



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

# **Practice Note 20**

# **Bail Proceedings**

Issued 26 June 2025

Amended 29 August 2025

### **1. Commencement**

- 1.1. This Practice Note commences on 7 July 2025.
- 1.2. This Amended Practice Note commences on 1 September 2025.

### **2. Application**

- 2.1. This Practice Note applies to all bail proceedings in the Children's Court conducted by the President, a Children's Magistrate or any other Magistrate exercising the jurisdiction of the Children's Court (s13(1) *Children's Court Act 1987* (NSW)).

### **3. Purpose**

- 3.1. This Practice Note aims to establish procedures that promote:
  - a) timely decisions (ss 46 and 71 *Bail Act 2013*);
  - b) participation of child defendants;
  - c) consistency in decision-making;
  - d) access to judicial officers with knowledge, qualifications, skills and experience in dealing with young people in Children's Court proceedings;
  - e) access to prosecutors and legal practitioners with knowledge, skills and experience in Children's Court proceedings;
  - f) access to support services, such as Youth Justice, Justice Health and Child Protection, that can provide information relevant to the circumstances of the young person to assist the Court's determination on bail.

## 4. Definitions

### 4.1. In this Practice Note:

**AVL** means audio visual link

**Bail plan** means an oral or written report prepared by Youth Justice to enable the Court to assess whether appropriate bail conditions can be imposed that will address the bail concerns identified by the Court.

**First appearance bail proceeding** means a bail proceeding on the first court appearance of a young person who is in custody following a decision by police to refuse bail or where the young person has not met a bail condition imposed by police.

**Breach of bail proceeding** means a bail proceeding following a police officer's decision to arrest the person, without warrant under s77(1)(e) or following the execution of a warrant issued under s77(4) of the *Bail Act 2013*.

**In person** means where the young person, or other court participant, is physically present in the courtroom.

**Standard sitting days** means the Children's Court sitting arrangements on a weekday that is not a weekend, public holiday, during the Annual Magistrates' conference, the mid-year Magistrates' recess, the fixed court vacation period or another Magistrates' conference period.

**Non-standard sitting days** means the Children's Court sitting arrangements on weekends, public holidays, during the Annual Magistrates' conference, the mid-year Magistrates' recess, the fixed court vacation period or s16 conference of Children's Magistrates.

## 5. Listing arrangements for first appearance bail proceedings and breach of bail proceedings

### 5.1. First appearance bail proceedings and breach of bail proceedings are to be listed in accordance with Table 1:

**Table 1**

<b>Standard sitting days</b>	
<a href="#">Court catchment areas</a> for <ul style="list-style-type: none"> <li>• Parramatta Children's Court</li> <li>• Surry Hills/Sutherland Children's Court</li> <li>• Campbelltown Children's Court</li> <li>• Broadmeadow/Raymond Terrace Children's Courts</li> <li>• Woy Woy/Wyong Children's Courts</li> </ul>	<p>First appearance bail proceedings are to be listed at the relevant Children's Court. The young person is to appear in person unless the Court directs otherwise.</p> <p>If Sutherland Children's Court is not sitting cases are to be listed at Surry Hills.</p>
Catchment areas for Coffs/Clarence, Richmond and Tweed/Byron Police Districts	<p>First appearance bail proceedings are to be listed at the relevant sitting court on the Northern Rivers Children's Court circuit.</p> <p>The young person is to appear by AVL unless the Court directs otherwise.</p>
Catchment areas for the Wollongong, Lake Illawarra and South Coast Police Districts and Goulburn and the Southern Highlands police stations	<p>First appearance bail proceedings to be listed at the relevant sitting court on the Illawarra Children's Court circuit. The young person is to appear by AVL unless the Court directs otherwise.</p>
All other Children's Courts	<p>All first appearance bail proceedings are to be listed at Parramatta Children's Court.</p> <p>The young person is to appear by AVL.</p>
<b>Weekends, public holidays, the Annual Magistrates' conference, mid-year Magistrates' recess, s16 conference of Children's Magistrates and the fixed court vacation period (non-standard sitting days)</b>	
All first appearance bail proceedings are to be listed at Parramatta Children's Court. The young person is to appear by AVL.	
<b>Northern Region Conference periods</b>	
<p>Northern Rivers Children's Court circuit</p> <p>Broadmeadow/Raymond Terrace Children's Courts</p>	<p>All first appearance bail proceedings are to be listed at Parramatta Children's Court.</p> <p>The young person is to appear by AVL.</p>
<b>Southern Region Conference periods</b>	
Illawarra Children's Court circuit	<p>All first appearance bail proceedings are to be listed at Parramatta Children's Court.</p> <p>The young person is to appear by AVL.</p>

**6. Mode of appearance of young person for first appearance bail proceedings and breach of bail proceedings**

- 6.1. A young person will appear in person or by AVL in accordance with the arrangements set out in **Table 1**, however if a child or young person has a first appearance or breach of bail proceeding on the date of an existing court case their first appearance or breach of bail proceeding will be listed before the court that is hearing the existing case. If practicable, the young person is to be transported to the court which is determining the existing case.
- 6.2. These arrangements may be varied by the Court in a particular case where it is in the interests of the young person or as required in the interests of the administration of justice.
- 6.3. In determining the interests of the young person, the Court will have regard to the factors listed in Rule 32A(1) *Children's Court Rule 2000* and any other factors that are relevant to the case.

