

Joint Statement Victorian Courts and VCAT Stage 4 Coronavirus (COVID-19) Restrictions

Thursday, 6 August, 2020

The following update is from the Chief Justice of the Supreme Court of Victoria, Anne Ferguson, on behalf of the Victorian courts and VCAT

The Victorian courts and Victorian Civil and Administrative Tribunal (VCAT) have transformed the way they operate in response to the coronavirus (COVID-19).

In both the criminal and civil courts, we have rapidly moved to a position where appearances are being managed through the electronic and digital environment.

In response to public health advice, the Courts and VCAT have made a number of operational changes that include the postponement of criminal jury trials, guidance around the use of face masks and access to cases and hearings.

Further changes are now being made in response to the introduction of Stage 4 COVID-19 restrictions. Physical attendance will be limited to urgent or priority court or tribunal matters determined by the relevant head of jurisdiction.

All jurisdictions are conscious that this new environment requires lawyers to operate largely from their homes. While many have adapted to this mode of working already, others will be making new arrangements and doing so in different household environments. The challenges this presents are acknowledged and the jurisdictions will be mindful of this. There is great confidence in the profession's capacity to continue to assist the courts and VCAT to progress as many matters as possible through this time utilising technology.

SUPREME COURT

The Supreme Court has been using remote technology extensively to facilitate hearings and minimise the need for in-person attendance. This will continue with further minimisation of in-court attendance.

Court of Appeal hearings and hearings in civil matters in the Trial Division will be conducted with all participants appearing remotely. Exceptions may be made on a case-by-case basis for urgent or priority matters where conducting the hearing remotely is not practicable and physical attendance at the Court is necessary.

Hearings in criminal matters in the Trial Division will be conducted with all participants appearing remotely. Exceptions will be made for certain priority matters, including those involving life and liberty, on a case-by-case basis where conducting the hearing remotely is not practicable and physical attendance at the Court is necessary.

Registry functions and Funds in Court will continue to operate on a largely remote basis.

COUNTY COURT

The County Court will strengthen the default position it has had for some time now, which requires hearings to be conducted fully remotely, wherever possible.

In accordance with the Stage 4 Directions, the Chief Judge will consider whether to grant permission for a matter to be conducted involving the physical attendance at court of legal practitioners, the accused or other court users. This will be decided on a case-by-case basis, in circumstances where such physical attendance is necessary, there is no reasonable alternative, and the matter is urgent or of priority.

Otherwise, the Court will continue to conduct a range of work using video conferencing software, where counsel, the accused and other court users participate fully remotely.

VCAT

All VCAT hearings are conducted remotely via teleconference or online platform. Matters which are currently listed over the next six weeks will continue to be heard.

MAGISTRATES' COURT

The Magistrates' Court will continue to hear all urgent and priority matters relating to bail and remand, family violence and personal safety intervention orders, warrants, civil, Victims of Crime Assistance Tribunal and all other matters deemed a priority, including where an accused is in custody.

The Magistrates' Court intends issuing a Modified Access and Procedure Order pursuant to Section 33D of the *Open Courts Act 2013* (an emergency measure introduced by the *COVID-19 Omnibus (Emergency Measures) Act 2020*) to facilitate the Court's ability to direct that any matter listed before it may be heard via the Online Magistrates' Court.

The Magistrates' Court intends issuing several new Practice Directions intended to maximise the use of its Online Magistrates' Court when hearing urgent and priority matters, reduce the need for physical attendances at Court by accused and minimise the need for transportation of prisoners between police stations and the Court for the purposes of first remand hearings.

CHILDREN'S COURT

The Children's Court of Victoria continues to conduct all of its urgent and priority Child Protection, Family Violence and Criminal Division matters online.

Over the past months, the Children's Court has continued to expand its use of remote technology to conduct urgent child protection cases, to introduce Readiness Hearings with all parties appearing remotely, and to conduct remote contested hearings in child protection proceedings where it is fair and just to do so.

In its Criminal Division all urgent cases are being heard online including applications for bail. Children and young people in custody are continuing to have their criminal charges case managed online in the Fast Track Remand Court.

All conciliation convenors and intake staff continue to provide vital alternative dispute resolution processes for child protection cases and are doing so remotely. The majority of registry and coordination functions continue to operate on a largely remote basis.

CORONERS COURT

All Coroners Court hearings, including inquests, will be convened via technological means where feasible. Urgent or priority matters which require parties to be physically present at the Court must be approved by the State Coroner.

The Coroners Court remains open and committed to the timely and efficient conduct of proceedings, and continues to serve the community by advancing safe, proactive and appropriate solutions to the ongoing difficulties posed by COVID-19.

NEXT STEPS

These changes are underway and will remain in place until further notice.

The health and safety of judicial officers, staff, and court users is of the highest priority.

We will continue to closely follow public health advice, and thank all those coming into our courts and tribunal for their patience and understanding as we work together to reduce the spread of coronavirus.

The Honourable Chief Justice Anne Ferguson, Chief Justice of the Supreme Court
The Honourable Chief Judge Peter Kidd, Chief Judge of the County Court
The Honourable Justice Michelle Quigley, President of VCAT
Her Honour Judge Lisa Hannan, Chief Magistrate
Her Honour Judge Amanda Chambers, President of the Children's Court
His Honour Judge John Cain, State Coroner