

A guide to **representing yourself** when

**Appealing a Magistrates'
Court criminal decision
on a question of law**

in the Trial Division of the Supreme Court

Contact details

Supreme Court staff can answer questions about court process. They cannot give legal advice, or help you prepare or present your case.

Website

supremecourt.vic.gov.au

Self-represented Litigant Coordinator

Phone: 03 8600 2031

Email: unrepresented@supcourt.vic.gov.au

Appointments with the Self-represented Litigant Coordinator are held at the Principal Registry

Principal Registry

Ground floor, 450 Lt Bourke St,
Melbourne VIC 3000

Phone: 03 8600 2004

Mon-Fri 9.30am-4pm, closed public holidays

Court locations

Visit the Supreme Court website for court locations throughout Victoria. Check your court documents to make sure you attend the correct location for your hearing. Also check the Daily Hearing List on our website.

Security

You must go through security screening before entering a Supreme Court building. Items not allowed include anything explosive, sharp or a potential weapon, including cans and glass bottles. Alcohol is also not allowed.

This guide contains general information only and is not intended to be legal advice.

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About Magistrates' Court appeals

What is a Magistrates' Court criminal appeal?

There are two types of Magistrates' Court criminal appeals that can be heard by the Supreme Court.

1. Appeals on a question of law.
2. Appeals where there is a conviction and sentence imposed by the Chief Magistrate. There is a different process for these appeals, which is not covered in this guide. See section 110A of the Magistrates' Court Act 1989. Contact the Self-represented Litigant Coordinator to discuss your situation.

This guide is for appeals on a question of law. If the decision was made by the Chief Magistrate the appeal is to be made to the Court of Appeal.

This means, you believe the magistrate made a legal error in the way they applied the law. For example, if you believe the magistrate failed to take into account a relevant factor, or took into account an irrelevant factor, or misinterpreted a legislative provision, or misinterpreted the function of the court.

You cannot appeal on a question of law for any other reason.

If you appeal on a question of law, you cannot appeal for any other reason. For example, your appeal may not be allowed if your argument is that you are unhappy with the decision or if you want to show the Court new material that was not part of the case heard in the Magistrates' Court.

An appeal does not automatically 'stay' (temporarily halt) on a question of law where an order has been made by the Magistrates' Court. The Supreme Court may make a 'stay' order after considering the facts of your case.

You can only appeal on a question of law where a final order of the Magistrates' Court has been made.

Effect on your right to appeal to the County Court

If you appeal to the Supreme Court on a question of law, **you permanently give up the right to appeal to the County Court of Victoria** in relation to the proceeding. This right cannot be reinstated. See section 272 of the *Criminal Procedure Act 2009*.

Where is the appeal heard?

The Supreme Court of Victoria has two main parts: Trial Division and Court of Appeal.

Trial Division hears appeals against a Magistrates' Court criminal decision on a question of law unless the decision was made by the Chief Magistrate.

ABOUT THIS GUIDE

This guide is for people who want to appeal a Magistrates' Court **criminal decision** in the Trial Division of the Supreme Court (on a question of law) and may not have a lawyer.

If you are appealing a decision made in a civil matter, see the guide on our website: *Appealing a Magistrates' Court civil decision*.

Read this guide to find out:

- what it means to represent yourself in a court proceeding
- stages in the process and what you do at each stage
- documents you need to provide
- forms you need to complete.

The Appendix has links to the forms and resources you may find helpful.

[Forms are also available in hard copy from the Principal Registry.](#)

This guide contains general information only and is not intended to be legal advice.

The content in this guide is based on the *Supreme Court (Criminal Procedure) Rules 2017*. The Rules set out the process you must follow.

If you are reading a print version of this guide, note that the online version has links to forms and other resources you may need. Visit supremecourt.vic.gov.au/representingyourself for the online version. References to links in the appendix are only relevant if you are reading the online guide.

