



WESTERN CIRCUIT SUBMISSION TO CJC RAPID CONSULTATION ON REMOTE WORKING IN THE CIVIL COURTS

The Western Circuit has urged its members to provide a response to the questionnaire circulated on behalf of the CJC and has also asked all members to give us their views to inform this submission. We summarise the views expressed below and attach as an appendix to this submission the feedback received.

In April, we carried out a survey of all Western Circuit sets and received responses from virtually all of those sets which have premises on the circuit, large or small. The results of the survey, which can be found [here](#) are referred to below and are intended to form part of this submission.

Headlines

- There is a critical need to make much greater use of remote video technology to deal with hearings which cannot be heard in person, rather than adjourning them or conducting them by telephone;
- Failure to take full advantage of video link technology, wherever possible, will result in a huge unmanageable backlog of cases and the likely collapse of a significant number of barristers' chambers, particularly, the smaller ones;
- The video link platform being used by the courts is not satisfactory – there are much better alternatives;
- Judges need to be provided with adequate equipment and training so that they can conduct remote hearings themselves, if necessary from home;
- When they are used, remote hearings are working reasonably well although there is real concern as to whether the lay person is able to engage properly with the process and a fear that remote hearings may become the norm after normality returns.

Narrative

1. The feedback from the Circuit is that, whilst barristers and solicitors have been quick to embrace video technology, courts have not done so, notwithstanding the efforts of judges and court staff to encourage this. The majority of hearings in which barristers would have been involved have been needlessly adjourned (estimated at between 40 and 90% of those adjourned), often with no opportunity to make representations.
2. Far more use could and should be made of video technology. Although some foresee difficulties in holding remote hearings with live contested evidence, many felt that the default position should be that the following hearings are conducted by video:

- Stage 3 hearings;
 - Small claims;
 - Fast track trials;
 - Interim hearings;
 - CMCs/CCMCs; and
 - Other hearings, particularly those where there was to be no live evidence but where parties/a party represented.
3. Telephone hearings are a poor substitute. Whilst using a telephone may make the hearing more accessible, there were real difficulties with non-visual communication. When addressing the judge, it was impossible to “read the room”.
 4. If this continues, the consequences to the court system and the Bar will be very serious indeed:
 - Huge backlog of unheard cases;
 - Collapse of many chambers – the smallest are the worst affected (WC survey: 85% drop-off in number of civil hearings for smallest sets, Bar Council survey: 55% of chambers cannot survive for more than six months);
 - Civil practitioners at the junior Bar and in pupillage, inevitably the most affected by listing adjournments, will suffer most and many will not be able to continue to practise for long or, in the case of pupils, even to start.
 5. Choice of video platform? Skype for Business is outmoded and clunky and the microphone function has now been disabled for many Apple users. It is disappointing that courts seem to be preferring it. Zoom is a very good alternative (albeit with some security issues), allowing waiting-room facility, the ability to “lock” the room and password-protected entry, with a large number of people being able to appear on screen at the same time. If not Zoom, ‘Teams’ is preferable to Skype and CVP seems to be working well. The latter seems to have good functionality and no security concerns and this platform may be better if the courts are concerned about security with Zoom.
 6. Technology required for remote hearings:
 - 2 screens at least. Judges working from home often only have one screen, making it impossible for them to view the speaker and the bundle at the same time;
 - Adequate broadband speed;
 - Editing software e.g. Adobe Acrobat DC Pro and/or PDF expert;
 - iPad as well as laptop;
 - For practitioners, the ability to communicate with client/opponent immediately before and during the remote hearing (either telephone or video) by access to email or a messaging service, such as Whatsapp.

