



HM Courts &
Tribunals Service

Justice matters

Evaluation of remote hearings during the COVID 19 pandemic

Research report

Janet Clark, HMCTS

December 2021



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First published 2021



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Acknowledgements

We would like to thank the IFF Research team for their contributions to the public survey and interviews with the public, judiciary and observers, including Lorna Adams, Kelsey Beninger, Henry Allingham, Luke Catterson and Amy Hillel. Particular thanks go to Alex Pearson at IFF research, who authored the findings arising from these strands which have been widely drawn upon for this report.

Thanks to Ramona Franklyn and Jonathan Allen (HMCTS) for their detailed support and guidance at all stages of the project. Thanks also to the team of HMCTS and MoJ researchers who undertook interviews with professionals, including Gemma Owens, Lauren Brett, Susanna Jenkins, Libby Wright, Laya Joseph and Ashleigh Reeves. We would also like to acknowledge Richard Toalster for his contribution to data collection and analysis. Thanks to Mahima Akter (HMCTS) for her work on the analysis of professional surveys.

We would like to thank both anonymous peer reviewers for their suggestions and support during the peer review process.

Final thanks go to all members of the public and professionals who kindly agreed to take part in the survey or interviews.

The author

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Glossary of terms

Appellant	An individual or organisation who appeals a lower court's decision in a higher court or in a Tribunal context the person who is making their case to the tribunal.
Applicant	An individual or organisation who starts proceedings.
Audio Hearing	A hearing where all parties join by telephone.
BSL	British Sign Language
BT MeetMe (BTMM)	A conference call software platform.
Civil Court	Responsible for hearings ranging from quite small or simple claims (e.g. damaged goods or recovery of debt) to large claims between multi-national companies.
Claimant	The individual or organisation that began civil legal proceedings by making a claim against the defendant. In a tribunal context, it can also be the person bringing a claim e.g. of disability discrimination.
Clerk	Administrator who assists the judiciary in court and tribunal hearings.
Cloud Video Platform (CVP)	An internet-based video meeting service which allows all parties involved in remote hearings to join with video and audio from a phone, computer, or tablet, introduced for widespread use to support court and tribunal hearings during the pandemic.
Crown Court	Jurisdiction responsible for hearing serious criminal cases such as murder, rape and robbery.
Defendant	A person accused of committing a crime or the individual or organisation against whom the claimant has made the claim in a civil case.
District Registries	Part of the High Court situated in various districts of England and Wales, dealing with High Court family and civil business out of London.
E- bundle	An organised collection of electronic copies of documents for use at a court hearing.
Employment Tribunal	Jurisdiction responsible for hearing many kinds of disputes between employers and employees, most commonly unfair dismissal, redundancy payments and employment discrimination.

Family Court	Jurisdiction responsible for dealing with family matters such as parental disputes over children's upbringing, financial support for children after relationship breakdowns, decrees relating to divorce, adoption and some aspects of domestic violence.
Fully audio hearing	A hearing where all participants join by phone.
Fully video hearing	A hearing where all participants join by video.
High Court	Jurisdiction responsible for hearing civil cases and appeals against decisions made in lower courts. Encompasses both Queens Bench, Family and Chancery as well as District Registries.
HMCTS	HM Courts and Tribunals Service.
Hybrid Hearing	A hearing in which some of the people involved attend the court in-person and some of them join the hearing remotely by video or audio.
In-person hearing	A hearing held in a courtroom with the Judge, public users, tribunal and legal representatives all attending the court building in-person.
Judiciary	Judges across all jurisdictions.
Legal representatives	Members of the legal profession, namely solicitors and barristers.
Litigants in-person	Public court users representing themselves in their case.
Magistrates court	Jurisdiction responsible for less serious criminal offences such as motoring offences or minor assault. Magistrates' courts will pass the most serious and 'indictable only' offences to the Crown Court.
Observers	People who have observed court cases without active involvement, for example, journalists, family/friends of public users and academics.
Partly audio hearing	A form of hybrid hearing where some participants join by phone and some are present in the court or tribunal.
Partly audio and video hearing	A form of hybrid hearing where some participants join by audio, some by video and some are present in the court or tribunal.
Partly video hearing	A form of hybrid hearing where some participants join by video and some are present in the court or tribunal.
Procedural Justice	The degree to which someone perceives people in authority to apply processes or make decisions about them in a fair and just way.
Professionals	Includes all groups of professionals participating in this study including members of the judiciary, legal representatives, HMCTS staff and support professionals such as interpreters and intermediaries.

Public users	Members of the public using the court and tribunal service, for example appellants, applicants, claimants, defendants, respondents.
Push-to-web survey	A quantitative data collection method in which offline contact modes are used to encourage sample members to go online and complete a web questionnaire. This method is typically used when sampling frames do not include email addresses for all members of the study population.
Queen's Bench	A division of High Court handling very high value disputes including personal injury, negligence, and breach of contract.
Reasonable adjustments	Support to people with disabilities to make sure they can access HMCTS without any barriers. The Equality Act 2010 protects the rights of people living with disabilities. This means HMCTS has a legal duty to offer help and support.
Reform Programme	A programme involving over 50 projects to improve court and tribunal services, bringing new technology and modern ways of working.
Remote hearing	A hearing held where some or all of the parties join by phone or video link. This includes audio, video and hybrid hearings.
Respondent	<p><i>(Legally)</i> A person against whom a claimant brings a claim in an employment tribunal or a party responding to an application made by an applicant in family court.</p> <p><i>(Relating to research process)</i> A person who has answered survey or interviewer questions, in this study, public users of Her Majesty's Courts and Tribunals service, Judges and magistrates, legal representatives, HMCTS staff, intermediaries and support professionals, and observers.</p>
SEND Tribunal	First-tier Tribunal Special Educational Needs and Disability, responsible for handling appeals against local authority decisions regarding special educational needs and provision and claims of disability discrimination in schools.
Special Measures	Special measures are a series of provisions that help vulnerable and intimidated witnesses give their best evidence in court and help to relieve some of the stress associated with giving evidence.
SSCS Tribunal	First-tier Tribunal Social Security and Child Support, responsible for handling appeals against decisions regarding a range of benefits.
Support professionals	Professionals providing support to parties during a hearing – including interpreters, victim support and intermediaries for lay parties.
Support Through Court (STC)	Support Through Court, a charity that provides support for people representing themselves in civil and family cases.

Video Hearing	A hearing where all parties join via video link.
Video Hearing service (VH)	The HMCTS strategic video service which allows parties involved in a hearing to join remotely with video and audio from a phone, computer, smartphone or tablet being introduced as part of the Reform Programme. The service will replace other video platforms during 2022.
VPN	Virtual private network.
Vulnerable Individuals	Public users deemed vulnerable for the purpose of this study due to financial debt, issues with drug or alcohol misuse, domestic abuse, unstable home address or a physical/mental health condition that reduces their ability to carry out day-to-day activities.

Summary

Background

Video links have been used in criminal courts for many years and over time technology has become an increasingly integral part of a modern justice system. Over the course of HM Courts and Tribunal Service's (HMCTS') Reform Programme, there has been an increase in the use of and reliance on communication technologies. As part of the Reform Programme the Video Hearings service (VH) has been developed as the platform to facilitate remote hearings prior to the commencement of the pandemic.

The COVID-19 pandemic resulted in a radical and swift transition to the widespread use of audio and video technology, to allow hearings to take place without all participants being present in court or tribunal buildings. At the start of the pandemic, HMCTS quickly increased the capacity to hold remote hearings. The VH service was not at a stage where it could be used at scale and Cloud Video Platform (CVP) was introduced as a contingency measure, alongside other platforms, to meet the unexpected demand. Under normal circumstances, these changes would have been developed, tested, and rolled out in phases, with a robust evaluation put in place. However, this was not possible due to the speed of the transition.

Following an initial implementation review completed in August 2020 (see Annex A), a large-scale, in-depth evaluation was undertaken with some components being commissioned to IFF Research and other components being undertaken internally by HMCTS researchers.

The evaluation aimed to understand who attended remote hearings, how public users, the judiciary, legal representatives, court and tribunal (HMCTS) staff, observers and support professionals (including intermediaries and interpreters) experienced remote hearings (before hearing, during hearing and shortly after the hearing) and the attitudes of these stakeholders towards remote hearings.

The evaluation involved quantitative surveys with public users, the judiciary, legal representatives and HMCTS staff, qualitative research with a range of public and professional users Table 1.1 shows the number of respondents for each stakeholder group.

Table 1.1 Number of study respondents¹

	Survey respondents	Qualitative interviews
Public users	4,808	78
Judiciary	1,140	32
Legal representatives	2,022	25
HMCTS staff	358	25

¹ Jurisdictional breakdowns can be found in the separate technical appendix report.

Intermediaries/support professionals	n/a	11
Observers	n/a	9
Total	8,328	180

The public user sample was drawn from those who took part in hearings between May and October 2020. Some of the challenges raised in the public user interviews were subsequently addressed through iterative service improvements. The surveys of professionals were conducted in mid-2021 and asked respondents to reflect on changes during the pandemic.

Findings

Contextual overview of hearings

An overview of hearings focusing on the profile of public users from the survey, location of parties during remote hearings, platforms and devices used for remote hearings, hearing length and experiences of training and guidance. Key findings:

- **The likelihood of attending a hearing remotely was heavily influenced by jurisdiction** for the period of the study (May to October 2020). Most Crown and magistrates' court users attended in-person (87% and 91% respectively). In contrast, most SSCS and family court users attended remotely (96% and 86% respectively). There were higher rates of litigants in-person amongst public users attending remote hearings (65%, compared with 34% of those that attended in-person).
- **The majority of public users attended remote hearings from home (79%) and where represented, they were rarely co-located with a legal representative** which made it harder to communicate during the hearing. Since January 2021, around two-thirds of judges (64%) and legal representatives (71%) attended hearings from home whilst only 10% of HMCTS staff supported remote hearings from home. All groups were less likely to be based at home in the later stages of the study period than at the beginning.
- **Four-fifths of legal representatives (78%) stated their preference during the pandemic was to work from their home** and three-fifths (59%) said they would still prefer to work from home post pandemic.
- **Cloud Video Platform (CVP) was the most commonly used video platform.** Most professionals had access to more than one device which assisted with communication with other parties and the management of e-bundles. Public users were less likely to have access to a second device which created challenges with both communication and e-bundles. The management of e-bundles was a challenge for some professionals with 26% of judicial respondents and 17% of legal representatives reporting navigation and access challenges during hearings.
- Around six in ten judicial respondents (62%) and HMCTS staff (57%) recalled receiving training and guidance on remote hearings compared to two in five legal representative respondents (42%). Judicial respondents (71%) and legal representatives (68%) were more satisfied with the training than HMCTS staff (54%). **Information on interpreters, signers**

and intermediaries in remote hearings was frequently identified as an area not included in the training and guidance that would have been useful.

Pre-hearing

Pre-hearing experiences including insights on: what informs the decision to have a remote or in-person hearing; initial public user perceptions about remote hearings; public access to remote hearings; reasonable adjustments and special measures; pre-hearing information and guidance; and pre-hearing preparation and communication for parties. Key findings:

- In some cases, the decision to use remote hearings was driven by a jurisdictional approach whereas in other jurisdictions the judge made the decision. Where judges had scope to decide whether a hearing was held remotely, the judicial survey indicated that **perceived vulnerability of parties was by far the most important factor in influencing the decision**. Other factors influencing their decisions were likely hearing length and complexity; severity of case and therefore potential seriousness of outcome; stated preference of public users; and health considerations.
- **Professional observers, such as reporters and academics, reported difficulties with accessing remote hearings in the early stages of the pandemic (Spring 2020) but it was widely felt that access for professional observers had improved as time went on.** This was attributed to improvements in the availability and accuracy of listing information and due to court staff having a better understanding of remote hearing processes.
- Public users that attended in-person were slightly more likely than those that attended remotely to have additional support needs (16% compared with 11%) which reflected evidence that some hearings were changed to in-person if support needs were identified. **Two-thirds (68%) of public users making a request for reasonable adjustments said their request was granted.** The professional surveys found that around half of judicial respondents (48%) and HMCTS staff (49%) and around two thirds of legal representatives (63%) were satisfied that it was possible to put special measures in place for remote hearings. A similar pattern was found for reasonable adjustments with 50% of judicial respondents 51% of HMCTS staff and 63% of legal representatives being satisfied that it was possible to put reasonable adjustments in place for remote hearings. **Some professionals were concerned that requests were being dealt with too late and others felt the need for more information and guidance in this area.**
- Most public users attending a remote hearing (80%) recalled receiving guidance on how to participate in the hearing which they generally found easy to follow (87% of those receiving guidance). **Receipt and quality of guidance appears to have had some impact on whether participants required support and the level of technical issues they experienced.** Those who experienced technical issues during remote hearings were less likely to have had pre-hearing instructions (76% compared to 90% of those without technical issues). Similarly, those who required technical support were less likely to have received pre-hearing guidance (76% vs 80% of those who did not require technical support). Receiving the link in good time, being offered the opportunity to test connections ahead of the hearing and details of a contact for support during the hearing were viewed as valuable.
- **Those attending remotely and in-person who were represented, were equally likely to feel they had sufficient time with their legal representative before the hearing (74% and 72% respectively).** However, some legal representatives and support professionals

said they found it takes more time and is more challenging to build rapport with clients remotely. For legal representatives with clients in custody, pre-hearing communication was reliant on the client being provided with either a phone or being brought to a booth and for the connection to the legal representative to be made. **Legal representatives also commented that informal out of court conversations with the other side do not occur naturally with remote hearings and the potential to resolve issues ahead of the hearing is therefore reduced.**

During hearings

Experiences during remote hearings including technical experiences and support, introductions and explanations of ground rules, communication, working with interpreters, and wellbeing.

Key findings:

- **One in five remote hearing public users experienced issues with technology.** Those that attended by video were more likely to experience technical issues than those that attended by audio (30% compared with 15%). **The main issues for all groups were inconsistent audio quality and people being disconnected. These issues made some hearings take longer and made it more difficult for court users to contribute and follow what was happening.** Despite these issues, there were few court adjournments due to technology issues reported across all groups. Judicial respondents were more likely to report that they experienced technical issues in over half of their hearings (26%) compared to legal representatives (10%) and HMCTS staff (11%). Connection dropping out or freezing was the most frequently reported major problem (44% of judicial respondents, 35% of HMCTS staff and 16% of legal representatives).
- **Only a handful of public users reported having difficulties accessing the platform used for their remote hearing.** However, where difficulties with access were encountered these were often quickly resolved through support and guidance provided by court staff and legal representatives.
- **Around half of judicial survey respondents (48%) and a quarter of legal representatives (25%) had needed technical support in some of their remote hearings,** with the majority needing support in less than a quarter of hearings. The majority of those receiving support from HMCTS staff were satisfied with it.
- **Public users and observers had better experiences when they understood what to expect from the judge's introduction.** Formal introductions, with ground rules and housekeeping for the hearing, helped users feel reassured and more able to contribute at the right time.
- **Of public users represented by a legal representative, those attending in-person hearings were more likely than those attending remotely to report that it was easy to communicate with their legal representative in the hearing (57% compared with 46%). Vulnerable individuals who accessed their hearings remotely were particularly less likely to have found it easy to communicate with their lawyer (41% disagreed that was easy compared with 29% of those not classed as vulnerable).** Two thirds of legal representatives felt that they were able to communicate effectively with their clients. Having access to a second device and pre-arranging communication methods was important to facilitate private communication with parties during hearings.

- Seven in ten judicial respondents (70%), two-thirds of HMCTS staff (64%) and half of the legal representatives (47%) who had participated in remote hearings involving interpreters said there were difficulties due to the hearing being remote. **The most common problems were the interpreter or signer not being visible to their client, not being audible or using the phone. Hearings with an interpreter were reported to take longer which needs to be reflected in the scheduling.** It is important to provide the opportunity in a remote hearing for the interpreter to familiarise themselves with the person they are interpreting for and to understand the context of the hearing.
- **Legal representatives and support professionals commented that there was often a lack of communication about delays and cancellations of remote hearings.** A third of legal representatives (36%) reported being dissatisfied and commented that lack of information about delays can be a major factor contributing towards a stressful experience for their clients.
- **Around three in five (58%) judicial respondents felt that remote hearings impacted on their health and wellbeing.** Increased fatigue was the most commonly reported issue followed by increased stress, increased workload and fewer breaks. Just over half of legal representatives (54%) felt that remote hearings impacted on their health and wellbeing. Reduction in travel and waiting times was significant for many but some said that they found remote hearings more tiring, missed the interaction in court and found work/home boundaries more challenging. HMCTS staff were least likely to report that remote hearings impacted on their health and wellbeing (43%). They were most likely to cite increased workload and stress, closely followed by fewer breaks and fatigue as the main challenges.

Views and attitudes

Views and attitudes including public satisfaction, channel and platform preferences, procedural justice, replicating the court environment, attitudes and behaviours during remote hearings and views about the future use of remote hearings. Key findings:

- **Public users that attended remotely were more likely to be satisfied with the overall experience of their hearing than in-person users;** 63% of remote hearing users were satisfied with their overall experience compared with 56% of in-person users. Those who joined via video were particularly likely to be satisfied with their overall experience (67%) compared to those who joined via audio (60%). Drivers for satisfaction were strong judge moderation, comfort and security of joining from home, less travel time and costs, time off work and childcare needed. Legal representatives had stronger preferences for remote hearings (35%) compared to judges (13%) and HMCTS staff (15%).
- **For remote hearings, all professionals preferred fully remote hearings and CVP was the most popular platform** (57% for judiciary and HMCTS staff and 41% for legal representatives) followed by Teams (25% for judiciary, 37% for legal representatives and 26% for HMCTS staff). Sign language interpreters generally had a strong preference for Zoom because of the functionality and control that it offers for pinning, spotlighting and highlighting which is important to ensure a clear view of those signing.
- Public users typically felt able to understand what was happening during their hearing (79%), understand the outcome of their hearing (81%), express their views in their hearing (59%) and felt that their views were considered (59%). **Those attending a remote hearing**

were more likely than those who had attended in-person to agree they were able to express their views (62% compared with 55%), and that their views were considered (61% compared with 56%). Those who experienced technical difficulties during remote hearings were less likely to understand what was happening in the hearing and the outcome than those who had not experienced technical difficulties (65% and 69% compared with 85% and 84%). There was no difference between remote and in-person users in their views on effectiveness and fairness.

- **Public users who attended by video (84%) were more likely than those that attended by audio (79%) to agree that their hearing felt appropriately formal and official.** Interviews with public users identified that less formality was welcomed by some and not being at the court put them more at ease whilst the judge played an important role in setting the tone of the court.
- **Around half of judges thought remote hearings were effective at creating a comparable environment to in-person hearings (51%), but four in ten thought they were ineffective in doing so (37%).** Legal representatives and HMCTS staff were more likely to consider that remote hearings were effective at creating a comparable environment (69% and 62% respectively).
- Legal representatives were less likely to consider that there was a difference in public users' attitudes or behaviour in remote hearings compared to judges and HMCTS staff (36% compared with 61% and 67% respectively). **A reduction in formality was the most significant change observed by all professional groups. Reductions in perceived levels of concentration and respectfulness were also commonly observed** by professional respondents whilst punctuality was considered to be a less significant issue for those attending remote hearings.
- Users most commonly indicated a preference to repeat the hearing format they had experienced should they attend another hearing. **Two thirds of public users (67%) felt remote hearings were an acceptable alternative during the pandemic, and over half (56%) felt they would be acceptable afterwards.** Those who had experienced a remote hearing were particularly open to the idea of them continuing, and indeed would mostly prefer to repeat a remote hearing rather than attend in-person. Professionals felt remote hearings had played an important role in reducing the potential backlog but there was a much wider range of views about the use of remote hearings in a post-pandemic environment. The type of hearing, severity of the case, support needs of the parties and length of the hearing were all factors that could influence the suitability of the use of remote hearings.

Conclusions

This chapter draws conclusions against the evaluation questions which consider if remote hearings work for all jurisdictions and user groups, whether users need extra support during remote hearings and if remote hearings are viewed as fair and appropriate. Conclusions are drawn using findings from the previous chapters of the report and identify areas for potential development that could improve users' experiences.

Introduction

Background

HM Courts and Tribunal Service (HMCTS) reform is a programme of change bringing modern technology and new ways of working to the courts and tribunals system with the aim of delivering a system that is just, proportionate and accessible. HMCTS reform is a large and complex programme, made up of over 50 separate projects. An overarching evaluation framework has been developed to cover the programme with individual project evaluations providing evidence for the overarching evaluation.²

Video links have been used in criminal courts for many years³ and over time technology has become an increasingly integral part of a modern justice system. Over the course of HMCTS' Reform Programme, there has been an increase in the use and reliance of communication technologies. As part of the Reform Programme, the Video Hearings service (VH) is being developed as a platform to support remote hearings and deliver the HMCTS vision to support the judiciary to conduct hearings with their preferred combination of remote and physically present participants by providing capable and effective audio-video technology, enabling justice unrestricted by physical location.

The COVID-19 outbreak resulted in a radical and swift transition to the widespread use of audio and video technology, to allow hearings to take place without all participants being present in court or tribunal buildings. This transition was necessary to support the ongoing delivery of justice whilst maintaining government requirements for social distancing and the need for some individuals to isolate. From the start of the first UK lockdown in March 2020, HMCTS quickly increased the capacity to hold remote hearings and this included the use of Cloud Video Platform (CVP) which was introduced as a contingency measure alongside other platforms to meet the unexpected demand. Under normal circumstances, these changes would have been developed, tested, and rolled out in phases, with a robust evaluation put in place, as is the plan for VH. However, this was not possible due to the speed of the transition.

A range of formats for remote hearings evolved during the pandemic. Remote hearings include those conducted by either telephone or video conference and hybrid hearings. A hybrid hearing is one that involves a combination of in-person and remote participants. Telephone hearings (also referred to as audio) are principally used for simpler procedural hearings, while video conferencing platforms are used for more substantial or complex hearings, including some case management hearings and applications/motions, as well as trials and appeals in some cases. In some instances, some participants may also join a video hearing by audio-only.

For a remote hearing, typically the court will send all the parties a link or dial-in details, together with any associated passwords, to join. For video hearings, a range of conference platforms have

² [HMCTS Reform Evaluation Framework \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

³ Section 51 of the Criminal Justice Act 2003 enabled the court to allow witnesses (other than the defendant) in the United Kingdom to give evidence by live link if the court was satisfied that giving evidence in this way was in the interests of the efficient or effective administration of justice.

been used. The most frequently used is Cloud Video Platform (CVP) which is an off-the-shelf video conferencing product. An existing contract was in place prior to the pandemic, which enabled it to be used for the quick scale up to support judges and HMCTS staff to hold remote hearings from the early stages of the pandemic. It was adapted to include an audio recording solution and a landing page.

Between April and August 2020, HMCTS undertook an implementation review to understand user experiences of remote hearings, and quickly collect feedback to develop and improve the process iteratively. A summary of this review can be found in Annex A. This was followed by a large-scale, in-depth evaluation of the experience of remote hearings across a range of user groups to understand how well they have worked and to inform operational processes for hearings conducted over the remainder of the pandemic and beyond.

