



Remote Hearings in the First tier Tribunal Immigration and Asylum Chamber Jurisdiction

1. Introduction

- 1.1. 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.
- 1.2. This guidance concerns the mode and listing of hearings in the First tier Tribunal Immigration and Asylum Chamber (FtTIAC) in England and Wales
- 1.3. This guidance supersedes all previous Guidance.
- 1.4. This guidance on remote hearings in the FtTIAC 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](#)
- 1.5. The decision to hold a hearing remotely or to enable participants to attend remotely is a judicial one.

2. Rules of Procedure

- 2.1. This Guidance is issued pursuant to paragraph 7 of schedule 4 to the Tribunals, Courts and Enforcement Act 2007. It applies specifically to FtTIAC.
- 2.2. In accordance with Rule 2 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 ("the Procedure Rules") decisions as to the appropriate mode of hearing by which to determine appeals requires a flexible approach in order to deal with cases fairly and justly.
- 2.3. Rule 4(g) of the Procedure Rules permits the FtTIAC to decide the form of any hearing or appointment.
- 2.4. This Guidance is written without prejudice to the following Guidance Documents:
 - a) [IAC Evidence-from-abroad-Presidential-guidance-v16](#)
 - b) [Practice-Guidance-on-remote-observation-final 28.6.2022](#)

3. Mode of Hearing

- 3.1 A hearing in FtTIAC 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 (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 Decisions whether to hold a remote hearing are to be taken on a case-by-case, basis based on the interests of justice. Responsibility for choosing the appropriate mode of hearing is a matter of judicial discretion, subject to the power to delegate such discretion to HMCTS' Legal Officers. Decisions are taken on a case-by-case basis in order to meet the demands of the Overriding Objective. All relevant circumstances will be taken into account.

4. Default approaches when listing cases for a hearing

- 4.1 Any hearing must be recorded.
- 4.2 Substantive hearings, interim hearings and bail hearings may be adjudged suitable for remote hearing and determination at the point of listing.
- 4.3 In all cases, the parties will be able to express their views as to their preferred mode, for example when filing hearing requirements, in correspondence or at any interim hearing held for case management purposes. In all cases, it will be open to a judge to decide, in the interests of justice, the mode of any hearing.

5. Relevant factors

- 5.1 The question of whether a hearing should be remote remains a matter of discretion for the court, based on a number of clear fundamental principles.
- 5.2 Listing is a judicial function. The decision whether to proceed with a remote hearing, a partly remote hearing or a fully attended hearing remains at all times one for the court. It is a judicial decision involving appropriate exercise of judicial discretion.
- 5.3 The following is a non-exhaustive list of factors that will be considered when exercising discretion to direct a remote hearing:
 - 5.3.1 Whether an appellant is represented;
 - 5.3.2 Whether the hearing is concerned with case management or with contested issues requiring the hearing of witness evidence. Hearings involving contested issues requiring evidence from numerous witnesses may be less likely to be suitable for a remote hearing;

5.3.3 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;

5.3.4 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, vulnerability or need for special measures this will be relevant to the decision whether or not to proceed with a remote hearing;

5.3.5 Whether there are suitable facilities for a video hearing.

5.4 Resource issues and other administrative difficulties cannot by themselves justify the use of remote hearings.

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.