

Empanelment Guidance for Practitioners

Introduction

1. The purpose of this document is to provide guidance to lawyers appearing in jury trials at the Downing Centre when the temporary suspension of jury trials is lifted by the District Court of NSW. It is the Court's present intention to recommence jury trials on a limited basis on and from 15 June 2020.
2. This document is supplementary and is to be read in conjunction with the [General Protocol](#) dated 26 May 2020.

Procedure for Jury Empanelment

3. Empanelment in the Downing Centre will use two adjacent courts with specialised AVL facilities to maintain social distancing. It is expected that court rooms LG3 & LG4 will be used.
4. The court officers and jury panel will be in LG3. The AVL cameras have been adjusted to show the entirety of the assembled panel in the body of the court room in LG4. Sound will not be projected into LG4 from LG3.
5. The Judge, associate, accused, and practitioners will be in LG4. The AVL cameras will show the Judge, bar table, and witness box. Sound will be projected into LG3 from LG4.
6. The procedure is as follows:
 - (a) The accused will be taken from the dock or the general area of the court room into the witness box to provide a clear view of the accused to the assembled panel. The associate will stand at the bar table and arraign the accused. The accused will then return to the dock or the general area as appropriate. If there is more than one accused, each accused will be arraigned separately. Should it be necessary for an accused to be accompanied by a correctives officer to the witness box, the correctives officer will not be visible from LG3. This procedure of arraigning an accused in the witness box has been adopted as the view of an accused in the dock to the jury panel in LG3 is not ideal.
 - (b) The Judge will then introduce the usual procedure to the panel via AVL.
 - (c) The Judge will then invite the Crown to address the panel with an outline of the case and the witnesses via AVL. The places for Crown and Defence Counsel will be indicated with signs so that they are able to be viewed clearly by the jury panel in LG3.
 - (d) The Judge will then ask the panel for requests to be excused. Applicants will be physically walked into LG4 by the court officer for determination. If they are not excused they will be walked back to LG3. If they are excused they may wait behind the glass partition at the back of LG4.
 - (e) The associate will then stand in the witness box and call numbers from the ballot so as to ensure the panel has a clear view. After prospective jurors' numbers are called they will be brought into LG4 and seated in the jury box or marked seating.

The process continues until there are 12 potential jurors. The Judge will then invite the prospective jurors to consider whether they know anyone in LG4 now that they are physically in the court room. Counsel may be invited to view the remaining panel in LG3 by physically walking into the court room.

- (f) The Judge will then consider challenges. Any successfully challenged jurors may return to LG3 or wait behind the glass partition. The process then repeats with three more prospective jurors' numbers being called until there is a complete jury.
- (g) The jurors are then sworn in LG4.
- (h) The Judge, parties, and jury then proceed separately to the allocated trial court room and the trial commences.
- (i) The remaining panel members return with the court officers and the court rooms are cleaned prior to the next empanelment.

Disruptions

- 7. It is expected that some adjournments and delay will occur as a result of COVID-19. The trial is therefore likely to progress at a slower pace than usual, and as a consequence flexibility and patience will be required from all participants.
- 8. Communication is key to the trial progressing. Practitioners should advise the Court as soon as possible if they begin to develop symptoms of COVID-19.
- 9. The Sheriff's officers will be screening all court participants, including jurors and counsel on entry into the building. In the event a decision is made to exclude a participant on health concern grounds, the trial Judge or registry will be advised immediately. Where COVID-19 appears to be a possible issue and it is likely to disrupt the proceedings in a significant way, priority testing may be arranged 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.
