



PRACTICE NOTE 9 OF 2021

Witness outlines and witness statements

Introduction

1. Practice Note 9 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 witness outlines and witness statements.
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 9 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. As a general approach, and subject to any direction made by a Commissioner, in accordance with this Practice Note, evidence in chief from a witness in a hearing will be given orally.
4. There may be circumstances where, given the nature of the case, such as the number of witnesses to give evidence in a hearing and the likely nature of that evidence, that a Commissioner may make directions for the filing of witness outlines or witness statements. Such directions will only generally be made if this course will assist in the expeditious and just determination of a matter.
5. In cases where a witness's evidence is likely to be contentious, involving the memory of a witness, or will involve matters of credit of the witness, then directions for the filing of witness statements are unlikely to be made.

Witness statements

6. Where a Commissioner has made directions for the filing of witness statements, the written statement will be the evidence the witness would have given orally in chief. When the witness adopts the statement in the hearing, it will stand as the witness's evidence in chief. Generally, a witness will not be able to give further evidence in chief, without the leave of the Commission.
7. If in a witness statement a witness refers to a document, a copy of that document should be attached to the statement and marked as "Annexure 1, 2, 3 etc".
8. At the hearing of a matter, when the witness is called to give evidence, a copy of



the witness statement will be produced, and the witness asked to identify it. Subject to any objections as to its content, the witness statement will then be tendered into evidence and given an exhibit number.

Witness outlines

9. A witness outline is not a witness statement and is not tendered into evidence. It is an outline of the evidence it is expected a witness will give in a hearing.
10. A witness outline must only cover matters relevant to the case. It should refer to the topics the witness will give evidence about and the substance of that evidence, including any important conversations.
11. Where a document is referred to in a witness outline, it should be identified clearly and if a copy of the document has not been provided to the other party or access to it has not been provided, a copy of the document should be annexed to the witness outline.
12. Subject to any order or direction a Commissioner may make, a witness outline may not be used to cross-examine the witness, without the leave of the Commission.

Relevant legislation

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

Industrial Relations Commission Regulations 2005, regs 39, 43.

Useful resources

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

S J Kenner
SENIOR COMMISSIONER