



Magistrates' Court of Victoria

Practice Direction

No. 1 of 2022

COVID RECOVERY

All Magistrates' Courts

Purpose

The purpose of this Practice Direction is to outline arrangements which will apply from **4 January 2022**.

All Magistrates' Court venues remain open, but attendance is subject to this Practice Direction. The health and safety of all court personnel and users remains our overriding consideration.

This Practice Direction revokes [Practice Direction 5 of 2021](#).

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.

Criminal Matters

Represented accused on bail or summons

From 4 January 2022	<ul style="list-style-type: none">• All criminal matters involving represented accused to proceed via WebEx/OMC.• Permission to be sought and obtained prior to in-person appearances.
From 31 January 2022	<ul style="list-style-type: none">• Option for represented accused to appear physically or via WebEx/OMC, as directed by the Court.• Where an accused attends a court physically, their legal representative must attend physically with them.

From 4 January 2022

All criminal matters involving represented accused to proceed via WebEx/OMC

1. All matters where an accused is represented by a legal practitioner will continue to be listed via WebEx/OMC, rather than at a physical court venue. This is the default position for all hearings in the Magistrates' Court of Victoria (MCV) where an accused is represented, **except for duty lawyer appearances for accused who attend in person**.
2. Any enquiries about a listing should be made in the first instance with the registry at which the matter is listed (see [local court registry](#)).
3. All practitioners with criminal matters must contact the registry at which the matter is listed (see [local court registry](#)) by EFAS or eDocs not later than **3 clear working days** prior to the current listing date for the purpose of obtaining a time via WebEx/OMC (unless the matter is listed in an open hearing list and the practitioner will be appearing via open link).
 - 3.1 The Court will confirm whether the matter will proceed remotely via WebEx/OMC.
 - 3.2 Where the matter is listed in a 'WebEx/OMC open link', it is the responsibility of the practitioner to log in at the allocated time, and once in the link the practitioner must announce their appearance in the chat function and then remain with their camera and microphone off until the matter is called.

Permission to be sought and obtained prior to any in-person attendance

4. Permission may be sought from any court venue, or the Court may direct in any matter, in-person attendance by a represented accused, a legal practitioner, witness or other participant in the court proceeding.
5. Requests for in-person attendance should be directed to the registrar at the relevant [local court registry](#) at least **3 clear working days** prior to the proposed date of attendance, unless the matter is urgent. Requests will be determined having regard to all relevant circumstances, including the accessibility needs of court users.

Commencing 31 January 2022

Option for represented accused to appear in person or via WebEx/OMC

6. Represented accused and their practitioners may appear in person at court or via WebEx/OMC, as directed by the Court.
7. Where an accused attends a court in person, their practitioner must also attend in person.
8. In mention courts, open links will be utilised where possible. If appearing via WebEx/OMC, it is the practitioner's responsibility to ensure that both the practitioner and their client are able to join the link in the allocated block, and once in the link the practitioner must announce their appearance in the chat function and then remain with their camera and microphone off until the matter is called.
9. In all other matters where a practitioner or their client wishes to appear via WebEx/OMC, it is the practitioner's responsibility to make all necessary

arrangements for themselves and their client to appear via WebEx/OMC, including ensuring their client has access to the appropriate technology.

Unrepresented accused on bail or summons

From 4 January 2022	<ul style="list-style-type: none">• All criminal matters involving unrepresented accused to proceed via WebEx/OMC.• Permission to be sought and obtained prior to in-person appearances.
From 31 January 2022	<ul style="list-style-type: none">• Unrepresented accused to appear physically unless they have made all necessary arrangements for the matter to be heard via WebEx/OMC, or otherwise as directed by the Court.