Stages in the appeal process

Appeals against a Magistrates' Court criminal decision on a question of law usually go through these stages:

STAGE 1	Start your appeal
STAGE 2	Serve your documents on the respondent
STAGE 3	Respondent may respond to your documents
STAGE 4	Attend the directions hearing
STAGE 5	Get your case ready for the judge
STAGE 6	The hearing
STAGE 7	The decision

Sometimes the Court orders parties to attend a mediation — a confidential discussion held between parties with the help of a skilled independent mediator.

The mediator cannot force anyone to resolve a dispute, but can help parties explore options, negotiate and reach a settlement agreement, without the need for a hearing. The Court may order parties to go to mediation at any stage of the process.

Time limits

There is a time limit on appealing a Magistrates' Court criminal decision on a question of law.

You have 28 days, from the date the decision was made, to file a Notice of Appeal form. The date of the decision is on the Magistrates' Court order. See Stage 1 for details on how to file this form.

Extension of time to appeal

If 28 days have passed, you must apply for the Court's permission to appeal outside the time limit. This is called 'seeking leave to appeal out of time'. You do this in Stage 1 when you file your Notice of Appeal.

Attach to the Notice of Appeal an affidavit that briefly explains why you are applying late and any special circumstances — for example, if you were ill or injured. Attach to the affidavit as an 'exhibit' any documents that support your request to appeal out of time, such as a medical certificate. This affidavit (and supporting exhibits) can be the same one you file as part of 'additional documents' in Stage 1.

The affidavit you file at this stage is **not** when you make legal arguments about your case. Its purpose is only to show the judge why they should give you an extension of time to appeal.

IMPORTANT INFORMATION

Legal word

Applicant – a person or company who makes an application to the Court, sometimes called the **plaintiff**. An applicant in an appeal proceeding may also be referred to as the **appellant**.

Respondent – a person or company that an application or appeal is made against. If you are appealing a Magistrates' Court decision, the respondent is the other party (or parties) in the appeal — usually the other parties from the Magistrates' Court case. The magistrate who made the decision and the Magistrates' Court are generally **not** respondents in an appeal.

Filing a document – giving it to the registry, where it officially becomes part of the Court file. You do this using RedCrest. More details on using RedCrest appear later in this guide.

Affidavit – a document that presents written evidence in a court case. It must be sworn to be true and correct in front of an authorised person, on oath or by affirmation. It is a serious crime to knowingly make a false statement. Attachments to an affidavit are called **exhibits**.

Watch the video

For information on how to complete an affidavit, watch the video on our website:

- *Completing an affidavit*

What it means to represent yourself

Representing yourself in court means you take responsibility for the tasks that a lawyer would otherwise do for you.

People who represent themselves in court are known as self-represented litigants.

In the Trial Division of the Supreme Court, individuals are allowed to represent themselves. Companies must be represented by a lawyer. If you are the sole director of a company, you cannot represent your company unless you get the Court's permission. Contact the Self-represented Litigant Coordinator to discuss how you do this.

Some things you may need to do yourself include:

- become familiar with legal language and legal concepts
- read and understand relevant legislation, rules of procedure and case law
- prepare your case, working out the law that applies and where you believe the magistrate has made an error in applying the law
- prepare a written statement that explains your arguments in a logical way
- gather relevant documents that support your case
- present your case to the judge, explaining each of your arguments and answering questions about them from the judge, the other party or their lawyer
- understand and follow the correct court procedures.

The Court prefers any documents you prepare to be typed, not handwritten. You will be relying on these documents during your proceeding. If they read well and look professional it may help everyone involved get a better understanding of the case you are making.

IMPORTANT INFORMATION

Who can help me?

Principal Registry

Registry staff can provide information on how the appeal process works.

Self-represented Litigant Coordinator

The Supreme Court has a Self-represented Litigant Coordinator who specialises in helping people who do not have a lawyer. They can give information and guidance on Court procedures, but are not allowed to give legal advice. You can make an appointment with the Coordinator to discuss the appeal process and to check you have the right documents. See page 2 for contact details.

Free and low-cost legal help

See the Appendix for a link to organisations that provide free or low-cost legal services and information.

Court fees and costs

Legal proceedings in the Supreme Court can be very expensive.

