VIRTUAL HEARINGS AND SERVICES: TOOLS AND RESOURCES FOR COURT USERS AND PERSONNEL

A Statement from the Action Committee

Our Committee exists to support Canada's courts as they work to protect the health and safety of all court users in the COVID-19 context while upholding the fundamental values of our justice system. These mutually sustaining commitments guide all of our efforts.

CONTEXT AND SCOPE

In an effort to promote open and safe access to court hearings and services for justice participants, the media and the public in the context of the COVID-19 pandemic, courts across Canada have shifted towards virtual hearings and service delivery. To facilitate this transition, courts and other justice stakeholders have implemented a series of policy and practical tools for court users and personnel, and for public and media observers.

This reference document seeks to consolidate information on these existing tools to assist courts and justice stakeholders in implementing virtual processes effectively within court operations throughout and beyond the pandemic. To achieve this, the document first describes the types of tools developed for this purpose, then lists specific resources and reference tools originating from different courts and justice stakeholders.

This document does not presuppose whether conducting virtual hearings or providing virtual services is preferable to in-person in any given situation; rather, it recognizes that, when feasible and used appropriately, virtual hearings and services can complement in-person proceedings and services to achieve better access to justice for a wider diversity of persons, including but not only in times of public emergency. Individual courts are best placed to make these determinations based on their operational and technical capacity as well as the needs of their local community.

TYPES OF TOOLS DEVELOPED ON VIRTUAL HEARINGS AND COURT SERVICES

To support court users and personnel in adapting existing court processes to evolving public health and technological realities, and in implementing virtual technology more permanently in court operations moving forward, courts and court administrators may wish to consider the following complementary tools as part of an overall strategy to promote effective access to virtual hearings and court services, as required by the circumstances.

1. COVID-19 Notices and Practice Directions

Throughout the pandemic, courts have issued notices and practice directions to inform legal professionals, the media and the public about the current status of court operations. These

include information on current health and safety measures and any access restrictions in court facilities; types of proceedings that are being heard or adjourned, and any required action by counsel or self-represented parties; types of proceedings that are occurring remotely or virtually, and applicable procedures; whether hearings are open to the media and the public, and how to gain access; authorized or expected use of electronic filing of documents, and applicable procedures; and the suspension or resumption of statutory or regulatory timeframes that apply to certain types of proceedings.

To ensure the most up-to-date information is easily accessible to all court users, some best practices identified include displaying the latest notices and practice directions as an automatic pop-up or prominently on the main page of the courts' website; disseminating new notices and practice directions to legal associations and media contacts; and consolidating notices and practice directions or clearly indicating which ones are in effect, or have been repealed or replaced.

2. Electronic resource portals

Portals housed on several court and legal association websites serve as hubs for providing overview information and links to relevant resources for legal professionals, the media and the public on new or revised court procedures in light of the pandemic. Examples include thematic portals on COVID-19, virtual courtrooms, public and media access, and e-filing.

3. User guides and practice tips for virtual hearings

With the growing use of virtual platforms to conduct hearings, user guides and practice tips have been developed for both hearing participants and public and media observers.

Common logistical tips for participants and observers include technical requirements and recommendations for the use of specific platforms (e.g. hardware and software); step-by-step procedures and screenshots to help install and connect to the platform; when and how to use functionalities such as microphones, cameras and screen sharing; frequently asked questions; troubleshooting tips; and what to do in the event of technical difficulties during a hearing.

Common practice tips for hearing participants include advance preparation and test runs; preparing litigants and witnesses; considerations related to self-represented litigants; addressing certain issues in advance with the judge or registrar; hearing etiquette and decorum; management of documents during a hearing; screen tips; and advocacy tips in virtual settings.

Common policy considerations for public and media observers focus largely on rules and methods of access to hearings, including restrictions on the use of electronic devices, recording and broadcasting of proceedings, or publication bans.