What to do prior to the hearing date

10. An accused who is not legally represented must, as soon as possible, and prior to the hearing date, visit the [MCV website](#) for information about going to court.
 - 10.1 Where the Court has been provided with an accused's current telephone number or email address, the Court will have sent to an accused a text message or email three weeks prior to the listed hearing, directing an accused to visit the [MCV website](#). It is the responsibility of the accused to ensure the Court has current contact details.
 - 10.2 If an accused who is not legally represented cannot access the website or make a telephone call, they may attend at their [local court registry](#) to make an enquiry.
11. An accused who is not legally represented and would like legal advice must, as soon as possible and prior to the hearing date:
 - 11.1 Contact [Victoria Legal Aid](#) to obtain free legal advice by requesting [Help Before Court](#) online, using the Legal Help [online chat service](#) or by calling Legal Help on 1300 792 387 from 8AM to 5PM weekdays; or
 - 11.2 Contact a lawyer of their choice for advice in relation to the matter (<https://www.liv.asn.au/referral> or <https://vicbar.com.au/>); or
 - 11.3 Contact the Victorian Aboriginal Legal Service for legal advice and representation on 1800 064 865.

From 4 January 2022

All criminal matters involving unrepresented accused to proceed via WebEx/OMC

12. Matters where an unrepresented accused is on bail or summons will continue to be listed via WebEx/OMC, rather than at a physical court venue.
 - 12.1 In-person attendance at a court venue will only be permitted if directed by the Court.
 - 12.2 Where an unrepresented accused cannot appear remotely, they must contact the relevant [local court registry](#) by email or telephone at least **3 clear working days** prior to the hearing date.

- 12.3 In circumstances where the Court cannot accommodate a remote hearing, the matter may be adjourned, and bail will be extended in absence where appropriate. Parties will be notified of the adjourned date.

Commencing 31 January 2022

Unrepresented accused to appear physically

13. Unrepresented accused must appear in person at the relevant court venue, unless they have made all necessary arrangements to appear via WebEx/OMC, or unless otherwise directed by the Court.
14. Unrepresented accused may request that a criminal case be listed via WebEx/OMC by contacting the registry at which the matter is listed (see [local court registry](#)) at least **3 clear working days** prior to the hearing date.
15. Unrepresented accused may contact the local court by:
 - 15.1 Emailing the [local court registry](#); or
 - 15.2 Telephoning the [local court registry](#); or
 - 15.3 When an accused is unable to do any of 15.1–15.2, attend at a [local court registry](#) to make an enquiry.
16. After a request is made, the Court will confirm with the unrepresented accused whether the case is suitable for hearing via WebEx/OMC, and if so, confirm the date and time of the hearing and provide the WebEx link before the hearing (which may not be the current listing date).
17. If a criminal case is listed in a 'WebEx/OMC open link',¹ with a list of other cases, the accused is responsible for:
 - 17.1 Ensuring they have the correct link address and necessary technology to participate
 - 17.2 Logging in to the link at the allocated time
 - 17.3 Remaining with their camera and microphone off until the matter is called on for hearing.
18. Where an unrepresented accused has not arranged for their criminal case to be heard via WebEx/OMC, the accused must attend the court venue at which the criminal case is listed on the listed date and at the listed time, to answer bail or summons. **If the accused does not attend the court venue at which the criminal case is listed at the listed date and time, the matter may be heard and determined in the accused's absence or a warrant may be issued for the accused's arrest.**

Accused in custody

First remand hearings

19. Accused are to be transported to the closest court venue. Accused must be presented at court with paperwork lodged by 3PM, Monday to Friday. After this time

¹ 'Open links' involve multiple matters being heard via a single WebEx link. Each open link is used for a specified time period (e.g. 10-11AM). Parties log onto the link five minutes before the start time and wait with their camera and microphone off until their matter is called.

and on weekends, the accused must be transported to the Bail and Remand Court (Melbourne/metropolitan) or a bail justice hearing must be arranged.

