



NEW SOUTH WALES
BAR ASSOCIATION

**COVID-19: INFORMATION
FOR ATTENDING COURT**

Latest news as at Mon 23 March PM

ATTENDING COURT

Courts and Tribunals are continuing to operate to the extent possible at this difficult time. Adjustments have been and continue to be made to respond to the developing COVID-19 pandemic. The Association is in constant contact with the Courts and Tribunals. Click on the links below to jump to the latest information received about attending:

- [The Supreme Court of New South Wales](#)
- [The Land and Environment Court of New South Wales](#)
- [The District Court of New South Wales](#)
- [The Local Court of New South Wales](#)
- [The Children's Court of NSW](#)
- [NCAT](#)
- [NSW Industrial Relations Commission](#)
- [Workers Compensation Commission](#)
- [High Court of Australia](#)
- [Federal Court of Australia](#)
- [Family Court of Australia & Federal Circuit Court of Australia](#)
- [Administrative Appeals Tribunal](#)
- [Fair Work Commission](#)
- [Copyright Tribunal of Australia](#)

In accordance with NSW Health advice, **DO NOT ATTEND A COURT OR TRIBUNAL** unless you:

- are a party to a court or tribunal matter;
- require face to face services of the registry; or
- are a bona fide representative of an established news-media organisation.

Despite the above, **DO NOT ATTEND A COURT/TRIBUNAL** if:

- you have had close contact with someone diagnosed with or suspected or confirmed as having coronavirus (COVID-19) in the last 14 days;
- you are feeling unwell and experiencing any of the following symptoms - fever, cough, sore throat or shortness of breath; or
- you have travelled and returned from overseas in the past 14 days.

Registrars or Sheriff's officers may deny entry or request any person to leave a building.

SUPPORTING MEMBERS & CLIENTS

The Bar Association continues to actively monitor COVID-19 developments and impacts on the Courts. Protecting the health, safety and interests of members, while continuing to promote the administration of justice and serve the public good, is our priority at this difficult time.

We are consistently updating our website and this point-in-time resource as information comes to hand. **However, please always double-check the latest Court resources directly as developments are changing quickly at this time and do not make any assumptions regarding your case without first doing so.**

Key contacts

For the latest health information, please visit:

- Australian Government, Department of Health – COVID-19 Resources:
<https://www.health.gov.au/resources/collections/novel-coronavirus-2019-ncov-resources>
- NSW Department of Health:
<https://www.health.nsw.gov.au/Pages/default.aspx>

Wellbeing

Be mindful of your resilience and wellbeing during this challenging time. If you're concerned about yourself or a colleague, visit barcare.org

SUPREME COURT OF NEW SOUTH WALES

For further info & practitioners guidelines, visit http://www.supremecourt.justice.nsw.gov.au/Pages/coronavirus_covid19_announcement.aspx

The Supreme Court released [the following update on 22 March 2020](#):

COVID-19 – Changes to Court Operations

It is essential for the wellbeing of the community and the maintenance of the rule of law that the Court continues to operate to the extent possible in the current challenging environment.

The Court is responding to the developing COVID-19 pandemic by reviewing all operations to ensure all essential services are maintained and non-essential services continue for as long as practicable, consistent with health advice.

The Court is equipped to utilise online court, audio visual equipment and digital technology to allow matters to continue remotely.

The Court's paramount consideration remains the wellbeing of all court users. Everyone must adhere to health advice in relation to social distancing, self-isolation, hygiene and the management of symptoms.

No personal appearances

In line with the current health advice, on and from Tuesday, 24 March 2020 there shall be no personal appearances in any matters save in exceptional circumstances with the leave of the Chief Justice or head of jurisdiction. This also applies to unrepresented litigants.

The Court will contact parties in relation to future listings to advise of the video and teleconference facilities available for their specific matter. Listings may alter at short notice and practitioners should refer to the Court's website for updates and review the daily listing notices.

Electronic delivery of documents

The Court will require all Court documents to be provided by electronic means through

- Online Court;
- E-subpoena;
- Online registry

Only where facilities do not presently exist for documentation to be provided electronically will those documents will be received by email. Details regarding email contacts for documentation will be provided shortly via the Court's website.

Public Registry and Duty Registrar

The public registry will remain open on Monday, 23 March 2020 until 4:00pm. The public registry will be closed on and from Tuesday, 24 March 2020. Contact details for the Court Registry are on the Court's website.

Face-to-face duty registrar services will also be suspended. Telephone appointments will continue.

Current jury trials

Current jury trials will continue. Current trials already adhere to health advice in relation to social distancing. New jury trials are temporarily suspended.

Court annexed mediation

Face-to-face Court annexed mediations will be temporarily suspended from [Monday, 23 March 2020]. Further information relating to Court annexed mediations will follow shortly. Mediations can proceed by way of teleconference.

Open justice

The Court will be reviewing all operations with a view to maintaining open justice, consistent with the current constraints and health advice.

Health Advice

Further information can be found at: NSW Health, www.health.nsw.gov.au Health Direct, telephone 1800 022 222

The Court has previously issued the following advice:

Changes to trials now in force

- Jury trials commencing across NSW from Monday, 16 March 2020, are temporarily suspended.
- Current trials, where a jury has already been selected and empanelled, will continue.
- Judge alone trials, bail applications and civil trials are not affected.

Changes to arrangements for Registrar Lists

- **Registrars' Lists will be conducted as much as possible either by the online court, where available, or by telephone link and, in the case of contentious matters, by videolink.**
- **The parties ARE NOT required to inform the court in advance whether they will be using video or teleconference facilities. All parties with an email address in JusticeLink will be contacted by email with information regarding connecting to the specific court for their listing via video and teleconference.** General information regarding the conduct of video and teleconference lists is available [here](#).
- **All parties are strongly encouraged to use the Online Court, where available, telephone or video conference facilities for Registrars' lists and to not attend in person.**

Guidelines and Fact Sheet for participants in Supreme Court Lists:

The Court has published the following Guidelines to assist participants in the following Court Lists:

1. [The Expedition, Adoption and Defamation Lists](#)
2. [The Real Property List \[REVISED on 23 March 2020\]](#): view the updated Guideline at http://www.supremecourt.justice.nsw.gov.au/Pages/coronavirus_covid19_announcement.aspx
3. [The Family Provision List](#)
4. The Corporations List: **REVISED on 23 March 2020**: [view the updated Guideline at http://www.supremecourt.justice.nsw.gov.au/Pages/coronavirus_covid19_announcement.aspx](http://www.supremecourt.justice.nsw.gov.au/Pages/coronavirus_covid19_announcement.aspx)

In addition, the Court has published [a Fact Sheet to assist participants in the Virtual Courtroom environment](#).

There will be no changes to the way the Criminal Lists, such as Bails and Arraignments, and current Supreme Court Jury trials are currently being heard.

NSW LAND AND ENVIRONMENT COURT

For further information, visit <http://www.lec.justice.nsw.gov.au/>

THE ACTING CHIEF JUDGE RELEASED THE FOLLOWING UPDATE ON 22 MARCH 2020:

COVID-19 Further Restrictions

In the COVID-19 Pandemic Arrangements Policy issued on 23 March 2020 the Court reviewed the then current health advice regarding social distancing with the aim of minimising personal attendances at Court listings (including hearings, conciliations, mediations and onsite views). The situation is changing rapidly. **In the light of current health advice the Court now directs that all listings proceed by telephone or AV.**

The Court is equipped to utilise Online Court, Online Registry and telephone conferencing.

The unique circumstances of the Court's jurisdiction require a specific approach on a case by case basis to determine if it is feasible to deal with the matter via telephone or AV. If not, it is likely to be postponed.

The Court will implement a review of all matters listed from 30 March 2020 to 30 June 2020. Each matter will be listed for a telephone directions hearing to consider whether the listing can be conducted via telephone or other suitable arrangements are able to be made.

If it is determined that the matter cannot proceed, the listing date will be vacated and the matter will be listed for further directions.

In relation to the matters listed from Tuesday 24 March 2020 to 27 March 2020 the parties will be contacted by the Court on Monday 23 March 2020 to discuss the management of the particular listing.

The COVID-19 Pandemic Arrangements Policy will be amended in the near future to reflect the need to consider whether matters can proceed by telephone or AV.

NEW COVID-19 PANDEMIC ARRANGEMENT POLICY IN FORCE FROM 23 MARCH 2020

The Acting Chief Judge published **a COVID-19 Pandemic Arrangements Policy** on 20 March 2020. The policy is extracted below and available here: <http://www.lec.justice.nsw.gov.au/Documents/Policies/COVID-19%20Pandemic%20Arrangements%20Policy%20March%202020.pdf>

COVID-19 PANDEMIC ARRANGEMENTS POLICY

Commencement

1. This Policy commences on 23 March 2020.

Purpose

2. The purpose of this Policy is to guide the conduct of hearings, conciliation conferences, and mediations in all classes of the Court's jurisdiction in response to the COVID-19 pandemic.

Application

3. The Policy applies to:
 - Court hearings, including:
 - On-site hearings under s 34B of the *Land and Environment Court Act 1979* (the Court Act);
 - Court hearings under s 34D of the Court Act;
 - Hearings of notices of motion and other interlocutory applications;
 - Conciliation conferences (including on-site inspections and any subsequent hearings) under s 34 of the Court Act;
 - Conciliation conferences (including on-site inspections and any subsequent hearings) for small-scale residential developments dealt with under s 34AA of the Court Act;
 - Hearings of matters under the *Trees (Disputes Between Neighbours) Act 2006* (tree disputes);
 - Mediations under s 26 of the *Civil Procedure Act 2005*; and
 - Delivery of judgments.

Filing documents and applications to the Court

4. The parties and their representatives are to comply with the following procedures for filing documents:
 - Parties in matters in Class 1, 2 (excluding tree dispute applications), 3, 4 or 8 are required to use Online Registry and Online Court where they are entitled and registered to do so.

- Both Online Court and Online Registry operate 24 hours a day so that parties can use them at any time.
- Originating process, including an application, summons or notice of appeal commencing proceedings, notices of motion, notices to produce and applications for the issue of subpoenas must be filed by Online Registry.
- Online Court is to be used to seek directions in proceedings (including listing matters for conciliation conferences, mediations and hearings) and access orders for subpoenas and notices to produce.
- Parties in Class 2 tree disputes are, whenever practicable, to file with the Court, and send a copy to the other party, or parties, their written statements of evidence, expert reports, photographs, plans, and submissions by email to the Court using the lecourt@justice.nsw.gov.au email or by post to the Court Registry, at least 14 days prior to the hearing.
- Parties in Class 2 tree disputes and Class 5, 6 and 7 criminal proceedings and appeals must seek directions and access orders for subpoenas and notices to produce by email to the Court using the lecourt@justice.nsw.gov.au email address, sending a copy of their email to the Court to the other party or parties in the proceeding at the same time. A party may likewise email the Court with their response to the applying party's application to the Court, but should do so within 24 hours of receiving the applying party's email.

Directions hearings and Lists

5. For applications not able to be determined by the Court through means of Online Court or email, the Court will continue to conduct the Registrar's list and the Friday Judge lists, but these will be conducted by telephone. Parties and practitioners are to notify the Court in advance of the name and telephone number of their representatives who will be attending. The Court will telephone the parties' representatives when the matter is called in the list or parties will be advised to use the Telstra dial-in number.
6. Parties should advise the Court, when filing and responding to notices of motion and applications, whether the parties agree that the matter can be dealt with by the Court on the written material, without the parties being further heard.

Site inspections for hearings

7. At least seven days prior to any scheduled site inspection, the parties are to advise the Court whether the site inspection is necessary or appropriate and if the location can accommodate social distancing requirements. The Court will advise the parties if it determines that a site inspection should not proceed.
8. Any site inspection will require compliance with social distancing practices, including maintaining a distance of 1.5 metres between people on site.

9. Site inspections will be limited to essential participants only, being as few representatives of the parties, their legal representatives and required expert witnesses as practicable.
10. If it is necessary to enter a building, the Judge or Commissioner will control the number of people allowed in the building at the same time and enforce the social distancing practices required.
11. The Court's *Site Inspections Policy*, stating that a maximum of six persons objecting to a development proposal should provide oral evidence on site, is temporarily suspended. Instead of giving oral evidence at the commencement of the hearing, objectors' evidence is to be reduced to writing and supplemented with any photographic evidence that would assist the Court to understand their concerns. In proceedings concerning an appeal against a Council, the Council is to provide the objectors' written material to the other party in advance of the hearing and tender it at the hearing.
12. In the event that a site inspection does not proceed, photographs and video presentations of the site, or relevant matters, that might have been seen or heard on-site may be admitted into evidence upon application to the presiding Judge or Commissioner.

