



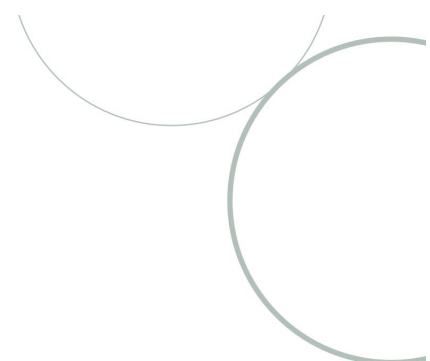
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# The future of online proceedings

Discussion paper



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# Online proceedings – current and future opportunities

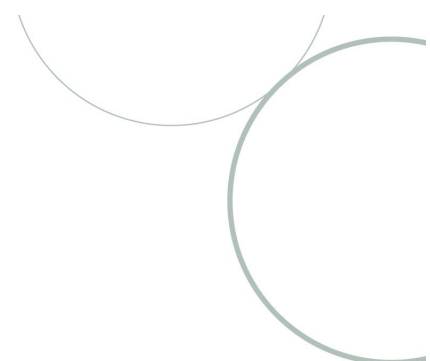
COVID-19 has led to unprecedented changes in the way courts and tribunals conduct proceedings. It has impacted all stages of the Fair Work Commission’s processes, changing how we hear matters, conciliate and administer cases.

This discussion paper examines how the Commission delivers online hearings and conferences (online proceedings) and seeks feedback from users about their experiences with online proceedings at the Commission. This will inform the development of a framework that sets out how the Commission will utilise online proceedings into the future.

There will be further consultation on the draft framework and the Commission will review the framework once it has been in operation for 12 months.



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## Background

When the World Health Organisation declared a public health crisis in respect of the COVID-19 pandemic on 11 March 2020, most public institutions, including the Fair Work Commission (the Commission), closed within a fortnight.

Prior to the pandemic, internal Commission working groups had produced new processes around online proceedings and tested available technologies, like Skype for Business, in anticipation of a disruption to service delivery. However, a disruption of the scale caused by the pandemic had not been anticipated.

Within 2 weeks, the Commission was able to move almost entirely to online proceedings. The Commission further improved its online processes by transitioning to the Microsoft Teams platform (Teams). The impact of this change was twofold – Teams provided an environment both for online proceedings and an environment suitable for online collaboration and remote work.

As the world gradually returns to a ‘new normal’, the Commission is considering what approach it should take to holding proceedings (or parts of proceedings) online in the future.

As the President signalled in the Commission’s Annual Report for 2020-21, remote proceedings will remain a standard service option for the Commission in the future. In order to provide certainty to our users, we will be developing a framework to guide the Commission’s utilisation of online proceedings (for conferences and hearings conducted by Members). To do this, we are consulting with users to gain a better understanding of their experiences of online proceedings at the Commission.

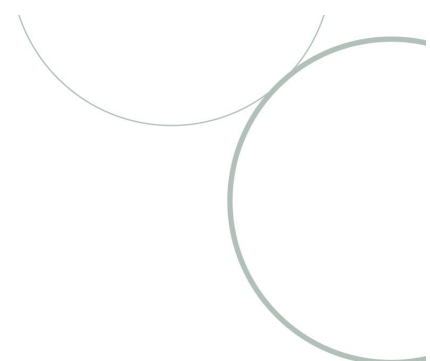
## Consultation process

The Commission is seeking to identify issues with and the benefits of current arrangements for online proceedings. The purpose of this discussion paper is to seek feedback on users’ experiences with, and perceptions of, online proceedings at the Commission. There are some specific discussion points in this paper which users may wish to address. All feedback can be emailed to [consultation@fwc.gov.au](mailto:consultation@fwc.gov.au).

Based on the feedback received, the Commission will develop a draft framework to guide Commission Members’ utilisation of online proceedings and will release this draft for further consultation. The framework will be finalised after reviewing this feedback.

