



An tSeirbhís Chúirteanna
Courts Service

**Practical Guide to Remote Hearings
in the
Superior Courts**

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1. Introduction

This Practical Guide to Remote Hearings in **Superior Courts** cases (the "Guide") contains a summary of the processes and procedures involved in remote hearings. The Guide should be read in conjunction with all existing Practice Directions.

The Superior Courts use **Pexip** which is a video streaming application which enables everyone to remotely attend a virtual Courtroom (known as a VMR, or virtual meeting room).

In order to satisfy the requirement that justice be administered in public to ensure the availability of a Digital Audio Recording of all proceedings, as matters stand, the Registrar will, in all cases, be in the courtroom for the duration of the hearing, with some or all other participants logging in remotely. The judge(s) may login remotely or may sit in a courtroom with the Registrar. Practitioners, media representatives and members of the public are entitled to attend either by VMR or the physical courtroom, subject to physical distancing requirements, the *in-camera* rule or any particular procedures applying to the court hearing.

2. Technology – Technical Requirements

2.1 Software

A VMR is set up for the purpose of each court sitting. The VMR connection details are made available to the legal representatives in each individual case in advance of hearings. The connection details for High Court Lists are available to practitioners through the members' area of websites of the Law Society and Bar of Ireland.

The virtual courtroom is provisioned to facilitate connection from a laptop, PC or tablet using an array of internet browsers. Chrome is the recommended browser. Whatever device is used a camera and microphone will be required.

The virtual courtroom also supports connection from traditional video conferencing endpoints, Skype for Business and an assortment of available video technologies. In addition, connection is also available for PCs and tablets using the dedicated Pexip App.

The Pexip App can be download from <https://www.pexip.com/apps> or for tablets available via Google Play and Apple App Stores. You may need local IT assistance where the laptop or desktop administration is restricted by an organisation's IT department.

Participants should ensure that their internet connection for the virtual courtroom is strong, stable and meets the requirements specified below.

A stable internet connection is key to achieving a successful video call and avoiding disruption.

Test your connection in advance. Your assigned virtual courtroom will be opened 10 minutes in advance and you may use the connection detail to test your access prior to the sitting. If you are not able to connect to Pexip, please inform the relevant Court Registrar. The virtual courtroom will close following completion of the sitting.

Ensure all applications on your laptop or device are closed, apart from your video stream. Additional applications may interfere with the quality of your video call and access to the virtual courtroom. If using a tablet, ensure that an incoming call does not automatically override the connection to the VMR.

2.2 Access via dedicated Video conferencing rooms and/or Skype for Business

Parties can join a Pexip VMR session from a dedicated video conferencing room with video conferencing end-points by using the video System SIP/H.323 address provided by the Registrar in the VMR connection details. Alternatively, Skype for Business users can connect to the VMR using the MS Skype4B code provided by the Registrar in the VMR connection details.

2.3 Non-Courts Service Software

Alternative software that is compatible with the Courts Service Technical Courts infrastructure may also be used subject to the agreement of all parties and approval by the Court. Such alternative options will involve a cost burden to be borne by the parties and whilst the Courts Service will provide details to access, it will be the responsibility of the approved provider to support access.

In the event that technology other than the Courts Service provided VMRs is being used, parties should engage with the Courts Service in advance of the selection of any alternative platform to confirm hardware/software compatibility and requirements. In this case, the judge and registrar would need to be provided with the relevant hardware to facilitate the hearing with all necessary software installed, if this is not readily available to them.

2.4 Hardware

The Courts Service has stipulated the following minimum hardware requirements for participants in remote hearings:

- a) 2.0-Ghz dual-core Intel Core i5 or later;
- b) 4 GB of RAM free physical 2GB; and
- c) Free disk space of 1GB or more.

A camera and microphone are also required, and it is advisable that participants to any remote hearing dealing with a substantive matter where it is likely the court's attention will be brought to particular documents, would have access to two screens, one for the VMR and a second to view the electronic documents for hearing.

Experience has shown that one large screen (24 or 27 inch) can also work effectively by arranging the windows with the VMR session and documents side by side.

2.5 Internet Connection

One of the pre-requisites for a successful remote hearing is a stable internet connection. If any participant to a case does not have a sufficiently stable internet connection, then a remote hearing simply cannot take place (at least until such connectivity issues are resolved).

