

Children's Court of Western Australia ("the Court")

Practice Direction No. 1 of 2011

1. Scope

- 1.1. Immediately relisting matters in which decisions to refuse bail for young persons have been made by Justices of the Peace constituting the Court in country areas of Western Australia on Saturdays and public holidays when the Court, at Perth, is sitting, for the issue of bail to be re-heard by the Court constituted by a Magistrate.
- 1.2. Until further direction, this Practice Direction only applies to those country locations where the Court is supported administratively by a court registry managed by a Registrar employed by the Department of the Attorney General.
- 1.3. Given that in some country locations young persons may not be legally represented and to ensure that no young person is unnecessarily detained, this Practice Direction applies as a matter of course and is not dependant on any application being made to the Court by or on behalf of any young person.

2. Objectives

1. To enhance access to the Court by the authorities, young persons and the community outside of ordinary business hours.
2. To ensure that young persons are not unnecessarily detained over the weekend in police lock-ups in country areas of Western Australia.
3. To ensure in country areas that the Court constituted by a Magistrate based locally has the first opportunity of considering and determining local matters.
4. To encourage local Police and Youth Justice and Child Protection Officers, local lawyers, local communities and families to work together generally to develop permanent bail placements and to also develop bail plans urgently and outside usual business hours for young persons on specific matters that come before the Court.
5. Minimal process for best outcomes.
6. To ensure that the Court, at Perth, is informed of essential material for the proper consideration of bail.
7. To ensure that there is certainty across registries and registry officers on who does what.

8. To ensure that all paperwork and recording for the one matter resides in the local country registry and does not become spread across registries by making it clear that the responsibility for attending to this administration resides with the Country JSO and the country registry.

3. Commencement

This Practice Direction shall commence to have effect on and including Saturday 18 June 2011.

4. Definitions

- 'Country JSO' means a Judicial Support Officer or any other person assigned by the Registrar of the registry of the particular country registry to support the Court at the country location where the matter is listed at first instance
- 'JP' means Justice of the Peace
- 'JsP' means Justices of the Peace and a reference to JsP in this Practice Direction can be read to also mean a single JP.
- 'Perth JSO' means a JSO assigned by the Registrar of the registry of the Court, at Perth, to provide the necessary administrative support to the Court at Perth on the relevant Saturday morning.
- 'The Court' means the Children's Court of Western Australia
- 'The Magistrates Court' means the Magistrates Court of Western Australia
- 'Young person' means a young person as defined in the *Young Offenders Act 1994*

5. Administrative Support

Where in this Practice Direction an obligation is placed on a Country JSO or a Perth JSO that obligation is satisfied by such Court officers causing some other registry officer to satisfy the obligation.

6. The Prosecutorial Authority

The prosecution of matters that fall within the scope of this Practice Direction shall be carried out by the Police and not the Office of the Director of Public Prosecutions unless otherwise agreed as between the two of them.

7. Practice Direction

- 7.1. When the Court or the Court and the Magistrates Court is to convene in a place in country Western Australia as covered by this Practice Direction on the morning of a Saturday, or a public holiday when the Court, at Perth, is sitting, then the Country JSO or any other person assisting the Country JSO and the courts in arranging the lists, must before either court commences, ask the prosecutor if there

is any matter in the Court's list on which the prosecutor will be opposing bail. If there is, then:

- (a) the Country JSO must forthwith notify the Perth JSO of that matter and the Court, at Perth, must then remain on standby to re-hear the matter on the issue of bail, and
- (b) that matter must be called on before any other matters on the lists of both courts and be heard by the Court constituted by the JsP.

7.2. If the Court constituted by the JsP grants bail on the matter then the Country JSO is to forthwith notify the Perth JSO accordingly and the Court, at Perth, will no longer be on standby for the matter.

7.3. Subject to paragraph 7.4:

- (a) if the Court constituted by the JsP refuses bail then the Country JSO must forthwith attempt to contact by telephone, the or a Magistrate who usually deals with matters in that place within that magisterial region and inform the Magistrate of the matter and the refusal of bail.
- (b) Upon being so advised, the Magistrate shall re-hear the issue of bail by whatever means as decided by the Magistrate, including by video link or telephone, and the Country JSO shall provide the necessary administrative support to the Magistrate and attend to the necessary paperwork and resulting of the matter.

7.4. If:

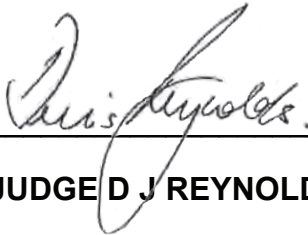
- (a) before the Saturday or public holiday in question, the Magistrate or Magistrates, as the case may be, who usually deal(s) with matters at that place, has given prior notice that he, she or they will not be available, or
- (b) the country JSO cannot make ready contact with the or a Magistrate for that magisterial region on phone number provided,

then the Country JSO shall forthwith:

- i. contact the Perth JSO who is providing the necessary administrative support for the Court, sitting at Perth on that day, and

- ii. forward to the Perth JSO for the information of the Magistrate presiding in the Court, at Perth, copies of the relevant prosecution notice, statement of material facts, and record of prior convictions (if any).
- 7.5. Where there is more than one Magistrate based at a particular country location, then the Country JSO is only required to contact one of those Magistrates before then contacting the Perth JSO.
- 7.6. Upon the Perth JSO being informed of the matter by the Country JSO, the Perth JSO shall put the matter in the list of the matters to be dealt with by the Court, at Perth, on that day and the Court, at Perth, shall re-hear the issue of bail.
- 7.7. Re-hearings of the issue of bail by the Court, at Perth, may be by means of video link or telephone link as available and as decided by the presiding Magistrate.
- 7.8. When matters are re-heard by the Court, at Perth, the country JSO shall be available and provide the necessary administrative support and attend to the necessary paperwork and resulting of the matter.

Dated this 7th day of June 2011



JUDGE D J REYNOLDS

PRESIDENT OF THE CHILDREN'S COURT OF WESTERN AUSTRALIA