



Commission response to the coronavirus pandemic

The Workers Compensation Commission continues to be focused on protecting our people and those who use our services, while continuing to deliver our important work. If we can keep those who use the Commission and our staff/members in good health, cases can continue to be heard. The situation that our community currently faces is unprecedented and calls for an immediate and creative response.

Please read this message, which provides further information about Commission operations.

Commission operations – procedural changes

Further to [e-Bulletin No. 97](#), and in view of the emerging situation with COVID-19, the following procedural changes will be implemented to the Commission's operations. These changes will be implemented during the currency of the COVID-19 crisis. Once the crisis is over, the Commission will return to standard operations. Section 354 of the *Workplace Injury Management and Workers Compensation Act 1998 (NSW)* supports these changes.

I am fully committed to the principle of in-person hearings and justice being conducted in the open. Such processes have integrity and enjoy widespread public support. They also afford the citizen the right to have their case heard and dealt with in a suitably formal process.

However, this long-held process must change due to the current coronavirus crisis. In this regard, I am balancing the competing demands of open justice against the prospect of justice being delayed. If the Commission's decision-makers or the staff who support them become unwell with this virus, we will be unable to deliver justice and thus justice would be denied. Furthermore, I do not wish to add any further risk to the health and well-being of the lawyers and litigants who come here every day in large numbers.

I reiterate that once this crisis is over, the Commission will return to in-person hearings. When this occurs will depend upon the best medical advice available.

From Monday 23 March 2020, I will be ceasing all in-person hearings and closing the Commission's hearing rooms. Decisions during this period will continue to be published on the Commission's website.

I will confer with stakeholders during the currency of the revised procedures to ensure their optimal operation and will implement any further changes or enhancements that may be required.

From Monday 23 March 2020, conciliation/arbitration proceedings, mediation conferences and presidential hearings will be conducted by telephone. In some circumstances, for example where a witness needs to give evidence, the proceedings may be conducted by audio-visual link. All arbitration proceedings and presidential proceedings conducted by telephone or audio-visual link will be recorded.

To make this system work optimally, parties, and in particular applicant's lawyers, should confer with their client regarding settlement well prior to the telephone conference. Parties will be contacted by the Commission Registry with the relevant details for the hearing.

In exceptional circumstances proceedings may be conducted in-person. If a party seeks that proceedings be conducted in-person, an application must be made in writing to the Commission's Registry setting out the reasons why. Parties will also be required to justify the persons who they seek to have present during the in-person proceeding. Parties should operate to minimise the persons who are present during the in-person proceeding. Their presence must be absolutely necessary for the proceedings at hand. I will determine each application for in-person proceedings on a case-by-case basis.

If I grant approval for proceedings to be conducted in-person, the following procedures will apply:

- (a) parties must only attend the venue for the proceedings at the allocated time;
- (b) parties must not enter the room for which the proceedings are conducted until the matter is called;
- (c) parties must depart the room and the venue at which the proceedings are conducted when their matter is completed, and
- (d) parties must within 24 hours of the commencement of proceedings confirm that no person attending is unwell or a carrier of the COVID-19 virus.

Please note that we will continue to utilise our [online lodgment portal](#) for electronic lodgment of forms and documents in respect of Commission proceedings.

I have discussed these proposed measures with The Law Society of New South Wales and the Bar Association. I have also consulted with the Commission's User Group. All three groups are very supportive of these proposed changes to practices in order to help the Commission and those who use its services contend with the current coronavirus crisis. I am indeed grateful to these groups for their sensible and pragmatic approach as well as some very practical and helpful suggestions they have made in order to enhance this change of process.

I cannot stress the point too highly that practitioners and their clients must comply with any directions that the Commission makes or any conditions that I might impose on any particular hearings. This is done with your well-being and the well-being of the Commission's members and staff in mind. I have every confidence that if everybody acts sensibly and does their duty in accordance with directions regarding public health and any information put out

by the Commission, we will be able to maintain the Commission's operations throughout this challenging period.

The Commission is very fortunate that the expenditure was made to develop the online portal and paper-lite approach to cases; this will serve us very well during this crisis.

Finally, I would also ask for your patience and understanding at this time. The Commission's staff are working very hard to enable these changes to be implemented from next Monday. I am confident that with the goodwill and co-operation of all involved, we can make this work for the benefit of the citizens of New South Wales.

Keeping you updated

We will continue to review our protocols and inform you as we receive advice.

Please ensure you carefully read the e-Bulletins and monitor news alerts as we issue them.

The links set out below give general information about minimising coronavirus risks:

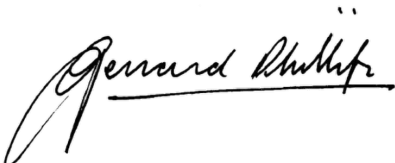
NSW Government:

<https://preview.nsw.gov.au/novel-coronavirus-covid-19>

NSW Health:

<https://www.health.nsw.gov.au/Infectious/alerts/Pages/coronavirus-faqs.aspx#1-9>

Please look after yourself and your loved ones as we all look out for each other.

A handwritten signature in black ink, reading "Gerard Phillips". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Judge Gerard Phillips
President

19 March 2020