



Court and Tribunal Worker (Restrictions on Access) Directions Exemption Guidelines

Based on the health advice from Western Australia's Chief Health Officer, due to the unique risks posed by COVID-19 in a court or tribunal setting, the *Court and Tribunal Worker (Restrictions on Access) Directions* (the **Directions**) were made on 31 January 2022 and came into effect upon signing.

Under the Directions, the following persons must be vaccinated against COVID-19 for the following reasons:

- Court and Tribunal Workers in order to enter, or remain at, a court or tribunal site.

All Court and Tribunal Workers are required to comply with the requirement for vaccination against COVID-19 unless they are an exempt person or are solely attending a court or tribunal in a capacity other than as a Court and Tribunal Worker.

Court and Tribunal Workers are required to be vaccinated against COVID-19 as follows:

- From 5 February 2022 – **Partially vaccinated** (first dose)
- From 5 March 2022 – **Fully vaccinated** (second dose)

Partially vaccinated means that a person has been administered with one dose of a COVID-19 vaccination registered by the Therapeutic Goods Administration.

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

All Court and Tribunal Workers, their employers, Heads of Jurisdiction (and their delegates) should refer to the Directions to determine the vaccination requirements.

These guidelines provide a summary of the exemptions arising under the Directions at the time these guidelines are published.

The signed Directions are available at [Court and Tribunal Workers \(Restrictions on Access\) Directions \(www.wa.gov.au\)](https://www.wa.gov.au/government/legislation/court-and-tribunal-workers-restrictions-on-access-directions) and may be amended or replaced from time to time.

Who is a Court and Tribunal Worker?

A Court and Tribunal Worker means each of the following:

- A person who is a judge or judicial officer.

- 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. This includes but is not limited to:
 - a) a person who provides a judicial function or judicial support function. For example, a registrar, judicial support officer, summoning officer, court usher or court security officer
 - b) a person engaged by a labour hire firm that provides staff to supplement the permanent workforce and contractors
 - c) an ancillary staff member including a cleaner, a person performing food preparation services and a person providing maintenance services.
- A person who is in a jury pool to be selected as a juror.
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.
- A person who attends a court or tribunal site for a court or tribunal work-related purpose, including, but not limited to a person who is a legal practitioner, coroner's investigator, sheriff, journalist or their support staff.
- 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.
- 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.

A Court and Tribunal Worker does not include each of the following:

- A person who is a visitor to a court or tribunal site.
- A person who provides goods and services on an ad hoc basis to a court or tribunal site, including but not limited to a tradesperson or a delivery driver delivering goods at a court or tribunal site.
Note: A person who attends any court or tribunal site more than once per week does not attend on an ad hoc basis.
- 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. This includes, but is not limited to, a person who is a witness, key expert or specialist, a party to the proceedings or an accused (detainee or prisoner).
- A person performing a statutory duty arising under a Commonwealth law that cannot reasonably be performed other than by entering the court or tribunal site.
- A person performing any function or duty or exercising any right or power under a Fair Work entry permit or a Work Health and Safety entry permit or a right of entry permit

issued by the Registrar of the Western Australian Industrial Relations Commission.

- A person responding to an emergency in a capacity other than a person who is subject to vaccination requirements under a direction, and 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.
- A person covered by any circumstances approved in writing by the Chief Health Officer or any person authorised by the Chief Health Officer for that purpose (subject to conditions).

What is a Court and Tribunal Site?

A Court and Tribunal Site includes each of the following:

- A premise owned, occupied or operated by a court or tribunal, including the:
 - Supreme Court of Western Australia
 - District Court of Western Australia
 - Children's Court of Western Australia
 - Magistrates Court
 - Family Court
 - Coroners Court of Western Australia
 - Warden's Court
 - State Administrative Tribunal.
- 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.
- 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.

Who can require evidence of vaccination status be produced?

An employer or the Head of Jurisdiction of the court or tribunal site (or the Head of Jurisdiction's delegate), may require a Court and Tribunal Worker to provide evidence of their vaccination status in a form approved by the Chief Health Officer for inspection, recording and retention of a copy. An emergency officer may also direct evidence of vaccination status be produced by a Court and Tribunal Worker.

The Head of Jurisdiction of a court or tribunal site (or their delegate) may require **any** person who enters, or remains at, a court or tribunal site to provide evidence of their vaccination status in a form approved by the Chief Health Officer for inspection, recording and retention of a copy.

Who is a Head of Jurisdiction? Who is their Delegate?

Head of Jurisdiction means:

- in relation to the Supreme Court of Western Australia, the Chief Justice
- in relation to the District Court of Western Australia, the Chief Judge
- in relation to the Children's Court of Western Australia, the President of the Children's Court
- in relation to the Magistrates Court Act, the Chief Magistrate
- in relation to the Family Court of Western Australia, the Chief Judge
- in relation to the Coroners Court of Western Australia, the State Coroner
- in relation to the Tribunal, the President of the Tribunal
- in relation to the Warden's Court, the Warden.

The Directions allow for certain powers of a Head of Jurisdiction to be exercised by the Head of Jurisdiction's delegate. The Directions specify who is eligible to perform the functions of a Head of Jurisdiction's delegate.

What are the types of exemptions?

If you are a Court and Tribunal Worker, you are an exempt person if:

- You have a **medical exemption**.

Medical exemption means a medical exemption recorded on the Australian Immunisation Register displayed on the person's Immunisation History Statement.

Further information on medical exemptions is available on the [Australian Immunisation Register website](#). This information specifies that the only reasons a person might be able to get an exemption from having a vaccine are if the person:

- had anaphylaxis after a previous dose of a vaccine
- had anaphylaxis after a dose of any component of a vaccine
- is significantly immunocompromised — for live vaccines only.

