



Action Committee on Modernizing Court Operations

TERMS OF REFERENCE

ACTION COMMITTEE ON MODERNIZING COURT OPERATIONS

Updated: November 2023

1. Overview

The Action Committee on Modernizing Court Operations ("Action Committee") is a national leadership body co-chaired by the Chief Justice of Canada, the Right Honourable Richard Wagner, and the Minister of Justice and Attorney General of Canada, the Honourable Arif Virani. It provides guidance for addressing challenges, and highlights opportunities and innovative practices to modernize court operations and improve access to justice for court users. The Committee is supported by an Indigenous Advisory Group to ensure that Indigenous perspectives are adequately reflected in the Action Committee's work and a Technical Working Group to ensure that national perspectives are reflected.

The Action Committee recognizes that the provinces and territories have primary responsibility for the administration of justice within their jurisdiction, and that the constitutional principle of judicial independence reserves key elements of court operations to chief justices and courts themselves. Within this context, the Action Committee develops national non-prescriptive guidance, facilitates information sharing and communication across jurisdictions, identifies common needs and solutions, and promotes a nationally harmonious approach to modernizing and improving Canadian court operations that places the interests of court users at the forefront.

2. Context

The Action Committee was initially established in May 2020 as the Action Committee on Court Operations in Response to COVID-19. Its aim was to provide the best available public health information, practices, and resources to courts as they worked to adapt and restore their operations in response to COVID-19 while upholding the fundamental values of our justice system. As the Action Committee's work had shifted in focus from pandemic response to ongoing modernization, and in light of the end of the public health emergency, the Committee changed its name in September 2023 to the Action Committee on Modernizing Court Operations.

Canada's courts are an integral part of our democracy, an essential frontline service, and a critical pillar for socio-economic activity at the local and national levels. While the COVID-19 pandemic placed significant strain on the system, it also led to unprecedented innovation in the use of technological tools and other novel measures in the courts. At the same time, affected parties across the justice system strengthened existing, and forged new, partnerships to creatively and collaboratively address the challenges faced. Now there is an opportunity to build upon this unintended experiment in innovation by continuing to modernize court operations with the needs of court users, including the most vulnerable and marginalized, at the forefront.

While needs may vary by region and jurisdiction, court users have a shared interest in accessible and effective justice. Achieving this goal requires close and respectful collaboration among federal, provincial and territorial justice ministries and with Canada's judiciary at all levels, with a view to supporting one another in continually improving court operations.



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3. Mandate

The Action Committee's mandate is to support **modernized court operations, improved access to justice for court users, and enhanced resilience of the courts** through sector-wide innovation and reform.

To achieve this mandate, the Action Committee

- Develops non-prescriptive, **national guidance** adaptable to different levels of Canadian courts and types of court matters
- **Promotes coordination and collaboration**, and facilitates **information sharing**, among judiciary and justice officials who support court operations across Canadian jurisdictions
- Identifies **common principles and best practices** inspired by courts and justice partners throughout the country
- Identifies **areas of further study** that may interest policy-makers, academics, and training providers in the field of court operations

4. Key Principles and Considerations

The Action Committee's work is guided by the following principles and considerations:

- The operation of an effective court system is a constitutional responsibility jointly shared by the federal, provincial, and territorial governments and a strong and independent judiciary.
- Judicial independence is a fundamental constitutional principle and includes institutional independence.
- The administration of courts in the provinces and territories falls within provincial and territorial jurisdiction, such that national guidelines cannot supplant the authority and leadership of appropriate provincial and territorial officials.
- The modernization of court operations should be driven by the experience and needs of the end users of Canada's courts, with particular attention to our most vulnerable and marginalized people and communities.
- Accessible courts inspire confidence in the justice system, inviting the public to approach courts as trustworthy venues for resolving legal issues and alleviating day-to-day hardship. In order to exercise their rights and to ensure that Canada remains a society governed by the rule of law, everyone must have meaningful and effective access to the courts.
- Reconciliation with Indigenous peoples requires awareness of the ways that Canadian institutions, including the justice system, have systemically discriminated against Indigenous peoples. Action is required to dismantle these institutional barriers.
- The open court principle is key to ensuring public confidence in the justice system. As much as possible, court proceedings should be open and accessible to the public and the media, including when hearings are conducted remotely.



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5. Composition

The Action Committee is composed of the following members:

- Right Honourable Richard Wagner, Chief Justice of Canada (Co-Chair)
- Honourable Arif Virani, Minister of Justice and Attorney General of Canada (Co-Chair)
- Honourable Manon Savard, Chief Justice of the Court of Appeal of Quebec and representative of the Canadian Judicial Council
- Honourable Geoffrey Morawetz, Chief Justice of the Ontario Superior Court of Justice and representative of the Canadian Judicial Council
- Honourable Shannon Smallwood, Chief Justice of the Supreme Court of the Northwest Territories and Chair of the Indigenous Advisory Group
- Honourable Melissa Gillespie, Chief Judge of the Provincial Court of British Columbia and Chair of the Canadian Council of Chief Judges
- Honourable Niki Sharma, Attorney General of British Columbia
- Honourable Doug Downey, Attorney General of Ontario
- Shalene Curtis-Micallef, Deputy Minister of Justice and Deputy Attorney General of Canada
- Jeremy Akerstream, Deputy Minister of Justice and Deputy Attorney General of Manitoba, representative of the Heads of Court Administration
- Stéphanie Bachand, Executive Legal Officer, Supreme Court of Canada

Recognizing the heavy and wide-ranging responsibilities all Action Committee members carry, members may choose to send alternates to represent them where necessary.

6. Meetings and Timelines

The Action Committee held its first meeting on May 8, 2020. It initially convened on a weekly, then monthly, basis, and now meets quarterly. The Action Committee will continue to operate until at least fall 2024. Meetings are held by videoconference, and the co-Chairs may call additional meetings as necessary. Between meetings, Action Committee members may approve documents by e-mail for publication purposes.

7. Operational Support

A Technical Working Group provides operational support, which includes preparing national guidance or other resources under the direction of the Action Committee, in coordination with the judiciary and other officials or organizations as necessary. The Technical Working Group meets regularly between Action Committee meetings to develop the Action Committee's publications and meeting agendas.

In recognition of the unique position of Indigenous peoples in Canadian society, and the challenges they have historically faced in accessing the Canadian justice system, an Indigenous



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Advisory Group supports the Action Committee's mandate and ensures Indigenous perspectives are adequately considered in the Action Committee's ongoing work.

The Department of Justice Canada, through the Secretariat of the Action Committee, provides operational support to the Action Committee as well as its Technical Working Group and Indigenous Advisory Group.