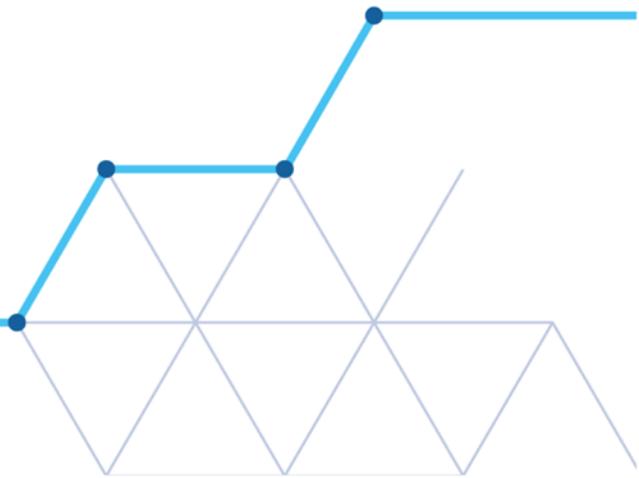




Ministry  
of Justice

# Implementing Video hearings (Party-to-State): A Process Evaluation

Dr. Meredith Rossner and Ms. Martha McCurdy  
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THE LONDON SCHOOL  
OF ECONOMICS AND  
POLITICAL SCIENCE ■

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# Contents

## List of tables

## List of figures

<b>1. Summary</b>	<b>1</b>
<b>2. Introduction</b>	<b>4</b>
2.1 Video hearings Pilot (Party-to-State) 2018	5
<b>3. The Research</b>	<b>7</b>
3.1 Research Objectives	7
3.2 Research Methods	7
<b>4. Journey to a video hearing</b>	<b>10</b>
<b>5. Staging a Video hearing</b>	<b>14</b>
<b>6. The User Experience of Video hearings</b>	<b>18</b>
6.1 Technology Difficulties and Fails	21
6.2 Authority of Judicial Proceedings	24
<b>7. Judicial Training and Management of Video hearings</b>	<b>26</b>
<b>8. Recommendations and Conclusion</b>	<b>28</b>
<b>Appendix 1. Pre-Hearing Questionnaire Used in Suitability Assessment</b>	<b>30</b>
<b>Appendix 2. Data from Observations and Interviews</b>	<b>33</b>
Coding of observations	33
The Pre-hearing interview	34
Post-video hearing interview with appellants and representatives	34
Interviews with HMRC representatives	36
<b>Appendix 3. The Virtual Waiting Room and Hearing Room.</b>	<b>38</b>

## List of tables

Table 1: Summary of Data Collection	8
Table 2: Appellant and Representative Location	13
Table 3. Summary of Data	33
Table 4. Pauses/suspension of Hearings	33
Table 5. Appellant Representation	33
Table 6. Quality of Audio and Video (as rated by observer)	33
Table 7. Length of Hearing	33
Table 8. Appellant Solve Technology Problems	34
Table 9. Notification of Video hearings	34
Table 10. Expectations about the Video hearing	34
Table 11. Interview Data	34
Table 12. User Satisfaction	34
Table 13. User Fatigue	35
Table 14. User Participation	35
Table 15. Orientating to the Hearings	35
Table 16. Technical Difficulties	35
Table 17. Technical Difficulties Distracting	36
Table 18. User Feedback on Hearings	36
Table 19. Hearing Formality	36
Table 20. User Satisfaction	36
Table 21. Effective Participation and Ease of Use	37

## List of figures

Figure 1: Journey to a video hearing	10
Figure 2: Supporting the video hearings pilot	15
Figure 3. The Virtual Hearing waiting room	38
Figure 4. View of the hearing room from the Appellant's computer	38

# 1. Summary

The following research reports on a process evaluation of the user experience of the HMCTS video hearings pilot for party-to-state hearings, in this instance the First-tier Tribunal (Tax Chamber). This is the first pilot conducted in England and Wales for Fully Video Hearings (hereafter: video hearings), where all parties participate in a hearing remotely. The pilot used an early technical product to test the concept of video hearings. The research draws on interviews with video hearing users – appellants, their representatives, and HMRC representatives; observations of video hearings and traditional in-person hearings; and interviews with Judges managing the hearings. The research is small scale and exploratory. We recommend that the video hearings pilot is expanded, data collection on the process continues, and data on outcomes is collected.

## **Journey to a video hearing**

- Once screened for technological and substantive issues, only a small number of cases were deemed suitable for a video hearing. Much of the screening was due to the limitation of this first iteration of the technical product, which required specific browser and hardware specifications, among other criteria.
- In those cases that were deemed suitable for video hearings, appellants and representatives were satisfied with the administrative support they received at the pre-hearing stage.
- Most cases that proceeded to a video hearing were completed successfully.

## **Staging a video hearing**

- The video hearings administration team played an important role in the hearings. They resolved any problems with user technology prior to the hearing, helped prepare users so they were 'camera ready,' and acted as a quick response team on the day to deal with any problems.
- Users reported satisfaction with this process, though there are issues around how HMCTS will be able to maintain this level of support.
- Users found it easy to access the hearing and Judges did a good job of making introductions and setting the tone for the hearing.

### **User Experience of the video hearing**

- Users reported high levels of satisfaction with video hearings, particularly due to the practical advantage of not having to travel to a physical court. They reported that the hearing was clear, easy to navigate, and user-friendly.
- Turn-taking conventions were clearly described by the Judge at the outset of the hearings and were well-managed throughout.
- The video hearings lasted longer on average than telephone hearings and in-person hearings, largely because of pauses to address technology difficulties and because some Judges took extra time at the beginning of the hearing to orientate the parties.
- While most hearings experienced delays and technology difficulties (such as Wi-Fi dropping out) most were resolved quickly and were not distracting to users.
- Appellants and representatives did not report any individual capabilities or vulnerabilities that might limit their ability to take part effectively in video hearings, but many suggested that a familiarity with video technology be a minimum requirement.

### **Technology difficulties and fails**

- The majority of video hearings experienced technology difficulties, which were quickly dealt with by the users themselves or by the video hearings team at HMCTS. Technology difficulties included issues around Wi-Fi, audibility, visibility of parties on the screen or access to documents.
- In many cases, the hearing had to be paused and restarted, which usually solved the problem.
- Some technology problems could not be resolved (usually due to poor Wi-Fi connections), resulting in a technology fail and the hearing being abandoned.
- While users took a pragmatic approach to this, there are still hurdles to be overcome to ensure that the technology is robust and usable.

### **Authority of judicial proceedings**

- In interviews, appellants and representatives reported that their video hearing was suitably formal and approximated being in a court.
- Some Judges and HMRC representatives expressed a concern that some appellants appeared to act in a less formal manner during their video hearings than they would have had they appeared in court.

- One potential avenue to ensure the continued authority of the court is to reimagine the ritual and associated symbols for a virtual space.

### **Judicial management and training**

- Members of Judiciary reported that the training was useful and that the technology was easy to use.
- Data from observations and interviews suggest that the Judges were effective in managing proceedings.
- A key difference with video hearings is that turn-taking conventions needed to be more explicitly signposted.
- Judges felt it was essential that training continued to be provided in the future, though opinion differed on whether Judges should be trained to manage the technology themselves. Most Judges thought that the proceeding needed to be modified for the virtual space, and that training should cover this.

### **Recommendations**

- Many users were unable to take part in a video hearing due to the limitation of this first iteration of the technical product, which required a specific browser and hardware specifications, among other criteria. As the technical product improves to allow for a wider range of users, further testing should examine the wider user experience.
- It is likely that there is a self-selection bias in that appellants who returned the initial questionnaire were more amenable to video hearings. We recommend further investigation into barriers to access.
- It is anticipated that an expanded version of this programme would involve less person-to-person administrative support. We recommend further evaluation of the user experience once this support is reduced. This should include feedback on any guidance produced for users.
- Future developments need to include a strategy for addressing user vulnerabilities in video hearings or to identify a minimum standard of resilience that one needs to meet in order to participate in a video hearing instead of an in-person hearing. Other key areas for improvement include a strategy for the sharing of documents electronically, how to ensure open justice, and streamlining protocols for Judges.
- Future research should collect data on video hearing outcomes, such as judicial decision-making, procedural justice and fairness.

## 2. Introduction

Video hearings for the First-tier Tribunal (Tax Chamber) were piloted in 2018 as a part of a larger effort to transform and modernise the justice system.<sup>1</sup> This includes a commitment of over £1.2 billion to modernise courts and tribunals with a stated goal of creating a system that is just, proportionate, and accessible to all users.

