

Report and recommendations

The impact of COVID-19 measures on the civil justice system – Appendices

Dr Natalie Byrom
Sarah Beardon
Dr Abby Kendrick
May 2020



Table of Contents

| | |
|---|-----------|
| APPENDIX A- LIST OF RESPONDENTS TO CONSULTATION INBOX..... | 2 |
| A. GROUP RESPONSES..... | 2 |
| B. INDIVIDUAL RESPONSES | 3 |
| APPENDIX B: LITERATURE REVIEW: THE IMPACT OF THE RAPID EXPANSION OF REMOTE HEARINGS IN THE CIVIL JUSTICE SYSTEM..... | 4 |
| APPENDIX C: UNDERSTANDING THE WORK CONDUCTED IN THE COUNTY COURTS DURING COVID-19 | 14 |
| APPENDIX D: CODING CATEGORIES FOR TYPES OF HEARING | 17 |
| APPENDIX E: SUMMARY OF REGRESSION ANALYSIS AND TECHNICAL OUTPUTS..... | 18 |
| APPENDIX F: SUMMARY OF REMOTE PUBLIC CONSULTATION MEETING..... | 25 |
| DIGITAL INEQUALITY..... | 25 |
| DOES A REMOTE HEARING GIVE YOU A ‘DAY IN COURT’?..... | 25 |
| A HOUSING BACKLOG | 26 |
| OPEN JUSTICE..... | 26 |
| IMPACT ON PRACTITIONERS | 26 |
| WHAT NEXT? | 26 |
| APPENDIX G: ONLINE SURVEY: QUESTIONS AND ROUTING..... | 28 |

Appendix A- List of respondents to consultation inbox

A. Group responses

- 1.1 Where respondents indicated they were responding on behalf of a group or organisation they were re-contacted to ask how many individuals were represented by their response. Some organisations had conducted their own surveys to arrive at the response submitted to the consultation. In order to weight these responses appropriately in the analysis, the number of individuals represented is presented here and referred to in the text.

| <i>Name of responding organisation</i> | <i>No. of individuals represented in response</i> |
|--|---|
| 39 Essex Chambers | 160 |
| 5 Pump Court | 52 |
| Association of Consumer Support Organisations | 45 |
| Association of Cost Lawyers | N/S |
| Berryman Lace Mawer | 10 |
| Birkbeck Institute for Crime & Justice Policy Research | 4 |
| Brighton Housing Trust | 21 |
| Citizens Advice Woking | 3 |
| DAC Beachcroft | 2500 |
| Doughty Street chambers/ 1 Pump Court/ Garden Court | 157 |
| DWF Law | 929 |
| Equality and Human Rights Commission | 339 |
| Forum of Insurance Lawyers | 8000 |
| Freshfields | 6 |
| Garden Court Chambers | 130 |
| Guardian News Media | 1 |
| Helen Bamber Foundation | 800 |
| Hogan Lovells | 140 |
| Horwich Farrelly | 450 |
| Irwin Mitchell | N/S |
| Justice | 18 |
| Keoghs | N/S |
| Kings Chambers | 117 |
| Law Society of England and Wales | N/S |
| Mishcon de Reya | 900 |
| News Media Association | N/S |
| Northern Circuit | 1000 |
| Official Solicitor | 1 |
| Personal Injuries Bar Association | 1500 |
| Pinsent Masons | 19 |
| Press Association | 4 |
| Reed Smith | 52 |
| Slater & Gordon | N/S |
| South Eastern Circuit | N/S |

| | |
|---------------------------------------|--------|
| Southwark Law Centre | 9 |
| Spotlight on Corruption | 3 |
| Stewarts | 110 |
| Thomson Reuters | 17 |
| Travers Smith | N/S |
| Trowers Hamlins | 15 |
| University of Oxford Faculty of Law | 3 |
| Wales and Chester Circuit | N/S |
| Western Circuit | 1100 |
| Young Legal Aid Lawyers | 89 |
| Housing Law Practitioners Association | 44 |
| Law Centres Network | N/S |
| City of London Law Society | 17,000 |

B. Individual Responses

1.2 Some individuals also submitted long form responses to the consultation, or emailed to provide the research team with relevant literature, data and resources. These individuals and their organisational affiliations are presented here.

| Name | | Organisation |
|-------------|------------|---|
| Andrew | Roy | 12 Kings Bench Walk |
| Masood | Ahmed | University of Leicester Law School |
| Nevile | Ayling | Press reporter at Royal Courts of Justice |
| Marie | Burton | Middlesex University School of Law |
| Jamie | Clarke | Crown Office Chambers |
| Thomas | De La Mere | Blackstone Chambers |
| Peter | Harthan | 7 Harrington Street Chambers |
| Stephen | Lacey | Linklaters |
| Jaime | Lindsey | University of Essex School of Law |
| Paul | Magrath | Incorporated Council of Law Reporting |
| Jane | McFarlane | 30 Park Place Chambers |
| Paul | McGrath | Temple Garden Chambers |
| Grainne | McKeever | Ulster University School of Law |
| Graham | Ross | Practitioner |
| Justin | Shale | Barrister |
| Bill | Skirrow | Pro Bono Community |
| Graham | Walters | TLT Solicitors |

Appendix B: Literature Review: The impact of the rapid expansion of remote hearings in the civil justice system

This literature review was prepared by Sarah Beardon in support of the review¹.

METHODS

The purpose of this literature review was to gather published accounts of the changes that have occurred in the civil courts as a result of the Covid-19 pandemic and gain insight into the impacts these have had for legal professionals, litigants and the civil justice system as a whole.

Aims of the literature review:

- To identify the extent of available literature
- To describe the conduct of remote hearings in the civil courts
- To investigate the experiences of court users
- To identify evidence gaps in relation to the impacts of the changes

Scope:

The literature review sought published accounts of hearings occurring in the civil courts in England and Wales for the period since the social distancing measures were announced (16th March 2020). Evidence was sought specifically on the conduct of remote hearings and accounts or experiences of those participating. The focus was on understanding substantive impacts of the changes, therefore literature presenting guidance or commentary only was excluded. A wide-ranging web search was conducted using search engines, databases and social media to identify relevant publications. Websites of legal organisations and networks were also searched and a request for literature submissions was included in the public consultation.

Table 1: Selection criteria for literature

| Criteria | Inclusion criteria | Exclusion criteria |
|-----------------------------|--|---|
| Geography | England and Wales | Scotland, Northern Ireland and international |
| Time period | 16 th March 2020 – date of search (27 th April) | Accounts of remote hearings occurring outside Covid-19 era |
| Jurisdiction | Civil courts | Other jurisdictions (family courts, criminal courts, military courts and tribunals) |
| Information reported | Descriptions of remote hearings Reported experiences of court users | Guidance, procedures/protocols |

¹ Suggested citation: Beardon, S. (2020) “Literature Review: The impact of the rapid expansion of remote hearings in the civil justice system”

Data analysis:

The content of the included publications was analysed thematically. Each publication was read in detail and the text coded according to the information presented. A narrative synthesis of the emerging themes is presented below.

FINDINGS*Characteristics of the included literature*

A total of 46 publications were identified that fitted the selection criteria for the literature review. The majority of the included publications (n=43) were articles published on the websites of legal organisations or news sites, but also included one guidance document and two organisational reports.

Around half of these (n=24) reported on specific remote hearings that had taken place in civil courts during the pandemic. The type of hearings reported included appeals (n=9), trials (n=6), interlocutory hearings (n=5), multiple (n=2), cost hearings (n=1) and unspecified (n=1). The depth of reporting on these hearings varied from brief reports that hearings had taken place to more detailed accounts of how hearings had been conducted.

The remaining publications (n=22) reported on wider experiences of remote hearings and the operations the courts during the Covid-19 era. Rather than reporting on specific hearings, these publications provided professional insights on the changes that had taken place in the civil courts since the start of the pandemic and included general learnings and recommendations.

Hearing details

The virtual hearings reported in the publications covered a wide range of civil legal issues. While the disputes themselves were not often described in depth, they included issues around commerce, insolvency, planning decisions, personal damages, antisocial behaviour, professional practice and case management decisions. The value of the claims was only reported for two of the virtual hearings, but where this was given the claims were high-value, ranging from £6m to \$530m(Holland QC, 2020)(Stewarts, 2020c). Litigants included individuals as well as companies; two cases involved litigants in person(Carr, 2020)(Rose, 2020).

Adjournments

Hearing adjournments had been sought in several cases due to the epidemic; reasons for requesting an adjournment included: difficulties communicating well from separate locations, difficulties working from home, feeling unconfident in the process, lack of previous experience using the technology, Covid-19 symptoms(Deuchrass, 2020); potential interruptions, difficulties accessing necessary documents and support(Shea QC & Lees, 2020).

Adjournments had been granted where it was deemed the trial could not be conducted largely on the papers, where significant costs were involved and cross-examination was required (Herbert Smith Freehills, 2020)(Shea QC & Lees, 2020). In some cases, a short adjournment had been granted to allow additional preparation time for a remote hearing(Exall, 2020g) and to allow parties to recover from Covid-19 symptoms(Deuchrass, 2020); however, judges have ruled against long adjournments (even of lengthy trials), arguing that business should go ahead using remote means where it is safe to do so(Simmonds & Simmonds, 2020). The first virtual trial was allowed to proceed in the commercial court (taking place in the High Court)

on Wednesday 25th March (Stewarts, 2020a). Mr Justice Teare referred to the guidance given by the Lord Chief Justice, stating that hearings should continue remotely where possible in the interests of justice (The Lord Burnett of Maldon et al., 2020). This decision was an important landmark and has been referred to in subsequent decisions to proceed with remote hearings (Exall, 2020g) (Simmonds & Simmonds, 2020). The civil justice protocol for remote hearings was published the following day, giving further guidance to support continuation of hearings remotely (The Master of the Rolls et al., 2020)

It is thought that adjournments will become less frequent as the pandemic continues, although they may have been common at the start (Falcon Chambers, 2020). Parties are now less likely to be granted additional time for preparation (Simmonds & Simmonds, 2020).

Remote working arrangements

Audio and video hearings were both commonly reported in the publications. They included hearings taking place in open courts where parties dialled in by telephone or video link (Exall, 2020e) (Dewar, 2020) (Rose, 2020), as well as hearings where all parties were participating from remote locations (Exall, 2020d) (Landmark Chambers, 2020) (Patry & Glenister, 2020b) (Exall, 2020a) (Exall, 2020f) (Landmark Chambers, 2020) (Posnansky & Holley, 2020) (Sleep, 2020) (Tanfield Chambers, 2020) (Wiggin, 2020). Other approaches included mixing teleconferencing methods; for example, one hearing held in open court had one side dial in by Skype and the other by telephone (Exall, 2020d). In another case where technical issues had interrupted one participant's video link, they were able to dial in by telephone while the rest of the court listened in over Skype (Holland QC, 2020).

In some instances, hearings were conducted on the basis of the papers without parties needing to appear orally. In one case, arrangements had been made for a party to make written submissions via email and for the ruling to be handed down in writing (Exall, 2020b) (Carr, 2020); another case involved the parties consulting via social media prior to the hearing and submitting written responses (Betts, 2020). Conducting the hearing based on papers alone was not deemed suitable where the hearing required cross-examination of witnesses (Johnson et al., 2020).