The Commission will also review the framework once it has been in operation for 9 to 12 months.





## Statistics on online proceedings

During the 2020-2021 financial year, the Commission conducted almost 70% of hearings and conferences completely online.<sup>1</sup> By way of comparison, prior to COVID-19, 30% of hearings and conferences were held online in 2018-2019.

While the total number of Commission proceedings has remained relatively stable – with a peak in the 2019-20 financial year attributed to the COVID-19-related increase in unfair dismissal applications and JobKeeper disputes<sup>2</sup> – there has been a clear increase in the overall proportion of Commission proceedings held completely online.

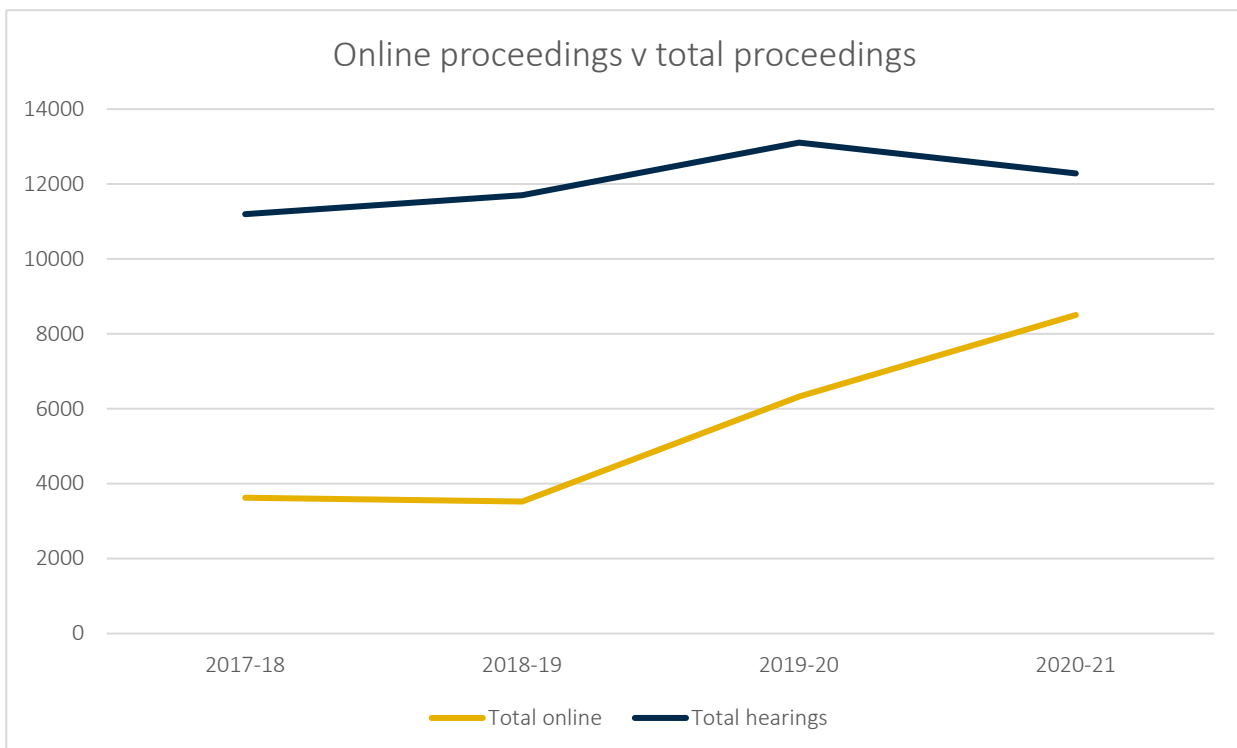


FIGURE 1 – HEARINGS AND CONFERENCES VOLUMES

<sup>1</sup> Fair Work Commission Annual Report 2020-21, p 12.

<sup>2</sup> Fair Work Commission Annual Report 2020-21, p 21.



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## Considerations relevant to online proceedings

The following sections examine anecdotal feedback and academic literature regarding online proceedings.

