

Magistrates' Court of Victoria

Practice Direction

STATE OF DISASTER DECLARATION

2 AUGUST TO 13 SEPTEMBER 2020

No. 20 of 2020

Background

The Victorian Government has announced a State of Disaster from 2 August 2020 to 13 September 2020. Those announcements are designed to protect the health of our community in the face of COVID-19. The Magistrates' Court of Victoria provides essential services and we will continue to serve our community. It is, however, necessary for us to make changes to how we manage and hear matters during the State of Disaster.

Stage 4 restrictions introduce justice specific guidance, which require that Courts focus their onsite operations to facilitate the hearing of 'urgent or priority matters as determined by the Head of Jurisdiction'.

This practice direction provides that where practicable, urgent or priority matters across metropolitan Melbourne will be heard via the Online Magistrates' Court (OMC). 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 across the state remain open. This practice direction applies to the Melbourne/Metropolitan area, which is the subject of Stage 4 restriction orders and applies from Thursday 6 August 2020 to Sunday 13 September 2020.

Direction

Online Magistrates' Court

1. The Online Magistrates' Court (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 contact should be made at first instance with the registry at which the matter is listed (see [local court registry](#)). The OMC is contactable via email at omc@courts.vic.gov.au.
2. All matters should be listed in the OMC rather than at a physical court venue, where that is possible.
3. Priority will be given to urgent matters for listing in the OMC.

Matters listed for hearing at Melbourne/Metropolitan Courts

4. Matters currently listed for hearing at courthouses in Melbourne and other Metropolitan areas may, upon application of the Parties, or by order of the Court, be transferred to the OMC for hearing.
5. The transfer of matters to OMC is subject to Parties having the facilities to participate in an online hearing and the Court being able to accommodate, having regard to matters, including available AVL links to custodial facilities.
6. Parties seeking to have a matter listed in OMC should contact the [local court registry](#).

Melbourne /Metropolitan Courts

7. The following arrangements will apply during the State of Disaster, commencing Monday 3 August to Sunday 13 September 2020:

First Remand /bail hearings

- 7.1 From Thursday 6 August 2020, 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 from **all police complexes and at all courts in the Melbourne/ Metropolitan area.**
- 7.2 Where WebEx facilities are not available at police complexes, telephone will be utilised to facilitate contact with the accused and their participation in the hearing.

Bail applications

- 7.3 After the first remand hearing date, all bail applications must be listed in the OMC by contacting the Court coordinator at the [proper venue](#) of the court to obtain a listing date.

Summary hearings currently listed where accused is on bail or summons

- 7.4 Summary hearings at physical court locations where an accused is on bail or summons may be listed by the Parties or the Court in the OMC.
- 7.5 Where the matter is not listed in the OMC it will be adjourned. Bail will be extended in absence where required. Parties will be advised of the new date by way of hearing notice.

Committal mentions and committal case conferences

- 7.6 Committal mentions and committal case conferences will be held in the OMC. Parties must contact the relevant [proper venue](#) court registry to confirm arrangements in this regard.
- 7.7 Practitioners must file a [case direction notice](#) pursuant to Section 118 of the *Criminal Procedure Act* 2009 at least 7 days prior to hearing.

7.8 Where Parties seek adjournment of a committal mention or a committal case conference to assist in determining how the matter should proceed, they must set out in the [case direction notice](#) the reason for adjournment and confirm the consent of the other party. Applications will be determined on the papers without the need for appearance by either party or the accused. Bail will be extended in absence where required.

7.9 In circumstances where a committal mention or committal case conference is listed for the first time and a [case direction notice](#) is not filed at least 7 days prior to hearing, the matter will be adjourned without the need for appearance by either party or the accused and Parties will be notified of the adjourned date.

7.10 Where a committal mention or a committal case conference is listed for a second or subsequent time and a [case direction notice](#) is not filed, the court may proceed to hear the matter, including considering orders pursuant to Section 141 of the *Criminal Procedure Act* where appropriate.

Drug Court, Assessment and Referral Court (ARC) and Court Integrated Services Program (CISP)

7.11 Drug Court and ARC will continue to hear urgent and priority matters in the OMC where possible by WebEx or via telephone, unless a Magistrate determines that OMC or telephone is not suitable for a particular hearing, including circumstances where an order is to be cancelled and a participant is to be placed in custody.

7.12 Drug Court testing will continue at a reduced frequency and as directed at Drug Court House at both Melbourne and Dandenong.

7.13 CISP will continue to provide services and all CISP assessments and case management will be conducted remotely via AVL or telephone, unless risk requires attendance at a court location.

Koori Court

7.14 All matters currently listed in Koori Court on the nominal date of 14 August 2020, any part-heard matters and any new matters, will be adjourned to the nominal date of 9 October 2020, pending resumption of Koori Court hearings. No appearance is required for this purpose. Where an accused is on bail, bail will be extended in the absence of the accused to 9 October 2020.

