



COURTS AND
TRIBUNALS JUDICIARY

HEALTH, EDUCATION AND SOCIAL CARE CHAMBER

- MENTAL HEALTH
- SPECIAL EDUCATIONAL NEEDS AND DISABILITY
 - CARE STANDARDS
 - PRIMARY HEALTH LISTS

**FREQUENTLY ASKED QUESTIONS ABOUT HEARING ARRANGEMENTS
DURING THE CORONAVIRUS PANDEMIC – JULY 2020**

The Health, Education and Social Care Chamber has had to change its way of working during the Coronavirus pandemic.

We are not holding any face-to-face hearings in person at present. Instead, we are using the Kinly Cloud Video Platform ('Kinly CVP') to conduct video hearings over the internet.

In terms of hearings in courts and tribunals buildings, work is currently ongoing to ensure the safety of our users. When this work has been completed some face-to-face hearings may resume, but the ability to conduct hearings in person will remain limited to ensure that social distancing and the safety of our users and members is maintained.

It has been a confusing time for some participants and there have been numerous questions about how to work the technology and how to achieve a fair hearing.

The information below helps to answer some of those common questions for each of the four jurisdictions within the Health, Education and Social Care Chamber. The success of what we are trying to achieve depends upon the co-operation of all parties and we would remind users of the requirement in the Tribunal Procedure Rules to assist and co-operate with the Tribunal.

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[Special Educational Needs & Disability; Care Standards and Primary Health Lists](#)

General questions about the technology we are using

1. What is Kinly CVP?

The Tribunal uses video hearing room software created by a company called Kinly. CVP stands for Cloud Video Platform. We will use the term “Kinly CVP” when referring to video hearings. Kinly CVP has been devised specifically for use by the judiciary. It allows every participant to see and/or hear every other participant attending the hearing. In many other ways, it is similar to other video calling facilities that you may be familiar with, like Skype or Zoom.

2. How do I prepare for a Kinly CVP video hearing?

You will be sent a booking letter with the details of the Kinly CVP link, and the time you should join. Copy and paste that link into the address bar in the recommended browser (see below) to take you through to the Kinly site, and it will direct you to the correct cloud video room. All parties should be able to connect via Kinly CVP. You should be able to see and hear each other.

Tips to follow

- Identify a quiet and private location from which to call;
- Check that you have a good Wi-Fi signal or internet connection;
- Ask any nearby family members or colleagues not to disturb you;
- Turn off your mobile phone or switch it to airplane mode (this will limit audio interference);
- Make sure your device is fully charged or plugged in as video hearings are very draining on power.
- Avoid sitting somewhere with a source of bright light behind you, otherwise people can only see your silhouette;
- Consider using a headset, if you have one, to avoid echoes and feedback;
- Mute your microphone when not speaking (and remember to unmute when speaking);
- Re-join on the same invitation link if you are cut off.
 - Make sure you have the appeal papers, pen and pad to hand so that you can follow the hearing, and make notes as you go along to help you tell the tribunal what you want to say.
 - Take a note of the phone number and dial in code of the Kinly CVP room in case you get cut-off and need to dial in using a phone.
 - If dialling into a hearing using the 0203 number call charges may apply, please check your network provider rates.

Remember that you are attending a formal Tribunal hearing. You should treat it in the same way as if you were present in person.

- Do not eat or smoke during the hearing;

- Do not make or receive phone calls during the hearing unless this has been agreed as a means of participation or for the purpose of joining the hearing itself.
- Try to minimise any other disruption and let the judge know if something is happening that means you need to leave the hearing for a short while.
- Follow the directions and requests of the Tribunal Judge and members
- Dress and behave appropriately to a formal hearing.

You may have your microphone muted by the judge if there is noise interference.

3. Can I test my connection beforehand?

4. Yes, it is possible to test your connection in advance through a test call. To use this, follow the link in your letter to the first Kinly CVP page on the internet. Go to settings and click on it. You will see the camera with the picture. Scroll down on the right-hand side and you will see test sound. You can also change your bandwidth here if this is causing difficulties.
5. On the day, you are asked to join the Kinly CVP room up to half an hour for SEND and 15 minutes for Mental Health before the hearing starts to test your connection and ensure you can see and hear adequately. It is important you do test your connection to avoid delays to the hearing.

6. I can't connect to Kinly CVP from my laptop/computer. What do I do?

Check that you are using one of the recommended browsers listed below. They are free to download and use. Using the incorrect browser is the cause of most connection difficulties.

Be aware that if you are using a laptop or tablet provided by your employer, this may also have restrictions placed on the use of live video conferencing. Check with your employer if you have such restrictions, called firewalls. You need to turn off any other videoconferencing apps on your device (e.g. Zoom, Skype, Microsoft Teams) as they interfere with the proper functioning of Kinly CVP. You also need to check that the microphone and the camera on your device are both on. If you have ongoing connectivity problems, you can ask for advice from the Video Hearing Officer for the hearing, if there is one.

