



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

### **PUBLIC NOTICE OF RESPONSE TO COVID-19 PANDEMIC No. 12**

**Date issued: 30 November 2021**

**Commencement: 6 December 2021**

The Children's Court has reviewed operations in light of the current health advice.

The Children's Court will adopt a staged return to normal operations as set out in this Notice having regard to the health and well-being of all court users and the need to ensure timely access to justice for children and their families.

This Notice supersedes other Public Notices unless otherwise stated.

#### **Part 1 – General listing arrangements applicable to all Children's Court proceedings**

1. All crime, parole, care and protection, education and AVO lists will continue to operate.
2. Wherever practicable staggered listing arrangements should be adopted to reduce the time that court participants are required to wait in court foyers.
3. All first appearance bail matters are to be conducted by AVL unless the Court otherwise directs.
4. Except as otherwise specified in this Notice parties and legal practitioners may appear by AVL. Telephone attendance will only be approved by the Court where AVL is not available or where a court participant does not have access to AVL technology.
5. Legal practitioners appearing for defendants in criminal cases are to appear in person from 6 December 2021 unless leave has been granted to appear by AVL.
6. Legal practitioners in care and protection, AVO or education lists are to appear in person from 31 January 2022 unless agreement as to consent orders has been reached in accordance with [COVID-19 Public Notice no. 3](#) or leave has been granted to appear by AVL.

7. Legal practitioners seeking leave to appear by AVL should email the registry by 12 midday on the day before the listing.
8. Legal practitioners should not appear by AVL where their client is appearing in person.
9. Unless otherwise directed by a judicial officer, parties in the following circumstances are to appear in person:
  - Hearings
  - Sentences
  - Replies to brief where a plea of guilty is to be entered and proceedings are to be finalised
  - Applications for an order under the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*.
10. In other circumstances, parties are excused from appearing if legally represented unless otherwise directed by a judicial officer.
11. In care and protection proceedings legal practitioners should endeavour to reach a consent position in accordance with [COVID-19 Public Notice No. 3](#). Filing directions should be adjusted to allow sufficient time for consultation between parties prior to the next listing.
12. Where the Court has directed a young person in custody to appear in person, Youth Justice is to advise the Court as soon as possible if there is any impediment to bringing the young person to court.

## **Part 2 – Arrangements for the conduct of hearings**

13. All cases listed for hearing in the criminal, AVO and care and protection jurisdictions will be listed for Readiness Hearing approximately one month prior to the hearing date. Any case that is listed for hearing and does not have a Readiness Hearing date will be relisted for Readiness Hearing.
14. Parties are required to file a joint [Readiness Hearing checklist](#) by 12 noon the day before the Readiness Hearing.
15. Hearings that do not require witnesses, or that can be conducted by AVL, will proceed if a court is available, subject to judicial officer and staffing capacity at the relevant location.

16. Hearings that require the personal attendance of a party or a witness may proceed if the hearing can be conducted safely after consideration of the following factors:

- The government restrictions in place at the relevant location.
- The health risk to any participant involved in the hearing including consideration of any particular medical vulnerabilities.
- 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 for one or more parties to appear in the hearing by AVL.
- 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.
- Whether interpreters are required and whether suitable arrangements can be made to enable an interpreter to properly assist the conduct of the hearing.
- Whether a decision about the admissibility of any evidence 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.
- Whether the defendant in a criminal hearing is in custody and whether suitable arrangements can be made for the defendant to attend in person or by AVL with facilities that allow the defendant to instruct their lawyer.
- The size and configuration of the court room and logistics of implementing physical distancing measures during the hearing.
- The availability and suitability of using video conference technology from another room within the court building.
- The availability of registry staff to support the arrangements.

- Whether any party is likely to be prejudiced by conducting the hearing in the manner proposed.

17. 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.

### **Part 3 – Youth Koori Court**

18. Young people are to appear in person unless alternative arrangements are approved by the Court.

19. Community Panel Members will appear in person unless alternative arrangements are made by the Court.

20. Support agencies may be asked to appear by AVL to reduce the number of participants in the courtroom at any given time.

### **Part 4 – Special Fixture Hearings**

21. Special fixture hearings will be considered on a case-by-case basis and may be relisted for a further Readiness Hearing to ascertain whether the matter is able to proceed.

22. Parties involved in special fixtures during the operation of these arrangements will be notified when a matter is relisted.

23. Parties are required to file a joint [Readiness Hearing checklist](#) by 12 noon the day before any Readiness Hearing.

### **Part 5 – Dispute Resolution Conferences**

24. Dispute Resolution Conferences (DRCs) will be conducted by AVL across NSW unless otherwise determined by the Children's Registrar conducting the DRC.

25. From 31 January 2021 personal attendance at DRCs will be required unless otherwise determined by the Children's Registrar conducting the DRC.

## **Part 6 – Compulsory Schooling Order Conferences**

26. Requests for a Children’s Registrar to conduct a Compulsory Schooling Order Conference will be considered on a case-by-case basis by the Senior Children’s Registrar.

## **Part 7 – Youth Justice Background Reports**

27. Where a young person is in custody the court will adjourn for two weeks for the provision of a Youth Justice background report.
28. Where a young person is in the community the court will adjourn for six weeks for the provision of a Youth Justice background report.

## **Part 8 – General**

29. Persons attending court premises will be required to wear a face covering where mandated by a Public Health Order.
30. In other circumstances, persons attending a Children’s Court are encouraged to wear a face covering.
31. Please note that arrangements are subject to change at short notice.



Judge Ellen Skinner

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