20. Where an accused is physically brought before the Court, Prosecution and Defence practitioners are required to appear physically before the Court unless otherwise ordered by the Court.
21. Informants and other witnesses may appear before the Court remotely via WebEx/OMC, provided this does not cause delay or other interruption to court business.
22. Bail support provided through the Court Integrated Services Program (CISP) will continue to provide services and all CISP assessments and case management will be conducted remotely via WebEx, telephone or in person, as determined by the Court.
23. Where an accused consents to appearing via WebEx/OMC, the following will apply:
 - 23.1 Accused arrested and held at a police complex
 - 23.2 Defence practitioner notified by police that accused is in custody
 - 23.3 Police enable private conferences by telephone or by WebEx for practitioner to obtain instructions from accused
 - 23.4 Assessments relevant to any application for bail will be enabled by telephone, WebEx or in person, as determined by the clinician
 - 23.5 Informant contacts closest court venue and advises of intention to file charges and obtains appropriate email address
 - 23.6 Police file charges electronically to the relevant court venue
 - 23.7 Defence practitioner contacts the relevant court venue and provides completed appearance sheet
 - 23.8 The Court lists the matter and notifies the parties of the date and time of the hearing
 - 23.9 Accused appears via WebEx/OMC from the relevant police complex
 - 23.10 Informant appears via WebEx/OMC, or as directed by the Court
 - 23.11 Defence practitioners appear via WebEx/OMC, unless otherwise directed by the Court
 - 23.12 Prosecutors appear in person from the courtroom, unless otherwise directed by the Court.

Bail applications

24. All bail applications which are not first remand hearings will be listed via WebEx/OMC (with the accused appearing via audio visual link from a prison location), subject to paragraphs 21-23, by contacting the coordinator at the [local court registry](#) to obtain a listing date.²

² See paragraph 33 for information regarding the Court Integrated Services Program.

All other hearings with an accused in custody

25. Second or subsequent hearings where an accused is in custody will proceed remotely, with the accused appearing via audio visual link from a prison location and practitioners appearing via WebEx/OMC, unless otherwise directed by the Court.

25.1 Any requests for alternative arrangements by a party should be made to the [local court registry](#) at least **3 clear working days** prior to the current listing date.

26. To order an accused in custody to appear in person at a court venue in any matter other than a first remand hearing, the Court must be satisfied that:

26.1 Physical appearance is required in the interests of justice; or

26.2 It is not reasonably practicable for the accused to appear via audio visual link.³

27. Additionally, the Court must consider:

27.1 The impact of requiring a physical appearance on the Court's case management generally; and

27.2 Any risk to public health (including risks involved in transporting the accused).⁴

Summary case conferences

28. For clarity, the Court notes that a summary case conference is not a court event and should be conducted between the parties as soon as possible following charge and not later than **7 days prior** to the next listed hearing date.

Matters to continue to be heard by WebEx/OMC

29. The following criminal matters will be listed via WebEx/OMC unless otherwise directed by the Court:

29.1 Committal mentions where the accused is legally represented, noting that practitioners must file a [case direction notice](#) pursuant to section 118 of the *Criminal Procedure Act* at least **7 days prior** to the hearing

29.2 Contest mentions where the accused is legally represented

29.3 Special mentions where the accused is legally represented

29.4 Applications, other than bail applications made at the first remand date, where the accused is legally represented

29.5 All custody matters save for first remand hearings

29.6 All Judicial Registrar Council lists

29.7 In relation to the above mentioned hearing types, permission may be sought from any court venue, or the Court may direct in any matter, in-person

³ *Evidence (Miscellaneous Provisions) Act 1958* (Vic) s 42L(1)(a) (as amended by *Justice Legislation Amendment (System Enhancements and Other Matters) Act 2021* (Vic), commencement date 26 April 2021).

⁴ *Evidence (Miscellaneous Provisions) Act 1958* (Vic) s 42L(1)(b) (as amended by *Justice Legislation Amendment (System Enhancements and Other Matters) Act 2021* (Vic), commencement date 26 April 2021).

attendance by a represented accused, a legal practitioner, witness or other participant in the court proceeding.

- 29.8 Requests for in-person attendance should be directed to the registry at the relevant [local court registry](#) at least **3 clear working days** prior to the proposed date of attendance, unless the matter is urgent. Requests will be determined having regard to all relevant matters, including social distancing density limits at all court venues and accessibility of court users.

Specialist courts and programs

From 4 January 2022

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

30. Drug Court participants may appear physically or via WebEx/OMC at each court review, as directed by the Court. Where a participant is legally represented, the practitioner must appear physically if the participant appears physically.
31. ARC participants may appear physically or via WebEx/OMC, as directed by the Court. Where a participant is legally represented, the practitioner must appear physically if the participant appears physically.
32. NJC client services may be conducted in person or remotely via audio visual link or telephone, as directed by the Court.
33. Participant appointments with CISP or Specialist Court staff may be conducted in person or remotely via WebEx or telephone, as the Court orders or registry/CISP/Specialist Court staff direct.

