



## **Magistrates' Court of Victoria**

### **Practice Direction**

**No. 3 of 2022**

#### **COVID RECOVERY**

#### **All Magistrates' Court venues**

#### **Purpose**

The purpose of this Practice Direction is to outline arrangements which will apply from **7 March 2022**.

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

From 7 March 2022, this Practice Direction revokes Practice Direction No. 2 of 2022.

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 7 Mar 2022	<ul style="list-style-type: none"><li>• Option for represented accused to appear physically or via WebEx, as provided, or as directed by the Court.</li><li>• Where an accused attends a court physically, their legal representative must attend physically with them, unless alternative arrangements have been made with the Court.</li></ul>
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#### **Option for represented accused to appear in person or via WebEx**

1. Represented accused and their practitioners may appear in person at court or via WebEx, as provided in this Practice Direction, or as directed by the Court.
2. Where an accused attends a court in person, their practitioner must also attend in person, unless alternative arrangements have been made with the Court.

3. In mention courts, open links will be utilised where possible. If appearing via WebEx, it is the practitioner's responsibility to ensure that both the practitioner and their client are able to join the link with audio visual capability in the allocated block. Once in the link, the practitioner must announce their appearance in the chat function and then both practitioner and accused must remain with their camera and microphone off until the matter is called.
4. In all other matters where a practitioner or their client wishes to appear via WebEx, it is the practitioner's responsibility to make all necessary arrangements for themselves and their client to appear via WebEx, including ensuring their client has access to the appropriate audio visual technology.
  - 4.1 Requests for appearance via WebEx should be made by contacting the relevant local court registry at least **3 clear working days** prior to the hearing date

### Unrepresented accused on bail or summons

From 7 Mar 2022	<ul style="list-style-type: none"> <li>• Unrepresented accused to appear physically unless they have made all necessary arrangements with the Court for the matter to be heard via WebEx, or otherwise as directed by the Court.</li> </ul>
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### What to do prior to the hearing date

5. 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.
  - 5.1 Where the Court has been provided with an accused's current telephone number or email address, the Court will send the accused a text message or email three weeks prior to the listed hearing, directing them to visit the MCV website. It is the responsibility of the accused to ensure the Court has current contact details.
  - 5.2 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.
6. An accused who is not legally represented and would like legal advice must, as soon as possible and prior to the hearing date:
  - 6.1 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
  - 6.2 Contact their local Community Legal Centre to obtain free legal advice; or
  - 6.3 Contact the Victorian Aboriginal Legal Service for legal advice and representation; or
  - 6.4 Contact a lawyer of their choice for advice in relation to the matter (<https://www.liv.asn.au/referral> or <https://vicbar.com.au/>).

### Unrepresented accused to appear physically

7. Unrepresented accused must appear in person at the relevant court venue, unless they have made all necessary arrangements with the Court to appear via WebEx, or unless otherwise directed by the Court.
8. Unrepresented accused may request that a case be listed via WebEx by contacting the relevant [local court registry](#) at least **3 clear working days** prior to the hearing date.
9. Unrepresented accused may contact the local court by:
  - 9.1 Emailing the [local court registry](#); or
  - 9.2 Telephoning the [local court registry](#); or
  - 9.3 When an accused is unable to email or telephone, attend at a [local court registry](#) to make an enquiry.
10. After a request is made, the Court will confirm with the unrepresented accused whether the case is suitable for hearing via WebEx, 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).
11. If a criminal case is listed in a 'WebEx open link',<sup>1</sup> with a list of other cases, the accused is responsible for:
  - 11.1 Ensuring they have the correct link address and the necessary audio visual technology to participate
  - 11.2 Logging in to the link at the allocated time
  - 11.3 Remaining with their camera and microphone off until the matter is called on for hearing.
12. Where an unrepresented accused has not arranged for their case to be heard via WebEx, 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

13. Accused are to be transported to the closest court venue. Accused must be presented at court with paperwork filed by 3PM, Monday to Friday. After this time and on weekends, the accused must be transported to the Bail and Remand Court (Melbourne/metropolitan) or a bail justice hearing must be arranged.
14. Where an accused is physically brought before the Court, Prosecution and Defence practitioners are required to appear physically before the Court unless otherwise directed by the Court.