The use of video-enabled hearings has been standard in many jurisdictions for decades, for instance in bail hearings where the defendant appears from police custody, sentencing hearings where the defendant appears from prison, vulnerable or child witness testimony where the witness appears from a specially designed video suite, or expert witness testimony where the witness may appear from their office. In video-enabled hearings only one party (usually a defendant or witness) participates remotely while all other parties and court staff are co-located in a single courtroom. A video hearing is different in that all parties participate remotely.

Past research has focused on video-enabled hearings in a criminal context. In 2010, the Ministry of Justice published an evaluation of video-enabled hearings for defendants in police custody in London and Kent, focusing on outcomes such as cost efficiency, judicial decision-making, fairness and procedural justice.<sup>2</sup> They found that, while a video link between a police station and court can be used to conduct a hearing in most cases, the pilot did not provide substantial cost savings, although an expansion of the programme may lead to savings in the longer term. Other findings raise potential concerns about differential outcomes when defendants appear via video, although there are many variables to take into account when looking at outcomes. For instance, the research found that magistrates were more likely to sentence a defendant to custody when they appeared via video link, though defendants who appeared via video were also less likely to have legal representation, which may have affected this outcome. Additionally, some defence solicitors reported that they found it more

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<sup>1</sup> See the Lord Chancellor, the Lord Chief Justice of England and Wales, and the Senior President of Tribunals (2016) *Transforming Our Justice System*. Other examples of reform across the justice system include an online divorce application service, a paperless system of sentencing for fare evaders and fraudulent ticket holders at a magistrate's court, and a service to lodge tax appeals online. For more on the reform programme, see <https://www.gov.uk/government/news/hmcts-reform-programme>.

<sup>2</sup> Terry, Matthew, Johnson, Steve Johnson and Thompson, Peter (2010), *Virtual Hearing Pilot Evaluation*. MOJ Research Series 21/10.

difficult to communicate with their client via video, and some magistrates reported worries that video hearings threaten the authority of the court.<sup>3</sup>

The video hearings pilot differs from previous developments in two key ways. First, unlike video-enabled hearings, a 'fully video hearing' means that all parties appear remotely. This is likely to change the dynamic of the hearing in that all parties communicate via the same medium. Except for an experiment of a simulated virtual court in Australia,<sup>4</sup> there is no research on fully video hearings. Second, most research on video-enabled hearings focuses on defendants appearing in criminal court. The current pilot examines the use of video hearings for basic appeals in the First-tier Tribunal (Tax Chamber).<sup>5</sup>

The current study is a process evaluation designed to document the user experience of video hearings. It does not measure the cost efficiency of such technology nor does it measure outcomes in decision-making. The video hearing technology and the procedure developed to manage the hearings are a significant departure from previous technological innovations, and as such it was deemed vital to understand the experience of the technology and procedure before measuring outcomes.

## 2.1 Video hearings Pilot (Party-to-State) 2018

Video hearings in this pilot consisted of an appellant, appearing via their own computer from home or from work, a representative from HMRC appearing from their office, and a Judge sitting in an open courtroom.<sup>6</sup> If the appellant had a representative, they were co-located with the appellant at their location or they appeared remotely from their office.

The judicial members of the Video Hearings Working Group, who oversee the development and implementation of video hearings, stress that the following principles must be

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<sup>3</sup> For a summary of debates about the use of video technology in court, see Wallace, A., S. Roach Anleu, and K. Mack. (2018) 'Judicial engagement and AV links: judicial perceptions from Australian courts.' *International Journal of the Legal Profession* DOI: 10.1080/09695958.2018.1490294; Gibbs, P. (2017). Defendants on video- conveyor belt justice or a revolution in access? London: Transform Justice; McKay, C. (2015) "Video Links from Prison: Court "Appearance" within Carceral Space." *Law, Culture and the Humanities* 14(2): 242-262; Ward, J. (2014) 'Transforming 'Summary Justice' Through Police-led Prosecution and 'Virtual Courts' Is 'Procedural Due Process' Being Undermined?' *British Journal of Criminology* 55(2): 341-358.

<sup>4</sup> Tait et al (2015), Towards a Distributed Court. Western Sydney University. Retrieved from <https://courtofthefuture.org/publications/towards-distributed-courtroom/>

<sup>5</sup> That is cases allocated under rule 23 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 as Basic cases which will usually be disposed of after a hearing, with minimal exchange of documents before the hearing. The other categories are Default Paper, Standard and Complex.

<sup>6</sup> Judges currently sit in an open court room to ensure that the hearing remains open to members of the public. HMCTS is currently exploring ways that members of the public could access a hearing without being in a physical courtroom.

maintained: (1) of open justice; (2) that such hearings are secure and cannot be recorded in an unauthorised way; and (3) that such hearings are not attended by others whose presence is not known to the court.

Appellants were all persons who filed a request for a basic appeal over a specified period of time. They received a letter from HMCTS informing them that their appeal is eligible to be heard via a video hearing. They were provided with guidance on video hearings and then invited to complete a survey to determine whether they met the minimum technological requirement for suitability (a copy of the pre-hearing questionnaire for appellants can be found in Appendix 1). Once it was determined that the appellant met the minimum requirements, the case was reviewed by a Judge who decided whether it was suitable for a video hearing. Following a final check of the appellants' and the HMRC representatives' internet and hardware a video hearing took place.

The video hearings pilot operated from late March to early July 2018. All hearings were heard by a Judge at Taylor House in Clerkenwell, London. HMRC Representatives appeared from their offices in Belfast and Bristol.<sup>7</sup> Appellants were located across the country and one was located in Greece.

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<sup>7</sup> One HMRC representative was located in Taylor House during the hearing, but in a different room.

## 3. The Research

### 3.1 Research Objectives

The research aimed to conduct a process evaluation of the video hearing pilot in party-to-state cases (in this instance the First-tier Tribunal (Tax Chamber)), with a focus on user experience of the technology and the court procedure. Aims included:

- An assessment of programme implementation, including user training, environment and technology
- An assessment of user experience of the service
- An assessment of the barriers to access this service and how those barriers can be mitigated to scale up the programme
- An assessment of how individual capabilities and vulnerabilities can impact the ability to effectively participate in video hearings
- A recommendation of what data can be collected and stored for a Reform-wide evaluation.

### 3.2 Research Methods

The research collected data on user experience of video hearings. Fully-video hearings has not been undertaken before, and as such it was deemed important to collect detailed data on the user experience and process in order to improve the service.

Due to the sample size and time frame of the pilot, it was decided to focus on the collection of qualitative data. For a comparison group, the researchers observed several in-person First-tier Tribunal (Tax Chamber) hearings. The constraints of the pilot meant that a randomised approach was not appropriate, and the variable details across cases meant that a matched comparator sample was not feasible.

The methods for this evaluation included a review of HMCTS documents, observations of hearings, and semi-structured interviews with relevant stakeholders. This included:

- Observations of video hearings. A researcher sat in the open courtroom with the Judge and observed the Appellant and HMRC representative on a screen in the courtroom. In two cases, the hearing was changed to a telephone hearing due to technology problems. These were also observed by the research team.
- Observations of a sample of 'in-person' First-tier Tribunal (Tax Chamber) hearings to allow for a comparison with video hearings.

- Semi-Structured Interviews with Appellants and Appellant Representatives. Both Appellants and Appellant Representatives were interviewed prior to their hearing and again once their hearing had taken place.
- Semi-Structured Interviews with HMRC representatives.
- Semi-Structured Interviews with Judges conducting video hearings. Judges were interviewed once at the beginning of the pilot and again once they had finished presiding over their video hearings.
- Semi-Structured interviews with video hearings support staff.
- Semi-Structured interviews with judicial members of Working Group on video hearings, made up of members of the judiciary from all jurisdictions.

Interviews with appellants and representatives were conducted on the telephone, interviews with Judges were conducted in person (one interview was conducted via email) and interviews with HMRC representatives were conducted via email.

**Table 1: Summary of Data Collection**

<b>Data collected</b>		<b>Total</b>
<b>Observations</b>	Video hearings	8
	Telephone hearings (originally scheduled as video hearing)	2
	In-person hearings	8
	<b>Total Number of Observations</b>	<b>18</b>
<b>Interviews</b>	Interviews with appellants / representatives before their video hearing	6*
	Interviews with appellants / representatives after their video hearing	5**
	Interviews with appellants after their telephone hearing	2
	Baseline interviews with Judges	3
	Closing interviews with Judges	3
	Interviews with HMRC Representatives	5
	Interview with video hearings administration team	2
	Interviews with members of the Judicial Working Group	5
	<b>Total Number of Interviews</b>	<b>31</b>

*Note:* Inclusion in the research was voluntary and not all appellants/representatives were available for interview.

