

Watch your inbox!

Online Court has arrived

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Online Court is active in NSW through the Online Registry for case management in selected Local Court matters, the Corporations and Equity General Lists of the Supreme Court, the General List of the District Court at Sydney and, in some circumstances, in the Land and Environment Court.

Matters in approved lists are automatically activated for Online Court, except in exceptional circumstances. Instead of attending case management hearings in person, solicitors are required to communicate and agree on orders before a proposed timetable is entered into the Online Court system ahead of each listing. All parties are required to participate – ideally one party is to propose a timetable agreed upon by the parties and supported by reasons, with the other parties to agree. There is an option to counter proposed orders in the event that the parties cannot agree.

Communication in the Online Court is direct with the Court and a solicitor's conduct is required to be as it is in person with respect to meeting deadlines, preparation, communication, adherence to law, rules and practice notes, and submissions regarding the matters and their case management.

Risks

There are real risks for practitioners associated with the Online Court – most of which sound in costs orders against parties, personal costs orders against solicitors, or the dismissal of proceedings.

Notifications of Online Court activity are made by email to the address provided by the solicitor on the record in each matter. In a world where many of our professional communications are made via email, it is more vital than ever that practitioners monitor email traffic frequently and respond promptly.

Reviewing and implementing robust systems and procedures in your practice in order to ensure that all correspondence from and regarding the Online Court is reviewed and acted upon, and that the email address provided to the Court is correct and current, should minimise the risk of missing important communications from or regarding the Online Court.

Snapshot

- Matters in approved lists are automatically activated for Online Court, except in exceptional circumstances.
- Communication in the Online Court is direct with the Court and solicitor's conduct is required to be as it is in person.
- It is vital that practitioners monitor email traffic frequently and respond promptly.

Prescribed timeframes for proposing and agreeing to, or countering, orders vary between Courts and lists so it is critical to ensure you are aware of the requirements for each list in which you have a matter. Despite the prescribed timeframes, parties can and are encouraged to make requests, consents and counters well ahead of listing dates.

Given the time pressures, having delegates to assist seems essential – but beware! In the Local and District Courts, a practitioner on the record is taken to have affirmed to the Court knowledge of

communications submitted by a delegate.

When are parties required to attend Court in person?

In most cases, a failure to adhere to Online Court procedure is treated as a non-appearance. The Online Court will be locked to the parties and an explanation as to the non-appearance will be required in person. At that time, orders for the cost of the appearance in person and the preparation of any Online Court request prepared by a party but not responded to by another, may be made. Reasonable explanations as to delays and failures to respond are anticipated by the practice notes (See: onlineregistry.lawlink.nsw.gov.au/content/node/133).

Pros and cons

There are clear benefits to practitioners having access to a record of all proposals, counters, and orders made in each matter, and obvious costs savings for clients where travel to and from, and waiting at Court, are things of the past.

Some teething issues are to be expected with such a big change. However, once procedures have been put in place by each solicitor, the Online Court should see transparent and effective communication between opposing solicitors, flexible options and timeframes for communication with the Court, tangible costs savings for clients, and time savings for solicitors.

There are sometimes casualties when an old system is replaced with a new one. Unfortunately, it may be that the social aspect of attending Court and the loss of advocacy training that case management hearings provide to the profession's more junior members is lost in this instance. **LSJ**