

**GUIDELINE NCR 1 OF 2020**  
**(MADE UNDER PRACTICE DIRECTION 2 OF 2020)**  
**COURT ARRANGEMENTS (COVID-19)**  
**NORTH COAST REGION MAGISTRATES COURTS**

**1. ALL NORTH COAST REGION MAGISTRATES' COURTS**

- Subject to other provisions in this Guideline, until further notice all callovers will be conducted on the papers, without personal or telephone appearances required from legal representatives or defendants, with matters adjourned for three months from the date of listing.
- All Courts will continue to operate as they currently are operating. The Court will continue to monitor capacity with a view to hearing as many matters as possible.
- Any party may choose to appear by telephone at a callover or mention unless they are a defendant appearing for the first time on a matter pursuant to a Notice to Appear.
- All legal practitioners have leave to appear by telephone or other audio visual link conditioned :
  - Notify the relevant Registry no later than 2pm the day prior to the appearance how they will appear and their contact details and the matter (or matters) it involves
  - The Registry will give a time frame for appearance as advised by the Magistrate
  - Be available in a quiet place and contactable by email and telephone 1 hour before and after nominated appearance time
  - Any documents to be relied upon are too copied to the other party and the Court by email by 3pm the day prior to appearance.
- Unless it's the first appearance on a Notice to Appear all non-legally represented parties have leave to appear by telephone or other audio visual link (subject to specific order of a Magistrate) on the following conditions:
  - A written or email notification to the Registry prior to appearance giving contact details and the name of their matter is required.
  - Be available in a quiet place and contactable on the supplied telephone number from 9am on the day nominated for their appearance.
  - They may be contacted at any time on that day by telephone
- Court staff or Court Security may request unrepresented litigants wishing to appear by telephone for details to complete a form with these details as attached.
- Defendants in custody who are legally represented will have their appearance excused.
- Defendants in custody who are not legally represented will appear by video link and may have their matters adjourned for less than 3 months (it is envisaged that a 1 month adjournment may be appropriate in most cases to ascertain if the defendant can be legally represented by Legal Aid Queensland or otherwise)

- Legal representatives and other parties, including unrepresented defendants, may utilise either electronic adjournment or written requests to seek a specific date or make other requests. Such requests should be copied to all parties with a view to getting consent orders. For example, a legal representative or unrepresented defendant may advise the court by email or in writing of a plea of not guilty. The court will make orders for service of the brief of evidence if required and advise the legal representative or defendant by electronic means of the order.
- Parties can continue to conference about the progress of the matter and advise the Court of any resolution or change of plea.
- All matters except QCAT and Civil Chamber matters currently listed for hearing will be mentioned on the day listed and will be adjourned for mention. The appearance of parties to these matters is excused or the parties may appear by electronic means.
- Any party may request the Court hear a matter because of urgency or special circumstances. Such requests can be by electronic means or telephone appearance.
- All matters currently listed for long plea will be mentioned on the day of hearing. The Court will hear those matters where adjournments are not requested. Matters will be mentioned individually to reduce numbers of persons inside the courtroom. All defendants in custody will appear by video-link.
- QCAT and Civil applications currently listed for hearing will be adjourned on the papers subject to any application by a party to hear a matter because of urgency or special circumstances. Such requests can be by electronic means or telephone appearance.
- An urgent mention, plea or hearing may be requested in accordance with sections' 4 and 5 of this guideline.
- Appearances for fresh matters in Arrest Courts are required where a party is (i) not on bail or (ii) is not legally represented but these appearances may be by telephone so long as the Defendant is in the precincts of the Court building and available to sign a bail undertaking forthwith.

## **2. ARRANGEMENTS WITH QUEENSLAND POLICE SERVICE IN CRIMINAL AND TRAFFIC MATTERS**

- Notices to Appear and Bail Undertakings will be set for at least 3 months from interception or arrest with the exception of traffic matters where there is a mandatory suspension of driver licence from interception, which matters will be listed as they currently are being listed
- Persons in custody whose bail is being objected to will be produced to the court as soon as possible as they currently are, and in the event of the relevant court being closed, then they are to be produced by video to the nearest court that is sitting and can take the appearance by video.

- The Queensland Police Service must ensure that all Police paperwork is transferred via IJIS prior to the matter being mentioned in Court.

### 3. DOMESTIC VIOLENCE APPLICATIONS

- All Courts will continue to hear initiating Applications for Protection Orders and Applications to Vary as they do currently.
- All appearances by legally represented parties are excused.
- All appearances by aggrieved in police applications for domestic violence orders are excused.
- However, any aggrieved or respondent may appear in a matter. To reduce risk appearance by telephone is preferred but if this is not possible appearance at Court is permitted.
- All parties may appear by telephone in accordance with section 1 of this guideline.