Open justice arrangements

Different approaches had been taken to ensuring remote hearings were made public. There were examples of hearings being held in open court, without other provision for open justice (Exall, 2020c, 2020e). In other cases, the proceedings were broadcast in a court building (Exall, 2020h) or had enabled the presence of the press or public by granting access for media representatives to dial in to the teleconference (Exall, 2020a; Tomlinson et al., 2020). Some interlocutory hearings had been listed without indications for press application (de la Mare QC, 2020). One high profile case conducted via Zoom in the High Court had been livestreamed on YouTube and was publically accessible (Stewarts, 2020b).

Other hearings were held in private, following Practice Direction 51Y which allows for private hearings where it is not possible for them to be made public. In examples of such instances, the judgement was published (Exall, 2020f) or a note of the proceedings was taken and the judgement was to be handed down in public at a later date (Landmark Chambers, 2020).

Technology

Teleconferencing platforms used for conducting remote hearings had included BT Conferencing, BT Legal, BT MeetMe, Microsoft Teams, Skype and Skype for Business, WhatsApp video and Zoom.

There were several accounts of the technology working well for the conduct of remote hearings; in these examples, parties could be easily seen and heard through the proceedings, they cooperated well, documents were accessible, hearings proceeded efficiently and without technical hitches (Brier, 2020; Darling QC, 2020; Exall, 2020k; Landmark Chambers, 2020; Posnansky & Holley, 2020; Sleep, 2020; Stewarts, 2020c). However, in other cases technical difficulties had interfered with the conduct of the hearing; these included issues such as weak internet connections, poor telephone signal, unreliable hardware and software, audio problems, difficulties accessing and logging in to the conferences. These had sometimes resulted in substantial time delays, interruptions and breaches of confidentiality (Tomlinson et al., 2020), as well as loss of submissions (Shea QC & Lees, 2020). In one trial, the number of parties in the video conference room at any one time was limited to minimise possible latency issues; other parties and legal teams were able to follow via a separate livestream (Stewarts, 2020b). Organisational issues were also encountered, such as difficulties managing electronic bundles and ensuring everyone had access to the necessary papers (Falcon Chambers, 2020; Herbert Smith Freehills, 2020; Holland QC, 2020).

To ensure that remote hearings ran smoothly, recommendations included doing a practice run or dialling in early to test the technology was working well (Exall, 2020k; Patry & Glenister, 2020b). An interview study also highlighted the value of having responsive court staff on hand to facilitate remote hearings; these individuals could assist with technical problems and help maintain effective case management during the hearing (Tomlinson et al., 2020).

Communication in court

Many of the accounts were positive about the way communication had proceeded in remote hearings. For example, arguments and questioning had occurred effectively and parties were able to participate well (Blackmore, 2020). Teams had been able to confer and take instructions as usual (Exall, 2020f) and overall the process was felt to be fair and efficient (Brier, 2020). In some ways the technology used for remote hearings was felt to improve communication in the court; for example, it allowed documents to be displayed on screen so that all parties could see the relevant information, which could make hearings more inclusive for lay clients (Landmark Chambers, 2020). However, a number of challenges were reported as described below.

Communication within legal teams was highlighted as a challenge in some cases. Legal representatives needed to communicate confidentially with their teams during the hearing, which required using other technological channels alongside that used for the remote hearing; for example, using texts, chats, emails or separate video connections between themselves (Holland QC, 2020; Patry & Glenister, 2020b; Posnansky & Holley, 2020; Shea QC & Lees, 2020; Wiggin, 2020). Managing different streams of communication at once in this way could be challenging and distracting (Tomlinson et al., 2020), although some found it an improvement over the usual note-passing in court (Patry & Glenister, 2020b).

Interpersonal communication could be more challenging compared with in-person hearings. Audio hearings especially could create feelings of disconnection between participants (Tomlinson et al., 2020) and could make it harder for the court to interpret what was being said because facial expressions could not be seen (Patry & Glenister, 2020a). It was suggested that using video would allow judges to manage communication more easily during the hearing (Darling QC, 2020). Where video was used, the up-close

view of speakers could provide greater than usual clarity of facial expressions (Posnansky & Holley, 2020). However, other accounts described finding it difficult to ascertain how people were understanding and reacting to the information presented, and consequently how to proceed with the arguments (Tomlinson et al., 2020).

Use of remote platforms could affect the fluency of courtroom discussions. It was not possible to interrupt speakers, as would occur usually in person (Falcon Chambers, 2020). Debate could be more difficult due to sound issues, time delays and over-speaking (Solon, 2020), and some participants felt it was harder to address points adequately (Tomlinson et al., 2020). Systems for managing speakers were helpful, such as members of the Counsel raising their hands to speak out of turn (Blackmore, 2020). On some of the remote platforms it was not possible to see all members of the discussion at once, which could cause frustration (Blackmore, 2020). When the opponents worked together and cooperated well this helped to ensure the hearing proceeded efficiently (Exall, 2020k).

Professional experiences

Many of the reports indicated that professionals found remote hearings to be workable and acceptable substitutes for in-person hearings. Hearings had largely gone ahead smoothly (Darling QC, 2020; Simmonds & Simmonds, 2020). In some cases it was felt they were not much different from in-person hearings (Patry & Glenister, 2020b; Rose, 2020). This was true especially where there was no live witness evidence so submissions could be listened to remotely in the usual way (Exall, 2020k; Holland QC, 2020).

Accounts of the efficiency of remote hearings were variable. Some had proceeded with equal or greater efficiency than normal, due to improved communication and reduced waiting times (Baksi, 2020; Exall, 2020k; Falcon Chambers, 2020). One significant benefit was being able to conduct hearings from home that were listed all over the country (Tomlinson et al., 2020), reducing the time and cost of travel and allowing parties to attend who would otherwise have been unable to (Sleep, 2020). However, other accounts reported delays.

It could take a significant amount of time to set up remote hearings and get parties connected at the beginning, putting pressure on conducting the business (Exall, 2020i, 2020j). Timetables were adjusted to account for expected delays and provide additional time for managing issues related to remote working arrangements (Blackmore, 2020; Tomlinson et al., 2020). Other challenges were reported that made hearings take longer, such as missing the necessary papers (Exall, 2020j; Tomlinson et al., 2020), navigating documents and switching between speakers (Falcon Chambers, 2020), and writing notes during the hearing (Patry & Glenister, 2020a).

Some of the accounts noted that conducting hearings remotely could be more tiring than in person (Exall, 2020i, 2020j; Falcon Chambers, 2020; The Lord Burnett of Maldon et al., 2020). This may increase the need for breaks during the hearing (Falcon Chambers, 2020) and limit the number of hearings that can be conducted each day (The Lord Burnett of Maldon et al., 2020). Working in the home environment could present challenges and recommendations abounded on how to reduce distractions for the court, including loud noises, family and pet cameos, distracting backgrounds and inappropriate dress.

Litigant experiences

None of the publications had reported experiences of remote hearings from the litigant's perspective; however, some relevant observations were made. One litigant in person had said they were unable to participate in a remote hearing because their laptop had been stolen and they could not afford the mobile

phone bill to take part by telephone(Exall, 2020b). Other examples of challenges for litigants were given, such as not having access to the document bundle or videoconferencing technology, becoming distressed during the hearing or being cut off while making submissions due to technical difficulties(Tomlinson et al., 2020).

System adaptation

The civil justice system has pivoted rapidly to adapt to the new circumstances of the pandemic. The judiciary have been committed to continuing the work of the courts as a vital public service where this is possible(The Lord Burnett of Maldon et al., 2020). Remote hearings have been at the centre of the changes to allow the continued administration of justice under social distancing rules(Tomlinson et al., 2020). Few if any civil hearings are now being held face-to-face(Johnson et al., 2020) and there have been steep increases in court cases held using video and audio(Croft, 2020). The published commentary highlights the remarkable speed of change from the physical courtrooms to remote hearings as the new norm(Croft, 2020; de la Mare QC, 2020; Tomlinson et al., 2020).

The protocol regarding remote hearings in the civil justice system provides basic guidance but leaves flexibility for implementation(The Master of the Rolls et al., 2020). Adapting to the changes in practice will be a steep learning curve for all involved(Sleep, 2020). Courts will need to consider the suitability for remote hearings on a case-by-case basis and proceed where a fair resolution can be achieved(Exall, 2020g). Courts have demonstrated flexibility and innovation in implementing the protocol(Deuchrass, 2020). The guidance will continue to be updated as the situation evolves rapidly and courts will need to stay up-to-date with the changes(Simmonds & Simmonds, 2020).

The move to remote hearings appears to have been easier in the senior courts where levels of resources are greater(de la Mare QC, 2020; Falcon Chambers, 2020). Similarly, commercial courts seem to have had fewer problems than county courts(Exall, 2020h). Some types of cases are also easier to conduct remotely than others. Those which focus on preliminary issues or points of law, and do not involve live evidence (such as administrative court cases) are better suited to remote hearings(Exall, 2020k; Patry & Glenister, 2020b; Tomlinson et al., 2020). More difficult cases to conduct remotely include those with long hearing times or high levels of emotion(The Lord Burnett of Maldon et al., 2020), very personal or hotly contested issues(Croft, 2020) and those involving cross-examination of witnesses(Solon, 2020). Careful consideration should also be given to cases involving litigants in person or participants who are not native English speakers(The Lord Burnett of Maldon et al., 2020).

There have been significant impacts on the volume and value of work being conducted by civil teams since the start of the Covid-19 outbreak. A survey conducted by the Western Circuit shows that the number of civil hearings conducted in the Easter weeks of 2020 was 75% lower compared with the same weeks in 2019, and the value of the work was 58% lower(Brunner QC & Ashby, 2020). The loss of work has had a greater impact on smaller sets in the circuit (who have experienced an 85% drop in the number of hearings) and on the most junior end of the bar(Brunner QC & Ashby, 2020). This reflects the fact that the Civil Listing Priorities have meant non-urgent and low level cases are often not being heard.

BIBLIOGRAPHY

- Baksi, C. (2020, April 2). Coronavirus could permanently alter courts. *The Times*.
<https://www.thetimes.co.uk/article/coronavirus-could-permanently-alter-courts-mzh5mfv72>
- Betts, E. (2020, April 3). Remote hearings: injunction to stop ‘car cruising’ continued in open court without attendance of the parties – *Wolverhampton City Council & Ors v Persons Unknown*.
Hardwicke. <https://hardwicke.co.uk/remote-hearings-injunction-to-stop-car-cruising-continued-in-open-court-without-attendance-of-the-parties-wolverhampton-city-council-ors-v-persons-unknown/>
- Blackmore, S. (2020, April 24). Court of Appeal Remote Hearing – Update for Legal practitioners.
Landmark Chambers. <https://www.landmarkchambers.co.uk/court-of-appeal-remote-hearing-update-for-legal-practitioners/>
- Brier, J. (2020, March 28). Life in a virtual court under coronavirus: “No standing up for the judge and pray the kids don’t burst in.” *The Telegraph*. <https://www.telegraph.co.uk/news/2020/03/28/no-need-rise-judge-experiment-virtual-court-hearings/>
- Brunner QC, K., & Ashby, L. (2020, May 1). Coronavirus civil survey – April 2020. *Western Circuit*.
- Carr, D. (2020, April 2). Court takes flexible approach to directions and hearing under Remote Hearings Protocol (COVID-19) (*Gil v London Borough of Camden*). *LexisNexis*.
[https://www.lexisnexis.co.uk/blog/covid-19/court-takes-flexible-approach-to-directions-and-hearing-under-remote-hearings-protocol-\(covid-19\)-\(gil-v-london-borough-of-camden\)](https://www.lexisnexis.co.uk/blog/covid-19/court-takes-flexible-approach-to-directions-and-hearing-under-remote-hearings-protocol-(covid-19)-(gil-v-london-borough-of-camden))
- Croft, J. (2020, April 23). Courts test their online future, from dress-down lawyers to witness appearance. *Financial Times*. <https://www.ft.com/content/936e04b6-7a8c-11ea-bd25-7fd923850377>
- Darling QC, P. (2020, March 20). Paul Darling QC’s thoughts on his Voice Skype hearing in the TCC today.... *39 Essex Chambers*. <https://www.39essex.com/paul-darling-qcs-thoughts-on-his-voice-skype-hearing-in-the-tcc-today/>
- de la Mare QC, T. (2020, March 30). Coronavirus and Public Civil Hearings. *Blackstone Chambers*.
<https://coronavirus.blackstonechambers.com/coronavirus-and-public-civil-hearings/>
- Deuchrass, C. (2020, April 8). Flexible approach taken by Court under Remote Hearings Protocol (COVID-19). *Collyer Bristow*. <https://collyerbristow.com/longer-reads/flexible-approach-taken-by-court-under-remote-hearings-protocol/>
- Dewar, D. (2020, March 20). Planning court hearing conducted by telephone due to coronavirus impact. *Planning Resource*. <https://www.planningresource.co.uk/article/1677834/planning-court-hearing-conducted-telephone-due-coronavirus-impact>
- Exall, G. (2020a, February 4). Court of appeal hear case by videoconferencing. *Civil Litigation Brief*.
<https://www.civillitigationbrief.com/2020/04/02/court-of-appeal-hear-case-by-videoconferencing/>
- Exall, G. (2020b, March 27). Innovative approach when proposed appellant unable to attend court. *Civil Litigation Brief*. <https://www.civillitigationbrief.com/2020/03/27/innovative-approach-when-proposed-appellant-unable-to-attend-court/>

Exall, G. (2020c, March 31). Coronavirus, court hearings (with no one present) and social media: all in one case. *Civil Litigation Brief*. <https://www.civillitigationbrief.com/2020/03/31/coronavirus-court-hearings-with-no-one-present-and-social-media-all-in-one-case/>

Exall, G. (2020d, March 31). Remote hearings (1): how are the courts coping? Two cases today. *Civil Litigation Brief*. <https://www.civillitigationbrief.com/2020/03/31/remote-hearings-1-how-are-the-courts-coping-two-cases-today/>

Exall, G. (2020e, April 8). Hearing where parties made submissions by telephone is not inconsistent with the open justice principle. *Civil Litigation Brief*. <https://www.civillitigationbrief.com/2020/04/08/hearing-where-parties-made-submissions-by-telephone-is-not-inconsistent-with-the-open-justice-principle/>

Exall, G. (2020f, April 8). Skype hearings and appeals: court of appeal are stepping on the gas.... *Civil Litigation Brief*. <https://www.civillitigationbrief.com/2020/04/08/skype-hearings-and-appeals-court-of-appeal-are-stepping-on-the-gas/>

Exall, G. (2020g, April 21). Extension of time granted and hearing put back because of covid-19 problems: the relevant principles considered. *Civil Litigation Brief*. <https://www.civillitigationbrief.com/2020/04/21/extension-of-time-granted-and-hearing-put-back-because-of-covid-19-problems-the-relevant-principles-considered/>

Exall, G. (2020h, April 22). Remote hearings: are there “two nations” operating within the court system (or more than that...). *Civil Litigation Brief*. <https://www.civillitigationbrief.com/2020/04/22/remote-hearings-are-there-two-nations-operating-within-the-court-system-or-more-than-that/>

Exall, G. (2020i, April 26). The (not so) lonely litigator’s club 12: anonymous district judge (1). *Civil Litigation Brief*. <https://www.civillitigationbrief.com/2020/04/26/the-not-so-lonely-litigators-club-12-anonymous-district-judge-1/>

Exall, G. (2020j, April 27). The (not so) lonely litigator’s club 14 : anonymous district judge (2): exercising a “right of reply.” *Civil Litigation Brief*. <https://www.civillitigationbrief.com/2020/04/27/the-not-so-lonely-litigators-club-14-anonymous-district-judge-2-exercising-a-right-of-reply/>

Exall, G. (2020k, April 28). How to make remote detailed assessments work: two successful hearings explained. *Kings Chambers*. <https://lawinthetimeofcorona.wordpress.com/2020/04/28/how-to-make-remote-detailed-assessments-work-two-successful-hearings-explained/>

Falcon Chambers. (2020). Coping with Hearings. *Falcon Chambers*. <https://www.falcon-chambers.com/splash/views/coping-with-hearings>

Herbert Smith Freehills. (2020, April 7). Covid-19: pressure points: impact on civil litigation in England and Wales. *Herbert Smith Freehills LLP*. <https://www.herbertsmithfreehills.com/latest-thinking/covid-19-pressure-points-impact-on-civil-litigation-in-england-and-wales-uk-update-7>

Holland QC, D. (2020, April 20). Some thoughts on remote hearings from David Holland QC. *Landmark Chambers*. <https://www.landmarkchambers.co.uk/some-thoughts-on-remote-hearings-from-david-holland-qc/>

Johnson, N., Pertoldi, A., Mendoza, R., & McIntosh, M. (2020, March 26). COVID-19: The evolving picture for remote hearings in the English courts. *Herbert Smith Freehills*.
<https://hsfnotes.com/litigation/2020/03/26/covid-19-the-evolving-picture-for-remote-hearings-in-the-english-courts/>

Landmark Chambers. (2020, March 25). Kate Olley and Christopher Katkowski QC's account of remotely-conducted judicial review hearing. *Landmark Chambers*.
<https://www.landmarkchambers.co.uk/kate-olley-and-christopher-katkowski-qcs-account-of-remotely-conducted-judicial-review-hearing/>

Patry, C., & Glenister, L. (2020a, March 23). Conducting Telephone and Video Hearings. *Landmark Chambers*. <https://www.landmarkchambers.co.uk/working-in-your-pyjamas-telephone-and-video-hearings/>

Patry, C., & Glenister, L. (2020b, March 30). Some more experiences of remote hearings. *Landmark Chambers*. <https://www.landmarkchambers.co.uk/some-more-experiences-of-remote-hearings/>

Posnansky, J., & Holley, C. (2020, April 24). And the judge wore pyjama trousers. *The Law Society Gazette*.
<https://www.lawgazette.co.uk/commentary-and-opinion/and-the-judge-wore-pyjama-trousers/5104008.article>

Rose, N. (2020, March 23). Self-isolating litigant in person appears via barrister's mobile. *Litigation Futures*.
<https://www.litigationfutures.com/news/self-isolating-litigant-in-person-appears-via-barristers-mobile>

Shea QC, C., & Lees, K. (2020). Witness actions – press on ... or pause for breath? *Falcon Chambers*.
<https://www.falcon-chambers.com/publications/articles/witness-actions-press-on-or-pause-for-breath>

Simmonds & Simmonds. (2020, April 17). UK Court hearings during the COVID-19 lockdown (England and Wales). *Simmonds & Simmonds LLP*. <https://www.simmonds-simmonds.com/en/publications/ck93zhbdv0m9o0925sj32lkxb/court-hearings-during-the-covid-19-lockdown--england-and-wales->

Sleep, C. (2020, April 2). A Virtual Court of Appeal Hearing in Time of Covid19. *Stobbs IP Limited*.
<https://www.iamstobbs.com/opinion/a-virtual-court-of-appeal-hearing-in-a-changing-world>

Solon, M. (2020, April 2). Virtual courts are no longer a thing of the future. *The Times*.
<https://www.thetimes.co.uk/article/virtual-courts-are-no-longer-a-thing-of-the-future-fsqq7jqx5>

Stewarts. (2020a, March 26). The first virtual trial in the commercial court: Stewarts secures continuation of trial despite COVID-19. *Stewarts Law LLP*. <https://www.stewartslaw.com/news/the-first-virtual-trial-in-the-commercial-court-stewarts-secures-continuation-of-trial-despite-covid-19/>

Stewarts. (2020b, April 6). The challenges faced by Stewarts acting in one of the High Court's first virtual trials. *Stewarts Law LLP*. <https://www.stewartslaw.com/news/the-challenges-faced-by-stewarts-acting-in-one-of-the-high-courts-first-virtual-trials/>

Stewarts. (2020c, April 24). Virtual trial success for National Bank of Kazakhstan – judgment handed down. *Stewarts Law LLP*. <https://www.stewartslaw.com/news/national-bank-of-kazakhstan-virtual-trial-success-in-handed-down-judgment/>

Tanfield Chambers. (2020, March 26). Tim Polli QC Appears in the Court of Appeal Remotely. *Tanfield Chambers Services Limited*. <https://www.tanfieldchambers.co.uk/2020/03/26/tim-polli-qc-appears-in-the-court-of-appeal-remotely/>

The Lord Burnett of Maldon, Sir Terence Etherton, & Sir Andrew McFarlane. (2020, March 19). *Message for Circuit and District Judges sitting in Civil and Family from the Lord Chief Justice, Master of the Rolls and President of the Family Division*.

The Master of the Rolls, The President of the Queen's Bench Division, The Chancellor of the High Court, The Senior Presiding Judge, & The Deputy Head of Civil Justice. (2020, March 26). Civil justice in England and Wales: Protocol regarding remote hearings. *Judiciary of England and Wales*.

Tomlinson, J., Hynes, J., Marshall, E., & Maxwell, J. (2020). *Judicial Review in the Administrative Court during the COVID-19 Pandemic*. <https://publiclawproject.org.uk/wp-content/uploads/2020/04/200420-JR-during-COVID-19-Research-paper-for-publication-final.pdf>

Wiggin. (2020, March 26). Business almost as usual – Court Hearings During the Coronavirus Outbreak. *Wiggin LLP*. <https://www.wiggin.co.uk/insight/business-almost-as-usual-court-hearings-during-the-coronavirus-outbreak/>

Appendix C: Understanding the work conducted in the County Courts during COVID-19

Note on coding methodology²

The following notes bring together the methodology deployed on the coding of court listings information which was conducted to help to frame the findings of the survey. At time of publication (June 2020) this data was still being validated by the research team. The dataset will be available on request from the author.

CourtServe information

This is a report of the civil work that was undertaken by the courts. It is not an indication of overall judicial sitting time. There were many instances of ‘mixed lists’ in which judges undertook both civil and other work, often family or Court of Protection.

Layout and Information

The data reflects the information contained in the court lists. It is apparent that there is no national format for producing court lists.. This resulted in a wide spectrum of information. At one end of the spectrum the court gave information about the judge, the type of the application, the length of the hearing, the platform used, the press notice and in some cases even the contact information for the represented parties. At the other end of the spectrum, bare information was provided that amounted to the name of the case and its start time.

This spectrum provided challenges for coding. This is especially true for allocating to some work types and estimating the length of the hearing. In many cases the court did not provide the length of the hearing and it was clear that the start time for a case and the start time for the following case was unlikely to be an accurate indication of the time allotted to each matter. By way of example

| | | | |
|-------|----------------|-----------------|------|
| 10.00 | Bloggs v Binns | Infant Approval | BTMM |
| 12.00 | Smith v Jones | Infant Approval | BTMM |
| 02.00 | Brown v Green | Infant Approval | BTMM |

While it is not axiomatic that an infant approval in the County Court takes 20 minutes, most courts will list such a hearing for 20/30 mins. On balance it is unlikely that there were two one hour infant approvals followed by a two hour hearing. In such cases we used applied the most likely time estimate for the hearing.³

While it would have been possible to simply reject the data this would have skewed the results to significantly under report the amount of civil work being undertaken by the courts.

The result is that some of the accuracy is compromised by us having to assume and apply the norm as opposed to having actual data. Some limited inaccuracy will appear in the data, to the extent that the case departed from the norm.

There is a second implication for the lack of any national approach. We have had to rely on the classification of the cases by the court. If there are no nationally accepted criteria for the classification of hearing types there is a danger that different courts will classify work in different ways. A classification of ‘application’

² This note was prepared by His Honour Judge Chris Lethem. The research team expresses their sincere gratitude to Judge Lethem for his tremendous work in support of the review.

³ By way of further example we assumed that a Costs and Case Management Conference without a time estimate was 90 minutes. We are conscious that this is not invariably the case, but it falls into line with the Judicial College training on the issue and *is the most likely* time estimate.

may mask 'matters relating to issue' 'interim relief' or other directions. Thus there is likely to be a certain variation in the allocation of work type dependant on the court that is producing the list.

Number & Type of Judge

This data was published in all cases and is accurate. We should have an accurate idea of the number of judges and the DJ / CJ split.

Matters relating to issue

This category is a composite work type to encompass matters that pre-dated the engagement of both parties. As such it would relate to pre-action disclosure, extending time for service of proceedings, service and the like. It was necessary because some lists identified such hearings. There is bound to be some overlap with other work types. This column simply reports the cases where it was clear that this type of hearing was engaged. There will be cases that were reported as an application, where in truth the application was for a pre-issue matter. Thus there is likely to be under-reporting of such matters.

CCMC

This group encompassed both case management conferences and Costs and Case Management Conferences. It also includes matters relating to allocation. The lists tended to identify these well and we would expect there to be a high degree of accuracy

Applications and other Directions

Again these reflect the way in which the lists report the type of hearing. There is bound to be a significant overlap between the two because we are reliant on the criteria that individual courts use in allocating a case to work type. We can well understand that Court A or Judge A might treat an application as such while Judge B or Court B refer to it as directions. It is questionable that there is much utility in segregating the two and we cannot be confident that the split between the two is accurate or that it conforms to any national criteria.

Interim Relief

This encompasses self- contained applications for a recognisable relief. The most obvious examples were applications for injunctions. However it also includes applications for interim payments or payments on account. Again this data is confined to those cases where the list identified such an application. We would assume that some courts would label this work as simply 'application'. As such there is likely to an overlap with the applications data and thus under reporting of this form of application. Applications for a summary disposal were allocated to applications as opposed to interim relief.

Trial ; Oral Evidence & Trial ; Other

Where the matter was listed as a trial the default was to assume that there would be oral evidence especially where the platform used was a video platform. However, there were a number of occasions when we were aware that it is unlikely that there was oral evidence. Some Small Claims Track trial were shown as paper decisions. Stage 3 hearings would not normally include oral evidence, similarly Return of Goods hearings. Thus we removed hearings where it was clear that it was unlikely that there was oral evidence.

Enforcement

This captures the data where it was plain that there was enforcement. Because some of the applications are likely to have related to enforcement, it is probable that there is underreporting.

Costs

This information tended to be clearly flagged in the lists and is likely to be accurate save that some applications may have related to costs and thus there could be some marginal under-reporting.

Appeals

The lack of categorisation in the lists had a particular significance. Some lists identified the permission hearings. Many lists simply referred to Appeals. These cases were assigned to the 'substantive' column. It is thus highly likely that the 'substantive' column includes applications for permission and other interim relief and is over reporting.

Misc

There were very few cases where we could identify the type but it did not fit into one of the categories. However some courts simply did not give any information and thus we could not identify a category with sufficient confidence and allocated it to this column.

Platform & press notice

These are accurate where the information existed.

Hybrid hearings

There were occasions where matters were listed for more than one purpose. Costs and Case Management Conference and application is an example. In such cases we allocated to the likely dominant purpose. There were few such cases.

Appendix D: Coding categories for types of hearing

1.1 The survey contained a suite of questions asking about the experience of their most recent hearing, in order to understand the drivers of satisfaction within remote hearings. Some of the data captured was recoded to facilitate analysis. The date the hearing took place was recoded as variable T1—time since Practice Direction 51Y was published and the location of the court was recoded as “Region”. The most extensive recoding was undertaken in relation to the case type: respondents were asked to describe in their own words the hearing that they had most recently taken part in. This description was recoded with the support of an experienced High Court judge. The categories used, are set out below.

| Primary hearing type | Secondary hearing type |
|--|--|
| Matters relating to the constitution of the claim. | <ul style="list-style-type: none"> - Pre- action disclosure - Litigation friends - Constitution and service of the claim - Preventing issue of petitions - Disputing the court’s jurisdiction - Joining parties |
| Interlocutory | <ul style="list-style-type: none"> - Costs and Case Management - Applications concerning directions - Set judgment aside - Relief from sanctions - Summary disposal/summary judgment - Interim relief (including injunctions and payments on account) - Capacity issues - Security for costs |
| Trials | <ul style="list-style-type: none"> - Oral evidence based - Submissions based - Approvals- infant settlements - Approvals – other |
| Enforcement | <ul style="list-style-type: none"> - Committal - Stays - Other/Misc. |
| Costs | <ul style="list-style-type: none"> - Interlocutory - Assessment - Award |
| Appeals | <ul style="list-style-type: none"> - Permission matters - Interlocutory matters - Substantive appeals - Judicial review |
| Misc. | <ul style="list-style-type: none"> - Taking depositions |

Appendix E: Summary of regression analysis and technical outputs

This regression analysis was conducted by Dr Abby Kendrick, University of Warwick.

Model specifications

1. Overall impression = f (case type + severity + duration + technical problems + litigant in person + experience with remote hearings + days since rollout of remote hearings + agreement with outcome + type of technology used + region)
2. Overall impression = f (case type + technical problems + litigant in person + experience with remote hearings + days since rollout of remote hearings + agreement with outcome + type of technology used + region)
3. Recommend = f (case type + severity + duration + technical problems + litigant in person + experience with remote hearings + days since rollout of remote hearings + agreement with outcome + type of technology used + region)
4. Recommend = f (case type + technical problems + litigant in person + experience with remote hearings + days since rollout of remote hearings + agreement with outcome + type of technology used + region)

The results of ordered probit (outcome = overall impression) and probit (outcome = recommendation) models are reported in TABLE 1. For robustness, the dependent variable in Model 1 and 2 was also dichotomised (0 = neither, negative, very negative; 1 = positive, very positive) and re-specified in a probit model. The results across all coefficients hold. Models were also run with subsamples at the regional and type of hearing level. Again, all results hold. Controls for region were modelled in all specifications but were not statistically significant (coefficients not reported). All analyses were conducted in Stata16.

In Model 1 427 observations in the dataset were used in the analysis. 431 observations were used in Model 2. The likelihood ratio chi-square of 147.64 and 146.95 in Model 1 and Model 2 respectively, with p-values of 0.0000 tells us that the model as a whole is statistically significant, that is, it fits significantly better than a model with no predictors. The results for Model 3 and 4 are similar. 423 and 427 observations were used, with likelihood ratio chi-square of 43.51 and 36.13 and p-values of 0.0007 and 0.0006, respectively.

In model 1 and 3 case type is a descriptive measure of the type of case under consideration (case). In model 2 and 4 it is a measure of the nature of the case (case_active).

TABLE 1

| | Model 1 (Ordered probit) | Model 2 (Ordered probit) | Model 3 (Probit) | Model 4 (Probit) |
|-------------|-------------------------------------|-------------------------------------|-----------------------------|-----------------------------|
| | overall | | recommend | |
| case | | | | |
| costs | 0.382 (0.342) | | -0.407 (0.507) | |
| enforcement | -0.206 (0.327) | | -0.373 (0.414) | |
| appeal | -0.146 (0.235) | | 0.439 (0.417) | |
| trial | -0.059 (0.129) | | -0.379 (0.199) * | |
| sev | 0.125 (0.139) | | -0.362 (0.224) | |
| dur | 0.280 (0.245) | | 0.093 (0.403) | |
| case_active | | 0.250 (0.167) | | -0.036 (0.246) |
| techp | -0.954 *** (0.123) | -0.953 *** (0.121) | -0.594 *** (0.183) | -0.614 *** (0.180) |
| lip | -0.557 (0.170) | -0.075 (0.167) | -0.023 (0.256) | -0.119 (0.247) |
| agree | 0.994 *** (0.161) | 1.021 *** (0.155) | 0.714 *** (0.226) | 0.578 *** (0.214) |
| exp1 | 0.261 * (0.139) | 0.236 * (0.135) | -0.113 (0.215) | -0.0758 (0.209) |
| exp2 | -0.008 (0.005) | -0.008 * (0.005) | -0.005 (0.007) | -0.005 (0.007) |
| type | 0.751 *** (0.148) | 0.786 *** (0.140) | 0.578 *** (0.227) | 0.608 *** (0.210) |

*** significant at 1% level, ** significant at 5% level, * significant at 10% level

Standard errors in parentheses

Interpretation of coefficients in TABLE 1

We cannot interpret anything meaningful from the individual coefficients reported in TABLE 1, but their sign and significance can still be useful.

In Model 1 and 2, for variables coded 0,1, if the coefficient is positive (negative) and statistically significant, we can say that when the independent variable is equal to 1, it is more likely that overall impression is higher (lower) relative to when it is equal to 0. In Model 3 and 4, if the coefficient is positive (negative) and statistically significant, we can say that when the independent variable is equal to 1, it is more (less) likely that remote hearings would be recommended, relative to when it is equal to 0. This is an important point; we are always comparing the variable with respect to a base.

For example, $techp = 1$ when respondents experienced technical problems, $=0$ when they did not. With a statistically significant negative coefficient in all models, we can say that technical problems make it more likely that overall impression is lower, (negative, very negative) compared to experiencing no technical problems, and that experiencing technical problems make it less likely remote hearings would be recommended, compared to when no technical problems are experienced. The opposite is true for whether the respondent agreed with the outcome, which has a statistically significant positive sign. Agreeing with the outcome makes it more likely that overall impression is higher (positive, very positive) and makes it more likely remote hearings would be recommended, compared to disagreeing with the outcome. The type of hearing is also statistically significant at the 1% level: in this case a hearing by video makes it more likely overall impression is higher, compared to audio (the base). Having a hearing by video also makes recommendation more likely than hearings by audio. The level of experience the respondent has with remote hearings, as well as the number of days lapsed between the rollout of remote hearings and the date of the hearing, are both significant at the 10% level in Model 2; $exp1$ is significant in Model 1 also. We interpret $exp1$ in the same way: being positively associated, more experience makes it more likely that overall impression is higher, compared to having less experience. Interestingly, $exp2$ is negative: the more days since $t=0$, the more likely is overall impression in the lower categories. The coefficient for litigant in person suggests that when there are litigants in person involved in the hearing, it is more likely that overall impression is lower than if litigants in person are not involved. However, the lip coefficient is not statistically significant.

The interpretation of the variable ‘case’ is more nuanced. Instead of comparing to a base when the variable $= 0$, we set the base to a reference category to which each other category will be compared. For the purposes of our hypothesis, the base here is set as ‘Interlocutory’. The signs of the coefficients in Model 1 and 2 therefore suggest that **costs** hearings are more likely to be in the higher overall impression categories, compared to interlocutory. **Enforcement, appeal** and **trial** are likely to be in lower categories of overall impression, compared to interlocutory. Taking a different approach to measuring case type, the positive $case_active$ coefficient means that cases that are ‘active’ are more likely to be in the higher impression categories than ‘not active’. None of the case-related coefficients are statistically significant, however. The standard errors are large, which is most likely due to there being small cells in our dataset. This problem is discussed further in the limitations section. Interestingly, in Model 3 the coefficient for **trial** is significant. This suggests that recommendation is less likely for **trial** hearings, when compared to interlocutory, although this result is open to question given the methodological issue just mentioned.

While signs and significance provide some broad context, we can compute more precise estimates of the relationships between the dependent and explanatory variables by taking marginal effects. Marginal effects of statistically significant variables are reported in TABLE 2 (Model 1 and 2) and TABLE 3 (Model 3 and 4).

TABLE 2

| overall | Model 1 (Ordered probit) | Model 2 (Ordered probit) |
|---------------|-------------------------------------|-------------------------------------|
| techp | | |
| Very negative | 0.037 *** (0.011) | 0.038 *** (0.011) |
| Negative | 0.113 *** (0.021) | 0.113 *** (0.021) |
| Neither | 0.136 *** (0.024) | 0.141 *** (0.025) |
| Positive | 0.010 (0.024) | 0.004 (0.024) |
| Very positive | -0.297 *** (0.039) | -0.295 *** (0.038) |
| agree | | |
| Very negative | -0.038 *** (0.012) | -0.039 *** (0.012) |
| Negative | -0.118 *** (0.025) | -0.121 *** (0.025) |
| Neither | -0.142 *** (0.030) | -0.151 *** (0.030) |
| Positive | -0.010 (0.025) | -0.004 (0.025) |
| Very positive | 0.309 *** (0.051) | 0.316 *** (0.049) |
| exp1 | | |
| Very negative | -0.010 *** (0.006) | -0.009 *** (0.006) |
| Negative | -0.031 *** (0.017) | -0.028 *** (0.016) |
| Neither | -0.037 *** (0.020) | -0.035 *** (0.020) |
| Positive | -0.003 (0.007) | -0.001 (0.005) |
| Very positive | 0.081 *** (0.043) | 0.073 *** (0.042) |
| exp2 | | |
| Very negative | | 0.000 (0.000) |
| Negative | | 0.000 *** (0.001) |
| Neither | | 0.001 *** (0.001) |
| Positive | | 0.000 (0.000) |
| Very positive | | -0.002 *** (0.001) |
| type | | |

| | | |
|---------------|-----------------------|-----------------------|
| Very negative | -0.029 *** (0.010) | -0.030 ** (0.010) |
| Negative | -0.089 *** (0.021) | -0.093 *** (0.021) |
| Neither | -0.107 *** (0.025) | -0.116 *** (0.025) |
| Positive | -0.008 (0.019) | -0.003 (0.019) |
| Very positive | 0.234 *** (0.047) | 0.243 *** (0.044) |

*** significant at 1% level, ** significant at 5% level, * significant at 10% level
Standard errors in parentheses

TABLE 3

| recom | Model 4 (Probit) | Model 5 (Probit) |
|-------------|-----------------------|-----------------------|
| case | | |
| costs | -0.0808 (0.122) | |
| enforcement | -0.072 (0.097) | |
| appeal | 0.049 (0.035) | |
| trial | -0.074 * (0.041) | |
| techp | -0.106 *** (0.032) | -0.112 *** (0.032) |
| agree | 0.127 *** (0.040) | 0.105 *** (0.039) |
| type | 0.103 *** (0.040) | 0.111 *** (0.038) |

*** significant at 1% level, ** significant at 5% level, * significant at 10% level
Standard errors in parentheses

Interpretation of coefficients in TABLE 2 and TABLE 3

Marginal effects for categorical variables show how the probability of the dependent variable being equal to 1: $P(Y = 1)$ is predicted to change as the independent variable changes from 0 to 1 holding all other independent variables equal at their means.⁴ Because we are dealing with an ordered choice dependent variable in Model 1 and 2, TABLE 2 reports these marginal effects for each of the five categories $P(Y = \text{very positive, positive ...})$. In Model 3 and 4 the dependent variable is binary (0,1) so the coefficients in TABLE 3 report the marginal effects when $P(Y = 1)$; that is, the respondent answers YES to the recommendation question.

⁴ *Marginal Effects at the Means* is standard procedure but keep in mind that these are the marginal effects when all other variables equal their means; the marginal effects will differ at other values of the independent variables.

For techp in Model 1, the coefficients tell us that those who experienced technical problems in their most recent hearing are 29.7% less likely to have a very positive overall impression in comparison to those who experience no technical problems. They are also 11.3% and 3.7% more likely to report negative and very negative overall impression, all other things equal. The results for Model 2 are very similar. The results in Model 3 and 4 suggest that those who experience technical problems are around 11% less likely to recommend remote hearings than those who experience no technical difficulties.

For agree, in Model 1 respondents who agreed with the outcome are 30.9% more likely to have a very positive overall impression, in comparison to those who disagreed with the outcome. In Model 2, they are 31.6% more likely. They are also around 15% less likely to have neither positive nor negative and 12% less

likely to have negative overall impression than those who disagreed with the outcome. Those who agree with the outcome are also between 10-13% more likely to recommend remote hearings than those who disagree with the outcome.

While the two experience variables are statistically significant in Model 1 and 2, the effects are very small.

For type of hearing, those whose hearing was held by video are around 24% more likely to have very positive overall impression than those whose hearing was held by audio. Likewise, those whose hearing was held by video are around 11% more likely to recommend remote hearings than those whose hearing was via audio, all other things held constant.

Limitations and reflections for further research

The foregoing findings are preliminary in the sense that they have not been subjected to further post-estimation diagnostic tests.⁵ While such tests would not necessarily change the sign or significance of the coefficients, they would shed greater light on the extent to which we can be confident that the relationships we observe are not spurious. There are likely many empirical issues that require further investigation. However, given limited time and resources, it has not been possible to carry out those investigations presently. Interpretations of the findings should therefore be conditioned with respect to the possible empirical limitations, as well as be limited to the sample under discussion.

The cross-sectional nature of the data means that any unobserved individual-specific characteristics are not captured in the models. This could be particularly problematic if these characteristics are indeed important predictors of overall impression/recommendation. An individual's expectations, and realised (dis)confirmation of them, is just one example. There may also be significant selection issues. For example, it might be the case that those opting into the survey are already preinclined to think optimistically/pessimistically about remote hearings. There is also a possibility that those individual respondents who have participated in cases of a particular type are substantively different (in terms of their knowledge, experience, culture, etc.) to those who have participated in other types of cases. If these characteristics also predict overall impression/recommendation, the model is endogenous. The results on agreement with the outcome would also require further investigation to be meaningful in practice. We would need to know whether there is an over and above agreement effect on overall impression/recommendation for remote hearings, compared to other types of hearings. Hypothetically, it could be the case that if an unfavourable outcome (in terms of agreement) is likely, attempts might be made to delay a remote hearing for a hearing in person. This again would pose empirical issues of selection. If,

⁵ For example, test of specification error, goodness-of-fit, multicollinearity, and heteroskedasticity - a problem to which robust standard errors are not a solution.

however, the agreement effect holds across different types of hearing, it would merely be needed as a control.

More generally, the ordered probit and probit models require more observations than OLS regression because they use maximum likelihood estimation techniques. It is also important to keep in mind that when the outcome is rare, even if the overall dataset is large, it can be difficult to estimate a probit model. It is evident from crosstabulations between categorical predictors and the outcome variables that there are many small cells in our dataset. This is problematic because if a cell has very few cases (a small cell), the model may become unstable. Indeed, for some categories in our case variable, there are a number of empty cells, which likely explains at least in part why no significant result is observed: the empty cell causes the estimation procedure to fail.

These empirical problems are not insurmountable but in surmounting them, much more data of a longitudinal kind is certainly required. Individual-specific characteristics could be isolated via panel data methods: where impression/recommendation is observed for the same individual across multiple hearings over time. Remote hearing-specific effects could also be isolated via randomised control trial to determine what are the over and above effects compared to other types of hearing. Above all, future research must consider the significant selection issues at stake: samples must be random for meaningful generalisations to be made.

Appendix F: Summary of remote public consultation meeting

This summary of the discussion at the remote public consultation meeting was prepared by Tortoise media. A recording of the event is available at: <https://we.tl/t-BOQ2INgzXE>

Digital inequality

Law Centres that specialise in face-to-face advice are seeing fewer of their most vulnerable clients. “I worry that the people who might most need us can’t access our services,” Dame Hazel Genn, director of UCL’s Centre for Access to Justice based in Newham, told us. Most of the organisation’s work now came through emails - an indication which suggested that many litigants in person could be missing out. “Those in the greatest need don’t have the technology, don’t have the broadband, don’t even have the phone account to be able to get our services.”

Julie Bishop, director of the Law Centres Federation, echoed these concerns. Demand post-Covid varied hugely depending on the service model, she said. Those centres that relied more on telephone-based advice had predictably been inundated with calls. But many clients had no credit on their mobile to call in. To maintain the widest possible access, Julie is having to improvise. “We’re putting leaflets in foodbank bags. We’ve put posters in supermarkets and pharmacies. We’ve been working in some areas with community radio and local newspapers. Whatever is the closest point of contact for people who might not have digital access.”

Overall, the sense was that those litigants in the greatest need could be made even more vulnerable by a post-Covid abandonment of face-to-face legal assistance. In the short term, law centres can respond by asking - as Julie said - “what a good remote service looks like” while trying to maintain access through innovative methods.

Does a remote hearing give you a ‘day in court’?

Stephen Simblet, a QC who typically works with clients who aren’t used to the court system was adamant that a remote hearing was “very much worse than a face-to-face court hearing”. A feeling of fairness was under threat. “It’s quite important for people’s expectations that they feel they’ve had a proper and fair and complete hearing,” he said. “If you’re simply one of a number of blinking figures in a video chat, the whole idea that the judge listened carefully to what everyone said, that the advocate gave their best, is diminished.”

Celia Kitzinger, reflecting back on a remote hearing she attended, agreed. “People have mentioned lack of empathy, being in somebody’s lounge instead of having your day in court, being the size of a postage stamp on a screen, not being able to look people in the eye. It was horrendous.” Empathy, in general, might also be lacking. “The judge feels more responsible for their decision in a face-to-face hearing,” said Stephen. “If you have to look at someone in the eye and say ‘you’re going to lose your home’ or ‘your claim is dismissed’, you take a degree of responsibility for it by being in the courtroom.”

However, Jane Foulser, who practices civil law, said she’d been conducting telephone hearings for five years. Provided you get the technology right, such hearings were very effective. “It focuses everybody’s attention on what they’re doing. If you get judges and participants who are used to the system, it’s seamless. Very rarely is there a problem.”

What's clear is that the impact of remote hearings has been felt inconsistently. As Richard Harwood QC said, some courts are functioning while others have ground to a halt. In general, there is evidence that the acceleration of technology in the legal system post Covid-19 has been received positively by practitioners working in high value commercial cases and other civil hearings where both sides are represented.

A housing backlog

A legal system already under strain will feel even greater pressure when courts resume something resembling a fuller service later this year.

When the housing courts reopen on 25 June, thousands of possession proceedings – both those stayed pre-coronavirus and new claims arising from tenants in rent arrears due to the coronavirus – could be overwhelming. Practical constraints may exacerbate the backlog further. “The way housing proceedings are normally listed,” explained Vicky Fewkes from the Ealing Law Centre, “is you're listed with about 20 cases at the first appearance. And putting them back in with social distancing in place is going to be a real issue.” Chris Minnoch, chief executive of the Legal Aid Practitioners Group, said he wasn't sure if the moratorium would be lifted fully in June, potentially giving courts more time to process the backlog.

Other backlogs look likely after debt purchase companies agreed to cease making claims during Covid, Kate Briscoe, co-founder of Legal Beagles, said. Those claims are waiting to be filed after the courts reopen.

How the courts deal with the housing backlog is one to watch closely going forward (including by Tortoise from a journalistic perspective. Incidentally, we're also interested in how the parking industry is behaving during this crisis. As Kate said, unlike the debt companies, the parking industry has not stopped filing claims and are being allowed to use a public subsidised court system to recover fines. Is that appropriate during a pandemic?).

Open justice

Access to justice goes beyond the participants in a case. Legal commentator and journalist Joshua Rozenberg discussed some of the practical difficulties he had faced getting into hearings. In the Duchess of Sussex court case against the Mail on Sunday some members of the public were told that they couldn't get into the hearing because it was “full” (despite being virtual). There are warranted concerns with unfettered access – the ability to take and share screenshots, for example – but it seems some courts aren't getting the correct balance between access and the risk of contempt.

Impact on practitioners

Richard Harwood QC said the impact on practitioners varied according to the type of law practised, with the more junior end of the profession - especially those at the criminal and general common law bar - being most affected.

What next?

The LEF has attracted more than 800 responses to its consultation so far - an indication of the critical importance of ensuring that the post-Covid digital revolution is carried out as fairly and as equitably as possible. The organisation's eventual report will help ensure that the benefits of digital innovation are felt across the legal system and by all stakeholders, no matter how vulnerable. It will provide critical data which will help inform judges, court staff and legal practitioners.

For Tortoise, we will intend to commission more journalism on the crucial issue of digital inequality, as well as specific topics such as the housing backlog. We hope we can continue working alongside the LEF to help highlight and fix some of the issues explored on Monday.

Appendix G: Online Survey: Questions and routing

1.1 An online survey was constructed using SurveyMonkey. SurveyMonkey software enables researchers to “route” survey participants so that they only answer those questions relevant to their experience. This makes it quicker for participants to complete the survey.

1.2 The following sets out the routes through the survey for respondents from different groups.

Route A – Questions for individual litigants- individual litigants were asked to complete sections 1, 2, 3, 4, 6, 7, 8, 9 and 18 only

Route B- Questions for litigants who have appeared on behalf of their organisation – they were asked to complete sections 1, 2, 3, 5, 6, 7, 8, 9, and 18 only

Route C – Questions for litigants who have appeared on behalf of one or more litigant or organisation – they were asked to complete sections 1, 2, 3, 6, 7, 8, 9 and 18 only

Route D- Questions for regular or professional court users (lawyers, lay advocates and McKenzie Friends) who were asked to complete sections 1, 2, 10, 11, 12, 13, 14, 15, 16 and 18 only

Route E- Questions for observers (researchers, court reporters and members of the public) who were asked to complete sections 1, 2, 17 and 18 only

Route F- Questions for those who selected “Other” they were asked to complete sections 1, 2, 16 and 18 only

Section 1: About this survey

The measures put in place to tackle the spread of COVID 19 have resulted in rapid changes in civil courts. Many in-person hearings have been adjourned and remote hearings have been authorised “wherever possible”.

The Civil Justice Council has asked an independent researcher, Dr Natalie Byrom, Director of Research at The Legal Education Foundation, to gather feedback about court users who have participated in a hearing during this period. This feedback will be used in a report for the Civil Justice Council which assist with immediate and ongoing improvement and guide future decisions about remote hearings.

The purpose of this survey is to gather feedback **from civil court users who have participated in court hearings in England and Wales since 19th March 2020. If you have not participated in a court hearing during this time, please do not complete this survey.**

Use of data: The information that you provide will be used to create a data set. Your response will be treated as anonymous, unless you consent to it being treated otherwise. If you consent, The Legal Education Foundation may contact you for further information. Feedback provided via this survey will not be attributed to you in any report unless you agree to this. The data set may be used in future research projects and may be released to third parties for research purposes.

Data protection: Personal data disclosed to The Legal Education Foundation during the course of the consultation this will be held by The Legal Education Foundation and processed in accordance with the General Data Protection Regulation 2016/679 (GDPR). You can request a copy of any information held about you by contacting The Legal Education Foundation.

If you would like any further information on this survey, or would prefer to participate over the telephone, please email: consultation@theLEF.org

***Q.1. I confirm that I understand the purpose and scope of this survey and agree to participate. I also confirm that I have taken part in a Court hearing in a civil case since the 19 March 2020. [tick one]**

- Yes- Proceed to Section 2
- No- Disqualified

Section 2: About you [ALL PARTICIPANTS]

***Q2. Which of the following best describes you? [tick one]**

- I recently appeared in court on my own behalf or on behalf of my organisation
- I am a lawyer
- I am a McKenzie Friend
- I am a lay advocate
- I am a member of the media or court reporter
- I am a researcher
- I am a member of the public
- Other- route to last page?

Section 3: About you continued- questions for individuals and organisations***Q3. Thinking about your hearing, which of the following best describes you? (Tick one)**

- I attended my hearing on my own behalf
- I attended my hearing on behalf of my organisation
- I attended at my hearing on behalf of multiple people or organisations

Section 4: About you continued- questions for individuals

Preamble: The following questions are optional, but your answers will help us understand whether remote hearings have different impacts on people, depending on their backgrounds and circumstances.

Q4. What is your date of birth?**Q5. What are the first three letters of your postcode?****Q6. What is your sex? [tick one]**

- Male
- Female
- Other
- Prefer not to say

Q7. What is your main language?

- English or Welsh
- Other, including British Sign Language (please specify)
- Prefer not to say

Q8. How well can you speak English? [tick one]

Very well

Well

Not well

Not at all well

Other (please specify)

Prefer not to say

Q9. Did you request an interpreter at your hearing? [tick one]

Yes

No

Prefer not to say

Q10. Do you have any physical or mental health conditions or illnesses lasting or expected to last for 12 months or more? [tick one]

Yes

No

Other (please specify)

Prefer not to say

Q11. Do any of your conditions or illnesses reduce your ability to carry out day to day activities?

[tick one]

Yes: limited a lot

Yes: limited a little

Not at all

Not applicable

Other

Prefer not to say

Q12. Do any of your conditions or illnesses affect you in the following areas? [tick all that apply]

Vision- for example blindness or partial sight

Hearing- for example deafness or partial hearing

Mobility - for example walking or climbing stairs

Dexterity- for example lifting and carrying objects, using a keyboard

Learning, understanding or concentrating

Memory

Mental health

Stamina, breathing or fatigue

Socially or behaviourally: For example conditions associated with autism, attention deficit disorder or

Asperger's syndrome

None of the above

Other (please specify)

Prefer not to say

Q13. Did you ask for any adjustments to be made to help you participate in the hearing? [tick one]

Yes

No

Prefer not to say

If "yes" please specify

Q14. What is your ethnic background? [tick one]

White British

White Irish

White Gypsy or Irish Traveller

Mixed/Multiple ethnic groups: White and

Black Caribbean

Mixed/Multiple ethnic groups: White and

Asian

Asian/Asian British: Indian

Asian/Asian British: Pakistani

Asian/Asian British: Bangladeshi

Asian/Asian British: Chinese

Black: African

Black: Caribbean

Arab

Other (please specify)

Prefer not to say

Section 5. About your organisation

We want to find out a bit more about the types of organisations that have been involved in hearings during this period. Your answers to these questions will help us to understand this.

Q15. Please select the sector that best describes your organisation [tick one]

- Production
- Construction
- Motor trades
- Wholesale
- Retail
- Transport and storage (inc. postal)
- Accommodation and food services
- Information and communication
- Finance and insurance
- Property
- Professional, scientific and technical
- Business administration and support services
- Education
- Health
- Arts, entertainment recreation and
- Other services
- Other (please specify)

Q16. Roughly, how many employees does your organisation have? [tick one]

- 0-9
- 10-49
- 50-249
- 250 plus

Section 6: About your case

***Q17. Please describe in your own words the problem that this case was about e.g. someone owed me money, injunction against me, claiming compensation for an accident**

***Q18. Who was the other party involved in the dispute? [tick one]**

- Another person
- An organisation
- A public body (e.g. local authority)
- Other (please specify)

*** Q19. How serious was the problem that this case was about? [slider- not at all serious to extremely serious]**

Not at all serious ----- Serious----- Extremely serious

* **Q20. Prior to the hearing, how worried were you about the problem that this case was about?**
[slider- not at all serious to extremely serious]

Not at all worried----- Worried-----Extremely worried

* **Q21. Prior to your hearing, how angry were you about the problem that this case was about?**
[slider- not at all angry to extremely angry]

Not at all angry ----- Angry----- Extremely angry

Section 7. About your hearing: before your hearing

Q22. Before your hearing, did you receive any legal advice about your case? e.g. from a lawyer, Citizen Advice Bureau, Law Centre, other advice centre [tick one]

- Yes
- No

If "Yes" please specify

Q23. Did anyone (speak on your behalf) at your hearing?[tick one]

- Yes - a lawyer
- Yes- a McKenzie friend
- No- I represented myself
- Prefer not to say
- Other (please specify)

Q24. How did you find out that your hearing was going ahead?

