

HKIAC GUIDELINES FOR VIRTUAL HEARINGS

INTRODUCTION

HKIAC has administered multiple hearings that are either partially or fully virtual. HKIAC's virtual hearing services may be used for arbitrations administered by HKIAC and those that are not.

Full information on HKIAC's virtual hearing services is available [here](#).

Whether or not a virtual hearing, in part or in full, is suitable for a particular matter remains a matter for the parties and the arbitral tribunal.

These Guidelines are based on HKIAC's experience and aim to ensure that participants experience a seamless and effective virtual hearing. They apply to hearings that are fully or partially virtual.

GUIDELINES

1. **Contact the HKIAC as early as possible** to discuss hearing dates and virtual hearing services required, even if not all details are certain.
2. **Liase as early as possible with all other parties and the arbitral tribunal.** This will avoid late changes to arrangements and wasted time. This is also relevant in respect of hearing procedural orders or protocols issued by the tribunal.
3. **Complete HKIAC's [online enquiry form](#).** This form focuses participants on **five services** that are key to organising a fully or partially virtual hearing:
 - a. video conferencing;
 - b. audio conferencing;
 - c. electronic bundling and presentation of evidence;
 - d. transcription services; and
 - e. interpretation services.

A member of the HKIAC team will respond within 24 hours to **discuss your needs**. HKIAC will provide a breakdown of the costs early on and make suggestions to ensure your hearing proceeds as seamlessly and effectively as possible.

4. **Arrange testing with all participants in advance of the hearing.** HKIAC arranges testing and will assist in training participants as required.
5. HKIAC can provide:
 - a. **IP-based encrypted video conferencing** that supports up to eight different locations;
 - b. **cloud-based video conferencing** compatible with all major video conferencing platforms (Zoom, Cisco Webex and Microsoft Teams).

When using cloud-based systems, participants should use LAN/Ethernet internet connections instead of WiFi connections to the extent possible, or ensure that they have access to high-quality, secured WiFi networks. Technical specifications differ between platforms and many factors affect stability. HKIAC can advise on appropriate technical specifications.

6. In addition to the primary system, HKIAC will arrange a **back-up system** for each hearing in consultation with the participants.
7. Arrange to have an IT specialist in attendance at all times (“**hearing manager**”). HKIAC provides hearing managers to monitor the proceedings and provide IT support as needed. HKIAC can provide support across **all time zones**.
8. Turn all **other devices** to mute and flight-mode and disable alerts. This will avoid feedback/audio disruption. When relying on WiFi connections, participants should minimise the use of other devices to ensure maximum bandwidth.
9. **Ensure the confidentiality and security of virtual hearings**, particularly when using cloud-based platforms. To achieve this:
 - a. all cloud-based video conferences should be password protected;
 - b. a list of participants, their full names, roles, professional affiliation, and details of the locations from which they will be joining the hearing, should be agreed and circulated to the parties and the tribunal in advance;
 - c. the tribunal or hearing manager shall only allow individuals on the approved list of participants to join the hearing. Any change to the list of participants shall be immediately circulated to the parties and the tribunal and notified to the hearing manager;
 - d. where the parties and/or the tribunal have separate virtual break-out rooms facilitated by separate video-conferencing sessions, these shall be password protected. Separate lists of participants to those rooms shall be provided to the hearing manager, who shall adhere to them strictly.
10. When **appearing by video conference**, participants should:
 - a. mute microphones unless speaking;
 - b. use physical gestures to announce that they wish to speak, e.g., by raising a hand and keeping it raised, or use the raise hand function on the electronic system if available;
 - c. avoid speaking at the same time as any other participant;
 - d. avoid back-lighting such as sitting in front of a window or bright light. Back-lighting will prevent the participant being seen clearly on screen;
 - e. ensure their camera is positioned at eye-level;
 - f. look at the camera, not their screen;

- g. use a headset with integrated microphone where possible to protect the privacy of the proceedings at their location and improve audio quality for all participants;
- h. avoid wearing a face-mask when cameras that automatically track speakers by facial movement are being used. If that is not possible, manually operated cameras should be used.

- 11.** Where a **witness or expert** is participating in a video conference remotely, it may be necessary:
- a. to arrange, where possible, for a hearing invigilator to attend at the same premises as the witness or expert, to ensure the integrity of the premises (i.e., that there is no person or recording-device present that was not approved or agreed);
 - b. to arrange for a 360-degree viewing of the room by video at the beginning of each session of the virtual hearing to ensure the integrity of the room;
 - c. for the tribunal to recall the witness's or expert's obligation of truthfulness including by presenting their evidence in the manner agreed and without improper influence (by administering an oath, declaration, affirmation or otherwise).
- 12.** Ensure that evidence bundles and documents that are to be shared virtually are supplied to the relevant service provide ("**EPE manager**") **well in advance of the hearing date** in order for the EPE manager to familiarise themselves with the bundles. The parties should also notify the EPE manager if there are certain exhibits which require annotation or guidance from the parties (e.g., technical blueprints, large maps).
- 13.** Where **transcription services** are required, participants shall inform all parties, the tribunal and HKIAC as soon as possible. The parties must specify whether real-time display is required and whether transcription shall be provided remotely or in-person at a specified location (if the hearing is partially virtual). HKIAC will arrange testing with transcribers as necessary. Any **audio recording** of the hearing (including separate audio feeds for multiple languages) and circulation thereof is subject to party agreement or tribunal direction.
- 14.** Where **interpretation services** are required, participants shall inform all parties, the tribunal and HKIAC as soon as possible. The parties must specify whether interpretation will be simultaneous or consecutive to allow appropriate audio arrangements to be made. Consecutive interpretation simplifies the audio arrangements but requires more time than simultaneous interpretation. HKIAC will arrange testing with interpreters as necessary.