Hearings in courtrooms

13. A Judge or Commissioner may direct any person in a courtroom, including parties, practitioners or witnesses in the proceedings, to practice social distancing and sit at least 1.5 metres apart. This may require that only the advocates sit at the bar table and restricting the number of people in the courtroom at any one time. Seating in the public gallery of the courtroom may be required to be left vacant, such as leaving a spare seat or seats between people.
14. The Court may exclude non-essential participants from the courtroom. Only Court staff and legal representatives essential to the hearing of the matter should attend the courtroom.
15. Witnesses may be directed to attend the Court hearing at a nominated time to limit the number of people within the courtroom at any time.
16. To minimise the need for oral evidence at the hearing, parties should ensure that lay and expert witness evidence that can be reduced to writing is reduced to writing. The Court may direct that this be done.
17. Parties should consider whether cross-examination of any witness called by the other party is necessary, or whether the object of cross-examination could be achieved by other means, such as by providing further written evidence of another witness called by the party.
18. Parties should consider whether any cross-examination that is necessary can be conducted by telephone and, if so, advise the Court in advance so that appropriate arrangements can be made.

Concurrent evidence

19. If expert evidence is to be given concurrently, the Court will direct that the witnesses practice social distancing and sit at least 1.5 metres apart. Where the space available in the witness box is insufficient, the Court may direct the witnesses to sit at the bar table for the purposes of concurrent evidence. This may require the temporary movement of advocates to other areas within the courtroom proximate to a microphone for recording purposes.
20. Witnesses may be placed on call to reduce the number of people in the courtroom at any time.
21. The number of witnesses giving concurrent evidence may be limited if social distancing cannot be achieved.

Submissions

22. Parties may be directed to provide final submissions in writing to reduce hearing time in open court.

Section 34 conciliation conferences

23. At least seven days prior to any scheduled site inspection for a conciliation conference, the parties are to advise the Court whether the site inspection is necessary or appropriate and if the location can accommodate social distancing requirements. The Court will advise the parties if it determines that the site inspection should not proceed and, in that event, the alternative venue for holding the conciliation conference, such as a courtroom.
24. Any site inspection will require compliance with social distancing practices, including maintaining a distance of 1.5 metres between all individuals present.
25. On-site inspections will be limited to essential participants only, being as few representatives of the parties, their legal representatives and required expert witnesses as practicable.
26. If it is necessary to enter a building, the Commissioner will control the number of people allowed in the building at the same time and the social distancing practices required.
27. In the event that a site inspection does not proceed, photographs and video presentations of the site or relevant matters that might have been seen or heard on site may be shown at the conciliation conference or hearing with leave of the presiding Commissioner.
28. For a conciliation conference held in a courtroom, the Commissioner will sit on the bench within the courtroom and the representatives of the parties will separate along the bar table in order to comply with social distancing requirements.

29. The Court's *Site Inspections Policy*, stating that a maximum of six persons objecting to a development proposal should provide oral evidence on site, is temporarily suspended. Instead of giving oral evidence at the commencement of the conciliation conferences, objectors' evidence is to be reduced to writing and supplemented with any photographic evidence that would assist to understand their concerns. The Council is to provide the objectors' written material to the other party and the Commissioner at the conciliation conference.

Section 34AA conciliation conferences

30. The practices outlined in this Policy in relation to conciliation conferences under s 34 of the Court Act will apply to conciliations held under s 34AA of the Court Act. The practices outlined in this Policy in relation to hearings will apply to any hearings held under s 34AA.

Tree dispute hearings

31. At least seven days prior to any scheduled site inspection for a tree dispute, the parties are to advise the Court whether the site inspection is necessary or appropriate and if the location can accommodate social distancing requirements. The Court will advise the parties if it determines that the site inspection should not proceed and, in that event, the alternative venue for holding the hearing of the tree dispute, such as a courtroom.
32. In the event that the scheduled hearing of a tree dispute cannot proceed onsite, the hearing may be conducted in a courtroom with the parties present or by telephone where appropriate.

Mediations

33. The practices outlined in this Policy in relation to conciliation conferences under s 34 of the Court Act will apply to mediations under s 26 of the *Civil Procedure Act 2005*.
34. At least seven days before the scheduled mediation, the parties are to advise the Court if they agree that the mediation can be conducted by telephone and, if so, the names and telephone numbers of the representatives of the parties who will attend the mediation by telephone.
35. If an agreement is reached between the parties at the mediation, the presiding Commissioner will refer the matter to the Registrar to be dealt with by the Duty Judge.

Regional matters

36. The Court will continue to conduct regional hearings, conciliations (including site inspections), and mediations in accordance with the procedures outlined in this Policy and, subject to the Judge or Commissioner being able to travel to the location of the hearing, conciliation or mediation.
37. If travel to the location is no longer feasible, the Court will make, in consultation with the parties, alternative arrangements for conducting the hearing, conciliation or mediation, such as by telephone, or listing the hearing, conciliation, mediation on another date.

Delivery of judgments

38. Reserved judgments will continue to be handed down in Court by the presiding Judge, Commissioner or Registrar, or the Registrar on behalf of the presiding Commissioner.
39. The Court will make arrangements to have judgments delivered in court by telephone.
40. Upon being notified that judgment will be delivered, parties and practitioners are to provide the Court with the names and telephone contact details of the relevant representatives who will receive judgment or, if they do not wish to receive the judgment via telephone, they are to so advise the Court.
41. After delivery of judgment, a written copy of the judgment will be sent to the parties in accordance with the Court's usual practice.

Self-isolation and vacation of listings

42. Any practitioner, party, expert, or person involved in court proceedings who is required to self-isolate, or who has been in contact with a person who is required to self-isolate, or who is sick, must not attend the Court premises, including the Registry, a courtroom or any other room in the Court building, or any conciliation, mediation, hearing or directions hearing in the proceedings.
43. If, by reason of the need to self-isolate or sickness, there is a need to vacate any listing, the party or practitioner should immediately apply to vacate the listing, providing reasons, and suggest alternative dates to reschedule the listing.
44. The following procedure applies for notifying the Court and vacating a listing:
 - (a) The party or practitioner is to send a request by Online Court (or email Listings if not an Online Court user) advising of the issue that has arisen and provide the telephone number and the name of the party or practitioner who should be contacted in the event of a telephone conference with the Judge or Commissioner allocated to hear the matter.
 - (b) Listings will forward the online communication to the Judge or Commissioner allocated to hear the matter.

- (c) If possible, the Judge or Commissioner will respond to the online communication and resolve the issue online.
- (d) Alternatively, the Judge or Commissioner will arrange for a telephone conference with the parties and practitioners to discuss the best way to resolve the issue (such as arranging for the person to give evidence by telephone or cancelling the on-site start and instead convening the matter in Court with social distancing measures in place).
- (e) The outcome of the telephone conference will be confirmed in an online communication by the Court through Online Court.
- (f) In the event that the issue is not resolved before close of business (4.30pm) on the day before the allocated hearing, conciliation or mediation, the listing will be vacated by the Court and the matter will be listed for an online communication for further directions, including listing the matter at another date.

The Court previously published the following updated guidance on 19 March 2020.

Application to the Court where self-isolation necessary

The Australian and NSW government require self-isolation to limit the spread of COVID-19 in various circumstances. Anyone required to self-isolate must not attend the Court building or any Court proceedings wherever conducted. **The Court will consider any application to vacate hearing or conciliation dates or other listings where a legal representative or other person involved in Court proceedings or a party is obliged to self-isolate.** Application should be made by Online Court and must include reasons and propose dates for a rescheduled listing.

Minimising the spread of coronavirus (COVID-19) update 18 March 2020

The WHO has declared the spread of COVID-19 a pandemic. The Court continues to monitor NSW Health announcements and health advice relating to (COVID-19) on a daily basis and make changes to minimise risk to the court members, staff and court users. The Court has implemented measures to reduce the need for personal attendance by parties and keep the Court operational as far as possible.

Effective immediately:

- Parties in Classes 1, 2 (excluding tree dispute applications), 3, 4 and 8 are **required** to use Online Registry and Online Court whenever available.
- Both Online Court and Online Registry will be operating 24 hours a day as normal and **parties must avail themselves of these resources.**
- Applications, appeals, notices of motion and subpoenas **must be filed by Online Registry where access is available.**
- **Online Court is to be used to seek directions** (including listing matters for conciliation conferences, mediations and hearings) and also access orders for subpoenas and notices to produce.
- Parties in Class 2 tree dispute applications and Class 5, 6 and 7 criminal proceedings and appeals must seek directions and access orders for subpoenas and notices to produce using the lecourt@justice.nsw.gov.au email address.

As the Court has telephone link services available, the Court requires listing of matters for directions or other orders by telephone whenever possible. The Court will continue to run a daily Registrar's list and the Friday Judge lists. These should be conducted remotely. Matters including procedural and contested matters must be dealt with on the papers and by telephone as far as possible.

The Court is reviewing all matters including: conciliation conferences on a case by case basis to maximise the use of telephone facilities and AVL including for regional matters.

DISTRICT COURT OF NEW SOUTH WALES

For non-attendances or enquiries, contact the Courts Service Centre on 1300 679 272 or email the court (see www.courts.justice.nsw.gov.au for email addresses).

For further information, visit <http://www.courts.justice.nsw.gov.au/Pages/coronavirus.aspx>

The Chief Judge released the following update on 23 March 2020:

Covid-19 update on the District Court's Operations

The Court is urgently reviewing its operations in response to the developing Covid-19 pandemic. In carrying out the review, the Court is working closely with the Attorney General, the Department of Communities and Justice and NSW Health.

Current jury trials and Judge alone trials are to continue. No new cases in either the Court's criminal or civil jurisdiction are to commence today, other than new sentence matters or appeal matters in which the offender/appellant is appearing by way of AVL, unless otherwise authorised by the Chief Judge in consultation with the relevant List Judge or resident Judge.

Unless otherwise authorised, all criminal trials which may proceed by way of Judge alone or in which there are pre-trial issues to be determined are to be identified and stood over until Wednesday 25 March 2020.

All other criminal trials are to be vacated and given dates after October 2020.

The Court's priority remains the health of all court users. Parties not essential to proceedings must not attend court houses and will be excluded from courtrooms. Social distancing is to be maintained at all times and all persons must comply with health advice.

The Court will utilise online court, audio visual equipment and digital technology to enable as many matters as possible to continue.

An update will be provided as soon as possible.

The Court had previously advised the following.

Changes to trials now in force

- Jury trials commencing across NSW from Monday, 16 March 2020, are temporarily suspended.
- Current trials, where a jury has already been selected and empanelled, will continue.
- Judge alone trials, bail applications and civil trials are not affected.

Procedural Changes to Criminal & Civil Lists at the Sydney District Court, [commencing on 18 March 2020](#)

Criminal Lists at the Sydney District Court

- Arraignment lists conducted in Court 3.1 on Fridays will be divided into matters for arraignment and matters for sentence. Matters for arraignment will commence at 9:30am. Matters for sentence will not commence until 11:00am. Lawyers and their clients must not enter the courtroom until their matter is called. Lawyers should check the court list to determine when their matter is to be heard.
- For the trial call-over conducted at 9:30am Mondays in Court 3.1, lawyers and their clients must remain outside the courtroom until their matter is called.
- The Readiness Hearings presently conducted in Court 21A John Maddison Tower will be re-arranged and conducted to enable lawyers to appear by AVL (where possible) or to attend the Readiness Hearing by telephone. Precise arrangements will be notified to lawyers with matters in the list in the near future.

Civil Lists at the Sydney District Court

Judge's List, Defamation List, Professional Negligence List, Care List and the Approval List

All lists and directions hearings conducted by Judges in the District Court in John Maddison Tower will be managed by interval sittings as follows:

- Parties must only attend John Maddison Tower for their listing at the allocated time;
- Parties must not enter the courtroom allocated for the listing until the matter is called;
- Parties must depart the courtroom when their matter is completed.

General List

The General List managed by the Judicial Registrar in Court 7D of John Maddison Tower will be conducted as follows:

- In the Online Court;
- Where the matter is not eligible for the Online Court, by telephone directions.

