



VIRTUAL MEETINGS HELPSHEET

1 About this helpsheet

This helpsheet for insolvency practitioners (IPs) gives guidance on conducting effective virtual meetings, including how to be compliant with current legislation and other regulatory requirements.

It is not an exhaustive list and you may need to adapt your practices, depending on the expected number of attendees and on the agenda items.

2 The Insolvency (England and Wales) Rules 2016 (the 2016 Rules)

Since 6 April 2017, IPs haven't been able to convene physical meetings on insolvency cases under the England and Wales regime, unless requested by a specified threshold of creditors (or contributories, as applicable).

The 2016 Rules introduced the concept of decision procedures, some of which were familiar to IPs but which may not have been used by all IPs.

These decision procedures don't always have universal application. This helpsheet focuses on virtual meetings only.

Definition

Rule 1.2 defines a 'meeting' as either a 'physical meeting' or a 'virtual meeting' as defined in Rule 15.2, unless the contrary intention is given.

Rule 15.2 (1) defines a virtual meeting as 'a meeting where persons who are not invited to be physically present together may participate in the meeting including communicating directly with all the other participants in the meeting and voting (either directly or via proxy holder).

Application

Virtual meetings have wide application in the 2016 Rules and are one of only two ways of seeking the appointment of a liquidator under section 100 of the Insolvency Act 1986 (as amended) (the Act).

Requirements

The 2016 rules set out the requirements regarding notice contents (Rule 15.8 and Part 1), the notice period (Rule 15.11(1)), advertising (Rules 15.12 and 15.13), the chair (Rule 15.21), voting rules including the requirement to submit a proof (Rule 15.9) and proof content (Rule 14.4(1)).

3 Best practice guidance

a) Before the meeting

i) Proxies

Notices of virtual meetings must comply with Rules 15.5 and 15.8 including the requirement to be accompanied by a blank proxy.

Rule 16.3 sets out the proxy requirements. A blank proxy needs to indicate whether the proxy is for a specific meeting or a continuing proxy for the entire proceedings.

If the latter, you will need procedures in place to make sure that such proxies are logged for every decision sought.

You will also need to make sure that you have the ability to allow the attendees to inspect the proxies before or in the course of the meeting (Rule 16.6(1)).

Proxies must be retained by the office-holder (Rule 16.6(2)).

ii) The technology

You will have provided access details when sending notice of the virtual meeting.

Attendees must be able to participate and communicate directly with each other. So facilities where only the convenor or chair may speak won't be appropriate. Generally skype, audio or video conference should meet these requirements, but you need to be satisfied that the technology you use allows attendees to interact appropriately.

Video facilities will allow you to see that attendees are engaged and can hear. Some software also allows you to see who is attending and if they disengage. While this functionality is not obligatory, it may otherwise be difficult to assess if any attendees may have been excluded.

Before you use the facility each time, make sure you test the equipment to check that attendees will be able to access the meeting from the login details provided.

Ideally, the facility should allow you to know how many attendees there are. In accordance with rule 15.40, you'll also need to be able to record the names of creditor or contributory attendees. For those voting by proxy, you will need to ascertain the names of the representatives attending to see if they have been named as a proxy and can validly vote.

b) During the meeting

You should introduce the chair and identify the other parties attending and repeat the meeting purpose, as set out in the notice and explain to the attendees how the meeting will be run. You should ask attendees to introduce themselves and the creditor they represent (if they are not an individual creditor). This should help you accurately record the proceedings.

If there is a relatively large number of attendees, you may prefer to take a register / roll call of those attending.

You may also wish to ask attendees to turn off any devices which may result in interference. If you're recording the meeting, you should say so and provide details from where any relevant privacy notices may be obtained.

Before proceeding with the agenda and / or resolutions, it would be helpful to set out some ground rules for the conduct of the meeting. You may find it helpful if you ask attendees to wait to speak until you give them the opportunity to do so, and to ask them to introduce themselves before speaking.

If the chair becomes aware during the meeting that anyone who has been invited to attend has not been able to, in whole or in part, the chair may:

- continue the meeting;
- declare the meeting void and convene the meeting again;
- declare the meeting valid up to the point where the person was excluded and adjourn the meeting; or
- suspend the meeting for any period up to one hour.

You should follow the agenda and seek decisions on resolutions sought as needed.

For individual attendees who may vote without a proxy, make sure you record how they are voting.

For those voting by proxy, proxies must have accompanying proofs, unless you are content to accept it at a later time (Rule 15.9(2) and 15.28(1)(b)(ii)). Otherwise, the vote must be dis-regarded.

Remember that you and the attendees are in a meeting. Don't be distracted just because participants can't be seen – switch off mobile devices.

It may be wise to explain what may happen if the convenor / chair has to vacate the meeting due to a fire alarm, or other unavoidable interruption, and how the meeting will be re-started.

At the end of the meeting, you may want to summarise the outcome, especially of any resolutions.

c) After the meeting

For virtual meetings, the record of it must be in the form of a minute, and so must comply with SIP 6. The minute must also include the requirements of rule 15.40(4).

Some software allows you to download details of those attending and also of any questions submitted via it, which you can retain as part of the record.