\* Three appellants and three representatives.

\*\* Two appellant and three representatives.

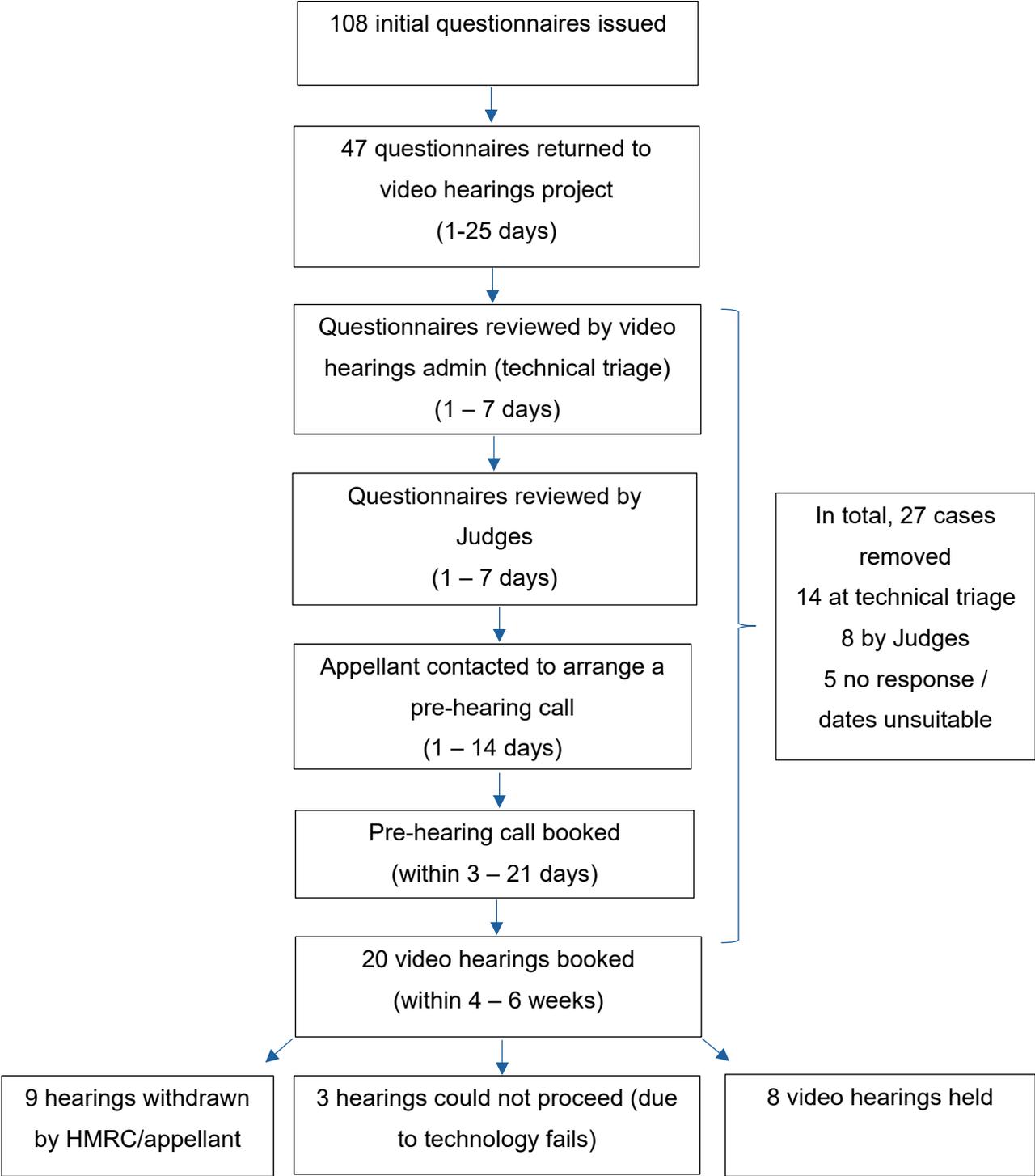
Interviews and observation fieldnotes were coded thematically. Closed-ended questions and observation items were counted (although the sample size limits generalizability) and appear as tables in Appendix 2. Qualitative data from interviews and observations are detailed throughout the text. Unless otherwise specified, the term ‘users’ refers to the views of appellants, representatives, and HMRC representatives. For the purposes of this report,

cases that were scheduled but did not go ahead as a video hearing due to technology problems were classified as having 'technology fails.' Cases that proceeded as a video hearing even with some technical difficulties were classified as cases that had 'technology difficulties.'

The findings of this report are limited by the sample size, though most users report similar experiences with their hearing. Although the researchers observed all hearings that took place and interviewed all users that were available and consented to the research, they were not involved in the selection of cases. There is the possibility of self-selection bias, in that only users who are favourable to video technology returned the pre-hearing questionnaire sent out by HMCTS. It is also possible that case selection was made with conservative estimates of suitability. The results should be read as exploratory and preliminary, based on a small sample of cases studied in-depth. We recommend additional research is conducted to investigate ways to address possible self-selection bias.

# 4. Journey to a video hearing

Figure 1: Journey to a video hearing



As part of the pilot, 108 questionnaires were initially sent out to all individuals who filed a request for a basic appeal over a specified time period. 47 questionnaires (44%) were returned to the video hearings project. The video hearings administrative team conducted a

technical triage of all returned questionnaires. Reasons for removing a case included; unsuitability of operating system or browser; plugin did not work; the user was only able to access a tablet or other mobile device.<sup>8</sup> 14 cases were removed at this stage. Much of the screening was due to the limitation of this first iteration of the technical product, which required a specific browser and hardware specifications, among other criteria.

Following the technical triage, questionnaires were sent to Judge for review. Judges decided that cases were unsuitable for a video hearing where, for example, the case was not a basic penalty case, or where it included lengthy submissions. Appellants could also decline to take part in a video hearing or withdraw their consent at any time. Other reasons a case could be excluded included: where the appellant needed an interpreter, was hard of hearing or deaf, blind or partially sighted, or did not have access to a private space to conduct the hearing. Eight additional cases were removed for these reasons. Other reasons cases fail to proceed to a video hearing included; an appellant did not respond to a pre-hearing test call, dates were unsuitable or where an appellant wished to deal with an appeal in absence. Five additional cases were removed for these reasons.

In total, 27 cases (57% of returned questionnaires) did not pass a technical triage, were removed by a Judge, or failed to proceed for other reasons. Additionally, nine cases were removed after a hearing had been booked because the appeal was withdrawn by HMRC or by the appellant.

11 cases began as a video hearing. Eight video hearings were completed, and three hearings experienced technology fails on the day; two of which were conducted as a telephone hearing and one which was rescheduled as a physical hearing.

Currently, there is shared consensus amongst the Judges and HMRC representatives interviewed for this research about which cases and parties would be suitable for a video hearing and which would not be suitable. Cases deemed suitable for a video hearing include: cases where there is only one witness, case management hearings, paper cases directed to be dealt with at a hearing, basic tax cases (e.g. basic late filing penalty / late payment penalty appeal), cases that last no longer than one and half hours. Cases and parties that would not be suitable for a video hearing include: complex cases, cases where language skills may be an issue, or case where the individual lacks appropriate IT skills.

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<sup>8</sup> It is anticipated by HMCTS that future iterations will have less restrictions.

Once cases were identified as appropriate for a video hearing, the video hearings administration team emailed the appellant to arrange a pre-hearing call. According to appellants and representatives, pre-hearing calls were a necessary requirement as part of the journey to a video hearing. During pre-hearing calls, the video hearings administrative team outlined procedures of a video hearing and resolved any technical issues.

Common technical issues at the pre-hearing call stage included ensuring users had the correct browser and plugins needed to launch a video hearing. Other technical issues included troubleshooting camera access and testing Wi-Fi connections.

Overall, appellants and representatives reported that they felt the pre-hearing calls played a vital role in preparing them for their video hearing and were positive about the support from the administrative team. All who were interviewed reported that they were happy with the way they were contacted by HMCTS and the pre-hearing process. *'[The pre-hearing call] was very helpful, I was reasonably confident with it, I spoke to the IT admin and it made me happier using it overall' [Appellant]*. All users took part in a pre-hearing call.

