

# Analysis of the effects on equality

## Remote hearings consultation and proposed changes to our procedural rules

Analysis completed by:	Paul Cummins	Date	03 May 2022
Decision approved by:	[Name]	Date	[Date]
Referred to the Senior Leadership group on:		Date	[Date]
Referred to the Council on:		Date	12 May 2022
Published on:		Date	[Date]

### 1. Aims and purpose of the project or policy

- 1.1 As a result of the Covid-19 national lockdown and restrictions from March 2020, the GPhC commenced holding hearings remotely by videolink. Cases would only be dealt with remotely if consent was first obtained from the registrant or their legal representative. As restrictions began to be eased the GPhC was able to offer registrants either an in-person or remote hearing with most opting to have their case held remotely.
- 1.2 In February 2021 the GPhC's rules were changed, on an emergency basis to explicitly permit a hearing to be held remotely, however the emergency powers ceased in May 2021. The effectiveness and largely positive feedback received from participants of remote hearings has persuaded the GPhC to seek a permanent change to its procedural rules to permit a hearing to take place either in-person or remotely. This is similar, to powers, already, obtained by most of the other health regulators. The draft legislation provides that the final decision on whether a hearing is heard in-person or remotely is for the Chair of the hearing.

### 2. Review of available information

- 2.1 Assessing the equality, diversity and inclusion impact of our work is about being proactive in facilitating opportunities for people with the widest possible range of experiences and perspectives to engage with and influence our values, our culture, our strategy and the work we do. We aim to take an inclusive approach to working with stakeholders and people affected in any way by our policy decisions.

- 2.2 We have completed an analysis of the effects on equality consistent with our responsibilities as set out in the Equalities Act 2010. This includes an overview of the work we have completed to inform our understanding of the equality and diversity dimensions of the proposed changes; to identify any trends or issues that apply to people who share protected characteristics; and, to consider the potential impact on this range of equality groups.
- 2.3 This has been informed by our quantitative and qualitative analysis of responses to the consultation (see below for more information); the available data and/or evidence relating to groups by reference to protected characteristics; and, our engagement with stakeholders, including our online patient panel.
- 2.4 Where relevant, we have also considered external resources and insights to help inform our assessment of the potential equality impacts. This is also set out in more detail below.

### **About GPhC hearings**

- 2.5 The GPhC currently holds a hearing, either in-person or remote, on average every working day of the year and so a significant number of individuals will be affected when a change is made to how hearings are held. It is expected that if the permanent rule change is approved then hearings will be held both in-person and remotely. The decision by the Chair as to whether the hearing is to be held in-person, or remotely, will be made, on the basis of suitability. Suitability will be assessed on a case by case basis considering issues, such as, complexity of the case and the wishes and needs of the participants.
- 2.6 There are a number of differences, between holding an in-person hearing at the GPhC hearing centre and a remote hearing by videolink. These will need to be considered when assessing the impact on certain groups of holding some hearings remotely longer term.

### **In-person Hearings**

- 2.7 To attend an in-person hearing a participant need to physically attend at the GPhC hearing centre in Canary Wharf, London. This requires travel to London and may require stays in overnight accommodation in London depending on the length of hearing and distance from the participants home address to Canary Wharf, London. The participant needs to arrange any work and domestic cover arrangements while they are away at the hearing. Participants also need to ensure they have arranged their meals while they are attending the hearing as food is not available in the hearing centre. These considerations apply to all participants whether parties in the case, witnesses, GPhC staff and committee members.
- 2.8 The hearing itself takes place in a hearing room arranged for a tribunal with a hearing panel of three, secretary, case presenter, registrant representative (if represented) and other witnesses and attendees as required. Printed case papers are used in the hearing although a few participants have case papers on a laptop. The decision in the case will be presented orally at the conclusion of the hearing and later followed up in writing.

### **Remote hearings**

- 2.9 A remote hearing is held using a videolink on the zoom or similar platform. All participants need to have the necessary IT equipment, either home computer or laptop and internet connection to join

the remote hearing. They also need to have a comfortable and quiet space, at home or at work where they will not be disturbed whilst attending the remote hearing. GPhC hearing staff test the link with participants in advance of the remote hearing to make sure there are no connectivity problems, and the participant understands how the remote hearing will work. Hearing papers are despatched electronically, so participants need to view case papers on screen unless they have printed these off on their own printer.

- 2.10 All participants are on screen on separate tiles across the screen. Participants use the zoom platform functions, such as, microphone on/off to interact with the hearing. Most hearings last for a day and each participant needs to be on screen potentially for the whole of the hearing. Any work and home cover arrangements need to be made so the participant can attend the remote hearing effectively. At the conclusion of the case the Chair of the hearing reads out the decision on screen and this is followed up in writing. Participants then exit the video call once the remote hearing has finished.

