



# NATIONAL PRACTITIONERS/LITIGANTS GUIDE TO ONLINE HEARINGS AND MICROSOFT TEAMS

## 1. INTRODUCTION

- 1.1. As per the Federal Court's Special Measures in Response to COVID-19 (SMIN-1) Information Note, to the extent possible, proceedings identified as being suitable will be listed for hearing using remote access technology known as Microsoft Teams (**Teams**).
- 1.2. Proceedings conducted in this manner will be referred to as **Online Hearings**.
- 1.3. Participants are reminded that Online Hearings are real hearings conducted by remote access technology. The expectations of courtroom behaviour and decorum still apply.
- 1.4. This Guide is intended to provide guidance for the legal profession and litigants-in-person appearing in Online Hearings. **Annexure A** contains illustrative instructions on how to use Teams.

## 2. INITIAL STEPS

- 2.1. The success of an Online Hearing will depend on the facilities available to parties and their willingness to coordinate with each other and adapt quickly.
- 2.2. The Court is currently reviewing all upcoming hearings to determine their suitability for an Online Hearing.
- 2.3. Parties are asked to consider and liaise with the Court whether an Online Hearing is suitable giving consideration to:
  - the appropriate facilities available to relevant participants including practitioners, litigants-in-person, the parties themselves and any witnesses that the parties intend to call;
  - locations and time zones of witnesses;
  - firewall and security issues.
- 2.4. Parties should also consider and liaise with the Court whether a teleconference, in lieu of an Online Hearing, may be suitable.
- 2.5. Parties are expected to seek orders to facilitate an Online Hearing. See **Annexure B** for sample orders.
- 2.6. The Court will identify the manner in which a test run is to be conducted and advise parties accordingly.

## 3. ESTABLISHING AN ONLINE HEARING

### 3.1. ONLINE HEARING INVITATIONS

- 3.1.1. Upon request, parties are to provide the Court with the individual email addresses for each of the Online Hearing participants.
- 3.1.2. Where the Online Hearing is for a full day duration, parties will receive two Online Hearing invites – one for the morning session and another for the afternoon session. This is to allow the recording time to process over the luncheon adjournment.

- 3.1.3. Teams invites include a link to join the meeting (see 3.2.1 below). This link is able to be passed on to witnesses or other practitioners who did not receive an invitation. Note, however, that persons who join an Online Hearing via that Teams link are subject to being admitted or declined by the Court.

## 3.2. APPLICATIONS REQUIRED

- 3.2.1. Parties can open up the Online Hearing from the [Join Microsoft Teams Meeting](#) link in the Online Hearing invite.
- 3.2.2. The Court recommends using a web browser other than Internet Explorer due to compatibility issues that may arise. The web browser may have limited features but the Court does not believe this is an issue.
- 3.2.3. Participants may also wish to download the Teams Application from the Microsoft product website [here](#) free of charge.
- 3.2.4. The Teams Application for iOS and Android are also available and free of charge however, features are limited. The Court does not believe this is an issue and encourages this option for parties who may not have the facilities, but do have access to a smartphone or tablet.
- 3.2.5. Participants also have the ability to 'dial-in' to Teams using a standard telephone connection. The dial-in details, including the unique conference ID number, can be found in the Online Hearing invite under the [Join Microsoft Teams Meeting](#) link.
- 3.2.6. A list of hardware requirements for Teams can be accessed [here](#).

## 4. JOINING AN ONLINE HEARING

### 4.1. WHAT PARTICIPANTS CAN EXPECT

- 4.1.1. When joining the Online Hearing, participants will be asked to enter their name. Be mindful that this name will be displayed for all participants to see. First Name and Surname are to be entered.
- 4.1.2. Parties should give consideration as to whether a participant's name (and/or face) should not be displayed (for example, for their safety) and liaise with the Court accordingly in advance of the Online Hearing.
- 4.1.3. After 'joining' the Online Hearing, participants will enter a virtual lobby and will remain there until admitted into the Online Hearing.
- 4.1.4. Participants are to join the Online Hearing **at least 15 minutes prior to the listing time** to allow sufficient time to address any technical issues.
- 4.1.5. Participants are encouraged to wear headsets during the Online Hearing as this greatly improves the audio quality for the other participants and for the recording made for the purpose of producing the transcript.
- 4.1.6. Online Hearings are being recorded by the Court's recording and transcription services contractor, Auscript, and through Teams directly. Participation in an Online Hearing indicates your consent to being recorded.

