



## *Children's Court of New South Wales*

### **PUBLIC NOTICE OF RESPONSE TO COVID-19 PANDEMIC No. 4**

**21 April 2020**

Since mid-March 2020 the Children's Court has made significant operational changes to reduce the risk to court participants and court personnel of contracting or spreading the COVID-19 virus. These changes have significantly reduced the number of persons attending Children's Court premises on a daily basis. This has been achieved through a combination of changes to practice as detailed in Public Notices no. 1 to 3 and an increased use of audio and video conference technology.

Now that the crisis has stabilised it is appropriate to review the current arrangements with a view to developing a more nuanced response intended to improve processes that have been introduced during the past month and increase the capacity of the Court to finalise cases where it can be assessed that it is safe to do so. It is anticipated that this will provide a more sustainable approach over the coming months that will, in time, support a transition to normal operations.

#### **Changes to listing arrangements for first appearance bail proceedings**

1. First appearance bail proceedings are to be decentralised from Parramatta Children's Court to hub locations with a view to distributing the work more evenly across available resources and to enable local knowledge and local services to better support young people.
2. Details of the changes, including the date of commencement, will be specified in a separate document published on the Children's Court website.

#### **Changes to listing arrangements for urgent care applications**

3. Applications for emergency care and protection orders and care applications where a child has been removed or care assumed will be decentralised from Parramatta Children's Court to hub locations to provide greater continuity of legal representation for parents and children.

4. The changes will take effect in relation to applications listed on and from Monday 4 May 2020.
5. Further information regarding listing instructions will be provided in a separate document published on the Children's Court website.

### **Conduct of hearings**

6. Hearings that are currently listed from Monday 4 May 2020 are to be listed for a Readiness Hearing to ascertain whether appropriate arrangements can be made to enable the hearing to proceed in a safe manner.
7. Hearings currently listed in the week commencing 4 May and 11 May 2020 are to be listed for a Readiness Hearing at least 7 days prior to the hearing.
8. Hearings listed on and from Monday 18 May 2020 should be listed for a Readiness Hearing at least 14 days and not more than 28 days prior to the hearing.
9. Hearings that have been vacated between Tuesday 24 March and Friday 1 May 2020 in accordance with Public Notice no. 2 are to be relisted for a Readiness Hearing to ascertain whether appropriate arrangements can be made to enable the hearing to be re-scheduled and conducted in a safe manner.
10. Where a case currently listed for hearing is vacated following a Readiness Hearing the hearing time can be utilised for a case previously vacated but now assessed as suitable to proceed.
11. Parties are expected to have conferred prior to the Readiness Hearing with a view to identifying potential arrangements that will enable the hearing to proceed safely.
12. In determining whether the hearing can proceed the Court will have regard to the following;
  - The impact of further delaying a 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 video conference 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 video conference 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 from a detention centre and if so, whether suitable adjustments can be made during the hearing to allow the young person to give instructions to 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.

13. Where it is assessed that the hearing cannot proceed at this time the hearing should be scheduled on a date during or after September 2020 or an earlier date, but only if earlier dates are available and there is further advice from government that indicates that it would be safe to conduct the hearing at that time.

14. In such cases a further Readiness Hearing should be scheduled at least 14 days and not more than 28 days prior to the scheduled hearing to confirm whether the hearing can proceed on the scheduled date.

**General**

15. All other arrangements specified in earlier Public Notices issued in response to the COVID-19 pandemic will continue to operate.

A handwritten signature in black ink that reads "Peter Johnstone". The signature is written in a cursive style with a large initial 'P' and a long, sweeping underline.

Judge Peter Johnstone

President of the Children's Court of NSW