

THE USE OF VIDEO CONFERENCE FACILITIES FOR VIRTUAL INQUIRIES, HEARINGS AND EXAMINATIONS

TECHNICAL NOTE

Introduction

1. This Technical Note records our initial research in respect of video conference facilities capable of providing an online “space” for the hearing of live evidence and submissions in the following three formats:
 - (1) Inquiries
 - (2) Hearings (Appeals)
 - (3) Local Plan Examination Hearings
2. In the last few days, the Lord Chief Justice¹ and other judiciary² have issued a number of statements requiring the use of remote hearings wherever possible in civil and family proceedings. In respect of video technology, the directions recommend the use of Skype for Business (already in use by HMCTS) or another suitable method chosen by the parties.
3. We note that, as in the context of civil justice, decisions on the format of evidence are at the Inspector’s discretion, in accordance with the relevant Rules (e.g. The Town and Country (Inquiries Procedure) Rules 2000) and guided by PINS own guide.
4. A core feature of inquiries is that they are truly publicly accessible. Online platforms are able to honour this by providing access for members of the public not only to witness but also to meaningfully join in the proceedings, just as in an ‘in person’ inquiry. It is notable that on 20 March 2020 a number of senior members of the judiciary issued a guidance note for remote hearings in the civil courts which considers that remote hearings can still be truly ‘in public’³.
5. We are of the view that PINS should therefore identify a single platform, and that this format should be a video format (not a telephone format). The choice of technology should be guided by the following principles:
 - (a) Effective hearing of evidence and submissions in a manner that most assists Inspectors;

¹ Lord Chief Justice Message to Justice in the Civil and Family Courts:

<https://www.judiciary.uk/announcements/coronavirus-covid-19-message-from-the-lord-chief-justice-to-judges-in-the-civil-and-family-courts/> and see

² Business and Property Courts of England and Wales: Protocol Regarding Remote Hearings:

<https://i6n7b4g7.stackpathcdn.com/litigation/wp-content/uploads/sites/7/2020/03/Remote-hearings.Protocol.Revised.1.pdf>

³ Civil Court guidance on how to conduct remote hearings: <https://www.judiciary.uk/publications/civil-court-guidance-on-how-to-conduct-remote-hearings/>

- (b) Robustness and reliability, with good video and audio quality;
 - (c) Fairness to main parties;
 - (d) Accessibility to the general public; and
 - (e) Cost-effectiveness.
6. We note that PINS will already be seeking advice from its own IT staff and from external advisers and providers. We also note that moves to upgrade the inquiry process have been underway since December 2018, when the Rosewell Review's Recommendation 14 recommended: "*improving operational delivery through greater use of technology fully exploits the opportunities available to enhance the efficiency and transparency of the inquiry event*".⁴
7. This is a dynamic situation – and we would be willing to update this note following discussion between PEBA and PINS, and following comments from fellow planning professionals and any instructed IT experts working on the task of getting the planning system back on track through the present crisis.
8. In particular, we would be happy to discuss and "road-test" any format proposed in the next few weeks, and indeed discuss matters via video conference. We would suggest that an initial trial as a 'practice' could be undertaken relatively quickly and would inform how PINS proceeds thereafter.

Zoom.US

9. We consider that Zoom is a remote conference platform which has the technical capacity to "host" multi-day inquiry, hearing and examination proceedings.

Access and Cost

10. Zoom operates through a single host, who invites other participants to join their conference by e-mail. We envisage that, as with Case Management Conference telephone conferences, PINS would be the host for all such inquiries and hearings.
11. Access is free for all participants through a web browser, without any requirement to purchase a separate product or set up an account. For those who do wish to set up a Zoom account, this is quick and easy.
12. The basic Zoom package limits hosting to 3 people and has call time limits (40 minutes). However Zoom Professional provides a very cheap upgrade (£9.99 per month for a 1-year subscription for conferences (unlimited duration) up to 100 people, and £15.99 for up to 500 people).

