



Children's Court  
Victoria

**PRACTICE DIRECTION  
NO.13 of 2020**

**CRIMINAL DIVISION - COVID-19 - DIVERSION**

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

**PREAMBLE**

- A. The Children's Court of Victoria commenced hearing diversion hearings 'on the papers' pursuant to Section 420ZL of the *Criminal Procedure Act 2009* on 5 May 2020 in accordance with Practice Direction No. 4 of 2020. This Practice Direction modifies the process for the hearing of diversion proceedings 'on the papers' and will operate with effect from 20 November 2020. Practice Direction No. 4 of 2020 is revoked.
- B. Pursuant to Division 3A of Part 5.2 of Chapter 5 of the *Children, Youth and Families Act 2005*, at any time before taking a formal plea from a child in a criminal proceeding for an offence, the Court may adjourn the proceeding to allow the child to participate in and complete a diversion program.
- C. Pursuant to Section 420ZL of the *Criminal Procedure Act 2009*, the Court may decide any issue in a criminal proceeding, other than a prescribed issue, entirely on the basis of written submissions and without the appearance of the parties if the Court is satisfied it is in the interests of justice to do so.

## DIRECTIONS

1. This alternative procedure requires the consent of both the prosecution and the child, and only applies where the child is legally represented.
2. Where the prosecution consents to diversion, the legal representative for the child will contact the Children's Court Youth Diversion Service [the CCYD] for the Diversion Coordinator to conduct an assessment and prepare a diversion plan for the child. The child must be available to be contacted for assessment, including a remote assessment, by the CCYD. Once complete, the assessment report and diversion plan will be sent electronically to the prosecution and the legal representative for the child, confirming the child's consent to the diversion plan.
3. To list a matter for a diversion hearing 'on the papers' the following documents must be completed by the parties and filed by the prosecution by electronic communication<sup>1</sup> to the [relevant Children's Court registry](#) in a single PDF file:
  - a. Form CD - Application for Diversion Hearing 'on the papers'
  - b. A completed Diversion Notice signed by legal representatives for the prosecution and the child
  - c. An agreed summary of the facts
  - d. CCYD assessment report and diversion plan
  - e. Agreed criminal history (if any)
    - a. Victim impact statements (if any)
    - b. Any mitigatory materials sought to be relied upon by the defence
      1. Outline of submissions on behalf of the child in dot point format (if any)
      - J. Outline of prosecution submissions in dot point format (if any)
  - k. Any other prosecution materials
4. The parties will be advised by the Court of the date set for the diversion application to be considered by the judicial officer 'on the papers'. No attendance is required on that date.
5. If the judicial officer considers diversion is appropriate, the judicial officer will adjourn the proceeding for a period not exceeding 4 months to enable the child to participate in

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<sup>1</sup> All references to 'electronic communication' will require documents to be transmitted to and by the Court via the eDocs portal unless it is unavailable, in which case the documents may be transmitted by email.

and complete the diversion plan. The prosecution and the child's legal representative will be notified of the result of the diversion hearing by electronic communication.

6. On the adjourned date, if the judicial officer is satisfied the diversion plan has been satisfactorily completed, the child will be discharged without any finding of guilt on the charge(s) on which diversion was granted without the need for an attendance by any party.

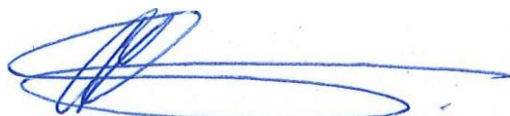
7. In any other event, namely-

- if the judicial officer considers that either diversion or the diversion plan are not appropriate to determine on the papers; or
- if the judicial officer considers the diversion program has not been satisfactorily completed;

the judicial officer will adjourn the case and the proceedings will be listed for a remote hearing. The parties will receive notice of the hearing date from the Court. Only the prosecution and the legal representative for the child will be required to attend the remote hearing for the purpose of making further submissions. The child's attendance at the remote hearing is not required but the legal representative for the child must be able to contact the child by telephone.

8. A copy of Form CD - Application for Diversion Hearing 'on the papers' is annexed to this Practice Direction.

**This Practice Direction commences on 20 November 2020.**



**Judge Amanda Chambers**  
**President**  
Children's Court of Victoria  
20 November 2020

**Form CD**

**APPLICATION FOR DIVERSION HEARING 'ON THE PAPERS'**

In the Children's Court of  
Victoria at [venue] \_\_\_\_\_ Court Ref: \_\_\_\_\_

Informant: \_\_\_\_\_

Prosecutor: \_\_\_\_\_

Phone Nr: ----- Email: -----

Child: \_\_\_\_\_

Phone Nr: ----- Email: -----

Legal Rep: Phone Nr: \_\_\_\_\_ Email: \_\_\_\_\_

**CONSENTS & ACKNOWLEDGMENT**

**YES NO**

Does the accused child consent to the Diversion hearing proceeding 'on the papers'?	<input type="checkbox"/>	<input type="checkbox"/>
Does the Prosecution consent to the Diversion hearing proceeding 'on the papers'?	<input type="checkbox"/>	<input type="checkbox"/>
Does the accused child acknowledge to the Court responsibility for the offences listed in Part A below?	<input type="checkbox"/>	<input type="checkbox"/>

**A. Charges to proceed in Diversion hearing (copies to be attached):**

**B. Charges to be withdrawn (if any):**

**DOCUMENTS ATTACHED****YES NO**

Completed Diversion notice signed by the prosecution and the child' legal representative	<input type="checkbox"/>	<input type="checkbox"/>
Agreed summary of the facts	<input type="checkbox"/>	<input type="checkbox"/>
Completed CCYD assessment report and diversion plan	<input type="checkbox"/>	<input type="checkbox"/>
Agreed criminal history (if any)	<input type="checkbox"/>	<input type="checkbox"/>
Victim impact statements (if any)	<input type="checkbox"/>	<input type="checkbox"/>
Copy of charge/s with any agreed amendments upon which Diversion is sought	<input type="checkbox"/>	<input type="checkbox"/>
A list of charge/s to be withdrawn- (if any) if the matter proceeds to Diversion	<input type="checkbox"/>	<input type="checkbox"/>
Any mitigatory materials sought to be relied upon on behalf of the child	<input type="checkbox"/>	<input type="checkbox"/>
Any outline of submissions on behalf of the child (dot point format)	<input type="checkbox"/>	<input type="checkbox"/>
Any outline of prosecution submissions (dot point format)	<input type="checkbox"/>	<input type="checkbox"/>
Any other prosecution materials	<input type="checkbox"/>	<input type="checkbox"/>

**REQUEST FOR DIVERSION HEARING ON THE PAPERS**

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*[Name and signature of child's legal representative]*

DATE:

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*[Name and signature of Prosecutor]*

DATE: