

15 February 2022

Dear Shed leaders,

RE: VACCINATION FOR MEN'S SHED MEMBERS

I write to you in response to the enquiries that the team has received regarding the issue of proof-of-vaccination for entry of both members and visitors into Sheds.¹ There is understandable concern around what Sheds are legally permitted to do and what they should do to safeguard the health and wellbeing of all members.

Men's Sheds of WA has contacted the Department of Premier and Cabinet (DPC) for clarification on this issue; the recommendation from DPC: *'groups and venues should seek legal advice on whether they are able to implement a proof of vaccination requirement'*.

Men's Sheds of WA has therefore sought legal guidance on the following statement:

Can WA volunteer-led community groups (that are not covered under the mandatory vaccine directive) implement a policy that requires members, visitors and service-users to show proof of vaccination? If so, are there any recommendations on how groups can legitimately implement such a policy?

Given that all Sheds are all different we have sought advice based on the most common model for a Men's Shed in WA.² We have received kind pro bono support and guidance from Mike Hales, Partner at leading law firm MinterEllison. The advice provided suggests that Sheds **can introduce a policy requiring proof of vaccination and indeed, there are legal reasons why they should consider doing so.**

The following points, whilst not exhaustive, help to illustrate that Sheds hold a duty of care to protect the welfare of persons entering the premises.

- Sheds (occupiers) must take reasonable steps to see that a person (visitor/ member) will not suffer injury or damage by reason of any dangers present on the property or anything done or omitted to be done on the premises for which the occupier is by law responsible.
- Persons may be liable for harm suffered by another person if they do not take precautions to protect the other person from the risk of that harm if that risk is foreseeable, not insignificant and, in the circumstances, a reasonable person in the person's position would have taken precautions against the risk.

¹ "Shed" refer to the associations that run the various Men's Sheds. The term is not intended to be a reference to the buildings themselves.

² Assumptions for the Shed:

- The Sheds do not employ anyone.
- The people who attend the Sheds are mostly members but there will be visitors who are not members from time to time.
- Each Shed is a separate association, incorporated or unincorporated.
- The Sheds' members have a right under their membership documents to enter the premises used by the Shed of which they are a member.

Sheds therefore clearly need to consider whether they have taken all the necessary steps to reduce the risk of members and visitors catching the virus at their premises.

Engaging Members

Acknowledging that it is the committee's role to manage the Shed and minimise the Shed's legal risk, we would strongly recommend that committees consult with their members in order to obtain support for a COVID/ vaccination policy.

Creating a policy

Men's Sheds of WA will support Sheds in drafting a policy. We will host a forum in the coming days to enable Sheds to discuss the issues and share best practice.

We would request that Sheds that have already implemented such a policy email it to admin@menssheds.org.au and we will distribute accordingly.

Other issues

In considering whether to introduce a COVID policy and if so, what it should say, the Sheds should:

- Take medical advice so that they have a clear understanding of the current health risks.
- Consider members who are medically exempt from vaccination (if relevant). This is a particularly difficult and sensitive issue to manage. This is a question of assessing any additional health risks that might arise, balancing this against not discriminating against such members on the basis of a disability and considering lateral solutions.
- Consider the lease or other document by which they occupy the premises and, if necessary, engage with the landlord. For example, Shed's may require the landlord's consent if the landlord is a public authority, or it might contain provisions about who is entitled to access to the premises (which could be relevant to the question of visitors).
- Consider the rights of the members under any constitutional documents and the extent to which any policy might infringe those rights. It is important that any policy is introduced in a way that complies with the Shed's bylaws.
- Review their insurance policies to understand what cover might exist and anything that the policies require to be put in place to obtain cover.

Supporting All Men

Men's Sheds are focused on supporting men's health and wellbeing. For this reason, we strongly encourage all Sheds to not let members *walk away* from their Shed. We recommend the following:

- Listen to Shedd's concerns and help to provide relevant and up to date information <https://www.wa.gov.au/government/covid-19-coronavirus>
- Actively promote the WA government's 'Roll up for WA' campaign <https://rollup.wa.gov.au/>
- Provide opportunities to connect with non-vaccinated members in a safe way (see guidance document on our website <https://menssheds.org.au/wp-content/uploads/2022/02/covid-guidance-keep-in-touch-with-your-community.pdf>).

I appreciate that this approach will be controversial for some, but it is based on the most appropriate guidance available at this current time. Should you wish to contact me, your Men's Sheds of WA Board representative for your area, or the team please do not hesitate to do so. Please consider that the team are operating in difficult circumstances, and our focus is the best interests of Sheds and the health and wellbeing of your members.

Stay safe and let's continue to look out for each other.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J Wild', written in a cursive style.

James Wild
Chief Executive Officer