#### ***Urgent Police Applications***

- Applications for Temporary Protection Orders ought not to be made if the Respondent is detained or is located and is in the company of the Police. In those circumstances the Applicant Police officer ought to proceed by
  - Police Protection Notice (s101)
  - Application for Protection Order including release conditions (s125) (2)

#### ***Police Protection Notice***

- The Applicant Officer ought issue a Police Protection Notice and make the Application returnable on the next Domestic Violence Call-over date for the relevant Court

#### ***Release Conditions***

- Where the Respondent is detained and a Police Protection Notice is not issued an Application can be made to include release conditions (s125 (2) of the *Domestic and Family Violence Protection Act 2012*). An Application for a Temporary Protection Order in respect of a Respondent served with an application and with release conditions is required to be made if it is more than five days until the next available court date. The Application for Temporary Protection Order must be e-mailed to the Courthouse.
- The Application for the Temporary Protection Order will then be considered pursuant to s129 (1) of the DFVPA on the next sitting date.
- If a Temporary Protection Order is made a copy of the Order will be transmitted by e-mail to the designated police email address for the relevant police station and the Application will remain listed for the next available sitting date.

- After hours urgent applications can still be made to the After Hours on call Magistrate as required.

### ***Filing of New Applications by Private Parties***

- If the application is not urgent, file the application by post to the relevant Registry.
- If the application is urgent, first contact the Queensland Police Service and request them to obtain an urgent temporary protection order on your behalf.
- Where:
  - i. QPS determine and advise the person that it is not appropriate for them to issue a PPN (NB If QPS decide to issue a PPN, the PPN takes effect from when a police officer **tells** a respondent about the existence of the PPN in any way, including by telephone, emails, SMS message, a social networking site or other electronic means –see s113 DFVPA) or to seek an urgent temporary protection order on behalf of that person; and
  - ii. The person believes they have urgent grounds to seek a temporary or other protection order, but cannot attend court to file their application due to the emergent situation notified by the court  
THEN such person may lodge their application electronically (at the email address specified for that courthouse in a Notification published on the Queensland Court website) for consideration by the court, and include email addresses and telephone contact details for all parties and relevant witnesses to the proceeding.
- Rule 9 of the *Domestic and Family Violence Protection Rules 2014* (DFVPR) prescribes that documents under the *Domestic and Family Violence Protection Act 2012* may be filed in person or by post. The court however has discretion under rule 6 DFVPR to waive compliance with this rule and accept applications filed electronically.
- Applicants will be notified by email as to whether the court has determined to waive compliance with rule 9 DFVPR and accept their application. Where the application has not been accepted, the Applicant must file their application by post during the emergent period notified.
- Where the application has been accepted, the Applicant and Respondent (unless the Applicant has requested under section 36 or 90 of the DFVPA that a temporary protection order be made before the application is served on the respondent)) will be notified by email of the date and time and place where the application will be heard. This may be at the court at the registry where the Application is filed or it may be heard by a Magistrate constituting the Magistrates Court remotely. The Applicant and other parties will also be advised as to how and when the court may call upon them to provide further evidence, which may be by email or phone or other means, for the purpose of supporting or responding to the relevant application.
- If an aggrieved has no access to email a private application may be lodged in the relevant Registry. The application will be reviewed by a Magistrate and, if required, an immediate

hearing for a temporary protection order will be heard. If no urgent order is sought the hearing of the application will be given a date and time.

- All Applications will be adjourned for 3 months except in special circumstances.
- If a party indicates an objection to the order being made then the Magistrate may make directions for the ultimate hearing of the matter, which directions can be adhered to during the 3 month adjournment.

#### 4. **URGENT PLEAS AND BAIL APPLICATIONS**

- Bail Applications will be heard when the prisoner is produced to the relevant Court by the watchhouse. Objection to Bail Affidavits are to be provided to the defendant or their representative prior to Court. If a defendant's representative is instructed that the defendant proposes to live at a certain address then the representative is to provide that information to the prosecutor in a timely way so that if the QPS wishes to ascertain if the address is a suitable address they can do so prior to Court commencing the hearing for bail
- Appearances for these matters will be in accordance with section 1 of the Guideline. A defendant in custody will appear by video link.
- Urgent pleas will be listed when:
  - the defendant is in custody and there is an expectation that the defendant may be released on or near the sentence date; or
  - other special circumstances.
- Other special circumstances may include where a defendant has urgent obligations in another jurisdiction, the type of matter involved or there is some special hardship (for example, traffic matter where the defendant is suspended from driving).
- To arrange a hearing the defendant or the defendant's legal representatives must contact the relevant Registry giving the reasons for such a listing. A Magistrate will consider the request and direct a hearing date. All material to be relied upon is to be provided to the prosecution and the Court two clear business days before the hearing or at such shorter time as allowed by the Magistrate
- Appearances are in accordance with section 1.

#### 5. **GENERALLY**

- Urgent matters or matters with special circumstances may be criminal or civil matters. Subject to availability of a Court and parties an urgent hearing or other application may be listed.
- To arrange a hearing the party or the party's legal representatives must contact the relevant Registry giving the reasons for such a listing. All other parties must be copied into the email.

- All appearances in the Court will be by audio or video link.
- If a matter is listed the parties will be notified by email the date and time of the listing.
- All material to be relied upon is to be provided to the prosecution and the relevant Court two clear business days before the hearing.
- The Magistrate may require the parties to appear by audio link to determine whether the matter will be listed and what special arrangements can be made to facilitate the hearing with reduced risk of contagion.

