



Local Court of New South Wales

Practice Note – Bail Division Proceedings

Issued: 27 June 2025

Commences: 7 July 2025

Amended: N/A

Bail Division Proceedings

Contents

1. Commencement and Application of Practice Note	2
2. Definitions	2
3. Purpose	2
4. Case Management	3
5. Custody Information Form	3
6. Cut Off Time	3
7. Pre-determined Courtroom	3
8. Bail Hearings	4
9. Progression of Matter	4
10. Orders under the <i>Mental Health Cognitive Impairment Forensic Provisions Act 2020</i>	5
11. Approved Form	5

1. Commencement and Application of Practice Note

- 1.1 This Practice Note commences on 7 July 2025.
- 1.2 This Practice Note applies to bail application proceedings pursuant to the *Bail Act 2013* ('the Act') in the Local Court and is intended to reflect the legislative objective set out in Section 3 of the Act.

2. Definitions

- 2.1 In this Practice Note:

AVL means audio visual link.

Audio link means facilities (including telephone) that enable audio communication between persons at different places.

Bail Application means a detention application, release application, or variation application made under the *Bail Act 2013*.

Bail Division means centralised bail Courts presided over by a Magistrate during weekdays.

CESU means Court Escort and Security Unit (Corrective Services NSW).

Custody Information Form is the form sent by Police or CESU sites to notify the Court an accused person is ready to be listed before the Court and seen by their legal representative. This form was previously known as the Form 1.

Court participant means Prosecutors, Legal Aid NSW practitioners, Aboriginal Legal Service NSW/ACT practitioners, private legal representatives, self-represented accused, complainants, interpreters, Corrective Services NSW, Justice Health Court Liaison Officer, family, friends and support persons of the accused.

CSNSW means Corrective Services NSW.

Electronically means via email or any electronic means.

Magistrate means a Magistrate or Acting Magistrate.

Relevant Court means the Court at the place where the charging station would ordinarily list the proceeding.

Regional Hub Grouping means a collection of individual Court locations as determined in the Standard Operating Procedures.

'Standard Operating Procedures' means the current version of the Standard Operating Procedures to support the operation of the Bail Division as issued by DCJ Court Services

3. Purpose

- 3.1 This Practice Note is issued for the purpose of and to outline the practice and procedure to be adopted in bail application proceedings in the Bail Division.
- 3.2 This Practice Note is to be read in conjunction with the Crim 1 Practice Note and the Domestic and Personal Violence Proceedings Practice Note.
- 3.3 The Bail Division is a virtual Court that maintains the principle of open justice. Subject to any application to restrict access to any bail application, all bail applications will be conducted in open Court.

4. Case Management

- 4.1 The Bail Division will determine bail applications from across New South Wales via AVL from a virtual Court located at the Downing Centre Local Court, or any other location as directed by the Chief Magistrate.
- 4.2 The Bail Division will only hear first instance applications for bail by adult applicants who have been police bail refused.
- 4.3 All court participants will appear via AVL.
- 4.4 On request to the Registry, interested parties are permitted to dial into the proceedings. This will be subject to the Standard Operating Procedures.

5. Custody Information Form

- 5.1 The Custody Information Form must be completed by the custody manager at a relevant police station or by a CSNSW officer at a nominated CESU site.
- 5.2 The form is only required to be completed when an accused person at a relevant police station or nominated CESU site will appear before the Bail Division on that day.
- 5.3 The form must be received by the Court by email prior to 7 AM and should include all matters since the cut off time from the previous day. The form must also be sent to Legal Aid NSW and prosecutors by 7 AM.
- 5.4 The Custody Information Form must be updated and sent to the Court, prosecutors and Legal Aid NSW every hour from 7 AM until the cut off at 12 PM. If no further accused persons are received at a particular location, there is no requirement to update and send the form.
- 5.5 An accused person should not be included on the Custody Information Form unless the charge process is complete, and the accused person is available to provide instructions for the bail application to their legal representative.

6. Cut Off Time

- 6.1 The cut off time in the Bail Division is 12 PM. An accused person will be included in the Court bail list for the relevant day if included on the Custody Information Form by a custody manager at a police station, or a CSNSW officer at a nominated CESU site and received by the Court electronically prior to 12 PM.
- 6.2 Any accused person that fails to make the 12 PM cut off and who remains in custody, will have priority in the next day's Bail Division list.
- 6.3 Legal representatives who have obtained instructions on the day cut off is missed shall advise the Registry electronically that the bail application is ready to proceed. These matters will receive priority in the appropriate Court list in the Bail Division the next day.
- 6.4 Requests for late admission to the Bail Division may be made after 12 PM by Custody Managers or CSNSW officers. Any such application will be determined by the Registrar or the Bail Coordinating Magistrate in Chambers.

