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Guide on remote hearings

This is a guide to help you understand what remote hearings are, what you can do to prepare for remote hearings, and what to do during remote hearings.

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Guide on remote hearings

This guide contains a range of practical tips that may help you before, during and after a remote hearing.

A '**remote hearing**' means that the people involved will not go to court in person. You'll join the hearing by telephone or by a video link. Sometimes even the judge may be at home rather than in the court building.

Court proceedings can be challenging, but there are new challenges that can come about because a hearing is done remotely. Remember that some technical difficulties can't be avoided and happen to even the best prepared professionals.

But, **the more that you prepare, the calmer you'll feel on the day**. Even if the hearing is taking place remotely, the courts are still open and able to help you if needed.

Section A: Pre-hearing preparation

What should happen when a hearing is scheduled

1. Finding out about the hearing

The court will send you a **Hearing Notice/Joining Notice**. This has all the information about the hearing: the date, time, who the judge is and who will be attending ("the parties"). You'll have **at least 21 days' notice** of the date of the hearing. The letter/notice will also set out various instructions on what you need to do and when (called "directions").

You'll be asked to **respond to this hearing notice**. Tell the court your preferred phone number and email address so they can contact you.

You'll also be told if the hearing will happen in person or as a remote hearing.

If the hearing is going to happen remotely:

- **Remotely by telephone** – you'll be told this before the date of the hearing. On the day of the hearing, the court will probably call you, **or** you'll be given a free phone number to ring, so you won't be charged for having a hearing over the phone.
- **Remotely by video** – the court will tell you by **email** which kind of video-conferencing platform will be used for the hearing (for example, Skype for Business, Microsoft Teams etc.). You'll also be sent instructions

on how to use the software before the hearing. **Don't send** these instructions to anyone else.

Depending on which court is dealing with your case, they will aim to tell you if the hearing will be done remotely by phone or video **at least 3 days** before the hearing.

If it's less than 3 days before the hearing date and you haven't heard from the court about how to attend your hearing, **contact the court or tribunal as soon as possible** using the contact details in your Notice.

2. Important legal points about the hearing

If your hearing goes ahead remotely, remember that the hearing runs in **exactly the same way** as if you were attending court in person.

This means that the results of the hearing, and what the judge can order will be **exactly the same**. It also means you need to prepare just as much.

If you don't join the remote hearing, the judge can still decide the case in **your absence**. This is why it's important that you join and participate with the hearing properly – or tell the court if you'll find this difficult – **as soon as possible**.

3. Should the hearing go ahead remotely?

If you're told your hearing is going to happen remotely, you need to first consider if a remote hearing is **suitable for you**.

The court will already have decided on the type of hearing, depending on what the hearing is for and who the judge needs to hear evidence from. But the court might not have been aware of your personal circumstances when they made this decision.



You may feel that a remote hearing is **not suitable** if any of the following applies to you:

- You don't have access to a private computer, tablet or smartphone with a webcam (i.e. not in a public place or a shared connection);
- You don't have internet access at home;
- Your internet connection is not stable or extremely slow, so it would make it difficult for you to hear and see (and for the court to hear and see you) on a video call clearly;
- You won't have a quiet space in which to "attend" the hearing;
- You have a medical condition or disability (including but not only visual/hearing impairments) that will make it more difficult to access a telephone or video remote hearing;
- You need someone to accompany you (in an official capacity, such as a McKenzie Friend¹) to help you understand what is happening during the course of the hearing or for emotional support;
- You speak English as an additional language and may need an interpreter; or
- Even with support, a remote hearing would make you very anxious, to the point where you wouldn't be able to participate in the hearing.

If any of the above applies (or you have further reasons), **contact the court as soon as possible** to raise your concerns. This way the court can consider alternative arrangements. **Don't wait** until the day of the hearing itself to raise these difficulties.

The judge will decide if the remote hearing will go ahead or if other arrangements can be made to help you access a remote hearing. This could involve you joining in a different way or putting in what they call "reasonable adjustments". For example, a 'hybrid' format may be used where you attend court in person but the other party and the legal representatives attend virtually (so online).

The judge's decision depends on what your case is about and what the hearing is for, the needs of everyone involved, and what is safe and practical.

If a judge decides the hearing can't go ahead remotely and no other suitable arrangements can be made, you may find that your original hearing date is postponed ("adjourned"). The courts may relist it as an in person hearing for a

¹ A **McKenzie Friend** is someone who can attend court with you in order to help you in the proceedings. They are not there as your solicitor or barrister. It can be someone from a charitable organisation, a service, a friend or family member. They cannot be someone who is involved in the case. They can give you support, take notes, and help you with paperwork, but they cannot give you any legal advice. You will need to ask the court permission for them to join a remote hearing. If you want this person to speak for you, you will need to ask permission from the court before the hearing if this is allowed. It is up to the judge to decide whether the person you bring can speak on your behalf.

later date. Remember that you might have to wait a long time for a face to face hearing.

