



PRACTICE NOTE 10 OF 2021

Evidence or submissions by telephone or video-link

Introduction

1. Practice Note 10 of 2021 is issued by The Western Australian Industrial Relations Commission (**the Commission**) for the purpose of informing parties to matters before it, of the general practice in relation to the taking of evidence or the making of submissions in proceedings before the Commission, by telephone or by video-link.
2. In accordance with s 113(1) of the *Industrial Relations Act 1979* and reg 39(3) of the *Industrial Relations Commission Regulations 2005*, Practice Note 10 of 2021 is effective 14 days after the date of its publication in the Western Australian Industrial Gazette, being 23 March 2021, and remains in force until such time as it is replaced.

General

3. The taking of evidence or the making of submissions in matters before the Commission by telephone or video-link may be permitted on application to the Commission by a party to the proceedings.
4. Subject to any order or direction a Commissioner may make, the party seeking to have evidence taken or submissions made by telephone or video-link may be responsible for any costs involved.

Application

5. The party seeking to have evidence given or submissions made by telephone or video-link must make an application to the Commission in accordance with reg 44 of the *Industrial Relations Commission Regulations 2005* using Form 1A – Multipurpose Form.

Obligations on a party

6. If an application to have evidence taken or submissions made by video-link is approved by the Commission, the relevant party must ensure that any video-link equipment is compatible with the Commission's equipment.
7. The Associate to the presiding Commissioner will arrange a test prior to the day that the evidence is to be given or submissions are to be made, to ensure that the video-link equipment is of the appropriate quality and is operational.



8. To prepare for evidence to be given by telephone or video-link, the party calling the witness must take several steps prior to the hearing including:
 - (a) The witness is in a quiet and private room that may be closed off such that only the person appearing, and any other person permitted by the Commission, is present.
 - (b) The witness has advised the form of oath or affirmation to be taken and in the case of an oath, the witness has available to them an appropriate religious text.
 - (c) Ensuring the witness has with them a copy of any witness statement they have made and any documents to which they will refer in giving their evidence. Any such documents not already on the Commission's file must be lodged in the Registry no later than two clear days prior to the hearing and a party must ensure that the application number of the matter and the names of the parties are clearly marked on a covering page.
 - (d) Explaining to the witness that giving evidence by telephone or video-link is an extension of a hearing room and is a formal proceeding before the Commission.

Obligations on a witness

9. A witness must be present at the video-link facility no later than 15 minutes prior to giving their evidence.
10. A witness must be appropriately dressed to reflect the solemnity of the proceedings before the Commission.

Relevant legislation

Industrial Relations Act 1979, ss 27, 28, 33, 113.

Industrial Relations Commission Regulations 2005, regs 39, 44.



Useful resources

11. The Commission's website contains additional [resources](#).

S J Kenner
SENIOR COMMISSIONER