



## Magistrates' Court of Victoria

### Practice Direction

**No. 1 of 2024**

### FIRST REMAND HEARINGS

All venues of the Magistrates' Court of Victoria

#### **Purpose and commencement**

This Practice Direction outlines arrangements that apply to all first remand hearings for adult accused in the Magistrates' Court of Victoria, **unless otherwise directed by the Court.**

This Practice Direction commences 22 January 2024.

This Practice Direction revokes paragraphs 20 to 23 of Practice Direction 6 of 2022.

#### **Definitions**

In this Practice Direction, the following definitions apply.

- **'Audio visual link'** means technology that complies with the requirements under [s 42R](#) of the *Evidence (Miscellaneous Provisions) Act 1958*. The term 'audio visual capability' is to be construed accordingly.
- **'First remand hearing'** means when a person in custody is first brought before the Court.
- **'In-person'** means physical attendance at a court venue.
- **'Online'** means to appear before the Court remotely via an audio visual link.
- **'Practitioner'** means an Australian legal practitioner within the meaning of the Legal Profession Uniform Law (Victoria), and police prosecutors.
- **'Relevant court venue'** and **'relevant court registry'** means the court venue 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*.

## **Directions**

### ***Appearances before the Court***

1. All accused in custody must appear before the Court in-person at a first remand hearing, unless the Court has made a direction pursuant to [s 42MAA\(1\)](#) of the *Evidence (Miscellaneous Provisions) Act 1958* for the accused to appear online.
2. Where an accused is to be presented before the Court for a first remand hearing, an accused must be transported as follows.
  - 2.1. For metropolitan Melbourne matters:
    - 2.1.1. **Between 9:00AM – 3:00PM, Monday to Friday**, an accused must be transported to the relevant court venue with all paperwork filed by 3:00PM.
    - 2.1.2. **Between 3:00PM – 8:00PM, Monday to Friday**, an accused must be transported to appear at the Bail and Remand Court at Melbourne Magistrates' Court with all paperwork filed by 8:00PM.
    - 2.1.3. **Between 9:00AM – 8:00PM, on weekends and public holidays**, an accused must be transported to appear at the Bail and Remand Court at Melbourne Magistrates' Court with all paperwork filed by 8:00PM.
  - 2.2. For regional matters:
    - 2.2.1. **Between 9:00AM – 3:00PM, Monday to Friday, (except public holidays)**, an accused must be transported to the relevant court venue with all paperwork filed by 3:00PM.
  - 2.3. In all other circumstances, reference should be had to the obligations relating to an accused in custody in accordance with the *Bail Act 1977*.
3. The prosecution must appear in-person at a first remand hearing.
4. The informant or another police officer with knowledge of the case against the accused must be available to give evidence at a first remand hearing.
5. Informants, police officers with knowledge of the case against the accused, and witnesses may appear either in-person or online at a first remand hearing.
  - 5.1. If appearing online, they must have audio visual capability from an appropriate, private location and their online appearance must not cause delay or other interruption to court business.
6. Interpreters may appear in-person or online at a first remand hearing.
  - 6.1. If appearing online, they must have audio visual capability from an appropriate, private location and their online appearance must not cause delay or other interruption to court business.
7. Practitioners must appear in-person at a first remand hearing, unless permission has been obtained from the Court to appear online or one of the below exceptions apply.

- 7.1. Where the Court has made a direction for an accused to appear online, their practitioner may appear online without obtaining permission from the Court.
- 7.2. Where online appearance by a practitioner would facilitate the Court's consideration of the matters outlined in [s 3A](#) of the *Bail Act 1977* and the practitioner cannot appear in-person, the practitioner may appear online without obtaining permission from the Court.
- 7.3. If appearing online, they must have audio visual capability from an appropriate, private location and their online appearance must not cause delay or other interruption to court business.