If you lose your appeal on a question of law, you may need to pay some or all of the other party's costs. This includes what they spent on lawyers and any other expenses, such as the cost of expert reports.

*** Be aware – these costs can be substantial.**

Consider paying for some legal advice even if it is only to help you with a particular part of the process. For example, it is highly recommended that you get a lawyer to help you work out your 'grounds of appeal' and 'submissions' — two key things that you need to argue your case.

See the Appendix for a link to organisations that provide legal information and free or low-cost legal services.

Court fees

There are no court fees to pay if you are appealing a criminal decision made in the Magistrates' Court.

IMPORTANT INFORMATION



Legal word

Costs – fees for lawyers' professional services and disbursements (out-of-pocket expenses), such as court fees, fees for expert reports, medical reports and photocopying. If you are representing yourself and you win, you can claim your out-of-pocket expenses but you cannot claim the time you spent working on your case as a cost.



Tip

The Law Institute of Victoria has a free referral service that helps you find a private lawyer. See the Appendix for a link to organisations that provide legal information and free or low-cost legal services.

Preparing for your appeal

Get to know legal terms

See the Important Information box for common legal words and terms.

Get to know Court procedures

Read the following documents carefully, as they provide important information and guidance:

- *Criminal Procedure Act 2009* – section 272
- *Supreme Court (Criminal Procedure) Rules 2017* – order 3A
- Practice Note SC CL 9 – Judicial Review and Appeals List.

Do your legal research

Make sure you understand the law that applies to your case by doing some legal research. Read about cases similar to yours, and note any cases where the law you are relying on has been applied in a way that you think proves your arguments. You may want to refer to these cases in your submissions (your arguments for why your appeal should succeed) and/or your list of authorities (your list of cases and other references you will use to support your appeal). You can find cases from all courts on the AustLII website (austlii.edu.au).

Create a RedCrest account for filing documents

You file documents with the Court using the online system RedCrest (redcrest.com.au). You need an email address to create a RedCrest account. If you do not have an email address and cannot get one, contact the Self-represented Litigant Coordinator to discuss your situation.

You are notified in RedCrest when any documents you file are ready for you to serve with the Court's seal (official stamp) on them. The notification has a link to where you can download and print copies.

Read the *RedCrest Electronic Filing User Guide* for information and instructions. If you have questions about using RedCrest, contact the Principal Registry (redcrest.com.au).

IMPORTANT INFORMATION



Tip

See the Appendix for links to forms, legislation and resources you may find helpful.



Legal word

Appellant – a person or company who appeals against a court or tribunal decision.

Respondent – a person or company that an application or appeal is made against. If you are appealing a Magistrates' Court decision, the respondent is the other party (or parties) in the appeal – usually the other parties from the Magistrates' Court case. The magistrate and the Magistrates' Court itself are **not** respondents in an appeal.

Filing a document – giving it to the Registry, where it officially becomes part of the Court file. You do this using RedCrest.

Serving a document – formally delivering it to a person or company. There are rules about which documents need to be served in person and which can also be served by email or post. See order 6 of the *Supreme Court (General Civil Procedure) Rules 2015*.

Directions hearing – a short hearing held to work out matters of timing, such as dates for when certain things need to happen and who does them.

Practice note – a document that details Supreme Court procedures, instructions, rules, processes and information. As well as general practice notes that apply to all Supreme Court proceedings, some lists have their own practice notes with specific information for their list.

Know how to stop an appeal

You can stop an appeal if you have the consent of all parties or permission from the Court.

Be aware that if you stop your appeal on a question of law, you usually need to pay the respondent's costs up to that point unless:

- you and the respondent agree you do not have to pay their costs
- or**
- the Court orders that you do not have to pay their costs.

To stop your appeal, complete a Notice of Discontinuance form stating that you are stopping your appeal and sign it.

Ask the respondent to sign the form too, to show they agree. Then file the form in RedCrest and wait for a RedCrest notification that a copy with the Court's seal (official stamp) is available. Download the sealed copy and serve it on the respondent.