Based on the Commission's experience during COVID-19, it is apparent that online proceedings have both positive and negative aspects. In dealing with a matter, it may be appropriate to conduct some types or parts of proceedings online (for example, interlocutory proceedings) and others in person. The availability of parties may also require that proceedings are conducted in a 'hybrid' manner, with some parties participating in-person and others online.

Commission Members will need to balance these considerations, and others outlined below, when deciding whether to hold proceedings in-person or online.

### Statutory context

The conduct of any individual matter before the Commission is at the discretion of the Member dealing with the matter. Members may make different decisions about whether to conduct a hearing or conference in-person or online, depending on the circumstances.

The *Fair Work Act 2009* (Cth) (Fair Work Act) sets out the Commission's powers and functions and how they may be exercised.

The Fair Work Act generally provides the Commission with flexibility to inform itself as it considers appropriate in relation to an application, including by conducting a conference or holding a hearing.<sup>3</sup> Determinative conferences are less formal than hearings and are held in private unless the Commission directs otherwise.<sup>4</sup> Hearings are more formal and are generally held in public.<sup>5</sup> Whether a matter is decided by determinative conference or by hearing, the parties will be afforded a fair opportunity to put their case forward, and to have their case determined impartially and according to law.<sup>6</sup>

The Fair Work Act sets out the manner in which the Commission must perform its functions, as follows:

#### **577 Performance of functions etc. by the FWC**

The FWC must perform its functions and exercise its powers in a manner that:

- (a) is **fair and just**; and
- (b) is **quick, informal** and avoids unnecessary technicalities; and
- (c) is **open and transparent**; and
- (d) promotes harmonious and cooperative workplace relations.

Note: The President also is responsible for ensuring that the FWC performs its functions and exercises its powers efficiently etc. (see section 581).

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<sup>3</sup> Fair Work Act, s.590 (subject to any requirements in the Fair Work Act).

<sup>4</sup> Fair Work Act, s.592.

<sup>5</sup> Fair Work Act, s.593 (unless confidentiality orders have been made).

<sup>6</sup> See the Commission's [Practice note: Fair hearings](#) at para. [7]. This Practice note applies to conferences and hearings conducted by Members of the Commission.



### 578 Matters the FWC must take into account in performing functions etc.

In performing functions or exercising powers, in relation to a matter, under a part of this Act (including this Part), the FWC must take into account:

- (a) the objects of this Act, and any objects of the part of this Act; and
- (b) **equity**, good conscience and the merits of the matter; and
- (c) the need to respect and value the diversity of the work force **by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin.** [Emphasis added]

The provision of a fair hearing requires Members to identify the difficulties experienced by a party, whether due to lack of representation, literacy difficulties, ethnic origin, religion, disability or any other cause, and find ways to overcome those difficulties and assist them through the Commission process.<sup>7</sup>

Online proceedings may not be appropriate where the attributes of a person involved in the proceedings means that they cannot effectively participate electronically (for example, where the person has difficulty accessing or communicating online because of their age or disability). Online proceedings may also be inappropriate where this would adversely impact on procedural fairness or the administration of justice (for example, by leading to undue delays) – see further below.

#### Discussion topic 1

Based on your experience, are there any attributes that might impact on a person's capacity to effectively participate in an online proceeding, in addition to those listed in s.578 of the Fair Work Act?

If yes, what are these attributes and how should the Commission take account of them to ensure that a proceeding held online is conducted fairly?

## Fair and Just

While not bound by the rules of evidence and procedure in relation to a matter before it, the Commission must perform its functions and exercise its powers in a manner that is fair and just.<sup>8</sup> The rules of evidence 'provide general guidance as to the manner in which the Commission chooses to inform itself'.<sup>9</sup>

Commission Members are bound to act judicially in accordance with 'notions of procedural fairness and impartiality'.<sup>10</sup> The Commission must ensure that access to justice and procedural fairness are achieved in all circumstances, including in online proceedings.