HMCTS commissioned IFF Research by public tender to undertake a public user survey and carry out interviews with judges, members of the public and observers to learn from those who had participated in the hearings. This fieldwork took place between November 2020 and April 2021. This was complemented by research carried out internally by HMCTS researchers which included surveys of legal representatives, the judiciary, court and tribunal service (HMCTS) staff and interviews with legal representatives, court and tribunal staff, magistrates and professionals supporting public users to take part in hearings. The internal fieldwork took place between March and June 2021. The evaluation aimed to provide valuable evidence for informing operational processes for remote hearings conducted in the later stages of the COVID-19 pandemic and the future use of remote hearings.

Evaluation aims

The evaluation sought to understand who attended remote hearings, how public users, the judiciary, legal representatives, HMCTS staff, intermediaries/support professionals and observers experienced remote hearings (pre-hearing, during hearing and shortly after the hearing) and the attitudes of these audiences towards remote hearings. The specific objectives were to:

- Detail the profile and characteristics of public users attending remote hearings.
- Describe the operation of the hearings - technology used, representation and adjustments made.
- Identify whether any technical issues were experienced and how these were handled.
- Explore public users' and professional users' overall experiences of the process, and their perceptions, preferences and satisfaction with it.

Evaluation approach

The evaluation involved quantitative surveys with public users, the judiciary, legal representatives and HMCTS staff and qualitative research with a range of public and professional users. Figure 2.1 summarises the range and number of stakeholders who participated, and methods used.

Figure 2.1 Evaluation approach overview

Surveys	In depth interviews
<ul style="list-style-type: none"> • Public users (4,808) <ul style="list-style-type: none"> ○ 3,334 attending remote hearings ○ 1,474 attending in person hearings • Judiciary (1,140) • Legal representatives (2,022) • Courts and tribunal staff (358) 	<ul style="list-style-type: none"> • Public users (78) • Judges (22) • Magistrates (10) • Legal representatives (25) • Courts and tribunal staff (25) • Support professionals and intermediaries (11) • Observers (9)

Quantitative survey of public users

Public users that attended in-person hearings were surveyed alongside those that attended remote hearings to provide a point of comparison. A combined push-to-web and telephone approach was used. The data collected in the survey of public users was weighted to make it representative of the underlying population. Weighting the data was necessary because of a deliberate decision to overrepresent some audiences to allow for robust statistical analysis between sub-groups and to correct for non-response bias. A total of 4,808 respondents took part and of these 3,334 had taken part in remote hearings and 1,474 had taken part in in-person hearings.

Quantitative surveys of professional groups

Three separate web surveys were designed for the judiciary, legal representatives and HMCTS staff targeting those that had experience of remote hearings. The surveys were promoted through professional bodies and networks and were live for a three-week period. A total of 3,520 respondents across the three professional groups responded (1,140 judicial office holders, 2,022 legal representatives and 358 HMCTS staff).

Qualitative interviews

Qualitative interviews were conducted with public users, members of the judiciary, legal representatives, HMCTS staff, intermediaries/support professionals and observers. Across all audiences, interviews were conducted remotely by telephone or video call (e.g. via Microsoft Teams). Due to fieldwork taking place during the COVID-19 pandemic, it was not possible to conduct qualitative interviews face-to-face. Participants were only recruited for qualitative interviews if they had attended a hearing or tribunal that involved remote attendance. In total, 180 qualitative interviews were conducted across the different groups.

Because of the scale and emergent nature of the study, data for different components of the research were collected over different timelines. Table 2.1 provides a summary of the timelines for each component along with the purpose and any recall periods.

Table 2.1 Summary of fieldwork and sampling/recall periods, and aims for research components

Component	Fieldwork	Sampling/recall period	Aim
Public user interviews	November 2020- April 2021	Drawn from a sample of public users attending remote hearings between May 2020 and October 2020.	To gather qualitative data on process, experience, understanding and satisfaction of those attending remote hearings
Observer interviews	November 2020- February 2021	Drawn from a sample attending remote hearings from March 2020 – February 2021	To gather qualitative data on hearing experiences from professional observers, such as journalists, academics and third sector professionals, and friends and family of public users.
Judicial interviews	November 2020 – February 2021	Drawn from a sample who had heard remote hearings from March 2020 – February 2021	To capture qualitative data on views and experiences of judicial office holders who had heard hearings remotely during the pandemic.
Public user survey	Jan 2021- March 2021	Drawn from a sample of public users attending remote or in-person hearings between May 2020 and October 2020	To gather quantitative information on process, experience, understanding and satisfaction and compare in-person and remote experiences.
Professional interviews: - magistrates - legal professionals - court and tribunal staff - support professionals	March 2021- June 2021	Asked questions about experiences from March 2020 to the time of the interview and considered changes in experience over time	To capture qualitative data on views and experiences of: - magistrates who had heard remote hearings - legal professionals who had participated in remote hearings - court and tribunal staff - support professionals who had supported remote hearings during the pandemic.
Professional surveys - judicial office holders - legal professionals - court and tribunal staff	May 2021- June 2021	Asked questions about experiences from March 2020 to the time of survey completion and considered changes in experience over time	To capture quantitative information on views and experiences of: - judicial office holders who had heard hearings remotely - legal professionals who had participated in remote hearings - court and tribunal staff who had supported remote hearings during the pandemic.

Further detail on the methodological approach to all elements of the fieldwork is included in the separate technical appendix.

Limitations

The scale of the fieldwork meant that it took place over a significant time period whilst the remote hearings landscape was rapidly evolving. The public user sample was drawn from those who took

part in hearings between May and October 2020. Some of the challenges raised in these interviews have subsequently been addressed through iterative service improvements. The surveys of professionals were conducted in mid-2021 and asked respondents to reflect on changes during the pandemic to address this issue. This time differential for the public and professional surveys and the fact that the questions differ, limits any opportunity to compare data between public and professional survey responses.

The quantitative surveys and qualitative interviews covered a wide range of jurisdictions. However not all jurisdictions were covered in all elements of the fieldwork. In the public user survey, civil appeal hearings and immigration and asylum tribunals were omitted from the sample frame because of a shortage of available postal addresses for public users in these jurisdictions in HMCTS Management Information (MI). Without postal addresses it would not have been possible to invite public users in these jurisdictions to participate in a survey or qualitative interview. Similarly, some other types of tribunals (such as land, pensions appeal and mental health review tribunals) were omitted due to a low number of hearings taking place in the sampling window.

Although the public user survey covered a range of different jurisdictions, the response rate by jurisdiction varied considerably and was very low in some cases. This generally reflected the nature of contact details available. For some jurisdictions that were included in the research, only postal addresses were available while others had addresses, telephone numbers and e-mail addresses. There was an attempt to correct for non-response bias using weighting at the analysis stage, but there were very few variables on the MI that could be used for this purpose so there is a possibility of non-response bias in the results that cannot be measured.

The public user survey captured responses from those attending remote hearings and those attending in-person hearings. Judicial decisions about whether a hearing is heard remotely or in-person are based on a range of factors including vulnerability, which means that the two groups are not likely to be completely comparable.

The judicial, legal representative and HMCTS staff surveys were open to all members of those groups to complete. Survey links were promoted through professional bodies and networks, rather than sent to a randomly selected sample. Survey respondents were therefore self-selecting and may not be representative of the respective wider populations. These survey findings should therefore be regarded as representative only of their respondents' views, not of the wider populations of judicial office holders, legal representatives, or HMCTS staff. Jurisdictional differences are presented throughout the report. These should also be regarded as representative of the respondents' views only. Some respondents reported that they sat or worked across multiple jurisdictions. They have not been included in jurisdictional comparisons because they are not a distinct group and overlap with the different jurisdictions.

It is important to recognise that the pandemic has created dynamics which may influence participants' views about remote hearings. For example, satisfaction with remote hearings during lockdown may have been positively influenced by the perceived safety benefits of being able to remain at home. In an attempt to explore this, questions were asked about the suitability of remote hearings both within and beyond the pandemic. However, this limitation should be noted.

At the outset of the evaluation IFF Research aimed to conduct qualitative interviews with victims and witnesses that attended hearings remotely. However, it was not possible to achieve this as attempts to publicise the research through relevant support services did not result in any interviews.

This report

Chapter 3 provides a contextual overview of hearings focusing on the profile of public users, location of parties during remote hearings, platforms and devices used for remote hearings, hearing length and experiences of training and guidance.

Chapter 4 focuses on pre-hearing experiences and includes insights on what informs the decision to have a remote or in-person hearing, initial public user perceptions about remote hearings, public access to remote hearings, reasonable adjustments and special measures, pre-hearing information and guidance and pre-hearing preparation and communication for parties.

Chapter 5 focuses on experiences during remote hearings including technical experiences and support, introductions and explanations of ground rules, communication, working with interpreters and wellbeing.

Chapter 6 focuses on views and attitudes including public satisfaction, channel and platform preferences, procedural justice, replicating the court environment, attitudes and behaviours during remote hearings and views about the future use of remote hearings.

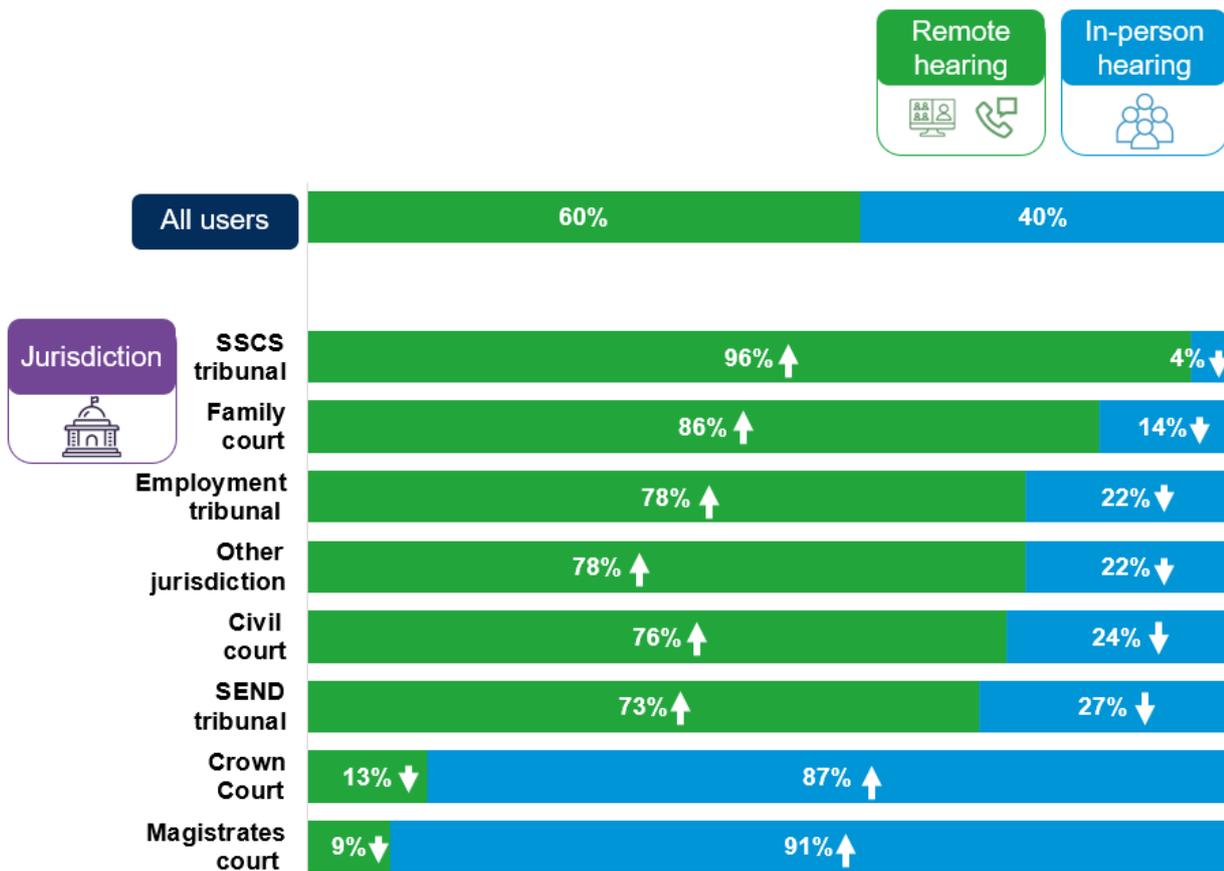
Chapter 7 draws conclusions against the evaluation questions which consider if remote hearings work for all jurisdictions and user groups, whether users need extra support during remote hearings and if remote hearings are viewed as fair and appropriate.

Contextual overview of hearings

Profile of public users

As shown in Figure 3.1, three in five public users surveyed (60%) attended their hearing remotely, compared to 40% who attended in-person. The likelihood of attending a hearing remotely was heavily influenced by jurisdiction. Most Crown and magistrates' court users attended in-person (87% and 91% respectively). In contrast, most SSCS and family court users attended remotely (96% and 86% respectively).

Figure 3.1 Whether public users accessed hearings remotely or in-person, by jurisdiction



Base: All public users (4,808); public users that attended SSCS tribunal hearings (333) family court hearings (1,601), employment tribunals (421), other jurisdictions (186), civil court hearings (1,100), SEND tribunal hearings (295), Crown Court hearings (385), magistrates court hearings (477). C1: How did you take part in your hearing?

There was no marked difference in demographic characteristics like disability, long-term health conditions, sexual orientation and vulnerability in the likelihood to have attended a hearing remotely. Differences in the profiles of those who attended remotely compared to in-person were largely driven by jurisdiction. Those who attended remote hearings were more likely to have the following characteristics (compared to those attending in-person hearings). This is largely because these groups were more likely to have attended family or civil hearings.

- Female: (44% of those who attended remote hearings were female compared with 25% of those who attended in-person hearings)
- Aged 35 to 44: (27% of those who attended remote hearings were aged 35-44 compared with 19% of those who attended in-person hearings)
- Representing a business or organisation: (13% of those who attended remote hearings were representing a business or organisation compared with 6% of those who attended in-person hearings)
- Caring responsibilities: (47% of those attending remote hearings were the main carer for a child compared with 27% of those who attended in-person hearings)
- No limiting health conditions: (69% of those attending remote hearings had no limiting health conditions compared to 62% of those who attended in-person hearings)
- Victim of domestic abuse: (12% of those attending remote hearings were victims of domestic abuse compared to 5% of those attending in-person hearings)
- In employment: (61% of those attending remote hearings were employed compared to 53% of those attending in-person hearings)
- Hold a degree level qualification (40% of those attending remote hearings held a degree level qualification compared to 26% of those attending in-person hearings).

Litigants in-person are public users who represent themselves in a case. Public users that attended remote hearings were more likely to be litigants in-person (65% compared with 34% of those that attended in-person). Of those that attended by audio, three-quarters (74%) were litigants in-person. Among those that attended by video, around half (53%) had legal representation. Public users were less likely to represent themselves at remote hearings in crown court (17%) and magistrates court (36%) compared to other jurisdictions (53%-89%). The higher likelihood for public users to represent themselves in remote hearings is, at least in part, a reflection of the variation in the likelihood for hearings to be conducted remotely between jurisdictions.

Remote hearings were mostly accessed via audio (e.g. by telephone or BT MeetMe). Over two thirds (68%) of remote users accessed their hearing via audio, with 32% using video. Remote users of SSCS tribunals, civil courts and family courts were particularly likely to have used audio to access their hearing. Those who attended remote Crown and magistrates' hearings were particularly likely to have used video.

Location of parties

Most public users who accessed their hearing remotely did so from their own home (79%), with a further 3% at someone else's home **Error! Reference source not found.** A tenth (10%) were at their workplace and 2% at their lawyer's workplace. A fifth (22%) of public users who remotely attended a magistrates' court or Crown court were in police custody. Public users who remotely attended a magistrates' court or Crown court were also more likely to have been at their legal representative's place of work (6% compared with 2% overall). Table 3.1 shows the differences for public users in hearing type and access by jurisdiction, legal representation and vulnerability.

Table 3.1 Hearing types and access differences by sub-groups of remote public users

Sub-group	Differences
Jurisdiction	<p>Over four-fifths of remote users at SEND tribunal (91%), SCS tribunal (90%) or family court hearings (84%) attended from home. This compares to only 54% of those with hearings at magistrates' courts or the Crown court being at home.</p> <p>Those who remotely attended a magistrates' court or Crown court were especially likely to have been in police custody (22% compared to less than 1% of other jurisdictions). They were also more likely to have been at their lawyer's place of work (6% compared to 2% overall).</p> <p>Users of civil courts or employment tribunals were particularly likely to be in their workplaces (17% and 19% respectively compared to no more than 5% for any other jurisdiction).</p>
Legal representation	<p>Public users with legal representation were less likely to have attended remotely, less than half (44%) did so compared to around three quarters of those who were litigants in-person (74%). This reflects the finding that remote hearings were more common in jurisdictions where litigants in-person were more prevalent.</p> <p>Public users that attended remotely with legal representation were more likely than litigants in-person to have attended their hearing via video (49% compared 23%). Meanwhile litigants in-person that attended remotely were more likely than those with legal representation to attend by audio (77% compared to 51%).</p> <p>A third (33%) of those represented by a lawyer accessed their remote hearing via a laptop compared to around half this proportion (13%-15%) amongst those who were litigants in-person.</p> <p>Those who attended remote hearings as a litigant in-person were more likely to have used a mobile (68% compared to 49% of those represented by a lawyer).</p>
Vulnerable individuals⁴	<p>Overall, those classed as vulnerable individuals were slightly less likely to have attended their hearing remotely (58% did so compared to 62% of those not vulnerable). However, there is considerable variation by the nature of vulnerability. Victims of domestic abuse were far more likely to have attended remotely than those with drug or alcohol misuse issues (78% compared to 18%).</p> <p>This reflects the likelihood of those who attended hearings in particular jurisdictions to have specific vulnerabilities – 78% of SCS tribunal users (who nearly all attended remotely) had limiting health conditions compared to 21% of all users. 28% of family court users (who also largely attended remotely) were victims of domestic abuse compared to 10% of all users, whilst 10% of magistrates' court users (who largely attended in-person) had drug or alcohol issues compared to 3% of all users and 35% had limiting health conditions compared to 21% of all users.</p>

⁴ Public users deemed vulnerable for the purpose of this study due to financial debt, issues with drug or alcohol misuse, domestic abuse, unstable home address or a physical/mental health condition that reduces their ability to carry out day-to-day activities.

	<p>Vulnerable individuals who attended their hearing remotely were particularly likely to have done so via audio (72% compared to 66% of those not classed as vulnerable). It should be noted however that SSCS tribunal users have a high proportion of vulnerable users and predominately use audio platforms. Vulnerable users were particularly likely to have been at their own or someone else's home (86% of all vulnerable individuals, rising to 90% of domestic abuse victims, compared to 80% of those not vulnerable). They were particularly likely to have used a mobile (67%, rising to 73% of domestic abuse victims, compared to 58% of those not classed as vulnerable) and were less likely to have used a laptop (17% compared to 24%).</p>
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Table 3.2 shows that since January 2021 around three in five judges who responded to the survey (64%) have attended hearings from home and around three quarters of legal representatives (71%) attended from home. In contrast, only one in ten of HMCTS staff (10%) supported remote hearings from home with half (51%) being located in a courtroom and a further quarter (24%) being located in an office. Legal representatives were never or rarely co-located with their clients, who were most often appearing from their own homes. Most groups were less likely to be based at home in the later stages of the study than at the beginning.

Table 3.2 Location of professionals at different stages of the pandemic

	In a courtroom or tribunal for most/all hearings	At home for most/all hearings	In an office for most/all hearings	In a meeting room for most/all hearings	Location has varied	Other	Base (=all respondents)
During COVID-19 initial stages (March to June 2020)							
Judiciary	20%	72%	2%	0%	5%	1%	892
Legal representatives	4%	85%	5%	1%	5%	0%	1,693
Court and tribunal staff	53%	19%	17%	1%	9%	1%	262
During the mid-stages (July to December 2020)							
Judiciary	25%	62%	3%	0%	10%	0%	1,060
Legal representatives	4%	76%	9%	1%	10%	0%	1,831
Court and tribunal staff	52%	9%	26%	1%	12%	1%	317
Most recently from January 2021 to present							
Judiciary	23%	64%	4%	0%	9%	0%	1,101
Legal representatives	5%	71%	10%	1%	13%	0%	1,861
Court and tribunal staff	51%	10%	24%	1%	14%	1%	343

Percentages exclude responses of 'not applicable'.

Four-fifths of legal representatives (78%) stated their preference during the pandemic was to work from their home. When asked about their preference for hearings post-pandemic, three-fifths of legal representatives (59%) still preferred to work from home, and a fifth (20%) said they would prefer to be located in a courtroom.

Although the legal representatives survey identified a preference for remote working, the interviews identified a number of challenges with working remotely from their clients. They commented that

when they are not co-located it is much harder to take instructions from clients, harder to judge if a client is upset and harder to manage situations where the client is talking too much or behaving inappropriately. Magistrates also supported this view that legal representatives should be co-located with their client, especially in cases where parties only have access to one device.

Jurisdictional differences for professionals - location

- Judges sitting in crime were more likely to be based in court for most or all hearings at each stage (March 2020 to end of June, 68% compared to 7%-39% in other jurisdictions; July 2020 to end December 2020, 75% compared to 8%-55% in other jurisdictions, and since January 2021, 81% compared to 5%-53% in other jurisdictions)
- Judges sitting in tribunals were more likely to be based at home for most or all hearings at each stage (March 2020 to end of June, 88% compared to 27%-46% in other jurisdictions; July 2020 to end December 2020, 83% compared to 17%-24% in other jurisdictions and since January 2021, 88% compared to 13%-23% in other jurisdictions)
- Legal representatives had reduced the amount of hearings attended from home over time across all jurisdictions apart from those working in tribunals where the percentage of those working mainly from home has remained constant. (79%-80%)
- There was jurisdictional divergence from legal representatives on their preferences of location for hearings post pandemic, with those working in crime having much stronger preferences for working from home (73% compared to 37%-59% in other jurisdictions) and those working in tribunals having stronger preferences to be in court with their client (36% compared to 12%-20% in other jurisdictions).

The interviews with professionals identified some rare examples of public users joining the hearing from locations that were not considered appropriate, such as parks, walking down a street, driving up a motorway, in a public phone box and on a plane. In all these cases it was necessary to adjourn the hearing. Public users joining from a car was another reported scenario which may be due to their home situation not being suitable. Some public users may be living in environments with shared facilities and few rooms which can make it difficult to be in a room alone for a hearing where they share living space with others. Some judges raised concerns that public users may not be on their own in the room and asked the individual to move their camera so that the judge could see around the room to check that they were alone.

The public user survey showed that overall, 19% of public users had concerns about privacy during their hearing. Concerns were more prevalent amongst those who attended in-person than those who attended remotely (23% concerned compared with 17%) and amongst those that attended family court hearings (24%) or magistrates' or Crown Court (26%) hearings. Interviews with public users highlighted that remote users felt being in their own home helped them to feel safer, less anxious, and more comfortable. Table 3.3 shows the differences for public users in concerns about privacy and safety by jurisdiction and vulnerability.

Table 3.3 Concerns about privacy and safety: sub-group differences for public users

Sub-group	Differences
Jurisdiction	Those who attended family court (24%) or magistrates' or Crown court (26%) hearings remotely were especially likely to have concerns about privacy compared to between 11% and 13% of remote users of other jurisdictions. There was little difference between remote users by jurisdiction in terms of concerns about personal safety, those who attended family courts remotely were a little more concerned (8% compared to 6% overall).

