

LOCKDOWN DOESN'T MEAN SHUTDOWN: USE OF REMOTE HEARINGS AND CONFERENCES IN THE CRIMINAL JUSTICE SYSTEM

WEBINAR: 28 APRIL 2020

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“LOCKDOWN DOESN'T MEAN SHUTDOWN” CONDUCTING REMOTE HEARINGS AND CONFERENCES IN THE CRIMINAL JUSTICE SYSTEM

Introduction

Last week the Government’s chief medical officer said that some sort of personal and social distancing would be likely to be required until the end of the year. This was echoed by Dominic Raab at the weekend and repeated by the Prime Minister yesterday – and that means maintaining the 2 metre personal distancing.

On 27th April the LCJ sent a communique to judges saying, amongst other things:

“Trials in the Magistrates’ Court have recommenced, in addition to the urgent work and sentencing which continued almost as usual. We hope to see the level of trials rise.

.....

Work is well advanced to enable jury trials to start again when circumstances allow, taking account of what will almost certainly be a continuing need to observe social distancing and ensure other precautions are in place. It will be a gentle process, building over time, rather than a sudden return to business as usual.”

It was not clear what “well-advanced” meant, and the proviso “taking account of what will almost certainly be a continuing need to observe social distancing” is notable.

It appears that we are unlikely to see the return of jury trials any time soon. The return to something like normal for magistrates’ courts may be more practical once we come out of lockdown if personal distancing can be achieved.

Video conferencing is a very useful tool - but it is no substitute for face-to-face contact. We do not want to promote it as a replacement but simply a useful tool when face-to-face contact is impracticable

The introduction of the DCS taught us not to be afraid of innovation; it could bring untold benefits. But equally there is no reason to throw the baby out with the bathwater; technology can provide additional tools to help us do our jobs, but they are add-ons, not replacements.

The Basics Rules of appearing on Video

- Prepare your location
- Set up your equipment appropriately
- Manage the lighting
- Consider the backdrop
- Prepare any documents to share
- Learn the rules and art of online speaking

Guidance is given on the Government Website:

<https://www.gov.uk/guidance/how-to-join-telephone-and-video-hearings-during-coronavirus-covid-19-outbreak#joining-by-cvp-skype-or-bt-meet-me>

The technology.

The Cloud Video Platform

The Cloud Video Platform is HMCTS version of an integrated service to enable custody hearings to be conducted remotely by allowing remote users to connect to the Court – much like a Zoom conference – and then be connected to the Prison Video Link or PVL. It's secure and of course free and operated by and from the Court.

It is now being trialled in the north east and in some magistrates' courts in other parts of the country, including the south east but we were informed on Friday last by the SE Circuit Presiding Judges that:

“A draft national roll-out plan for Crown and Magistrates’ Courts has been prepared – but it is in draft and at the time of writing is liable to change. ... The roll-out will be gradual and is based on the prisons serving our courts moving to CVP. All this means that CVP will not be operational in the Crown and Magistrates’ Courts on circuit for weeks or months yet.”

On the Government website the instructions for CVP begin by saying:

“[download Google Chrome](#) as this is the preferred browser”

Through the power of rumour this has been converted into “CVP only works with Chrome”: this is categorically untrue. The technical adviser to HMCTS has said:

“We find Chrome web browser is optimum. Safari on Mac and Edge on Windows also give good results”

Zoom

It is not used in court for good reason.

There are security issues associated with Zoom.

The basic advice is that, given how stringent the General Data Protection Regulations are, you would be advised not use Zoom for any professional activity with clients.

Skype for Business

The Courts have now settled on Skype for Business as the standard for online hearings.

Microsoft announced in 2019 that it intended to end its **Skype for Business** Online service on July 31, 2021, and it is “encouraging” customers to use the Microsoft Teams service instead, only available with an annual Office 365 subscription.

On February 13th this year Microsoft announced “start of the end of life program” for Skype for Business. This does not mean it will suddenly go off-line, but it does mean that it is stopping updates and upgrades: it is “sunsetting” Skype for Business.

On 24th April the Judicial Office notified all judges that:

“It seems that recent versions of the Apple operating system present a problem when Skype for Business is used. For some reason the microphone is not and cannot be enabled. This seems to be a problem which is known to Microsoft and for which some fixes have been proposed, but there is no clear fix yet... we are currently unable to recommend a fix at the moment.”

