

## NOTICE

### PROVINCIAL COURT OF MANITOBA

#### **Re: DIRECTION TO FACILITATE REMOTE APPEARANCES**

In the Notice of December 23, 2021, the Provincial Court announced dispositions, whether in or out of custody, would proceed on the presumption the parties appear remotely. This presumption includes any support people attending the hearing. This Notice provides additional direction to facilitate such remote appearances.

The presiding judge always retains the discretion to choose not to proceed remotely, if the circumstances before the Court are not appropriate for that type of disposition. If a disposition with remote appearances is not appropriate, the matter will be adjourned to a later date when personal appearances are permitted. Given the current presumption of remote appearances for dispositions, counsel need not seek permission to appear remotely.

The Court's preference is for video appearances rather than telephone appearances where possible. However, at this time, we are not able to have counsel appear by Microsoft Teams (Teams) when the accused person is appearing from a Correctional Centre by video (due to technological barriers). Therefore, when an accused is in custody, counsel will have to appear by telephone and the accused will appear by video.

In all other circumstances it is the Court's expectation counsel appear by Teams or other video conference platforms available in the relevant court centre.

#### **Winnipeg**

It is the intention of the Court to primarily use Teams for out of custody dispositions in Winnipeg.

For dispositions that have already been set in January (which may not have been set in a courtroom with Teams capability), it is counsel's responsibility to contact the Disposition Coordinator's office ([earlypcdispos@gov.mb.ca](mailto:earlypcdispos@gov.mb.ca)) and the Court will have their matter moved to a Teams docket/courtroom once TCO confirms there is time available. Counsel are responsible for contacting their client to secure the client's email address and then provide that email as well as their own email address to the Disposition Coordinator so that the court appearance can be set.

Going forward, in Winnipeg, additional time will be made available for Teams dispositions. Available time for dispositions in a Teams courtroom will be posted on the Court's Website under "Available Dates". If the date and time are available, counsel should seek

confirmation by providing the relevant information, including contact information for the disposition.

If the accused person cannot appear by Teams, they can appear by telephone. It is possible to appear by telephone, even if counsel are appearing on a Teams link. The same link can accommodate both video and telephone appearances. The following example demonstrates where you can see both the link to appear by video or by telephone:

Microsoft Teams meeting

**Join on your computer or mobile app**

[Click here to join the meeting](#)

**Or call in (audio only)**

[+1 431-813-4588,,777777#](#) Canada, Winnipeg

Phone Conference ID: 777777#

It is counsels' responsibility to advise the Court (Disposition Coordinator) if the accused person's appearance will be by Teams or if it will be by telephone.

Counsel are expected to appear by telephone if they cannot appear by Teams and they are to advise the Disposition Coordinator accordingly at least 24 hours prior to the disposition.

If neither video nor telephone options are available to an accused person, counsel can ask for an exceptional in person appearance with an explanation of why that is necessary, or seek an adjournment of the disposition.

**Note:** If counsel has more than one matter appearing on the same day, the Court will not be able to accommodate all of counsel's matters being heard in the same courtroom if they have a mixture of in custody and out of custody matters set that day, as in custody matters cannot be heard in a Teams courtroom.

### **Regions (outside of Winnipeg)**

It is the intention of the Court to primarily use Teams or other available video conferencing options for out of custody dispositions in the Regions. When counsel do appear by Teams or video, it is counsel's responsibility to contact the Trial/ Disposition Coordinator's office in the applicable regional office and the Court will have their matter moved to a

Teams/Video docket where available. Counsel are responsible for contacting their client to secure the client's email address and then providing that email, as well as their own email address, to the Trial/Disposition Coordinator so that the court appearance can be set.

If the accused person cannot appear by Teams, they can appear by telephone. It is possible to appear by telephone, even if counsel are appearing on a Teams link. The same link can accommodate both video and telephone appearances as set out above.

It is counsels' responsibility to advise the Court (Trial/Disposition Coordinator) if the accused person's appearance will be by Teams/Video or if it will be by telephone.

Counsel are expected to appear by telephone if they cannot appear by Teams/Video and they are to advise the Trial/Disposition Coordinator accordingly at least 24 hours prior to the disposition.

If neither video nor telephone options are available to an accused person, counsel can ask for an exceptional in person appearance with an explanation of why that is necessary, or seek an adjournment of the disposition.

### **Custodial Disposition Imposed Remotely**

In the appropriate case, it is possible to impose a custodial disposition even when the parties are appearing remotely. Section 145(2)(c) and section 570(1) and (5) of the *Criminal Code*, could be relied on to require an accused to turn themselves in at the Winnipeg Remand Centre to begin serving their sentence (similar to an intermittent sentence). Of course, it will be up to the presiding judge whether this approach is appropriate in the specific case. In the Regions, if counsel will be asking the Court to impose a custodial disposition and the accused will not be turning themselves in to the Winnipeg Remand Centre directly, we ask counsel to contact the local Supervising Sheriff, with a copy to Darcy Blackburn, Executive Director and Chief Sheriff, so they can provide information as to the best time and date where a person can turn themselves in to start serving their sentence. The Sheriffs would then transport the person to the Winnipeg Remand Centre.

The Manitoba Court's website contains a helpful Virtual Courts Q & A on remote appearances by Teams and telephone, <https://www.manitobacourts.mb.ca/covid-19/virtual-courts/>. We invite any court participants to review this information.

Counsel and members of the public are reminded that remote appearances are still court appearances and proper courtroom decorum must be observed. The participants must be on time and in a quiet, private location so there are no distractions to the court process.

Due to the current Public Health Emergency as a result of COVID-19, the Provincial Court is allowing this greater flexibility for individuals to appear by telephone or video. The prohibition against recording all or any part of the proceedings has not been relaxed. Any person attending a proceeding by phone or other video/telecommunication platform is ordered not to record any part of it unless permission has been obtained in accordance with the Courts policies. Failure to comply with this direction will result in the person(s) responsible being required to attend court and show cause why they should not be held in contempt of court.

**ISSUED BY:**

*“Original signed by:”*

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**The Honourable Chief Judge Margaret Wiebe  
Provincial Court of Manitoba**

**DATE: January 7, 2022**