<sup>7</sup> [Practice note: Fair hearings](#) at [38].

<sup>8</sup> Fair Work Act, ss.591 and 577(a).

<sup>9</sup> *Australasian Meat Industry Employees' Union, The v Dardanup Butchering Company Pty Ltd* [2011] FWAFC 3847 (Lawler VP, Hamberger SDP, Gay C, 17 June 2011) at para. [28], [(2011) 209 IR 1]; citing *Hail Creek Coal Pty Ltd v Construction, Forestry, Mining and Energy Union* PR948938 (AIRCFB, Ross VP, Duncan SDP, Bacon C, 12 July 2004) at paras. [47]–[50], [(2004) 143 IR 354].

<sup>10</sup> *Coal & Allied Mining Services Pty Ltd v Lawler* [2011] FCAFC 54 (19 April 2011) at para. [25], [(2011) 192 FCR 78]; see also Fair Work Commission, 'Member Code of Conduct' (2 July 2021), at pp. 4-8.



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It has recently been emphasised in the context of online hearings in the Federal Circuit and Family Court of Australia that when deciding how to conduct a hearing, a court or tribunal ‘must consider two issues above all others, which can be summarised under the following headings: Open justice; Procedural fairness.’<sup>11</sup> The Court held there that ‘[a]lthough an electronic trial is far from perfect, I am satisfied that it can satisfy the requirements of open justice ...’<sup>12</sup>

What is procedurally fair requires consideration on a case-by-case basis – ‘the concern of the law is to avoid practical injustice.’<sup>13</sup>

‘Procedural fairness dictates that a party to proceedings is entitled to be given the opportunity to present any arguments, which he or she considers vital to the case concerned and ...is able to test evidence comprehensively through a process of cross-examination.’<sup>14</sup>

In view of the parties’ right to a fair hearing, online proceedings should be avoided where they would significantly impede a party from putting their case to the Commission or cross-examining witnesses, or otherwise adversely impact their capacity to participate in the proceedings. The parties should have confidence in the process used and not perceive that they have been given an inferior medium through which their case is to be determined.<sup>15</sup>

Open justice considerations are also addressed further below.

### **Discussion topic 2**

Based on your experience, do you think that conducting proceedings online has any adverse impact on procedural fairness?

If yes, please explain why you think that’s the case and suggest how the Commission might address any negative impacts on procedural fairness.

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<sup>11</sup> *Brougham v Aboriginal Health Council of South Australia* [2021] FCCA 2031 at para. [36].

<sup>12</sup> *Ibid.* at para. [43].

<sup>13</sup> *Re Minister for Immigration and Multicultural Affairs; Ex parte Lam* (2003) 214 CLR 1 at para. [37].

<sup>14</sup> *Brougham v Aboriginal Health Council of South Australia* [2021] FCCA 2031 at para. [44].

<sup>15</sup> *Ibid.* at para. [60].





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## Quick, informal, open and transparent

### Quick

The imposition of lockdowns across Australia resulted in many institutions cancelling hearings or suspending certain proceedings.<sup>16</sup> The Commission continued its operations with a relatively small gap in service delivery. Members quickly transitioned to phone, Skype, Zoom and WebEx hearings, before Teams was implemented as a Commission-wide hearing platform. This quick transition means that the Commission has avoided carrying a backlog of cases. The use of online proceedings has been essential for the efficient resolution of matters, as required by the Fair Work Act.

In a non-COVID-19 context, in-person hearings may lead to additional delays if there are logistical issues around the availability of Commission hearing/conference rooms or regional venues, or due to the limited availability of parties' representatives. Holding proceedings online allows Members to make best use of participants' availability and also means that proceedings will not need to be adjourned if COVID-19 requirements change (as might be the case with an in-person hearing).