Hear what our users are saying about HKIAC virtual hearing services

Neil Kaplan CBE QC SBS | Arbitrator, Arbitration Chambers

"The Covid-19 pandemic has required parties to engage much more pro-actively with virtual hearing technology. HKIAC has the technology and the staff to enable parties and tribunals to transform their traditional in-person hearings to full or partial virtual arbitrations. This leads to cost and efficiency benefits and shows how technology and institutional support can lessen the environmental impact of our work."

Dr Michael Moser | Arbitrator, Twenty Essex

"Virtual hearings raise a host of issues for parties and tribunals, both technical and procedural, that physical hearings do not. These need to be dealt with early and by establishing clear protocols. By virtue of the high demand for its virtual hearing services during the COVID-19 pandemic, HKIAC has been able to help parties and tribunals navigate those issues."

Kathryn Sanger | Partner, Herbert Smith Freehills

"This new normal means parties have to be flexible and pragmatic. Importantly, parties should contact institutions like HKIAC as soon as possible. HKIAC has a helpful online enquiry form and HKIAC staff, with combined legal and IT know-how, follow up quickly to discuss the options and provide practical solutions."

Doug Jones AO | Arbitrator, Atkin Chambers

"The e-hearing service provided by HKIAC in collaboration with Epiq was integral to the success of a recent two-day virtual evidentiary hearing in which I sat as presiding arbitrator. HKIAC provided ongoing technical support leading up to and during the hearing. They were flexible with testing different video conferencing platforms and back up options, and worked across time zones. I commend the HKIAC for sharing its new Guidelines for Virtual Hearings. It is a user-friendly resource which shows how it is possible to create a seamless virtual hearing experience."

Chiann Bao | Arbitrator, Arbitration Chambers

"HKIAC's experience as both an administrator of arbitrations as well as a host for hearings makes it uniquely placed to seamlessly take an arbitration from beginning to end, even in emergency circumstances."

Sebastian Hughes | *Arbitrator, Prince's Chambers*

"Many thanks to HKIAC for hosting a seamless virtual hearing. There were no technical issues and the quality of the video feed of the expert witness (based in Ohio) was excellent. This was the first time I have conducted a virtual hearing without a single connection problem. HKIAC and its helpful, friendly and professional staff are to be commended for providing a first rate virtual hearing experience."

Christopher Moger QC | *Arbitrator, 4 Pump Court*

"I cannot commend HKIAC working in combination with Epiq too highly for their seamless management of a virtual hearing in which I was engaged recently – a hearing which involved all the features of a full hearing: broad time zones, witness evidence, interpreters, counsel and arbitrators from different continents, a Tribunal Secretary, live transcript, and live document display. It was a pleasant surprise to me to discover how simple and effective the process was to manage from my home office during lockdown in the UK."

Professor Benjamin F Hughes | *Arbitrator, The Arbitration Chambers*

"Everything went very smoothly and the support was excellent. In some ways it was more efficient and effective than a live hearing."

John Bishop | *Arbitrator, Arbitration Chambers*

"The HKIAC facilities for my mediation were excellent – especially the technical support."

Kim Rooney | *Independent Arbitrator, Barrister, Mediator, Gilt Chambers*

"In a recent hybrid arbitration conducted over 2 days the HKIAC virtual hearing room, video conference connection and technical support service all worked perfectly and without stress. These secure and effective hybrid and virtual hearing facilities provide a valuable service and support to international arbitration, not only in this Pandemic period, but for the future, where parties will be able to choose whether to have in person, hybrid or virtual hearings."

Dr. Sabine Stricker-Kellerer | *Lawyer, SSK Asia*

"Seamless organizational and technical service are one of the key elements to make it possible that in virtual hearings the right to be heard and equal treatment are protected and ensured. HKIAC is providing just that - based on its huge experience gained in such a short time span since we all started depending on virtual hearings to ensure efficient and rule based dispute resolution in difficult times."

Dr. Jane Willems | *Arbitrator, BW Arbintl Ltd*

“The hearing went very smoothly. The virtual hearing services hosted by HKIAC provided excellent connections over 5 days with counsel, witnesses, experts and arbitrators connecting from different continents, and enabled in this difficult period to hold an efficient and timely hearing.”

Mr. Paul Mitchard QC | *Director of Career Planning and Professionalism, CUHK Law*

“Of all the virtual hearing services experienced during the pandemic, that provided by the HKIAC’s technical support team was second to none.”