

# CASE CONFERENCING PROTOCOL FOR SUMMARY OFFENCES

## Introduction

1. This Protocol is made to complement the *Criminal Jurisdiction Reform Administrative Arrangement* adopted by Practice Direction No. 9 of 2010 and to facilitate the efficient and timely resolution of summary matters through case conferencing. This Protocol is not an Administrative Arrangement for the purposes of section 706A of the Criminal Code.
2. This Protocol:
  - 2.1 Provides the standard operating procedure for case conferencing;
  - 2.2 Applies to Magistrates Courts in Queensland;
  - 2.3 Applies to criminal matters that are to be heard, by legislative requirement or by election, in the Magistrates Court; but
  - 2.4 Does not apply to:
    - 2.4.1 Matters which must be heard on indictment or are elected to be heard on indictment (including the committal proceedings);
    - 2.4.2 Matters which are exclusively Commonwealth offences;
    - 2.4.3 Matters in the Children's Court; and
    - 2.4.4 Matters referred to the Specialist Courts and programmes.
- 3 Principal stakeholders are:
  - 3.1 The Chief Magistrate;
  - 3.2 The Commissioner of Police;
  - 3.3 The Chief Executive Officer, Legal Aid Queensland;
  - 3.4 President, Queensland Law Society;
  - 3.5 President, The Bar Association of Queensland; and
  - 3.6 The Chief Executive Officer, Aboriginal and Torres Strait Islander Legal Service (Qld) Limited.

## Aims

- 4 This Protocol will provide for the efficient and timely disposition of criminal matters to be dealt with summarily through case conferencing by:
  - 4.1 Articulating the division of responsibilities for engaging in case conferencing between the QPS, LAQ, QLS, BAQ and ATSILS; and
  - 4.2 Supporting Practice Direction 9 of 2010; and
  - 4.3 Implementing uniform procedures for case conferencing across the State.

## Terms

5 For the purpose of this Protocol:

- 5.1 "Authorised officer" has the meaning assigned to it in section 3.17 of the OPM<sup>1</sup>;
- 5.2 "Defence" means a lawyer who is the legal representative of the defendant;
- 5.3 "Deliver" in reference to a QP9 means made available for collection by the defence or defendant, delivered to defence in person, by post or electronically;
- 5.4 "Investigating officer" means the police officer who commenced proceedings against the defendant;
- 5.5 "OPM" means the Operational Procedures Manual applying from time to time to members of the QPS;
- 5.6 "PPC" means the Police Prosecution Corps;
- 5.7 "QP9" means a Court Brief prepared by the investigating officer for the first appearance of the defendant at a Magistrates Court;

## Liaison officer

6 The stakeholders will each appoint a liaison officer for the implementation and oversight of this Protocol.

## Division of responsibility

- 7 The divisions of responsibility for this agreement are:
- 7.1 The Chief Magistrate will make all reasonable efforts to ensure this Protocol is adhered to by Magistrates Courts;
  - 7.2 The Commissioner of Police will make all reasonable efforts to ensure this Protocol is adhered to by an Investigating Officer and the Prosecution;
  - 7.3 The Chief Executive Officer, Legal Aid Queensland will make all reasonable efforts to ensure this Protocol is adhered to by persons employed by LAQ as lawyers or Duty Solicitors;
  - 7.4 President, Queensland Law Society will make all reasonable efforts to inform members of, and encourage members to adhere to, this protocol;
  - 7.5 President, The Bar Association of Queensland will make all reasonable efforts to inform members of, and encourage members to adhere to, this protocol;
  - 7.6 The Chief Executive Officer, Aboriginal and Torres Strait Islander Legal Service (Qld) Limited will make all reasonable efforts to ensure this Protocol is adhered to by lawyers employed or engaged by ATSILS.

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<sup>1</sup> a. The officer in charge of a prosecutions corps; including prosecutors at Charleville, Kingaroy, Roma and Murgon stations;  
b. A prosecutor of the rank of or above, Senior Sergeant; or  
c. A prosecutor who is authorised in writing by the Assistant Commissioner of the Region or Command at which the prosecutor works.

## Legal Assistance

- 8 The Chief Magistrate will make available at Magistrates Courts, an Information Sheet for unrepresented defendants to assist in understanding the prosecution process including case conferencing and encouraging contact with a lawyer.
- 9 QPS will provide a Notice to Seek Legal Advice to a defendant at a watch house in accordance with paragraph 21 of the Criminal Jurisdiction Reform Administrative Arrangement.

## Structure

- 10 The Chief Magistrate will provide a dedicated full time call-over court<sup>2</sup> to case manage the summary matters where there are approximately 5000 or more matters for separate defendants lodged each year and the QPS and LAQ agree to provide authorised officers and legal practitioners at the following locations:-
  - Brisbane;
  - Caboolture;
  - Cairns;
  - Southport;
  - Ipswich;
  - Beenleigh;
  - Maroochydore;
  - Townsville. and
  - Rockhampton
- 11 The Chief Magistrate may establish a call-over court for summary matters at those other Magistrates Courts the Chief Magistrate considers necessary.
- 12 In all other cases, case conferencing matters shall be dealt with as part of the normal court diary.
- 13 QPS will provide a suitable number of Authorised Officers at each PPC to engage in case conferencing and will provide a dedicated case conferencing unit at the following PPCs:
  - Brisbane;
  - Caboolture;
  - Cairns;
  - Gold Coast;
  - Ipswich;
  - Logan;
  - Sunshine Coast;
  - Townsville, and
  - Rockhampton.