### Informal

Online proceedings are arguably a less formal setting than proceedings held in-person as they lack 'the (generally) solemn atmosphere of a courtroom in the presence of a judge'.<sup>17</sup> The impact of this reduction in formality is difficult to quantify, and there is a gap in research around the benefits gained by the atmosphere of the court room, through the loss of 'awe and respect of the law'.<sup>18</sup> Anecdotally, stakeholders have queried whether witnesses understand the gravity of their sworn evidence, as there is almost no difference between a video meeting and an online hearing.

However, online proceedings generally allow parties and witnesses to participate from a familiar setting, which may be less intimidating.<sup>19</sup> It is also consistent with the requirement in s.577 of the Fair Work Act for the Commission to perform its functions and exercise its powers in an informal manner.

#### Discussion topic 3

Based on your experience, do you think that conducting proceedings online affects how parties and witnesses perceive Commission processes?

If yes, do you think that this is a positive, negative or neutral consideration?

If you think that conducting proceedings online has a negative impact on perceptions, please explain why you think that's the case and suggest how the Commission might address this.

<sup>16</sup> Allman, K '[Events suspended; hearings move online, but rule of law will continue 'to the extent possible'](#)' in Law Society Journal accessed 15 December 2021.

<sup>17</sup> See *Campaign Master (UK) Ltd v Forty Two International Pty Ltd (No 3)* [2009] FCA 1306; (2009) 181 FCR 152 at para. [78] (per Buchanan J).

<sup>18</sup> Anne Wallace, 'Virtual Justice in the Bush': The Use of Court Technology in Remote and Regional Australia' (2008) 19(1) *Journal of Law and Information Science* 1, 16.

<sup>19</sup> Emma Rowden and Anne Wallace, 'Performing Expertise: The Design of Audiovisual Links and the Construction of the Remote Expert Witness in Court' (2019) 28(5) *Social and Legal Studies* 698



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### **Open and transparent**

Where the Commission decides to hold a hearing, the hearing must be held in public except in limited circumstances.<sup>20</sup>

A recurring criticism of online hearings is that they do not conform with the saying that '[j]ustice should not only be done, but should manifestly and undoubtedly be seen to be done.'<sup>21</sup>

However, in some respects online hearings can enhance the transparency and accessibility of court or tribunal proceedings, by enabling interested observers who would otherwise be unable to attend the hearing in person to participate online. Provided members of the public are given information on how to access a particular proceeding, they are able to see and observe the proceedings (on a computer or smart phone) as if they were in the hearing room. In this way, high-profile cases like the Commission's national wage case can be livestreamed. This allows proceedings to potentially be viewed by a far greater number of persons, regardless of where they are located.

#### **Discussion topic 4**

What has been your experience when you have observed or tried to observe a Commission proceeding online (ie where you were not involved in the matter)?

What has been your experience when a member of the public has observed or tried to observe a Commission proceeding online in which you were involved? Did this have any negative impacts on the conduct of the matter?

Do you have any suggestions as to how the Commission could improve current arrangements for members of the public to access and view online proceedings?

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<sup>20</sup> Fair Work Act, ss.593(1)-(3).

<sup>21</sup> *R v Sussex Justices; Ex parte McCarthy* [1924] 1 KB 256, at 259.



## Considering the benefits

Online proceedings have benefits for both the parties to the matter and for Commission Members and staff.

Figure 2 shows a heat map of where unfair dismissal applicants are located around metropolitan Melbourne, over the previous 4+ years.<sup>22</sup> This indicates that most Victorian-based unfair dismissal applicants do not reside in the Central Business District (where the Commission's Victorian office is located).



FIGURE 2 - HEATMAP OF APPLICANT LOCATIONS IN UNFAIR DISMISSAL MATTERS FROM 1 JULY 2017 TO 4 NOVEMBER 2021. SIZE OF CIRCLES REPRESENTS NUMBER OF INDIVIDUALS

For parties, the benefits of participating in a proceeding online might include:

- reductions in travel time and costs (for their own travel and that of any representative)
- reductions in the stress and uncertainty that go with participating in legal processes (assuming the person finds online participation less intimidating – see further below)
- greater certainty around hearing dates, and
- for small businesses in particular, reduced time away from their business.