4. Policies on public and media access to virtual hearings and on the use of electronic devices in the courtroom

Policies, protocols or guidelines on public and media access to hearings and on the use of electronic devices in the courtroom that were in place before the pandemic have continued to apply to virtual hearings. In addition, many courts have now clarified methods and rules of access to virtual hearings for the public and media, in an effort to balance <u>open access with the privacy and safety</u> of hearing participants. Additional safeguards implemented in many jurisdictions include advance registration; personalized and password-protected links; and acknowledgments or undertakings from participants and observers not to record or broadcast proceedings.

5. Screening tools for privacy, security and confidentiality issues

Since it is more difficult for courts to monitor access and conduct of participants and observers in virtual hearings, some courts have implemented screening protocols or standardized forms to identify any privacy, security or confidentiality issues in advance. This enables courts to implement additional safeguards or make special orders as required.

6. Hearing lists

Hearing lists that were often already distributed electronically on court websites and disseminated directly to lawyers and accredited media were adapted and expanded in response to the pandemic to facilitate open access to hearings. Additional information has been included, such as the mode of hearing (e.g. in person, by phone or by video) and how to access a specific hearing (e.g., by registering in advance or through a pre-existing link).

7. E-filing systems and related practice tools

At the start of the pandemic, several courts were forced to rely on email to enable counsel and self-represented litigants to file documents remotely, which created a strain on both electronic systems and court personnel. Some courts also implemented service or mail hubs for safe drop-off of documents in person without the need to access court facilities, though court personnel still needed to process documents by hand.

Many courts have now implemented e-filing systems that allow counsel and self-represented litigants to file a variety of documents virtually and that automate various stages of processing, which enhances efficiencies and reduces processing times. E-filing platforms can vary from one jurisdiction to the next, and may include functionalities such as web filing of court forms or evidentiary documents, or document-sharing between court officials and parties. Some jurisdictions have also implemented, or are considering, electronic case management systems.

To facilitate the use of these new systems, courts have also developed e-filing resources such as portals, notices or practice guides.

8. Training sessions and practical demonstrations

To promote awareness, buy-in and effective use of new technologies such as virtual hearing platforms and e-filing systems, many courts have offered virtual training sessions, open house sessions or practical demonstrations to legal professionals and other relevant stakeholders.

9. Stakeholder consultation and collaboration

To promote an effective and inclusive shift to virtual hearings and service delivery, various courts have engaged in ongoing consultations with affected stakeholders, including legal professionals and accredited media. In some cases, this has occurred through newly created committees and working groups or ad hoc discussions, while in other cases courts were able to build upon pre-existing forums such as Bench and Bar Liaison Committees or recurring multi-stakeholder conferences to address current challenges and identify workable solutions.

ANNEX:

RESOURCES AND REFERENCE TOOLS ON VIRTUAL HEARINGS AND COURT SERVICES

The external resources listed below are meant to provide a detailed overview of existing tools to assist courts across Canada in promoting virtual access to hearings and court services both during and beyond the pandemic. However, this list is not necessarily exhaustive. Resources may change frequently as courts and other stakeholders update them in response to evolving situations and lessons learned.

COVID-19 WEBPAGES / RESOURCE PORTALS			
As of January 2023			
National	Newfoundland and Labrador	Quebec	
Supreme Court of Canada	<u>Court of Appeal</u>	<u>Court of Quebec</u>	
<u>Federal Court of Appeal</u>	Supreme Court	Superior Court of Quebec	
<u>Federal Court</u>	Provincial Court	• <u>Court of Appeal of Quebec</u>	
<u>Tax Court of Canada</u>	Nova Scotia	Saskatchewan	
<u>Court Martial Appeal Court of</u> <u>Canada</u>	<u>All levels of court</u>	<u>Court of Appeal</u>	
Alberta	Northwest Territories	<u>Court of King's Bench</u>	
Court of Appeal	<u>All levels of court</u>	Provincial Court	
<u>Court of King's Bench</u>	Nunavut	Yukon	
	All levels of court	<u>Court of Appeal</u>	
British Columbia		<u>Supreme Court</u>	
<u>Court of Appeal</u>	Ontario	<u>Territorial Court</u>	
Supreme Court – Index (PDF)	 <u>Court of Appeal</u> Superior Court of Justice 	Council of Canadian	
<u>Provincial Court</u>	Ontario Court of Justice	Administrative Tribunals	
Manitoba		<u>COVID-19 Resource</u> Repository	
<u>All levels of court</u>	Prince Edward Island	Repository	
New Brunswick	<u>Court of Appeal</u>		
<u>Court of Appeal</u>	Supreme Court		
<u>Court of King's Bench</u>	Provincial Court		
<u>Provincial Court</u>			

