

PUBLIC HEALTH ACT 2016 (WA)

Sections 157(1)(e), 157(1)(k), 180 and 190(1)(p)

COURT AND TRIBUNAL WORKER (RESTRICTIONS ON ACCESS) DIRECTIONS

The World Health Organization declared COVID-19 a pandemic on 11 March 2020.

On 23 March 2020, the Minister for Health declared a public health state of emergency with effect from 1.30 pm on 23 March 2020 in respect of COVID-19 pursuant to section 167 of the *Public Health Act 2016* (WA) (**Act**). On 22 September 2021, the Minister for Health declared a further public health state of emergency with effect from 4.25 pm on 22 September 2021 in respect of COVID-19 pursuant to section 167 of the Act. The public health state of emergency applies to the State of Western Australia.

I, Dr Andrew Robertson, the Chief Health Officer, authorised as an emergency officer under section 4 of the Act to exercise any of the emergency powers while the public health state of emergency declaration in respect of COVID-19 is in force, consider it reasonably necessary to give the following directions to all persons in Western Australia to prevent, control or abate the serious public health risk presented by COVID-19 pursuant to sections 157(1)(e), 157(1)(k), 180 and 190(1)(p) of the Act.

PREAMBLE

1. The purpose of these directions is to put in place some measures to address the unique risks posed by COVID-19 in a court or tribunal setting in order to limit the spread of COVID-19 in Western Australia to vulnerable persons within the court custodial facilities and to ensure that courts and tribunals can continue to provide essential services to the Western Australian community.

CITATION

2. These directions may be referred to as the **Court and Tribunal Worker (Restrictions on Access) Directions**.

COMMENCEMENT

3. These directions come into effect upon signing.

DIRECTIONS

Access Restrictions Applying to Court and Tribunal Workers

4. Subject to paragraphs 5 and 6:
- (a) on and from 12:01 am on 5 February 2022, a person who is a **court and tribunal worker** must not enter, or remain at, a **court or tribunal site** if the court and tribunal worker has not been **partially vaccinated** against COVID-19; or
 - (b) on and from 12:01 am on 5 March 2022, a person who is a court and tribunal worker must not enter, or remain at, a court or tribunal site if the court and tribunal worker has not been **fully vaccinated** against COVID-19,

unless the person is present at the court or tribunal site solely in a capacity other than as a court and tribunal worker or is an **exempt person**.

*Note: A person who is a court and tribunal worker who is fully vaccinated must comply with the **booster vaccination requirements** in the *Booster Vaccination (Restrictions on Access) Directions (No 2)*.*

General Vaccination Requirements

5. Where only part of **premises** are being used as a court or tribunal site, nothing in these directions prevents a court and tribunal worker who does not meet the requirements of paragraph 4 from entering that part of the premises which is not being used as a court or tribunal site.
6. Nothing in these directions prevents a person who is not vaccinated against COVID-19 from entering any part of a court or tribunal site for the purposes of:
- (a) performing a statutory duty arising under a law of the Commonwealth that cannot reasonably be performed other than by entering the court or tribunal site; or
 - (b) performing any function or duty or exercising any right or power under a Fair Work entry permit issued by the Fair Work Commission under the *Fair Work Act 2009* (Cth) or a Work Health and Safety entry permit issued by the Fair Work Commission under the *Work Health and Safety Act 2011* (Cth) or a right of entry permit issued by the Registrar of the Department of the Registrar, Western Australian Industrial Relations Commission under the *Industrial Relations Act 1979* (WA); or

