



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

### **PUBLIC RESPONSE TO COVID-19 PANDEMIC No. 3**

**2 APRIL 2020**

#### **Information for parties in the care and protection jurisdiction**

The Children's Court is continuing to streamline processes to enable the Court to operate as effectively as possible during the COVID-19 pandemic.

To that end the following instructions have been developed for parties involved in cases in the care and protection jurisdiction of the Court.

Please note that these instructions supplement the general directions provided in Public Notices no. 1 and 2.

To avoid any doubt, the conduct of care hearings are suspended until at least 1 May 2020 unless a hearing can be conducted on the papers or a part-heard case can be concluded in circumstances where appropriate arrangements can be put in place to ensure the safety of all participants. Urgent care applications where a child has been removed or assumed into care will continue to be heard at Parramatta Children's Court until further notice. Directions lists will continue.

#### **Pre-court communications**

1. At least 2 days before the list day, the lawyer for the applicant is to contact all other parties, propose directions or orders to be made and attempt by further communication to arrive at a consent position. In most but not all cases, this will be the responsibility of the lawyer for the Department of Communities and Justice (the Department). The lawyer for the applicant is to email the relevant Children's Court, by 2pm on the day before the date of court, advising the following:
  - Name of matter
  - Names of legal representatives for all parties
  - Has communication occurred with all parties? If not, why not?
  - What directions or orders are sought?
  - Is there a consent position? If so a proposed Minute of order should be included in the email.
  - If there is not a consent position of all parties, which parties do not consent?
  - Phone number for any party who wishes to be heard on the disputed directions or orders.

Emails should not deal with multiple cases. Emails will be placed on the court file and will form part of the court record for a particular case. The above information should be included in one email per case.

In providing the summary information to the Court, the chain of email correspondence between the parties should not be attached.

2. Where any party is unrepresented, the Department should make every attempt to include the party in the communications with a view to obtaining a consent position.
3. If a party disputes the directions or orders proposed by the applicant, it may do so either in writing (by email) or orally on the date of court. If the dispute is in writing, the Court will determine the dispute on all written submissions, provided all parties have had the opportunity to make submissions. If the dispute is to be argued orally, this should be done by video conference where ever this is available.

### **Conduct of Directions lists**

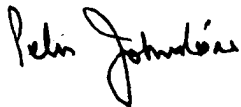
4. The Court will commence an electronic directions list at 9:30am unless otherwise advised by the relevant Children's Court. The proceedings will be recorded. At most Children's Courts parties will be advised of a marking prior to the date of court indicating the approximate earliest time the case will be dealt on a particular day (for example, not before 12 noon).
5. Where a consent position has been reached all parties are excused from appearing on the date of court, whether in person or by video conference.
6. In relation to all matters where there is a consent position, the Court will make consent directions or orders as sought, **provided that the Court agrees the proposed consent directions or orders are in the best interests of the child or young person.**
7. If the Court declines to make the consent directions or orders, the Court will direct the Registrar to notify the parties of the directions made by the Court. It should otherwise be presumed that the Court has made the directions or orders as sought.
8. Copies of orders will be prepared by the court registry in due course.
9. Where a consent position in relation to further directions has not been reached prior to the date of court the lawyers for the parties should appear by video conference at the time nominated by the Court. The Court will dial any unrepresented party into the Court by phone, or video conference if this is available.
10. Where time permits the Court will hear oral arguments on the date of court. However, where the Court assesses that the arguments may be extensive it will allocate a further date to hear submissions. In most cases the Court will make directions for written submissions to be filed.

### **Filing of affidavits and other documents**

11. Subject to any amendment that may be made to the *Oaths Act 1900* by way of regulation in response to the COVID-19 pandemic the Children's Court will accept unsworn affidavits for filing.
12. The Court will also accept an unsigned document for filing if it is not possible to obtain an electronic signature.
13. Notwithstanding this, parties should be aware that if the party subsequently seeks to rely on the document as evidence at a late time the relevant document will need to be signed and/or attested at, or prior to the hearing.
14. Any document filed by email is to be received by the registry no later than 2pm on the day before the date of court.
15. Documents received will be placed on the court file. Notwithstanding this, annexures to affidavits will not be printed by the court registry. Voluminous documents will need to be posted to the court registry.

### **General**

16. It is expected that lawyers will start to adhere to this notice from Monday 6 April 2020.



Judge Peter Johnstone

President of the Children's Court of NSW