Koori Court

34. Koori Court hearings may be conducted in person or via WebEx/OMC, as directed by the Court.
35. Any requests for alternative arrangements by a participant should be made to the [local court registry](#) at least **3 clear working days** prior to the date of hearing.

Family Violence (FV)

From 4 January 2022	<ul style="list-style-type: none"> • All FV matters will proceed via WebEx/OMC, unless otherwise directed by the Court. • Permission to be sought and obtained prior to in-person appearances.
From 7 February 2022	<ul style="list-style-type: none"> • All FV matters will be heard in person unless arrangements have been made to appear via WebEx/OMC, or as otherwise directed by the Court. • The Court may direct that an Affected Family Member appear remotely via WebEx/OMC. • Respondents must appear in court physically, unless otherwise directed by the Court.

FV Interim Intervention Order applications (non VPOL applicant)

From 4 January 2022

36. Applicants at immediate risk should call 000.
37. Applications will proceed via WebEx/OMC, unless otherwise directed by the Court.
 - 37.1 Applications may proceed on the papers where supported by an affidavit or declaration of truth.
38. Applicants should use the online form wherever possible ([Application for a Family Violence Intervention Order](#)).
39. If an applicant is unable to use the online form or it is unsafe to do so, they should call the [local court registry](#) for assistance and to make arrangements to complete an application.
40. Applicants who cannot use the online form or who do not have access to a telephone, or have a language barrier or disability, or for whom it is unsafe to use the online form, may attend their [local court registry](#) and will be assisted by a registrar.
41. 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 local court registry 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 matter and determine a suitable process having regard to that assessment.

Commencing 7 February 2022

42. Applications will be heard in person at the relevant court venue with all participants attending physically, unless otherwise directed by the Court.
 - 42.1 Where an Affected Family Member or a respondent appears physically at court and is legally represented, their practitioner must also appear physically at court.
 - 42.2 The Court may direct that an Affected Family Member appear remotely via WebEx/OMC (see paragraph 54 below regarding requests to appear remotely).
 - 42.3 All respondents in family violence matters must attend physically at court unless otherwise directed by the Court. If a respondent has been served with the application and does not attend, the Court may hear and determine the matter in the respondent's absence.
 - 42.4 Applications may proceed on the papers where supported by an affidavit or declaration of truth.
43. Paragraphs 38-40 apply.

VPOL Applications for Family Violence Intervention Orders (FVIO) and Family Violence Safety Notices (FVSN)

From 4 January 2022

44. VPOL FVIO applications and FVSNs will be heard remotely via WebEx/OMC, unless otherwise directed by the Court.
45. For Affected Family Members in VPOL FVIO applications and FVSNs:
 - 45.1 Affected Family Members will be contacted by VPOL before the hearing for the purposes of obtaining updated information for the hearing.
 - 45.2 If an Affected Family Member agrees with the application made by the police and the conditions sought, they are not required to appear at the hearing, provided they remain available via WebEx or telephone on the listed date until the matter is heard.
 - 45.3 If an Affected Family Member does not agree with the application made by the police or the conditions sought, they should appear remotely via WebEx/OMC (see paragraph 54 below regarding requests to appear remotely). They must also complete the [applicant/affected family member pre-court information form](#) **at least 7 days prior** to the next hearing date.
46. A respondent to an application made by VPOL must complete the [respondent pre-court information form](#) **at least 7 days prior** to the hearing date.
47. If a respondent or Affected Family Member is unable to use the online form, they must contact the [relevant local court registry](#) by telephone to provide the information required in the relevant pre-court information form **at least 7 days prior** to the hearing date.
48. **If a respondent has been served with the application and does not make contact with the Court, the Court may hear and determine the matter in the respondent's absence.**

Commencing 7 February 2022

49. VPOL FVIO applications and FVSNs will be heard in person at the relevant court venue, unless a party has confirmed arrangements with the Court to proceed via WebEx/OMC, or as otherwise directed by the Court.
50. For Affected Family Members in VPOL FVIO applications and FVSNs:
 - 50.1 If an Affected Family Member agrees with the application made by the police and the conditions sought, they are not required to appear at the hearing, provided they remain available via WebEx or telephone on the listed date until the matter is heard.
 - 50.2 If an Affected Family Member does not agree with the application made by the police or the conditions sought, they should appear at the hearing either physically or remotely via WebEx/OMC (see paragraph 54 below regarding requests to appear remotely).