- (c) responding to an emergency where the emergency response is required to be provided immediately and a fully vaccinated or partially vaccinated person is not available to provide the response; or
 - (d) in any circumstances approved in writing by the Chief Health Officer or a person authorised in writing by the Chief Health Officer for that purpose and subject to any conditions expressed in that approval.
7. A court and tribunal worker must provide evidence in the form approved by the **Chief Health Officer** of their **vaccination status** for inspection, recording and retention of a copy if:
- (a) **directed** to do so by an **emergency officer**; or
 - (b) required to do so by their employer or by the **Head of Jurisdiction** of the court or tribunal site or the **Head of Jurisdiction's delegate**.
8. The employer of a court and tribunal worker or the Head of Jurisdiction of the court or tribunal site or the Head of Jurisdiction's delegate must:
- (a) take all reasonable and lawful steps to:
 - (i) collect and maintain a record of the vaccination status of each court and tribunal worker; and
 - (ii) only roster on, or otherwise permit to work in a court or tribunal site, a court and tribunal worker who is vaccinated or is an exempt person in accordance with these directions;
 - (iii) if they are the Head of Jurisdiction of the court or tribunal site or the Head of Jurisdiction's delegate , only permit a court and tribunal worker who is vaccinated or an exempt person in accordance with these directions to enter, or remain at, the court or tribunal site, unless the person is present at the court or tribunal site solely in a capacity other than as a court and tribunal worker; and
 - (b) on request, provide any record of the kind referred to in paragraph 8(a)(i) that the employer of the court and tribunal worker or the Head of Jurisdiction of the court or tribunal site or the Head of Jurisdiction's delegate has collected and maintained to an emergency officer as soon as practicable after the request is made; and
 - (c) not use or disclose any record of the kind referred to in paragraph 8(a)(i) except:
 - (i) as provided for in this paragraph 8; or

- (ii) as permitted or required by law, including any law of the Commonwealth; or
 - (iii) for the purpose of ascertaining compliance with any employer direction restricting entry to a court or tribunal site; or
 - (iv) to the extent that the person expressly provided the person's vaccination status for a purpose other than for the purposes of these directions; and
 - (d) take reasonable steps to protect any record it holds of the kind referred to in paragraph 8(a)(i) from:
 - (i) misuse and loss; and
 - (ii) unauthorised access, modification or disclosure.
9. Any person, other than a court and tribunal worker, who enters, or remains at, a court or tribunal site must provide evidence in the form approved by the Chief Health Officer of their vaccination status for inspection, recording and retention of a copy if required to do so by the Head of Jurisdiction of the court or tribunal site or the Head of Jurisdiction's delegate.
10. A person who is required to provide evidence of their vaccination status under paragraphs 7 or 9 or a record of the kind referred to in paragraph 8(a)(i) under paragraph 8(b) must only provide that evidence or a record that is true and accurate.
11. The forms of evidence approved in the *Chief Health Officer Approved Form of Evidence Of COVID-19 Vaccination Under Each Of The Restrictions On Access Directions Given Under The Public Health Act 2016 (WA) In Respect Of COVID-19*, as amended or replaced from time to time, are approved for the purposes of paragraphs 7 and 9 of this direction.

BOOSTER VACCINATION

12. For the avoidance of doubt, these directions are a **Restrictions on Access Direction** for the purposes of the **Booster Vaccination (Restrictions on Access) Directions (No 2)**.
13. For the purposes of paragraph 14 of the **Booster Vaccination (Restrictions on Access) Directions (No 2)**, a court and tribunal worker who, in accordance with the date upon which **ATAGI** recommends a person receive their booster, can receive their **booster vaccination** prior to 5 February 2022, is to be administered the booster vaccination within one calendar month of 5 February 2022.

Note: A court and tribunal worker must comply with the booster vaccination requirements in the Booster Vaccination (Restrictions on Access) Directions (No 2) to enter, or remain at, a court or tribunal site.

INTERPRETATION

14. Unless specified otherwise, any reference in these directions to any other **direction** made by the Chief Health Officer is deemed to be a reference to that direction as amended or replaced from time to time.

DEFINITIONS

For the purposes of these directions:

15. **Ad hoc basis** means attendance at any court or tribunal site no more than once per week.

Note: A person who attends multiple court or tribunal sites in a week, but does not visit the same court or tribunal site twice, does not attend on an ad hoc basis.

