswich), where matters are subject to case management.
- 7.6. “**Sexual violence offence**” means offences contained in Chapter 22 and 32 of the *Criminal Code 1899 (Qld)*.
- 7.7. “**Sexual violence offence proceeding**” means a criminal proceeding in which at least one “sexual violence offence” is alleged.
- 7.8. “**Trial Readiness Hearing**” is a pre-trial hearing which is an opportunity for the parties to raise with the Court any outstanding pre-trial or legal issues that need to be addressed to facilitate the matter proceeding to trial on the scheduled date.

Part A – Best Practice Principles

8. At a minimum and subject to directions at a local level, the following best practice principles apply to all sexual violence offence proceedings in the District Court of Queensland.
- 8.1. Applications for Legal Aid should be made at the earliest opportunity and in all cases prior to the presentation of the indictment.¹

¹ An application for Legal Aid funding for higher court matters should be made to Legal Aid Queensland as soon as the matter is committed. Legal representatives need not wait for the presentation of the indictment to make an application. For further details see the [Legal Aid Queensland Grants Handbook](#).

- 8.2. Despite s.590AI(2) of the *Criminal Code 1899* the interests of justice would be served by the Prosecution providing early and full disclosure prior to indictment presentation.
- 8.3. The Prosecution should provide the defendant or the defendant's legal representative with the statement of facts and particulars prior to presentation of the indictment.
- 8.4. The defendant's legal representative should take instructions from the defendant at the earliest opportunity.
- 8.5. Parties are encouraged to communicate prior to indictment presentation and throughout the progress of the matter. The purpose of this communication is to encourage the parties to narrow the issues and agree on any other administrative arrangement to assist in the speedy disposition of the trial.²
- 8.6. Any written submissions by the Defence regarding any change to the indictment or the statement of facts should occur at the earliest opportunity.
- 8.7. The Prosecution must file a transcript of a witness's statement made pursuant to s.93A of the *Evidence Act 1977* on presentation of the indictment.³
- 8.8. At presentation of the indictment, parties should inform the Court whether there is an intention to proceed to trial. The Prosecution must also inform the Court of the need to pre-record evidence of an affected child and all parties must be prepared to indicate readiness to proceed with the pre-recording of evidence and supply a realistic estimate of the time for the proposed hearing.⁴
- 8.9. An application for the appointment of an intermediary should be made at or soon after presentation of the indictment.⁵
- 8.10. Every effort should be made to identify, at the earliest opportunity, when a matter may be listed for trial and when a complainant will be required to give evidence.
- 8.11. Every effort should be made to ensure matters are ready to proceed on the dates set and that delays are minimised.

² Criminal Code, s.590AA(2)(m)

³ Practice Direction No. 8 of 2019 District Court of Queensland, *Evidence Act – Part 2 Division 4A Evidence of affected children*

⁴ Ibid, paragraph 1

⁵ Practice Direction 7 of 2021 District Court of Queensland, *Intermediaries: District Court*, paragraph 3

- 8.12. When preparing the cross-examination of a witness, practitioners should avoid ‘improper questions’ as defined in the *Evidence Act 1977* and be mindful of the Court’s power to disallow questions put to a witness that are improper.
- 8.13. Practitioners should be ready, at or before the Trial Review, to advise the Judge whether it is likely that evidence will be adduced in the trial that would require the giving of a direction related to sexual offences under the *Evidence Act 1977*.⁶
- 8.14. A date for the pre-recording of a witness’s evidence is to be set down as soon as possible.
- 8.15. Practitioners should be aware that the Court will aim to list the trial within eight months of presentation of indictment.

Part B – Sexual Violence Case Management Pilot, Brisbane and Ipswich.

9. The following matters outline specific requirements for the Sexual Violence Case Management Pilot.
10. All sexual violence offence proceedings in the District Court at Brisbane or Ipswich in respect of which the defendant is pleading not guilty should be case managed under the Sexual Violence Case Management Pilot.
11. The Court may grant leave for other matters to be placed on the Sexual Violence Case Management Pilot upon application or by the Court’s own motion.
12. The Chief Judge in consultation with the Judge Administrator of the District Court will assign a Judge, or Judges, to manage and oversee Sexual Violence Case Management Court events.
13. Administration of the Sexual Violence Case Management Pilot will be supported by the Case Conference Registrar and Sexual Violence Case Managers (SV Case Managers).
14. The SV Case Managers have authority, with the consent of the parties, to identify potential dates for Court events, including pre-trial hearings and trials. The SV Case Managers may contact parties to clarify and seek additional information for the purposes of supporting the Court’s case management of the matter.

