

PRESIDENTIAL GUIDANCE ON THE CONDUCT OF PROCEEDINGS IN THE UPPER TRIBUNAL, LANDS CHAMBER DURING THE COVID-19 PANDEMIC

Revised 26 May 2021

Introduction

1. This guidance applies to all proceedings in the Upper Tribunal, Lands Chamber (“the Tribunal”) with effect from 26 May 2021. It supersedes the previous guidance which had effect from 6 January 2021.¹
2. The purpose of this revision is to update users of the Tribunal on changes that are now being made to how the Tribunal’s business is being conducted, following the further relaxation of the lockdown rules with effect from 17 May 2021. The most significant change will be the resumption of face to face hearings from that date.
3. The contingency arrangements in the Amended General Pilot Practice Direction: Contingency Arrangements of the First-tier Tribunal and the Upper Tribunal issued by the Senior President of Tribunals and in amendments to The Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010 (“the Lands Chamber Rules”) are still in force and these permit hearings in private or fully remote video/audio hearings where necessary and appropriate.
4. The procedural rules regulating the conduct of proceedings in the Tribunal are flexible and clear and are contained in the Lands Chamber Rules, as amended. Of particular significance is the overriding objective of the Lands Chamber Rules, which is to enable the Tribunal to deal with cases fairly and justly (rule 2(1)). The Tribunal is guided by this objective in all its decision making and case management, and parties are required to help the Tribunal to further this objective and to cooperate generally with the Tribunal (rule 2(4)).
5. The Tribunal conducts business in accordance with its new Practice Directions, which came into force on 19 October 2020. The new Practice Directions make improvements to the way in which the business of the Tribunal is conducted and give guidance to users. All users of the Tribunal should be aware of the parts of the Practice Directions relevant to their case. The Practice Directions are at <https://www.judiciary.uk/wp-content/uploads/2020/10/19-Oct-20-SPT-Practice-Directions-UT-Lands-Chamber-002.pdf>
6. The Tribunal will shortly be publishing guidance on the use of the new electronic filing and case management (CE-file) system. This will be available to parties and their professional representatives for issuing proceedings and filing documents and for receiving communications from the Tribunal electronically.

¹ <https://www.judiciary.uk/wp-content/uploads/2021/01/UT-Lands-Presidential-Guidance-on-conduct-of-proceedings-during-covid-19-pandemic-revised-18-January-2021.pdf>

It is expected to come fully into use on 28 June 2021 but will initially be optional for all users.

Recent experience

7. During the periods of lockdown and restriction, the Tribunal has continued to offer a full service to users, receiving and managing new proceedings, conducting hearings and determining cases. The continuing requirement for social distancing in the Tribunal's administrative offices, and the resulting need for some staff to work from home, has meant that responding to enquiries, especially by telephone, has been slower than usual at times, but the position is gradually returning to normal. I am grateful to the Tribunal's staff and judiciary for their flexibility and resilience during this period and for the cooperation of the Tribunal's users.
8. Between January and the end of April 2021 most hearings in the Tribunal once again took place using digital video conferencing platforms. Face to face hearings have resumed from the end of April 2021. Decisions on the most appropriate format for each case were taken by the judiciary after considering the views of the parties. Very few hearings were postponed.
9. During the spring and summer period, so far as possible the business of the Tribunal will be conducted as normal, in accordance with the Lands Chamber Rules and Practice Directions. Further updates will be provided later in the year, depending on Government policy. I emphasise the following matters.

Communication and cooperation

10. Communication with the Tribunal, especially on routine matters, should be by email wherever possible, to lands@justice.gov.uk
11. Any document required to be delivered to the Tribunal should be sent to that e-mail address and will be treated as delivered at the time when it is recorded as having been received in the Tribunal's inbox. This direction applies to new appeals, applications and references, all of which can be commenced by this method, as well as to documents in existing cases. CE-filing will also be possible from the early summer.
12. Once a case has been issued, all emails sent to the Tribunal must be copied to other parties in the case at the same time.
13. Litigants in person without convenient access to e-mail may send or deliver documents to the Tribunal at 5th floor, The Rolls Building, Fetter Lane, London EC4A 1NL. Hearing bundles or other hard copy documents which cannot conveniently be sent by e-mail may also be sent or delivered to that address.
14. The Tribunal will continue to expect a high level of cooperation between parties and between their professional representatives. Parties are strongly encouraged to communicate directly with each other and to consider how their

case can most effectively be presented and determined. Well-focussed statements of agreed facts and statements of issues and concise hearing bundles make all hearings and determinations on paper more effective.