Witnesses, supporters, interpreters

If you have any witnesses or a person supporting you who will have the same access issues, **tell the court as soon as possible**.

If you need an interpreter or other support, but have no other access issues, this doesn't necessarily mean you can't have a remote hearing. The person supporting you also doesn't need to be in the same place as you. Tell the court that you need this support/interpreter and give that person's contact details **when you respond to the first hearing notice**. The court can arrange for them to join the remote hearing from another location and tell you how you'll be able to communicate with that person privately during the hearing if needed.

Covid-19 pandemic

Tell the court if you're shielding (if you are extremely clinically vulnerable), **have Covid-19 symptoms or you're self-isolating** with symptoms of Covid-19 and waiting for a test result, if you're not in the UK, or in a different part of the UK from the court. They can consider these factors when they are making their decision about the hearing.

During the Covid-19 pandemic, alternative arrangements have included so-called "hybrid" hearings where some parties are in the court building, and others watch and participate via the same video-conferencing software.

You should think about whether this is suitable, or if you would still find this difficult for any of the reasons above – and if so, **tell the court as soon as possible** so the judge can consider this when reaching a decision.

Please see section C, heading number 12 on converting your hearing to a remote hearing because you need to self-isolate.

4. Documents needed for the hearing

What is a bundle?

In the same way as if a hearing was taking place in person, the documents to be used in the hearing (called "the bundle") **need to be sent to the court and all other parties** before the hearing.



Remember that if you're bringing the claim, application or appeal (i.e. you are named as the Claimant, the Applicant or the Appellant in the hearing notice from the court), it is usually **your responsibility to put together this bundle and make sure all parties and the judge have it.**

It **may not** be your responsibility to put the bundle together if you **don't** have legal representation but the defendant **does**. In this situation, the defendant may be required to produce the bundle. The court will communicate this to you.

How do I send the bundle?

The court will give you instructions ("directions") on **when and how** to send these documents when they send you a **Hearing Notice or other letter**.

During the Covid-19 pandemic, the documents you need to send have changed to be electronic bundles. You will send the documents by email or another method.

Be aware that if your matter is before the small claims court then the court will not provide you with too many instructions.

If you find this difficult to do, **contact the court to ask for more guidance** on how to do this and whether any alternative arrangements can be made.

How do I prepare the bundle?

The court is likely to also give you **instructions** as to how the electronic bundle should be put together.

The court **may** ask:

- For documents to be sent as a .pdf rather than a word document or original emails
- For the documents to be put together as one .pdf document rather than send them as separate pages
- You to send an index (this is a table of contents) listing all the documents in the bundle
- You to number all the pages
- You to use bookmarks (these are tabs that allow you to find certain information quickly) and hyperlinks (these are links that are inserted in text) in your bundle or index

Putting together the bundle in the way the court asks can be time-consuming, especially if you're not familiar with certain software. Make sure you leave enough time to do this.

Providing documents in this way will **help the court and all parties involved**, especially if your case involves a lot of documents. It will save time during the hearing and help everyone (including the judge) find the most important documents in your bundle, and make sure everyone is looking at the same document at the same time during the hearing.

5. Practical tips

When you are preparing for a remote hearing, think through the following checklists.

For all remote hearings

- Make sure you'll have access to a **quiet room** to "attend" the remote hearing, where you won't be interrupted by pets, children, or other people in your household/building.
- Is there anyone you'll need to communicate with privately during the hearing? If so, you may **not** be able to do this using the video-conferencing software, and you **won't** be able to send private messages on the software. The court may agree to use break-out rooms during the hearing. Break-out rooms are virtual rooms where you can talk to one or more people (without the rest of the participants). The person administering the video-conferencing software has to create the break-out room, you can't do it yourself.
- If you're going to be giving evidence during the hearing, you will be asked to **swear an oath or make an affirmation** (a legally binding promise) that your evidence will be true. If you want to swear an oath and wish to do this on a holy book or scripture, have a copy of your holy book available.

For remote telephone hearings

- Make sure that the court has the **correct landline or mobile number** for you. If possible, use a mobile phone that you do not share with anyone else or use for work.
- Make sure you **turn off any call-barring services** (such as services that stop private numbers calling) so the court can reach you on the day of the hearing.