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<sup>1</sup> '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.

15. Informants and other witnesses may appear before the Court remotely via WebEx, provided they have audio visual capability and this does not cause delay or other interruption to court business.
16. 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 audio visual link, telephone or in person, as determined by the Court.
17. Where an accused consents to appearing remotely, the following will apply:
  - 17.1 Accused arrested and held at a police complex
  - 17.2 Defence practitioner notified by police that accused is in custody
  - 17.3 Police enable private conferences by telephone or by audio visual link for practitioner to obtain instructions from accused
  - 17.4 Assessments relevant to any application for bail will be enabled by telephone, audio visual link or in person, as determined by the clinician
  - 17.5 Informant contacts closest court venue and advises of intention to file charges and obtains appropriate email address
  - 17.6 Informant confirms that accused consents to appear remotely and that audio visual technology is available to both the informant and the accused
  - 17.7 Police file charges electronically to the relevant court venue
  - 17.8 Defence practitioner contacts the relevant court venue and provides completed appearance sheet
  - 17.9 The Court lists the matter and notifies the parties of the date and time of the hearing
  - 17.10 Accused appears via audio visual link from the relevant police complex
  - 17.11 Informant appears via WebEx, audio visual link or as directed by the Court.

#### Bail applications

18. All bail applications which are not first remand hearings will be listed via WebEx (with the accused appearing via audio visual link from a prison location). Practitioners should contact the coordinator at the [local court registry](#) to obtain a listing date.<sup>2</sup>

#### All other hearings with an accused in custody

19. Second or subsequent hearings where an accused is in custody will proceed with the accused appearing via audio visual link from a prison location, unless otherwise directed by the Court.<sup>3</sup>
  - 19.1 Any requests for alternative arrangements by a party should be made to the

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<sup>2</sup> See paragraph 24 for information regarding the Court Integrated Services Program.

<sup>3</sup> Note, pursuant to *Evidence (Miscellaneous Provisions) Act 1958* (Vic) s 42L(1)(a)-(b) (as amended by *Justice Legislation Amendment (System Enhancements and Other Matters) Act 2021* (Vic), commencement date 26 April 2021): 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 physical appearance is required in the interests of justice or that it is not reasonably practicable for the accused to appear via audio visual link. The Court must also consider the impact of requiring a physical appearance on the Court's case management generally, and any risk to public health (including risks involved in transporting the accused).

[local court registry](#) at least **3 clear working days** prior to the current listing date.

### **Matters to be heard via WebEx**

20. The following criminal matters will continue to be listed via WebEx unless alternative arrangements have been made with the Court, or as directed by the Court:
  - 20.1 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 2009* **at least 7 days prior** to the hearing
  - 20.2 Contest mentions where the accused is legally represented
  - 20.3 Special mentions where the accused is legally represented
  - 20.4 Applications, other than bail applications made at the first remand date, where the accused is legally represented
  - 20.5 All custody matters save for first remand hearings
  - 20.6 Judicial Registrar lists
  - 20.7 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 attendance by a represented accused, a legal practitioner, witness or other participant in the court proceeding.
  - 20.8 Requests for in-person attendance should be directed to 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 at court venues and accessibility of court users.

