

Justice Ross AO  
Fair Work Commission

**By email only: [consultation@fwc.gov.au](mailto:consultation@fwc.gov.au)**

5 July 2022

Dear Fair Work Commission

### **Proposed Online Proceedings Framework Feedback**

Circle Green Community Legal (**Circle Green**) welcomes the opportunity to provide feedback on the Fair Work Commission's (**the Commission**) proposed Online Proceedings Framework and Participant Guide (**the Framework**).

#### **About Circle Green**

Circle Green was formed by a merger of three established and reputable specialist community legal centres in Western Australia: the Employment Law Centre of WA, The Humanitarian Group, and Tenancy WA on 1 October 2020.

Circle Green is a community legal centre in WA providing state-wide specialist legal services in the areas of workplace law, residential tenancy law, and specialist immigration legal services with a focus on asylum seekers, refugees and family violence. Our services are aimed at assisting people who are disadvantaged in their access to legal services. You can find more information about Circle Green's services on our website: <https://www.circlegreen.org.au/>.

#### **Workplace law services**

Circle Green is the only community legal centre in WA which has a specialist workplace law practice that provides state-wide workplace law services to vulnerable and disadvantaged WA workers. Our workplace law services include legal advice, case work, advocacy, and education on state and federal employment and industrial law. This means Circle Green has expertise in providing legal assistance to vulnerable WA workers, who can experience barriers to accessing justice, engaged in proceedings before the Commission.

#### **Feedback on the Framework**

Circle Green thanks the Commission for the opportunity to provide feedback on the Framework and welcomes the introduction of a framework to assist in providing certainty for Commission users as to the utilisation and operation of online proceedings.





Framework	Circle Green comments
When will the Commission hold a hearing or conference online?	<p>Circle Green broadly supports the considerations outlined in ‘Attachment B – considerations for online proceedings’, particularly supporting the position that consideration must be given to a participant’s individual circumstances to ensure the Commission is fair and just in the performance of its functions.</p> <p>However, in relation to ‘Are there any other factors that weigh in favour of an in-person or online proceeding?’, we consider the following factors should be added:</p> <ul style="list-style-type: none"><li>• the impact a proceeding will have on an employee party’s employment; and</li><li>• the ability to access legal representation.</li></ul>
Resources for participants	<p>Circle Green welcomes the Commission’s recognition that for online proceedings to be effective, participants need to be informed of the format and provided with sufficient material to understand the procedural and technical processes of the proceedings.</p> <p>Circle Green broadly supports the procedures and rules for online proceedings as outlined by the Commission.</p> <p>Circle Green strongly supports the publication of guides for participants and witnesses by the Commission.</p> <p>It is unclear if the Commission intends to publish the Participants Guide, and the two additional technical guides, in languages other than English. Circle Green notes the publication of these guides in multiple diverse languages would ensure greater access to online proceedings for people who do not speak English as their primary language and be accordance with sections 577 and 578 of the <i>Fair Work Act 2009</i>.</p>



<p>Benefits and disbenefits</p>	<p>Circle Green broadly supports the benefits and disbenefits of online proceedings outlined by the Commission.</p> <p>Circle Green strongly supports the Commission seeking to provide a safe environment for parties and recognising that 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 room as someone they have accused of wrongdoing’.</p> <p>However, it is unclear how this recognition of environmental suitability and safety for witnesses marries with the online proceedings rule that a ‘witness must not be in a room with someone else’. Circle Green deems further consideration and guidance is required as to the support needs of witnesses in online proceedings.</p> <p>Circle Green welcomes remote proceedings remaining ‘a standard service option for the Commission in the future’ and the recognition that ‘[u]sers may not have consistent, stable access to required technologies’.</p> <p>Circle Green would support consideration be given to the resourcing of facilities for online proceedings, particularly in remote areas, in the form of accessible hubs resourced with the technical requirements outlined in the ‘Online Proceedings: Participant Guide’.</p>
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Thank you for taking the time to consider Circle Green's feedback. If we can provide any further information, please contact Elisha Butt, Managing Lawyer, or Kendra Hagan, Senior Lawyer, on (08) 96148 3633.

Yours sincerely

*Circle Green Community Legal*

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