

Applications for leave for in person appearances in Trials and Sentence Hearings of WHS Prosecutions

Commencement

1. This Practice Note commences on 29 October 2021.

Review

2. This Practice Note will be reviewed in mid-November 2021 or as otherwise may be necessary.

Introduction

3. In person appearances have been temporarily suspended due to COVID-19. With the easing of restrictions and increased vaccination rates, applications may be made for leave to be granted for in person appearances in trials or sentence hearings of prosecutions under the *Work Health and Safety Act 2011* (NSW) (referred to collectively as trials in this Practice Note), which are listed for hearing on or after 25 October 2021.
4. All other matters will continue to be heard by use of the virtual courtroom.

Definitions

5. In this Practice Note:

“Court” means the District Court of NSW.

“court participants” includes judges, associates, tipstaves, counsel representing a party to proceedings, solicitors, parties to proceedings, Sheriff’s officers, court officers, witnesses who appear in person (not by audio-visual link), interpreters, RSB court reporters, sound reporters and third party contractors, victims or victims’ family members and their support persons.

“vaccinated” means that a person:

- a. has either completed a two-dose schedule of Pfizer Australia Pty Ltd, AstraZeneca Pty Ltd or Moderna Australia Pty Ltd, or received a single dose of Janssen-Cilag Pty Ltd; and

- b. at least 14 days has elapsed since completing their vaccination schedule.

An Application for Leave

6. An application for leave must be made to the List Judge (where a trial Judge has not been allocated) or to the trial Judge (where allocated).
7. Applications for leave must be made **no later than three business days prior to the trial date.**
8. Leave will not be granted to any person to attend the Court in person unless the List Judge or trial Judge is satisfied that he or she is vaccinated.
9. Solicitors for the parties must enquire as to the vaccination status of all their proposed court participants and provide that information to the List Judge or trial Judge. When a person is stated to be vaccinated, the solicitor must sight his or her COVID-19 certificate provided by the Australian Government before providing that information to the Judge.

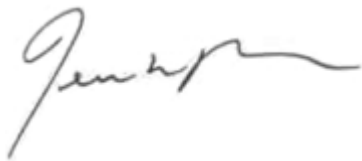
At Trial

10. In trials, face mask wearing is mandatory for all court participants. This requirement is waived:
 - a. when a court participant is addressing the Court or giving evidence;
 - b. where a court participant is unable to wear a face mask for medical reasons, which must be established by a medical certificate; or
 - c. where there is a reason that the trial Judge considers relevant.

Open Justice

11. The Court remains committed to the principles of open justice. However, the risk of COVID-19 requires the Court to limit the persons who may attend a trial in person.
12. Members of the public may not attend court in person. Should a member of the public wish to view a trial, attendance will be permitted by use of the virtual courtroom. The link to the virtual courtroom may be provided on request made by email to the trial Judge's associate. All such requests will be subject to orders made by the trial Judge concerning the conduct of the trial. A list of associate contact details is available on the Court's [website](#).

13. A member of the media who wishes to attend a trial in person must provide evidence to the List Judge or trial Judge (where allocated) that he or she is vaccinated. Any attendance in person must not infringe the 4m² rule. Where a member of the media declines to provide his or her vaccination status, attendance will be permitted by use of the virtual courtroom. The link to the virtual courtroom may be provided on request made by email to the trial Judge's associate. All such requests will be subject to orders made by the trial Judge concerning the conduct of the trial.



The Honourable Justice D Price AO
Chief Judge of the District Court
29 October 2021