Vulnerable individuals	Amongst remote users, vulnerable individuals were more likely to have been concerned about their privacy (24% compared to 12% of those not classed as vulnerable) and / or safety (10% compared to 3%).
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Platform use

The public user survey found that Cloud Video Platform (CVP) was the most commonly used software amongst those who accessed their remote hearing via video (42%). Microsoft Teams and Skype were also used by sizeable numbers who had attended their remote hearings via video (20% and 14% respectively). Since the survey was completed there has been a move away from the use of Skype across HMCTS.

The majority (80%) of public users that took part in audio hearings reported that they did not use a software platform to do so, but rather joined by telephone. Where those that took part in audio hearings were able to identify the software platform used, BT MeetMe was the most common (11%). A minority (4%) of public users that took part in audio hearings reported using platforms with video conference capabilities.

Table 3.4 shows that almost all judicial respondents had used CVP (88%), around half had used BT MeetMe (52%) and two in five had used Teams (38%). Legal representatives showed use of a broader range of platforms and had used CVP (79%), Teams (67%), BT MeetMe (49%), Skype (43%) and the Video Hearings service (VH) which was being introduced gradually (26%). Corresponding proportions for HMCTS staff were CVP (86%), Teams (49%), BT MeetMe (50%), Skype (37%) and VH (5%).

Table 3.4 Platforms used for remote hearings for professionals

	Judiciary	Legal representatives	Court and tribunal staff
Cloud Video Platform (CVP)	88%	79%	86%
BT MeetMe	52%	49%	50%
Skype	18%	43%	37%
Teams	38%	67%	49%
HMCTS Video Hearings service	13%	26%	5%
Other	7%	14%	7%
<i>Base (=all respondents)</i>	1,120	1,910	348

Respondents could select more than one answer, and responses do not therefore sum to 100%

Jurisdictional differences for professionals - platform use
<ul style="list-style-type: none"> • Whilst CVP was most commonly used across all jurisdictions, BT MeetMe and Teams were much more widely used in civil and family courts than other jurisdictions. • Amongst the judiciary sitting in: <ul style="list-style-type: none"> ○ Tribunals - 91% had used CVP, 43% had used BT MeetMe and 21% had used Teams ○ Crime - 82% had used CVP, 46% Teams and 22% BT MeetMe ○ Civil and Family - 89% had used BT MeetMe, 82% CVP and 74% Teams.

- Amongst the legal representatives working in:
 - Tribunals - 53% had used CVP, 32% had used BT MeetMe and 29% had used Teams.
 - Crime - 96% had used CVP, 51% Teams and 7% BT MeetMe
 - Civil - 77% had used Teams, 74% BT MeetMe and 54% CVP
 - Family - 91% had used Teams, 87% CVP, and 82% BT MeetMe.

Use of devices

The top three devices used by public users attending remote hearings were mobile phone (61%), laptop (21%) and landline phone (10%). Interviews with all groups highlighted the value of having more than one device available during a hearing to enable private communication with other parties during the hearing. The surveys with professionals showed that 70% of judicial respondents and HMCTS staff had access to two or more devices during a typical remote hearing.

Interviews highlighted that when working from home, magistrates are reliant on using their own devices and raised concerns over the lack of clarity about where to store files when working on their own devices. HMCTS staff generally worked on laptops and phones. Laptops were considered to be more functional than PCs because they enabled staff to move between rooms should this be needed. HMCTS staff highlighted that some parties experienced problems joining remote hearings because of browser or VPN incompatibility.

Generally legal representatives did not report problems with access to devices to attend remote hearings but emphasised that in some cases their clients only had access to a mobile phone or to old equipment which was not compatible. In other cases, clients borrowed equipment but were not confident to use it. Some needed help with setting up cameras and microphones and downloading software and sometimes a support worker or clients' children helped with this before the hearing.

Support professionals ranged from having quite comprehensive multi-screen arrangements to use during hearings to those that only used a mobile phone. They also commented that the people they supported often only had access to a mobile phone to use to join the hearing and this meant they could not receive emails or access bundles during the hearing.

Interpreters said that they had sometimes been asked to set up a separate call with the person they were interpreting for so that they could interpret simultaneously during the hearing. For most this had been possible but for an interpreter who only had access to one mobile phone this was not feasible.

The surveys found that around a third of judicial respondents (36%) reported that the quality of e-bundles was a significant problem, and a quarter reported that access to e-bundles before hearings (25%) and navigating e-bundles (26%) was a significant problem. For legal representatives, around one in five found creating e-bundles, submitting e-bundles or accessing e-bundles during a hearing challenging (23%, 22% and 17% respectively). Over half of legal representatives (54%) were satisfied with the amount of time in advance of the hearing they received e-bundles.

Interviews with magistrates highlighted diversity in the quality of e-bundles which impacted how easy they were to use. When accessing the e-bundle on a separate device, it diverts gaze away from the hearing room which some were unhappy with. They also raised concerns that e-bundles often arrived too late and where hard copy and e-bundles were used, they were not always identical and sometimes contained confidential information in error.

Legal representatives said that e-bundles have been difficult for clients to navigate and unrealistic to access during the hearing if they only have access to a mobile phone. In many cases they ensured that the client had a hard copy of the bundle. Some smaller firms struggled with aspects

of formatting bundles such as pagination and page marking and reported they needed to purchase software to manage this which could be expensive.

Many support professionals did not have access to e-bundles. Some supporting clients to prepare their case, said they may receive information from the client although they reported that where a client wanted them to look at a document in a bundle it was usually a hard copy bundle, and the client photographed the document and sent it to them. Most interpreters who were interviewed did not receive any information before the hearing, but one foreign language interpreter said that they had receive e-bundles ahead of the hearing and commented on how useful they were to help set the scene.

Jurisdictional differences for professionals - use of e-bundles
<ul style="list-style-type: none"> • Judges sitting in civil and family were more likely to report that the quality of e-bundles was a significant problem (62%) compared with other jurisdictions (25%-27%). • Access to e-bundles ahead of the hearing was also more likely to be reported as a significant problem by judges sitting in civil and family (45%) compared with other jurisdictions (17%-24%). • The use of e-bundles was more commonly reported by legal representatives working in civil (94%) and family (98%) compared with crime (34%) and tribunals (38%).

Hearing length

Table 3.5 shows that judicial survey respondents and HMCTS staff respondents were more likely to report that remote hearings were typically longer than in-person hearings. In contrast, legal representative respondents were more likely to think they were shorter or the same length.

Table 3.5 Perceptions of the length of remote hearings compared to in-person hearings by professionals

	Judiciary	Legal representatives	Court and tribunal staff
Remote hearings are typically longer than in-person hearings	64%	26%	47%
Remote hearings typically take a similar amount of time to in-person hearings	22%	35%	28%
Remote hearings are typically shorter than in-person hearings	9%	37%	18%
Don't know	5%	2%	8%
<i>Base (=all respondents)</i>	1,117	1,901	345

Jurisdictional differences for professionals
<ul style="list-style-type: none"> • A higher proportion of judiciary sitting in civil and family courts (45%) considered remote hearings to be substantially longer than in-person hearings compared to other jurisdictions (25%-27%). • In contrast, a higher proportion of legal representatives working in tribunals (24%) considered remote hearings to be substantially longer than in-person hearings (5%-8%).

Training and guidance

Training and guidance on remote hearings was produced at the start of the pandemic and has evolved over time to reflect the changes in practice across the platforms. Some of the guidance is detailed, and shorter notes and bitesize learning has been developed alongside the more detailed guidance.

Judicial interviews found that judges had little pre-pandemic experience of remote hearings, with many starting from a point of low understanding and knowledge of how they would operate. Those who did have experiences pre-pandemic tended to have presided over hybrid hearings (with some parties joining remotely and some in-person) rather than fully remote hearings.

Surveys showed that two thirds of judicial respondents (62%) who responded to the survey had received both training and guidance for remote hearings at any point and only one in ten (11%) said they had received neither. Similarly, just under two thirds of HMCTS staff (57%) had received training and guidance for remote hearings and only 8% said they had received neither. In contrast, only two in five legal representatives (42%) had received training or guidance for remote hearings.

Respondents were asked what information the guidance or training included, and what information would have been useful but was not included. Table 3.6 shows approximately half of judicial respondents (47%) and legal representatives (53%) said that information on interpreters, signers and intermediaries in remote hearings was not included and would have been useful. Other areas commonly reported by legal representatives as not being included but needed were management of technical issues (44%), protocols for managing hearings (30%) and software functions (26%). In contrast HMCTS staff reported the most common element that was not included but needed in the guidance was management of technical issues (50%) with information on interpreters, signers and intermediaries in remote hearings being the next most common response selected (37%).

Table 3.6 Areas included and not included in training and guidance for professionals

	Included	Not included but needed	Not included and not needed	Base
Judiciary				
Considerations about when to use remote hearings	36%	24%	40%	974
Information to be sent to parties ahead of the hearing	49%	26%	25%	970
Platform/software options	48%	25%	27%	962
Downloading software	50%	23%	27%	962
Software functions	60%	25%	14%	951
Management of technical issues	60%	32%	8%	967
Protocols for managing hearings	82%	13%	5%	976
Interpreters, signers and intermediaries in remote hearings	42%	48%	11%	969
Legal representatives				
Considerations about when to use remote hearings	n/a	n/a	n/a	n/a
Information to be sent to parties ahead of the hearing	73%	16%	11%	792

Platform/software options	67%	17%	15%	763
Downloading software	50%	18%	32%	746
Software functions	51%	26%	23%	742
Management of technical issues	41%	44%	14%	766
Protocols for managing hearings	61%	30%	9%	762
Interpreters, signers and intermediaries in remote hearings	20%	53%	27%	739
Court and tribunal staff				
Considerations about when to use remote hearings	50%	15%	35%	307
Information to be sent to parties ahead of the hearing	71%	16%	13%	307
Platform/software options	54%	27%	19%	299
Downloading software	40%	30%	29%	297
Software functions	54%	30%	16%	293
Management of technical issues	42%	50%	7%	299
Protocols for managing hearings	77%	17%	6%	303
Interpreters, signers and intermediaries in remote hearings	55%	37%	9%	304

Around 7 in 10 judicial survey respondents (71% training and 70% guidance) and legal representatives (68% training and 69% guidance) were satisfied with the training and guidance they received and just over half of HMCTS staff (54% training and 57% guidance) were satisfied. Around one in eight judicial respondents and one in ten legal representatives were dissatisfied with training and guidance. Table 3.7 shows a summary of satisfaction with training and guidance across the professional groups.

Table 3.7 Satisfaction with training and guidance received

		Judiciary	Legal representatives	Court and tribunal staff
<i>Satisfaction with training received</i>				
	Satisfied	71%	68%	54%
	Neither satisfied nor dissatisfied	15%	23%	18%
	Dissatisfied	14%	9%	28%
<i>Base (=respondents that received training)</i>		897	720	290
<i>Satisfaction with guidance received</i>				
	Satisfied	70%	69%	57%

	Neither satisfied nor dissatisfied	17%	20%	22%
	Dissatisfied	13%	10%	20%
Base (=respondents that received guidance)		945	781	312

Percentages exclude responses of 'not applicable'.

Jurisdictional differences for professionals	
<ul style="list-style-type: none"> • Tribunal judges were most likely to have received both training and guidance (82% compared to 10%-29% in other jurisdictions). • Judges sitting in crime were most likely to have received no training or guidance (53% compared to 2%-18% in other jurisdictions). • Legal representatives working in civil were least likely to have received training or guidance (32% compared to 41%-50% in other jurisdictions) • Judges sitting in tribunals were more likely to report satisfaction with training (81% compared to 31% in civil and family) and guidance (82% compared to 34% in civil and family). 	

Table 3.8 shows the most common elements of dissatisfaction for judicial respondents were management of technical issues (74%), lack of information on interpreters, signers and intermediaries (63%) platform software options (57%) and software functions (55%).

HMCTS staff who responded to the survey were more likely to be dissatisfied with the training and guidance they had received (28% dissatisfied with training and 20% dissatisfied with guidance). The most common elements they were dissatisfied with were management of technical issues (73%), lack of information on interpreters, signers and intermediaries (53%), protocols for managing hearings (46%) and software functions (44%). Table 4.8 shows the areas of dissatisfaction for judiciary and HMCTS staff who reported being dissatisfied.

Table 3.8 Areas of dissatisfaction with training and guidance for judiciary and HMCTS staff

		Judiciary	Court and tribunal staff
<i>If dissatisfied, which elements were dissatisfied with</i>			
	Considerations about when to use remote hearings	40%	19%
	Information to be sent to parties ahead of the hearing	38%	32%
	Platform/software options	57%	34%
	Downloading software	45%	30%
	Software functions	55%	44%
	Management of technical issues	74%	73%
	Protocols for managing hearings	44%	46%
	Interpreters, signers and intermediaries in remote hearings	63%	53%
	Other	28%	39%

Base (=respondents that were dissatisfied with training or guidance)	126	79
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Respondents could select more than one answer for the dissatisfaction element, and responses do not therefore sum to 100%.

Figures for legal representatives are not shown as too few respondents answered this question to provide reliable percentages.

There was a broad spectrum of experiences of training amongst interview respondents. Some HMCTS staff had attended a three-day HMCTS training session, but some had not been able to secure a place on this course because of high demand. Of those staff that had attended this training some said that they found it helpful, but others described it as confusing. Some commented that the training would have been useful if it had been run earlier but it came too late to be useful.

Some staff described attending shorter, more informal training sessions run by colleagues, some mentioned undertaking online training, whilst others had taught themselves on the job and had valued setting up practice sessions with colleagues. Even for those that had received training they had to learn on the job as things evolved.

“We had training on CVP. It was great, a bit rushed because of business needs but was very clear to me and we have all the guides to fall back on. At the start those that knew how to work the system showed us. We put the pieces together as we went.” [Team Leader, HMCTS staff]

The most significant training gaps identified by HMCTS staff in interviews were how to use the recording tools and store recordings, how to use wireless microphones in court for hybrid hearings and how to conjoin two rooms when using CVP. They commented that there had been a large amount of guidance issued and some, who had not received any training, had been reliant on the guidance to understand how to deliver remote hearings. They commented that the guidance was lengthy, and that information was repeated in different documents which arrived on a regular basis. HMCTS staff said they felt overwhelmed and bombarded by this information and more could have been done to streamline the information and signpost staff to relevant sources. One person had rewritten the guidance notes for colleagues to simplify them and remove the jargon.

“We had like a little training guide and I started rewriting bits of this training guide to make it a bit easier for others to understand coz some people learn in different ways. So I've tried to help people in that way, by trying to make it a little bit easier for people to understand.” [Video Support Officer, HMCTS staff]

Some magistrates interviewed felt little need for training either because of previous use, familiarity with similar platforms or because the legal adviser was the person managing the platform. Others said that they felt more training and guidance was needed both on how to use the technology but also how to set up the camera and presentational issues. One magistrate with experience had run some drop-in training for other magistrates in the area.

Some legal representatives had received training through the bar associations which had been delivered in conjunction with HMCTS. Some felt that training was not necessary whilst others highlighted that it would have been very useful at the start to have had training and guidance on how to set up on specific platforms. For example, it would have been useful to have training videos or notes with screenshots. Some legal representatives also felt that it would be useful to have training on management of e-bundles.

Very few support professionals had received training, but most had received guidance which had generally come from the organisation that they worked for. Some volunteers offering support to individuals commented that they were quite nervous joining remote hearings, especially video

hearings, at the start of the pandemic but they had gained confidence over time. One interpreter had attended HMCTS training but commented that it did not deal with the specific issues of interpreting during remote hearings.

Overall, it was felt that guidance was fragmented and that it would be useful to have a clearer strategy and position on which platforms were being used in which jurisdictions. Visual guidance and training videos were considered to be a useful area to develop further when issuing guidance in the future.

Pre-hearing

Decisions when to use remote hearings

In some cases, the decision to use remote hearings was driven by dominant jurisdictional approach whereas in other jurisdictions the judge made the decision, sometimes with input from court staff. Most crown and magistrates' court users attended in person (87% and 91%, respectively). In contrast, most SCS and family court users attended remotely (96% and 86%, respectively) and all SEND cases were held remotely. Where the judge was making the decision on a case by case basis, they may have communicated with counsel ahead of the hearing to inform their decision and in some cases, preferences of the parties were taken into consideration. Magistrates were less directly involved in the decision in most cases.

Table 4.1 shows from the judicial survey that when deciding whether a hearing should be held remotely, perceived vulnerability of parties was by far the most important factor in judicial decision-making, followed by hearing type, case type, and parties not having representation.

Table 4.1 Significance of factors when deciding whether to hold a hearing remotely

	Very significant	Fairly significant	Not very significant	Not at all significant	Base
Perceived vulnerability of parties	67%	25%	5%	2%	1,052
Type of hearing	45%	33%	16%	6%	1,030
Type of case	40%	36%	18%	6%	1,042
Parties without representation	36%	35%	23%	6%	1,038
Length of hearing/trial	33%	35%	25%	7%	1,028
Number of parties involved	32%	38%	24%	6%	1,023
Expected need for cross examination	31%	34%	26%	9%	967
Presence of witnesses	30%	36%	27%	7%	1,010

Percentages exclude responses of 'not applicable'.

Interviews with judges indicated that where judges had scope to decide whether a hearing was held remotely during the pandemic, four factors influenced their decisions: likely hearing length and complexity, severity of case and therefore potential seriousness of outcome, stated preference of public users and health considerations. HMCTS staff highlighted that the number of parties involved in the hearing and the requirement of evidence from witnesses were additional factors that could have an impact on the decision. Some judges interviewed that sit in civil and magistrates' hearings felt that trials were never appropriate to be conducted remotely due to their complexity, severity and length.

There was a view from legal representatives that there was very little flexibility at the start of the pandemic to influence the format of a hearing but over time the courts had become much more amenable to requests to switch formats. Some legal representatives commented that there was a lack of clarity about both the process for making requests for a particular type of hearing and the grounds for which a request might be accepted. There were also some challenges raised with the

timeliness of requests for a specific hearing format. There were reports that requests for an alternative format for the hearing in some locations are not being looked at until the day before the hearing, which is often too late to accommodate the change.

Jurisdictional differences for professionals
<ul style="list-style-type: none"> Whilst perceived vulnerability of parties ranked overall as the most significant factor to inform decisions about whether the hearing would be remote, for crime the type of hearing ranked as the most significant factor.

Initial perceptions of remote hearings

Ahead of attending their hearing (whether in-person or remote), public users typically expected it would feel formal, that they would understand what was happening and understand the outcome. In-person users were more likely to expect concerns with their privacy (20% compared with 17% of remote users) and with their personal safety (13% compared with 4% of remote users). For remote users specifically, those who attended by audio were more likely to expect to have difficulty understanding the outcome of the hearing (20% compared with 16% by video).

Public users came into hearings with limited expectations of how remote hearings would look and feel, with few having been involved in any court hearing before. However, public users, academic observers and reporters expressed concerns about the quality of their connection impacting on their involvement and understanding of the hearing. Table 4.2 shows the differences for public users in pre-hearing perceptions by jurisdiction, legal representation, age, gender, employment and carer status and vulnerability.

Table 4.2 Remote hearing attendees: sub-group differences of pre-hearing perceptions for public users

Subgroup	Differences
Jurisdiction	<p>SSCS hearing attendees were less likely to expect their hearing to feel formal (83%) than those attending remote hearings as a whole (88%).</p> <p>SSCS hearing attendees were more likely than average to expect to have difficulty understanding what was happening during the hearing (33% vs 24%) and the outcome of the hearing (25% vs 18%).</p> <p>Family hearing attendees were more likely than average to have concerns about privacy than was the case for those attending remote hearings as a whole (24% vs 17%).</p>
Legal representation	<p>Litigants in-person attending remotely were slightly more likely than remote hearing attendees represented by a lawyer to expect to have difficulty understanding the outcome of the hearing (19% vs 16%).</p>
Age	<p>Those aged 18-24 were less likely to expect their hearing to feel formal than those aged 25 or over (80% vs 88%).</p> <p>Older remote hearing attendees, aged 55 or over, were less likely than their younger counterparts, aged 54 or younger, to:</p>

	<ul style="list-style-type: none"> • expect to have difficulty understanding what was happening during the hearing (19% vs 25%); • have concerns about privacy (11% vs 18%); • have concerns about their personal safety (1% vs 4%).
Gender	<p>Female remote hearing attendees were more likely than males to expect to have:</p> <ul style="list-style-type: none"> • difficulty understanding what was happening during their hearing (26% vs 21%) • difficulty understanding the outcome of their hearing (21% vs 17%) • concerns about their privacy (20% vs 13%).
Employment status	<p>Unemployed remote hearing attendees were less likely to expect their hearing to feel formal than employed attendees (86% vs 90%).</p>
Caring status	<p>Remote hearing attendees who were parents of children under 18 and carers to older or disabled people were more likely than all remote hearing attendees to have concerns about privacy (20% and 26% vs 17%).</p>
Vulnerability	<p>Vulnerable users attending remote hearings were more likely than users who were not vulnerable to:</p> <ul style="list-style-type: none"> • expect to have difficulty understanding what was happening during their hearing (30% vs 20%) • expect to have difficulty understanding the outcome of the hearing (26% vs 13%) • have concerns about privacy during the hearing (23% vs 11%) • have concerns about their personal safety during the hearing (6% vs 2%) • They were also less likely to expect the hearing to feel formal and official (85% vs 90%).

Public access to remote hearings

Professional observers, such as reporters and academics, reported difficulties with accessing remote hearings in the early stages of the pandemic. They reported that remote hearings were poorly publicised, that there were inaccuracies with listing information, where available, and court staff were unclear on whether observers were permitted to attend. However, it was widely felt that access for professional observers had improved as time went on. This was attributed to improvements in the availability and accuracy of listing information and due to court staff having a better understanding of remote hearing processes.

"It felt like it was this hidden secret. It was possible but not public; not something they are advising so it was a lot of work to figure out how to observe a hearing." [Observer, Journalist, Magistrates']

"They're all advertised now as 'in open court' so there's never any problem with access, you never have to argue [with court staff about access] ". [Observer, Academic, Civil]

Reasonable adjustments, special measures and support

Few public users surveyed had required support or adjustments to help them take part in a remote hearing (13%). Of these, over half notified the court about the need for support or adjustments (58%). The most common requests were for a carer or support worker, or interpreter, to attend the hearing. Two thirds of those who notified the courts said their request was granted (68%), whilst a third said their request was not granted. Public users that attended in-person were slightly more likely than those that attended remotely to have additional support needs (16% compared to 11%).

The professional surveys found that around half of judicial respondents (48%) and HMCTS staff (49%) and around two thirds of legal representatives (63%) were satisfied that it was possible to put special measures in place for remote hearings. A similar pattern was found for reasonable adjustments with 50% of judicial respondents, 51% of HMCTS staff and 63% of legal representatives being satisfied that that it was possible to put reasonable adjustments in place for remote hearings.