- 4.1.7. Transcript will be produced and available through Auscript, in accordance with the usual ordering processes. Some delays may be experienced during this time of transition to Online Hearings.
- 4.1.8. The use of communication and recording devices for the purpose of recording or making a transcript or otherwise is prohibited. Division 6.2 of the *Federal Court Rules 2011* (Cth) still applies.
- 4.1.9. In the event of unforeseen and unavoidable technological issues, the Court will temporarily adjourn to address those issues.
- 4.1.10. Provided [here](#) is a ten-minute portion of an Online Hearing conducted by Teams. That portion shows the end of dealing with objections to evidence, the respondents calling their first witness, the swearing in of a witness (by the judge), and the beginning of examination and cross-examination.

## 4.2. WHAT IS EXPECTED OF PARTICIPANTS

- 4.2.1. The same formal etiquette and protocol of a physical Court is expected in the Online Court.
- 4.2.2. The matter will be called and the Court will ask for appearances.
- 4.2.3. Judges are to be addressed as ‘Your Honour’, and registrars are to be addressed as ‘Registrar’.
- 4.2.4. Where a judge has elected to robe, counsel must also robe.
- 4.2.5. The Court may elect to dispense with any of the usual formalities, and the parties are expected to act accordingly.
- 4.2.6. Participants are to join an Online Hearing from a quiet, secure location.
- 4.2.7. Participants are expected to ensure that there is sufficient internet coverage in their location and all devices are fully charged.
- 4.2.8. Microphones and cameras are to be tested and working prior to joining an Online Hearing. This can be managed through the Teams Device Settings.
- 4.2.9. Other than practitioners/litigants-in-person appearing, all other participants are to keep their microphones muted and cameras turned off.
- 4.2.10. Where possible, identify and resolve any firewall and security restrictions before the Online Hearing commences.

## 4.3. WITNESSES

- 4.3.1. The same expectations for participants above at 4.2. also applies to witnesses in an Online Hearing.
- 4.3.2. The Court will administer the oath or affirmation of each witness.
- 4.3.3. Where a witness would like to take an oath, note that s 24(1) of the *Evidence Act 1995* (Cth) provides that it is not necessary that a religious text be used in taking an oath: *BZAAG v Minister for Immigration and Citizenship* [2011] FCA 217. However, the party calling the witness should ensure that the relevant religious text is available to that witness in advance of the Online Hearing where the witness prefers to use the religious text in taking an oath.
- 4.3.4. A witness is to be provided in advance with all documents to which they may be referred to. See more below at 6. Document Management.

## 5. OPEN JUSTICE

- 5.1. The Court continues to consider its options for preserving the principles of open justice.
- 5.2. Until further notice, Court buildings remain open to the general public. However, all parties and practitioners are required to appear remotely for any Online Hearing that proceeds other than in exceptional circumstances and with the express authorisation of the Chief Justice.
- 5.3. The daily court list for each registry will provide advice for members of the public seeking to view an Online Hearing remotely.
- 5.4. Any member of the public who is permitted by the Court to join an Online Hearing undertakes to:
  - Remain silent (mute their microphone) and hidden (keep their camera turned off); and
  - Not record the proceedings (see 4.1.8. above).
- 5.5. The Court may require a member of the public who wishes to view an Online Hearing to provide an email address. The Court use this information solely for the purpose of providing that member of the public with a link to the Online Hearing, and it is not retained thereafter.

