



Action Committee on Court Operations in Response to COVID-19

Safe and Accessible Courts: Orienting Principles for Canadian Court Operations in Response to COVID-19

Overview

The Public Health Agency of Canada (PHAC) has recommended using a [layered approach of control measures](#) that can be adapted to various work environments in order to support the safe restoration of activities in response to the COVID-19 pandemic.

These control measures embody common elements of federal, provincial, and territorial public health approaches and occupational health and safety legislation. Selecting workplace-appropriate control measures involves **identifying risks** and implementing corresponding **risk mitigation measures**.

Occupational health and safety representatives of court employees should be consulted in this process. Risk identification and mitigation also present an opportunity to consider broader accessibility issues from the outset, to ensure that access is as broad and safe as possible, including for those who may face multiple layers of vulnerability or additional access to justice challenges.

Identifying and Mitigating Risks

In this context:

- court environment refers to any place where court hearings are held or court services are performed or delivered, including common areas (such as foyers, washrooms, seating areas, and cafeterias) and alternate facilities used by court personnel and court users;
- court personnel refers to all people involved in the operation of a court, including judges, security staff, and administrative officials; and
- court users refers to anyone who accesses a court environment, including lawyers, litigants, accused persons, witnesses, members of the public, and persons who perform related services within court environments (such as police, counselors, and social service providers).

Identifying Risks

Court administrations should evaluate the risk of introduction, transmission, and spread of the virus within their environment. In identifying risks, consider the relevant setting, including the number, proximity and duration of in-person contacts, the physical environment, and the

characteristics and potential vulnerabilities of court users and staff. The risk of COVID-19 transmission increases when people are in poorly ventilated closed spaces or crowded places, are having close-range conversations or are in settings where there is shouting or loud speaking.

An effective method for identifying risk is to take a “mental journey” through use of the court environment from the perspective of different court personnel and users, noting the variety of elements that make up the environment as a whole to create an **inventory of risks**. Consider using a [formal risk assessment template](#) to help identify those risks and answer the following questions:

- **Geographic and community setting:**
 - What is the local rate of infection?
 - Is the community densely populated (i.e. increasing the risk that an infected person may enter the court) or sparsely populated (i.e. lowering the risk of community transmission). Is it urban or rural?
 - What unique factors related to community dynamics and resources must be considered, having regard to the nature of the court (e.g. circuit/itinerant court; drug treatment, mental health, youth or other specialized court)?

- **Personnel and user populations:**
 - Do court users and personnel include individuals at higher risk of suffering severe health consequences should they contract COVID-19?
 - Do court users and personnel include persons at higher risk of contracting or transmitting COVID-19? (See [here](#) for an elaboration of population risk factors).
 - Are there vulnerability factors among the populations the court serves (e.g. income, employment, housing, and literacy levels)?
 - How are community demographics taken into account in scheduling (e.g. childcare issues, school closures) and access to court (e.g. reliance on public transit)?

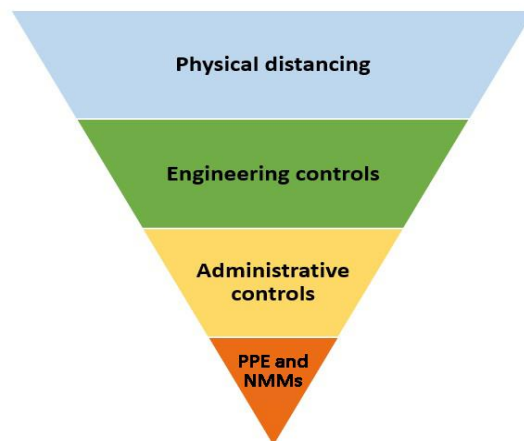
- **Physical elements:**
 - Does use of the court environment involve physical contact with common surfaces, doorways, elevator buttons, court technology, or other material?
 - Are some elements of the court environment especially prone to individuals congregating in close proximity?
 - Is the court environment accessible to persons with disabilities, including those with mobility challenges?