It only affects some people and not others – no one knows why – and it is fixable but only with some effort and technical expertise.

Microsoft Teams

Not the approved system because it is not free to use.

Is it better than Skype for Business? It is claimed that:

- the chat feature is much better with the text preserved in an easy to locate way
- Teams is more tolerant of networks which struggle to provide adequate bandwidth and latency; they say it works perfectly well with as little as 1.2Mbps
- Teams on mobile phones is far more reliable
- Integration with third party providers is better
- It integrates with files which are created or stored in Microsoft 365.

Third party providers of video link platforms?

There are third party providers offering secure links to the PVL - the Prison Video Link – for conferences with your clients from any laptop anywhere.

It is a subscription service. One provider quotes the cost for a yearly licence as £1,800 plus VAT – this includes all registration and set up costs and includes 24/7 support for the year.

There is a limit of 1,000 minutes per month, which works out as £0.15 per minute. The cost over the 1,000 minute allowance in any given month, may be around £0.36 per minute.

The LAA will probably consider this as a reimbursable disbursement.

The entire system is dependent upon the limited provision of video slots on the PVL.

The future

There are no plans at present to move towards jury trials conducted remotely – that is with the jury not present. It would require primary legislation to achieve and most people consider the practical difficulties to be insuperable.

There are no plans to introduce judge-only trials.

Whether, when we re-start jury trials, we can do so with everyone bar defendants in custody present remains to be seen, but with the personal distancing rules in place there are very few – if any – premises that could accommodate an adequately distanced jury.

Constitutional and other drawbacks to video conferencing and hearings.

- Many clients in custody prefer not having to attend
- There is a dearth of research into how a remote appearance affects the outcome for the absent person
- Is the impact of a witness's evidence – be they prosecution witness or defendant – lessened by not being “in the room”? Such research as there is suggests that the medium by which evidence is given does not have a significant impact on its effect.

<https://www.gov.uk/guidance/video-conferencing-for-trial-and-sentencing>

Wilson, J., Davies, G. An Evaluation of the Use of Videotaped Evidence for Juvenile Witnesses in Criminal Courts in England and Wales. *European Journal on Criminal Policy and Research* 7, 81–96 (1999). <https://doi.org/10.1023/A:1008740231642>

The Impact of the Use of Pre- Recorded Evidence on Juror Decision-Making: An Evidence Review 2018 Vanessa Munro (Warwick University)

<https://www.gov.scot/publications/impact-use-pre-recorded-evidence-juror-decision-making-evidence-review/pages/2/>

- The deleterious impact on vulnerable individuals who are disproportionately over-represented in the criminal justice system
- The principle of open justice – how do the press or public access a remote hearing?
- Moves towards greater use of this sort of technology invariably disadvantage less privileged clients who do not have equipment or adequate internet access



**ROYAL COURTS OF JUSTICE STRAND LONDON
WC2A 2LL**

24th April 2020

Dear Advocates

Open Letter to Advocates (2): remote hearings in the Crown and Magistrates' Courts in London and the South East

We wrote to you on 27th March 2020, which already seems a long time ago. The purpose of that letter was to advise that Skype for Business (“SfB”) would be used to host remote hearings in the Crown Court, at least for the time being. We now write with an update about remote hearings in the Crown and Magistrates’ Courts on circuit.

First, we wish to thank all of you for your efforts in making SfB work. Hearings are now taking place in every open or staffed Crown and Magistrates’ Court on circuit using SfB. The early teething problems have been resolved, and some ingenious work-arounds have been devised along the way. Your response has been superb and with your help we have been able to keep the criminal justice system going throughout this emergency.

Secondly, we know that there are still some frustrations in relation to the use of SfB for remote hearings, particularly where other systems are being used in the same hearing. There are sometimes difficulties with advocates having access to their clients in advance to take instructions, feedback and other audio problems have been reported, and some hearings have had to be aborted or significantly delayed because of these and other problems. We will continue to monitor these issues and resolve them where we can. We also know that participating in remote hearings can be very tiring for all involved and that is why we have encouraged our judges and listing officers to shorten the lists.

