

ACT Civil and Administrative Tribunal

Practice Note Number 2 of 2022

28 April 2022



How can I take part in ACAT proceedings – remotely or in person

The ACT Civil and Administrative Tribunal makes the following practice note under the *ACT Civil and Administrative Tribunal Procedures Rules 2020*.



Registrar K Carter

Dated 28 April 2022

Note The practice note begins below the line. The information above the line is a summary of the key issues only.

Taking part in proceedings

Tribunal proceedings are conducted either in person or remotely. The tribunal will tell the parties how a proceeding will be conducted. This practice note applies when a proceeding is listed to be conducted in one way but a person wants to take part in a different way. It also sets out the requirements when taking part either remotely or in person.

Key points

- Parties, their authorised representatives and witnesses are expected to take part in a proceeding in the way that the tribunal requires. A person may ask for permission to take part in a different way.
- A request to take part in a different way must be made at least five days before the listed date. If the request is granted, a person may take part in the way requested.
- If a person does not take part in the way required, the proceeding may continue and orders may be made in their absence.

Framework

- This practice note is made under rule 7 of the *ACT Civil and Administrative Tribunal Procedures Rules 2020*.
 - This practice note applies unless the tribunal excuses a person from complying with it or makes a direction that overrides it.
 - Legislation that applies to this practice note is—
 - The *ACT Civil and Administrative Tribunal Act 2008* (the Act), section 45 (Taking part other than in person).
 - The *ACT Civil and Administrative Tribunal Procedures Rules 2020* (the Rules), rule 64 (Taking part other than in person).
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Part 1: Application

- (1) This practice note applies to proceedings in all tribunal jurisdictions and commences on 28 April 2022.

Note: See amendment history.

Part 2: How are tribunal proceedings conducted?

- (2) Tribunal proceedings can be conducted:

- (a) In person. This means that the hearing member or members and the parties, their authorised representatives and witnesses are physically present in the same place; or
 - (b) Remotely. This means that hearing member or members and the parties, their authorised representatives and witnesses are not physically present in the same place and the proceedings are conducted using technology (for example, audio-visual link or telephone); or
 - (c) In another way as directed by the tribunal.
- (3) The tribunal will decide how a proceeding will be conducted, and/or how a particular party, their authorised representative or a witness can take part.
- (4) The tribunal will inform the parties about how the proceeding will be conducted.

Note The Act, section 37 applies.

- (5) The parties, their authorised representatives and witnesses must take part in the proceeding in the way required by the tribunal, unless they get permission in advance from the tribunal to take part in another way (see Part 3 below). If a person does not take part in the way required, the proceeding may continue in their absence and orders may be made without hearing from them.

Note The Act, section 45 (Taking part other than in person) and the Rules, rule 64 (Taking part other than in person) apply.

Part 3: How to ask the tribunal to take part in a different way

- (6) A person who wants to take part in a different way must first ask each other party for their views before asking the tribunal for permission to take part in a different way.
- (7) Then, a request to take part in a different way can be made by –
- (a) giving the tribunal a completed form: *Request to take part in person or remotely*; or
 - (b) telling the tribunal in writing –
 - (i) the name of the person who wants to take part in a different way; and
 - (ii) whether the person is a party, a witness or an authorised representative of a party; and
 - (iii) the date of the listing of the proceeding; and
 - (iv) the telephone number or other information that the person wants the tribunal to use to contact the person; and
 - (v) why the person is asking to take part in a different way; and
 - (vi) whether the other party agrees with the request and if not, why.

Note 1 The tribunal's contact details are:

- Email: tribunal@act.gov.au
- Telephone: 6207 1740
- Post: GPO Box 370 Canberra ACT 2601

Note 2 ACAT forms are available from the tribunal website www.acat.act.gov.au or by contacting the tribunal registry.

Note 3 Correspondence with the tribunal must be copied to all other parties in the proceedings.

When to ask to take part in a different way

- (8) A request to the tribunal to take part in a different way, which must include the views of the other parties, must be made as soon as possible and no later than five business days before the proceeding is scheduled.
- (9) If the tribunal receives a request to take part in a different way less than five business days before the proceeding is listed, it might not be possible for the tribunal to consider the request. The parties must attend the listing as required and a decision about the request may be made at the tribunal proceeding.

Tribunal's consideration of request to take part in a different way

- (10) In considering a request to take part in a different way, the tribunal may take into account—
 - (a) the type of proceeding (preliminary conference, mediation or hearing); and
 - (b) the nature and complexity of the proceeding; and
 - (c) any views expressed by a party; and
 - (d) the reason for the request; and
 - (e) any prejudice or disadvantage a party might suffer if the request is granted or not granted; and
 - (f) any delay that might occur if the request is granted; and
 - (g) any other matter the tribunal considers relevant.
- (11) Examples of matters relevant under (10)(g) include whether there are issues of credibility which would preferably be decided by seeing a witness in person or the amount or nature of documentary or physical evidence that is to be presented by a party in the proceeding.
- (12) The tribunal will inform the person and the parties in the proceeding whether the request has been granted or refused.
- (13) Until the tribunal notifies the parties of the outcome of the request, the person making the request and the parties must take part in the way required by the tribunal.

Part 4: Taking part remotely

- (14) The usual procedures, requirements and legal framework apply to tribunal proceeding that are conducted remotely. Hearings are public and recorded.
- (15) At least three business days before the listing date the person taking part remotely must give the tribunal any information requested (such as their telephone number).
- (16) A person taking part remotely should –

- (a) check the tribunal website (www.acat.act.gov.au) or contact the tribunal for technical information such as how to set up a device and join the proceeding remotely;
- (b) be available for the duration of the proceeding; and
- (c) be ready to participate when the tribunal contacts them; and
- (d) be fully prepared and in a quiet, private place; and
- (e) ensure the device being used (such as telephone or computer) is fully charged with reception, sufficient credit, reliable internet connectivity, and all other necessary functions (for example a working camera); and
- (f) have in front of them all documents, photographs and other material for the proceeding; and
- (g) ensure any document or material is numbered and ordered in a way that enables the tribunal and all parties to easily identify a particular document; and
- (h) ensure that any document or material for the proceeding has been provided to the tribunal and all parties in compliance with tribunal orders; and
- (i) if taking part in a hearing by telephone, state their name each time before they speak.

(17) If a person taking part remotely cannot hear or follow the proceeding, they must tell the tribunal at the earliest opportunity.

(18) If the tribunal is unable to contact or maintain contact with a person taking part remotely for the duration of the allocated time, the case may proceed and orders may be made in that person's absence.

Part 5: Taking part in person

(19) A person taking part in person must check the tribunal website or contact the tribunal to get information about any specific requirements that are in place for attending the tribunal.

Amendment history

3 February 2020	<i>Practice Note Number 2 of 2020 Taking part by telephone made</i>
28 April 2022	<i>Practice Note Number 2 of 2020 Taking part by telephone is repealed and replaced by Practice Note 2 of 2022 How can I take part in ACAT proceedings—remotely or in person</i>