To attend a listing by telephone, dial the following number and use the following PIN at the time allocated for the listing: DIAL: 1800 062 923 PIN: 7762 8770 9768

Motions List

The Motions List managed by the Assistant Registrars in Court 4A on Fridays will be conducted as follows:

- In the Online Court;
- Where the matter is not eligible for the Online Court, by attending the listing in Court 4A at the allocated time.

Parties must not enter Court 4A for the listing until the matter is called.

Parties must conduct management of the motion in accordance with the requirements of Civil Practice Note 1B, including:

- Commencing an Online Court request by 2pm and completing it by 6pm the Wednesday before the listing;
- Requesting any case management orders for the motion;
- Indicating if the motion is ready to be heard on the Friday listing and if so, an accurate estimate of the hearing;
- If a special fixture is required, to request a hearing date to be allocated in the Online Court.

Criminal Lists in the District Court at venues other than the Sydney District Court

Lawyers will be notified of any procedural changes by the List Judge or the resident Judge.

NSW LOCAL COURT

For non-attendances or enquiries, contact the Courts Service Centre 1300 679 272 or email the court (see www.courts.justice.nsw.gov.au)

For further information, visit <http://www.localcourt.justice.nsw.gov.au/>

The Chief Magistrate released the following memorandum on 20 March 2020 by way of update.

FURTHER CLARIFICATION OF LOCAL COURT ARRANGEMENTS FOR EAGP MATTERS DURING PANDEMIC PERIOD

Following my memorandum of 16 March 2020 setting out arrangements for the Local Court proceedings during the pandemic period, the following clarification applies in relation to EAGP committal matters.

First return date/ brief service mention:

If defendant legally represented, no physical appearance is required and matter may be dealt with electronically. The legal representative should communicate the fact of their representation in writing.

If defendant unrepresented (not in custody), no physical appearance is required and defendant may email the court a request for adjournment in writing.

If defendant unrepresented (in custody), the matter will proceed via AVL.

In all scenarios above, the magistrate will make necessary orders/ adjourn matter as per timetable in Local Court Practice Note Comm 2.

Brief confirmation:

If defendant legally represented, no physical appearance is required and matter may be dealt with electronically. The legal representative should communicate the fact of their representation in writing.

If defendant unrepresented (not in custody), no physical appearance is required and defendant may email the court a request for adjournment in writing.

If defendant unrepresented (in custody), the matter will proceed via AVL.

In all scenarios above, the magistrate will make necessary orders/ adjourn matter as per timetable in Local Court Practice Note Comm 2.

Charge certification/ case conference adjournment:

If defendant legally represented, no physical appearance is required and matter may be dealt with electronically. The legal representative should communicate the fact of their representation and make any applications in writing.

The defendant is not required to be present for the purposes of providing an explanation pursuant to section 59 of the *Criminal Procedure Act* and matters should not be adjourned to facilitate this.

See below for arrangements where entering a plea of guilty.

If defendant unrepresented (not in custody), no physical appearance is required and defendant may email the court a request for adjournment in writing.

The defendant is not required to be present for the purposes of providing an explanation pursuant to section 59 of the *Criminal Procedure Act* and matters should not be adjourned to facilitate this.

If defendant unrepresented (in custody), the matter will proceed via AVL.

In all scenarios above, magistrate will make necessary orders/ adjourn matter as per timetable in Local Court Practice Note Comm 2.

NOTE: Pursuant to section 71(3) of the *Criminal Procedure Act*, I provide my **approval for case conferences to be held by telephone** where necessary and at the discretion of the parties.

Where entering pleas/ at committal

If defendant legally represented (not in custody), physical appearance of legal representative and defendant is is required when entering pleas/ at committal for all strictly indictable offences and all matters which are to be committed for sentence.

Otherwise, where no election is being made, no physical appearance is required by either legal representative or defendant. Legal representative may enter plea in writing.

If defendant legally represented (in custody), physical appearance of legal representative is required and defendant is to appear from custody via AVL when entering pleas/ at committal for all strictly indictable offences and all matters which are to be committed for sentence.

Otherwise, where no election is being made, no physical appearance is required by legal representative and defendant is not required to appear by AVL. Legal representative may enter plea in writing.

If defendant unrepresented (not in custody), physical appearance is required when entering pleas/ at committal for all strictly indictable offences and all matters which are to be committed for sentence.

Otherwise, where no election is being made, no physical appearance is required and defendant may enter plea in writing.

If defendant unrepresented (in custody), the matter will proceed via AVL.

The Chief Magistrate announced on 18 March that:

Consistent with the objective of limiting the number of people presenting at court I have taken the decision to defer the hearing of all defended hearings that do not involve a defendant in custody and are scheduled to take place between Monday 23 March 2020 and Friday 1 May 2020. Hearings involving people in custody should continue as listed however wherever practical the appearance of the defendant should be facilitated by AVL.

Magistrates on country circuits should review the pending court lists at non AVL courts. Hearings scheduled for the period 23 March 2020 to 1st May 2020 should be relisted to a Court on their circuit which has access to AVL for the purpose of allocating a fresh hearing date. Corrective Services are to be notified when and if this occurs. Best practice would be to do so by the issue of a Section 77 Order requiring appearance by AVL. In these circumstances magistrates may need to turn their mind to the position in relation to bail.

The position will be reviewed by my office in the week commencing 27 April 2020 in light of further decisions of government and the status of the pandemic. It may be necessary to extend the deferral of the listing of defended hearings again.

In light of the publication of arrangements on Tuesday of this week and perhaps in response to this memorandum, which will be brought to the attention of stakeholders, there may be some defended matters that will become pleas of guilty. If that is the position they should be finalised on the day originally allocated for the hearing or at such later date the court considers appropriate.

The Directions by the Chief Magistrate in relation to Local Court procedures:

Suspension of Hearings

Hearings (Both Criminal and Civil) – Defended Not in custody: **Any listed from 23 March 2020 to 1 May 2020 to be vacated** and listed for mention in the week of the 4 May 2020. If a change of plea is indicated, may be listed earlier to be dealt with.

Hearings – Defendant In Custody – to remain listed and to be dealt with Via AVL.

Hearings **do not include:** Section 32 Matters, Annulment Applications or Part-heard matters for submission and decision only.

Method of Appearance

In Corrective Services Custody - No prisoner will be taken to a Court (This includes First appearance, hearings, sentence matters and mentions). This is to reduce the risk of the virus being introduced to a vulnerable community within a correctional facility.

In Police Custody – Wherever possible first appearances should be dealt with via AVL from Police Stations regardless of the legislative requirements.

Matters not listed for hearing:

If **Legally represented** allow to enter appearance and request adjournment or indicate plea in writing (ie letter, email etc);

If **unrepresented** (not in Custody) on first occasion only (either when non-bail CAN or bail CAN) are allowed to email the court a request for adjournment or indicate plea via email or written notice of pleading.

If ***Plea of Guilty*** indicated will only need to attend court for sentence if magistrate believes serious enough to require attendance. **The only finalising orders in the absence of the offender are s10(1), s10A and fine.**

if plea of ***not guilty*** indicated, brief service orders to be made and adjourned and notified.

Civil Claims

Practitioners will be allowed to appear via telephone for small claims hearings, review lists, directions lists and motions list.

Domestic Violence Proceedings

Victims should only be required to attendance there is a need to have to give evidence.

THE CHILDREN'S COURT OF NSW

For further information, visit: <http://www.childrenscourt.justice.nsw.gov.au/>

The President of the Children's Court has introduced a number of changes to practices in the Children's Court to reduce risks to all persons involved in Children's Court proceedings. A notice of the changes is extracted below and has been published here: <http://www.childrenscourt.justice.nsw.gov.au/Documents/Coronavirus%20Public%20Notice.pdf>

PUBLIC NOTICE OF RESPONSE TO COVID-19 PANDEMIC 19 March 2020

Like all court jurisdictions across Australia the Children's Court of New South Wales is facing unprecedented challenges in the face of the COVID-19 pandemic. Notwithstanding this, the justice system is critical to maintaining social cohesion in times of crisis and the Court will continue to operate to the extent that it is feasible to do so, including the conduct of hearings.

However, the safety and wellbeing of everyone involved in court proceedings is of the utmost importance and for this reason the Court is adjusting its processes.

Court participants should continue to monitor the website for the [Department of Communities and Justice](#) for updated information and instructions on what to do if you are required to attend the Children's Court. The advice on that website overrides the advice in this document.

General information relevant to all cases in the Children's Court

- If you are represented by a lawyer you do not need to attend court unless your lawyer tells you that you need to.
- If you want to attend court regardless, you may, but you should also talk to your lawyer about whether they can make arrangements to allow you to listen to the court proceeding by phone when your case is dealt with.
- If you are required to come to court you should only bring a maximum of 2 support persons with you. If you are a child or young person, your parents or carers should come to court.

Children's Court criminal jurisdiction

1. To ease current pressure on the court system police are directed to **list non-custodial matters approximately 6 weeks in advance** in lieu of the usual 3 weeks with the exception of domestic violence related offences and provisional orders.
2. Domestic violence related offences and provisional orders are to be **listed within 14 days** where the Children's Court sits daily and **not more than 28 days** in other instances to ensure that the terms of a provisional order remain appropriate in the current circumstances.
3. However, parties can ask to re-list matters before the first court date. Contact the local registry where your case is listed or contact the Court Services Centre by phone on **1300 679 272** to ask how to do this.
4. All defendants should contact either Legal Aid or the Aboriginal Legal Service as soon as you have been issued a court attendance notice by police to get legal advice.

Legal Aid youth hotline - 1800 10 18 10

Aboriginal Legal Service - 1800 765 767

5. If you are the family member of a young person in custody you should contact **Youth Justice on 1300 135 330**.
6. Young people in custody will mostly appear before Court by Audio Visual Link (AVL) from a detention centre including the first court date and, if and when the Court sentences the young person.
7. Judicial Officers will be looking at bail conditions on the first date of court. Make sure you talk to your lawyer about whether these conditions are workable.
8. Some cases may be delayed.
9. Where a Youth Justice Conference is ordered by the Court the case should be adjourned for 3 months instead of 2 months.
10. Parties will be required to contact the Court in writing 7 days prior to the date of the hearing to advise if the hearing can still go ahead.

Children’s Court care and protection jurisdiction

1. Directions lists and hearings will continue.
2. Parties are excused from attendance at directions lists if represented by a lawyer and lawyer has received the parties’ instructions.
3. Parties should be available to speak to their lawyer by phone on the day of court.
4. Where all the parties are in agreement in relation to what directions or interim orders might be appropriate for the Court to consider only one legal representative needs to attend court.
5. Parties will be required to contact the Court in writing 7 days prior to the date of hearing to advise if the hearing can still go ahead.
6. Dispute Resolution Conferences will continue to be conducted but will be adjusted as determined by the relevant Children’s Registrar having regard to available facilities. The use of shuttle conferences, AVL and telephone will be considered.

Children’s Court education jurisdiction

1. Applications for compulsory schooling orders currently listed before the Children’s Court will continue to be dealt with.
2. No further applications will be filed by the Department of Education until June 2020.
3. Education conferences conducted by Children’s Registrars that are currently listed will be conducted, subject to the discretion of the Children’s Registrar.
4. No further education conferences are to be referred to Children’s Registrars.

The Court will continue to work with stakeholders to refine these arrangements, including developing arrangements for legal practitioners to attend court by alternative means.

Please note that arrangements are subject to change at short notice.

NCAT

For further information, visit <https://www.ncat.nsw.gov.au/Pages/coronavirus-information-for-people-attending-ncat.aspx>

The President of NCAT issued the following update on 18 March 2020:

In an endeavour to contain its effects and keep the Tribunal operational as much as possible, the Tribunal is implementing the following temporary procedures. The primary aim is to minimise the need for parties to physically come to the Tribunal in the near future and to develop methods of dealing with cases that do not require face-to-face contact.

Listings other than substantive hearings

- Directions hearings, callovers, conciliation conferences and some other interlocutory hearings will be conducted where possible by telephone or audio visual link, rather than in person.
- Return of Summons lists will be conducted by telephone.
- Precise arrangements regarding telephone or audio visual link hearings will be provided separately.

Specific arrangements for substantive hearings in Divisions and for appeals

- A ‘substantive hearing’ is a hearing, the outcome of which will determine the proceedings.

Administrative and Equal Opportunity Division and Occupational Division:

- Substantive hearings may be conducted, with the consent of both parties, by telephone or audio visual link, where appropriate, at the discretion of the Tribunal Member presiding and depending upon the availability of the necessary technology.
- Mediations and substantive hearings will not be conducted in regional areas where the Tribunal Member presiding would need to fly to the regional location. If both parties agree, such mediations and substantive hearings may be able to be conducted by telephone or audio visual link, at the discretion of the Tribunal Member or mediator.

Consumer and Commercial Division:

- Substantive hearings will continue to be conducted in regional areas at the current time.
- Consumer and Commercial Division Group lists with multiple parties will be re-organised to reduce the need for attendance by parties and to stagger hearing times. Effective Monday 23 March 2020, all Group lists are suspended until further notice. Group List matters already listed at various venues across New South Wales will be adjourned to a further date to be fixed. Further information

will be made available on the NCAT website and parties will be advised directly about when the Tribunal will deal with their applications. Future hearings will be by telephone wherever possible.

- Substantive hearings (whether listed for Greater Sydney or regional areas) may be conducted by telephone or audio visual link, where appropriate, at the discretion of the Member presiding and depending upon the availability of the necessary technology.

Guardianship Division:

- All hearings will be conducted by telephone or audio visual link. After careful consideration of the welfare and interests of the people who are the subject of applications in the Division, and the demographics of our hearing participants, we have decided that in person hearings should not occur at this time in this Division.
- The Division will be deferring all but urgent reviews of existing guardianship and financial management orders which would otherwise be listed for hearing in May and June 2020. To extend the operation of those orders until a hearing can be held, a notice of hearing will shortly be issued to parties in relation to each of these matters, to advise of a hearing date later this year.

Appeal Panel:

- Substantive hearings in appeals emanating from the Guardianship Division will be conducted by telephone or audio visual link.
- Substantive hearings in appeals emanating from the other three Divisions (Administrative and Equal Opportunity Division, Consumer and Commercial Division and Occupational Division) will be conducted by telephone or audio visual link, wherever possible. Where an 'in person' hearing is required, it is unlikely this would be conducted before October 2020, except in emergency or other exceptional circumstances.

Hearing rooms

Where you attend NCAT in person, you should bring your own plastic water bottles. Water jugs and water glasses have been removed from hearing rooms.

Non-attendance at NCAT and request for adjournments

If you are scheduled to attend NCAT in person but you are unable to do so, or you are scheduled to attend by phone and you are too unwell to participate, for a reason related to the Coronavirus:

- for Guardianship Division matters, please contact the Registry by email or phone in the usual way;

- for other Divisions and NCAT Appeal Panel matters, you can use [this email template](#) to contact NCAT and apply for an adjournment. In considering the application for adjournment, the Tribunal (including the Appeal Panel, where relevant) will take into account the current unusual circumstances and any inability to obtain a medical certificate.

Please note that these measures are current at the date of this notice. It is expected that the position may change as the situation develops and you should confirm the position seven days prior, and then on the day prior, to any hearing you are involved in.

Where hearing schedules are disrupted, priority will be given to the most urgent matters across the Tribunal.

Attending NCAT premises

NCAT remains open for business. In order to adhere to NSW Health advice the following measures apply:

- **DO NOT ATTEND A TRIBUNAL unless you:**
 - **are a party to a tribunal matter or a party's legal representative;**
 - **require face-to-face services of the registry; or**
 - **are a bona fide representative of an established news-media organisation.**
- **Despite the above**, if you have had close contact with **someone diagnosed with or suspected or confirmed as having coronavirus (COVID-19)** in the last 14 days **DO NOT ATTEND NCAT**
- If you are feeling unwell and experiencing any of the following symptoms - fever, cough, sore throat or shortness of breath **DO NOT ATTEND NCAT**
- If you have travelled and returned from overseas in the past 14 days **DO NOT ATTEND NCAT**

Registrars/Sheriff officers may deny entry or request any person to leave a building

NSW Health advise that people should **stay at home if they are feeling unwell or have been to a country considered at a higher risk of Coronavirus in the past 14 days.**

If you consider that this advice applies to you please **DO NOT ATTEND**. If you are a party to proceedings, you should [contact NCAT](#) or your legal representative.

NSW INDUSTRIAL RELATIONS COMMISSION

For further information, visit:

http://www.irc.justice.nsw.gov.au/Pages/IRC_research_information/IRC_research_information_announcements/IRC_research_information_announcements_2016_66.aspx

The Chief Commissioner released the following update on 20 March 2020:

Updated Announcement - Listings during COVID-19

The Commission continues to monitor the Commonwealth and State Governments' announcements and health advice relating to Coronavirus (COVID-19).

In an endeavour to contain the effects of the virus and to keep the Commission operational as much as possible, the Commission has implemented temporary procedures which were set out on the Commission's website on 16 March 2020

at http://www.irc.justice.nsw.gov.au/Pages/IRC_research_information/IRC_research_information_announcements/IRC_research_information_announcements_2016_66.aspx.

The primary aim is to minimise the need for parties and representatives to attend the Commission in person in the near future and to develop methods of dealing with cases that do not require face-to-face contact so that the Commission can continue to operate in the current environment.

To assist with this aim, the Commission requires parties and representatives to observe the following protocols in addition to those set out on 16 March 2020.

Arbitration hearings

1. Only those people necessary for the conduct of a hearing may attend the Commission for the hearing. The Commission will not allow any person to attend a hearing solely to observe proceedings. The Commission may inquire as to the reason why any individual is in attendance, and may ask persons to leave the Commission if they are not required for the hearing.
2. To the extent possible, parties must continue to maintain social distancing when in court or waiting to appear.
3. The Commission expects that all parties will have conferred as to which witnesses will be required for cross-examination and whether those witnesses could give evidence other than in-person and in what order witnesses will be called.

4. Only those witnesses who are genuinely required for cross-examination in-person should attend the hearing.
5. To the extent possible, witnesses should be required to attend the Commission as close as possible to the time at which it is estimated that they will be required to give evidence. The Commission will not be perturbed by reasonable delays caused by a witness being required earlier than anticipated.
6. Witnesses must leave the Commission once they are excused and they are not required otherwise in the matter. Consistent with point 1, they must not remain simply to observe proceedings.
7. To minimise the hearing time, the parties are asked to consider whether there are aspects of the proceedings, such as submissions, which might be conducted other than in person.
8. The Commission takes all care to ensure the cleanliness of its precincts, and aims to have some means available to the parties to maintain a safe working environment. In the current environment, the Commission expects that all persons attending the Commission take responsibility to ensure ongoing cleanliness, particularly at the bar table and the witness box. Parties are encouraged to bring items such as disinfectant wipes and hand sanitiser that they consider may be required. The Commission cannot guarantee that these items will be available to the parties and/or witnesses.
9. All water jugs and glasses have been removed from hearing rooms for the protection of people appearing before the Commission in the current environment. Parties will be allowed to use their own personal water containers in the hearing room.
10. If parties intend to provide documents to witnesses or to the Commission during the arbitration then it is expected that the copies provided to witnesses and the Commission will be kept in an environment and manner with the least likelihood of contamination by the COVID-19 virus.

Report Backs and Conciliations

1. If parties intend to refer to documents in a report back or conciliation then these documents must be sent to the other party and the Commission at irc_Commissioner_support@justice.nsw.gov.au no later than 3:00pm on the day before the matter is listed. When determining the documents to which you intend to refer, be conscious that that the Commission has limited resourcing to print and collate these documents, and send only those sections of the documents that will be necessary for the report back or conciliation. These documents will not be taken to have been filed in the Commission but will be made available to the Commissioner to assist with conciliations and report backs.

NB: If this creates an administrative burden then further varied arrangements will be considered and parties should note that this practice only applies while measures are implemented to assist the Commission to operate during COVID-19.

Sittings outside Parramatta and Newcastle

1. From Monday 23 March 2020 until Friday 29 May 2020 the Commission will only hear matters requiring in-person attendance at a hearing at the Commission's premises in Parramatta and Newcastle.
2. Commissioners will initiate contact with parties and/or representatives impacted by this measure to make alternative arrangements.

PREVIOUS ANNOUNCEMENT OF 16 MARCH 2020

The Industrial Relations Commission is carefully monitoring the updated Commonwealth and State Governments' advice regarding COVID-19.

Directions hearings, conciliation hearings and report backs

In an effort to mitigate the risks of exposure of Commission staff, parties and Commissioners to COVID-19 and to keep the Commission operational at this time, the Commission expects most conciliation hearings and all directions hearings and report backs to take place via teleconference, commencing from **Tuesday 17 March 2020**.

If you consider that the circumstances of your matter require in-person attendance at a conciliation or directions hearing then you should inform the other party of the reasons for this in writing as soon as possible, and provide your request and the other party's position to the Commission no later than **midday** on the **day prior to your listing**, and the Commission will consider the request. The Commission may also determine that the matter requires conciliation or directions to take place face-to-face and parties will be informed where this is the case.

In all other circumstances, please provide your telephone contact information to the Industrial Registry at irc_client_services@justice.nsw.gov.au or 02 8688 3516 as soon as possible, and no later than 3:00pm on the day prior to your listing.

Arbitration hearings

At this time, matters listed for arbitration will proceed in-person unless parties make an application for alternative arrangements. If you have a matter listed for arbitration, you should confer with the other party or its representative/s as soon as possible about any arrangements that can be made to limit persons required to attend the hearing, such as witnesses not required for cross-examination. If you consider that the circumstances of your matter are such that an adjournment is necessary then please contact the other party to obtain its position before making any request to the Commission.

Self-isolation

If you have received medical advice to self-isolate, or you meet the criteria set by NSW Health for self-isolation, you should not attend the Commission, and you will not be expected to do so. You should contact the Industrial Registry as soon as reasonably practicable at irc_client_services@justice.nsw.gov.au or 02 8688 3516 to inform the Commission of your circumstances. Prior to making contact with the Registry, and where practicable, the Commission expects that you will contact the other party or parties to the matter, advise your circumstances to them, and discuss any alternative arrangements that may be necessary for your matter.

Water Jugs and glasses

Effective immediately, all water jugs and glasses will be removed from hearing rooms for the protection of people appearing before the Commission in the current environment. Parties will be allowed to use their own personal water containers during a hearing.

WORKERS COMPENSATION COMMISSION

For further information, visit: <https://www.wcc.nsw.gov.au/publications/e-bulletin/2020-e-bulletins/e-bulletin-no.-97-march-2020>

Commencing 23 March 2020 and until further notice, conciliations, arbitrations and mediations will be conducted by telephone. Given the current national health emergency, face-to-face conciliation, arbitration and mediation will only be held if approved by the President of the Workers Compensation Commission.

The President of the Workers Compensation Commission has issued a new *Protocols for Telephone Conciliations, Arbitrations and Mediations* document, which is available here: https://www.wcc.nsw.gov.au/data/assets/pdf_file/0015/613131/WCC-Protocols-for-Telephone-Con-Arbs-and-Mediations-20.03.20-.pdf

The President also issued the following statement on 20 March 2020:

Protocols for telephone conciliations, arbitrations and mediations

Yesterday, I announced in response to the escalation of the COVID-19 epidemic that the Workers Compensation Commission would implement procedural changes to our operations, namely, conducting conciliation/arbitrations (con/arbs) and mediations by telephone. The reasons for this are obvious – it allows the Commission to continue to deliver our important work but ensures, to the extent that we can, the health and wellbeing of our staff, arbitrators, mediators, parties, legal representatives and others who use our services.

While I expect that conducting con/arbs and mediations by telephone will pose new challenges not experienced in face-to-face conferences, these are extraordinary times which call for extraordinary measures. It is clearly in the interests of injured works and legal representatives that the Commission remains open for business and I expect cooperation, respect and genuine participation from all involved.

For a number of legal practitioners, particularly counsel, conducting proceedings by telephone will be something new. I ask that you persevere; the Commission has been doing a large part of its business by telephone since it first opened its doors, with outstanding results.

To assist you during this period, we have prepared the following [protocol document](#), which provides a guide to participating in telephone con/arbs and mediations. I implore you to review and understand the document.

With patience and good will we will get through this together. As I said in my message yesterday, when the crisis is over we will return to the normal practices of the Commission.

