**Lesson Plan**

Lesson 2.3.4 (Conducting Hearings and Drafting Orders)

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| Lesson 2.3.4 (Conducting Hearings and Drafting Orders) | | Duration: 120 minutes |
| **Resources Required:**   * PC/Laptop loaded with software versions compatible with the prepared materials * Projector and display screen. * Internet access (if available). * Student notepaper and pens. | | |
| **Session Aim:**  The purpose of this lesson is to provide delegates with the necessary guidance to assist them in conducting hearings on applications for exercise of procedural powers and draft orders enabling exercise of such powers. | | |
| **Objectives:**  By the end of the lesson the delegates will be able to:   * Recognize various considerations with respect to conducting hearings on investigative powers * Explain relevant conditions and procedural safeguards that should be considered when conducting hearings * Identify important judicial skills that may be implemented to effectively conduct hearings * Understand key considerations with respect to orders enabling exercise of electronic evidence procedural powers | | |
| **Trainer Guidance**  Budapest Convention mandates states to implement adequate conditions and safeguards in regard to the exercise of procedural powers. Some jurisdictions require a law enforcement agent or a prosecutor to prepare a formal application and for an independent officer (usually judicial officer) to conduct a hearing of the application and prepare an appropriate order. Other jurisdictions require an independent officer (usually a judicial officer) to consider a request to apply procedural powers and issue a verbal authorization. This lesson aims to provide the necessary general skills to the delegates to hear such applications and draft orders. This lesson should be delivered keeping in mind that the delegates will undertake a practical exercise to involving conducting a hearing. | | |
| **Lesson Content** | | |
| **Slide Numbers** | **Content** | |
| 1 to 3 | The first slides lay out the structure and objectives of this session. Delegates will be given an opportunity to ask any preliminary questions that they may have regarding the structure and objectives of the session. | |
| 4 to 7 | These slides provide a brief introduction to hearings including a brief description of how certain legal systems require hearings on applications for procedural powers while others may involve judges rendering authorizations without hearings. This part also recaps an overview of applicable conditions and safeguards. | |
| 8 to 25 | These slides relate to the entire hearing process from the preparation stage to the stage of asking questions and requesting further information. The trainer should explain the stages of a hearing (e.g. preparation, presentation, identification of issues, evidence, questioning and further information) to the participants. The slides refer back to the investigation exercise case study to provide relevant examples. | |
| 26 to 47 | These slides cover skills that are relevant to the process of conducting hearings. Given the sensitivity of this topic, the trainer should ensure that the participants are made aware that this part of the session is based upon existing best practice judicial skills identified by judges in the UK, but adapted appropriately to the specific nature of applications involving electronic evidence. This part also includes some practical examples of implementation of some judicial skills with respect to the investigation exercise case study. | |
| 48 to 72 | These slides relate to drafting of orders after completion of the hearing process. The slides build upon concepts covered during the hearing stage and specify various details that may be included in the order. The trainer should explain that the slides only provide certain non-specific heads of terms and examples, but that the content of any order relating to the exercise of procedural powers would depend entirely on the facts of the case at hand. | |
| 73 to 75 | The trainer should recap the session objectives with the delegates and give them an opportunity to ask any questions relating to the materials covered in this lesson. | |
| **Practical Exercises**  After completion of the lesson, the delegates are expected to take part in a mock hearing. The delegates will be divided into small groups of even numbers of people. Each group will be provided with a mock application for search and seizure of computer data and will be divided into two sub-groups (e.g. law enforcement officials/prosecutors & judges). Each sub-group will conduct a mock hearing of the application, following which the sub-group of judges will be required to draft an order. After completion of this exercise, the sub-groups will switch roles and the exercise will be repeated.  Upon completion of the exercise, the trainer will be responsible for providing feedback to the delegates. The trainer will provide feedback as follows:  Headline: Identify the features to be addressed  Playback: Re-enact the subject matter of the headline  Reason: Provide rationale based on which the headline was identified  Remedy: Explain how performance can be improved  Demonstration: Perform the remedy  Replay: Ask to repeat the headlined feature of performance | | |
| **Assessment/Knowledge Check**  The trainer is encouraged to check knowledge and understanding by asking relevant questions throughout the session. The knowledge of the delegates will be assessed in the practical exercise. | | |