## 6. DOCUMENT MANAGEMENT

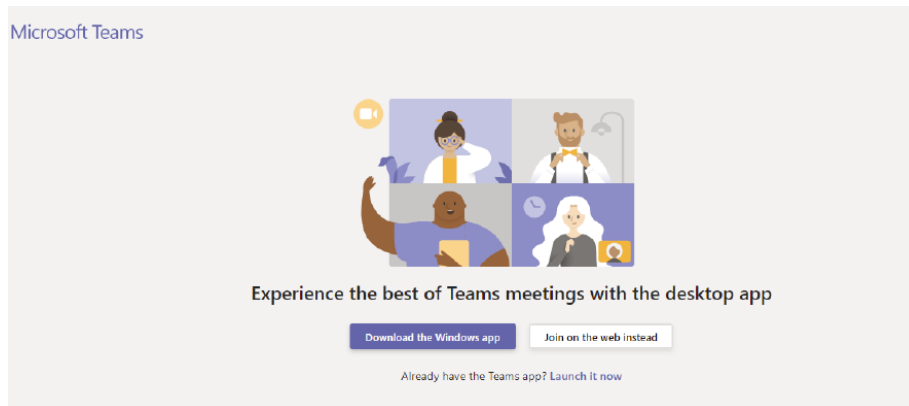
- 6.1. Where possible, a Digital Court Book is to be created for an Online Hearing.
- 6.2. The Digital Court Book is to be provided in accordance with the time and manner as directed by the Court.
- 6.3. Arrangements are to be made, in consultation with the Court, regarding the ability to facilitate the ‘handing up’ of documents. Options may include:
  - by email to the Court;
  - by way of a secure, online file sharing platform, such as OneDrive;
  - by utilising the ‘sharing screen’ functionality within Teams (parties should liaise with the Court whether this may be appropriate intermittently by counsel or their instructing solicitors, or whether a Digital Court Book may be navigated by Court staff during the course of the Online Hearing).

## 7. ASSISTANCE

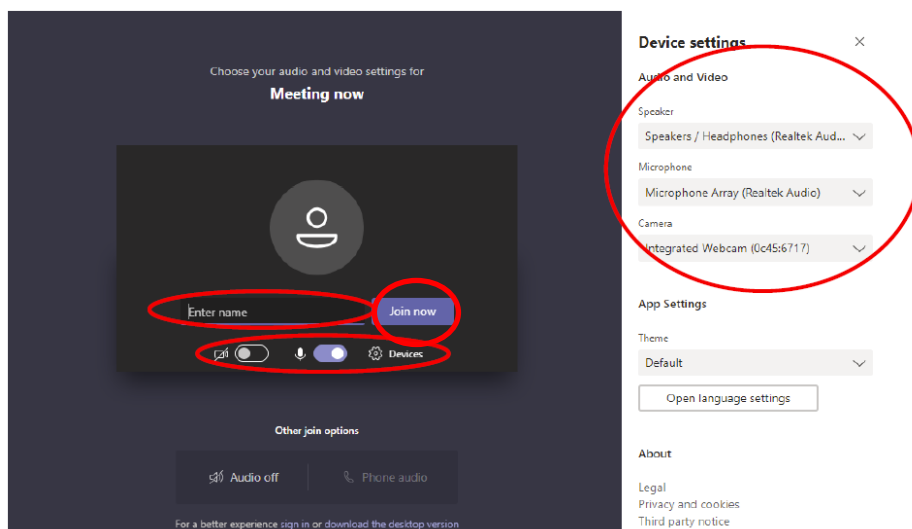
- 7.1. Please direct all questions relating to a specific matter to the chambers of the docket judge or relevant registrar.
- 7.2. Please direct all general questions to Digital Practice Team ([digitalpractice@fedcourt.gov.au](mailto:digitalpractice@fedcourt.gov.au)).
- 7.3. The Microsoft Teams website and ‘Help’ section of the Teams application provides additional tips and advice about how to use the program.

## Annexure A: Simple Instructions on using Teams

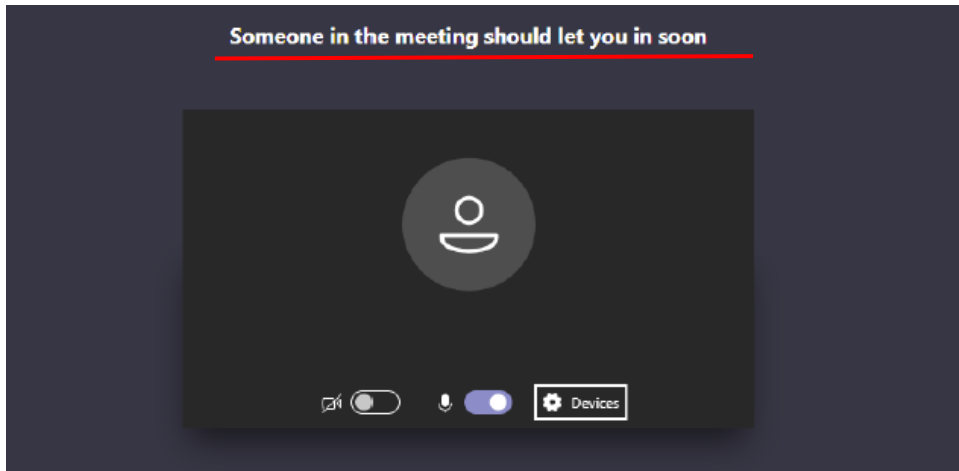
- To join an Online Hearing, click on the [Join Microsoft Teams Meeting](#) link **at least 15 minutes prior to the Online Hearing commencing**.
- For participants who already have Teams installed on their device, the link above should automatically redirect to the Teams App.
- However, the participant may be redirected to this screen in a web browser.