All users had previous experience with video-communication technology at work or at home, such as Skype or FaceTime, with half of them reported being 'frequent' or 'very frequent' users of this technology. After the pre-hearing call most appellants and representatives were confident that they would be able to participate effectively in a video hearing. Most appellants and representatives felt confident that the technology would work on the day. The only interviewee who was not confident was an appellant who ultimately experienced a technology fail and was unable to connect to the video hearing. Their hearing was rescheduled as a physical hearing. All appellants and representatives felt that the video hearing would provide them with the opportunity to present their case, that they would be able to hear and see the other parties, and that they would be able to understand the outcomes of their case. Appellants and representatives reported receiving guidance about the hearings, though two appellants reported not reviewing the guidance in advance of their hearing.

Of the eight video hearings that took place, appellants were represented in three and not represented in five. Representatives were accountants or tax advisors. Most representatives were co-located with the appellant, but one accessed a video hearing from his office on the other side of the country to the appellant. The make-up of video hearings was different from the 'in-person' hearings observed. In-person hearings tended to include a tribunal member, which was not the case in video hearings. This is partly because the Judges who were

involved in video hearing pilot did not need the added tax expertise given by a tribunal member. Additionally, in the in-person hearings, the appellant was not present 5 out of 8 times. One of those times, no representative was present either. Of the three cases with the appellant present, one was by telephone. In this case no appellant or representative attended court – the Judge rang the appellant during the hearing, who said he did not receive notification that the hearing was taking place, but was happy to participate on the phone with no preparation or access to a bundle.

**Table 2: Appellant and Representative Location**

Case number	Location of appellant	Location of representative
1	home	not represented
2	workplace	not represented
3	unknown	not represented
4	workplace	with appellant
5	home	not represented
6	workplace	with appellant
7	home	office
8	home	not represented

*Summary:* Once screened for technological and substantive issues, only a small number of cases were deemed suitable for a video hearing. Much of the screening was due to the limitation of this first iteration of the technical product, which required a specific browser and hardware specifications, among other criteria. Once a case became suitable, users were satisfied with the administrative support they received at the pre-hearing stage. Most cases that proceeded to a video hearing were completed successfully.

## 5. Staging a Video hearing

The staging of a video hearing included several important elements. Feedback from interviews suggests that pre-hearing calls play an important part in the initial staging of a video hearing. During pre-hearing calls, the video hearings administrative team helped appellants with 'impression management' – ensuring that their lighting and camera angle was adequate, that they were centred on the screen, and that they were suitably located and had an appropriate background in which to conduct their hearing. Half of the appellants accessed the video hearing from their home and the other half from their place of work. They all used a laptop that they needed to adjust in order to ensure eye contact.

*We tell people that surroundings must be suitable to be viewed in court room – again you are relying people interpreting that. I had calls where people are in their box room full of stuff, old shoes you know? Spare bedding? Crammed into a corner and I am like I can see a lot of things – this will get displayed into courtroom, do you really want the Judge to look at your spare duvet? [Video Hearings Administrator]*

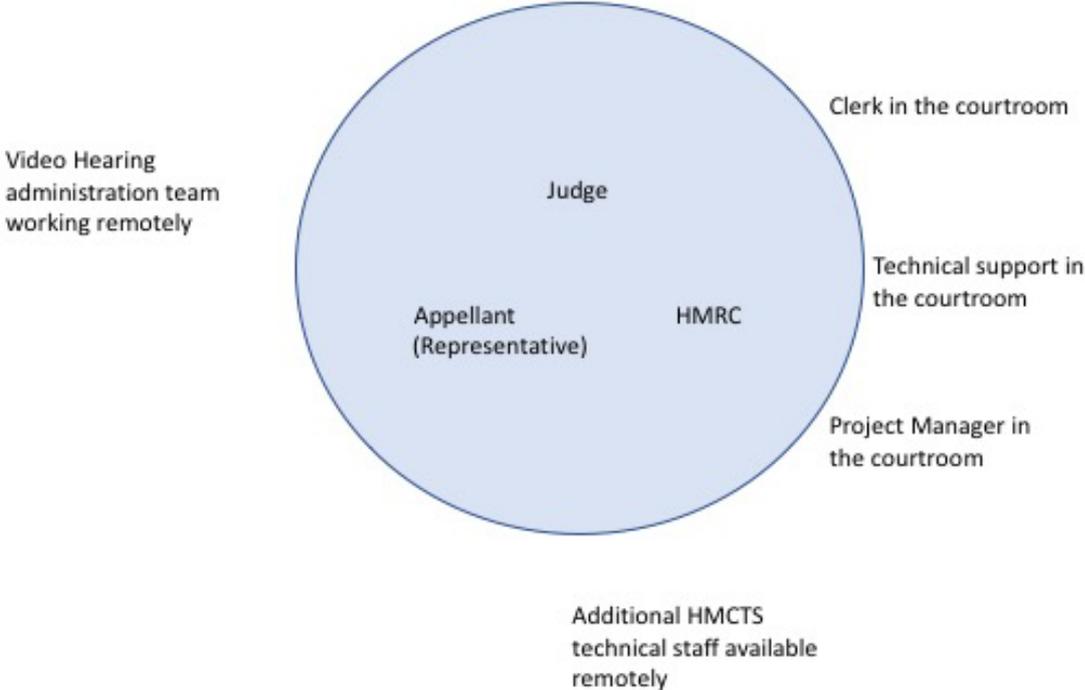
The video hearing team equally play an important role in staging on the day of a video hearing. The video hearings administrative team, located remotely, liaised with appellants, representatives, and HMRC before a video hearing started to resolve any technical issues and to ensure users had successfully logged into the video hearing. Most hearings began on time with minor technical difficulties. A small number experienced more serious difficulties on the day that needed to be resolved before the hearing took place. For instance, one hearing had to be rescheduled twice. In the first hearing, there were technology difficulties but the Judge ultimately adjourned it following an application from the appellant's representative to allow the appellant to attend. The second hearing was rescheduled due to further technology difficulties. In order to mitigate against any further technical issues, on the third attempt the video hearings team prepared a room for the HMRC representative in a co-working space and for the appellant's representative in a local courtroom. The video hearing was then successfully completed.

The video hearings team located in the courtroom also liaised with the administration team for any updates or technical problems so they could inform the Judge. One member of the video hearings team in the courtroom acted as a clerk and was, in general, responsible for logging the Judge into the video hearing and informing the Judge when the hearing was

ready to start. On several occasions, and similarly to a physical hearing, when the Judge entered the courtroom all parties in the courtroom rose.

Also present in the courtroom was a technical support person and a project manager. There were also staff based at HMCTS available during the pilot to offer further technical support if needed. The large number of support people involved in each hearing meant that most technology difficulties were dealt with quickly and hearings ran smoothly. However, issues around scaling this process up need to be resolved. As one Judge notes: *They [HMCTS] need to invest in people to do it... when it's rolled out will we have that support? You need a virtual clerk or virtual usher on site, dedicated to you on the day. Things will go wrong. And it won't work if you don't have the personnel.*

**Figure 2: Supporting the video hearings pilot**



The way the parties were presented during the hearing made a positive contribution to its successful staging. Many appellants commented favourably on the Judge's physical surroundings and position on the screen: *[The Judge] was sitting in front of the royal crest, whereas ourselves and HMRC were in ordinary offices... he did look like he was in a courtroom, it was easy to tell' [Appellant]*. The majority of appellants and representatives were dressed in formal attire and addressed Judges in a polite and formal manner.

Similarly to a physical hearing, the staging of the ritual is interwoven into the preparation (e.g. pre-hearing calls, logging on to the system) which is then reinforced once the video hearing formally commences. Most appellants and representatives found the video hearing to be suitably formal.

Once users logged onto the video hearing service, they entered a 'waiting room' where they were kept updated about the status of their hearing. Appellants and representatives reported that they all logged into the hearing in good time (after receiving a reminder call from an administrator) and that they spent less than 10 minutes in the 'waiting room.' They used this time to go over any documents and make any final preparations. Once the video hearing commenced (by the Judge clicking a button) the other parties appeared on the screen with a label indicating who they were. The user could also see themselves on the screen. Appellants and representatives reported satisfaction with this procedure; they all thought it was clear when they were 'on camera' and most appreciated the feedback that comes from being able to see oneself. All appellants and representatives could easily identify the other parties because of the labels and other signifiers, such as the coat of arms behind the Judge. All appellants and representatives also reported that in addition to the labels, the Judge introduced everyone at the start of the hearing. Appendix 3 includes a screen shot of the video hearing waiting room and the video hearing room from the point of view of the appellant.

