



26 May 2020

District Court COVID-19 Jury Trials

General Protocol

Introduction

1. The District Court of New South Wales intends to lift the temporary suspension of jury trials in some, but not all, District Court venues on and from 15 June 2020. The recommencement of jury trials in mid-June will be confined to a limited number of court rooms in the Sydney District Court (Downing Centre), Parramatta District Court and Newcastle District Court.
2. The intention to recommence jury trials in these venues is subject to any change in advice from NSW Health. The administration of justice and the health of all participants in the justice system remain the Court's priority.
3. The purpose of this document is to outline the procedures in place within the District Court which aim to protect court participants involved in jury trials during the COVID-19 pandemic.
4. The Court will continue to take all reasonable steps to:
 - (a) ensure that the accused receives a fair trial;
 - (b) ensure the health and safety of court participants;
 - (c) constrain the spread of COVID-19;
 - (d) safeguard the public interest in open justice; and
 - (e) assist court participants to exercise self-responsibility by complying with NSW Health endorsed social distancing measures, and communicating any health concerns they may have to security officers and court staff.

Ensuring that the Accused receives a Fair Trial

5. Pre-trial directions, readiness hearings and case management procedures have been put in place to ensure that all trials are ready to commence as close to the listed day as possible. Parties will be required to certify that all pre-trial issues have been identified and ruled upon before a jury is empanelled.
6. All court participants are required to comply with NSW Health advice on social distancing in order to ensure that there are no distractions and as few disruptions as possible during the course of the trial.
7. Where a jury is seated other than in the jury box, arrangements will be made to ensure they are able to properly view the proceedings and participate in the usual way.
8. Parties should be aware that in order to ensure a fair trial, some procedures may take longer than usual.

Ensuring the safety and wellbeing of Jurors and other Court Participants

9. A [COVID-19 Factsheet](#) will be sent to all prospective jurors advising them of the precautionary measures and guidelines in place to ensure their safety.
10. To maintain health requirements the following will be instituted:
 - (a) the number of jury trials listed at a particular location will be limited;
 - (b) practitioners should consider whether their personal appearance or any personal appearance by a witness or accused is appropriate. If it is sought that the appearance be by way of AVL, practitioners are encouraged to make the required application and arrangements well before the trial's commencement date;
 - (c) the summoning of jury panels will be staggered over different days and times;
 - (d) pre-emptive screenings for health concerns as endorsed by NSW Health may occur prior to and on the day prospective jurors are required to attend. In some locations prospective jurors may be contacted in the days preceding empanelment;
 - (e) all court participants may be provided a health screening for the common symptoms of COVID-19 upon entry to court premises. Such health screenings may involve the use of non-contact temperature checks and thermal scanning, as well as questions endorsed by NSW Health. Individuals who exhibit or report common symptoms of COVID-19 and who have not received a negative test result may be denied entry to court premises;
 - (f) where appropriate in a jury trial, priority testing may be arranged for court participants by the Sheriff of NSW or in accordance with the Protocol established by the Chief Judge with the Department of Health. All requests for priority testing must be made to the trial judge.
 - (g) at all times, social distancing is to be maintained at court entry points. Hand sanitiser will be available for court participants near lifts and in court rooms;
 - (h) the transport of jurors via lifts will be in accordance with NSW Health and Work Safe Australia guidelines;
 - (i) additional cleaning of court rooms, bathrooms, and other spaces used by court participants will be carried out regularly;
 - (j) sufficient copies of exhibits must be made available for the Court and each juror; and
 - (k) 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 trial judge for consideration.

Additional Requirements

11. The Court will continue to observe advice from NSW Health. The Court may vary or add to any of its procedures at short notice to respond to further advice or changing conditions.

Assisting Court participants to maintain compliance with NSW Health requirements

12. It is intended to stagger the commencement of trials to minimise the congregation of large numbers of people. Court participants are advised to check the time and location of any trial they are attending personally. It is likely that delays may occur notwithstanding the staggering of commencement times and participants are requested to ensure they allow for that potential.
13. Court participants are encouraged to make use of approved stairways where possible and to take personal responsibility for social distancing in public areas.
14. Strict social distancing measures will be observed within, assembly and deliberation rooms.

Pre-trial Case Management

15. In addition to existing readiness hearings, at the Downing Centre an AVL pre-trial call over will be held on Thursday the week before the trial's commencement. The purpose of the call over is to:
 - (a) confirm that the trial is ready to proceed;
 - (b) ensure that if there is any pre-trial argument, the exchange of submissions has occurred;
 - (c) make directions regarding the mode of attendance of the accused, practitioners and witnesses; and
 - (d) set a date and time for commencement of the trial in the following week.
16. It is expected at the call over that a trial which is ready to proceed will be allocated to a trial judge. Commencements of trials will be staggered to allow social distancing in public and jury areas. Listing notifications will be provided by the registry and available online.

Empanelment Process

17. At the Downing Centre, Parramatta and Newcastle empanelment will take place in two different court rooms. AVL cameras will be adjusted to enable court participants to view the entire jury panel and the panel to view the participants.
18. The procedure for empanelment of jurors at the Downing Centre is anticipated to be as follows:
 - I. Two court rooms will be used which will be adjacent to each other to allow ease of movement. It is likely that court rooms LG3 and LG4 will be used.
 - II. The jury panel will be seated in LG3 and will observe social distancing. All members of the jury panel will be able to see and hear by way of AVL the usual empanelment process which will take place in LG4.
 - III. The judge, associate, counsel and the accused will be in LG4. They will be able to see by way of AVL all members of the jury panel.
 - IV. Once 12 jurors have been selected, the court will adjourn from LG4 and reconvene in the court that has been allocated for the trial.
19. The empanelment process will necessarily differ when jury trials recommence at other District Court venues.

Social Distancing and Access to the Court Room

20. A review has been conducted for each court room. Those large enough for jury trials to occur in compliance with the NSW Health endorsed 4m² social distancing rule have been identified.
21. The number of people permitted under this rule will be advised by signage on both the judicial and general entrances. This represents an upper limit which should not be exceeded.
22. Some court room configurations will not permit jurors to maintain social distancing while seated in the jury box. In those cases, jurors will be seated throughout the general area of the court room and signage will indicate the seating to be used by jurors in the general area. This area will represent an extension of the jury box. This allocation has been made with consideration to social distancing requirements, in-court sightlines and the confidentiality needs of parties. The public will not be permitted in this area.
23. If there is difficulty in maintaining social distancing while the jury is entering the court room, participants other than counsel and the accused may be asked to exit the court room until the jury members have been seated.

Safeguarding the Public Interest in Open Justice

24. Provided the social distancing requirements for a court room are complied with, members of the media or public who wish to view the proceedings in-person may be permitted to do so subject to the direction of the presiding judge.
25. If it is not possible to facilitate personal attendances, the Virtual Court Room may be utilised to allow remote viewing. Any viewers should be aware of ss 9 and 9A of the *Court Security Act 2005*.