



COVID-19: PROTOCOLS FOR APPEAL HEARINGS DURING THE PANDEMIC

Tuesday, Aug. 25, 2020

The Nova Scotia Court of Appeal has developed new protocols for virtual and in-person hearings, which will help protect the health and safety of all involved and ensure appeal hearings run smoothly during the COVID-19 pandemic.

The [Fall Term](#) for the Court of Appeal is set to begin on Sept. 8, 2020. In preparation for this, the panel of justices assigned to each matter is reviewing the materials filed with the Court to decide the format in which the appeal will be heard, as per the Court's [Practice Directive for Appeal Hearings during the COVID-19 Pandemic](#).

There are four formats by which appeals may proceed:

- On the basis of written materials only;
- By teleconference or video conference;
- By in-person attendance of the parties; or
- By a combination of in-person and remote participation, in which some parties participate remotely (by telephone or video) and some participate in-person (in the courtroom). This format is referred to as a hybrid hearing.

When selecting the format for the appeal, the panel will consider, among other things:

- The nature of the case;
- The complexity of the case;
- Whether there are liberty interests at stake;
- Whether the appeal relates to a matter of public interest; and
- Other relevant considerations.

Once the panel determines the appropriate format, court staff will advise counsel and the parties of the decision. For appeals other than those based on written submissions only, there are requirements that must be met. Below are the protocols setting out those requirements for virtual and in-person appeal hearings. In the case of hybrid hearings, both protocols will apply.

Protocol for Virtual Hearings

Where a panel assigned to an appeal determines that there should be a virtual hearing, or if one or more parties are participating by video, the following applies:

- The communications platform the Court will use is Skype for Business. A user does not require a license for this product to participate in the hearing.
- Participants must have a web camera and microphone. A headset or earbuds is also recommended.
- To help avoid Internet interruptions or failure, participants are encouraged to have a hard-wired connection to their network. Wi-Fi connections are not as reliable. Participants must also have their own Internet network to connect.
- All parties must participate in a mandatory technical check scheduled by the court clerk approximately one week prior to the hearing. This will ensure that each person has the required equipment and internet capacity to successfully connect to the virtual hearing.
- During the hearing, all parties must adhere to the procedures established by the panel.

Additional information on virtual court hearings and best practices can be found on the Nova Scotia Courts' website at https://www.courts.ns.ca/Virtual_Court.htm.

Protocol for In-Person Hearings

If the panel hearing an appeal determines the matter will proceed with counsel or parties present in the courtroom, the following applies:

- Anyone entering the Law Courts will be subject to screening questions by Sheriff Services. You should arrive for screening 30 minutes prior to the scheduled time of your hearing.
- You will be refused entry to the courthouse if you are feeling unwell, displaying any symptoms of the COVID-19 virus (as identified by public health), or if you are required to self-quarantine due to recent travel outside the Atlantic provinces or contact with a person who has tested positive for COVID-19.
- Upon entry to the courthouse, you must make your way to the assigned courtroom as directed by the sheriff. Access is by elevator only with a maximum capacity of two people.
- Anyone entering a courthouse is required to wear a non-medical mask in all public areas of the courthouse. Masks are not required once seated in the courtroom, unless otherwise directed by the panel.
- Anyone entering the courtroom must apply hand sanitizer and proceed to their assigned seats as directed by the court clerk. You are required to maintain physical distancing and remain in your seat while in the courtroom. Upon the conclusion of the hearing, you are to exit as directed by the clerk.

- Water will not be provided but counsel may bring their own, provided they take the empty bottles with them at the conclusion of the hearing.
- Counsel will not be permitted to provide the panel with any documents during the hearing. Any additional materials must be filed electronically in advance of the hearing.
- The requirement for physical distancing limits the capacity of Courtroom 502 (the primary NSCA courtroom). As such, counsel must advise the court clerk a week before the scheduled hearing of the number of counsel and clients wishing to attend. If the total exceeds the permitted capacity in the courtroom, the panel will determine how to proceed.

In addition to these protocols, the Nova Scotia Court of Appeal Practice Directive for Appeal Proceedings during the COVID-19 pandemic outlines such things as etiquette and civility in remote hearings, instructions for electronic filing of documents, and media access. The full practice directive is available online [here](#).

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