### ***Applications for a direction for an accused to appear online***

8. An application for a direction for an accused to appear online before the Court at a first remand hearing must be made pursuant to [s 42MAA\(1\)](#) of the *Evidence (Miscellaneous Provisions) Act 1958*.
9. Any such application by the prosecution, a police officer or a practitioner on behalf of the accused, must be made using the **attached form**, filed with the relevant court registry and provided to all other parties, including:
  - 9.1. the relevant prosecutor's office; and/or
  - 9.2. any practitioner known to be acting for the accused for the purposes of the first remand hearing.
10. Where an accused in custody who is not legally represented seeks to make such an application and the police are not making that application, the informant must contact the relevant court registry to advise the Court of the application and request that arrangements be made for the accused to make their application.
11. The application must state how an online appearance is consistent with the interests of justice **and** either:
  - 11.1. that the accused consents to appear online;<sup>1</sup> or
  - 11.2. that exceptional circumstances exist,<sup>2</sup> and the details of those exceptional circumstances.
12. Further the application **must** address the following:
  - 12.1. whether the accused has received legal advice;
  - 12.2. whether there are facilities to enable the accused to communicate with their practitioner prior to and during the hearing;
  - 12.3. whether the accused is intending to make an application for bail;
  - 12.4. whether the accused requires an interpreter;
  - 12.5. whether the accused identifies as Aboriginal or Torres Strait Islander;

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<sup>1</sup> Section 42MAA(1)(a) of the *Evidence (Miscellaneous Provisions) Act 1958*.

<sup>2</sup> Section 42MAA(1)(b) of the *Evidence (Miscellaneous Provisions) Act 1958*.

- 12.6. whether the accused appears to have any mental or physical health issue which might affect their capacity to participate in a hearing; and
- 12.7. any other relevant considerations to determining if it is consistent with the interests of justice for the accused to appear online for the hearing.
13. If a party seeks to oppose such an application, that party should contact the relevant court registry to make appropriate arrangements.
14. Once an application has been filed, the application must be made orally in open court to be determined by a magistrate.
15. Where the application cannot be accommodated in open court in a timely manner, the application may be considered by a magistrate on the papers.
16. If the magistrate grants the application, the magistrate will make a direction that the accused is to appear online for the hearing.
17. If the magistrate refuses the application, the accused must be transported to appear in-person at the relevant court venue without delay.



**Justice Lisa Hannan**  
**CHIEF MAGISTRATE**  
Date: 15 January 2024

Court Reference/s: \_\_\_\_\_

In the Magistrates' Court of Victoria at \_\_\_\_\_

Applicant: \_\_\_\_\_

Contact email address: \_\_\_\_\_

Party type:  Prosecution  Police Officer  Legal representative for accused

Accused (full name): \_\_\_\_\_

of (address): \_\_\_\_\_

Location where held: \_\_\_\_\_

**I, the applicant, seek a direction that the accused appear online for the purposes of a first remand hearing on \_\_\_\_\_ (date) .**

**BASIS OF APPLICATION** (Include details on the lines provided)

**An online appearance is consistent with the interests of justice in the following way/s:**

\_\_\_\_\_

**AND (select one)  the accused consents to appear online OR  there are exceptional circumstances:**

\_\_\_\_\_

**I confirm that:**

**Yes No**

The accused has received legal advice.  Yes  No

There are facilities to enable the accused to communicate with their practitioner prior to and during the hearing.  Yes  No

The accused intends to make an application for bail.  Yes  No

The accused requires an interpreter (to be arranged by the informant).  Yes  No  
If yes, which language? \_\_\_\_\_

The accused identifies as Aboriginal or Torres Strait Islander (tick no if unknown).  Yes  No

The accused appears to have a mental or physical health issue which might affect their capacity to participate in a hearing.  Yes  No  
If yes, provide details of the health issue: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Dated at \_\_\_\_\_ on \_\_\_\_\_  
(location) (date) Applicant's signature \_\_\_\_\_