

OPERATION WITNEY PUBLIC INQUIRY – COVID-19 PROTOCOL

1. GENERAL

- 1.1 The health and wellbeing of those using the Commission's hearing room and associated public inquiry facilities is paramount. The Commission will take all reasonable steps and precautions to minimise the risk of transmission of COVID-19 to such users.
- 1.2 This Protocol is intended to outline mitigation strategies for known COVID-19 risks.
- 1.3 The Commission will continue to observe relevant health advice and may vary procedures under this Protocol at short notice to respond to changing conditions.
- 1.4 The management of COVID-19 in the community and the workplace is a dynamic and rapidly evolving situation. Any person having any concerns about this Protocol or its implementation may raise those concerns with the Commission's Chief Executive Officer. The Commission's Chief Executive Officer will maintain regular contact with NSW Health and keep abreast of any advice that is publicly available on their COVID-19 website, to ensure that this Protocol appropriately reflects current health advice. The implementation of the Protocol will be monitored and regularly reviewed by the Commission's Chief Executive Officer to ensure it remains appropriate.

2. CAPACITY

- 2.1 The functional capacity of the Commission's hearing room and waiting area adjacent to the hearing room have been assessed by calculating the maximum capacity, based on one person per two square metres and then considering the configuration of fittings and the need to maintain 1.5 metres distance between each occupant.
- 2.2 The capacity of the Commission's hearing room has been assessed at a maximum of **twenty four (24) persons**, including Commission staff. This includes seating for six (6) persons at the rear of the hearing room.
- 2.3 The capacity of the Commission's waiting area adjacent to the hearing room has been assessed at a maximum of **ten (10) persons**,

3. PUBLIC AND MEDIA INVOLVEMENT

- 3.1 Given the limited capacity of the Commission's hearing room and the time needed to complete screening arrangements put in place for those attending the Commission (see below), the Commission has decided that members of the public and the media will not be given access to the Commission's premises for the purpose of observing the public inquiry.

- 3.2 The Commission may, at its discretion, allow a pool camera with camera operator and sound operator to film the opening address of Counsel Assisting the Commission.
- 3.3 Members of the public and the media will be able to observe the public inquiry through live-streaming and will be able to access transcripts and exhibits through the Commission's website: www.icac.nsw.gov.au.
- 3.4 Members of the media can contact the Commission's Manager Communications and Media on 0417 467 801 or by email at nthomas@icac.nsw.gov.au for additional information and assistance.

4. AUTHORISATION TO APPEAR AND LEGAL REPRESENTATION

- 4.1 Applications for authority to appear and applications to be legally represented should be made in the week prior to the commencement of the public inquiry. They will be determined by the presiding Commissioner in chambers.
- 4.2 Person's anticipating they will need to appear at the public inquiry or a specified part of the public inquiry should make a written application (including by email) to the Commission for authorisation to appear (see paragraph 6 of the Standard Directions for Public Inquiries). The application should be emailed to Sabina Aielli at saielli@icac.nsw.gov.au. Such application should be made at least **three** working days before the commencement of the public inquiry.
- 4.3 Where the need to seek authorisation to appear only arises once the public inquiry is underway, the person seeking authorisation should email an application to Sabina Aielli at saielli@icac.nsw.gov.au as soon as possible.
- 4.4 Applications for authorisation to be represented by an Australian legal practitioner at the public inquiry or a specified part of the public inquiry should be made in writing (including by email) to the Commission for authorisation to appear (see also paragraph 6 of the Standard Directions for Public Inquiries). The application should be emailed to Sabina Aielli at saielli@icac.nsw.gov.au. Such application should be made at least **three** working days before the commencement of the public inquiry.
- 4.5 Where the need to seek authorisation to be represented by an Australian legal practitioner only arises once the public inquiry is underway, the person seeking authorisation should email an application to Sabina Aielli at saielli@icac.nsw.gov.au as soon as possible.