⁶ The *Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Act 2024* amends the *Evidence Act 1977* to insert a new section at Part 6B, Division 3, Subdivisions 3 or 4 requiring directions to the jury on consent, mistake of fact, differences in complainant’s account, lack of complaint or delay in making complaint, and evidence of post-offence relationship.

15. SV Case Managers may be contacted via email at:

SexualViolenceList.Brisbane@justice.qld.gov.au; and

SexualViolenceList.Ipswich@justice.qld.gov.au.

Forms

16. The Sexual Violence Case Management Pilot includes two standard Court events (a Case Review Hearing and a Trial Readiness Hearing) designed to support early identification and resolution of pre-trial issues.

17. To support the case management of sexual offence proceedings, parties are required to complete and submit a Case Review form and Trial Readiness form at least five (5) business days prior to the relevant Court event.

18. The forms are to be completed online and can be accessed via the Queensland Courts Website at [Sexual violence case management – District Court | Queensland Courts](#) from commencement.

19. The forms seek different information depending upon whether they will be completed by Defence counsel, the Prosecution or a self-represented defendant.⁷

20. Forms submitted for the purposes of this Practice Direction do not form part of the court file for the relevant proceeding.⁸

Notice of Indictment Presentation

21. The Prosecution should give notice of presentation of the indictment to the defendant or the defendant's legal representative at least one (1) week prior to presentation.⁹

22. At this time the Prosecution should consider whether the matter is to be part of the Sexual Violence Case Management Pilot, and if so, advise the defendant or the defendant's legal representative that a request will be made to the Court for the matter to be placed on the sexual violence list.

⁷ At indictment presentation, the Prosecutor will provide self-represented defendants with printed copies of relevant case management forms to enable the defendant to provide information to the case manager and judge as well as a factsheet that will provide a summary of the case management process and information on where they may access free legal advice to support them in completing the forms.

⁸ Criminal Practice Rules 1999, rule 57(2)

⁹ *Bail Act* 1980, s.27

Indictment Presentation

23. At presentation of an indictment alleging a sexual violence offence, if the defendant does not elect for the indictment to be listed for sentence, the Prosecution will advise the court the indictment charges a sexual violence offence.
24. The Judge will enquire into and, where appropriate, make rulings or directions as to:
 - 24.1. whether the matter is to be subject to case management on the Sexual Violence List and listed for ‘Case Review Hearing’;
 - 24.2. the Prosecution providing a statement of facts and written particulars; and
 - 24.3. disclosure by the Prosecution of material within its possession.

Case Review Hearing

25. All sexual offence proceedings subject to case management will be listed for a ‘Case Review Hearing’ no more than four (4) weeks after presentation of the indictment.
26. Prior to the Case Review Hearing, the parties should have communicated with each other, and the Prosecution should have responded to all submissions received from the Defence.
27. Both parties must complete the Case Review Hearing form separately and submit their responses five (5) business days prior to the Case Review Hearing. In preparation for the Case Review Hearing, the parties are expected to contact each other and the SV Case Manager to confirm availability for listing of pre-trial hearings, Mediated Case Conference, Trial Readiness Hearing, Trial Review, and the trial.
28. At the Case Review Hearing the person appearing for each party must be able to speak to:
 - 28.1. making any intermediary application;
 - 28.2. discussing the case and identified pre-trial issues (including protected counselling communication applications) and expected timeframes for resolution;
 - 28.3. confirming readiness to proceed with any pre-recording of affected child and/or special witnesses and the time estimate for the pre-recording¹⁰;
 - 28.4. advising estimated trial length; and
 - 28.5. confirming availability for further court events.
29. The judge will enquire into and make appropriate orders, directions or rulings as to:
 - 29.1. outstanding disclosure obligations and expected compliance;

¹⁰ Practice Direction 8 of 2019 District Court of Queensland, *Evidence Act – Division 4a Evidence of affected children*, paragraph 2

- 29.2. timeframes for pre-trial applications for directions and rulings under s590AA *Criminal Code*;
 - 29.3. dates and filing directions for intermediary applications made to the court, which will include setting down a date for the ‘intermediary directions hearing’¹¹
 - 29.4. dates for pre-recording of affected child witness and special witnesses’ evidence, including any directions hearings¹²;
 - 29.5. interpreter and other communication/accessibility requirements¹³;
 - 29.6. special witness arrangements, including timeframes for the filing of applications;
 - 29.7. timeframes for filing and hearing applications concerning protected counselling communications¹⁴;
 - 29.8. dates for Trial Readiness, Mediated Case Conference, Trial Review and trial (the trial is expected to be 7 months from Case Review);
 - 29.9. any other pre-trial matters.
30. The SV Case Manager will confirm in writing the schedule set by the court.

