



VALUATION TRIBUNAL

REMOTE HEARING PROTOCOL (24 July 2020)

Introduction

1. The current pandemic necessitates the undertaking of remote hearings wherever possible so as to minimise the risk of transmission of Covid-19 and ensure that the Valuation Tribunal appeal system continues to function as Covid-19 runs its course. The Tribunal recognises that not all appeals are suitable for disposal by remote hearing and that the hearing of appeals by the use of technology will not suit all appellants.
2. Safe 'live' appeal hearings, if that can be achieved, should assist in overcoming some of the difficulties which place limitations on the wider use of remote hearings. 'Live' hearings will be subject to social distancing and diligent adherence to Government guidance on health measures that are in force at the time of such hearings and the primary mediator of a safe live hearing is the Government guidance on the HSE website. Nothing in this Protocol alters that guidance and that guidance takes precedence at all times. It must also be appreciated that even if safe 'live' appeals can resume, some appeals may not be listed for some time as the Tribunal will have to explore other suitable venues because of the length of a hearing or the number of parties, representatives and/or witnesses require a larger hearing room than is currently available to the Tribunal.
3. This Protocol applies to the hearings of appeals deemed suitable for remote hearing. There is no intention to prescribe which appeal will be suitable for being dealt with remotely. This will depend on the circumstances of the particular appeal and will be a matter for the Chairperson or Deputy Chairperson having heard representations from the parties.
4. This Protocol sets out the process for arranging, preparing for, and holding a remote hearing. It should be applied flexibly to replicate as far as possible a 'live' appeal and achieve procedural and substantive fairness.
5. The Protocol may be revised from time to time as the Tribunal and the parties gain experience in the conduct of remote hearings.
6. Save to the extent specifically set out in this Protocol, the provisions of the Valuation Acts 2001 to 2015, the (Appeals) Rules 2008 and Guidelines for the hearings of Appeals and (for appeals received subsequent to the 16th September 2019) the Valuation Tribunal (Appeals) Rules, 2019 continue to apply to appeals. Hearings conducted in accordance with this Protocol shall be treated as a hearing in accordance with the relevant Rules.
7. This Protocol should operate for as long as public health and safety measures announced by the Department of Health in respect of Covid-19 remain in force.

General Guidance

Preliminary Arrangements

8. The Tribunal will screen appeals to determine suitability for remote hearing.
9. When an appeal is considered suitable, the Tribunal will contact the parties to seek confirmation in writing of their agreement to proceed by remote hearing. In essence, the Tribunal will, in each appeal, advise that the appeal can proceed either
 - (i) by remote hearing, or
 - (ii) in the Tribunal Offices or an alternative venue subject to social distancing and adherence with appropriate precautions to prevent the transmission of Covid-19.

If either party objects to a remote hearing, the appeal will be adjourned for a date to be fixed by the Tribunal at the next call over for 'live' hearing.

10. As it may continue to be unsafe for those at risk to physically attend the Tribunal, the parties shall be at liberty to apply for a remote hearing as a substitute for a face-to-face hearing. Parties consenting to a remote hearing may request the Tribunal at any time to fix a remote hearing date by emailing the Tribunal at info@valuationtribunal.ie
11. The Tribunal may schedule a remote case management hearing to give directions in relation to the filing of documents, the conduct of an appeal, the technology to be used, and/or any other relevant matters.
12. Responsibility for making the arrangements for the remote hearing of an appeal will fall on either the Registrar or Deputy Registrar of the Tribunal. The Tribunal proposed to utilise the Zoom Media Communications platform for the hosting of remote/online hearings. Information and instructions on how to access Zoom will be provided to participants by the Registrar. The Tribunal strongly recommends that participants sign up for a free Zoom account and become comfortable with how to use the platform prior to the hearing. The Zoom website contains many online tutorials.
13. The Registrar will inform the parties of the date and time for the hearing.
14. Parties must provide the Tribunal with the individual email addresses for each participant at least 48 hours in advance of the remote hearing. It is important to identify each participant so as to ensure that the appeal does not commence until everyone has joined the virtual appeal room. If a barrister on a legal team will not actually be present, then his or her name should not be notified as a participant though this will not prevent his or her name appearing on the record as part of the legal team.
15. The Registrar or Deputy Registrar will provide each participant by email a link and password for the virtual hearing with instructions on how to join the remote hearing as soon as they are available and, in any event, not later than 48 hours before the hearing is scheduled to begin and of the minimal electronic and broadband capability standards required for successful participation in the hearing. Participants may not share the link with anyone else unless authorised by the Tribunal.