- You may need to have **access to another device** (such as a computer or tablet) in case you need to receive additional documents on the day of the hearing.

For remote video hearings

- Make sure your internet connection is **stable and secure**. It is best to use wifi if you can. If you use the data from your phone, it might be very expensive.
- Make sure you have a computer or tablet to use which has a **webcam and microphone**. You can use your phone to access the hearing but remember it will be very difficult to see everyone in the hearing on a small screen. You will also find it very difficult to look at any electronic documents you have or have been sent, and watch the hearing at the same time if you are using your phone to access everything.
- Consider whether you need any **extra equipment** (aside from a computer/tablet as above), and give yourself the time to borrow or purchase it. Some suggestions are:
 - An **extra screen/tablet**. If you have an extra screen, one screen can display the video hearing and the second screen can display the documents you'll need in the hearing
 - **Headphones**. Using headphones will stop any feedback from your speakers to the microphone during the hearing. This will make sure you can hear and be heard clearly.
- Make sure you have **downloaded the right internet browser and/or video-conferencing software** the court has told you they are using for the hearing. Don't leave it to the morning of the hearing to download it. **Do this in advance**, so you have time to check it works on your computer and that you know how to use it.

Other tips

You may also find it helpful to arrange to do a test call with a family member, friend or someone who is helping you (such as at a legal advice clinic). This way, you can get familiar with how to use the software, what the hearing might look like, and whether you can be seen and heard clearly.

If you have any issues joining the platform or testing the equipment, **tell the court as soon as possible** using the contact details they've given you.

To download these tips, look at the 'Pre-hearing checklist' on this page:
https://www.toynbeehall.org.uk/know-your-rights/?_resource_category=civil

Section B: During the Hearing

What will happen during the hearing

The most important thing to remember is that you should **treat the remote hearing as if it was an in-person hearing**. The judge, court clerk and the opposing representative will behave in the same way as if the hearing was happening in the courtroom and you should also.

6. Important legal points about the hearing

Recording the hearing

- The court hearing **can't be recorded by you in any way during the hearing**. Make sure your phone or device does not record the hearing. **This is against the law**.
- Remote hearings will be tape recorded or digitally recorded by the courts unless the judge directs otherwise, and the court clerk will manage the recording of the hearing.
- If you want the hearing not to be recorded or if you want the court to delete the recording of a hearing, you can **request this by providing written reasons** to the court.
- Inform the courts if you'd like someone with you during the hearing. If you're allowed someone with you, they can support you during the hearing, take notes or help you with paperwork. If you have a legal representative, they'll also join the remote hearing.

Public or private hearing?

- In English and Welsh courts, **most hearings are made available to the public** unless the judge or parties indicate otherwise. Don't be alarmed if the remote hearing is accessed by a media representative where the proceedings are made open to the public.
- Your hearing can be public or private. If you wish to have your hearing in private, contrary to the normal rules, you'll be required to **submit written**



reasons ("written submissions") to the court indicating why your hearing should be conducted in private.

- If you believe you have fair reasons for having your hearing heard in private, you must provide written submissions to the court **as soon as possible before the hearing date** to give the court enough time to consider it. After reading your submissions, the court will make the final decision on whether the hearing can take place in private.

7. Court etiquette

Your environment and conduct

During the hearing, make sure you're **alone in the room** and **are not interrupted**. Prepare a 'quiet room' in your home for the duration of the hearing. As in court, you **must** have the same environment remotely at home.

If the hearing is by video call, **wear smart clothes** as if you were attending a face to face hearing in court. You could wear a suit jacket, shirt, t-shirt or jumper.

What you wear **shouldn't** include any bright photos, logos or slogans.

You must **not** eat food or hot drinks during the hearing. But you **can** drink water, so keep a clear glass of water next to you during the hearing.

Keep a plain sheet of paper and pen to write down notes.

How to address the judge

- In a **small claims court**, the judge will usually be a district judge. In this case, when addressing the judge, you must refer to them as 'Sir' or 'Madam'. When writing to the judge, it will be 'Dear Judge'.
- If your matter is before the **High Court Masters**, it will be 'Master' or 'Registrar'. If your matter is before the **High Court or Court of Appeal** it will be 'My Lord' or 'My Lady'.