USER GUIDES FOR VIRTUAL PLATFORMS

Zoom

- Federal Court <u>Virtual hearings User Guide for Participants</u>
- Ontario Court of Justice Zoom User Guide for Remote Hearings
- Ontario Law Society Tribunal Zoom Hearing Guidelines
- Canadian Bar Association (British Columbia Branch) <u>Best Practices in a Zoom Courtroom</u>
- Zoom how-to video tutorials

Microsoft Teams

- Provincial Court of British Columbia <u>Virtual Proceedings</u>
- Manitoba see link to "A Teams Video tutorial" on the Manitoba Courts' Virtual Hearings Webpage
- Quebec Court of Appeal <u>Technical Conditions</u>
- Justice Québec <u>Hearings Conducted through Technological Means (Teams)</u>
- Canadian Bar Association (British Columbia Branch) <u>Using MS Teams in Court Proceedings via</u> <u>Desktop</u>
- Canadian Bar Association (British Columbia Branch) <u>Using MS Teams in Court Proceedings via</u> <u>Telephone</u>
- <u>Microsoft Teams video training</u>

Cisco WebEx

- Alberta Court of Appeal <u>Connecting and Attending an Electronic Hearing Guide For Counsel and</u> <u>Self-Represented Litigants</u>
- Alberta Court of King's Bench <u>Remote Hearing Protocol & Troubleshooting Instructions and</u> <u>Etiquette Guide</u>
- Webex Help Center

JVN/ WebRTC

- Ontario Courts <u>Virtual Hearing Room JVN WebRTC Manual</u>
- Ontario Courts <u>JVN WebRTC Virtual Hearing Room: Trouble Shooting Tips</u>

VIRTUAL HEARING GUIDES	
For counsel and	National
litigants	Federal Court – <u>General Policy Statement re: Virtual Hearings</u>
	Federal Court – <u>Virtual hearings – User Guide for Participants</u>
	Alberta
	Court of Appeal – <u>Connecting and Attending an Electronic Hearing Guide</u>
	Court of King's Bench – <u>Remote Hearing Protocol</u>

	- Provincial Court - Conduct Cuido for Pomoto Appeorances	
	Provincial Court – <u>Conduct Guide for Remote Appearances</u>	
	British Columbia	
	Provincial Court – <u>Virtual Proceedings</u>	
	Manitoba	
	Court of King's Bench and Provincial Court – <u>Virtual Courts</u>	
	Nova Scotia	
	All Levels of Court – <u>Virtual Court</u>	
	Ontario	
	Court of Appeal – <u>Practice Direction Regarding Proceedings During the COVID-</u> <u>19 Pandemic</u>	
	Superior Court of Justice – <u>Guide to Virtual Hearings</u>	
	Ontario Court of Justice – <u>Remote Hearings Guides</u>	
	Quebec	
	Court of Appeal – <u>Virtual Courtrooms</u>	
	Justice Québec – <u>Courtroom hearings held in virtual rooms</u>	
For the public and	National	
media	Federal Court of Appeal – <u>Public and media access to hearings during the</u> <u>COVID-19 pandemic</u>	
	Federal Court – <u>Virtual hearings – User Guide for the Public and Media</u>	
	Alberta	
	Court of Appeal – <u>Guide for viewing electronic hearings for public and media</u>	
	British Columbia	
	 Provincial Court – <u>Media Access to Court Proceedings During the COVID-19</u> <u>Pandemic</u> 	
	Manitoba	
	All courts – Public Viewing/ Attendance at Virtual Hearings	
	Nova Scotia	
	All courts – Media Access to the Courts during the Pandemic	
	Ontario	
	Superior Court of Justice – <u>Public and Media Access to SCJ Virtual Hearings</u>	
	Ontario Court of Justice – Public and Media Access to Court Proceedings	
	Prince Edward Island	