The Courts Service has stipulated the following minimum network bandwidth requirements for participants to ensure video quality during remote hearings:

- a) High - 1280 kbps (HD)
- b) Med - 768 kbps (SD)
- c) Low - 384 kbps (SD)

Where participants have poor Wi-Fi, the following should be considered:

- d) a wired connection into a home router device
- e) a USB dongle to connect to a 4G network
- f) a mobile phone used as a personal hotspot connecting to a 4G network
- g) A secure wired internet connection is preferable. Internet connectivity to the VMR should be tested in advance of hearing.
- h) If working on a home connection with a number of users, ensure that the connection is sufficient to ensure smooth running of the technology or, ask other users to refrain from using same for the duration of the hearing.

2.6 VMR Access

The Courts Service will forward the virtual courtroom connection details to the legal representatives or unrepresented parties by the day before the remote hearing or they will be available within the membership areas of the Bar of Ireland and Law Society's websites.

Active participants who intend to connect to the court should provide their names to the Registrar in advance of the hearing to ensure they can be identifiable and are present during court proceedings. Solicitors for the parties or unrepresented litigants may be required to provide an undertaking not to disclose the access details to third parties and to abide by the normal rules of court.

3. Virtual Courtroom Code of Conduct

- a) Please treat the virtual courtroom as you would a bricks and mortar courtroom.

The rules that apply in court, such as no recording or image capture still apply in a virtual court unless the Judge gives an individual explicit permission for them to be waived.

- b) Connection details are not to be published.

Participants may be asked to provide an undertaking not to disclose the access details to that specific court and abide by the normal rules of court (no recordings or taking of pictures).

- c) Allow yourself time to access the virtual court (10 minutes in advance) so that you are already in the virtual courtroom by the Court start-time. Once you have accessed the virtual court mute your sound by using the mute button (see across).



- d) Ensure that you are joining the virtual courtroom with your camera and microphone enabled from a quiet room with appropriate lighting so your face can be clearly seen.

- e) **Please place yourself on mute if not addressing the Court.** Please ensure you do not inadvertently turn-off your speakers - you will not be able to hear the Court, but the Court will be able to hear you.

- f) **Oaths and Affirmations:** If you are a witness and you wish to take an oath on a bible or other sacred text, you must have this text with you during the virtual hearing. Before taking the oath, you will be asked to hold this text up to ensure it can be seen by the court. The oath or affirmation will have the same legal effect as it would when taken in a physical courtroom.

- g) You will join proceedings as a guest and there is no need to log in. When you are prompted at joining, please enter your name on Pexip as your name will be displayed with your video image to the other users. Please ensure you use your first name followed by surname. Counsel should include SC or BL as appropriate after their surname.

- h) To maintain the decorum of the court participants should ensure they have no interruptions.

- i) Silence all notifications and alerts on your electronic devices.

4. Pre-hearing Steps

4.1 General

- a) Participants should download all relevant e-booklets and necessary trial documents to their device prior to the hearing.

Participants might find it helpful to be able to view two documents on different devices or screens while viewing proceedings. Participants may wish to follow a document that someone else is referring to whilst trying to find another document for their own purposes.

- b) VMR details for all remote hearings will be made available to practitioners via the membership areas of the Bar of Ireland and Law Society websites the day before the hearing. The Courts Service will send participants the VMR connection details by email. On occasion they may also provide a form with a solicitor's declaration that needs to be completed, signed and returned to the Registrar the day before the hearing. The form requires details of the solicitor, counsel and client attendees to be provided.
- c) It is the obligation of a solicitor engaged in a remote hearing to ensure that their client and all intended participants understand the rules of the court and that they are precluded from sharing or publishing VMR details and from recording, taking a screenshot or otherwise broadcasting the proceedings.
- d) All participants should be aware of the commencement time of hearing. Participants are recommended to set a time an hour or so before the hearing to test their hardware, software and internet connection is operational and if not, report this to the relevant Court Registrar.
- e) Practitioners should make arrangements to have a separate channel of communications between Solicitors and Counsel (and consider also including their client and any key witness, as appropriate) during the course of the remote hearing whereby they can communicate and provide instructions on urgent and important matters arising during the course of the remote hearing.
- f) Lighting: In order to avoid glare or distortion, cameras should not be positioned near a window. The light source should be directed towards the face and any light sources behind or directly above the participant should be avoided.
- g) Position: Participants' heads and shoulders should be centred in the screen. Participants' own image will be visible in the right corner of their screen during the hearing.
- h) Position –sound quality: To ensure the best possible sound quality, participants are recommended not to sit too close to their laptop as microphones on laptops are extremely sensitive.
- i) If you are using external microphone/speakers to your device ensure the microphone is not positioned too close to speakers, as this can create an echo in the virtual courtroom.
- j) In order to avoid feedback, participants should ensure that the volume level on their device is not set too high. Participants should try reducing their volume to the minimum that is acceptable or use headphones if feedback becomes an issue.

