



Children's Court of New South Wales

PUBLIC NOTICE OF RESPONSE TO COVID-19 PANDEMIC No. 14

25 March 2022

Commences 28 March 2022

The Children's Court has reviewed its operations in light of the current rates of community transmission of the COVID-19 virus.

This Notice supersedes other Public Notices unless otherwise stated.

Part 1 – General arrangements for criminal, AVO and parole proceedings

1. All crime, parole and AVO lists will continue to operate.
2. Parties are to appear in person in the following circumstances:
 - a. Hearings;
 - b. Sentences;
 - c. Replies to brief where a plea of guilty is to be entered and proceedings are to be finalised;
 - d. Applications for an order under the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*; and
 - e. AVO proceedings;

unless otherwise directed by a judicial officer.

3. An accused detainee is to appear in person in '*physical appearance proceedings*' (in accordance with s5BA of the *Evidence (Audio and Audio Visual Links) Act 1998*), 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.

4. 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 in circumstances where the young person is charged during the course of the day's proceedings.
5. Defendants are otherwise excused from attendance if legally represented, unless otherwise directed by a judicial officer
6. Legal practitioners are to appear in person unless leave has been granted to appear by AVL.
7. Notwithstanding paragraph 6, legal practitioners are to appear in person if their client is appearing in person, unless there are exceptional circumstances and prior leave is granted for the legal representative to appear by AVL.

Part 2 – General arrangements for care proceedings

8. All care lists will continue to operate.
9. Parties are to appear in person for hearings unless otherwise directed by a judicial officer.
10. Parties and their legal representatives may appear by AVL for directions lists where such facilities are available, unless the judicial officer otherwise directs.
11. Notwithstanding paragraph 10, where a party appears in person the party's legal representative must also appear in person, unless there are exceptional circumstances and prior leave is granted for the legal representative to appear by AVL.
12. Legal practitioners should attempt to agree on a position consistent with the arrangements put in place under [COVID-19 Public Notice No. 3](#). Filing directions should allow sufficient time for the documents to be filed and for consultation to occur between legal practitioners prior to the next listing.

Part 3 – General arrangements for compulsory schooling proceedings

13. Education lists will continue to operate.
14. Parties and their legal representatives are to appear in person unless leave is granted to appear by AVL.

Part 4 – Youth Koori Court

15. Young people are to appear in person unless alternative arrangements are approved by the Court.
16. Community Panel members may appear in person or by AVL as approved by the Court.
17. Support agencies may be asked to appear by AVL to reduce the number of participants in the courtroom at any given time.

Part 5 – Arrangements for the conduct of hearings

18. 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.
19. Parties are required to confer and file a [Readiness Hearing checklist](#) by 12 noon the day before the Readiness Hearing.
20. Hearings that can be conducted by AVL or by submissions only will proceed subject to judicial officer and staffing capacity at the relevant location.
21. Hearings that cannot proceed by AVL 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.

22. Where a party is concerned that a hearing delay is impacting the safety, welfare and wellbeing 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.

23. 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 6 – Dispute Resolution Conferences

24. All Dispute Resolution Conferences will be conducted by AVL across NSW unless otherwise determined by the Children's Registrar conducting the conference.

Part 7 – Youth Justice Reports

25. 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 for eight weeks (instead of the usual six week adjournment) where a young person is in the community.

26. 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 8 – General

27. All persons on court premises are encouraged to wear a fitted face covering unless otherwise determined by the judicial officer hearing the case.

28. Please note that arrangements are subject to change at short notice.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke ending in a small upward tick.

Judge Ellen Skinner

President of the Children's Court of NSW