	All courts – Access to the Court Proceedings during the COVID-19 pandemic
	Yukon
	All courts – Notice to Media
	REFERENCE AND PRACTICE TOOLS
Best Practices for	Federal Court of Appeal – <u>Best Practices: Zoom Virtual Hearings</u>
Virtual Hearings	Federal Court: Powerpoint – <u>Practice Tips for Remote Hearings</u>
	Ontario Superior Court of Justice – <u>Best Practices and Etiquette for Remote</u> <u>Hearings</u>
	Ontario E-Hearings Task Force – <u>Best Practices for Remote Hearings (2nd</u> edition)
	 Canadian Bar Association (British Columbia Branch) – <u>Best Practices in Virtual</u> <u>Hearings</u>
	Council of Canadian Administrative Tribunals – <u>COVID-19 Resource Repository</u> – see <i>Guidelines/Best Practices</i> and <i>International Best Practices/Resources</i>
	Social Security Tribunal – <u>Best Practices for Remote Hearings</u>
	United States
	American Bar Association – Advocacy Through the Computer Screen: Best
	Practices for Remote Advocacy
	American College of Trial Lawyers
	 <u>Remote Proceeding Advocacy</u>
	 Interim Guidelines – Conducting Remote Hearings by Use of Remote Video
	 Interim Guidelines on Conducting Non Jury Trials by Use of Remote Video
	 <u>Guidelines on Conducting Appellate Arguments by Use of Remote Video</u>
	 <u>Guidelines on Conducting Remote Video Depositions and Examinations for</u> <u>Discovery</u>
	 <u>Mastering Zoom Advocacy – Interim Guidelines</u>
	National Centre for State Courts
	 Joint Technology Committee – <u>Managing Evidence for Virtual Hearings</u>
	 Civil Justice Improvements Committee – <u>Remote Conferencing – Findings</u> and <u>Recommendations</u>
	 National Institute for Trial Advocacy – <u>Best Practices for Remote Hearings</u> (podcast)
	Southeast Louisiana Legal Services – <u>Tips for Videoconferenced Court</u> <u>Hearings</u>
	United Kingdom – Judiciary of England and Wales
	<u>Civil Justice in England and Wales: Protocol Regarding Remote Hearings</u>

	<u>Remote Hearings in the Family Justice Systems: Reflections and Experiences</u>
Hearing lists	National
	Supreme Court of Canada – <u>Scheduled Hearings/ Audiences prévues</u>
	Federal Court – <u>Calendar of Hearings/ Calendrier des audiences</u>
	Alberta
	Court of Appeal – <u>Current Hearings List</u>
	British Columbia
	Court of Appeal – <u>Hearing List</u>
	Supreme Court – <u>Hearing List</u>
	Provincial Court – <u>Hearing List</u>
	Manitoba
	 Court of Appeal and Court of King's Bench – <u>Hearing List</u>
	Provincial Court – <u>Courtroom Assignment Lists</u>
	New Brunswick
	Court of Appeal – <u>List of Cases</u>
	Newfoundland and Labrador
	Provincial Court – <u>Docket List</u>
	Nova Scotia
	All courts – <u>Docket List</u>
	Northwest Territories
	All courts – <u>Docket List</u>
	Ontario
	All courts – <u>Court Lists (Dockets)</u>
	Prince Edward Island
	Court of Appeal – <u>Schedule</u>
	Quebec
	All courts – <u>Docket List</u>
	Saskatchewan
	Court of Appeal – <u>Court Schedule</u>
	Yukon

