

EMPLOYMENT APPEAL TRIBUNAL

Remote Hearings Protocol

Introduction

1. This protocol applies to the conduct of all hearings in the Employment Appeal Tribunal (EAT) from 12 June 2020, where it has been directed that the hearing is to take place remotely. It is subject to any more particular directions that have been given in the individual case. The EAT's Practice Direction on hearings, of 12 June 2020, also contains provisions that apply to remote hearings, and is available on the EAT's website.
2. Remote hearings may take place by Skype for Business/MS Teams/BT Meet Me or another internet-based platform, as directed in the individual case by the EAT. If, closer to the hearing date, it appears that it may now be possible for the hearing to take place in person in a courtroom in the normal way, a change to an in-person hearing may be considered. But the position will remain that the hearing will take place remotely, unless or until the parties are notified that the Registrar or a Judge has decided otherwise.
3. At a remote hearing it will not be possible for the parties, the press, or the public, to participate in, or observe, the hearing, by means of physical attendance at a courtroom. The date and time of the hearing will be made public in advance on the Employment Appeal Tribunal Cause List in the normal way. The Cause List will tell the press and the public what they must do if they wish to attend the hearing in order to observe remotely by means of the stipulated internet platform.

Providing Details of Who Will Attend

4. By no later than 10.00 am two working days before the day, or first day, of the hearing, each party must email to the Employment Appeal Tribunal, at LondonEAT@Justice.gov.uk*, a list of the names of each person who will be attending the hearing, and the capacity in which they will attend. Individual email and telephone contact details must be provided for each one of them.
5. Each party must identify one person who will present their case (whether that will be the party in person, a barrister, solicitor, or another chosen lay or professional representative). All other participants will attend as observers (so that they can hear and see the proceedings but will not be permitted to speak unless invited to do so by the Judge).

Documents for the Hearing

6. The parties shall co-operate in ensuring that all the necessary documents are made available in electronic form.
7. The electronic hearing bundle, chronology, skeleton arguments and authorities bundle shall all be filed on the respective dates directed, by email to LondonEAT@Justice.gov.uk*. The hearing bundle shall be in searchable PDF format if possible. The authorities bundle should include all authorities, including any that are on the list of "familiar authorities" on the EAT's website. Hard copies of documents should not be sent to the EAT unless, in the individual case, the EAT has requested them in addition to the electronic copies, or it has not been possible to make the documents available in electronic form.

8. Both in relation to the main hearing bundle and the authorities bundle, the parties should bear in mind the 10Mb limit on email attachments, and that large electronic files can be slow to transmit and unwieldy to use.

Joining the Hearing

9. Invitations to join the hearing remotely will be sent by email to all persons whose details have been given to the EAT by the parties in accordance with this protocol. Any such participant who has not received an invitation to the remote hearing by 2.00 pm on the working day before the hearing should email the Employment Appeal Tribunal at LondonEAT@Justice.gov.uk *.
10. For hearings lasting more than half a day, separate invitations may be sent in respect of morning and afternoon sessions for each day.
11. All attendees must be available to be contacted from 30 minutes before the start time of the hearing, so that any issues with the connection can be addressed before the hearing is due to begin. Any such issues should be raised with the Employment Appeal Tribunal by email (LondonEAT@Justice.gov.uk*) (or the Judge's clerk, if the parties have been given contact details for the clerk for that purpose).

Conduct of the Hearing

12. The hearing will be either audio or audio-visual recorded by the Employment Appeal Tribunal. Although the hearing will be conducted remotely, it remains a public court hearing. The usual rules and formalities continue to apply. In particular, no participant or observer is permitted to record the hearing, or any part of it (save where the Judge or panel has expressly permitted the making of an audio recording), and breach of this rule amounts to a contempt of court.
13. If, for any reason, it becomes impossible to proceed with an internet hearing via the stipulated remote platform, an attempt may be made to reconstitute the hearing as a telephone hearing. For that reason, the contact telephone number provided for each participant must be one to which they will have access during the course of the hearing.

ELAAS Hearings

14. Where an appellant has requested the assistance of an ELAAS representative, the assigned representative will contact the appellant before the hearing to discuss the appeal and the arrangements for taking instructions and giving advice.

*For EAT Scotland use - EDINBURGHEAT@justice.gov.uk

12 June 2020