For Commission Members and staff, the benefits of conducting a proceeding online (or partially online) include:

- reductions in travel time and costs, particularly for regional proceedings
- increased flexibility, particularly for scheduling regional proceedings, and
- the possible avoidance of delays in the event that COVID-19 requirements change.

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<sup>22</sup> Data as at 4 November 2021 from FWC administrative data. Data is based on the postcodes of unfair dismissal applicants recorded by Commission staff.



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## The online environment

- Online hearings can be less intimidating for self-represented parties and hearing participants generally. Anecdotally, many participants appear more relaxed and comfortable giving their evidence online.
- The Commission seeks to provide a safe environment for parties. Online proceedings can prove to be more suitable for vulnerable witnesses who might be intimidated by the hearing room experience or by being in the same room as someone they have accused of wrongdoing.
- Research suggests Indigenous Australians may be able to participate more effectively in the justice system when they do not have to physically attend a hearing.<sup>23</sup>
- Similarly, some research has suggested that people with mental illness can more easily become stressed in a court environment.<sup>24</sup>

## Other considerations for online proceedings

While there are clear benefits to holding a hearing or conference online, this may not always be possible. Users may not have consistent, stable access to required technologies like a PC, smart phone or stable internet. They may also have accessibility issues when using the technology eg users with hearing impairments may find it difficult to use an interpreter over video.

The stability of internet connections is vital to the success of online proceedings. The availability of reliable internet connections is very much dependent on what is available to a participant in their area (for example, this may be affected by whether the person is based in a major city or remote area).<sup>25</sup> The quality of internet connections impacts the parties, Members and staff alike, and if the connection is poor, this may create an access to justice issue.

However, in general terms, the Commission's experience to date has been that poor internet connections have presented less of a barrier to online proceedings, and the Commission has been able to handle most proceedings completely online.

### Discussion topic 5

From your experiences participating in Commission proceedings online:

- what have been the benefits (if any) of this, and
- what have been the negatives (if any) of this?

Do you have any suggestions as to how the Commission could improve current arrangements for online proceedings?

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<sup>23</sup>23 Michael Legg and Anthony Song, 'The Courts, the remote hearing and the pandemic: From action to reflection' (2021) 44(1) *UNSW Law Journal*, 126, 132.

<sup>24</sup>24 Michael Legg and Anthony Song, 'The Courts, the remote hearing and the pandemic: From action to reflection' (2021) 44(1) *UNSW Law Journal*, 126, 132.

<sup>25</sup>25 See Australian Bureau of Statistics Release 8146.0 - Household use of information technology.



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## Other issues

Some other issues are raised in the literature about online hearings, including:

### Witnesses

In some instances, there may be a preference to hear particular witness testimony in person ‘to assess the nature, quality and reliability of responses by a witness, both to questions and to the overall situation presented by the necessity to give evidence in court’.<sup>26</sup> This may particularly be the case where the evidence is contested and the adjudicator believes that the witness’ demeanour should be closely observed to assess the credibility of their evidence.

Other ways of testing the reliability of a witness’ evidence might include through corroborating evidence or assessing whether a witness’ evidence is internally consistent. Ultimately, Members will need to balance all of the circumstances in deciding whether an issue would be better determined in the context of a conventional hearing, rather than an electronic one, or whether particular evidence should be received in that way.

### Witness interference/tampering

The Fair Work Act makes it an offence to threaten, intimidate, coerce or prejudice a person who has or will provide information or documents to the Commission,<sup>27</sup> or induce, threaten or intimidate a witness to give false or misleading evidence in a Commission matter.<sup>28</sup>

There have been recently publicised instances of alleged witness intimidation or interference before courts in online hearings, where an accused has been found by police in the home of a prosecution witness.<sup>29</sup>

Where a matter is being conducted online, the parties and the adjudicator may have difficulty in identifying if a witness is being coached by a third party; whether third parties are listening into the proceedings (for example, other witnesses who are yet to give evidence), or if a third party is potentially coercing or intimidating a witness.