5. PRE-HEARING PROCESS

- 5.1 Once served with a summons to appear before the Commission at the public inquiry, and prior to their attendance at the Commission, each witness will be contacted by a Commission officer and requested to provide the following information:
- a) The name and contact details of any Australian legal practitioner who the person wishes to have represent them at the public inquiry;
 - b) Whether the person requires a translator;

- c) Whether the person has COVID-19;
- d) Whether the person has taken a test for COVID-19 and, if so, when and with what result (or if awaiting the result when the result is expected);
- e) Whether the person has been requested by NSW Health to self-isolate;
- f) Whether the person has any flu-like symptoms including fever, cough, sore throat, runny nose, shortness of breath or loss of taste or smell and, if so whether they have consulted a doctor and the outcome of that consultation;
- g) Whether the person has any concerns attending the Commission due to any personal vulnerability to COVID-19 or any such vulnerability of a person with whom they are in regular contact
- h) Such other questions as may be required in accordance with relevant COVID-19 health advice.

5.2 Each Australian legal practitioner seeking to attend the Commission and any translator engaged by the Commission to attend the Commission will also be contacted by a Commission officer prior to their attendance and requested to provide the information set out in paragraph 5.1(c) to (h) above.

6. SITTING TIMES

6.1 Sitting times will generally be between 10:00am to 4:00pm with a morning tea break and a lunch break between 1:00pm and 2:00pm.

7. TRAVELLING TO AND FROM THE COMMISSION

7.1 A witness requiring transport to or from the Commission's premises may travel by their own private vehicle to the Commission's premises and park in the commercial carpark under those premises or in other commercial parking stations nearby. The cost of this parking will be reimbursed by the Commission upon provision of a valid receipt. If the person does not have access to their own vehicle and is travelling from within the metropolitan area of Sydney, then they can travel to the Commission premises by taxi and can minimise their risk of exposure by sitting in the back seat with the windows down. The Commission will reimburse the cost of the taxi upon provisions of a valid receipt. They should also use hand sanitisers before, during and after travel to reduce likelihood of contact exposure whilst travelling. Those travelling to and from the Commission should observe any relevant Public Health Order.

7.2 The Commission will also cover the reasonable travel and accommodation costs of those required to travel from country areas in order to attend the public inquiry. Further details can be found in the *Information for Witnesses* brochure served with each summons. A copy of the brochure can also be accessed from the Commission's website at www.icac.nsw.gov.au.

8. PUBLICATION OF WITNESS LISTS

8.1 The Commission will publish on its website prior to each week of the public inquiry the name of each witnesses who it is intended will give evidence during the following week and the day the person is likely to give evidence. This will allow those involved in the

public inquiry to determine whether they need to be physically present in the hearing room on any given day to, for example, seek leave to cross-examine a witness.

8.2 Such lists may be altered during the course of the week to reflect the changing circumstances of the public inquiry. Any changes to the list will be published as soon as possible on the Commission's website

9. DETERMINING WHO CAN BE PRESENT IN THE HEARING ROOM

9.1 The limited capacity of the hearing room means that it will be necessary to restrict the number of persons, including members of legal teams, who can be present in the hearing room or on Commission premises at any one time.

9.2 Those who are unable to be in the hearing room or on Commission premises can keep track of the progress of the public inquiry through the live stream. They may also attend via MS Teams audio/visual link where such link is available.

9.3 Subject to any decision by the presiding Commissioner, only one member of a legal team will be able to be physically present in the hearing room at any one time.

9.4 Subject to any decision by the presiding Commissioner, a witness will only be permitted to be physically present in the hearing room when giving evidence. However, if a person who has been summonsed to attend as a witness is unrepresented and needs to be physically in the hearing room to cross-examine another witness then that person may be present in the hearing room for that purpose.

