

MAGISTRATES COURT OF THE AUSTRALIAN CAPITAL TERRITORY

**PRACTICE DIRECTION NO 1 OF 2018  
FAMILY VIOLENCE COURT**

This Practice Direction takes effect from 1 January 2018 and replaces Practice Direction No. 2 of 2009 from that date.

**Application**

1. This Practice Direction sets out the procedures that are to be followed in relation to matters within the jurisdiction of the Family Violence Court as set out in section 291K of the *Magistrates Court Act 1930*.

**Listing in Family Violence Court**

2. Where a matter is initiated in court by way of summons or warrant, the informant must identify if it falls within the jurisdiction of the Family Violence Court. Where a defendant is brought before the Court for the first time in custody following arrest, the Director of Public Prosecutions (DPP) must identify charges which fall within the jurisdiction of the Family Violence Court at the first appearance. In either case, the DPP must specify the relevant relationship relied upon to establish the jurisdiction of the Family Violence Court. Such matters will be listed in the Family Violence Court, subject to special arrangements in respect to bail.

**Sittings of the Family Violence Court**

3. The Family Violence Court will sit each Tuesday to deal with mentions, including pre-hearing mentions, and sentences and each Friday afternoon for sentences. The Court will sit from 10:00 am. Longer matters listed for sentence will be listed from 2.00 pm. Hearings will be listed in block lists or ad hoc as required. The parties should inform the magistrate of any sensitivities in a matter which might require a special fixture.

**Bail**

4. Any applications relevant to bail for defendants charged with a family violence offence will be listed in the A2 list. The defendant must give to the DPP and the Court at least 48 hours notice of any bail applications except when the

defendant is first brought before the Court in the A2 list unless the Court orders otherwise.

### **Adjournment for legal advice**

5. At the first mention date the Court may allow a defendant an adjournment of up to 4 weeks to obtain legal advice, including accessing any family violence evidence in chief interview that may have been recorded in the matter.
6. In the usual case, the defendant will be expected to enter a plea by the second mention date.

### **Process following a not guilty plea**

7. Where a defendant enters a plea of not guilty to a summary charge, the magistrate may list the matter for hearing at a date generally not earlier than six weeks, unless the parties agree that the matter can proceed earlier. The Court will make directions for the service of the brief of evidence not later than two weeks prior to the hearing date, unless the defence waives that requirement.
8. Where the defendant enters a plea of not guilty to an indictable charge or charges, and where there is no consent to the jurisdiction by any relevant party, the magistrate may commit the matter to the Supreme Court for trial pursuant to section 88A or section 88B of the *Magistrates Court Act 1930*, or adjourn the matter for preparation of a full brief of evidence and further mention for committal pursuant to Part 3.5 of the *Magistrates Court Act 1930*. The mention date will be set taking into account relevant factors including the number of charges, the complexity of the case and any other considerations relevant to having the matter dealt with as expeditiously as possible. Where the defendant is in custody that date will usually be no more than four weeks from entry of the plea or usually no less than six weeks if the defendant is not in custody.
9. If after consideration of the brief relevant consents to jurisdiction are given and the matter is to remain in the Magistrates Court, it will be listed for hearing at the first appropriate date at the discretion of the magistrate following consideration of any submissions of the parties.

### **Change of Plea**

10. Where a date has been set for the hearing of a matter and the defendant intends to change his or her plea, the defendant must send an email to the

Court, copied to the prosecution to [mclistings@courts.act.gov.au](mailto:mclistings@courts.act.gov.au) at the earliest opportunity in order to have the matter relisted in the next Family Violence list for the plea to be taken.

11. Failure of the defence to give notice at the earliest available opportunity may be addressed by an award of costs in favour of the informant incurred in preparation for or attendance at hearing.

### **Hearing list arrangements**

12. The Court adopts a policy of overlisting hearing matters. Matters listed for less than one day may be overlisted for up to 14 sitting hours. Matters listed for one day may have two such matters or up to a further 6 hours of shorter matters listed on the same day. Matters listed for in excess of one day will ordinarily be given a special fixture. Any matters not reached will be listed at the next available date and will be marked for consideration of priority on that date.

### **Special arrangements for hearing**

13. The parties must notify the Court of any special arrangements required at hearing at the time the matter is listed for hearing, such as the need for remote witness rooms, arrangements for evidence to be taken by telephone, the requirement for an interpreter or any other matter arrangement for which the Court is not ordinarily equipped. Failure of the requesting party to notify the Court of any special arrangements which leads to an adjournment of the matter may result in a cost order against that party or, in appropriate cases, the party's legal representative.

### **Unrepresented defendants**

14. At the time the matter is being listed for hearing, the Court will ask if an unrepresented defendant intends to cross-examine the complainant in order to allow for a registrar to be available to conduct the cross-examination.

By direction of the Chief Magistrate and Magistrates



Amanda Nuttall  
Registrar  
15 December 2017