Practical tips

- Find a **quiet room** if you can and try to limit interruptions
- Make sure your **mobile phone is on silent or a silent vibrate**, to be notified of any update or to communicate with the courts during the hearing
- Sit in front of a **plain wall** if you can or a minimally cluttered area, so your background is not distracting on the call

- Sit in a room where the **lighting is bright and clear** (e.g., in front of a window for natural light or a room with bright lights) so that the court can see you clearly

8. During the hearing

How it will work

- When the hearing starts, the court clerk, your legal representative or yourself and the opposing representative will join the hearing.
- During the hearing only the tribunal/judge and advocates will have their videos operating. The court clerk will then indicate that they are signing on the judge.
- **Ensure your mic is on mute** unless indicated otherwise and **turn it on only when you are required to speak** during the hearing. **Keep your video on** throughout the proceedings.
- If your hearing is over the telephone, the court will usually call you. If you have to call the court, the call will be free. The court clerk will call you before the hearing to check you have a good telephone line or internet connection. You must treat the telephone hearing like a face to face hearing.

What to do if you have technical issues

- If you face technical issues such as challenges with your bandwidth, dropping off the call, your computer screen freezing, don't panic!
- If you have dropped off the call or experiencing technical difficulties, **contact the courts immediately**. The hearing can be paused and resumed once all parties have re-joined in successfully.

Practical tips

- Make sure you have access to a phone or a place with a phone where you can dial into the court hearing
- Make sure the room is quiet
- At the start of the hearing, tell the judge if you are likely to be interrupted, you've got any questions about the hearing, or if you need any extra support such as taking breaks often
- Make sure you have the contact details of the court clerk in case of an emergency or technical issue.
- Contact the court clerk immediately if you have a technical issue
- If you are having hearing difficulties or connection issues inform the judge or court clerk during the hearing immediately.
- Keep your phone charged and on silent or a silent vibrate to be able to contact the courts in case of an emergency or technical difficulty

9. Video pinning

What is 'video pinning'?

'**Video pinning**' is a function that is available on certain video-conferencing platforms such as WebEx, Skype or Microsoft teams. It is a function which allows you to make sure another individual's video screen remains on your device's screen during the videoconference.

Depending on the platform you use for the hearing this function **may** be available to you. There will usually be a tab on the video platform which enables you to do this.

In a remote hearing, you **may** be able to pin a party's video during the hearing. Being able to pin a party's video to your screen (such as the judge), may make you feel more comfortable when giving your evidence.

Practical tips

- Try out pinning before the hearing so that during the hearing you know how it works and you know how to adjust the screen in a way that is useful for you.
- Place the parties in certain positions during the hearing e.g., the judge in the middle, with advocates on one side and yourself on the other
- During giving your evidence you might want to pin the judge's screen solely and have your representative on one side and then switch this to the opposing party's representative.

10. Giving Evidence

The process of giving evidence

At the start of giving your evidence during the hearing, you'll be asked to **swear an oath or make an affirmation** (a legally binding promise) that your evidence will be true. If you want to swear an oath and wish to do this on a holy book or scripture, make sure you have a **copy of your holy book** available.

When you need to give evidence, you'll be asked to **unmute your mic and turn your video on**. Make sure you **keep your video on** when you're providing your evidence until you finish, or you're asked to switch your video off.

It's helpful if you have your evidence, witness statement or documents on one screen (or in paper at hand) and have the web platform video on another screen.

You may wish to pin the parties (i.e., the judge or opposing representative) accordingly when providing your evidence (see guidance on this above).

Practical tips

- Look directly into the camera when providing evidence
- Have a raised platform (can use a laptop or tablet raiser) or books to raise your laptop so that the camera is eye-level
- Make sure you have all the documents you need for the hearing
- Have a hard copy of the documents to hand or if you have access to a second screen, it might be worth having all your documents on that screen, to read during the hearing
- Make sure the lighting is directly towards your face to enable clarity for the viewers when you are giving your evidence
- Have a plain background where your background will not be distracting
- Try to speak as clearly as you can. Pause, take a breath and speak slowly
- Use a headset to clearly hear the hearing and vocalise your evidence. This may help in focusing into the hearing and discarding any other noises to distract you

11. Summary: Top tips

When you are preparing to attend a remote video hearing, think through the following checklist:

Step No.	Task	Done?
1	Check you've got the link to the hearing and you can access the platform	
2	Check the hearing date and time the night before the hearing	
3	Check you've got all the documents and paperwork for the hearing. Check you've got the court's contact details. If you're using multiple screens, set them up in time for the hearing	
4	Log-in early (15 minutes) before the video hearing to familiarise yourself with the platform and ask any questions to the court clerk or to your legal representative if you have one	
5	Keep a plain sheet of paper, pen and a glass of water on your table	
6	Use a headset so that you can hear the hearing clearly and focus into the hearing, and so you can also be heard clearly	
7	Keep your phone charged and on silent or a silent vibrate to ensure you can contact the courts in case of an emergency or technical difficulty	
8	Immediately inform the court clerk or judge if you are having technical issues, or if you have any questions or feel worried about the hearing	

What to have during the hearing:

- A headset
- Another screen (optional)
- All your documents and paperwork
- Your phone (charged and on silent)
- Plain sheet of paper
- A pen
- Glass of water

This checklist is called 'Remote video hearings checklist' and you can download it on this page:

https://www.toynbeehall.org.uk/know-your-rights/?_resource_category=civil

Section C: Additional Issues

12. Self-isolation impacting your hearing

Converting an in-person hearing to a remote hearing

Whether a hearing takes place remotely or in person is for the judge to decide. When making this decision, the judge has to consider how the hearing can take place safely.

