Guidance on remote participation in proceedings in the Upper Tribunal (Tax and Chancery Chamber)

1. This document supplements the Guidance on the Conduct of Proceedings in the Upper Tribunal (Tax and Chancery Chamber) ("the **Tribunal**") dated 25 July 2023 (the "**Previous Guidance**"), and in particular Section C in relation to Form of Hearings. Except as expressly contradicted or modified by this document, the Previous Guidance remains in force.

2. The default provisions contained in the Previous Guidance as to when a hearing should be in person or remote or a hybrid hearing remain applicable guidance, but they must be understood to be a starting point. They do not replace the requirement for an appropriate exercise based on judicial discretion and the interests of justice in accordance with the Judicial Principles for Remote Participation which are attached to this document. The Tribunal may make a different order either of its own initiative or on application by any party.

3. In applying the Previous Guidance and the Judicial Principles, the Tribunal will take account of the following overarching considerations:

   a. Access to justice requires litigants to have effective access to the court or tribunal which is deciding their case. Remote participation is one way in which the court or tribunal may provide access, but no litigant has a right nor does any court have a duty to provide remote or online access. The mode of access will be decided according to what the judge considers to be the interests of justice in the individual case.

   b. That said, there may be stronger or weaker arguments for remote hearings in certain kinds or categories of case. A court or tribunal may formulate general rules or policies about how it will deal with hearings in its jurisdiction. The Previous Guidance contains general policies of this Tribunal.

   c. Responsibility for a decision on mode of hearing in any individual case will always rest ultimately with a judicial office holder responsible for that case.

4. The Tribunal will decide the issue in particular cases according to what it considers to be in the interests of justice, bearing in mind the overriding objective of dealing with cases fairly and justly, and taking account of all relevant circumstances, including:

   a. the nature of the hearing and the relevant jurisdiction - decisions may for example differ between tax cases and financial services cases;

b. the timing of the application;

c. the resources available to the Tribunal at the relevant time, including the availability of staff to manage any remote access, as well as the equipment available to participants in the hearing or trial for remote participation – in appropriate cases it may be prudent to allow for test hearings to check the satisfactory operation of equipment;

d. the ability of court users, staff and judiciary to attend in person (e.g. because of public health restrictions) or where attendance would not be possible without incurring undue additional expense (e.g. overnight accommodation because of a general public transport strike);

e. the impact on fair access to justice for all participants (paying attention in particular to any mobility issues or circumstances where a lack of funds may make travel difficult);

f. the impact on the business of the Tribunal, including other cases with which it has to deal; and

g. any impact the decision would have on open justice, taking into account steps to mitigate the decision. These might include publicising details of how to obtain remote access, or preferring hybrid hearings, where at least the Tribunal members are in open court, over fully remote hearings.

5. The decision as to the mode of hearing should be manifestly procedurally fair. Accordingly, the Tribunal:

a. will make the Previous Guidance and the further guidance given in this document publicly available;

b. will take reasonable steps to ensure court users can find out how to apply for a mode of hearing that is different from the norm or policy and make an appropriate and timely application; and

b. will give reasons for its decisions – although it will not usually be necessary to give more than the briefest reasons; and

d) will give court users a fair opportunity to make representations on a decision which it proposes to make.

The Hon. Mr Justice Thompsell,
President of the Upper Tribunal,
Tax and Chancery Chamber **31 October 2025**