



**BLURRED  
BORDERS**

**Queensland**

Bail and Criminal Process  
Legal Resource Kit

**User Manual**

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To find out more, get a copy of the kit or to provide feedback contact [cle@legalaid.qld.gov.au](mailto:cle@legalaid.qld.gov.au) or visit [www.legalaid.qld.gov.au/blurredborders](http://www.legalaid.qld.gov.au/blurredborders).

## Disclaimer

This kit contains legal information only. It is designed to help people learn about the law and their rights. However, the law changes often. If you need legal advice for a specific problem, please contact a lawyer.

Produced by



Project partners



**ATSILS**  
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Family Violence Legal Service

## Acknowledgement

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## Acknowledgement of country

We acknowledge the Aboriginal and Torres Strait Islander owners and custodians of the land on which we live and have worked during the development of this legal resource.

We pay respect to their Elders, lore, customs and creation spirits. We recognise that these lands have always been places of ceremony, teaching, research and learning and we acknowledge the important role Aboriginal and Torres Strait Islander peoples play in our community and in improving our legal system.

# Chapter one: How to use this kit

## 1.1 Target audience and purpose

### Who is the kit for?

This resource kit is for lawyers, paralegals, community workers and other stakeholders providing frontline community services to people on bail and engaged in the criminal justice system in Queensland. This includes support agencies, and other people communicating regularly about bail and court processes and orders—particularly those working with Aboriginal and Torres Strait Islander peoples. The resources can also be used by a wider audience, including those working with young people, people from culturally and linguistically diverse backgrounds, and people with disability.

You don't have to be a lawyer to use this kit. It can be used by all frontline service providers and by community members in leadership roles who are providing assistance and guidance to other people in their own communities.

### Purpose

Being able to communicate effectively and explain complex legal concepts is a continuing challenge in the legal assistance sector. This resource kit will help service providers to explain key legal concepts around bail and criminal process in a straightforward way. The story cards at the heart of the project use visual art, plain language and storytelling to more effectively communicate important and often complex legal messages.

## 1.2 What's in the resource kit?

The resource kit contains:

- basic information on how to use the resources
- story cards that use pictures and plain language to help explain key legal concepts
- a set of factsheets that contain key legal messages
- a process map to help explain processes and deliver information more clearly
- individualised wallet cards
- community legal education (CLE) activities that use stories to reinforce key messages
- referral information and links to more information
- common story card layouts for some bail and criminal processes.

## Story cards

Each story card has a picture on the front and a plain language explanation on the back.

The cards are divided into the following categories:

- People
- Places
- Things that might happen
- Things you can do
- Conditions and orders.

The story cards are set out in full in Chapter 5.

The story cards can be used to help deliver CLE sessions, or to assist you to provide individual legal advice or information. The cards can be used in many different ways. Experiment and find the way that works best for you and your audience. Suggestions on how to use the cards for CLE activities are set out in Chapter 3.

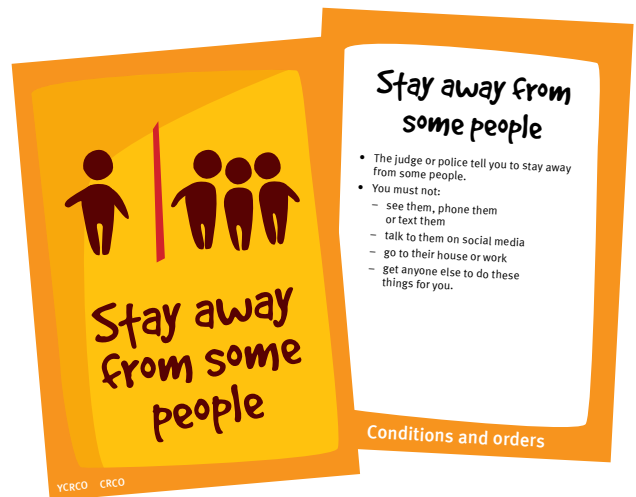
## Process map

The bail process map is a useful tool to help explain the bail process. It covers the five key aspects of bail:

- Arrest
- Police investigate/question
- Lock up/jail
- Bail undertaking/paper
- Going to court.

The order in which these events occur will depend on the individual circumstances of each case.

It is designed to be used with the story cards. For more information about the process map see point 5.3.



## Wallet cards and stickers

The wallet cards and stickers contain a visual reminder of key dates, next steps and conditions and orders. See point 5.4 for more information.

## CLE activities

The CLE activities in this kit (see chapter 3) are mainly adapted from real life examples provided by lawyers and other community service providers involved in the Bail and Criminal Process project. Real life examples are much more powerful than hypothetical ones. If you use your own real-life examples, make sure you change the names so people can't be identified.

## 1.3 Practical tips on using the resource kit

### Involve the local community in CLE planning and delivery

CLE is much more effective when the people connected to the community are involved. Make sure you get advice and guidance from community leaders when planning and delivering CLE.

### Book interpreters well in advance

If you need an interpreter, make sure you book them well in advance. This resource kit is not and will never be a substitute for using an interpreter.

### Read the key legal messages beforehand

If you haven't presented on the topic before, read through the key legal messages and the CLE activities to familiarise yourself with them. Do this a couple of days beforehand so you have enough time to follow up on anything. Even if you have presented on the topic before, pre-reading the information always helps to refresh your memory and keep you on point.

### Remember this may be a sensitive topic

The topic may raise personal issues for some participants. Ask participants not to discuss personal details within the session. Encourage them to seek support after the session and have the contact details ready for local support services.

### Know your audience

Your CLE audience may include people from different cultures and services. If you know who is in the audience, you can recognise and draw on their experience and knowledge.

### Create a safe learning environment

Every participant brings their own life experience to each session. It is important to balance the interests and knowledge of all participants. All knowledge and experience should be respected and valued.

### Be aware of the group dynamics

For cultural and other reasons certain people in the group may dominate the conversation. Be inclusive. Aim to join as many people as possible into the discussion. Make sure those who are participating stay on the relevant topic.

## Use questions to test understanding and generate discussion

Asking questions helps you to work out the level of understanding of the participants. You can do this at any time during the session. The story cards and the CLE activities will help you to generate discussion and get the conversation started. The cards are also an excellent tool to test a participant's level of understanding.

### 1.4 CLE checklist

#### Planning CLE

- **Demographics:** Consider the demographics of participants and presenters. For example, it might not be appropriate for a male to present to women and vice versa.
- **Time and place:** Plan sessions with community involvement. It is better to meet at culturally safe and identifiable places at times convenient to participants and with culturally inclusive food and other resources provided.
- **Country:** Discuss with local community leaders and Aboriginal and Torres Strait Islander staff members how to properly acknowledge the traditional owners and the country on which you will be holding the session.
- **Interpreters:** If you need an interpreter, book them well in advance.

#### Delivering CLE

- **Country:** Acknowledge the traditional owners and the country on which you are holding the session.
- **Introductions:** Allow participants to identify themselves and their family and/or country.
- **Create a safe environment** for all participants emotionally, physically and spiritually. Some topics may trigger traumatic responses. Have support staff and contact details for counsellors available and encourage people to take time out if needed.
- Set clear boundaries:
  - **Encourage participants to avoid talking about individual or actual experiences or using names.** These may trigger emotions and could relate to other peoples' experiences in the room which may not be appropriate for public discussion. For example, an incident of family violence or dispute with a service provider.
  - **Don't provide individual legal advice.** Remind participants that the information provided during the CLE session is not legal advice. Encourage participants to speak privately with a lawyer to discuss individual legal problems and give them a referral.
- **Respect:** Avoid judgment and stereotypes. Allow time for people to think and give their views. Some people may want to listen more than speak. Young presenters should acknowledge the life experience and knowledge of older participants.

#### Follow up

- **Evaluation and feedback:** Take the time to seek feedback and evaluate the usefulness of your CLE activities and resources. Act on the feedback you receive where appropriate and strive for continuous improvement.
- **Keep your promises:** Do what you say you are going to do.

## 1.5 Ways of working

### Useful tips

The criminal justice system is a challenging area to work in. It is important that all service providers work as effectively and sensitively as possible with those on bail and involved in the criminal process. Some tips for service providers to consider include:

1. **Don't de-humanise the process.** Always remember what is at stake for the people involved.
2. **Take a strength-based approach.** Remember to always look for positives. Encourage people to keep trying and to not give up.
3. **Think about the whole process.** It is important to talk about the overall bigger picture as well as the specific parts.
4. **Take the time to learn someone's story.** It will take a little bit more time, but it is important to see how all the pieces fit. It is often useful to start in a more personalised story telling way and then relate it back to the wider issues. Not the other way around.
5. **Don't make assumptions.** Leave enough space in the conversation and blank cards in the resources for people to fill in their own story.
6. **Give it a go.** You won't know what really works until you start trying to use the resources.
7. **One size does not fit all.** You might use these resources with some people and not with others. You might use some of the resources all the time and others not at all.

## 1.6 Checklist for trauma informed practice

Many people going through the criminal justice system are often traumatised whether they are the ones allegedly in trouble or the victims of crimes.

Be trauma informed. Do no harm.

1. **Build rapport and trust.** Make the person feel comfortable and safe. Do this by:
  - **Using a positive tone of voice:** Make your tone say *"You are important", "I care", "I am here to help"* and be careful your tone does not say *"I am busy", "I do not have time for you"*.
  - **Actively listening:** Stay engaged and give the person your full attention.
2. **Don't take it personally:** Be aware of the person's emotional state and show empathy. Some traumatised people have good reason to feel upset or angry.
3. **Look for the good.** Every person has some positive attributes and strengths in their life.
4. **Reality check in the most positive and least punitive way:** Try not to judge. Be aware of your own potential unconscious biases.



## 1.7 Cross-cultural competency checklist

Cross-cultural competence is a critical component of delivering effective legal advice, education and information services especially in Aboriginal and Torres Strait Islander communities and with culturally and linguistically diverse (CALD) clients. Make sure you get permission from the client before consulting with Elders from their community due to kin, tribal and language differences and inter-generational tensions that may exist. Service providers must be aware of, and respect, cultural sensitivities at all times. Working in partnership with the community where possible to build relationships and trust is a fundamental part of this process.

Client groups may find some of the graphics in the resource kit hard to relate to. In this situation it may help to explain these story cards in the context of things being done slightly differently in Australia. If the graphics on a particular story card don't make a lot of sense to the client you are dealing with, even after you have explained them, then just don't use them.

### Build relationships

#### Try and meet face to face

The best way to communicate with a client about their legal matters is face to face. This is particularly important when dealing with sensitive subject matters.

Remember that when your client is telling you details of their life, this can be very daunting—especially when all the information is going one-way. Use icebreakers to get the conversation started.

#### Use cultural brokers wherever possible

If your client is from an Aboriginal, Torres Strait Islander, or CALD community, a respected Elder may be able to help you work with your client if your client sees this as appropriate. Make sure you get permission from your client before consulting with anyone else from their community due to kin, tribal and language differences and inter-generational tensions that may exist.

#### Don't just turn up

Make sure you contact a community representative before you visit. It is a good idea to introduce yourself, discuss the protocols for visiting and to gain further understanding of the community's legal and other needs, including the need for interpreters, before you get there.

### Check for understanding

#### Gratuitous concurrence

A widely recognised cultural tendency for Aboriginal and Torres Strait Islander people and for people from CALD backgrounds is 'gratuitous concurrence'. This is when someone agrees to every question you ask them even if they do not understand the question. Saying 'yes' means that they are being polite and obliging and telling you what you want to hear.

Asking open questions and allowing the person enough time to answer will have better results, provided they understand the questions and it has already been established that an interpreter is not required.

## Use plain language

Use plain language when speaking and always assess whether you need to use an interpreter. For many Aboriginal, Torres Strait Islander and CALD clients, English is not their first language. Also, many Aboriginal and Torres Strait Islander people speak non-standard Australian English, or Creole. They may use words that are the same as standard Australian English, but these words can have very different meanings. For example, in many Aboriginal and Torres Strait Islander communities “deadly” means good.

## Draw difficult concepts

When dealing with difficult concepts like consent and allegations of sexual assault, aggravated assault, breaching court orders or conditions of orders it is a good idea to draw them for your client. This makes it more objective and easier to explain.

## Otherwise dealing with difficult concepts

Be aware of shame issues that make it difficult for Aboriginal and Torres Strait Islander and CALD clients to discuss some matters, for example sexual abuse or offences. This should not be misinterpreted as non-engagement or dismissal.

In some cultures, a man cannot discuss some matters with a woman and vice versa. It can be taboo. Being sensitive to this is important when deciding on the gender of the worker who will work with a client in this situation.

## Be respectful

### Dress appropriately

Wear culturally appropriate clothing. For women this might mean keeping your shoulders covered, no revealing tops or short skirts. High-heels and too much make-up can also be insensitive.

### Gender awareness

Sometimes it may be culturally better for a male lawyer or worker to attend if possible. When discussing child sexual abuse, it may be inappropriate for clients speak with a lawyer of the opposite sex.



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## Example: discussing allegations of child sexual abuse

Below is an example of how you might approach discussing allegations of child sexual abuse with a traditional Aboriginal or Torres Strait Islander person.

*‘As your lawyer I need to know all the facts about what happened so I can speak for you in court. I will need to ask you some questions that might be hard to answer. If it is hard to talk to me, I can maybe see if there is a man/woman lawyer for you to speak to about those details and they can tell me later. Or we can see if there is a man/woman lawyer to take over as your lawyer. I won’t be offended if this is what you prefer.’*

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Be aware that jealousy is a big issue in some Aboriginal and Torres Strait Islander and CALD communities. If dealing with members of the opposite sex, always ensure you have another person present, and keep the person in view of their partner where possible. Keep this in mind even when having closed door conversations in the office.

### **Little or no eye contact**

Don't feel offended if your clients display little or no eye contact. For many Aboriginal and Torres Strait Islander clients this is more a sign of respect rather than disrespect and could also mean they feel 'shame' which means shy or embarrassed.

### **Traditional knowledge or beliefs**

Aboriginal and Torres Strait Islander clients might speak of traditional knowledge or beliefs, sometimes known as Traditional Law or Lore. They may have experienced it, learnt it or had it passed down to them through their family generations. Aboriginal and Torres Strait Islander people culturally recognise traditional knowledge and beliefs differently. Aboriginal and Torres Strait Islander people might also talk about different names for their traditional knowledge and beliefs. You should ask for more information if this is needed to understand their story.

### **Not saying names for cultural reasons**

Be mindful that Aboriginal and Torres Strait Islander clients may not be able to speak the name of a deceased person or members from their own family of the opposite sex, particularly in-laws. Where possible ask if they have anyone in the waiting room who could tell you, or they may be happy to write it down or spell it out. You will need to get permission to say the name in open court also. It may be more appropriate to be called Mr. or Ms., and the family name only.

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### **Example: not saying names for cultural reasons**

**Below is an example of how you might approach discussing the name of a deceased person or particular family members.**

*'Throughout this interview I will need to ask you some questions relating your family. I may need to ask questions about particular family members. If you can't say their names for cultural reasons just let me know and we can work around it. Would you feel comfortable spelling it or writing it down? Or maybe we can ask someone else in your family to tell me.'*

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### **Avoid fighting and feuding**

Not all Aboriginal and Torres Strait Islander families from the same community are related by blood or skin group and sometimes there is fighting and feuding. If you are aware of this, try to avoid bringing feuding groups together in one area. Organise beforehand for them to be spoken to at separate times.

### **Be aware of historic and contemporary issues (local and general)**

Being aware of cultural sensitivities includes recognising and acknowledging the historical and current contexts. Many Aboriginal and Torres Strait Islander people and families, and CALD clients have had traumatic experiences which continue to affect them. Learning about local and general Aboriginal and Torres Strait Islander history for these clients and the experiences of a CALD client before they came to Australia, will help you gain a better understanding of the broader context.

## **Confidentiality**

Treat your dealings with clients as confidential from other members of the community. Don't conduct interviews where other people can hear. Sensitive information overheard can cause issues in the community.

## **Manage expectations**

Explain if things might take a long time.

Make sure you do the things you say you are going to do.

Don't make promises you can't keep.

## **Don't make assumptions**

It is important to be aware of and sensitive to diversity and not assume that all communities and people from a particular country have the same experiences, needs and issues. Aboriginal, Torres Strait Islander and CALD people may identify with more than one ethnicity and/or community group. They may have local connections or may have moved to the region they now live from elsewhere recently or a long time ago.

