

GUIDANCE ON THE CONDUCT OF PROCEEDINGS IN THE UPPER TRIBUNAL, TAX AND CHANCERY CHAMBER DURING THE COVID-19 EPIDEMIC

Until further notice, the following shall apply to all applications and hearings in the Tax and Chancery Chamber of the Upper Tribunal. This guidance is to be read alongside the Pilot Practice Direction on contingency arrangements in tribunals issued by the Senior President of Tribunals on 19 March 2020 (which can be found at : <https://www.judiciary.uk/wp-content/uploads/2020/03/Civil-court-guidance-on-how-to-conduct-remote-hearings.pdf>)

- (1) Applications which are currently disposed of without a hearing will continue to be disposed of without a hearing. So far as possible, any papers relevant to such applications will be scanned and supplied to the tribunal or forwarded by email.
- (2) Matters, including substantive hearings, whether involving an appeal from the First-tier Tribunal or otherwise, which are currently dealt with at a hearing shall continue to be dealt with at a hearing (unless the parties and the judge agree that the matter can be dealt with on the papers alone without a hearing), subject to the following:
- (3) The default position is that the hearing will be conducted remotely by video, that is with no-one attending a hearing centre in person (although the tribunal panel, or any member thereof, may, at their discretion, sit in a courtroom for the purposes of conducting the hearing).
- (4) The remote hearing will be conducted using Skype for Business, unless it is agreed by the tribunal with the parties in advance that one or other of the parties will arrange for an alternative video conferencing system to be used.
- (5) If one or more of the parties objects to the hearing being conducted remotely, then they may apply in writing (on notice to the other party or parties) (i) for the hearing to be adjourned until a date in the future when it is possible to hold an in-person hearing, or (ii) for the hearing to be conducted remotely by telephone (i.e. without video), or (iii) for the hearing to be held in a courtroom with the parties (or some of them) attending in person. The Upper Tribunal Judge assigned to the case will determine (whether alone, in conjunction with the High Court Judge also assigned to the case, if any, or in conjunction with the Chamber President) such application, taking into account the latest guidance from the government, the Lord Chief Justice and the Senior President of Tribunals relating to the COVID-19 pandemic. Only in exceptional circumstances will an in-person hearing be permitted.
- (6) The tribunal will record the hearing. The parties are not permitted to record the hearing. Professional transcribers may record the hearing, where they are permitted to attend the hearing remotely, where that is necessary for the purposes of transcribing it.
- (7) Wherever a hearing is to take place remotely, the hearing will not proceed unless and until the tribunal is satisfied that the relevant technology is available to enable the hearing to be conducted fairly and in accordance with the interests of justice and for it to be recorded by the Tribunal.
- (8) Where a hearing is to be conducted remotely this will appear, so far as possible, on the cause list.

- (9) Remote hearings will, so far as possible, still be public hearings. The tribunal has a general power under Rule 37(2) of the Tribunal Procedure (Upper Tribunal) Rules 2008 to direct that a hearing is in private. If it is not possible for at least one of the judges to sit in a courtroom accessible by the public in which the telephone or video conference is audible, then by analogy with CPR 39.2(3)(g), the tribunal is likely to exercise that power if it considers this to be necessary in the interests of justice.
- (10) Wherever possible, the parties should prepare electronic bundles of documents for use at a remote hearing. If requested by the tribunal, hard-copy bundles should also be provided. All hard-copy bundles should, unless the tribunal directs otherwise, be delivered to the Upper Tribunal Tax and Chancery Chamber administrative office on the 5th floor of the Rolls Building. All electronic bundles should, unless the tribunal directs otherwise, be sent by email to uttc@Justice.gov.uk.

Dated: 23 March 2020

Sir Antony Zacaroli, President of the Upper Tribunal, Tax and Chancery Chamber