

# Draft Protocol Public Livestreaming of Court Proceedings



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## Summary

This Protocol establishes a Public Livestreaming Pilot for the County Court of Victoria (the Court).

The Pilot will take place over 12 months beginning in 2024.

The Pilot aligns with the strategic objectives for open and accessible justice set out in the *Court Directions 2023-26*.

The Pilot will operate on an opt-in basis, with the decision to create a public livestream at the discretion of the presiding judge.

Judges will be supported by the Media and eHearings Teams in facilitating public livestreams.

The Pilot will test the capacity of the Court to conduct public livestreams, identify any potential issues and gather data to better assess community engagement benefits.

Some particularly sensitive hearings, including jury trials, will be excluded from the Pilot.

This Protocol provides guidance to judicial officers and the profession, including the rationale for conducting a public livestream, the relevant processes, and safeguards.

## Background

Public livestreaming is used in various Australian jurisdictions, generally in response to matters of significant public interest.

What was once a rare occurrence is relatively commonplace, largely due to the widespread adoption of virtual hearing technology during the pandemic.

Public livestreaming should be considered distinct from a virtual hearing, which may be accessible only to a contained group of participants.

Public livestreaming occurs when a live video and audio feed of a court proceeding is made available to the public, usually by embedding a live feed in a publicly accessible web page.

The Court's Media and Communications Committee produced a research paper in November 2023 examining the benefits of public livestreaming, drawing on evidence from local and international jurisdictions. The paper included a recommendation for the creation of a livestreaming Pilot.

## Selection process

The Court’s Media Team will be responsible for alerting the Judge to eligible hearings. Judges may also nominate potentially eligible hearings.

The decision to conduct a public livestream is entirely for the presiding judge.

In deciding whether to conduct a public livestream, the following considerations may be relevant.

- Whether there is significant public interest in the hearing;
- Whether the content of the hearing is suitable for a public livestream (see ‘eligible hearings’);
- Any legitimate objections from the parties (see ‘consultation’);
- Whether the Court’s administration has capacity to facilitate the public livestream.

## Eligible hearings

Jury trials, matters where the accused is a child and other sensitive matters are not eligible for the Pilot, due to the additional risk involved.

Most sexual offence matters (e.g. pleas) are not eligible due to the heightened risk of disclosure of complainant identifying information. This extends to civil matters relating to allegations of sexual abuse. Sexual offence sentencing hearings may be eligible, provided the Court ensures all references to the complainant(s) are anonymised using pseudonyms, as well as the removal of other identifying details.

The following table has been prepared following consultation with the Heads of Division.

Eligible hearings	Ineligible hearings
Sentencing hearings	Sexual offence pleas
Civil judgment hearings	All civil sex offence matters
Criminal plea and appeal hearings (not sexual offences)	Criminal jury trials
Civil trials	Hearings involving child accused
	Directions and other procedural hearings
	Intervention order hearings
	Supervision order hearings
	Case conference hearings
	Mediation hearings

## **Consultation**

Judges should consult with the parties before conducting a public livestream. Parties should be afforded the opportunity to take instructions and make submissions on the merits of a livestream. This could be done on the papers, in chambers or in open court.

## **Safeguards**

The risk of inadvertent disclosure of sensitive information is present for any public livestream. This will be mitigated with a delay to the audiovisual feed, allowing the Court to end the feed in the event of such a disclosure.

The public livestream feed will be temporarily ceased during closed court hearings.

All public livestreams will include detailed terms of reference prohibiting the use or reproduction of the audiovisual content without the permission of the Court. Viewers will be required to accept the terms and conditions for viewing that will appear on the screen when they access the live stream or recording of it. By accepting those terms and conditions, viewers will agree that viewing the live stream or recording will be in accordance with those terms and conditions, and with this Protocol. The purpose of the terms and conditions is to preserve the integrity of the court process and to protect the privacy of those involved in the proceeding. Failure to comply with the terms and conditions and the Protocol will be treated as a breach of a court order.

Viewing the livestream of a hearing is subject to the same restrictions as if a person were viewing the hearing in person in the courtroom.

## **Review and evaluation**

The Media and Communications Committee will oversee the Pilot and will report key findings after 12 months of operation.