The Judge introduced the proceedings in a similar way to a physical hearing; confirming the identity of the different parties, emphasising the Tribunal's independence from HMRC, outlining the case and order of play, as well as the structure of the proceedings. The only noticeable difference from a physical hearing was that the Judge verified that individuals were alone and that all parties could hear and see one another and the Judge. It was common for the HMRC representative to have a colleague in the room with them observing the hearings. In most cases this was a colleague who would represent HMRC at a future hearing. The Judge always asked that the colleague be in view of the camera. In one case, the appellant was in a shared office with a colleague, who wearing headphones so as to not be disturbed. The Judge verified that the colleague was not involved in the hearing and asked that the appellant turn the camera to the colleague momentarily. He asked that he give his name and to confirm that he was not participating in the hearing. The Judge also reiterated that the colleague was not allowed to prompt or guide the appellant in any way.

*Summary:* The video hearings administration team played an important role in staging the hearings. They resolved any problems with user technology prior to the hearing, helped

prepare users so they are 'camera ready,' and acted as a quick response team on the day to deal with any problems. Users reported satisfaction with this process, though there are issues around how HMCTS will be able to maintain this level of support. Users found it easy to access the hearing and Judges did a good job of making introductions and setting the tone for the hearing.

## 6. The User Experience of Video hearings

In interviews, the majority of users commented on the practical advantages of a video hearing, including the time and money they saved by not travelling to a physical hearing or having to take an entire day off work. All appellants, representatives, and HMRC representatives reported that they were satisfied overall with their video hearing experience. All reported that they were able to participate effectively in the video hearing, that they thought that the other parties were able to participate effectively, and that it was easy to take part in a hearing.

One appellant was located in Europe outside the UK. This individual commented on the convenience of video hearings: *I couldn't even believe it when they told me they could do it online, it's amazing. I'm in a foreign country, imagine if someone is away for work, or in the army, or disabled, or people living in rural areas... I'm satisfied all this could happen without having to jump on plane and pay a fortune to come to UK [Appellant].*

Another appellant had recently become a parent and was very pleased to have the opportunity to present their case via video and not have to travel to a physical court hearing: *I have a couple of weeks old baby... it would be a nightmare... [a video hearing] makes life much easier [Appellant].*

In another instance, an appellant located in a different location to her representative was able to attend the hearing at the same time via video.

HMRC representatives were positive about the time and money they would save not having to travel to a hearing centre: *No travel time and associated costs. I was more than happy to participate and found the process a rewarding one. This is definitely the way forward and should assist in keeping costs to a minimum [HMRC representative].* HMRC representatives regularly travel to London from Belfast and Bristol for short hearings that may be cancelled at the last minute. For them, the ability to conduct hearings remotely was a clear benefit.

Other positive feedback suggests that appellants might feel more at ease in their own surroundings. For instance, an HMRC representative opined that a video hearing might be preferable for appellants: *I think it's all about the convenience for everyone, especially for the customer who may feel anxious and uncomfortable if they had to travel and attend a court [HMRC representative].* This was echoed by an appellant, who reported that: *[one]*

*advantage [of a video hearing was that] it takes away the element of anxiety and intimidation, you are in your own room... better than going to meet the Judge [appellant].*

While most users were generally positive about communicating via video, some commented on its limitations. One appellant raised concerns relating to the level of empathy than can be achieved through this medium: *I think it is very difficult to impart empathy over a video screen... it is very difficult to get the Judge or HMRC to empathise with you when are on a screen rather than in person, which I think in courtroom is quite important, you lose that [via video], you have ability to switch screen off and that person's gone [Appellant].* Another appellant also commented on the physical restrictions and effect on their visibility within a video hearing: *I guess with face-to-face you are free to move around or change posture whereas with a video hearing we were a bit nervous, should we move or sit, [to] make sure we are visible [Appellant].*

Appellants and their representatives who took part in a Video hearing all reported that they could hear and see the other parties well, and that they were confident that the others could hear and see them well. This was confirmed by the observers in the room, who rated the audio and video quality as clear. While technology difficulties occurred in most hearings, they were addressed by users adjusting their microphone or at times by restarting the hearing.

Several appellants also noted that the video hearings technology was user friendly: *It was very clear when everyone was available and everyone was logged in and very clear when somebody had a problem and couldn't hear you... at the beginning they give you a countdown, so everything was very clear [Appellant].*

Appellants and representatives reported no problems with distractions or fatigue. All reported that it was 'very' or 'moderately' easy to maintain attention throughout the hearings. Most reported that it was 'not at all tiring' to take part in a hearing, one appellant reported that it was 'moderately' tiring. Turn-taking conventions were clearly described by the Judge at the outset of the hearings and well-managed throughout. All appellants and representatives reported that it was clear when it was their turn to speak. This was also borne out in the observations: observers rarely saw instances of parties talking over each other, interrupting, or appearing unsure about when to speak. In the rare instance when this did happen, the Judge was able to quickly manage the interaction so that all parties had a chance to listen and to speak. Turn-taking conventions were no different from what was observed during in-person hearings.

The video hearings lasted longer on average than telephone hearings and in-person hearings. Video hearings lasted approximately two hours, telephone hearings and in-person hearings observed by researchers lasted approximately one hour. This is not likely to be a representative sample. Judges and HMRC representatives who regularly take part in these hearings were asked if they assessed the video hearings to take up more time than in-person hearings. Aside from the fact that for HMRC, they took less time due to the lack of travelling to London, most reported that the hearings took about the same time or longer than the hearings they are used to. One reason for this was because hearings needed to be paused to address technology difficulties such as poor Wi-Fi. Another reason was the longer explanation some Judges gave at the beginning of the hearings about how it will proceed. This may be the preference of particular Judges; the researchers observed some Judges spending considerable time introducing the video hearing while others very quickly moved into the hearing and the presentation of evidence. Users also commented that the length of the video hearing was dependent on the quality of the video technology, as well as the style of the Judge: *more time due to lengthy explanation beforehand of how it was to proceed and Judges spending considerable time going through each aspect of the case in great detail but this may have been the style of the particular Judge [HMRC representative]*. Some Judges however, considered video hearings to be longer-lasting: *video hearings take longer, they are slower in any event as harder to get the papers in order as I can't see what is being looked at; there is more need to repeat things when microphones break up voice; but by far the most time wasting event was the break downs in technology which would stop a hearing for 5-20mins [Judge]*.

Many video hearings during the pilot experienced technology difficulties. Hearings were routinely delayed or had to be rescheduled due to technical issues and problems with Wi-Fi connections. For the most part, this did not bother users, but as one user commented: *I think the concept is a good one but at present the technology is not secure enough to support the concept. I hope that these issues can be resolved as I see there being great savings to all parties if video hearings are adopted in the future [HMRC representative]*.

During the pilot, two hearings were conducted over the telephone due to problems with the video hearing technology. Both appellants thought that it would have been easier to follow the proceedings had they successfully joined the video hearing: *I would think if it was over video, it would have made it easy to pay attention, you had to listen harder, if you missed it over the phone it wasn't so easy to say again [Appellant]*.

Appellants and representatives were particularly positive about the support they received from the administration team during their hearing: *[the video hearings administrator] was brilliant, she explained everything really well. She was really good and patient [Appellant]*. Appellants also indicated that the administration team were very supportive when they experienced technical issues: *I think administration were very helpful and supportive, where I was having problems they did all they could [Appellant]*.

One aim of the research was to identify any individual capabilities or vulnerabilities that might limit a user's ability to take part effectively in a video hearing. Users did not report any vulnerabilities that might interfere with their participation. It is possible that this is due to selection bias at initial contact or during the suitability assessment. As a result, this report cannot comment on the video hearing experience for people with vulnerabilities. Users were asked if they could think of any reason why someone might be disadvantaged by a video hearing. Common responses included the elderly, or those who don't have a computer or any experience with the internet or video technology. If video hearings are to be widely adopted for a more diverse group of users, then HMCTS needs to develop a strategy to reach users who aren't able or don't want to engage with video technology. Alternatively, this can be seen as a minimum standard for participating in a video hearing, with users who do not meet the criteria directed towards an in-person hearing.

*Summary:* Users reported high levels of satisfaction with video hearings, particularly due to the practical advantage of not having to travel to a physical court. They reported that the video hearing was clear, easy to navigate, and user-friendly. Turn-taking conventions were clearly described by the Judge at the outset of the hearings and well-managed throughout. The video hearings lasted longer on average than telephone hearings and in-person hearings, largely because of pauses to address technology difficulties and because some Judges took extra time at the beginning of the hearing to orientate the parties. While most hearings experienced delays and technology difficulties (such as Wi-Fi dropping out), they were for the most part resolved quickly and not distracting to users. Users did not report any individual capabilities or vulnerabilities that might limit their ability to take part effectively in video hearings, but many suggested that a familiarity with video technology be a minimum requirement.

