



Magistrates' Court Victoria

Practice Direction No.22 of 2020

COVID-19 PANDEMIC RESPONSE

MELBOURNE AND METROPOLITAN COURTS¹

THIS PRACTICE DIRECTION APPLIES ONLY TO MATTERS LISTED IN MELBOURNE AND METROPOLITAN COURTS, UNLESS OTHERWISE ORDERED BY THE COURT, FROM MONDAY 5 OCTOBER 2020

Background

The Magistrates' Court of Victoria (MCV) provides essential services and is committed to our role in serving the Victorian community.

All Melbourne and metropolitan Courts are open.

Purpose

All matters currently listed for in-person hearing from Monday 9 November 2020 will, to the extent possible and as determined by the Court, be listed for hearing via the Online Magistrates' Court (OMC) or other technology for remote hearing.

To facilitate the listing of matters into the OMC, this Practice Direction outlines the Court's process for listing, which requires that Parties make contact with their local court registry.

This Practice Direction reinforces that with the exception of urgent Family Violence applications, no person is to attend at a Melbourne or metropolitan court without obtaining a time for attendance from the local court registry.

The Practice Direction revokes [Practice Direction 5 of 2020](#), [Practice Direction 6 of 2020](#) and [Practice Direction 7 of 2020](#), effective from Monday 9 November 2020.

¹ See **Annexure** for full list of Melbourne and Metropolitan courts that Practice Direction 22 of 2020 applies.

Direction

Online Magistrates' Court

1. All matters will be listed in the OMC where possible and as determined by the Court.
2. The OMC will continue hearing matters remotely, as listed, and will be available for the listing of hearings across all jurisdictions of the Court. To list a matter in the OMC or abridge a future listing into the OMC, contact should be made at first instance with the Registry at which the matter is listed (see [local court registry](#)).

Criminal matters²

3. All Parties (or their legal representative), with Criminal matters listed from Monday 9 November 2020 **must**, unless already registered on EFAS, contact the Registry at which the matter is listed (see [local court registry](#)) no later than **3 clear working days** prior to the current listing date via:
 - 3.1. the [Electronic Filing Appearance System](#) (EFAS)³; or
 - 3.2. where an accused is unrepresented, email to the [local court registry](#) or where email is unavailable, by telephone to the [local court registry](#).
4. The purpose of making contact is for Registry to confirm:
 - 4.1. how the matter is to proceed (i.e. plea of guilty or not guilty); and
 - 4.2. if the matter will be heard via the OMC (or other remote hearing technology); and
 - 4.3. if an accused is unrepresented, whether they seek referral for legal advice and representation; and
 - 4.4. if the matter is listed via the OMC (or other remote hearing technology), the date and time at which the matter is listed for hearing.
5. Where an accused is unrepresented and seeks legal advice, they must as soon as possible and prior to the hearing date;
 - 5.1. contact [Victoria Legal Aid](#) to obtain free legal assistance by [webchat](#) or by calling Legal Help on 1300 792 387 from 8am to 5pm weekdays; or
 - 5.2. contact [Victorian Aboriginal Legal Service](#) for legal advice and representation on 1800 064 865; or
 - 5.3. contact a private lawyer of their choice for legal advice and representation in relation to the matter by contacting the [Law Institute of Victoria's Find a Lawyer Referral Service](#); or
 - 5.4. contact a barrister for legal advice and representation in relation to the matter using [Barrister Connect](#).
6. In Criminal matters where the accused or their legal representative does not contact the Court as per **paragraph 3** and subsequently fails to appear on the hearing date, a warrant of apprehension may be issued or where appropriate, the matter may be heard and finalised in the absence of the accused.

² Note specific directions related to first remand, bail applications and committal mentions and case conferences in paragraphs 8 to 13.

³ Note [Practice Direction 17 of 2020](#).

7. Physical attendances at a court building are to be by prior arrangement with the Court. Where a Party seeks to physically attend a court to make an application or in relation to a listed hearing, they must first contact the [local court registry](#) and if a registrar assess that attendance is necessary attend only as directed.

