



Juvenile Justice
Attorney General & Justice

Bail Protocol

Between the Children's Court of New South Wales

And

The Department of Attorney General and Justice – Juvenile Justice

DOCUMENT CONTROL
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1. Background

1.1 This protocol sets out an understanding between the Children's Court of New South Wales ("the Court") and the New South Wales Department of Attorney General and Justice - Juvenile Justice ("the agency") regarding their respective roles and responsibilities concerning the acceptance by the Children's Court of the agency's offer to provide bail supervision in suitable cases.

1.2 The role of the Court in administering the law is to be read specifically in the context of the *Children (Criminal Proceedings) Act 1987*, the *Bail Act 1978*, the *Crimes (Administration of Sentences) Act 1999* and the judicial independence of each Children's Magistrate.

1.3 Both parties acknowledge that:

1.3.1 Article 37 (b) of the International Convention on the Rights of the Child provides that detention and imprisonment of children should only take place as a measure of last resort.

1.4 The agency is concerned to:

1.4.1 Maintain a policy of diversion, the aim of which is to utilise detention only as a last resort.

1.4.2 Minimise risk of reoffending by young people brought before the court.

1.5 Whilst the agency has no statutory responsibilities under the *Bail Act 1978* to provide community based services, it is an objective of the agency, where it deems appropriate, to offer both juvenile offenders and the Court effective intervention strategies to reduce the number of juveniles held in custody.

1.6 The agency will provide bail assistance in order to:

1.6.1 Prevent the remand of young people in custody where they may be refused bail, or not able to obtain conditional bail for reasons other than the serious, violent or repeat nature of offences.

1.6.2 Aid young people to remain in the community to access a range of community-based services. Community-based services enable appropriate diversion of the young person and maximise the possibility of the young person achieving bail; thereby minimising disruption to relationships, education or employment and community life.

1.7 Bail Supervision provided by the agency is within the limited resources available. Every effort will be made to find services to address the needs of each young person referred for Bail Supervision under this protocol, but the agency cannot guarantee to meet every need of every young person.

1.8 Remand Intervention – Bail Supervision provided by the agency currently falls into two main categories:

(a) Services that enable eligible young people, who have pleaded guilty to the matters before the Court, to be released on bail to attend Court at a future date for sentence; and require the supervision of the agency to assist the young person to meet the conditions specified by the Court;

(b) Services that enable eligible young people to be released on bail to attend counselling and other relevant services as directed by the Court.

2. Bail Protocol

2.1 The Court and its staff will work in consultation with agency staff to facilitate the services set out in this protocol.

2.2 The agency will, in order to provide a service that facilitates the ability of young people to meet bail conditions specified by the Court:

(a) Provide a one-off intervention, when necessary, in a timely manner to assist the young person to meet a condition of bail where the bail does not require continuing supervision by the agency; e.g. referral to a supportive youth worker.

(b) Provide the Court with relevant information to facilitate the granting of bail where the bail does not require continuing supervision by the agency (e.g. Information in relation to the availability of suitable accommodation or liaising with Community Services where the young person is under the parental responsibility of the Minister for Family and Community Services or where the young person is at risk of significant harm).

(c) Provide bail supervision where ordered by the Court to eligible young people who have pleaded guilty but are yet to be sentenced for the matters before the Court;

(d) Provide information to the Court for a young person on remand to assist the Court to facilitate bail if necessary.

2.3 The Court will, where practicable:

(a) Give agency staff an opportunity to assess the suitability of young people appearing before the court for bail supervision;

(b) Give agency staff an opportunity to be heard prior to requesting bail supervision to eligible young people who appear before the Court.

3. Monitoring

3.1 The President of the Children's Court and the Chief Executive (or delegate) will:

(a) consult on any matters relating to the operation of this protocol or any other matters as may be agreed to be suitable for consultation, and

(b) meet from time to time or upon request to discuss any difficulties in the operation of the protocol or any changes proposed to this protocol.

4. Review

4.1 The President of the Children's Court and the Chief Executive of Juvenile Justice NSW will undertake a review of this protocol periodically.

5. Variation

5.1 Any variation to this protocol must be in writing and agreed to by both parties before such variations can take effect.

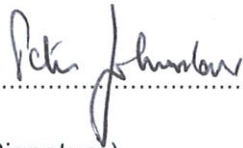
6. Execution

This protocol's date of execution is the day of <INSERT DATE> **1.7.2013.**

SIGNED for and on behalf of the
New South Wales Children's Court by:

Name: His Honour Judge P Johnstone

Title: President of the Children's Court


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(Signature)

SIGNED for and on behalf of

Agency of Attorney General and Justice - Juvenile
Justice, New South Wales


Name: Ms Valda Ruisis

Title: Chief Executive - Juvenile Justice NSW


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(Signature)