



Magistrates' Court of Victoria

Practice Direction 'X' of 2021

COVID-19 CIRCUIT BREAKER LOCKDOWN ARRANGEMENTS

Background

The purpose of this Practice Direction is to outline the arrangements which will apply to the lockdown directed by the Chief Health Officer on 27 May 2021 pursuant to the *Public Health and Wellbeing Act 2008*.

For the sake of clarity, this Practice Direction applies statewide to all Magistrates' Courts of Victoria from 11:59PM 27 May 2021 to 11:59PM 3 June 2021.

All attendances at a Magistrates' Court venue must be by prior arrangement, with the exception of urgent family violence interim intervention order applications or where first remand hearings are unable to proceed remotely.

All Magistrates' Court venues across the state will remain open, but attendance is subject to this Practice Direction.

To the extent that this Practice Direction is inconsistent with other Practice Directions, this Practice Direction overrides any inconsistent directions for the duration of its operation.

Direction

Online Magistrates' Court

1. The Online Magistrates' Court (Webex/OMC) will continue hearing matters remotely, as listed, and will be available for the listing of hearings across all jurisdictions of the Court. Matters listed in a court with an open link will all be heard via the open link.
2. Where a matter is presently listed to be heard in-person, the parties should contact the relevant registry to arrange for the matter to be heard via Webex/OMC. (See the list of [local court registries](#).)
3. Priority will be given to urgent matters for listing via Webex/OMC.

Matters listed for hearing

4. Matters currently listed to be heard in-person may, upon application of the parties or by order of the Court, be listed for hearing via Webex/OMC. Where the Court orders that a matter be listed via Webex/OMC, parties will be notified by email or SMS.
5. Whether a matter is heard via Webex/OMC is subject to the parties and witnesses having the necessary facilities to participate in an online hearing, and subject to the court venue being able to accommodate the matter. The Court will consider all circumstances in determining if the matter will be heard via Webex/OMC, including whether an audio visual link (AVL) to a custodial facility can be arranged.
6. Parties seeking to have a matter listed via Webex/OMC should contact the relevant [local court registry](#).

Criminal Matters

First remand/bail hearings

7. First remand/bail hearings will be conducted in compliance with the Chief Health Officer's most current directions and will proceed remotely or as directed by the Court, to ensure the safe conduct of proceedings.
8. Subject to capacity at the relevant police complex, all first remand/bail hearings are to be listed at the court venue closest to that police complex or Bail and Remand Court (BaRC), as appropriate.
9. For remote hearings the following procedures will apply:
 - 9.1. The accused person will be held at a police complex.
 - 9.2. The accused's defence practitioner will be notified by the informant that the accused is in custody.
 - 9.3. The informant is to enable that the defence practitioner can conduct a private conference with the accused remotely.
 - 9.4. The informant is to provide all relevant remand documents to the defence practitioner.
 - 9.5. Where the accused is to undertake any assessment relevant to the first remand/bail application, the informant is to enable that assessment to be undertaken remotely.
 - 9.6. The informant is to contact the court and relevant prosecution office to advise of the pending first remand/bail application.
 - 9.7. The informant is to file the charges via email with the registry of the Court where the matter is to be listed.
 - 9.8. The defence practitioner is to file an appearance sheet with the registry of the Court via email.
 - 9.9. The Court will list the matter and notify the parties of the date and time of the hearing.
 - 9.10. The accused is to appear remotely from the police complex, or as directed by the Court.

- 9.11. The informant is to appear remotely, or as directed by the Court.
- 9.12. The accused's defence practitioner is to appear via Webex/OMC, unless other arrangements are made with the Court.
- 9.13. Prosecutors will appear in-person from the courtroom, unless other arrangements are made with the Court.

Second or subsequent hearings where accused is in custody

10. Second or subsequent hearings where an accused is in custody will be conducted in compliance with Chief Health Officer's most current directions and will proceed remotely or as directed by the Court.

Bail applications

11. All bail applications which are not also first remand hearings must be listed via Webex/OMC by contacting the Court coordinator at the [local court registry](#) to obtain a listing date.

