



County Court of Victoria Information Sheet: Appeals from the Magistrates' Court

About the County Court Registry

The County Court's Registry is the official record keeper of pleadings and other documents that are filed in relation to a case. In Melbourne, the Registry is located on the ground floor of the County Court. The Registry's counter service operates from 9:00am to 4:00pm and the telephone service is available from 8:45am to 5:00pm on (03) 8636 6570. Both counter and telephone services are open Monday to Friday, excluding public holidays.

Please refer to the 'Circuits' page for contact information for the Court's circuit locations.

If you are found guilty of a criminal offence and/or convicted at the Magistrates' Court, you may lodge an appeal against:

- The sentence imposed (known as a sentence only appeal);
- The finding of guilt (known as the conviction) and the sentence imposed (known as a conviction and sentence appeal); or
- An order of a Magistrate, such as an order for forensic procedure or interlock order (known as an appeal against order made).

For information about appeals against intervention orders or Family Division orders from the Children's Court, please see our Intervention Orders, Children's Court Appeal and Appeal (First Listing) information sheet.

How do I commence an Appeal?

To commence an appeal against a Magistrates' Court order, you must lodge your appeal with a Registrar at any Magistrates' Court within 28 days of the hearing. Please contact or attend any Magistrates' Court for information or if you wish to lodge an appeal.

The Registrar will contact the County Court to lodge the appeal. If 28 days have passed since the Magistrates' Court hearing and you still wish to appeal, contact your closest Magistrates' Court for further information.

All Conviction and Sentence appeals will be allocated an Appeal (First Listing) hearing date at the time of the lodgement of the appeal at the Magistrates' Court. The Appeal (First Listing) hearing is conducted before a County Court Judge with the aim of determining what the issues are, how many witnesses will be called and if the matter can be resolved. At this hearing, an appeal hearing date will be set for Melbourne matters only. Circuit appeals will be allocated a further Appeal (First Listing) hearing date, or listed in a future circuit.

What happens if I don't have legal representation?

If you don't have legal representation you may represent yourself at your appeal hearing.

Please note: the County Court does not have a duty Solicitor and therefore you will not be able to obtain legal assistance on the morning of your appeal. Please see our Obtaining Legal Advice information sheet for information on some of Victoria's legal agencies.

How do I access a transcript of my Appeal hearing?

Appeals are not automatically transcribed. If you would like your appeal to be transcribed, you will need to seek approval from the hearing Judge to have the matter transcribed. You must contact the Judge's chambers if you wish seek approval. In order to obtain a telephone number for the hearing Judge, call the Melbourne Criminal Registry on (T) 8636 6570.

For criminal hearing transcripts, contact the Victorian Government Recording Service (VGRS) on (03) 9603 2424.

What happens if I don't attend my Appeal hearing?

You should contact the County Court to find out the outcome of your appeal. If you don't attend your appeal hearing at the County Court, the Judge may strike out your appeal. If this occurs, the Magistrates' Court order will be reinstated and enforced. This means that if you were sentenced to a term of imprisonment, an imprisonment warrant will be issued.

How do I apply to have my Appeal reinstated?

If your appeal is struck out as a result of you failing to appear at the hearing, you may apply to the County Court to have the matter reinstated. You will need to file an 'Application to set aside order striking out an appeal for failure to appear' form which can be found on the County Court's website.

Once you have completed the form you will need to contact the County Court via email (crim.reg@countycourt.vic.gov.au) to obtain a suitable hearing date and then file the application with the criminal registry. This application will also need to be served on the prosecution/respondent. At the court hearing you will need to provide reasons to a Judge as to why you failed to attend the original appeal date. If satisfied, the Judge may set a new appeal hearing date.

Please note: Lodging this application does not put the Magistrates' Court order on hold. The Magistrates' Court order will stay in effect unless a Judge grants your application.

What happens if I no longer wish to proceed with my Appeal?

The only way to cancel your Appeal is to file a 'Notice of Abandonment of Appeal' with the County Court. This form can be located on the County Court website (www.countycourt.vic.gov.au) and needs to be lodged with the County Court Registry by email (crim.reg@countycourt.vic.gov.au), by post or in person to any County Court location.

How do I abandon my Appeal?

To abandon your appeal you must complete Form 3D/4C 'Notice of Abandonment of Appeal'. The form can be downloaded from the County Court website (www.countycourt.vic.gov.au) or can be provided to you by a Registrar at a County Court venue. This form must be signed personally by the appellant.

If you complete and file this form prior to your Appeal hearing date, there is no need to appear before a Judge. Once accepted for filing by the Court, the Magistrates' Court or Children's Court order takes immediate effect, which means that if you were sentenced to a term of imprisonment you will be taken into custody. For this reason, you must attend a Registry office if you are

abandoning an appeal which contained a custodial sentence. You can attend any County Court Registry to abandon your appeal.

If you are abandoning an Appeal that does not have a custodial sentence attached you may fax, email or post your abandonment application to:

Fax: (03) 8636 6052

Email: crim.reg@countycourt.vic.gov.au

Post: Criminal Registry, County Court, 250 William Street, Melbourne 3000.

You must appear before a Judge in Court if you wish to abandon your appeal on the day of your appeal hearing.

Information included in this information sheet is of a general nature and does not constitute legal advice. It should not be relied upon for such purposes. Litigants are encouraged to obtain legal advice prior to taking any step in the legal process. The County Court of Victoria does not accept any liability for loss or damage incurred as a result of reliance placed upon the content of this information sheet.