

Guidance: Eligibility for Koori Court

Eligibility for Koori Court

Pursuant to section [4F of the Magistrates' Court Act 1989](#), Koori Court can deal with certain offences in the following circumstances:

- (a) the accused is Aboriginal; and
- (b) the offence is within the jurisdiction of the Magistrates' Court, other than certain [sexual offences](#) and depending on the location family violence contravention offences; and
- (c) the accused intends to plead guilty to resolved matters; and
- (d) the accused consents to the proceeding being dealt with by the Koori Court Division.

[Section 3 of the Magistrates' Court Act 1989](#) states that an Aboriginal person is someone who:

- (a) is descended from an Aboriginal or Torres Strait Islander; and
- (b) identifies as an Aboriginal or Torres Strait Islander; and
- (c) is accepted as an Aboriginal or Torres Strait Islander by an Aboriginal or Torres Strait Island community.

Referral Process and Confirmation of Aboriginality

[Practice Direction No. 11 of 2022](#) sets out the process for referring matters into Koori Court. For a matter to be adjourned to the Koori Court, a [Koori Court Referral Form](#) must be completed and include:

- Briefs of evidence, summaries and/or charge sheets;
- Supporting documents relevant to the Koori Court proceedings; and
- Confirmation of Aboriginality*.

*If there is no Confirmation of Aboriginality available the accused or their legal practitioner should contact the relevant Koori Court Officer. The unavailability of a Confirmation of Aboriginality is not a barrier and does not prevent an accused from being referred into Koori Court under the *Magistrates' Court Act 1989*.

It is the responsibility of the accused and their legal practitioner to provide all information required to refer matter(s) into Koori Court. While a Koori Court Officer may provide some support, they are not responsible for completing the referral form or obtaining a Confirmation of Aboriginality on behalf of an accused.

If the Koori Court Officer identifies that there may be eligibility issues, they will alert the accused or their legal practitioner, arrange for the matter be listed at the next available Koori Court hearing date for mention.

Whether or not an accused is eligible to have their matter heard in Koori Court will be determined by a Magistrate based on the advice of the Koori Court Officers and Aboriginal Elders and Respected People. A Magistrate may decide to adjourn a matter to enable a party to gather additional information or consider their referral.

If a Magistrate determines that an accused person does not meet the eligibility requirements for Koori Court, the matter will be listed in the Magistrates' Court of Victoria Criminal Division for a plea of guilty on the day, if time permits, or adjourned to a future date.