Mediated Case Conferencing

31. A Mediated Case Conference is to occur prior to the pre-recording of an affected child or special witness’s evidence, so that any narrowing of issues, discussions or agreements between the parties can be applied at the pre-recording, if and where appropriate. If no witness’s evidence is to be pre-recorded, the mediated case conference should occur two weeks (2) prior to the Trial Readiness Hearing (referred to at paragraph 43), or at any time the court directs the parties to have a Mediated Case Conference.
- 31.1. A Mediated Case Conference should also occur before the Directions Hearing referred to in paragraphs 40-42 of this Practice Direction.
 - 31.2. In circumstances where a Mediated Case Conference and a Directions Hearing under paragraphs 40-42 are to occur before a witness’s evidence is pre-recorded, these events can happen on the same day. The Mediated Case Conference should be listed in the morning (before the Case Conference Registrar), and the Directions Hearing can be listed at or around 2.30pm before the Sexual Violence List Judge presiding that day.

¹¹ Practice Direction 7 of 2021 District Court of Queensland, *Intermediaries: District Court*, paragraph 3

¹² Practice Direction 8 of 2019 District Court of Queensland, *Evidence Act – Division 4a Evidence of affected children*, paragraph 1

¹³ Practice Direction 1 of 2010 District Court of Queensland, *Interpreters: District Court*, paragraph 1

¹⁴ Practice Direction 5 of 2021 District Court of Queensland, *Protected Counselling Communications*

32. The Case Conference Registrar may be contacted via email at Conference.Registrar_DC@justice.qld.gov.au.
33. The Defence and Crown counsel who will appear at the pre-recording, or trial if no pre-recording is anticipated, are required to attend the Mediated Case Conference. There will not be a Mediated Case Conference in matters where the defendant does not have legal representation.
34. Leave to appear at the Mediated Case Conference by telephone or video-link may be granted where circumstances prevent counsel from attending in person. Any application for leave to appear remotely must be made by email to the Case Conference Registrar by midday at least one (1) business day prior to the conference.
35. Defence counsel are expected to have conferred with the defendant and the Crown Prosecutor is expected to have conferred with the complainant prior to the Mediated Case Conference. However, where possible, the defendant should be contactable throughout the duration of the Mediated Case Conference.
36. If the parties reach agreement on an issue(s) during a Mediated Case Conference, and if the parties elect, that agreement can be reduced to writing, certified by counsel and filed as draft Orders by Consent to be signed in chambers.
37. Nothing in this Practice Direction is to be taken as requiring a defendant to reveal the nature of the defence before being called on at the trial.

Directions Hearings – Case management

38. If the parties are unable to comply with any court directions or rulings made at the Case Review Hearing or seek to have a listed pre-trial hearing adjourned or another issue arises which requires further direction or ruling, the parties are to request that the SV Case Manager list the matter for ‘Directions Hearing’. The request must be made as soon as practicable after the party is aware of the issue but not later than two (2) business days before a matter is listed for hearing.
39. Where a party has been unable to comply with a court direction or ruling, the Directions Hearing will be an opportunity for the parties to advise the Judge of the impediments to compliance with court orders and directions, as well as how the matter can be progressed expeditiously, and to obtain new filing directions and dates.

Directions Hearings¹⁵ – Evidence of a witness¹⁶

40. A hearing for the parties to obtain directions prescribing measures for the examination of an affected child witness or special witness for the fair and efficient conduct of the proceedings is to occur one (1) to two (2) weeks^{17 18} before the witness gives evidence, whether it will be by pre-recording or at trial¹⁹.
41. At a Directions Hearing pursuant to paragraph 40 of this Practice Direction, the court may make or vary any direction regarding evidence of a witness, including but not limited to a direction about:
- 41.1. the manner of questioning of a witness;
 - 41.2. the duration of questioning of a witness;
 - 41.3. the questions that may, or may not, be put to a witness;
 - 41.4. if there is more than one defendant – the allocation among the defendants of the topics about which the witness may be questioned;
 - 41.5. the use of models, plans, body maps or similar aids to help communicate a question to be put to the witness;
 - 41.6. the use of an audio-visual link or another communication facility; and
 - 41.7. the closing of the court and the presence of support persons.
42. A Directions Hearing pursuant to paragraph 40 of this Practice Direction should be listed at the Case Review Hearing, taking into account the scheduling of other court events.