7. Pre-determined Courtroom

- 7.1 Applications will be allocated to Courts based on the Standard Operating Procedures in consultation with the Bail Coordinating Magistrate.
- 7.2 Courtroom allocations may be reassessed during the day to ensure that all matters are dealt with as expeditiously as is reasonably practicable.

8. Bail Hearings

- 8.1 At 9 AM, Legal Aid NSW legal representatives are to provide to the Court a list of matters ready to proceed. The list is to be updated throughout the day each time an application is ready to proceed.
- 8.2 For applications where private legal representatives or Aboriginal Legal Service NSW/ACT are instructed, the legal representative is to notify the Court Registry by email (or other electronic means) as soon as possible that they appear in the proceeding and provide their contact details. This must occur prior to the 12pm cut off time. Once the matter is ready to proceed the Registry must be notified as soon as possible. The Registry will advise the private legal representative when the Court is ready to hear and determine the application.
- 8.3 Court will commence sitting at 9:30 AM. Applications that were assigned priority the previous day will be heard first. Thereafter, the Court will hear applications according to readiness to proceed.
- 8.4 The Court sitting times will be the same as the Local Court. The morning-tea adjournment will be between 11:30 AM and 12 PM. The lunch adjournment will be between 1 PM and 2 PM. The Court will sit until 4 PM.
- 8.5 The prosecution must provide the accused persons legal representatives an electronic copy of the police facts and criminal antecedents prior to the bail application being heard.
- 8.6 The police facts and criminal antecedents will be tendered to the Court electronically by prosecutors prior to the hearing of the application.
- 8.7 If an applicant seeks to rely on any documents to support their bail application, the documents must be filed electronically with the registry and sent to the prosecution prior to the hearing of the application.
- 8.8 Oral submissions from the prosecution and applicant should not exceed 10 minutes for each bail application. This does not include reading time for material tendered by either party to the application. The Court may allow further time for oral submissions from the parties if the Court determines it is in the interests of justice.
- 8.9 Any matters that are not reached by 4 PM shall be listed on the next available Court day, unless otherwise directed by the Court.

9. Progression of Matter

- 9.1 Prior to hearing a bail application, if the accused person has been convicted on a finding of guilt or upon entering of a plea of guilty, the Magistrate may:
 - (a) Proceed to sentence the accused person
 - i. If the Magistrate determines the Court has capacity to hear the sentence, and
 - ii. A Sentencing Assessment Report is not required, and
 - iii. The accused person consents to the matter proceeding to sentence; or
 - (b) Proceed to hear the application for bail, or
 - (c) Adjourn the sentencing proceedings to the criminal list at the relevant Court.

- 9.2 After hearing a bail application, where an accused person enters a plea of not guilty, the Magistrate may:
- (a) Make orders for service of the prosecution brief of evidence upon the accused person or their legal representative within 4 weeks; and adjourn the proceedings for reply in 6 weeks to the criminal list of the relevant Court, or
 - (b) Where the accused person is charged with a domestic violence offence, adjourn the proceedings for mention to fix a hearing date to the next criminal list of the relevant Court, or
 - (c) Where the accused person is charged with a matter for which a brief of evidence is not required, adjourn the proceedings for mention to fix a hearing date to the next criminal list of the relevant Court, or
 - (d) Where the accused person is charged with a matter which falls under the Early Appropriate Guilty Plea Process (EAGP), make orders for service of the prosecution brief of evidence upon the accused person or their legal representative in 8 weeks, and adjourn the proceedings for mention in 8 weeks to the DPP list of the relevant Court.
- 9.3 After hearing a bail application, where the accused person has not entered a plea, the Magistrate may adjourn the proceedings for mention at the next criminal list of the relevant Court for a plea to be entered.
- 9.4 If an application for release is made and bail is refused, the matter will not proceed to sentence at the request of the accused person unless the Magistrate determines that good reasons exist, and it is in the interests of justice to proceed to sentence.

10. Orders under the *Mental Health Cognitive Impairment Forensic Provisions Act 2020*

- 10.1 When making an order under Section 19(a)-(c) of the *Mental Health Cognitive Impairment Forensic Provisions Act 2020*, bail is taken to be dispensed with. No further bail determination is required unless the accused person is returned to the Court following assessment.
- 10.2 If the accused person is found on assessment at a mental health facility not to be a mentally ill or mentally disordered person, and the Police return the accused person to the Court for a bail determination, the person will be brought before a Magistrate in the Bail Division.