9.5 Any Australian legal practitioner, other member of a legal team or witness who is not giving evidence on the relevant day wishing to be physically present in the hearing room on any day(s) should notify the Commission by emailing Sabina Aielli at saielli@icac.nsw.gov.au at least one working day before the intended attendance. The notification should include reasons why the person needs to be physically present in the hearing room on the relevant day(s) and the time(s) of the proposed attendance.

9.6 The Commission will determine which persons seeking access under paragraph 9.5 will be allowed in the hearing room or to wait in the Commission's waiting area on any particular day and notify those who sought access of its decision.

9.7 The names of those granted access to the hearing room will be placed on one list and the names of those granted access to the Commission's waiting area will be placed on another list. Both lists will be provided to the Commission's Special Constables. The Special Constables will not allow persons to enter the hearing room unless their name is on the list for entry into the hearing room or allow persons to remain in the Commission's waiting area unless their name is on the list to be in the waiting area. **Those not on either list will be required to leave the Commission's premises.**

10. MS TEAMS

- 10.1 Those Australian legal practitioners wishing to participate in the public inquiry through MS Teams should email Sabina Aielli at saielli@icac.nsw.gov.au at least one working day before their anticipated participation with details of the time(s) they wish to access the public inquiry through MS Teams and the reason why access is required. This is so that appropriate arrangements can be made by the Commission.
- 10.2 The Commission reserves the right to prioritise access through MS Teams.

11. ARRIVAL AT THE COMMISSION'S PREMISES

- 11.1 Witnesses, Australian legal practitioners, other members of any legal team and any translators (visitors) attending the Commission's premises for the public inquiry should arrive **no later than 9:40am** each day of the public inquiry so that there is time to complete the screening process before commencement of the public inquiry. Entry to the Commission's premises prior to 8:30am is not permitted.
- 11.2 All visitors may enter the Commission's 255 Elizabeth Street offices from one of two entrances, either Elizabeth Street or Castlereagh St. Building management have placed COVID-19 information in the lift foyers and installed hand sanitiser stations near the lifts.
- 11.3 There are five lifts to the Commission's hearing room on level 7 and their interiors are roughly 1.6 by 1.9 metres in size. The lifts buttons, both internal and external, are regularly wiped down by building management and there are markers on each lift floor indicating only three people should be in the lift at the same time.
- 11.4 Upon arrival on level 7 by lift, visitors will enter the Commission's reception area and proceed to the reception desk where either the receptionist or a Special Constable will check their names are on one of the lists referred to in paragraph 9.7 and explain the procedure that will be followed to gain further access to the Commission's premises. Visitors will be asked to use the hand sanitiser station adjacent to the reception area.
- 11.5 All visitors will then be required to complete COVID-19 registration by QR code or in paper form and will be required to answer the screening questions in paragraph 5(1)(a) to (h) above.
- 11.6 All visitors will then have their temperature taken using an infrared thermometer.
- 11.7 If the person's temperature is 37.5 degrees or above they will be directed to leave the Commission's premises.
- 11.8 If the visitor answers "yes" to any question in paragraph 5.1(c) or (e) or is awaiting the outcome of a COVID-19 test, the visitor will be asked to leave the premises but may also be asked to provide the Commission with documentary proof.
- 11.9 If the visitor answers "yes" to any of the questions in paragraph 5.1(f), then, depending on whether the visitor has consulted a doctor and the result of that consultation, the visitor

may be asked leave the premises and may also be asked to provide the Commission with documentary proof.

