

Should Court Hearings Continue Online After Lockdown?

Advances in technology mean that justice in the UK can now be done from the comfort of ones' home, but should it continue in this way?

By **Emma Spruce, 4 Paper Buildings** | March 15, 2021 at 07:14 AM



As we fast approach the grim one year anniversary of the descent into the global pandemic, it is uncontroversial to say that working practices have been turned on their head.

Working from home was the exception and far from the norm. Until April 2020, hearings took place in court buildings complete with security guards, flimsy plastic water cups and for the most part, a long wait before your case would finally be called on. Seldom did the court rely on technology for parties or witnesses to attend hearings – the starting point was naturally ‘in person attendance’.

We now know, thanks to our experiences over the past year and advances in technology, that justice *can* also be done from the (assumed) comfort of ones' home. The question, however, whether it *should* continue in this way once we are able to put the pandemic behind us?

Somewhat surprisingly, the transition to remote court hearings was – on the whole – relatively smooth, however ‘unprecedented’ it might have been. In the Family Court, formal guidance from the High Court on conducting remote hearings was circulated on 23 March 2020 (the first working day after the national lockdown) and family courts continued to hear those cases that were determined as ‘urgent’.

At that stage – remote hearings were effectively presented as the least worst option: either we continued to convene hearings by remote means, or the family justice system was going to grind to a halt.

However, fast-forward to January 2021 and the decision of the Court of Appeal to hear four conjoined appeals in concerning domestic abuse and PD12J remotely, via Microsoft Teams demonstrates the power and reach of ‘remote’ justice. The hearing was conducted over three days, with up to 150 attendees at any given time – a feat that would simply not have been possible had the person been conducted ‘in person’ at the Royal Courts of Justice.

This was a hugely important example of transparent justice, enabling those whom had an interest in the subject matter of the appeal to listen to the arguments presented to the court but also evidence of the fact that a hearing of this scale is possible.

Aside from the opportunity for greater transparency and openness, there are a myriad of other benefits that arise from remote court attendance. For professionals, the reduced commute time is largely a welcome consequence – hearings in different corners of the country through the week can make for a brutal schedule. For lay clients, the anxiety of having to attend a physical court building and all that comes with that is mitigated through attending the hearing from the comfort of their homes, or even from their solicitors’ office.

And of course, professionals have become accustomed to ‘digitalising’ their practice: negotiations over the phone instead of the in the stairwell/corridor of the court and taking instructions via remote means (email, WhatsApp group chats etc).

There is, though, clear limits to remote justice. First, there are those litigants who simply do not have the resources to access a court hearing remotely, with which is made only worse if they are without representation. Similarly, there are those that do not have the physical space within their homes to conduct the hearing with the benefit of privacy. Second, screen communications often fail to replicate the benefits of in-person, human connection. Third, there are times when technology simply fails us, often as a result of a dodgy internet connection – causing frustration, delay and at times infractions on the overall fairness of the hearing.

So, where are we headed? The consensus seems to be that remote hearings are largely here to stay, long after the pandemic is over. Their benefits cannot be underestimated especially given the immense pressures on the justice system as a whole. It is most likely that there will be a ‘hybrid’ system – some cases will appropriately be heard remotely, while others will be required to attend ‘in person’ to enable litigants their ‘day in court’.

[Emma Spruce](#) is a barrister at 4 Paper Buildings