- k) In advance of a remote hearing, the parties should agree a protocol to be followed to bring to the court's attention the fact that one of their participants has lost their internet connection during the course of the hearing.
- l) In the event of a critical failure, for example a critical participant loses connectivity, it may be necessary to pause the hearing until the issue is rectified. In the event that the video conferencing platform experiences a failure during the course of hearing, contingencies should be in place and participants should be aware of the necessary course of action in the event of such failure, for example, that they are to log back in using the same credentials etc.
- m) As with a corporeal hearing, parties to a remote hearing and all relevant participants must be in attendance at the time scheduled for the hearing. In default the sanctions as would apply to a corporeal hearing may be invoked. Witnesses or interested parties should attend as advised by their legal practitioner and/or as directed by the Court.

4.2 Documentation

Ensure that you are familiar and in compliance with the published guidance and current practice directions that are published on <https://www.courts.ie/content/practice-directions>

General Direction Filing of documents

- In remote hearings, documents cannot be handed into court in the normal way. Ensure that you check for specific directions for your Jurisdiction and/or list.
- Accordingly, care must be taken to ensure that the documents are lodged with the court in a timely manner – details will have been provided by the Registrar as to when they need to be submitted
- It may be necessary to deliver both hard and soft copies of the books to the judge, depending on their preference.

Where both types of books are required, they should be formatted the same, in terms of numbering and pagination, to allow the judge to easily move between both types.

Soft copies can be sent to the Registrar in advance, via Sharefile or a similar technology, subject to the approval of the Registrar.

- Documents should not be lodged on a piecemeal basis. The parties should endeavour to agree a book of trial documents to be lodged in court, indexed and paginated.

4.2.1 Supreme Court

General Notices of Supreme Court can be found within each of the listings of the Legal Diary:

<http://legaldiary.courts.ie/supreme-court>

4.2.2 Court of Appeal

General Notices of the Court of Appeal can be found within each of the listings of the Legal Diary:

<http://legaldiary.courts.ie/court-of-appeal>

4.2.3 The High Court

e-Filing is currently not available in the High Court. Manual submission of documents is covered in Appendix I.

4.3 Witnesses

It is essential that witnesses receive adequate training on using the relevant videoconferencing platform and parties should endeavour to foresee any technological issues that could arise. Prior to the hearing, the Practitioner shall ensure that for their witnesses:

- a) All persons have the necessary software installed or otherwise have the ability to use the necessary software;
- b) All persons can appropriately use the virtual courtroom technology
- c) All persons have the necessary hardware to allow for reliable and audible communication;
- d) If applicable all persons can send and receive emails with attachments up to 5 megabytes in size; to ensure that if directed to a document in a hearing they can open it
- e) Practitioners shall ensure that each person they intend to call as a witness in advance of their examination in chief is advised of the contents of the Virtual Courtroom Code of Conduct (section 3 above) and provided with a copy of the 'Handout for Witnesses' found in Appendix II.

5.0 Hearing

Documents will need to be submitted in advance – see section 4.2 above

Participants should ensure that they are muted unless they are speaking.



When speaking, participants should enable their camera and microphone and maintain an appropriate seating position and ensure that their face can be clearly seen.

5.1 Practitioners should ensure the following (as the judge may require confirmation)

Where evidence is to be taken remotely, it is advisable to have in place a protocol in respect of the witness' evidence and to ask a series of questions of the witness under oath before the commencement of their evidence to confirm:

- a) That the witness will not receive communications while being examined/cross-examined;
- b) That the witness is not accompanied by anyone who is not in the view of the camera (other than solicitor);
- c) The identity of anyone who is present at the location;
- d) That the witness will not record the hearing or cause the hearing to be recorded.

