



Magistrates' Court of Victoria
Practice Direction
No. 6 of 2022

All Magistrates' Court of Victoria venues

Purpose

The purpose of this Practice Direction is to outline arrangements which will apply from 12 September 2022.

This Practice Direction revokes Practice Direction No. 3 of 2022 on 12 September 2022.

The Court will continue to hear matters both in person and online, having regard to the interests of justice, including the types of matters, the circumstances of the parties and any other relevant considerations, as outlined in this Practice Direction.

All online appearances must be conducted with **audio visual link technology**; **appearances by audio link technology alone are not compliant**, unless directed by the Court. Where a direction is sought, this must be done at the time the matter is filed or a listing is sought.

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.

In this Practice Direction, the following definitions apply:

- 'In person' means physical attendance at a court venue
- 'Online' means to appear remotely via an audio visual link
- 'Audio visual link technology' means technology that complies with the requirements under s 42R of the *Evidence (Miscellaneous Provisions) Act 1958* and 'audio visual capability' is to be constructed accordingly
- 'Relevant court venue' and 'relevant court registry' mean the court at which the matter is listed
- 'The Court' means the Magistrates' Court of Victoria, as constituted by Registrars and Judicial Officers exercising the powers conferred under the *Magistrates' Court Act 1989*

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Criminal Matters

Represented accused on bail or summons

Modes of appearance

1. Represented accused and their practitioners may appear in person at court or online, as provided in this Practice Direction, or as directed by the Court. Practitioners seeking to make submissions as to the mode of hearing should contact the Court at which the matter is listed at least 7 days prior to the listed date or otherwise as directed by the Court.
2. Where an accused attends a court in person, their practitioner must also attend in person, unless otherwise directed by the Court.
3. All prosecution agencies are to attend court in person, as provided in this Practice Direction, or otherwise as directed by the Court.
4. If appearing online, it is the practitioner's responsibility to ensure that both the practitioner and their client are able to join any online hearing with **audio visual capability** and appear from a suitable location at the allocated time or block of time.
 - 4.1 The practitioner must announce their appearance in the chat function.
 - 4.2 Both practitioner and accused must remain with their camera and microphone off until the matter is called.

Mention hearings

5. Practitioners are required to manage the number of matters they appear in on any given day to ensure they are available when matters are called, and they do not interfere with the proper running of the court list.
6. Applications for adjournments of mention hearings by the registrar (using the adjournment form for unrepresented accused or filed via EFAS by all practitioners) pursuant to Rule 38 of the *Magistrates' Court Criminal Procedure Rules 2019* may be requested in the following circumstances:
 - 6.1 Where the matter has resolved to a plea of guilty and the accused's practitioner seeks a plea on a later date. If granted, the plea hearing may be listed for appearance in person or online, as directed by the Court.
 - 6.2 Where the matter is not ready to proceed, and the accused's practitioner seeks a further mention hearing for good reason set out in the request.
 - 6.3 Where a summary case conference has occurred, the matter has not resolved, and parties seek a contest mention hearing. If granted, the contest mention hearing will be listed for appearance in person, unless otherwise directed by the Court.
 - 6.4 **Note**, accused on bail must attend court in person on the original listed date to have bail extended by the registrar, unless otherwise directed by the Court.
 - 6.5 All applications by practitioners under paragraph 6 must be made at least **3 clear**

working days prior to the listed date. Requests via email will not be accepted.

7. Where a request for adjournment has been refused by the Registrar, the accused's practitioner may make an adjournment application before a judicial officer.
Note, parties must be ready to proceed if the adjournment application is refused.
8. Mention hearings may be listed online unless otherwise directed by the court, including at the request of the parties, in the following circumstances:
 - 8.1 Where the prosecution will make an application to withdraw all charges.
 - 8.2 As otherwise directed by the Court.
9. Where it is not possible for a practitioner to make an application 3 days prior due to receiving instructions to act within the 3 days, any application for adjournment must be made in person by either the practitioner or the accused. Where a solicitor is not in funds but is acting and their client is attending court unrepresented to apply for an adjournment the solicitor must complete the adjournment request **via EFAS** not later than 12 pm the day prior to the matter being listed.