## **6.1 Technology Difficulties and Fails**

The majority of video hearings experienced issues around technology. Of the 11 cases booked for a video hearing, three cases experienced technology fails, two proceeded as telephone hearings and one was rebooked as an in-person hearing. Of the eight video

hearings held, seven experienced technology difficulties which were addressed during the hearing. Technology difficulties included issues around audibility, visibility of parties on the screen or access to documents. A common theme from observations and interviews was that the video hearings team played a key role in remedial strategies. The video hearing administrative team, both remotely located and in the courtroom, acted quickly to provide help parties when there were any technology issues. In some cases, this was merely a quick telephone call to check that the party who had dropped out was able to log back in and to communicate to the Judge when to resume the hearing. In other instances, the video hearings team spent 30 to 45 minutes with a party troubleshooting and working through any technology issues.

In general, minor technical issues were easily resolved by video hearing users. Some parties were asked by the Judge to speak more slowly, repeat themselves, or directed to move closer to the microphone or avoid turning their papers too close to the speaker. The Judge would sometimes repeat what was said by one party to ensure that the other party heard the full sentence and that the record was correct. An appellant's own technology also acted a solution where parties did not have physical copies of the documents. On four occasions appellants were able to access documents using another tab on their screen or with a separate device, such as an iPad.

A common technology issue for all parties was a break-down or fluctuation in Wi-Fi connection. This often led to the video hearing having to be re-started. In some cases this was a result of the party calling from a shared office space or on a shared Wi-Fi network. When there was a problem with the technology, the Judge was able to pause the hearing for a few minutes while the problem was addressed. In the eight hearings observed by the researchers, seven had at least one pause due to technology problems. The maximum number of pauses was four, due to network issues. A Judge could also pause a hearing to allow time for an appellant to read a just-received document or so that the Judge could take ten minutes to consider the evidence and come to a decision. This happened on two occasions. Feedback from several interviews suggest that these pauses were not distracting and it was clear from observations that the Judge was skilled in swiftly returning to the proceedings.

One appellant whose video hearing cut out on four occasions stated that: *It didn't really bother me, I hadn't forgotten what had been said [Appellant]*. Users were generally positive about the continuous engagement and technological support from the video hearings administration team: *That is positive for [the parties] knowing someone is there on the end of*

*the phone, knowing I had contact beforehand. For example, in yesterday afternoon's hearing...I had prior communication with the representative... he was happy to work with me and keep trying different solutions until we got him in to the hearing...communication aspect is a really good thing [Video Hearings Administrator].*

Some users raised concerns regarding the level of administrative support that was unique to the pilot. One user worried that the reliance on the administrative team was not sustainable in the future: *It's essential that that technology is robust and simple enough for a Judge and the parties to operate without an army of technicians, otherwise it's not going to fly. That is really key, it's got to be as easy as using FaceTime or Skype [HMRC representative].* A future roll-out of video hearings needs both a simple and intuitive interface as well as a robust strategy for technical support.

Data from observations and interviews indicate that there are still hurdles to be overcome to ensure that the technology is robust and usable: *In two cases the connection failed. Which was frustrating and in fact a waste of court time and the other parties' time. If that happens a lot it will just put Judge and litigants off [HMRC Representative].* While several users were positive about the video hearing technology, they commented that in order to function in a courtroom, the technology needs to be completely inconspicuous: *[A] heightened sense of technological glitches shouldn't be getting in the way of [the] day in court and getting through [the] matter. From a Judge's perspective, [they want to] get on with hearing with minimal song and dance that it's a video hearing. My idea [is that] technology isn't really noticeable [HMRC Representative].*

Two Judges also commented that physical hearings would still be preferred over a video hearing and it was noted that video hearings should only be offered if they are of real advantage to the individual: *I think that video hearings should only be used where they are better than the alternative (e.g. where a party could not attend otherwise); they are not as good as 'in person' hearings and should not be used just because they might be cheaper [Judge].*

*Summary:* The majority of video hearings experienced technology difficulties (seven out of eight), which were quickly dealt with by the users themselves or by the video hearings team at HMCTS. Technology difficulties included issues around Wi-Fi, audibility, visibility of parties on the screen or access to documents. In many cases, the hearing had to be paused and restarted, which usually solved the problem. Some technology problems could not be resolved (usually due to poor Wi-Fi connections), resulting in a technology fail and the video

hearings being abandoned (three out of 11). While users took a pragmatic approach to this, there are still hurdles to be overcome to ensure that the technology is robust and usable.

## 6.2 Authority of Judicial Proceedings

Previous research has documented a concern that moving hearings outside of a traditional courtroom will reduce the authority of the court and the Judge.<sup>9</sup> Video hearing users were in general satisfied with the authority and the conduct of the video hearing. Most appellants and representatives thought that the hearing was suitably formal, that all of the participants were taking the hearing seriously, and that the process approximated being in court. Appellants and representatives had not been to a court hearing before (with the exception of one appellant who worked in the legal sector); their assessment of formality and authority is based on their expectation of what a court would be like.

There were some concerns that the level of formality exhibited by some appellants was less than it would have been had they come to court. One HMRC representative raised a concern regarding the video format: *[a concern was] the somewhat casual attitude to the proceedings it seemed to engender in appellants and the Judge's willingness to allow the agent to leave the room to obtain additional evidence [HMRC Representative].* Judges also expressed a worry about subtle perceptions and alteration in appellant's behaviour:

*I was surprised at level of informality, it might have been particular appellants, but I was surprised, there was a bit when he scooted off from the chair... that sort of subtle shift in behaviour, you wouldn't have that in a physical hearing, they would be conscious... they would engage before they turned their back to [the Judge] [Judge].*

*While it is only a question of degree, it is harder to watch the parties' comprehension of proceedings if all you have is a 2D image of them on a screen; moreover, people feel less inhibited when at home and behaviour is likely to be less respectful of the process, for example, I had a representative suddenly jump up and run out of the room to go and look for something [Judge].*

It is worth noting that these assessments are based on speculation about how certain video hearing appellants might have acted had they attended a physical court. In the eight video hearings observed by researchers, there were three instances of an appellant displaying

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<sup>9</sup> This concern is noted in Terry et al (2010) and Gibbs (2017) (see footnote 3 and 5 for further details).

'informal' behaviour. In two cases an appellant stood up without permission (once to get a pen and once to get a glass of water) and in one case the appellant appeared with a very chaotic and busy background. In the eight in-person hearings, two instances of informal behaviour were observed: one instance where an HMRC representative's phone rang during a hearing and one case where an appellant's representative repeatedly interrupted the judge and the HMRC representative.<sup>10</sup>

However, most appellants interviewed for this research did feel the video was appropriately formal, and for one appellant especially in comparison to a telephone hearing: *The video definitely felt formal... I use video everyday but when you see Judge you are like "ok this is formal", you can't be in pyjamas. On the phone, you can be on couch on pyjamas, no one sees you... The video, you could see, so it felt like a court [Appellant].*

One reason that appellants may have found the video hearing suitably 'court-like' is because they were well prepared by the video hearings administrator, by the guidance they were sent (though not all reviewed the guidance), by the waiting room interface, and by other symbols, such as the coat of arms above the Judge or their symbolic placement at the top of the screen. In other words, the symbols that evoke formality and authority in a physical court have been reimagined for a virtual space. It is our assessment that this is what the Video hearings pilot has attempted to achieve.

*Summary:* In interviews, appellants and representatives reported their video hearing was suitably formal and approximated being in a court. Some Judges and HMRC representatives expressed a concern that some appellants appeared to act in a less formal manner during their video hearings than they would have had they appeared in court. One potential avenue to ensure the continued authority of the court and the Judge is to reimagine the ritual and associated symbols for a virtual space.

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<sup>10</sup> Note that appellants were only present in three of the eight in-person hearings.

