



## **Remote Hearings in the Social Entitlement Chamber Jurisdiction**

### **1. Introduction**

- 1.1. This guidance concerns the mode and listing of hearings in the Social Entitlement Chamber. The Chamber consists of three Tribunals: the Asylum Support Tribunal (UK-wide); the Criminal Injuries Compensation Tribunal (GB-wide); and the Social Security and Child Support Tribunal (GB-wide for all appeals except those concerning the Infected Blood Compensation Scheme, which is UK-wide).
- 1.2. This guidance supersedes all previous guidance on this topic, including Chamber President's Guidance Note No.5 issued on 18.10.2021 for the Social Security and Child Support Tribunal.
- 1.3. This guidance on remote hearings in the Social Entitlement Chamber 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 Decisions on mode of hearing will be made in accordance with the overriding objective under [Rule 2 of the Tribunal Procedure \(First-tier Tribunal\)\(Social Entitlement Chamber\) Rules 2008 \(as amended\)](#) which enables the Tribunal to deal with cases fairly and justly. This includes applying the following principles;
  - Proportionality
  - Flexibility
  - Full participation of parties
  - Effective use of tribunal expertise
  - Avoidance of delays

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

- 3.1 A Social Entitlement Chamber hearing may take place in person or remotely.

- 3.2 HM Courts and Tribunals Service (HMCTS) lists hearings in accordance with judicial direction.
- 3.3 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 (by which some participants are present in a hearing venue but some join remotely). 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.
- 3.4 Remote participation is one means of securing effective access to justice. However, no party has a right to a remote hearing nor does any of the three Tribunals have a duty to provide one.
- 3.5 Similarly, in-person participation (meaning a hearing held in a courts and tribunals building) is one means of securing effective access to justice. However, no party has a right to an in-person hearing where other more suitable options exist that would ensure a fair hearing, including by video or telephone.

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

- 4.1 In order to ensure the efficient despatch of business, the default approaches set out below will apply when hearings are listed.
- 4.2 Where a default operates, it is for initial listing purposes only. In all cases, the parties will be able to express their views as to their preferred mode, for example in correspondence or at any preliminary hearing held for case management purposes. In all cases, it will be open to the Tribunal to decide, in the interests of justice, that the default approach should not apply to a particular case.
- 4.2.1 In the Asylum Support Tribunal jurisdiction, hearings are listed for in-person hearings, with provision for parties to apply for a remote hearing;
- 4.2.2 In the Criminal Injuries Compensation Tribunal jurisdiction, hearings are listed as telephone or video hearings, with provision for parties to apply for an in-person hearing;
- 4.2.3 In the Social Security and Child Support Tribunal jurisdiction, parties are given the option of consenting to one, two or all of the three hearing types and if consenting to all three, the default will be to list in the following order of priority: in-person; video; telephone.
- 4.2.4 There will be no default approach for appeals concerning Child Support, Industrial Injuries Disablement Benefit, Vaccine Damage Payment, Mesothelioma Payment and Infected Blood Compensation.

These appeals are referred to a judge or legal officer for listing and hearing directions. A party's preference will be taken into consideration when determining the mode of hearing.

4.2.5 The judiciary in all three jurisdictions are experienced in managing in-person as well as video and telephone evidence and hearings.

## **5. Relevant factors**

5.1 The question of whether a hearing should be remote remains a matter for the Tribunal, based on a number of clear fundamental principles.

5.2 The Tribunal will determine the mode of hearing in accordance with the interests of justice in the individual case.

5.3 What accords with the interests of justice in each case will depend on the circumstances.

5.4 The following (non-exhaustive) factors are relevant when a tribunal decides the mode of hearing and/or considers whether the default approach for listing a case should be disapplied. It will be for the tribunal to decide how it weighs these (or other) factors in the balance in the circumstances of each case.

5.4.1 The views, needs and preferences of the parties.

5.4.2 The availability of enough space in suitable premises, having regard to the health, safety and security of all participants.

5.4.3 The availability of technical facilities that enable a hearing to take place fully or partly remotely.

5.4.4 Any delay to the outcome and the need to expedite proceedings in line with the overriding objective.

5.4.5 Any reasonable adjustments required due to disability or a health condition.

5.4.6 The safety of the tribunal members and other tribunal users.

5.4.7 The timing of any application.

5.5 For the avoidance of doubt, the listing and mode of a hearing are judicial matters. While the tribunal will have regard to the preferences and representations expressed by the parties, it is not bound to accede to such requests unless there is a good reason to do so and/or the interests of justice so require.

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

- 6.1 Any party wishing to apply for a change in their mode of hearing must do so promptly upon notification of the hearing date.
- 6.2 Applications must state the reasons for the change, supported by evidence if appropriate, and, if applicable, explain any delay in making the application.
- 6.3 Applications should be notified to HMCTS using the contact details on the notice of hearing letter.
- 6.4 HMCTS will take reasonable steps to accommodate such requests. Where there is any question or objection, the matter will be referred to a Legal Officer or District Tribunal Judge for urgent determination.
- 6.5 Decisions will be made in accordance with the overriding objective under Rule 2 of the Procedure Rules, which includes:
  - Proportionality;
  - Flexibility;
  - Full participation of parties;
  - Effective use of tribunal expertise;
  - Avoidance of delay.
- 6.6 In all cases, the tribunal must provide brief reasons for its decision.
- 6.7 The tribunal may, on occasion, change the standard mode of hearing for operational reasons.
- 6.8 Where this occurs, the tribunal will give parties an opportunity to make representations before or after the decision, as appropriate.
- 6.9 In making such decisions, the tribunal will consider:
  - The interests of justice;
  - The overriding objective;
  - Impact on access to justice for all participants;
  - Impact on the tribunal's wider caseload;
  - Any implications for open justice;
- 6.10 Decisions must not be driven solely by resource availability. The overriding consideration is the interests of justice, including fair access for all parties and timely resolution.

## **7. Open Justice**

- 7.1 In accordance with Rule 30 all hearings – including those held remotely - will be in public unless an order to the contrary has been made.
- 7.2 Daily cause lists are published for all hearings of the Chamber. Joining details for the attendance of remote hearings can be requested by third parties including members of the public and press.
- 7.3 All hearings, including remote hearings, are recorded. In all cases a copy will be stored by HMCTS. Parties and observers are strictly prohibited from making their own recordings, without the express permission of the Tribunal, and only in respect of an application for a reasonable adjustment on the grounds of disability. Parties may however request a copy of the recording from HMCTS. Transcripts are not produced.