7. Feedback about video hearings, when they have been used, is reasonably positive with the overwhelming majority considering them to be more effective than telephone hearings. To make them work, judges need administrative support, IT equipment and training in using the video technology themselves so that they can control the hearing and explain to all what is going to happen. They also need to be aware of the need for regular breaks during longer hearings as participating in a remote hearing is more tiring and lawyers need to be able to consult with each other and their clients at regular intervals.
8. If handled properly, access to justice should not be impeded unduly. Remote hearings seem to be working well in the High Court where cases are being published in listings and the press and others can join. In some cases, access to justice can actually be improved because it is easier to join online than by going to court although the Courts must guard against the risk that this facility may be abused, for example, by covert recording of the hearing.
9. Some respondents expressed concern that remote hearings should not become the norm after the lockdown is over. Justice is better served by hearings at which the litigants and lawyers are present. Others felt that there was a place for remote hearings when all returns to normal: there are advantages in terms of wasted time travelling and cost. The Circuit's view is that there is a balance to be struck between making remote hearings work in this emergency and not moving away from the norm which should be attendance in person.
10. The County Court lists are heavily biased towards family work. DJs are being diverted from civil to family. There needs to be protected time for civil lists.

Consequences if we continue as we are

11. See the Western Circuit survey comparing weeks either side of Easter 2019/2020 for the detail:
 - Average value of work = 58% down;
 - Number of hearings down by 75%;
 - Smaller sets hardest hit – 85% drop-off in those sets;
 - Disproportionate effect on junior bar;
 - Between 40 and 90% of adjourned cases could have been heard.
12. Data received from the Wales and Chester Circuit and from the South Eastern Circuit paints a similar picture:
 - For volume of work, the Wales and Chester Circuit has confirmed that the only purely civil set in Wales has lost 75% of its work;
 - A report from a list-watcher on the South Eastern suggests that lists are running at about 40% of capacity in terms of time (which will, of course, not necessarily mean 40% of the usual volume of hearings since hearings now take longer).

What is required now

13. We urgently need data from HMCTS which will allow us to compare the volume of civil work last Spring with this Spring. At the moment, data which is available about last year from Civil Quarterly Statistics is not in a format which allows comparison with the data being released about the volume of hearings during the crisis ([here](#)). That is in part because the recent data has not been divided into jurisdictions. It is also because the Civil Quarterly Statistics does not reveal the number of hearings, which is the measure currently being published. We need to know (1) the average number of hearings in civil last April and (ii) the average number of hearings in civil this April. It is extraordinary, and unhelpful, that HMCTS has not provided this data which would allow the Bar to say, for example, that “across the country there are 60% fewer civil hearings than this time last year”.
14. HMCTS has been asked for this data repeatedly by Circuit leaders and others. It is not intended that the data should be used as a springboard for criticism, but it would put into context public comments that have been made about volumes of work, which the Western Circuit does not consider accurately reflect the picture on the ground. That data would give us clearer benchmarks to measure the success and frequency of remote working, to highlight the financial peril which much of the civil Bar faces, and to identify the volume of work which we need to try to regain.
14. Courts need massively to increase the number of video hearings in preference to adjournments or telephone hearings and judges need to be given the technical and administrative support to achieve this. If that does not happen, the backlog will become completely unmanageable.
15. There needs to be a greater use of fee paid and/or part-time judges (such as DDJs) to clear backlog and end the diversion of civil judges’ time into family work.

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Dated 14th May 2020

Appendix – Respondents’ feedback

Two questions (in italics) have been added to the questions posed by the CJC consultation questionnaire

