

Applications for leave for in person appearances in Hearings

Commencement

1. This Practice Note commences on 14 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 hearings, which includes bedside hearings at private homes and Issues and Listings Conferences (ILC) before the Registrar, 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 Dust Diseases Tribunal 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.

“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 Judge has not been allocated to a hearing), the Judge (where allocated) or the Registrar in relation to an ILC.
7. Applications for leave must be made at the time of listing a hearing or no later than one business day prior to the hearing date.
8. For bedside hearings at private homes, consideration will be given to the wishes of the plaintiff, the size of the premises, whether the proceedings can be held outside and the number of the parties to the litigation. Limitations may be placed on a party as to the number of lawyers who may attend a bedside hearing.
9. Leave will not be granted to any person to attend the Court in person unless the List Judge or Judge allocated to the hearing is satisfied that he or she is vaccinated.
10. 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 Judge allocated to the hearing. When a witness 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.

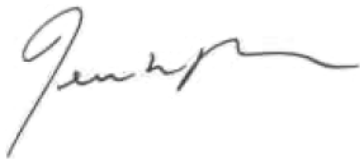
At Hearing

11. In hearings, 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 Judge considers relevant.

Open Justice

12. 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 hearing in person.

13. Members of the public may not attend court in person. Should a member of the public wish to view a hearing (other than a bedside hearing or ILC), 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 Judge's associate. All such requests will be subject to orders made by the Judge concerning the conduct of the hearing. A list of associate contact details is available on the Court's [website](#).
14. A member of the media who wishes to attend a hearing in person must provide evidence to the List Judge or Judge (where allocated to a hearing) 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 Judge's associate. All such requests will be subject to orders made by the Judge concerning the conduct of the hearing.



The Honourable Justice D Price AO
President of the Dust Diseases Tribunal
14 October 2021