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COURTS AND TRIBUNALS IN VICTORIA¹

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INTRODUCTION

There are a wide range of Courts and Tribunals in Victoria that medical practitioners may need to engage with in the course of practice. Of note, Victoria has the following Courts:

- The Supreme Court of Victoria
- The County Court of Victoria
- The Magistrates' Court of Victoria
- The Children's Court of Victoria
- The Coroners Court of Victoria

In addition to a range of Tribunals, which include:

- The Victorian Civil and Administrative Tribunal (VCAT)
- The Victims of Crime Assistance Tribunal (VoCAT)

SUPREME COURT OF VICTORIA

The Supreme Court of Victoria is the highest court in Victoria and comprises the *Trial Division* and the *Court of Appeal*.

THE TRIAL DIVISION

- The *Criminal Division* hears matters involving treason, murder and attempted murder and major criminal matters involving fraud, sexual offences and drug trafficking.
- The *Common Law Division* exercises the court's supervisory jurisdiction over other courts and tribunals, and deals with appeals on questions of law from Magistrates' Courts and VCAT. It also hears matters concerning tort and contract claims including personal injury, professional negligence, defamation, nuisance, and misleading and deceptive conduct.

¹ This Fact Sheet is based primarily on the information available from the Courts and Tribunals Victoria website - <http://www.courts.vic.gov.au>

- The *Commercial and Equity Division* hears cases that arise out of commercial and equity matters involving corporations and commercial litigants, and individuals.
- The *Costs Court* hears and determines costs disputes arising out of litigation in all Victorian jurisdictions, as well as costs disputes between lawyers and their clients.

Criminal matters are heard before a judge and a jury of 12. The jury delivers its verdict based on the evidence presented in court and the judge imposes the penalty for those found guilty. The majority of civil cases are resolved through alternative dispute resolution, however those that do go to trial are heard by one judge, and in some rare cases by a judge and a jury of six.

THE COURT OF APPEAL

The Court of Appeal hears criminal and civil appeals from trials in the County Court and the Trial Division of the Supreme Court. It also hears appeals from proceedings that have come before VCAT.

Appeals in the Court of Appeal are heard by a panel of three judges although five judges will sit when a matter is very significant.

COUNTY COURT OF VICTORIA

The civil and criminal jurisdictions of the County Court place it above the Magistrates' Court and below the Supreme Court in the Victorian court hierarchy. The County Court can hear matters at first instance and in some circumstances on appeal.

CIVIL JURISDICTION

The Civil Jurisdiction of the County Court is comprised of the Commercial Division and Common Law Division, and within each division has a number of lists. The Civil Jurisdiction hears a range of cases relevant to medical practitioners, including:

- All claims for personal injuries and other personal actions.
- Claims against municipal councils for loss or injury sustained while upon or using roads, land, buildings, etc, under the control of the council or municipality.
- Actions where jurisdiction is specifically conferred on the County Court by a statute, for example: the *Accident Compensation Act 1985* (Vic), the *Transport Accident Act 1958* (Vic) and the *Wrongs Act 1958* (Vic).

CRIMINAL JURISDICTION

The County Court has jurisdiction to hear all indictable offences except treason, murder and certain other murder related offences. The great majority of offences such as drug offences, sex offences, driving offences, firearms offences, and, on occasion, manslaughter are heard in the County Court.

APPEALS

Appeals may go to the County Court from the Magistrates' Court or the Criminal and Family Divisions of the Children's Court.

MAGISTRATES' COURT

The Magistrates' Court is the busiest court in Victoria, handling approximately 90% of all cases which come before Victorian courts each year. The Magistrates' Court of Victoria covers the main areas of:

- Criminal Matters and Traffic Offences
- Money Claims and Civil Disputes
- Family Law
- Family Violence and Intervention Orders
- Fines and Penalties, including the Infringements Court
- Specialist Court Jurisdictions, including the Drug Court and Koori Court

CHILDREN'S COURT OF VICTORIA

The Children's Court of Victoria is a specialist court with two divisions to deal with matters relating to children and young people. The Family Division of the Children's Court hears: applications relating to the protection and care of children and young persons at risk, and applications for intervention orders. The Criminal Division of the Children's Court hears matters relating to criminal offending by children and young persons.

CORONERS COURT OF VICTORIA

The Coroners Court of Victoria is required to investigate fires and certain categories of death called 'reportable deaths'. Reportable deaths include when a person dies:

- Unexpectedly, in a violent or unnatural way from an accident or injury
- Following or during a medical procedure where the death may be causally related to the procedure and where a medical practitioner would not have reasonably expected the death to occur as a result of the procedure;

- While held in care (for example, in a psychiatric institution);
- The death of a person who immediately before death was a patient within the meaning of the *Mental Health and Wellbeing Act 2022* (Vic)
- When the deceased's identity is not known; or
- Where a doctor has been unable to sign a death certificate detailing the cause of death.
- The death of a prescribed class of persons or occurring in prescribed circumstances

VICTIMS OF CRIME ASSISTANCE TRIBUNAL (VOCAT)

VoCAT was established by the *Victims of Crime Assistance Act 1996* (Vic) to provide financial assistance to victims of violent crime committed in Victoria. It aims to assist victims of crime by paying for expenses they have incurred, or are likely to incur in the future, as a direct result of the crime.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL (VCAT)

VCAT has jurisdiction over issues including:

- Discrimination
- Guardianship and Administration
- Disability Services, Health Records and Privacy, Mental Health and
- Disputes between individuals and state or local government.
- Medical Treatment decisions and Advanced Care Directives
- Voluntary Assisted Dying decisions
- Certain Regulatory Decisions (including those made by AHPRA and Medical Boards)

Victorian Courts and Tribunals