The President of the Workers Compensation Commission issued the following message on 19 March 2020:

Commission operations – procedural changes

Further to [e-Bulletin No. 97](#), and in view of the emerging situation with COVID-19, the following procedural changes will be implemented to the Commission’s operations. These changes will be implemented during the currency of the COVID-19 crisis. Once the crisis is over, the Commission will return to standard operations. Section 354 of the *Workplace Injury Management and Workers Compensation Act 1998 (NSW)* supports these changes.

I am fully committed to the principle of in-person hearings and justice being conducted in the open. Such processes have integrity and enjoy widespread public support. They also afford the citizen the right to have their case heard and dealt with in a suitably formal process.

However, this long-held process must change due to the current coronavirus crisis. In this regard, I am balancing the competing demands of open justice against the prospect of justice being delayed. If the Commission’s decision-makers or the staff who support them become unwell with this virus, we will be unable to deliver justice and thus justice would be denied. Furthermore, I do not wish to add any further risk to the health and well-being of the lawyers and litigants who come here every day in large numbers.

I reiterate that once this crisis is over, the Commission will return to in-person hearings. When this occurs will depend upon the best medical advice available.

From Monday 23 March 2020, I will be ceasing all in-person hearings and closing the Commission’s hearing rooms. Decisions during this period will continue to be published on the Commission’s website.

I will confer with stakeholders during the currency of the revised procedures to ensure their optimal operation and will implement any further changes or enhancements that may be required.

From Monday 23 March 2020, conciliation/arbitration proceedings, mediation conferences and presidential hearings will be conducted by telephone. In some circumstances, for example where a witness needs to give evidence, the proceedings may be conducted by audio-visual link. All arbitration proceedings and presidential proceedings conducted by telephone or audio-visual link will be recorded.

To make this system work optimally, parties, and in particular applicant’s lawyers, should confer with their client regarding settlement well prior to the telephone conference. Parties will be contacted by the Commission Registry with the relevant details for the hearing.

In exceptional circumstances proceedings may be conducted in-person. If a party seeks that proceedings be conducted in-person, an application must be made in writing to the Commission's Registry setting out the reasons why. Parties will also be required to justify the persons who they seek to have present during the in-person proceeding. Parties should operate to minimise the persons who are present during the in-person proceeding. Their presence must be absolutely necessary for the proceedings at hand. I will determine each application for in-person proceedings on a case-by-case basis.

If I grant approval for proceedings to be conducted in-person, the following procedures will apply:

- (a) parties must only attend the venue for the proceedings at the allocated time;
- (b) parties must not enter the room for which the proceedings are conducted until the matter is called;
- (c) parties must depart the room and the venue at which the proceedings are conducted when their matter is completed, and
- (d) parties must within 24 hours of the commencement of proceedings confirm that no person attending is unwell or a carrier of the COVID-19 virus.

Please note that we will continue to utilise our [online lodgment portal](#) for electronic lodgment of forms and documents in respect of Commission proceedings.

I have discussed these proposed measures with The Law Society of New South Wales and the Bar Association. I have also consulted with the Commission's User Group. All three groups are very supportive of these proposed changes to practices in order to help the Commission and those who use its services contend with the current coronavirus crisis. I am indeed grateful to these groups for their sensible and pragmatic approach as well as some very practical and helpful suggestions they have made in order to enhance this change of process.

I cannot stress the point too highly that practitioners and their clients must comply with any directions that the Commission makes or any conditions that I might impose on any particular hearings. This is done with your well-being and the well-being of the Commission's members and staff in mind. I have every confidence that if everybody acts sensibly and does their duty in accordance with directions regarding public health and any information put out by the Commission, we will be able to maintain the Commission's operations throughout this challenging period.

The Commission is very fortunate that the expenditure was made to develop the online portal and paper-lite approach to cases; this will serve us very well during this crisis.

Finally, I would also ask for your patience and understanding at this time. The Commission's staff are working very hard to enable these changes to be implemented from next Monday. I am confident that with the goodwill and co-operation of all involved, we can make this work for the benefit of the citizens of New South Wales.

Keeping you updated

We will continue to review our protocols and inform you as we receive advice.

Please ensure you carefully read the e-Bulletins and monitor news alerts as we issue them.

HIGH COURT OF AUSTRALIA

For further information, visit <https://www.hcourt.gov.au/>

On 22 March 2020 the Justices of the High Court issued Practice Directions Nos 1 and 2 of 2020, **which take effect on 23 March 2020**, “in relation to some of the measures the Court has implemented to ensure that the High Court Registry can continue to offer its full range of services to litigants, practitioners and members of the public during the current period”. The High Court advised as follows:

Practice Direction No 1 of 2020 Electronic Filing of Documents

One measure is to move to a form of electronic filing for cases filed prior to the implementation of the Digital Lodgement System on 1 January 2020. For pending cases filed prior to 1 January 2020 documents should be filed as attachments to an email where possible. This will remove the need for litigants and practitioners to attend the Registry counter to file their documents in pre-2020 cases.

Practice Direction No 2 of 2020 Opening of the Registry

The filing of most if not all material electronically (either by email or through the new Digital Lodgement System) will reduce the need for the Registry to remain open for six hours each working day as is provided by Practice Direction No 2 of 2017. Registry opening hours will from 23 March 2020 be reduced to 10:00am to 1:00pm.

The Practice Directions are extracted below and available on the High Court website at <https://www.hcourt.gov.au/registry/filing-documents/practice-directions>

HIGH COURT OF AUSTRALIA PRACTICE DIRECTION NO 1 OF 2020 ELECTRONIC FILING OF DOCUMENTS - CASES COMMENCED BEFORE 1 JANUARY 2020

1. Commencement

This Practice Direction takes effect on Monday, 23 March 2020.

2. Filing documents

For the purposes of Rule 1.07.1 of the *High Court Rules 2004* documents to be filed in cases commenced before 1 January 2020 should, where possible, be forwarded as a PDF attachment to an email sent to the managing Registry:

Canberra: Canberra.Registry@hcourt.gov.au;

Melbourne: Melbourne.Registry@hcourt.gov.au; or

Sydney: Sydney.Registry@hcourt.gov.au.

3. Copies of documents lodged by email

The person who sends the document must:

- (a) keep a paper or electronic copy of the document; and
- (b) if directed to do so by the Court, a Justice or the Registrar, produce a hard copy of the document.

20 March 2020

HIGH COURT OF AUSTRALIA PRACTICE DIRECTION NO 2 OF 2020 OPENING OF THE REGISTRY

1. This Practice Direction takes effect on 23 March 2020.
2. Practice Direction No 2 of 2017 is revoked.
3. The office hours of the Registry shall be from 10.00 am to 1.00 pm.
4. Each office of the Registry shall be open during office hours on each day except:
 - (a) Saturdays and Sundays;
 - (b) any day observed as a holiday by the Australian Public Service or observed as a public holiday in the State or Territory of that office;
 - (c) the days between Christmas Day and New Years Day inclusive; and
 - (d) any day on which the building in which the office of the Registry is located is closed to the public.

20 March 2020

The High Court previously advised that:

- **The High Court of Australia will not be sitting in Canberra or on circuit in the months of April, May and June.**
- The Court will continue to deliver judgments and deal with special leave applications including hearings as necessary at individual registries and will hear any urgent matters that may arise by video link between registries and Canberra.
- Any enquiries should be directed to enquiries@hcourt.gov.au
- The question of future sittings will be reviewed in June.

FEDERAL COURT OF AUSTRALIA

For further information, visit: <https://www.fedcourt.gov.au/news-and-events/18-march-2020#content>

The Chief Justice of the Federal Court of Australia released on 23 March 2020 a practice measure that will be put in place on 23 March concerning the operation of the Federal Court and a guide for the use of the application presently being used by judges in the Court: Microsoft Teams. Both documents will shortly be available [on the Court's website](#) and are live on the Association's website. The Special Measures practice measure is extracted below.

SPECIAL MEASURES IN RESPONSE TO

COVID-19 (SMIN-1)

Special Measures Information Note

1. INTRODUCTION

- 1.1 This Special Measures Information Note (SMIN-1) sets out arrangements for the continued operation of the Federal Court during the COVID-19 outbreak in Australia.
- 1.2 Due to the COVID-19 pandemic, where appropriate and necessary, the Federal Court is modifying its practices in order to minimise in person attendance on Court premises, with the Court's priority being the health and safety of the community, and in particular, parties, practitioners, judges and staff, and the families of all of these groups.
- 1.3 The cooperation of all court users and court staff is required in this regard.
- 1.4 This special measures information note takes effect from the date it is issued and, to the extent practicable, applies to all proceedings filed before, or after, the date of issuing.
- 1.5 This special measures information note remains in effect until and unless superseded or revoked.

2. REGISTRY OPERATIONS

- 2.1 The Court will endeavour to keep registries open and operational, however, the Court seeks the cooperation of all court users to

minimise in person attendance at registry counters.

- 2.2 As the situation remains fluid, all court users should telephone the registry ahead of any proposed in person attendance to verify that the registry is open and to discuss with registry staff any possible alternatives to in person attendance.
- 2.3 Special arrangements are in place in all registries to reinforce social distancing and good hygiene practices, and to minimise the length of in person interactions.

3. ELECTRONIC FILING OF ALL DOCUMENTS

- 3.1 To the extent possible, all documents must be lodged for filing using the Court's electronic filing facility, elodgment.
- 3.2 Documents that are not able to be lodged through elodgment may be faxed or emailed to the relevant registry (at the registry email address available on the Court's website) for filing.
- 3.3 Court users who do not have access to the necessary electronic equipment, including self-represented litigants, should contact the registry by telephone for assistance. Public scanning facilities can be made available in each registry to facilitate the electronic filing of all documents.
- 3.4 Registry staff have been asked to minimise hard copy document handling. To the extent possible, hard copy documents should not be posted or hand delivered to registries.

4. SIGNATURES ON DOCUMENTS AND AFFIDAVITS

- 4.1 To facilitate the electronic filing of all documents, if access to scanning technology is limited, the Court will temporarily allow documents to be signed electronically, including by having the person signing the document type their name in the relevant space in the signature block in lieu of physically signing the relevant document.
- 4.2 The Court also acknowledges that remote working arrangements may pose significant challenges to having affidavits sworn or affirmed. The Court will accept the filing of unsworn affidavits on the understanding that, if required, these will later be sworn or affirmed when circumstances allow.

5. SUBPOENAS AND INSPECTION OF DOCUMENTS

- 5.1 Inspection of documents at all registries of the Court is to be by appointment only. Requests for an appointment should be made by emailing the relevant registry.
- 5.2 Legal practitioners and parties should only request an appointment to view subpoenaed materials if this is truly necessary for the conduct of the proceeding at the time. As a general guide, the Court will consider whether an appointment is necessary by reference to whether a matter is scheduled for hearing in the subsequent 4 weeks, or is otherwise urgent.

6. TRIAGE PROCESS FOR NEWLY FILED JUDGE MATTERS

- 6.1 A triage process has been introduced for newly filed judge matters. Newly filed judge matters, other than urgent duty matters and Full Court and appellate matters, will be provisionally allocated to the docket of the National Operations Registrar and will not immediately be given a first return date.
- 6.2 Parties will instead be contacted by the Court and asked to answer a number of questions relating to the proposed management of the matter. Parties will also be directed by the Court to provide agreed or proposed timetabling orders within 30 days of the matter having been filed.

7. ALL COURT LISTINGS AND EVENTS, INCLUDING HEARINGS AND MEDIATIONS

- 7.1 In order to remain open and operational, whilst protecting health, safety and wellbeing, the Court must work to limit in person attendance on Court premises.
- 7.2 To the extent possible, alternative arrangements will be put in place for all listings and events that would ordinarily require in person attendance. In particular, the Court will contact legal practitioners and parties to determine whether listings and events may be able to be conducted on the papers, by telephone or by other remote access technology.
- 7.3 If alternative arrangements are not able to be put in place for listings and events that would ordinarily require in person

attendance, such listings and events will need to be vacated or adjourned other than in exceptional circumstances and with the express authorisation of the Chief Justice.

- 7.4 If you have an upcoming listing or event, wherever possible the Court will endeavour to contact you at least two weeks prior in relation to any alternative arrangements. If you have not been contacted by the Court or if you remain unsure of what is happening in relation to a particular listing or event please contact NORTeam@fedcourt.gov.au by email, with the matter number and title in the subject line.