Thirdly, we want to update you on the introduction of the Cloud Video Platform, or “CVP”, which is currently being developed by HMCTS for use in all our courts and tribunals. CVP is already in use in the Court of Appeal (Criminal Division) and in some tribunals and county courts. In London and the South East it has been successfully piloted in some of our Magistrates’ Courts. All those with experience of it say that it is easy to use and reliable. CVP will undoubtedly make remote hearings much easier for all participants. A draft national roll-out plan for Crown and Magistrates’ Courts has been prepared – but it is in draft and at the time of writing is liable to change. That plan starts with the Crown Courts in the North East, and is currently moving to some Crown and Magistrates’ Courts in the SE. The roll-out will be gradual and is based on the prisons serving our courts moving to CVP. All this means that CVP will not be operational in the Crown and Magistrates’ Courts on circuit for weeks or months yet. So, in the meantime, remote hearings will continue with SfB, and we ask for your continued help in making those hearings as effective as possible.

Fourthly – and this is a connected point - it is important to acknowledge the enormous challenge which the development and roll-out of CVP presents for HMCTS. We know that a huge amount of work is going into the CVP project at present. We have asked, and have been assured, that training and guidance on the use of CVP in the criminal jurisdiction will be provided for all participants. There is already some guidance in the public domain¹ and we anticipate publication of further, practical “how to” guides fairly soon. Please

¹ <https://www.gov.uk/guidance/how-to-join-telephone-and-video-hearings-during-coronavirus-covid-19-outbreak>

**From: The Hon Mr Justice Edis and The Hon Mrs Justice Whipple
Presiding Judges of the South Eastern Circuit**



**ROYAL COURTS OF JUSTICE STRAND LONDON
WC2A 2LL**

do invest time and effort in familiarising yourself with CVP once the material becomes available; and do share knowledge amongst yourselves, so that implementation can occur as quickly and smoothly as possible. We will continue to work with you and your professional associations to help where we can.

We understand that the current emergency is placing real pressure on the legal professions, that many of you have experienced a significant reduction in income as a result of it, and that you will be concerned about your own health and that of loved ones. You have our continued good wishes at this difficult time.

Please circulate this letter as widely as you consider appropriate.

Yours faithfully

A handwritten signature in black ink that reads "Andrew Edis".

Andrew Edis

A handwritten signature in black ink that reads "Philippa Whipple".

Philippa Whipple



Cloud Video Platform Joining Instructions

Browser Connections

This guide will set out the steps required to connect a to a Cloud Video Platform (CVP) room from a browser to enable video hearings to take place. It is advised that the latest version of Google Chrome is used, as this offers the best user experience. However, CVP has been shown to work on the latest versions of Mozilla Firefox and Safari.

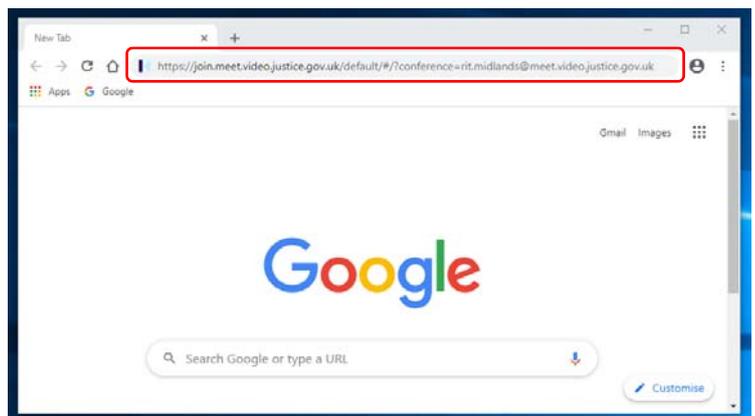
When joining a hearing using CVP, you should be in a private, quiet area so that your conversations are not overheard and excess noise isn't picked up by your microphone.

It is a criminal offence to record a court hearing. No attempt should be made to record video or audio, or take screenshots of your hearing.

A frequently asked questions and troubleshooting document has been included with this guidance which can be used if you have problems using CVP. Please consult this, and if your problems persist contact the court dealing with your hearing using the details supplied with your joining instructions.

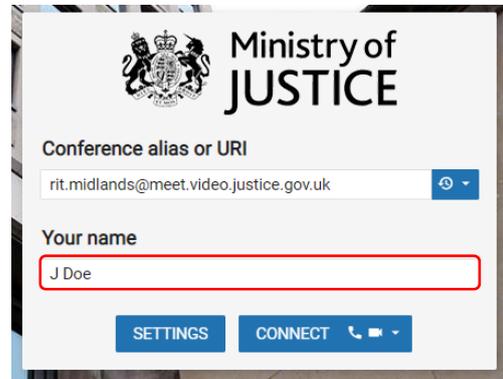
Connecting to a CVP room from a browser.