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<sup>2</sup> Such court could be a combined Committal Callover and Summary Callover Court.

- 14 LAQ should, where possible, provide Duty Solicitors to engage in case conferencing at Magistrates Courts, but in particular will provide a Duty Solicitor at the dedicated call-over court.

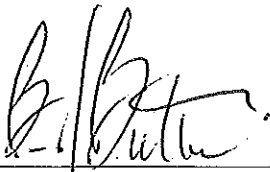
### **Information Technology support**

- 15 Each stakeholder will arrange for this Protocol and information concerning case conferencing to be placed on the website of their organisation with a link to the Protocol and information appearing on the Home page of their website for a reasonable time but at least for 12 months.
- 16 QPS will, in addition to complying with paragraph 15, provide a directory with the address and contact telephone number of each PPC together with a link to a case conferencing email account of each PPC.

### **Case conferencing procedures**

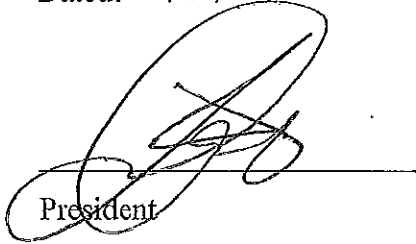
- 17 Where appropriate, for an offence that may be dealt with summarily, an Investigating Officer will issue a defendant a Notice to Appear at least 14 days prior to the defendant's appearance in a Magistrates Court.
- 18 Where appropriate, for an offence that may be dealt with summarily, a Watch-house Manager will release a defendant who has been arrested:
  - 18.1 on a Notice to Appear at least 14 days prior to the defendant's appearance in a Magistrates Court;
  - 18.2 on bail at least 14 days prior to the defendant's appearance in a Magistrates court.
- 19 An Investigating Officer will provide a QP9 to the relevant PPC within 3 rostered shifts but in any case no later than 7 days after arresting a defendant or issuing a defendant with a Notice to Appear where the defendant is to appear at court at least 14 days after the Notice to Appear is issued or the arrest is made. Where a defendant is to appear before a court at an earlier time an investigating officer will ensure the QP9 is provided to the relevant PPC prior to the court appearance.
- 20 Where the defence has been instructed to act, the defence will contact the relevant PPC prior to the next appearance of a defendant and advise the PPC of the name of the defendant and the contact details of the defence.
- 21 Where advice is provided in terms of paragraph 20, the PPC will deliver a copy of the QP9 to the defence as soon as is reasonably practicable after receiving the QP9. The PPC should when requested by defence deliver the QP9 to the defence by electronic means.
- 22 Where a defendant makes an application for legal assistance to LAQ or through a private lawyer to LAQ, a copy of the relevant QP9 may be requested from the relevant PPC by LAQ or the private lawyer.

- 23 The relevant PPC who receives a request in terms of paragraph 22 will deliver a copy of the QP9 to LAQ or the private lawyer as soon as reasonably practicable after receiving the QP9 from the investigating officer.
- 24 As soon as reasonably practicable the defence should notify the relevant PPC, for example, via the dedicated QPS email link, of any desire to conduct a case conference.
- 25 The PPC is to engage in a case conference with the defence as soon as is reasonably practicable following the receipt of the notification as mentioned in paragraph 24. It is to be noted that a fundamental aim of this Protocol is, to expedite case conferencing and, where practicable, to have case conferencing finalised before a defendant first appears in court.
- 26 The provision of a QP9 forms the basis of the case conferencing process. The QPS acknowledges that the defence are entitled to seek reasonable material for case conferencing purposes pursuant to paragraphs 5 and 6 of Practice Direction No. 9 of 2010. Where additional material to the QP9 is sought, the defence request should be strictly limited to that material which the defence considers might properly advance the case conference. It is not meant to be an opportunity for the defence to obtain an advance copy of the complete prosecution brief. In making a request for the provision of reasonable material, the defence is not required to identify the issue/s for which such a request is made.
- 27 A case conference includes negotiation by any of the following means:
- 27.1 In person, including at a police station or establishment, the office of the Defence or a Magistrates Court;
  - 27.2 By telephone;
  - 27.3 By email; or
  - 27.4 By writing.
- 28 The preparation of a written submission can cause unnecessary delay in finalisation of a case conference and is discouraged. Written submissions should only be used in exceptional circumstances.
- 29 Defence and the PPC may continue to case conference prior to or after any Summary Call-over (or the next court appearance if there is no Summary Call-over at the relevant court).
- 30 Nothing in this protocol is to be taken as derogating from the content of Practice Direction No. 9 of 2010.
- 31 This protocol can be reviewed at any time at the request of a Principal Stakeholder.



Chief Magistrate

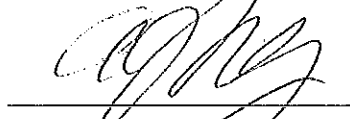
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President

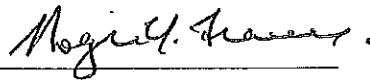
Queensland Law Society

Dated: 28/10/2012



Chief Executive Officer  
Legal Aid Queensland


Dated: 30/10/2012



President

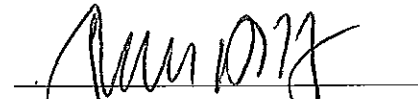
Bar Association of Queensland

Dated: 10/9/2012



Commissioner of the Queensland  
Police Service

Dated: 28/8/2012



Chief Executive Officer  
Aboriginal & Torres Strait Islander  
Legal Service (QLD) Ltd

Dated: 7/11/12