



## Local Court of New South Wales

### Practice Note – Bail Proceedings (Centralised Bail Courts)

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Commences: 26 October 2024

Amended: N/A

## Bail Proceedings (Centralised Bail Courts)

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## 1. Commencement and Application of Practice Note

- 1.1 This Practice Note commences on 26 October 2024.
- 1.2 This Practice Note applies to Centralised Bail Courts hearing adult 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.

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

**Centralised Bail Courts** means bail courts presided over by Acting Magistrates during weekends, public holidays, judicial conferences, and the Local Court fixed vacation period.

**CESU** means Court Escort and Security Unit (Corrective Services New South Wales).

**Court participants** means Police Prosecutors, Legal Aid Practitioners and Private Legal Practitioners, and Corrective Services New South Wales.

**CSNSW** means Corrective Services New South Wales.

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

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

**Standard Operating Procedures** means the Standard operating procedures for weekend and public holiday Bail Court.

## 3. Purpose

- 3.1 The purpose of this Practice Note is to outline the practice and procedure to be adopted in bail application proceedings in Centralised Bail Courts.
- 3.2 This Practice Note is to be read in conjunction with Criminal Crim 1 Practice Note.

## 4. Case Management

- 4.1 Centralised Bail Courts will hear bail applications from across NSW via AVL at the Parramatta Local Court and/or Parramatta Children's Court buildings.
- 4.2 An accused person will be included on the Court bail list for the relevant day if included on a *Form 1* (as outlined in the Centralised Bail Courts Standard Operating Procedures) by a custody manager at a regional police station, or a CSNSW officer at a nominated CESU and received by the Court by email **prior to 10 AM**.
- 4.3 An initial list of accused persons is to be emailed by custody managers and CSNSW Officers to the Court, Police Prosecutions Command, and Legal Aid NSW using Form 1 **by 7 AM**.
- 4.4 An accused person should not be included on a Form 1 unless the charge process is complete, and the accused person is available to provide instructions to their legal practitioners.
- 4.5 Additional accused persons can be added to the list and forwarded through to the Court, Police Prosecutors, and Legal Aid **up until 10 AM** which will be the cut off time.

- 4.6 Requests for late admission to the Court's bail list can be made after 10 AM. Custody officers are to complete a *Request for Late Admission – Form 3* (as outlined in the Centralised Bail Courts Standard Operating Procedures).

## **5. Pre-Determined Courtroom and Time Markings**

- 5.1 The allocation of cases to Courtrooms is to be determined by the Standard Operating Procedures in consultation with the Acting Magistrates sitting on the day.
- 5.2 Courtroom allocations are to be reassessed during the day to ensure that all matters are dealt with as expeditiously as is reasonably possible.

## **6. Bail Hearings**

- 6.1 At 9:15 AM, Legal Aid are to provide a running list of matters ready to commence from 9:30 AM to the Court.
- 6.2 The Court will commence sitting at 9:30 AM. Each courtroom will hear the matters in accordance with the running list provided by Legal Aid for each metropolitan CESU or regional hub grouping.
- 6.3 The Court will communicate with Court participants who are directly involved in the proceedings during the day when changes are made, breaks are taken, and where technical or other issues arise.
- 6.4 Paper copies of the police facts, criminal antecedents, and other materials to be relied upon to support the bail application are to be tendered. In the event the prosecutor or legal practitioner is appearing in the bail application via AVL, materials are to be sent via email to the Registry to be printed and made available to the Court Officer to hand up to the Acting Magistrate when tendered.
- 6.5 Private legal practitioners instructed by an accused person are to advise the Court, Legal Aid and Police Prosecutors details of their matter/s as soon as reasonably practical. Private legal practitioners are to advise the Court and Police Prosecutors when they are ready to proceed. Private legal practitioners are to provide their contact details to the Court registry. The Court will advise the private legal practitioner when the Court is ready to proceed.
- 6.6 The Registry will arrange any required appearance of an interpreter via AVL, via telephone, or in person.
- 6.7 Police Prosecutors, Legal Aid practitioners, and private legal practitioners in regional NSW locations have leave to appear via AVL, no application to appear via AVL is required.
- 6.8 Any matters that are not reached by 4 PM are to be listed on the next available court day.