- Email from the court
- Telephone call from the court
- My lawyer told me
- Other please specify.

Q25. When were you told that your hearing would take place?

- One month before the hearing
- Over two weeks before the hearing
- Over one week before the hearing
- One day to one week before the hearing
- Less than one day before the hearing

Q26. How helpful was the information you were given before your hearing?

Extremely helpful

Very helpful

Somewhat helpful

Not so helpful

Not at all helpful

Not applicable- I wasn't given any information

[Skip to Section 8]

Section 8. About your hearing day**Q27. What was the date of your hearing ?*****Q28. What type of hearing was it? [tick one]**

- Fully audio- everyone joined the hearing by telephone
- Partly audio- some people joined the hearing by telephone
- Fully video- everyone joined the hearing by Skype/Microsoft Teams/Zoom/ Cloud Video Platform
- Partly video- some people joined the hearing by Skype/Microsoft Teams/Zoom/ Cloud video Platform
- Other (please specify)

***Q29. How did you take part * in the hearing? [tick one]**

- I took part by telephone
- I took part in the hearing using Skype
- I took part in the hearing using the Cloud Video Platform
- I took part in the hearing using Zoom
- I took part in the hearing using Microsoft Teams
- Other (please specify)

*** Q30. Where did you join the hearing from? [tick one]**

- My home
- My friend/family member's home
- My lawyers offices
- My office
- I attended a court
- Other (please specify)

Q31. Why did you join the hearing from this location? e.g. I had no choice, more reliable broadband, caring responsibilities at home meant I needed to join from home , mobility challenges [text box]**Q32.: If you joined from your own home, was anyone else in the room with you? E.g. partner, children, other friend or family member**

- Yes- my partner was with me
- Yes- my children were with me
- Yes – a friend or family member was with me
- No – I was on my own
- Not applicable – I didn't join from my home
- Other (please specify)

***Q33. What equipment did you use to join the hearing? [tick one]**

- A mobile phone
- A landline
- My desktop computer
- My laptop
- My tablet
- Other (please specify)

***Q34. How easy was it to connect to the hearing? [tick one]**

Very difficult ----- Difficult----- Neither easy nor difficult ----- Easy-----Very easy

Please explain your response

Q35. How long did the hearing last? [tick one]

- Less than 1 hour
- 1 hour to 3 hours
- 4 hours to 6 hours
- 7 hours to one day
- Two days to one week
- Over one week

Q36. During the hearing, if you had a lawyer or representative, how did you communicate with them? [tick one]

- By email
- By text message (e.g. WhatsApp)
- Not applicable – I didn't have a lawyer or representative
- Other (please specify)

Q37. How easy did you find it to communicate with your lawyer during the hearing? [tick one]

Very difficult----- Difficult----- Neither easy nor difficult----- Easy----- Very easy

Other (please specify)

Q38. To your knowledge, did any court reporters, researchers or members of the public join the hearing?[tick one]

- Yes
- No
- Don't know

If yes please say who joined [text box]

]

Q39. Were there any problems with the technology during the hearing?

- Yes- significant problems
- Yes - minor problems
- No- no problems

If "Yes" please describe the problems e.g. connection kept dropping out, couldn't make myself heard
[text box]

Q40. Who provided technical support for the hearing?

- HMCTS
- Court staff
- My lawyer
- Someone else
- There was no technical support

If you have selected "Someone else" (please specify)[text box]

Q41. How satisfied were you with the technical support provided for your hearing? [tick box]

- Very dissatisfied
- Slightly dissatisfied
- Neither satisfied or dissatisfied
- Satisfied
- Very satisfied
- Not applicable

Please explain your answer

Q42. Did you feel any frustration during the hearing? [slider]

Not at all frustrated-----Very frustrated

Q43. If you felt frustrated during your hearing, please could you explain why? [textbox]

Q44. What was the outcome? [text box]

Q45. How satisfied were you with the outcome? [tick one]

- Very dissatisfied
- Dissatisfied
- Somewhat dissatisfied
- Neither satisfied nor dissatisfied
- Somewhat Satisfied
- Satisfied
- Very satisfied

Please explain your answer.

[Skip to Section 9]

Section 9 After your hearing: Thinking back on the process

In this section, we are going to ask you some questions about how you felt about your hearing. Thinking back on how you felt after the hearing, please answer the following questions.

Q46. The hearing was fair [tick one]

- Strongly disagree
- Disagree
- Somewhat disagree
- Neither agree nor disagree
- Somewhat agree
- Agree
- Strongly agree

Q47. I was able to express my views in the hearing [tick one]

- Strongly agree
- Agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Disagree
- Strongly disagree

Q48. My views were taken into account by the judge in the process [tick one]

- Strongly disagree
- Disagree
- Somewhat disagree
- Neither agree nor disagree
- Somewhat agree
- Agree
- Strongly agree

Q49. The judge listened carefully when I spoke [tick one]

- Strongly disagree
- Disagree
- Somewhat disagree
- Neither agree nor disagree
- Somewhat agree
- Agree
- Strongly agree

Q50. The judge treated me with respect [tick one]

- Strongly agree
- Agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Disagree
- Strongly disagree

Q51. The judge was neutral [tick one]

- Strongly disagree
- Disagree
- Somewhat disagree
- Neither agree nor disagree
- Somewhat agree
- Agree
- Strongly agree

Q52. The hearing was a stressful experience [tick one]

- Strongly disagree
- Disagree
- Somewhat disagree
- Neither agree nor disagree
- Somewhat agree
- Agree
- Strongly agree

Q53. During the hearing I felt: [slider]

Hopeless----- Hopeful

Q54. How satisfied were you with the process overall? [slider]

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied

Please explain the main reason for your answer

Q55. I would recommend the remote hearing process to a friend in a similar situation [tick one]

- Strongly agree
- Agree
- Somewhat agree
- Neither agree nor disagree
- Somewhat disagree
- Disagree
- Strongly disagree

Please explain your answer [text box]

Section 10: About your experience- regular and professional court users

Q56. How many remote hearings have you participated in since the 19th March 2020? [tick one]

- 1-5
- 5-10
- 10 plus
- Other (please specify)

Q57. On average, how much notice have you been given that your hearing will take place remotely?

- One month before
- Over two weeks before the hearing
- Over one week before the hearing
- One day to one week before the hearing
- Less than one day before the hearing

Q58. In your view, has the guidance provided by HMCTS on the conduct of remote hearings during COVID been useful? [tick one]

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your answer

Q59. In your view, has the guidance provided by the judiciary for the conduct of remote hearings during COVID been useful? [tick one]

- Strongly disagree
- Disagree
- Neither agree nor disagree
- Agree
- Strongly agree

Please explain your answer

Q60. How could the guidance be improved?

Section 11: Regular and professional court users: about your most recent hearing

Preamble: In answering these questions, we would like you to focus on the experience of the most recent hearing you took part in.

Q61. Thinking about the most recent hearing you took part in, what date did the hearing take place?

DD/MM/YYYY

Q62. What was the name of the court the hearing was held in? [text box]

Q63. What was the case reference number? (if available) [text box]

Q64. What type of case was it? e.g. committal, Anti-Social Behaviour Injunction, money claim, personal injury, large commercial case [text box]

Q65. What was the value of the claim? (approx if applicable) [text box]

Q66. In your view, how serious was the matter at stake in this case? [tick one]

Not at all serious---- Not very serious ----Serious---- Quite serious----- Extremely serious

Please explain your answer

Q67. In your client's view, how serious was the matter at stake in this case? [tick one]

Not at all serious---- Not very serious ----Serious---- Quite serious----- Extremely serious

Please explain your answer

Q68. What type of hearing was it? [tick one]

- Fully audio- everyone joined the hearing by telephone
- Partly audio- some people joined the hearing by telephone
- Fully video- everyone joined the hearing by Skype/Microsoft Teams/Zoom/ Cloud Video Platform
- Partly video- some people joined the hearing by Skype/Microsoft Teams/Zoom/ Cloud video Platform
- Other (please specify)

Section 12. About your most recent hearing continued: about the parties

Q69. Who were you acting for? [tick one]

- The claimant
- The defendant
- Other please specify [text box]

Q70. To your knowledge, did any of the parties involved require reasonable adjustments in order to participate in the hearing? [tick one]

- Yes
- No
- Don't know

If "yes" please specify [text box]

Q71 Were any litigants in person involved in the hearing? [tick one]

- Yes
- No
- Don't know

If "yes" please specify [text box]

Q72. To your knowledge, did any of the parties involved have protected characteristics under the Equality Act 2010? [tick one]

- Yes
- No
- Don't know

If "yes" please specify [text box]

Q73. Did any of the parties involved express fear or distress in relation to the case before, during or after the hearing? [tick one]

- Yes- before the hearing
- Yes- during the hearing
- Yes- after the hearing
- No
- Don't know

If you have selected any of the options beginning with "yes" please explain further [text box]

Section 13: About your most recent hearing continued: about the technology

Q74. How did you take part * in the hearing? [tick one]

- I took part by telephone
- I took part in the hearing using Skype
- I took part in the hearing using the Cloud Video Platform
- I took part in the hearing using Zoom
- I took part in the hearing using Microsoft Teams
- Other (please specify)

Q75. What equipment did you use to join the hearing? [tick one]

- A mobile phone
- A landline
- My computer
- My laptop
- My tablet
- Other (please specify)

Q76. How did you view the bundle? [tick one]

- On a second screen
- On my tablet
- On my phone
- On another laptop
- On another computer
- I was provided with a paper bundle
- Other (please specify)

Q77. Where did you join the hearing from? [tick one]

- My home
- My friend/family member's home
- My lawyers offices
- My office
- I attended a court
- Other (please specify)

Q78. Why did you join the hearing from this location? e.g. more reliable broadband, caring responsibilities at home mean I needed to join from home, I have been told to work from home [text box]

Q79. How easy did you find it to connect to the hearing? [tick one]

Very difficult ----- Difficult----- Neither easy nor difficult ----- Easy-----Very easy

Please explain your response e.g. broadband kept dropping out, judge couldn't hear me

Q80. Who provided technical support for the hearing? [tick one]

- HMCTS

- The judge’s clerk
- The solicitor for one of the parties
- There was no technical support
- Someone else (please specify)

If you have selected "Someone else" (please specify)[text box]

Q81. How satisfied were you with the technical support provided for your hearing? [tick one]

- Very dissatisfied
- Slightly dissatisfied
- Neither satisfied or dissatisfied
- Satisfied
- Very satisfied
- Not applicable – there was no technical support

Please explain your answer

Q82. Were there any problems with the technology during the hearing? [tick one]

- Yes- significant problems
- Yes - minor problems
- No- no problems

If "Yes" please describe the problems e.g. connection kept dropping out, couldn't make myself heard [text box]

Q.83 Do you have any suggestions for how these technical issues could be addressed? If so, please specify

Section 14: About your most recent hearing continued: about the conduct of the hearing

Q84. How long did the hearing last? [tick one]

- Less than 1 hour
- 1 hour to 3 hours
- 4 hours to 6 hours
- 7 hours to one day
- More than one day
- Two days to one week
- Over one week

Q85. How did you communicate with your client during the hearing? [tick one]

- Text message e.g. Whatsapp
- Email
- Private channel on the Cloud Video Platform
- Phonecall
- My client was in the room with me whilst the hearing took place
- Other (please specify)

Q86. Did you experience any problems communicating with your client during the hearing? [tick one]

- Yes, significant problems
- Yes, minor problems
- No, no problems

If “yes” please describe the problems you experienced. [text box]

Q87. Did you experience any issues with the parties interrupting each other during the hearing? [tick one]

- No issues
- Some issues
- Moderate issues
- Serious issues

If you experienced issues with parties interrupting each other, please provide further information [text box]

Q88. Did you experience any problems communicating with other laweyrs during the hearing? [tick one]

- Yes, significant problems
- Yes, minor problems
- No, no problems

If “yes” please describe the problems you experienced. [text box]

Q89. Did any of the parties express frustration during the hearing?