HMCTS staff views were mixed, with some staff reporting that the provision of reasonable adjustments and special measures was similar for remote hearings compared to in-person hearings, whereas other HMCTS staff considered that meeting such needs was generally more challenging in a remote hearing. In some cases where requests for reasonable adjustments were made, the hearing would generally be changed to an in-person hearing in order to meet the need, such as a request for a British Sign Language (BSL) interpreter or an intermediary. Some concerns were raised by magistrates that less may be known about people attending remote hearings and this in turn may mean that needs for reasonable adjustments may be missed.

Interviews also highlighted that certain requests were easier to manage in remote hearings. For example, where parties require screens in court, it was felt that they can be more effectively protected in a remote hearing by switching cameras off. Also, for parties with certain health conditions it may be challenging for them to travel to court and remote hearings can make attendance at a hearing more straightforward.

Legal representatives and support professionals felt that requests for reasonable adjustments were generally being addressed and some mentioned that in some cases more time was being given for vulnerable clients during remote hearings. Some however said that requests were being dealt with too late and also noted that in hearings where parties are unrepresented, requests for reasonable adjustments may be made very late causing stress for users. Legal representatives felt that it would be useful to have more clarity and information about how certain types of requests are managed, such as need for an interpreter.

Some litigants in-person prepared for their hearing without accessing support and guidance from others. This was more common among those that were representing themselves in a family, civil or tribunal hearing. Many attending remote hearings felt that they would have benefited from more guidance on processes and protocols to be able to give a fair account of themselves. This was more common for those that attended tribunals, where litigants in-person were more common because of cost and the scarcity of legal aid.

"If they could just provide help in understanding what to expect out of the hearing, what will happen, what you might want to prepare." [Public user, Claimant, SEND Tribunal, Video]

“There wasn’t anything formal [outlining procedures or offering support] sent out, that explained the whole procedure- that was a massive flaw.” [Public user, Appellant Employment Tribunal, Hybrid]

Jurisdictional differences for professionals

- Tribunal judges expressed higher levels of satisfaction that it is possible to put special measures and reasonable adjustments in place for remote hearings compared to those working in other jurisdictions (55% satisfaction for special measures compared to 36%-41% for other jurisdictions and 59% for reasonable adjustments compared to 23%-35% in other jurisdictions).

Pre-hearing information and guidance from HMCTS

Whilst there was some variation in the information sent before the hearing, the most commonly cited arrangement by HMCTS staff and legal representatives was for information about the hearing to be sent out first, followed by the link for the remote hearing which was often sent quite close to the hearing date. The information about the hearing was often sent by a listing team and typically contained information explaining what to expect, a technical support number for queries on the day of the hearing and information about technical requirements such as minimum broadband speed and information about how to test the system.

Some HMCTS staff reported that they called participants after the information has been sent out to check that it has been received and this provided an opportunity to go through any questions that people may have. Some also said that they offered a test run for participants and whilst in the early stages of the pandemic, this offer was frequently taken up. The demand for this had significantly diminished as people become more familiar with digital platforms.

Most public users attending a remote hearing (80%) recalled receiving pre-hearing guidance on how to participate in the hearing which they generally found easy to follow (87% of those receiving pre-hearing guidance). Receipt and quality of the guidance appears to have potentially had some impact on whether participants required technical support during the hearing. Those who experienced technical issues during remote hearings were less likely to have had pre-hearing instructions (76% compared to 90% of those without technical issues). Similarly those who required technical support were less likely to have received pre-hearing guidance (76% vs 80% of those who did not require technical support) and, where they had received pre-hearing guidance, less likely to find it easy to follow (70% compared to 89% of those who did not require technical support).

In the interviews with public users, pre-hearing communication from the courts was identified by some public users as something that would help with their preparations, outlining how to join and what to expect.

“Anything that familiarises you with the etiquette of the court and the weird customs that they have would help inform the people and make them feel more comfortable.”
[Public user, Defendant, Crown, Video]

The public user survey found that over half (53%) of those who attended a hearing remotely were not given the opportunity to test their connection before the hearing started. Those attending by audio were almost twice as likely as those attending by video to have not been given the

opportunity to test their connection (62% vs 33%). Table 4.3 shows the differences for public users in experiences of testing equipment pre-hearing by jurisdiction, legal representation and age.

Table 4.3 Pre-hearing tests: sub-group differences for public users

Subgroup	Differences
Jurisdiction	SEND tribunal participants were almost twice as likely than average to have had an opportunity to test their connection before the hearing (74% vs 38%).
Legal representation	Those represented by a lawyer were more likely to have had an opportunity to test their connection (42% vs 36%).
Age	Younger participants, aged 18-24, were more likely than older respondents, aged 25 or over, to have had an opportunity to test their connection (54% vs 38%).

The public user survey found that only one in five (22%) public users recalled being given details of someone that could provide technical support during the hearing. Those joining by audio were less likely to recall being given a point of contact than those joining a video hearing (70% compared to 47%). Table 4.4 shows the differences for public users in experiences of being offered a point of contact for technical support by jurisdiction, legal representation, vulnerability and platform.

Table 4.4 Point of contact for technical support: sub-group differences for public users

Subgroup	Differences
Jurisdiction	The majority of SEND tribunal participants (59%) had a point of contact for technical issues and over two in five who attended an employment tribunal (43%) had one.
Legal representation	Those represented by a lawyer were more likely to have had an opportunity to test their connection (42% vs 36%).
Vulnerability	Vulnerable participants were less likely than non-vulnerable to have had a point of contact (19% vs 24%). This may be due to the high proportion of vulnerable users attending SCS hearings which predominately uses audio platforms, where a lower rate of technical issues were reported (15% audio compared to 30% video and only 8% in SCSS).
Platform	Among video users, there was some variation by platform type. Those who used CVP were more likely than those on Skype and MS Teams to have had a point of contact for technical support during the hearing (49% vs 23% and 30%).

In interviews some public users said they had received little or no communication from the courts and were required to chase for information about when and how to attend. Others said they had not been given information about the details of the hearing until quite close to the actual time of the hearing, which affected their ability to prepare.

“What if my technology didn’t work? How are we going to speak? How is it going to run? What were the rules, because you could all talk over each other easily? I tried to get some information on audio hearings but there wasn’t any.” [Public user, Appellant, SEND Tribunal, Audio]

Table 4.5 shows legal representatives who responded to the survey were generally satisfied with joining instructions, ease of joining, length of notice before hearing and clarity on platform to be used (82%-67%). However only around half of legal representatives were satisfied with the opportunity to test the platform in advance and being kept informed about delays. In interviews a small number of legal representatives said they had been presented with the opportunity to test their microphone and camera on the platform ahead of the hearing. Those that had felt this was very useful, and those that had not been offered this option said they would welcome the opportunity to do so.

Table 4.5 Legal representatives' satisfaction with pre-hearing elements

	Satisfied	Neither satisfied nor dissatisfied	Dissatisfied	Base
Ease of joining	82%	12%	6%	1,869
Joining instructions	80%	12%	9%	1,856
Clarity about which platform would be used	74%	13%	13%	1,848
Length of notice ahead of the hearing	67%	16%	17%	1,839
Opportunity for you and your client to test the platform	49%	26%	24%	1,609
Being kept informed about delays	46%	18%	36%	1,784

Percentages exclude those who answered ‘Not Applicable’

Some legal representatives felt that it would be useful to have more clarity within the initial information about whether there is a need to download software as this can vary depending on which platform is being used and some respondents said they had been invited to hearings on a wide variety of platforms.

The hearing link should provide direct access to the hearing when the user clicks on it. Interviews with professionals identified that there have been a number of challenges with links not working in specific browsers such as safari or internet explorer. Whilst information about browser requirements is stated in the information sent out ahead of the hearing, some respondents commented that this information is often not read thoroughly. Firewall security has been another contributing factor for participants not being able to access the hearing from the link, especially for those using work laptops.

HMCTS staff involved in pre-hearing administration highlighted that there has in the past been scope for human error with sending out links and pins, but this part of the process has now been automated reducing the capacity for errors. One HMCTS staff member cited an example of a hearing where the court received a very large number of public access requests from observers for a hearing. The logistics of processing these requests and ensuring each observer had provided contact details and signed a declaration was challenging to manage.

Magistrates and legal representatives also commented that the links are often sent late. Some said that the links typically arrive 30 minutes before the hearing although for others they received the link a week or more before the hearing. Those receiving links very close to the scheduled time for the hearing commented that this could be very stressful for their clients.

“We are often sent links less than an hour before the hearing. For lay clients and those not used to doing it, it’s very difficult. I tell clients in advance that they may not get the link to hearing until the morning of hearing... clients can be stressed.” [Legal representative, Family]

Some legal representatives and support professionals reported that in some instances they did not receive the link until after the hearing had started and magistrates commented that sometimes the link is sent to the wrong barrister. One support professional representative provided an example of a case where they had received the link but the person they were supporting, who was a litigant in-person, did not receive it. These errors all result in delays and in some cases adjournment. Some reflected that the incidence of links not coming through and errors with the links have reduced over time.

Participants commented that in some cases their link enabled entry to an earlier scheduled, late running hearing in the same court room. This appears to have happened in cases when the hearing has not been locked and presents a security risk in some cases.

Two of the legal representatives interviewed commented that on occasion they have been asked to set up the hearing themselves on their own platform and send the link through to the relevant parties.

For interpreters the most significant pre-hearing information gap was that they generally do not have any information about the case ahead of the hearing. Whilst they did not expect significant details about the case, they said it would have been useful to know the jurisdiction and the type of hearing before they begin.

Interviews with judges highlighted that pre-hearing information would help court users, including more consistently communicating step-by-step guidance pre-hearing and sharing information on the rules of remote hearings and what to expect from interactions during the hearing. Legal representatives echoed this view and suggested it would be useful to have a short video about how to join the hearing and it would be useful to have tailored videos for professional and public users but the greatest need is for public users as they are unlikely to join hearings on a regular basis.

Pre-hearing preparations and communication

Table 4.6 shows that of the survey respondents, HMCTS staff were most likely to think that remote hearings took longer to prepare for (63%), followed by the judiciary (51%) and legal representative respondents who were least likely to think this (25%).

Table 4.6 Perceptions of time needed to prepare for remote and in-person hearings for professionals

	Judiciary	Legal representatives	Court and tribunal staff
Remote hearings typically take more preparation time than in-person hearings	51%	25%	63%
Remote hearings typically take a similar amount of preparation time to in-person hearings	42%	56%	18%
Remote hearings typically take less preparation time than in-person hearings	3%	17%	12%
Don't know	4%	2%	7%

Base (=all respondents)	1,118	1,901	344
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Jurisdictional differences for professionals
<ul style="list-style-type: none"> Judges sitting in civil and family were more likely to consider that remote hearings take substantially longer to prepare for (43%) compared to those in other jurisdictions (15-17%). Legal representatives working in tribunals were more likely to consider that remote hearings take slightly or substantially longer to prepare (39%) compared to those working in other jurisdictions (16%-26%).

Public users attending remotely and in-person who were represented, were equally likely to feel they had sufficient time with their legal representative before the hearing (74% and 72%). However, it is worth noting that a sizeable minority (21% of those attending in-person and 20% of those attending remotely) did not feel that they had sufficient time with their representative.

Interviews with legal representatives and support professionals however identified some gaps in pre-hearing communication where remote hearings are being used. Some felt it was much more challenging to build rapport with clients remotely and the process was often more time consuming. This was less of an issue for those interviewed working on civil cases than across other jurisdictions.

For legal representatives with clients in custody, pre-hearing communication presented some specific challenges. They were reliant on the client being provided with either a phone or being brought to a booth and for the connection to the legal representative to be made. One solicitor commented that pre-pandemic the client would be brought to a booth but more recently the conversation has taken place by phone. This was less satisfactory as the sound quality can be very poor as they were often in a cell in the depths of the court and it was not possible to establish if they had privacy.

“It can be quite difficult on the phone. Hard to take instructions especially if the sound isn’t good and you are trying to advise them whether to plead guilty or not.”
[Legal representative, Crime]

Legal representatives also highlighted that conversations with the other side outside the court room have not occurred naturally with remote hearings and the potential to resolve issues ahead of the hearing is reduced. Legal representatives working on criminal cases commented that it was difficult to establish who the prosecutor is ahead of a remote hearing. In some circumstances the court usher has helped but this was not always the case. They felt it would be useful to have standardised practice to ensure that legal representatives have details of the clerk, the prosecutor and probation representatives ahead of the hearing.

Interviews from agencies that support litigants in-person identified some advantages of the move to remote hearings and remote support. They were able to offer greater continuity as one volunteer is more likely to work with a client to prepare before the hearing and maintain contact with the individual throughout their case which has helped to build rapport and trust. Before the pandemic volunteers had worked in a more ad hoc, shift-based way so would not have ongoing contact with individual clients.

“Think we can provide a much better service working remotely. We have an email to communicate with clients so can build a relationship that you would not have done before.” [Volunteer support professionals]

The costs and travel time to meet with a volunteer to prepare for the hearing have been reduced which has been beneficial for many clients and also, for some, the challenges of managing childcare have also been reduced. Volunteers have been able to work more flexibly and have supported clients to prepare for hearings in other geographical locations if needed. Concerns were however raised from representatives from support agencies that in the past they would pick up cases on the day of the hearing from their court bases and those who do not seek support before the day of the hearing may be more likely to fall through the cracks with remote hearings.

Interpreters, by contrast, had no contact with the person they were interpreting for before a remote hearing. This made things very difficult as they did not know the communication skills of the person before they start, which is particularly difficult for sign language interpreters. Interpreters also highlighted that remote hearings have reduced opportunities for them to receive any briefing on the hearing which is so important to provide them with the context they need to interpret effectively.

Remote hearings do however have the potential to facilitate interpreters working across a wider geographical area which may have the advantage of increasing access to interpreters especially with less frequently spoken languages in certain locations.

During hearings

Technical experiences of remote hearings

The majority of public users and observers did not experience technical issues, but it was a particular challenge for those that did. One in five remote hearing public users (19%) experienced issues with technology, and those that attended by video were more likely to experience technical issues than those that attended by audio (30% compared with 15%). It was raised in interviews with professionals that it is often just one party that experiences technical problems during a hearing, but this has a significant impact on the ability to progress the hearing. They also highlighted how technical issues can disproportionately affect certain groups.

“If the screen of the sign language interpreter freezes even for a second it means that the deaf person will lose some of what is being communicated.” [Sign language interpreter]

The public user survey found the main issues were inconsistent audio quality (46% of respondents who had experienced technology issues), people being disconnected (39%) and poor audio quality (36%). Disconnection occurred more frequently in video hearings than audio hearings (42% compared to 35%) and poor audio quality was slightly more frequent in audio hearings than video hearings (38% compared to 35%). These issues made some hearings take longer and made it more difficult for court users to contribute and follow what was happening. Despite these issues, there were few court adjournments due to technology issues reported by public users (2%).

The surveys with professionals found that the majority of technical issues occurred in non-court locations although a significant minority did occur in court. Surveys with professionals also found that hearings were not often adjourned to a different day, although this was slightly more common in the early stages of the pandemic. Table 5.1 shows the differences for public users in experiences of technical difficulties by jurisdiction and legal representation.

Table 5.1 Technical difficulties: sub-group differences for public users

Sub-group	Differences
Jurisdiction	<p>Those who attended SEND tribunal or magistrates' or Crown court hearings remotely were likely to have encountered a technical difficulty (26% and 25% compared to 19% overall), reflecting that over two thirds of these users attended by video.</p> <p>Those who attended SSCS tribunal hearings remotely were particularly unlikely to have encountered technical issues (8% compared to 19% overall), reflecting that only 3% of remote users of SSCS hearings attended by video.</p>
Legal representation	<p>Remote users represented by a lawyer were more likely to have experienced a technical issue (22% compared to 18% of those who were litigants in-person), reflecting their higher propensity to have used video.</p>

Table 5.2 shows that judicial respondents were more likely (26%) to report technical issues in over half of their hearings compared to legal representative respondents (10%) and HMCTS staff

respondents (11%). Legal representatives were far more likely to report their hearings had no technical issues (17%) compared to judges (4%) and HMCTS staff (2%).

Table 5.2: Proportion of remote hearings with technical difficulties for professionals

	Judiciary	Legal representatives	Court and tribunal staff
None	4%	17%	2%
1-25% of all remote hearings	47%	61%	60%
26- 50% of all remote hearings	22%	11%	23%
51-100% of all remote hearings	26%	10%	11%
Don't know	1%	1%	4%
<i>Base (= all respondents)</i>	<i>1,100</i>	<i>1,831</i>	<i>335</i>

Percentages exclude those who answered 'Not Applicable'

Surveys for professionals asked whether the level of technical issues have changed over time comparing January 2021 with the previous six months. Table 5.3 shows around two in five judicial respondents and HMCTS staff said that technical issues had decreased. Two in five judicial respondents and one in three HMCTS staff said technical issues had stayed around the same. Only one in ten judicial respondents and 13% HMCTS staff said technical issues had increased in that period. A similar picture emerged for legal representatives as around half said technical issues had decreased, and one in three said they'd stayed the same and only 6% said they had increased.

Table 5.3 Whether proportion of remote hearings with technical issues has increased or decreased since January 2021 (compared to preceding 6 months)

	Judiciary	Legal representatives	Court and tribunal staff
Increased since January 2021	10%	6%	13%
Remained the same	41%	31%	34%
Decreased since January 2021	43%	54%	45%
Don't know	7%	8%	8%
<i>Base (=all respondents)</i>	<i>1,057</i>	<i>1,719</i>	<i>321</i>

Percentages exclude those who answered 'Not Applicable'

Interviews with professionals highlighted that user confidence with video conferencing had increased throughout the pandemic as people became more familiar with how to manage cameras and microphones and protocols became established which may have contributed to the reduction in technical issues.

Table 5.4 shows the types of technical issues experienced by professional respondents. The connection dropping or freezing was the most significant issue, reported as a major problem by 44% of judges and 35% of HMCTS staff. Problems with audio quality was reported as a major

problem by 32% of judges and 28% of HMCTS staff. Being able to circulate material evidence during the hearing was reported as a major problem by 26% of judges and 21% of HMCTS staff. Legal representatives were overall less likely to report major problems with technical issues.

Table 5.4 Technical issues encountered by professional respondents in remote hearings

	Audio quality	Video quality	Connection dropping out or freezing	How to log into the platform	How to use the platform	How to circulate material during the hearing
Judiciary						
Not a problem	15%	25%	7%	59%	68%	36%
Minor problem	53%	52%	49%	30%	27%	38%
Major problem	32%	23%	44%	11%	6%	26%
<i>Base (=all respondents)</i>	1,094	1,061	1,087	1,050	1,036	1,051
Legal representatives						
Not a problem	32%	49%	28%	67%	81%	50%
Minor problem	54%	42%	56%	28%	16%	34%
Major problem	14%	9%	16%	5%	3%	16%
<i>Base (=all respondents)</i>	1,816	1,739	1,778	1,730	1,716	1,746
Court and tribunal staff						
Not a problem	17%	29%	8%	53%	59%	41%
Minor problem	55%	52%	57%	33%	30%	38%
Major problem	28%	19%	35%	14%	11%	21%
<i>Base (=all respondents)</i>	331	320	330	320	319	318

Percentages for "other" are not shown

In interviews magistrates raised concerns about the possibility of missing something important when sound quality drops and they also commented that when technical issues occurred it can become very frustrating for the parties making it more challenging to focus on the content of the hearing.

HMCTS staff mentioned in interviews that when the CVP platform goes down it can be difficult to identify whether the problem is local or across the entire court estate and some felt that this was becoming more of an issue as CVP has become a more widely used platform. Some staff also said that there were some challenges recording hearings on CVP.

Some HMCTS staff commented that hybrid hearings can be difficult to set up and as the cameras in court are not designed or positioned to capture the entire court room so do not lend themselves to remote hearings. There have also been challenges where there is not a microphone in the defendant's box in hybrid hearings as it has been difficult for interpreters to hear the defendant.

In interviews HMCTS staff observed that certain parties are more commonly affected by glitches and these include appellants, interpreters and parties connecting from hospitals which has tended to impact on mental health tribunals. There was a common problem with CAF/CASS representatives as their devices often block access to cameras. This challenge was overcome by

switching to Teams. Some legal representatives commented that switching from one platform to another has been very difficult for clients to manage. HMCTS staff also highlighted that the judge's level of confidence with technology has a significant impact on how remote hearings run.

Jurisdictional differences for professionals

- Judges sitting in crime were more likely to report audio quality as a major problem (56% compared to 26%-39% in other jurisdictions).
- Judges sitting in civil and family were more likely to report circulation of material/evidence during the hearing as a major problem (45% compared to 19%-39% in other jurisdictions).

Annex B provides more information on technical issues.

Technical support

During qualitative interviews, most public users said they had been able to access the platform used for their remote hearing with ease. Many of those that attended via an audio platform explained that they had been called at the scheduled time and told to hold the line for other parties to join, while a few had been provided with a telephone number to call on the day. Those that attended via a video platform meanwhile had typically been sent a weblink via email to enable them to join their hearing.

"We clicked on the link that was in the email and it took us to a waiting room and a message came up and said "You will be invited in 10 minutes" or whatever and then it just sort of came up...the court room came up and we could hear people talking. It was fairly easy." [Public user, Defendant, Magistrates', Video]

Only a handful of public users reported having difficulties accessing the platform used for their remote hearing. However, where difficulties with access were encountered these were often quickly resolved through support and guidance provided by court staff and legal representatives.

Parties are asked to join the call thirty minutes before the hearing to provide an opportunity to resolve common issues with cameras, microphones and browsers but in reality, HMCTS staff said that parties do not join until closer to the hearing start time which means there is often not enough time to explore problems. It can become necessary to move the hearing from video to audio. Where it was necessary for staff to dial parties into the call this became a challenge if the phone number had an international dialling code or if the phone did not accept calls from withheld numbers.

Table 5.5 shows that around half of judicial survey respondents (48%) and a quarter of legal representatives (25%) had needed technical support in some of their remote hearings with the majority needing support in less than a quarter of hearings. Overall, almost all respondents said that the proportion of hearings needing technical support had remained the same or decreased over the pandemic period, with legal representatives more likely to say it had decreased.

Table 5.5 Receipt of technical support for professionals to take part in in remote hearings

	Judiciary	Legal representatives
Had ever needed technical support to take part in a remote hearing	48%	25%
Had not needed any technical support to take part in a remote hearing	52%	75%
<i>Base (=all respondents)</i>	1,118	1,892
Proportion of remote hearings in which had received technical support		
1-25% of all remote hearings	80%	89%
26- 50% of all remote hearings	11%	6%
51-75% of all remote hearings	4%	3%
76-100% of all remote hearings	4%	3%
<i>Base(= respondents who had ever needed support to access a hearing)</i>	539	463
Whether proportion of remote hearings needing technical support has increased or decreased since January 2021 (compared to preceding 6 months)		
Increased since January 2021	12%	9%
Remained the same	52%	35%
Decreased since January 2021	36%	57%
<i>Base (= respondents who had ever needed support to access a hearing)</i>	524	463

Surveys found that the vast majority (95%) of support received by judges was provided by HMCTS staff, and the majority of judicial respondents were satisfied with the support they received from HMCTS staff to join remote hearings (83%) and during remote hearings (76%). Legal representatives were slightly less likely to receive support from HMCTS staff (79%) but were also generally satisfied with the support they received to join a hearing (88%) and during remote hearings (87%).

