

# **Judicial Registrar's Guide to the Online Court in the General List**

## What are the most important things to know?

1. The Online Court ("the OLC") commenced on 31 October 2018 and on that date in this Guide I advised that the legal practitioners not to expect the Practice Note 1B and requirements of the OLC to be strictly enforced for an initial period.

That warning was given as it was acknowledged that legal practitioners will require time to adjust to the change in practice and to learn how to use the OLC.

I also advised the Guide will be updated to advise as to when this initial settling in period will cease and legal practitioners are required to fully comply with the requirements of the Practice Note 1B.

**Please be advised that the initial period is now closed and legal practitioners and parties are expected to comply with the requirements of Practice Note 1B.**

**Notice will be given to legal practitioners and parties when their conduct in the OLC is not consistent with the requirements of Practice Note 1B and what the consequences will be.**

**Should any orders be made under Practice Note 1B to dismiss proceedings/strike out pleadings or make costs orders and you are dissatisfied with the outcome or wish to have them reviewed or set aside you should file and serve a notice of motion with a supporting affidavit and on the first listing of the motion request that it be referred to the Judicial Registrar for consideration.**

**If you have filed a motion then the supporting affidavit should explain satisfactorily all the circumstances that lead to the default or breach of orders.**

Further guidance and support in learning how to use the OLC will be provided, check the District Court website for information on seminars, publications and notices, including updates to the following documents already published:

- a) Practice Note 1B
- b) District Court OLC Information Sheet
- c) Court Email Procedure
- d) Note Settled List Notice

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2. Your conduct in every respect should be the same in the OLC as if you had actually attended Court 7D in the John Maddison Tower, not limited to:
- Your attendance, as in meeting deadlines for OLC requests;
  - Your communications;
  - Your preparation;
  - Your adherence to the relevant legislation, rules and Practice Notes; and
  - Your submissions/reasons for adjournment/explanations for delay.

The OLC is direct communication between you and the Judicial Registrar.

There will be no tolerance of statements that demonstrate lack of knowledge of relevant information regarding the subject case.

Unlike attending court or sending an agent or other solicitor or barrister, you will be using the OLC with the ability to have direct access to your files.

3. Your new due date for finalising your preparations for the next Court date is more than 3 days prior to that date.

Example: If the next Listing is Monday 21 January 2019 at 9.30am:

1. Any request by any party must be made by 2pm, Wednesday 16 January 2019; and,
2. If the request is not made by 2pm the OLC will close and lock out the all the parties.
3. If a request is made by 2pm, any counter or consent must be finalised by 6pm Wednesday 16 January 2019.
4. After 6pm Wednesday 16 January 2019 the OLC will close completely for any pending request, counter or consent.

**REMEMBER THE OLC WILL CLOSE AFTER THE ABOVE DEADLINES.**

**AFTER THESE DATES AND TIMES YOU WILL BE PREVENTED FROM ACCESSING THE OLC TO MAKE ANY REQUESTS, COUNTERS OR CONSENTS.**

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**ACCORDINGLY, YOU MUST ALLOW MORE TIME TO PREPARE FOR THE UPCOMING LISTINGS AND COMMENCE THAT PREPARATION WELL IN ADVANCE OF THE NEXT LISTING.**

This approach has benefits. Take advantage of the fact you are not constrained by court dates. You may have orders entered and requests for adjournments made well in advance to any listing.

Abandon any idea of preparing for listings at the last minute, it will not work most likely lead to you being locked out of the OLC and deemed to be in default of Practice Note 1B with consequential orders such as dismissal/strike out of pleadings or costs orders against practitioners.

4. **DO NOT** use the Judicial Registrar's email and associated procedure if the case is activated for OLC. Your email will either be rejected or ignored. The OLC is the primary system for case management of a matter unless the matter is not eligible for the OLC.

An exception to using the email is to make an enquiry about OLC procedure such as the subjects discussed in this guide or if some error has occurred in the OLC process.

(I do not provide advice on technical matters. To obtain that assistance email: **[onlineregistry-support@justice.nsw.gov.au](mailto:onlineregistry-support@justice.nsw.gov.au)**).

