



Courts and  
Tribunals Judiciary

**JUDGE BARRY CLARKE**

PRESIDENT | EMPLOYMENT TRIBUNALS (ENGLAND & WALES)

---

8 November 2023

To: All members of the ET (E&W) national user group

Dear user group members

**Practice Direction and Presidential Guidance on the recording of  
Employment Tribunal hearings and transcriptions**

Further to my letter dated 6 November 2023, I write to correct a possible misapprehension in some of the reporting about the above documents, which is to the effect that only fully remote hearings will be recorded. That is not the case.

By way of context, there are three modes of hearing in the Employment Tribunals: (a) fully remote; (b) fully “in person”; and (c) hybrid (which simply means that some participants join remotely and some are in physical attendance). Fully remote hearings are predominantly held on the HMCTS Cloud Video Platform (which is an audio-video platform), but some hearings of a purely administrative nature are currently held on the BT MeetMe platform (which is an audio only platform). A small number are held on the replacement service for CVP, still being piloted and tested, called the Video Hearings service (VH).

The extent to which the Employment Tribunals are reliant on video varies between offices around the country. In some regions, as many as two thirds of hearings are still held on a fully remote basis using CVP. In other parts of the country, the figure is lower. The variation is because the distribution of estate and judicial resources is not uniform. The matter was discussed in more detail in last year’s “road map” for the Employment Tribunals, which can still be read on [this page](#) of the judiciary website.

It is certainly the case that, under the Practice Direction, I expect all hearings held on a fully remote basis or on a hybrid basis to be recorded. Simply because of the way this jurisdiction currently uses video, this will include nearly all case management hearings, most short track cases, most standard track cases (i.e., unfair dismissal), and a significant number of open track cases (i.e., discrimination and whistleblowing detriment). This is subject only to the exceptions identified in the Practice Direction, namely hearings held under rules 3 and 53(1)(e) (i.e., for the purposes of judicial mediation and other alternative dispute resolution) and hearings where there is an order in place under rule 94 (i.e., in the interests of national security). This is possible because CVP, VH and BT MeetMe have an in-built recording functionality which is being brought into use.

The position in respect of fully in person hearings will vary between different parts of the country and from venue to venue. This is because not all venues have recording equipment installed. The Employment Tribunals in England and Wales currently use 139 hearing rooms. Of those rooms, 30 now have DARS installed, and a further 74 are able to use CVP as a proxy recording device as explained in the Presidential Guidance. This leaves approximately 35 physical hearing rooms with no recording functionality.

In summary, therefore, there is the capability for all fully remote and hybrid hearings to be recorded, and for hearings held in approximately 75% of the physical estate in England and Wales to be recorded. This translates to 80-90% of all ET hearings in England and Wales. Please note, however, that it is the responsibility of HMCTS staff, not the judiciary, to record ET hearings.

Finally, as previously explained, the provision of recording equipment and its installation is also a matter for HMCTS. I continue to make the case that recording equipment should be installed in all hearing rooms, to give full effect to the Practice Direction. As before, the terms of this letter have been agreed with HMCTS, and I am content for it to be distributed to the constituencies you represent on the national user group.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Barry Clarke', with a long horizontal stroke extending to the right.

**Judge Barry Clarke**  
**President**