## 7. Judicial Training and Management of Video hearings

All three Judges on the video hearings pilot were given a set of protocols and provided with basic training in how the technology works.<sup>11</sup> All reported that the training was useful and that the technology was relatively easy to use. One Judge felt that familiarising themselves with the technology also played a role in how they were able to manage the proceedings: *[the technology] felt intuitive, the buttons did what I expected. It is more than just a sense of using technology, [it's about] feeling confident using it in a courtroom setting [Judge].*

Data from observations of video hearings suggest that Judges were effective in managing proceedings. Judges were specifically skilled in making sure that all parties could hear and see each other, signposting at each stage of the proceedings and ensuring that turn-taking was respected. Video hearing users also reported that the Judge was effective in managing the hearing. Appellants and representatives noted that the Judges were active and clearly directed the proceedings: *[Judge was] really, really clear, [they] really laid our parameters, who would speak when, what points we would address, [it was] really clear how she would conduct the hearing and the order [Appellant].*

In general, most of the video hearings ran according to the structure laid out by the Judge and did not differ from how a Judge ran a physical court hearing. There were however some subtle distinctions; for example, in one video hearing, an appellant receded from view to search for a pen and in another video hearing, an appellant began to speak more colloquially, and his colleague was visible walking around in the office behind him. The Judges immediately reminded both the appellants of the formality of the proceeding and appeared to resume authority over the proceedings. Some Judges also exhibited the capability to respond to any technological difficulties. During one video hearing, the Judge tried to resolve the distortion of the audio by asking the party to move further away from their speaker.

It was apparent from video hearing observations that turn-taking conventions needed to be more explicitly signposted in a video hearing. All Judges involved in the pilot recognised the importance of adapting their communication methods for a video hearing, for example by speaking slowly and directly addressing parties by name: *[what] was really apparent was the*

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<sup>11</sup> The protocol was developed in collaboration with member of the judiciary serving on the Managing Video hearings working group.

*need to be clear as to who you are addressing and who you are expecting a response from [Judge]. One Judge suggested this kind of interaction might lead to a more seamless hearing: I think once people realised how it worked and how you had to be careful who talks, that wasn't a bad thing, it led to a more structured discussion. It was impossible to have people talking over each, [which] sometimes happens in personal hearing and can't happen to the same extent in a video hearing...so perhaps quite a positive thing [Judge]. Comments from another Judge suggest that managing a video hearing was more cumbersome: Apart from the extra introduction, I found myself... almost routinely speaking more slowly, trying [to] enunciate clearly, [it] takes more energy, having to listen... follow what people were saying, there is something about looking on screen... which maybe through unfamiliarity [was] more draining [Judge].*

Judges felt that it was essential that training continued to be provided in the future. However, opinion differed about the extent to which Judges should be familiar with the technology. Some Judges thought that training should be purely procedural: *I wouldn't expect training on the technological side, training should be on the differences between video and physical hearing and how to cope with them. [Training should include] things like how to expand introduction, to include 'don't record' and tell people you have to be clear to whom you are speaking [Judge].* Other Judges thought that future training should include familiarity with technology: *every Judge would want to know how [they] appear on screen, how to start and how to pause... to know what to do if [technology] didn't work [Judge].* Another Judge raised concerns about usability of technology and its potential to interfere with judicial management: *[It's] more important to create a sense of having authority of a courtroom, [which could be] severely undermined if Judge is not confident in using technology [Judge].* One of the Judges sitting on the Judicial Working Group took a more expansive view: *The Judge has to manage a hearing. We have to figure out how to do that in a virtual sphere. It will take an adjustment. But learning the new technology isn't really the issue. It's necessary to teach people, but I don't think we need to get hung up on complexity. We manage it [Judge].*

*Summary:* Judges reported that the training was useful and that the technology was relatively easy to use. Data from observations and interviews suggest that Judges were effective in managing proceedings. A key difference with video hearings is that turn-taking conventions needed to be more explicitly signposted. Judges felt that it was essential that training continued to be provided in the future, though opinion differed on whether Judges should be trained to manage the technology themselves. Most Judges thought that the proceeding needed to be modified for the virtual space, and that training should cover this.

## 8. Recommendations and Conclusion

The HMCTS Video Hearings Pilot (Party-to-State) 2018 introduced video hearings, where all parties participate in a hearing remotely, for basic appeals in the First-tier Tribunal (Tax Chamber). This research has documented the user experience of video hearings at all stages, including the selection of cases, the preparation and staging of a hearing, and the hearing itself. Programme implementation, user training, the technology, and user experience was rated highly by all users. While HMCTS imposed strict suitability criteria, once a case was deemed suitable it was likely to proceed as a video hearing and was a positive experience for users. There may have been a self-selection bias in that appellants who returned the original questionnaire were likely to be amenable to video hearings.

Even though most hearings experienced technical difficulties, this did not appear to dampen users' enthusiasm. Judges and other stakeholders adapted the procedure effectively to suit the video environment. In this pilot, appellants and representatives seemed satisfied with this adaptation – they reported satisfaction with judicial management, turn-taking, and authority. However, the unreliability of technology and consistent vulnerability to drop-outs is a key hurdle to overcome in order to make video hearings a robust and feasible option in the future.

*Recommendation: Many users were unable to take part in a video hearing due to the limitation of this first iteration of the technical product, which required a specific browser and hardware specifications, among other criteria. As the technical product improves to allow for a wider range of users, further testing should examine the wider user experience.*

*Recommendation: It is likely that there was a self-selection bias in that appellants who returned the initial questionnaire were more amenable to video hearings. We recommend further investigation into barriers to access.*

A common theme at all stages of the user experience is satisfaction with the administrative support that they received. The current pilot draws on a select sample of cases who were supplied with an abundance of administrative and technical support. As such, the pilot provides a 'proof of concept' that video hearings can be effectively used. The next step is to develop strategies to upscale this level of support. This will need to be addressed before video hearings are meaningfully expanded.

*Recommendation: It is anticipated that an expanded version of this programme would involve less person-to-person administrative support. We recommend further evaluation of the user experience once this support is reduced. This should include feedback on any guidance produced for users.*

The appeals selected for video hearings in the First-tier Tribunal (Tax Chamber) were cases in which the appellants had appealed against a non-compliance penalty and that had been categorised as basic with minimal evidence or witnesses. Appellants presented themselves as professionals with no major vulnerabilities. We cannot generalise the findings of this report to complex cases or to court users who may have particular vulnerabilities, such as defendants appearing from custody.

*Recommendation: Future developments need to include a strategy for addressing user vulnerabilities in video hearings, or to identify a minimum standard of resilience that one needs to meet in order to participate in a video hearing instead of an in-person hearing. Other key areas for improvement include a strategy for the sharing of documents electronically, how to ensure open justice, and streamlining protocols for Judges.*

The current study is a process evaluation designed to document the user experience of video hearings. Due to the limited sample in this study, a cautious approach to generalising from these findings needs to be taken. It does not measure the cost efficiency of such technology nor does it measure outcomes in decision-making.

*Recommendation: Future research should collect data on video hearing outcomes, such as judicial decision-making, procedural justice and fairness.*

# Appendix 1. Pre-Hearing Questionnaire Used in Suitability Assessment



HM Courts &  
Tribunals Service

First-tier Tribunal (Tax Chamber)

## Pre-hearing questionnaire

For appellants

We will use your answers to check whether an online video hearing is suitable for you. The information you provide will also help us improve this new service. If you have any questions call us on 0300 123 1024.

What is your reference number?

You can find this on your acknowledgment letter you have received from the tribunal.

### About your equipment

Which of the following computers do you have?

- Desktop
- Laptop
- Tablet
- I do not have a computer

Does your computer have a camera, microphone and speakers?

- Yes
- No

Have you ever made a video call using Skype, FaceTime or a similar service?

- Yes
- No

Which operating system does your computer work on?

- Windows 7
- Windows 8.1
- Windows 10
- Mac OS X 10.9 or later
- Other: please specify

Which of the following do you use to access the internet?

You can check which browser you use at [www.whatsmybrowser.org](http://www.whatsmybrowser.org)

- Microsoft Edge
- Safari
- Google Chrome
- Internet Explorer 11
- Other – Please Specify

### **Your consent for an online video hearing**

If the tribunal decides an online video hearing is suitable, are you content to participate in the hearing by video? Other arrangements can be made if required.

- Yes
- No, I don't want to take part because

### **About You**

What is Your Full Name:

Will you need an interpreter during your hearing?

- Yes
- No

Is there anything that could affect your ability to take part in an online video hearing? For example:

- are you hard of hearing or deaf?
- are you blind or partially sighted?
- do you normally need the support of a carer, family member or friend?

- Yes, Give Details
- No

### **About your appeal**

Do you plan to be represented by an accountant, tax adviser or legal professional?

- Yes
- No

Will anyone else be giving spoken evidence to support your case at the online video hearing?

- Yes, give details
- No

### **About your location**

Do you have access to a room that is private, quiet and well lit; where you are unlikely to be disturbed for around two hours and your computer can connect to the internet?

