



CHIEF CORONER

GUIDANCE No.42

REMOTE HEARINGS

INTRODUCTION

1. This note provides guidance on the following types of remote attendance at hearings:
 - a) remote observation by the public, including the media;
 - b) remote attendance by participants (i.e. interested persons, witnesses and legal representatives); and
 - c) remote attendance by coroners and juries.

REMOTE OBSERVATION BY THE PUBLIC, INCLUDING THE MEDIA

2. On 28 June 2022, section 85A of the Courts Act 2003, and the Remote Observation and Recording (Courts and Tribunals) Regulations 2022 ('the Regulations') came into effect. These provisions allow the remote observation of proceedings in any court, tribunal or body exercising the judicial power of the State, including coroners' courts.
3. As a result of these provisions, it is lawful to use video/audio livestreaming to transmit proceedings to the public and/or press, either to premises designated by the Lord Chancellor, or to specific individuals¹.
4. The Lord Chief Justice and Senior President of Tribunals have issued Practice Guidance to help judicial office holders throughout the justice system understand and apply the new law² (the 'Practice Guidance'). The Chief Coroner recommends that coroners refer to and apply that Practice Guidance.
5. Jurisdiction-specific guidance on remote observation of hearings is set out below.

Public access to hearings

6. Coroners must ensure that there is appropriate public access to all hearings, including those that are conducted using remote means³.

¹ Section 85A(2) and (3) Courts Act 2003

² [LCJ and SPT Practice Guidance link](#)

³ Rule 11 Coroners (Inquest) Rules 2013

7. As coroners must currently be physically present in a courtroom when conducting hearings (see the section on coroners and juries below), individuals have the option of either observing hearings in person, or applying for permission to observe hearings remotely.
8. No-one has the right to observe a hearing remotely. Individuals are entitled to apply for permission, but applications will be considered on a case-by-case basis and may be refused.
9. To manage the administrative burden of dealing with applications for remote observation, coroner areas may wish to publish guidance on the application process. The details are likely to differ depending on the area's staffing levels and resources, but for example, an area could include that applications must be made in writing no later than 12 noon the day before the proceedings, and must include reasons as to why remote access should be granted.

Considering an application to observe remotely

10. When deciding an application to observe a hearing remotely, coroners must refer directly to the legislation and ensure that they:
 - a) apply the test in regulation 3 of the Regulations (which allows the coroner to permit remote attendance if satisfied that it would be in the interests of justice, there is the capacity and technological capability to enable it, and it would not create an unreasonable administrative burden); and
 - b) take into account the mandatory considerations in regulation 4 and any other relevant matters.
11. Coroners should also consider the Practice Guidance, which provides a summary of the main features of the legislation and advice on applying it.
12. One of the underlying principles of the Regulations and Practice Guidance is that the interests of justice are very broad, being wider than the circumstances of the individual case and holding an effective hearing. They include the efficient despatch of business overall and the availability of coroners, coroner's officers, additional staff, technical equipment, and other resources. As the coroner service is locally-funded, there is a wide variation in resources between coroner areas. There may also be times where a particular coroner area has temporary resourcing difficulties, for example because of high staff turnover, or IT challenges. The relevant circumstances that may properly be considered when deciding remote observation applications may therefore vary widely between different coroner areas, and within the same area at different times.
13. Another relevant consideration for coroners is that no coronial proceedings will be fully remote, as the coroner (and if relevant, the jury) will be conducting the hearing from a courtroom that is open to the public. A refusal to make a direction for remote attendance is therefore not the same as denying public access to the proceedings. Individuals seeking remote attendance will need to explain why it is in the interests of justice to allow them to observe a hearing remotely when there is the option to attend in person.
14. Coroners will make judicial decisions about remote observation based on the circumstances of each individual case. A few examples of possible scenarios and how a coroner might approach them are as follows:

- a) Someone applies to observe a hearing remotely because it would be more convenient for them to do so. They apply in good time before the hearing and comply with the local rules on making applications. The hearing is taking place in a courtroom with a public gallery. Remote observation is often permitted by the court, and it would not create an unreasonable administrative burden to allow the application. However, it would use some administrative resource to provide the applicant with a hearing link and information, and to ensure that the system operated properly on the day. Having considered regulations 3 and 4 of the Remote Observation and Recording (Courts and Tribunals) Regulations 2022 and the Practice Guidance, the coroner could decide to refuse the application on the basis that it would not be in the interests of justice to allow remote attendance because: the proceedings are sufficiently accessible to allow for open justice; there is no specific reason to allow remote access beyond the individual's own convenience; and it would be preferable to focus the necessary resources elsewhere.
 - b) The same scenario as in a) occurs, but this time the application is made on the basis that the individual may not be able to observe in person because it is an inquest in which there is significant public interest and it is likely that the public gallery will not be able to accommodate all those who wish to be present. The coroner could decide to allow the application because: the applicant would usually have had access to the courtroom; providing remote access is operationally feasible; and it would be compatible with the interests of justice to enable as many observers as possible to attend this high-profile case.
 - c) The same scenario as in b) occurs, but the coroner area has operational difficulties because of a pressing lack of staff. The coroner could refuse the application on the basis that remote observation would create an unreasonable administrative burden and/or that it would not be in the interests of justice because it would divert the area's stretched resources away from other cases. However, the coroner could consider other ways to improve public access to the hearing (e.g. using a larger courtroom).
15. It is unlikely that coroners will need to consult interested persons before deciding remote observation applications, unless there is an obvious reason in a particular case why an interested person might justifiably object to the coroner's decision. If consultation is necessary, this could be done in writing.
16. Decisions on remote observation do not require detailed rulings. A couple of sentences setting out the coroner's reasons for granting or denying the application should usually suffice.

