



# Supreme Court of Victoria

## Practice Note SC Gen 4

### Custom and Protocol

#### 1. INTRODUCTION

- 1.1 The Chief Justice has authorised the issue of the following Practice Note.
- 1.2 The purpose of this Practice Note is to set out matters of protocol in relation to proceedings in the Supreme Court.

#### 2. COMMENCEMENT

- 2.1 This Practice Note was issued on 30 January 2017 and commences on 30 January 2017.

#### 3. DEFINITIONS

- 3.1 In this Practice Note:

*Judge* in Part 6 of this practice note includes Judges, Reserve Judges, Associate Judges and Judicial Registrars

*Senior Counsel* includes those appointed as Senior Counsel and as Queen's Counsel

#### 4. TITLES AND FORMS OF ADDRESS

- 4.1 In accordance with established custom and practice and pursuant to determinations of the Chief Justice under ss 9B and 9C of the *Supreme Court Act 1986* the following are the relevant titles and forms of address for members of the Supreme Court:

***Chief Justice***

Addressing verbally in court: Your Honour

Addressing verbally outside of court: Chief Justice

Addressing a letter: The Honourable Chief Justice...

Beginning a letter: Dear Chief Justice

Judgment citations: [Last name] CJ (e.g. Warren CJ)

### *President of the Court of Appeal*

Addressing verbally in court: Your Honour

Addressing verbally outside of court: President

Addressing a letter: The Honourable Justice... President of the Court of Appeal

Beginning a letter: Dear Justice...

Judgment citations: [Last name] P (e.g. Maxwell P)

### *Judge*

Addressing verbally in court: Your Honour

Addressing verbally outside of court: Justice...

Addressing a letter: The Honourable Justice...

Beginning a letter: Dear Justice...

Judgment citations: [Last name] JA (for Judges of Appeal ) J (for Judges of the Trial Division) or AJA (for Judges of the Trial Division sitting as an acting Judge of Appeal)

### *Associate Judge*

Addressing verbally in court: Your Honour

Addressing verbally outside of court: Associate Justice...

Addressing a letter: The Honourable Associate Justice...

Beginning a letter: Dear Associate Justice

Judgment citations: [Last name] AsJ (e.g. Efthim AsJ)

### *Judicial Registrar*

Addressing verbally in court: Judicial Registrar

Addressing verbally outside of court: Judicial Registrar...

Addressing a letter: Judicial Registrar...

Beginning a letter: Dear Judicial Registrar...

Judgment citations: written [Last name] JR (e.g. Gourlay JR)

- 4.2 Reserve Judges are to be referred to in the same fashion as other Judges.

## **5. INTERSTATE SENIOR COUNSEL**

- 5.1 Senior Counsel, appointed as such elsewhere in Australia will be accorded in the courts of Victoria the seniority and privileges of Senior Counsel.
- 5.2 Such persons will be accorded seniority in accordance with the date of their appointment in the jurisdiction in which they were first appointed Senior Counsel.

## **6. COMMUNICATIONS**

- 6.1 Communications with the Court in relation to court proceedings should take place via the relevant registry or through judges' chambers via the relevant associate.
- 6.2 All such communication must, however, be undertaken with care to ensure that the impartiality and integrity of the Court is not undermined.

- 6.3 Communications between an associate and legal practitioners must always be open and uncontroversial. Communication by telephone should be avoided in all but purely administrative routine matters which involve no controversy. Otherwise, email correspondence is preferred with all parties included as recipients.
- 6.4 It is the responsibility of each practitioner to disclose to all other practitioners and parties the content of any email correspondence, or phone conversation, between him or herself and an associate.
- 6.5 Associates are not permitted to give legal advice and practitioners should not request such advice. Matters that practitioners may helpfully enquire about include:
- The Judge's available listing times for applications or directions;
  - Whether a summons is required or whether an application can be listed informally;
  - How material can be provided for the Judge in addition to filing with Registry.
- 6.6 Practitioners must ensure that associates do not become part of the dispute between practitioners or the parties. A practitioner seeking a time for a hearing or agreement to a course of action should, except in *ex parte* hearings or where otherwise unavoidable, first inform the other parties before contacting an associate. It is undesirable for one party to secure agreement from an associate of a contested time, or contested course of action, before seeking agreement from other practitioners and other parties. The formal processes available by summons and operation of the Rules should be used to avoid compromising the Court where there is a risk that what a practitioner seeks from, or proposes to, an associate may not be agreed to or may be contested.
- 6.7 Matters that practitioners should avoid enquiring about include:
- Whether a Judge is likely to adjourn a matter on the papers;
  - What is the timeframe within which the Judge is listing matters for trial;
  - Whether the Judge will list a proceeding for trial early, within a specified timeframe, or before pre-trial steps are completed;
  - Whether the Judge will find another Judge to hear the matter at an early date.
- 6.8 Each of the above queries should be made of the Judge in open court with all appropriate parties present.
- 6.9 Practitioners should only request that orders be made on the papers by agreement of all relevant parties. Absent agreement on any issue, practitioners should not enquire of the associate if the Judge will decide that issue on the papers without the matter being ventilated in Court.

## 7. COURT ATTIRE

- 7.1 Attire in court proceedings generally should be appropriate to the decorum of court proceedings and the standing of the legal profession.
- 7.2 In accordance with the practice of the Bar, counsel are expected to follow the robing practice of the bench.

- 7.3 Judges do not robe for interlocutory matters including directions hearings and counsel are therefore not required to appear robed for those matters.
- 7.4 Judges will generally robe for trial except where the trial is of an urgent application of in the Practice Court.
- 7.5 Counsel are requested to robe for all ceremonial sittings of the Court including welcomes, farewells, the appointment of Senior Counsel and admission ceremonies. Any person moving an admission at an admissions ceremony is to be fully robed.
- 7.6 Associate Judges robe in the same circumstances as Judges of the Court.
- 7.7 The Chief Justice has resolved pursuant to s 9A of the *Supreme Court Act 1986* that Judges of the Supreme Court of Victoria will not wear wigs except where a Judge presiding over a criminal jury trial considers it to be an exceptional case warranting the wearing of a judicial wig, the Judge may seek the express permission of the Chief Justice to do so.

### **AMENDMENT HISTORY**

30 January 2017: This Practice Note was issued on 30 January 2017 and replaced aspects of Practice Notes No 6 of 1985; No 4 of 2002; 6 of 2008; 1 of 2011; and Notice to the Profession issued 26 May 2016.

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30 January 2017