1	What is working well about the current arrangements?
	<ul style="list-style-type: none"> ▪ More senior end work is continuing. CCMCs are generally being conducted by telephone which works well if the advocates have discussed the case beforehand; it would be easier if they were by video. I echo the comment made in the Western Circuit Survey that it is vital CCMCs go ahead as they keep multi-track work going. Most of that settles anyway so directions are crucial. ▪ It is easier for more senior judges with fewer things on their lists to consider how their cases can be heard remotely. It is much harder for the busy DJ (and I have every sympathy for them in particular). ▪ Use is being made of telephone hearings. BT meet me allows litigants in person to be included in telephone hearings. ▪ Judges and Court staff are working hard under extremely difficult circumstances. ▪ Some DCJs are being proactive in getting more listed than the Civil Listing Priorities.
	<ul style="list-style-type: none"> • Telephone hearings can be slightly chaotic. Since the parties and judge can't see each other. Often they interrupt one another unintentionally. • In terms of video hearings. Skype for business is an outdated service which is reflected in the user experience. Zoom is better but there are security concerns attached to this. Teams seems to be the best compromise for now.
	I welcome not having to travel for uncontested hearings
	All my hearings have been adjourned. I have a hearing listed for 12 May by Zoom.
	I'm told that video hearings are working well for some members of the family team in Chambers. However I have not done any video hearings yet and my telephone hearings have not been easy.
	<p>I don't think anything is working well with the current arrangements. I have only had two hearings since the UK went into lockdown. They were originally listed for attendance in person but then re-listed to be held by telephone. All my other hearings have been vacated. I am used to hearings being vacated but not to this extent. I am used to having days out of court but it is rare to have 4 weeks of no work.</p> <p>There were difficulties in calling me for each hearing. The first hearing there was confusion on whether the Claimant's solicitors would be setting up the call with BT Legal or the court would be calling the parties. The time of the hearing changed from 10:00 to 10:45 to 10:00 again. The court then could not get through to my Chambers (we are still not sure why as all our phones had been set up to divert!). The second hearing the court was unable to get through again and I had to provide my personal home number at the last minute. I felt slightly on the back foot from the get-go – and this does not sit easily with me as I am</p>

		<p>always at court well in advance of the hearing time.</p> <p>My clients did not get what they wanted. I did not advise on appealing the judgment but I felt that I was less persuasive on the phone for two reasons. Firstly the judge did not have all the documents in front of them and so I was unable to effectively make reference to them. Such documents had been filed and served both in paper and electronically in time for the hearing. Secondly, being unable to read the room and effectively connect. It may not have influenced the judgment but I would certainly have felt better about my advocacy and putting my client's case if the hearing was conducted in person.</p>
		<p>Purely from our experience, nothing is working well. There seems to be zero priority for civil cases with most being adjourned without input from the parties.</p>
		<p>While there appears to be a genuine willingness to facilitate remote hearings, I have so far only taken part by telephone. These work as well as they have always done.</p>
1A	<i>What is not working well about the current arrangements?</i>	
		<ul style="list-style-type: none"> ▪ Civil Listing Priorities are too restrictive. ▪ Not enough engagement with video hearings. Engagement with video hearings would allow most represented work to continue. Whilst most practitioners have aged debt which has sustained them thus far, if the Court does not urgently adapt to en masse video hearings the system will collapse and much of the junior bar with it. This has the added benefit of tax receipts from the Bar which would very much benefit the Treasury. ▪ Mass adjournments when cases could be dealt with by video. ▪ Lower end work being adjourned with disproportionate impact on the junior end/smaller sets. ▪ Not enough FT trials, small claims or Stage 3 hearings progressing via video or at all. ▪ Cases listed for telephone hearing when they would be far more suited to a video hearing. Telephone hearings do not allow as much engagement or for the reading of body language. ▪ The collapse of the civil bar. Concerns about what will be left of the civil bar. ▪ Chronic underinvestment in IT in HMCTS over the last few years has left the Courts ill prepared to handle this crisis. Most sets have invested heavily in IT over the last few years which makes them well placed to handle this, but the Courts simply cannot keep up. ▪ Limits on email size means bundles sometimes cannot get to judges.
		<ul style="list-style-type: none"> • The court has failed to move quickly enough to allow remote hearings. I typically am in court 3 times a week. Last week I had no hearings. The week before I had 2. • Lots of the hearings are not trials and therefore could go ahead remotely if the court had sufficient resources to allow it to do the same. • Video hearings should be possible. • Parties; solicitors and chambers all seem to have adapted to remote working swiftly and are able to proceed with hearings. However, the courts

