



Preparing for your Family Court hearing by telephone or video-conference

Date: Monday March 7, 2022

Throughout the pandemic, the Court has continuously adjusted, and now, more and more Court hearings are being heard via video (including the use of Microsoft Teams) or by telephone. Commencing 28 February 2022, all hearings in Western Australia are conducted by telephone or Microsoft Teams.

It is expected that should your matter proceed to trial, final trials across all states for those who are vaccinated will be in person.

Key differences between in-person Court hearings and remote Court hearings

Preparing for a Court hearing in person versus remotely (for example, via telephone or video conference) is different.

In person, you can sit and watch the other matters before you. You can see the verbal queues of the Judicial Officer. You have the formalities of bowing when you enter the courtroom. Electronic hearings do not have this. Furthermore, with phone hearings, you cannot see your opponent or the Judicial Officer.

Remote hearings can lead to difficulties, such as not knowing when it is “your turn” to speak or whether there is a pause as your opponent gathers their thoughts to continue with submissions. It can be more complicated to juggle the various aspects and requirements of your hearing.

There are, however, some simple tips and tricks which assist in preparing for your Court hearing via telephone or video conference.

The Court will provide details about your hearing

It is important you file a Notice of Address for Service prior to the Court hearing so the Court is aware of how to contact you.

Prior to the hearing, the Court will send out the Microsoft Teams details or request a telephone number. You need to ensure you save these details (and not delete them) so they are available to you to dial in 15 minutes prior to the hearing commencing.

You still announce your appearance/attendance

Whether you are appearing as an in-person litigant or you have a lawyer assisting you, both parties are still expected to announce their appearance.

By way of example:

“May it please the Court, Smith on instructions for the Applicant Father.”

Although you are not at the bar table (the table where you would ordinarily sit with your lawyer if attending in person) and standing before the Judicial Officer, you are still expected to announce your appearance.

Dial-in early to avoid technology failures

The difficulty with electronic hearings is you need to manage technology and the problems which often come with it.

If you have problems with the link, the telephone drops out or your camera and/or audio are not working, make sure you have enough time to fix these problems prior to the Court hearing taking place.

For most Court hearings, whilst video is preferred, if you cannot access Microsoft Teams, there should be a telephone conference number.

If you have any difficulty, you may have an email address for the Court that you can email. Alternatively, contact the relevant department that sent you the dial-in details.

Confer prior to a Family Court hearing

With your lawyer (if you have one), make sure there is time allocated prior to the hearing (preferably at least the day before) to confer and reach agreement on what can be accepted/agreed prior to the hearing taking place.

Unlike appearances in person, where lawyers often confer outside Court prior to the hearing, for electronic hearings, this is not possible.

Make sure you allocate the time directly with your lawyer (not with the Court) to confer prior. The Judicial Officers expect this to have occurred.

Once you are accepted into the call

For Microsoft Teams hearings, you will be admitted to the call. When you are admitted to the call, you can turn off your video and you are expected to be on mute. This way, you will be able to hear the Court but they will not be able to hear you until required. This ensures there are no disruptions to other matters being held before yours.

You should only have your sound and video on when your matter is called.

If your lawyer is appearing for you, when your matter is called, only turn on your video. Keep your microphone on mute. Given your lawyer will speak for you, only your video needs to be seen.

Avoid background noise as much as possible. Turn off your mobile phone. Ensure, wherever possible, you have made arrangements for the care of your children during the hearing.

Have a quality pair of headphones with a microphone so that when you do speak, your sound is clear.

The Judicial Officers are patient to a point, however, they do expect the microphone and headphones to be tested prior to the Court hearing.

Never put the Court on mute – that is, do not turn your sound off, disabling your ability to hear the Court.

Attending with your lawyer

If you have a lawyer, you can breathe a little easier regarding the Court hearing. Lawyers often know the other solicitors and, importantly, the Judicial Officer. As such, there is an advantage in knowing the cues which litigants without lawyers may find it more difficult to judge.

Your lawyer will speak for you.

An experienced lawyer has also been to many of these hearings and is across the likely outcomes. As such, the nerves of appearing in Court, understanding the technological challenges, and generally progressing your matter, are far less.

If you have the means to appoint a lawyer to assist you, it is likely to be money well spent.

Seeking Urgent Expert Advice from a family lawyer

If you need assistance with a hearing, at Meillon & Bright, all of our lawyers have experience appearing in Court by telephone and Microsoft Teams.

With an office in Sydney and Perth, we regularly appear electronically across both States.

The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.