## **Do some cultural awareness training**

If you are working with people from diverse cultural backgrounds, it is essential to undertake cultural awareness and cross-cultural training. This training helps develop the knowledge, skills and attitudes you need to work in a sensitive and respectful manner.

## **When in doubt, ask**

When in doubt of something, ask your client or another community member. Most Aboriginal, Torres Strait Islander people, and people from CALD backgrounds love to share their culture. It is always an honour for them to teach someone who shows an interest in learning about it.

# Chapter two: Bail and criminal process factsheets

The bail and criminal process factsheets provide a range of key legal messages and practical advice for those on bail or going through the criminal process. PDFs can be downloaded from [www.legalaid.qld.gov.au/blurredborders](http://www.legalaid.qld.gov.au/blurredborders)

## 2.1 Bail and criminal process factsheets

| # | Factsheet title   |
|---|---|
| 1 | Talking to the police   |
| 2 | Being arrested  |
| 3 | Criminal cases in the Magistrates Court   |
| 4 | Criminal law duty lawyer  |
| 5 | Bail  |
| 6 | Criminal cases in the District and Supreme Courts   |
| 7 | Children and the criminal justice system: What happens if I am accused of breaking the law? |
| 8 | Children and the criminal justice system: Going to court                                    |
| 9 | Children and the criminal justice system: Getting legal advice                              |

# Talking to the police

The police can approach you and ask questions at any time, but this doesn't mean you have to answer all of them. It's a good idea to find out why they want to talk to you.

They can ask you to give your name and address, especially if they reasonably suspect you've broken the law. The officer must warn you that it's an offence not to give them your correct name and address.

The police can use anything you say to them at any time. You don't have to be at a police station being interviewed for the information you provide to be used as evidence against you. There's no such thing as 'off the record'. The police may use what you say to decide whether or not to arrest or charge you, and this may be used against you in court.

## The right to remain silent

You have the right to remain silent whether:

- you've been stopped in the street
- you've agreed to go to the police station
- you're under arrest.

There are some situations where the police can ask you questions and if you don't respond you are breaking the law.

Some examples include:

- asking for your name and address
- stating your place and date of birth for drug matters
- if the police suspect you've broken traffic laws or if you've seen an accident.

If you don't want to answer questions and you're not sure if you have to, get legal advice.

## Going to the police station

You can't be forced to go to the police station unless you're under arrest.

Just because the police come to your home or call you and ask you to come to the station, this doesn't mean you have to go with them.

If the police aren't giving you a choice about going to the station, you can ask them if you're under arrest. If you are not under arrest, then you don't have to go.

Even if you go to the station, you still have the right to remain silent.

## What if I don't want to be interviewed?

Sometimes the police may tell you that you need to go to the station and make a statement on tape that you don't want to be interviewed—you don't have to do this. However, you may need to put in writing that you don't want to be interviewed.

In some situations, you will have to answer questions, or show the police things like identification or your driver licence.

If you don't want to answer questions, and you're not sure whether you have to, get legal advice.

## Having a police interview

You don't have to agree to do an interview. If you're a suspect, it's usually best not to until you've had legal advice. The police will usually charge you anyway, whether you give an interview or not.

When agreeing to a police interview you should be aware of the following:

- If you say something, it will be recorded, and you can't take it back and it can be used against you in court (unless you can get the interview thrown out, which is hard to do).
- You may feel nervous at the interview, even if you've done nothing wrong and you may misunderstand the question or answer incorrectly.
- You might begin the interview expecting to be questioned on a specific charge, but what you say can lead to a different, more serious charge or more charges.
- You can take a private lawyer with you, but they can't interfere in the interview.
- Even if it doesn't hurt to go and be interviewed, it doesn't usually help you either.
- It's rare that the police will drop charges against you based on what you say in an interview.
- The police don't have to tell you the truth about what they might know about the alleged incident.

You should get advice from a lawyer about whether you should agree to a police interview. The police must delay starting the interview for a reasonable amount of time for you to contact a lawyer for legal advice. The amount of time depends on the circumstances, but it's usually up to two hours. The police can hold you for up to eight hours for questioning, unless they get permission from a magistrate to extend the time.

People under 18 should call the Youth Legal Advice Hotline on 1800 527 527 and talk to a lawyer before answering any questions.



## What are my rights if I agree to an interview?

You can talk to a friend, relative or lawyer before your interview.

Before starting an interview, the police must make sure you understand what's happening.

For example:

- If you're drunk, you can insist that you are interviewed later when you're sober.
- If you don't speak English very well, you can insist on an interpreter who speaks your language.
- If you're hearing impaired, you can insist on an Auslan interpreter.

You have a right to get a copy of any statement you make to the police or a copy of any recorded interview.

## Aboriginal or Torres Strait Islander peoples

If you are an Aboriginal or Torres Strait Islander person aged 17 or over, special laws apply for questioning you about indictable offences.

The police must inform you of your right to communicate with a friend, relative or lawyer, and they must notify or try to notify a representative of a legal aid organisation to tell them that you are in custody. When in custody you should be given the opportunity to speak to someone who can help you with the interview before questioning starts, and they should be present during the interview.



# Being arrested

By arresting you, police can lawfully take you into custody.

There are usually three steps to an arrest:

1. The police officer states that you're under arrest (or similar words).
2. The police officer states the reason for the arrest.
3. You choose to go with the police or are physically force you to go with them.

If you're arrested, the police will take you to the police station or watch-house for processing before taking you to court or releasing you on bail.

## Can the police arrest me without a warrant?

The police can arrest you without a warrant if they reasonably suspect you're breaking the law, have broken the law, or are about to break the law, and it is reasonably necessary:

- to stop you from breaking more laws
- to find out who you are
- to make sure you appear in court
- to get or keep evidence
- to stop you from making up evidence
- to stop you from harassing or interfering with a witness
- to protect the safety of any person (including you)
- to stop you from running away
- because of the type of offence
- because of the seriousness of the offence
- to hold you for questioning.

The police don't usually need a warrant for your arrest, and it's usually easy for them to prove that they have proper reasons to arrest you. It's in your best interests to assume they have the power to arrest you and to go with them quietly and calmly. If you don't, you may be in more trouble. Get legal advice.

## What are my rights?

If you've been arrested, you should be aware of the following:

- You have the right to know that you're under arrest and for what kind of offence. The police must tell you this at the time of the arrest.
- You don't have a choice about going with the police—they can force you to go with them and can use reasonable force to carry out an arrest.
- If you resist arrest, you're breaking the law (unless you can prove the arrest was unlawful).

- You have the right to be taken to court for a bail application as soon as reasonably possible.
- You have the right to ask the police for bail if you don't go straight to court.
- If the police want to question you about an indictable offence (a serious offence that can go to the higher courts) you have the right to contact a friend, relative or lawyer and the police must delay questioning for a reasonable time (usually up to two hours) to allow this.

## Being arrested for questioning

If the police suspect you've committed an indictable offence, they can keep you for a reasonable time to investigate or question you about the offence.

They can hold you for a period of up to eight hours—with questioning for no more than four of those eight hours.

The police can apply to a magistrate or a justice of the peace to keep you for a further period. Only a magistrate can extend the questioning for more than 12 hours.

While you're being held, you still have the right to remain silent (after giving your name, address etc).

If at the end of the interview or investigation the police don't think they've got enough evidence to charge you, they should let you go.

## Being arrested and charged with an offence

If you're charged with an offence, the police may give you bail and release you until your court date or they may hold you in the watch-house. If the police don't give you bail, they must take you to court as soon as reasonably possible. Once you are taken to court, you can apply to the court for bail.

You don't have to be arrested to be charged with an offence.

# Criminal cases in the Magistrates Court

If you're 18 or older and you have been charged with a criminal offence and/or some traffic offences, you will have to appear in the Magistrates Court. All criminal cases for people who are 18 and older start in the Magistrates Court.

The Magistrates Court usually deals with criminal offences called summary offences, traffic offences, and less serious indictable offences. Most property offences, such as fraud and stealing will be dealt with in the Magistrates Court, unless the property involved in the offence is worth more than \$30,000.

More serious indictable offences will be sent from the Magistrates Court to a higher court by a process called a committal. This includes offences like armed robbery and rape. For some offences, such as assault occasioning bodily harm, you may choose to have your trial in a higher court or the Magistrates Court.

You should get legal advice about which court will deal with your matter.

All cases are heard by a single magistrate. There's no jury for cases in the Magistrates Court. Magistrates can sentence offenders who plead guilty and decide the outcome of summary trials where people plead not guilty.

## Going to court

You must go to court on the date on the:

- Notice to appear
- Complaint and summons
- bail undertaking.

This paperwork will say which Magistrates Court you have to go to and when you have to go. The first court date is called the first 'mention' date.

If you don't go to court when you are supposed to, the magistrate may issue a warrant for your arrest.

## Changing the court location

You can ask the magistrate to transfer your case to another court in Queensland closer to your home. You can usually do this only if you're going to plead guilty in the Magistrates Court. You should get legal advice if you are wanting to change the location of your case.

## Before going to court

Before going to court you should:

- find the court's address and check the location on a map
- arrive at court early—this will give you time to register your arrival at the court counter and see the duty lawyer if you need to
- dress neatly
- bring all your paperwork, a pen and note paper

- organise to take a family member or friend to support you—they will be able to go into the courtroom with you but can't speak for you.

You might be there all day depending on the number of matters before the court. You should plan to take the whole day off from work and organise child care (if needed).

### **Arriving at court**

When arriving at court you should:

- See staff at the counter and:
  - tell them your name
  - ask for an interpreter (if you need one)
  - find out which courtroom your case will be in or check the daily list (this will be displayed on the noticeboards or TV screens in the foyers and waiting areas)
  - ask to speak to the duty lawyer (if there is one)
  - ask if there are any court support workers who may be able to help you.
- Get a copy of your QP9. This is the summary the police have prepared about your alleged offence. The duty lawyer may be able to help you get a copy of the QP9, or you can ask the police prosecutor for a copy.
- Wait for your turn. You can sit quietly at the back of the courtroom or wait outside in the foyer. The court clerk will call your name when the magistrate is ready to hear your matter. If you want to see the duty lawyer, you should wait in the foyer for your name to be called.
- Turn off your mobile phone. Don't eat or drink, chew gum, wear a hat or wear sunglasses in court.

### **What to do when you are called**

When in the courtroom you should:

- stand when the clerk says "all rise"—when the magistrate enters or leaves the courtroom
- bow your head to acknowledge the magistrate when you enter or leave the courtroom
- stand when being spoken to, and address the magistrate as 'Your Honour'
- call the police prosecutor 'the prosecutor'
- speak clearly and follow the magistrate's instructions.

What happens in the courtroom will depend on your charges and if you choose to plead guilty or not guilty. The magistrate will read out the charge and ask how you want to respond.

You can:

- ask for an adjournment
- plead guilty
- plead not guilty.

Part of the magistrate's job is to make sure you understand what's happening. If you don't understand you can politely ask them to explain it to you.

## Adjournment

You, or the duty lawyer, can ask for your case to be adjourned to another date to allow you to get more legal advice and help. If the magistrate gives you an adjournment, you'll be given a new court date. If your matter is adjourned, you may need to attend a different court on the next date.

You may not be able to get more than one adjournment. The magistrate may decide not to let you have an adjournment and may ask you to enter a plea of guilty or not guilty. You should get legal advice before entering a plea.

## Pleading guilty

You can choose to tell the court you are guilty of the offences. This is called pleading guilty. If you plead guilty, you agree to be sentenced as if you had committed the offence as described by the prosecutor.

You should read the QP9 (the police's version of events). If you disagree with any of the police details about your offence you must tell the duty lawyer or the police prosecutor.

Don't plead guilty unless you understand exactly what the police have charged you with. It will be very difficult to change your plea after you have pleaded guilty. A conviction can have serious consequences and you should get legal advice.

You can plead guilty and be sentenced by the magistrate if you're charged with an offence which can be dealt with in the Magistrates Court. You may be sentenced immediately if the magistrate has the capacity to deal with your matter on this day, or your sentencing may be set down for a later date.

If your matter can't be dealt with by the Magistrates Court, your case will be sent to a higher court, like the District or Supreme Court.

## Pleading guilty online

If you've received a Complaint and summons or a Notice to appear from a Queensland police officer for a minor offence and you agree you've committed the offence, you may be able to plead guilty online.

Minor offences include:

- commit public nuisance
- contravene direction or requirement of police
- disobeying the speed limit
- driving an uninsured vehicle
- driving without a licence where no disqualification order is made
- driving without due care and attention
- driving unregistered vehicle
- unauthorised dealing with shop goods (maximum \$150).

You must submit a guilty plea online more than two business days before your court date so it can be processed in time.

You can't plead guilty online if you have received a Notice to appear for, or been charged with, a more serious indictable offence.

You should get legal advice to help you make your decision about whether to plead guilty online.

You will still have to pay the offender levy if you plead guilty online.

## Pleading not guilty

You can tell the court you did not commit the offences the police have charged you with—this is called pleading not guilty. You'll then be given a new date to come to court for a hearing.

The prosecutor must prove you're guilty beyond reasonable doubt. It is not up to you to prove you are innocent.

If your matter can be heard in the Magistrates Court, the magistrate will then set a date for you to appear at a mention called the summary callover. At the summary callover you can attempt to negotiate with the prosecutor through the duty lawyer or you may list your matter for trial.

The prosecutor must give you a full brief of evidence within five weeks of the summary callover date.

At the trial, the prosecutor presents all evidence to try to prove their case. Each witness takes their turn to tell the magistrate what they know.

Either you or your lawyer can cross-examine the prosecution witnesses (sometimes called 'crown witnesses'). You can give evidence and call your own witnesses, but you don't have to.

The magistrate will then make a decision to:

- acquit you (the magistrate didn't think there was enough evidence to prove you were guilty beyond reasonable doubt) or
- convict you (the magistrate did think there was enough evidence to prove you were guilty beyond reasonable doubt).

If acquitted, you're free to go.

If the magistrate decides that you're guilty, you'll be sentenced.

If your matter can't be heard in the Magistrates Court and needs to go to trial in the District or Supreme Court, then the magistrate will set a date for you to appear at a mention called the committal callover.

You should get legal advice.

## Who else will be in the court room?

The Magistrates Court is an open court (ie any person can watch the cases), unless:

- it is a matter involving children attending court or giving evidence
- someone is asking for a domestic violence order
- the magistrate orders a closed court.

## Case conference

If you have a lawyer and are disputing your charge, then your lawyer may have a case conference with the prosecutor. This is a discussion between your lawyer or the duty lawyer, and the prosecutor to try and negotiate a better solution for everyone. This might mean the prosecution agrees to drop some charges if you plead guilty to others, or some other agreement that will help resolve your matter faster.

If there's a duty lawyer in court, you can ask them for advice about case conferences. If there's no duty lawyer available, the police prosecutor is not required to case conference with a person who is not legally represented. Despite this, the prosecutor may be willing to talk to you about your charge.

## Sentencing

If you're found guilty, the magistrate will decide your sentence. They'll ask the police prosecutor if you have a criminal history or traffic history. If there's anything you don't agree with in the criminal history, tell your lawyer or the magistrate.

The magistrate will then ask if there's anything you want to say about your situation that could affect your penalty.

If you have written character references or other supporting information like medical reports or a letter from your employer, hand them to the prosecutor to give to the magistrate. References are generally only useful if the person writing them knows you've been charged with the offence and you're being sentenced for committing the crime.

You, or your lawyer, can also tell the magistrate any relevant details, for example:

- if you have children you support
- if you're employed
- your level of education
- if you could pay a fine or do community service
- if you're attending or are prepared to attend any courses such as anger management or drug and alcohol counselling.

These things are called mitigating factors.

The magistrate then sentences you. If you're sentenced to a period of imprisonment, you won't have an opportunity to go home and get your belongings or arrange your affairs. You'll be taken straight from the court room into custody. You won't be able to take anything with you. It's best not to take valuables to court, or to carry more than about \$50 cash. After your sentence, you may be held at a watch-house for several days until you're sent to a correctional centre.

## Committal hearings

If your matter has to be dealt with in the higher court, you or your lawyer will need to tell the court how you would like it sent there.

There are three ways your matter can be sent to a higher court.

