



Children's Court of New South Wales

PUBLIC NOTICE OF RESPONSE TO COVID-19 PANDEMIC No. 15

24 June 2022

Commences 18 July 2022

The Children's Court has reviewed its operations in light of the current public health settings.

This Notice supersedes other Public Notices unless otherwise stated.

Part 1 – General arrangements for all proceedings

1. All legal practitioners are to appear in person unless leave has been granted to appear by AVL.
2. Legal practitioners are to appear in person where their client wishes to attend in person except in exceptional circumstances with leave of the court.
3. Parties are to appear in person in:
 - a. hearings
 - b. first mentions, noting that first appearance bail proceedings are subject to Part 2
 - c. sentences
 - d. replies to brief where a plea of guilty is to be entered and proceedings are to be finalised
 - e. applications for an order under the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*,
unless otherwise directed by a judicial officer.
4. In other circumstances parties are excused from appearing if legally represented.

Part 2 – Additional arrangements for bail proceedings

5. In accordance with s5BA of the *Evidence (Audio and Audio Visual Links) Act 1998* an accused detainee is to appear in person in 'physical appearance proceedings', including on a young person's first appearance before a court, unless:
 - a. an exemption applies
 - b. the parties consent or
 - c. the court otherwise directs.
6. Applications for a young person in custody to appear by AVL under s5BA of the *Evidence (Audio and Audio Visual Links) Act 1998* should be filed with the registry by 9:00am on the day of court or as soon as possible where a young person is charged during the course of the day's proceedings.

Part 3 – Additional arrangements for care proceedings

7. Where parties have agreed on case management directions the parties may email the relevant Children's Court registry by 12 noon the day prior to the listing to:
 - a. request the Court to make directions by consent and
 - b. request that the case be removed from the following day's list.
8. An email seeking consent directions must include all parties in the correspondence and specify:
 - a. the directions sought
 - b. the reasons for the directions and
 - c. a statement that all parties consent to the directions.
9. The Court will accept an unsigned document for filing if it is not possible for the document to be signed or witnessed.
10. Parties should be aware that if the party subsequently seeks to rely on the document in evidence the relevant document will need to be signed and witnessed prior to the hearing or attested to at the hearing.

Part 4 – Dispute Resolution Conferences

11. All Dispute Resolution Conferences will be conducted in person unless otherwise determined by the Children’s Registrar conducting the conference.

Part 5 – Youth Koori Court

12. Youth Koori Court will operate in manner that is consistent with the arrangements in place prior to the COVID-19 pandemic.
13. The judicial officer conducting the Youth Koori Court retains the discretion to determine the manner of attendance of any participant having regard to the circumstances of the case and any current health risks.

Part 6 – Youth Justice Reports

14. Matters requiring the preparation of a Youth Justice Background Report should be adjourned for a period of two weeks where a young person is in custody and six weeks where a young person is in the community consistent with the arrangements in place prior to the COVID-19 pandemic.
15. Youth Justice may provide a verbal bail report (instead of a written bail report) when the information is required to expedite a bail hearing.

Part 7 – Arrangements for the conduct of hearings

16. All criminal, AVO and care and protection cases listed for hearing are to be listed for Readiness Hearing approximately one month prior to the hearing date to determine whether the hearing can proceed. Any case that is listed for hearing and does not have a Readiness Hearing date is to be relisted for Readiness Hearing.
17. Parties are required to confer and file a [Readiness Hearing checklist](#) by 12 noon the day before the Readiness Hearing.
18. The manner in which a hearing is to be conducted will be considered on a case-by-case basis having regard to the following considerations:
 - The government restrictions in place at the relevant location
 - The impact of further delay of the hearing on any persons involved in the case

- The number of parties involved in a case and whether it is appropriate or possible for one or more parties to appear in the hearing by AVL from another room within the court premises or from an appropriate external location
 - Whether witnesses are required for cross examination
 - The number of witnesses required for cross examination
 - The type of witnesses required for cross examination and whether the evidence can appropriately be given by AVL from another room within the court premises or from an appropriate external location
 - Whether interpreters are required for any person involved in the hearing and whether suitable arrangements can be made to enable an interpreter to properly assist the conduct of the hearing
 - Whether there is a dispute as to the admissibility of any evidence which, once determined, may shorten the hearing
 - The type and quantity of evidence that is likely to be tendered during the hearing and whether suitable arrangements can be made for the tender of documents or other material
 - The length of the hearing
 - In the case of a criminal hearing, whether the defendant is in custody and whether suitable arrangements can be made for the defendant to attend either in person or by video conference and properly instruct their lawyer
 - The size and configuration of the court room and logistics of adopting appropriate social distancing practices during the hearing
 - The availability of video conference technology in other rooms within the court building
 - The availability of registry staff to support the proposed altered arrangements
 - Whether any party is likely to be prejudiced by conducting the hearing in the manner proposed.
19. Where a party is concerned that a hearing delay is impacting the safety, welfare, and well-being of a child, they should notify the Registrar and request that the case be listed before a judicial officer for consideration of allocating a priority hearing date.

20. Where a legal practitioner or prosecutor becomes aware that a witness, who is required to attend a Children's Court hearing in person, should not attend court because the person is:
- a. COVID positive and is required to self-isolate or
 - b. has been advised by NSW Health to self-isolate or
 - c. is otherwise unwell,

the legal practitioner or prosecutor should immediately notify the Court and all other parties involved in the hearing. All witnesses involved in the hearing should be advised to be on standby and not attend the Children's Court until the Court has determined whether the hearing can proceed.

Part 8 – General

21. All persons on court premises are encouraged to wear a fitted face covering unless otherwise determined by the judicial officer hearing the case.
22. Please note that arrangements are subject to change at short notice.



Judge Ellen Skinner

President of the Children's Court of NSW