7.15 Matters where an accused is in custody and other urgent matters will be prioritised for hearing in the OMC as soon as Koori Court is able to resume, and in consultation with our Elders and Respected persons

Family Violence (FV)

FV Interim Intervention Order applications

- 7.16 The Magistrates' Court of Victoria will continue to hear all interim intervention order applications. **Applicants at immediate risk should call 000.**
- 7.17 If Applicants are unable to contact police, the Applicant should use the online form, wherever possible [[Application for a Family Violence Intervention Order](#)].
- 7.18 If an applicant is unable to use the online form or it is unsafe to do so, they should call the [nearest court](#).
- 7.19 Applications will proceed in the OMC unless otherwise directed. Applications may be heard on the papers where supported by an affidavit or declaration of truth.
- 7.20 Applicants who cannot use the online form or who do not have access to a telephone, or have a language barrier or disability, may attend court for urgent matters and will be assisted by a Family Violence Registrar.

Return of VICPOL Safety Notices and other listed FV hearings

- 7.21 If an applicant, respondent or protected person has a matter currently listed for hearing, they should contact the [relevant court](#) by telephone or complete the [Notice of Address for Contact and Service](#) form and forward it to the relevant court by email/fax **no later than 10am on the day prior to the listed hearing date**. Parties will be advised of the time and mode of appearance by the Court.
- 7.22 Where an applicant, protected person or respondent seeks legal advice, they must as soon as possible and prior to the hearing date either;
- contact [Victoria Legal Aid](#) to obtain free legal advice by calling Legal Help on 1300 792 387 from 8am to 5pm weekdays; or
 - Contact a lawyer of their choice for advice in relation to the application.
- 7.23 Where a matter is adjourned, the Court will notify Parties of the adjourned date by hearing notice.

Physical attendances at Court (for Family Violence matters)

- 7.24 Physical attendances at a court building should only be by prior arrangement with the Court. 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 court. Where safety requires personal attendance without appointment, a Registrar will assess urgency and determine process having regard to that assessment.

Urgent Personal Safety Intervention Order applications

- 7.25 Only matters assessed by the Registrar as urgent will be listed before a Magistrate/Judicial Registrar. All other matters will be adjourned.
- 7.26 Urgent applications will proceed in the OMC, unless otherwise directed.
- 7.27 Physical attendances at a court building should only be by prior arrangement with the Court. 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 court. Where safety requires personal attendance without appointment, a Registrar will assess urgency and determine process having regard to that assessment.

Civil

- 7.28 Urgent and priority applications must proceed in OMC as per practice direction 19 of 2020.
- 7.29 All matters currently listed will proceed in the OMC. Practitioners must contact the [Registrar at the Court](#) at which the matter is currently listed to confirm listing arrangements.

Workcover

- 7.30 All directions hearings, mentions, objections hearings applications will continue to be determined 'on the papers' commencing at 10am on the allocated date.
- 7.31 All WorkCover matters listed for hearing in the OMC will proceed as listed.
- 7.32 All WorkCover matters currently listed at a physical court location will be adjourned and Parties will be notified of the adjourned date. Where such a matter is assessed by the court as an urgent or priority matter the matter will be adjourned for hearing in the OMC as soon as possible.
- 7.33 All WorkCover matters currently listed for early neutral evaluation will proceed in the OMC. Practitioners must contact mmcworkcoverindustrialcourts@justice.vic.gov.au to confirm arrangements for listing in OMC.

Victims of Crime Assistance Tribunal (VoCAT)

- 7.34 VoCAT will continue to hear applications for urgent interim awards, urgent variations and applications for expenses including counselling payments.
- 7.35 All urgent applications will be demined on the papers unless the tribunal determines that a hearing is required. Where a hearing is required it will be heard in the OMC or by telephone as directed by the tribunal.
- 7.36 VoCAT hearings currently listed in the OMC will proceed as listed via WebEx or by telephone.

Counter services

8. Except in the case of urgency (see separate arrangements for FV applications above) no person is to attend for counter service without first contacting [the court](#) by telephone for a Registrar to determine if the matter is urgent and if so to allocate a time for attendance. This includes prosecution agencies and informants attending for routine matters. Wherever possible, [email](#) is to be utilised.

Attendance at Melbourne and Metropolitan Court Buildings

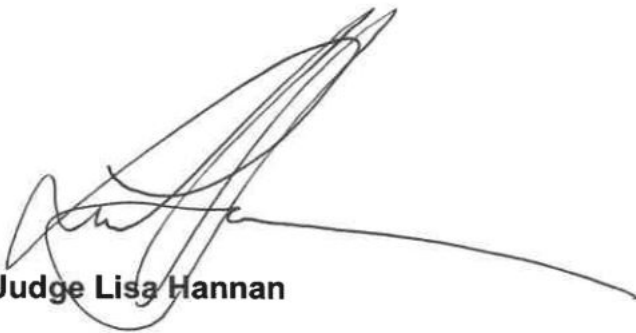
9. All persons who attend court buildings at the direction of the Court or pursuant to an appointment with a Registrar or in any other circumstance must;
- Wear a mask for the entire time they are in the building
 - Comply with social distancing
 - Follow Chief Health officer directions
 - Follow any direction under the *Court Security Act 1980*.

Regional Courts

10. All regional Courts remain open and this practice direction does not apply.

Attendance at Regional Court Buildings

11. All persons who attend regional court buildings at the direction of the Court or pursuant to an appointment with a Registrar or in any other circumstance must;
- Wear a mask for the entire time they are in the building
 - Comply with social distancing
 - Follow Chief Health officer directions
 - Follow any direction under the *Court Security Act 1980*.



Judge Lisa Hannan
Chief Magistrate

Date: 4 August 2020