

## **Tribunal Statement and Practice Direction (No. 1)**

Conscious of the need to progress the determination of claims and to do so, safely and in compliance with public health guidelines, the CervicalCheck Tribunal is putting in place arrangements to facilitate, where possible, the conducting of hearings, remotely, and in a manner that is consistent with the interests of justice. Challenges in adapting to exigencies presented by the Covid-19 Pandemic are to be expected and the Tribunal will continue to engage with interested parties in relation to the effective management of proceedings during this time.

Where it is just, safe and appropriate to do so, the Tribunal will follow, broadly, the approach currently taken by the courts in managing new and pending proceedings. Thus, legal practitioners who will participate in proceedings before the Tribunal will already be familiar with such arrangements.

The Tribunal will be sensitive to technological and other difficulties which parties to proceedings may encounter. Nevertheless, it expects that all parties involved will work constructively, flexibly and collaboratively to ensure that claims before the Tribunal are progressed expeditiously, fairly and efficiently during this time. The Tribunal is open to constructive feedback and helpful recommendations in this regard. Because the relevant technology used in court proceedings is in a process of constant development, details of arrangements in place may change from time to time. The Tribunal will keep interested parties apprised of any changes to its existing procedures and arrangements.

This Practice Direction concerns the conducting of proceedings, remotely, and the filing of documents, electronically. Interested parties and legal practitioners are required to familiarise themselves with its provisions.

### **Remote Hearings**

In proceedings before the Tribunal that are conducted, remotely, parties and their legal representatives are required: -

- to cooperate, constructively, to ensure the successful conduct of such hearings;
- to avail of opportunities to test, prior to a hearing, the technology that will be used;
- to be prepared for connectivity challenges that might arise, for example, by having an alternative communication channel available (such as, a telephone or messaging system) for use between parties and their legal teams;

- to cooperate with Tribunal instructions aimed at maximizing the sound or vision quality of the remote proceedings;
- to collaborate in identifying and remedying technical issues that may, from time to time, arise during remote proceedings;
- to agree, where possible, and to narrow the issues or matters which the Tribunal is called upon to determine at a remote hearing; and
- to give prior notification to the Tribunal of any matter which may delay or prolong a remote hearing and thus to facilitate the Tribunal in allocating appropriate time to the hearing.

The Tribunal will use the specialised communication platform, **Pexip**, for the purpose of conducting hearings, remotely. Parties are required to familiarise themselves with the operation and functioning of this platform.

Where a party seeks to introduce any specialist technology into particular proceedings before the Tribunal, the consent of the other party or parties should be obtained in advance of any application relating to the introduction and use thereof being made to the Tribunal.

### **Filing of Documents**

The specialised document sharing and transfer platform, **ShareFile**, will be used for the lodgment of large files of documents with the Tribunal. Parties are required to familiarise themselves with the operation and functioning of this platform.

A party filing a document electronically with the Tribunal is responsible for ensuring that the document is filed within the relevant time limits. If electronic delivery of a document or file is blocked or delayed for any reason, responsibility for such delay will rest with the party filing that document.

The Tribunal Office will endeavour to provide same day acknowledgement of receipt in respect of filings made before 15.00, and next day acknowledgement in respect of filings made after 15.00. Where a party who has made a filing does not receive an acknowledgement of receipt from the Office by 15.00 on the following day, they should contact the Tribunal Office to confirm its receipt.

Parties and their legal representatives must take all necessary steps (whether by encryption, password protection or otherwise) to ensure the confidentiality and security of any document, including those relating to proceedings, that are

transmitted, electronically, to the Tribunal and shall be responsible, at all times, for compliance with all applicable requirements of GDPR.

**Practice Direction**  
**Use of Technology and Remote Hearings**

**Introduction**

1. This Practice direction is made pursuant to the power conferred by section 25(2) of the CervicalCheck Tribunal Act 2019 and shall come into effect on the 27<sup>th</sup> day of October
2. 2020 and shall remain in effect unless and until otherwise directed.
3. Expressions which are defined in the CervicalCheck Tribunal Rules 2020 have the same meanings in this Practice Direction.
4. Reference in this Practice direction to a “rule” is to a rule of the CervicalCheck Tribunal Rules 2020.

**Lodgment of documents in electronic form and hard copy**

5.
  - (i) Notwithstanding rule 5(8), all documents to be delivered to the Tribunal Office shall be delivered in electronic form, as set out below, and in hard copy delivered by post or by document exchange.
  - (ii) The Tribunal may, in exceptional circumstances, permit delivery of documents to the Tribunal Office, in person, by prior appointment and subject to compliance with all applicable public health requirements and guidance.

