



# Action Committee on Modernizing Court Operations

## MEETING THE DIVERSE NEEDS OF COURT USERS: OPERATING PRACTICES

### A Statement from the Action Committee

*Our Committee supports Canada's courts in their modernization efforts. It provides guidance for addressing challenges, and highlights opportunities and innovative practices to modernize court operations and improve access to justice for court users.*

### 1. ISSUE AND CONTEXT

As noted in the companion publication, [\*Meeting the Diverse Needs of Court Users: Orienting Principles\*](#), many court users do not recognize themselves in Canadian courts; do not feel heard, seen, or understood by the courts; face so many barriers that they do not know how to access justice services that are supposed to be there for their benefit, even when they want to; or don't even turn to the justice system when they should.

The following guidance, along with the related orienting principles, builds on several past Action Committee publications, a full list of which can be found in Annex I. These two publications consolidate the Action Committee's previous guidance; shift its focus beyond the pandemic-specific lens in which much of it was originally drafted; and provide concrete examples of ways that those working within the courts can build their understanding of court users to both better meet the needs of the people they serve and innovate in a way that is informed by diverse perspectives.

### 2. OPERATING PRACTICES

The following concrete actions can assist in meeting the diverse needs of court users while integrating the [orienting principles](#) outlined in the Action Committee's companion publication.

#### 2.1 Create a Welcoming Environment

Justice buildings, professionals, and processes can be foreign and alien to many court users. Unfamiliar spaces and ways of working, when combined with existing distrust and lack of confidence in the justice system, can create barriers to meaningful connection and engagement. Finding ways at both the institutional and individual courtroom level to make justice buildings, professionals, and processes more welcoming, inclusive, and accessible – while preserving dignity, solemnity, and decorum – can enhance access to justice and increase trust and confidence in the justice system for all court users.

##### 2.1.1 *At the Institutional Level*

Some ways courts across the country have been working at the institutional level to create a more welcoming environment include:



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## Finding ways for location, staff, and court spaces to reflect the community

- Holding court proceedings in different locations that are more meaningful and more accessible to different segments of the population
- Reflecting the makeup and needs of court user communities in front-line court staff: seeing staff members who look like they do can ease barriers for court users and increase trust in the justice system
- Incorporating elements and symbols into the courthouse that are meaningful and recognizable to local communities, either at the construction phase or in the interior design
- Providing opportunities to use a range of culturally significant items to facilitate oaths. A court can either provide these objects or allow individuals to bring their own. Objects should be cared for in a way that reflects respect for the tradition they come from.

## Providing information and services

- Targeting under-served communities for increased opportunities and mechanisms to better understand the justice system, including what people can expect and what is expected of them
- Providing front-line staff with the necessary tools and information to answer user inquiries about accessing justice processes and services. An integrated single window approach that recognizes the close connection between justice issues and other related factors can minimize the difficulty court users may have navigating between the different organizations engaged in the justice system
- Ensuring everyone who communicates with the court either reaches someone directly or otherwise receives a response
- Exploring the possibility of appointing liaison officers or navigators to help users through the courts and the larger justice system
- Providing front-line staff or navigators with trauma-informed training and care. Court users may be agitated for many reasons, including an exacerbation of underlying trauma from the inherent stress of the situation that has brought them to court, frustration with a lack of clear answers, or not understanding terminology or processes. Training about the possible roots of, and methods to diffuse, these heightened emotions can be beneficial to both the front-line staff offering the service and the user receiving it. Training on proper self-care can also reduce burnout among court staff

### **2.1.2 At the Individual Level**

Through their demeanour, language, and general approach, the individual judge or court staff member can take steps to create a welcoming environment. Little things can make a huge difference, and many of the suggestions below only take a few moments or a simple shift in approach:

- Set a tone of mutual respect: true decorum requires acknowledging everyone's equal humanness.
- Take a moment to develop rapport and establish human connections with people so they feel seen, heard, and respected by, for example:



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- Acknowledging how intimidating court can be and taking time to put people at ease
- Asking counsel and parties how they wish to be addressed. This can include what name they go by, what pronouns they use, what title they prefer, and how to pronounce their name. It is preferable, for example, to ask someone how to say their name correctly than to mis-pronounce it because it is unfamiliar. Asking how everyone wishes to be addressed, even if their gender seems apparent, helps normalize this practice.
- Orient people to what they can expect and what will be expected of them and demystify the process for everyone in the courtroom: even if a party has a lawyer, they can benefit from the judge playing this role.
- Be mindful of symbols, images, and spaces that may create fear or trigger people.
- Choose language that is appropriate for the audience: words will land differently with different people, and understanding the diversity of perspectives and connotations associated with different words can support effective communication.
- Ask rather than making assumptions.
- Be sincere and follow through on any commitments undertaken.
- Address language and behaviour that is inappropriate or reduces the dignity of individuals in the courtroom: if this behaviour occurs during submissions, a judge may want to intervene respectfully to remind the person speaking that the language being used may be harmful and suggest alternative language.

## 2.2 Be Trauma-informed and Trauma-responsive

Trauma can occur when a person is faced with an unexpected event(s) for which they were unprepared and that they could not prevent from happening. These experiences can overwhelm an individual's ability to cope or integrate the ideas and emotions involved. Since traumatizing events can happen to anyone, and may be particularly prevalent for those who are in contact with the courts, education for all court officials on both recognizing trauma and taking a trauma-informed approach can help them support court users. A trauma-informed approach can also enhance the protective factors that reduce the effects of vicarious trauma for those who work in the courts.

A trauma-informed approach can include:

- Understanding the pervasiveness of trauma and the connection between trauma and behaviour
- Developing cultural competency to understand the trauma people from different backgrounds may have experienced and developing the vocabulary to speak about it effectively
- Creating a sense of physical, emotional, psychological, and cultural safety for everyone
- Building trust by creating connection, establishing appropriate boundaries, providing clear information, and being as transparent, consistent, and predictable as possible
- Empowering individuals by providing choice and autonomy where possible
- Coordinating with other organizations and ensuring that those with lived experience continue to have a voice



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In addition to relevant practices outlined in the section above on *Create a Welcoming Environment*, courts may wish to consider minimizing trauma by:

- Examining whether an adversarial approach is necessary: the more collaborative approach adopted in problem-solving or therapeutic courts, case conference, judicial dispute resolution, and some family proceedings may be more appropriate for those who have experienced trauma
- Creating predictability in a proceeding and avoiding surprises: trauma can be reduced when someone understands the process and their role in it, is fully informed about outcomes and next steps, and knows they have the opportunity to take breaks
- Meeting with counsel in advance of a proceeding to discuss adaptations or special procedures that can reduce trauma such as the use of testimonial aids, the availability of support persons or animals, or an amicus to speak for the individual
- Offering a subject matter content warning for jury pool members so they are aware of, and can appropriately prepare for, potentially triggering content in intimate partner violence, child abuse, or other cases that involve potentially traumatizing evidence

## 2.3 Ensure Information is Accessible to All

Ensuring access to accurate information about court processes and services requires explicit attention and effort. Some concrete steps that can be taken to increase this access include:

- Consolidating the rules and information a litigant will need in one place, rather than spreading it out across several directives
- Using plain language in all communications and public-facing resources
- Formalizing the court's approach to accessibility and ensuring relevant policies are readily available to court users. This can include highlighting information about possible resources, tools, or approaches for people living with disabilities in all court communications, including summons and subpoenas, and providing clear information on how people can communicate with the court to ensure accessibility
- Providing key information in languages commonly spoken by court users in the jurisdiction in addition to English and French
- Creating user-centred websites: for detailed guidance on this practice, see the Action Committee's publication on [Designing User-Centred Court Websites](#)
- Providing opportunities to interact with an actual person to ask questions or receive additional assistance, even if the court adopts a digital-first communication strategy
- Equipping public-facing staff to respond to user needs and questions and refer individuals to the right place if they do not have the information being sought. Information about how to proceed with their case or where to find resources is especially important for self-represented litigants
- Modifying processes, as necessary, so that everyone can access the court system, regardless of disability or limitation. Accessibility considerations are relevant both for individuals involved in a hearing and those interacting with registry staff to seek information or file documents
- Using different formats and mediums to provide information about the justice system and local courthouses: options include pamphlets, videos, webpages, mixed format aids with



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text and visual representations, telephone inquiries, courthouse inquiries, legal clinics, or internet searches. It is also useful to provide cross-references to services such as legal aid, mediation, and restorative justice

- Ensuring resources are accessible by design and meet accessibility standards and requirements for persons with disabilities

## 2.4 Be Mindful and Responsive to Technological Needs

As the Action Committee has previously noted, technology is essential, but it can not solve every problem. Continued access to in-person contact can support relationships, increase people's ability to navigate supports and services, and reduce isolation and marginalization. As outlined in the Action Committee's previous guidance on [Virtual Hearings: Operational Considerations – Benefits and Challenges](#), technology has the potential to increase access to justice, but the following barriers might undermine its benefits:

- An individual may not have the necessary tools or reliable internet, the requisite comfort with technology, or a safe and private space to engage with a virtual proceeding
- Technology used by the courts may not be compatible with the adaptive technology used by people living with disabilities
- Parties who are participating in a virtual hearing may not have direct access to their counsel: this can be especially problematic if a party does not understand what is happening due to language or other barriers
- It can be more difficult to adapt processes to meet everyone's needs when parties are not physically in the courtroom

## 2.5 Bridge Language Differences

As Canada's population becomes more diverse, a greater number of people speak a first language that is different than the one in which the court regularly functions. This means access to justice for all court users requires responding to the needs of different language speakers. Timely and high-quality translation and interpretation of court proceedings is essential for equitable access to court services, yet interpreters are in short supply and many courts do not have interpreters for each appearance. This is an issue courts will have to actively problem-solve before issues become more difficult. Until more sustainable solutions are found, the following practices may help:

- Identify language needs early, whether through pre-trial forms, proactive discussion with counsel, or designated court staff: this can save time and effort and prevent adjournments and delays in obtaining services
- Use plain language to facilitate understanding for all court users, and particularly those using interpretation
- Consider using the captions function when conducting virtual hearings so participants can see the words being said in addition to hearing them
- Work with local governments, legal associations, and civil society organizations to identify the languages used in the local community: this knowledge can assist courts in anticipating needs for translation and interpretation



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- Assess user needs to decide whether proceedings involving interpretation should take place virtually or in person: in some instances, the virtual environment can make accurate and timely interpretation difficult, while in others proceeding virtually allows access to a wider pool of interpreters: assessing the costs and benefits will help determine the right approach in each case

## ANNEX I

Relevant past Action Committee publications:

- [Impact of the Pandemic on Interpretation and Translation Needs of Court Users](#)
- [Impact of the Pandemic on Access to Specialized Court Programs](#)
- [Case Study: Impact of the Pandemic on the Nova Scotia Wellness Courts](#)
- [Applying the Canadian Judicial Council's Statement of Principles on Self-Represented Litigants and Accused Persons: Special Considerations Arising from the COVID-19 Pandemic](#)
- [Restoring Court Operations in Northern, Remote and Indigenous Communities](#)
- [Examining the Disproportionate Impact of the COVID-19 Pandemic on Access to Justice for Marginalized Individuals](#)
- [Multi-Stakeholder Collaboration: Best Practices and Lessons Learned from the Pandemic](#)
- [Virtual Hearings: Operational Considerations – Benefits and Challenges](#)