16. **ATAGI** means the Australian Technical Advisory Group on Immunisation.
17. **Booster vaccination** has the same meaning that it has in the Booster Vaccination (Restrictions on Access) Directions (No 2).
18. **Booster vaccination requirements** has the same meaning that it has in the Booster Vaccination (Restrictions on Access) Directions (No 2).
19. **Chief Health Officer** has the same meaning that it has in the Act.
20. **Coroner** has the same meaning as in the *Coroners Act 1996* (WA).
21. **Coroner's investigator** has the same meaning as in the *Coroners Act 1996* (WA).
22. **Court** means the:
- (a) Supreme Court of Western Australia;
 - (b) District Court of Western Australia;
 - (c) Children's Court of Western Australia ;
 - (d) Magistrates Court;
 - (e) Family Court;
 - (f) Coroners Court of Western Australia; or
 - (g) Warden's Court.
23. **Court and tribunal worker** means:
- (a) a person of the kind set out in Column 1 of Schedule 1; or

- (b) any other person or class of persons specified in writing to be a court and tribunal worker by the Chief Health Officer or a person authorised by the Chief Health Officer for that purpose,

but does not include:

- (c) a person who enters any part of a court or tribunal site for any of the purposes in paragraph 6; or
- (d) a person of the kind set out in Column 2 of the table in Schedule 1.

24. **Court or tribunal site** includes:

- (a) a premise owned, occupied or operated by a court or tribunal;
- (b) a vehicle used in the transportation of a prisoner or a detainee to or from a court, but only at times when a prisoner or detainee is in the vehicle; or
- (c) any other site that is specified to be a court or tribunal site by the Chief Health Officer in writing or any person authorised by the Chief Health Officer for that purpose.

25. **Detainee** has the same meaning as in the *Young Offenders Act 1994* (WA).

26. **Direction** includes any direction under the Act, whether the direction is given orally or in writing, and **directed** includes directed by way of a direction under the Act, whether the direction is given orally or in writing.

27. **Emergency officer** has the same meaning that it has in the Act.

28. **Exempt person** means, to the extent that any such person is a court and tribunal worker:

- (a) a person who has:
 - (i) a **medical exemption** of which the person provides proof on request by a person referred to in paragraph 7; or
 - (ii) a **temporary exemption** of which the person provides proof on request by a person referred to in paragraph 7; or
- (b) any other person or class of persons who the Chief Health Officer, or a person authorised by the Chief Health Officer for the purposes of this paragraph, declares in writing to be an exempt person upon receipt of a request for exemption in the form specified by the Chief Health Officer and subject to any terms and conditions specified.

29. **Fully vaccinated** means that the person has been administered with two doses of a COVID-19 vaccine registered by the Therapeutic Goods Administration.

30. **Head of Jurisdiction** means:
- (a) in relation to the Supreme Court of Western Australia, the Chief Justice;
 - (b) in relation to the District Court of Western Australia, the Chief Judge;
 - (c) in relation to the Children’s Court of Western Australia, the President of the Children’s Court;
 - (d) in relation to the Magistrates Court Act, the Chief Magistrate;
 - (e) in relation to the Family Court of Western Australia, the Chief Judge;
 - (f) in relation to the Coroners Court of Western Australia, the State Coroner;
 - (g) in relation to the Tribunal, the President of the Tribunal;
 - (h) in relation to the Warden’s Court, the Warden.
31. **Head of Jurisdiction’s delegate** means:
- (a) another **judicial officer** or a person who is employed by the Department of Justice, Court and Tribunal Services and is authorised to perform a function as set out in paragraphs 7 and 8 of a Head of Jurisdiction who is referred to in paragraph 30 (a), (b), (c), (d), (e) and (g);
 - (b) another judicial officer or person who is employed by the Office of the State Coroner and is authorised to perform a function as set out in paragraphs 7 and 8 of the Head of Jurisdiction who is referred to in paragraph 30(f);
 - (c) a person who is employed by the Department of Mines, Industry Regulation and Safety and is authorised to perform a function as set out in paragraphs 7 and 8 of the Head of Jurisdiction who is referred to in paragraph 30 (h).
32. **Judge** means a person who is a judge of a **Court**.
33. **Judicial officer** means a person who is a:
- (a) **Judge**;
 - (b) **Magistrate**;
 - (c) **Member**;
 - (d) **Coroner**;
 - (e) **Warden**; or
 - (f) **Mining Registrar**.
34. **Jury officer** has the same meaning as in the *Juries Act 1957* (WA).
35. **Jury pool** has the same meaning as in the *Juries Act 1957* (WA).
36. **Magistrate** has the same meaning as in the *Magistrates Court Act 2004* (WA).

