

# Protocol for Participation in Remote Hearings

9 March 2022

## Introduction

- a) This Protocol is issued to be read in conjunction with the Covid 19 Protocol issued at the same time (9 March 2022) wherein it is envisaged that increased use of remote hearings or audio visual links (AVL) will necessarily become the norm as the country moves from Level 0 to levels 1, 2 and 3 of the COVID-19 restrictions.
- b) This Protocol applies to any hearing of the Supreme Court in respect of which the Court has made a direction allowing one or more counsel or self-represented parties (“participants”) to participate in the hearing by remote technology. It will apply equally to hearings in the Magistrates’ Court as and when such facilities are available. Such a hearing is referred to in this protocol as a remote hearing. The Court will notify all participants if it makes a direction that a remote hearing will take place. This will not prevent those who wish to participate in person from doing so, unless the Court directs that all participants must appear by remote technology.
- c) The term ‘Registrar’ is used generically in this protocol. Any officer of the National Judiciary performing the function of Registrar during a sitting of the court may assist users in remote hearings. That may be a clerk of court or Judge’s secretary or other officer.
- d) In many instances, members of the public who are required for court can rely upon counsel to assist them to participate in a remote hearing. Any person who does not have the benefit of counsel can choose to attend in person at a designated court house or seek assistance from Registry as to how to become a remote participant.
- e) Whilst there are ongoing discussions to assist the Correctional Services to provide AVL for persons in custody, until those discussions are complete and equipment installed, there is nothing in this document dealing with AVL and people in custody. Should the need arise, it will appear in a separate Protocol issued by Correctional Services following consultation.



## Setup

- f) Remote based technology is presently available in video form through the software application TrueConf, an application approved by the Government of Vanuatu. Whilst that will remain the application to be used where possible, there may be occasions when alternative software may be proposed by a party who lacks that facility. Registry staff should be asked to draw to the attention of the judicial officer any case where a party seeks permission to use an alternative.
- g) Where a participant wishes to join a remote hearing on TrueConf, an approach must be made if not already done, to be established with a username and password. The Registry will ensure that this step is taken following a request with adequate notice. A participant will require browser software and a strong and stable internet connection, a computer or laptop with a microphone and camera. The username and password provided to you is for your use only and MAY NOT be passed on.
- h) During use, the participant should sit before a blank background – this reduces picture distortion for other participants.
- i) If you cannot meet the above requirements, let Registry staff know immediately.

## Test call

- j) The Registry may ask you to participate in a test call, time permitting. If so:
  - a. The Registry will set a date and time for a test call;
  - b. TrueConf hearings – The Registry will have already provided you with a username and password. If you have not already received these items you must make a request without delay;
  - c. Provided that you are logged on to TrueConf on your computer or laptop at the appointed time you will hear a ring tone and can answer the call on your screen. Whilst connected you can adjust your microphone and speakers;
  - d. The Registry will ensure that all parties can hear and see one another and then provide a rundown of how the system works. This is a good chance to ask any questions about the remote technology or the remote hearing itself;



- e. No formal attire is required for the test call;
- f. A test call may be dispensed with either through lack of preparation time of as individual users familiarize themselves with the necessary equipment and its use.

## Remote hearing

- k) Counsel appearing remotely in a remote hearing are not required to wear a gown; however formal attire is required.
- l) You should remain seated for the remote hearing.
- m) The Registry will let you know the date and time for the remote hearing.
- n) You must connect at least 10 minutes before the remote hearing. The last person to join the virtual meeting will be the presiding judicial officer after being informed that all the parties are present and connected.
- o) The Registrar will then call the case and the presiding Judicial Officer will ask counsel to enter appearances as usual together with the names of others present. The presiding Judicial Officer will then inform participants of how the remote hearing is to proceed.
- p) Counsel should note their allotted time (if any) for oral submissions will include the time required for questions from the bench.
- q) The remote hearing will be conducted as similarly as possible to, but may be less interactive than an in-person hearing.

### Note:

- i Counsel may request a break to prepare submissions in reply, take instructions, or deal with anything unexpected that has arisen during the remote hearing. Any party may request a break if a need arises.
- ii The Court will have read all material and submissions where possible before the remote hearing and so counsel are reminded of the desirability of focussed oral submissions.



- iii Some of the parties may be attending by audio only.
  - iv If you want to speak when another participant is speaking, to add a point of clarification or to object in the manner you would in an in-person hearing, raise your hand toward your camera so that the presiding judicial officer can see that. Of course, such interruptions should be kept to a minimum. If you are appearing by audio only, alert the Court by raising the matter orally when the speaking participant pauses.
  - v At the end of the remote hearing, the Judge or Judges will first retire or disconnect, then the Registrar will end the call.
- r) Participants should remain alert to any deterioration in picture and sound quality and inform the Court immediately if this is impacting on their ability to participate fully in the remote hearing. Equally, if another participant is seen to freeze on screen or drop out the judicial officer should be alerted to this immediately. It may be possible to continue with audio alone should a video connection be unavailable. This is preferable to setting another date and/or time if possible and practical.

## Important information

- s) Participants appearing remotely in a remote hearing should:
- i Speak directly into the microphone when addressing the Court.
  - ii Be familiar with how to mute your microphone and turn your video off.
  - iii Mute your microphone when you are not speaking.
  - iv Reduce your body movements as much as possible.
  - v When positioning the camera on your device, be mindful of camera angles, glare from windows, and the background.
  - vi Speak more slowly than a normal courtroom pace. Speak as clearly as possible.
  - vii Note that audio cues are more important in a remote context. If your remarks are addressed to a particular person, identify them and audibly signal when you expect a response.
  - viii Attempt to find a remote site that is free from as much background noise and interruptions as possible. Ensure mobile phones are on silent mode and switch off notifications on the device being used for the remote hearing.
  - ix Remember, standing is not required and counsel are not required to wear gowns, but formal wear is required for all participants.



Any participant who wishes to display the hearing on a larger screen to a group must first request permission to do so from the Registry.

- t) Participants in a remote hearing must comply with the same requirements as apply to people who are present in court. In particular:
- a) You must not record the screen (video) or audio and must not take still photographs. This includes a prohibition on downloading or capturing, by any means, sounds or images from the video feed, whether by software or digital devices, including cell phones, and a prohibition on electronic sharing of any content from the hearing.
  - b) You must not publish any report of the hearing while it is in progress. This includes publishing material on any social media platform or any other media.
  - c) You must adhere to Court suppression orders - this includes a prohibition on publishing information on social media.
- u) If the Court permits you to view a hearing remotely, that is a direction from the Court that you may participate in the remote hearing in accordance with this protocol and also a direction that you must comply in all respects with the conditions set out above. The purpose of these conditions is to preserve the integrity of the Court process and to protect the privacy of those involved in the proceeding. Failure to comply with this Protocol, in particular paragraph (t), will be treated as a breach of a court order.
- v) This Protocol will commence on the date it is signed.



**Chief Justice V. Lunabek**  
**Dated at Port Vila this 9<sup>th</sup> day of March 2022.**