If the respondent will not sign the form, you need to get the Court's permission to stop your appeal. Contact the Self-represented Litigant Coordinator to discuss your situation.

IMPORTANT INFORMATION



Legal word

Costs – fees for lawyers' professional services and disbursements (out-of-pocket expenses), such as court fees, fees for expert reports, medical reports and photocopying. If you are representing yourself and you win, you can claim your out-of-pocket expenses but you cannot claim the time you spent working on your case as a cost.



Tip

Whenever you contact the Court, quote the proceeding number for your case. You are given this number when your documents are accepted in Stage 1 of the appeal process. The number looks something like this: **S ECI 2019 54321**.



Tip

Before you file documents, the Court encourages you to contact the Self-represented Litigant Coordinator. The Coordinator cannot give legal advice, but can talk to you about Court process and check you have the right documents.

File a Notice of Appeal form

To start your appeal, file a Notice of Appeal form. You can file your **additional documents** at the same time, if you have them ready. You must file your Notice of Appeal within 28 days of the original decision.

Questions of Law

In your Notice of Appeal, you must state each law or legal principle the magistrate had to apply and you believe they got wrong. These are your 'questions of law'.

Each question of law is written as a single question. For example: Did the Magistrate make an error regarding the definition of 'firearm' in the *Customs (Prohibited Import) Regulations 1956*?

Grounds of appeal

You must also clearly state your 'grounds of appeal', which directly relate to each question of law. Think of your grounds of appeal as concise explanations for why you believe the magistrate made the wrong decision from a legal point of view, in relation to each question of law.

Number each question of law consecutively (Question of Law 1, Question of Law 2 etc.). Number your grounds of appeal paragraphs as well, so it is easy for the judge to refer to a paragraph number during the proceeding. For example:

Questions of law

Question of law 1

1.

Question of law 2

2.

Grounds of Appeal

Grounds of appeal relating to Question of law 1

1.

2.

Grounds of appeal relating to Question of law 2

3.

4.

Applying for an extension of time

If you are starting your appeal more than 28 days after the original decision, you must apply for the Court's permission to appeal outside the time limit. This is called 'seeking leave to appeal out of time'.

To do this, attach to the Notice of Appeal an affidavit that briefly explains why you are applying late and any special circumstances – for example, if you were ill or injured. Attach to the affidavit as an 'exhibit' any documents that support your request, such as a medical certificate. You need to complete an exhibit cover sheet for each exhibit.

IMPORTANT INFORMATION



Tip

The Appendix has links to the forms you need.



Note

You can only appeal a Magistrates' Court criminal decision in the Trial Division on a question of law. This means, if you believe the magistrate made a legal error of the Supreme Court in deciding your case. You cannot appeal for any other reason.

For example, the Court will generally not allow your appeal to go ahead if your argument is that you are unhappy with the decision or if you want to show the Court new material that was not part of your Magistrates' Court case. You can only appeal a final order of the Magistrates' Court.



Tip

A question of law is usually framed as a question and asks what the Magistrates' Court was legally required to do or consider in your case. Keep your grounds of appeal concise and to the point. You will get a chance to write a more detailed explanation of your arguments when you prepare 'submissions' in Stage 5.



Tip

Working out your questions of law and grounds of appeal can be difficult. Consider engaging a lawyer to help you with this part of the process. The success of your appeal depends on the strength of these two things.



Tip

Before you file documents, the Court encourages you to contact the Self-represented Litigant Coordinator. The Coordinator cannot give legal advice, but can talk to you about Court process and check you have the right documents.



Watch the video

- *Preparing a grounds of appeal*

Get a date for your directions hearing

After you have filed your Notice of Appeal, the next step is to get a date for your directions hearing. You need this before you can file your additional documents. *Do not delay starting this step. You must file your additional documents within seven days of filing your Notice of Appeal form.* To get a date for your directions hearing:

- complete a Judicial Review and Appeals List hearing date information form
- complete a draft Summons (Form 46A)
- email both documents to the address on the form
- check your email for a Supreme Court notice advising the date, usually sent within one or two business days.

File additional documents

No later than seven days after filing the Notice of Appeal, you must file these additional documents:

- completed Summons (Form 46A), which includes the date for the directions hearing
- Supreme Court notice you received that advised the date for the directions hearing
- affidavit with the following attachments (called 'exhibits'):
 - copy of the Magistrates' Court order
 - any written reasons the Magistrates' Court prepared in relation to the decision
 - any other documents you intend to rely on for your appeal, such as a court transcript.

Summons (Form 46A)

Complete the Summons, and include details the Court gave you on the place, date and time for the directions hearing. If you are starting your appeal more than 28 days after the original decision, say that you are seeking leave to appeal out of time.

Affidavit

An affidavit sets out the facts and circumstances you will rely on to support your appeal. If you do not have the Magistrates' Court order and written reasons, say so in your affidavit and explain why you could not get them. The Court is likely to need a transcript of the Magistrates' Court hearing, which you include with your affidavit. Do not delay filing your affidavit if you do not have it yet. You can file another affidavit later, with the transcript attached. If you have not already prepared a separate affidavit regarding your application for leave to appeal out of time, include in your affidavit an explanation of why you are applying late and any special circumstances that apply.

Checklist - STAGE 1

- ☐ File a Notice of Appeal form
- ☐ Get a date for your directions hearing
- ☐ File additional documents
- ☐ Check RedCrest notification that your documents are accepted

IMPORTANT INFORMATION

When will I know if my documents are accepted?

The Court will notify you in RedCrest when your documents have been accepted. The notification has a link to where you can download and print the approved documents. They will now have the Court's seal (official stamp) on them.

Legal word

Directions hearing – a short hearing to decide matters related to the timing of when things happen during the proceeding, including what has to happen, who does it and when it needs to be done.

Summons – a type of document filed in a proceeding and served on another party that requires them to attend court. A summons for directions requires the party to attend a directions hearing.

Affidavit – a document that presents written evidence in a court case. It must be sworn to be true and correct in front of an authorised official, on oath or by affirmation. It is a serious crime to knowingly make a false statement.

Watch the video

For information on how to complete an affidavit, watch the video on our website:

- *Completing an affidavit*

Tip

You may be able to get copies of the Magistrates' Court order and written reasons from the:

- lawyer, if you had one, in your Magistrates' Court case
- other parties
- Magistrates' Court registry (you may need to pay a fee to get copies)
- AustLII website, which regularly publishes many Magistrates' Court decisions (austlii.edu.au).

Who to serve

You serve your documents on the respondent, or on each respondent if there is more than one.

Although the Magistrates' Court is not a party, you must serve the Magistrates' Court with your Notice of Appeal. This is how you officially let the Court know that their decision is being appealed.

What documents to serve

Serve the documents you downloaded from RedCrest that have the Court's seal on them. This includes the:

- Notice of Appeal
- Affidavit (including the Magistrates' Court order and any written reasons prepared by the Magistrates' Court)
- Summons.

When to serve documents

You must serve these documents as soon as possible after you were notified in RedCrest that your documents were accepted and stamped with the Supreme Court seal. Do this at least 14 days before the directions hearing.

How to serve documents

If you are serving an individual, you must serve the Notice of Appeal in person. This means you must:

- leave a copy of the document with the person to be served
- or
- if the person does not accept the copy, put it down near them and tell them the nature of the document.

If you are serving a company, you can post your documents to the registered office of the company.

The Court may request you to swear or affirm an affidavit stating that you have served your documents.

You are allowed to serve the additional documents by email or post. However, if your additional documents (summons, affidavit and exhibits) are ready you can serve them at the same time as the Notice of Appeal.

If you have any questions about serving documents contact the Self-represented Litigant Coordinator.

IMPORTANT INFORMATION



Legal word

Serving documents – formally delivering them to a person or company. There are rules about which documents need to be served in person and which can also be served by email or post. See order 6 of the *Supreme Court (General Civil Procedure) Rules 2015*.



