



Coronavirus (COVID-19)

The Commission continues to carefully monitor the Commonwealth, State and Territory Governments' announcements and health advice relating to coronavirus (COVID-19) to ensure that arrangements are in place for the Commission and parties participating in the Commission's work to mitigate any adverse impacts on people and operations.

The below guidelines will be reviewed regularly to ensure that they are consistent with any changes that may be recommended by Commonwealth, State and Territory agencies in relation to COVID-19. If any party or person has any concerns in relation to the operation of a Practice Guideline and the impact of COVID-19 please contact Solicitors Assisting at RCNDA.Notices@royalcommission.gov.au or 1800 909 000

PRACTICE GUIDELINE 4 VIRTUAL PUBLIC HEARINGS

Updated 12 June 2020

Introductory matters

1. This Practice Guideline relates to the conduct of public hearings of the Royal Commission into National Natural Disaster Arrangements (**Commission**).
2. As a consequence of the COVID-19 global pandemic, public hearings of the Commission will be conducted by videolink or other mechanism as approved by the Commission until the Commission determines it is appropriate to conduct the hearings in person. The use of technology in these circumstances will necessitate certain bespoke procedures to facilitate the efficient collection of evidence.
3. This Practice Guideline should be read in conjunction with the *Royal Commissions Act 1902* (Cth), the terms of reference contained in the Letters Patent establishing the Commission dated 20 February 2020, and other Practice Guidelines, including Practice Guideline 1 which regulates the Commission's public hearings more generally. To the extent of any inconsistency with other Guidelines, this Practice Guideline prevails.
4. This Practice Guideline may be varied or replaced at any time.

Location of participants during hearings

5. Only the Commissioners, Counsel Assisting, Solicitors Assisting and Commission staff and contractors will be physically present in the hearing room during public hearings.
6. All public hearings will be streamed through the Commission's website with a short delay.

7. Legal representatives for any party granted leave to appear will be provided with details to separately access the Commission's videoconferencing platform, so as to view the public hearings in real time, by Solicitors Assisting prior to the part(s) of the hearing for which it has leave.

All witnesses to appear by videolink

8. All witnesses summonsed to attend to give evidence at Commission hearings will be required to appear by videolink.
9. With the Commission's leave, a witness may give evidence by telephone, if a suitable videolink is not available. Such circumstances are likely to be exceptional. Any witness summonsed who considers that she or he may not be able to give evidence by videolink must contact Solicitors Assisting as soon as possible to discuss her or his particular circumstances.
10. Specific arrangements for witnesses to give evidence (including testing of their videolink connection) will be provided to each witness ahead of their testimony.
11. Each witness will be required to:
 - a. join the videoconferencing platform from a quiet and appropriate location;
 - b. be alone in the room where they connect to the videoconferencing platform (unless they are accompanied by an IT officer to assist with the videolink, or an appropriate support person approved by the Office of the Royal Commission);¹ and
 - c. join the videoconferencing platform at least 15 minutes before their scheduled start time, to enable final arrangements for their testimony to be confirmed.
12. With the Commission's leave, a party's lawyer may examine their own witness following Counsel Assisting's examination. Any such examination must be limited to matters directly arising out of Counsel Assisting's examination (or such other matters with the Commission's leave), and will be conducted using the Commission's videoconferencing platform, which will be unmuted for this purpose.
13. Given the nature of the virtual hearings, no party with leave to appear will be allowed to cross-examine any other party's witness (other than in exceptional circumstances and with the Commission's leave). If a party has any specific questions they believe should be asked of, or topics that should be explored with, a particular witness, they:
 - a. must notify Solicitors Assisting at least 24 hours before the witness is scheduled to give evidence (unless the party has had less than 48 hours' notice that the witness will give evidence and, where relevant, the nature of the evidence). Solicitors Assisting will then liaise with Counsel Assisting with a view to having those questions or topics explored in an ordered manner through Counsel Assisting's examination; or

¹ A witness' lawyers (who have leave to appear) will be provided with details to join the Commission's videoconferencing platform at the same time as their witness (though must join from a physically separate location).

- b. may where it is not possible to provide notice in accordance with paragraph 13(a), or where Counsel Assisting is of the view that the questions are better asked through the parties' legal representative, make application for leave to cross-examine pursuant to paragraph 16.

Participation by parties with leave to appear in hearings

14. Given that the Commission's public hearings will be conducted virtually, some modifications will be required to the manner by which parties with leave to appear participate at hearings.
15. If a party with leave to appear wishes to address the Commission, subject to paragraph 16, it must apply to do so in the first instance in writing, addressed to Solicitors Assisting. This requirement and the procedure in paragraph 16 do not apply to a party with leave to appear while a witness for that party is appearing by videolink. In such circumstances, legal representatives will have the ability via videolink to address the Commissioners where necessary.
16. In the event that a party with leave to appear wishes to make an urgent application or objection during the course of a hearing:
 - a. if the parties are observing the hearing on a two-way platform, the party's legal representative may unmute herself or himself to object or seek leave to address the Commission directly; and
 - b. where a two-way platform is not available, or not functioning, the party must notify Solicitors Assisting using a dedicated live communications channel notified for that purpose. Solicitors Assisting will then bring the application to the Commissioners' attention as a matter of urgency. The party's communication to Solicitors Assisting must indicate that it is an objection to a question, or (briefly) state the nature of the application (to enable Solicitors Assisting to communicate that to Commissioners so that the Commissioners may appropriately consider next steps, including taking a short adjournment).

Etiquette for participating in a virtual hearing

17. Etiquette for participating in a virtual hearing should generally be the same as participating in an 'in person' hearing. Only one person should speak at a time and each individual must take care not speak over the top of other participants.
18. It will also be necessary for participants to observe some additional measures during virtual hearings. These measures include that when an individual is not speaking, her or his microphone must be muted to minimise unnecessary background noise.
19. Additionally, there may be a delay between the individual speaking and the sound being heard by the other participants. Allowances must be made during the hearing as appropriate to accommodate any delay being experienced to avoid one participant talking over another.
20. Visual and audio quality can also be affected by a number of factors which can lead to unexpected loss of connection or deterioration to an unacceptable level of picture or sound. Individuals should remain alert to any deterioration in picture and sound quality

and inform Solicitors Assisting immediately if this is impacting on their ability to participate fully.

21. Interjections by parties with leave to appear should be used very sparingly and only in exceptional circumstances, bearing in mind the logistical difficulties of virtual hearings, and this Commission's limited hearings.

Further directions

22. Further directions may be given about the use of the relevant technology (for example, on seating arrangements to ensure all individuals are in view).