Table 5.6 shows that three quarters of HMCTS staff had provided technical support and 71% were confident in providing support to parties joining a hearing and 67% in providing support during hearings. Over half of HMCTS staff said that they provided support in under a quarter of hearings and 38% said that the number of hearings requiring support had decreased since 2021 with 45%

reporting that levels have remained the same. The majority of staff found recording the hearing, explaining ground rules for hearings, sending out hearing invites and starting the hearing on the platform easy (78%-86%). The most challenging tasks reported were providing technical support to parties joining (57%) and providing technical support during the hearing (56%).

Table 5.6 Court and tribunal staff's provision of support

Had ever provided technical support to users take part in a remote hearing	
Had provided any technical support	77%
Had not provided any technical support	23%
<i>Base (=all respondents)</i>	346
Confidence in providing support to join a hearing	
Very or fairly confident	71%
Neither confident or not confident	10%
Not very or not at all confident	19%
<i>Base (=all respondents that provided technical support)</i>	267
Confidence in providing support during a hearing	
Very or fairly confident	67%
Neither confident or not confident	11%
Not very or not at all confident	21%
<i>Base (=all respondents that provided technical support)</i>	265
Proportion of remote hearings in which had provided technical support	
1-25% of all remote hearings	58%
26- 50% of all remote hearings	25%
51-75% of all remote hearings	13%
76-100% of all remote hearings	4%
<i>Base (=all respondents that provided technical support)</i>	266
Whether proportion of remote hearings in which had provided technical support has increased or decreased since January 2021 (compared to preceding 6 months)	
Increased since January 2021	17%
Remained the same	45%
Decreased since January 2021	38%
<i>Base (=all respondents that provided technical support)</i>	259

Interviews with judges highlighted the value of having a clerk to manage the administration

“It is useful for judges if hearings are clerked [by clerks] who are dealing with IT so the judge can concentrate on doing judging. They are sending out invites,

supporting people to enter the hearing room...they can sort out connection problems during hearings." [Judge, Family]

Professional interviews identified that it was not always obvious when parties drop off the call and the clerk did not always have a way of contacting them. Once back on the call after dropping parties are not always brought up to speed with what they have missed.

Legal representatives and support professionals sometimes faced problems with not being dialled in to BT MeetMe hearings or not receiving links to video hearings by the time the hearing was due to start. Some mentioned that the link or pin did not work, or they may not have been told which platform was being used and all of these issues can create delays.

A third of legal representatives (36%) considered that there was often a lack of adequate communication about delays and cancellations. In interviews legal representative and support professionals commented that it would be useful to provide more information for those experiencing delays as they can be extremely stressful for clients.

Jurisdictional differences for professionals

- Judges sitting in civil and family were more likely to report receiving support (72% compared to 41%-42% in other jurisdictions).
- Legal representatives working in tribunals were more likely to report receiving support (39% compared to 18%-25% in other jurisdictions).

Annex B provides more information on technical support.

Introductions and explaining the ground rules for hearings

The public user survey found that those joining remotely were less likely to have interactions with court staff (31% compared with 53% in-person users), and where they did the experience was similar to in-person users. Public users that attended by video were more likely than those that attended by audio to agree that court staff made the process clear (87% compared with 80%) and listened to them (85% compared with 75%).

Remote hearings typically began with an introduction. However, there were some accounts of hearings starting with little or no introduction. Hearing introductions had a bearing on the ability of public users and observers to follow and understand proceedings, with those that received a detailed introduction more likely to be reassured about the process and more confident in how to contribute.

In some cases the judge or chair of the magistrates' bench went through the ground rules and house-keeping but this was more commonly done by a clerk or an usher. In some courts there was a standard text that was read out whilst in some, the hearing began without covering any ground rules. In some hearings there was an explanation of what to do if parties experience a technical issue and a contact phone number was provided for support with problems. In some cases there was an explanation of protocols for cameras and microphones depending on the platform, and what to do if parties needed a break or to give or take instructions. Parties were also be informed if the hearing was being recorded.

Interviews highlighted that public users and observers had better experiences when they understood what to expect from the judge's introduction. Formal introductions, with ground rules

and housekeeping for the hearing helped users feel reassured and more able to contribute at the right time.

“There was no real talk of ground rules because everybody else seemed to know what was going on, so they just started.” [Public user, Defendant, Crown, Hybrid]

“I didn't know what was going on. One guy spoke most so I guessed that was the judge, but it was hard to follow, especially at the start.” [Observer, Friend / Family member, Magistrates', Audio]

Many of those observing cases felt excluded from the process. Judges did not always acknowledge their presence and they were given little or no information about how to join, which left them feeling unclear about their place in the hearing.

“I didn't really know what I was doing. I heard the question but there was no explanation of who I was meant to be talking to or what.” [Observer, Friend / family member, Magistrates', Audio]

In contrast, one family member was told the ground rules specific to observing the case and invited to introduce himself at the start of the hearing. Subsequently he felt able to contribute and, where appropriate, make relevant points on behalf of the appellant.

“The judge asked me to introduce myself through my wife and I said ‘Yes I'm here’...I made some points myself. There were a few times where I would make a case myself as well if I had the opportunity to do so.” [Observer, Friend / family member, SEND Tribunal, Video]

Professional interview participants said that it was becoming increasingly common not to provide any detailed explanation at the start of a hearing, but they highlighted that in any hearings with public users it should always be covered. One participant suggested that it would be useful to have a short video for public users covering things such as how and when to raise your hand, use of the chat, when and how to mute and how to use camera.

Communication during hearings

The public user survey found that of those represented by a legal representative, those attending in-person hearings were more likely than those attending remotely to report that it was easy to communicate with their legal representative in the hearing (57% vs 46%). Vulnerable individuals who accessed their hearings remotely were particularly less likely to have found it easy to communicate with their lawyer (41% disagreed that was easy compared with 29% of those not classed as vulnerable).

Public users attending remote hearings highlighted that many attending with a legal representative felt they could communicate adequately during the hearing. Some used a separate instant messaging platform and others were given the opportunity to leave the hearing to communicate

with their legal representative in private. However, there were some instances where public users attending remotely gave accounts of having difficulties communicating with their legal representative. This was typically because a channel of communication had not been pre-arranged or because they did not have multiple devices available to enable the use of multiple channels of communication.

"I could see my barrister on the screen but there was no way to talk to him, so I just watched. I was a spectator really and that just carried on while I stood watching."

[Public user, Defendant, Crown, Hybrid]

Public users typically expressed satisfaction with their ability to communicate with the judge during their remote hearing or tribunal. Many had direct dialogue with the presiding judge and were given the opportunity to give their account at regular intervals. However, some public users mentioned having difficulties communicating with judges during their hearing because of a lack of non-verbal cues which meant that some public users felt unsure when it was appropriate for them to speak and if they were getting their point across. This was particularly pronounced during audio hearings but was also an issue with video hearings too, especially when video hearings involved a high number of participants. Table 5.7 shows the differences for public users in communicating with legal representatives by jurisdiction and vulnerability.

Table 5.7 Ease of communication with legal representatives and helpers: sub-group differences for public users

Sub-group	Differences
Jurisdiction	<p>Those who attended employment tribunals remotely were particularly likely to agree communication with their lawyer was easy during the hearing (61% compared to 46% overall). Amongst those that attended employment tribunals remotely, those that attended by video were more likely to agree than those that attended by audio (65% compared to 47%).</p> <p>Users attending SSCS tribunals remotely with someone helping them were particularly likely to find it easy to communicate with them during the hearing (79% agreed easy compared to 64% overall).</p> <p>Remote family court users were less likely to have found communication during the hearing easy either with their lawyer (43% disagreed compared to 40% of all remote users with legal representation) or other helper (36% disagreed compared to 23% overall). The nature of these hearings (and the profile of those attending them) may require the facilitation of additional discussion time with the helper before the hearing.</p>
Vulnerable individuals	<p>Vulnerable individuals who accessed their hearings remotely were particularly less likely to have found it easy to communicate with their lawyer (49% disagreed compared to 35% of those not classed as vulnerable).</p>

Table 5.8 shows that overall, most professional user respondents felt that they were able to communicate effectively with other parties during hearings. All groups of professionals felt they were slightly less likely to be able to communicate effectively with public users than other groups.

Table 5.8 Communication with other parties during remote hearings

	Very and fairly effective	Not very or not at all effective	Base
Judiciary's perception of communication with:			
Public users	75%	25%	1,038
Legal representatives	92%	8%	1,092
HMCTS staff	89%	11%	1,084
Legal representatives' perception of communication with:			
Judiciary	91%	9%	1,834
Public users	71%	29%	1,458
HMCTS staff	80%	20%	1,764
Court and tribunal staff's perception of communication with:			
Judiciary	92%	8%	330
Public users	78%	22%	331
Legal representatives	89%	11%	340

Percentages exclude those who answered 'Not Applicable'

In interviews some judges raised concerns about the ability of some public users to communicate with their legal representative and this was more likely to affect those from lower socio-economic backgrounds.

"We are dealing with parents in the lower socio-economic levels of society, and they don't have fancy computers and are not capable of sitting at home on one device and talking with legal advisors on other devices. It isn't inclusive if they don't attend in-person and is not fair where the stakes are so high for them and their children."

[Judge, Family]

In interviews some magistrates said that if using a phone this can feel unprofessional as they appear to be distracted and their gaze moves away from the screen. Some use WhatsApp or chat platforms on their laptop or computer to overcome this.

Legal representatives responding to the survey used a range of methods to communicate with their clients during remote hearings: email (46%), phone (verbal 39%, text 39%) and instant messaging (32%). Two thirds of legal representatives (68%) felt they were able to communicate with their clients effectively. In interviews legal representatives highlighted that these methods are not effective in cases where the remote client only has access to one device.

Litigants in-person do not have legal representatives to represent them in hearings. Table 5.9 shows that over half of judicial (63%) and HMCTS staff (59%) respondents reported that they thought litigants in-person were less able to communicate effectively with other parties during remote hearings compared to in-person hearings.

Table 5.9 Perceptions of whether Litigants in-person communicate effectively with other parties in remote hearings compared to in-person hearings

	Judiciary	Court and tribunal staff
Litigants in-person communicate less effectively with other parties in remote hearings than in face-to-face hearings	63%	59%
Litigants in-person communicate as effectively with other parties in remote hearings as in face-to-face hearings	26%	23%
Litigants in-person communicate more effectively in remote hearings than in face-to-face hearings	6%	5%
Don't know	5%	13%
<i>Base (=all respondents)</i>	894	279

Percentages exclude those who answered 'Not Applicable'

The surveys asked professionals to what extent different communication problems have occurred in remote hearings since January 2021. Table 5.10 shows that around a fifth of judicial respondents and one in ten legal representatives reported that parties not being able to hear, not being able to communicate with their representative, or being unclear when they could speak occurred frequently. The majority of judicial and legal representative respondents (three in five) reported that parties being unclear of the hearing outcome had not occurred.

Table 5.10 Extent of communication problems since 2021

	Has not occurred	Occurs rarely	Occurs sometimes	Occurs frequently	Base
Judiciary's perceptions					
Parties unclear when they can speak	14%	25%	42%	19%	1,102
Parties unable to hear	8%	24%	46%	21%	1,098
Parties unable to communicate with representatives or person giving support	24%	20%	35%	20%	1,093
Parties with lack of privacy (in a space where others may be able to hear)	28%	27%	32%	14%	1,095
Parties interrupted or distracted	19%	35%	32%	15%	1,102
Parties unclear of outcome of hearing	59%	24%	12%	5%	1,083
Legal representatives' perceptions					
Parties unclear when they can speak	23%	34%	32%	11%	1,859
Parties unable to hear	18%	34%	38%	11%	1,860
Parties unable to communicate with representatives or person giving support	35%	26%	26%	13%	1,817

	Has not occurred	Occurs rarely	Occurs sometimes	Occurs frequently	Base
Parties with lack of privacy (in a space where others may be able to hear)	47%	24%	20%	9%	1,828
Parties interrupted or distracted	43%	30%	19%	7%	1,837
Parties unclear of outcome of hearing	58%	23%	13%	6%	1,834
Court and tribunal staff's perceptions					
Parties unclear when they can speak	13%	26%	42%	18%	343
Parties unable to hear	3%	24%	50%	24%	345
Parties unable to communicate with representatives or person giving support	21%	25%	41%	14%	340
Parties with lack of privacy (in a space where others may be able to hear)	28%	30%	31%	11%	340
Parties interrupted or distracted	18%	39%	32%	11%	340
Parties unclear of outcome of hearing	40%	32%	21%	7%	338

Percentages for "other" are not shown

The majority of judicial respondents (over three quarters) reported no change in the levels of these problems occurring since January 2021 compared with preceding 6 months. Around two thirds of legal representatives said the level of problems had not changed and a third said they had decreased.

One magistrate commented that it had become important during remote hearings for 'wingers'⁵ to be confident to formulate their own questions rather than doing this through the chair. For magistrates working in court any deliberation between magistrates and legal adviser⁶ can no longer be done by whispering in court because of the need to retain distance so it has been necessary to leave the room to deliberate.

Magistrates also emphasised the challenges they have experienced working with limited or no visual cues and also not being able to use body language themselves. This made it harder to read emotional responses and to manage challenging situations. They also considered that with hybrid cases it was hard to not to give precedent to the parties that are in physical courtroom and also where one party joins a hearing by video and another by phone there was not a level playing field.

In face to face hearings the judge can see if a legal representative has been passed a note whereas in remote hearings the judge is not likely to be aware of any side communication. Any requirement to confer requires a delay to the hearing and the approach may vary with parties having to leave the call or muting with privacy sometimes being compromised.

⁵ The magistrate who sits in the centre is the chair of that particular court and is also responsible for addressing the court on behalf of their colleagues. There will also be two 'Wingers' who sit either side of the chair.

⁶ Magistrates' court legal advisers are responsible for giving legal advice to magistrates in magistrates' courts throughout England and Wales. They help magistrates to make decisions and state the legal reasons that underpin the decisions. They also advise all parties at court on points of law, practice and procedure.

Communication with the opposition has been much more challenging and off the record conversations have not happened in the same way. It may be that counsel speaks with counsel or a solicitor speaks to a solicitor, but it was reported to be less likely for all parties to engage which was seen as a negative dynamic.

Some legal representatives said that they find it harder to interject during remote hearings and also find it is harder to persuade. They also said that attention can be pulled in multiple directions making it harder to focus. It is much more challenging to share physical evidence during the hearing and to ensure that all parties can see the evidence properly. They felt that in remote hearings it is harder for the judge to gain a full impression of the witnesses.

HMCTS staff said that they would use the chat function to communicate in a hearing although this was only possible if the message was not private as it can be seen by all parties. One of the challenges of using the chat function was that it does not appear on screen for mobile users and also it does not appear on the screen in court so the judge may not see it.

When the judge leaves the room to deliberate court staff highlighted that they do not always give a restart time, and this can be difficult to manage as parties are unaware when and how to return to the hearing. This could be improved by introducing a process to manage this and to agree a communicated a start time.

Some support professionals would not typically communicate with clients during the hearing although if they were in the court room with their client they may pass notes. Supporting clients in remote hearings has reduced the possibility of communication and also makes it harder to offer reassurances and human connection.

Some participants felt that public users appeared to be more reticent to speak in remote hearings whereas others felt that they were more relaxed and confident. All groups mentioned the value of having breakout rooms attached to remote hearing to facilitate communication.

Jurisdictional differences for professionals

- Judges sitting in crime were less likely to report being able to communicate effectively with public users (47% compared to 60%-84% in other jurisdictions).
- Legal representatives working in tribunals were more likely to speak over the phone with their client during a hearing (53% compared to 27%-41% in other jurisdictions).
- Legal representatives working in family were more likely to communicate by text with their client during a hearing (62% compared to 16%-45% in other jurisdictions).
- Judges sitting in crime were more likely to report litigants in-person are less able to communicate effectively (84% compared to 53%-75% in other jurisdictions).

Annex C provides more detail on communicating during hearings.

Working with interpreters and signers

Surveys found that almost three quarters of judicial respondents had experienced remote hearings with a signer, interpreter or intermediary present compared to half of legal representatives and 80% of HMCTS staff. The interpreter, signer or intermediary was often in a different location to the person they were supporting.

The professional surveys asked whether any challenges had been observed in hearings where interpreters or signers were used. Seven in ten judicial respondents, two thirds of HMCTS staff and half of the legal representatives said there were difficulties due to the hearing being remote. Table 5.11 shows the most commonly reported problems.

Table 5.11 Challenges arising in remote hearings involving interpreters and signers

	<i>Never</i>	<i>Rarely</i>	<i>Sometimes</i>	<i>Often</i>	<i>Base</i>
Judiciary					
The interpreter not arriving on time as they've not been sent the joining instructions correctly	35%	24%	37%	4%	546
The interpreter arriving in-person to the building rather than joining remotely (for fully remote hearing)	71%	17%	11%	1%	521
Interpreter not audible to their client	27%	23%	43%	7%	542
Interpreter not visible to client	24%	17%	40%	19%	535
Interpreter using the phone to communicate with client to interpret	36%	13%	30%	21%	523
Interpreter not being able to get the attention of the court or tribunal when they have a problem	32%	34%	29%	5%	531
Legal representatives					
The interpreter not arriving on time as they've not been sent the joining instructions correctly	28%	17%	42%	13%	425
The interpreter arriving in-person to the building rather than joining remotely (for fully remote hearing)	63%	15%	18%	3%	416
Interpreter not audible to their client	24%	22%	43%	11%	426
Interpreter not visible to client	27%	20%	35%	18%	417
Interpreter using the phone to communicate with client to interpret	30%	11%	31%	29%	417
Interpreter not being able to get the attention of the court or tribunal when they have a problem	29%	27%	32%	11%	423
Court and tribunal staff					
The interpreter not arriving on time as they've not been sent the joining instructions correctly	24%	35%	34%	7%	169
The interpreter arriving in-person to the building rather than joining remotely (for fully remote hearing)	38%	23%	34%	5%	170
Interpreter not audible to their client	24%	27%	40%	9%	171
Interpreter not visible to client	26%	28%	35%	11%	173
Interpreter using the phone to communicate with client to interpret	30%	20%	33%	17%	171
Interpreter not being able to get the attention of the court or tribunal when they have a problem	33%	35%	28%	4%	169

Percentages for "other" are not shown

Base (respondents who observed challenges involving interpreters due to the hearing being remote)

Where an interpreter is needed, hearings are sometimes scheduled as in-person but where they are not, interview respondents said that the hearing takes longer, and it is important that this is reflected in the scheduling. Some felt that there was a lack of information for legal representatives on how to request an interpreter for remote hearings.

In order to address some of the challenges with interpretation within remote hearings interpreters were sometimes asked to communicate with the person they are interpreting for via separate call or through a conjoined room in CVP which enables simultaneous interpretation. Challenges were reported with this in situations where participants are reliant on one device or where more than one interpreter is needed.

The speed with which people speak in remote hearings has sometimes been problematic for interpreters. Whilst the judge often advises of the need to speak slowly at the start of the hearing, often the pace quickens as the hearing proceeds and interpreters considered it harder to interject in a remote hearing.

Communication was thought to be much more tiring for deaf people in remote hearings. If they blink or take a brief eye break from the screen, they can miss something important, so the level of concentration required is significant. This means regular breaks are crucial.

Sign language requires the full person to be visible on screen in remote hearings because the whole body is used for communication. Sign language interpreters also highlighted the limitations of trying to communicate a three-dimensional language in a two-dimensional screen format.

Interpreters highlighted that remote hearings have reduced opportunities for them to receive any pre-hearing briefing which provides them with the context they need to interpret effectively. Interpreters also said they had no contact with the person they were interpreting for before a remote hearing. This made things very difficult as they did not know the communication skills of the person before they start, which is particularly difficult for sign language interpreters. People have different abilities and also there are some regional variations. It is very difficult to begin without establishing these things through a brief informal discussion as would happen outside the courtroom in face to face hearings.

Depending on the type of hearing the interpreter may need to be sworn in at the start of a hearing and this was reported by interpreters as sometimes being forgotten in remote hearings.

Annex D provides more detail on working with interpreters.

Wellbeing

Overall, 42% of public users felt they were able to get sufficient breaks during their hearing, but a quarter (24%) felt they did not. Remote users who accessed their hearing via audio were particularly likely to feel they were given insufficient breaks (28% compared to 19% of those who accessed via video) although they typically had shorter hearings. Table 5.12 shows the differences for public users in experiences of breaks during the hearing by jurisdiction and vulnerability.

Table 5.12 Breaks during hearings: sub-group differences for public users

Sub-group	Differences
Jurisdiction	Remote users who attended family courts were particularly likely to feel they did not have sufficient breaks (33% compared to 25% overall), whilst those who attended employment tribunals, SEND tribunals or SCS tribunals remotely were particularly likely to feel breaks were sufficient (65%, 61% and 51% respectively). This does not necessarily reflect typical hearing lengths or access methods as around three quarters of family hearings were less than two hours and via audio, similar to SCS tribunals, whilst around half of SEND and employment tribunals were over two hours and the majority via video. It may be that the nature of the hearing or how it was managed affected users' needs for a break. For example, the judiciary may have ensured that breaks were provided regularly during longer hearings.

Vulnerable individuals	Amongst remote users, vulnerable individuals were more likely to feel breaks had been insufficient than those not classed as vulnerable (32% compared to 21%).
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In interviews, public users with shorter hearings (of less than an hour) confirmed they did not feel any need for a break. Some welcomed not having many breaks or not having breaks at all as it meant that the hearing would take less time, therefore enabling them to resolve the matter quicker and spend less time away from work or other responsibilities. However, some users with limiting health conditions reported that more breaks would have made it easier for them to concentrate and contribute.

"With hindsight, I'd have made my disability (depression) known and asked for breaks - just a few minutes to recover would make it easier for me to better contribute." [Public user, Claimant, Queen's Bench, Video]

Interviews with legal representatives also highlighted that breaks were often less frequent in remote hearings and that this has become an increasing problem over time. Judges do not have the same visual cues which may prompt them of the need for a break.

The professional surveys found that around three in five of judicial respondents (58%), just over half of legal representatives (54%) and two fifths (43%) of HMCTS staff felt that remote hearings impacted on their health and wellbeing. Table 5.13 shows the most commonly reported issue was increased fatigue, followed by increased stress, increased workload and less breaks.

Table 5.13 Type of health and wellbeing impacts arising from remote hearings

	Did not occur	Occurred rarely	Occurred sometimes	Occurred often	Base
Judiciary					
Lower concentration	48%	22%	24%	6%	1,070
Increased fatigue	17%	13%	32%	38%	1,112
Less breaks	35%	17%	25%	23%	1,095
Increased stress	36%	16%	25%	23%	1,098
Increased physical pain	60%	13%	14%	13%	1,079
Increased workload	40%	12%	23%	25%	1,087
Poorer work-life balance	57%	10%	15%	19%	1,087
Legal representatives					
Lower concentration	67%	14%	16%	3%	1,869
Increased fatigue	54%	12%	21%	14%	1,886
Less breaks	55%	14%	18%	12%	1,865
Increased stress	58%	14%	18%	9%	1,876
Increased physical pain	83%	8%	5%	3%	1,863

Increased workload	57%	13%	18%	12%	1,873
Poorer work-life balance	70%	9%	12%	10%	1,876
	Court and tribunal staff				
Lower concentration	55%	19%	21%	5%	332
Increased fatigue	36%	14%	29%	20%	338
Less breaks	30%	16%	27%	27%	337
Increased stress	28%	15%	30%	27%	339
Increased physical pain	68%	13%	13%	6%	333
Increased workload	27%	13%	29%	30%	342
Poorer work-life balance	50%	12%	21%	18%	334

Interviews found that whilst remote hearings freed up time from less travel to allow judges to catch up on paperwork and prepare for cases, judges reported feeling more pressured and tired. More established judges reported the lack of human contact while their caseload was primarily remote hearings, adversely impacted their job satisfaction raising some concerns about impact on judicial retention in the long term.