Plea Hearings

10. Plea hearings including pleas proceeding on a mention date may be listed in person or online or otherwise as directed by the Court.
11. Practitioners are required to triage plea hearings and must not appear, or have their client appear, online where a CCO or term of imprisonment is within the sentencing range. Where a plea is listed online and a Magistrate considers that a CCO or term of imprisonment is within range parties may be directed to attend court for the hearing. If a practitioner is unable to make this assessment the matter must be listed for in person hearing.

Contest mention hearings

12. All parties and their practitioners save for accused in custody are required to appear in person at contest mention hearings in bail and summons matters unless otherwise directed by the Court.

Contests before a Magistrate and committal hearings

13. Contested hearings and committal hearings may be listed in person or online as directed by the Court. Parties must seek direction from the Court at contest mention or committal mention as to whether the matter will be heard online or in person.

Contested hearings before a Judicial Registrar

14. At the time of booking a matter for contested hearing before a Judicial Registrar, parties must seek direction from the Court as to whether the matter will be heard online or in person.

Unrepresented accused on bail or summons (excepting matters in the judicial registrar list¹)

What to do prior to the hearing date

15. 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.
 - 15.1 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 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.
 - 15.2 If an accused who is not legally represented cannot access the website, they should call the [relevant court registry](#), or if that is not possible, they should attend at the [relevant court registry](#) to make an enquiry.
16. An accused who is not legally represented and would like legal advice must, as soon as possible and prior to the hearing date:
 - 16.1 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
 - 16.2 Contact their local [Community Legal Centre](#) to obtain free legal advice; or
 - 16.3 Contact the [Victorian Aboriginal Legal Service](#) or [Djirra](#) for legal advice and representation; or
 - 16.4 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 in person

17. Unrepresented accused **must appear in person at the relevant court venue** at a first mention in bail and summons matters, unless otherwise directed by the Court, excepting:
 - 17.1 Where the accused has contacted the Court at least 3 days prior to the listed date and an adjournment application has been granted by a Registrar to a plea of guilty or further mention hearing.
 - 17.2 **Note**, accused on bail must attend court in person on the original listed date to have bail extended by the registrar, unless otherwise directed by the Court.
18. Where the court directs that an unrepresented accused may appear online the accused is responsible for:
 - 18.1 Ensuring they have the correct link address and the necessary **audio-visual technology** to participate.
 - 18.2 Ensuring they are situated at a suitable private location.

¹ See paragraph 27.4.

- 18.3 Logging in to the link at the allocated time.
 - 18.4 Remaining with their camera and microphone off until the matter is called on for hearing.
19. **If the accused (who has not been directed to attend online) does not attend the court venue at which their 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

20. Accused are to be transported to the relevant 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.
21. Save for circumstances where an accused consents, all accused are required to be brought physically before the court.²
22. Informants and other witnesses may appear before the Court remotely, provided they have **audio visual capability, and this does not cause delay or other interruption to court business.**
23. Where an accused consents to appearing remotely, 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 audio visual link for practitioner to obtain instructions from accused.
 - 23.4 Informant contacts the relevant court venue and advises of intention to file charges and obtains appropriate email address.
 - 23.5 Informant confirms that accused consents to appear remotely and that **audio visual technology is available to both the informant and the accused at the place where the accused is being held at the allocated time and will not cause delay in hearing the matter.**
 - 23.6 Police file charges electronically to the relevant court venue, and if relevant, the family violence safety notice or any variation application for a family violence IVO, so they may be considered together.
 - 23.7 Defence practitioner contacts the relevant court venue and provides completed

² See ss 42MAA and 42JA(3) of the *Evidence (Miscellaneous Provisions) Act 1958*. Noting s 337A of the *Criminal Procedure Act 2009*, the Court may determine an issue in criminal proceedings without an oral hearing.

appearance sheet.