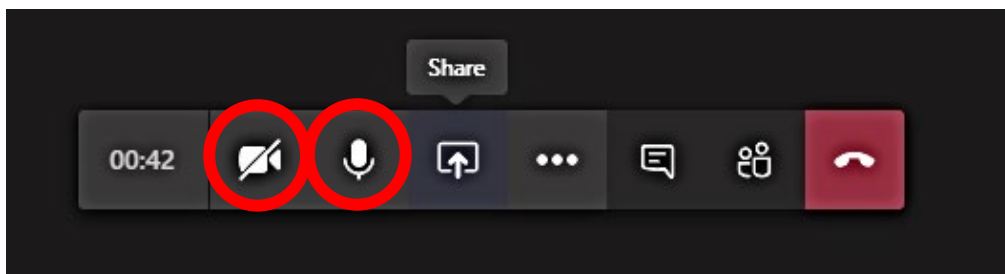
- If so, the participant may elect to [Download the Windows App](#) – which is free of charge.
- Alternatively, by selecting [Join on the web instead](#), the participant will be redirected to another webpage. The participant may be asked to give permission for Microsoft to access their device's microphone and camera – select Allow.
- On the next screen, enter your First Name and Surname in the relevant field
- Manage your microphone and camera settings, if required, through the Device Settings Panel
- Select 'Join Now'



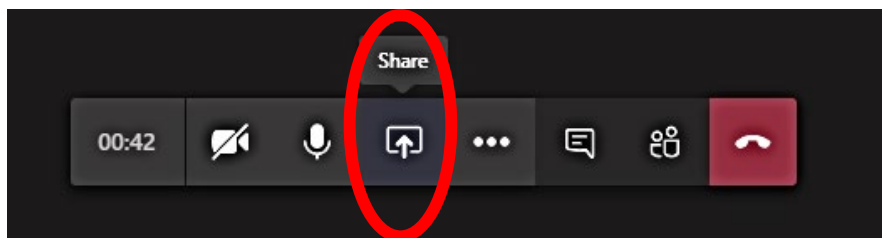
- Patiently wait in the virtual lobby until you have been admitted in to the Online Hearing.



- To mute and unmute your microphone, select the microphone icon on the Teams menu ribbon.
- To turn your camera on and off, select the camera icon on the Teams menu ribbon.



- **Only if directed by the Court**, the 'sharing screen' functionality may be used during an Online Hearing to display and navigate through documents.
- To do this, select the 'Share' button on the Teams menu ribbon.
- Then, choose to present either Desktop or Window (i.e. a particular program). The latter option is strongly recommended.



## Annexure B: Sample orders for an Online Hearing

### THE COURT ORDERS THAT:

1. Testimony be permitted to be given by video link, audio link or other appropriate means pursuant to s 47A of the *Federal Court of Australia Act 1976* (Cth) ('the Act').
2. Pursuant to s 47E of the Act, a person who is to give testimony by video link, audio link or other appropriate means be permitted to swear an oath or make an affirmation either:
  - a. by video link, audio link or other appropriate means, or
  - b. through the oath or affirmation being administered by another person who is present at the place the person giving the testimony is located.
3. Counsel be permitted to deliver oral submissions by way of video link, audio link or other appropriate means pursuant to s 47B of the Act.
4. If, in the course of examination or the appearance of a person by video link, audio link or other appropriate means it is necessary to put a document to that person, a copy of the physical document be transmitted to the Court or that person as relevant, pursuant to s 47D of the Act.