51. **All respondents in family violence matters must attend physically at court unless otherwise directed by the Court. If a respondent has been served with the application and does not attend, the Court may hear and determine the matter in the respondent's absence.** Where a respondent appears physically at court and is legally represented, their practitioner must also appear physically at court.

Unrepresented parties

Filing pre-court engagement information forms

52. Unrepresented parties (applicants/respondents) must complete and file with the Court the [applicant/affected family member](#) or [respondent](#) pre-court information form **at least 7 days prior** to the date of the hearing.

Unrepresented parties seeking legal advice

53. Where an applicant, protected person or respondent wishes to seek legal advice, they must, as soon as possible and prior to the hearing date:
- 53.1 Contact [Victoria Legal Aid](#) to obtain free legal advice by requesting [Help Before Court](#) online, using the Legal Help [online chat service](#), or by calling Legal Help on 1300 792 387 from 8AM to 5PM weekdays; or
 - 53.2 Contact a lawyer of their choice for advice in relation to the application (<https://www.liv.asn.au/referral> or <https://www.vicbar.com.au/>); or
 - 53.3 Complete the [applicant/affected family member](#) or [respondent](#) pre-court information form **at least 7 days prior** to the date of the hearing to request a pre-court referral to the free duty lawyer service prior to the court hearing date.⁵

Option for Affected Family Members to appear via WebEx/OMC

54. Requests to appear via WebEx/OMC by Affected Family Members must be directed to a registrar at the relevant [local court registry](#) **at least 7 days prior** to the proposed date of hearing, unless the matter is urgent. To make the request, the Affected Family Member must:
- 54.1 Complete and file with the court the [applicant/affected family member](#) pre-court information form; or
 - 54.2 Where the Affected Family Member is unable to access the pre-court information form, contact the [local court registry](#) via telephone or email; or
 - 54.3 Where the Affected Family Member is unable to access email or telephone, or they have a language barrier or disability, they may attend their [local court registry](#) to make their request in person.
55. Note: Court lists will run dual track in person and via WebEx where this is possible.

⁵ At date of publication (4 January 2022), there is a pre-court referral service pilot available at Melbourne, Sunshine, Werribee, Broadmeadows, Ringwood, Dandenong, and Latrobe Valley Magistrates' Courts. In other locations, parties are encouraged to contact Victoria Legal Aid or a lawyer of their choice.

Personal Safety Intervention Order (PSIO) applications

From 4 January 2022	<ul style="list-style-type: none">• All PSIO matters will proceed via WebEx/OMC, unless otherwise directed by the Court.• Permission to be sought and obtained prior to in-person appearances.
From 7 February 2022	<ul style="list-style-type: none">• All PSIO matters will be heard in person unless arrangements have been made to appear via WebEx/OMC, or as otherwise directed by the Court.• Respondents must appear in court physically, unless otherwise directed by the Court.

From 4 January 2022

56. Applicants at immediate risk should call 000.
57. To make a PSIO application, contact the [local court registry](#) via telephone or email to make an appointment with a registrar.
58. Parties (affected persons/respondents) must complete and file with the Court the [PSIO pre-court information](#) form **at least 7 days prior** to the date of the hearing.
59. Applicants who cannot use email or do not have access to a telephone, or have a language barrier or disability, or for whom it is unsafe to make contact via telephone or email, may attend a court venue and will be assisted by a registrar.
60. PSIO Applications will proceed via WebEx/OMC, unless otherwise directed by the Court.