"It is a flat experience. Normal human behaviour gives an energy transfer, so it is energy draining because you aren't receiving anything." [Judge, Family]

Similarly, some magistrates felt remote hearings were more tiring and require greater levels of concentration. They felt it was particularly challenging when the legal adviser was not in the same room and this also reduced their confidence with decision making.

Legal representatives felt that remote hearings impacted on their health and wellbeing. Reduction in travel and waiting times was significant for many but some said that they found them more tiring, and they miss the interaction in court. Some highlighted that working from home had made managing work/home boundaries more challenging as there was increasing pressure to respond to emails out of working hours. Some legal representatives felt that whilst remote hearings were preferable for them, they were not beneficial for their clients.

HMCTS staff were least likely of the professional groups to report that remote hearings impacted on their health and wellbeing. They were most likely to cite increased workload and stress, closely followed by less breaks and fatigue as the main challenging. Interviews with HMCTS staff revealed a split between those that preferred remote hearings and those that found them more stressful and the workload higher.

Support professionals interviewed generally said that they found remote hearings both physically and mentally more draining and some reported physical challenges that they face working from home such as neck strain and one talked about depression along with other health issues.

Jurisdictional differences for professionals
<ul style="list-style-type: none"> Judges sitting in civil and family were more likely to report impacts on health and wellbeing (74% compared to 47%-55% in other jurisdictions).

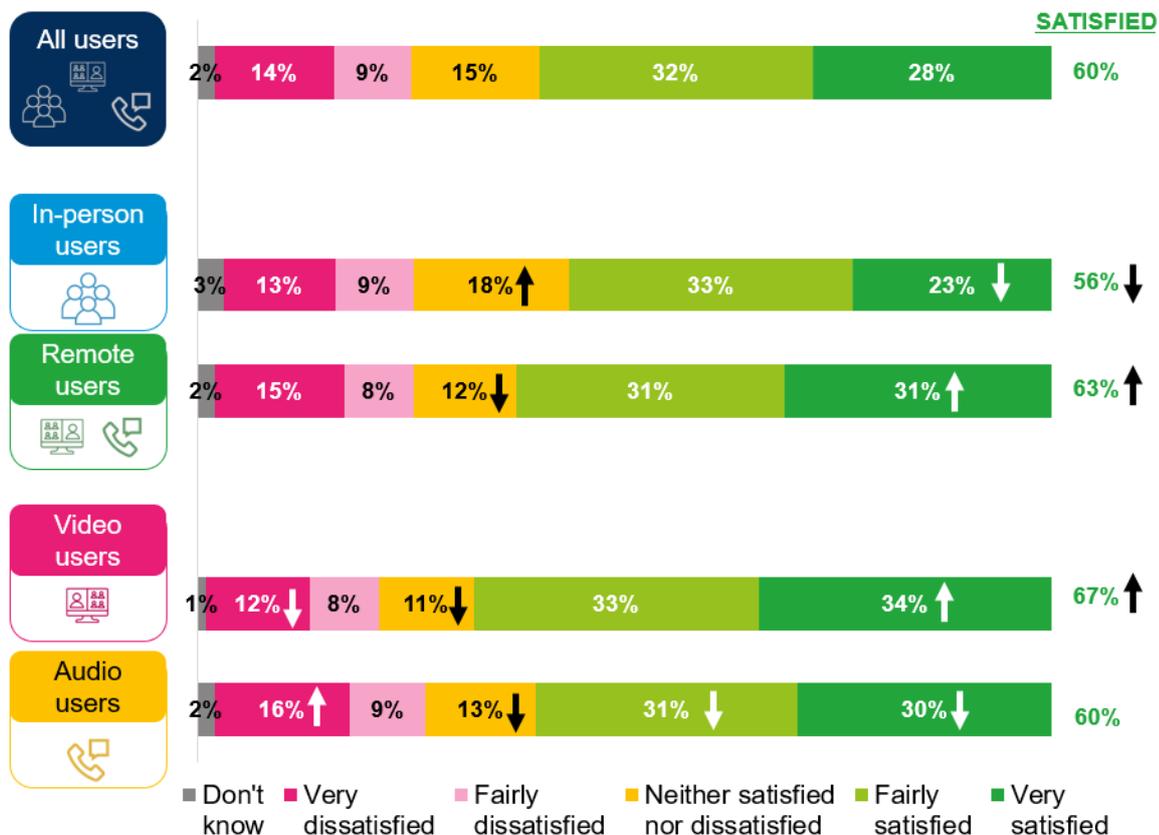
Views and attitudes

Satisfaction

Public users that attended remotely were more likely to be satisfied with the overall experience of their hearing than in-person users; 63% of remote hearing users were satisfied with their overall experience compared with 56% of in-person users. Those who joined via video were particularly likely to be satisfied (67%) with their overall experience compared to those who joined via audio (60%).

Across all jurisdictions and key demographic groups, those who attended remotely were at least as satisfied as those who attended in-person (and often more so). Public users that attended remotely were more likely to report that their experience was better than they expected than in-person users (33% compared to 25% **Error! Reference source not found.**). Public users that attended a video hearing were more likely to say their experience was better than expected (38%) compared with audio hearing users (31%). Figure 6.1 shows satisfaction with the overall experience of hearing whether attended in-person or remotely and via audio or video.

Figure 6.1 Public user satisfaction with the overall experience of their hearing, by whether attended in-person or remotely and via audio or video



Base: All public users (4,808), public users that attended in-person hearings (1,474); public users that attended remote hearings (3,334) Question: C21. Leaving aside the outcome of your hearing again, how satisfied or dissatisfied were you with the overall experience of your hearing?

Interviews identified four key drivers of satisfaction among public users:

- Strong judge moderation, including their acknowledgement of users' circumstances in the hearing introduction and offering breaks.
- The comfort and security of joining the hearing from home. Users do not see the opposing side and are in familiar settings.
- Greater convenience from less time off work and childcare required.
- Greater convenience from travel and parking, with no time or cost for travel or finding a suitable parking spot at the court.

Table 6.1 shows that for all groups there was a greater preference for remote hearings in some circumstances and in-person hearings for other circumstances. Almost half of judicial respondents and HMCTS staff preferred remote hearings in some circumstances and in-person in other circumstances. Over a third (36%) of judicial respondents said they preferred in-person hearings, and only 13% said they preferred remote hearings. Similarly, 28% of HMCTS staff preferred in-person hearings and only 15% preferred remote hearings.

In contrast, legal representatives were more positive about remote hearings, with 35% saying they preferred them, and 50% saying they preferred them in some circumstances and in-person hearings in other circumstances. Only 13% of legal representatives said they preferred in-person hearings to remote hearings.

Table 6.1 Professional preferences for remote hearings

	Judiciary	Legal representatives	Court and tribunal staff
I find remote hearings preferable to in-person hearings	13%	35%	15%
I find in-person hearings preferable to remote hearings	36%	13%	28%
I do not have a preference between remote hearings and in-person hearings	6%	2%	12%
In some circumstances I prefer remote hearings and in other circumstances I prefer in-person hearings	45%	50%	44%
<i>Base (=all respondents)</i>	1,115	1,903	344

Jurisdictional differences for professionals

- Judges sitting in tribunals were more likely to prefer remote hearings (18% compared to 4%-8% in other jurisdictions).
- Judges sitting in crime were more likely to prefer in-person hearings (56% compared to 32%-35% in other jurisdictions).
- Legal representatives working in crime were slightly more likely to prefer remote hearings (41% compared to 24%-39% in other jurisdictions).
- Legal representatives working in tribunals were more likely to prefer in-person hearings (38% compared to 7%-9% in other jurisdictions)

Channel and platform preferences

The surveys asked respondents to select their channel preferences for remote hearings and table 6.2 shows that the most popular channel was fully video (70% for judiciary, 68% for legal representatives and 55% for HMCTS staff) followed by partly video for all professional groups.

Table 6.2 Professional first choice preferences for channel

	Judiciary	Legal representatives	Court and tribunal staff
Fully audio - everyone joined the hearing by telephone	7%	11%	11%
Partly audio - some people joined the hearing by telephone and some were present in the courtroom	1%	1%	2%
Fully video - everyone joined the hearing by Skype/Microsoft Teams/ Cloud Video Platform/Video Hearings service	70%	68%	55%
Partly video - some people joined the hearing by video and some were present in the courtroom	14%	12%	20%
Fully audio and video (some parties attend via audio and some by video)	3%	4%	2%
Partly audio and video - some people joined the hearing by video, some by audio and some were present in the courtroom	1%	2%	2%
Other	4%	2%	8%

Interviews found that the preference for video hearings over audio was largely because of perceived value of visual cues and body language. Professionals highlighted that audio can be very stressful for participants as it is difficult for them to know if they are being understood and there were also reports of poor audio connections when dialling in to prison settings.

Similarly, professional respondents were asked about platform preference and CVP was the most popular platform video (57% for judiciary, 41% for legal representatives and 57% for HMCTS staff) followed by Teams (25% for judiciary, 37% for legal representatives and 26% for HMCTS staff).

In both interviews and surveys, the main video platforms that respondents had experienced were CVP, Teams, Zoom and Skype although some mentioned a number of other platforms. Skype and Zoom were used more in the early stages of the pandemic and had largely been replaced by CVP and Teams. Those using Skype said that there had been numerous glitches, it had not supported document sharing and had created problems when trying to save the recording.

There was a general preference either for CVP or Teams. Those that preferred CVP felt that it was simpler to use and better from a confidentiality perspective as it does not share the recording with all parties at the end of the hearing. Some HMCTS staff said that they preferred CVP because of the administrative control that it offers during the hearing. The clerk is able to change and control the layout of the screen and mute people in a way that other parties are not able to override, unlike Teams. One participant also said that they felt CVP was better for hybrid hearings because it was linked to the court technology. Some HMCTS staff reported teething problems with CVP and whilst they felt it was better designed to support a smooth hearing, connectivity in some courts made it unreliable and so cases would be switched to Teams for a more reliable connection.

Those that preferred Teams felt that it was a more widely used and known platform so more familiar for many users. It also offered stronger connectivity in some locations. Some staff said they preferred Teams because they liked the fact that they could dial people in. Others reported that this functionality was available on CVP but fewer staff were aware how to use it.

Some felt that BT MeetMe offered better connectivity than the video platforms and was simpler to join an audio hearing because participants just need to provide their contact number and wait to be dialled in rather than navigating links. It provided a notification if one of the parties drops off the call unlike the video platforms, which was highlighted as being very useful. Those with experience of more than one audio option commented that BT MeetMe was better than other conferencing options.

The advantages of BT MeetMe were however considered to be significantly outweighed by the disadvantages. It was reported not to connect to landlines that have a block on withheld numbers which was a considerable limitation. Legal representatives provided examples of BT MeetMe hearings where they had not been dialled in and in one case the hearing proceeded without them and then was overturned at a later stage. Another legal representative cited a case where their client had not been able to hear the legal representative's voice for the entire hearing and highlighted how they considered use of the audio platforms to be unjust.

Sign language interpreters generally had a strong preference for Zoom because of the functionality and control that it offers for pinning, spotlighting and highlighting which is important to ensure a clear view of those signing. With CVP this functionality is not available as the settings are controlled by the person administrating the meeting and interpreters said it was challenging to negotiate the correct settings although the development of conjoined rooms in CVP was viewed as a significant improvement. Some staff used the conjoined rooms functionality for CVP on a regular basis and were confident with how it works but others did not know how to use it.

Procedural justice

Public users felt they were typically able to understand what was happening during their hearing (79%), understand the outcome of their hearing (81%), express their views in their hearing (59%) and felt that their views were considered (59%). Those attending a remote hearing were more likely than those who had attended in-person to agree they were able to express their views (62% compared to 55%), and that their views were considered (61% compared to 56%).

Those who experienced technical difficulties during remote hearings were less likely to understand what was happening in the hearing (65%) and the outcome (69%) than those who had not experienced technical difficulties during remote hearings (85% and 84%). There was no difference between remote and in-person users in their views on effectiveness and fairness.

Public users that attended by video were more likely than those that attended by audio to agree their case was given an appropriate amount of care and attention (68% compared with 60%), they had confidence in how the court or tribunal handled the case (65% compared with 61%) and that they received a fair hearing (69% compared with 63%). Table 6.3 shows the differences for public users' ability to follow and input to proceedings by jurisdiction, legal representation, employment status, vulnerability and support needs.

Table 6.3 Ability to follow and input into proceedings: sub-group differences for public users

Sub-group	Differences
Jurisdiction	<p>Remote users of employment tribunals were more likely than average to have felt able to understand what was happening during their hearing (87% compared to 80%)</p> <p>Remote users who attended SEND, employment or SSCS tribunals were more likely than those who had attended, family, high court or Crown court / magistrates' court hearings to have felt they were able to express their views during the hearing (82%, 73% and 76% compared to 54%, 52% and 30%) and that their views were considered during the hearing (78%, 73% and 75% compared to, 57%, 54% and 39%)</p> <p>Those who attended remote hearings in both SEND and employment tribunals were more likely than those attending in-person to agree that their case received a fair hearing (SEND tribunals 80% compared to 68%; employment tribunals 75% compared to 57%); they had confidence in how the court or tribunal handled my case (SEND tribunals 79% compared to 65%; employment tribunals 75% compared to 48%); that they were able to express their views during the hearing (SEND tribunals 82% compared to 70%; employment tribunals 73% compared to 47%); and that their views were considered during their hearing (SEND tribunals 78% compared to 65%; employment tribunals 73% compared to 50%).</p>
Legal representation	<p>Remote hearing attendees represented by a lawyer were less likely than litigants in-person to feel they were able to express their views during the hearing (52% compared to 68%) and that their views were considered (55% compared to 64%).</p>
Employment status	<p>Unemployed remote hearing attendees were less likely than employed attendees to feel able to understand what was happening during their hearing (78% compared to 82%), to express their views during their hearing (58% compared to 65%) and that their views were considered (57% compared to 64%).</p>
Vulnerability	<p>Vulnerable remote users were less likely than non-vulnerable users to feel able to understand what was happening during their hearing (75% compared to 84%), to understand the outcome of their hearing (74% compared to 85%), to express their views during the hearing (57% compared to 67%) and that their views were considered during the hearing (54% compared to 64%)</p> <p>Vulnerable remote users were more likely than vulnerable in-person users to agree that they were able to express their views during the hearing (57% compared to 46%) and that their views were considered during their hearing (54% compared to 49%).</p>
Support needs⁷	<p>Remote users who had unmet support needs were less likely to have been able to understand what was happening (39% compared to 82% of those with no support needs and 78% of those whose needs were met) and / or that their views were taken into account (26% compared to 62% of those with no support needs and 69% of those whose needs were met).</p>

Interviews with public users revealed they were positive about the extent to which they felt heard in their case, often appreciating the chance to have their hearing at all during the pandemic. Many public users and observers felt that the remote format of their hearing had not impacted on the

⁷ In this context unmet support needs refers to requests for reasonable adjustments, special measures and interpretation

fairness and impartiality of proceedings. Views on fairness and impartiality were tied to the progression of the case and the ability to input into proceedings rather than any factors intrinsic to the hearing being conducted remotely. Several public users and observers commented that they felt the hearing they were involved in was conducted fairly and impartially because they were given the opportunity to share their views and concerns.

"I felt I could give over my side or say what I had to say. I was given that chance. I don't think anything was lost in that way." [Public user, Applicant, Family, Audio]

"I thought they set out their concerns and gave everybody a fair chance to make their point. It was very fair." [Observer, Friend or family member, SEND Tribunal, Video]

However, communication and technological limitations left some public users feeling excluded from the process and this was more acute for those that attended by audio. These limitations were also expressed by observers; they felt they missed key details of the hearing they were observing, especially reporters.

The survey found that around half (47%) of judicial respondents thought that remote hearings provided less opportunity for parties to have their voice heard, whilst four in ten (40%) thought they offered similar opportunity. Almost half (45%) of judicial respondents thought parties in remote hearings had a similar understanding of proceedings compared to in-person hearings, and 45% thought they had less understanding of proceedings.

Some professionals commented that more needs to be done to think about the experiences of public users in communicating outcomes in remote hearings. For example, if the outcome is likely to be negative in a family case it may be important to ensure that those involved are not alone when they receive the outcome.

Jurisdictional differences for professionals

- Fewer judges sitting in tribunals reported that parties are less likely to have their voice heard in remote hearings (39% compared to 61%-67% in other jurisdictions).

Replicating the court environment

The public user survey found that those that attended by video were slightly more likely than those that attended by audio to agree that their hearing felt appropriately formal and official (84% compared with 79%). Interviews with public users identified that less formality was welcomed by some and not being at the court put them more at ease whilst the judge played an important role in setting the tone of the court.

"It was formal, pretty much formal. The other side, the judge - the way she talked, you could definitely sense you were in a court ...her tone." [Public user, Claimant, SEND Tribunal, Video]

Table 6.4 shows the differences for public users in perceptions of the appropriateness and formality of hearings by jurisdiction, employment status and vulnerability.

Table 6.4 Appropriateness and formality of hearing: sub-group differences

Sub-group	Differences
Jurisdiction	Users of remote employment tribunal hearings were more likely than those who attended Crown courts or magistrates' courts, family courts or civil courts remotely to feel it was appropriately formal and official (88% compared to 71%, 76% and 80% respectively)
Employment	Unemployed remote hearing attendees were less likely than employed attendees to feel that their hearing was appropriately formal and official (79% compared to 82%)
Vulnerability	Vulnerable individuals who attended remotely were less likely than other remote users to feel that their hearing was appropriately formal and official (76% compared to 85%)

Table 6.5 shows that around half (51%) of judicial survey respondents thought remote hearings were effective at creating a comparable environment to in-person hearings, but four in ten (37%) thought they were ineffective in doing so. The corresponding figures for legal representatives were 69% and 20% and for HMCTS staff, were 62% and 28%.

Table 6.5 Effectiveness of remote hearings in creating a comparable environment to the physical court or tribunal

	Judiciary	Legal representatives	Court and tribunal staff
Very and fairly effective	51%	69%	62%
Neither effective nor ineffective	12%	10%	10%
Not very or not at all effective	37%	20%	28%
<i>Base (=all respondents)</i>	<i>1,117</i>	<i>1,901</i>	<i>342</i>

Almost all judicial respondents (85%) thought that remote hearings should aim to recreate a comparable environment to in-person hearings as did 77% of legal representatives and 78% of HMCTS staff.

Judges interviewed perceived a greater difference in formality between in-person and remote hearings than public users, in general. They expressed concern that remote hearings resulted in more distractions and poor concentration from hearing attendees, but that overall, it did not prevent proceedings.

"Even advocates, they dress in a way they wouldn't dream of dressing coming to the courtroom. And language is more sloppy than it would be in a court room. Same for lay people. If they are on a sofa in sitting room it is harder to be engaged in a formal/business like way." [Judge, Civil]

"[There was an] informality to video hearings that doesn't exist in court. It should be a sombre procedure with everyone realising it is dignified and serious. Being in

court automatically conveys that. Defendants in prison in particular; people walking around, clanging keys, prison video link room is next to cleaner lunchroom with Magic FM playing. Barristers not robed. It undermines seriousness of situation."

[Judge, Criminal]

In interviews some magistrates expressed strong views that remote hearings are not able to replicate the court environment and felt that they need to be in court to establish the formality that they consider to be necessary. The physical layout and structure of the court contribute to creating formality and they felt it is not possible to achieve the same thing on a screen. These views were echoed by some participants in all the other stakeholder groups.

"Being in in the courtroom has an effect on people. Being in the courtroom lends a certain formality. Sitting in the courtroom looking up at the badge behind the three justices is an important part of the process. Not having that, just having people on the end of the screen, it just takes it away." [Magistrate, Family]

Some considered that there are presentational components of remote hearings which can contribute to formality. For example, one magistrate commented that it is important that the judiciary appear in larger boxes at the top of the screen rather than the person speaking appearing in a larger box. Some considered that the use of the crest on the remote hearing platform helped to create formality, however others felt it to be a poor substitute for a physical court room.

One magistrate emphasised that they felt the dignity of the court is determined by the presiding justice and their ability to maintain the court. This view was also held by some HMCTS staff and some said that wherever possible they try and ensure that there is a formal court backdrop. Some stakeholders said that they consider the formality to be greater where the judge is visible in the courtroom. Court staff felt that whilst it is possible to replicate the principles of the court environment in a remote hearing, it is not possible to replicate the ceremony and grandeur and as a result some of the gravitas of the court is lost. Examples given are that in remote hearings the court no longer rises, and that parties are unlikely to wear formal court attire.

Whilst many legal representatives and support professionals felt that it is not possible to recreate the court environment through a remote hearing, they said that generally their clients take matters seriously and that some found remote hearings less daunting, and this can reduce anxiety and enable them to be less nervous and more productive. Some also highlighted that remote hearings make court attendance more accessible for clients as for example they have not had to incur travel costs or overcome concerns about using public transport during the pandemic and it can reduce the amount of time childcare is required because of the lack of travel time. Clients are also waiting in their own home which is less stressful than waiting outside the court or tribunal room.

"Doesn't really feel the same stress or anticipations as a court, takes out a lot of negatives. They don't have to travel to the hearing so can avoid public transport. Financially and mentally, it removes a lot of stress." [Support professionals]

Similarly, public users mentioned not having to wear unfamiliar formal clothes, not having to worry about travel or parking and not having to be concerned about their particular needs being met. Some welcomed being able to have a family member or friend sit with them, which was easier to arrange when attended remotely.

"To be honest I really prefer it [being remote] and would really push for it in future. Being disabled, I find attending court very difficult anyway and very stressful whereas this is without stress . . . I am pretty claustrophobic, and most courts don't

even have a window, so you're already wound up before you've even started."

[Public user, Defendant, Crown, Video]

Users with difficult, emotional hearings particularly welcomed the privacy and safety of being in their own homes as did those who did not wish to be in the same location as ex-partners, for example preferring not being in-person if they had to say or hear something challenging.

"A lot of what they were saying was hard to hear and it was really upsetting. I was so glad that I didn't have to do it in-person. These things are much easier to just do on the phone." [Public user, Defendant, Magistrates', Audio]

"I was nearly in tears at one point because I was made to sound as though I wasn't telling the truth...remotely made it a lot easier." [Public user, Claimant, SCS Tribunal, Audio]

Some participants commented that it is easier to come closer to replicating the court environment in video hearing than in audio hearing where visual cues are not possible.