Trial Readiness Hearing

43. Matters that are part of the Sexual Violence Case Management Pilot will be listed for a Trial Readiness Hearing at least three (3) months prior to the trial date.

¹⁵ Directions Hearing means a pre-trial hearing to obtain directions in relation to the matters prescribed by s21AZS (intermediaries), s21A(2) (special witness) and s21AL (affected child witness) of the *Evidence Act 1977*.

¹⁶ As prescribed by the *Evidence Act 1977*, a witness who is a 'special witness' as per s21A, a witness who is an 'affected child' as per s21AC, and/or is a witness who has had an intermediary appointed, as per s21AZL.

¹⁷ Supreme and District Courts Criminal Directions Benchbook – Additional material - Guidelines for conducting pre-recording of an affected witness, states the matter should be listed for mention two weeks prior to pre-recording for the parties to advise as to whether there are pre-trial issues and, if so, the matter should be listed for a s.590AA pre-trial hearing. Section 590AA is inclusive of directions given in relation to the *Evidence Act 1977*, Part 2, Division 4 'Evidence of special witnesses', Division 4A 'Evidence of affected children', Division 4C 'Intermediaries', Division 6 'Cross-examination of protected witnesses' or Part 6A 'Evidence related to domestic relationships and domestic violence'.

¹⁸ Where an intermediary is appointed, in accordance with paragraph 11, Practice Direction 07/2021, a directions hearing is to take place at least one week prior to the witness giving evidence by pre-record or at trial.

¹⁹ Directions hearings under s21AZS, s21A(2), s21AL of the *Evidence Act 1977* may not be separate court events and may be held on the same day.

44. Both parties must complete and submit the online Trial Readiness Hearing form five (5) business days prior to the Trial Readiness Hearing.
45. If the parties agree there are no outstanding matters for resolution prior to the trial, a request may be made via the online Trial Readiness Hearing form to have the Trial Readiness Hearing de-listed. The SV Case Manager will refer requests to de-list the Trial Readiness Hearing to the Judge.
46. At the Trial Readiness Hearing, the Judge shall enquire into and make any appropriate orders, directions and rulings regarding the following:
 - 46.1. special witness arrangements or other applications and orders for the taking of the complainant's evidence, including applications for leave to admit evidence or cross-examine as to the complainant's sexual activities²⁰;
 - 46.2. any outstanding pre-trial matters including expected timeframe for finalisation and resolution; and
 - 46.3. witness availability and any special arrangements to facilitate their appearance/s.

Trial Review

47. A Trial Review will occur in the general District Court Criminal list between seven (7) and ten (10) days prior to the trial date, subject to court availability.
48. The purpose of the Trial Review is to confirm the parties' readiness to proceed to trial and finalise arrangements regarding how the trial should be conducted. This will include a Directions Hearings for matters where the special witness (including the complainant) has not provided pre-recorded evidence (refer to paragraphs 40-42 above).
49. Parties are to confirm if there is agreement or any objections to relevant aspects of the jury's access to transcripts, for example, whether the jury may retain or must return transcripts after recorded evidence is played.²¹
50. Parties are to confirm that practical arrangements have been attended to and are finalised for the scheduled trial. For example, that the Prosecution has conferred with the complainant, confirmation of transport and accommodation arrangements, the requirement

²⁰ *Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024*, amendments to the *Evidence Act 1977*, inserting section 103ZH.

²¹ Supreme and District Court Criminal Directions Benchbook – Additional Material – Guidelines for Conducting Pre-Recording of an Affected Witness.

²² The SV Case Manager will complete a Trial Review Checklist in consultation with the parties and with reference to previously completed forms. This information will be provided to the Judge at the Trial Review and attention will be drawn to any outstanding information that the court requires of the parties.

and availability of appropriate interpreters, and whether rooms have been booked where the witness is electing to provide evidence from another room via CCTV²².

A handwritten signature in blue ink, appearing to read 'B. Devereaux', with a long horizontal stroke extending to the right.

Brian Devereaux SC

Chief Judge

19 July 2024

Criteria for Sexual Violence List:
All sexual violence offence proceedings in the Brisbane or Ipswich District Court in respect of which the defendant is pleading not guilty