		<p>appears to be the limiting factor here. Often adjourning cases the day before the hearing, for those that were not automatically adjourned as a result of court closures in March.</p> <ul style="list-style-type: none"> • If I compare billing between March and April it has reduced by 75%.
		<p>Contested hearings, involving sharing documents with clients, the majority of care cases and especially the contested ones - all not suitable. Lack of connection, privacy to talk and matters feel rushed and pass client by without them knowing or having a chance to figure out what is happening.</p>
		<p>Everything being adjourned.</p>
		<p>1: BT legal telephone hearings continue to be a challenge, as has been my experience in the past. It remains to be seen when they go automated whether they are more successful.</p> <p>2: Documents (e.g. particularly skeleton arguments etc) are not being forwarded by court staff to the judge hearing the case, which is a problem that I had been experiencing for years.</p>
		<p>I have heard anecdotal evidence (although not in my own cases) that there is some tendency to use telephone even where cases are more appropriate for the use of video.</p>
		<p>I have thus far encountered resistance to video hearings, (including one application from both parties being refused). This has resulted in cases being postponed until or listed in 2021 (one as late as July). A remote hearing could have resolved many of those cases. I think this is a question of confidence, which seem to be growing rapidly.</p>
2		<p>Which types of cases are most suited to which type of hearings and why?</p>
		<ul style="list-style-type: none"> ▪ Stage 3s, small claims, fast track trials with 4 witnesses or fewer, interim hearings, CMCs, CCMCs can all be done by video where at there is at least one lawyer. Some are being done by telephone which is not as effective. Most aren't happening. It is understood that where there are no lawyers this is not as practicable. Also if interpreters are involved remote hearings are not a great idea. ▪ Part time judiciary (DDJs) could easily hear days and days of credit hire, RTAs, PI claims, CMCs, CCMCs, Stage 3s by video as these normally have lawyers. That would keep the junior end in work and the system running.
		<ul style="list-style-type: none"> • I understand there are two types of hearing currently available: video and telephone hearing. • Video hearings are preferable for all types of hearings in my view. • For application hearings, it is possible to deal with them by phone if the judge manages the parties suitably.
		<p>Uncontested and professionals only - these work well. The processing required to engage with a remote hearing is way beyond the skills and abilities of an average care client</p>
		<p>Zoom should work ok for all hearings, including cross examining witnesses. It is a trade-off. With litigants in person it may not work. The courts should try and if the hearing is not working then adjourn.</p>
		<p>Telephone hearings suitable only for uncontested or mostly uncontested case management/direction hearings. All contested hearing should be dealt with by video in my view</p>