23.8 The Court lists the matter and notifies the parties of the time of the hearing.

23.9 Accused appears via **audio visual link** from the relevant police complex.

23.10 Defence practitioner appears as directed by the Court.

23.11 Informant appears via audio visual link, or as directed by the Court.

Bail applications after first remand hearings

24. All booked bail applications will, unless otherwise ordered by the Court, be listed with the accused in custody appearing via audio visual link. Practitioners should contact the coordinator at the [relevant court registry](#) to obtain a listing date.

24.1 Practitioners must appear in person, unless otherwise directed by the Court.

All other hearings with an accused in custody

25. 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 ordered by the Court.

25.1 Practitioners must appear in person or otherwise as directed by the Court. Requests for online appearance must be made via EFAS at least **3 clear working days** prior to the listed date.

Judicial supervision hearings

26. Judicial supervision hearings (including for Court Integrated Service Program (CISP) bail review, deferral of sentence, and community corrections order judicial monitoring) will be conducted in person, unless otherwise directed by the Court.

Matters to be heard online

27. The following criminal matters will be listed for online hearing, unless otherwise directed by the Court. All parties must have access to an appropriate standard of **audio-visual technology** and a suitable private location from which to attend:

27.1 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.

27.2 Special mentions where the accused is legally represented.

27.3 Applications where the accused is legally represented (unless otherwise directed under this Practice Direction).

27.4 Judicial Registrar lists, except contested hearings.

28. In relation to the above-mentioned hearing types, permission may be sought from the Court, or the Court may direct in any matter, in-person attendance by an accused, a legal practitioner, witness or other participant in the court proceeding.
29. Where an appropriate standard of audio-visual capability cannot be demonstrated by a party to proceedings, the Court may require all parties to attend in person.
30. Requests for in-person attendance should be directed to the [relevant court registry](#) at least **3 clear working days** prior to the proposed date of attendance, unless the matter is urgent.

Specialist Courts and Programs

Drug Court

31. Drug Court participants must appear in person, unless otherwise directed by the Court. Where a participant is legally represented, the practitioner must appear in person if the participant appears in person, unless otherwise directed by the Court.

Assessment and Referral Court (ARC)

32. ARC participants must appear in person, unless otherwise directed by the Court. Where a participant is legally represented, the practitioner must appear in person if the participant appears in person, unless otherwise directed by the Court.

Koori Court

33. Koori Court hearings will be conducted in person, unless otherwise directed by the Court.
34. Where a participant is legally represented, the practitioner must appear in person if the participant appears in person, unless otherwise directed by the Court.

Family Violence (FV)

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

35. Applications will be heard in person at the [relevant court venue](#), with the respondent attending in person and not online, subject to the following directions or as otherwise directed by the Court.
 - 35.1 Applicants may choose to attend the hearing in person or online. They must indicate their preference by completing the [applicant/affected family member pre-court information form](#) at least **7 clear working days** prior to the hearing date.
 - 35.2 Respondents **must attend the hearing in person**, not online. They must complete the [respondent pre-court information form](#) at least **7 clear working**

days prior to the hearing date. If a respondent wishes to attend further hearings online, they must make this request in court to the presiding judicial officer.

- 35.3 Where a cross-application has been made for a FV Intervention Order and both applications are being heard concurrently, the respective applicants may choose to appear either in person or online, as indicated on the pre-court information form, despite also being listed as respondents.
- 35.4 If the applicant or respondent is unable to complete the online form, they must contact or attend the [relevant court registry](#) to provide the required information.
36. Where an applicant or a respondent appears in person at court and is legally represented, their practitioner must also appear in person, unless otherwise directed by the court.
37. Applications may proceed on the papers where supported by an affidavit or declaration of truth.
38. **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 applications for Family Violence Intervention Orders (FVIO) and Family Violence Safety Notices (FVSN)

