



Magistrates' Court of Victoria

Practice Direction

No. 4 of 2023

GROUND RULES HEARINGS

Complainants in Sexual Offence Proceedings

Adult complainants without a cognitive impairment

Background

This Practice Direction sets out the processes to give effect to s 389B(3) of the *Criminal Procedure Act 2009* (CPA) which requires a ground rules hearing to be held if a witness is a complainant in a charge for a sexual offence. This requirement applies to all summary contests and contested committal proceedings for a sexual offence listed to commence on or after 30 July 2023 in which a complainant is to give evidence.¹

At a ground rules hearing, the Court considers the communication, support or other needs of a witness and decides how the proceeding is to be conducted to fairly and effectively meet those needs.²

Directions

1. The Court may make directions fixing a date for the ground rules hearing at the contest mention or committal mention for a proceeding.
2. The Court may direct the informant to complete the [ground rules hearing questionnaire](#). If so, the informant must file the completed ground rules hearing questionnaire with the Court and serve it on the Parties **no later than 7 days** before the ground rules hearing.

¹ *Justice Legislation Amendment (Sexual Offences and Other Matters) Act 2022* s 2(5). Note that Practice Direction No. 5 of 2023 governs the processes for ground rules hearings and the appointment of intermediaries for a witness (including a complainant in a sexual offence proceeding) who is under the age of 18 years at the time the proceeding commenced or who is cognitively impaired.

² s 389AB of the *Criminal Procedure Act 2009* (CPA)

3. The ground rules hearing will be listed on the morning of the proceeding, unless otherwise directed by the Court. The ground rules hearing must be held prior to the commencement of the proceeding.³
4. The prosecutor and defence practitioner who will appear at the summary contest or contested committal **must** attend the ground rules hearing. The accused **may** attend the ground rules hearing.
5. Directions which may be made at a ground rules hearing include the matters detailed in s 389E(2) CPA, namely:
 - 5.1. A direction about the manner of questioning a witness;
 - 5.2. A direction about the duration of questioning a witness;
 - 5.3. A direction about the questions that may or may not be put to a witness;
 - 5.4. If there is more than one accused, a direction regarding the allocation among the accused of the topics about which a witness may be asked;
 - 5.5. A direction about the use of models, plans, body maps or similar aids to help communicate a question or answer;
 - 5.6. A direction that if a party intends to lead evidence which contradicts the evidence of a witness or that otherwise discredits a witness, the party is not obliged to put that evidence in its entirety to the witness in cross-examination.
6. At the end of the ground rules hearing, the Magistrate may make directions (ground rules) for the questioning of the witness.
7. This Practice direction should be read in conjunction with [Multi-Jurisdictional Court Guide for the Intermediary Program: Ground Rules Hearings and Intermediaries](#).
8. This Practice Direction commences on 30 July 2023.



Justice Lisa Hannan
CHIEF MAGISTRATE

Date: 17 July 2023

³ s 389C(1) CPA provides that a ground rules hearing must be held before the commencement of any hearing at which a witness is to give evidence. The Court may extend the time for holding a ground rules hearing in the interests of justice: s 389C(2) CPA