8. SHORT LISTINGS AND EVENTS, HALF A DAY OR LESS

- 8.1 The Court will seek to accommodate any listings or events that would ordinarily require in person attendance for half a day or less without requiring in person attendance, either:
- (a) on the papers;
 - (b) by telephone; or
 - (c) by a combination of both of the above.
- 8.2 In some circumstances, short listings may also be able to be accommodated by other remote access technology, including video conferencing technology such as Microsoft Teams.
- 8.3 The preferred means of accommodating any short listings and events will be determined by the relevant judge or registrar, in consultation with legal practitioners and parties where appropriate.
- 8.4 Ahead of being contacted by the Court, legal practitioners and parties are encouraged to consider which aspects of their listings may be able to be dealt with by consent and/or on the papers, and to communicate with each other to seek to reach agreement on such matters.

9. LONGER LISTINGS AND EVENTS, OVER HALF A DAY

- 9.1 Longer listings and events that would ordinarily require in person attendance for half a day or more will undergo a triage and

prioritisation process. Legal practitioners and parties should work cooperatively with the Court, and with each other, to identify how and when longer listings and events may be able to proceed.

- 9.2 The Court has already been able to accommodate some longer listings and events, including contested hearings, through the use of remote access and file sharing technology, including Microsoft Teams.
- 9.3 Issues requiring consideration include reliability of the proposed technology, document security, availability and timing of transcripts, and the ability to live stream hearings so as to facilitate open and accessible courts.
- 9.4 A brief guide for practitioners on conducting hearings using remote access and file sharing technology has been published and will be updated regularly, as required.

10. URGENT MATTERS

- 10.1 Duty judge and registrar contacts for urgent matters are available on the Court's website and will continue to be updated daily. Any requisite modifications to the published application process for urgent duty matters will be notified by the relevant duty judge or registrar.
- 10.2 Any urgent queries specifically concerning the Court's response to the COVID-19 outbreak in Australia, including urgent requests for adjournment due to the impact of COVID-19, and other urgent queries concerning matters the subject of this Special Measures Information Note should be addressed by email to the National Operations Registry at NORTeam@fedcourt.gov.au, or you can contact the NOR Team duty contact for the day, as published on the Court's website. Such queries will be prioritised, allocated to a senior member of the NOR Team and attended to as a matter of urgency.

The Chief Justice of the Federal Court of Australia advised on 20 March 2020 that:

We are making good progress in the establishment of the court to external and external to external video facilities. A number of matters will be proceeding next week in this regard.

It is perhaps unnecessary to say that this is all moving quite rapidly. We are now making good progress in developing the video-conferencing facilities and we are now increasing priority in developing our capacity to work remotely. A number of cases will be proceeding in the next few weeks using the video-conferencing facility.

Once again I would like to thank the profession for their continued co-operation. Court is of the view that the delivery of justice is an essential service and we are working as quickly as we can in the most co-ordinated way that we can to ensure that the ability of the court to deal with matters brought to it will be uninterrupted and effective.

The Federal Court of Australia made the following announcement on Wednesday 18 March 2020:

Further to the update posted yesterday, the Federal Court of Australia has now commenced communicating with all parties with matters listed for hearing in the upcoming months.

Parties have been requested to identify (with the assistance of the Court) opportunities by which listings may proceed either by way of telephone conference or other remote access technology. The Court is working to ensure that as many listings as possible are able to proceed. Matters may be able to keep the same date; they may not. They may be able to be done on the papers. These decisions will be based on information from litigants and considerations of workload and judicial availability.

To the extent that matters listed in the 4 – 29 May 2020 Full Court and Appellate sitting period are impacted by this approach, the Court will be in contact with the relevant parties over the next week.

The Court is not shutting down or vacating cases simpliciter. It is adjourning hearings in court so that the Court’s workload can be managed safely and without interruption. The Court is trying to remain consistently operational by minimising the risk of closures, with all the attendant cost and inconvenience that would cause, in particular to parties and practitioners.

The first priority of the Court is the safety of litigants, practitioners and its judges and staff. The measures being adopted are intended to ensure that the Court remains open and functioning Court for litigants in this challenging period. This includes ensuring the necessary technology is in place to enable as many matters as possible to progress in a timely and effective way.

There will no doubt be some inconvenience for hearings that were scheduled in the coming weeks. The Court is seeking the co-operation of all parties and their representatives in working collaboratively to ensure the Court continues to be able to provide a safe, efficient and flexible service for parties over the coming months.

This follows, and supplements, the Court’s announcement on 17 March 2020:

This information supersedes all previous updates provided by the Court.

In light of the recent developments that led to the closure of the Lionel Bowen building in Sydney, the Federal Court of Australia is taking steps to reduce the risk to court users and court staff from in person attendance in court buildings, commencing Wednesday, 18 March 2020.

Unless specifically and individually excepted by the Court, all Federal Court of Australia listings that require in person attendance, including mediations and listings relying on video link from court premises listed up to 30 June 2020, are vacated. The Court is examining, as a matter of urgency, its capability to facilitate listings by remote access technology, without requiring in person attendance. Further information will be provided as soon as possible of alternative arrangements that may be able to be put in place.

In the meantime, parties with listed hearings up to 30 June 2020 will be contacted by the Court directly about the need for the matter to proceed and possible options for achieving that where appropriate.

The decision as to whether the listing will proceed in the short term and, if so, when and in what manner, will be made by the relevant judge or registrar in consultation with the Chief Justice.

Court users should closely monitor the Daily Court Lists to check which listings are proposed to proceed.

Family Court of Australia & Federal Circuit Court of Australia

For further information, visit: <http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/online-services/covid/covid-news-hp> or <http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/online-services/covid/covid-news-hp>

Urgent enquiries regarding specific matters should be directed to the Chambers of the relevant Judge. Assistance, including necessary adjournments, should be directed at first instance, to Michael Raine via michael.raine@familycourt.gov.au or (08) 8219 1641.

General court-related enquiries can be directed to the National Enquiry Centre by email: enquiries@familylawcourts.gov.au or 1300 352 000.

The Courts released the following on 23 March 2020:

- An Update to the Profession – COVID-19 Measures and listing arrangements for registrars and Child Dispute Services (CDS);
- CDS Face-to-face Interview Protocol;
- Face-to-face in Court Protocol - Registrar Work; and
- Court diagram.

These documents are available on the Association's website and **extracted below**.

UPDATE TO THE PROFESSION

COVID-19 MEASURES AND LISTING ARRANGEMENTS FOR REGISTRARS AND CHILD DISPUTE SERVICES (CDS)

23 MARCH 2020

The Family Court of Australia and the Federal Circuit Court of Australia (the Courts), the profession and the community are facing unprecedented challenges. COVID-19 is having a direct impact on the way the Courts are able to administer justice for Australian families. The Courts must adhere to the restrictive requirements that are necessarily imposed by the Government. As a result, they cannot administer justice in the usual way, and significant changes have had to be made. In doing this, the Courts are required to balance the health and safety of the community, the profession, Judges and staff with the need to continue this essential service. It is of paramount importance that the Courts minimise risk to all when conducting court hearings.

The Courts will continue to conduct court work within current parameters based on the advice of the Commonwealth Government Department of Health and the Chief Medical Officer.

This document contains an update as to the measures and listing arrangements that are being implemented by the Courts for Registrars and CDS to address these challenges.

The principle basis upon which work will be conducted in the Courts in the near future will be by telephone, and when it becomes possible, by videoconferencing. Only urgent matters will be dealt with by face-to-face hearings or interviews, which will be conducted pursuant to the face-to-face in- court protocol and face-to-face interview protocol (below).

The protocols set out in this notice and attached replace all previous communication relating to Court operations involving Registrars and CDS. Key differences include the inclusion of guiding principles and In-Court and Face-to-face Interview protocols.

PRINCIPLES

The key overarching principles relating to the work of Registrars and CDS during the period of the special arrangements for COVID-19 are as follows:

- I. Prioritising the safety of the community, Judges, Registrars, CDS and staff minimising the number of people in Court and implementing social distancing practices.
- II. The principle basis upon which work will be conducted by Registrars and CDS in the near future will be by telephone, and to the extent possible, by video technology. All work that can be shifted to telephone/video should be transitioned immediately.
- III. Only urgent or priority matters will be dealt with by in-court face-to-face hearings or interviews.
- IV. Any face-to-face hearings or interviews will be conducted in accordance with the relevant **face- to-face protocol**, including in relation to social distancing requirements.

REGISTRARS

1. DIVORCE LISTS

In the case of Divorce Lists the following telephone appearance procedure is to apply:

a) **Joint applications** – will be done on the papers and parties are not required to attend Court.

b) **Sole applications** –

i. will be done on the papers if there are no children to the marriage and parties are not required to attend Court.

ii. will require attendance via telephone by parties and lawyers if there are children under the age of 18 years.

c) Where Court attendance is required, each matter currently listed will be sent an email advising that parties are to attend a virtual courtroom and will be provided a number to dial-in to the virtual courtroom. Parties and lawyers will also be requested to provide their direct contact details to each Registrar no later than 4:00pm two business days prior to the listing

d) Respondents who request to appear in court personally should be advised to attend via telephone.

e) If the applicant is seeking orders for dispensation of service, these will also be dealt with by telephone.

f) If parties or lawyers still appear personally, rather than by telephone, the face-to-face in-court protocol will apply.

g) Divorce lists will be staggered into 3 time slots per day. Each time slot will have a maximum of 10-12 matters listed.

h) Rather than a single Registrar, the divorce list will be split between two Registrars who will conduct staggered telephone attendances.

2. FCoA REGISTRAR DIRECTIONS LISTS

In the case of FCoA Registrar Directions Lists the following telephone appearance procedure is to apply:

a) All FCoA Registrar Directions Lists will be conducted by telephone where limited to a procedural issue.

b) Where a matter is contested, written submissions are to be filed at the direction of the Registrar with orders to be made in chambers.

c) Parties with a matter currently listed will be sent an email by Registry staff advising of the above. In response to the email, parties and lawyers should provide their direct contact details to each Registrar no later than 4:00pm two business days prior to the listing. Parties must ensure they are available by telephone until they receive the Court's call.

d) In the event that parties are in agreement as to the future conduct of the matter, proposed interim consent minutes should be submitted as soon as possible by email to the Registrar for consideration.

3. DISCRETE PROPERTY LISTS, PPP500 LISTS AND CONTRAVENTION LISTS

In the case of Discrete Property Lists, PPP500 Lists and Contravention Lists the following telephone appearance procedure is to apply:

a) All Discrete Property Lists, PPP500 Lists and Contravention Lists will be conducted via telephone.

b) Parties with a matter currently listed will be sent an email by Registry staff advising of the above. In response to the email, parties and lawyers are requested to provide their direct contact details to each Registrar no later than 4:00pm two business days prior to the listing. Parties must ensure they are available by telephone until they receive the Court's call.

c) In the event that parties are in agreement as to the future conduct of the matter, proposed interim consent minutes should be submitted by email to the Registrar for consideration as soon as possible.

d) In relation to matters in the Contravention Lists, where a matter needs to be listed before a judge for a contested hearing, the prioritisation of the matter will be at the discretion of the Judge. Any future listings will be subject to judicial capacity.

4. CONFERENCES AND ADR EVENTS

In the case of Conferences the following telephone or video procedure is to apply:

a) Final defended cases that are assessed to be of a lower priority, may be sent to an ADR event, and the trial otherwise adjourned to a date to be advised. All Case Assessment Conferences and Conciliation Conferences will be conducted via telephone or via video.

b) Where Conferences are to be conducted via telephone/video, parties will be sent an email which will include dial-in details. Parties will also be requested to provide their direct contact details to each Registrar no later than 4:00pm two business days prior to the listing.

c) Where Conferences are to be conducted using Microsoft Teams or other platform, parties will be sent participation details.

d) Lawyers and parties are still required to provide/exchange the usual documents in advance of the Conciliation Conference (as ordered by the Judge/Registrar) and proposed orders to both the Court and to the other party prior to the conference.

5. FCoA SENIOR REGISTRAR LISTS

In the case of FCoA Senior Registrar Lists the following procedure is to apply:

- a) Parties and lawyers should attend interim hearings by telephone to the greatest extent possible.
- b) The parties and lawyers are still required to provide a short case outline, identifying the evidence they wish to rely upon together with a minute of proposed orders.
- c) Parties with a matter currently listed will be sent an email by Registry staff advising of the above. In response to the email, parties and lawyers are requested to provide their direct contact details to each Senior Registrar's chambers no later than 4:00pm two business days prior to the listing. Parties must ensure they are available by telephone until they receive the Court's call. d) Parties who request to appear in Court personally should contact the Senior Registrar's chambers by email and provide a brief outline as to why the matter is urgent and should remain listed for a face-to-face hearing.
- e) Matters in a Senior Registrar Magellan Lists will be treated as urgent.
- f) If the Senior Registrar directs the parties and lawyers to appear personally, a face-to-face hearing should strictly adhere to **the Face-to-face In-court Protocol**.