### 1. Full hand up committal without cross-examination

- No witnesses give evidence.
- The prosecutor gives (hands up) evidence to the magistrate.
- Evidence includes written statements, videos, audio tapes, fingerprint reports and any other evidence which police have to prove their case.
- Your matter is committed to the higher court for trial or sentence depending on whether you plead guilty or not guilty.
- You can choose to plead guilty, plead not guilty, or enter no plea at this stage.

### 2. Registry committal

- You must have legal representation.
- All documents which the police say are evidence against you are filed in the court, or your lawyer submits documentation confirming they have the evidence against you.
- Your matter is transferred to the higher court without you having to go to court for the committal. You'll be sent a notice explaining what has happened.

### 3. A committal hearing

- All or some of the witnesses appear in person to give evidence and can be cross-examined.
- This kind of committal is only available if the prosecutor agrees, or the court gives you permission. There must be a reason why the witnesses need to come to court.
- The magistrate decides if there is enough evidence for your case to go to a trial in the higher court. If the magistrate doesn't think the police have shown enough evidence, the magistrate can dismiss the case.
- You can choose to plead guilty, plead not guilty, or enter no plea at this stage.

You can have a full hand up committal or a committal hearing without a lawyer. You should get legal advice. What happens at your committal may affect what charges the prosecution decide to present against you in the higher court, and your ability to negotiate about your charges at a later stage.

Once your case is committed, the case is sent to the District Court sittings or Supreme Court sittings. The court will send you a notice. The prosecutors will have up to six months from the day your matter is committed to present your charges in the higher court. If you have any bail conditions you'll need to continue to follow them until your matter is finalised in the higher court.

## Offender levy

If you're found guilty of an offence in a Queensland court, you'll have to pay the offender levy in addition to any penalty or sentence you receive.



# Criminal law duty lawyer

## What is a duty lawyer?

A duty lawyer is a free lawyer who may be able to give you legal advice or help with your criminal law matter on your court date. If you've been charged with a criminal offence and you're going to the Magistrates Court, they may be able to help. There is a duty lawyer available at most Magistrates Courts in Queensland.

On your court date, you should arrive early to the court and ask to see the duty lawyer. If you're being held in the watch-house, you can ask to see the duty lawyer before you're taken into the courtroom.

The duty lawyer can only help you on the day you have to go to court. They can't help you with a case that isn't listed in the court on that day—for example, if your court date is on Tuesday, you can't get help from the duty lawyer before Tuesday.

## How can the duty lawyer help?

The duty lawyer can usually give you legal advice and represent you in court if you need help with:

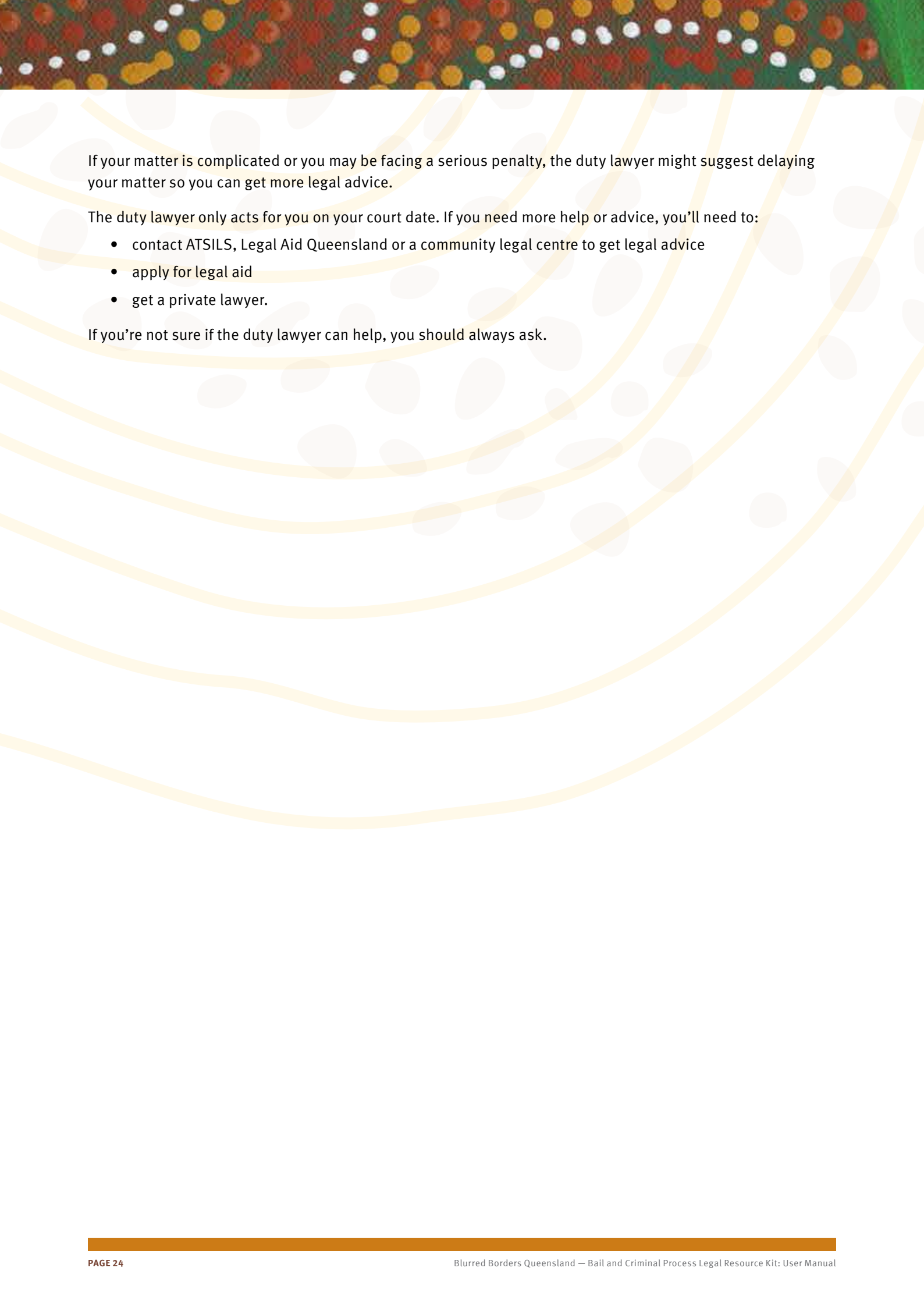
- pleading guilty for less complex matters
- adjourning criminal cases in the Magistrates Court
- bail
- changing your bail conditions
- bail breaches
- probation breaches
- extradition proceedings.

They can also help you get a copy of the police summary of why you were charged and what allegedly happened. This is called a QP9.

The duty lawyer may also be able to help you by holding a case conference with the prosecutor on your court date. This is a discussion to try and negotiate a better solution for everyone. For example, the prosecutor may agree to drop some charges, or they may be able to work out some other agreement that will help resolve your matter quickly.

The duty lawyer won't help you if you're going to court for:

- a first or second drink or drug driving offence and nothing else (unless it's likely you will go to jail)
- traffic offences (eg speeding or careless driving)
- domestic and family violence information (however, in some courts there is a domestic and family violence duty lawyer)
- a committal hearing or a trial
- complex sentence hearings.



If your matter is complicated or you may be facing a serious penalty, the duty lawyer might suggest delaying your matter so you can get more legal advice.

The duty lawyer only acts for you on your court date. If you need more help or advice, you'll need to:

- contact ATSILS, Legal Aid Queensland or a community legal centre to get legal advice
- apply for legal aid
- get a private lawyer.

If you're not sure if the duty lawyer can help, you should always ask.

# Bail

Bail is a written promise you sign (called an undertaking) to come to court on the date written on the undertaking to face the charges against you.

## How to get bail

The police can give you bail at the police watch-house (known as watch-house bail). If the police don't give you bail, they must take you to court as soon as reasonably practicable and you can apply to the court for bail.

If you're given bail, you'll have to sign a bail undertaking. This is a written promise that you'll come to court when you're supposed to and comply with the bail conditions.

It's very important you read and understand your bail undertaking. You should keep a copy for your records. If you lose your copy, you can go back to the court or the watch-house (if you were given watch-house bail) and ask for a copy.

## Applying to court for bail

If your matter isn't finished on the day you go to court, you can apply to the court for bail. If the magistrate gives you bail, you're allowed to leave and come back to court on another day.

If your matter isn't finished and the court doesn't give you bail, then generally you'll go to jail and stay there until the next court date. On that date you can again apply for bail if you can show there has been a change in your circumstances since you last applied for bail. Sometimes you may have to apply to a higher court for bail.

## What the magistrate or judge considers for bail

When deciding whether to give you bail, the magistrate or judge will consider things like:

- what the police say you've done, how strong the evidence is, and how serious the charge is
- if you have a place to live
- if you have a job
- your criminal record (if you have one)
- if you've missed other court dates in the past
- whether they think you're a danger to other people
- whether they think you'll break the law again.

Usually, you'll be granted bail unless the prosecutors can show there is an unacceptable risk of you committing further offences or failing to appear.

In some cases, you may have to 'show cause'—meaning you won't get bail unless you can show the court your imprisonment isn't justified. It's more difficult to get bail if you're in a "show cause position" because you have to show the court why you should get bail and not stay in jail. Your lawyer, or a duty lawyer, will be able to tell you if you're in this position, and how you can show the court that your imprisonment is not justified.

## Bail conditions

The court or police officer who grants you bail may include any special conditions they think are needed to make sure you:

- will appear in court
- won't commit an offence while on bail
- won't endanger the safety or welfare of others while on bail
- won't interfere with witnesses or obstruct the course of justice (whether in relation to your own case or someone else's).

If you're not an Australian citizen or permanent resident, the court may order that you are held in custody until you hand in your passport.

To get bail, you may have to agree to conditions, such as:

- regularly reporting to a police station
- living at a certain address
- having someone act as a surety.

These are called bail conditions. If you break a condition of your bail, or don't appear in court when you're supposed to, you're breaking the law. Get immediate legal advice.

## Surety

As part of your bail conditions, the magistrate or judge may demand a "surety". A surety is a person who agrees to give an amount or forfeit a sum of money or property if you don't show up at court when you're supposed to.

A person can only provide surety for you if they:

- are 18 or older
- haven't been convicted of an indictable offence
- aren't insolvent
- have decision-making capacity
- aren't an involuntary patient under the Mental Health Act 2016 who is detained or likely to be detained in an authorised mental health service
- aren't a forensic disability client under the Forensic Disability Act 2011
- aren't a person for whom a guardian or administrator has been appointed under the Guardianship and Administration Act 2000
- have not been, and are not likely to be charged with an offence
- have money or property equal to or more than the bail amount.

A person can only offer money or property as surety if it belongs to them.

If a person owns property, they can only provide surety for the amount they actually own. If there's still a mortgage, the surety can only cover the amount the person has paid off.

If you fail to appear in court, then the surety will have to pay the amount they put up for you.

If you're considering providing a surety for someone, get legal advice.

## **Failing to appear**

If you've missed your court date, get immediate legal advice.

You may have a good reason which can be explained to the court, but you must do this as soon as you can. Even if you were sick on the court date and you have a medical certificate, you still have to go to court as soon as you are well and explain. If you do nothing, you will be in more trouble, and you could be charged with failing to appear.

If you are unsure about your bail, or your bail conditions, get legal advice.

## **Changing bail conditions**

To change your bail conditions, you'll generally need to go back to the court which granted your bail and explain to them why the conditions need to be changed. You can do this at your next court date, or if it's urgent, you can contact the court to see if they can move your court date forward. If you have a bail condition requiring you to live at a particular address, or report to a particular police station at certain times, sometimes your bail condition will allow you to seek approval from the Officer in charge of Police Prosecutions or the Office of the Director of Public Prosecutions to change your address, reporting station or times. Whether you can do this depends on exactly what your bail undertaking says.

You should get urgent legal advice if you need to change your bail conditions to make sure you're not breaching your bail. If you breach your bail conditions, you can be charged with an offence.

If you have multiple charges, you may have bail to more than one court (eg the Magistrates Court and the District Court)—any changes will have to be made to all bail undertakings.

## **Bail in the District and Supreme Court**

If your charges are committed to the Supreme or District Court, your bail becomes a promise to appear in the District or Supreme Court, rather than the Magistrates Court.

It's very important you continue to meet your bail conditions and let the court know if you need to change your address. All the notices from the District or Supreme Court will be sent to your address. If you don't let the court know about these changes, you won't receive notices to attend court and you may fail to appear. If this happens, the judge may issue a warrant for your arrest.

# Criminal cases in the District and Supreme Courts

## What sort of criminal cases do the District and Supreme Courts handle?

District Courts handle indictable criminal offences. Examples are armed robbery and rape.

The Supreme Court handles the most serious charges like murder and serious drug cases.

## How do I know I have to go to the District or Supreme court?

Your lawyer, the police or the magistrate will tell you and give you paperwork which you should keep. This will tell you which court to go to and when.

## What should I do before court?

It is best to get legal advice before going to court.

Get legal advice from a qualified lawyer. Many people will tell you what you should do, like the police or friends, but you should not trust advice from someone who is not qualified in the criminal law.

## Should I have a lawyer represent me in the District or Supreme Court?

It is always a good idea to have a lawyer represent you, but it is your right to appear for yourself if you want to. These are serious charges, and a sentence could be harsh if you are convicted (found guilty). A record is kept if you are convicted and this might affect your employment options. You are not allowed to be represented by someone who is not a qualified lawyer.

## Who is in charge of what happens in my case in court?

A judge will always be in charge of cases in these courts. Judges in the District and Supreme Courts wear wigs and gowns.

## What do I call the judge when I'm in court?

You should call the judge "Your Honour".

Always stand up when the judge talks to you.

## Will there be other people be in the courtroom when my case is on?

Most cases are open to the public, but the judge can order that some cases be closed.

## What happens after my case has been sent to the higher court?

Your case is adjourned (put off) to a specific ‘sittings’ of the higher court. The date you are given for your case is the starting date for those specific sittings. That is not the date you have to go to court. A ‘sittings’ is a group of weeks in the court calendar where the court will try to get through all the cases given to it for those sittings.

The real date where something happens in your case is called a call over. If you do not have a lawyer, you have to go to the call over in person.

If you do have a lawyer, they will go to the call over for you and you only need to go if the judge says you have to. Your lawyer will tell you if this happens.

At the call over, the prosecutor gives the indictment to the judge. The indictment is the formal paperwork saying what crime you are charged with. The judge asks both the prosecutor and your lawyer if your case is ready to be given a date for sentence or a date for trial.

## I have a few charges, will they all be on the same day?

This depends on many things, such as when you were charged and what type of offences they are.

If you have minor offences which are in the Magistrates Court, as well as more serious charges, you may have court dates in both the Magistrates and District or Supreme Courts. It is important that you check any bail undertaking that you signed and contact the court if you are unsure.

## What are my options?

Your two basic options are to either plead guilty (then the judge will sentence you) or not guilty (you will have a trial). You need to know what the police and prosecutor are alleging about you before you can decide whether to plead guilty or not guilty. The decision whether to plead guilty or not guilty has to be yours—no one can tell you what to do, but you can get advice from your lawyer.

Your lawyer will get the police version on paper before court, including witness statements. They will talk to you about the allegations against you. If you don’t have a lawyer, you need to talk to the prosecutor from the Office of the Director of Public Prosecutions before court and get a copy of the paperwork. This paperwork is called the depositions.

## What happens on my day in court?

If you have bail, get there early, because if you are late, the judge might issue a warrant for your arrest. If you are in custody, the jail will bring you to the court cells before court starts, and a guard will bring you up to the court room.

You will have to sit in a box facing the judge. This is called the dock. There will be one or two guards sitting outside your dock when you are in it.

## What happens if I have a sentence?

There is no jury if you are pleading guilty.

The charge is read out and you will be asked to enter a plea (tell the judge if you are pleading guilty or not guilty).

The judge will decide your sentence after listening to the prosecutor (a lawyer representing the state who tells the court the police version of the case) and your own lawyer.

The prosecutor's job is to act fairly and help the court find out the truth.

Your lawyer tells the judge things about your case that might help you get a lighter sentence. If you represent yourself, this is your chance to tell the judge good things about yourself. These are called mitigating factors. Examples are the fact that you are working or have references. You can give the judge references from people who know you. References are only useful if the person writing the reference knows that you have been charged with this crime and knows that you are being sentenced for committing the crime.

The judge then sentences you.

## What happens if I have a trial?

A trial begins with a jury of 12 people being picked from a large group of ordinary citizens. The prosecutor and your lawyer (or you) choose the jurors.