#### Discussion topic 6

What guidance or instructions should be provided by the Commission to participants in online proceedings about interactions with other witnesses?

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<sup>26</sup> See *Campaign Master (UK) Ltd v Forty Two International Pty Ltd (No 3)* [2009] FCA 1306; (2009) 181 FCR 152 at para. [78] (per Buchanan J).

<sup>27</sup> Fair Work Act, s.676.

<sup>28</sup> Fair Work Act, s.678. See also offences in the Criminal Code (contained in the Schedule to the *Criminal Code Act 1995* (Cth) and the *Crimes Act 1914* (Cth).

<sup>29</sup> See for example livestream recordings of *Michigan v Harris* and subsequent news reports regarding the matter: <https://www.youtube.com/watch?app=desktop&v=-8DApY7OE90> and <https://www.mlive.com/news/kalamazoo/2021/03/domestic-violence-suspect-arrested-at-accusers-apartment-during-virtual-court-hearing.html>



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## Use of interpreters

The use of interpreters in online proceedings remains challenging. In an in-person hearing, an interpreter can sit with the participant and provide simultaneous interpretation of their evidence or submissions. This avoids impacting the progress of submissions, evidence or the hearing generally.

In comparison, in an online proceeding participants must interrupt the flow of conversation to allow for interpretation to occur on the same audio channel as all other speech. Accordingly, in its current form, online interpretation significantly impedes the progress of proceedings.

### Discussion topic 7

What has been your experience of the use of interpreters in online proceedings and its impact on the conduct of the proceeding?

How might the Commission facilitate the use of interpreter services in online proceedings?

## Tendering documents

In most online proceedings, the Commission or the parties will provide a Court Book containing the documents they rely on in the proceeding. The parties, representatives and witnesses can experience challenges accessing the Court Book when it is a particularly large fil. Sometimes these can be overcome by the Commission 'sharing' the relevant documents on the screen. Other difficulties and delays may arise when a party wishes to refer to a document that is not included in the Court Book. Unlike in an in-person hearing, the party cannot simply hand up a copy of the document to the Commission and provide a hard copy to the other parties.

### Discussion topic 8

What has been your experience of accessing Court Books and other documents during online proceedings?

Do you have any suggestions as to how the Commission could improve access to documents during online proceedings?



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## New technologies to facilitate online proceedings

The Commission, on behalf of the Australian Online Hearing Practice Group, has partnered with Microsoft to develop 'Teams for Justice', a version of Teams that will more closely represent the experience of court/tribunal proceedings and improve the experience of users. This, coupled with Teams-certified video conferencing units, aim to improve parties' experience when participating in an online proceeding.

### Discussion topic 9

What has been your experience of online proceedings at the Commission using Teams?

Do you have any suggestions as to how the technology or associated Commission procedures could be improved?

## When should 'online' be the default?

Some types of proceedings or particular circumstances more readily lend themselves to being dealt with online than others. Further, it may be appropriate in the circumstances for some proceedings to be conducted in a 'hybrid' manner, with some participants in-person and some online.

Based on the Commission's experience to date, the following types of proceedings (or parts of proceedings) are more likely to be appropriate to be conducted online:

- urgent applications, including protected action ballot orders and orders to stop industrial action
- short matters, including mentions and most conciliations
- hearings and determinative conferences that do not involve disputed facts and only require oral argument (for example, some jurisdictional objections in unfair dismissal matters)
- proceedings where a participant has significant concerns about physically attending Commission premises (for example, in a stop bullying and/or stop sexual harassment matter)
- other matters where at least one party is based in a state or territory other than the presiding Member's 'home' state, or lives at a significant distance from Commission premises (for example, in a regional area in South Australia)
- where the vaccination status of an individual participant or health directive would prevent the participant from physically attending the Commission, and
- where attendance at the Commission would have a significant impact on a participant's business, for example, where a specific witness's attendance, or the number of witnesses called, would require a business to close for the duration of the proceeding, particularly if the business is a small or medium-sized enterprise.