16. Any notified participant can request a test call in advance of a remote hearing. The Registrar will set a date and time for a test call and provide a link and a password with all necessary instructions to facilitate connection. The Registrar will ensure that the participant(s) can hear and see one another, if necessary, provide a rundown of how the system works and answer any questions a participant may have about the procedure.
17. The link and password for the remote hearing for a remote appeal hearing will not be the same link and password provided to a participant for the purpose of a test call.

Submission of Documents

18. The parties must prepare, file with the Tribunal and exchange with each other a bundle of documents comprising correspondence, précis of evidence, legal submissions, legal authorities and any additional documentation intended to be relied upon electronically and in a manner complying with this guidance.
19. The Tribunal's preferred electronic format for the filing of documents is Portable Document Format (pdf).
20. The following requirements must be followed:
 - (a) PDF format is to be used.
 - (b) All documents are to be contained, if possible, within one single PDF file.
 - (c) Only documents and authorities that are essential to the remote hearing should be included
 - (d) The PDF file must be indexed, paginated and searchable.
 - (e) Pagination must be computer generated within the PDF, not hand-written.
 - (f) Pagination must be by section and page number i.e. Précis section A1, A2, A3... Appendix B1, B2, B3... Legal Submissions section C1, C2, C3 etc. legal Authorities section D1, D2, D3 etc. Alternatively, the single bundle can be paginated sequentially.
21. Documents should be filed with the Tribunal electronically by email within the timescales directed by the Tribunal. The Tribunal is examining the possibility of exchanging precis of evidence via a cloud-based link (e.g. ShareFile, iCloud, OneDrive, Dropbox, or Google Drive).
22. The Tribunal is cognisant that maps / plans / drawings may not lend themselves to an electronic format. Where the quality of information or the ability to interpret data would be compromised by displaying on screen, parties should exchange such information in hard copy, and forward 4 hard copies of that evidence to the Valuation Tribunal Offices in Holbrook House, Holles Street, for transmission to the division of the Tribunal assigned to hear the appeal.
23. Any difficulties experienced by a party in filing documents should be immediately notified to the Tribunal. In any case of doubt as to the proper course of action to be adopted parties should contact the Valuation Tribunal by email info@valuationtribunal.ie

24. Parties and legal representatives must take all necessary steps to ensure the confidentiality and security of the documents transmitted electronically for the purpose of an appeal and should at all times be responsible for compliance with all applicable requirements of GDPR.
25. Where a party has legal representation, the solicitor acting for that party must, by midday on the day before the hearing, send to the Registrar, at the email address provided above, a list of documents (including case law) which are likely to be opened in the course of submissions with a reference to the relevant part or section of each document. This list need not include documents to which only passing reference will be made or where the relevant passage from a judgment is set out in the written submissions. The purpose of this requirement is to maximise the efficiency of document management during a remote hearing. However, it is understood that it may be necessary to refer to an additional document or documents which were not mentioned in this list. Parties are encouraged, where possible, to appropriately highlight the relevant sections on the documents, prior to filing. However, it is understood that such sections may not be identified until immediately prior to the conduct of the hearing.
26. A participant addressing the Tribunal who wishes to refer to documents which have been filed electronically should have regard to the manner in which the documents were filed and the manner in which the members of the Tribunal will be able to access the documents.
27. Consideration must be given to the easiest way to facilitate the members of the Tribunal in quickly accessing any document which is required to be opened during the hearing.
28. It is recommended that participants set up two devices for the hearing, one screen to display the remote hearing in process, the other to view the documents separately and to provide a back-up in the event of connectivity being lost on the other device. Alternatively, 2 physical screens can be achieved by splitting screens or having several windows open which can be flicked between.
29. If a party intends to introduce any document during the remote hearing that have not already been submitted to the Tribunal, they must email the document to the other party and the Tribunal before the hearing begins.

The Remote Hearing

30. All participants attending the remote hearing should ensure that they have good connection/signal to avoid a breakdown in connection during the hearing and that any devices being used are fully charged so that technology is not a distraction.
31. Participants must ensure that they are ready to link in at least 10 minutes before the hearing is scheduled to commence. The Tribunal members will enter the remote hearing once the Registrar confirms that all participants have connected, with no audio-visual issues.
32. It is inevitable, particularly in the early stages of remote hearings, that there will be technical issues. Parties must be sympathetic and flexible regarding any technical or other difficulties that may be experienced by another party.

33. Remote appeal hearings will be recorded by the Registrar using the in-built recording facility on the zoom media communications platform.
34. The recording of a hearing by any means by any other person is strictly prohibited. Participants shall not record, tape, photograph, or otherwise reproduce, save, or distribute any portion the Zoom feed or transmission.
35. The Registrar will call the appeal reference number and read the names of the appellant and respondent parties into the record.

