



CHIEF JUSTICE'S CHAMBERS
FEDERAL COURT OF AUSTRALIA
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24 March 2020

Dear Presidents

Federal Court of Australia – Coronavirus (COVID-19) – Update 9

The Court has been proceeding with the matters to which I referred yesterday: developing its capacity to hear matters remotely and home office capacities of judges and staff.

One issue which has arisen for consideration is the question of migration matters where an interpreter is needed. Broadly speaking we have adjourned to later in the year all migration appeals or matters which are not urgent and in which there is no one in immigration detention. However, there are people in immigration detention. Their matters will be progressed with the relevant urgency that their detention demands. If they are represented then their cases will be heard using Microsoft Teams. Generally, in such appeals, no interpreter is necessary. If a person in immigration detention is not represented and needs an interpreter difficulties arise.

We are engaged in a discussion with the interpreters organisation. There is apparently a platform used by interpreters, but it may not be compatible with the Court's system. One way of mitigating the need for interpreters is to have the unrepresented person represented either by pro-bono counsel or indirectly by an *amicus curiae*. The latter is often helpful to the Court if a matter is of the kind where counsel comes to the view that there is nothing to be said. In these cases, if the counsel is pro bono counsel he or she may find it inappropriate to continue to act. Whereas, if the counsel is an *amicus curiae* tasked with putting everything that can reasonably be put on behalf of the party he or she can and should say to the court that in his or her professional view there is no argument that can reasonably be put. We are seeking to engage with the Government (through the AGD and the Department) to investigate whether any such scheme of retention of the Bar can be funded as part of the Government's response to the crisis. It seems to me unreasonable that we have to respond to the crisis by asking the profession to act for no fee.

Last week the Victorian President contacted me about the Victorian Bar's willingness to assist in migration matters. The approach was most welcome. If other Bars or Law Societies can assist that would be helpful.

It may be that the only solution in some cases is to have the applicant on the video-link in the detention centre, the Minister by Teams or telephone and the interpreter in court on the video-link. This is not optimal because we are trying to reduce or eliminate as far as possible bringing people into the Court buildings. It may be impossible if there is some general lock down.

I will keep you informed of progress on this issue.

From tomorrow the Court's registry services will as far as possible be provided remotely by telephone or through on line services. In the event that litigants need to attend Court in person we will have appropriate protective measures in place for staff and court users.

Hopefully by the end of this week I will be publishing a revised Full Court List for May. It will have a significantly reduced number of appeals and all will be done as far as possible by Teams.

From now on these memos to you may come a little later in the afternoon. I have organised a daily meeting with senior judges of the Court and I propose to discuss with them the contents of my memo to you. Thus I anticipate you may receive these closer to 6pm eastern time. If this is a problem for your communications with the profession, please let me know.

Yours sincerely

A handwritten signature in dark blue ink, reading "James Allsop". The signature is written in a cursive style with a large initial 'J' and a long, sweeping underline.

The Hon James Allsop
Chief Justice