Summary hearings currently listed where accused is on bail or summons

12. Summary hearings currently listed via Webex/OMC, including in a court with an open link, will proceed via Webex/OMC as listed.
13. Where a matter is listed for an in-person summary hearing, and the accused is on bail or summons, the parties may make an application for the matter to be heard via Webex/OMC. The application should be made by email to the registry at the relevant court. (See the list of [local court registries](#).)
14. The Court may make a direction on its own initiative for a summary hearing to be heard via Webex/OMC, in which case the parties will be notified.
15. Where a summary hearing is not listed in Webex/OMC, it will, where appropriate, be adjourned. Bail will be extended in absence of the accused where required. Parties will be notified of the adjourned date. The adjourned date will also be available on the Court website via the [Electronic Filing Appearance System](#) (EFAS).

Committal mentions and committal case conferences

16. Committal mentions and committal case conferences will be heard via Webex/OMC. Parties must contact the registry at the [relevant court venue](#) to confirm arrangements in this regard.
17. Committals listed for hearing via Webex/OMC will proceed as listed. Matters listed for in person hearing which cannot be accommodated via Webex/OMC will be adjourned with bail extended in absence of the accused where appropriate. Parties will be notified of the adjourned date.

Drug Court, Assessment and Referral Court (ARC), Court Integrated Services Program (CISP) and Neighbourhood Justice Centre (NJC)

18. Drug Court and ARC will continue to hear urgent and priority matters remotely, unless a Magistrate determines that a remote hearing is not suitable, including circumstances where an order is to be cancelled and a participant is to be placed in custody.
19. Drug Court testing will proceed as required and as directed by the General Manager of Drug Court.
20. CISP and Specialist Court staff will continue to provide services and all assessment and case management will be conducted remotely via AVL, telephone or accepted remote means unless risk requires attendance at a court location.
21. The NJC client services will be conducted remotely via AVL or telephone, unless risk requires attendance at a court location.

Koori Court

22. All matters currently listed in Koori Court will be adjourned and parties will be advised of the adjourned date. Where an accused is on bail, bail will be extended in the absence of the accused to the adjourned date.

Family Violence (FV)

FV Interim Intervention Order applications

23. The Court will continue to hear all interim intervention order applications. **Applicants at immediate risk should call 000.**
24. If applicants are unable to contact police, the Applicant should make an application using the [online form](#), wherever possible.
25. If an applicant is unable to use the online form or it is unsafe to do so, they should call the [nearest court venue](#).
26. Applications will proceed via Webex/OMC unless otherwise directed. Applications will be heard on the papers where supported by an affidavit in support or declaration of truth.
27. Applicants who cannot use the online form, do not have access to a telephone, have a language barrier or have a disability, may attend a court venue for urgent matters and will be assisted by a Family Violence Registrar.

Physical attendances at Court (for Family Violence matters)

28. Attendance in-person at a court building should only be by prior arrangement with the Court. In order to physically attend a court venue to make an application or in relation to a listed hearing, a party should contact the relevant court venue and only attend at the time appointed by the registrar, where the registrar has assessed it is necessary for a party to physically attend court. Where safety requires personal attendance without appointment, a registrar will assess the urgency of the matter and determine a suitable process having regard to that assessment.

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

29. A respondent to a FVIO or FVSN in which Victoria Police commenced the proceeding must complete the [respondent](#) pre-court information form **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 correspondence is not possible, they must contact the [relevant court](#) by telephone to provide this information.
30. A **protected person** in a Victoria Police FVIO or FVSN will be contacted by the police before the hearing for the purposes of obtaining updated information for the court hearing.
31. If a protected person agrees with the application made by the police and the conditions sought, the protected person's physical attendance at the hearing is not required. However, they must be contactable by the police on the day of the hearing.
32. If a protected person does not agree with the application made by the police or the conditions sought, they must complete the [applicant/affected family member](#) pre-court information form and forward it to the [relevant court venue](#) by email or fax **no later than 10am on the day prior to the listed hearing date**. Where email correspondence is not possible, they must contact the [relevant court venue](#) by telephone to provide this information.