It is proposed that in the above circumstances, subject to the views of the Member(s) dealing with the matter, the 'default' position would be for the proceedings (or parts of the proceedings) to be conducted online. However, this default position would be displaced where:

- the attributes of individual participants would result in them being unable to effectively participate in the proceeding if it was held online



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- the attributes of individual participants would cause significant delays or inconvenience to the progress of a proceeding if the person participated online
- a participant does not have access to the reliable technology to enable their effective participation in the proceeding, and
- the Member(s) dealing with the matter considers that it is more appropriate to conduct the proceedings (or part of the proceedings) in person (for example, where the Member considers it critical to assess the credibility of each of the witnesses involved by observing them in person, or one of the parties is strongly opposed to the proceeding being conducted).

#### **Discussion topic 10**

Based on your experience, do you think that there are other types of proceedings or circumstances that could be online 'by default' because they are more likely to be appropriate to be conducted electronically?

Do you think that there are other types of proceedings or circumstances which are unsuitable for online hearing, in addition to those listed above? If yes, what are these and please explain why you think that is the case.





## Summary of discussion topics

Discussion Topic Number	Questions
Discussion Topic 1	<p>Based on your experience, are there any attributes that might impact on a person's capacity to effectively participate in an online proceeding, in addition to those listed in s.578 of the Fair Work Act?</p> <p>If yes, what are these attributes and how should the Commission take account of them to ensure that a proceeding held online is conducted fairly?</p>
Discussion Topic 2	<p>Based on your experience, do you think that conducting proceedings online has any impact on procedural fairness?</p> <p>If yes, please explain why you think that's the case and suggest how the Commission might address any negative impacts on procedural fairness.</p>
Discussion Topic 3	<p>Based on your experience, do you think that conducting proceedings online affects how parties and witnesses perceive Commission processes?</p> <p>If yes, do you think that this is a positive, negative or neutral consideration?</p> <p>If you think that conducting proceedings online has a negative impact on perceptions, please explain why you think that's the case and suggest how the Commission might address this.</p>
Discussion Topic 4	<p>What has been your experience when you have observed or tried to observe a Commission proceeding online (ie where you were not involved in the matter)?</p> <p>What has been your experience when a member of the public has observed or tried to observe a Commission proceeding online in which you were involved? Did this have any negative impacts on the conduct of the matter?</p> <p>Do you have any suggestions as to how the Commission could improve current arrangements for members of the public to access and view online proceedings?</p>
Discussion Topic 5	<p>Having regard to the benefits discussed above and any other relevant considerations, based on your experience of Commission proceedings being held online:</p> <ul style="list-style-type: none"><li>• what have been the benefits (if any) of this, and</li><li>• what have been the negative impacts (if any) of this?</li></ul> <p>Do you have any suggestions as to how the Commission could improve current arrangements for online proceedings?</p>



Discussion Topic 6	What guidance or instructions should be provided by the Commission to participants in online proceedings about interactions with other witnesses?
Discussion Topic 7	What has been your experience of the use of interpreters in online proceedings and its impact on the conduct of the proceeding? How might the Commission facilitate the use of interpreter services in online proceedings?
Discussion Topic 8	What has been your experience of accessing Court Books and other documents during online proceedings? Do you have any suggestions as to how the Commission could improve access to documents during online proceedings?
Discussion Topic 9	What has been your experience of online proceedings at the Commission using Teams? Do you have any suggestions as to how the technology or associated Commission procedures could be improved?
Discussion Topic 10	Based on your experience, do you think that there are other types of proceedings or circumstances that could be online 'by default' because they are more likely to be appropriate to be conducted electronically? Do you think that there are other types of proceedings or circumstances which are unsuitable for online hearing, in addition to those listed above? If yes, what are these and please explain why you think that is the case.