- Yes
- No

### **Your availability**

Over the next three months are there any dates you **will not be available** for a two-hour hearing (Monday to Friday 9:30am and 4:30pm)?

- Yes, I am not available on the following date
- No

Thank you for completing this pre-hearing questionnaire.

Please email your completed form to [xxxxxx@hmcts.gsi.gov.uk](mailto:xxxxxx@hmcts.gsi.gov.uk)

## Appendix 2. Data from Observations and Interviews

### Coding of observations

**Table 3. Summary of Data**

Total number of video hearings	8
Total number of telephone hearings	2
Video hearings that were started and then rescheduled as in-person hearing	1

**Table 4. Pauses/suspension of Hearings**

Video hearing Case No.	total pauses	pause for tech problems	pause for Judge to make decision
1	2	2	0
2	1	1	0
3	2	2	0
4	1	1	0
5	4	4	0
6	2	1	1
7	1	0	1
8	1	1	0
average	1.75	1.5	0.25

**Table 5. Appellant Representation**

	Represented	Not Represented
Video hearings	3	5
Telephone hearings	1	1

**Table 6. Quality of Audio and Video (as rated by observer)**

	Appellant Audio quality	Appellant Video quality	Judge Audio quality	Judge video quality	HMRC Audio quality	HMRC Video quality
Poor	0	0	0	0	1	0
Occasional problems	2	1	0	1	3	2
Clear	6	7	8	7	4	6
<b>Total</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>

**Table 7. Length of Hearing**

Hearing length	average length (hrs)
Video hearings (n=8)	2.15
Telephone hearings (n=2)	0.96

**Table 8. Appellant Solve Technology Problems**

BYO tech solution	No.
Check email for documents	2
Bring up documents already on computer	2
<b>Total</b>	<b>4</b>

## The Pre-hearing interview

**Table 9. Notification of Video hearings**

How Notified	No.
Notified by email	5
Notified by letter	1
Happy with notification (%yes)	100

**Table 10. Expectations about the Video hearing**

	Confident that the technology will work to connect you to the Video hearing	Confident that you will have the opportunity to present your case	Confident that you that you will be able to hear others	Confident that you will be able to understand the outcome
Not at All	1	0	0	0
Slightly	0	0	0	0
Somewhat	0	1	1	0
Moderately	3	2	4	2
Very	2	2	1	2
Don't know	0	1	0	2
<b>Total</b>	<b>6</b>	<b>6</b>	<b>6</b>	<b>6</b>

## Post-video hearing interview with appellants and representatives

**Table 11. Interview Data**

	No. of interviews
Pre-Video hearing	6
Post-Video hearing	5
Post-Telephone Hearing	2

**Table 12. User Satisfaction**

	Overall, how satisfied were you with the Video hearing?	Overall, how satisfied were you with the Telephone Hearing?
Very satisfied	2	0
Satisfied	3	1
Neutral	0	1
Dissatisfied	0	0
Very dissatisfied	0	0
<b>Total</b>	<b>5</b>	<b>2</b>

**Table 13. User Fatigue**

	Easy to maintain attention throughout the hearing	Tiring at any stage	Clear when it was your turn to speak
Not at All	0	4	0
Slightly	0	0	0
Somewhat	0	0	0
Moderately	1	1	1
Very	4	0	4
<b>Total</b>	<b>5</b>	<b>5</b>	<b>5</b>

Note: Data from users who took part in a Video hearing (N=5)

**Table 14. User Participation**

	Overall, do you think that you were able to participate effectively in the Video hearing?	Do you think that the other parties were able to participate effectively?	Overall, how easy was it to participate in the Video hearing?
Not at All	0	0	0
Slightly	0	0	0
Somewhat	0	0	0
Moderately	1	0	3
To a great extent	4	5	2
<b>Total</b>	<b>5</b>	<b>5</b>	<b>5</b>

Note: Data from users who took part in a Video hearing (N=5)

**Table 15. Orientating to the Hearings**

	how well hear	how well see	how well others could hear you	how well others could see you
Not at all	0	0	0	0
A lot of trouble	0	0	0	0
Some trouble	0	0	0	0
Adequately	3	2	1	0
Well	2	3	4	4
Don't know	0	0	0	1
<b>Total</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>

Note: Data from users who took part in a Video hearing (N=5)

**Table 16. Technical Difficulties**

Difficulties with the audio or video where the voices or picture stuttered or dropped out	
None	2
A little	1
Some	1
Moderate	1
A lot	0
<b>Total</b>	<b>5</b>

Note: Data from users who took part in a Video hearing (N=5)

**Table 17. Technical Difficulties Distracting**

Difficulties distracting	
Not at all	3
Slightly	0
Somewhat	0
Moderately	0
Very	0
<b>Total</b>	<b>3</b>

Note: Data from respondents who answered yes in Table 16

**Table 18. User Feedback on Hearings**

	delay between audio/video	Could you see yourself	ability to see self useful	clear who other parties were	other parties labelled	easily identify Judge	other people and protocol introduced by Judge	use any other device during hearing	open other tabs on your computer during hearing
Yes	0	5	5	5	4	5	5	0	1
No	5	0	0	0	1	0	0	5	4
Not sure	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>5</b>

Note: Data from users who took part in a Video hearing (N=5)

**Table 19. Hearing Formality**

	Video hearing formal enough	Participants taking the hearing seriously	Approximate being in a court
Not at All	0	0	1
Slightly	1	0	0
Somewhat	0	0	0
Moderately	0	1	2
To A Great Extent	4	4	2
Don't know	0	0	0
<b>Total</b>	<b>5</b>	<b>5</b>	<b>5</b>

Note: Data from users who took part in a Video hearing (N=5)

## Interviews with HMRC representatives

**Table 20. User Satisfaction**

Overall satisfaction with the Video hearing?	
Very Dissatisfied	0
Dissatisfied	0
Neutral	1
Satisfied	3
Very Satisfied	1
<b>Total</b>	<b>5</b>

**Table 21. Effective Participation and Ease of Use**

	Able to participate effectively in the Video hearing *	Others parties were able to participate effectively	Easy was it to participate in the Video hearing *
Not at All	0	0	0
Slightly	0	0	0
Somewhat	1	0	0
Moderately	0	1	1
To a Great Extent	3	4	3
<b>Total</b>	<b>4</b>	<b>5</b>	<b>4</b>

\* One respondent did not participate, but observed the hearing

# Appendix 3. The Virtual Waiting Room and Hearing Room.

(Note: the following screen shots are mock-ups supplied by HMCTS and not of real Video hearings)

Figure 3. The Virtual Hearing waiting room

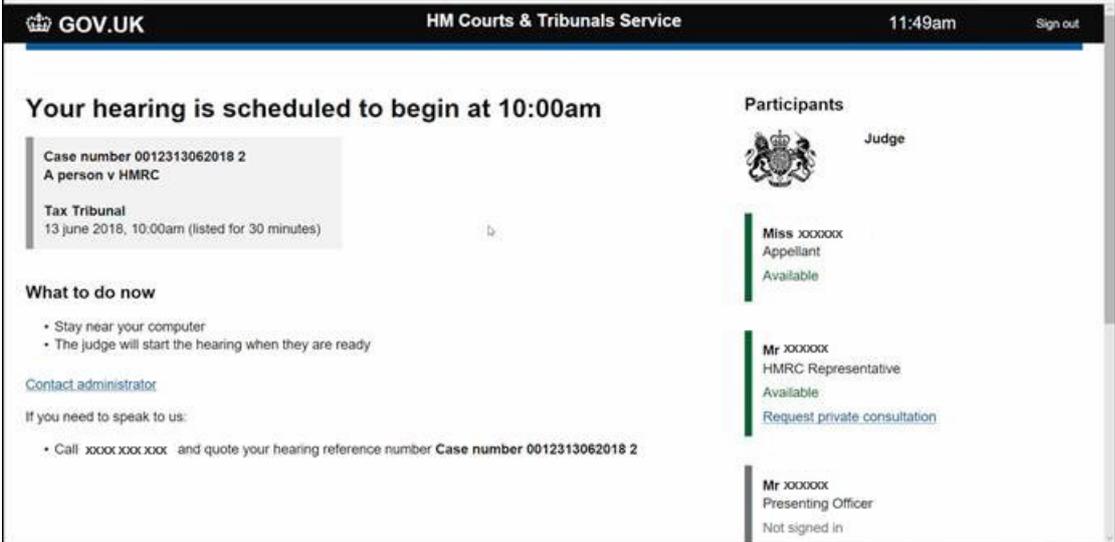


Figure 4. View of the hearing room from the Appellant's computer

