

## General Guidance and Tips for Remote Hearings

Aside from the general worry about dealing with remote trials and the additional problems that this will create there are some basic issues in the preparation of the bundles for a remote hearing. There is very helpful guidance to be found in the document prepared by Sir Andrew McFarlane, President of the Family Division, Lady Justice Thirlwall, Senior Presiding Judge, Mr. Justice Mann, Judge in charge of Live Services which gives general guidance on PDF bundles.

<https://www.judiciary.uk/wp-content/uploads/2020/05/GENERAL-GUIDANCE-ON-PDF-BUNDLES-f-1.pdf/> . This document is a must for those involved in preparing electronic bundles. There is also a very helpful video prepared by St. Philips Chambers on creating an electronic bundle.

A video prepared by St Philips Chambers on creating a bundle using Adobe Acrobat Pro: <https://st-philips.com/creating-and-using-electronic-hearing-bundles/>

I would also offer the following additional practical guidance for those participating as advocates or as witnesses in remote trials.

1. There is another software package called bundledocs which also enables you to prepare electronic court bundles. With bundledocs you can easily compile a range of documents into one easy to read PDF. It supports a range of different file types, including : Microsoft Word (.doc), Emails (.msg), PDF Adobe, text files (.txt), pictures, photographs, maps, charts etc. There is also a video on their website which explains how to prepare an electronic court bundle using that software package. Although the video is directed towards bundles for family proceedings it gives helpful hints on the preparation of all electronic bundles : <https://www.bundledocs.com/blog/2019/2/21/preparation-of-court-bundles-for-family-proceedings/> .
2. I suggest that since medical records are usually already paginated that you prepare a separate bundle for these with a separate electronic index. If you need to re-paginate the records then I would suggest that you put this in the top right-hand corner as bundledocs allows this to be done.
3. I consider that it is important that there is an agreement between the parties that the Court and any witnesses who do not have fast and/or stable broadband links are provided with hard copies of the bundle. If, as in the trial that I dealt with recently, the bundle when printed out , actually runs to several lever arch files then I would suggest that each file has clearly labelled on its spine the section of the trial bundle that it refers to e.g. Volume 7 Pages 1127- 1363 and , as always, the files are not over-stuffed with documents. It just makes it easy for anybody dealing with the evidence to locate the document quickly. Please ensure that the bundle that is printed out has exactly the same pagination as the electronic bundle! Sometimes the PDF numbering may differ to the bundle page numbers. If for any reason there is a discrepancy in the numbering then it is vital that there is an index which cross-references the pdf bundle with the paper bundle.
4. Ensure that the proposed timetable of witnesses also indicates whether the witnesses wish to affirm or to take the oath. It assists the associate in dealing with the witnesses. This should also be included in the email to the Court when emailing the attendees details.

5. Ensure, in so far as you can, that you have a stable and fast broadband link. You may also want to ensure your computer microphones etc are turned off to avoid any chance of feedback.
6. You may find it helpful to use a speakerphone. Jabra, Logitech and Sennheiser amongst others have these at a cost of around £100. The advantage that they generally have is that they have omni-directional microphones so that if you turn away or move away from your computer then the sound from your microphone does not fade and they also have good clear sound. I know that some people prefer to use earphone and microphone headsets but many people are not comfortable wearing a headset for the full court day. The essential thing, however is to ensure that whatever system you use works effectively so that you can see, be seen, heard and are able to hear what is going on in court.
7. Ensure that the electronic sound and vision link for all advocates and witnesses is tested well in advance of the hearing, especially where witnesses are overseas or in locations where signal may be intermittent. It is a basic albeit time-consuming exercise but it is vital that time is not lost during trial just because the court is presented with a witness who cannot be seen and/or heard or who for some reason cannot see the electronic or hard copy version of the documents. Everybody recognises the difficulties that can arise with technology but sometimes just basic checks can avoid unnecessary delays. In light of the benefits of remote hearings in general, not just trials, it may be that some steps are taken in the future, to improve internet facilities and speed in anticipation of future hearings being dealt with remotely.
8. Warn witnesses in advance that they must ensure that when they are not giving evidence that their microphone is muted. Although it is wonderful to hear the excited dog barking as he is taken out for a walk or to hear an excited child arrive home from school, it can obviously be distracting to hear it during the trial.
9. If expert or lay witnesses are giving evidence from home then I would suggest that they should be advised to put a notice on the front door indicating that the person is giving evidence to court via a videolink and that they must not be disturbed. If there is somebody else at home this is less of a problem but if there is nobody else in the house you have to be wary of that delivery person who just keeps ringing the doorbell! I found that by speaking to our neighbour and he agreeing that I could also put on the notice that the caller at the door should contact the neighbour either via knocking at their door or texting him on the number supplied that this avoided unnecessary disturbance.
10. The witnesses should be advised that they should dress as if they were attending court in person; have something plain behind them, like a blank wall and to sit with the light in front of them, so that their face is not in shadow.
11. Lay and expert witnesses should be provided with an email address and/or text number to provide Counsel and solicitor with points that they wish to make in response to evidence/issues that arise in trial.
12. If an after court conference is required or is likely to be required then this should be arranged and booked in advance. After a full days hearing it is best to have any conferences pre-arranged for 5pm so that any issues that need to be dealt with do not interfere too much with peoples evenings. Also, if multiple parties are joining a

conference call it can take some conference call providers some time to set it up, some parties may also not be available after normal working hours, so it is best to set a conference up the day before or during the lunch break.

13. These are intended to be just tips for dealing with particular issues that can arise with remote trials. The remote hearings can provide different challenges as various people's technology stops functioning but with good preparation and thought given to the practicalities they can be a very effective way of hearing trials during the current pandemic crisis.
14. Finally, it is very beneficial to have a dry run with instructing solicitors and counsel beforehand, with the Trial bundle, so that any wrinkles are ironed out before the hearing. This includes anything from bookmarks and hyperlinks working to ensuring the index match.

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