

Taking of oral evidence from persons located overseas in tribunal proceedings

SCTS would be grateful if parties who wish to lead evidence from witnesses located outside of the UK in The First-Tier Tribunal for Scotland, Upper Tribunal for Scotland, The Mental Health Tribunal for Scotland, The Pensions Appeals Tribunal and The Lands Tribunal for Scotland could assist with the following request from Wednesday 1 November 2023.

Where a party wishes to lead evidence by telephone or video from a witness located in a country outside the UK and that witness is unable to give evidence from within the UK, it would be helpful if the party could:

1. contact the tribunal to make staff aware of their intention to lead such evidence; and
2. confirm whether the proposed witness is a citizen or a resident in that country or not, so that the tribunal is made aware of the reason why the party requests that oral evidence is given from that country.

It would be helpful if this information could be provided to the appropriate tribunal as soon as parties become aware of the need for that witness to give evidence from outside the UK. In other words, at the earliest possible opportunity.

This will allow SCTS staff to identify, in collaboration with the Foreign, Commonwealth and Development Office, whether the government of the country in which the evidence is going to be led consents to the leading of such evidence from within their jurisdiction. If such consent is provided, this information will allow operational staff and the tribunal member(s) presiding over the proceedings to confirm whether they are content for evidence to be led in this way and, if so, to make suitable arrangements.

This request aligns with the approach being taken by His Majesty's Courts and Tribunals Service and the Foreign, Commonwealth and Development Office in relation to tribunal proceedings in England and Wales.