



Magistrates' Court Victoria

Practice Direction

No. 23 of 2020

GROUND RULES HEARINGS WITH NO INTERMEDIARY

Background

[Practice Direction No. 6 of 2018](#) gave effect to the new Part 8.2A of the [Criminal Procedure Act 2009](#) (the Act) with respect to the Intermediary Pilot Program, which commenced at Melbourne Magistrates' Court on 2 July 2018 and has been extended to Bendigo, Geelong and Warrnambool Magistrates' Courts.

The purpose of this Practice Direction is to set out the processes required to give effect to Part 8.2A of the Act as it relates to ground rules hearings in proceedings outside the Intermediary Pilot Program i.e. where no intermediary has been appointed.

[Section 389A](#) of the Act sets out the proceedings in which a ground rules hearing may be held. Eligible proceedings are criminal proceedings in which a child or cognitively impaired witness is required to give evidence at a hearing for:

- a sexual offence;
- a family violence offence;
- an indictable offence which involves an assault on, or injury or a threat of injury to, a person; or
- a related summary assault offence.

This Practice Direction commences on **7 October 2020**.

Directions

1. The Court may direct that a ground rules hearing is to be held on the application of a Party or on its own motion.¹
2. An application made by a Party for the Court to direct the holding of a ground rules hearing may be made orally or in writing.²
3. The need for a ground rules hearing may be considered at contest mention or committal mention in all eligible proceedings where a child or cognitively impaired witness will give evidence.

¹ [Section 337\(1\)](#) of the Act

² [Section 389B\(2\)](#) of the Act

4. When a ground rules hearing is listed and no intermediary has been appointed for a child or cognitively impaired witness, the Court may direct the informant (or the prescribed person, being the police member who conducted the Video Recording of Evidence or VARE) to complete the [ground rules hearing questionnaire](#).
5. The completed [ground rules hearing questionnaire](#) must be served on the Parties and filed with the Court **no later than 7 days** before the ground rules hearing. To assist Informants, a [Fact Sheet for Informants](#) has also been developed by the Court.
6. The ground rules hearing will be listed before the Magistrate who is to hear the summary contest or contested committal where possible. The ground rules hearing will be listed at least 7 days prior to the contested proceeding, unless otherwise directed by the Court.
7. The prosecutor and defence practitioner who will appear at the hearing or committal **must** attend the ground rules hearing. Where an accused is self-represented, the accused **must** attend any ground rules hearing.
8. Directions which may be made at the ground rules hearing include the matters detailed in [section 389E\(2\)](#) of the Act, namely:
 - a direction about the manner of questioning a witness;
 - a direction about the duration of questioning a witness;
 - a direction about the questions that may or may not be put to a witness;
 - 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;
 - a direction about the use of models, plans, body maps or similar aids to help communicate a question or answer;
 - 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.
9. At the end of the ground rules hearing, the Magistrate will provide the Parties with written directions (ground rules) for the questioning of the witness.
10. This Practice Direction should be read in conjunction with the [Multi-Jurisdictional Court Guide for the Intermediary Pilot Program: Intermediaries and Ground Rules Hearings](#).



Judge Lisa Hannan
Chief Magistrate

Date: 7 October 2020