**7. Mode of appearance of prosecutors and legal practitioners for first appearance bail proceedings and breach of bail proceedings**

- 7.1. Prosecutors and legal practitioners will appear in person unless the Court grants leave to appear by AVL in a particular case.
- 7.2. Where a legal practitioner needs to physically attend a police station to have a private communication with the young person, leave will ordinarily be granted for the legal practitioner to appear before the Court by AVL, unless the police station is near the Court.

**8. Attendance of other participants for first appearance bail proceedings and breach of bail proceedings (s10, s12A *Children's (Criminal Proceedings) Act 1987*)**

- 8.1. The young person's parent, guardian, or caseworker may attend unless the Court directs otherwise. The registrar of the Court will assist a parent or guardian to attend by AVL or audio link on request.

8.2. Youth Justice intake staff or other service support staff may attend unless the Court directs otherwise. Where a young person is appearing by AVL from a regional location, Youth Justice intake staff or other service support staff may appear by AVL or audio link.

8.3. Where a young person is appearing by AVL from a regional location, a person from a regional public news service may attend by AVL unless the Court directs otherwise.

## **9. Prioritisation of first appearance bail proceedings and breach of bail proceedings**

9.1 The Court is to receive notification of any young person who is to be listed before court on that day. The notification is to be made by a custody manager at a regional police station, or a Youth Justice Officer in accordance with the interagency Standard Operating Procedures.

9.2 Legal practitioners should prioritise obtaining instructions from young people detained in regional police stations.

9.3. Magistrates will ordinarily be available to sit until 4pm to deal with first appearance bail proceedings.

9.4. If Police expect to arrive at the Youth Justice Detention Centre after 12 noon or they expect that a young person at a regional police station will not be ready for court until after 12 noon the police are to submit a **Late Notification Form**.

9.5. The Court may decline to list a Late Notification case if the case is unlikely to be ready by 4pm or if the court does not have capacity to hear the case by 4pm.

9.6. The Court, prosecutors, legal practitioners, and support services will make every effort to ensure first appearance and breach of bail proceedings are determined on the same day.

## **10. Listing arrangements for bail variation applications (s51 *Bail Act 2013*)**

10.1. An **application for review of bail conditions** must be served on the other party. The application should outline existing bail conditions and the proposed conditions. If

the other party does not object to the application, the application may be determined in chambers. Applications to vary bail for serious offences should attach the facts and police bail report. A Magistrate may instead decide to list the application in Court to determine the application or hear submissions.

- 10.2. Applications for variation of bail are to be determined by the Court, or on the regional circuit, where the substantive charges are listed, except if paragraph 10.4 applies.
- 10.3. Applications for variation of bail are not to be listed on weekends and public holidays.
- 10.4. Applications for variation of bail are to be listed at Parramatta Children's Court during
  - a) The Annual Magistrates' conference;
  - b) The mid-year Magistrates' recess;
  - c) The fixed vacation period;
  - d) S16 conference of Children's Magistrates;
  - e) Any other Magistrates' conference period; or
  - f) Where a magistrate is not available at the relevant Children's Court or relevant circuit where the substantive charges are listed, and the application is urgent.
- 10.5. Nothing in this paragraph affects the variation of bail under s53 or s78 of the *Bail Act 2013*.

## **11. Bail plans**

- 11.1. The Court may request Youth Justice to prepare a bail plan.
- 11.2. Youth Justice may provide an oral bail plan or a written bail plan. The Court will only request a written bail plan where additional information may address bail concerns.
- 11.3. Where the Court refuses bail and requests Youth Justice to prepare a written bail plan, the proceedings will ordinarily be adjourned for 7 days to the Children's Court or the circuit court where the substantive proceedings are to be listed. Despite this, if a regional court is not sitting within the next 7 days, the case may be adjourned to the bail court list at Parramatta Children's Court on a weekday.

## **12. Bail proceedings where an accommodation requirement has been imposed (s28 *Bail Act 2013*)**

- 12.1. Where an accommodation requirement has been imposed the substantive proceedings are to be adjourned to the relevant Children's Court where the charging police would ordinarily have listed the case. The case is to be adjourned to a criminal list day.
- 12.2. The bail proceedings may be re-listed in accordance with s28(4) *Bail Act 2013* at the Children's Court that made the s28 order every 2 days until the accommodation requirement is complied with, or until the bail proceedings can be joined with the substantive proceedings.
- 12.3. The bail proceedings should not be re-listed for further hearing in accordance with s28(4) *Bail Act 2013* on a weekend or public holiday (s36(2) *Interpretation Act 1987*).
13. **Orders made under s19(b) of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* (MHCIP Act)**
  - 13.1 Where the Court makes an order for a young person to be assessed under s19(b) of the MHCIP Act and the young person is found on assessment at the mental health facility not to be a mentally ill or mentally disordered person, the substantive proceedings are to be re-listed.
  - 13.2 Where bail is not granted by police, the proceedings are to be re-listed in accordance with Table 1.
  - 13.3 Where bail is granted by police, the substantive proceedings are to be re-listed at the Children's Court where the proceedings would ordinarily be heard. The registry of the Children's Court that made the s19(b) order (or Parramatta Children's Court if the decision to grant bail is made on a non-sitting day) will assist the Police with information about the appropriate date and location for re-listing the substantive proceedings.

Judge Ellen Skinner

**President of the Children's Court of NSW**