39. Victoria Police FVIO applications and FVSNs will be heard in person at the relevant court venue, with the respondent attending in person and not online, or as otherwise directed by the Court.
40. Applications may proceed on the papers where supported by an affidavit or declaration of truth.
41. For Affected Family Members (AFM):
 - 41.1 All AFMs **must appear at the hearing** unless they have communicated with police about the application, provided current information to the police, and the AFM agrees with the application and the conditions sought.
 - 41.2 Where an AFM is not appearing at the hearing, they **must still remain immediately contactable** by police and the Court on the listed date until the matter is heard.
 - 41.3 Where an AFM is appearing at the hearing, they may choose to attend either in person or online. They must indicate their preference by completing the [applicant/affected family member pre-court information form](#) at least **7 clear working days** prior to the hearing date.
 - 41.4 Where an AFM disagrees with the police application or conditions sought, they should request that court staff refer them to free legal services, or they can contact a lawyer of their choice, per the options at paragraph 45.

42. For respondents:

- 42.1 All respondents **must attend the hearing in person**, not online, unless otherwise directed by the Court. If a respondent wishes to attend further hearings online, they must make this request in court to the presiding judicial officer.
- 42.2 Where a respondent appears in person at court and is legally represented, their practitioner must also appear in person at court, unless alternative arrangements have been made.
- 42.3 Respondents must complete the [respondent pre-court information form](#) at least **7 clear working days** prior to the hearing date.

Unrepresented parties

Filing pre-court engagement information forms

43. 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 clear working days** prior to the date of the hearing.
44. If a respondent or AFM who is required to appear at the hearing is unable to use the online form, they must contact the [relevant court registry](#) by telephone to provide the information required in the relevant pre-court information form at least **7 clear working days** prior to the hearing date.

Unrepresented parties seeking legal advice

45. Where an applicant, AFM or respondent wishes to seek legal advice, they must, as soon as possible and prior to the hearing date:
 - 45.1 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
 - 45.2 Contact their local [Community Legal Centre](#) to obtain free legal advice; or
 - 45.3 Contact the [Victorian Aboriginal Legal Service](#) or [Djirra](#) for legal advice and representation; or
 - 45.4 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
 - 45.5 Complete the [applicant/affected family member](#) or [respondent](#) pre-court information form at least **7 clear working 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.

Personal Safety Intervention Order (PSIO) applications

46. **Victoria Police applications** will be heard in person at the relevant court venue, with the respondent attending in person, or as otherwise directed by the Court, subject to the following directions:
- 46.1 All protected persons **must appear at the hearing** unless they have communicated with police about the application, provided current information to the police, and the protected person agrees with the application and the conditions sought.
 - 46.2 Where a protected person is not appearing at the hearing, they **must still remain contactable** by police and the Court on the listed date until the matter is heard.
 - 46.3 Where a protected person is appearing at the hearing, they may choose to attend either in person or online. They must indicate their preference by completing the [PSIO pre-court information](#) form at least **7 clear working days** prior to the date of the hearing.
 - 46.4 Where a protected person or respondent appears in person at court and is legally represented, their practitioner must also appear in person at court.
47. **Non-police applications** will be heard in person at the relevant court venue with the respondent attending in person, or as otherwise directed by the Court, subject to the following directions:
- 47.1 All applicants are required to appear at the hearing. Applicants may choose to attend either in person or online and must indicate their preference in the [PSIO pre-court information](#) form.
 - 47.2 Both applicants and respondents must complete the [PSIO pre-court information](#) form at least **7 clear working days** prior to the date of the hearing.
 - 47.3 Where a protected person or respondent appears in person at court and is legally represented, their practitioner must also appear in person at court.

