



Remote Hearings in the First-Tier Tax Tribunal Jurisdiction

1. Introduction

- 1.1. This guidance concerns the mode and listing of First-tier Tax Tribunal hearings in England and Wales.
- 1.2. This guidance on remote hearings in the First-tier Tax Tribunal 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 Overriding Guidance*](#)
 - b) [*Remote Participation Judicial Principles*](#)
- 1.3. The decision to hold a hearing remotely or to enable participants to attend remotely is a judicial one. Access to justice requires parties to have effective access to the court or tribunal which is deciding their case. Online participation is one way in which the Tribunal may provide effective access to justice, but no party has a right, nor does any tribunal have a duty, to provide remote or online access.
- 1.4. Responsibility for choosing the appropriate forum is a matter of judicial discretion and subject to the power to delegate such discretion to HMCTS officers. The discretion is taken on a case-by case basis; however, to aid consistency this guidance provides general rules for listing. Discretion is retained to direct a different mode of determination.
- 1.5. If attending a remote hearing, further information can be found here: [What to expect when joining a telephone or video hearing](#).

2. Rules of Procedure

- 2.1. In accordance with rule 2 Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 (**FTTTC Rules**), the overriding objective to act fairly and justly, decisions as to the appropriate forum in which to determine applications and appeals requires a flexible approach.
- 2.2. The FTTTC Rules provide for categorisation of all appeals as Default Paper, Basic, Standard and Complex (rule 23). The Chamber facilitates the use of remote hearings to determine interim/case management applications and substantive appeals/applications for all categories other than Default Paper.
- 2.3. In accordance with rule 32 FTTTC Rules all hearings will be in public unless the provisions of rule 32(2) or (2A) apply.

3. Mode of Hearing

- 3.1 A First-tier Tribunal Tax hearing may take place in person or remotely.
- 3.2 Remote hearings are usually by video. Very occasionally there may be telephone hearings. 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.
- 3.3 Daily cause lists are published for all hearings of the Chamber other than those subject to a privacy application under rule 32 FTTC Rules. Joining details for the attendance of remote hearings can be requested by third parties including members of the press.

4. Default approaches when listing cases for a hearing

- 4.1 All remote hearings using video or telephone will be recorded. In all cases a copy will be stored by HMCTS in order that copies may be provided to the Tribunal. Parties may access the recording by attending at a court venue. Transcripts may be taken from the recording through an official transcriber and on completion of the EX107 form.
- 4.2 Basic cases are, by default, listed for remote determination. The parties are informed when the appeal is acknowledged and served of the default forum and provided the opportunity to indicate a preference for an alternative forum. The hearing notice provides information on steps to be taken before the hearing, an explanation of what will happen at the hearing and how to access help in respect of the hearing.
- 4.3 Standard and Complex cases will usually be determined at a face-to-face hearing. Interim and case management applications for such appeals are usually listed remotely but, where required, will be heard face-to-face. However, the forum for determinations in Standard and Complex cases will not be assumed and will be determined at the point of listing by a judge or HMCTS officer with delegated powers. Parties are given the option to have interim or case management applications determined on the papers.
- 4.4 New listing questionnaires require the parties to indicate their preferred forum for determination and are provided with the choice of: remote, in-person, or partly remote. Where the number of proposed attendees identified on the listing information questionnaire exceeds the capacity of an appropriate court venue, it will be appropriate to list a matter for an in-person hearing in a venue providing remote facilities to enable the attendance of observers.

- 4.5 Subject to the factors identified in paragraph 5.3, partly remote hearings will not normally be listed save to provide for the attendance of observers.
- 4.6 A remote or partly remote hearing will not be listed where the Tribunal file indicates, or the taxpayer notifies on the listing information questionnaire, that evidence is required from a participant outside the UK save in accordance with the [Updated Practice Statement F-tT Tax Chamber – Taking Oral Evidence from Abroad](#).

5. Relevant factors

- 5.1 The question of whether a hearing should be remote remains a matter of discretion for the Tribunal, based on a number of clear fundamental principles.
- 5.2 What accords with the interests of justice in each case will depend on the circumstances and the available resources.
- 5.3 The appropriate forum will be determined primarily by reference to the indicated preference of the parties. However, and in particular where the parties' preferences are inconsistent, the appropriate forum will also take account of the following (non-exhaustive) factors. It will be for the judge to decide how they weigh these (or other) factors in the balance in the circumstances of each case:
- 5.3.1 Any reasonable adjustments required due to disability or a health condition.
 - 5.3.2 The safety of the panel and other court users.
 - 5.3.3 Interpreter requirements affecting effective participation.
 - 5.3.4 The need to access any physical documents.
 - 5.3.5 The urgency of determination.
 - 5.3.6 Any delay to the outcome and the need to expedite proceedings in line with the overriding objective.
 - 5.3.7 Any impact on access to justice for all participants.
 - 5.3.8 Any impact on the Tribunal's caseload.
 - 5.3.9 Any implications for open justice.
- 5.4 Where the parties have indicated a preference for an in-person hearing and provided mutual availability for hearing, but the availability cannot be accommodated by an appropriate venue and/or a Tribunal Panel cannot be booked, the Tribunal will consider whether it is in accordance with the overriding objective to direct that the hearing be remote. Before so directing, the parties will be given the opportunity to confirm that the hearing proceed

by way of a remote hearing on the agreed dates in preference to agreeing further dates (and thereby delaying the hearing).

6. Changes to mode of hearing

- 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.
- 6.2 Any party wishing to apply for a change of forum must do so promptly upon notification of the hearing date. Such applications must be made in writing, copied to the other party and state the reasons for the proposed change and for any delay in making the application. The Tribunal will determine the application in accordance with the overriding objective under rule 2 of the FTTTC Rules, taking into consideration the factors identified in paragraph 5.3, and will provide brief reasons for its decision.