**Electronic lodgment**

6.
  - (i) Any single pleading (e.g. Claim Form, Response) or document being lodged for the first time in connection with a Tribunal claim and any correspondence to the Tribunal Office in connection with a claim should be lodged, by way of attachment to an email, as a single portable

document file in .pdf format. Where a record number has been issued in respect of the claim, the subject line of the email must include the record number.

- (ii) A dedicated email address is reserved for the lodgment of new claims with the Tribunal. All new claims must be emailed to *claims@cervicalchecktribunal.ie* in addition to being delivered in hard copy.
- (iii) Thereafter, all further correspondence of whatsoever nature and other materials relevant to a claim must be emailed to *info@cervicalchecktribunal.ie* in addition to being delivered in hard copy.
- (iv) Where a document set (which will often include pleadings and other materials previously lodged with the Tribunal as above, or pleadings and other materials previously lodged in the High Court Central Office) is being lodged in connection with a hearing before the Tribunal, it must include an internal index hyperlinked to each separate document contained therein and must be lodged by being uploaded to the Tribunal's document sharing and transfer platform, **ShareFile**, in addition to being delivered in hard copy and an email confirming the upload and including the Tribunal record number in the subject line must be sent to *info@cervicalchecktribunal.ie*
- (v) Exceptionally, where the volume of material so requires and neither the Tribunal nor any other party would be inconvenienced by doing so, the Tribunal Registrar, having consulted the Chairperson or another Member, may agree to the lodgment of a document set by another means specified by the Tribunal Registrar.

### **Number of hard copies**

7. A hard copy of every Directions Booklet lodged in accordance with rule 12 (for the initial directions hearing in respect of an eligible claim which has been the subject of proceedings before a court) shall be lodged in accordance with paragraph 4(i). In every other case, unless the Tribunal otherwise directs, a single hard copy shall be sufficient.

### **Signatures**

8. In accordance with rule 6(1), a pleading or other document in Tribunal Proceedings shall be deemed sufficient if it includes a digital signature.

### **Agreeing document sets**

9. Parties to Tribunal Proceedings must exchange documents and document sets electronically and must agree the form and content of electronic document sets.

### **Remote hearings**

10. Parties will be notified whether hearings (including, initial directions hearings, interlocutory applications, case management hearings and determination hearings) are listed for hearing at a sitting of the Tribunal in person or by remote hearing. The Tribunal, where it considers it necessary or desirable to do so, may adjourn any hearing to a remote hearing or to a sitting of the Tribunal in person.

### **Consent orders on motions**

11. Where an order can be made on consent on an interlocutory application, the moving party shall confirm the terms of the proposed consent order in writing by electronic mail to the Registrar, attaching the written consent of each other relevant party not later than 48 hours before the motion is listed and, where the Tribunal is satisfied to make such consent order, the motion shall be deemed disposed of in accordance with the consent order and the parties shall not be required to attend on the return date, whether in person or at a remote hearing.

### **Preparation for and conduct of remote hearings generally**

12. Where a remote hearing is to be conducted by a web-based video conferencing/virtual meeting room platform, the solicitors on record for each party (or the party if not represented by a solicitor) will be provided with access details for the remote hearing and are required, unless otherwise directed or permitted:
  - (a) having regard to section 20 of the 2019 Act, to undertake not to provide the access detail to any person other than the party, counsel retained by the party and any person directed or permitted by the Tribunal to participate in the hearing concerned;

(b) to confirm the identity of each person intending to attend the remote hearing on behalf of the party concerned;

(c) to provide any technical information considered necessary by the Tribunal to facilitate the remote hearing;

(d) to provide any information or confirmation required by the Tribunal regarding the security of the technology proposed to be used by or on behalf of that party and/or the location from which any person intending to attend the remote hearing on behalf of the party concerned intends to join the remote hearing;

(e) to undertake to participate fully in any required test call to the remote location;

(f) to ensure that any witness giving evidence at a remote hearing is provided with all necessary documents; and

(g) to ensure that the appropriate sacred text for taking the oath prior to giving testimony is available to the witness at the remote location.

13. Recording a remote hearing and/or disseminating the recording of such a hearing is strictly prohibited.
14. Where the Tribunal has agreed to a request to hold a hearing or part of a hearing which is being conducted by way of remote hearing in public in accordance with section 20(2) of the 2019 Act, the Tribunal will give such further directions as it considers appropriate in the circumstances to facilitate public access.

Dated this the 1<sup>st</sup> day of December 2020

A handwritten signature in black ink, appearing to read "Ann Power". The signature is written in a cursive, flowing style.

**Ann Power**  
**Chairperson of the Tribunal**