Interface

⁴https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777823/Independent_Review_of_Planning_Appeal_Inquiries_Main_Report.pdf

13. The Zoom interface is through video, audio and accompanying chat channel.
14. Zoom has directional voice recognition features which move to the primary speaker. Other participants can mute themselves to avoid interference.
15. As set out above, any member of the public can simply access the video conference without cost once provided with an e-mail with an access number. They are then 'transported' immediately to the conference.
16. Document share is enabled through a shared screen function. This is particularly useful for showing the text of documents (including PDF) and may indeed amount to an improvement on the current position in live evidence due to the ability to very quickly direct attendees to the appropriate document. Advocates and Inspectors would however likely require a second screen / device or additional hard copy papers in order to maintain confidentiality of any notes.

System Requirements

17. The system is supported on Windows 7 onwards, on Surface Pros, Mac and Linux.⁵ There are very low minimum processor requirements. Bandwidth automatically adjusts to allow usage over 3G network/Wifi/Wired connections. The minimum required speed is 1.5Mbps/1.5Mbps (up/down) for full functionality.

Other Features

18. Zoom enables the recording of proceedings. It is possible that such recordings could be placed online after the event, or indeed potentially be automatically transcribed.

Summary

19. Zoom provides a realistic mechanism whereby the Inspectorate could host and then invite participants to access the proceedings. It is well-established, free to access for all save the host and provides useful functionality.

Skype for Business / Microsoft Teams

20. Skype for Business was formerly Microsoft's flagship video conference platform, although it is now in the process of being replaced by Microsoft Teams. Skype for Business will however be supported up to 31 July 2021, and thus hopefully through the duration of the present crisis.
21. We understand that the Inspectorate may already use Microsoft Teams for their internal communication.

⁵ <https://support.zoom.us/hc/en-us/articles/201362023-System-Requirements-for-PC-Mac-and-Linux>

Access

22. Dealing first with access (prior to costs), Skype for Business is HMCTS' preferred platform. The host, who must have a Skype for Business account, invites (i.e. circulates an URL) to all participants. The meeting is accessed via any browser and does not require any Skype software installed to participate.

Interface

23. The Skype for Business / Microsoft Teams interface is similar to that for Zoom. A particular advantage is that the interface allows for document sharing – within the Office suite of documents – e.g. Word, Excel and PowerPoint in addition to sharing screen content.

Costs

24. The position with the transition from Skype for Business / Microsoft Teams will require further research.
25. Skype for Business was originally provided free with Office 365 and therefore required payment for a subscription. Microsoft Teams similarly is integrated into an Office 365 accounts. It is unclear whether members of the public would need a Skype for Business / Office 365 subscription to access all the document share/edit functions, with attendant costs. More narrowly, a user with an existing Office 365 package may be restricted to their existing Microsoft Teams network.

System Requirements

26. The system requirements for both are similar to Zoom. They are available across Windows, Mac and Linux with low minimum processor requirements.

Summary

27. If the Inspectorate wishes to expand its existing use of Skype for Business / Microsoft Teams, it will need to be carefully considered to ensure that members of the public can access it with no cost.

Other Platforms

28. Our early research has examined both Pexip and Google Hangouts.
29. We consider Pexip to be more business-focussed, expensive and unsuited for public access. A discussion with the UK's sales team for Pexip in relation to the likely requirements resulted in the company failing to quote for the product.
30. Google Hangouts by contrast is free of charge – provided that the participant has a Google account. It is however steered towards the G Suite of products (e.g.

Google Docs) and therefore does not integrate well with those relying on Microsoft products.

Conclusion

31. For the reasons set out above, we consider that Zoom provides an accessible format for the rapid configuration of a multi-day inquiry/hearing process. The use of Microsoft Teams / Skype would merit further research.
32. As set out above, we would be very happy to assist in the process of identifying any alternative.

No5 and Kings Chambers for PEBA

23 MARCH 2020