

Magistrates (Childrens) Court

Practice Direction 1 of 2024

Issued: 3 September 2024

Applications for exclusion orders – s.20(2) of the *Childrens Court Act 1992*

Introduction

1. When a Childrens Court is constituted by a Magistrate, s.20 of the *Childrens Court Act 1992* (“the Act”) limits who may be present for a criminal proceeding. Ordinarily, for criminal proceedings the Court must exclude from the courtroom all persons except¹:
 - a) the child; or
 - b) a parent or other adult member of the child’s family; or
 - c) a victim, or a relative of a deceased victim, of the offence alleged to have been committed by the child; or
 - d) a person who is a representative of a victim, or of a relative of a deceased victim, of the offence alleged to have been committed by the child; or
 - e) a person who, in the court’s opinion, has a proper interest in the proceeding; or
 - f) an accredited media entity; or
 - g) a witness giving evidence; or
 - h) if a witness is a complainant within the meaning of the [Criminal Law \(Sexual Offences\) Act 1978](#) – a person whose presence will provide emotional support to the witness; or
 - i) a party or person representing a party to the proceeding, including, for example, a police officer or other person in charge of a case against a child in relation to an offence; or
 - j) a representative of the chief executive (child safety) or the chief executive (youth justice); or
 - k) the public guardian under the [Public Guardian Act 2014](#); or
 - l) if the child is an Aboriginal or Torres Strait Islander person –

¹ Section 20(2) of the *Childrens Court Act 1992*.

- (i) a representative of an organisation whose principal purpose is the provision of welfare services to Aboriginal and Torres Strait Islander children and families; or
 - (ii) a representative of the community justice group in the child's community who is to make submissions that are relevant to sentencing the child; or
 - m) an infant or young child in the care of an adult who may be present in the room.
2. The Court may on application of a party to the proceeding or on its own initiative make an order excluding² (**an exclusion order**):
- A person who is a representative of a victim, or of a relative of a deceased victim, of the offence alleged to have been committed by the child; or
 - A person who, in the Court's opinion, has a proper interest in the proceeding; or
 - An accredited media entity.³
3. No exclusion order can be made excluding a victim, or a relative of a deceased victim, of the offence alleged to have been committed by the child.
4. In deciding whether to make an exclusion order, the Childrens Court Magistrate must consider the matters in s.20(3) of the Act, and may make the order under s.20(2) if satisfied that the exclusion order is necessary-
- a) to prevent prejudice to the proper administration of justice; or
 - b) for the safety of any person, including the child.
5. This Practice Direction sets out a standard procedure for applying to a Childrens Court Magistrate for an exclusion order. This procedure may be modified in certain locations to accommodate local conditions or emerging circumstances.

Standard procedure for applying for an exclusion order.

6. Wherever reasonably possible, an application for an exclusion order under s.20(2) of the Act (**the Application**), should be made:
- a) in writing using the form attached in **Annexure A**;
 - b) to the Registrar of the Court where the proceedings will be held; and
 - c) at least one business day before the next court date for the proceedings.
7. Contact details for all Courthouses across Queensland can be found here: <https://www.courts.qld.gov.au/contacts/courthouses>.
8. Once received the Application will be placed on the Court file and drawn to the attention of the presiding Childrens Court Magistrate.

² Section 20(2) of the *Childrens Court Act 1992*.

³ **Accredited media entity** means an entity listed as an accredited media entity in the Supreme Court's media accreditation policy in Supreme Court of Queensland Practice Direction Number 8 of 2014.

9. If a written Application cannot reasonably be made, an oral Application may be made in Court. The applicant should notify the Court Services Officer of the Court where the proceedings will be heard that they wish to make an oral Application to exclude a person from the hearing and ask that they inform the presiding Childrens Court Magistrate about this.
10. Any written or oral Application will be considered in Court by the Childrens Court Magistrate hearing the proceeding.
11. Pursuant to s.20(4) of the Act, submissions about whether or not to make the exclusion order may be heard from-
 - a) the prosecution,
 - b) the child's lawyer,
 - c) the person proposed to be excluded by the exclusion order,
 - d) other persons who are permitted by the presiding Childrens Court Magistrate to make submissions.
12. Where there is more than one Application related to the same proceeding, the presiding Childrens Court Magistrate may decide to hear them at the same time.
13. Any person (including an accredited media entity) making submissions may appear in person or be legally represented.
14. If an accredited media entity does not know the Court where the proceedings will be heard, they may contact the relevant registry or Department of Justice and Attorney-General Magistrates Court Principal Media Officer: MediaMC@justice.qld.gov.au.⁴
15. The Childrens Court Magistrate may hear and decide the Application without the child being present.
16. Subject to any contrary order by the Childrens Court Magistrate, an Application for an exclusion order must be made for each appearance of the child in Court.
17. For all persons who are permitted to attend the hearing, restrictions on identifying the child defendant apply. Section 301 of the *Youth Justice Act 1992* provides that a person must not publish identifying information about a child except as permitted by court order or under the written authority of the chief executive (Youth Justice).
18. Sections 192, 193, 194 and 194A of the *Child Protection Act 1999* contain certain restrictions on reporting court proceedings where a child may be a witness or victim unless a Magistrate orders that a person may disclose information.


Judge Janelle Brassington
Chief Magistrate
3 September 2024

⁴ Section 44(4) *Youth Justice Regulation 2016*.

ANNEXURE A to Practice Direction 1 of 2024

FORM - APPLICATION UNDER SECTION 20 (2) – EXCLUSION ORDER

Court No

In the matter of:

An application by:

The Applicant applies to the Children’s Court for the following orders:

1. An order pursuant to section 20(2) of the **Childrens Court Act 1992** that

be excluded from the Courtroom for :

[list particulars]

2. * Such other or further orders as the Court sees fit.

Grounds for Application:

The following grounds are relied on:

Details of the hearing

A hearing of this application will be held at

[time]

am/pm on

[date]

at

the Children’s Court at

[venue]

Issued at:

Date:

Signed:

Registrar

**Delete if not applicable*