



NEW SOUTH WALES

CHIEF MAGISTRATE'S MEMORANDUM

16 March 2020

ARRANGEMENTS BY THE LOCAL COURT OF NEW SOUTH WALES REGARDING COURT PROCEEDINGS DURING THE PANDEMIC DECLARATION PERIOD

The Local Court of New South Wales is the largest summary trial jurisdiction in Australia. Last year over 330,000 cases in its criminal jurisdiction were dealt with by magistrates across the state presiding at over 140 locations. The sheer volume of people who ordinarily attend the Local Court, often on a number of occasions on the one matter approaches or exceeds 1 million on an annual basis.

Against that background the challenges facing the court during the current pandemic are many and varied. Arrangements made by the Court cannot eliminate all risk to those who attend. The following however represent the initial steps that are to be implemented by the Court to assist in mitigating the potential exposure to the virus of people with business before the Local Court. Nothing in the following prevents a personal appearance before the Court.

These arrangements will be subject to amendment depending on government pronouncements or a change in environmental factors.

1. Wherever possible all appearances by persons in custody, whether from a Correctional centre or a police station are to be by AVL. Magistrates will not issue Orders requiring the physical presence of a person in custody before the Court.
2. List matters that are currently pending before the Court but which are not listed for hearing or sentence can be dealt with electronically. Where a person is legally represented an appearance will be deemed to be a physical appearance where the legal representative communicates the fact of their representation and the nature of their request to the court.
3. The first return date in matters where the defendant is not legally represented may also be dealt with by email containing any request for adjournment and the reason for the request. The email address of the court before which the proceedings are pending is available on the following link under the court locations section at www.localcourt.justice.nsw.gov.au.

4. Defendants who are unrepresented and wish to enter a plea of guilty can notify the court of that fact by email or by written plea. They will not be required to attend for sentence unless the presiding magistrate considers that the offence is so serious that their attendance is absolutely necessary. Should that be the position the court will adjourn the matter and advise the defendant in writing. Wherever possible defendants should provide an email address, residential address or mobile telephone number for communication of a response by electronic or written means including by SMS.
5. A legal representative or unrepresented defendant may advise the court by email or in writing of a plea of not guilty. The court will make orders for service of the brief of evidence if required and advise the legal representative or defendant by electronic means.
6. At the return date of the brief of evidence the legal representative or the defendant may advise the court by electronic means as to whether the plea of not guilty is maintained and in so doing, the range of dates upon which they will be available for the matter to be heard. The court will deal with this information in the absence of the legal representative/defendant and inform them of the date fixed for the hearing. The usual arrangements under the Court's Practice Direction for applications to vacate a hearing date will continue to operate. These do not require the attendance of a party unless the court directs an appearance.
7. The court will be cautious in dealing with matters in the absence of a defendant. If there is no appearance by a defendant and no communication as to the approach to be taken in relation to the matter before the court the Court will adjourn the proceedings until a date in June 2020 and advise the defendant.

Domestic Violence Proceedings

8. The Court will **NOT REQUIRE** the attendance of the person in need of protection in respect of any application brought by police for a Domestic Violence Order unless the proceedings are fixed for hearing.

Proceedings currently listed for hearing

9. The legal representative of a defendant who has a matter listed for a defended hearing is to consult with their client and seek instructions regarding their intention. Where there is a change of plea the Court is to be notified by either electronic or written means of any change of plea. This is to obviate the need for witnesses to attend. Similarly where the prosecution intend to withdraw proceedings the court is to be notified 7 days prior to the listing date. This is to obviate the need for the attendance of the defendant. In the case of an application for costs the court is to be notified of this intention and will allocate a date for argument. Notification can be made in writing or by electronic means. Return advice regarding the date for argument will be in writing or email.

Civil Proceedings

Notices of Motion and the review list will be conducted by teleconference without the need for the legal practitioner to appear. Any argument by a party is to be limited to no more than 15 minutes.

Coronial Jurisdiction

The office of the State Coroner will contact families in relation to arrangements that may need to be made in relation to pending inquests.

Future arrangements

The listing and logistical difficulties caused by the foregoing arrangements are of ongoing concern to the Local Court. At present the Court has set aside the month of October 2020 to endeavour to catch up on backlogs. It is the present intention not to list any defended hearings during this month.

In addition the State Debt Recovery Office has agreed not to list any traffic matters in the Local Court during the period 1 July 2020-1 October 2020.

Small Claims

The hearing of matters before an Assessor in the Small Claims division of the Local Court will take place by teleconference. The physical appearance of a party will not be required.

The foregoing will be reviewed appropriately depending on any change in circumstances.


Judge Graeme Henson AM
Chief Magistrate

