



NEW SOUTH WALES

CHIEF MAGISTRATE'S MEMORANDUM

26 March 2020

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ADDENDUM TO OPERATIONAL ARRANGEMENTS DURING COVID-19
PANDEMIC (NO. 6)

Following discussions with the Bar Association regarding the recent memorandum of 24 March 2020 the following information is provided to ensure greater clarity.

Paragraph 5 states that a physical appearance will not be required when the defendant or party is legally represented. It is implicit in that statement that there will be no need for the defendant or party to be physically present.

Where an unrepresented defendant or party to proceedings has the ability to communicate with the court by email or in writing then the arrangements that apply to legal representatives and their clients apply equally to unrepresented persons.

Paragraph 7 is amended to read:

“Regrettably it will not be feasible to hear defended hearings where the defendant is in custody. **Subject to the requirement for notice of 3 days the Local Court will entertain an application for release of a defendant who is bail refused recognizing that a lengthy period of continuing incarceration may exceed the ultimate penalty that would have otherwise applied should the defendant have been found guilty at an earlier time.** Irrespective of whether the release application is successful the proceedings should be adjourned for not less than 8 weeks for mention only. Where the defendant is legally represented appearance on the release application may be by email.

Paragraph 18 is amended only **in the first sentence** to read “Where the defendant is on bail whether legally represented or unrepresented and the Court considers a sentence of imprisonment by way of full time custody or an Intensive Correction Order is the appropriate outcome the court will adjourn the proceedings for a period of 8 weeks”. The remainder of Paragraph 18 remains unaffected save to point out that where a defendant on bail appears through his legal representative then they are taken to have been excused from attendance.

Conduct of Proceedings within the Court

Occasions may arise where a person or persons present in the courtroom, including a legal practitioner show symptoms, such as coughing or respiratory difficulty suggestive of illness. Magistrates of their own motion or if the possible illness is brought to their attention should act in the interest of the potential health impact on all persons within the courtroom.

In the current climate mitigating the risk of infection is to take priority over the continuation of proceedings. It should be accepted by Magistrates that as far as is reasonable during the pandemic they have a social duty to consider the health and wellbeing of all persons appearing before the Local Court.

Should such a situation arise Magistrates should adjourn the court as soon as practicable so that arrangements can be commenced by the person who appears to be ill to attend to the management of their circumstances.

If the situation arises in a multi court complex and there is an alternate courtroom available remaining proceedings should be moved from that court. The Registrar should be contacted to arrange for the former courtroom to be professionally cleaned.

Where such an alternative is not available it may be necessary to abandon continuation of proceedings before the Court on that day so that arrangements can be made to have the courtroom professionally cleaned.


Judge Graeme Henson AM
Chief Magistrate