		<p>Stage 3 hearings could be conducted by telephone, such as an approval hearing (infant settlement) or one where there is only one item in dispute. Possession hearings that are often listed for 10 minutes could also be conducted remotely, particularly where the other side (as is often the case) does not attend. However all of these types of hearings have simply been vacated.</p> <p>Other than that I simply do not consider justice is done on the telephone. Perhaps by video but I have yet to conduct a hearing by video. All bar two of my hearings have simply been vacated and I have not had any further briefs.</p>
		<p>Unattended applications, short trials (less than a day), stage 3 hearings, injunctions, CCMCs - because there is a limited need for participation by non-professionals.</p>
		<p>It seems to me that all cases are likely to benefit from a video, rather than telephone, remote hearing, where possible. However, this applies most strongly as the level of complexity of the hearing increases, and especially (and obviously) for cases involving live evidence. Long and complex hearings are likely to get much closer to the experience of being in court (and to be less tiring and difficult) with the use of video.</p>
		<p>While there are exceptions, I do not believe this is a question of <i>case type</i> but instead of party co-operation. Case in which parties co-operate appropriately will be most suited. With fully electronic bundles, narrowing of issues, focusing witness evidence and effective timetabling, there is no reason why most cases cannot effectively proceed by video hearing. The possible exception is where a central allegation of dishonesty or something similar is advanced. In such cases, a judge may need to assess a witness at an in-person hearing.</p>
3		<p>How does the experience of remote hearings vary depending on the platform that is used?</p>
		<ul style="list-style-type: none"> ▪ Skype is a poor option. There is some dismay it is the Court's favoured option. It is clunky to use and not as user friendly as other options – it is the worst of all the video options. It is also being retired by Microsoft in favour of Teams. ▪ Teams is better than Skype but not as user friendly as Zoom, you can also only see 4 people at once. ▪ Zoom is by far the easiest to use and enables more than 4 people to appear on screen at the same time. That makes it very useful as you can see the reactions of everyone at once. Share screen is also very useful. Whilst Zoom is limited to 40 minutes normally at least one lawyer has the paid for version which allows more than 40 minutes. In any event people often need a break in remote hearings and parties can reconnect easily after 40 minutes. Whilst there are some security concerns there is now the facility for a waiting room, password entrance and locking the meeting. ▪ I have not used CVP but understand it to be very good.
		<p>Telephone hearings can be slightly chaotic. Since the parties and judge can't see each other. Often they interrupt one another unintentionally.</p> <p>In terms of video hearings. Skype for business is an outdated service which is reflect in the user experience. Zoom is better but there are security concerns attached to this. Teams seems to be the best compromise for now.</p>
		<p>Either telephone or video fine for professionals - phone not suitable for lay</p>

		clients, video not suitable for anything contested or vulnerable people where one needs to 'check in ' with the client
		Don't know. I have used both Zoom and MS Teams for conferences and they are both good.
		Reduced engagement with the tribunal and one's opponent leads to difficulty in conducting the hearing, so poor sound, poor visual definition and a badly arranged screen will all affect the ease of running the hearing.
		Very few have gone ahead (particularly in comparison to family and criminal jurisdiction)
		So far, I've only had remote hearings conducted by telephone. This appears to be due to greater confidence in this platform.
4	What technology is needed to make remote hearings successful?	
		A computer/tablet or phone! As an advocate it is useful to have two screens. One for the video and one for the bundle. Many advocates now have a laptop and tablet as they have moved to increasingly paperless working anyway. PDF editing software and an electronic pencil are very useful. Whilst I expect HMCTS will not contemplate it, every judge should have a laptop and iPad with pencil and PDF editing software. Without this the Court will fall far behind the Bar in terms of ability and capability. It will also be ill prepared for the future. The outlay is more than compensated for with the time saving. Ask any member of the Bar who uses them!
		Video hearings. I am aware of whole companies that have moved their operations including call centres remotely within a matter of days. It has been disappointing to experience how slow the courts have been to realise that video conferencing is the best technology and to roll out an effective application to use. I understand some cloud video is being tested at the moment.
		Two screens, a phone, a laptop/pc.
		Zoom or MS Teams, neutral backdrop, good microphone and camera on a laptop.
		A good quality Webcam and computer, good broadband speeds and an efficient platform? Also a method of triaging emails so that documents automatically go to the judge hearing the case, rather than waiting in the inbox, and not being seen by the judge before the hearing
		A good telephone/internet connection! I think it would be useful to share a screen or have confirmation that the court has all the documents required.
		Zoom, Skype, MS Teams, Facetime – all readily available
		I have not yet conducted a video hearing, but it seems to me that the common commercial video conferencing platforms are likely to represent workable technological solutions for the purposes of most civil hearings. Existing telephone hearing systems can obviously be used successfully, although it seems to me that, where a large number of telephone hearings are now taking place, the new approach of using BT MeetMe controlled by the judge may be preferable to the use of a pre-arranged telephone conference in the hands of a service provider, because it provides more scope for the judge to be flexible. For example, in a recent telephone hearing the judge adjourned over lunch. This would not, I think, have been readily achievable if the conference had to be set

