



Circular Details	21-34 / 27 October 2021 / A793785
Previous Circular	21-14 COVID-19 restrictions and council meetings
Who should read this	Councillors / General Managers / All council staff
Contact	Council Governance / 02 4428 4100 / olg@olg.nsw.gov.au
Action required	Council to Implement

Updated guidance on COVID-19 restrictions and council meetings

What's new or changing

- The Minister for Health and Medical Research, the Hon. Brad Hazzard MP, has made the *Public Health (COVID-19 General) Order 2021* (the Public Health Order). The Public Health Order took effect from **Monday, 11 October 2021** and has since been amended.
- The Public Health Order relaxes previous stay at home restrictions in areas that are not "stay at home areas" (the "general area"). As of Monday **11 October 2021**, no areas have been prescribed as "stay at home" areas under the Order and all councils are in the "general area".
- The Public Health Order also contains directions that apply to "stay at home areas". The Chief Health Officer may identify an area as a "stay at home area" by notice published on the [NSW Health website](#). Councils should monitor this website for any change to their status.

What this will mean for councils in the "general area"

Resumption of in-person meetings

- Councils in the "general area" are no longer subject to stay home restrictions and councils can resume meeting in person.
- As advised in Circular [21-02](#) issued on 1 April 2021, the *Local Government (General) Regulation 2021* has been amended to temporarily exempt councils from the requirement under clause 5.2 of the *Model Code of Meeting Practice for Local Councils in NSW* and the equivalent provision in each council's code of meeting practice for councillors to be personally present at a meeting in order to participate in it.
- This means that, regardless of the Public Health Order, it continues to be open to councils and joint organisations (but not county councils) to continue to meet by audio-visual link and to permit individual councillors to participate in meetings by audio-visual link should they choose to do so.

Attendance by members of the public at meetings

- The relaxation of stay at home restrictions means that there is nothing to prevent members of the public from attending meetings in person. Councils are required under section 10 of the *Local Government Act 1993* (the Act) to permit members of the public to attend meetings in person. Councils that continue to meet by audio-visual link must provide a physical venue that members of the public can attend to observe meetings in person.
- Councils can limit the number of members of the public attending meetings to comply with the Public Health Order and to ensure appropriate social distancing.

- Councils are not permitted under the Public Health Order to allow more persons to attend a meeting than the number of persons equal to one person per four square metres of space at the meeting venue. Councillors and council staff are not to be counted when calculating the space available for each person at the meeting venue and the number of persons who are attending a meeting. Guidance on calculating the number of persons permitted to attend meetings is available [here](#).
- The number of persons permitted to attend meeting venues under the Public Health Order is the maximum permissible. Councils should continue to ensure appropriate social distancing is practiced at meetings and should undertake their own risk assessment of meeting venues and apply whatever COVID mitigation strategies may be necessary to ensure appropriate social distancing is practiced at meetings. Guidance on practicing social distancing is available [here](#).
- The Public Health Order restricts access to certain premises by persons who are not fully vaccinated (ie who have not had two doses of the vaccine). These restrictions do not apply to council meetings. However, it remains open to councils to restrict access to meetings by members of the public who are not fully vaccinated where they are satisfied that this is necessary to ensure the health and safety of other meeting attendees. It is also open to councils to require members of the public to demonstrate their vaccination status as a condition of attending a meeting in person to ensure the health and safety of other meeting attendees.
- Where councils are required to limit the number of members of the public attending meetings or to exclude them from attending in person because of their vaccination status, they should consider livestreaming their meetings to ensure excluded members of the public can view them in real time.

