

Magistrates Courts

Practice Direction No. 21 of 2013

Contested Bail Applications

1. This Practice Direction governs any contested application for bail to which s16(3A) of the *Bail Act 1980 (Q)* (the Act) applies. It relates to any such application in Queensland that has not yet been set down for hearing.
2. As from the date of publication of this Practice Direction, unless the Chief Magistrate otherwise orders in the interests of justice, all bail applications to which this Practice Direction applies, will be listed for hearing in Court 20, in the Brisbane Magistrates Court, not before 2:30pm. No more than 2 (two) applications may be listed on one day.
3. The Office of the Director of Public Prosecutions Office will represent the Crown in all such applications.
4. At the first mention, the parties should be ready to provide the court with an estimate of time required to be ready to proceeding to hearing. An adjournment of a s16(3A) application of more than 7 (seven) days should not be sought by the prosecution except with the applicant's consent.

Purpose

5. The primary object of this Practice Direction is to give practical expression to ss15(1) and 16(1A) of the Act so as to ensure that, the hearing is ready to proceed as fairly as possible without needless delay and on the best available material.
6. Ancillary purposes include: listings management, proper preparation and presentation by all parties, reducing the cost implications for the Office of the Director of Public Prosecutions (ODPP), and increasing security for all.

Disclosure

7. The Queensland Police Service, must as soon as practicable, disclose to the applicant all documents in its possession or control relating to the application.

Evidence

8. Evidence is to be given by affidavit or in any other form the court permits including via an audio/visual link.
9. Any affidavit on which the applicant intends to rely must be filed and served on the other party at least 2 (two) clear days before the hearing date.
10. Any affidavit in response, must be filed and served on the other party at least 1 (one) clear business day beforehand.

11. Relevant information that first becomes available to a party after their affidavit material has been filed, must be disclosed to the other party as soon as practicable.
12. An affidavit must be confined to credible or trustworthy information about relevant facts or opinions and materials should be only put in or exhibited to an affidavit if the presiding magistrate is expected to have regard to it.
13. If a statement is made on the basis on information and belief the sources of information and grounds of belief must be stated.
14. The court may require a deponent, or exempt a deponent from, examination.
15. An affidavit of justification by a proposed surety in Form 11 must be provided to the court at the time of hearing.

Written Submissions

16. The parties must file by email on or before the hearing date, a copy of its submissions and a draft of any proposed order. The email must be copied to the other parties. Attachments are to be in **Word** format.
17. Written submissions are expected to:-
 - (a) provide a clear summary of the evidence relied on to prove any of the matters in ss8,15(1)(c), 16(1)-(2) and s16(3A).
 - (b) put arguments in succinct point form.
 - (c) clearly identify agreed and disputed facts or legal issues.
 - (d) attach a copy of an agreed chronology, relevant legislative provisions, authorities and literature supporting arguments.
 - (e) not usually exceed 5 (five) pages.



Tim Carmody
Chief Magistrate
4 November 2013