

LCQ12: Conducting remote hearings for court cases

Following is a question by the Hon Dennis Kwok and a written reply by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in the Legislative Council today (June 24):

Question:

Since April 3, 2020, remote hearings may be conducted for suitable civil cases by using the court's video-conferencing facilities (VCF). Court users may connect to VCF under a hardware option (i.e. using hardware video-conferencing units) or a software option (i.e. using normal desktop computers installed with appropriate software). Besides, the Judiciary is actively considering enabling real-time communication for the web (WebRTC) in video-conferencing, so that court users can connect to VCF by using a simple web browser. In this connection, will the Government inform this Council if it knows:

(1) the equipment needed to be acquired by the Judiciary for enabling remote hearings; the respective quantities of such equipment purchased/to be purchased, as well as the respective capital and recurrent expenditures incurred/to be incurred; when the acquisition of all equipment can be completed;

(2) the criteria to be adopted for choosing the WebRTC software and the supplier; whether the software has been acquired; if so, the technical specifications of the software and the implementation timetable for WebRTC; if not, the latest progress of the relevant work and timetable for enabling WebRTC in video-conferencing;

(3) whether the WebRTC solution to be introduced is similar to those adopted in other jurisdictions, such as the United Kingdom (UK), for conducting remote hearings; if not, the differences;

(4) how the Judiciary's ability, upon the introduction of WebRTC, to conduct remote hearings compares with that in other jurisdictions, such as the UK, the United States and Australia, and the areas on which improvement is needed;

(5) whether the High Court Building has sufficient bandwidth of Internet access services for remote hearings to be conducted in all courtrooms simultaneously;

(6) the assistance provided by the Judiciary for litigants/witnesses who do not have the necessary equipment for attending remote hearings;

(7) whether the scope of application of remote hearings will be expanded to

criminal cases; and

(8) whether the Judiciary has plans to handle the backlog of cases by conducting more remote hearings?

Reply:

President,

Based on the information provided by the Judiciary, the Government's reply is as follows:

In response to the prevailing and changing public health situation, the Judiciary has been actively considering alternative modes of hearings in civil proceedings through, among others, the use of video-conferencing facilities (VCF). The Judiciary issued guidance notes on April 2 and June 8, 2020 setting out detailed arrangements for the possible use of VCF, among others, for remote hearings for suitable civil cases of the High Court, District Court and Family Court.

In considering technical options for remote hearings, apart from compliance with the law, it is important that any application of information technology (IT) must be secure and the integrity of specific aspects of the court operation involving the use of IT cannot be jeopardised or compromised.

In the longer term, the Judiciary is looking into whether, and if so, to what extent and how, remote hearings may be used in specific circumstances to support the proper and effective administration of justice when the pandemic is over and the courts have resumed their normal mode of operation, whereby physical face-to-face hearings will continue to be the standing mode of court hearings under normal circumstances. The Judiciary will keep all the stakeholders posted and consult all concerned when it has come up with its views and proposals.

For VCF remote hearings, the main equipment needed by the courts is the video-conferencing unit. Other general-purpose peripheral equipment, such as display units and speakers, are also needed. As video-conferencing units have been used for remote hearings involving witnesses outside Hong Kong for quite some time, the Judiciary has already acquired some VCF sets before COVID-19. To meet possible greater demand for VCF for court hearings and various types of meetings of the Judiciary during the short and longer term, the Judiciary has acquired in batches 15 additional sets of video-conferencing units at a cost of about \$830,000. The Judiciary has, however, no breakdown of the additional recurrent expenditure incurred specifically for using VCF.

According to the Judiciary, VCF will only be considered for court cases or part(s) of the court cases which are suitable and under essential or desirable circumstances. The Judiciary's latest assessment is that the total capacity of its existing Internet links should be sufficient to support VCF hearings for the time being. The Judiciary will closely monitor the overall utilisation and increase the Internet bandwidth as necessary to ensure the

smooth conduct of remote hearings at various court buildings, including the High Court Building.

When remote hearings were first tried out from April 2020, court users would need to have the necessary enterprise-level hardware to be connected to the Judiciary's VCF. To keep abreast with changing technologies without compromising the need for security and integrity, the Judiciary has been exploring various technical alternatives to facilitate remote hearings. During the process, the Judiciary aims to introduce more user-friendly solutions to court users. The Judiciary has also been making reference to technical solutions being adopted by other jurisdictions, such as the United Kingdom and Australia, to cater for their own circumstances and needs. As their situation is not entirely the same as that in Hong Kong, their technical solutions may not be the best references for the Judiciary.

After some studies, the Judiciary informed stakeholders on June 8, 2020 that it would be able to allow a software-based option whereby court users may use personal computer devices, with installation of an appropriate software, to connect to the Judiciary's VCF. This new technical alternative has been introduced since June 15, 2020. The Judiciary indicates that the cost of this option will be significantly lower than procurement of enterprise-level hardware. Besides, this option should be more user-friendly and conducive to facilitating a wider use of remote hearings.

As part of the Judiciary's on-going efforts to explore further possible technical options, the Judiciary is also examining in detail, among others, whether Web Real-Time Communication (WebRTC) which will further facilitate remote hearings, may be used without affecting the integrity or security of court proceedings. If any additional technical option(s) prove to be feasible from a policy and technical point of view and the Judiciary has decided to adopt such option(s), the Judiciary will make announcement(s) to the relevant stakeholders as appropriate.

The Judiciary has been using various alternative means, such as paper disposal and VCF hearings, to handle civil cases, including those affected by the General Adjourned Period. Experience shows that these have been effective.

For criminal cases, using remote means to conduct criminal hearings may not be permissible under existing law. Taking a longer-term perspective, the Judiciary is examining whether it is desirable for any parts of criminal proceedings to be conducted by remote hearing, and if so, what policy, legal and operational issues are involved. The Judiciary will then consider the way forward. The Judiciary will consult the relevant stakeholders as appropriate.