You may use the judicial registrar's email address and relevant procedure if your matter is **not eligible** for the OLC.

5. **DO NOT** attempt to file documents in the OLC – you must use the Online Registry to file your documents.

Only attach documents to any OLC Request if it is pertinent to that request only eg: an affidavit in support of an adjournment.

6. **DO NOT MIX THE FUNCTIONS OF THE OLC WHEN MAKING A REQUEST. USE THE FUNCTIONS OF THE OLC FOR THEIR INTENDED PURPOSE.**

When you mix the functions of an OLC request it cannot be processed and will be sent back to you to re-do.

For instance: Do not put requests for orders in messages or reasons. Do not put reasons in messages or in orders.

Do not put all of what you request in one document and upload it. That procedure is no longer applied.

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There are exceptions to this rule and once you read through this guide you will see when and where they are to be applied and/or acceptable.

**7. ENSURE THE EMAIL ADDRESSES FOR THE LEGAL PRACTITIONER ON THE RECORD AND THE CONTACT SOLICITOR FOR THE CASE ARE ACCURATE AND UP TO DATE.**

All OLC activity once completed is communicated to the legal practitioner on the record and the contact solicitors.

You have the responsibility of ensuring those addresses are accurate and up to date otherwise you will not be notified of any OLC activity and orders.

Failure to take care in ensuring this information is up to date may have serious consequences.

Consult the Online Registry FAQs for information on how to manage email addresses or email:

**[onlineregistry-support@justice.nsw.gov.au](mailto:onlineregistry-support@justice.nsw.gov.au)**

Some General Guidance

Adjournments of Pre Trial Conferences – defendants yet to file appearances

8. The OLC will only be available for matters where the legal practitioners representing the parties have an Online Registry account. It will not be available for self-represented parties.

However, there is an exception for requesting adjournments of Pre Trial Conferences where the defendant's or defendant's legal representatives are yet to file an appearance.

In those matters the plaintiff may request an adjournment of the Pre Trial Conference in the OLC.

Otherwise, orders cannot be proposed or entered in the OLC unless all parties have filed appearances and those legal practitioners are registered for the OLC.

Orders

9. The OLC process substitutes the need for documents. Do not file documents in the OLC including consent orders. Consent orders in documents are entirely unnecessary and must not be uploaded.

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10. Prepare your OLC request by adding orders in individual drop boxes, one for each order without numbering them.

**Do not** put multiple orders in one box.

**Do not** number the orders, numbering is done automatically.

**Do not** put reasons in orders.

**Do not** put orders in reasons or messages, make counter requests.

### Adjournments

11. The OLC will only offer a restricted range of dates to which a matter may be adjourned. If you wish to adjourn the matter past the offered range of dates, pick the latest date possible, but in a separate order (by choosing "other") or in your reasons for adjournment indicate that you want a date past the range of dates offered and the reasons why.

### Adjournments of Hearings

12. Don't request an adjournment of a hearing date through the OLC, hearing dates will not be adjourned by request only. To obtain an adjournment of a hearing date you must file a motion to be heard by the List Judge.
13. Don't request a hearing date be adjourned because you settled a matter, requests of that kind will be refused and terminated. You follow the procedure of filing a document to have the matter finalised and otherwise you attend the hearing to confirm the matter is settled. Please note a matter is not finalised nor is any hearing date vacated until final orders are entered.
14. However, messages to advise the matter has settled in advance of a listing or a hearing are acceptable.

### Messages

15. Messages are ideally to be sent only in relation to a current request or counter, alternatively in relation to a finalised request. Messages sent not relating to current request or on other matters are not encouraged as they will only be reviewed once the matter approaches it's next listing.
16. **DO NOT** send messages to say you made a request and want to follow it up, those messages will not be responded to.

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17. Be patient once a request for orders has been made, the practice will be that all requests will be actioned/extended/refused prior to the next listing.
18. Remember to be aware that if you do not receive a response or any other indication from the Judicial Registrar attendance at the next listing is required.

