

18 April 2023

His Honour Judge Hylton Quail
President
Children's Court of Western Australia
160 Pier Street
PERTH WA 6000

Email only: Tara.Houston@justice.wa.gov.au

Dear President

NEW PRACTICE DIRECTION – CRIMINAL PROCEEDINGS IN THE CHILDREN'S COURT

Thank you for providing the Law Society with an opportunity to comment on the new practice direction regarding criminal proceedings in the Children's Court.

The Law Society is generally supportive of the case management efforts made in the draft Practice Direction to improve efficiencies in dealing with Children's Court matters in a timely manner. However, due to the following factors, these matters may not always be able to progress promptly:

- the limited availability of private lawyers in this jurisdiction;
- the length of time it takes to build rapport with clients, many of whom have complex personal circumstances; and
- the difficulty in obtaining instructions or relevant reports where the matter involves Foetal Alcohol Spectrum Disorders or other mental health impairment issues.

The Law Society would respectfully ask that your Honour and the Magistrates are conscious of these issues and allow some flexibility when administering this practice direction.

Of particular concern to the Law Society are delays caused by inadequacy of support services necessary to provide timely forensic reports from health, mental health, specialist and Juvenile Justice services. These are often crucial to progress a proceeding. We seek your assurance that as part of the justice pipeline project there will be greater investment to support provision of these reports.

The Law Society also seeks your assurance that the operation of the Practice Direction be reviewed, including with the Law Society of Western Australia, after a specified timeframe to ensure that the Practice Direction is meeting its aims and that unintended consequences have not emerged. The Law Society of Western Australia is concerned that a potential unintended consequence may be greater delay from a plea of not guilty to a trial date, due to the possibility that more matters may be listed for trial while charge negotiations are in progress or for the purpose of obtaining disclosure for a matter not covered by paragraph 7.5 of the draft Practice Direction.

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Please let me know if the Law Society could provide further assistance to you in your consideration of this matter. If you have any queries please contact Mary Woodford, General Manager Advocacy and Professional Development on 9324 8646 or mwoodford@lawsocietywa.asn.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Ante Golem', written in a cursive style.

Ante Golem
President