



THE VICTORIAN BAR INCORPORATED

VIRTUAL HEARINGS - TIPS FOR

BARRISTERS

INNOVATION AND TECHNOLOGY COMMITTEE

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Introduction

1. These suggestions from the Innovation and Technology Committee of the Victorian Bar are designed to assist all members to do the best they can in their circumstances.
2. If a dog barks or you have a child interrupt or the doorbell rings or you are having a technology issue, that is perfectly ok. There are some issues that simply arise as a result of complying with the stay at home directive.
3. However, to maintain a high standard of advocacy, all barristers must now be as well equipped to conduct virtual hearings as they possibly can be in their circumstances.
4. Some barristers are still making basic errors, such as having the screen very close to their faces. Others are finessing the finer points of virtual advocacy and are looking for tips from other barristers that will assist in that regard. This document includes both basic and advanced suggestions.
5. Many of these tips also apply to witnesses. There is little point being perfectly prepared yourself if you have not prepared your witness!

Internet Speed and Connection

6. Most barristers would have at least 3 internet sources available to choose from:
 - a) cable connection (plugged directly from your device into your modem or wall socket);
 - b) 4G/5G (e.g. through using the hotspot setting on your phone); and
 - c) Wifi.
7. To optimize your video conference experience, make sure you use the best connection for the device that is running the video conference (e.g. unplug your ethernet cable from your main computer and plug it into your laptop if you are using your laptop to run the video conference, and check to make sure your main computer has changed over to Wifi).
8. If in doubt, run a test (e.g. use www.speedtest.net) to check which is the better connection. Note that upload speed can be as important as download speed in a video conference.
9. Many people find that tethering to the phone provides a better connection than Wifi. Distance from the router can seriously weaken the Wifi signal and cause poor video quality, as can walls or solid objects between your computer and your router.
10. Have a back-up internet source available and know how to switch between them on your video device.
11. If your internet speed is slow, there are software solutions (like 'speedify') that can combine two different internet connections (phone and Wifi) for improved speed.

12. Make sure your witnesses have a stable internet connection.

Backgrounds

13. Unless you can't avoid showing a bed or some jarringly domestic scene behind you, avoid fake backgrounds.
14. Many fake backgrounds can "flare" around the person's face and head which is really distracting.
15. Backgrounds also tend to take up a lot of computer resources and may degrade your audio and video feed, both for you and other participants.
16. If possible, set yourself up in a space with a clean, neutral, uncluttered background.
17. Ensure that you have sufficient lighting, but that no lights are glaring into the camera on your device.
18. Make sure you do not have anything confidential in the camera view.

Don't sit too close to your camera!

19. This tip may appear obvious, but it is more honoured in the breach than in the observance.
20. Many judges and other advocates use speaker view, whereby the person speaking appears quite large on the screen.
21. Movements such as leaning into the screen and scratching your head or face can be distracting and may cause discomfort to others on the video conference who may feel an invasion into their personal space.
22. As a rule of thumb, try and be as conscious of your unconscious habits as you can when appearing by video conference.
23. Having your screen or laptop at a more neutral/eye level height will make communication easier and more natural. It will also avoid the awkward 'up the nose' angle from your built-in webcam. Use a stack of books to elevate your screen.

Turn off notifications /apps on the device you are using for the video conference

24. Many people access their video conference through their outlook email or calendar and then leave outlook running in the background. This can lead to everyone in the conference being alerted each time there is a new email and appointment notification! The simplest way to avoid this is to close your email application once you have clicked on the relevant link.
25. Alternatively, when you get the video conference notification from the court, save it as a pdf and file it for later. Then use the pdf to access the video conference link.

Technology Pre-Check

26. Do a pre-check of your set-up on the software that the conference will be on:
 - a) Check that the audio and speaker sources for the conference are set correctly (e.g. to your device's speakers or the headphones you are using or the device's camera v separate webcam) as there are often multiple sources available.
 - b) Check your volume is on.
 - c) Check that your name / description is court-appropriate.
 - d) Check the background (if any) you are using is appropriate.
 - e) Turn off all backgrounds if your connection isn't strong - or if you have an older computer.

Avoid Headaches / Fatigue / Look at the right people

27. Consider using speaker view rather than gallery view.
28. Consider using the right click function to 'pin' the judge or advocate to your screen.
29. Select a headset that is comfortable.
30. Consider a headset with an in-room mode that makes it feel like all the voices are in front of you.

