

Sharing our Learning and Experiences from Remote and Hybrid Hearings

Technology

What platforms and/or equipment does the vulnerable person have access to?

On some platforms the faces of the people on the call jump around the screen according to who is speaking. This can be extremely difficult for the VP who also may not be able to read what each person's name is. 'Pinning' the person who is speaking can avoid the people jumping around (for example when Judge is reading a judgement).

Their experience may also vary according to whether the software is being accessed on a computer or a mobile device (such as a phone or laptop). For example, on a mobile device, the user may need to keep swiping through to see people's faces separately on the screen and may not have access to the displays available on a desktop computer such as gallery view.

What functions are available within the software platform?

We have had successes working in hearings using the full range of functionality of the platforms such as using a whiteboard, screen sharing and private chat functions. For example, to avoid a vulnerable person needing a separate device or screen to view key documents, these can be shared via screenshare.

Removing Distractions

What is going to be distracting for a vulnerable person in a remote hearing?

These distractions may not be limited to the environment they are in but may also include distractions within the virtual court room. For example, it may be very distracting to have lots of faces on a screen, especially if you are not sure who they are, and they do not say anything during the hearing. Could all parties turn off their own video whilst they are not speaking so it is easy to focus on the person who is speaking in the virtual court room?

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What notifications are distracting them on their screen?

If the vulnerable person is accessing the hearing through a mobile device, it is likely that the phone has lots of 'push notifications' turned on showing messages, and notifications from social media channels. These should be turned off or minimised in advance of the hearing to avoid unnecessary popups and distractions.

Separate channels for communication

How can the vulnerable person communicate with their legal team and/or intermediary?

In order for the intermediary to explain things at an appropriate level in real time (thus saving court time) there needs to be a separate channel of communication between the intermediary and the VP. Some, but not all, platforms enable this, but occasionally the intermediary needs to be more creative, for example communicating with the VP by phone, with the hearing on "mute".

The chat function might be helpful if the vulnerable person is literate, and this also keeps a record of key questions and misconceptions that may have occurred that can be discussed and explained during conferences.

Turn taking and interrupting

How do people interrupt?

This challenge is exacerbated when communicating remotely. All the usual cues we use face to face (eye contact and body language) are taken away, and it can be extremely difficult, even for astute and confident professionals, let

alone a vulnerable person. By the time the vulnerable person is finally able to interrupt and say that s/he doesn't understand something, several concepts or additional pieces of information may have been covered.

Think about the mechanisms for interrupting safely. Maybe a vulnerable person can use sounds or objects to signal that they need to interrupt

In one case we were involved with, the vulnerable person was asked to hold up an object to indicate that they needed a break. The nearest object to them was a mobile phone, and when the VP held it up the judge misunderstood and reprimanded the VP for recording the call. Misunderstandings happen much more often in a virtual arena, and it is often harder to recognise that the misunderstanding has occurred, let alone repair the breakdown.

Breaks

How many breaks... and when will they be needed?

It is imperative to have a ground rules hearing so that the vulnerable person and the intermediary know how to intervene if they need to interrupt/ask for a break. But what sometimes gets overlooked is to agree how the vulnerable person/intermediary should indicate to the judge that they have had a chance to understand and process the information, as well as recover, and be ready to "return to court". It is worth considering that it will take longer than usual to explain concepts remotely and they will need enough time to have a recovery break too.

Always bear in mind that it may be difficult for a vulnerable person (often compliant and asked the leading question "Have you had long enough") to be assertive enough to ask for 5 more minutes, knowing that this might involve inconveniencing everyone else signing out and back in again.

How might there be a signalling process to allow the legal team to signal when the vulnerable person is ready to return to court?

Organisation of the court room in a Hybrid Hearing

Where should everyone sit and who should be there anyway?

It is likely that during a hybrid hearing, the vulnerable parties will be in court, with the support of an intermediary and with their legal team present. The Judge will be giving consideration to how that can be facilitated whilst ensuring social distancing practices remain. How can the layout of the court be used to effectively facilitate communication as well as social distancing?

It may be that the intermediary needs to face the vulnerable person a row or two in front of them and therefore will need to have their back to the Judge for the hearing.

How will the vulnerable person access key documents without support?

How might the vulnerable person effectively access and navigate the bundle? Can key passages be read out to the court? Can a spare monitor be used so that the intermediary can 'navigate the bundle' on a laptop and the vulnerable person looks at the relevant documents on a separate, duplicated screen?

Hidden costs of Remote Hearings

What is the cost of attending the hearing?

Are there any barriers in place that make a vulnerable person's attendance difficult e.g. do they have enough credit or data to access the hearing? Worrying about the cost may add to the anxiety they experience.

Communicourt are offering intermediary assessments either in person or remotely, and are attending remote, hybrid, and face to face hearings across England and Wales.

Simply make a referral on our portal at communicourt.odooplus.uk

To find out more about Communicourt and our intermediaries, go to www.communicourt.co.uk