If, after trying the above remedies, you still cannot connect adequately, look at your booking letter. It gives a telephone number which allows you to connect by phone, with a numerical conference ID code, which you need to put in on your phone keypad to connect to the hearing by audio. When the message asks you to enter the conference code followed by 'pound' key, it is referring to the 'hash' or # key. If you are still having problems connecting, you can email (or in some cases, call) the Tribunal on -

For Mental Health hearings: **email** MHTadministration@justice.gov.uk

For Special Educational Needs and Disability Discrimination hearings, send@justice.gov.uk or call 01325 289350

For Care Standards hearings cst@justice.gov.uk

For Primary Health Lists hearings primaryhealthlists@justice.gov.uk

Staff/Clerks will be monitoring these inboxes and will respond to an email.

If you have technical issues or are unable to join the hearing on the day, please call the Tribunal administration on 0330 808 9405.

7. What browser is best for Kinly CVP on my laptop or PC?

Kinly CVP is browser based. A 'browser' is the software programme you use on your computer to view web pages.

Using Google Chrome works best on a **Windows laptop and PC**.

On an **iPad or Mac**, use Safari as your browser. Downloading Google Chrome on a Mac or Apple device may cause problems with the camera and microphone on an iPad.

Do **not** use Firefox or Microsoft Edge on any device for connecting as it does not lead to successful connectivity.

You can download these browsers free here:

Google Chrome

<https://www.google.co.uk/chrome/>

Safari

<https://support.apple.com/downloads/safari>

8. Can I use a smartphone?

Yes. If you have a smartphone or tablet, you can either add the joining details given in the letter to your browser or download the *Pexip Infinity Connect app* which is free to use and will allow you to join the hearing on your smartphone.

The link is here: Pexip Infinity Connect <https://www.pexip.com/apps>
(Do not download the normal Pexip app, but only use Infinity Connect.)

General questions about tribunal hearings

9. What if I want a friend to support me at the hearing?

The tribunal panel decide who they allow to attend the hearing. It would be sensible to tell your solicitor or if you are not represented the Tribunal beforehand if you have any friends/family you want to bring to the hearing, so that arrangements can be made (with the approval of the panel) for them to join the hearing.

10. What if my hearing requires interpreters or British Sign Language (BSL) interpreters?

Alternative arrangements will be made prior to the hearing if language interpreters are required. They will be instructed by the recipient of the service, and informed of the most appropriate means of communication with them. The recipient can mute the sound of the hearing on their device to enable them to listen to the interpreter on another device. The interpreter will mute the microphone on their own device so that they can listen to the hearing, but not disrupt the hearing with the interpretation. The interpreter can then unmute their microphone to pass on the responses of the recipient, and ensure they can participate in the hearing.

Interpreters and those they are supporting need to make sure they join the hearing early, as instructed, to make sure that they are familiar with arrangements and that they are working effectively.

The Tribunal has considerable experience now of using BSL interpreters during video hearings. Kinly CVP can be adapted to allow a BSL interpreter to remain in a large video window throughout the hearing, so that participants can follow proceedings. If you need such an interpreter during your hearing, make the Tribunal aware of this as early as possible.

Jurisdiction specific questions

Mental health – Follow this link [Mental Health Hearings](#)

Special Educational Needs and Disability Discrimination, Care Standards and Primary Health Lists appeals– Follow this link [SEND, Care Standards & Primary Health Lists](#)

Mental health

11. I would prefer to have a face to face hearing; can this be arranged?

No, not at the moment. All of our hearings are taking place by videolink. Hospitals are particularly sensitive about the risk of the coronavirus spreading and so no face-to-face hearings are taking place in hospitals at present in keeping with NHS and hospital guidance.

12. I want to see the tribunal doctor before the hearing – can this be arranged?

No, not at the moment. The Tribunal is unable to arrange this as we cannot attend hospitals for health and safety reasons and both hospitals and HM Courts and Tribunals Service (HMCTS) lack the capacity to conduct what would be limited tribunal examinations over video.

13. I am a community patient and I cannot afford to join the hearing.

If you are a community patient you will be joined to the hearing by telephone free of charge. If you are a nearest relative and it is your application you will be joined to the hearing by telephone free of charge. A staff member from the Tribunal administration will contact you by telephone.

14. I need a full day's hearing

The Chamber President and Deputy Chamber President have agreed that all Child and Adolescent Mental Health Services cases and all cases with interpreters and British Sign Language signers will be allocated a full day's hearing automatically while video hearings are in operation. For all other hearings, the party who thinks that a full day's hearing is necessary should contact the Leicester HMCTS administration in writing and explain why a full day is needed.

15. I have had my case referred to the Tribunal but I don't want to contest it. What should I do?

If you are not contesting continuing detention (or a community treatment order) then the case can be heard by a single judge on the papers, without the need for a hearing. If you are legally represented, you should tell your solicitor, who will be able to arrange this for you. You will not need to attend the hearing or participate in it. If you are not represented, you should contact the HMCTS (telephone number 0300 123 2201 or email mhtcorrespondence@Justice.gov.uk) and let them know that you are not contesting.