5.3 Witnesses

- a) Regardless of the choice made by Practitioner, with respect to any documents being put to witnesses electronically on cross-examination or re-examination:
 - a. Insofar as it is feasible, such documents shall be in PDF format;
 - b. All PDF documents shall be in OCR format;
- b) Documents may be shown to a witness briefly using Pexip's screen-sharing functionality, including in order to orient a witness to a portion of a document or if a document is only intended to be put to a witness briefly. The trial judge has full discretion as to the form in which documents may be put to a witness using the Pexip platform and other Internet communication protocols.
- c) During breaks, participants shall mute their microphones and turn off their cameras rather than disconnecting from the Pexip session. At the appointed time, participants shall turn on their cameras to signal that they have returned from break.
- d) In the event it becomes impractical or unfeasible to comply with the above protocol, the parties may seek such further orders and directions as may be required.

5.4 In Camera Matters

If the matter is In Camera, the virtual courtroom maybe locked, the Registrar will be aware that you are waiting to enter and will unlock the room when it is appropriate to do so.

5.5 Conclusion of Evidence

Once the witness has finished their evidence, practitioners may wish to indicate to their witness that their evidence is complete and they are free to leave the video courtroom and disconnect.

5.6 If using videolink in High Court please see HC45

Practice Direction HC45 provides that the solicitor for the party calling the witness via Videolink is required to do the following:

- a) Undertake to the court to participate fully in all required test-calls to the remote location;
- b) Provide the registrar with the necessary technical information in relation to the remote location and the record number of the proceedings the subject matter of the hearing;
- c) Ensure that the appropriate sacred text for taking the oath prior to giving evidence is available to the witness in the remote location; and
- d) Ensure that the witness in the remote location is provided with any documents (including pleadings) to which he/she may be referred while giving evidence.

Appendix I - Guidance for High Court documentation submission

These were current at time of publication – please ensure you check the following link to ensure nothing further has been issued: <https://www.courts.ie/court-presidents-covid-19-notices>

These may include:

- a) Pleadings
- b) Schedule of special damages
- c) Expert reports (and referenced matters)
- d) Records
- e) Other Documents

Unless the Court has directed otherwise, in respect of any case scheduled for a remote hearing, the solicitor for the plaintiff shall, by 12 noon on the Thursday preceding the week in which the action is listed for hearing, deliver to the List Room in the High Court:

- (i) a book of pleadings
- (ii) a booklet containing all expert reports
- (iii) a booklet containing any other documentation or materials which either party proposes to introduce into evidence or put to a witness in the course of their examination/cross examination and (iv) a schedule of special damages.

a) Pleadings

i. **Agreed book of pleadings**

Must be lodged electronically by the Plaintiff no later than the Thursday preceding the hearing date, by sending it to the relevant Registrar or as directed by the Court Office . The book and cover email should be clearly marked “Agreed pleadings” and the Plaintiff should copy the email to the other parties to the action.

ii. **Late pleadings**

Where a party serves a pleading after the deadline for filing the agreed book of pleadings, the “late pleading” should be emailed at the commencement of the trial, to the Registrar , and should be copied to the other parties to the action

b) Schedule of Special damages

The schedule of special damages should be lodged with the book of pleadings.

c) Submission of Expert Reports, Records and Other Documents

i. Agreement that reports, records and other documents will be handed into court:

Such expert reports, records and documents, should be lodged electronically no later than **4 days** prior to the hearing date, by sending it to the Registrar. The book/cover email should be clearly marked “Agreed book of reports” or as appropriate and the booklet should be indexed and paginated. The party filing the reports should copy the email to the other parties to the action.

ii. No agreement to hand into court certain reports:

If the parties do not agree that certain reports, records or other documents should be handed into court, for example a party does not consent to the report being admitted or requires the expert to attend to evidence before the report is handed into court, a party should send the reports, **password protected**, to all participants and the Court via the Registrar. The accompanying cover email should highlight that the parties have not reached agreement to the reports being handed into court.

The reports, records or other documents which have not been agreed will remain password protected pending any application/decision by the Court in relation to the reports.

