



LOCAL COURT PRACTICE NOTE NO. 1 OF 2015

Local Court Civil Jurisdiction – Online Court Protocol

ISSUED: 25 September 2015

COMMENCES: 1 October 2015

AMENDED AND REISSUED: 30 September 2016

Part 1 Commencement and Application of Practice Note

- 1.1 This Practice Note, as amended, commences on 30 September 2016.
- 1.2 This Practice Note is issued to enable the use of Online Court in the Local Court Civil Jurisdiction for proceedings in a list approved by the Chief Magistrate, as published from time to time on the Local Court website (www.localcourt.justice.nsw.gov.au).
- 1.3 This Practice Note is to be read in conjunction with Local Court Practice Note Civ 1.

Part 2 Definitions

2.1 In this Practice Note:

'court date' means a date on which the proceeding is listed for case management.

'CPA' means *Civil Procedure Act 2005*.

'delegate' means a managing lawyer or employed support staff member who is registered as a delegate by the practitioner on the record via the ORW.

'OCR' means Online Court Record.

'OLC' means Online Court.

'ORW' means Online Registry Website.

'party' means a party to a proceeding, and includes a practitioner on the record who is representing the party in the proceeding and any delegate of the practitioner.

'practitioner' means legal practitioner.

'UCPR' means the *Uniform Procedure Rules 2005*.

Part 3 Purpose

- 3.1 The object of this Practice Note is to minimise the cost and inconvenience of in-person court appearances by enabling parties to make online requests without the need to attend court.

Part 4 Conduct in an Online Court

- 4.1 The OLC is a virtual courtroom, authorised by Schedule 1 to the *Electronic Transaction (ECM Courts) Order 2005*. It may only be used for issues that may be considered and determined by a registrar.
- 4.2 OLC is not to be used for communications solely between the parties.
- 4.3 Parties should conduct themselves and use language in the OLC as they would during an in-person court appearance.
- 4.4 A registrar may, from time to time, give instructions as to:
- a) the acceptable length of reasons for requests and messages in an OLC; and
 - b) the time and date by which requests and responses to requests must be made.
- 4.5 If a message is submitted to the OLC by a delegate for a practitioner on the record, the practitioner is taken to have affirmed to the Court that he or she has actual knowledge of its contents.
- 4.6 Undertakings given in an OLC by parties are as binding as if the undertaking were given in an in-person courtroom appearance.
- 4.7 Parties will be notified by email when a message has been sent in the OLC.

Part 5 Commencement of an Online Court

- 5.1 When a proceeding enters an approved list, and each of the parties is a registered user of the ORW, it is eligible and will be activated for OLC.
- 5.2 All parties will be notified immediately by email that the proceeding is eligible and has been activated for OLC.

Part 6 What may be dealt with in Online Court

- 6.1 OLC may be used for interlocutory or procedural matters that may arise during case management of the proceeding. Matters in the OLC will be conducted in accordance with Local Court Practice Note Civ 1 (and s 71 of CPA).
- 6.2 In the OLC, parties may request the following:
- a) Adjournment of the proceeding;
 - b) Interlocutory orders pursuant to Part 6 of CPA;
 - c) Fixing of a trial date; and

- d) Referral of matters to directions hearing before a magistrate.

Part 7 How will matters be dealt with in Online Court

7.1 For each court date, the following communications are to be made in the OLC:

- a) **Request:** a party may make a request for interlocutory orders
- b) **Response:** each other party will be automatically notified of the request, and is to respond by consenting to the request or making a counter request.
- c) **Further response:** each other party will be automatically notified of the response. If a counter request is made, each other party is to respond by indicating their consent or opposition to the counter request.

7.2 All requests (or counter requests) in the OLC must be supported with reasons.

7.3 Any communication referred to in paragraph 7.1 must be made prior to the court date by the date/time stipulated by the registrar. If a communication is not received by the stipulated date/time, the registrar may determine whether the parties are required to attend in person on the court date and make orders accordingly.

Part 8 Registrar orders

8.1 When the registrar makes an order in the OLC an automatic email will be sent to all parties.

Part 9 Messaging

9.1 At any time during the OLC:

- a) A party may send a message to the registrar regarding any case management issues between the parties; and
- b) The registrar may choose to send a message to the parties if it appears there are case management issues requiring resolution.

9.2 Messages sent will be visible to all parties.

Part 10 Costs

10.1 On occasion the registrar may determine that the parties are required to attend in person on a court date and will make orders accordingly.

10.2 On a court date at which the parties are required to appear in person, the registrar may consider any application for costs from parties to cover the costs of appearance in person and/or costs of preparation of any OLC request.

10.3 In determining the costs application, the registrar may take into account any relevant consideration, including without limitation:

- a) Any failure of a party to respond to a request (s 56(5) CPA);

- b) Whether the in-person court appearance could have been avoided if the party had responded to an OLC request; and
- c) Whether there is a reasonable explanation for not responding to an OLC request.

Part 11 Consent orders

- 11.1 As far as practicable, parties will have communicated between themselves and come to an agreed position as to the orders sought prior to submitting a request in the OLC.
- 11.2 Any terms agreed between the parties should be included as orders sought in the request.

Part 12 Terminating an Online Court request

- 12.1 An OLC request may be terminated at any time by the registrar and the proceeding listed for resolution at an in-person court appearance before a registrar or a directions hearing before a magistrate.

Part 13 Documents

- 13.1 Documents can be attached as part of a request or attached to a message. Any attached documents will be viewable by all parties and the registrar.
- 13.2 Where parties require documents to be formally filed, they should do so via the ORW and not via the OLC.

Part 14 Obtaining copy of Online Court Record

- 14.1 All activity in the OLC including requests, consents, counter requests and messages will be recorded in the OCR and will be visible to all parties and the registrar.
- 14.2 Any person may make a request to the registrar for a printed copy of the OCR. The printed copy of the OCR may be provided, subject to any suppression order or other restrictions that might apply to the proceeding.

Jane Mottley
Acting Chief Magistrate