Tip

Although some documents need to be served in person, you do not need to do this yourself. You can ask a friend, family member or a professional to serve the documents for you. They must be prepared to sign an affidavit confirming they served the documents, if the Court requests this.

Checklist - STAGE 2

- ☐ Download from RedCrest and print your documents – they now have the Court's seal on them
- ☐ Serve your documents on the respondent

STAGE 3

Respondent may respond to your documents

Once you have served your documents on the respondent, they may do nothing or they may respond in a number of ways.

For example, the respondent may:

- **File a Notice of Appearance and serve it on you.** A Notice of Appearance is how a respondent officially lets you and the Court know that they want to be involved in the proceeding. It means they are likely to attend the directions hearing.
- **Make an application to the Court** of their own. There are many different types of applications the respondent can make. You can read about them in the *Supreme Court (General Civil Procedure) Rules 2015* and the relevant law.
- **File an affidavit opposing your application.**

The respondent must serve on you any documents they file with the Court.

IMPORTANT INFORMATION

! Note

A Notice of Appearance is how a respondent officially lets you and the Court know that they want to be involved in the proceeding.

The respondent may also choose to appear at the first directions hearing without notifying you.

! Note

A Notice of Appearance must be filed before the directions hearing. However, the respondent can make an application to the Court of their own at any time leading up to the final hearing.

Checklist - STAGE 3

- ☐ The respondent may serve documents on you in response to your documents

In Stage 1, the Court gave you a date for the directions hearing. The directions hearing is a short hearing to decide matters related to the timing of when things happen during the proceeding, including what has to happen, who does it and when it needs to be done. It is not when you present your arguments to the Court.

At the directions hearing, you will usually also find out the date for the final hearing of your appeal. You may be asked to estimate how many days you think the final hearing will take.

Following the directions hearing, the Court will send all parties a copy of its orders setting out the steps each party must take and by when.

The appellant and respondent both usually attend the directions hearing. If you cannot attend for any substantial reason, for example if you have a medical emergency, contact the Court immediately.

IMPORTANT INFORMATION

! Note

The directions hearing is **not** when you present your arguments to the Court. This happens at the final hearing.

💡 Tip

You only need to bring to the directions hearing the documents you filed in Stage 1, something to make notes on such as a notepad, tablet or laptop and your diary (so you can check if dates proposed are suitable).

Checklist - STAGE 4

- ☐ Attend the directions hearing

Follow the Court's instructions

The orders made at the directions hearing will tell you what you have to do to get your case ready for the judge. This includes which documents to prepare and when they need to be filed with the Court. If you are seeking leave to appeal out of time, the orders will tell you when the leave application will be heard.

Watch the video guide on our website: *Preparing for a hearing*.

Some things you may need to prepare include:

List of authorities

This lists the cases, legislation and other resources such as textbooks and journal articles you say support your case. These are things you will refer to in your submissions – the arguments you want the judge to consider.

Outline of submissions

An outline of submissions draws together your facts of the case, what happened in the Magistrates' Court case, the law that applies (legislation and cases) and your explanation of why you believe the magistrate made any legal errors. These should be arranged under headings that correspond to the questions of law and grounds of appeal, which you prepared in Stage 1. You can expand on some or all of these points at the hearing.

Affidavit

In addition to the affidavit you filed in Stage 1, this contains any additional evidence you want the Court to consider, which was not in your original affidavit.

Court book

This is a clearly-labelled folder of all the documents that you and the respondent intend to rely on during the hearing. For example, it might contain witness statements, expert reports, invoices or other material relevant to your case. Each document is numbered, and listed in an index at the front. The Court will order who is responsible for filing the folder.

Your response to the respondent's outline of submissions

You have the opportunity to respond to the respondent's outline of submissions, if they prepared these and served them on you in Stage 3.

Prepare to present at your hearing

Prepare yourself for the hearing by watching the video on our website: *Attending Court – the day of your hearing*.

IMPORTANT INFORMATION

Legal word

Submissions – arguments you want the judge to consider. This is a combination of what you write in your outline of submissions and what you say in the final hearing.