11. Approved Form

- 11.1 When a bail application is made, the Magistrate must complete a Summary of Reasons for Bail Decision of Court Form (Annexure 1).

Annexure 1

SUMMARY OF REASONS FOR BAIL DECISION OF COURT

Bail Act 2013, Section 38

Effective 7 July 2025

DECISION MAKER:

LOCAL COURT AT:

DATE:

ACCUSED PERSON:

☐ Bail decision deferred due to intoxication

☐ Exceptional circumstances offence (s 22A)

☐ Unacceptable risk test (s17,s18)

OFFENCES: H _____ Seq _____ H _____ Seq _____
H _____ Seq _____ H _____ Seq _____
H _____ Seq _____ H _____ Seq _____

☐ Show cause offence (s 16A/ s 16B)

☐ Cth child sex offence (s 15AAA, CA 1914)

☐ Section 74 applies

ASSESSMENT OF BAIL CONCERNS (SECTION 18)

<p>s18(1)(a) Criminal history: <input type="checkbox"/> Lengthy <input type="checkbox"/> Limited <input type="checkbox"/> Nil Personal background and circumstances: Community ties: <input type="checkbox"/> Strong <input type="checkbox"/> Weak <input type="checkbox"/> None</p>	<p>s18(1)(i) Custodial sentence: <input type="checkbox"/> Likely <input type="checkbox"/> Unlikely</p>
<p>s18(1)(b) Nature of offence: <input type="checkbox"/> Serious <input type="checkbox"/> Minor <input type="checkbox"/> Violent <input type="checkbox"/> Property <input type="checkbox"/> Prevalent</p>	<p>s18(1)(i1) Accused person convicted but not sentenced: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>s18(1)(c) Strength of case: <input type="checkbox"/> Strong <input type="checkbox"/> Weak <input type="checkbox"/> Plea of guilty/convicted</p>	<p>s18(1)(j) Appeal proceedings: reasonably arguable prospect of success: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>s18(1)(d) History of violence: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>s18(1)(k) Special vulnerability: <input type="checkbox"/> Youth <input type="checkbox"/> ATSI <input type="checkbox"/> Cognitive or mental health impairment</p>
<p>s18(1)(d1) Behaviour by accused that may constitute domestic abuse (s 6A(2), C(D&PV)A 2007) <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>s18(1)(l)(m) Accused person's circumstances: <input type="checkbox"/> Work <input type="checkbox"/> Family <input type="checkbox"/> Medical <input type="checkbox"/> Obtain legal advice <input type="checkbox"/> Prepare for appearance</p>
<p>s18(1)(e) Previous serious offence on bail: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>s18(1)(n) Conduct towards victim or family member of victim: <input type="checkbox"/> No contact <input type="checkbox"/> Threatening or violent</p>
<p>s18(1)(f) History of compliance or non-compliance <input type="checkbox"/> Yes <input type="checkbox"/> No Previous breaches of court orders: <input type="checkbox"/> No <input type="checkbox"/> Yes order type/s:.....</p>	<p>s18(1)(o) Views of victim or family member of victim on safety if released (serious offence or domestic violence offence against an intimate partner):</p>
<p>s18(1)(f1) Bail decision after failure to comply. Warnings issued by police officers/bail authorities re non-compliance with bail acknowledgements/conditions <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>s18(1)(p) bail conditions that could reasonably be imposed to address bail concern s20A <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>s18(1)(g) Any criminal associations: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>s18(1)(q) Any Terrorist Associations <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>s18(1)(h) Likely time in custody: <input type="checkbox"/> Days <input type="checkbox"/> Weeks <input type="checkbox"/> Months <input type="checkbox"/> Unknown</p>	<p>s18(1)(r)(s) Any statements/activities advocating support for terrorist acts/violent extremism: By accused person: <input type="checkbox"/> Yes <input type="checkbox"/> No By persons/groups associated/affiliated with accused person: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
PROSECUTION SUBMISSIONS	DEFENCE SUBMISSIONS
<p>Bail Opposed <input type="checkbox"/> Bail Not Opposed <input type="checkbox"/> <input type="checkbox"/> Unacceptable risk <input type="checkbox"/> Bail concerns identified <input type="checkbox"/> fail to appear at any proceedings for the offence <input type="checkbox"/> commit a serious offence <input type="checkbox"/> endanger safety of victims/individuals/the community <input type="checkbox"/> interfere with witnesses/evidence</p>	