Attendance by staff at meetings

- There is nothing to prevent council staff from continuing to attend meetings by audio-visual link.
- Attendance by staff at meetings is at the discretion and direction of the general manager subject to the following requirements under the Public Health Order:
 - For councils in Greater Sydney and for Central Coast and Wollongong and Shellharbour City Councils, staff who are not fully vaccinated are not permitted to attend meetings in person for the purposes of work, unless they are required to attend the meeting and it is not reasonably practicable for them to attend by audio-visual link from their home. Staff who are fully vaccinated must be permitted to attend meetings by audio-visual link from their home if it is reasonably practicable for them to do so.
 - For regional councils, before **1 November 2021**, staff who have not been vaccinated (ie they have not received a single or both doses of the vaccine) are not permitted to attend meetings in person for the purposes of work, unless they are required to attend the meeting and it is not reasonably practicable for them to attend by audio-visual link from their home. Staff who are fully vaccinated or who have received a single dose of the vaccine must be permitted to attend meetings by audio-visual link from their home if it is reasonably practicable for them to do so. From 1 November, staff who are not fully vaccinated will not be permitted to attend meetings in person for the purposes of work unless they are required to attend the meeting and it is not reasonably practicable for them to attend by audio-visual link from their home.

Attendance by unvaccinated councillors at meetings

- As noted above, there is nothing to prevent councillors from continuing to attend meetings by audio-visual link.
- Councillors who have not been vaccinated are not prevented under the Public Health Order from attending meetings in person. However, councillors who have not been

fully vaccinated should consider attending meetings by audio-visual link from their home or other premises to ensure the health and safety of other meeting attendees until they are fully vaccinated or until the rules applying to unvaccinated persons are further relaxed (currently expected to be 1 December 2021).

Wearing of masks at meetings

- All persons attending meetings are required to wear face masks. It is permissible under the Public Health Order for councillors, staff and others to remove their masks for the purposes of addressing the meeting but must wear masks at all other times. Guidance on wearing face masks is available [here](#).

What this will mean for councils in “stay at home areas”

Stay at home requirements in stay at home areas

- As noted above, as of **11 October 2021**, no councils are in “stay at home areas”. However, the status of a council’s area may change. The Chief Health Officer may identify an area as a “stay at home area” by notice published on the [NSW Health website](#). Councils should monitor this website for any change to their status.
- Under the Public Health Order, persons in “stay at home areas” must not be away from their place of residence without a reasonable excuse as specified in Schedule 2 of the Order.
- Reasonable excuses include the following:
 - work- a person may leave their place of residence for work if it is not reasonably practicable for the person to work at their place of residence (clause 2)
 - legal obligations – a person may leave their place of residence to fulfil legal obligations (clause 13).

Attendance by councillors at meetings in stay at home areas

- As noted above, there is currently nothing to prevent any or all councillors from participating in meetings by audio-visual link.
- In stay at home areas, councillors who can attend meetings by audio-visual link from their place of residence, should do so to comply with the Public Health Order.
- Where councillors are not able to attend meetings by audio-visual link from their places of residence, for example because of a lack of suitable equipment or a poor internet connection, they may have a reasonable excuse for leaving their places of residence to attend meetings in person for the purposes of clauses 2 and 13 of Schedule 2 of the Public Health Order.

Attendance by staff at meetings in stay at home areas

- As noted above, there is nothing to prevent staff from attending meetings by audio-visual link.
- Under the Public Health Order, employers must require an employee whose place of residence or usual place of work is in a stay at home area to work at the employee’s place of residence unless it is not reasonably practicable to do so.
- Affected staff should therefore not be required to attend meetings in person unless it is necessary for them to do so to support the meeting.
- The general manager should determine which staff are necessary to support the meeting.

Attendance by members of the public at meetings in stay at home areas

- As previously noted in [Circular 21-14](#) issued on 28 June 2021, the Public Health order does not override the requirements of section 10 of the Act for councils to permit members of the public to attend meetings in person.

- However, under the Public Health Order, members of the public in stay at home areas will not be permitted to leave their places of residence for the purposes of attending council and committee meetings.
- Councils may wish to seek their own legal advice on their obligations under section 10 of the Act in circumstances where members of the public are not permitted to attend meetings under the Public Health Order.

Future easing of restrictions

- The Government has foreshadowed a further relaxation of restrictions over coming weeks.
- Based on current information, under the rules expected to apply from 1 December 2021:
 - meeting venues will be able to operate at a 1 person per 2 square metres of space ratio
 - masks will no longer be required to be worn at meetings
 - in-person attendance by council staff at meetings will be at the general manager's discretion.

Where to go for further information

- More information on the Public Health Order is available [here](#).
- For further information please contact the Council Governance Team on 02 4428 4100 or by email at olg@olg.nsw.gov.au.



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