#### Reasons for making requested orders

19. You will be required to provide a reason for requesting orders or countering/consenting to a request.
20. Always provide an outline of reasons for your proposal but keep it precise and brief, the field providing reasons is limited.
21. **DO NOT** provide lengthy explanations, but if you are unable to do so, attach a document setting them out eg. "The reasons for the proposal are in the attached document." That document should also be precise and as brief as possible.
22. Be aware your communications in messages and explanations are deemed to have been made with the knowledge of the legal practitioners on the record and registered in the Online Court.
23. Anticipate questions in respect of your reasons for your proposal and include as much information as necessary in your explanations or reasons.

Remember under Practice Note 1 paragraphs 4 and 8 you must have sufficient instructions to answer the Court's questions to enable the Court to make all appropriate orders and directions and will be subject to an enquiry as to why the matter has not been prepared for hearing.

These paragraphs will apply to the OLC.

24. Messages and explanations can dispense with unnecessary formalities and information, like:
  - a. "We look forward to hearing from you"
  - b. Histories of the conduct or orders made unless absolutely necessary.
  - c. Requests for me to contact you – don't worry if I need to I will.

Brief and direct communication will not be considered impolite, it is welcomed.

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## Related Matters in the OLC

25. When parties are managing related matters in the OLC ensure that you mention the related matters in your reasons for making orders so it is brought to my attention.
26. It is not possible to have one set of orders made for multiple matters in the OLC, you must lodge a request for orders for each individual matter, but mentioning that there are related matters makes the processing of the related matter's orders more efficient.

## Disagreed timetables

27. Attempt as much as possible to agree on proposals before you make them in the OLC.
28. Multiple requests and counters are not desirable. Wherever possible attempt to settle your proposed orders outside the OLC and when a position is settled make one request and one counter.
29. If you cannot agree on a timetable, enter a proposal and a counter by the required time and through the OLC I will enquire of parties of the disagreement and attempt to resolve the timetable before bringing the matter into Court.

## Requests for actions or listings outside the scope of the OLC – Use of “**Other**” types of orders

30. Some kinds of requests or requests for listings are outside the scope of the requests for users, for example Approval hearings, motions, Professional Negligence Listings.
31. You are not excluded from making these requests – simply select the option for orders titled “**Other**”. That option allows to you type a form of order that you wish to request.
32. Place in the text the kind of listing request you want and I will consider and can action it accordingly if it is possible.
33. If such a request is not possible your request will be revised, extended or terminated.

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## Requesting Hearing Dates

34. It is not possible to request a hearing date of 5 days or more. Should you wish to make a request for a 5 day or greater hearing date, confirm or request the matter be listed into Court.
35. Make sure you complete the estimate of hearing details eg witnesses, estimate of examination, etc in any request for a hearing date.
36. The Names of witnesses are not necessary to be provided in every case. You may just identify them by their type and the evidence they will adduce. For example: Orthopaedic surgeon, engineer, lay witness (care), lay witness (liability) etc.
37. Complete all the unavailable dates in the calendar up to the latest date. You are only offered 21 weeks of available hearing dates.
38. If your unavailability continues past the offered dates **continue the unavailability in the reasons in the same format for the same range for each party**. For example:

Further Unavailability for the plaintiff  
 Client/Witness: 1, 2, 4, 10 June  
 Solicitor: 3, 4, 13 June  
 Barrister: 4, 7, 8 June

39. If there are additional matters to consider in any hearing date request, you should include them in the reasons for request.

## Final orders and judgments – Settled Matters

40. The OLC cannot accept and process final orders to finalise proceedings.
41. To finalise a matter file consent orders, consent judgments or notices of discontinuance in the Online Registry.
42. You may then request an adjournment of the next listing (other than a hearing date) to the Note Settled List by advising the matter has settled and you have filed a consent judgment/order for consideration.
43. The Note Settled List will be conducted entirely in the OLC unless your matter is not eligible for the OLC or it is otherwise necessary for the parties to attend.

Judicial Registrar  
 5 December 2018.

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