### **Specialist Courts and Programs**

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

21. Drug Court participants may appear physically or via WebEx 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.
22. ARC participants may appear physically or via WebEx, as directed by the Court. Where a participant is legally represented, the practitioner must appear physically if the participant appears physically.
23. NJC client services may be conducted in person or remotely via audio visual link or telephone, as directed by the Court.
24. 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

25. Koori Court hearings may be conducted in person or via WebEx, as directed by the Court.
26. 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 7 Mar 2022	<ul style="list-style-type: none"><li>• All FV matters will proceed via WebEx, unless otherwise directed by the Court.</li><li>• Permission to be sought and obtained prior to in-person appearances.</li></ul>
From 21 Mar 2022	<ul style="list-style-type: none"><li>• The Court will prioritise the preference of the Affected Family Member to appear via WebEx where remote hearing facilities are available and it is safe and practicable to do so.</li><li>• Respondents must appear in court physically, unless otherwise directed by the Court.</li></ul>

## **FV Interim Intervention Order applications (where applicant is not Victoria Police)**

### ***From 7 March 2022***

27. Applicants at immediate risk should call 000.
28. Applications will proceed via WebEx where available and it is safe and practicable to do so, unless otherwise directed by the Court.
  - 28.1 Applications may proceed on the papers where supported by an affidavit or declaration of truth.
29. Applicants should use the online form wherever possible ([Application for a Family Violence Intervention Order](#)).
30. 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 make arrangements to complete an application.
31. Applicants who experience difficulty using the online form may attend their [local court registry](#) and will be assisted by a registrar.
32. When attending a court venue, a party should first contact the relevant local court registry to arrange an appointment. Where a party is unable to contact the relevant local court registry to arrange an appointment, they may attend without an appointment and a registrar will provide assistance.

### ***Commencing 21 March 2022***

33. Applications will be heard in person at the relevant court venue with the respondent attending physically, unless otherwise directed by the Court.
  - 33.1 The Court will prioritise the preference of the applicant to appear remotely or in person, as indicated in the pre-court information form, where it is safe and

practicable to do so.

- 33.2 The applicant must complete the [applicant/affected family member pre-court information form](#) **at least 7 days prior** to the hearing date.
  - 33.3 If the applicant is unable to complete the online form, they must contact or attend their relevant [local court registry](#) to provide the required information.
  - 33.4 Where an Affected Family Member or a respondent appears physically at court and is legally represented, their practitioner must also appear physically at court.
34. Applications may proceed on the papers where supported by an affidavit or declaration of truth.

**Note:** 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.

### **Victoria Police (VPOL) applications for Family Violence Intervention Orders (FVIO) and Family Violence Safety Notices (FVSN)**

#### ***From 7 March 2022***

35. VPOL FVIO applications and FVSNs will be heard remotely via WebEx, unless otherwise directed by the Court.
36. For Affected Family Members in VPOL FVIO applications and FVSNs:
  - 36.1 Affected Family Members will be contacted by VPOL before the hearing for the purposes of obtaining updated information for the hearing.
  - 36.2 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 are contactable by police. However, if they wish to observe the proceeding, they may appear via WebEx or telephone.
  - 36.3 If an Affected Family Member does not agree with the application made by the police or the conditions sought, they should 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.
37. 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. If a respondent is unable to use the online form, they must contact the relevant [local court registry](#) to provide the required information.

#### ***Commencing 21 March 2022***

38. 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, or as otherwise directed by the Court.
39. For Affected Family Members in VPOL FVIO applications and FVSNs:
  - 39.1 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 contactable by police on the listed date until the matter is

heard.

- 39.2 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. The Court will prioritise the preference of the Affected Family Member to appear remotely, as indicated in the pre-court information form, where it is safe and practicable to do so. The Affected Family Member must complete the [applicant/affected family member pre-court information form](#) **at least 7 days prior** to the hearing date. The Affected Family Member must contact or attend the [local court registry](#) if they require assistance completing the form.
40. For respondents in VPOL FVIO applications and FVSNs:
- 40.1 **All respondents in family violence matters must attend physically at court unless otherwise directed by the Court.**
- 40.2 Where a respondent appears physically at court and is legally represented, their practitioner must also appear physically at court, unless alternative arrangements have been made.
- 40.3 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. If a respondent is unable to use the online form, they must contact the relevant [local court registry](#) to provide the required information.

## Unrepresented parties

### Filing pre-court engagement information forms

41. 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.
42. If a respondent or Affected Family Member who is required to appear at the hearing 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.