Commencing 7 February 2022

61. Affected persons in PSIO applications made by Victoria Police may attend physically but are not required to do so, provided they remain available via WebEx or telephone on the listed date until the matter is heard.
62. Parties (affected persons/respondents) must complete and file with the Court the [PSIO pre-court information](#) form **at least 7 days prior** to the date of the hearing.
63. Applicants in PSIO matters where Victoria Police is not the applicant must attend court physically unless:
 - 63.1 They are represented and their practitioner has made all necessary arrangements to have the matter heard by WebEx/OMC; or
 - 63.2 The Court directs otherwise.
64. **All respondents in PSIO matters must attend physically at court unless the Court directs otherwise. If a respondent has been served and does not appear, the Court may hear and determine the matter in the respondent's absence.**
65. Where an applicant or respondent appears physically at court and is legally represented, their practitioner must also appear physically at court.
66. **If an applicant does not appear, the Court may proceed to hear and determine the matter in the applicant's absence or strike the application out.**

Civil matters

67. Civil hearings (including applications and directions hearings) will be conducted remotely via WebEx/OMC, unless otherwise directed by the Court.
68. Where a party cannot appear remotely or considers that a matter is not suitable for remote hearing, they must, upon receipt of Notice of Hearing, request to attend in person by **emailing** the relevant [local court registry](#), providing a brief written outline of the reasons why the matter should not proceed remotely.
 - 68.1 A copy of this request must also be provided to all other parties.
 - 68.2 Other parties to the proceedings may file and serve a brief response to the request for in-person attendance.
69. A request for in-person attendance will be determined by the Court, having regard to the urgency and overall circumstances of the matter. The Court will then direct the parties as to how the matter will proceed, and this will also be available via EFAS ([Electronic Filing Appearance System](#)).
70. Where the Court has determined that a matter will proceed in person, the parties should only attend the relevant court venue at the time directed by the Court.
71. If a party must physically attend a court venue to make an application, they should first contact the relevant [local court registry](#) and only attend at the time directed by the registrar.

WorkCover and Industrial Division matters

72. WorkCover and Industrial Division hearings (including urgent applications, directions hearings, early neutral evaluations and contested mentions) will be conducted remotely via WebEx/OMC, unless otherwise directed by the Court.
73. Where a party cannot appear remotely or considers that a matter is not suitable for remote hearing, they must, upon receipt of Notice of Hearing, request to attend in person by **emailing** mmcworkcoverindustrialcourts@justice.vic.gov.au providing a brief written outline of the reasons why the matter should not proceed remotely.
 - 73.1 A copy of this request must also be provided to all other parties.
 - 73.2 Other parties to the proceedings may file and serve a brief response to the request for in-person attendance.
74. A request for in-person attendance will be determined by the Court, having regard to the urgency and overall circumstances of the matter. The Court will then direct the parties as to how the matter will proceed, and this will also be available via EFAS ([Electronic Filing Appearance System](#)).
75. Where the Court has determined that a matter will proceed in person, the parties should only attend the relevant court venue at the time directed by the Court.
76. If a party must physically attend a court venue to make an application, they should first contact the relevant [local court registry](#) and only attend at the time directed by the registrar.

Victims of Crime Assistance Tribunal (VOCAT)

77. VOCAT will hear applications on the papers, via WebEx/OMC, via telephone or in person, as directed by the Tribunal.

Counter services

78. All documents capable of being filed or communicated digitally must be filed or communicated digitally. Prosecution agencies, informants and corrections attending for routine matters must wherever possible use digital communication.

79. Persons who cannot comply with digital filing or communication or where a matter is not amenable to digital communication may attend at registry for counter service.

80. Parties wishing to attend to have documents witnessed or certified must first make an appointment with the relevant [local court venue](#). No walk-in attendance is permitted in this category unless the registrar determines that the matter is urgent.

Attendance at court venues

81. All persons who attend court venues must:

81.1 wear a mask in public areas unless they are exempt, or the Court directs otherwise;

81.2 comply with social distancing;

81.3 follow directions, including the use of QR codes for entrance into the building; and

81.4 follow any direction under the *Court Security Act 1980*.



**JUDGE LISA HANNAN
CHIEF MAGISTRATE**

Date: 4 January 2022