- iii. Alternatively if using hard copies**, any party intending to cast doubt on the credibility of a witness by introducing what might be described as surprise documentation or materials in the course of cross examination, should lodge copies of such documents/materials in the List Room by 12 noon on the Thursday prior to the date fixed for the hearing. It is not necessary for the party who does so to notify any other party as to their actions. The said documentation/materials should be placed in a sealed envelope bearing the name and record number of the case, the hearing date and the name and contact details of the solicitor who lodged the said documentation/ materials.

Late disclosure of documents (process same as in physical trial)

Where it is not possible to file and exchange a document intended to be relied upon at trial 4 working days prior to the hearing date, Practitioners should provide such document to the other parties and the Court as soon as it is possible to do so in advance of the trial date.

Production of documents during the trial (process same as in physical trial)

Where a document is intended to be relied upon at trial but it has not been lodged or exchanged in advance of the commencement of trial and it is not part of the documents discovered in the case, the Practitioner for the party intending to rely upon such document shall seek the agreement of the other party to its use in the trial and failing agreement on such use, the Practitioner shall seek the leave of the Court to rely upon such document during the trial.

Photographs

Can be provided as both hard and soft copies as per documentation above.

Surveillance videos and Radiology

Please inform the Registrar of your requirements ahead of the hearing so that arrangements can be made for the evidence to be shown using the remote video platform.

Appendix II: Handout for Witness

Witnesses

The information which should be provided to witnesses, as well as the steps which need to be taken to prepare for hearing, are set out in section 3. Virtual Courtroom Code of Conduct.

1. You are going to be a witness in legal proceedings that may be conducted, in part or in whole, remotely. This document is intended to help you understand your role and responsibilities as a witness. Please read the document carefully.
2. You will be provided with the details of how to join the virtual courtroom. You should not share this information.
3. Your obligation as a witness is to be truthful with the Court. Although you might be sitting in your home or your office while you testify, you are fulfilling the very same role that you would as if you were sitting in a court room before a judge. You must approach this task with the same degree of seriousness and solemnity as you would if you were testifying in person in a courtroom.
4. You will swear or affirm, prior to testifying, that your evidence will be the truth. This obligation is fundamental to your evidence. Please have a sacred text in your possession to allow the oath to be administered.
5. Once your cross-examination begins, until you are finished all your evidence, you are not permitted to talk, text, or communicate with any person about the case without leave of the Court.
6. If, at any time, you are unable to hear or see clearly the information during the virtual courtroom hearing, you must immediately indicate that this is the case.
7. During breaks participants must mute their microphones and turn off their cameras rather than disconnecting from the Pexip session. At the appointed time, participants shall turn on their cameras to signal that they have returned from break.
8. You will be provided with the documents that will be referred to in advance of the case
9. You are prohibited from recording video, audio or taking images of the hearing.
10. The following are important rules for you to follow:
 - While you are giving evidence, you must always keep your camera and microphone on unless the judge instructs otherwise.
 - The camera should be positioned so that everyone can clearly see you, particularly your whole face. You cannot use a digital background. The actual background should be as neutral as possible.
 - While you are giving evidence, you are not permitted to read or consult any documents, other than:
 - Those documents you are directed to by examining lawyers on the video call;
 - Such documents as you may be specifically asked and permitted to review; and
 - if you are an expert witness, your own expert reports and other expert reports

in this action (and the materials referenced in such reports), provided that those reports do not contain any notes or annotations made by you or anyone else.

- You cannot refer to a script or any notes while you testify.
- While you are giving your evidence, you are not permitted to communicate (by email, text, in-person discussions, etc.) with any other persons about the substance or subject-matter of your examination, nor can you access electronic information on your computer, smartphone, or via the Internet if the information relates to your evidence or the case.

