

高等法院首席法官  
潘兆初



The Hon Mr Justice Jeremy Poon  
Chief Judge of the High Court

**BY POST AND E-MAIL**

16 April 2020

Mr Philip J Dykes, SC  
Chairman  
Hong Kong Bar Association  
LG2 Floor, High Court  
38 Queensway  
Hong Kong

HONG KONG BAR ASSOCIATION  
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Dear *Mr Dykes,*

### **Remote Hearings for Civil Court Business**

Given the prevailing public health situation, court proceedings have generally been adjourned since late January 2020. At the same time, for due administration of justice, the Judiciary has been exploring possible options with a view to handling urgent and essential matters as far as practicable. The courts have also been encouraging paper disposal in suitable cases.

### **Hearings by Video-Conferencing Facilities**

2. At the same time, the Judiciary has been proactively taking incremental steps to use alternative modes by hearing submissions by telephone and video-conferencing facilities ("VCF"). On 2 April, the Judiciary issued the Guidance Note for Remote Hearings for Civil Business in the High Court (Phase 1: Video-Conferencing Facilities). Two cases using VCF were heard in the week of 6 April and the experience was satisfactory. We also note a generally positive feedback from practitioners to the use of VCF for remote hearings. A few more cases using VCF have also been listed at the High Court in the coming few weeks.

3. We are now actively considering the expansion of the use of VCF for remote hearings as phase 2. This is likely to cover not only the High Court, but also some other civil courts. We are also examining in greater detail the possibility of using phone hearings for simple interlocutory hearings, such as 3-minute summons, call-over and direction hearings. We will announce the details when ready.

### **Commercial Applications**

4. We have recently received suggestions from the Technology Special Committee of the Bar Association to use other commercial online real-time communication applications such as Microsoft Teams. We are grateful for the suggestions. There are in fact other suggestions for us to consider using some other similar applications such as Zoom. These applications are common in that they are all cloud-based. We note the various concerns, primarily the security ones, which have been raised with respect to such applications not just in Hong Kong, but in some other jurisdictions as well.

5. On the other hand, VCF provide secure point-to-point connections. Other technical considerations, such as the ability of the remote hearing facilities to integrate with the court's Digital Audio Recording and Transcription Services ("DARTS") for the purpose of keeping the official record of court proceedings of good audio quality is also important. For example, Microsoft Teams does not enable such integration.

6. Given the importance of ensuring the orderly conduct and integrity of court hearings, the Judiciary will not at this stage adopt the use of such on line real-time communication applications unless and until the security and other concerns have been resolved satisfactorily. Moreover, the Judiciary is taking a longer-term perspective to the use of remote hearings, probably even after the General Adjourned Period is over. As such, the Judiciary hopes to use facilities which are secure and reliable, and will not compromise the integrity and dignity of court proceedings.

7. The Judiciary understands that some common law jurisdictions, such as England, Australia and Singapore, have also introduced remote hearings to cope with the impact on their legal system brought by Covid-19. Our preliminary research shows that there are differences in terms of

legal frameworks and circumstances which do not support a wholesale adoption of their measures in Hong Kong. We are satisfied that for the time being, expanding the use of VCF should remain our top priority in pursuing remote hearings in Hong Kong.

### **Use of Technology**

8. The Judiciary will continue to maintain a close dialogue with the Bar Association and other stakeholders on matters relating to the use of technology for court business. We look forward to receiving your support to the expanding use of VCF for court proceedings in the immediate future and we also look forward to exploring further feasible options with you and other stakeholders in the longer run.

Yours sincerely,



(Jeremy Poon)

Chief Judge of the High Court

c.c. Judiciary Administrator