Hearing of all other Family Violence matters

33. If an applicant, respondent or protected person has a matter currently listed for hearing, they must contact the [relevant court](#) by telephone or complete the [applicant/affected family member](#) or [respondent](#) pre-court information form **at least 3 clear working days** prior to the court hearing date. Parties will be advised of the time and mode of appearance by the Court.
34. Where a matter is adjourned, the Court will notify parties of the adjourned date by hearing notice.

Legal Advice

35. Where an applicant, protected person or respondent seeks legal advice, they must as soon as possible and prior to the hearing date either:
 - 35.1. contact [Victoria Legal Aid](#) to obtain free legal advice by using the Legal Help [online chat](#) service function or by calling Legal Help on 1300 792 387 from 8am to 5pm weekdays; or
 - 35.2. contact a lawyer of their choice for advice in relation to the application (<https://www.liv.asn.au/referral> or <https://vicbar.com.au/>); or
 - 35.3. contact their local [Community Legal Centre](#) to obtain free legal advice.

Urgent Personal Safety Intervention Order applications

PSIO Interim Intervention Order applications

36. The Magistrates' Court of Victoria will continue to hear all interim intervention order applications. **Applicants at immediate risk should call 000.**
37. If Applicants are unable to contact police, the Applicant should call the [nearest court](#).
38. Urgent applications will proceed via Webex/OMC, unless otherwise directed.

Hearing of all other PSIO matters

39. Applications will proceed via Webex/OMC unless otherwise directed. Applications will be heard on the papers where supported by an affidavit in support or declaration of truth.
40. Applicants who cannot use the online form, do not have access to a telephone, have a language barrier or have a disability, may attend court for urgent matters and will be assisted by a Family Violence Registrar.
41. Matters listed in a court with an open link will proceed via that open link (Webex/OMC).
42. Where a matter is adjourned, the Court will notify parties of the adjourned date.

Physical attendances at Court (for PSIO matters)

43. Physical attendances at a court building should only be by prior arrangement with the court venue. In order to physically attend a court to make an application or in relation to a listed hearing, a party should [contact the Family Violence Registrar](#) and only attend at the time appointed by the Registrar, where the Registrar has assessed it is necessary for a party to physically attend the court venue. Where safety requires personal attendance without appointment, a Registrar will assess urgency and determine process having regard to that assessment.

Civil

44. [Practice Direction 19 of 2020](#) will apply to civil matters.
45. All matters currently listed will proceed via Webex/OMC. Practitioners must contact the [Registrar at the Court](#) at which the matter is currently listed to confirm listing arrangements.

WorkCover

46. All directions hearings, mentions, objections, hearings and applications will continue to be determined 'on the papers' commencing at 10am on the allocated date.
47. All WorkCover matters listed for hearing via Webex/OMC will proceed as listed unless otherwise directed by the court.
48. All WorkCover matters currently listed for early neutral evaluation or in person hearing will proceed via Webex/ OMC. Practitioners must contact mmcworkcoverindustrialcourts@justice.vic.gov.au to confirm arrangements for listing in OMC.

Victims of Crime Assistance Tribunal (VoCAT)

49. VoCAT will continue to hear all urgent applications, including for interim assistance, variation of awards and applications for expenses, including counselling payments.
50. All urgent applications will be determined on the papers unless the Tribunal determines that a hearing is required. Where a hearing is required it will be heard by Webex/OMC or by telephone as directed by the Tribunal.
51. VoCAT hearings currently listed to be heard via Webex/OMC will proceed as listed.

Counter services

52. Except in the case of urgency — and the separate arrangements for FV applications set out above — no person is to attend for counter service without first contacting [the court venue](#) by telephone for a registrar to determine if the matter is urgent.
53. If the registrar determines it is appropriate to do so, the registrar will allocate a time for attendance. This includes prosecution agencies and informants attending for routine matters. Wherever possible, correspondence via [email](#) is to be utilised.

Attendance at court venues

54. All persons who attend court venues at the direction of the Court or pursuant to an appointment arranged with a Registrar, or in any other circumstance, must:
 - 54.1. wear a mask for the entire time they are in the building;
 - 54.2. comply with social distancing;
 - 54.3. follow the Chief Health Officer's directions; and
 - 54.4. follow any direction under the *Court Security Act 1980*.



JUDGE LISA HANNAN
CHIEF MAGISTRATE
Date: 27 May 2021