### 3. Additional information relevant to equality and diversity issues

- 3.1 This table shows if this project or policy has any relevance to the equality and diversity issues below. If it is relevant to any of these issues, a full equality impact analysis will need to be carried out.

Issue	Relevant?		Explanation
	Yes	No	
Age	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See below
Disability	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See below
Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Gender reassignment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Marriage or Civil Partnership	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Pregnancy/Maternity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See below
Race	<input checked="" type="checkbox"/>	<input type="checkbox"/>	See below
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Welsh Language Scheme	<input type="checkbox"/>	<input checked="" type="checkbox"/>	See below
Other identified groups	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

### 4. Decision on impact

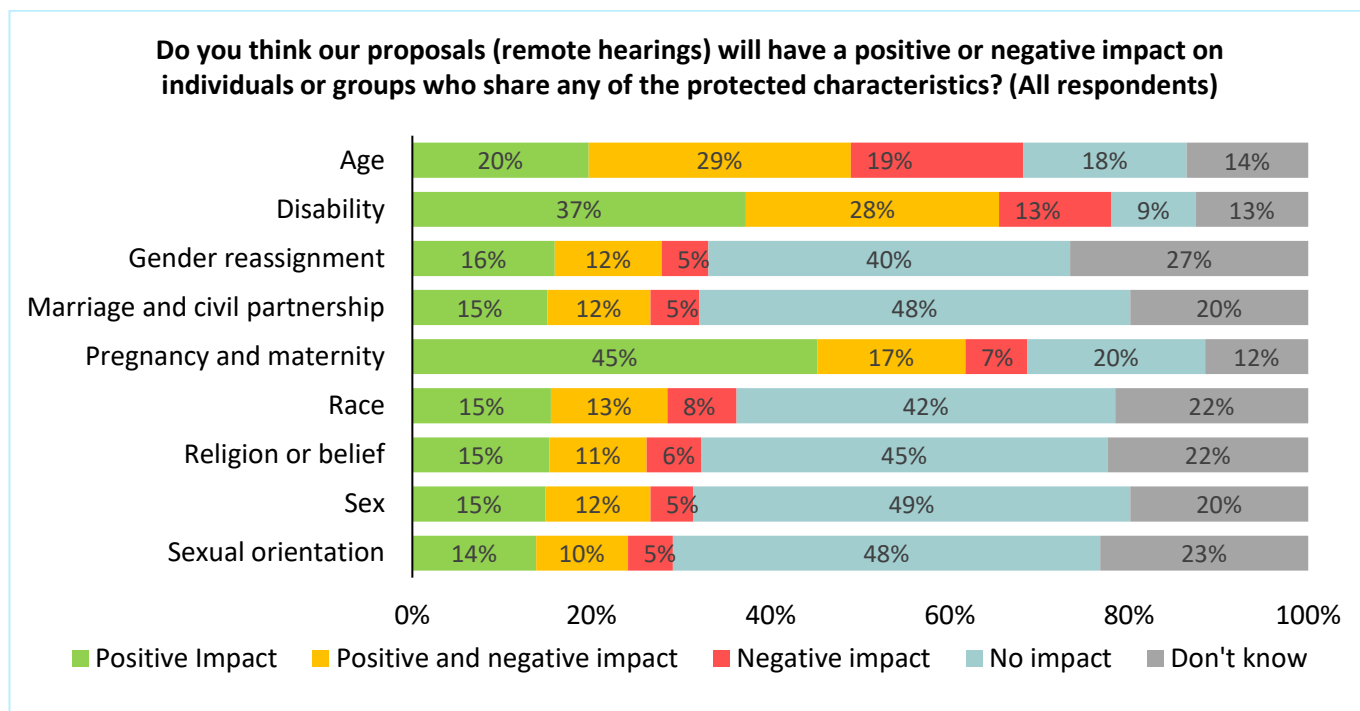
- 4.1 Based on the answers above, does this project or policy require a full impact analysis? This decision takes into account whether this policy or project would result in a substantial change or overall impact for pharmacy.

Yes  No

- 4.2 We marked 'Yes' against categories in the screening table where we believe there may be impacts on those who share protected characteristics.
- 4.3 The potential impact of these changes, from an equality and diversity perspective, has been included in the full impact assessment below.