1. Close all open browsers and tabs and open a new browser window. It is advised that you maximize the browser window for the best viewing experience.
2. Copy the address (URL) for the CVP room from the email sent to you arranging the hearing. and paste it into the address bar of your browser, then press 'Enter'.



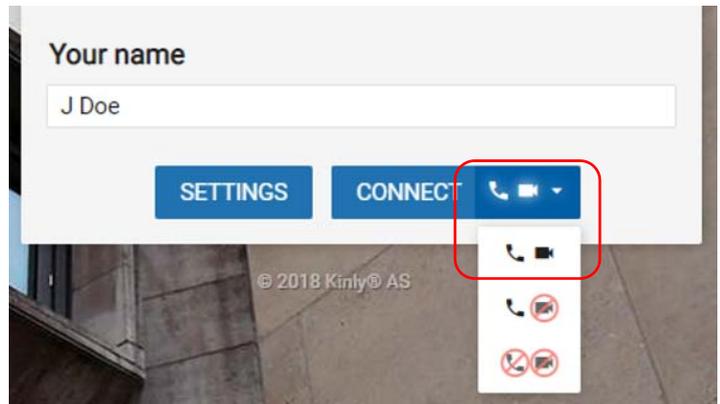
3. In the window that opens, type in your full name. This will be visible to all other parties.

Note: For cases where party names are not to be shared, please use the alias given to you by the court i.e. 'Witness A'.

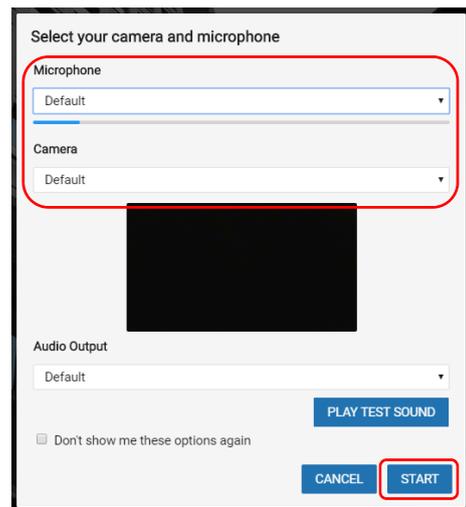


The screenshot shows the top part of a meeting interface for the Ministry of Justice. At the top left is the Royal Coat of Arms and the text 'Ministry of JUSTICE'. Below this is a field for 'Conference alias or URI' with the value 'rit.midlands@meet.video.justice.gov.uk'. Underneath is a 'Your name' field containing 'J Doe'. At the bottom are two buttons: 'SETTINGS' and 'CONNECT'. A red box highlights the 'Your name' field.

4. Ensure that both video and audio are selected by clicking the down arrow to the bottom right of the window and clicking the top option, then click 'CONNECT'.

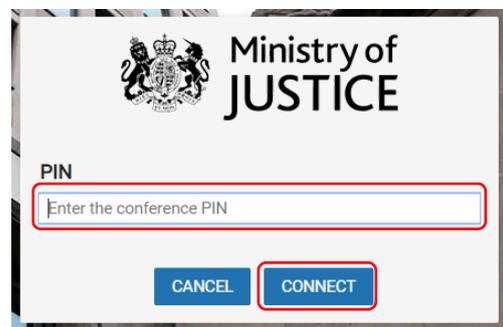


5. In the window that opens, check that both the Microphone and Camera are set to 'Default'. You should be able to see yourself in the preview video. Press 'START'.



The screenshot shows a settings window titled 'Select your camera and microphone'. It contains three dropdown menus: 'Microphone' (set to 'Default'), 'Camera' (set to 'Default'), and 'Audio Output' (set to 'Default'). Below the dropdowns is a black rectangular video preview window. At the bottom right, there is a 'PLAY TEST SOUND' button and a 'START' button. A red box highlights the 'Microphone' and 'Camera' dropdown menus.

