

# UPDATE ON THE WAYS OF WORKING IN THE FIRST-TIER TRIBUNAL (GENERAL REGULATORY CHAMBER), DURING THE CORONAVIRUS PANDEMIC

This guidance replaces the [General Regulatory Chamber – Chamber’s President’s Guidance on Ways of Working during Coronavirus Outbreak](#), dated 23 March 2020, the [General Regulatory Chamber \(First-tier Tribunal\): Help For Users](#) guidance of 15 April 2020 and the [Update on Ways of Working in the GRC – June 2020](#).

## **Introduction**

1. Prior to the onset of the pandemic, the General Regulatory Chamber (“the Tribunal”) predominantly operated using hard copy documents and, unless determined on the papers, a matter was listed for a face-to-face hearing at an appropriate Court or Tribunal building.
2. The pandemic, or to be more precise the measures put in place to tackle the spread of Coronavirus, have resulted in significant changes in the operation of the Tribunal, particularly with the swift expansion of the use of remote hearings and electronic documentation.
3. Whilst it is vital for the well-being of the country, and the rule of law, that the administration of justice continues to operate, it is clear that a return to ‘business as usual’ is some way off. This document sets out the ways in which the General Regulatory Chamber is working, in accordance with the [Amended General Pilot Practice Direction: Contingency Arrangements of the First-tier Tribunal and the Upper Tribunal](#), so as to ensure that it continues to offer a full service to its users.
4. In the management of its work the Tribunal applies the [First-tier Tribunal \(General Regulatory Chamber\) Rules 2009](#) (“2009 Rules”). In particular, the Tribunal is guided by the overriding objective of the 2009 Rules i.e. to deal with cases fairly and justly (rule 2(1)), in all of its decision making and case management. Nothing in this document is intended to fetter any judicial discretion afforded by the 2009 Rules. In particular, although this guidance sets out the general approach the Tribunal is taking during the pandemic, it does not dictate what type of hearing might be appropriate in an individual case. Such decisions are made on a case by case basis, considering the specific circumstances of each case, and applying the overriding objective.

## **Communicating with the Tribunal**

5. Considerable efforts have been made by Her Majesty’s Courts and Tribunals Service to keep the Tribunal’s administration operational. However, the requirement for social distancing in the Tribunal’s administrative offices and the resulting need for many staff to work from home, has necessarily had an impact

on the ability of the Tribunal to respond to communications as promptly as was the case prior to the onset of the pandemic.

6. In order to allow the Tribunal's administrative staff to deal with correspondence and progress proceedings, parties should use email for all communications (including service of documents) with the Tribunal unless they are unable to do so. Unless otherwise specified, communications to the Tribunal by email should be sent to [grc@justice.gov.uk](mailto:grc@justice.gov.uk)
7. If a party is not able to use email for any reason, the Tribunal must be informed as soon as possible so that alternative arrangements can be considered.

### **Filing of documents with the Tribunal**

8. **The Tribunal expects all documents to be filed electronically at [grc@justice.gov.uk](mailto:grc@justice.gov.uk).** Any document sent to this email address will be treated as delivered at the time when it is recorded as having been received in the Tribunal's inbox. The Tribunal has issued instructions relating to the filing of electronic bundles, which is sent to parties upon receipt of an appeal.
9. If a document cannot be filed electronically, for example because it is to be filed by a litigant in person without access to email, then it can be filed by sending it to: General Regulatory Chamber, HM Courts and Tribunals Service, PO Box 9300, Leicester, LE1 8DJ

### **Decisions on the papers without a hearing**

10. Where the 2009 Procedure Rules permit decisions to be made without a hearing, decisions should usually be made in this way, provided this is in accordance with the overriding objective, the parties' ECHR rights and the Chamber's procedure rules about notice and consent.
11. In furtherance of the dual obligations on the parties to help the Tribunal to further the overriding objective and to co-operate with the Tribunal generally (rule 2(4) of the 2009 Rules), a party should notify the Tribunal, and all other parties, of an intention to consent to a matter being determined on the papers without a hearing, at the earliest opportunity.

### **Hearings**

12. **The default position is that cases will be listed for a remote hearing, using the Cloud Video Platform.** This platform can be accessed both by video over the internet and by telephone.
13. Any party who considers that a hearing cannot fairly take place using a digital platform should inform the Tribunal and the other parties as soon as possible,

with reasons. In any case where a face-to-face hearing is requested, a telephone case management hearing will be listed to consider, amongst other things, whether the interests of justice make it appropriate for the hearing to be conducted face-to-face.

14. Between 23 March 2020 and September 2020, the Tribunal conducted no face-to-face hearings. Since September 2020, the Chamber has held a small number of face-to-face and 'hybrid' hearings, but the vast majority of oral hearings have taken place digitally over the internet, using the Cloud Video Platform. There is at present very limited capacity within the Tribunal estate to conduct face-to-face hearings and, as a consequence, such hearings are likely to be the subject of considerable delay.
15. All hearings in the Tribunal are held in public unless the Tribunal directs otherwise in a particular case. Any representatives of the media or any other member of the public who wishes to attend a hearing that is to be conducted by telephone or video should email [grc@justice.gov.uk](mailto:grc@justice.gov.uk) so that the Tribunal can consider what arrangements may be made. A weekly cause list is published here <https://www.gov.uk/government/publications/general-regulatory-chamber-cases-listed-for-hearing>.

### **Recording of remote hearings**

16. Any remote or partially remote hearing will, if practicable, be recorded, in whole or in part, by the Tribunal. No other person may make an audio, video, photographic or other visual recording ("a recording") of a remote or partially remote hearing (or part thereof) without the express permission of a Judge. To make a recording of a partially or wholly remote hearing (or part thereof) without the express permission of a Judge may amount to a contempt of court.
17. An application to be permitted, exceptionally, to make a recording of a remote or partially remote hearing (or part thereof), should ordinarily be made in writing at least fourteen days before the hearing, and should explain why it is being made and be accompanied by relevant supporting evidence. Any recording of a partially or wholly remote hearing (or part thereof) so permitted must not be published or broadcast (including by uploading onto the internet) in any form.

### **Other matters**

18. The [Pilot Fast Track Protocol For Designated Appeals](#) [page 3 of the link] was issued on 23 March 2020 for a period of 12 months. Having reviewed the Protocol, I have decided to extend it until the 23 July 2021. The Protocol may be reviewed again prior to its expiry should it become inappropriate or unnecessary and it may be revoked at any time.

19. The composition of the Tribunal considering any application or appeal will be determined in accordance with the [Amended Pilot Practice Direction: Panel Composition in the First-tier Tribunal and the Upper Tribunal](#) (issued by the Senior President of Tribunals on 15 September 2020) or, should there be a subsequent amendment thereto, in accordance with any such amendment.

Upper Tribunal Judge O'Connor  
27 January 2021