Specific directions for first remand hearings, bail applications, committal mentions and committal case conferences⁴

First Remand hearings

8. First bail/remand hearings will be conducted in accordance with the procedures set out in paragraphs 2 to 5 of [Practice Direction 18 of 2020](#).

Bail applications

9. After the first remand hearing date, all bail applications will be listed in the OMC (or other online platform) by contacting the Court coordinator at the [proper venue](#) of the Court to obtain a hearing date.

Committal mentions and committal case conferences (*Melbourne Magistrates' Court only)

10. Committal mentions and committal case conferences are to be held in the OMC. Parties must contact the committal coordinator to confirm arrangements in this regard.
11. All practitioners must file 'Form 25 - Notice that a Practitioner Acts' in compliance with rule 49 of the Magistrates Court Criminal Procedure Rules.
12. All Parties with committal mentions and committal case conferences listed from Monday 9 November 2020, **must** contact the committal Registry no later than **7 clear working days** prior to the current listing date via:
 - 12.1. email to the [court registry](#); or
 - 12.2. where email is unavailable, by telephone to the [court registry](#).
13. Practitioners must file a [case direction notice](#) pursuant to Section 118 of the *Criminal Procedure Act 2009* at least **7 days prior to hearing**.

Koori Court

14. Unless otherwise ordered by the Court, all Koori Court matters listed on the nominal date of 9 October 2020 pursuant to [Practice Direction 20 of 2020](#) will be adjourned until Monday 9 November 2020, at which time this Practice Direction will apply. Where an accused is on bail, bail will be extended in the absence of the accused to 9 November 2020.

⁴ Directions relevant to committal mentions and case conferences intended for Melbourne Magistrates' Court only.

Court Support Services (CISP and ARC)

15. Court Integrated Services Program (CISP) and Assessment and Referral Courts (ARC) will continue to provide services and all assessments and case management will be conducted remotely via AVL or telephone, where possible. Hearing dates, including for finalisation of matters will be ordered as required by the Magistrate at any CISP or ARC review hearing.

Family Violence Intervention order applications

16. Physical attendances at a court building are to be by prior arrangement with the Court (except in the case of urgent Family Violence applications). Where a Party seeks to physically attend a court to make an application or in relation to a listed hearing, they must first contact the [local court registry](#) and if a registrar assesses that attendance is necessary, then only attend as directed.

Interim Family Violence Intervention Order applications

17. **Applicants at immediate risk should call 000.**
18. Applicants should complete the online application form, wherever possible [[Application for a Family Violence Intervention Order](#)].
19. Applications will be heard by the Court via the OMC or other technology for remote hearing, where possible and evidence will be taken in the manner determined by the Court. Applications may also be heard and determined on the papers where supported by an affidavit or declaration of truth.
20. If an applicant is unable to use the online form or it is unsafe to do so, they should call the [nearest court](#) or Victoria Police for assistance. If an applicant cannot access a telephone or has a language barrier or disability, they may attend the nearest court and alternative arrangements will be made to lodge the application and for the hearing.

Hearing of Police Applications for Family Violence Intervention Orders and Family Violence Safety Notices (FVSN)

21. A respondent to a Family Violence Application or FVSN in which Victoria Police commenced the proceeding must complete the [Notice of Address for Contact and Service](#) Form and forward it to the [relevant court](#) by email or fax **no later than 10am on the day prior to the first listing of an application or no later than 3 clear working days before any subsequent listing**. Where email contact is not possible, they may contact the [relevant court](#) by telephone to provide this information.
22. A **protected person** in a Victoria police Family Violence Application or FVSN will be contacted by the police before the hearing for the purposes of obtaining updated information for the court hearing.
 - 22.1. If a protected person agrees with the application made by the police and the order conditions sought, the protected persons physical attendance at the hearing is not required. However, they must be contactable by the police on the day of the hearing.