- Yes
- No

If "yes" please explain what happened

Q.90. To what extent do you agree with the statement: "I felt the judge understood my arguments" [tick one]

Strongly disagree ----- Disagree -----Neither agree nor disagree -----Agree -----Strongly agree

Please explain your answer

Q91. To what extent do you agree with the statement: "My client understood the process"

Strongly disagree ----- Disagree -----Neither agree nor disagree -----Agree -----Strongly agree

Please explain your answer

Q.92. What was the outcome? [tick one]

- My client won
- My client lost
- Other (please specify) [text box]

Q93. Did your client agree with the outcome? [tick one]

- Yes
- No
-

Please explain your answer

Q94. Did you agree with the outcome? [tick one]

- Yes
- No

Please explain your answer

Q95. Overall my impression of the hearing was [tick one]

- Very positive
- Positive
- Neither positive nor negative
- Negative
- Very negative

Please explain your answer [text box]

Q96. Would you recommend participating in a remote hearing to your colleagues and their clients?

- Yes
- No

Please explain your answer [text box]

Q97. If you have participated in more than one hearing, how typical was the experience you have described above? [tick one]

- Very typical
- Typical
- Neither typical nor untypical
- Untypical
- Very untypical
- Not applicable- this was my first remote hearing

Please explain your answer [text box]

Section 15. About your most recent hearing continued: Open Justice

Q98. Was the hearing held in private? [tick one]

- Yes
- No

Q99. Was the hearing recorded? [tick one]

- Yes
- No
- Don't know

Q100. Who recorded the hearing? [tick one]

- The court staff
- The representatives of one of the parties
- Don't know
- Other (please specify)

Q101. To your knowledge, did any court reporters, researchers or members of the public join the hearing? [tick one]

- Yes
- No
- Don't know
-

If yes please specify

Section 16. About your experience of remote hearings

Q102: Based on your experience of remote hearings, would you say that remote hearings are more or less expensive to participate in than physical hearings? (taking into account advance preparation time, travelling time etc.)

- More expensive
- Slightly more expensive
- Neither more or less expensive
- Slightly less expensive
- Less expensive

Please explain your answer

Q103. Based on your overall experience of telephone hearings, would you say that telephone hearings are worse or better than physical hearings?

- Better
- Slightly better
- Neither better nor worse
- Slightly worse
- Worse
- N/A- haven't participated in any telephone hearings

Please explain your answer

Q104. Thinking back on your overall experience of telephone hearings, would you say that telephone hearings are effective or ineffective in terms of allowing both parties to participate and put their case?

- Effective
- Mostly effective
- Neither effective nor ineffective
- Slightly ineffective
- Ineffective
- N/A- haven't participated in any telephone hearings

Please explain your answer

Q105. Comparing your experience of telephone hearings to physical hearings, to what extent do you agree with the statement: "telephone hearings are more tiring than physical hearings"

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- N/A- haven't participated in any telephone hearings

Please explain your answer

Q106. Based on your overall experience of video hearings, would you say that video hearings are worse or better than physical hearings?

- Better
- Slightly better

- Neither better nor worse
- Slightly worse
- Worse
- N/A- haven't participated in any video hearings

Q107. Thinking back on your overall experience of video hearings, would you say that video hearings are effective or ineffective in terms of allowing both parties to participate and put their case?

- Effective
- Mostly effective
- Neither effective nor ineffective
- Slightly ineffective
- Ineffective
- N/A- haven't participated in any video hearings

Q.108 Comparing your experience of video hearings to physical hearings, to what extent do you agree with the statement: "video hearings are more tiring than physical hearings"

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- N/A- haven't participated in any video hearings

Please explain your answer

Section 17 Open Justice: Questions for court reporters, journalists, researchers and members of the public

Q109. Since the 19th March 2020, have you tried to attend any civil hearings as an observer? [tick one]

- Yes

- No

If "yes", please state how many hearings you have been successful in joining and provide any case reference numbers

Q110. Since the 19th March 2020, have you been successful in attending any civil hearings as an observer? [tick one]

- Yes
- No

If "yes", please state how many hearings you have been successful in joining and provide any case reference numbers

Q111. Since the 19th March 2020, have any of your requests to join civil hearings as an observer been denied? [tick one]

- Yes
- No

If "yes" please explain the reasons your requests were denied

Q112. Since the 19th March 2020, have you requested transcripts of any hearings that have taken place? [tick one]

- Yes
- No

If "yes", please state how many hearings you have requested transcripts for and provide any case reference numbers

Q113. Since the 19th March 2020, have any of your requests for transcripts been denied? [tick one]

- Yes
- No

If "yes" please explain the reasons you have been given and provide any case reference numbers.

Q114. Thinking about the last hearing that you attended, how did you observe the hearing? [tick one]

- I joined by telephone
- I joined by Skype
- I joined by Zoom
- I joined by Cloud Virtual Platform

- I attended a court building
- Other (please specify)

Q115. Thinking about the last hearing you attended, was the hearing you attended recorded?
[tick one]

- Yes
- No
- Not sure

Q116. Thinking about the last hearing you attended, was an oral judgement issued? [tick one]

- Yes
- No
- Not sure

Q117. Have you experienced any issues joining hearings as an observer since the 19 March 2020
[tick one]

- Yes
- No

If "Yes" please explain e.g. couldn't find the case I was looking for, couldn't get through to the court

Q118. Have you seen the HMCTS guidance on joining remote hearings as an observer?

- Yes
- No

Q119. How helpful have you found the guidance that has been issued on joining remote hearings as an observer? [text box]

- Extremely helpful
- Very helpful
- Somewhat helpful
- Not so helpful
- Not at all helpful

Please could you explain your answer

Q120. What has worked well about the arrangements put in place for observing remote hearings since the 19 March 2020? [text box]

Q121. What improvements should be made to the arrangements for observing remote hearings? [text box]

Section 18. Any other comments

Q122. Please provide any further comments or feedback on your experience of remote hearings since the 19 March 2020

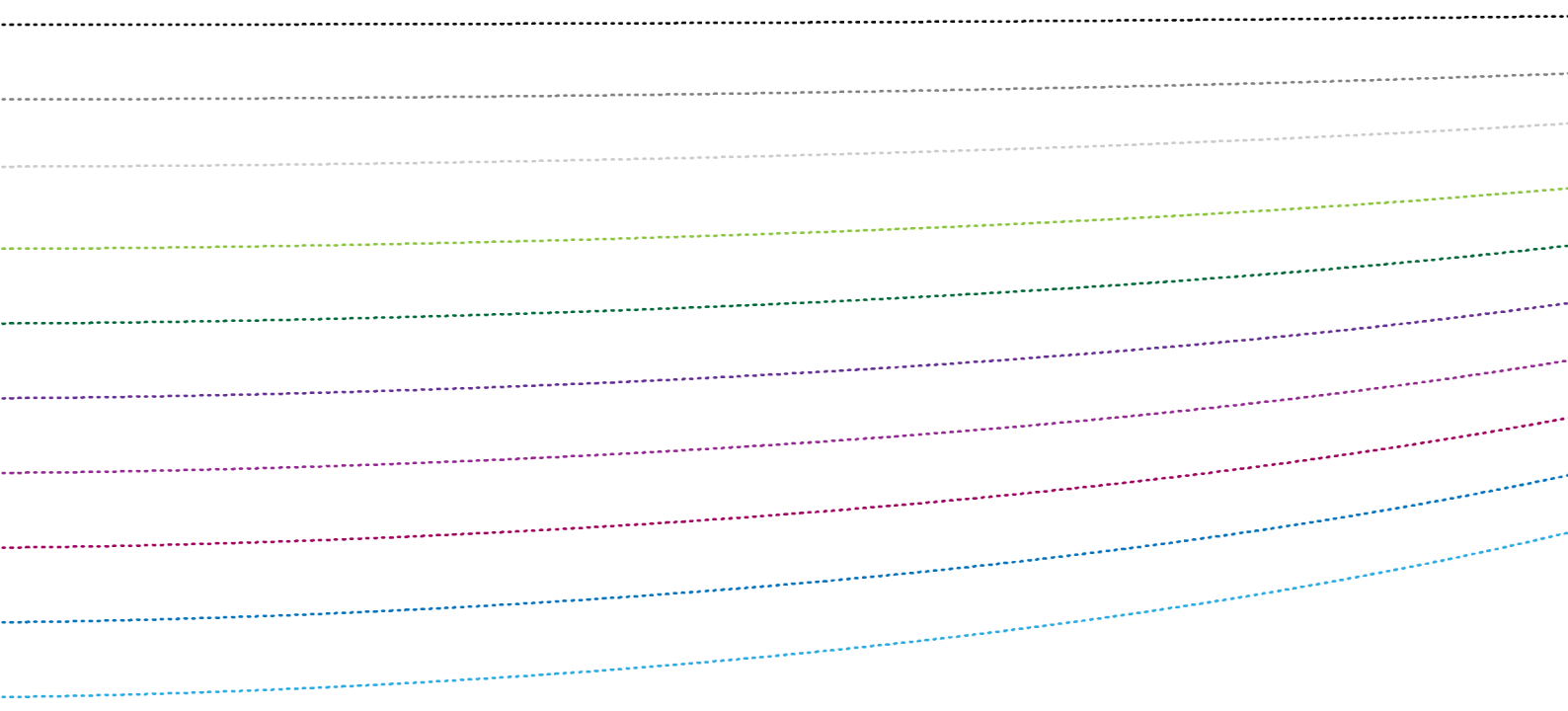
Q123. Are you happy to be contacted about the responses you have provided in this survey? [tick one]

- Yes
- No

Q124. If you are happy to be contacted, please provide your name here [text box]

Q 125. If you are happy to be contacted, please provide your email address [text box]

END OF SURVEY



The Legal Education Foundation
Registered office

Suite 2, Ground floor
River House
Shalford, Guildford
Surrey GU4 8EP

www.thelegaleducationfoundation.org

Registered charity no. 271297
Registered in England and Wales