- You have a **temporary exemption**.

A Court and Tribunal Worker, their employer, the Head of Jurisdiction the relevant court or tribunal site (or their delegate) may apply for a temporary exemption. A temporary exemption will only last for a limited time and may be subject to terms and conditions. Details about this process are set out in these guidelines.

- Any other Court and Tribunal Worker declared to be an **exempt** person by the Chief Health Officer, or a person authorised by the Chief Health Officer for that purpose.

An exemption may be subject to terms and conditions. Details about this process are set out in these guidelines.

For more information about specific exemptions please refer to the Directions available at [Court and Tribunal Workers \(Restrictions on Access\) Directions \(www.wa.gov.au\)](http://www.wa.gov.au).

Temporary Exemption – Paragraph 28(a)(ii)

How do I apply for a temporary exemption?

A Court and Tribunal Worker may apply for a temporary exemption. Additionally, an employer or the Head of Jurisdiction of the relevant court or tribunal site (or their delegate) may apply for a temporary exemption on behalf of the Court and Tribunal Worker(s).

If you are one of the above-mentioned persons and wish to apply for a temporary exemption for yourself or on behalf of a Court and Tribunal Worker(s), submit a Temporary Exemption Application Form.

As it can take time to determine an application for a temporary exemption, and you may be contacted to provide further information, please submit the Temporary Exemption Application Form well in advance of the time that the temporary exemption is required.

You do not need to apply for a temporary exemption if you:

- have a medical exemption
- are performing a specific duty which is excluded under the Directions
- are not considered to be a Court and Tribunal Worker as specified in the Directions
- are declared to be an exempt person.

Duration of temporary exemption

A temporary exemption will be granted for a specified period or for a specified purpose, which will be considered on a case by case basis.

Temporary exemption may be subject to terms and conditions

A temporary exemption may be subject to terms and conditions which will be specified in the temporary exemption decision form.

Reasons to apply for a temporary exemption

Court and Tribunal Worker

Examples of when a temporary exemption may be considered are as follows:

- if the Court and Tribunal Worker can demonstrate they have taken every effort to access a COVID-19 vaccine registered by the Therapeutic Goods Administration but have been unable to due to supply or access limitations
- if Court and Tribunal Worker has been vaccinated against COVID-19 outside Australia with a vaccine that is not registered by the Therapeutic Goods Administration

- if the Court and Tribunal Worker is in the process of applying for a medical exemption, but that process is not yet complete.

Information and evidence to support the application for a temporary exemption will need to be provided.

Employer, Head of Jurisdiction or Head of Jurisdiction's Delegate

The employer of a Court and Tribunal Worker or the Head of Jurisdiction of the relevant court or tribunal (or their delegate) may submit an application for a temporary exemption on behalf of a Court and Tribunal Worker. Examples of when a temporary exemption may be considered are as follows:

- if the employer or Head of Jurisdiction (or their delegate) can demonstrate that they are making every effort to ensure the Court and Tribunal Worker has been vaccinated against COVID-19 but has not yet achieved this
- if a person is a member of a jury panel at the time the Directions come into force.

Information and evidence to support the application for a temporary exemption will need to be provided.

Declaration of an exempt person or class of persons – Paragraph 28(b)

A person or class of persons may be declared to be exempt. A Court and Tribunal Worker or their employer may apply for an exemption. The Head of Jurisdiction, or the delegate of the Head of Jurisdiction, is also able to apply for an exemption on behalf of a person or class of persons.

If you are one of the above-mentioned persons and wish to apply for an exemption declaration, please submit an Exemption Application Form. Information and evidence to support the application to be declared exempt would need to be provided.

As it can take time to determine an application for an exemption, and you may be contacted to provide further information, please submit the Exemption Application Form well in advance of the time that an exemption is required.

The exemption may be subject to terms and conditions which will be specified in the exemption decision form.

Compelling circumstances must exist for a declaration to be made. For example, an exemption could be granted in rare circumstances where a medical exemption cannot be recorded on the Australian Immunisation Register but advice has been provided by an expert or experts approved by the Chief Health Officer about the need for an exemption.

Approval of temporary exemption/declaration of exemption

If the temporary exemption is approved or a person or class thereof is declared exempt, an approval/declaration (as the case may be) will be provided to the applicant.

The Court and Tribunal Worker must:

- produce a copy of the exemption approval/declaration for inspection if directed to do so by an emergency officer
- provide a copy of the exemption approval/declaration to their employer if required to do so, and
- keep a copy of the exemption approval/declaration available while performing duties or undertaking activities as a Court and Tribunal Worker at a court or tribunal site.

If a temporary exemption or exemption is not approved

You will be notified if an application for a temporary exemption or a declaration of an exempt person or class of persons is not approved.

If the application is not approved, the Court and Tribunal Worker who is not vaccinated in accordance with the Directions must not enter or remain at a court or tribunal site.

Do Court and Tribunal Workers need to comply with booster vaccination requirements?

A Court and Tribunal Worker must comply with the booster vaccination requirements set out in the [Booster Vaccination \(Restrictions on Access\) Directions \(No.2\)](https://www.wa.gov.au/government/department-of-health/booster-vaccination-restrictions-on-access-directions-no-2) (www.wa.gov.au)

A Court and Tribunal Worker who is eligible for a booster vaccination in accordance with the ATAGI recommendation at 5 February 2022 will be required to be administered the booster vaccination by 5 March 2022.

More information

If you would like more information about the types of exemption and information and evidence that may need to be provided, contact COVIDVaccinationExemption@health.wa.gov.au.

Further information is available at:

www.wa.gov.au

Call **13 COVID (13 268 43)** for general and quarantine related queries

Dated 1 February 2022.

This document can be made available in alternative formats on request for a person with disability.

© Department of Health 2022