		up in advance by one of the parties with a conferencing provider.
		Video conferencing with either file or screen sharing functionality. This is available in Microsoft Teams and CVP. A fundamental requirement must be that third-party participants can access the platform without difficulty (e.g. via a web browser).
5		What difference does party location make to the experience of the hearing?
		It has to be sufficiently quiet. That is normally fine for lawyers and judges but can be harder for witnesses/parties. But with some latitude on all sides location is not normally problematic.
		I'm not sure what is meant by location. If by location you mean where they live; what house they have; whether they have a study to take the call from etc naturally all these factors will have an impact on the quality of the hearing. However, it is far better for the hearings to proceed than simply be adjourned because a party is having to conduct the case from their home and it's a bit noisy etc.
		Not convinced I understand the question, but if it's is about e.g. being at home versus being at court, I can imagine that in the housing disrepair trial I am doing in 10 days' time, it will be interesting that the tenant will be able to show the judge what she is talking about in terms of defects and I will be able to ask her to point out other areas.
		Video conferencing should eliminate most issues related to location. The main issue will, therefore, be the participant's environment (e.g. whether it is neutral and quiet).
6		How do remote hearings impact on the ability of representatives to communicate with their clients?
		If by video not much. You can speak to you client in a breakout room or ask for a short adjournment so you can communicate with your client. It is more difficult if you actively need to take instructions as you go. But time can be built in for this. It is much more difficult by telephone as redialling everyone is more time consuming.
		It's less flexible than having your client/ solicitor in court. However, most representatives are adapting and most people own phones etc so can communicate with each other.
		It has proven impossible so far once the hearing is under way
		Negatively unless provision is made for a pre-trial telephone/videoconference-which I have arranged with my clients direct. However contact with an opponent just before the hearing is often essential and frequently determinative of the result of the hearing. This has been restricted because I have found it difficult to communicate with opponents in the lead up to a hearing.
		My clients did not attend my remote hearings, one was a CCMC and so wouldn't have attended anyway but the second was an application hearing and would have attended. I took instructions through the solicitor on the phone before the hearing but this was definitely more time-consuming as we also had to discuss administrative issues such as page numbers and things I would have simply asked my lay client at court.

		Third-party 'chat' platforms are adequate to enable the parties to communicate during the hearing. Counterintuitively, this is likely to be more efficient mid-trial, than is the case during in-person hearings.
7		How do professional court users and litigants feel about remote hearings?
		The Bar want the Court to move very much faster to embrace video hearings. Solicitors are less keen as they have not had as much exposure to how it works but when explained they come round to it. Every barrister I have spoken to is ready and able to deal with video hearings and is somewhat exasperated at cases not going ahead when they could be heard by video. Litigants are not as positive, they prefer a face to face hearing. But most don't want delays and I think would take the trade-off if there was a good video hearing option. Some litigants prefer not having to go to a Court building – it's not as scary.
		I would much prefer remote hearings to be in place for the foreseeable future than have to risk my safety to go to unhygienic court rooms and potentially act as a super-spreader. Remote hearings are a good compromise during this period.
		As above
		For the most part I do not believe they are in the interests of justice. They are much more stressful and difficult to handle. They allow the attention of all concerned to wander in a way which simply is not possible in open court. Unless there is high definition video connection it is not possible to see the reactions of the judge or any lawyer or party, so it is difficult to adapt one's approach during the hearing as necessary to take into account a changing atmosphere and to see whether a witness is telling the truth/an opponent has made any impression on the judge. Even in high quality video settings, it's difficult to keep an eye on everybody throughout.
		At the moment as a very poor substitute for attendance in person.
		I believe remote hearings should be given the opportunity to run 'full-throttle'. With adequate co-operation between the parties, the benefits to all concerned far out-weigh any drawbacks. My clients have expressed similar enthusiasm, particularly in preference to long delays. The only occasion when a client was less willing was when allegations of dishonesty had been made.
8		How do litigants in person experience hearings that are conducted remotely?
		You would have to ask them. I did deal with a hearing with a litigant in person. It largely depends on the skills of the Judge. If the Judge signposts what is expected and offers a clear explanation of how it will work they can be quite positive. The Judge has to make clear at the outset when the litigant in person will have an opportunity to speak so they know they will be heard and don't interrupt. If the Judge does not have those skills the LIP is disenfranchised.
		I can't speak for LIPs.
		I have carried out one hearing with two 61 and 65-year-old unrepresented defendants. There were some difficulties because they felt empowered to behave less appropriately in their home setting. The hearing probably took 50% longer because it was remote. We reached a satisfactory result in the end but I anticipate that their view of justice was diminished
		In the main, I believe cases involving litigants in person should proceed more cautiously. There is a risk it might compound any inequality of arms. This,