☐ **BAIL REFUSED**

☐ Accused has not established exceptional circumstances exist to justify bail (s 22A)

☐ Accused has not shown cause why detention is not justified (s 16A /s 16B)

☐ Accused has not satisfied court that exceptional circumstances exist to grant bail (s 22B)

☐ Unacceptable risk that the accused if released from custody will:

☐ fail to appear at any proceedings for the offence

☐ commit a serious offence

☐ endanger safety of victims/individuals/the community

☐ interfere with witnesses/evidence

☐ **BAIL GRANTED**

☐ Conditional bail granted (see over)

☐ Bail is dispensed with

☐ Bail is granted without conditions

Bail concerns identified:

☐ fail to appear at any proceedings for the offence

☐ commit a serious offence

☐ endanger safety of victims/individuals/the community

☐ interfere with witnesses/evidence

REASONS:

Bail Condition(s):

- ☐ **Residence:** You are to live at:.....
- ☐ **Accommodation - Post-release:** Upon release to bail, you are to travel directly to rehabilitation facility and you are to live there during your treatment.
- ☐ **Accompaniment - Pre-release:** You are to be released into the care/company of You will not be released to bail until that person attends the correctional centre/police station you are in custody at for the purpose of accompanying you away from that place.
- ☐ **Curfew:** You are to be at home between PM and AM unless in the company of
- ☐ **Reporting:** You are to report to police at.....Police Station daily or each Mon / Tues / Wed / Thurs / Fri / Sat / Sun between the hours of AM and PM.
- ☐ **Place restriction:** You are not to enter..... or go within Kilometres/Metres of that area (except for).
- ☐ **Non-contact:** You are not to go near, contact or try to go near or contact or any prosecution witness (except through a lawyer).
- ☐ **Non-association:** You are not to be with or contact.....
- ☐ **Drug/alcohol restriction:** You are not to drink alcohol or take any drugs, unless the drugs are prescribed by a doctor.
- ☐ **Treatment:** You are to attend.....and accept any treatment reasonably recommended, including attending appointments.
- ☐ **Intervention/Diversion program participation:** You are to participate in the program and comply with all assessment and program requirements.
- ☐ **Passport:** If not already surrendered, you must hand in your passport to the registrar of..... Court or a police officer atPolice Station:
- ☐ **Pre-release:** before being released to bail.
- ☐ **Post-release** withinhours/days/weeks after being released from custody;
- AND you must not apply for another passport.
- ☐ **Travel restriction:** You must not enter any international airport or other point of departure from Australia.
- ☐ **Mobile Phone restriction:** The applicant is to not to use or be in possession of more than one mobile telephone service and SIM card, and is to provide the password or PIN code, service and IMEI numbers of that telephone to within hours of taking or resuming possession of any such service.
- ☐ **Character acknowledgment - Pre-release:** You will not be released to bail until one (or) acceptable person(s) agrees in writing that they know you and think you are a responsible person who is likely to follow your bail.
- ☐ **Security Agreement - Accused:**
- ☐ **Pre-release:** You will not be released to bail until you enter into an agreement that if you do not attend when the court tells you to, you agree to forfeit \$.....
- ☐ without security; ☐ deposit security in the form of; ☐ deposit cash.
- AND they deposit the specified form of security / amount.
- ☐ **Post-release:** You are to enter into an agreement that if you do not attend when the court tells you to, you agree to forfeit \$.....:
- ☐ without security; ☐ deposit security in the form of; ☐ deposit cash
- ☐ **Security Agreement - Acceptable Person:**
- ☐ **Pre-release:** You will not be released to bail until one (or) acceptable person/s is to enter into an agreement that if you do not attend when the court tells you to, they agree to forfeit \$..... (each):
- ☐ without security; ☐ deposit security in the form of; ☐ deposit cash.
- AND they deposit the specified form of security / amount.
- ☐ **Electronic Monitoring – Serious DV offences:** You are to be subject to electronic monitoring by Corrective Services NSW (s 28B, *Bail Act 2013*). Before you are released to bail, you must be fitted with an electronic monitoring device. While on bail, you must comply with obligations in relation to electronic monitoring (s 31G(2), *Bail Regulation 2021*).

Enforcement Conditions

- ☐ **Curfew:** You must present yourself at the front door of your residence for a curfew check if told to do so by a police officer during curfew hours, no more than times per day and / or no more than times per week.
- ☐ **Drug or Alcohol testing:** You must present yourself at the front door of your residence and provide a sample for a drug / alcohol test if told to do so by a police officer. This condition is subject to the following restrictions:
- ☐ **Other condition/s:**

.....
Magistrate