6. In the window that opens, enter the Guest PIN from the email sent to you arranging the hearing and press 'CONNECT'.

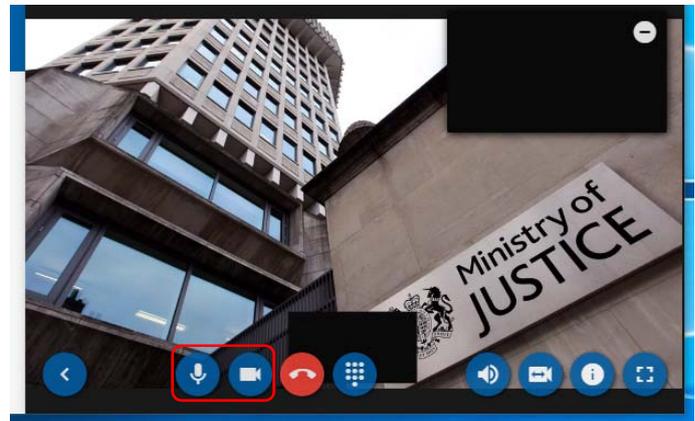


The screenshot shows a 'PIN' entry screen. At the top left is the Royal Coat of Arms and the text 'Ministry of JUSTICE'. Below this is a 'PIN' label and a text input field with the placeholder text 'Enter the conference PIN'. At the bottom are two buttons: 'CANCEL' and 'CONNECT'. A red box highlights the input field.

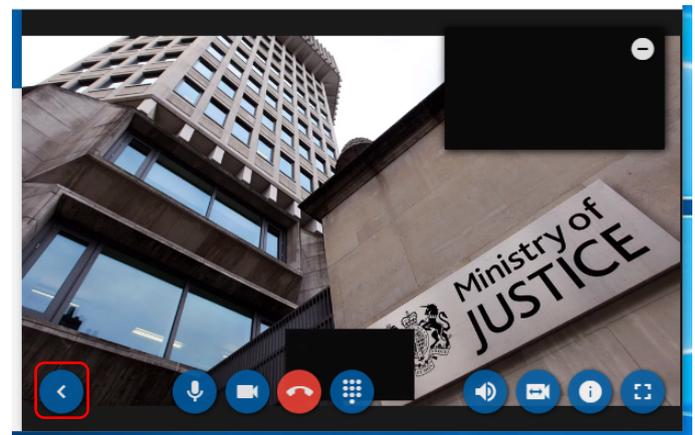
7. You will be placed into a waiting room until the court opens the conference by entering their Host PIN.

You can mute your microphone or turn off your camera using the controls at the bottom of the screen.

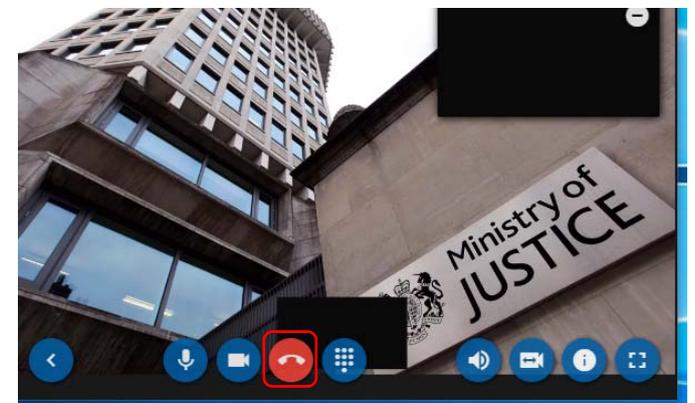
Note: Please keep your microphone muted when you are not speaking, as the CVP room will focus on the device making the most noise.



8. To maximise the video screen, click the blue arrow to the bottom left of the window to minimise the chat window. Chat functions should not be used for CVP hearings so no messages should be posted using this facility.



9. Once your hearing has finished, the judge will release you. You should then exit the CVP room by clicking the 'hang up' button at the bottom of the screen.



Problems.

If you experience any issues connecting to the CVP room, please check the CVP Troubleshooting document attached to your booking email. If this does not help, the booking email also contains contact details for the court dealing with this hearing.



Cloud Video Platform Joining Instructions

Smartphone & Tablet connections via App

This guide will set out the steps required to connect a to a Cloud Video Platform (CVP) room from a smartphone or tablet running the free Pexip Infinity Connect app to enable video hearings to take place.

When joining a hearing using CVP, you should be in a private, quiet area so that your conversations are not overheard and excess noise isn't picked up by your microphone.