		however, should be based on the particular litigant. It would also be worth considering the willingness of the other party to lend assistance above what is typically expected.
9	How do remote hearings impact on perceptions of the justice system by those who are users of it?	
		At the Bar, the lack of video/remote hearings is leading to the view that justice has largely stopped working. Parties do have to be reminded they are still in Court. They are more prone to be unruly and Judges must be protected against abuse.
		The only comment I have is, because the lists that go ahead are busy, judges emphasised how limited their time is at the moment. Whilst it's better that they hear these cases at the moment, it does bring into sharp focus how concise submissions must be and how overwhelmed the justice system is.
		I think they happen too quickly and clients feel they miss their moment without knowing it has been and gone., The gravity is lost. The clients typically cannot process in the manner or at the speed required.
		In this emergency I appreciate that where there is no alternative, remote hearings are a necessary mechanism to provide justice. However in the longer term I believe that all contested hearings except on the simplest points should continue to take place in person. There are numerous benefits to physical attendance at court, the most obvious of which is the 'doors of the court' providing a settlement opportunity which never occurs before hearing, no matter how hard litigants and lawyers try. That crucial percentage of cases settled on the day would evaporate and society would suffer as a result, because more disputes would be resolved by contested hearing rather than mutually, grudgingly accepted compromise. The push towards remote hearings very much has the air of one aim-saving cash, with no regard to the consequences.
		Not an ideal scenario but could have worked in extraordinary times for a limited period.
		In and of itself, providing remote hearings are public, there is little reason why they should affect the perceptions of justice. Such hearings are not new after all. Only the scope is changing. The issue, however, is how the hearing is conducted. Reports have suggested that they require more concentration and stamina. This has the potential to cause additional friction and frayed tempers. This might be ameliorated or compounded by video hearings being more accessible to a wider public. Adequate breaks and participant co-operation can help mitigate any such possibility.
10	How is practice varying across different geographical regions?	
		I practise on the western circuit and south eastern circuit (mainly). For the county courts it's a matter of luck whether the court is open and whether hearings are effective. I've been heard in the Isle of Wight (twice on the same case during this period by phone), the District Judge sensibly held an unplanned telephone conference at the end of March to establish if the trial could go ahead remotely and the trial was then listed within a month. This was impressive. I've also been heard in Basingstoke and Luton.