Tip

Make sure you include in your outline of submissions all the important points you want the judge to consider. The more clear and complete your outline of submissions, the less you'll need to explain them in the hearing.

Watch the video

- *Preparing for a hearing*
- *Attending Court – the day of your hearing*
- *Preparing a grounds of appeal*

Checklist - STAGE 5

- ☐ Follow the Court's instructions about what to do
- ☐ Prepare for the hearing by watching the Court's videos

Finding out your hearing date

The date for the final hearing is usually decided at the directions hearing you attended in Stage 4. The Court will send you an order that confirms the date.

What to expect at the hearing

To help understand what to expect at the final hearing, including what to bring with you, how to address the judge, where to sit and what you will need to do, see the video on our website: *Attending Court – the day of your hearing*.

A final hearing of an appeal case usually takes between half a day and one full day, depending on the complexity of the case. The hearing does not usually involve the calling of witnesses. It focuses on the documents both parties have filed.

IMPORTANT INFORMATION

**Tip**

The hearing date is usually 6-9 months after the directions hearing, except in urgent cases. This gives all parties enough time to properly prepare their case.

Checklist - STAGE 6

- ☐ Expect an order confirming the date for your final hearing
- ☐ Watch the video: *Attending Court – the day of your hearing*
- ☐ Attend the final hearing

When to expect the decision

The judge usually 'reserves' their decision (judgment). This means they do not give a judgment on the day of the hearing but at a later date. This gives the judge time to consider both parties' submissions and write reasons for their decision.

You can expect a decision within weeks or months of the final hearing, depending on the complexity of the case.

Finding out the decision

The Court will email you a date and time when you need to return to Court to get the judge's decision. This is called the 'handing down' of the decision. Appellants and respondents are expected to attend. However, if you do not attend the Court will email you the decision automatically.

At the handing down of the decision, if you lose the appeal the respondent will usually ask the Court to order you to pay their costs. If you win, you can ask the Court to order the respondent to pay your costs, if you had any.

If your appeal is successful

If your appeal is successful, the Court may make one or more of the following orders (under section 272 of the *Criminal Procedure Act 2009*):

- an order requiring the proceeding to be heard and decided again by the Magistrates' Court, either with or without the hearing of further evidence
- any other order the Court thinks appropriate.

If your appeal is not successful

If your appeal is not successful (dismissed), you can seek leave to appeal this decision to the Court of Appeal.

IMPORTANT INFORMATION



Legal word

Costs – fees for lawyers' professional services and disbursements (out-of-pocket expenses), such as court fees, fees for expert reports, medical reports and photocopying. If you are representing yourself and you win, you can claim your out-of-pocket expenses but you cannot claim the time you spent working on your case as a cost.

Checklist - STAGE 7

- ☐ Expect an email from the Court advising when to come to the Court to get the decision
- ☐ Attend the decision 'hand down'
- ☐ Know your options, if your appeal is not successful

Appendix

If you are reading a print version of this guide, note that the online version has links to forms and other resources you may need. Visit supremecourt.vic.gov.au/representingyourself for the online version. References to links in the appendix are only relevant if you are reading the online guide.

A. Glossary

B. Organisations that may be able to help you

C. Legal reference material

D. Forms

- [Notice of Appeal](#)
- [Form 46A – Summons](#)
- [Affidavit](#)
- [Form 43A – Certificate identifying exhibit](#)
- [Notice of Discontinuance](#)
- [Judicial Review and Appeals List Hearing Date Information Form](#)

E. Guidance

- [*Criminal Procedure Act 2009* \(section 272\)](#)
- [*Supreme Court \(General Civil Procedure\) Rules 2015* \(rules 58.06 – 58.14\)](#)
- [*Supreme Court \(General Civil Procedure\) Rules 2015* – Order 6 \(Service\)](#)
- [Practice Note SC CL 9 – Judicial Review and Appeals List](#)

F. Videos

- [Completing an affidavit](#)
- [Preparing for a hearing](#)
- [Attending Court - the day of your hearing](#)
- [Preparing a grounds of appeal](#)