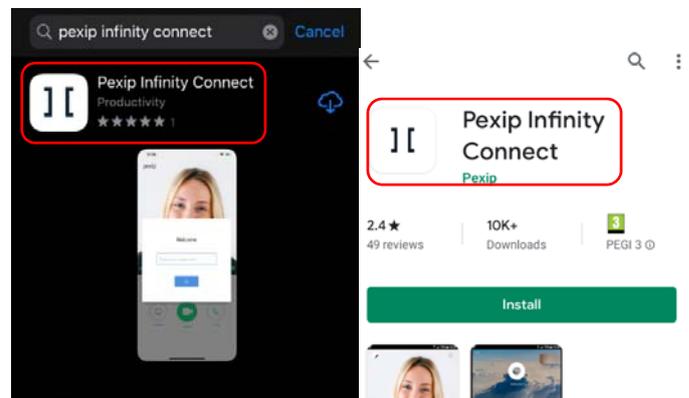
It is a criminal offence to record a court hearing. No attempt should be made to record video or audio, or take screenshots of your hearing.

A frequently asked questions and troubleshooting document has been included with this guidance which can be used if you have problems using CVP. Please consult this, and if your problems persist contact the court dealing with your hearing using the details supplied with your joining instructions.

Connecting to a CVP room from a smartphone or tablet via app.

1. Open the app store on your device and search for 'Pexip Infinity Connect'. Once found, install it onto your device.

Note: Please ensure that the app shown opposite is used. Pexip Infinity Connect Mobile will not work correctly with the CVP system.



(App Store)

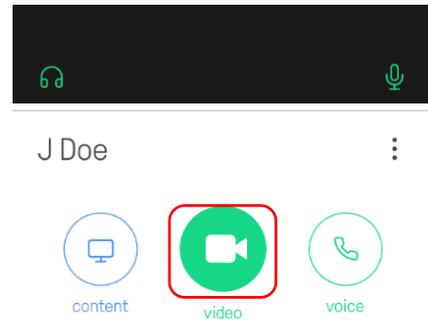
(Play Store)

2. Once installed on your device, open the app and if prompted allow it to access your camera and microphone.
3. In the window that opens, type in your full name. This will be visible to all other parties. Once complete, click 'OK'.

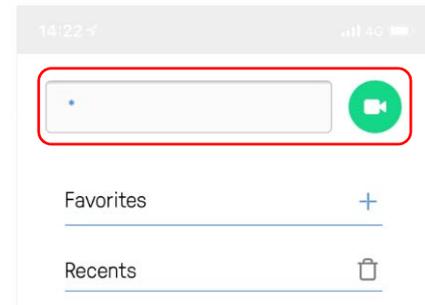
Note: For cases where party names are not to be shared, please use the alias given to you by the court i.e. 'Witness A'.



- Click on the green 'video' button in the centre of the screen.

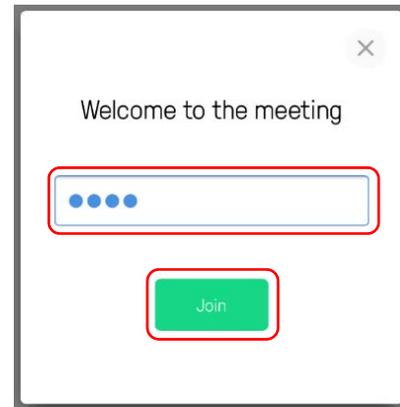


- In the window that opens, enter the CVP room name from the email sent to you arranging the hearing and then press the green button.



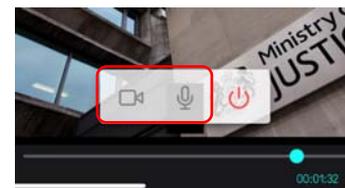
- Enter the guest PIN from the email sent to you arranging the hearing and press 'Join'.

Note: It is advised that you have your device in landscape if possible (with the screen on its side) as this will maximise the viewing area.



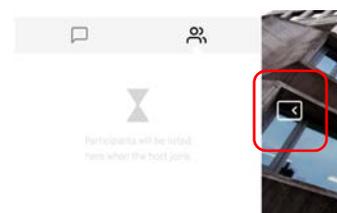
- You will be placed into a waiting room until the court opens the conference by entering their Host PIN.

You can mute your microphone or turn off your camera using the controls at the bottom of the screen.

