



## Remote Hearings in the Civil Jurisdiction

### 1. Introduction

- 1.1. This guidance concerns the mode and listing of Civil hearings in England and Wales. This guidance relates to the County Court only.
- 1.2. Access to justice requires litigants to have effective access to the court that is deciding their case. In some cases, this may be by way of a remote hearing.
- 1.3. This guidance on remote hearings in the Civil jurisdiction follows the Judicial Principles on remote participation, issued by the Lady Chief Justice and the Senior President of Tribunals, set out below:
  - a) [\*Remote Participation Overarching Guidance\*](#)
  - b) [\*Remote Participation Judicial Principles\*](#)
- 1.4. The decision to hold a hearing remotely or to enable participants to attend remotely is a judicial one.
- 1.5. Link to [What to expect when joining a telephone or video hearing](#).

### 2. Rules of Procedure

- 2.1. The Civil Procedure Rules r 1.4(1) provides that the court must further the overriding objective (CPR r 1.1) by actively managing cases. Active case management includes “making use of technology” (CPR r 1.4(2)(k)).
- 2.2. Within this context, CPR r 3.1(2)(e) provides that the court may hold a hearing and receive evidence by telephone or by using any other method of direct oral communication.
- 2.3. Pursuant to CPR r 3.3, the court may exercise its case management powers of its own initiative, including directing that a hearing take place remotely.
- 2.4. CPR r 39.1 provides that a “hearing” includes a hearing conducted by telephone, video link, or any other means permitting simultaneous communication between the court and the parties.
- 2.5. CPR r 32.3 provides that the court may allow a witness to give evidence through a video link or by other means. Practice Direction 32 provides guidance on the use of video link evidence.

### **3. Mode of Hearing**

- 3.1 A Civil hearing may take place in person or remotely.
- 3.2 Remote hearings use either video or telephone. A hearing may be fully remote (by which none of the participants is present in the hearing venue) or partially remote. The mode may also change during a multi-day hearing, with all participants present in the hearing venue on one day but some or all joining remotely on another day.
- 3.3 Normally a remote hearing will be by video. Subject to DCJ approval, case management hearings could be listed as telephone hearings instead of video.
- 3.4 Decisions whether to hold a fully remote or a partially remote hearing are to be taken on a case-by-case basis based on the interests of justice.
- 3.5 There will be many matters not identified in this guidance which can also be heard remotely on a case-by-case basis. Equally there will be individual cases within this guidance which should nevertheless be heard in person. In any case practical issues such as the availability of appropriate equipment, the ability to view case papers, travel difficulties and a transport strike may also be significant.
- 3.6 Remote hearings may be a special measure under CPR PD1A (vulnerable parties or witnesses) or they may be appropriate on grounds of security e.g. when one party has been designated as a potentially violent person.

### **4. Default approaches when listing cases for a hearing**

- 4.1 There will be no default approach for County Court hearings.
- 4.2 The types of County Court hearing which might well be suitable for listing as a remote hearing are:
  - 4.2.1 All suitable case management hearings of any kind, including for example:
    - a) Allocation and listing hearings
    - b) Multi-track pre-trial reviews
    - c) Straightforward costs and case management conferences
  - 4.2.2 The following hearings, provided they do not involve a litigant in person:
    - a) Small claims trials in the virtual region
    - b) Fast Track trials in the virtual region

- c) Dispute resolution hearings
- d) Stage 3 hearings, being certain hearings to assess damages that remain in dispute between the parties in low-value personally injury claims

4.2.3 The following hearings, subject to the prior approval of the relevant DCJ:

- a) Infant/protected party approvals
- b) Anti-social behaviour injunctions without notice.

## **5. Relevant factors**

- 5.1 The question of whether a hearing should be remote remains a matter for the court, based on a number of clear fundamental principles.
- 5.2 Listing is a judicial function and therefore the manner in which a hearing is to be conducted is always a matter for the judge bearing in mind the interests of justice. Responsibility for a decision on mode of hearing in any individual case will always rest with the judge responsible for that case.
- 5.3 The following is a non-exhaustive list of factors to consider when exercising discretion to direct a remote hearing:
  - a) Whether the hearing is concerned with case management or with contested issues requiring the hearing of lay witness evidence. Hearings involving contested issues requiring witness evidence are less likely to be suitable for a remote hearing.
  - b) Whether the hearing involves straightforward issues or issues of complexity and gravity. Cases involving issues of complexity or gravity are less likely to be suitable for a remote hearing.
  - c) Whether some or all of the evidence is provided by expert witnesses. It will ordinarily be appropriate to take expert witness evidence remotely.
  - d) Whether the parties consent or object to the hearing being conducted remotely. A party's views on whether a hearing should be remote are an important factor.
  - e) Whether the parties are able to engage with and follow remote proceedings meaningfully including access to and familiarity with the necessary technology. Where a party has a disability or need for special measures this will be relevant to the decision whether to proceed with a remote hearing.
  - f) Whether there are suitable facilities and resources for a remote hearing.

5.4 Resource issues and other administrative difficulties cannot by themselves justify the use of remote hearings where the interests of justice require an in person hearing.

5.5 A formal (and timely) application and payment of fee is required where the parties seek a remote hearing in a case in which a remote hearing has not been directed in an earlier order.

## **6. Changes to mode of hearings**

6.1 A judge may change the mode of hearing at short notice, such as by converting an in-person hearing to video. This may follow an application by a party. It may also happen because the judge has taken that decision on their own initiative, driven by circumstances that are difficult to predict in advance.