Jurisdictional differences for professionals

- Judges sitting in tribunals were more likely to consider that remote hearings have been effective in creating a comparable environment (61% compared to 32% in other jurisdictions).
- Judges sitting in tribunals were less likely to consider it very desirable to create a comparable environment during remote hearings (45% compared to 65%-67% in other jurisdictions).
- Legal representatives working in tribunals were least likely to consider that remote hearings have been effective in creating a comparable environment (52% compared to 66%-83% in other jurisdictions).
- Legal representatives working in tribunals were less likely to consider it very or fairly desirable to create a comparable environment during remote hearings (68% compared to 77%-81% in other jurisdictions).

Attitudes and behaviours

Legal representative respondents were less likely to consider that there was a difference in public users' attitudes or behaviour in remote hearings (36% compared to 61% for judges and 67% for HMCTS staff).

Table 6.6 shows that a reduction in formality was the most significant change observed by all professional groups. Reductions in concentration and respectfulness were also commonly observed by professional respondents. Punctuality was considered to be a more mixed picture with some respondents observing a reduction and others an increase.

Table 6.6 Type of behaviour change observed in public users in remote hearings

		Judiciary	Legal representatives	Court and tribunal staff
Punctuality	<i>Base</i>	427	425	185
	Increased during remote hearings	40%	57%	46%
	Decreased during remote hearings	60%	43%	54%
Respectfulness	<i>Base</i>	475	462	196
	Increased during remote hearings	9%	17%	17%
	Decreased during remote hearings	91%	83%	83%
Formality	<i>Base</i>	610	582	216
	Increased during remote hearings	3%	8%	12%
	Decreased during remote hearings	97%	92%	88%
Concentration	<i>Base</i>	555	504	183
	Increased during remote hearings	15%	21%	20%
	Decreased during remote hearings	85%	79%	80%

Percentages for "other" are not shown. Percentages exclude those who answered 'Not Applicable'

Base=respondents who felt there was a change in behaviour

Interviews with professionals found that whilst some felt that attitudes during remote hearings were similar to in-person hearings many described parties as being more relaxed with lower levels of stress and anxiety. Some reported a decrease in formality with parties drinking tea and coffee, smoking, eating, dressing informally and in some cases the TV may be on in the same room or people may have feet on a table.

Magistrates said that they found it harder to manage challenging behaviour in a remote hearing and raised concerns about the limitations of using the mute button to manage inappropriate behaviour.

"I find it much, much more easy to control the court if I know what's going on. I can normally engage with a difficult defendant and almost without exception gain their cooperation. As a result, over video you end up having to mute somebody who is being uncooperative which I find very very difficult indeed. Not least, because in between the swearing they may actually making a valid point which I then can't hear because how do I know when the video sound should be turned back on again? ...So I think that's a huge detriment to individual who is removed from their hearing when all the things about their circumstance could be extremely high stress, they may be highly likely to be less articulate than other parties in court. Some degree of undesirable behaviour is not unexpected but you just can't manage it over video.
[Magistrate]

Magistrates said that when litigants in-person are invited to speak in remote hearings there can be a lack of discipline. They also commented that experienced defendants are more likely to act up as they know they effectively cannot get a contempt of court warning remotely as there are no sanctions available. Another situation that magistrates highlighted as challenging is when parties

decide to remove themselves from a hearing as this can create a dilemma as to how to manage the next steps.

There was an observation from magistrates that in family cases parents sometimes argued openly in remote hearings in a way that they would not typically do so in a physical court room. Some support professionals working on family cases said that their client preferred remote hearings as they protect parties from direct contact with ex-partners.

A legal representative commented that some clients were more distracted than they would be in a physical court and some do not address the judge appropriately and some interrupt and talk over other parties. A number of stakeholders mentioned hearings where a defendant or client had become verbally aggressive and observed that had they behaved in this manner in a physical hearing that they would have been expelled from the hearing room.

One support professional participant commented that they felt that remote hearings do not reduce anxiety amongst clients but rather create a shift in anxiety. Clients are no longer anxious about travelling to the court but are now anxious about making the technology work so that they can join the remote hearing.

Jurisdictional differences for professionals	
<ul style="list-style-type: none"> • Judicial respondents sitting in civil and family were more likely to consider there was a difference in public users' attitudes or behaviour in remote hearings (81% compared to 54%-64% in other jurisdictions). 	
<ul style="list-style-type: none"> • Legal representatives working in crime were less likely to consider there was a difference in public users' attitudes or behaviour in remote hearings (17% compared to 28%-50% in other jurisdictions). 	

Views about the future use of remote hearings

Two thirds of all public users (67%) felt remote hearings were an acceptable alternative during the pandemic, and over half (56%) felt they would be acceptable afterwards. Users most commonly indicated a preference to repeat the hearing format they had experienced should they attend another hearing. Those who had experienced a remote hearing were particularly open to the idea of them continuing, and indeed would mostly prefer to repeat a remote hearing rather than attend in-person.

Table 6.7 shows the differences for public users in views about the acceptability of remote hearings by support needs and whether they experienced technical difficulties during their hearing.

Table 6.7 Acceptability of remote hearings and preference for hearing type: sub-group differences for public

Sub-group	Differences
Jurisdiction	<p>Amongst remote users those who had attended SEND tribunal hearings or employment hearings were particularly likely to agree they were acceptable both during and after the pandemic (75% and 68% respectively compared to compared to 59% overall).</p> <p>Remote users who had attended SEND tribunals, employment tribunals or SSCS tribunals were particularly likely to prefer a remote hearing again (65%, 64%, 63%</p>

	<p>compared to 55% overall). SCS remote users were particularly likely to prefer this to be by audio (51% compared to 28% overall) whilst SEND and employment tribunal remote users were particularly likely to prefer video (56% and 48% compared to 27% overall) – this reflects their likelihood to have actually used each mode (and preference to repeat the experience).</p> <p>Those who had attended magistrates' courts or Crown courts, or family courts remotely were particularly likely to disagree remote hearings were acceptable even during the pandemic (20% and 20% compared to 16% overall).</p> <p>Remote users who had attended a family court hearing were particularly likely compared to users of other jurisdictions to prefer an in-person hearing over their remote experience (44% compared to 39% overall), though still 50% would prefer a remote hearing.</p>
Legal representation	<p>Remote users who did not have legal representation were more likely to prefer a remote hearing than those with a lawyer (58% of litigants in-person compared to 50%). This may reflect that some of those with lawyers found communication during and before the hearing difficult as reported above. Litigants in-person who had attended remotely were particularly likely to prefer an audio connection (33% compared to 19% of with a lawyer), reflecting their likelihood to have experienced this. There was little difference between on views about the acceptability of remote hearings by representation.</p>
Vulnerable individuals	<p>Just over half of vulnerable individuals that attended remote hearings thought they were acceptable both during and after the pandemic, but a smaller proportion compared to non-vulnerable individuals (53% compared to 64%).</p> <p>Vulnerable individuals who had attended remotely were more likely than those not classed as vulnerable to prefer to attend in-person (43% compared to 36%), although half (52%) would prefer to attend remotely (compared to 59% of others). They were more likely to prefer an audio connection to video (31% and 21%), reflecting their likelihood to have used audio during their hearing.</p>
Satisfaction with experience	<p>Remote users who were satisfied with the overall experience were more likely than those dissatisfied to consider remote hearings acceptable both during and after the pandemic (74% compared 27%). Overall, nine-in-ten (89%) satisfied remote users thought remote hearings acceptable during the pandemic compared to two-in-five (39%) dissatisfied remote users.</p> <p>Remote users satisfied with their case outcome were also particularly likely to prefer a remote hearing if they had to attend again (68% of the satisfied from each group compared to 35% of those dissatisfied).</p>
Technical difficulties	<p>Remote users who experienced technical issues during their hearing less likely to agree remote hearings were acceptable during the pandemic and afterwards (43% compared to 63% of those who did not have problems). It may therefore have been connection problems prompting their concern rather than the format as such.</p> <p>Remote users who experienced technical issues during their hearing were less likely to wish to repeat the remote experience (41% compared to 59%). Again, this perhaps indicates that if technical problems could be dealt with, positivity may have been even higher.</p>
Support needs	<p>Remote users who had unmet support needs were particularly unlikely to agree remote hearings were acceptable both during and the pandemic (19% compared to 58% of those whose needs were met and 60% of those who had no support needs).</p>

	This suggests that for some users, technical issues or unmet support needs influenced views negatively rather than the remote format per se, though if it is not possible to minimise those issues and needs, there are a core of users who would find remote hearings unacceptable.
Hearing outcome	The hearing outcome may also have influenced views, 89% of those who were satisfied with their outcome thought remote hearings were acceptable during the pandemic (and 74% also afterwards) compared to 51% of those dissatisfied (only 37% thought they were acceptable after the pandemic).

Table 6.8 shows that the majority of judicial respondents (84%) and HMCTS staff (87%) felt that remote hearings were an acceptable alternative to in-person hearings during the pandemic. This fell to half of judicial respondents (49%) and three-fifths of HMCTS staff (59%) thinking that remote hearings were an acceptable alternative to in-person hearings beyond the pandemic.

Legal representatives were more positive about remote hearings, with almost all (93%) saying they felt remote hearings were an acceptable alternative during the pandemic, and three-quarters (77%) saying they were acceptable after the pandemic.

Table 6.8 Whether remote hearings are an acceptable alternative to in-person hearing

		Judiciary	Legal representatives	Court and tribunal staff
Remote hearings are an acceptable alternative to in-person hearings during the pandemic				
	Agree	84%	93%	87%
	Neither agree or disagree	9%	3%	5%
	Disagree	7%	4%	7%
<i>Base (=all respondents)</i>		1118	1903	345
Remote hearings are an acceptable alternative to in-person hearings beyond the pandemic				
	Agree	49%	77%	59%
	Neither agree or disagree	11%	6%	10%
	Disagree	40%	17%	31%
<i>Base (=all respondents)</i>		1114	1899	344

Jurisdictional differences for professionals

- Judges sitting in tribunals were more likely to strongly agree that remote hearings were an acceptable alternative to in-person hearings during the pandemic. (57% compared to 30%-35% in other jurisdictions).

- Judges sitting in tribunals were more likely to strongly agree (that remote hearings were an acceptable alternative to in-person hearings beyond the pandemic (33% compared to 13%-18% in other jurisdictions).
- Legal representatives working in crime were more likely to strongly agree that remote hearings were an acceptable alternative to in-person hearings during the pandemic. (87% compared to 54%-77% in other jurisdictions)
- Legal representatives working in crime were more likely to strongly agree that remote hearings were an acceptable alternative to in-person hearings beyond the pandemic. (76% compared to 29%-58% in other jurisdictions).

Professional interview respondents felt remote hearings had played an important role in reducing the potential backlog. Some spoke of them very favourably whilst others described them as a necessary evil. Some raised concerns about the use of remote hearings for certain vulnerable groups.

There was a much wider range of views about the use of remote hearings in a post-pandemic environment. It is important to emphasise that listing is, and will remain, a judicial decision for every hearing. Many were in favour of hearings continuing but some felt that they should only be used for certain types of case and others felt they should not be used for certain types of groups. A small number of participants felt that remote hearings were totally unacceptable in a post-pandemic context. (The surveys found that 23% of judicial respondents, 13% of public users, 9% of legal representative respondents and 13% of HMCTS staff respondents *strongly* disagreed that remote hearings were a suitable alternative post pandemic).

There were some who were in favour of remote hearings being used in the future only a last resort whilst others considered they should be offered as a choice and only be used where parties were in agreement that a remote hearing would be acceptable. There was however some concern about presenting remote hearings as an option since it was felt it might be difficult for unrepresented parties to make the right choice as they may not have enough contextual information to fully understand the implications of the choice they are being given.

Many stakeholders felt that remote hearings should continue to be used for procedural and case management type hearings. Specific example of the types of hearings considered acceptable for remote hearings included:

- directions hearings
- case management hearings
- short application hearings of up to two hours
- straightforward claims
- reviews
- injunctions (although some felt injunctions are not suitable for remote hearings).

Public users and support professionals felt that remote hearings have significant advantages because individuals do not have to be in the same room as the other party and this can reduce tension. There was also an opinion that working remotely to support clients before their hearing was preferable for many clients because it reduced travel time and costs and created greater opportunity to build rapport and trust with the client and offer greater continuity.

Many interview participants and survey respondents considered that remote hearings are less suited to:

- trials

- longer hearings
- hearings where decisions are being made which have a major impact on the parties involved such as decisions to incarcerate an individual or remove a child from a parent
- hearings where first-hand evidence is presented under cross examination
- any hearing directly involving children.

Some felt that remote hearings should not be used for vulnerable groups although views on this were mixed. Some said that remote hearings have worked well for some clients with certain mental health conditions and learning disabilities whilst others considered they were not suitable for these groups.

Some felt that remote hearings should not be used in cases where an interpreter is needed and whilst there were strong views expressed about the challenges that remote hearings present for sign language interpreters, the position with other types of interpretation was less clear cut. There has been some success where options for simultaneous interpretation have been used effectively in remote hearings. One foreign language interpreter felt that using remote hearings could make it easier for courts to source interpreters which in turn could reduce the number of adjourned hearings.

Some participants raised concerns about the use of remote hearings in cases where parties either do not have access to the appropriate technology or do not have the skills or confidence to use technology. It was felt that consideration needs to be given to access to technology for public users to ensure that they can fully participate in remote hearings.

There was an acknowledgement that remote hearings have created significant efficiencies for many of the professionals involved such as legal representatives, probation officers, social workers, CAFCASS and independent experts. Efficiencies come from freeing up professionals from travelling to court but also enable them to continue to work productively from home if a hearing is delayed or adjourned.

Most participants viewed video hearings as a better option for future use over audio hearings although some felt that there was a place for audio-only hearings in cases that only involve professional parties and only then where small numbers of parties are involved. Whilst hybrid hearings have presented some technical challenges some considered that they may hold significant potential for the future as they may enable some professionals to attend remotely and maximise efficiencies whilst ensuring that public users and especially vulnerable groups access the support they need.

Conclusions

The findings in this report provide an overview of the experiences of public court users, the judiciary, legal representatives, and HMCTS staff during the COVID-19 pandemic. It should be noted that much of the evidence in this report is drawn from experiences of video conferencing products such as Teams, CVP and BTMeet Me which have been widely used to react to needs during the pandemic. The Video Hearings platform, being developed under the reform programme, is being specifically designed for court and tribunal hearings and aims to replicate the formality and experience of a hearing in a court or tribunal building.

It is important to recognise that the pandemic has created dynamics which may influence participants' views about remote hearings. For example, satisfaction with remote hearings may have been artificially driven up during lockdown due to the perceived safety benefits of being able to remain at home. Some findings may therefore not be directly applicable to a post pandemic environment.

The implications of the evaluation in relation to the key research questions are summarised below.

Do remote hearings work for all jurisdictions?

Overall, across all jurisdictions and key demographic groups, public users who attended hearings remotely had an equal or better experience with their hearing than those who attended in-person. Across all jurisdiction types (where sample sizes are sufficient for comparison) there is no evidence of remote public users being less satisfied than their in-person counterparts. Satisfaction levels are comparable amongst those who attended civil or family courts and Crown courts or magistrates' courts. Those who attended employment tribunals remotely were more likely than those who attended them in-person to have been satisfied with the overall experience.

Public users attending remote tribunals - employment, SSCS and SEND - were particularly likely to think remote hearings were acceptable (both during and after the pandemic).

Judges and other professionals felt that more complex cases and those with potentially life altering outcomes, like custodial sentences and child custody decisions, were less appropriate to be conducted remotely.

Across all jurisdictions, public users attending by audio tended to have less positive experiences than those attending by video. There is some evidence to suggest that audio hearings work well in some circumstances. Amongst those that attended remote hearings, litigants in-person, those that attended SSCS tribunals and vulnerable individuals were more likely to communicate a preference for audio hearings over video hearings when asked for their preference in the future. However, this is at least in part a reflection of the remote hearing format used by these public users previously. The majority of remote hearing users would prefer to repeat the format they experienced.

Judicial views varied across the jurisdictions which reflects the different approaches to the use of remote hearings which have evolved during the pandemic. Judges sitting in criminal courts were more likely to be physically based in court whereas judges sitting in tribunals were more likely to be

working from home. In civil and family courts remote hearings were more likely to use audio than other jurisdictions.

Judges sitting in tribunals were generally more positive about the use of remote hearings compared to other jurisdictions. They were more likely to report satisfaction with training and guidance on remote hearings, more likely to be satisfied that requests for reasonable adjustments and special measures can be met for remote hearings and more likely to consider that remote hearings can create a comparable environment and deliver procedural justice. They were also more likely to consider that remote hearings could be an acceptable alternative for certain types of cases post pandemic.

Judges sitting in civil and family courts were more likely to report that remote hearings have had an impact on their health and wellbeing compared to other jurisdictions and they were also more likely to report challenges with e-bundles and sharing evidence. They also were more likely to report that remote hearings take longer than in-person hearings. Judges sitting in criminal courts were most likely to express strong preferences for in-person hearings.

There were different trends from legal representatives with those working in crime being more likely to report a preference for joining hearings from home and to consider that remote hearings could be acceptable for hearings in a post pandemic context. Legal representatives working in tribunals were least likely to report preferences for remote hearings.

Areas identified for development include:

- It may be useful for HMCTS to consider issuing guidance for public users and their representatives on how they can provide relevant information to inform judicial decisions on whether the hearing will be held remotely.
- Given video users' views are more positive than audio users' views overall, where a hearing is deemed suitable for remote participation, video hearings should take precedence over audio hearings in most contexts wherever possible unless there are specific support requests or technical issues. While inevitably some users will need to access by audio because of lack of access to equipment, it will be worth emphasising the advantages of accessing by video to encourage users to join this way wherever possible.
- Whilst extensive guidance on running remote hearings has been issued along with overviews and summaries, some HMCTS staff felt overwhelmed by the information. It is important to reinforce a culture that supports staff time to attend training and absorb and contribute to guidance.
- Training and guidance gaps were identified amongst some groups including management of interpreters and intermediaries, set up and use of platforms, how to lock remote hearings rooms, the management of e-bundles for legal representatives, use of some CVP functions for HMCTS staff and management and storage of documentation for magistrates working at home on their personal computers.
- It may be useful to standardise practice to ensure that legal representatives have details of the clerk, the prosecutor and probation representatives ahead of the hearing in criminal cases to support necessary pre-hearing communication.

- Ensure that there is guidance for HMCTS staff for high profile cases with significant public interest and requests to join the hearing to raise awareness that central support can be requested.

Do remote hearings work for all user groups?

Overall, remote hearings work well for many user groups. However, more can be done to improve the experiences of public user groups less satisfied with their overall experience, including those with vulnerable characteristics. It is not necessarily the remote nature of the hearing driving less positive hearing experiences, however, because these groups were also more likely to describe having a less positive experience with in-person hearings.

Judges and other professionals felt remote hearings work less well for public users that require an interpreter, and hearings involving users in custody. This view was reinforced by interpreters, especially those using sign language. This has a greater impact on some jurisdictions for example the Immigration and Asylum Chamber requires interpreters for a high proportion of their cases.

It would be useful to review or promote court and tribunal guidance, including ensuring courts consistently ask users about their additional needs to attend the hearing and potentially consider testing connections in advance. Other suggestions include reviewing the functionality of remote hearing software following the successful work already done within CVP to enable effective interpretation across all platforms, considering how best to improve public user access to devices to participate in remote hearings and encouraging institutions to have private spaces for users in custody, and promote the need for custody staff training for remote hearings.⁸

Do users need additional support for remote hearings?

Existing support is working well for most public users who receive it, but more can be done to widen access to more public users attending hearings remotely. Those who received support were more positive about their experience than those who did not receive support. Communication with legal representatives during remote hearings was a particular area of concern for some users.

Support areas to focus on include:

- Increase awareness that vulnerable public users can request to have a carer or support worker attend and provision of an interpreter.⁹
- Promote how requests for support and adjustments for hearings can be made and ensure that requests are responded to in reasonable time ahead of the hearing.
- Increase awareness of step-by-step guidance containing screenshots and how-to guides including short videos about how to join and take part.¹⁰

⁸ HMCTS introduced a new function to the CVP to aid interpretation in January 2021.

⁹ HMCTS have released guidance for Support Through Court volunteers to support litigants in-person at remote hearings.

¹⁰ HMCTS have taken steps to improve notices and GOV.UK content in this regard and work is in progress to develop public user guidance.

- Explore more mechanisms for court users to interact on video hearings with legal representatives, intermediaries, interpreters and others providing support e.g. private chat function or break-out room on CVP.
- Ensure remote hearing joining instructions and links are sent out a reasonable time for the hearing especially where parties are accessing support.
- Basic information (e.g. jurisdiction and hearing type) about the hearing should be provided to interpreters ahead of the hearing and opportunity should be allowed for BSL interpreters to have some interaction with the person they are interpreting for before the hearing starts. The contract team will work with the supplier to ensure that necessary information is provided before the hearing and that BSL interpreters are aware that they can have 10 mins pre-hearing contact. It may be useful to consider allowing more time for hearings with interpreters when scheduling a remote hearing.
- Recommending that the legal profession consider their role in agreeing how to receive instruction from their client.

Do users perceive remote hearings to be fair and appropriate?

The hearing processes, not just the outcome, can contribute to perceptions of fairness. Transparent processes which give consideration to the needs of all participants, support engagement in the process and explain the outcome can influence perceptions of fairness. This applies equally to remote and in-person hearings but approaches to achieving these may differ for different hearing types.

Across remote and in-person court users, a similar proportion felt they received a fair hearing, had confidence in how the court or tribunal handled their case and agreed their case was given an appropriate amount of care and attention (varying from 60%-69% across the different measures).

The judiciary however were concerned that remote hearings do not feel sufficiently formal or convey the seriousness of the court proceedings well. It is important to promote guidance to judges and legal representatives on how to encourage users to uphold the formality of the courts during remote hearings, through their introductions.

Judges play an important role in facilitating appropriate communication between parties throughout the hearing. They should be encouraged to include the existing script on ground-rules, introduction of all attendees, the running order and acknowledgement of any technology considerations in their introductions to ensure that individuals are clear about how to participate in their hearing and what to do if they have any technical problems. It is essential that mechanisms are in place to alert judges when an individual drops out of the hearing and the hearing is paused until they are able to reconnect and that a recap is provided where needed.

Vulnerable users were more likely to experience challenges in communication with their representative during the hearing. Recommendations identified earlier in this section such as ensuring needs are identified and adjustments made ahead of the hearing and ensuring mechanisms are in place for individuals to interact with legal representatives, intermediaries, interpreters during the hearing are important for ensuring a fair hearing.

Annex A: Summary of the implementation review of remote hearings

Background to the research

The COVID-19 outbreak necessitated a radical and swift transition to widespread use of audio and video technology to support hearings taking place when presence by all participants in the court or tribunal building is not possible or practicable.

A two-stage research approach was undertaken to understand the audio-video response in the COVID-19 period. The short-term agile implementation review was the first stage of the research approach, which was conducted between April and August 2020. The key aim of the review was to quickly develop and improve key current audio video processes that had been put in place.

The Implementation Review set out to answer the following research questions

- How is the remote hearing process working in practice? What tools have been used and how effective are they?
- How do experiences vary for different user groups or hearing types? (including for audio hearings compared to video hearings, and for the different platforms)
- What difficulties or barriers do users face, and how do they vary for different user groups or hearing types? (and for audio hearings compared to video hearings, and for the different platforms)
- What support could be implemented to address barriers and difficulties?