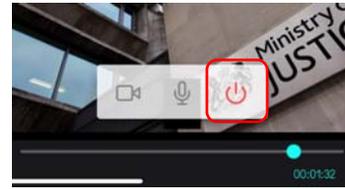


Note: Please keep your microphone muted when you are not speaking, as the CVP room will focus on the device making the most noise.

- To maximise the video screen, press the arrow on the left-hand side to minimise the chat window. Chat functions should not be used for CVP hearings so no messages should be posted using this facility.



9. Once your hearing has finished, the judge will release you. You should then exit the CVP room by pressing the 'hang up' button at the bottom of the screen.



Problems.

If you experience any issues connecting to the CVP room, please check the CVP Troubleshooting document attached to your booking email. If this does not help, the booking email also contains contact details for the court dealing with this hearing.



HM Courts &
Tribunals Service

Cloud Video Platform Joining Instructions

Telephone with audio only

This guide will set out the steps required to connect a to a Cloud Video Platform (CVP) room from a telephone for audio only.

When joining a hearing using CVP, you should be in a private, quiet area so that your conversations are not overheard and excess noise isn't picked up by your microphone.

It is a criminal offence to record a court hearing. No attempt should be made to record video or audio, or take screenshots of your hearing.

A frequently asked questions and troubleshooting document has been included with this guidance which can be used if you have problems using CVP. Please consult this, and if your problems persist contact the court dealing with your hearing using the details supplied with your joining instructions.

Connecting to a CVP room from telephone for audio only.

1. From your phone, dial the following number:

020 3608 8838

2. When asked to enter the number you wish to connect to, key in the voice conference ID contained in your hearing booking email and press #
3. When asked to enter the conference PIN number, key in the guest PIN contained in your hearing booking email.
4. You will be held in a waiting room until the host connects.

Problems.

If you experience any issues connecting to the CVP room, please check the CVP Troubleshooting document attached to your booking email. If this does not help, the booking email also contains contact details for the court dealing with this hearing.



HM Courts &
Tribunals Service

Frequently Asked Questions

What is CVP?

Common Video Platform (CVP) is a secure digital network that gives HMCTS and the judiciary the ability to manage and conduct cases digitally from any computer with the Crown Prosecution Service (CPS).

Is there a cost to using CVP?

No, using the system is free. The browser link and the mobile app are all free, however it does require an internet connection to work, so if using a portable device, they might have to use their mobile data. HMCTS will not cover the cost of data used by those using the CVP system.

Where can CVP be used?

CVP is a digital solution meaning it can be accessed from any video and audio capable computer, laptop, phone and tablet that has an internet connection. Anyone using CVP should be doing so in a quiet, private location where other people will not be able to hear or see what is being said on the CVP call.

Should I use WiFi or Mobile Data?

When using CVP you should connect your device via WiFi where possible for the best call quality and strength. We do not recommend using open or public WiFi as it might not have the capacity to provide a strong connection. If you cannot find a secure WiFi connection and must connect via a mobile data, please be aware that the data requirements for a CVP call are around 10mb per minute. When connecting on mobile data, if you use a 3G connection you could see a reduced quality for both what you see and hear, a 4G connection is therefore recommended.

I am having an issue when using CVP who do I contact? - Public

On the email inviting you to the CVP meeting there is a contact number to call if you require assistance. If you have any issues entering the CVP room for your hearing, please call that number you have been provided.



CVP troubleshooting

Type of Issue	Common issue	Solution
Connection	Public cannot connect via any browser	<p>If a member of the public advise they are unable to connect to CVP via any browser.</p> <p>Check if the user is part of a company or using a company device in which case the device might have their IT system restricted. Advise the user to contact their local IT department to unlock their ports to allow connection to CVP</p>
	Public receives an error message when trying to connect	<p>If a member of the public advises that they are unable to connect to CVP.</p> <p>Check to see how the user is connecting for their internet. Managed WIFI's, such as business accounts or public systems could be blocking the connection, their cellular data provider may not allow the call, or their local settings on their mobile device could be marked to not allow video calling over cellular data.</p> <p>Ask the user to attempt to connect via a different WiFi network, ensure that their mobile device allows calls to be made over mobile data, this is something they might be able to change in their settings, (you will be unable to advise how this is done) or advise they could speak to their mobile internet provider for further help.</p>
	Camera and Mic issue	<p>If a HMCTS staff member using a Dom1 device is experiencing issues where the camera or microphone doesn't work, then Check what web browser they are using.</p>