CDS

1. CHILD DISPUTE CONFERENCES

In the case of Child Dispute Conferences, the following procedure is to apply:

- a) All Child Dispute Conferences (CDCs) will be conducted by telephone or videoconferencing.
- b) Family Consultants will contact the parties directly.

2. CHILD INCLUSIVE CONFERENCES

In the case of Child Inclusive Conferences, the following procedure is to apply:

- a) For all new orders, Judges have been strongly encouraged by the Chief Justice to order CDCs (which will be conducted via telephone), rather than CICs, given the difficulty of having face-to-face contact. Therefore it is expected that CICs will be ordered only where there is an urgent requirement for a Family Consultant to see the children.
- b) Existing orders for Child Inclusive Conferences (CICs) will, subject to the views of the Judge or Senior Registrar, be serviced as CDCs.
- c) Where a CIC has been ordered, it will be conducted consistent with the Face-to-face Protocol as far as possible.

3. CHILD RESPONSIVE PROGRAM (FCoA)

In the case of Child Responsive Program, the following procedure is to apply:

- a) Meetings with the adult parties (MIA) will be conducted by telephone.
- b) Necessary meetings with children (MCF) will proceed in-person as arranged at the Registry decided by the individual Family Consultant, in conjunction with their manager, and a Judge with necessary.
- c) Meetings with children will be conducted consistent with the Face-to-face Protocol as far as possible.

4. FAMILY REPORTS

In the case of Family Reports, the following procedure is to apply:

- a) Interviews with adult parties will be conducted via telephone (or video). Adult parties will be contacted by CDS staff or, where interviews are to be conducted using Microsoft, parties will be sent participation details.
- b) Meetings with children will be conducted consistent with the Face-to-face Protocol as far as possible.

23 March 2020

FACE-TO-FACE INTERVIEW PROTOCOL

CDS

This protocol is designed to reduce the risk of being in **close contact**¹ with a Court user who may be infectious. This is the most appropriate way, at present, for the Court to balance important health and safety considerations of Judges, staff and the community with the need to continue this vital work for Australian families.

1) Interviews

Interviews with adult parties will generally occur on a separate day via telephone and will be staggered.

In adhering to the principles of social distancing, interviews with children and parent/child observations must be limited to a maximum of 1.5 hours with the same individual(s). Observations will likely occur in a separate room to that used for the interviews with children.

To the extent possible, taking into account the age of the child, Family Consultants are to adhere to the principles of social distancing by keeping an appropriate distance (i.e. at least 1.5 to 2 metres apart). There should never more than eight people in the room other than the Family Consultant at one time.

2) Cleaning

Additional cleaning of interview rooms is being arranged.

¹ **A close contact** is typically someone who has been face-to-face for at least 15 minutes, or been in the same closed space for at least 2 hours, with a person that was infectious (World Health Organisation definition).

FACE-TO-FACE IN COURT PROTOCOL

REGISTRAR WORK

This protocol is designed to reduce the risk of being in **close contact**¹ with a court user who may be infectious. This is the most appropriate way, at present, for the court to balance important health and safety considerations of judges, staff and the community with the need to continue this vital work for Australian families.

The salient features of the face-to-face in court protocol for Registrars are set out below for the information of the profession.

¹ **A close contact** is typically someone who has been face-to-face for at least 15 minutes, or been in the same closed space for at least 2 hours, with a person that was infectious (World Health Organisation definition).

1) Listings

FCoA Interim Hearings

Priority should be given to urgent matters (e.g. matters involving risks of family violence) that the Senior Registrar considers cannot be dealt with over the telephone.

Listings will be staggered to reduce the number of people waiting in the foyer/registry building. A list will be collated each day by the Judicial Services Team Leader to ensure that hearing times are sufficiently staggered to allow for cleaning.

Matter(s) will not be listed for more than 1.5 hours, and with sufficient space in between to allow cleaning to occur.

To reduce the length of any face-to-face hearing, where possible, it should be complemented with written submissions or telephone hearings if necessary.

2) Courtrooms and courtroom procedure

No party is to enter the courtroom before their matter is called.

No more than 8 people (excluding the Registrar and Court Officer) should be in the courtroom at any one time.

Counsel, solicitors and parties are to adhere to social distancing by sitting in appropriately distanced seats as indicated in the courtroom diagram attached (i.e. at least 1.5 to 2 metres apart).

Parties are to leave the courtroom immediately after their hearing has concluded, and then make their way promptly to the Registry exit.

3) Cleaning

Additional cleaning of courtrooms that are used for face-to-face hearings will occur as often as practicable when the court is adjourned during the day.

Hearings will be conducted for not more than 1.5 hours in the same matter. After that period, the courtroom will be closed and appropriate surface cleaning will take place.

To ensure the safety of staff, lawyers, litigants and witnesses, the same matter should not continue after the first 1.5 hour period.

4) Security

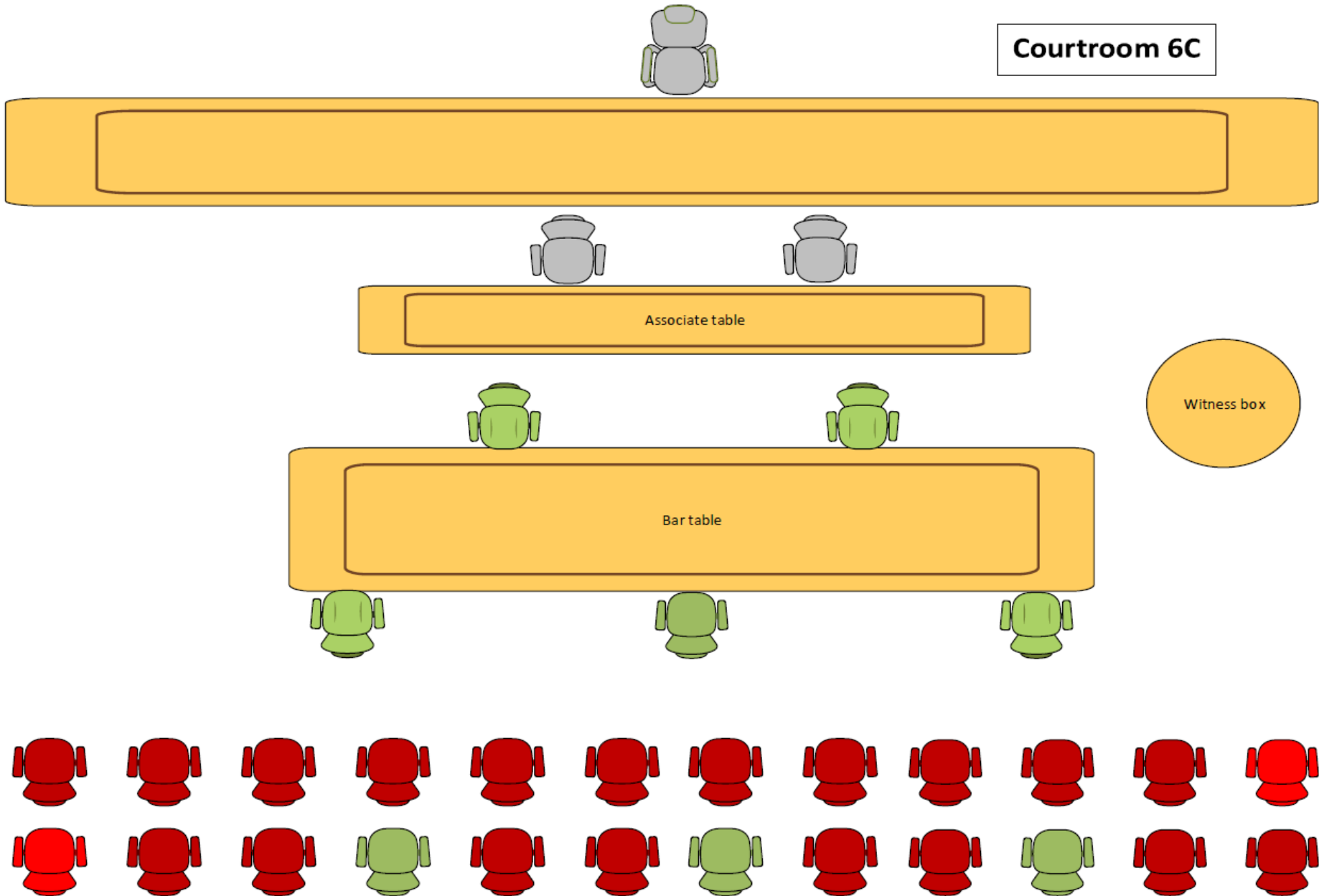
Security screening should be staggered appropriately. Security will be instructed to ensure social distancing is observed whilst court attendees are queuing for security.

The Court is currently investigating the availability of contactless thermometers to allow for non-invasive temperature measurements prior to parties/practitioners entering the Registry buildings.

5) Court attendees displaying symptoms

In the event that any court attendees ill or display any symptoms of COVID-19, they should immediately notify the Court and proceed to leave the Registry. The Court will be adjourned and appropriate steps taken, including any deep cleaning required.

Courtroom 6C



The Courts previously released the following on 19 March 2020:

- a. An “Update to the legal profession”, which is extracted below and available here: <https://inbrief.nswbar.asn.au/posts/08b347d11316f1372f3414b4c40536a7/attachment/FCoA%20FCC%20Notice%20to%20the%20Profession%20-%20COVID%20measures%20and%20listing%20arrangements%2019%20March%202020.pdf> ;
- b. Family Court of Australia, *Practice Direction 2 of 2020 - Electronic Filing, Annexures to Affidavits and Viewing of Subpoenas*, which is available here: <http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/rules-and-legislation/practice-directions/>
- c. Federal Circuit Court of Australia, *Practice Direction 3 of 2020 – Electronic Filing and Viewing of Subpoenas*, which is available here: <http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/rules-and-legislation/practice-directions> .

Update to the profession – COVID-19 Measures and Listing Arrangements – 19 March 2020

The Family Court of Australia and the Federal Circuit Court of Australia (the Courts), the profession and the community are facing unprecedented challenges. COVID-19 is having a direct impact on the way the Courts are able to administer justice for Australian families. The Courts must adhere to the restrictive requirements which are necessarily imposed by the Government. As a result, they cannot administer justice in the usual way, and significant changes have had to be made. In doing this, the Courts are required to balance the health and safety of the community, the profession, Judges and staff with the need to continue this essential service. It is of paramount importance that the Courts ensure that they are not putting parties at risk when conducting court hearings.

The Courts will continue to conduct court work within current parameters based on the advice of the Commonwealth Government Department of Health and the Chief Medical Officer.

This document contains an update as to the measures and listing arrangements that are being implemented by the Courts to address these challenges.

The principle basis upon which work will be conducted in the Courts in the near future will be by telephone, and when it becomes possible, by videoconferencing. Only urgent matters will be dealt with by in court face-to-face hearings, which will be conducted pursuant to the face-to-face in-court protocol (below).

First instance family law proceedings

Whilst variances may be adopted to suit the operational requirements of each Registry, the arrangements below are generally being implemented for first instance proceedings.

- A. **For First Return Duty Lists, Abridgements, Mentions, Directions, and Interim Hearings the following telephone appearance procedure will generally be followed:**
 - Parties in each matter currently listed for one of the above hearings will be contacted by the Court indicating that the matter will be heard by telephone;

- After being notified, a party may approach the court seeking that the matter not proceed by telephone hearing on the basis that:
 - i. it is not practicable to do so; or
 - ii. the matter is urgent and requires a face-to-face hearing in court.
- Parties who request a face-to-face hearing should contact the Chambers of the presiding Judge or the case-coordinator as appropriate by email and provide a brief outline as to why the matter is urgent and should remain listed for a face-to-face hearing. If the Court directs the parties to proceed by face-to-face hearing, the face-to-face in-court protocol will apply;
- If it is not practicable for the matter to proceed by telephone, and the matter is not urgent, the Judge may administratively adjourn the matter to a date to be advised, and if appropriate, send it to an ADR event;
- Otherwise, in response to the Court’s correspondence, parties should provide their direct telephone contact details to the Court no later than 4:00pm two business days prior to the listing. Parties will be allocated an estimated time when they will be contacted on the day of their listing. Parties must ensure they are available by telephone until they receive the Court’s call.
- In the event parties are in agreement as to the future conduct of the matter, proposed interim consent minutes may be submitted by email to the Court for consideration.
- Matters in a duty list where no Notice of Address for Service or Response has been filed are to remain listed to be dealt with face-to-face in Court:
 - i. the Applicant should appear by telephone;
 - ii. procedurally, the Respondent will be called outside the courtroom.