## **7. Progression of Matter**

- 7.1 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 Acting Magistrate may:
- (a) proceed to sentence if the Acting Magistrate determines the Court has capacity to hear the sentence, and a Sentencing Assessment Report is not required; or
  - (b) proceed to hear the application for bail; and/or
  - (c) adjourn the sentencing matter to the criminal list at the relevant Court.

- 7.2 After hearing a bail application, where an accused person enters a plea of not guilty, the Acting 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 7 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 Court at the place where the charging station would ordinarily list the matter; 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.
  - (d) where the accused 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 practitioner within 8 weeks, and adjourn the proceedings for mention in 8 weeks to the criminal list of the relevant Court.
- 7.3 After hearing a bail application, where the accused person has not entered a plea, the Acting Magistrate may adjourn the proceedings for mention at the next criminal list of the relevant Court for a plea to be entered.

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

- 8.1 When making an order under Section 19(a)-(c) of the *Mental Health Cognitive Impairment Forensic Provisions Act 2020*, no bail determination is required. A bail determination is not to be made unless the accused person is returned to the Court following assessment.

## **9. Approved Form**

- 9.1 When a bail application is made, the Acting Magistrate will complete a Summary of Reasons for Bail Decision of Court form (Annexure 1).

**SUMMARY OF REASONS FOR BAIL DECISION OF COURT**

*Bail Act 2013, Section 38*  
24 October 2024

LOCAL COURT AT:

DECISION MAKER:

DATE:

OFFENCES: H \_\_\_\_\_ Seq \_\_\_\_\_

ACCUSED PERSON:

H \_\_\_\_\_ Seq \_\_\_\_\_

H \_\_\_\_\_ Seq \_\_\_\_\_

H \_\_\_\_\_ Seq \_\_\_\_\_

- Bail decision deferred due to intoxication
- Exceptional circumstances offence (s 22A)
- Serious indictable offence on bail / parole / subject to warrant
- Show cause offence (s 16A/ s 16B)
- Cth child sex offence (s 15AAA, CA 1914)
- Other

**ASSESSMENT OF BAIL CONCERNS**

- Criminal history:  Lengthy  Limited  Nil
- Personal background and circumstances:
- Community ties:  Strong  Weak  None
- Nature of offence:  Serious  Minor  Violent  Property  Prevalent
- Strength of case:  Strong  Weak  Plea of guilty/convicted
- History of violence:  Yes  No
- Previous serious offence on bail:  Yes  No
- Previous breaches of court orders:  No  Yes – order type/s:.....
- (Bail decision after failure to comply) Warnings issued by police officers/bail authorities re non-compliance with bail acknowledgments/conditions:  Yes  No
- Any criminal associations:  Yes  No
- Any terrorist associations:  Yes  No
- Any statements/activities advocating support for terrorist acts/violent extremism:
  - By accused person:  Yes  No
  - By persons/groups associated/affiliated with accused person:  Yes  No
- Likely time in custody:  Days  Weeks  Months  Unknown
- Custodial sentence:  Likely  Unlikely
- Accused person convicted but not sentenced:  Yes  No
- Appeal proceedings: reasonably arguable prospect of success:  Yes  No
- Special vulnerability:  Youth  ATSI  Cognitive or mental health impairment
- Accused person’s circumstances:  Work  Family  Medical
  - Obtain legal advice  Prepare for appearance
- Conduct towards victim or family member of victim:  No contact  Threatening or violent
- Behaviour by accused that may constitute domestic abuse (s 6A(2), C(D&PV)A 2007)  Yes  No
- Views of victim or family member of victim on safety if released (serious offence or domestic violence offence against an intimate partner):  Yes  No

Prosecution submissions

Defence submissions

- 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

Reasons:

Bail granted

Conditional bail granted (see over),  Bail is dispensed with,  Bail is granted without conditions

**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 at .....Police Station:
  - Pre-release:** before being released to bail.
  - Post-release** within .....hours/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.
- 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 you deposit the specified form of security / amount with the registrar of ..... Court or a police officer at .....Police Station.
  - 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 with the registrar of ..... Court or a police officer at .....Police Station.

**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).

- Electronic Monitoring (Other, by private provider) –** You are to be subject to electronic monitoring to be provided by .....and must be fitted with an electronic monitoring device:
  - Pre-release:** before being released to bail.
  - Post-release:** within ..... hours after being released from custody, and you must attend..... for that purpose.

**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