



## NEW SOUTH WALES

24 January 2022

### CHIEF MAGISTRATE'S MEMORANDUM NO. 26 - COVID-19

**This memorandum replaces all other previous COVID-19 memoranda.**

As a result of the high number of COVID infections within the community which are affecting the operations of the Court, I make the following directions which will apply up until and including 11 February 2022.

This direction applies to all Local Court sittings at locations in New South Wales. This includes both civil and criminal sittings. This memorandum does not apply to the Children's Court, which is subject to a separate public notice.

This memorandum is to be read in conjunction with any in-force order made under section 7(1)(b) of the *Court Security Act 2005* (NSW).

Where reference to Audio Visual Link technology (AVL) is made in this document, the use of AVL is dependent on the availability of the technology which may not always be available at all locations.

#### 1. **Vacation of Defended Hearings**

- 1.1 All Local Court defended hearings (including hearings where the defendant is in custody) are to be vacated up to and including Friday 11 February 2022.
- 1.2 All vacated matters will remain listed for call-over on the date on which they were originally listed.
- 1.3 Defended matters may proceed in limited circumstances on an application by a legal practitioner or self-represented litigant to the Court (at which the matter is listed) prior to the listing date. Where the presiding magistrate is inclined to grant the application, the hearing may only proceed with the approval of the Chief Magistrate.

#### 2. **In-person Appearance Not Required**

- 2.1 Unless otherwise ordered by the Court, an in-person appearance is NOT required. Parties may appear via AVL, by telephone (where approved by the Court) or by email using the attached form headed **Annexure A**. This does not apply to Police Prosecutors.
- 2.2 It is the expectation of the Court that parties will appear in-person only in limited circumstances.
- 2.3 Self-represented parties who receive a Court Attendance Notice should look at the FAQs at the following web address - <https://www.localcourt.nsw.gov.au/local-court/arrangements-for-covid-19--coronavirus-/contacting-and--or-attending-court.html#Entering3>.

2.4 Sentencing matters will proceed by way of AVL unless parties / legal practitioners make a request to the Court to appear by other means. Where a full-time custodial sentence is the likely outcome for a defendant who is in the community, the sentence will be adjourned to a date after 11 February 2022.

### 3. **COVID Safety Measures for In-Person Appearances**

3.1 Pursuant to the Chief Magistrate's Order dated 17 January 2022, made under s 7(1)(b) of the *Court Security Act 2005* (NSW), all persons attending the Local Court must:

3.1.1 Wear a fitted face covering / mask. Any exceptions to the wearing of masks will be managed by the presiding judicial officer;

3.1.2 COVID Safe check-in;

3.1.3 Observe physical distance requirements; and

3.1.4 Observe density limits

3.2 Where Court users are required, but unable to attend Court in person for health reasons, the Court may, on application or of its own motion, adjourn proceedings or make available the use of AVL to enable participation.

3.3 Subsequent Court Security Act Orders may be made as and when necessary, as determined by the Chief Magistrate. The requirements of any in-force Order must be observed by all parties attending any Local Court location in New South Wales. Orders will be published on the Local Court website and circulated amongst stakeholders when made.

### 4. **Guidance for Appearance by Email and AVL**

4.1 Email appearances should be received by the Court **no later than 1.00 p.m. the day before** the matter is listed in Court. The email appearance should be made using the attached form headed **Annexure A**.

4.2 An email appearance should clearly and concisely set out what orders are being sought from the Court and a Listing Advice Notice must accompany the email if a hearing date is sought.

4.3 An email appearance must contain contact details for the legal practitioner with carriage of the matter. The legal practitioner should be available to be contacted by the Court if an appearance (to address any issues raised by the email appearance) is required.

4.4 All practitioners appearing by AVL must, at all times, dress and conduct themselves as though they were appearing in-person before the Court.

### 5. **Small Claims Hearings**

5.1 Small claims hearings (including any previously listed in-person hearings) will remain listed and will now proceed via telephone or AVL.

5.2 Small claims hearings unable to be conducted via telephone or AVL will be adjourned for mention and / or hearing on a date after 11 February 2022, or a date to be determined by any future Memorandum.

6. **General**

In the event of travel restrictions or increased risk of infection, nothing in this Memorandum prevents an application by a party or legal representative for consideration of an appearance by audio or audio-visual link. However, any request will be subject to the availability of such technology and the suitability of the proceedings being dealt with in this manner.

*Peter Johnstone*  
Judge Peter Johnstone  
Chief Magistrate



**Annexure A - Template email to Local Court from solicitor / barrister for Defendant**  
(To be received by the Court no later than 1.00 p.m. the day before the matter is next listed)

Date: \_\_\_\_\_

Dear Registrar,

Case Name: \_\_\_\_\_

Case No(s): \_\_\_\_\_

I appear for the abovenamed.

**Listing**

The matter is listed as follows:

Date: \_\_\_\_\_

Court: \_\_\_\_\_

Purpose: [Mention / Reply / Bail app / Bail variation app / Other: \_\_\_\_\_ ]

**Appearance**

Pursuant to the Chief Magistrate's Memorandum 26, I seek to appear by email in lieu of a physical appearance from either me or my client. Please place this email on the Court file for the Magistrate's attention.

**Orders and notations sought**

- [Enter / Confirm] plea of **Guilty** to Sequence(s): \_\_\_\_\_
- [Enter / Confirm] plea of **Not guilty** to Sequence(s): \_\_\_\_\_
- [Brief / Balance of brief] to be served by \_\_\_\_\_ [ \_\_\_\_\_ weeks].
- Adjourned to \_\_\_\_\_ for \_\_\_\_\_ [ \_\_\_\_\_ weeks].
- Adjourned for hearing on a date to be fixed by the Court (Unavailable dates below).
- Bail to continue.
- Bail be varied as follows: \_\_\_\_\_
- Bail not applied for and refused.
- Defendant to appear via AVL on the next occasion(s).
- Order interpreter - Language: \_\_\_\_\_
- Other: \_\_\_\_\_

**Other matters**

- The adjournment referred to above is sought by the [Prosecution / Defendant] because:  
\_\_\_\_\_  
\_\_\_\_\_
- I have copied into this email the [Other party(s) / Prosecution / OIC].
- The adjournment application is [Opposed / Not opposed] by the [Prosecution / Defence].
- The Prosecution's view to the defence bail variation application is: [Opposed / Not opposed].
- The surety's letter consenting to the defence bail variation application is attached.\*
- A Listing Advice Notice is attached.\*
- My unavailable dates are: \_\_\_\_\_

**Contact details**

In the event required, the solicitor / barrister with carriage of this matter may be contacted on the day of the mention, and is available to appear by phone or AVL, on the following number / details:

Name of solicitor / barrister: \_\_\_\_\_

Email: \_\_\_\_\_

Contact number: \_\_\_\_\_