- 22.2. If a protected person does not agree with the application made by the police or the conditions sought, they must complete the [Notice of Address for Contact and Service](#) Form and forward it to the [relevant court](#) by email or fax **no later than 10 am on the day prior to the listed hearing date**. Where email is not possible, they may contact the relevant court by telephone to provide this information.
23. The purpose of making contact is for Registry to confirm:
- 23.1. how the application is to proceed and whether the making of an order is contested; and
 - 23.2. that the matter is suitable to be heard via the OMC (or other technology for remote hearing) having regard to matters including issues of safety; and
 - 23.3. if an applicant or respondent is unrepresented, whether they seek a referral for legal advice and representation and/or social support; and
 - 23.4. if the matter is listed via the OMC (or other online platform), the date and time at which the matter is listed for hearing.
24. Parties will then be advised by Registry whether the hearing will proceed via OMC (or other technology for remote hearing) or at a court.
25. Where a protected person or respondent wants legal advice, they must as soon as possible and prior to the hearing date;
- 25.1. contact [Victoria Legal Aid](#) to obtain free legal assistance by [webchat](#) or by calling Legal Help on 1300 792 387 from 8am to 5pm weekdays; or
 - 25.2. contact a private lawyer of their choice for legal advice and representation in relation to the matter by contacting the [Law Institute of Victoria's Find a Lawyer Referral Service](#); or
 - 25.3. contact a barrister for legal advice and representation in relation to the matter using [Barrister Connect](#).

Hearing of all other Family Violence matters

26. All parties (applicants and respondents) to any Family Violence matter (in which the Police did not commence the proceeding) must complete the [Notice of Address for Contact and Service Form](#) and forward it to the relevant court not later than **3 clear working days** prior to the listed hearing date. Where email contact is not possible, they may contact the relevant court by telephone to provide this information.
27. The purpose of making contact is for Registry to confirm:
- 27.1. how the application is to proceed and whether the making of an order is contested; and
 - 27.2. that the matter is suitable to be heard via the OMC (or other technology for remote hearing) or in-person, accounting for issues of safety; and
 - 27.3. if an applicant or respondent is unrepresented, whether they seek a referral for legal advice and representation and/or social support; and
 - 27.4. if the matter is listed via the OMC (or other online platform), the date and time at which the matter is listed for hearing.

28. Where an applicant or respondent is unrepresented and seeks legal advice, they must as soon as possible and prior to the hearing date;
- 28.1. contact [Victoria Legal Aid](#) to obtain free legal assistance by [webchat](#) or by calling Legal Help on 1300 792 387 from 8am to 5pm weekdays; or
 - 28.2. contact a private lawyer of their choice for legal advice and representation in relation to the matter by contacting the [Law Institute of Victoria's Find a Lawyer Referral Service](#); or
 - 28.3. contact a barrister for legal advice and representation in relation to the matter using [Barrister Connect](#).

Court may hear and determine Family Violence applications in a Party's absence

29. In family violence proceedings where an applicant or respondent or their legal representative does not contact the Court to provide required information as per [paragraphs 21 and 26](#) **and** subsequently fails to appear on the listed date, the application may be heard and determined by the Court in the Party's absence. The Court may make an interim or final order, or the application may be struck out as determined by the presiding judicial officer.

Personal Safety Intervention Order (PSIO) applications

30. Physical attendances at a court building are only by prior arrangement with the Court. Where a Party seeks to physically attend a court to make an application or in relation to a listed hearing, they must, first contact the [local court registry](#) and if a registrar assess that attendance is necessary attend only as directed
31. PSIO applications will proceed in the OMC as determined by the Court.

Urgent Interim PSIO applications

32. **Applicants at immediate risk should call 000.**
33. Interim applications can be made by completing the [PSIO1 Application for Personal Safety Intervention Order](#) available on the Magistrates' Court Victoria Website or by contacting the [local court registry](#).

Hearing of all other PSIO applications

34. A **protected person** in a Victoria Police PSIO application will be contacted by the police before the hearing for the purposes of obtaining updated information for the court hearing.
35. Respondents to a PSIO application in which Victoria Police commenced the proceeding must complete the PSIO [Notice of Address contact and service form](#) and forward it to the [relevant court](#) by email or fax **no later than 10am on the day prior to the first listing of an application or no later than 3 clear working days before any subsequent listing**. Where email contact is not possible, they may contact the [relevant court](#) by telephone to provide this information.