If you plead not guilty, the prosecutor must prove that you broke the law. It is not up to you to prove you are innocent. Another way of saying this is that the prosecutor has the burden of proof and must prove that you are guilty beyond reasonable doubt.

The prosecutor presents all the evidence they have. Each witness takes their turn to tell the judge and jury what they know about the case.

Your lawyer may cross-examine (ask questions) of the witnesses. The prosecutor might also have other types of evidence depending on the sort of case it is. For example, photographs or forensic evidence like DNA or weapons.

You can give evidence and/or call your own witnesses, but you do not have to. You can also call witnesses to testify (give evidence) if they will help your case. You can give evidence yourself, but you do not have to. You have a right to silence. Ask your lawyer if they think you should give evidence or not.

The judge makes decisions about legal arguments, and the jury decides if you are guilty or not guilty based on the facts.



The jury then makes a decision to:

- acquit you (the jury thought there was not enough evidence to prove that you were guilty beyond reasonable doubt) or
- convict you (the jury thought there was enough evidence to prove that you were guilty beyond reasonable doubt).

If you are acquitted, you are free to leave the courthouse.

If the jury finds you guilty, the judge imposes a sentence.

In some very rare circumstances, you, or your lawyer, can apply to have your trial heard by a judge without a jury.

## **Offender levy**

If you are found guilty of an offence in a Queensland court, you will have to pay the offender levy in addition to any penalty or sentence you receive.

# Children and the Criminal Justice system: What happens if I am accused of breaking the law?

If you're accused of breaking the law when you are under 18, it doesn't necessarily mean you will be sent to court to be dealt with by a magistrate.

The police will want to speak to you if they have information that you may be involved in a crime. First, the police will arrange with you or your parents/carer to come to the police station for an interview. This will be recorded. If the crime is serious or you have been in trouble before, the police may arrest you instead.

## Speaking to the police

If the police want to talk to you about an offence don't panic! Experienced lawyers can help you. Call the Youth Legal Advice Hotline on 1800 LAQ LAQ (1800 527 527).

If you are arrested the police must contact Legal Aid Queensland to tell us you have been arrested. This is the law.

You should not answer any of the police officer's questions until you have spoken to a lawyer. Lawyers are available on the Youth Legal Advice Hotline every day between 8am and 9pm and the hotline operates continuously from 8am Friday until 5pm Sunday. This is a free service, and your information will be kept private.

Before you answer any questions, you should ask the police to contact the Youth Legal Advice Hotline so that legal advice can be organised for you. Remember that anything you tell the police can be used against you later in court.

## What can happen to me if the police want to talk to me about a crime?

After the police speak to you, they may decide not to take any more action. This might be because they do not think you committed the offence/s, or there is not enough evidence to charge you with a crime.

If the police decide there is enough proof that you have committed a crime, they can either:

- divert you
- charge you with a crime and send you to a Childrens Court.

## What do you mean by "divert"?

This is an action the police can take that means you don't have to go to court. It's called a diversion.

The diversions that Queensland police use are:

- taking no action
- giving you a warning/caution

- referring you to Youth Justice for a restorative justice process
- offering you drug diversion
- referring you to the Graffiti Removal Program.

In deciding what to do, the police must consider:

- the type of crime you have committed
- any other crimes you have committed
- whether you have been diverted for other crimes.

Get legal advice before admitting that you're guilty of an offence. Even if you admit that you committed the offence, the police may decide that a diversionary option is not appropriate and send you to court instead.

## Taking 'no action'

The police may take no action for a first or minor offence.

## Being cautioned

A caution is when the police officer gives you a formal warning instead of charging you. If they've given you a caution, then the matter is finished.

As part of the cautioning process:

- you tell the police that you committed a crime (admit your guilt) and agree to be cautioned
- a support person is present
- you get a notice saying you have been cautioned.

A caution may involve writing an apology to the victim.

A caution will not form part of your criminal history and can only be disclosed in a few circumstances.

## Restorative justice process

Police may ask Youth Justice to organise a conference between you and the victim of your crime.

This is usually a meeting between you and the people most affected by the crime you committed (the victim/s) to talk about:

- what happened
- the effects of the crime
- repairing the harm you caused them.

If the meeting goes ahead, the case against you will be finalised and your crime will not appear on your criminal history. People who can attend the meeting include you and your carer or parents, a police officer, the victims of the crime and the person who organises the meeting.

## Drug diversion

If you have committed a minor drug crime the police may decide to send you to a drug information session rather than charging you and bringing you before court.

The police will give you details of a drug and alcohol education service and tell you when and where you need to attend.

If you go to the information session, then proceedings against you are finalised and you cannot be brought before the court for that offence. The offence will not appear on your criminal history.

## Graffiti removal process

If you have admitted a graffiti crime, then the police can refer you to Youth Justice so you can take part in a program that removes graffiti from public and private property.

You can only be referred to a graffiti removal program if you are 12 or older.

The maximum hours of the program are:

- if you are 12 years old – 5 hours
- if you are 13 or 14 years old – 10 hours
- if you are 15 years or older – 20 hours.

If you complete the program successfully then you will not have to go to court for the crime and it will not appear on your criminal history.

## Being brought to court

If the offence you have been charged with happened before you turned 18 and you are not yet 19, you will have to go to the Childrens Court.

There are three ways the police can bring you before the Childrens Court. They may:

- give you a notice to appear
- serve you with a complaint and summons (although this is unusual and will usually only be used if you have breached probation or community service)
- arrest you and keep you in custody until you can be brought to court.

## Notice to appear

A police officer gives you a notice to appear. The notice is a piece of paper that says what you have been charged with and the day and time you must appear in court. The police must give this to you privately—usually not at your school or workplace.

If you don't appear in court on the day the notice says you need to, a warrant can be issued for the police to arrest you to take you to court.

## Complaint and summons

A police officer gives you a complaint and summons. It sets out the crime the police say you committed and when you must appear in court.

If you don't appear in court on the day you are summonsed, a warrant can be issued for the police to arrest you and take you to court.

## Arrest and detention in custody

A police officer can arrest you and keep you in custody until you can be brought before a court.

A police officer can arrest you if they believe on reasonable grounds that it's necessary to:

- stop you breaking the law
- protect the community from your offending
- stop you committing another offence
- stop you from getting rid of evidence
- stop you from making up evidence
- make sure you appear at court.

If you're arrested and kept in custody, the police must bring you before a court as soon as reasonably possible so you can apply to the court for bail.

## Will my parents find out if I am charged with an offence?

If you are arrested, given a notice to appear, or served with a complaint and summons, the police must tell your parents and the Department of Youth Justice, Employment, Small Business and Training.

If you go to court for a crime, your parents are expected to attend court with you. A magistrate will usually not decide your case unless a parent is present.

# Children and the Criminal justice system: Going to court

## Which court do I go to?

If the police have charged you with a crime, you must go to the Childrens Court and appear in front of a magistrate who will decide what happens to you.

If the police do not release you from custody (where you are being kept after being arrested) they will bring you to the court as soon as possible, usually the day after your arrest.

If you have not been held in custody by police, the police officer will tell you the date and time you must go to court (usually two or three weeks after you have been charged).

## Will I need a lawyer?

Magistrates expect that children charged with crimes are legally represented in court. Every child (depending on the seriousness of the charge) is entitled to apply for legal aid funding, called a 'grant'. The grant pays for a lawyer to represent you.

There are a few ways you can get a lawyer:

1. Find a lawyer yourself. Many lawyers will be willing to take your case and help you to apply for a legal aid grant.
2. Contact the Aboriginal and Torres Strait Islander Legal Service or Legal Aid Queensland.
3. Contact the Youth Legal Advice Hotline on 1800 527 527.
4. See the duty lawyer who will be at court on the day you go. This is a free service.

## What will my lawyer do?

Going to court can be scary and stressful. The magistrate and police may use words you don't understand. A lawyer will help you by:

- explaining the legal process to you
- looking at the evidence/proof against you
- giving you legal advice, and talking on your behalf.

Even though your lawyer will advise you, it is your decision to plead guilty or not guilty. No one can take this right away from you including your parents, care givers, child safety officers or the police.

## Applying for bail

If you are in custody your lawyer can apply to the Childrens Court magistrate for you to get bail.

Bail is a legal term for being let out of custody, and a “bail undertaking” is a legal form you must sign before being released. It is your signed promise to follow the bail conditions and turn up to court when you’re asked to. Bail will usually be given unless the law says the magistrate can’t grant you bail, or they are worried there’s a risk that you:

- will not turn up to court when you need to
- might commit further crimes
- might commit a crime that would endanger someone
- would interfere with witnesses including victims (for example, talk to/threaten people involved or try to get them to change what they say in court).

When deciding this, the magistrate will consider:

- the seriousness of the alleged crime you are charged with
- your personal situation including if you go to school, if you are working, where you are living and who you are living with
- whether you have been in trouble with the police before (whether you have a criminal history)
- if you were already on bail when you allegedly committed another crime.

If the magistrate is worried you might not come to court or you may commit a crime while on bail, they may add conditions to your bail undertaking, instead of keeping you in custody.

These conditions could include:

- living at a particular address
- obeying a curfew (not being able to go out at night)
- reporting to a police station
- attending school
- not using drugs or alcohol
- visiting your local Youth Justice office and doing a bail program, which might include counselling, education and life skills.

If you do not follow your bail conditions, you can be charged with a crime called “breach of bail.”

If you do not go to court when you’re told to, the magistrate can issue a warrant for your arrest. This is a piece of paper that tells the police to arrest you and bring you back to court.

If you are charged with breach of bail or if a warrant is issued for your arrest, the magistrate may stop your bail. They may keep you in custody until your case is over.

## **Will my friends know I’m in trouble if I go to court?**

Because you’re a child, there is a general rule that you can’t be identified by the media or anyone else.

People can usually watch what’s happening in the Childrens Court—called an ‘open’ court—but no one is allowed to release information that tells other people your identity (who you are).

The judge may order that the court be ‘closed’, so that only people involved in the case are allowed to be there.

The media and others are usually not allowed in the closed court, although rarely the magistrate may let the media attend. Even if the media is allowed to watch your case, they are not allowed to publish your photo or name or identify you in any other way.

# Children and the Criminal justice system: Getting legal advice

You may need legal advice if you:

- have been asked to take part in a police interview
- have been charged with an offence
- are going to a youth justice conference
- are going to court.

## Youth Legal Advice Hotline

Young people can call 1800 LAQ LAQ (1800 527 527) to talk to a lawyer and get free and confidential legal advice about:

- legal rights
- bail
- diversionary options
- getting legal representation
- being charged with an offence
- applying for legal aid
- concerns about talking to the police and
- other youth justice issues.

Call the Youth Legal Advice Hotline:

- Monday to Thursday 8am to 9pm or
- Friday 8am to Sunday 5pm (except for Good Friday, Easter Sunday and Christmas Day).

Unless a police officer knows the child has arranged for a lawyer to be present during questioning, or has spoken to a lawyer acting for the child, the police officer must:

- inform the child that a legal aid representative will be notified that they are being kept in custody for an offence
- notify, or try to notify a legal aid representative that the child is in custody as soon as it is reasonably possible (and before questioning starts).

The following organisations may be able to give you legal advice.

- Youth Advocacy Centre has a community legal and social welfare service for young people aged up to 18 years.
- Lawmail is a legal advice service for young people giving free legal advice to people under 18 via email.
- YFS Legal gives legal information, advice and representation in criminal law matters to young people 25 years or younger.
- Community legal centres give legal advice on a range of topics.
- Queensland Law Society can refer you to a specialist private solicitor for advice or representation.



# Chapter three: Bail and Criminal process

## CLE activities

### 3.1 CLE Activity 1: Getting arrested and going to the police station

#### Key issues

- Who can you ask for help if you get arrested and what are your rights?
- What is the role of an interpreter?

#### Activity cards

Use these bail and criminal process story cards to help tell the story.



#### Jackson's story

Jackson gets into an argument with Nick outside the local shops. There is lots of shouting, pushing and shoving and a few punches are thrown. Nick gets hurt and the police are called. The police come and talk to Jackson, Nick and the other witnesses. English is Jackson's second language. The police arrest Jackson and take him back to the station and he has to wait in the cells. The police take statements from Nick and the witnesses. The police say Jackson punched Nick and Nick got hurt. The police take Jackson into a room and start to ask him to answer some questions. There is a video camera in the room.

#### Activity

Use the story cards to tell the story so far.

**a. Who can you ask for help if you get arrested and what are your rights?**

Possible response

*You can ask to see a doctor or get medical treatment if you are unwell, get an interpreter, try to let someone know where you are or to speak to a lawyer.*

*In every case when you are arrested by police you have the right to:*

- *any necessary medical treatment*
- *a reasonable amount of privacy from the mass media*
- *a reasonable chance to communicate with or try to communicate with a relative or friend to tell them where you are*
- *assistance from an interpreter if you are unable to understand or communicate well enough in spoken English.*

*If you are arrested as a suspect, you have the right to:*

- *be told what offence you have been arrested for and any other offences police suspect you have committed*
- *be given a reasonable chance to communicate with or try to communicate with a lawyer*
- *if an interpreter is needed, wait for the interpreter to be available before police interview you*
- *be cautioned before you are interviewed as a suspect.*

*The police can refuse to let you contact a person if they reasonably suspect the contact will mean an accomplice will get away from police, evidence will be destroyed or hidden or someone will be put in danger.*

*There are some questions you must answer, for example, your name, address and date of birth. If police tell you that you must answer a question then you should do so—you may be charged with an offence if you don't. Under some laws there are questions you must answer but the police must tell you this.*

*Police must caution you before interviewing you as a suspect. This is so you are aware of your right to silence and so you know that if you do speak to them, that what you say can be used as evidence in court.*

*Calling a lawyer after the interpreter is present (if one is needed) is the next step to understanding what is going on and a person's rights in the interview process.*

*If you are under 18 years old, the police must call the Youth Legal Advice Hotline to let them know of your arrest. Police must give you the opportunity to speak to a lawyer on the hotline before interviewing you. Police cannot interview without a support person being present during the interview. If you are:*

- *someone with a physical, intellectual or psychiatric disability*
- *an Aboriginal or Torres Strait Islander person whose first language is not English*
- *someone who does not fully understand what is happening,*

*the police will usually allow a support person to be with you while you are being questioned.*

*The lawyer may advise the accused of their rights including the right to silence, to not make a statement and to not do a video recording of the interview. They may also advise that they must tell the police their name, address and date of birth.*

*There is a 24 hour phone service for Aboriginal and Torres Strait Islander people who are taken into police custody. The police will call the Aboriginal and Torres Strait Islander Legal Service (ATSILS) Custody Notification Service (CNS) which is operated by the Aboriginal Legal Service WA. The person will speak to a lawyer.*

**What is the role of an interpreter?**

If a person's first language is not English they should ask for an interpreter and not be interviewed by the police until the interpreter is available. An interpreter speaks two or more languages and has training to help people talk to each other when those people speak different languages. The interpreter must not take sides and must keep the message the same. After the interpreter finishes interpreting for a person they will keep their story secret and will not tell the story to anyone else. If the interpreter knows the person or their family and the person want to talk to someone else they can ask for another interpreter.

### 3.2 CLE Activity 2: Police bail and breach of bail

#### Key issues

- Police bail
- Following bail conditions or bail rules
- What can happen if you break your bail conditions or rules
- Who can help you with your worries after you get bail?

#### Activity cards

Use these bail and criminal process story cards to help tell the story.



## Jody's story

Jody gets into an argument with Betty outside the local shops and is arrested and taken to the police station to be interviewed. She asks for an interpreter, because English is her second language. When the interpreter is ready, Jody phones and speaks to a lawyer. Jody follows her lawyer's advice and uses her right to silence and does not tell the police anything about what happened. The police charge Jody with assault and let her out on bail. This means that if Jody signs a bail paper and follows the bail rules she can wait in the community until her next court date. The police tell Jody she will have to go to court. The bail rules that Jody has to follow are:

- Come back to court on Wednesday, 15 November at 9am.
- Stay away from Betty.
- Stay out of trouble.

Jody and Betty both live near the same park and both go there often for exercise. The night after Jody is charged, she sees Betty sitting in the park and they start arguing.

The police are driving by and see what is going on. The police arrest her for breaching her bail rules. She is taken into custody and has to go to court the next day as the police do not give her police bail this time.

Jody has also just lost her job and is going to find it hard to pay her rent. She is worried about losing her house and even having enough money to get to court.