REMOTE ATTENDANCE BY PARTICIPANTS

17. The Chief Coroner considers that it is lawful to use video/audio livestreaming to hear evidence from witnesses and/or for participation by interested persons and their representatives⁴.
18. Participants (i.e. witnesses, interested persons and representatives) do not, however, have the right to attend hearings remotely. Participants can apply to

⁴ Rule 17 Coroners (Inquest) Rules 2013 and by virtue of the coroner's inherent common law power to manage proceedings.

take part in proceedings remotely, but applications will be considered on a case-by-case basis and may be refused.

19. Before deciding whether to allow a participant to attend proceedings remotely, coroners should give other affected participants an opportunity to make representations.
20. The coroner can only permit a witness to attend proceedings remotely where it would improve the quality of the evidence given, or allow the inquest to proceed more expediently. The coroner must also consider whether remote attendance would impede the questioning of the witness⁵.
21. When deciding whether to allow remote participation by interested persons and legal representatives, coroners must balance the interests of justice and the interests of all those attending the proceedings. It is important for coroners to remember that the interests of justice are wider than the circumstances of the individual case and holding an effective hearing (see paragraph 12 above).
22. It is the Chief Coroner's experience that it is often beneficial for participants to attend hearings in person. In his view, remote attendance should not normally be permitted purely because a participant would prefer it.
23. If a jury hearing with remote participants takes place, the jury must be visible to all remote participants.

REMOTE ATTENDANCE BY THE CORONER/JURY

24. As the law currently stands, the coroner and any jury must be physically present in the courtroom. However, rules will be made in due course to enable coroners and juries to attend hearings remotely.
25. Under the new rules, juries will only be able to attend remotely if all jurors are present at the same place when accessing the hearing⁶.
26. It is the Chief Coroner's view that even once rules are made it is unlikely to be in the interests of justice for jurors to attend proceedings remotely unless there are exceptional circumstances.

MANAGING A REMOTE HEARING

27. Whenever remote attendance at a hearing is permitted, care should be taken to preserve the dignity of the court. Coroners should be particularly careful to ensure that remote participants behave in a way that will not cause avoidable distress to bereaved families. For example, after giving evidence via a video link, witnesses may forget that they are visible to the family, and react to the evidence of others in an inappropriate way. Coroners should remind remote participants and observers that they are attending a formal hearing, despite the informality of their own surroundings.
28. Coroner areas may wish to consider providing guidance to remote participants and observers (either in the same document, or separately) on how to treat the proceedings respectfully. This could be set out in a standard document to be sent

⁵ Rule 17(2) Coroners (Inquest) Rules 2013.

⁶ Section 45(2A) Coroners and Justice Act 2009.

out with the live link, and could cover issues such as appropriate dress and surroundings, who can watch a livestream, a default position on whether those who attend remotely should mute themselves and have their cameras on, and how they should communicate with the court in the event of a problem.

29. Coroners should be mindful of the difficulties that individuals may face when accessing hearings remotely. The Equal Treatment Bench Book has a useful appendix on remote hearings⁷.
30. Coroners are advised to make it clear to all participants that whether a person attends court physically or remotely will not affect the coroner's decision-making.

WARNINGS

31. When conducting a remote hearing, the usual warnings should be given, for example that witnesses should not confer on their evidence.
32. In relation to recording and broadcasting proceedings, warnings should ideally be provided when sending out live links and then reiterated orally at the hearing. Examples of oral warnings regarding recording and broadcasting are:

- to participants attending via video link:

"I give permission for the use of live video to enable participants to access these proceedings. It is a contempt of court to record, play, or publish a recording or transcript of the proceedings, or to dispose of a recording or transcript with a view to its publication. That means that if you record or broadcast any part of these proceedings, you will be committing a criminal offence."

- to observers attending via video link:

"I give permission for the use of live video to enable observers to access these proceedings. It is a summary offence and a contempt of court to record or transmit these proceedings, or images of any people who are attending them. That means that if you record or broadcast any part of these proceedings, you will be committing a criminal offence."

**HHJ THOMAS TEAGUE QC
CHIEF CORONER**

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⁷ See Appendix E: [Equal Treatment Bench Book - February 2021 \(judiciary.uk\)](https://www.judiciary.uk/equal-treatment-bench-book-february-2021/)