



CHIEF JUSTICE'S CHAMBERS
FEDERAL COURT OF AUSTRALIA
Law Courts Building
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31 March 2020

Dear Presidents

Federal Court of Australia – Coronavirus (COVID-19) – Update 13

I apologise for not having communicated yesterday. There is a degree of continuity emerging which may not make it imperative to communicate with you each day. But I propose to ensure that I maintain a regular line of communication with the profession by these memoranda in these difficult times.

IT

The Court is continuing to develop and deepen its ability to provide remote hearings. As you know, the Court is not permitting, except in exceptional circumstances, and with my express permission, parties and litigants to come into court. As the regional, and indeed, worldwide demand for remote communication increases we are facing some slowdown in what was anticipated. However, with the enabling of our own courtrooms to link into Teams we are reasonably confident that within a period of days, that is, by early next week, we will be in a position to provide remote hearings from a large number of court rooms. This will not change the remote nature of the hearings, but will greatly increase our capacity.

Allocations

I initially took the step of stopping all current allocations and keeping all filed matters within the National Operations Registry for detailed triaging. We are continuing to triage all matters. However, I have taken the decision to begin to allocate first instance matters to judges in the light of the fact that many judges are beginning to become familiar with the Teams remote method and function. This will enable many more case management hearing to be held by this remote method and we can continue to undertake a volume of work. I would hope that within the next few weeks the court will be functioning at something in the order of 40-60% capacity. I hope that that is not wishful thinking. It is important that not only urgent matters, but also some regular body of work be moving through the Court. I anticipate a revised special measures information and practice note will set this out tomorrow, at the latest.

Data breach

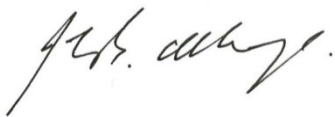
As you will now be aware there has been a s91X data breach. We have investigated this over the last 10 days. We will be putting up on the website a public explanation which I will send to you directly. There were a number of root causes to the problem which stemmed from how information was presented by those filing and from failures of system at registry level. There is a public portal and a secure portal at the Commonwealth Courts Portal. The problem was in both. However, the public dissemination of protected information was able to occur in under 500 cases, on our best estimate. We have shut down indefinitely the public search facility on migration in the Commonwealth Courts Portal. Litigants and their advisers can still use the secure portal. I have informed the Attorney-General of the problem. Notwithstanding the closure of the public portal the parties will still be able to access the secure portal for their cases. To the extent that it is possible, the court will inform litigants and their advisers of the breach.

Consideration for the profession

I have raised with judges of the court the question of consideration of the profession in their difficult times. The court understands that the profession is undergoing extraordinary strain and pressure, both financial and personal. The courts and the profession are trying to adapt to serve the administration of justice. The profession is doing this often in the context of difficult family circumstances: working from home, caring for children at home, with partners doing the same, and in all likelihood without IT support of the kind institutions such as the Federal Court enjoy. I have indicated to judges that it is unrealistic and may be unfair not to give consideration to these matters in timeframes for doing work and in making case management orders and decisions. I have indicated that a degree of heightened consideration and politeness is called for by the Court and judges in circumstances in which we find ourselves. No doubt there may be some persons who will seek to take advantage of the current difficult circumstances for unnecessary delay. They will be few and as I have said to the judges they will still be there when normality returns.

I hope this assists with the profession in dealing with work in these difficult times.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Allsop', written in a cursive style.

The Hon James Allsop
Chief Justice