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Commission

# Inclusive Justice

## A system designed for all

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Angharad Price  
Legal Principal Wales  
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# Inclusive justice: a system designed for all

## Video hearings and their impact on effective participation

As the use of video and phone hearings has been swiftly expanded by the Ministry of Justice in response to COVID-19, we have released interim findings from this inquiry, to help mitigate the risks that these technologies pose to disabled people.

The interim report covers:

- the use of video-links in the criminal justice system
- how the use of video-links impacts disabled people
- our recommendations to the UK Government

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# Inclusive justice: a system designed for all

## Video hearings and their impact on effective participation

- Article 6 of the European Convention on Human Rights – right to fair trial
- Equality Act 2010 duty to make reasonable adjustments
- Equal Treatment Bench Book 2018, Guidance for Judges and Magistrates for England and Wales
- Procedural Rules and judicial guidance in each jurisdiction
- Public authorities were considering their policies and services and making decisions in line with the public sector equality duty (PSED).

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## Video hearings and their impact on effective participation

Our inquiry focused on defendants and accused people with a cognitive impairment, mental health condition and/or neuro-diverse condition. This may affect people in different ways, including:

- memory loss or difficulty retaining information
- having a short attention span
- being reluctant to speak up
- having extreme anxiety, and
- an inability to control impulses or thoughts.

These effects can be exacerbated in court hearings.

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## Video hearings and their impact on effective participation

- Self-identification of impairments is inherently problematic and is likely to lead to many people's additional needs not being identified.
- Video hearings can significantly impede communication and understanding for disabled people with certain impairments, such as a learning disability, autism spectrum disorders and mental health conditions.

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## Video hearings and their impact on effective participation

- The decision as to how a hearing is conducted is made by the judge.
- HMCTS have confirmed that reasonable adjustments will be made.
- No specific information given about what adjustments are available.

“I think it is less easy for the court to identify if somebody is confused, or unable to pay attention, or whatever else it may be, because you are a little remote figure on a TV screen. Yes, I think you are less well able to represent yourself, as it were, or for the court to easily identify that you are not necessarily able to follow what is going on. You are just less present, I think.

(Liaison and Diversion, England)

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## What can you do for disabled parties or witnesses?

- Identify if they need reasonable adjustments not just by asking them but looking for signs they are having difficulties.
- Ask for adjustments to be made
- Tell us or others if you have concerns that adjustments are not being made.





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Thank you