Mitigating Risks

PHAC recommends employing a **hierarchy of control measures**, conceived of as a reverse pyramid, to effectively mitigate risk. This approach reflects the requirements of applicable federal, provincial, and territorial occupational health and safety legislation.

An approach involving multiple layers of control measures represents the most effective strategy to minimize the risk of introducing, transmitting and spreading the virus. Relevant control measures begin with physical distancing, which is complemented by administrative and engineering controls, and the use of personal protective equipment (PPE) and non-medical masks (NMMs), as appropriate, based on the particular physical environment and the local epidemiology and rate of community transmission. A [court audit tool](#) can help to design and implement an effective, multi-layered approach to control measures within specific court facilities.

At all points, consideration should be given to ensuring selected mitigation strategies do not introduce barriers to access, particularly for vulnerable court users.



[Caption: An inverted pyramid divided into four coloured levels, each labeled with text in black. From the top of the inverted pyramid (the widest part) to the bottom (the point), the levels are: blue labeled “Physical Distancing”; green labeled “Engineering Controls”; yellow labeled “Administrative Controls”; and red labeled “PPE and NMMs”.]

- **Physical distancing:** Maintaining at least 2 metres’ (6 feet) distance between individuals can help to reduce the risk of transmission of COVID-19 due to close contacts. Implementation of physical distancing measures in court environments could include:
 - physical restructuring
 - use of visual cues and signage
 - directional controls in hallways
 - scheduling and volume controls on facility access
 - reliance on larger hearing spaces either onsite or in alternative facilities

- implementing remote and technological alternatives for court users and court staff as feasible, such as telework arrangements, virtual hearings, and virtual services including phone or online assistance and electronic filing
- **Engineering controls:** These measures focus on adjusting the physical environment to reduce inherent risks of exposure due to various modes of transmission, such as aerosols, close contacts, or contamination of high-touch or common surfaces. In the court setting, engineering controls can include:
 - Plexiglas barriers for certain types of interactions (e.g., with security or registry officials) and in designated areas used by justice participants (e.g. judge's bench, counsel tables, witness box); while such barriers do not replace masks, they can provide an additional layer of protection
 - automatic doors
 - no-contact document drops
 - proper ventilation in indoor spaces, including:
 - increasing the circulation of outdoor air by opening windows and doors for a few minutes at a time when feasible, and provided this does not pose a safety risk
 - running the heating, ventilation and air conditioning (HVAC) fan continuously at a low speed to increase air movement and filtration
 - avoiding the use of powerful portable cooling fans that might increase the spread of COVID-19 in enclosed spaces, and instead using other ways to keep rooms cool, such as adjusting building ventilation systems and air conditioning units
 - increasing filtration efficiency to the highest level appropriate for the ventilation system, and cleaning or changing air filters regularly as recommended by the manufacturer
 - limiting the use of demand-controlled ventilation, and keeping the system running at the optimal setting
 - consulting an HVAC professional to ensure that the current ventilation system is appropriate for the setting, type of activity, occupancy and length of time the space is occupied, and before making changes to the system
 - if possible, running systems for two hours at maximum outside airflow before and after the rooms and/or building are occupied
 - if possible, running bathroom exhaust fans continuously if they are vented to the outside
 - exploring the use of portable high efficiency particulate air (HEPA) filtration units only if mechanical and natural ventilation is not possible and physical distancing can be achieved, and consulting an experienced professional before using these devices