## Activity

Use the story cards to tell the story so far.

### a. Getting police bail

Possible response

*Jody has been given bail by the police. She will need to sign a bail undertaking to go to court on the date in the bail paper and to stick to her bail rules or conditions.*

### b. Following bail conditions

Possible response

*Jody has breached the bail rules about staying away from Betty and keeping out of trouble. If Jody had followed the bail rules she would have stayed in the community until her court case is finished and not got locked up even for a night.*

*If people can't follow their bail rules they could speak to a lawyer about whether they have good reasons to change them. They might need to think about what is stopping them from sticking to their bail rules to make sure they do not breach them.*

*Jody probably didn't have a good reason to get her bail changed, she just needed to go to a different park while on bail or the other way when she saw Betty.*

**c. What can happen if you breach your bail conditions or bail rules?**

Possible response

*As Jody has not followed her bail rules (stay away from Betty and stay out of trouble) the police have arrested her. The police have kept her in custody overnight and she has to go to court the next day. The police prosecutor will tell the magistrate what has happened and what they think should happen next. Jody's lawyer will speak for her.*

*The magistrate in court has to decide what will happen to Jody's bail. The magistrate might:*

- *Leave Jody's bail the same and let her stay on bail where she can continue to wait for her next court date in the community.*
- *Change Jody's bail conditions. For example, the magistrate might say that Jody now has to have a curfew or report to police or get a surety. If the magistrate decides to change Jody's bail rules to include a curfew, this would be added to her existing bail conditions. Jody's new bail rules might be to:*
  - *Come back to court on Wednesday, 15 November at 9am.*
  - *Curfew. To remain at her home address from dark until the morning every day (6pm to 6am).*
  - *Stay away from Betty.*
  - *Stay out of trouble.*
- *Refuse bail. This means that Jody will have to wait in jail until her court case is finished. Jody can ask the magistrate in court to consider bail again if her situation changes and there are new facts and circumstances.*

*An interpreter would be needed to explain to Jody what is being said in court.*

**d. Who can help with your worries after you get bail?**

- *Jody's lawyer may be able to link her with the supports she needs. She may have a support person or family who can support her.*
- *Bail support services are available for children in most regions. They help children stay in the community while on bail. They can help the child to contact their lawyer and keep in contact with Youth Justice when needed. Children should speak to their lawyer about bail support services available to them in the community.*

### 3.3 CLE Activity 3: Bail with a surety and breach of bail

#### Key issues

- Who can you ask to help if you are arrested?
- What is a surety?
- Following bail conditions or bail rules
- What can happen if you break your bail conditions or bail rules?

#### Activity cards

Use these cards to help tell the story.



#### Albert's story

Albert lives with his girlfriend Eva. Albert got very angry and jealous when he saw Eva at the shop talking to another man. He went to his mate's house to try and calm down but ended up getting very drunk. Albert can't remember much about what happened when he went home and the next morning he woke up at his brother's place. The police came and arrested Albert. The police say Albert hit Eva many times and hurt her very badly. Eva has a broken jaw and a fractured eye socket and is in the hospital. The police have taken a statement from Eva and another witness. The police take Albert to the police station. Albert is not feeling very well. The police take Albert into a room and ask him to answer some questions. The police charge Albert with grievous bodily harm. The police do not give him bail and Albert must wait in lock up until the magistrate in court decides if he can have bail. Albert is worried no one knows where he is and that he is going to court.

In court the next day the duty lawyer helps Albert ask the magistrate about bail. If the magistrate gives Albert bail, he can wait in the community until his next court date. After talking and listening to the police prosecutor and the duty lawyer, the magistrate says Albert can have bail if he follows the bail rules and signs a bail paper.

The magistrate says Albert must follow these bail rules:

- Go to court on Monday, 20 November at 9am.
- Get a \$5000 surety.
- Live with his brother.
- Stay away from Eva. The magistrate says this is a protective bail rule.
- Stay away from the house he normally lives in.
- Not drink or have any alcohol. Not go to places that sell alcohol.
- Stay out of trouble.

Albert signed the bail papers and his brother agreed to go surety.

### Activity

Use the story cards to tell the story so far.

#### a. Who can you ask to help if you are arrested?

Possible response

*Albert has a right to:*

- *see a doctor—he should be allowed to do this before he is interviewed*
- *speak or try to speak with a lawyer before he is interviewed*
- *speak or try to speak with a relative or friend to tell them where he is.*

#### b. What is a surety?

Possible response

- *A surety is a person who helps you get bail by promising the magistrate to pay money if you don't come to your next court date. They don't have to pay the money straight away.*
- *The surety will sign a written promise and if the person doesn't come back to court on the right date they will lose that money.*
- *Albert only gets out of custody because his brother has agreed to go surety and his brother signed the legal papers. This means that Albert's brother is making a promise to the magistrate that he will pay \$5000 if Albert doesn't come to his next court date. He doesn't have to pay the money unless Albert doesn't come to court.*

#### c. Following bail conditions or bail rules

Possible response

- *If Albert follows the bail rules he will stay in the community until the next court date and his brother will not have to pay any money to the court.*
- *Protective bail conditions are special bail conditions to protect the safety, welfare or property of any person, or to prevent interference with witnesses. It usually requires you to stay away from a specific person and/or place. In this case that is Eva.*

### 3.4 CLE Activity 4: Breach of bail and court order


.....

#### Key issues

- What can happen if you breach bail rules or court orders
- .....

#### Activity cards

Use these bail and criminal process story cards to help tell the story.

|   |   |   |  |  |   |  |   |
|---|---|---|--|--|---|--|---|
|  <p>Accused/<br/>defendant</p> |  <p>Lawyer</p>                 |  <p>Police</p>     |  <p>Judge</p>                               |  <p>Victim</p>  |  <p>Surety</p>  |  <p>Jail/lockup<br/>- Arrest</p>    |  <p>Jail/lockup<br/>- Remand</p> |
|  <p>Bail</p>                  |  <p>Magistrates<br/>court</p> |  <p>Live here</p> |  <p>Stay away<br/>from some<br/>people</p> |  <p>Arrest</p> |  <p>Charge</p> |  <p>Breach bail<br/>conditions</p> |  <p>Breaching<br/>an order</p>  |
|                              |                              |   |  |  |   |  |   |



## Albert and Eva's story

Albert has been charged with the grievous bodily harm of his partner, Eva. He got bail from the court with a surety paid by his brother and a protective bail condition to stay away from Eva. He also got other conditions including to live with his brother. After Albert's court case Eva got an interim domestic violence order (DVO), which was served on him the next day by the police. The DVO rules say Albert is not to talk to Eva or be within 10 metres of her.

The following week Albert goes out of town to his aunt's funeral. He catches up with Eva at the funeral and they make up and get back together. Albert goes away with Eva for a few weeks and misses his court date. An arrest warrant is issued by the magistrate. When he comes back to town he is arrested by the police.

## Activity

Use the story cards to tell the story so far.

### a. What can happen if you break your bail conditions or bail rules or a court order?

Possible response

- *Albert has not followed several of his bail rules and had broken the rules on the DVO. There is an arrest warrant. He has been arrested for not following his bail rules (not living with his brother and not coming to court on his court date). If police know he has been seeing Eva he could also be arrested for breaching the DVO. The police will not give Albert bail in this situation and he has to go back to court.*
- *Albert's brother may now have to pay \$5000 to the court because Albert missed his court date.*
- *Albert is likely to have a new charge of breach of a protective bail condition (because he broke the rule not to see Eva) and a new charge of breaching the DVO.*

### b. Show cause

Possible response

*In court it will be hard to get bail. The magistrate is the decision maker. Albert is will have to show cause because of his original charge and his new charge of breach of an DVO.*

*In bail law there is a list of charges called serious offences. If you are on bail for an offence on the list (as Albert is) and the police charge you with another charge on the list (which Albert has been), he will need to show cause. This means it is very hard to get bail. You will only get bail if the magistrate thinks there are special or exceptional reasons. What is exceptional is different in each case.*

*Unless there is a change in facts and circumstances and Albert successfully asks for bail again, he will end up locked up until his case is finished.*

*The show cause process is different for children under 18 years old. Children should speak to their lawyer about this.*

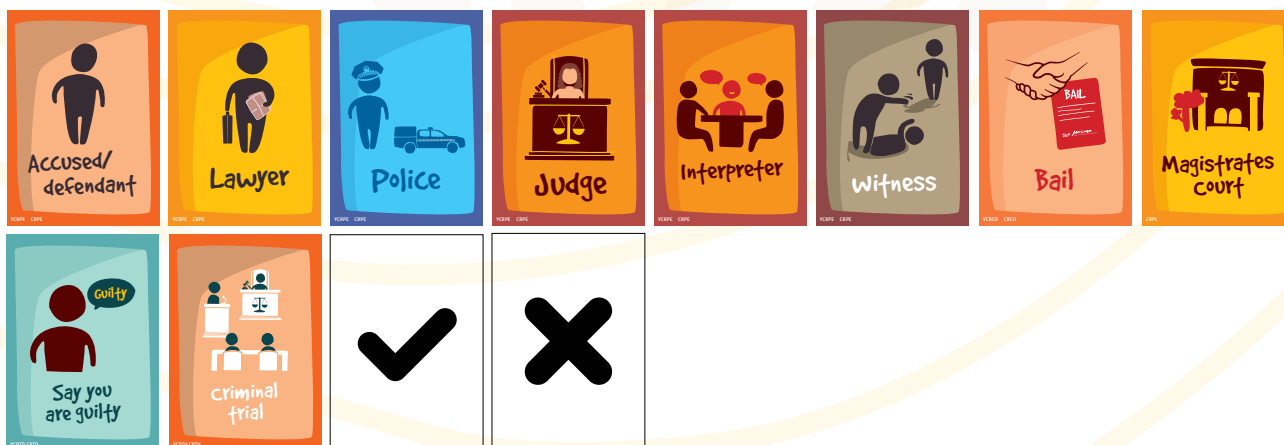
### 3.5 CLE Activity 5: Going to court on the first court date

#### Key issues

- Who can you ask to help when you go to court?
- What can happen at court on the first court date?
- What can happen at court after the disclosure papers are received?

#### Activity cards

Use these cards to help tell the story.



#### Peter's story

Peter has been charged with assaulting his neighbour Bill after a dispute about too much noise coming from Bill's property. When Peter arrives at court, he is confused about where to go and who to talk to. One of the court security guards sees Peter looking around in the court waiting area, asks him for his name and tells him to wait for a lawyer. A few minutes later, a duty lawyer calls Peter's name.

Peter and the duty lawyer sit down together in an interview room. The duty lawyer speaks fast and uses lots of words Peter has never heard before. The duty lawyer sees Peter looking confused and asks him if he speaks other languages. Peter tells her he wants an interpreter to help them. Luckily, there is an interpreter at court that day who can help Peter and the duty lawyer.

The duty lawyer and interpreter read through the police story about what happened with Bill. Peter explains that Bill was wild with him because he asked him to keep the noise down late at night. Bill said to him "I've got a knife in my pocket. I'll stab you right now I'm so wild!" Peter says that Bill had his hand in his pocket and he believed he really did have a knife. He thought Bill was going to stab him right there outside Bill's house, so he punched Bill hard in the face to stop him from pulling out the knife. Peter says that his cousin was standing nearby filming the whole thing on her phone.

The duty lawyer goes over Peter's options with him including whether he has a defence to the charge which means he can plead not guilty. Peter says he wants to plead not guilty. Peter, the duty lawyer and the interpreter go into court, and the duty lawyer tells the magistrate that Peter wants to plead not guilty.

The magistrate tells the police they must give all their evidence to Peter's lawyer within 6 weeks. The magistrate tells Peter, the interpreter and the lawyers to come back to court in 6 weeks.

Six weeks later, everyone comes back to court. The police prosecutor gives Peter a big yellow envelope with many legal papers inside and Peter gives it to the lawyer. The lawyer, Peter, and the interpreter read through all of those papers together in the interview room. Peter also shows the video from his cousin's phone to the lawyer. Together, Peter and the lawyer decide that Peter has a strong case, and they decide to tell the magistrate that today.

The lawyer thinks he should show the video to the police prosecutor and ask them to drop the charge today, so that everyone can save their time and money getting ready for that trial. Peter thinks negotiating with police is a good idea. The lawyer talks to the police prosecutor, and shows the police prosecutor the video. The police prosecutor doesn't think it is very strong evidence, and says she will not drop the charge.

In court, the lawyer tells the magistrate that Peter still says not guilty.

## Activity

Use the story cards to tell the story so far.

### a. Who can you ask to help when you go to court?

Possible response

*Peter can ask for help from the duty lawyer at court. The duty lawyer realises they need the help of an interpreter to be able to help Peter. If one had not been available the case would have had to be put off until one was available.*

*As the duty lawyer cannot represent Peter at a trial, Peter will need to get another lawyer, or represent himself, if he pleads not guilty and the case goes to a trial.*

### b. What can happen at court on the first court date?

Possible response

*The lawyer will talk to Peter about his options based on the evidence they have so far. Unless he needs to put the case off for some reason, such as to get references or more legal advice, the court will want to know if he wants to plead guilty or not guilty. Peter is the decision maker about what he wants to happen next at court.*

*In this case, the lawyer may say Peter has a good reason to say not guilty for the assault charge. He can say that he punched Bill in self-defence. The magistrate might agree that Peter was only trying to protect himself.*

*Before they go to court, the lawyer should check that Peter understands all his bail rules, and knows those rules will continue after court that day.*

*As Peter has said he will plead not guilty, the magistrate has asked the police to give all their evidence to Peter or his lawyer within the next 6 weeks.*

**c. What can happen at court after the disclosure papers are received?**

Possible response

*Peter must come back to court on the next court date.*

*Peter's lawyer will go over the disclosure papers with him. The papers contain the police evidence, and talk to him about his options. This should happen before the court date if possible. Peter needs to stay in contact with his lawyer so he can give his lawyer the papers when he gets them or the lawyer can contact Peter when they get the papers.*

*One option may be to negotiate with the police to drop the charge. If the police will not drop the charge, Peter will need to decide if he still wants to plead not guilty.*

*Even if Bill has said to Peter he does not mind if the charge is dropped, the police are the decision makers about whether to drop the charge, not Bill.*

*As he still wants to plead not guilty, when they go into court the police prosecutor and Peter's lawyer will need to tell the court how many witnesses will be at the trial. The magistrate then works out how long the trial will take and sets a date for the trial. The magistrate will extend Peter's bail until that date.*

*Legal papers, called witness summonses, are usually given to witnesses. They tell them they must come to court for the trial. If they have been summonsed and don't come, they could be arrested and brought to court, or they might lose money to the court as punishment for not coming.*

*If the evidence against Peter was strong in the disclosure papers, his lawyer might have advised him that he did not have a good chance of getting off the charge (being found not guilty). Peter might have decided to plead guilty and then the case would not go to a trial.*

*The duty lawyer cannot represent him at the trial but may be able to help him find a lawyer.*

### 3.6 CLE Activity 6: Pleading not guilty – the trial

#### Key issues

- Can the duty lawyer help at a criminal trial?
- What will happen at a criminal trial?
- Possible outcomes if you are found not guilty or guilty.

#### Activity cards

Use these bail and criminal process story cards to help tell the story.



#### Peter's story at trial

Peter has been charged with assaulting his neighbour Bill. Peter had asked Bill to keep the noise down and Bill said to him “I’ve got a knife in my pocket. I’ll stab you right now I’m so wild!” Peter says that he really believed Bill had a knife so he punched Bill hard in the face to stop him from stabbing him. Peter has pleaded not guilty. His lawyer says Peter can say that he punched Bill in self-defence. Peter’s cousin took a video of what happened on the day on her phone. On the trial day, Peter’s lawyer, the police prosecutor, magistrate, Peter, Bill and the police all come to court. Peter’s cousin comes along and brings her phone with the video on it. Only one of the other witnesses comes to speak for the police prosecutor. In court, each witness tells their story to the magistrate. The lawyer and the police prosecutor ask each person questions to try and get as much of the story as possible, and to test if anyone is lying. When Peter’s cousin tells her story to the magistrate, they play the video from her phone.

## Activity

Use the story cards to tell the story so far.