Civil matters

48. Applications, directions hearings, pre-hearing conferences, early neutral evaluations and judicial resolution conferences will be conducted online, unless otherwise directed by the Court.
49. Where a party cannot appear online or considers that a matter is not suitable for online hearing, they must, upon receipt of Notice of Hearing, request to attend in person by **emailing** the [relevant court registry](#), providing a brief written outline of the reasons why the matter should not proceed online.
- 49.1 A copy of this request must also be provided to all other parties.
 - 49.2 Other parties to the proceedings may file and serve a brief response to the request for in-person attendance.

50. The Court will fix directions hearings and call overs as required.
51. Where a party to a matter is self-represented, all parties must attend the **final hearing** in person, unless otherwise directed by the Court.
52. All other final hearings will proceed in person or online, as directed by the Court.
53. Summons for oral examination will be conducted in person at a proper court venue, unless otherwise directed by the Court.

WorkCover and Industrial Division matters

54. WorkCover and Industrial Division urgent applications, directions hearings, early neutral evaluations, pre-hearings and mentions will be conducted online, unless otherwise directed by the Court.
55. Where a party cannot appear online or considers that a matter is not suitable for online 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 online.
56. Parties are required to triage matters and make realistic assessments in relation to complexity and duration and convey this assessment to the court and all other parties to assist in the determination of whether a matter is suitable for online hearing.
 - 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. The Court will fix and conduct final hearing call overs in person or online, as required.

Federal Jurisdiction matters

58. Federal Jurisdiction matters will be conducted online, unless otherwise directed by the Court.
59. Any requests for in-person attendance should be made by **emailing** the [relevant court registry](#), providing a brief written outline of the reasons why the matter should not proceed online.
 - 59.1 A copy of this request must also be provided to all other parties.
 - 59.2 Other parties to the proceedings may file and serve a brief response to the request for in-person attendance.

Victims of Crime Assistance Tribunal (VOCAT)

60. VOCAT will hear applications in person, or as otherwise directed by the Tribunal, including on the papers, online or via telephone.

Online Magistrates' Court (OMC) List

61. [The OMC](#) is a separate online list presided over by a dedicated team of Magistrates that hears suitable matters wholly online. The OMC list is coordinated by the Magistrates' Court at the William Cooper Justice Centre and may hear matters from any proper venue of the Court.
62. For matters listed in the OMC, parties must appear via audio visual link unless an application has been made to the OMC for an in-person appearance, and that request has been granted, or as otherwise directed by the Court.
 - 62.1 Matters referred to in this Practice Direction may be listed in the OMC (as distinct from an online appearance), as directed by the Court.
 - 62.2 Listing enquiries regarding matters in the OMC should be directed to omc@courts.vic.gov.au.³

Interpreters

63. Interpreters are required to appear in person or online, as directed by the Court.

Regional court locations

64. At regional court locations the court may direct that a practitioner who is not located in that region may appear remotely in any matter where that better facilitates access to justice despite any other direction in this Practice Direction.

Counter services


65. All documents capable of being filed or communicated electronically must be filed or communicated electronically. Prosecution agencies, informants and Corrections staff or personnel attending for routine matters must, wherever possible, use electronic communication in accordance with the *Magistrates' Court Criminal Procedure Rules 2019*.
66. When sending multiple documents electronically, documents should be collated into a single PDF file.

³ **For guidance**, the OMC will prioritise booked hearings including contests, committals, consolidated pleas, civil hearings, and VOCAT hearings. In the usual course, mentions will not be listed in OMC unless otherwise directed by the Court.

67. Persons who cannot comply with electronic filing or communication or where a matter is not amenable to electronic communication may attend at the [relevant court registry](#) for counter service.
68. Where parties to a matter are appearing in person and wish to provide the Court with physical documents during the hearing, they must arrange for these documents to be printed without the assistance of registry staff.

Attendance at court venues

69. All persons who attend court venues must:
- 69.1 Wear a mask as required, subject to current public health directions.
 - 69.2 Follow any direction under the *Court Security Act 1980*.

A handwritten signature in black ink, appearing to read 'Lisa Hannan', written in a cursive style.

**Justice Lisa Hannan
CHIEF MAGISTRATE**

Dated 5 September 2022