Multiple Devices / Multiple Screens / Setup / Look at the Camera

31. Use a set up that is ergonomic.
32. Use multiple screens, multiple devices, or both so that:
 - a) you can keep your main screen for documents that you need for the hearing / corresponding with your instructors, juniors and clients; and
 - b) nothing that you are typing makes its way inadvertently into a chat linked to the conference or proceeding. Remember that while these Court proceedings may seem less formal by video conference, they are still recorded, including the video.
33. There are advantages to having a separate device to run the video conference so that whatever other computer resources you are using on-screen (such as large pdfs) don't interfere with video/audio processing for the conference itself
34. Possible combinations include:

Set up 1:

- Laptop for video conference, positioned at the back of your desk, at about eye height, far enough away so that your face is not too large

- Desktop for the Court Book, taking notes and running a chat program to obtain instructions
- iPad to read from, as required

Set up 2:

- Laptop/desktop connected to a widescreen monitor for all documents, submissions, email, WhatsApp, etc.
- Tablet/laptop connected directly beneath the monitor, as the streaming device, with nothing else active on it

Set up 3:

- Desktop connected directly to internet with cable streaming the remote hearing at back of desk and lifted up to eye height
- Laptop/iPad connected to wifi or mobile hotspot (depending on internet connection quality) immediately below the desktop screen but forward enough to reach the keypad comfortably, streaming instructor/client running a chat program to obtain instructions
- Desktop keyboard and mouse tucked away but easily accessible to manipulate screen or volume on main desktop as required during the hearing
- Hardcopy brief or a third device accessible for electronic brief or pulling up cases etc.

Set up 4:

- Desktop as per set up 3
- Use Laptop or iPad for electronic brief, taking notes, etc.
- Connect with client and solicitor using Slack channel on smart phone

35. Position your screens so that you are always looking at (or close) to the camera. Consider these options:
 - a) if you will be reading from documents on an iPad and second computer screen, position them on either side of the video conference screen, in front of the video conference screen but just out of sight of the camera; or
 - b) consider buying a separate webcam so that you can position it to give the best view of you, regardless of where your screens are set up.
36. Having a separate camera setup (whether it's a webcam or a more professional solution) allows you to have much better image quality than your built-in camera. It has other advantages such as doing better in 'low light' situations (if you are in a dark room) or where

there is a big difference between light and shadows, so that your picture isn't grainy or of a distractingly low quality. A good basic option to consider is something like the Logitech c920.

37. Further consider buying an external microphone. Doing so will reduce the amount of 'ambient' noise that is picked up by your computer's setup (such as cars driving past or even typing on the keyboard). Also, your voice will be heard much more clearly by people on the other side of the hearing which is helpful both for you and your listener! A good option to consider is something like the Blue Yeti series or Rode NT (usb).
38. If you are reading from paper, be aware that people don't want to see the top of your head whilst your head is down reading your notes.
39. If you are using your laptop's built in microphone and reading from paper, be aware that the microphone amplifies certain sounds so that paper rustling is very loud for the listener to the point where it is uncomfortable and distracting.
40. Resist the temptation to be dealing with other communications (i.e. looking distracted) when not addressing.

Documents

41. Use directions hearings wisely to ensure that there is a Court Book and an agreed mechanism for tabling/ tendering documents.
42. Know both the page number and the pdf page number of the document that you want to refer to (many judges will want the pdf page number so be aware that you may be at a significant disadvantage if you are working from a paper copy when the judge is working from an electronic copy).
43. Ensure your witnesses have access to the relevant documents.
44. If you expect to share documents on screen:
 - a) Open all documents that you expect to screen share on the device that you will be using to share those documents
 - b) Preferably, have your documents set up in the correct order (you can use the tabs to shuffle the order of the documents around)
 - c) When you have finished sharing a document, close it so that the next document is ready when you need it
45. When sharing documents, don't scroll up and down – use bookmarks to take the court directly to the relevant passage.

Communicating with Instructors and Clients

46. Run a second program to communicate with senior/junior counsel, instructors and the client (e.g. use the chat function in Microsoft Teams or Zoom or use Slack on your computer or phone).
47. Consider having a different “chat group” with different people (e.g. one group chat for junior/senior counsel).
48. When selecting the appropriate chat technology, consider data security issues. Seek advice from BCL if unsure.

Distractions

49. Do not type unless you are on mute.
50. Beware of typing on the laptop you’re appearing on – it makes your camera jerk around which again is distracting. The same goes for desks or tables wobbling.
51. It is very distracting to watch a streamed image of someone whose camera is shaking. Assuming that (like most people) you are using a camera embedded in your computer and can’t mount a camera on a separate surface to your work surface, make sure you are working on a sturdy, stable desk or table. If this is not possible, put your streaming device on a separate surface so you don’t shake the camera while writing or typing.

Raise Your Hand

52. If people are talking over each other, simply raise your hand. It alerts the judicial officer in a polite, respectful way that you want to address the Court.

More Information

53. The Australian Advocacy Institute has produced a webinar on Communication in the Virtual Courtroom that may be helpful to members. It can be streamed from the AAI website [here](#).
54. The NSW Bar Association has produced two new protocols that might be helpful:
 - a) for in-person hearings while social distancing that you can find [here](#) and
 - b) for online hearings that you can find [here](#).
55. The Principles for Remote Advocacy from the Inns of Court College of Advocacy is a good guide for hearings. It is [here](#).
56. CPDs by Emrys Nekvapil and Kathleen Foley
 - a) Virtual appearance work in the time of Coronavirus
 - b) Virtual hearings Part 2: Using Teams in the Federal Court

- c) Virtual hearings Part 3: Using WebEx in the Supreme Court
- 57. CPD *Advocacy from Mars - tips and hints in running hearings remotely in the COVID era* (13 August 2020) (The Common Law Bar Association)
- 58. CPD *Webcam Advocacy and Communication in the Covid era* (20 July 2020) (IT Committee)