

EMPLOYMENT APPEAL TRIBUNAL

Remote and Partially-Remote Hearings Protocol

Introduction

1. Unless otherwise directed by the Registrar or a judge, all hearings in the Employment Appeal Tribunal (EAT) take place by the attendance of all parties in person at the designated hearing venue.
2. A party may apply to join and participate in the hearing remotely (a partly-remote or hybrid hearing) or for the whole hearing to be conducted with all participants joining remotely (a wholly-remote hearing). Further guidance may be found at section 8.14 of the EAT's Practice Direction 2023. The application should be made at the earliest opportunity and using the application form appearing at Appendix 2 of the Practice Direction.
3. A judge or the Registrar may also decide, at any time, to direct on their own initiative that a hearing will take place wholly or partly remotely. Further guidance may be found at section 11.10 of the Practice Direction 2023. If such a direction is given, the parties will be notified.
4. This protocol applies to the conduct of all hearings in the Employment Appeal Tribunal, where it has been directed by the Registrar or a judge (whether or not on the application of a party) that the hearing is to take place wholly or partly remotely. It is subject to any more particular directions that may be given in the individual case.
5. Wholly-remote or partly-remote hearings may take place, or be joined by the party concerned, by MS Teams, Cloud Video Platform (CVP) or another internet-based platform, or by telephone or other means of electronic communication, as directed in the individual case by the EAT.
6. At a wholly-remote hearing the parties, the press, or public, will not be able to participate in, or observe, the hearing by attending at a hearing venue. The date and time of the remote hearing will be made public in advance on the EAT's Cause List (published on the EAT's website) in the normal way. The Cause List will tell the press and the public what they must do if they wish to observe the hearing by joining remotely.
7. At a partly-remote hearing the press and public will be able to attend at the hearing venue and observe the hearing in person in the usual way. There is a separate procedure for members of the press and public to apply to be permitted to observe an in-person hearing remotely. Please refer to the EAT's Practice Direction 2023 at section 8.15, and the EAT's guidance on remote observation of hearings available on the Courts and Tribunals judiciary's website.

Emailing the EAT in Connection With a Remote Hearing

8. Emails providing details of who will attend a remote hearing, bundles, chronologies or skeletons, or requesting an electronic invitation to join, should be sent to the following addresses. For appeals in England & Wales: LondonEAT@Justice.gov.uk. For appeals in Scotland (with the letters SCO in the case number): edinburgheat@justice.gov.uk.

Providing Details of Who Will Attend

9. By no later than 10.00 am two working days before the day, or first day, of a wholly-remote or partially-remote hearing, each party must email the EAT 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 of them.
10. Each party must, in that email, 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). Other participants 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

11. The parties shall co-operate in ensuring that all the necessary documents are made available in electronic form.
12. The electronic hearing bundle, chronology, skeleton arguments and authorities bundle should all be filed on the respective dates directed in the case, by CE-file or by email to the EAT. The hearing bundle should 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.
13. 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

14. Invitations to join the hearing remotely will be sent by email to all persons whose details have been given to the EAT in accordance with this protocol. For hearings lasting more than half a day, separate invitations may be sent in respect of morning and afternoon sessions for each day.

Any 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 EAT.

15. 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 by email the EAT.

Conduct of the Hearing

16. The hearing will be either audio or audio-visual recorded by the EAT. Although the hearing will be conducted wholly or partly remotely, it remains a public court hearing. The usual rules and formalities apply, just as they do to in-person hearings.
17. In particular, no participant or observer is permitted to make an audio, video or photographic or other visual recording of the hearing, or any part of it (save where the judge or panel has expressly permitted the making of a designated recording). Breach of this prohibition amounts to a contempt of court. Further guidance (including in relation to an application for exceptional permission to record) may be found in the EAT's Practice Direction 2023 at sections 11.11 (partially-remote hearings) and 11.12 (wholly-remote hearings).
18. If, for any reason, it becomes impossible or impracticable to continue with a wholly-remote, or partially-remote, hearing over the internet, an attempt may be made to switch to conduct, or participation, in the hearing over the telephone. For that reason the contact telephone number provided for each participant must be one to which they will continue to have access during the course of the hearing.

ELAAS or SELAS Hearings

19. Where an appellant has been granted the assistance of an ELAAS or (in Scotland) SEALAS representative at a rule 3(10) or preliminary hearing, the representative will contact the appellant before the hearing to discuss the appeal and arrangements for ongoing communication between them. The ELAAS or SEALAS representative will be enabled to participate in the hearing remotely.

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