Standard Procedures During Hearing

36. The Chairperson or Deputy Chairperson, as it may be, will commence the session by going through and ensuring that the participants understand the following guidelines:
 - (i) the parties will give their evidence and make their submissions in the usual order, beginning with the applicant or appellant, unless otherwise instructed.
 - (ii) witnesses attending the remote hearing will be sworn or affirmed by the Registrar prior to commencement of their evidence; (see Oath/Affirmation in Appendix A)
 - (iii) witnesses must be on their own, in a quiet secure room with the door(s) closed.
 - (iv) except for examination by party representatives and members of the Tribunal, no person may communicate in any manner with a witness while the witness is testifying.
 - (v) all participants must ensure that there will be no interruptions or distractions for the duration of his or her attendance at the remote hearing.
 - (vi) unless addressing the Tribunal, participants should always have their microphones muted in order to avoid any potential background noise or echoes and only unmute them when invited to speak by the Tribunal.
 - (vii) participants are to mute themselves when not speaking in order to avoid any potential background noise or echoes.
 - (viii) Unless directed otherwise, all participants should leave their cameras turned on at all times and ensure mobile phones are on silent mode and notifications feature on any device being used for the hearing are switched off.
 - (ix) if a participant wishes to speak, he or she can raise a hand so that the speaker can pause to allow the participant to speak. The speaker should keep an eye out for such signals.
 - (x) when speaking, participants are to look directly at the webcam, not at the computer screen. The camera should be positioned at eye level or slightly above eye level.
 - (xi) when addressing the Tribunal, participants should speak slowly and clearly.
 - (xii) participants are to speak one at a time and to pause prior to speaking in case there is any audio/video lag.
 - (xiii) participants should refrain from speaking uninvited and avoid speaking over one another to ensure the smooth and efficient running of the hearing
 - (xiv) if reference is made to a document, the speaker should pause to ensure that the Tribunal and other participants are able to identify the documents referred to.
 - (xv) if necessary, a document may be shown to witnesses by use of the Zoom Share Screen function.

- (xvi) participants should seek permission from the Tribunal if they need to move away from their screen during the hearing.
 - (xvii) during the hearing participants shall not attempt to chat, text, email, or otherwise communicate with a witness without the Tribunal's permission.
 - (xviii) participants may drink water during the proceedings. Eating is not permitted.
37. The Tribunal will give any necessary warnings including warnings to all participants regarding confidentiality and unauthorised recording or live streaming of the hearing to another location. No unauthorised person may be present at the hearing. When asked, the parties' representatives must be able to confirm that no unauthorised person is in attendance or able to listen to the hearing. Participants will be requested to turn on their microphones whilst warnings are given and will be invited to confirm their understanding of the warnings given.
38. The Tribunal Members' cameras and microphones should remain on at all times during the hearing.
39. Participants should be aware that audio cues are important in a remote hearing. When addressing remarks to another participant, identify that person by name and audibly signal when you expect a response.
40. A participant who wishes to speak uninvited to add a point of clarification or to make an object must raise his or her hand towards the screen as a signal to the speaker and then wait the invitation of the Tribunal to speak. Such interruptions should be kept to a minimum.
41. Participants should remain alert to any deterioration in picture and sound quality and inform the Registrar immediately if this is impacting on their ability to participate fully in the hearing.
42. The Registrar will alert the participants and the proceedings will be paused if any of participant loses signal. The proceedings will continue once the participant has been reconnected. If the issue cannot be resolved, the remote hearing will be adjourned and rescheduled for another date.
43. If a participant is unable to access the remote hearing via the link or password provided, the Valuation Tribunal should be immediately informed. If necessary, the Tribunal will decide whether the hearing should proceed or be rescheduled.
44. The Registrar shall initiate a telecommunications channel (for example, a WhatsApp group chat) between the parties' main representative and the Registrar for the purposes of addressing technical issues that may arise during the remote hearing.

Other matters

45. Background: Participants are to be mindful of what is behind them and should choose a solid neutral and preferably light background if possible.
46. Lighting: Light from a window behind the participant might blind the camera, making him or her look dark. Light above the participant in the centre of a room might also cast shadows. Ideally, position a lamp, or sit facing a window, where light is directly on the participant's face.
47. Dress Code: Professional decorum should be maintained at all times and in particular, participants should dress as if they were physically attending the Tribunal Offices.
48. Communications: The Registrar may move participants to separate "Breakout Rooms" for privacy when appropriate. Breakout Rooms may be used when it is necessary for the Tribunal to rule on preliminary issues or objections or for legal teams to consult with a client.

OATH

I swear by Almighty God
that the evidence I shall give to the Tribunal
shall be the truth, the whole truth
and nothing but the truth.

AFFIRMATION

I solemnly and sincerely
and truly declare and affirm
that my evidence to the Tribunal
shall be the truth, the whole truth and nothing but the truth.