B. For final hearings, the following procedure will generally be followed:

- The presiding Judge will conduct a telephone callover of all matters listed in their docket for a defended hearing in the next 2 months.
- During the telephone callover, parties should inform the Judge of the urgency and status of the case, whether it may be susceptible to hearing by telephone either partly or fully, and whether it should be given priority over other cases listed for trial in that period.
- Cases that are assessed to be of a lower priority, may be sent to an ADR event, either to a private mediation or a conference with a Registrar and/or Family Consultant, and the matter will otherwise be adjourned for trial on a date to be advised.
- Practitioners are encouraged to consider how they can effectively facilitate ADR within the parameters of appropriate social distancing, including using videoconferencing or shuttle mediations.
- Cases that are assessed to be of a high priority, and remain listed for hearing, should follow the face-to-face in-court protocol, including giving consideration to conducting parts of the hearing by telephone or written submissions after the 1.5 hour time period has elapsed.
- Subject to any further developments or Government restrictions, this process may then be repeated for matters listed for final hearing in 3 and 4 months’ time.

Appellate family law proceedings

The following arrangements apply to the Appeal Division of the Family Court of Australia until the end of May 2020. For listings after May 2020, further advice will be provided when available.

- Appeals in Sydney commencing the week of Monday, 20 April 2020 and Monday, 18 May 2020 will each be conducted for no longer than 1.5 hours face to face in court with a judge or judges appearing by video or telephone where necessary.
- Appeals in Adelaide commencing the week of Monday, 4 May 2020 will each be conducted with the presiding judge in the courtroom for no more than 1.5 hours face to face in court and the other two judges otherwise appearing by video (or telephone if necessary).
- Appeals in Melbourne commencing the week of Monday, 4 May 2020 will each be conducted in a courtroom with all three judges appearing by video (or telephone if necessary).
- It may not be possible to list all appeals that are currently or will shortly be ready for hearing, and if necessary priority will be given to matters that are deemed urgent. There will also only be one appeal listed each day.
- Counsel (and their instructing solicitors where necessary), solicitor advocates, and selfrepresented litigants will be expected to attend the Court where the appeal is being heard, but requests can be made to attend by telephone depending on the circumstances and the nature of the appeal.
- It is not necessary for the parties who are legally represented to attend in person at the hearing, and through their legal representatives they are able to request to listen in by telephone.
- All documents to be provided to the bench must be sent electronically to the Appeal Registrar no later than 24 hours prior to the commencement of the hearing. A chambers order to that effect will be made by each Appeal Registrar in all appeals where a directions hearing has already been held. In addition, such an order will be included in the orders made at each future directions hearing.
- All directions hearings before Appeal Registrars will be conducted by telephone.
- In relation to single judge appeals and Applications in an Appeal, they will be conducted as directed by the judicial officer hearing them however, any hearing will not exceed 1.5 hours face-to-face in court and may be continued by telephone or by written submissions.
- In relation to all Applications in an Appeal, all parties will be asked whether those applications can be determined on the papers.

Telephone hearings

- Parties will be provided with a listing time and operational instructions for the telephone hearing by the Court.
- Only the Judge and Chambers staff should be in the courtroom. Interpreters will also appear by telephone if possible.

- If a telephone hearing is not practicable, and the matter *is not* urgent, then it may be adjourned to a date to be advised.
- If a telephone hearing is not practicable and the matter *is* urgent, it will remain listed for a face-to-face hearing at the discretion of the Judge.
- Reserved judgments will be delivered in an empty courtroom, and reasons for judgment emailed to the parties in the usual way, nothing that no appearance is required.

Face-to-face hearings

- Any urgent matter which requires a face-to-face hearing, should adhere to the **face-to-face incourt protocol (below)**.

Hearings on the papers

- Judges are encouraged to consider any matter on the papers where possible in accordance with the usual Rules of Court.

Filing and Documents

- All applications must be e-filed on the Commonwealth Courts Portal.
- Applications that are unable to be e-filed must be emailed to the Registry for filing and should not be posted or delivered to the Registry.
- In the Family Court, documents referred to in affidavits should be attached to the affidavit when it is electronically filed, or emailed to the Registry.
- For telephone hearings, any other document that would usually be handed up in Court during a hearing, including any minute of proposed consent orders, must be emailed to Chambers or the case co-ordinator in a timely way before the hearing. Proposed consent orders should be furnished in Microsoft Word format.
- If parties are attending a face-to-face hearing, the handing up of hard copy documents should be avoided.
- Practice Directions have been issued to facilitate these changes.

CDS events

- Child Inclusive Conferences under section 11F will only be ordered where the judge considers there is an urgent requirement for a family consultant to see the children. This will primarily relate to urgent matters in duty lists. Otherwise Child Dispute Conferences will be ordered.
- All Child Dispute Conferences will be conducted by telephone. Parties will be sent dial-in details with relevant AAPT account numbers or, alternatively, will be asked to provide their contact details. There will be no requirement to attend Court in-person.

- Family report interviews scheduled will proceed as arranged, unless the parties are advised otherwise by CDS, but will be conducted consistent with social distancing principles as far as possible.

GFL

- The Federal Circuit Court will conduct GFL hearings where necessary, including in urgent cases, via face-to-face hearings, however these will be kept to an absolute minimum.
- Wherever possible, hearings will be conducted by telephone, and only in urgent circumstances will be conducted face-to-face and adhere to the face-to-face in court protocol.
- For migration work, if the matter can be conducted by video or telephone, it is appropriate to proceed with these matters. For face-to-face migration hearings, until further notice, only urgent matters, such as detention cases and cases involving a minor, are to be heard.

FACE-TO-FACE IN COURT PROTOCOL

This protocol is designed to reduce the risk of infection for judges, staff and court users when conducting face-to-face court hearings. This is the most appropriate way, at present, for the court to balance important health and safety considerations with the need to continue its vital work for Australian families.

The salient features of the face-to-face in court protocol are set out below for the information of the profession.

1) Listings

Priority will be given to urgent matters that the judge considers cannot be dealt with over the telephone.

The Court will stagger listings to reduce the number of people waiting in the foyer/registry building.

Short matters for mention or directions hearings will be listed at 30 minute intervals.

Longer contested matters will not be listed for more than 1.5 hours, and with sufficient time in between listings to allow cleaning to occur.

To reduce the length of any face-to-face hearing, where possible, it may be complemented with written submissions or telephone hearings if necessary.

2) Courtrooms and courtroom procedure

No party is to enter the courtroom before their matter is called.

No more than 8 people (excluding the Judge and Associate) may be in the courtroom at any one time.

Counsel, solicitors and parties are to adhere to social distancing by sitting in designated seats as indicated in the diagram on the door of the courtroom (reproduced below) and in the seats marked in each courtroom (i.e. at least 1.5 to 2 metres apart).

Appearances will not be required until the hearing commences, and then they should be provided from the Bar table orally.

Parties are to refrain from approaching the Associates' desk, and should not expect to be able to hand up any hard copy documents.

Parties are to leave the courtroom immediately after their hearing has concluded, and then make their way promptly to the Registry exit.

3) Cleaning

Additional cleaning of courtrooms that are used for face-to-face hearings will occur as often as practicable between hearings and when the court is adjourned during the day.

Hearings will be conducted for not more than 1.5 hours in the same matter. After that period, the courtroom will be closed and appropriate surface cleaning will take place.

To ensure the safety of staff, lawyers, litigants and witnesses, the same matter will not continue after the first 1.5 hour period.

4) **Security**

Security screening should be staggered appropriately. Security will be instructed to ensure social distancing is observed whilst court attendees are queuing for security.

The Court is currently investigating the availability of contactless thermometers to allow for non-invasive temperature measurements prior to parties/practitioners entering the Registry buildings.

5) **Court attendees displaying symptoms**

In the event that any court attendees becomes ill or display any symptoms of COVID-19, they should immediately notify the Court and proceed to leave the Registry. The Court will be adjourned and appropriate steps taken, including any deep cleaning required.

ADMINISTRATIVE APPEALS TRIBUNAL

For further information, visit: <https://www.aat.gov.au/>

The AAT advises the following as at 19 March 2020:

The AAT has introduced [temporary changes](#) to its operations to limit the number of people visiting our registries in an effort to help slow the spread of the COVID-19 disease across our community.

We ask all AAT users to make use of our online services or, where this is not possible, [contact us](#) in another way without visiting a registry.

Our staff are available to answer phone and email enquiries, process applications and deliver other services to support AAT members and Tribunal users.

People who have 'in person' hearings, conferences and other events scheduled are being contacted directly to discuss alternative arrangements for their AAT case.

You can do most of what you need to do with the AAT without visiting a registry:

- [Lodge a new application](#) (preferred method of lodgement)
- [Submit a document](#) for any case that has already been lodged with the AAT
- [Email us](#) about your new or existing application
- [Send a general enquiry](#)
- [Provide feedback](#) including compliments, complaints and suggestions

If it is absolutely necessary to visit us in person, you should call ahead on [1800 228 333](#) to discuss arrangements.

FAIR WORK COMMISSION

For further information, visit: <https://www.fwc.gov.au/about-us/news-and-events/coronavirus-covid-19-advice-visitors>

The Fair Work Commission asks that anyone who is at risk, is required to self-isolate or has a confirmed case of COVID-19, follows the official advice and does not attend its offices. If this applies to you but you have a matter before the Commission or need to visit the Commission's offices, call the Commission's HelpLine on 1300 799 675. Alternatively you can email one of the Commission's offices.

Workplace entitlements and COVID-19

For information on your workplace entitlements and obligations if you are affected by COVID-19 go to the Fair Work Ombudsman's Coronavirus and Australian workplace laws and Pay during inclement weather & stand down webpages.

Hearings and conferences

The Commission will conduct hearings and conferences by telephone or video-conference wherever possible. The primary aim is to minimise the need for parties to come to the Commission in the near future. This applies to cases that are already scheduled, as well as future proceedings. Commission Members have been asked to reduce, as far as possible, the number of proceedings that require parties to attend at the Commission's offices. All planned travel is being reconsidered, and avoided where possible.

Parties and representatives

You should stay at home if you are feeling unwell, you have been to a country considered at a higher risk of Coronavirus in the last 14 days or you have been in close contact with a confirmed case of Coronavirus. If this applies to you, you should not attend the Commission's premises. Government restrictions mean that all people, including Australian citizens, who have been overseas and arrived from 12 am on 16 March, are required to self-isolate for 14 days. If you have a matter before the Commission or need to visit the Commission's offices clients should either contact their representative, or call the Commission's HelpLine on 1300 799 675. If you develop any symptoms (fever, cough, sore throat, tiredness or shortness of breath) you should see a doctor for urgent assessment.

Urgent applications

If you have any urgent applications, such as applications to vary enterprise agreements or other instruments to deal with the consequences of COVID-19, they can be sent to COVID19Applications@fwc.gov.au.

Non-urgent applications

Applications can still be lodged in the ordinary way.

COPYRIGHT TRIBUNAL OF AUSTRALIA

For further information, visit: <https://www.copyrighttribunal.gov.au/>

The Tribunal released the following COVID-19 Notice on 18 March 2020:

Filing of documents

At a registry

The Copyright Tribunal relies upon the registries of the Federal Court of Australia in relation to the over the counter filing of documents. Persons wishing to file documents in this manner should therefore look to notices or advice on the [Federal Court of Australia website](#) in relation to when a registry in a particular State is open.

Electronic filing

In the event of any registry closure, and for those who wish in any event to file electronically, a document may be filed via the following email address: query@fedcourt.gov.au. This email address will be monitored for any filings (with an updated email address to be provided in due course).

General Inquiries

General inquiries concerning the Tribunal should continue to be directed to the telephone numbers for the [Federal Court of Australia Registry](#) in the State or Territory concerned, according to any advice on the court's website.