

30 June 2022

Mr Michael Shanahan AM  
Criminal Procedure Review - Magistrates Courts  
GPO Box 149  
BRISBANE QLD 4001

**BY EMAIL: [Criminal-Procedure-R@justice.qld.gov.au](mailto:Criminal-Procedure-R@justice.qld.gov.au)**

Dear Mr Shanahan

**CRIMINAL PROCEDURE REVIEW – MAGISTRATES COURTS CONSULTATION**

Thank you for the opportunity to participate in the consultation process for the Criminal Procedure Review for the Magistrates Courts. This review is an important undertaking which will help recraft criminal procedure laws in the Magistrates Courts in Queensland to better match expectations and a contemporary justice system.

The Commission has reviewed the Consultation Paper and provide the below responses:

*Questions 14 and 15*

I am required to undertake the complaint and summons process when initiating proceedings under the *Legal Profession Act 2007* (LPA), for example against unlawful operators. The current requirements for this process, in particular to have a complaint and summons witnessed by a Justice of the Peace, is unnecessary, outdated and time-consuming.

I support the removal of the requirement to issue a complaint and summons and consider that I should be able to issue a Notice to Appear. This will simplify the process for commencing proceedings, increasing efficiency and the use of time and resources across the public sector. If this were to be adopted, it would also be necessary to retain (in an amended form) some of the provisions around service. For example, retaining the option for service of a Notice to Appear for a simple offence by registered post to the person's last know place of business and residence (currently section 56(1)(a) of the *Justices Act 1886*). It would also be necessary to amend the requirements for proof of service of the Notice, to allow a public officer to depose the service.

Restricting many of the routine taking of oaths and other witnessing to Justices of the Peace can also be problematic, when not every agency, such as the Commission, has a Justice of the Peace on staff. Expansion of eligible persons for these purposes, such as all eligible witnesses under the *Oaths Act 1867*, would also be beneficial.

*Question 16*

It is important that there be a clear statement of when proceedings have commenced in any new legislation about criminal procedures in the Magistrates Court. In my view, proceedings should start on the date of issue or filing of the Notice to Appear.

*Questions 17 and 18*

The requirements for the Notice to Appear should largely replicate or be based on the current requirements under the *Police Powers and Responsibilities Act 2000*, relevantly the following information should be contained in the Notice:

- the alleged offence

- when and where the offence is alleged to have been committed
- the defendants name
- require the person to appear before a particular court on a specified date and time, and
- be signed by the issuing person.

It would then need to be a requirement that at, or before the first appearance date, I would be required to give the defendant a statement of particulars or proposed facts.

Thank you once again for the opportunity to participate in the consultation process for this important review. I look forward to seeing the report and outcomes in due course.

Yours sincerely

A solid black rectangular box used to redact the signature of Megan Mahon.

Megan Mahon  
**Commissioner**