

CIRCULAR TO READERS AND TUTORS – JUNE 2020

A. Introduction

1. The COVID-19 pandemic has resulted in significant disruption in recent months to the way in which barristers do their work. Many barristers are working from home rather than in chambers. There are limited in-person appearances in Court and many hearings have been proceeding by virtual technology. In-person conferences with solicitors, clients and witnesses have become infrequent and now commonly take place over the phone or using video conferencing platforms such as Zoom.
2. Some of these changes will be temporary, but others may continue for some time. Even as the Courts begin to reopen for in-person appearances, social distancing requirements will remain in place and some hearings will continue to take place using technology rather than requiring physical attendances. Conferences over the phone or video, rather than in-person, are likely to remain commonplace into the future.
3. This circular is intended to provide readers and tutors with some practical guidance about the completion of the readership year in the current environment. Whilst there will be some challenges, the increased use of technology also presents readers and tutors with new opportunities. This circular focuses on the following topics: maintaining regular communication between readers and tutors, the completion of civil and criminal reading, and the new opportunities that arise for readers (and barristers more generally), in light of these changed circumstances. The Reader/Tutor Guidelines, which readers and tutors have already received, continue to apply and this circular is designed to supplement them.
4. Tutors should be aware that the readers who commenced the reading program in May 2020 (May 2020 readers) have additional restrictions on their ability to practice until they have satisfactorily completed the Bar Practice Course (which is next scheduled for September 2020). In particular they cannot appear without a leader and may only undertake opinion work with consent in writing of a tutor. Readers have no right of practice during the Bar Practice Course.

B. Communication between readers and tutors

5. Regular communication between readers and tutors is one of the most important aspects of the reader/tutor relationship. The Reader/Tutor Guidelines suggest various ways to ensure communication lines are maintained, such as by scheduling in-person meetings or setting a specific time each day when a reader can consult with the tutor.
6. Many barristers are not attending chambers regularly and are working from home. In the coming weeks and months, as restrictions are lifted, some barristers may return to working from their chambers, but others may continue to work from home for various reasons including because of health concerns or carer responsibilities. Social distancing requirements are likely to remain in place for some time and in-person meetings, particularly indoors and inside smaller chambers, may not be practical or advisable.
7. These changes should not stop readers and tutors from staying in regular contact via email, telephone or video conference. These methods of communication are becoming the norm in all aspects of life and the reader/tutor relationship should be no different. It is still important for tutors to be accessible to their readers and for readers to ensure they are raising with their tutors any concerns that may arise as they begin their practice. It is still recommended that readers and tutors “meet” regularly; be that over the phone, on a video conference or by taking a walk outside.
8. Some readers and tutors may be assisted by scheduling set times each day or week to speak. Readers and tutors should discuss the mode and frequency of communication that best suits their circumstances. It should be noted that for the May 2020 readers it is a condition of their practising

certificates that they confer with a tutor once a week. For others who are completing their reading year, a “meeting” in some form at least once per week is strongly recommended.

9. Readers who are working from home are less likely to have incidental contact with other barristers on their floor, so communication with their tutor will be particularly important. Even though tutors may not see readers as regularly in chambers, tutors should remain mindful about letting their readers know about opportunities that arise for them to attend Court, participate in conferences or read briefs.
10. It is expected that tutors will make efforts to ensure that their readers are given opportunities, where possible, to interact with other Floor members and colleagues. Where floors have introduced forums or “virtual” meetings to discuss professional, practical or social issues, readers should be encouraged to participate. Where such interaction is not taking place, tutors could consider whether they should initiate programs which will permit their reader to be introduced and communicate with other colleagues. This may be particularly important for the May 2020 readers. They may not yet have met other barristers on their floor in person, and may not otherwise be “seen” by more senior colleagues. At the very least it is expected that tutors ensure that other Floor members are advised that their reader has commenced and what their contact details are.
11. Readers should also keep in mind that, to the extent permission is required from their tutor for a particular court appearance (in accordance with the conditions of their practising certificate), that requirement remains in place even for directions hearings and other court appearances that are taking place over the telephone or by video.

C. Completion of civil and criminal reading

12. The requirements for completion of civil and criminal reading continue to apply. Some Courts are commencing the introduction of face to face hearings on a staggered basis. Final hearings and appeals (particularly in the civil jurisdictions) are continuing to be conducted via telephone or through the use of video conference facilities. Criminal trials involving juries have been mostly suspended, but they are slowly resuming and in the meantime, some judge-alone trials are proceeding. Readers can still “attend” hearings and satisfy their reading requirements using the technology that is being utilised by the Courts and the practitioners.
13. The fact that readers and their tutors may not physically be in chambers may mean that some additional effort is required to identify matters that are listed for hearing and which barristers are involved in the case. Readers and tutors should keep in mind that they can find out about upcoming hearings by: contacting the clerk on their own floor as well as clerks from other floors, consulting the court list each day to identify hearings that are listed; contacting other readers and barristers on their floor or on other floors. In particular, where a reader is having difficulty with completing their civil or criminal reading, tutors may be able to assist by contacting clerks of other floors which specialise in particular jurisdictions for criminal or civil reading opportunities as the case may be.

D. New opportunities for readers and tutors

14. The increased use of technology by the Courts and practitioners is also likely to present many new opportunities for readers and tutors, particularly as barristers become more accustomed to these processes. In some ways, it will be easier for readers to gain exposure and participate in aspects of barristers’ work and for tutors to remain engaged with their reader.
15. For example:
 - a. with hearings occurring virtually throughout Australia, it may be possible for readers to complete some of their reading requirements by attending an interstate hearing – something that would not usually be an option. Tutors should assist readers to facilitate this, if the

opportunity arises;

- b. many briefs are now being provided to barristers electronically, which may make it more convenient and cost effective for tutors to provide readers with copies of their briefs for the purpose of completing their reading requirements or undertaking devilling or other work;
 - c. the fact that a reader (or a tutor) is working from home will not prevent them attending and participating in a witness or client conference which is occurring over the phone or through video conference; and
 - d. likewise, the circumstance that a tutor or reader is working in another town, city or interstate should not frustrate the ability to communicate effectively and on a regular basis.
16. Readers and tutors should make the most of the technologies that are now being adopted and the increased flexibility that this may provide.

E. Assistance

17. In these unusual times, readers or tutors may feel they require assistance or advice in completing, or clarification of, an aspect of the reading program. Problems or difficulties may also arise in the reader and tutor relationship of the kind referred to at [57]]ff of the Reader/Tutor Guidelines that are unable to be resolved.
18. In such circumstances readers or tutors may contact Bali Kaur, the Director Professional Development, of the Bar Association by email (bkaur@nswbar.asn.au) to discuss the matter.