- 11.10 If the visitor has any concerns referred to in paragraph 5.1(g), those concerns will be noted and reported to the presiding Commissioner who will determine the appropriate course of action.
- 11.11 If the visitor refuses to answer any question this will be reported to the presiding Commissioner, who will determine the appropriate course of action.
- 11.12 The information obtained from the screening process, including the visitor's temperature, will be recorded and retained by the Commission.
- 11.13 If the visitor is not wearing a face mask they will be provided a face mask by the health professional to wear whilst they are on the Commission's premises (except when giving evidence).
- 11.14 Once through screening, all visitors will be directed by the Special Constable to place any bags they have on the conveyor belt of the x-ray machine, and to proceed through the security scanner to the hearing room.
- 11.15 Commission officers, counsel assisting and any transcription staff proposing to enter the hearing room will also be required to answer the screening questions and have their temperature taken. They will be dealt with in the same way as visitors.
- 11.16 The procedures set out in paragraph 11.5, the taking of a temperature check as set out in paragraph 11.7 and the procedures set out in paragraph 11.8 will also apply to persons returning to the Commission's Level 7 premises for the continuation of the public inquiry following a luncheon adjournment.

12. THE HEARING ROOM & WAITING AREA

- 12.1 There is a sign on the hearing room advising that the maximum capacity of the hearing room is **twenty four (24) persons**. This includes Commission officers and counsel assisting. After taking into account the number of Commission officers and counsel assisting the Commission who need to be present, the total number of visitors (including witnesses) who can be in the hearing room at any one time is **sixteen (16) persons**, including six (6) seated at the rear of the hearing room.
- 12.2 The Commission's Special Constables will control visitor access to the hearing room and the waiting area adjacent to the hearing room (maximum capacity of **ten (10) persons**) to ensure that the number of people in each room does not exceed maximum capacity.
- 12.3 Each position where people may sit in the hearing room and waiting area is clearly marked to ensure appropriate social distancing. No person should sit outside a marked area.
- 12.4 Hand sanitiser is provided and is to be used where necessary. The Commission will provide bottled water for each witness giving evidence and legal practitioners attending the

hearing room. The Commission will not provide jugs, glasses or water for other persons. Persons attending the public inquiry may bring their own water container.

- 12.5 Persons in the hearing room, other than the witness giving evidence, may wear a face mask.

13. CONDUCT OF THE PUBLIC INQUIRY

- 13.1 Subject to any modification by this Protocol, the Commission's Standard Directions for Public Inquiries applies. The Commission's Public Inquiry Procedural Guidelines also applies. These are published in the *Information for Witnesses* brochure served with each summons and can also be accessed from the Commission's website at www.icac.nsw.gov.au.

- 13.2 As a general rule, during the public inquiry paper documents or other things should not be passed around within the hearing room. Electronic versions of documents to be put to the witness will be shown on the screens to reduce the risk of COVID-19 transmission. If the handling of any document or other thing is unavoidable, then those handling them should use the hand sanitiser provided before and after handling the document or other thing.

- 13.3 If, during the public inquiry, any person in the hearing room or waiting area exhibits any signs of illness or reports feeling unwell they will be asked to leave the premises immediately. This will be facilitated by the Special Constables upon the request of the presiding Commissioner. The presiding Commissioner will determine immediately after such an event whether to suspend proceedings, following consultation with those present, to ensure the safety and wellbeing of all those present and to ensure that appropriate arrangements are taken to undertake cleaning of the hearing room and any other area that that person may have entered during their time at the Commission. All parties will be kept informed by the Commission of any developments following such an incident. In such event, a record will be made of the event and the names of the persons present to enable consultation with NSW Health.

- 13.4 Should any Commission officer, counsel assisting, witness, Australian legal practitioner or a translator have need to discuss any matter with one another, either in the hearing room or elsewhere on Commission premises, they should endeavour to maintain a distance of at least 1.5m from each other.

14. CLEANING

- 14.1 The Commission will ensure that all hard surfaces in the reception and waiting areas and in the hearing room will be thoroughly cleaned at the end of each day in accordance with guidelines issued by Safe Work Australia.

15. POST ATTENDANCE DIAGNOSIS

- 15.1 Anyone who has attended the public inquiry who is diagnosed with COVID-19 within fourteen (14) days of their last attendance at the Commission should notify the Commission of the diagnosis as soon as possible.