



**Children's Court
Victoria**

**PRACTICE DIRECTION
NO. 15 OF 2020**

**FAMILY DIVISION – CHILD PROTECTION PROCEEDINGS -
COVID-19 EMERGENCY PROTOCOL**

This Practice Direction is issued pursuant to Section 592 of the *Children, Youth and Families Act 2005* (the **CYFA**).

PREAMBLE

- A. This Practice Direction introduces further measures necessitated by the COVID-19 pandemic for the management of child protection proceedings in the Family Division of the Children's Court of Victoria (**the Court**).¹ When it comes into effect, this Practice Direction revokes Practice Direction No.1 of 2020 and Practice Direction No. 9 of 2020.
- B. This Practice Direction is to be read in conjunction with Practice Direction No. 14 of 2020 – Readiness Hearings.
- C. This Practice Direction applies at Melbourne Children's Court with effect from **23 November 2020** and at all other venues of the Children's Court from **7 December 2020**.

¹ For applications under the *Family Violence Protection Act 2008* and the *Personal Safety Intervention Orders Act 2010* see Practice Direction No. 8 of 2020.

DIRECTIONS

FILING

1. All applications, Court reports and other relevant documentation must be filed electronically with the relevant [Children's Court Registry](#).

MANAGEMENT OF FAMILY DIVISION PROCEEDINGS

2. Unless the Court otherwise directs, Family Division child protection proceedings will be case managed in accordance with the directions set out below and will proceed wherever practicable before a docketed magistrate².

Online Hearings

3. All Family Division child protection proceedings will be conducted as online hearings³ unless it is not fair or practicable to do so.
4. DHHS must provide a copy of the [Children's Court COVID-19: Online Hearings Factsheet](#) to the parties at the same time any application is served as it includes information about participating in an online hearing in the Children's Court.
5. For information about appearing in an online hearing, the parties are also directed to the information contained on the [Children's Court website](#).

² A consistent magistrate to case-manage the proceedings.

³ All references to online hearings in this Practice Direction mean hearings that are conducted online via WebEx or other audio-visual link.

6. The parties are required to file a [Remote Hearing Appearance Form](#) with the relevant registry no later than three (3) days before the date the proceeding is listed for a scheduled online hearing. The email address provided in the form is used to send an invitation to join the online hearing.

Submissions Hearings

7. The Court will allow the following **urgent matters** to be listed for a submissions hearing on the day the application is filed:
 - i. a protection application by emergency care;
 - ii. a breach by emergency care;
 - iii. an application for a new interim accommodation order due to a proposed placement change;
 - iv. an application for an urgent interim variation of a family reunification order; or
 - v. any proceeding where a child is, or is proposed to be, placed on an interim accommodation order to a secure welfare service or is, or is proposed to be, admitted or discharged from a declared hospital.

Reserved Submissions

8. The Court will allow the following matters to be adjourned for **reserved submissions** where the Court considers it is in the best interests of the child to do so in relation to:
 - i. any application for an interim accommodation order where the issue in dispute relates to placement of the child and/or a dispute about contact between a child and a parent/s where it arises from the placement decision⁴;
 - ii. any application for an urgent interim variation of a family reunification order; or
 - iii. any other matter the Court considers appropriate for reserved submissions.

⁴ For example, where an interim accommodation order places a child with a member of the paternal family and the dispute that arises from the placement decision is contact between the child and the mother.

Conduct of submissions and reserved submissions

9. If any party seeks an order for the release of all relevant CRIS notes and other documents, appropriately redacted, they must do so as soon as practicable prior to the submissions hearing and in the case of reserved submissions, no later than 10am on the listed date.
10. At the conclusion of the hearing, all electronic copies of the CRIS notes and other documents must be destroyed and any hard copies returned to the legal representative of DHHS, unless the Court orders otherwise.
11. A DHHS practitioner with responsibility for the application must attend the online hearing and be authorised to make decisions in relation to the case.

Protection applications by notice and other applications

12. Unless otherwise directed by the Court, all protection applications issued by notice and any other application not referred to in paragraph 7 will be listed for a first return date within four weeks for an online hearing.
13. DHHS is directed to file and serve a report in support of the application no later than seven (7) days prior to the first return date.
14. On the first return date, if there are issues in dispute, the Court will adjourn the matter to a conciliation conference having considered the appropriate timeframe within which the conciliation conference should take place, unless the Court determines the application is unsuitable to proceed to a conciliation conference.

Mentions

15. All proceedings listed for mention or special mention will be conducted online on the date and at a time fixed by the Court. The further adjournment of any proceeding will be determined by the Court in accordance with s 530 of the CYFA, noting that the Court must not grant an adjournment unless it is of the opinion that it is in the best interests of the child to do so or there is some other cogent or substantial reason to do so.
16. Where an application is adjourned for further mention, DHHS is directed to complete a [Record of Adjournment Form](#) together with the proposed minutes, to be filed electronically.

Consent orders to be filed 24 hours prior to the online hearing

17. Where the parties to a child protection proceeding reach agreement:

- (a) of the necessity, in the best interests of the child, to adjourn a proceeding/s; or
- (b) on the terms of a final order; or
- (c) on the extension or variation of an existing order –

the parties must complete the proposed consent or unopposed minutes and, where relevant, the [Record of Adjournment Form](#) is to be filed electronically with the relevant [Children’s Court registry](#) **no later than 24 hours** prior to the online hearing. Unless otherwise advised by the Court, no attendance will be required by the parties for the online hearing. If no attendance is required, the parties will be provided with a copy of the order/s made by the Court in the absence of the parties.

18. If any matter resolves prior to a hearing, proposed consent or unopposed minutes should still be filed electronically with the relevant Children’s Court registry, but an appearance will be required where they are not filed at least 24 hours in advance.

Conciliation Conferences

19. All conciliation conferences will proceed online.

20. If the proceeding:

- (a) resolves at a conciliation conference; or
- (b) does not resolve at a conciliation conference but the parties have consented to or do not oppose a variation of conditions of an existing order -

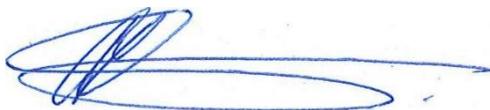
the parties must file consent or unopposed minutes electronically with the Court by 4pm that day. If the minutes are not received by that time, the orders may be made the following day and any interim accommodation order extended on the same terms and conditions.

Readiness Hearing

21. If a proceeding listed before the Melbourne, Broadmeadows or Moorabbin Children’s Court does not resolve at a conciliation conference the matter will be adjourned to a Readiness Hearing to be heard online on a date to be fixed.

22. If a proceeding before a regional Children’s Court does not resolve at a conciliation conference and it is estimated that any contested hearing will proceed for three or more days, then the proceeding will be adjourned for a Special Mention to be heard by Melbourne Children’s Court online at a date and time fixed by the Melbourne registry. The purpose of the Special Mention is to consider whether the matter is suitable to list for a Readiness Hearing.
23. All other regional proceedings that do not resolve at a conciliation conference will be adjourned for a Readiness Hearing before a regional magistrate.
24. If the Court considers the proceeding is not suitable and/or it is not in the best interests of a child to proceed to a conciliation conference, the matter may be listed for a Readiness Hearing.
25. If the Court determines the proceeding is suitable for a Readiness Hearing, the parties are directed to comply with [Practice Direction No. 14 of 2020](#) for the filing of Court reports and the Readiness Certificate in advance of the date fixed by the Court for the Readiness Hearing.

This Practice Direction commences on 23 November 2020.

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Judge Amanda Chambers
President
Children’s Court of Victoria
18 November 2020