



18 May 2020

On and from 1 June 2020, there will be some changes to the general policy that there are to be no personal appearances in the District Court of NSW. These changes are in addition to the announcement on 11 May 2020 of the intention to resume jury trials on a limited basis in the Sydney District Court, Parramatta District Court and the Newcastle District Court.

Where the Court's policy permits a personal appearance in court, this does not mean that lawyers are obliged to attend court in person. The Court continues to encourage lawyers to use the virtual courtroom.

In proceedings where lawyers attend in-person, the Court asks lawyers to consider whether some of the participants in the proceedings could participate by remote means. This may include some witnesses and members of a legal team.

### **Criminal jurisdiction (other than jury trials)**

In-person appearances will be permitted in:

- a) Appeals from the Local Court;
- b) Matters for sentence;
- c) Judge alone trials;
- d) Pre-trial argument;
- e) Pre-recorded evidence hearings pursuant to either Chapter 7 Part 5 Division 2 or Schedule 2 Part 29 of the *Criminal Procedure Act 1986*; and
- f) Contested applications for bail or contested changes in bail conditions.

This easing in the Court's general policy so as to allow in-person court appearances is subject to ss 5BA and 22C of the *Evidence (Audio and Audio Visual Links) Act 1998* and the discretion of a judge to limit the number of persons in a courtroom to ensure strict adherence to government endorsed social distancing restrictions in operation at the time (1.5m spacing and 4m<sup>2</sup> principles).

In order to avoid congestion in court premises and courtrooms, there will be **no change** to the Court's policy that **all lists** in the Court's criminal jurisdiction including arraignments and readiness hearings are to be conducted by use of a virtual courtroom. **The Court's policy remains that there are to be no personal appearances in these lists.**

All uncontested bail applications are to be conducted by email in accordance with the [COVID-19 – Bail Application Procedures](#) published on the Court's website.

## **Civil jurisdiction**

In contested hearings where there are parties and witnesses to be called to give evidence, it will **no longer** be the Court's general policy that the hearing proceed by the use of a virtual courtroom.

This easing in the Court's general policy so as to allow in-person court appearances is subject to the discretion of a judge to limit the number of persons in a courtroom to ensure strict adherence to government endorsed social distancing restrictions in operation at the present time (1.5m spacing and 4m<sup>2</sup> principles).

Where contested hearings are to proceed by the use of a virtual courtroom, the parties must notify the Manager, Civil Case Management and Listings by email [jane.dunn@justice.nsw.gov.au](mailto:jane.dunn@justice.nsw.gov.au) at least seven days prior to the date fixed for hearing.

In all other matters, the [Interim Protocol for the Court's Civil Jurisdiction](#) as at 21 April 2020 will continue to apply.

In order to ensure that there is no misunderstanding, **the Court's policy remains that there are to be no personal appearances in all lists in the Court's civil jurisdiction conducted by Judges, the judicial registrar and assistant registrars.**

## **In-person appearances in the District Court**

In those proceedings where in-person appearances are permitted, all persons attending court premises must comply with the requirements of a security officer under Division 1A COVID-19 Pandemic – Special Provisions of the *Court Security Act 2005*.

No person should attend or remain in court if the person is suffering from a sign of illness (including fever, cough, runny nose, sore throat, shortness of breath, loss of taste or smell) unless the person has first taken a COVID-19 test because of that sign of illness and been informed of a negative result.

If a person who has been attending court develops a sign of illness, the person should immediately report this to the Court.

In criminal proceedings, where hard copy documents are to be used, an arrangement for the safe handling of documents should, if possible, be agreed by the parties and provided to the Court for consideration. This requirement applies whether the parties are appearing in-person or by use of the virtual courtroom.

In civil proceedings, the parties must agree upon a Joint Court Book in accordance with paragraph 5(f) of the Interim Protocol.

### **Limits to the number of persons in a courtroom**

As a general rule, the number of persons in a courtroom (including the judge, associate and court staff) **should not exceed 10 persons**. Where the interests of justice require that there be more than 10 persons (e.g. where there are a number of parties to the proceedings), the number of persons in the courtroom must not exceed the maximum court capacity under 1.5m spacing and 4m<sup>2</sup> principles as determined by the Sheriff of NSW.