		While a little hesitant at first, Bristol appears to be very focused on moving forward. Other areas (such as Midlands East) seem more hesitant.
11	What has been the impact of current arrangements on open justice?	
		Not much. Judges are often still in the Courtroom and someone can listen in. Where judges are sitting from home that is more problematic. The Court does need to ensure remote hearings can be heard in a Courtroom where possible. Otherwise we could edge down the slippery slope of “secret justice”.
		The High Court seems to be managing this by advising how members of the press can contact the court I don't know how as a member of the public you would be able to listen into hearings remotely that easily, given how overwhelmed the court staff are and how the arrangements for hearings tend to be circulated.
		it has come to a standstill. I hope it gets going again soon.
		There is an obvious detrimental impact on open justice-members of the public frequently sit in behind us on my antisocial behaviour cases-this cannot happen, unless a countrywide portal is established. The long-term effect would be that the administration of justice would disappear from public view, exacerbated because the Press would find it more difficult to cover stories. The rule of law would no doubt suffer somewhat as a result, but of course such effects are easy to foresee but difficult to measure
		All my hearings have been vacated which has delayed justice.
		There is an impact, although the reality is of course that public interest (in the more colloquial sense of that term) in most civil cases is very limited, and I can sympathise with the priority being that hearings continue. The technology ought to allow public access to remote hearings, although I do think that this could potentially be facilitated more effectively. For example, there is no obvious reason why the public ought not to be allowed relatively free access to join as an observer in many video hearings. I have also been slightly concerned to note that the Court of Appeal appears to have stopped its streaming of hearings in the present circumstances. There may be good practical reasons for this, but there is a strong argument that the streaming of higher-level hearings ought at present to be expanded.
		Since CVP and other platforms allow public participation, remote hearings will likely increase rather than reduce open justice. Live hearings have physical impediments; remote hearings have technological barriers. In the current economy, the former is likely to be greater than the latter. The greater risk is that it is <i>too</i> open, namely a member of the public could attend and record the hearing. This will be far more difficult to police.
11A	What other observations would you make about the impact of COVID-19 on the operation of the civil justice system?	
		Endorse the findings of the Western Circuit Civil Survey.
		The number of adjournments has been huge. It seems likely if the court doesn't sort out dealing with cases remotely soon, there is going to be a huge backlog. Prior to covid-19 there were already huge delays taking a case to trial and it is likely to further impact the public's perception of access to justice.
		Great risk to lay clients in justice not being done - contested hearings not suitable. Professional only hearings and administrative hearings fine.

		The lack of funds has meant there was no scope to respond to the crisis in an innovative way.
		It has provided a stark reminder of the serious shortcomings in the court system caused by cuts to funding over the past 10 years. Staff in every County Court which I visit (or at least those which have been left open) are unacceptably overworked, suffer extraordinary levels of stress at work (and frequently off sick as a result), and have been unable/unwilling to comply with the unreasonable pressures which are put on them because of the cuts. This crisis has exposed those weaknesses because courts do not have the staff to manage sufficient numbers of remote hearings and staff do not have the resources to react and adapt. My practice has decreased by 60-80% over the past five weeks and half of that reduction is because cases which I had in the list have been taken out. The remainder is the complete absence of possession proceedings. Obviously it is untenable for me to continue in this fashion and if lockdown continued I would be insolvent within another couple of months. As to that I am far from alone, I would say that the impact has been profound and extremely negative.
		Civil cases are just being vacated. When they do go ahead, the judge does not have all the documents in front of them. I have found this particularly difficult when I need to refer to case law or a particular page. Sometimes these cases have already been vacated once due to court listings and so the pandemic will just further delay proceedings.
		Purely from our point of view, quite shambolic so far. There is a vacuum of information and an absence of leadership. There is seemingly no inventive thought going on, only arbitrary decisions about which cases to run and in most cases which are not to be run. It appears that civil practitioners have yet again been put to the back of the queue when it comes to County Court business.
		I am of the view the primary issue (in the civil jurisdiction) is one of confidence, which will naturally grow. Moreover, I do not think remote hearings should be viewed as a poor cousin to in-person hearings. Instead they are different tools in the box. While in-person hearings will remain preferable for most cases, remote hearings (of all kinds) do offer their own benefits (e.g. greater access to justice/ public participation, focusing litigants and encouraging greater co-operation). They also have the potential to change the culture of justice moving forward. More remote preliminary hearings and more disciplined trials will naturally be a good thing.