37. **Medical exemption** means a medical exemption recorded on the Australian Immunisation Register and displayed on the individual's Immunisation History Statement.
38. **Member** has the same meaning as in the *State Administrative Tribunal Act 2004* (WA).
39. **Mining registrar** has the same meaning as in the *Mining Act 1978* (WA).
40. **Partially vaccinated** means that the person has been administered with one dose of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
41. **Premises** has the same meaning it has in the Act.
42. **Prisoner** has the same meaning as in the *Prisons Act 1981* (WA).
43. **Restrictions on Access Direction** has the same meaning as in the Booster Vaccination (Restrictions on Access) Directions (No 2).
44. **Sheriff** has the same meaning as in the *Juries Act 1957* (WA).
45. **Summoning officer** has the same meaning as in the *Juries Act 1957* (WA).
46. **Temporary exemption** means an exemption approved by the Chief Health Officer or a person authorised by the Chief Health Officer for that purpose whether in relation to an individual or a class of persons and subject to any terms and conditions specified in that approval.
47. **Tribunal** has the same meaning as in the *State Administrative Tribunal Act 2004* (WA).
48. **Vaccination status** means whether a court and tribunal worker has been vaccinated or whether they are an exempt person.
49. **Warden** has the same meaning as in the *Mining Act 1978* (WA).

PENALTIES

It is an offence for a person to fail, without reasonable excuse, to comply with any of these directions, punishable by a fine of up to \$20,000 for individuals and \$100,000 for bodies corporate.



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Dr Andrew Robertson

Emergency Officer

31 January 2022 **07:31** hours

SCHEDULE 1

Court and Tribunal Workers

Row	Column 1	Column 2
1	A person who is a judge or judicial officer.	A person who is a visitor to a court or tribunal site.
2	<p>A person employed by the Department of Justice, Courts and Tribunal Services or the Department of Mines, Industry Regulation and Safety at a court or tribunal site or a person engaged to provide goods or services at a court or tribunal site, including in a voluntary or unpaid capacity or a person who is employed or engaged by a third party, other than a person covered in Column 2 of Schedule 1, including but not limited to:</p> <ul style="list-style-type: none"> (a) a person who provides a judicial function or judicial support function including: <ul style="list-style-type: none"> (i) a judicial support officer; (ii) a jury officer; (iii) a summoning officer; (iv) a court risk assessment officer; (v) a victim support officer; (vi) an administrative support officer; (vii) a judge's personal staff; (viii) a court custodial officer; (ix) a court usher; or (x) a court security officer. 	<p>A person who provides goods and services on an ad hoc basis to a court or tribunal site, including but not limited to:</p> <ul style="list-style-type: none"> (a) a tradesperson, including but not limited to a drainer, gasfitter, plumber, mechanic, electrician, builder, air conditioning or refrigeration worker, metal fabricator, plumber, plasterer; or (b) delivery driver who provides goods at a court or tribunal site.

	<p>(b) a person engaged by a labour hire firm that provides staff to supplement the permanent workforce and contractors;</p> <p>(c) an ancillary staff member including a cleaner, a person performing food preparation services and a person providing maintenance services.</p>	
<p>3</p>	<p>A person who is in a jury pool to be selected as a juror.</p> <p><i>Example: a person who is a potential juror and enters a court or tribunal site to undertake jury duty or becomes a juror selected for a trial.</i></p>	<p>A person who enters, or remains at, a court or tribunal site where the person has been summoned to appear or appears without being summoned, other than a person covered in Column 2 of Schedule 1, including but not limited to a person who is:</p> <ul style="list-style-type: none"> (a) a witness; (b) a key expert or specialist; (c) a party to the proceedings, (d) an accused, including a detainee or prisoner, <p>other than a person of the kind set out in row 3 column 1 of this schedule.</p>
<p>4</p>	<p>A person who attends a court or tribunal site for a court or tribunal work-related purpose, other than a person covered in Column 2 of Schedule 1, including, but not limited to a person who is:</p> <ul style="list-style-type: none"> (a) a legal practitioner; (b) a police prosecutor; (c) a coroner's investigator; 	

	<p>(d) a sheriff or summoning officer;</p> <p>(e) a journalist or media court reporter;</p> <p>(f) an assistant, administrative officer or support staff to a legal practitioner or police prosecutor.</p>	
5	<p>A person who is a student or on work experience and is on a placement at a court or tribunal site as a formal part of their education.</p>	