36. All Parties to a PSIO matter in which Victoria Police did not commence the proceeding, other than an application for an interim order, must complete the PSIO [Notice of Address contact and service form](#) and forward it to the relevant court by email or fax **no later than 10am on the day prior to the first listing of a proceeding and within at least 3 clear working days of a subsequent listed hearing date**. Where email contact is not possible, they may contact the relevant court Registry at which the matter is listed (see [local court registry](#)) no later than **3 clear working days** prior to the listed hearing date by telephone.
37. The purpose of making contact with the Court is for Registry to confirm:
- 37.1. how the application is to proceed and whether the making of an order is contested; and
 - 37.2. if the matter is suitable to be heard via the OMC (or other technology for remote hearing), accounting for issues of safety; and
 - 37.3. if an applicant or respondent is unrepresented, whether they seek to access legal advice and representation; and
 - 37.4. if the matter is listed via the OMC (or other online platform) the date and time at which your matter is listed for hearing.
38. Where an applicant or respondent is unrepresented and seeks legal advice, they must as soon as possible and prior to the hearing date;
- 38.1. contact Victoria Legal Aid to obtain free legal assistance by [webchat](#) or by calling Legal Help on 1300 792 387 from 8am to 5pm weekdays; or
 - 38.2. contact a private lawyer of their choice for legal advice and representation in relation to the matter by contacting the [Law Institute of Victoria's Find a Lawyer Referral Service](#); or
 - 38.3. contact a barrister for legal advice and representation in relation to the matter using [Barrister Connect](#).

Court may hear and determine PSIO applications in a Party's absence

39. If an applicant or respondent does not contact the Court to provide the required information as per paragraphs 35 and 36, the matter may be heard and determined by the Court in the Party's absence. The Court may make interim or final orders, or the application may be struck out as determined by the presiding judicial officer.

Civil

40. All Civil matters currently listed will proceed in the OMC pursuant to [Practice Direction 19 of 2020](#).
41. All WorkCover matters listed for hearing in the OMC will proceed pursuant to [Practice Direction 13 of 2020](#).
42. All WorkCover matters currently listed for early neutral evaluation will proceed in the OMC. Practitioners must contact [local court registry](#) to confirm arrangements for listing in OMC.

Victims of Crime Assistance Tribunal (VoCAT)

43. VoCAT will continue to hear applications on the papers, via OMC or telephone as directed by the tribunal.

Counter services

44. This Practice Direction defines (non-exhaustively) counter services to include the filing of documents; speaking with a Registrar; requesting that a document is witnessed; the filing of applications for and in response to Family Violence applications and attendances for the purposes of business related to other jurisdictions.

45. Except in the case of **urgency** (see separate arrangements for urgent Family Violence interim applications) and people with a language barrier or disability no person is to attend for counter service without first contacting [the Court](#) by [email](#) or telephone for the purposes of a Registrar allocating a time for attendance. This includes prosecution agencies and informants attending for routine matters. Wherever possible email is to be utilised.

46. All persons who attend court buildings in any circumstance must;

- 46.1. Wear a mask for the entire time they are in the building
- 46.2. Comply with social distancing requirements at all times
- 46.3. Follow Chief Health officer directions
- 46.4. Follow any direction under the *Court Security Act 1980*.



JUDGE LISA HANNAN
CHIEF MAGISTRATE
Date: 5 October 2020

Annexure 1

Melbourne and Metropolitan Courts at which this this Practice Direction Applies

Broadmeadows Magistrates' Court

Dandenong Magistrates' Court

Dromana Magistrates' Court

Frankston Magistrates' Court

Heidelberg Magistrates' Court

Melbourne Magistrates' Court

Moorabbin Justice Centre

Neighbourhood Justice Centre

Ringwood Magistrates' Court

Sunshine Magistrates' Court

Werribee Magistrates' Court