Technology

11. In order to ensure that a remote hearings run as fairly and efficiently as possible, it is important that you have the appropriate technology and take all steps necessary to minimise disruption to your Internet connection. You should consider the guidance set out below well in advance of the time when you will be called upon to participate in a proceeding:
 - Appropriate hardware for a lengthy examination is required. If you have concerns about your hardware or software set up, please discuss this with the lawyer who is calling you as a witness immediately. Hardware that may prove useful includes a personal computer, a second (external) monitor, a headset (if your personal computer does not have speakers and a microphone of sufficient quality), and a webcam (if your computer does not have a built-in camera of sufficient quality).
 - Review the environment around your computer and consider what you can do to reduce interruptions. For example, if you have family members at home, let them know that you will be testifying and should not be interrupted. Please also turn off other electronic devices that might make unwanted sounds while you are testifying.
 - Ascertain the bandwidth on your Internet connection. If it is poor quality, consider whether there is anything you can do to increase your bandwidth.
 - Consider connecting your computer or device to your modem or router by an ethernet cable, rather than by wireless connection.
 - Where possible do not use a mobile phone hotspot for connection as incoming calls will interrupt the connection to the virtual courtroom
 - Close any unnecessary programs on your computer before you begin testifying.
 - If you are testifying from your home, consider asking others in your home to not use applications that might place a significant drain on the available bandwidth (*e.g.*, streaming video services) while you are giving evidence.

Appendix III - Practitioner Checklist

- Ensure you have correct VMR details and have circulated to relevant parties
- Issue witness with Appendix II Code of Conduct Handout for Witness and ensure they have sacred text available.
- Check all relevant and updated practice directions
- Submit documentation in accordance with Appendix I
- Test device from location using the internet connection you intend to use for connecting to the VMR
- Check that your camera is set to show your head and shoulders
- Ensure your name and title is correct
- Confirm how you will be in contact with your legal team during proceedings

Appendix IV: Virtual Court Room Procedures

Please note these are draft protocols which will be reviewed and updated. Their aim is to optimise the conduct virtual hearings.

1. Active Participants ensure your name and title is correct:

Judiciary:	Title Justice First Name Surname	Mr or Ms Justice Lee Smith
Practitioners:	First name Surname BL or SC	Lee Smith, BL
Registrar:	Registrar, First name Surname	Registrar, Lee Smith
Others:	First name Surname	Lee Smith

2. Details of Active Participants

Prior to the start of proceedings details of active participants from each party should be forwarded to the Registrar in the intended order of appearance to support the Registrar/Courtroom Assistant in ensuring the relevant parties appear and are spotlighted/pinned on screen when addressing the court. E.g.:

Plaintiff Lead Counsel – name

Plaintiff – name

Plaintiff Junior Counsel – name

Witness – name

Defendant Lead Counsel – name

Defendant – Name

Witness 1 – Name

Witness 2- Name

Defendant – Junior Counsel – name

Witness 3 –Name

3. Change in Counsel

Counsel should also ensure to introduce / handover when there is to be a change to the active participant as it will help ensure that the Registrar/Courtroom assistant can change the screen configuration smoothly, e.g.:

“I shall now handover to my colleague, Lee Smith”

4. Interjections / Objections

Practitioners should raise their hand clearly to indicate to the judge they have an objection if they are on screen as well as verbally interjecting.

5. Consultation with Legal Team



It is understood that it is difficult to maintain focus on the virtual courtroom proceedings and review other devices with instant communications from your team. Practitioners are advised they may ask the judge at appropriate points in the hearing if they may consult with their team. At which point, with the agreement of the judge, it is acceptable to mute yourself and turn off the camera for a short time to facilitate this.

Each judge will have a preference for how this might work in their courtrooms and some may prefer to break at specified points for this consultation.

6. Breaks in Proceedings

If there have not breaks in proceedings, such as might be directed to allow for consultation between the parties, witnesses and their legal advisors, it is likely that the presiding judge will suggest a short every 60 minutes or so to reduce fatigue.

7. Document Presentation

Pexip allows for the parties to present documentation to the court. How an individual sees the documents and participants on screen is dependent upon the individuals screen set-up.

For Pexip Infinity only if you are presenting a document or a document is being presented and you want to see the parties reaction to seeing that document, it is advised that time is provided for you/others to reconfigure their screen display(s) to allow them to see both participants and the document. Therefore if you are about to show a photograph, you would be encouraged to show a title page first, and say something along the lines of “ I will just give the Court a moment to adjust their screens displays if they wish before showing item xxx”

8. Witness Swearing /Affirmation

It is each legal team’s responsibility to ensure that any witnesses are prepared and have been issued with the Witness Handout Appendix II, have an appropriate sacred text and are in an appropriate location to take part in a hearing. Please allow the Registrar time to swear in a witness before proceeding.