



Magistrates' Court of Victoria

Practice Direction

No. 2 of 2022

COVID RECOVERY

All Magistrates' Courts

Purpose

The purpose of this Practice Direction is to outline arrangements which will apply from **24 February 2022 until 6 March 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 No. 1 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 24 Feb 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.
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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.

Unrepresented accused on bail or summons

From 24 Feb 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.
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What to do prior to the hearing date

6. 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.
 - 6.1 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.
 - 6.2 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.
7. An accused who is not legally represented and would like legal advice must, as soon as possible and prior to the hearing date:
 - 7.1 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

- 7.2 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
- 7.3 Contact the Victorian Aboriginal Legal Service for legal advice and representation on 1800 064 865.

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

8. 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.
 - 8.1 In-person attendance at a court venue will only be permitted if directed by the Court.
 - 8.2 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.
 - 8.3 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.

Accused in custody

First remand hearings

9. 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 and on weekends, the accused must be transported to the Bail and Remand Court (Melbourne/metropolitan) or a bail justice hearing must be arranged.
10. 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.
11. 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.
12. 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.
13. Where an accused consents to appearing via WebEx/OMC, the following will apply:
 - 13.1 Accused arrested and held at a police complex
 - 13.2 Defence practitioner notified by police that accused is in custody
 - 13.3 Police enable private conferences by telephone or by WebEx for practitioner to obtain instructions from accused
 - 13.4 Assessments relevant to any application for bail will be enabled by telephone, WebEx or in person, as determined by the clinician
 - 13.5 Informant contacts closest court venue and advises of intention to file charges and obtains appropriate email address

- 13.6 Police file charges electronically to the relevant court venue
- 13.7 Defence practitioner contacts the relevant court venue and provides completed appearance sheet
- 13.8 The Court lists the matter and notifies the parties of the date and time of the hearing
- 13.9 Accused appears via WebEx/OMC from the relevant police complex
- 13.10 Informant appears via WebEx/OMC, or as directed by the Court
- 13.11 Defence practitioners appear via WebEx/OMC, unless otherwise directed by the Court
- 13.12 Prosecutors appear in person from the courtroom, unless otherwise directed by the Court.

Bail applications

14. 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 11-13, by contacting the coordinator at the [local court registry](#) to obtain a listing date.¹

All other hearings with an accused in custody

15. 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.
 - 15.1 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.
16. 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:
 - 16.1 Physical appearance is required in the interests of justice; or
 - 16.2 It is not reasonably practicable for the accused to appear via audio visual link.²
17. Additionally, the Court must consider:
 - 17.1 The impact of requiring a physical appearance on the Court's case management generally; and
 - 17.2 Any risk to public health (including risks involved in transporting the accused).³

¹ See paragraph 23 for information regarding the Court Integrated Services Program.

² *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).

³ *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).

Summary case conferences

18. 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

19. The following criminal matters will be listed via WebEx/OMC unless otherwise directed by the Court:
 - 19.1 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
 - 19.2 Contest mentions where the accused is legally represented
 - 19.3 Special mentions where the accused is legally represented
 - 19.4 Applications, other than bail applications made at the first remand date, where the accused is legally represented
 - 19.5 All custody matters save for first remand hearings
 - 19.6 All Judicial Registrar Council lists
 - 19.7 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.
 - 19.8 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

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

20. 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.
21. 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.
22. NJC client services may be conducted in person or remotely via audio visual link or telephone, as directed by the Court.
23. 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

24. Koori Court hearings may be conducted in person or via WebEx/OMC, as directed by the Court.
25. 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 24 Feb 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.
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FV Interim Intervention Order applications (non VPOL applicant)

26. Applicants at immediate risk should call 000.
27. Applications will proceed via WebEx/OMC, unless otherwise directed by the Court.
 - 27.1 Applications may proceed on the papers where supported by an affidavit or declaration of truth.
28. Applicants should use the online form wherever possible ([Application for a Family Violence Intervention Order](#)).
29. 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.
30. 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.
31. 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.

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

32. VPOL FVIO applications and FVSNs will be heard remotely via WebEx/OMC, unless otherwise directed by the Court.
33. For Affected Family Members in VPOL FVIO applications and FVSNs:
 - 33.1 Affected Family Members will be contacted by VPOL before the hearing for the purposes of obtaining updated information for the hearing.
 - 33.2 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.

- 33.3 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. They must also complete the [applicant/affected family member pre-court information form](#) **at least 7 days prior** to the next hearing date.
34. 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.
35. 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.
36. **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.**

Unrepresented parties

Filing pre-court engagement information forms

37. 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

38. Where an applicant, protected person or respondent wishes to seek legal advice, they must, as soon as possible and prior to the hearing date:
 - 38.1 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
 - 38.2 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
 - 38.3 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.⁴

⁴ 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.

Personal Safety Intervention Order (PSIO) applications

From 24 Feb 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.
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39. Applicants at immediate risk should call 000.
40. To make a PSIO application, contact the [local court registry](#) via telephone or email to make an appointment with a registrar.
41. 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.
42. 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.
43. PSIO Applications will proceed via WebEx/OMC, unless otherwise directed by the Court.

Civil matters

44. Civil hearings (including applications and directions hearings) will be conducted remotely via WebEx/OMC, unless otherwise directed by the Court.
45. 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.
 - 45.1 A copy of this request must also be provided to all other parties.
 - 45.2 Other parties to the proceedings may file and serve a brief response to the request for in-person attendance.
46. 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](#)).
47. 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.
48. 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

49. 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.

50. 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.
- 50.1 A copy of this request must also be provided to all other parties.
- 50.2 Other parties to the proceedings may file and serve a brief response to the request for in-person attendance.
51. 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](#)).
52. 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.
53. 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)

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

Counter services

55. 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.
56. 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.
57. 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

58. All persons who attend court venues must:
- 58.1 wear a mask in public areas unless they are exempt, or the Court directs otherwise;
- 58.2 comply with social distancing;
- 58.3 follow directions, including the use of QR codes for entrance into the building; and
- 58.4 follow any direction under the *Court Security Act 1980*.



JUDGE LISA HANNAN
CHIEF MAGISTRATE

Date: 24 February 2022

APPENDIX 1: Summary of revisions

Publication date	Content revised
24 February 2022	<p>Revised 'Purpose' section to amend the dates within which this Practice Direction applies. This Practice Direction will now apply from date of publication, 24 February 2022, until 6 March 2022, after which Practice Direction No. 3 of 2022 will apply.</p> <p>All references to directions applying from 28 February 2022 have been removed to reflect the continuing directions in place until 6 March 2022.</p>