A research approach was used involving:

- (Virtual) observation of remote hearings (or recordings of hearings)
- Qualitative Skype/telephone interviews with user groups
- Synthesis of relevant external research.

Interviews were conducted with all key user groups involved in remote hearings:

- 59 x Court staff interviews
- 44 x Legal representative interviews
- 50 x Judge interviews
- 11 x Public user interviews
- 3 x Support professional interviews (e.g. intermediaries, professional users).

Key recommendations and implemented improvements

The implementation review identified a number of areas to improve the efficiency of remote hearings. These can be grouped into 5 areas:

- Delays which prevent the hearing from starting on time (joining, recording, access to documents)
- Troubleshooting technical issues during the hearing
- Hearings which include interpreters/witnesses
- Practical issues when facilitating hearings remotely
- Public users not being prepared prior to their hearing or supported throughout their hearing.

The COVID-19 Recovery Continuous Improvement team built on these recommendations to deliver a series of improvements.

1. *Delays which prevent the hearing from starting on time (joining, recording, access to documents)*
 - A training course for using Cloud Video Platform technology was developed to help support operational staff
 - A series of bitesize learning on how to use the technology to support court and tribunal users
 - New court and tribunal hearings notices and joining instructions were created which provides all the information users need to join a video hearing effectively
 - The amount of guidance available on the intranet was streamlined and redesigned to make sure staff searching for support can find the right content.
2. *Troubleshooting technical issues during the hearing*
 - A guide was developed on how to troubleshoot user connectivity issues which should help staff to support users who are having technical difficulties as they join a hearing
 - The team worked with the Employment Tribunal in Wales to operationalise the video hearing test clinics, a drop in facility for users to test their equipment before a hearing. Not all courts and tribunals currently offer this but there are increases in the service being provided
 - The team worked with operations to develop a top tips guide for managing remote hearings.
3. *Hearings which include interpreters/witnesses*
 - A technical solution for Cloud Video Platform was developed and launched to enable simultaneous interpretation in January 2021.
4. *Practical issues when facilitating hearings remotely*
 - Guidance has been provided to all operational staff on how Cloud Video Platform can be used to enable a breakout function for judges, panel members and legal representatives. Legal discussions can now happen privately which helps to reduce delays discussing issues that need to be resolved outside of the main hearing.
5. *Public users not being prepared prior to their hearing or supported throughout their hearing*
 - A process was developed for Support Through Court (STC) to access remote hearings where they are being asked to support a Litigant in-person
 - A technical solution for intermediaries to communicate simultaneously to users and be better able to observe their behaviour and concentration levels on Cloud Video Platform has been launched. This solution helps vulnerable public users to participate effectively and have support from the intermediary without disrupting the hearing.
 - Guidance was developed for staff and public users on court etiquette in remote hearings.

Annex B: Technical issues and support during remote hearings

Technical experiences

The majority of public users and observers did not experience technical issues, but it was a particular challenge for those that did. Amongst public users who experienced technical problems the most commonly reported were:

- Inconsistent audio quality e.g. dropping in and out (46%)
- Disconnections affecting user or others (39%)
- Poor audio quality e.g. echoes (36%)
- Inconsistent video quality e.g. dropping in and out (31% of those who used video)
- Time delays between user and others (17%)
- Difficulties connecting e.g. with links or access codes (14%)
- Poor video quality e.g. grainy or dark images (13% of those who used video)

Public users who used video were more likely than those who used audio only to have experienced most of these specific issues listed. Technical issues do not appear to be linked to particular software platforms however, there is a relationship between location and device and the incidence of technical issues:

- Technical difficulties were a little less likely to have affected remote users who were at home (28%) than those in a workplace (34%).
- Taking both device and location into account 37% of those who accessed a video hearing at home (or another's home) via a mobile experienced a technical problem compared to 30% of those using video via a laptop or desktop in their workplace (or their lawyers workplace).
- Almost half (48%) of users who were at a court or tribunal site or in police custody when accessing their remote hearing had technical issues.

Despite these issues, there were few court adjournments due to technology issues reported by public users. (2%).

Interviews with professionals highlighted that user confidence with video conferencing had increased throughout the pandemic as people became more familiar with how to manage cameras and microphones and protocols became established.

The surveys with professionals found that the majority of technical issues occurred in non-court locations although a significant minority did occur in court. Hearings were rarely adjourned to a different day, although this was slightly more common in the early stages of the pandemic.

Magistrates raised concerns about the sound quality dropping in hearings and the fact that they may possibly miss something important. Poor home lighting is a common issue and can limit visual cues. They also commented that when technical issues occurred during a hearing it can become very frustrating for the parties making it more challenging to focus on the content of the hearing.

HMCTS staff mentioned in interviews that the CVP platform sometimes goes down across the entire court estate and it has been quite difficult to establish if the platform dropped, whether the issue was specific to the court or whether it was a wider scale problem. Some felt that this was becoming more of an issue as CVP has become a more widely used platform. Some staff also said that there were challenges recording hearings on CVP.

Some HMCTS staff commented that hybrid hearings can be difficult to set up and as the cameras in court are not designed or positioned to capture the entire court room do not lend themselves to remote hearings.

One interpreter said that with criminal cases where they are interpreting from home and the defendant is in court, they really struggle to hear the defendant when they speak because they are the only party that does not have a microphone. They felt it would be useful to place a microphone in the defendants' box. One of the magistrates commented that in some courts there are not adequate microphones for all of the parties.

"Another disadvantage is there were only three microphones in the court room that were connected to it, someone had to keep shuffling them around while maintaining social distance. Not ideal, but again, you know you just work through it. It's all about brute force and ignorance, really." [Magistrate]

In interviews HMCTS staff observed that certain parties are more commonly affected by glitches and these include appellants, interpreters and parties connecting from hospitals which has tended to impact on mental health tribunals. There was a common problem with CAFCASS representatives as their devices often block access to cameras. This challenge has been overcome by switching to Teams. Some legal representatives commented that switching from one platform to another has been very difficult for clients to manage. HMCTS staff also highlighted that the judge's level of confidence with technology has a significant impact on how remote hearings run.

Technical support

Interviews with judges highlighted the value of having a clerk to manage the administration

"It is useful for judges if hearings are clerked [by clerks] who are dealing with IT so the judge can concentrate on doing judging. They are sending out invites, supporting people to enter the hearing room...they can sort out connection problems during hearings." [Judge, Family]

"What we do have now are clerks allocated to every hearing. If a hearing is due to start at 10:30AM a clerk is available from 10.15 and the panel gather earlier in the tribunal room and have our pre-hearing discussion. A benefit of a clerk is they coach people having technical difficulties... a clerk is so invaluable in the first 15 minutes leading up to the hearing." [Judge, SCS]

"I have to dial the numbers and get everybody into the hearing, myself, which is hugely time consuming...there is quite a lot of scrabbling around to find numbers." [Judge, Civil]

Professional interviews identified that when parties drop off the call the clerk does not always have a way of contacting them. It is also not always obvious when someone had dropped off a hearing if there are a lot of people in the call and the hearing may continue. Once they are back on the call, they are not always brought up to speed with what they have missed.

During qualitative interviews, most public users said they had been able to access the platform used for their remote hearing with ease. Many of those that attended via an audio platform explained that they had been called at the scheduled time and told to hold the line for other parties to join, while a few had been provided with a telephone number to call on the day. Those that attended via a video platform meanwhile had typically been sent a weblink via email to enable them to join their hearing.

"It was dead easy.... just got a phone call that explained this person and that person will be in the room and it will go quiet for a minute [while everyone joins]." [Public user, Defendant, Family, Audio]

"We clicked on the link that was in the email and it took us to a waiting room and a message came up and said "You will be invited in 10 minutes" or whatever and then it just sort of came up...the court room came up and we could hear people talking. It was fairly easy." [Public user, Defendant, Magistrates', Video]

Only a handful of public users reported having difficulties accessing the platform used for their remote hearing. For example, in one instance an individual had difficulty joining an audio platform due to confusion about the required access code. However, where difficulties with access were encountered these were often quickly resolved through support and guidance provided by court staff and legal representatives.

HMCTS staff interview respondents said that the most common issues for parties joining a hearing were that their camera or microphone are not set up correctly. Parties are asked to join the call thirty minutes before the hearing to provide an opportunity to resolve such issues but in reality parties do not join until closer to the hearing start time which means there is often not enough time to explore problems. HMCTS staff emphasised the importance of not using jargon when supporting parties with such technical issues.

Where parties do not use the correct browser they often have not been able to join the hearing and this was reported to be a common issue for parties dialling in from work laptops. Problems with Wi-Fi were also reported as common but there was very little that court staff could do in such cases. It can become necessary to move the hearing from video to audio. Where it was necessary for staff to dial parties into the call this became a challenge if the phone number had an international dialling code or if the phone did not accept calls from withheld numbers.

Respondents highlighted that it has often taken around 20 to 30 minutes to get all the parties on to a call and whilst the majority may not have had technical problems it only takes one party to experience an issue to cause delays.

"There needs to be an allowance for time because actually getting a bunch of people on the call, you know you start out with the two or three magistrates and the legal advisor. That's fine, but the time we've got in private law, CAFCASS, mother, mother's lawyer, father,

father's lawyer, possibly some other related party that can take ten minutes of the time you've been allocated. And somebody will drop out. Somebody won't answer so you have to then call them back." [Magistrate]

Legal representatives and support professionals sometimes faced problems with not being dialled in to BT MeetMe hearings or not receiving links to video hearings by the time the hearing was due to start. Some mentioned that the link or pin did not work, or they may not have been told which platform was being used and all of these issues can create delays. Support professionals not receiving a link may need to contact the organisation or agency that they work for to resolve the situation which can be particularly disruptive if they are an interpreter as the party they are interpreting for may not understand what is happening. There can also be challenges where a party who requires an interpreter, experiences difficulties joining the call, as the interpreter may be needed to support this situation, and this is particularly difficult if a sign language interpreter is needed.

Legal representatives and support professionals commented that there was often a lack of adequate communication about delays and it would be useful to provide more information for those experiencing the delays as it can be extremely stressful for clients. Some platforms have a waiting room where parties are held before the hearing starts and it would be useful to notify parties in the waiting room of delays. Legal representatives said that they feel when there is a delay the onus has been on them to follow up with the court to establish what was happening and it would be helpful if there had been a more proactive approach to providing information. Where cases were cancelled, support agencies were not always informed, and volunteers are left waiting to be dialled in to a hearing without any knowledge of the cancellation.

Annex C: Communication during remote hearings

Public user interviews highlighted that many attending with a legal representative felt they could communicate adequately during the hearing. Some used a separate instant messaging platform and others were given the opportunity to leave the hearing to communicate with their legal representative in private.

"The one worry that we could have had was that on a remote hearing, you're not sitting next to your Barrister, you can't pass him notes. That's why we got around that using WhatsApp." [Public user, Claimant, Employment Tribunal, Video]

"The judge asked the lawyer, and the lawyer said that I didn't discuss that with my client but if you would give me a few minutes I could discuss with my client so the judge said yes let's go offline, and we could discuss outside the conference call." [Public user, Family, Applicant, Audio]

However, there were some instances where public users gave accounts of having difficulties communicating with their legal representative. This was typically because a channel of communication had not been pre-arranged or because they did not have multiple devices available to enable the use of multiple channels of communication. For example, some public users explained that they only had access to a mobile phone for the hearing and, because this was being used to attend the primary audio or video platform in use, they were unable to have a dialogue with the representative.

"I could see my barrister on the screen but there was no way to talk to him, so I just watched. I was a spectator really and that just carried on while I stood watching." [Public user, Defendant, Crown, Hybrid]

Public users typically expressed satisfaction with their ability to communicate with the judge during their remote hearing or tribunal. Many had direct dialogue with the presiding judge and were given the opportunity to give their account at regular intervals.

"I felt involved because questions were addressed to me. Even though [the judge] was not asking me in-person, it still felt very personal ... she asked me questions about what was going on and she gave me a good couple of minutes to talk." [Public user, Defendant, Family, Audio]

However, some public users mentioned having difficulties communicating with judges during their hearing because of a lack of non-verbal cues. For example, being unable to see the body language of the presiding judge and their reaction to statements or evidence. In the absence of such visual signals, some public users felt unsure when it was appropriate for them to speak and if they were

getting their point across. This was particularly pronounced during audio hearings but was also an issue with video hearings too, especially when video hearings involved a high number of participants. Judges also highlighted this dynamic.

“Because they don’t see you, I think they sometimes don’t get a sense of how the hearing is going. They might want to say more if they don’t think things are going their way but, on the phone, they can’t tell so you feel like they might be wondering how much to say. In-person I think they can sense how it’s going and react accordingly.” [Judge, Family]

In interviews some judges raised concerns about the ability of some public users to communicate with their legal representative and this was more likely to affect those from lower socio-economic backgrounds.

“We are dealing with parents in the lower socio-economic levels of society, and they don’t have fancy computers and are not capable of sitting at home on one device and talking with legal advisors on other devices. It isn’t inclusive if they don’t attend in-person and is not fair where the stakes are so high for them and their children.” [Judge, Family]

Interviews highlighted that professionals tend to use email, text, WhatsApp or a chat function on a different platform to that being used for the hearing to communicate with individuals in the hearing if necessary. Some magistrates said that if using a phone this can feel unprofessional as they appear to be distracted and their gaze moves away from the screen. Some use WhatsApp or chat platforms on their laptop or computer to overcome this.

One magistrate commented that it had become important during remote hearings for wingers to be confident to formulate their own questions rather than doing this through the chair. For magistrates working in court any deliberation between magistrates and legal adviser can no longer be done by whispering in court because of the need to retain distance so it has been necessary to leave the room to deliberate.

Magistrates also emphasised the challenges they have experienced working with limited or no visual cues and how difficult it can be to sense how people are feeling but also not to be able to use body language themselves. One said for example, that they found it much harder to manage situations where parties are talking too much in a remote hearing setting. They also considered that with hybrid cases it was hard to not to give precedent to the parties that are in physical courtroom and also where one party joins a hearing by video and another by phone there was not a level playing field.

In face to face hearings the judge can see if a legal representative has been passed a note whereas in remote hearings the judge is not likely to be aware of any side communication. Any requirement to confer requires a delay to the hearing. Communication with the opposition has been much more challenging and off the record conversations have not happened in the same way. It may be that counsel speaks with counsel or a solicitor speaks to a solicitor, but it was reported to be less likely for all parties to engage which was seen as a negative dynamic.

In situations where the hearing is delayed to allow one party to speak to another, how this happens varies. In some situations the parties will go on mute within the hearing and phone each other whereas in other situations they may be left in the virtual court room whilst other parties leave, although the person administering the hearing may remain, potentially compromising privacy. One legal representative described a situation where a break was agreed to enable the representative to speak with the prosecution representative. They understood that the meeting

administrator had placed them both on mute whilst they made a phone call but in reality, they were taken off mute, so the conversation was heard by the open court.

Some legal representatives said that they find it harder to interject during remote hearings and also find it is harder to persuade. They also said that attention can be pulled in multiple directions making it harder to focus. It is much more challenging to share physical evidence during the hearing and to ensure that all parties can see the evidence properly. They felt that in remote hearings it is harder for the judge to gain a full impression of the witnesses and this was supported by comments made by magistrates.

“With witnesses I strongly feel, and I haven't got any empirical evidence for it other than my sort of gut feeling, but it's harder to cross examine people over video because you've got that mediated conversation again. It's much easier to disassociate yourself with surrounding and be disingenuous or worse.” [Magistrate]

HMCTS staff said that they would use the chat function to communicate in a hearing although this was only possible if the message was not private as it can be seen by all parties. One of the challenges of using the chat function has been that it does not appear on screen for mobile users and also it does not appear on the screen in court so the judge may not see it. It was felt that it could be improved by having an @ function so that messages can be directed at individuals. HMCTS staff may interject directly if the judge has not seen a message or in some cases they may text, WhatsApp or email to contact the judge and typically email a legal representative or litigant in-person if they need to communicate during the hearing.

When the judge leaves the room to deliberate court staff highlighted that they do not always give a start time, and this can be difficult to manage as parties are unaware when and how to return to the hearing. This could be improved by introducing a process to manage this and to agree and communicate a start time.

Some support professionals would not typically communicate with clients during the hearing although if they were in the court room with the client they may pass notes. Supporting clients in remote hearings has reduced the possibility of communication and also makes it harder to offer reassurances and human connection. One legal representative highlighted that it is much harder to hide emotions in remote hearings as there is an expectation that you continue to face the screen, whereas in court there may be situations where they turn away from parties to express emotion. Another commented in a similar vein that the visual dynamics of remote hearings prevent individual eye contact and connections which can be an important form of non-verbal communication in hearings.

Some participants felt that public users appeared to be more reticent to speak in remote hearings whereas others felt that they were more relaxed and confident. All groups mentioned the value of having breakout rooms attached to remote hearing to facilitate communication.

Annex D: Working with interpreters in remote hearings

Some of those interviewed said that when a hearing requires an interpreter it would usually be scheduled as an in-person hearing. Those with experience of remote hearings with interpreters said that the hearing takes longer, and it is important that this is reflected in the scheduling. Some also commented that hearings can become disjointed with interpreters. In order to address these issues interpreters were sometimes asked to join a separate conjoined room in CVP or sometimes asked to connect directly via a separate call to the person they were interpreting for, in order to interpret simultaneously outside of the main hearing. This was not always possible as either the interpreter or the other party may not have two devices and in some cases the interpreter said they were not comfortable sharing their contact details with an unknown party. When interpreters set up on a separate call, it was reported that they do not always mute themselves within the main hearing which has interfered with the dialogue. One sign language interpreter described an experience of joining an audio call for a hearing and being asked to set up a side video call for them and the person they were interpreting for. They described this experience, which happened towards the beginning of the pandemic as very difficult and frustrating.

Some hearings require multiple interpreters which has been challenging from a hearing management perspective. The CVP conjoined room has not been designed for such situations as it can only handle one breakout group. Typically sign language interpreters will work in pairs for longer hearings and switch over every 20 or 30 minutes but the conjoined room will work for this scenario as both interpreters join the same room along with the person they are interpreting for which helps with the facilitation of handovers.

Some legal representatives raised concerns about the feasibility of using interpreters in remote hearings. One felt that some interpreters did not appear very confident with digital platforms and another felt that they can be less focused when working remotely. Another commented that it is hard to see when an interpreter is struggling to keep up in remote hearings which can be challenging. Some felt that there was a lack of information for legal representatives on how to request an interpreter for remote hearings.

The speed with which people speak in remote hearings has sometimes been problematic for interpreters. Participants commented that often the judge at the start of the hearing asks parties to speak slowly to enable interpreters the time they need to have to interpret. There is a tendency to start slowly but then to speed up making it difficult for interpreters. Interpreters commented that it is harder to interject if things are proceeding too quickly in a remote hearing compared to face to face. Where sign language interpreters interject, they can be faced with a situation where the deaf person does not know what is happening unless they also sign to explain, and this can be difficult to manage.

Sign language requires the full person to be visible on screen in remote hearings because the whole body is used for communication. Sign language interpreters also highlighted the limitations of trying to communicate a three-dimensional language in a two-dimensional screen format.

“Sign language is a visual language and as part of its grammar it uses space and locations in space and you can set up locations in space but it’s hard to pin point with any accuracy location if you are not there face to face to see in 3D the foreshortening, so sometimes meanings become unclear. It’s so much easier to interpret face to face for a deaf person....Spoken language is very linear, based on the physical impossibility of being able to

make more than one sound at a time whereas in sign language we are not limited in the same way. So facial expression, eye gaze and where you place something in space and how that relates to something else you may have also placed in space, bodily orientation and how you articulate a sign can all occur at the same time but each element has a grammatical meaning so it work in a simultaneous rather than a linear manner.” [Sign language interpreter]

Sign language interpreters generally had a strong preference for Zoom because of the functionality that it offers for pinning, spotlighting and highlighting. For deaf parties and sign language interpreters the ability to have control over the format of their screen, who is pinned and, to be able to change this throughout the hearing, is significant. In longer hearings there are two interpreters, and they switch over approximately every 20 to 30 minutes, so in order to ensure they can communicate the deaf person needs to make sure that the interpreter is clearly visible on their screen. Both Zoom and Teams offer this functionality and Zoom was preferred because it was considered to be more widely used by the deaf community. With CVP this functionality is not available as the settings are controlled by the person administrating the meeting and interpreters said it was challenging to negotiate the correct settings.

In order to address some of the issues faced by interpreters, the CVP platform functionality was adapted to offer two conjoined rooms. The hearing takes place in one room and the interpreter and the person they are interpreting for are present in both rooms and able to communicate in their separate second room. This has been developed to support interpretation and was well received by one of the sign language interpreters that had experience of using it, although they still preferred using a platform that offered more autonomy.

“They have now set up two virtual rooms which are conjoined. We are put in the same room as the deaf client. Hats off to whoever thought that up as it works very well. Given the limits of the technology I think this is the best solution. We are large enough on the screen to see each other.” [Sign Language Interpreter]

Some staff used the conjoined rooms functionality for CVP on a regular basis and were confident with how it works but others did not know how to use it.

For interpreters the most significant information gap was that they generally do not have any information about the case ahead of the hearing. Whilst they did not expect significant details about the case, they said it would have been useful to know the jurisdiction and the type of hearing before they begin. One interpreter said that they did not receive the name of the person they were interpreting for ahead of the hearing and they needed to know this so that they could be aware of any potential conflict of interest before the hearing started.

“I don’t think that courts quite understand what it is they are asking us to do. We never get any preparation. We should be the first to be let in and given a ten-minute briefing about the case and who is involved just to get some context because context it such a big part of sign language as it’s a highly contextual language. These things really do help and enable things to go more smoothly so interpreters don’t need to interrupt to clarify points. It would be more economical to do it that way, but I think it’s because judges and advocates don’t really understand what an interpreter does and what the task is, so they race off and talk very quickly and talk over one another. I have to ask them to slow down for example when I have to finger spelling a name. Would be helpful to have some preparation and more thought given to the fact that something is being translated into a visual language.” [Sign Language Interpreter]

Interpreters had no contact with the person they were interpreting for before a remote hearing. This made things very difficult as they did not know the communication skills of the person before they start, which is particularly difficult for sign language interpreters. People have different abilities and also there are some regional variations. It is very difficult to begin without establishing these things

through a brief informal discussion as would happen outside the courtroom in face to face hearings.

“No contact before the hearing is one of the biggest problems with remote hearings. When going face to face we have time to chat and ensure we understand each other and that there are no communication issues... In a remote hearing you just pop up on the screen and it’s hard to know if they understand. They might be smiling and nodding but do they really understand? This can cause a problem sometimes.” [Sign Language Interpreter]

Interpreters said that they have sometimes been called for the wrong language and this does not become apparent until they are in the hearing. Some BSL interpreters have also been called for the wrong language as there can be an assumption that sign language is international, but they are not able to support in other sign languages. There was also a tendency to assume that all deaf people speak sign language which is not the case. In these situations, the case has inevitably been adjourned. Remote hearings do however have the potential to facilitate interpreters working across a wider geographical area which may have the advantage of increasing access to interpreters especially with less frequently spoken languages in certain locations.

