

Written evidence submitted by Prof. Nigel Fielding, Prof. Sabine Braun, and Dr Graham Hieke: Findings from evaluation examining the impact of booking software on video court hearings

1 Introduction

Video links have been used in the courts and tribunals service since the early 1990s. Plans to extend remote hearings by video link are an established part of the HMCTS reform programme. However, since the start of the Covid-19 pandemic, which forced the courts and tribunals service to adapt their operations at pace, the use of remote hearings has been expanded rapidly to include a wider range of participant and hearing types whilst relying on new and untested courtroom configurations and technology (including hearings by audio link). Nevertheless, the Covid-19 pandemic has exacerbated the backlog of cases already in the system. Moving forward there exists a need to boost the capacity of the courts and tribunals service to deal with the backlog.¹

Despite the long history of drawing on video links in the courts and tribunals service, there have been very few research studies into their impact on issues such as procedural justice, effective participation and justice outcomes. For instance, there have been just two studies exploring the use of video links in first hearings at magistrates' courts, namely an outcome evaluation of the Virtual Court Pilot conducted in London and North Kent,² and the much more recent Video Enabled Justice (VEJ) Evaluation, which examined the impact of new booking software used in the scheduling of first appearance remand hearings by video link in the magistrates' courts.

2 The Video Enabled Justice Evaluation

In 2018 the University of Surrey was commissioned to conduct an evaluation of new booking software used to facilitate the scheduling of first appearance remand hearings in court to police custody video link proceedings. The study was led by Professor Nigel Fielding, with Professor Sabine Braun as co-investigator and Dr Graham Hieke as the study's main researcher.

The evaluation findings and recommendations, drawn from analysis of data from over 600 video-enabled and traditional in-person hearings in magistrates' courts, and semi-structured telephone interviews with court users and stakeholders, provide new insights into the performance of booking software used in the court listing process, as well as other pertinent features of video courts when compared to traditional in-person courts. The Justice Committee is recommended to review the full report for a comprehensive overview of the evaluation findings.³

3 Recommendations for further research

Whilst studies examining the impact of video hearings offer important insights, they do not provide a complete picture and further research is required.

In 2019 the Commons Justice Committee⁴ recognised the urgent need for the MoJ to commission, "...independent research on video hearings and video links with a primary focus on justice

¹ Crest Advisory (2020). Survive. Recover. Rebuild. Justice post Covid-19: https://b9cf6cd4-6aad-4419-a368-724e7d1352b9.usrfiles.com/ugd/b9cf6c_1be0e67dd6954a948c78a4ca0850542d.pdf

² Terry, Johnson, & Thompson (2010). Virtual Court pilot outcome evaluation: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/193633/virtual-courts-pilot-outcome-evaluation.pdf

³ Fielding et al. (2020). Video Enabled Justice Evaluation: <https://www.sussex-pcc.gov.uk/media/4862/vej-final-report-ver-12.pdf>

outcomes. This research should be completed before HMCTS makes more widespread use of video technology in the courts and tribunals” (p.141).

Whilst the Covid-19 pandemic has made it difficult to limit the use of remote communication technology in the courts before further research is conducted, it has also made such research much more urgent.

Features specific to the previous research including practical concerns associated with conducting research in live courtroom settings, as well as limitations around datasets, have thus far precluded the use of research designs that allow for a focus on justice outcomes.

In particular, comparisons of justice outcomes in video and non-video court (e.g. concerning the use of custodial sentences) are yet to be informed by studies that include the matching of hearings on specific pertinent features within their designs e.g., defendant characteristics, offence classification, and plea, as well as fieldwork locations, socio-demographic variables and local crime patterns. Otherwise, differences between the treatment and control groups on these factors may bias the comparisons made between processes and hearing outcomes.

One aspect that has been consistently highlighted by previous research on video link use in courts and tribunals, including post-Covid-19 research,⁵ is that such data reflecting the experiences and preferences of different groups of lay participants, including vulnerable court users and members of ethnic minority groups, and data on the outcomes/impact of remote justice on these groups are urgently required.

⁴ House of Commons Justice Committee, Court and Tribunal reforms (2019) HC 190:

<https://publications.parliament.uk/pa/cm201919/cmselect/cmjust/190/190.pdf>

⁵ Byrom, N., Beardon, S., & Kendrick, A. (2020). The impact of COVID-19 measures on the civil justice system:

<https://www.judiciary.uk/wp-content/uploads/2020/06/CJC-Rapid-Review-Final-Report-f-1.pdf>; Ryan, M., Harker, L., &

Rothera, S. (2020). Remote hearings in the family justice system: a rapid consultation:

https://www.nuffieldfjo.org.uk/app/nuffield/files-module/local/documents/nfjo_remote_hearings_20200507-2-.pdf;

Ryan, M., Harker, L., & Rothera, S. (2020). Remote hearings in the family justice system: reflections and experiences

(September 2020): https://www.nuffieldfjo.org.uk/app/nuffield/files-module/local/documents/remote_hearings_sept_2020.pdf