	Supreme Court – <u>Dockets</u>	
E-filing systems	National	
and practice tools	Supreme Court of Canada – <u>Guidelines for Preparing Documents</u>	
	Federal Court of Appeal – <u>Requirements and Recommendations for Filing</u> <u>Electronic Documents</u>	
	Federal Court	
	 <u>E-Filing Portal</u> – includes a link to the <u>Electronic Filing System</u> 	
	o <u>E-Filing Resources</u>	
	 Tax Court of Canada – Online filing – <u>Notice of Appeal/Application to Extend</u> <u>Time</u> / <u>Other documents</u> 	
	Alberta	
	Court of Appeal – <u>Notice – Mandatory Electronic Filing</u>	
	Court of Appeal – <u>Practice Direction – Electronic Filing</u>	
	 Court of King's Bench – <u>Guidelines for Documents Filed by Email or Digital</u> <u>Upload</u> 	
	British Columbia	
	Court of Appeal – <u>Notice Regarding Modified Filing Directions in Civil and</u> <u>Criminal Appeals</u>	
	BCEID information	
	Ontario	
	Court of Appeal – <u>Guidelines for Filing Electronic Documents</u>	
	Superior Court of Justice – <u>File civil case documents online</u>	
	Saskatchewan	
	Court of Appeal – <u>eFiling</u>	
	Quebec	
	Court of Appeal – <u>Digital Office</u>	
	Superior Court and Court of Quebec – <u>Digital Office</u>	
Policies on public and media access/ use of electronic devices in court	National	
	 Supreme Court of Canada – <u>Terms and Conditions</u> – see Webcasts – restrictions 	
	Federal Court of Appeal – <u>Guidelines on Public and Media</u>	
	Federal Court – <u>Policy on Public and Media Access</u>	

	Alberta	
	 Court of Appeal – Policy on the Use of Electronic Devices in Courtrooms 	
	Court of King's Bench – Public and Media Access	
	British Columbia	
	Court of Appeal – Policy on Use of Electronic Devices in Courtrooms	
	 Court of Appeal – <u>Media</u> 	
	Supreme Court – <u>Media Access</u>	
	Provincial Court – Media	
	Manitoba	
	All courts – Information for Media/ Renseignements pour les médias	
	Newfoundland and Labrador	
	Supreme Court – <u>A Guide to Accessing Court Proceedings and Records for the</u> <u>Public and Media</u>	
	Nova Scotia	
	All courts – <u>Guidelines re: Media and Public Access</u>	
	Northwest Territories	
	Supreme Court – Policy on the Use of Electronic Devices in the Courtroom	
	Ontario	
	 Superior Court of Justice – <u>Consolidated Provincial Practice Direction</u> – see section D 	
	Ontario Court of Justice – <u>Protocol Regarding the Use of Electronic</u> <u>Communication Devices in Court Proceedings</u>	
	Quebec	
	Court of Appeal – <u>Guidelines Concerning the Use of Technological Devices in</u> <u>Courtrooms</u>	
Publication Bans	Supreme Court of Canada – Publication Bans and Other Limitations of Access	
	Supreme Court of British Columbia – <u>Publication Bans</u>	
	 Ontario Superior Court of Justice – <u>Consolidated Provincial Practice Direction</u> – see Section F 	
	Saskatchewan Courts – <u>Discretionary Publication Ban Application</u> (e-Form)	
Access to audio or digital recordings of	Supreme Court of Canada – <u>Access to Court Documents</u> , <u>Photographs and</u> <u>Recordings</u>	
court proceedings	Federal Court – <u>Pilot Project for Access to Digital Audio Recordings</u>	

Court Martial Appeal Court of Canada – <u>Access to Digital Audio Recordings of</u> <u>Proceedings</u>
Provincial Court of Alberta – Policy for Access to Court Audio Recordings
Ontario Court of Justice – <u>Policy Regarding Access to Digital Audio Recordings</u>