



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.

C. 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.

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