Call quality issues		In most cases this issue is resolved when CVP is opened in Google Chrome as opposed to other browsers.
	Image issues on Smartphone or Tablet	If the user cannot connect to WiFi to connect on a portable device to the CVP and connect via mobile data instead they should minimise their movement to help the image quality. 4/5G data connection is recommended for the better call quality.
	Poor sound quality	It is recommended that when using a portable device to use a headset for the best audio quality.
	Poor quality connection	If a member of the public connecting to the CVP has continued quality issues and has gone through the troubleshooting issues above then HMCTS is unable to assist further.
	Feedback noise	If more than one device in a room is connected to the same CVP there might be feedback coming through the audio. Best practise for this issue is to connect instead via the JVS equipment within that room.

Skype for Business: Microphone Assistance for Macs

It has been reported that some users of Macs find that their microphone does not work when using Skype for Business.

This is how you should be able to get your microphone working if it currently isn't. However, as I explain below, this might not work for you.

1. Go to the little Apple Menu [top left in the menu bar in Finder] and select '*System Preferences*'
2. Open '*Security & Privacy*'
3. Select the '*Privacy*' tab
4. Click on the little padlock bottom left to unlock it by entering your log-in password [the one you originally chose to unlock your Mac when you started it up]
5. In the window on the left there's a list of things starting with '*Location Services*'; scroll down to '*Microphone*' and select it
6. In the window there is a list of Apps which are accessing the microphone: if '*Skype for Business*' is there, check the box and that's it.

The problem is that for many users (and that includes me; no one knows why) the '*Skype for Business*' checkbox isn't there.

There is a work around which is a bit fiddly and not for the faint-hearted, but it is do-able. I did it on both my laptop and desktop and it worked a treat.

Here's how:

1. Click the Apple symbol in the Menu bar.
2. Click '*Restart*'.

When your screen goes black and you hear the chime - hold down the 'Command' key [the key marked 

3. If your machine does not start up in Recovery Mode [as my desktop didn't] you have a problem with your system. There is a work around but it involves starting up with an alternative OS from an external disc, and I'm not going into that here. If you have succeeded in starting up in Recovery Mode, you get an unfamiliar screen, but don't worry.
4. Go to the menu bar and under '*File*' select '*Terminal*'
5. This starts up the app in which you write commands to program your Mac and so you get a funny little window with a blinking cursor; enter EXACTLY this command

csrutil disable

and hit the 'Return' key (you have to hit the return key after entering each command)

6. Then just restart your machine.
7. When it's re-started, go to '*Utilities*' in the Applications folder and inside there you'll find the '*Terminal*' app; start it up.
8. You get the same funny little window as before; now enter EXACTLY this command [I copy and paste these commands to avoid making mistakes]

sudo sqlite3 ~/Library/Application\ Support/com.apple.TCC/TCC.db

and hit the 'Return' key.

9. It'll ask you for your password [that's your log-in password]; type it and hit the 'Return' key.
10. Now enter this command

INSERT INTO access

VALUES('kTCCServiceMicrophone','com.microsoft.SkypeForBusiness',0,1,1,1, NULL,NULL,NULL,'UNUSED',NULL,0,1541440109);

And hit the 'Return' key.

11. If you receive some error using this command, try this one instead:

REPLACE INTO access

```
VALUES('kTCCServiceMicrophone','com.microsoft.SkypeForBusiness',0,1,1,NU  
LL,NULL,NULL,'UNUSED',NULL,0,1541440109);
```

And hit the 'Return' key.

12. Finally, enter this command:

```
.exit
```

Close down '*Terminal*'; that's it, Skype for Business should appear in that window in the System Preferences Privacy tab, already checked.

There is one more step: you need to reverse what you did in steps 1 to 6 above, so:

13. Click the Apple symbol in the Menu bar.

14. Click '*Restart*'.

15. When your screen goes black and you hear the chime - hold down Command-R to start up in Recovery Mode.

16. You get that now familiar screen.

17. Go to the menu bar and under '*File*' select '*Terminal*'.

18. You get the window with a blinking cursor; enter EXACTLY this command (I copy and paste these commands to avoid making mistakes):

```
csrutil enable
```

and hit the 'Return' key.

19. Then restart your machine and everything should be fine.

As the techie from whom I borrowed this fix has said *“This is not something the user should be required to do, but until the application is fixed, this might be the only way.”*