



## **Notice to the Profession**

The Chief Justice has authorised the issue of the following notice.

### **In-Person Hearings**

For hearings commencing 14 March 2022 and onwards it will no longer be necessary to make application for in-person hearings in any matter before the Court. The Court will operate on a series of default positions and exceptions set out below. In the week commencing 7 March the Court will transition to more in-person hearings.

Parties will be advised of COVID-safety measures applicable to their hearing. Where a matter is to proceed in-person in the Common Law Division or Commercial Court, parties are requested to complete and submit an [in-person hearing form](#) to assist in the allocation of courtrooms.

The Court will maintain remote hearings in certain hearing types and other appropriate circumstances for reasons of efficiency. The option of remote appearances and hybrid hearings (some participants in court and some remote) will also be retained to maintain flexibility for individuals and to support the continuing COVID-19 measure of ensuring anyone required to self-isolate, self-quarantine or with symptoms does not attend court buildings.

The Court's overall courtroom capacity remains constrained as a result of the closure of the 436 Lonsdale Street building. If the number of proposed in-person hearings exceeds the number of courtrooms available for a given day some matters may revert to remote hearings.

The Court has contingency plans in place for the continuation of as much court business as possible in the event of a future outbreak leading to the reimposition of restrictions. Parties are encouraged to maintain their own contingency arrangements around remote working and remote hearings should matters need to revert at short notice.

### **Court of Appeal**

In-person hearings will be the default position for all substantive hearings.

In all case management hearings, directions hearings and mentions, the default position will be for a remote hearing.

The default position may be departed from in any case if circumstances arise which would warrant departure. A request to depart from the default position should be sent by email to the Registrar copied to all parties. The reason for the request should be stated briefly in the email.

The Registrar will advise parties if circumstances within the Court require a departure from the default position (e.g. if a judge was experiencing a cough or cold or an urgent matter was able to be brought on sooner via remote hearing).

The Court will confirm arrangements for the hearing with all parties in advance.

The default position is that applicants in custody will not attend court but participate remotely through an audio-visual link where one has previously been requested.

### **Criminal Division**

In-person hearings will be the default position for substantive hearings such as trials, pleas and sentences. Substantive applications such as bail applications, CMI and serious offender applications will generally proceed as in-person hearings, subject to the discretion of the judge. In case management and other procedural hearings, remote or hybrid hearings will generally be used. Covert applications will be determined on the papers, unless there is a particular need for an in-person hearing. Chambers will advise parties in advance how a matter is intended to proceed.

In all matters, a party who seeks to appear remotely in a matter otherwise to proceed in-person should email the chambers of the presiding judicial officer, copied to all parties, briefly stating the reason for the request. The Court will seek to provide flexibility where possible.

Accused persons will be required to attend at trial unless a contrary direction is made by the Court. In all other matters the Court will determine whether to make a direction for an in-person appearance.

The ordinary processes will apply where a party seeks to have a witness give evidence remotely in an otherwise in-person hearing.

### **Common Law Division and Commercial Court**

In-person hearings will be the default position for witness trials and dependent on courtroom availability for final hearings that do not involve oral evidence. When courtrooms are not available, remote hearings will be offered. The Court will advise the proposed mode of hearing for substantial interlocutory applications. The Court can be flexible to accommodate other options such as hybrid hearings, in appropriate cases.

Remote hearings will be the default position in case management hearings and Practice Court and Duty Judge matters. The Court will advise parties in advance if the default position will not apply.

A party who seeks to appear remotely in a hearing that is otherwise to proceed in-person should make that request of the chambers of the presiding judicial officer at the earliest opportunity copied to all parties briefly stating the reason for the request. The Court will be flexible where possible.

The ordinary processes will apply where a party seeks to have a witness give evidence remotely in an otherwise in-person hearing.

Delivery of judgments may occur in-person, by remote hearing or by email. The need for submissions on final orders will be a factor in the mode chosen. Chambers will advise the mode of hearing to parties in advance.

### **Costs Court**

Remote hearings and mediations will continue as the default position in relation to matters in the Costs Court. If an in-person hearing is sought an email should be sent to [costs.court@supcourt.vic.gov.au](mailto:costs.court@supcourt.vic.gov.au) copied to all parties briefly stating the reason for the request.

### **Judicial Mediations**

Judicial mediations will continue virtually for the immediate term until physical mediation suites are re-established.

Vivienne Mahy  
Executive Associate to the Chief Justice  
3 March 2022