### Unrepresented parties seeking legal advice

43. Where an applicant, Affected Family Member or respondent wishes to seek legal advice, they must, as soon as possible and prior to the hearing date:
- 43.1 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
- 43.2 Contact their local [Community Legal Centre](#) to obtain free legal advice; or
- 43.3 Contact the [Victorian Aboriginal Legal Service](#) for legal advice and representation; or
- 43.4 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
- 43.5 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.<sup>4</sup>

### **Personal Safety Intervention Order (PSIO) applications**

From 7 Mar 2022	<ul style="list-style-type: none"><li>• All PSIO matters will proceed via WebEx, unless otherwise directed by the Court.</li><li>• Permission to be sought and obtained prior to in-person appearances.</li></ul>
From 21 Mar 2022	<ul style="list-style-type: none"><li>• Respondents must appear in court physically, unless otherwise directed by the Court.</li></ul>

#### ***From 7 March 2022***

44. Applicants at immediate risk should call 000.
45. PSIO applications will proceed via WebEx, unless otherwise directed by the Court.
46. To make a PSIO application, contact the [local court registry](#) via telephone or email to make an appointment with a registrar.
47. Parties (protected 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.
48. Parties who experience difficulty using the online form may attend their [local court registry](#) and will be assisted by a registrar.
49. When attending a court venue, a party should first contact the relevant local court registry to arrange an appointment. Where a party is unable to contact the relevant local court registry to arrange an appointment, they may attend without an appointment and a registrar will provide assistance.

#### ***Commencing 21 March 2022***

50. Protected persons in PSIO applications made by Victoria Police are not required to attend court physically, provided they remain contactable by police on the listed date until the matter is heard. Protected persons may attend court remotely or in person if it is their preference to do so.
  - 50.1 The Court will prioritise the preference of the protected person to appear remotely where it is safe and practicable to do so.
51. Applicants in PSIO matters where Victoria Police is not the applicant must appear before the Court.
  - 51.1 However, the Court will prioritise the preference of the protected person to

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<sup>4</sup> At date of publication (24 February 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.

appear remotely where it is safe and practicable to do so.

- 51.2 Where a protected person or a respondent appears physically at court and is legally represented, their practitioner must also appear physically at court.
52. In non-police applications, parties (protected 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.
53. **All respondents in PSIO matters must attend physically at court unless the Court directs otherwise.**

### **Civil matters**

54. Civil hearings (including applications and directions hearings) will be conducted remotely via WebEx, unless alternative arrangements have been made, or as otherwise directed by the Court.
55. Summons for oral examination will be conducted in person at a court venue, unless alternative arrangements have been made with the Court, or as otherwise directed by the Court.
56. 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.
  - 56.1 A copy of this request must also be provided to all other parties.
  - 56.2 Other parties to the proceedings may file and serve a brief response to the request for in-person attendance.
57. 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](#)).
58. 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.
59. 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**

60. WorkCover and Industrial Division hearings (including urgent applications, directions hearings, early neutral evaluations and contested mentions) will be conducted remotely via WebEx, unless otherwise directed by the Court.
61. 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](mailto:mmcworkcoverindustrialcourts@justice.vic.gov.au) providing a brief written outline of the reasons why the matter should not proceed remotely.
  - 61.1 A copy of this request must also be provided to all other parties.

- 61.2 Other parties to the proceedings may file and serve a brief response to the request for in-person attendance.
62. A request for in-person attendance will be determined by the Court, having regard to all the 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](#)).
63. 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.
64. 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)**

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

### **Counter services**

66. 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.
67. 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 (see paragraphs 31-32 in relation to family violence matters and paragraphs 48-49 in relation to personal safety intervention order applications).

### **Attendance at court venues**

68. All persons who attend court venues must:
- 68.1 wear a mask in public areas unless they are exempt, or the Court directs otherwise;
  - 68.2 comply with social distancing;
  - 68.3 follow any direction under the *Court Security Act 1980*.



**JUDGE LISA HANNAN  
CHIEF MAGISTRATE**

Date: 24 February 2022