### a. Can the duty lawyer help at a criminal trial?

Possible response

*If your charge is going to a trial or hearing, you should speak to a lawyer about your case as soon as possible. The duty lawyer cannot represent you at a trial. Maybe you will have to pay a lawyer to help you. Maybe a lawyer from Legal Aid Queensland (if you apply for legal aid) or the Aboriginal and Torres Strait Islander Legal Service will be able to represent you. Maybe you will have to speak for yourself at the trial.*

*If you don't have a lawyer to represent you at your trial, Legal Aid Queensland has a legal information guide on its website that may help you prepare for trial if you are pleading not guilty to a criminal offence in the Magistrates Court.*

### b) What will happen at the criminal trial?

Possible response

*The magistrate is the decision maker. The magistrate will listen to everyone's stories, the police prosecutor and Peter's lawyer and then make a decision. The magistrate might find Peter guilty. The magistrate might find Peter not guilty.*

### c) What are the possible outcomes?

Possible response

The magistrate might find Peter guilty. The magistrate might find Peter not guilty.

- **What can happen if you are found not guilty?**

*At the end of the trial the magistrate might decide that Peter honestly believed Bill had a knife in his pocket, and was going to stab him. The magistrate might decide Peter punched Bill in self-defence, and that he did not break the law. The magistrate would then find Peter not guilty. He would be acquitted. The magistrate would not punish Peter, and he would be free to leave the court for the last time. He would no longer be on bail (unless he was on bail for other charges).*

- **What if you are found guilty?**

*At the end of the trial the magistrate might decide that Peter did not honestly believe Bill had a knife in his pocket and so did not punch him in self-defence and find him guilty of breaking the law. Peter's lawyer would tell the magistrate about Peter's situation and perhaps try to persuade the magistrate to give Peter a particular punishment that is not so serious. The prosecutor may say what they think is the right punishment. The magistrate will look at any criminal record Peter has before deciding the punishment.*

*The magistrate might decide to get a pre-sentence report or psychological report before giving Peter a punishment. Through his lawyer, Peter might decide to ask for this as well. After listening to Peter's lawyer, the police prosecutor and reading any reports and Peter's record, the magistrate will decide what the appropriate punishment is for Peter.*

### 3.7 CLE Activity 7: Bail

#### Key issues

- What can happen at the police station for a youth in trouble with the police?
- What can happen if you breach your bail rules?
- Let your lawyer or someone else know what is happening

#### Activity cards

Use these bail and criminal process cards to help tell the story.



## Billy's story – part 1

Billy is 13 years old and lives in Bamaga. The police arrest him on burglary charges and for stealing a car. Billy's aunty goes to the police station with him as his support person. The police charge Billy. Billy goes to court and the magistrate says he can have bail if he signs an undertaking that he will come to court and follow his bail rules. One of his bail rules is that he has to meet with Youth Justice as part of a conditional bail program. When Billy doesn't meet with Youth Justice, the police go to his house. Billy's aunty tells them he has gone to Thursday Island for sorry business. Billy misses his next court date and the magistrate issues an arrest warrant for Billy. Billy is arrested 3 months later. The police say he did not follow his bail rules and that he has breached his bail. Billy is locked up and has to go back to court.

### Activity

Use the story cards to tell the story so far.

#### a. What can happen at the police station for a child in trouble with the police?

Possible response

- *If you are a child in custody, police have to inform Youth Justice and a legal representative.*
- *The police should call the Youth Legal Advice Hotline or the Aboriginal and Torres Strait Islander Legal Service 24hr phonenumber. If the accused is a child (less than 18 years old), before they are asked any questions about an offence, the police must make sure that a support person has been told that they will be questioned.*
- *Billy has the right to speak with a lawyer.*
- *A lawyer will provide advice on the child's rights, including the right to silence, the nature of the charges, and the strength of the evidence. The lawyer will also give advice on whether the child should participate in an interview, and whether there are any diversionary options available. Billy is the decision maker about whether he talks to the police.*

#### b. What can happen if you breach your bail rules?

Possible response

*Billy has breached several of his bail conditions including not coming to court and not reporting. Billy can be charged with a criminal offence for breaching his bail. The police decide whether to give him bail for these breaches. If they don't give him bail he is taken to court in custody and the magistrate decides if he should get bail again.*

#### c. Let your lawyer or someone know what is happening

Possible response

*Billy should have let his lawyer know that he needed to leave community and would not be at his next court date. His lawyer could have then told the magistrate this. The magistrate would not have issued a warrant for Billy to be arrested if he was in contact with his lawyer.*



### 3.8 CLE Activity 8: Getting help when you breach bail

.....

#### Key issues

- Bail rules or conditions
  - What can happen if you don't follow bail rules or conditions?
  - Possible action to avoid being locked up
- .....

#### Activity cards

Use these cards to help tell the story.



## Ashley's story

Ashley lives in Rockhampton. He is on bail for drink driving and driving without a licence. Ashley has to go with his uncle to a funeral in Mount Isa. Ashley's uncle says, "We will be back in Rockhampton in time for your next court date." The car breaks down and Ashley does not make it back to Rockhampton in time for court. Ashley stays in Mount Isa for about a month while his uncle's car gets fixed. When Ashley gets back to Rockhampton, he is arrested by the police and charged with not going to court. Ashley spends a night in the watch-house before going to court. Ashley pleads guilty to charges of drink driving and driving without a licence and the magistrate gives him a fine and disqualifies his driver licence.

## Activity

Use the story cards to tell the story so far.

### a. Bail rules or conditions

Possible response

*It is a condition of all bail undertakings to come back to court on the day set out in the bail papers.*

*Ashley didn't come to court on the day he was supposed to and so he breached his bail.*

### b. What can happen if you don't follow bail rules or conditions?

Possible response

*The police can charge you with a criminal offence for breaching your bail. The magistrate was allowed to issue an arrest warrant to make sure he comes to court to finish his court case. As it seems he was arrested too late in the day to come to court, Ashley ended up being locked up for one night until he could go to court.*

### c. Possible action to avoid being locked up

Possible response

*Apart from sticking to his bail conditions, Ashley could have contacted his lawyer in Rockhampton when he realised that he was not going to be able to get back to Rockhampton in time for his court date. Ashley's lawyer could have then spoken to the court and arranged a new court date when Ashley could be there.*

*If Ashley could not contact his lawyer he could have also contacted the court to explain what happened and to see if he could get a new court date without an arrest warrant being issued.*

# Chapter four: Finding legal help and information

## 4.1 Legal services

### Aboriginal and Torres Strait Islander Legal Services

- Address:** Head office: Level 5, 183 North Quay, Brisbane
- Mailing:** PO Box 13035 George Street, Brisbane Qld 4003
- Phone:** (07) 3025 3888  
Toll free: 1800 012 255 (24hrs/7 days)
- Email:** [info@atsils.org.au](mailto:info@atsils.org.au)
- Website:** [www.atsils.org.au](http://www.atsils.org.au)
- Services:** Family law, civil law and criminal law (not all offices can help with all these areas of law).
- Eligibility:** Must be Aboriginal and/or Torres Strait Islander.
- Service area:** Visit [www.atsils.org.au](http://www.atsils.org.au)

### Community Legal Centres Queensland

- Address:** Statewide offices.
- Mailing:** PO Box 12102, George St, Brisbane Qld 4003
- Phone:** (07) 3392 0092
- Website:** [www.communitylegalqld.org.au](http://www.communitylegalqld.org.au)
- Services:** Family and domestic violence, family law, employment, social welfare and Centrelink, tenancy, refugee and immigration, disability, discrimination and human rights, crime, victims and prison, consumer debt, wills and estate, environment, youth, mental health and disputes.
- Eligibility:** Free legal advice to the disadvantaged, eligibility criteria may apply.
- Service area:** There are 35 centres in Queensland. Visit [www.communitylegalqld.org.au/find-legal-help/community-legal-centres/](http://www.communitylegalqld.org.au/find-legal-help/community-legal-centres/)

## Legal Aid Queensland

**Address:** Head office: 44 Herschel Street, Brisbane

**Mailing:** GPO Box 2449 Brisbane Qld 4001

**Phone:** Indigenous hotline: 1300 65 01 43  
Legal information line: 1300 65 11 88

**Email:** [info@legalaid.qld.gov.au](mailto:info@legalaid.qld.gov.au)

**Website:** [www.legalaid.qld.gov.au](http://www.legalaid.qld.gov.au)

**Services:** Parenting arrangements, property settlement, family dispute resolution, domestic and family violence, child support and maintenance, child protection, criminal charges, traffic offences, car accidents and claims, licence disqualification, young driver laws, consumer rights, money and debt issues, farm debt issues, work and your rights, social security appeals, natural disaster insurance claims, Civil Law Legal Aid Scheme, discrimination and sexual harassment, human rights, mental health treatment rights, elder abuse, protecting sexual assault counselling records, National Disability Insurance Scheme appeals, young people who have been excluded from school and services.

**Eligibility:** Based on an application for a grant of legal assistance.

**Service area:** Brisbane, Bundaberg, Caboolture, Cairns, Inala, Ipswich, Mackay, Maroochydore, Mount Isa, Rockhampton, Southport, Toowoomba, Townsville, Woodridge.

## Queensland Indigenous Family Violence Legal Service

**Address:** Head Office: Level 1, Suite 4 & 5, 101–111 Spencer Street, Cairns

**Mailing:** PO Box 4643, Cairns Qld 4870

**Phone:** (07) 4045 7500 (Head office)  
1800 887 700 (Free call)

**Email:** [help@qifvls.com.au](mailto:help@qifvls.com.au)

**Website:** [www.qifvls.com.au](http://www.qifvls.com.au)

**Services:** Child protection, domestic and family violence, family law, victim support, victims compensation, witness assistance

**Eligibility:** You or your child are Aboriginal or Torres Strait Islander.

Experiencing or have experienced family violence or sexual assault as the victim/survivors.

**Service area:** Visit [www.qifvls.com.au](http://www.qifvls.com.au)

## Womens Legal Service Queensland

**Address:** Head office: 8 Ponsonby Street (Cnr Ipswich Road), Annerley  
**Mailing:** PO Box 119, Annerley Qld 4103  
**Phone:** (07) 3392 0644 (Administration)  
Legal Advice Helpline: 1800 WLS WLS (1800 957 957) Monday to Friday, 9am – 3pm  
Rural, Regional & Remote Legal Advice Line: 1800 457 117 Tuesday, 9.30am – 1.30pm  
**Email:** admin@wlsq.org.au  
**Website:** www.wlsq.org.au  
**Services:** Family law, domestic and family violence, sexual assault (Counselling Notes Protect)  
**Eligibility:** Women  
**Service area:** Statewide

## Refugee and Immigration Legal Service

**Address:** Head office: Level 1, 170 Boundary Street West End  
**Mailing:** PO Box 5143 West End Qld 4101  
**Phone:** (07) 3846 9300  
**Email:** admin@rails.org.au  
**Website:** www.rails.org.au  
**Services:** Free legal advice for refugee and immigration matters including protection visas, refugee family reunion, family violence and visas, temporary protection visas and safe haven enterprise visas.  
**Eligibility:** Free legal advice, eligibility criteria may apply.  
**Service area:** Statewide

## LGBTI Legal Service

**Address:** Level 1, Oxley House, 20 Hockings Street, West End  
**Phone:** (07) 3124 7160  
**Email:** mail@lgbtilegalservice.org.au  
**Website:** www.lgbtilegalservice.org.au  
**Services:** Family law, domestic violence, criminal law, discrimination and human rights, employment, gender identity, surrogacy and parenting rights, administrative law, and general civil law.  
**Eligibility:** Free legal advice, consultations, and referrals. Eligibility criteria may apply.  
**Service area:** Statewide

### Queensland Law Society

Address: Law Society House 179 Ann Street, Brisbane  
Mailing: GPO Box 1785 Brisbane Qld 4001  
Phone: 1300 367 757 (1300 FOR QLS)  
Email: [info@qls.com.au](mailto:info@qls.com.au)  
Website: [www.qls.com.au](http://www.qls.com.au)  
Services: Search for solicitors based on name, location or practice area.  
Eligibility: Free service.  
Service area: Statewide

### Aged and Disability Advocacy Australia

Address: Head office: 121, Copperfield Street, Geebung  
Phone: 1800 232 529 (1800 ADA LAW) (Free call)  
Email: [info@adalaw.com.au](mailto:info@adalaw.com.au)  
Website: [www.adalaw.com.au](http://www.adalaw.com.au)  
Services: Guardianship, Administration and Enduring Power of Attorney and Advance Health Directive matters, elder abuse, Mental Health Review Tribunal advocacy, Disability Royal Commission support.  
Eligibility: Free legal advice, eligibility criteria may apply.  
Service area: Southeast Queensland areas from Bundaberg to Toowoomba, Moreton Bay, Brisbane, Ipswich, Redland Bay, Caboolture, Sunshine Coast, Gold Coast, Rockhampton.

### Sisters inside

Address: Brisbane – 326 Montague Road, West End  
Townsville – 832 Flinders Street, Townsville  
Mailing: GPO Box 3407, South Brisbane Qld 4101  
PO Box 811, Townsville Qld 4810  
Phone: 1800 003 242 – Brisbane Freecall  
1800 290 662 – Townsville Freecall  
Email: Brisbane – [admin@sistersinside.com.au](mailto:admin@sistersinside.com.au)  
Townsville – [adminnq@sistersinside.com.au](mailto:adminnq@sistersinside.com.au)  
Website: [www.sistersinside.com.au](http://www.sistersinside.com.au)  
Services: Provide services in all women’s prisons in Queensland and also work with women, girls and their children post-release in the community.  
Eligibility: Free service.  
Service area: Statewide

## 4.2 Services to help people connect

### Deaf Connect – Queensland

**Address:** Head office Brisbane: 915 Ipswich Road, Moorooka  
**Mailing:** PO Box 465, Moorooka Qld 4105  
**Phone:** (07) 3892 8500  
SMS: 0497 587 188  
**Email:** [info@deafconnect.org.au](mailto:info@deafconnect.org.au)  
**Website:** [www.deafconnect.org.au](http://www.deafconnect.org.au)  
**Services:** Auslan translations, interpreting  
**Service area:** Brisbane, Cairns, Gold Coast, Mackay, Maryborough, Rockhampton, Sunshine Coast, Townsville.

### National Relay Service

**Phone:** 1300 555 727  
TTY number: 133 677  
SMS relay number: 0423 677 767  
**Website:** [www.accesshub.gov.au](http://www.accesshub.gov.au)  
**Services:** Call this number if you are deaf and/or find it hard hearing or speaking with people who use a phone. Nationwide. Registration required.

### Translating and Interpreting Service (TIS National)

**Phone:** 131 450 (within Australia)  
Toll free: 1300 575 847  
**Email:** [tis.freeinterpreting@homeaffairs.gov.au](mailto:tis.freeinterpreting@homeaffairs.gov.au)  
**Website:** [www.tisnational.gov.au](http://www.tisnational.gov.au)  
**Services:** Call this number to speak to an interpreter in your language who can help with contacting the services on this list. Australian Government translating service, some translations are free of charge.

## 4.3 Youth justice and support services

### Queensland youth support services

Phone: 137 468 (13 QGOV)

Website: [www.qld.gov.au/youth/support-services/youth-support-services](http://www.qld.gov.au/youth/support-services/youth-support-services)

Services: Housing, counselling, education and family support services for young people aged 8–21.

Service area: Statewide

### Youth Advocacy Centre

Phone: (07) 3356 1002

Address: 4th Floor, 16 Peel Street, South Brisbane

Email: [admin@yac.net.au](mailto:admin@yac.net.au)

Website: [www.yac.net.au](http://www.yac.net.au)

Services: Legal advice and support (10-18yrs), homelessness and youth support (15-25yrs), family support (10-18yrs), bail support service (10-18yrs), legal information, youth court assistance program (10-18yrs), community legal education, advocacy and policy. All services are free and confidential.

Service area: Greater Brisbane, Caboolture, Pine Rivers, Redcliffe, Cleveland, Southport, Ipswich, Richlands and Cairns.

### YFS (Youth and Family Services) Legal

Phone: (07) 3826 1500

Feedback line: (07) 3826 1596

Address: 376 Kingston Road, Slacks Creek

Email: [legal@yfs.org.au](mailto:legal@yfs.org.au)

Website: [www.yfs.org.au](http://www.yfs.org.au)

Services: General legal services including family, civil, tenancy and criminal law. Legal information, advice and representation for criminal matters (10-25yrs). May provide assistance with other legal matters depending on eligibility. Duty lawyer services at Beenleigh Childrens Court.