Hearings

15. Subject to paragraphs 16 to 18 below, any hearing due to take place after 17 May 2021 will be listed as a face-to-face hearing in the Royal Courts of Justice (or a different regional venue previously arranged) unless the interests of justice make it appropriate for the hearing to be conducted as a remote or “hybrid” hearing using the CVP or another digital video-conferencing platform.
16. Case management hearings and other short procedural hearings will be listed to take place as a fully remote hearing or telephone hearing, unless the Tribunal considers (on request from any party or of its own motion) that there is a real benefit to be derived from holding a face-to-face hearing. If parties do not have internet access or anticipate connectivity problems, for example because of poor broadband reception in their area, they must inform the Tribunal promptly when the hearing date is notified. In such cases the use of a telephone conference call facility may be a suitable alternative.
17. Where the parties agree that a dispute which has been listed for any kind of hearing may fairly be resolved by written submissions and counter-submissions, the Tribunal will be receptive to doing so.
18. Applications for permission to appeal from the First-tier Tribunal, most uncontested applications under section 84 of the Law of Property Act 1925, and case management hearings where the parties have agreed appropriate directions and the Tribunal is satisfied a hearing is not required will continue to be dealt with without a hearing.
19. Any party who considers that a hearing should not take place face-to-face should inform the Tribunal and the other parties as soon as possible, giving reasons why it is necessary or appropriate to have a fully remote or hybrid hearing.
20. The Tribunal will decide what form the hearing will take after considering the views of all parties.

Practical hearing arrangements

21. Where a face-to-face hearing takes place, there may still be a restriction on the numbers that can be present in court. The Tribunal will notify the parties of any restriction that applies to their hearing and of the maximum number on each side that may attend at any one time.
22. Where a fully remote hearing or hybrid hearing is to take place, the Tribunal will contact the parties or their representatives during the week before any listed hearing to provide a link to enable access to the hearing and to explain the

arrangements which it will make. Further information on what to expect at a hearing conducted remotely can be found at <https://www.gov.uk/guidance/what-to-expect-when-joining-a-telephone-or-video-hearing#our-telephone-and-video-hearing-platforms>

23. The Tribunal will require a hearing bundle for all substantive hearings and will give directions for this to be provided in electronic form or in hard copy. Electronic bundles should be sent by email to **lands@justice.gov.uk** unless the Tribunal directs an alternative method of access; hard-copy bundles should be delivered to the Upper Tribunal (Lands Chamber) 5th Floor, Rolls Building, Fetter Lane, London EC4A 1NL. Guidance has been published on the form of electronic bundles and should be complied with. The guidance is at: <https://www.judiciary.uk/wp-content/uploads/2020/11/04-Nov-20-SPT-Lands-Chamber-Guidance-for-Electronic-Hearing-Bundles-031120.pdf>
24. The Tribunal will record all hearings, including those conducted using digital platforms. The parties and any other person attending a hearing are not permitted to record or take images of hearings.
25. The date and time of substantive hearings will be published in the Royal Courts of Justice cause lists. These should be checked the afternoon before the scheduled hearing and can be accessed at <http://www.justice.gov.uk/courts/court-lists/lands-tribunal>.
26. Media representatives and any other interested person may attend Tribunal hearings which take place face to face, subject to space limits, and may observe remote hearings. They should contact the Tribunal's listing staff by email at Lands@Justice.gov.uk to make arrangements. With the Tribunal's consent any person may listen to a recording of a remote hearing at a court or tribunal building or may request a transcript (which will be provided at the expense of the person making the request).

Site visits and inspections

27. Where a site visit is necessary, the Tribunal will consult the parties about the requirements for the visit.

Sir Timothy Fancourt, President

26th May 2021