- [protocols](#) and designated isolation rooms for persons who become ill
- **Administrative controls:** These measures focus on altering work practices, policies and procedures as needed to help communicate, reinforce, and supplement physical distancing and other environmental adjustments. In the court setting, administrative controls can include:
 - screening court personnel and users for COVID-19 symptoms or exposure prior to entering court environments
 - wherever possible and subject to applicable legislation, supporting the local public health authority's contact tracing efforts by
 - collecting basic information on all people who enter the court facility, including their name and contact information (such as phone number or email), the date and time of their visit, and the place they visited (ex: courtroom, court registry, etc.)
 - ensuring that all information collected to support contact tracing efforts is handled properly, stored securely, disseminated only as necessary to the local public health authority, and destroyed rapidly once it is no longer needed
 - designating a court contact person to liaise with the local public health authority as needed to support testing and contact tracing efforts
 - increasing the frequency and intensity of cleaning
 - adjusting workplace policies to encourage employees to stay home if they are ill, are caring for ill persons, are awaiting COVID-19 test results, or have been in close contact with a positive case
 - staggering court services, hearings, and work hours to control personnel and user levels
 - creating an [audit tool](#) reflecting the maximum capacity of each court facility, courtroom and common areas to help regulate and monitor access, in accordance with local public health directives
 - training court personnel on essential safety measures and practices
- **Personal protective equipment (PPE) and Non-Medical Masks (NMM):** Non-medical masks (NMMs) and, in some situations, personal protective equipment (PPE), play an important role in reducing the risk of exposure to and transmission of the virus due to close contacts or aerosols. In the court setting, it is recommended to:
 - Promote the proper wearing of well-constructed, well-fitting non-medical masks (NMMs) by court personnel and court users as advised by the local public health authority, and provide clear instructions on how to safely put on, wear and remove masks. When warranted by the local epidemiology and rate of transmission, the wearing of NMMs may be recommended at all times for court users and personnel, except when these would impede court proceedings or when a person is unable to

wear a NMM due to young age or medical reasons such as difficulty breathing or being unable to easily take off a mask due to illness or disability.

- Implement measures to accommodate and protect court personnel or court users when NMMs cannot reasonably be worn or should be removed to ensure the integrity of court proceedings; for example, maximize the safety of proceedings in such circumstances by providing face shields and installing Plexiglas barriers or other engineering controls.

Communication

Broadly shared and accessible communications are vital to ensuring that protocols are followed and that all court users and court personnel feel safe within the court environment. Here are some best practices to ensure court personnel and users are aware of, and able to follow health and safety protocols:

- Post clear and visible signage throughout the courthouse and courtrooms
- Create communication formats to assist users who may face barriers in reading, hearing, speaking, or understanding
- Create additional language versions to assist court users as needed
- Provide information to users prior to their arrival at court (e.g. through posting on the court website, Frequently Asked Questions (FAQ), information attached to summonses or appearance notices, and “push” messaging to key stakeholders (professional networks, community and support groups))
- Include advance instructions to users on what to do if they develop symptoms or have been in close contact with a positive case shortly prior to a scheduled court appearance, or shortly after attending court
- Make training available for court personnel to support effective communication of safety measures
- Facilitate two-way communication to elicit feedback from court users on how safety protocols are working in practice, whether needs are evolving, and what adjustments may be useful (e.g., exit surveys, online or phone questionnaires, informal interviews)

RESOURCES AND REFERENCES

From the Public Health Agency of Canada (PHAC)

- [Community-based measures to mitigate the spread of coronavirus disease \(COVID-19\) in Canada](#) – In particular, see Appendix C: A framework for risk assessment and mitigation in community settings during the COVID-19 pandemic
- [Risk mitigation tool for workplaces/businesses operating during the COVID-19 pandemic](#)

- [Provincial and territorial resources for COVID-19](#)
- [Non-medical masks: About](#)
- [COVID-19: Main modes of transmission](#)
- [COVID-19: Guidance on Indoor Ventilation During the Pandemic](#)

From the Canadian Centre for Occupational Health and Safety (CCOHS)

- [COVID-19 Health and Safety Planning for Employers](#)
- [Protect Yourself and Others from COVID-19](#)
- [Respirators, Surgical Masks and Non-Medical Masks](#)
- [Risk Assessment](#)
- [Sample Risk Assessment Form](#)