Service area: Logan and surrounding areas

### Youth Justice

Phone: 13 74 68 (13 QGOV)

Address: 111 George Street, Brisbane City

Website: [www.desbt.qld.gov.au/youth-justice](http://www.desbt.qld.gov.au/youth-justice)

Services: Providing services to youth justice system, funding early intervention and prevention services, partnering with government agencies, funding complementary services

Service area: Statewide



### **Youth Law Australia**

Phone: 1800 950 570

Website: [www.yla.org.au](http://www.yla.org.au)

Services: Cars and driving, courts, police and the law, home, parents and family, employment rights, health, love and sex, internet, phones and technology, money, tax and welfare, school leaving, violence and harm, discrimination, public transport drinking, drugs, partying, graffiti, tattoos, piercings. Free confidential legal advice, help and referrals for young people under 25 years.

Service area: Nation-wide and online service that is 24/7.

### **Injilnji Youth Service – Mount Isa**

Phone: (07) 4749 5276

Address: 10 Thompson Road, Mount Isa

Services: Aboriginal and Torres Strait Islander service youth aged 15-25 years and provides education in schools, advocacy, referral and support.

Service area: Mount Isa

### **Youth Link**

Phone: (07) 4031 6179

Address: 305 Severin Street, Cairns

Email: [youthlink@youthlink.org.au](mailto:youthlink@youthlink.org.au)

Website: [www.youthlink.org.au](http://www.youthlink.org.au)

Services: Works with young people aged between 12 to 24 years, providing information on health issues such as sexual health, mental health, support for young parents, emergency relief including food parcels, medium supported accommodation (15 to 20 yrs to practice independent living) and referrals to other agencies.

Service area: Cairns regional areas

### **Youth Service – Dundalli Aboriginal and Torres Strait Islander Corporation**

Phone: (07) 3857 8244

After hours: (07) 3357 2034

Address: 67 Somerset Street, Windsor

Services: Provides crisis accommodation for male Indigenous youths aged 13-35 years.

Service area: Brisbane

### **Youth Service – Darumbal Community Youth Services Inc**

Phone: (07) 4922 6180

Address: 79b Bolsover Street, Rockhampton

Email: [admin@darumbal.org.au](mailto:admin@darumbal.org.au)

Website: [www.darumbal.org.au](http://www.darumbal.org.au)

Services: Regional youth support services including information and referral for young people aged 8 to 21 years, Reconnect, bail support services, Indigenous youth alcohol and drug treatment services, parent and children education, homelessness, afterhours drop-in centre and family support worker available.

Service area: Central Queensland District – outreach to all young people

### **Open Doors Youth Service (Supporting LGBTIQAP+ Youth)**

Phone: (07) 3257 7660

Address: 5 Green Square Close, Fortitude Valley

Email: [opendoors@opendoors.net.au](mailto:opendoors@opendoors.net.au)

Website: [www.opendoors.net.au](http://www.opendoors.net.au)

Services: Provides support to young people with diverse genders, bodies and sexualities aged 12–24. Services include case management, care coordination, goal planning, counselling, advocacy, supported referrals, outreach support, practical support, emergency relief (food, clothes, toiletries).

Service area: Southeast Queensland

### **Aboriginal and Torres Strait Islander Community Health Service**

Website: [www.atsichsbrisbane.org.au](http://www.atsichsbrisbane.org.au)

Services: Medical clinics, dental clinics, midwifery hub, child and family health services, youth services, social and emotional wellbeing programs and services, family and child support services, child protection, housing services, child and family centre.

Service area: Use the Find a clinic or service tool to locate local services: [www.hatsichsbrisbane.org.au/contact-us/locations](http://www.hatsichsbrisbane.org.au/contact-us/locations)

## 4.4 Queensland Courts

### Magistrates Court (including Childrens Court)

- Address: See [www.courts.qld.gov.au/contacts/courthouses](http://www.courts.qld.gov.au/contacts/courthouses)
- Phone: See [www.courts.qld.gov.au/contacts/courthouses](http://www.courts.qld.gov.au/contacts/courthouses)
- Email: See [www.courts.qld.gov.au/contacts/courthouses](http://www.courts.qld.gov.au/contacts/courthouses)
- Services: Criminal matters (where the accused is aged 10–17 years), protection & care matters, restraining orders (where one of the parties are aged under 18 years)
- Website: [www.courts.qld.gov.au/courts/magistrates-court](http://www.courts.qld.gov.au/courts/magistrates-court)
- Service area: Brisbane. Regional and remote services usually run from local Magistrates Court – contact local courthouse.

### District Courts (including Childrens Court)

- Address: See [www.courts.qld.gov.au/contacts/courthouses](http://www.courts.qld.gov.au/contacts/courthouses)
- Phone: See [www.courts.qld.gov.au/contacts/courthouses](http://www.courts.qld.gov.au/contacts/courthouses)
- Email: [ccu@justice.qld.gov.au](mailto:ccu@justice.qld.gov.au)
- Website: [www.courts.qld.gov.au/courts/district-court](http://www.courts.qld.gov.au/courts/district-court)  
[www.courts.qld.gov.au/courts/childrens-court/about-childrens-court-of-queensland-district-court](http://www.courts.qld.gov.au/courts/childrens-court/about-childrens-court-of-queensland-district-court)
- Services: Serious criminal offences like rape, armed robbery, dangerous driving and fraud. The District Court deals with civil disputes involving amounts between \$150,000 and \$750,000.00.
- Service areas: See [www.courts.qld.gov.au/contacts/courthouses](http://www.courts.qld.gov.au/contacts/courthouses)

### Supreme Courts

- Address: See [www.courts.qld.gov.au/contacts/courthouses](http://www.courts.qld.gov.au/contacts/courthouses)
- Phone: See [www.courts.qld.gov.au/contacts/courthouses](http://www.courts.qld.gov.au/contacts/courthouses)
- Email: [ccu@justice.qld.gov.au](mailto:ccu@justice.qld.gov.au)
- Website: [www.courts.qld.gov.au/courts/supreme-court](http://www.courts.qld.gov.au/courts/supreme-court)
- Services: This is the highest court in Queensland and includes the trial division. The trial division deals with the most serious criminal cases like murder, manslaughter, and serious drug offences. It also deals with all civil matter involving amounts over \$750,000.00.
- Service area: See [www.courts.qld.gov.au/contacts/courthouses](http://www.courts.qld.gov.au/contacts/courthouses)

### **Queensland Drug and Alcohol Court**

**Address:** Level 4, Brisbane Magistrates Court, 363 George Street, Brisbane City

**Phone:** (07) 3738 7111

**Email:** [rugandalcoholcourt@justice.qld.gov.au](mailto:rugandalcoholcourt@justice.qld.gov.au)

**Website:** [www.courts.qld.gov.au/contacts/drug-and-alcohol-court](http://www.courts.qld.gov.au/contacts/drug-and-alcohol-court)

**Services:** The Drug Court treats offenders with a severe substance use disorder that might cause their offending behaviour. The court targets adult offenders to be supervised and undertake treatment to address their drug and/or alcohol issues and criminal thinking.

**Service area:** Brisbane

### **Murri Court (or Cultural Mediation)**

**Address:** Brisbane Magistrates Courts, Level 2, 363 George Street, Brisbane City

**Phone:** (07) 3738 7201 and (07) 3738 7209

**Email:** [indigenousjusticeprograms@justice.qld.gov.au](mailto:indigenousjusticeprograms@justice.qld.gov.au)

**Website:** [www.courts.qld.gov.au/contacts/murris-court](http://www.courts.qld.gov.au/contacts/murris-court)

**Services:** Community Justice Groups help organise Murri Court, bring Elders/Respected Persons to court and write reports for court. To ask about Murri Court please contact your Community Justice Groups.

**Service area:** Brisbane, Caboolture, Cairns, Cherbourg, Cleveland, Ipswich, Mackay, Maroochydore, Mount Isa, Richlands, Rockhampton, St George, Toowoomba, Townsville, Wynnum.

### **Mental Health Court (MHC) and Registry**

**Address:** See [www.courts.qld.gov.au/contacts/mental-health-court](http://www.courts.qld.gov.au/contacts/mental-health-court)

**Phone:** (07) 3082 0554

**Email:** [registrarmhc@health.qld.gov.au](mailto:registrarmhc@health.qld.gov.au)

**Website:** [www.courts.qld.gov.au/contacts/mental-health-court](http://www.courts.qld.gov.au/contacts/mental-health-court)

**Services:** The court decides if an alleged offender is of unsound mind when they committed the offence and if they are fit for trial. The MHC deals with appeals from the Mental Health Review Tribunal and inquiries into the legal right of a patient to be detained and authorised in a mental health facility.

**Service area:** See [www.courts.qld.gov.au/contacts/mental-health-court](http://www.courts.qld.gov.au/contacts/mental-health-court)

## 4.5 Court programs and services

### Community Justice Group Program

Website: [www.courts.qld.gov.au/services/court-programs/community-justice-group-program](http://www.courts.qld.gov.au/services/court-programs/community-justice-group-program)

Services: CJGs are run by members of the local Aboriginal and Torres Strait Islander community and provide a community-based response for those interacting in the justice system. They provide help with bail and sentencing submissions, attending court, supporting victims and offenders through court, referring victims and offenders to support and legal services, discrete domestic and family violence support, cultural advice and community input on justice related issues, and supporting the Murri Courts and Cultural Mediation, Restorative Justice Program and High Risk Youth Court (Townsville).

Service areas: See [www.courts.qld.gov.au/services/court-programs/community-justice-group-program](http://www.courts.qld.gov.au/services/court-programs/community-justice-group-program)

### Court Link

Address: Brisbane Magistrates Court, Level 4, 363 George Street, Brisbane City

Phone: (07) 3738 7111 (after hours - leave a message)

Website: [www.courts.qld.gov.au/services/court-programs/court-link](http://www.courts.qld.gov.au/services/court-programs/court-link)

Services: An integrated court assessment, referral, and support program. It assists people charged with criminal offences from the Magistrates Court by connecting them with treatment and support services to address housing, employment, drug and alcohol, mental health, and other social needs. It provides support to assist people with the risk of re-offending, their needs, and their ability and willingness to receive help. Participation is voluntary.

Service areas: Brisbane, Cairns, Ipswich, Southport, Caboolture, Pine Rivers, Redcliffe, Maroochydore, Mount Isa.

### Drug and Alcohol Diversion Program

Address: Level 4, 363 George Street, Brisbane City

Phone: (07) 3738 7100 (after hours – leave a message)

Website: [www.courts.qld.gov.au/services/court-programs/drugalcohol](http://www.courts.qld.gov.au/services/court-programs/drugalcohol)

Email: [CourtDiversion@justice.qld.gov.au](mailto:CourtDiversion@justice.qld.gov.au)

Services: Programs available: Drug and Alcohol Assessment Referral Program – available to adults only, Illicit Drugs Court Diversion Program – available to adults and young people. Programs provide education and information through a 60 - 90-minute session about the harmful use of drugs and/or alcohol and to better understand the relationship between substance use and the offences you have been charged with. Sessions are available in person, or by phone.

Eligibility: Those referred from Magistrate or Childrens Court matters, who identify drug and/or alcohol use as a related factor to the offences they have been charged with. Speak with your lawyer or court staff.

Service area: Brisbane

## 4.6 Support for victims of crime

### Victim Assist Queensland

Phone: 1300 546 587

Email: [victimassist@justice.qld.gov.au](mailto:victimassist@justice.qld.gov.au)

Website: [www.qld.gov.au/law/court/victim-coordination-program](http://www.qld.gov.au/law/court/victim-coordination-program)

Services: Support for victims as they go through the criminal justice system and help them to apply for financial assistance.

Services area: Officers located at South Brisbane, Ipswich, Rockhampton and Cairns courthouses.

### 13Yarn Australia (24 hours/7 days)

Phone: 139 276 (13YARN)

Email: [enquiries@13yarn.org.au](mailto:enquiries@13yarn.org.au)

Website: [www.13yarn.org.au/](http://www.13yarn.org.au/)

Services: Crisis support line for Aboriginal and Torres Strait Islanders who are feeling overwhelmed or having difficulty coping. Confidential and anonymous, culturally safe space.

Services area: Nationwide

### Queensland Health – Victim Support Service

Phone: 1800 208 005 (Free call)

Email: [victim.support@health.qld.gov.au](mailto:victim.support@health.qld.gov.au)

Website: [www.health.qld.gov.au/qhvss](http://www.health.qld.gov.au/qhvss)

Services: For victims of crime where the offender has a mental illness or intellectual disability. Includes early identification of victims to offer them support, providing immediate help and advice, providing information about the Forensic Mental Health system, assisting victims in making informed choices and accessing their entitlements, supporting victims to tell their story through statements and submissions, working in partnership with other agencies to be responsive to victim needs.

Services area: Statewide

### Living Well

Phone: 1300 114 397  
(07) 3028 4648

Website: [www.livingwell.org.au](http://www.livingwell.org.au)

Services: Supports men who have experienced sexual abuse or sexual assault, as well as their partners and family members.

Services area: Only offers local services but are able to connect you with local Queensland agencies for support or counselling referrals.

### **Victim Connect**

Phone: 1300 318 940

Website: [www.victimconnect.org.au](http://www.victimconnect.org.au)

Email: [mail@victimconnect.org.au](mailto:mail@victimconnect.org.au)

Services: To support victims of crime to find pathways to recovery and justice.

Services area: 24 hour victims of crime helpline.

### **Queensland Homicide Victims Support Group**

Phone: (07) 3857 4744 (Head office)  
1800 774 744 (QLD only)

Email: [admin@qhvsg.org.au](mailto:admin@qhvsg.org.au)

Website: [www.qhvsg.org.au](http://www.qhvsg.org.au)

Services: Provides support to families of homicide victims, group meetings monthly, telephone support (24 hr, 7 days), court support, information about entitlements, accommodation in Brisbane for court attendance.

Services area: Statewide

### **Victim register – Youth**

Phone: 13 74 68 (13 QGOV)

Email: [YJPracticeEnquiries@cswy.qld.gov.au](mailto:YJPracticeEnquiries@cswy.qld.gov.au)

Website: [www.qld.gov.au/law/your-rights/victim-rights-and-complaints/victims-registers/youth](http://www.qld.gov.au/law/your-rights/victim-rights-and-complaints/victims-registers/youth)

Services: As a victim of crime, you may have a right to know certain things about the person who committed an offence against you, if they are in detention.

Service areas: Statewide

## **4.7 Government services**

### **Centrelink (Services Australia)**

Phone: 132 850 Monday to Friday 8am to 5pm.

Website: [servicesaustralia.gov.au/centrelink](http://servicesaustralia.gov.au/centrelink)

Services: Crisis payments, social work services, Centrelink debts and overpayments, assurance of support for visa applicants, special benefit, Jobseeker payments over 22.

Service area: Nationwide

### **Queensland Government services**

Phone: 137 468 (13 QGOV)

Website: [www.qld.gov.au](http://www.qld.gov.au)

Services: Transport and motoring, employment and jobs, education and training, health and wellbeing, community support, emergency services and safety, your rights, crime and the law, environment, land and water, homes and housing, recreation, sport and arts.

Service area: Statewide

## 4.8 Working with Aboriginal and Torres Strait Islander clients

### 1. Respect the diversity of Aboriginal and Torres Strait Islander cultures

- 1.1 Recognise that Aboriginal and Torres Strait Islander cultures differ.
- 1.2 Treat each culture respectfully in interactions with Indigenous clients.
- 1.3 Recognise that there may be some cases where a cultural expert report is required.

#### Practice points

- Be aware that being Aboriginal or Torres Strait Islander is not dependent upon skin colour.
- Understand that not using traditional language or practising customs does not diminish a person's standing as being Aboriginal or Torres Strait Islander.
- Understand that there are cultural differences which impact on how lawyers effectively advise and represent Aboriginal and Torres Strait Islander clients.

### 2. Principles for effective communication with Aboriginal and Torres Strait Islander clients

- 2.1 Recognise that providing a quality service to Aboriginal and Torres Strait Islander clients involves taking into account communication barriers.