## 5. Consultation and involvement

- 5.1 There is now a substantial body of data to assist in assessing the impact of remote hearings on individual groups. A number of expedited consultations took place with stakeholder groups when the GPhC had sought to make emergency changes to the rules during the covid-19 lockdown period. The Equality Impact Assessments produced as a result of those earlier consultations were also considered and fed into this Equality Impact Assessment.
- 5.2 Once the GPhC decided to seek a permanent rule change a full 12-week public consultation took place between 16 November and 8 February 2022. There were 481 responses (460 from individuals and 21 on behalf of organisations) to that consultation and in addition a further 148 responses from the GPhC online public panel.
- 5.3 The public consultation specifically sought feedback on the impact of remote hearings on groups sharing protected characteristics. **The table below gives an overview of those responses.**



- 5.4 The table shows that, a majority of respondents (40-49%) felt the proposal would have no impact on people sharing any of the protected characteristics, with the exception of disability, age and pregnancy and maternity. A small minority of respondents (14-20%) identified a positive impact of the proposals on each of the protected characteristics, with the exception of disability (37%) and pregnancy and maternity (45%) which saw a larger number of respondents deeming these as having a positive impact.

- 5.5 The table also shows around a quarter of respondents (20-27%) did not know if the proposal would impact on people sharing any of the protected characteristics with the exception of age, disability and pregnancy maternity which had lower rates.

## 6. Full impact analysis

### Age

- 6.1 One of the main themes to come out of the consultation work that has been undertaken has been the positive impact on accessibility of remote hearings. This would have a positive impact on many older people by removing the requirement to travel into London. A current, added dimension to this would be to remove the need to travel, most likely on public transport, against the back-drop of ongoing Covid-19 infections.
- 6.2 Older people are a more vulnerable group in terms of having more serious illness as a result of Covid-19. Further as well as reducing the physical implications of catching Covid-19 holding a hearing remotely would help manage any anxiety that may be caused by travelling.
- 6.3 Through our consultation, we heard that some older people may be disadvantaged by remote hearings if they do not have the required technical skills or equipment to take part in a remote hearing which could cause distress and anxiety. This would be mitigated by making contact with participants in advance of a remote hearing to ensure they have suitable equipment and connectivity to access a remote hearing effectively.
- 6.4 Guidance for the Chair making the decision on whether a hearing is suitable to be held remotely would take this into consideration both the potential positive and negative impacts for older people.

### Disability

- 6.5 The consultation responses relating to disability highlighted many positive aspects for people with physical disabilities. The removal of the requirement to travel to and within London was viewed as a positive impact for holding a hearing remotely. It is important that no assumptions are made in each case as a person with physical disabilities would be fully supported in attending an in-person hearing.
- 6.6 It was also felt that a remote hearing taking place in more familiar surroundings to a participant might be less intimidating for an individual and not impact negatively on their mental health to the same degree as an in-person hearing. Further, support networks for a person with physical or mental health issues might be more accessible when attending a remote hearing. A contrary view put forward was that a remote hearing might be more isolating for a participant.
- 6.7 Indeed, whether remote hearings impacted positively or negatively would depend on the type of disability as well as the individual. Some consultation responses suggested people with hearing or visual impairment might struggle with viewing or participating in remote hearing on a computer screen.
- 6.8 Again, liaising with the participant in advance of the hearing would help mitigate any issues and whether technical adjustments could be made to eradicate any disadvantage. As above the

guidance will take into account the positive and negative impacts so that the suitability of how the hearing is held is properly assessed and adverse impacts eradicated or minimised.

- 6.9 As mentioned in our earlier impact assessment, we noted the interim findings of the Equalities and Human Rights Commission (EHRC) in light of the increased expansion of video and phone hearings by the Ministry of Justice in response to the pandemic. This report highlighted that any new approaches should not accentuate the difficulties that already exist for disabled people in accessing justice and sets out and highlighted how to mitigate the risks that technologies pose to disabled people.
- 6.10 In particular, the report included evidence about the impact video technology has on identifying impairments and on participation, and the adjustments required.
- 6.11 We will continue to monitor relevant advice in the external context and take this into account when developing our new policy and approach. This will include how we identify people for whom video or audio conferencing hearings would be unsuitable as well as supporting and facilitating adjustments, where appropriate.

## **Gender (Sex)**

- 6.12 No specific impacts were identified relating to gender save that the option of holding a hearing remotely would have more general advantages in saving on travel time, travel cost and reduce time away from work and home life.

## **Gender reassignment**

- 6.13 No specific impacts were identified relating to gender reassignment save that the option of holding a hearing remotely would have more general advantages in saving on travel time, travel cost and reduce time away from work and home life.

## **Marriage or Civil Partnership**

- 6.14 No specific impacts were identified relating to marriage or civil partnership save that the option of holding a hearing remotely would have more general advantages in saving on travel time, travel cost and reduce time away from work and home life.

## **Pregnancy/maternity**

- 6.15 A positive impact of remote hearings for participants who are pregnant or on maternity leave again related to the removal of the requirement to travel and therefore the increased accessibility. It was highlighted that it might be difficult for a pregnant person to travel who has ongoing morning sickness or other pregnancy related symptoms. A further positive impact for this group but which would apply to anyone with caring responsibilities was that remote hearings would enable childcare to be arranged much more easily.
- 6.16 There have not been any specific negative impacts mentioned for people who are pregnant/on maternity leave.
- 6.17 We have noted that any new guidance needs to ensure the positive impacts of remote hearings for participants who are pregnant/on maternity leave are taken into account when assessing the suitability of the case for being held remotely.