16. Are the hearings private?

Mental Health hearings are almost always private unless an order has been given for a public hearing, which is extremely rare. It is a criminal offence to record a Tribunal hearing. Once the hearing has started, the judge will usually lock the Kinly CVP room, so that no-one else can enter or listen.

17. How will I be given the decision?

The tribunal panel will make the decision once all the parties have left the hearing. They may ask the legal representative and the nurse to come back to the hearing to announce the decision. They may telephone or email your legal representative to announce the decision and ask them to contact the hospital. They may email the hospital with the decision. The full written decision with reasons will follow within the normal time limits, 3 days after the hearing on a section 2 application and 7 days after the hearing for all other hearings.

Special Educational Needs and Disability Discrimination, Care Standards and Primary Health Lists appeals

1. Can I request a face-to-face hearing?

The Tribunal is not currently holding face-to-face in person hearings, though this situation will be kept under review. The vast majority of hearings can take place over Kinly CVP or by a telephone conference call via BTMeetMe, as appropriate. In a small number of cases, where there is a good reason why the hearing cannot proceed by video or

telephone, the appeal will be stayed (temporarily paused). If this happens in your case, you and any other party will be able to ask for the stay to be lifted, provided you give 5 days' notice to the other party. Every case which is stayed (paused) will be kept under review.

2. **What if I have a document which hasn't yet been sent to the other party and Tribunal which I think is important in the appeal?**

If you have late evidence, you should send a copy of the document to the other party and to the Tribunal as soon as the document becomes available and if it is after the final evidence date, you must make a request for it to be admitted in evidence.

This can be done using the Request for Change form. If the document has arrived within 5 working days of the hearing, you must send it to the other party and Tribunal with an explanation why it is late and why it should be admitted. On the day of the hearing, you must send it to the Tribunal's **queries** address by email and in the Subject line state: "URGENT: Live video hearing in progress SENDx [enter room number] with case reference".

The email address is set out below depending on the Tribunal dealing with your case.

send@justice.gov.uk for **Special Educational Needs and Disability cases**

cst@justice.gov.uk for **Care Standards or**

primaryhealthlists@justice.gov.uk for **Primary Health Lists**

3. **Are the hearings private? How can I access them as a member of the public?**

SEN and disability discrimination hearings are held in private, and those joining hearings will be asked to confirm the appeal in which they are involved. The video and audio-conferencing facilities on these hearings are locked to prevent others from joining the hearing without permission.

Care Standards and Primary Health Lists cases are held in public and regular hearing lists are published on the gov.uk website.

If you would like to join and observe such a hearing, you will need to email the Tribunal administration in advance for a link. These are:

Care Standards: cst@justice.gov.uk

Primary Health Lists: primaryhealthlists@justice.gov.uk

4. Will I need to take an oath/affirm before I give my evidence?

Oaths and affirmations are not normally used in Special Educational Needs and Disability discrimination cases.

They are required in Care Standards and Primary Health List cases, however. Before a witness starts giving evidence, you will be asked whether you choose to take an oath or affirm that the evidence you give is true. The use of an oath is intended to be whatever “binds your conscience”, to confirm to the tribunal that you will tell the truth. Please note that whether you choose to take an oath or affirm, both are equal in the eyes of the law. If you wish to swear on a holy book, you should ensure that you have a copy of the holy book available to you during the hearing. If you do not have a copy of your holy book, then you will be asked to affirm.

19. What if there are problems with the bundle with missing documents?

If you are aware of issues with the bundle in a Special Educational Needs and Disability case, you must raise this with the Local Authority as soon as you are aware of the issues. In other cases, the issue must be raised with the Respondent as soon as it becomes known.

20. I want to bring my child to the hearing can this happen?

In the Special Educational Needs and Disability jurisdiction, it is possible for the child whose needs and provision are the subject of the hearing to join a hearing and, as happens in face-to-face hearings, the tribunal panel will be happy to meet the child before the start of proceedings. The child would not generally be expected to stay for the whole hearing given the nature of what is likely to be discussed. If the appeal concerns a young person, who is 16 or over, they can decide to stay throughout the hearing if they wish.

21. My child is at home and I still need to look after them?

We appreciate that in the current circumstances parties may often be participating in hearings from home, where other family members may be present. As noted above, you should ensure that you will be somewhere private where you will not be disturbed for the duration of the hearing, and that family members understand so far as possible the need not to interrupt. If possible, arrange for another member of the family or a friend to look after children in the home during the hearing. If that is not possible you should mention this to the tribunal at the outset. The tribunal is likely to take occasional breaks in any

event, which will allow you to check on others in the home. If you need a short break of 5 or 10 minutes for some reason you should ask the tribunal.

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