If you need to self-isolate, clearly it would **not** be safe for the hearing to take place in person. Also, current guidance requires that hearings are done remotely as much as possible (over video or telephone) due to the pandemic.

If you need to convert your hearing into a remote hearing, you need to make what is called "**written submissions**" to the Court to ask for this. The submissions will need to explain **why you need to change the hearing to take place remotely**. You can agree on this with the other party in your case before making them to the Court, but you don't have to.

If the Court decides to convert the hearing into a remote hearing it will make an "**Order**" which sets this out.

Postponing the hearing

If you need to self-isolate and you're **unable** to take part in a remote hearing, you may be able to postpone the hearing. This is called an "**adjournment**".

This is done in the same way as converting the hearing to a remote hearing – you make **written submissions to the Court**. These may be agreed by the other party, or not, before you make the submissions to the Court.

The Court will then decide whether to make an "**Order**" to adjourn the hearing.

13. Appeals

Once the remote hearing is finished you may have some questions about what happens next. One of the options that **may** be available is to make an **appeal against the decision[s]** made in the remote hearing.

If you '**appeal**', that means you're challenging the decision that was made and it **may** mean that a new hearing takes place.

There may be many reasons why you or another party are unhappy with the remote hearing because of the challenges caused by it being done remotely.

There **may** be a **fair reason to appeal**, if one of the following happens:

- Your remote hearing **wasn't recorded by the Court**. Unless there is a particular reason, the Court must record all hearings. Remember **you can't record the hearing** without the judge's permission. This includes both video and telephone hearings
- Problems caused by technical issues:
 - You are **unable to attend the hearing** because of technical problems.
 - If technical issues result in a **"glitchy" video stream** for you or any other party and this affects what is said or heard during the hearing, you may feel as if the hearing was not fair.
- Technical issues happened during the remote telephone hearing that affects what is said or heard

14. Cyber-security

There is an **increased security risk** from hackers when hearings take place remotely over a video conferencing program.

If you can, **examine the security of the service provider** (e.g. Zoom or Skype) for the remote hearing. Most services allow users to increase security measures to help avoid any security issues.

The system used by the court should be secure, but this is definitely a risk you should be aware of.

There are some solutions that the court may use to help minimise the security risk:

- Most service providers have a "waiting room" function so that the administrator of the video call (which will usually be someone from the court) can accept and decline access to the call as they consider necessary; and
- Some service providers have a "lock meeting" setting, which stops new participants from joining the meeting – this may be particularly helpful when everyone that is expected to be on the call has joined.

Section D: Organisations that can support you

Support through Court

<https://www.supportthroughcourt.org/>

Volunteers provide assistance for anyone going to court by providing emotional and administrative assistance. However, they can't represent you in court.

Support Through Court can help you in remote hearings in family and civil courts, see information here:

<https://www.supportthroughcourt.org/get-help/support-at-remote-hearings/>

Toynbee Hall's Free Legal Advice Centre

If you need free one-off legal advice, you can fill in this form by Free Legal Advice Centre (FLAC) of Toynbee Hall:

<https://www.toynbeehall.org.uk/free-advice/legal-advice/#online-flac-ia-form> or you can email FLAC here: flac@toynbeehall.org.uk

Please know that we do not offer representation or do case work. We provide advice on housing, employment, immigration, consumer, civil matters and more.

If you want to find other free legal clinics or you need representation, please look at LawWorks here: <https://www.lawworks.org.uk/legal-advice-individuals>

For more written resources and videos on different legal issues, including co-parenting, domestic abuse, rent arrears, go to our website:

<https://www.toynbeehall.org.uk/know-your-rights/>

Advocate

<https://weareadvocate.org.uk/>

Advocate is a national charity that provides free representation in court. Check to see if you're eligible:

<https://weareadvocate.org.uk/check-if-you-are-eligible.html>

Free Representation Unit (FRU)

<http://www.thefru.org.uk/>

Charity that provides free representation in employment tribunals, benefit appeals, and criminal injury compensation cases

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