**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 related to procedural powers and draft orders enabling the exercise of procedural powers. This lesson also aims to provide practical experience on the hearing process. | | |
| **Objectives:**  By the end of the lesson the delegates will be able to:   * Recognize various considerations with respect to conducting hearings on applications for the exercise of electronic evidence procedural powers * Explain the conditions and procedural safeguards that are relevant to applications for the exercise of electronic evidence procedural powers * Identify important judicial skills that may be implemented to effectively conduct a hearing on electronic evidence procedural powers * Understand the key elements of a judicial order enabling exercise of electronic evidence procedural powers to be considered while drafting such order | | |
| **Trainer Guidance**  Budapest Convention mandates states to implement adequate conditions and safeguards in regard to the exercise of procedural powers. Many 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. This lesson aims to provide the necessary skills to the delegates to conduct hearings and draft orders. This lesson should be delivered keeping in mind that the delegates will undertake a practical exercise involving conducting a mock hearing and drafting of an order. | | |
| **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 13 | These slides provide a brief introduction to hearings. The trainer should explain to the delegates the various aspects of hearings covered in these slides including persons who are required at hearings, scheduling hearings, urgent hearings & confidentiality aspects of hearings. These slides are intended to provide basis to the next part of the presentation. | |
| 13 to 27 | These slides relate to the entire hearing process from the preparation stage to the stage of asking questions. The trainer should emphasize the contents of these slides from a practical perspective as they provide information that is necessary for conducting effective hearings. The delegates should be explained the stages of a hearing (e.g. preparation, presentation, identification of issues, evidence, questioning and further information) up to the conclusion of the hearing. | |
| 28 – 34 | These slides provide certain example questions that a person conducting a hearing may ask the applicant. The trainer should clarify that the list of questions is meant to be illustrative and not exhaustive. The trainer should use these questions to explain to the delegates the importance of asking questions during hearings and encourage them to think of similar questions that may be asked during a hearing. | |
| 35 to 44 | These slides cover skills that are relevant to the process of conducting the hearing. The skills are not only relevant for judicial officers conducting the hearing but also the person making the application. The trainer should cover the contents of these slides emphasizing the importance of displaying the skills identified during the hearing exercise. | |
| 45 to 60 | 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. | |
| 61 to 63 | 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. | | |