#### Practice points

- Understand the historical and current experiences of Aboriginal and Torres Strait Islander clients with the Australian justice system and the need to develop trust and rapport with clients.
- Understand that English may not be the first or second language for some Aboriginal and Torres Strait Islander clients.
- Understand that effective communication with Indigenous clients can be achieved through the use of interpreters.
- Develop networks with relevant agencies which could provide support to lawyers on communication with Aboriginal and Torres Strait Islander clients.
- Be aware that asking direct questions of Aboriginal and Torres Strait Islander clients is not considered culturally appropriate and may lead to gratuitous concurrence. Direct questions should be avoided wherever possible.
- Be aware that some non verbal features of communication including avoiding direct eye contact and silence can be misinterpreted.
- Be aware that pronunciation, grammar and sentence structure differ and could lead to miscommunication.
- Use plain English and seek clarification from Aboriginal and Torres Strait Islander clients to ensure no misunderstanding or miscommunication has occurred.
- Where appropriate, use other strategies such as use of diagrams to communicate court and litigation processes.



### **3. Recognise Aboriginal and Torres Strait Islander clients may not respond to mail or may be difficult to contact**

#### Practice points

- Be aware that mail sent to clients in remote communities may take longer to reach a client and that some mail will be addressed care of the post office in the community.
- Be aware that for some Indigenous clients responding to mail can present challenges and self-addressed stamped envelopes should be provided to assist clients.
- Be aware that access to public telephones in some remote communities is limited and that clients may not be able to contact their lawyer.
- Be aware of agencies who can assist a practitioner in contacting their client.

### **4. Recognise Aboriginal and Torres Strait Islander clients may have a different concept of 'time'**

4.1 Recognise that differing concepts of time can have an impact on instructions provided about when an event occurred and may also impact on attendance at appointments, meetings and court appearances.

#### Practice points

- When seeking instructions about when an event occurred, recognise that some Aboriginal and Torres Strait Islander people will not provide a date but reference an event to what was happening at the time it occurred.
- Recognise that family and community commitments may have priority over punctual attendance at appointments, meetings and court.

### **5. Ensure the client has a clear understanding of the service to be provided**

#### Practice points

- Provide clients with clear information about the client/solicitor relationship.
- Provide clients with information about the tasks that must be done and who has responsibility for doing them.

### **6. Understand traditional lore and cultural imperatives may take priority over commitments including attending court and appointments**

6.1 Understand the cultural significance for Aboriginal and Torres Strait Islander clients to participate in traditional lore practices.

#### Practice points

- Understand the significance for Aboriginal people to participate in Aboriginal cultural practices such as attending sorry business, men's and women's business and the impact these can have on providing legal services.
- Understand the need for Torres Strait Islander people to participate in cultural practices such as Coming of the Light ceremonies, tomb openings and other significant cultural events.
- Be aware that some Aboriginal people respect traditional lore by not speaking the name of a deceased person for a period of time.
- Be aware that Aboriginal people require permission to take photographs.
- Be aware that where a photograph has been taken and a death occurs, the photograph must be removed from public circulation for a specified time during sorry business.
- Be aware that Indigenous communities close for cultural and ceremonial reasons.

## **7. Understand there are differing structures of Aboriginal and Torres Strait Islander families**

7.1 Understand that Aboriginal and Torres Strait Islander family structures differ greatly and the value of family relationships is high.

### Practice points

- Understand the nature of Aboriginal kinship systems and have an awareness of cultural family obligations that exist for Aboriginal clients.
- Be aware of past and current legislation, policies and practices which have impacted on Aboriginal and Torres Strait Islander people and their families.
- Understand that there may be a cultural requirement for family and extended family members to support an Aboriginal or Torres Strait Islander client through the legal process.
- Be aware of the Torres Strait Islander practice of traditional adoption and the Family Court of Australia's process for recognising.

## **8. Understand the central role of community in the lives of Aboriginal and Torres Strait Islander clients**

8.1 Understand that Aboriginal and Torres Strait Islander community structure has an impact on representing Aboriginal and/or Torres Strait Islander clients.

### Practice points

- Understand and respect the role of Elders in the client's community.
- Understand the role of community justice groups including their role in sentencing and providing cultural advice about their community.
- Be aware of the role of community justice groups to resolve disputes within communities by mediation.

## **9. Understand the circumstances and limited resources available to Aboriginal and Torres Strait Islander clients particularly those living in remote and regional communities**

9.1 Understand that clients living in remote and regional communities have limited access to resources and services which can impact on representing and advising a client.

### Practice points

- Be aware of what services and resources are available within the client's community.
- Refer clients to existing services which can be reasonably accessed by the client.

## **10. Understand the complex causes of Aboriginal and Torres Strait Islander over-representation in the criminal justice system as both defendants and victims**

10.1 Understand that there are many factors leading to Aboriginal and Torres Strait Islander clients coming into contact with the criminal justice system.

### Practice points

- Be aware of the recommendations made by the Royal Commission into Aboriginal Deaths in Custody 1987.
- Be aware of the recommendations made by the Aboriginal and Torres Strait Islander Women's Taskforce on Violence 1998.

## 4.9 Information about the law

- The Legal Aid Queensland website has up-to-date information and publications about laws in Queensland. Visit [www.legalaid.qld.gov.au](http://www.legalaid.qld.gov.au) under the headings 'Find legal information' and 'Get legal help'.
- The Magistrates Court of Queensland website has information on applying for a domestic violence order. Visit [www.courts.qld.gov.au/going-to-court/domestic-violence](http://www.courts.qld.gov.au/going-to-court/domestic-violence)
- *Domestic and Family Protection Act 2012 (Qld)* and other legislation. Visit [www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)

### General information about family violence

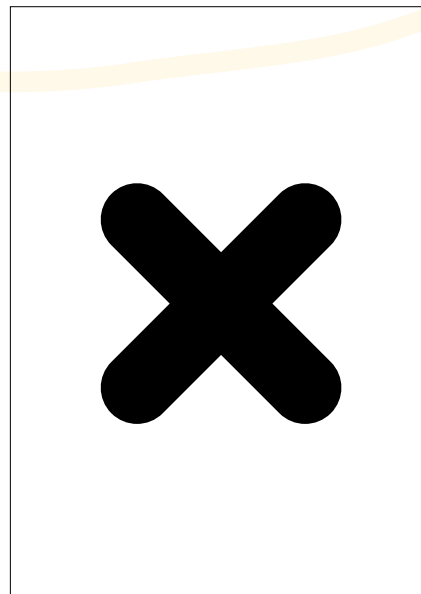
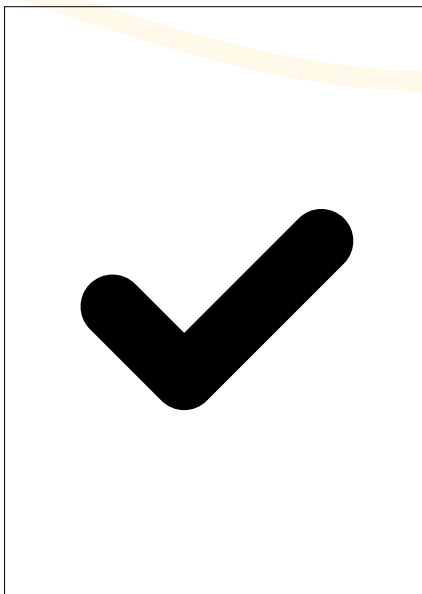
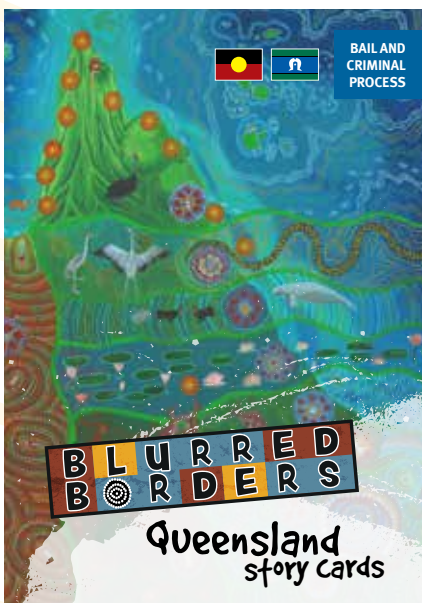
The Legal Aid Queensland website has information about domestic and family violence. See [www.legalaid.qld.gov.au](http://www.legalaid.qld.gov.au) and search 'domestic and family violence'.

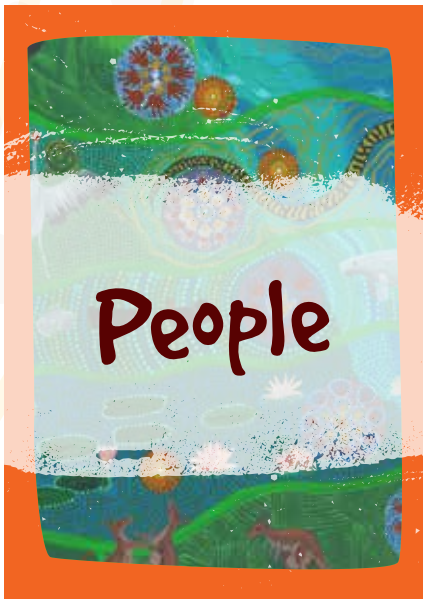
## 4.10 Information about adult learning and CLE

- **Legal Aid Queensland's website** has many resources:  
[www.legalaid.qld.gov.au/Get-legal-help/Community-legal-education](http://www.legalaid.qld.gov.au/Get-legal-help/Community-legal-education)  
For more information about CLE resources in Queensland email [cle@legalaide.qld.gov.au](mailto:cle@legalaide.qld.gov.au)
- **Aboriginal and Torres Legal Service (ATSILS)** also creates CLE resources and delivers CLE activities. Call (07) 3025 3888 or visit [atsils.org.au/cle](http://atsils.org.au/cle)
- **Community Legal Centre Queensland.** Find out which community legal centres do CLE at [www.communitylegalqld.org.au/category/staff-training/community-legal-education/](http://www.communitylegalqld.org.au/category/staff-training/community-legal-education/)
- **Queensland Indigenous Family Violence Legal Service** also creates CLE resources and delivers CLE activities. Call (07) 4045 7500 or visit [www.qifvls.com.au/our-projects](http://www.qifvls.com.au/our-projects)

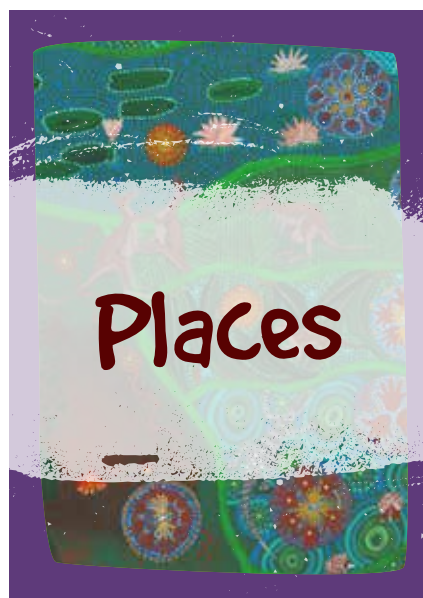
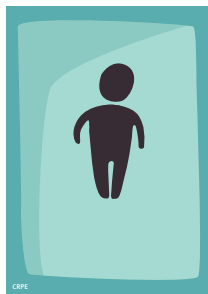
# Chapter five: Story cards, maps and other resources

## 5.1 Story cards icons



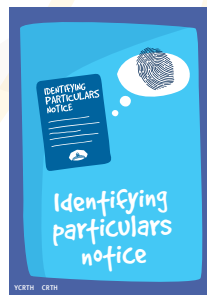


# People

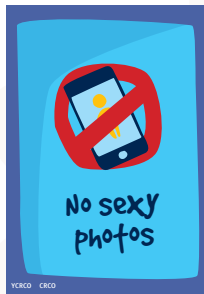
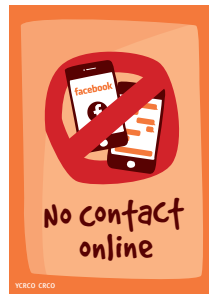
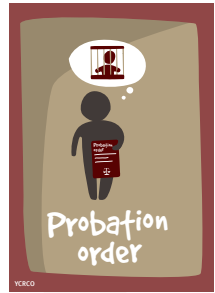
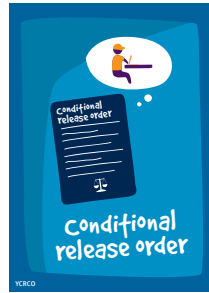
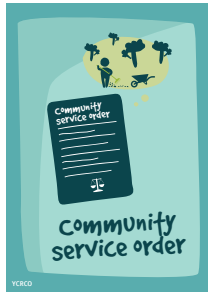
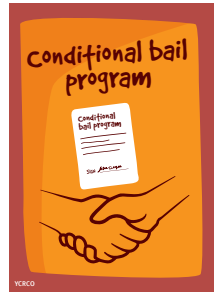


# Places





# Conditions and orders



## 5.2 Process map

The bail process map is a useful tool to help explain complex court processes, procedures, conditions and orders. It can be used by itself or with the story cards and/or the wallet cards and stickers.





## 5.3 Wallet cards and stickers

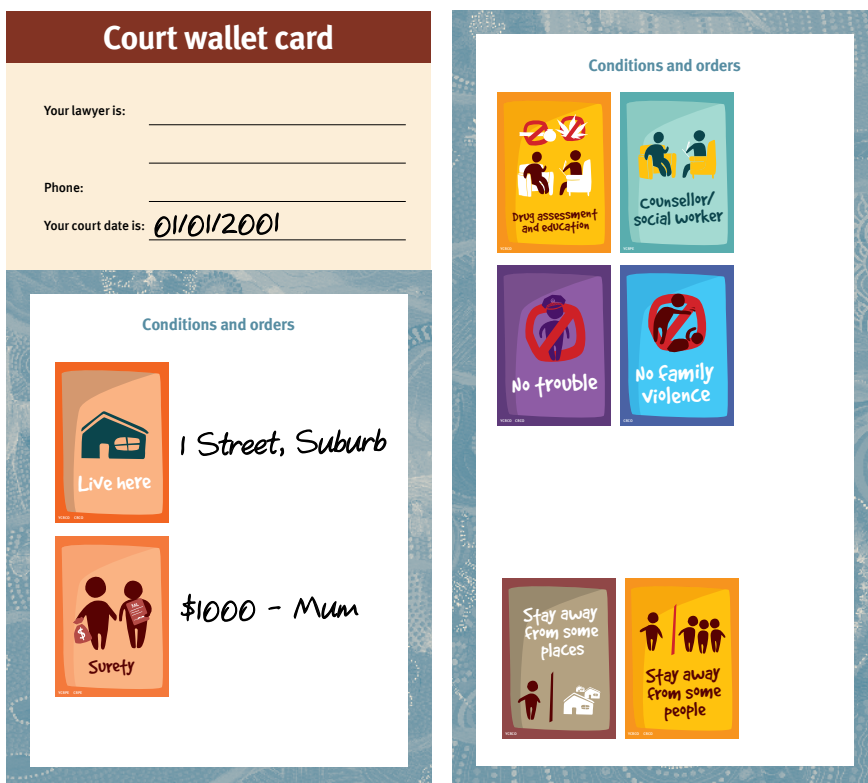
The wallet cards serve as a visual reminder of the conditions or orders that the magistrate or judge in court or a police officer has placed on a person.

The wallet card contains the lawyer's contact details, the next court date and the language spoken if English is not a person's first language.

The wallet cards can be used by different service providers in different ways:

- Court based lawyers can create wallet cards for individual clients by filling in the relevant court date/s and putting stickers on that represent the relevant conditions and orders that the client must follow.
- Judicial support officers or other court staff can use them to assist people to understand court imposed bail conditions.
- Police officers can use them to assist people to understand the conditions imposed on them under police orders.
- Support agencies can use them to remind clients of the conditions imposed on them under court or police orders.

Blank wallet cards and stickers are included in the resource kit. Extra wallet cards and stickers can be ordered from [www.legalaid.qld.gov.au/blurredborders](http://www.legalaid.qld.gov.au/blurredborders).



## 5.4 Common layouts

Story card common layouts help service providers to explain common processes and concepts to different clients. They are easy to photocopy and provide a good on the spot 'take away' to give to your client to improve understanding and remember what has been discussed.

Bail and criminal process common layouts continue to be developed using feedback from service providers. They focus on the most common ways the story cards are being used to explain standard processes and concepts. An example of a common layout for 'What will my punishment be?' is set out below. More bail and criminal process common layouts are available at [www.legalaid.qld.gov.au/blurredborders](http://www.legalaid.qld.gov.au/blurredborders).







**B L U R R E D**  
**B O R D E R S**

Queensland