## **6. YOUTH JUSTICE LIST**

- Until further notice all legal practitioners have leave to appear by telephone or other audio visual link conditioned :
  - Notify the relevant Registry no later than one hour prior to the appearance how they will appear and their contact details and the matter (or matters) it involves
  - The relevant Registry will give a time frame for appearance as directed by the Magistrate
  - Legal Practitioners must be available in a quiet place and contactable by email and telephone 1 hour before and after nominated appearance time
  - Any documents to be relied upon are to be copied to the other party and the Court by email by 3pm the day prior to appearance.
- Unless it is a first appearance and the child is not on a bail undertaking all matters other than urgent matters will be adjourned on the papers, without personal appearances, for three months from the date of listing.
- Unless it is a first appearance and the child is not on a bail undertaking appearances for new Youth Justice Court charges can be by telephone unless the Magistrate orders otherwise.
- Urgent bail applications and sentences will be subject to the same guidelines as Adult defendants (see Guideline 4 herein)

## **7. CHILD PROTECTION APPLICATIONS**

- These matters will be adjourned for 3 months on the papers unless special circumstances exist to warrant an earlier mention. Any appropriate order which can be made (e.g. for the filing of Affidavits or the holding of family Group Meetings and the like) will be made so that as little time as possible is lost in progressing these Applications to hearing
- All non-legally represented parties in child protection matters have leave to appear by telephone or other audio visual link (subject to specific order of a Magistrate) on the following conditions:

- A written or email notification to the relevant no later than the day prior to appearance giving contact details and the name of their matter is required.
- Be available in a quiet place and contactable on the supplied telephone number from 9am on the day nominated for their appearance.
- They may be contacted at any time on that day by telephone
- The Court is not able to list child protection Applications for contested hearing and only urgent hearings or matters with special circumstances will be considered for listing.
- An urgent mention or hearing may be requested.
- To arrange an urgent mention the party or the party's legal representative must contact the relevant Registry giving the reasons for such a listing. The request will be considered by the Children's Court Magistrate.
- If an urgent hearing is listed all material to be relied upon is to be provided to the Director of Child Protection Litigation and the relevant Court two clear business days before the hearing.

#### **8. PPRA APPLICATIONS FOR ORDERS AND WARRANTS**

- The sitting Magistrate will also hear police applications for warrants and orders.
- The only applications which should be made to the On Call Magistrate's telephone are as follows:
  - 1) Search Warrants – s150 (PPRA)
  - 2) Forensic Procedure Orders – s458 (PPRA)
  - 3) Extension of Detention Orders – s405 (PPRA)
- All other Applications are to be made to the Court at 9am on a Court sitting day with the Application material being transmitted to the relevant Registry to be heard before the Court.
- Any Application or supporting material must be arranged to be sworn before a Justice of the Peace prior to the Application being lodged.
- Any Application e-mailed will be reviewed and considered (and if appropriate orders made or warrants issued) at 9am and 2pm on each sitting day of Court 4. Any orders made or warrants issued will be transmitted by e-mail back to the Applicant officer.
- The applicant officer should be available, if required, to appear by telephone link in Court 4 to address any issues.

### ***Crime Scene Warrants***

- If a Police Officer establishes a crime scene and it is necessary to apply for a Crime Scene Warrant that is to be undertaken on the next following sitting day at 9 am (– note s166 (1) PPRA which requires the Application to be made “as soon as reasonably practicable”)

### ***Forensic Procedure Orders***

- Chapter 17 part 1 of PPRA authorises forensic procedure orders where a party gives a forensic procedure consent.
- In any application to a Magistrate for a forensic procedure order the applicant ought to depose as to whether or not the persons consent has been sought and is refused.
- The PPRA provides an approved form for consent (s455) (4) in circumstances where a person detained consents to a forensic procedure that written form of consent ought be used and an application for a forensic procedure order ought not be made.

### **9. QCAT AND CIVIL CHAMBERS**

- All currently listed hearings will be adjourned for 3 months for hearing dates and notices will be sent to the parties.
- New QCAT and Civil Chamber Applications will be set for hearing commencing on the QCAT hearing dates in September 2020.
- Urgent QCAT *Residential and Rooming Accommodation Act 2009* matters will continue to be heard in accordance with current listing practices. Telephone appearances on same will be accepted provided that the party has sent to the Court and the other party all documents upon which they rely and they have communicated to the Court the relevant telephone number upon which they can be reached at least 1 hour prior to the listed hearing time

**ON CALL MAGISTRATE'S PHONE NUMBER: 0439 892 909**

**COURTS' EMAIL:** courthouse.INSERT NAME OF REGISTRY HERE@justice.qld.gov.au



**C CALLAGHAN**

**Regional Coordinating Magistrate**

**19 March 2020**



**DETAILS FORM FOR TELEPHONE APPEARANCE**

**NAME:**

**DATE OF BIRTH:**

**ADDRESS:**

**TELEPHONE NUMBER:**

**EMAIL:**

**I HAVE / DON'T HAVE A BAIL UNDERTAKING\***

\*Strike out whichever does not apply