## **Race**

- 6.18 There were few impacts identified relating to race.

- 6.19 One negative impact suggested was that people for whom English is not a first language might find it more difficult to understand or be understood in a remote hearing as compared to an in-person hearing.
- 6.20 Such impact could be mitigated by contacting participants in advance to establish any issues and whichever forum is chosen for the hearing that other participants and particularly the committee panel are aware that the person may have some difficulty understanding or being understood in the hearing.

### **Religion or belief**

- 6.21 No specific impacts were identified relating to religion or belief save that the option of holding a hearing remotely would have more general advantages in saving on travel time, travel cost and reduce time away from work and home life.
- 6.22 As mentioned in our earlier impact assessment, we have taken account of external guidance on how the HM Courts and Tribunals Service use telephone and video technology during Covid-19, which includes information about taking oaths or making affirmations as part of a remote hearing. This includes specific guidance on taking an oath on a sacred object in the context of a remote hearing, as well as guidance on how participants can choose to take an oath without a sacred object if they consider it will still be binding on them. We will consider this as we develop our supporting guidance.
- 6.23 It is also important to note that we have facilities such as prayer rooms available for those attending hearings as and when needed.

### **Sexual orientation**

- 6.24 No specific impacts were identified relating to sexual orientation save that the option of holding a hearing remotely would have more general advantages in saving on travel time, travel cost and reduce time away from work and home life.

### **Welsh language scheme**

- 6.25 There were few impacts identified relating to Welsh language.
- 6.26 One negative impact suggested was that people for whom English is not a first language might find it more difficult to understand or be understood in a remote hearing as compared to an in-person hearing. Such impact could be mitigated by contacting participants in advance to establish any issues and whichever forum is chosen for the hearing that other participants and particularly the committee panel are aware that the person may have some difficulty understanding or being understood in the hearing.
- 6.27 Our current scheme (as published on our website [here](#)) sets out how we support and facilitate the needs of members of the public who prefer to communicate in Welsh.

### **Other identified groups**

- 6.28 No specific impacts were identified relating to other groups save that the option of holding a hearing remotely would have more general advantages in saving on travel time, travel cost and reduce time away from work and home life.

## 7. Other impacts and issues

### Learnings from the wider Courts and Tribunals service

- 7.1 As part of this analysis, we have also considered relevant research and findings from the external sector, including those relating to inclusive justice and fairness.
- 7.2 The Covid-19 pandemic resulted in a radical and swift transition to the widespread use of remote hearings in other Courts and Tribunals – where some or all participants attend by video or audio rather than in-person to ensure justice continued to be served.
- 7.3 In December 2021, HM Courts and Tribunals Service published an evaluation of remote hearings during the COVID-19 pandemic. This reports on the experience of public users, the judiciary, legal representatives, HMCTS staff, and support professionals and their attitudes towards remote hearings.
- 7.4 For example, the report found that public users attending remotely were slightly more likely to be satisfied with the overall experience of their hearing than in-person users (benefits included greater convenience, reduced costs and removing the anxiety of being in a room with another participant, who they may be in conflict with).
- 7.5 The evaluation also looked at the support for people with disabilities, to make sure they can access HMCTS without any barriers. This included examples of the most common types of adjustments requested, including the need for a carer or support worker, or for an interpreter. The report also discussed the need for adjustments requests to be dealt with early and in a reasonable time ahead of the hearing.
- 7.6 Interviews also highlighted that certain requests were easier to manage in remote hearings. For example, where parties require screens in court, it was felt that they can be more effectively protected in a remote hearing by switching cameras off. Also, for parties with certain health conditions it may be challenging for them to travel to court and remote hearings can make attendance at a hearing more straightforward.
- 7.7 The evaluation also recommended more support for vulnerable users and increasing awareness of the support available to public users when attending a remote hearing.
- 7.8 Although these findings relate to other Courts and Tribunals, the learnings are very relevant to our own work and we will consider the recommendations and examples carefully, as we develop our new policy and approach going forward.

## 8. Action needed as a result of the analysis

- 8.1 Mitigation identified above will be undertaken with a key action being to ensure that the guidance for Chairs making the decision on the suitability of a hearing to be heard remotely will take into account the impacts identified in relation to particular groups.



## 9. Monitoring and review

- 9.1 As stated above, the information and feedback gathered through this consultation and analysis will be used to support the development of new policy and guidance on how we will use the new power in practice.
- 9.2 Our equality impact assessment will also continue to be updated as we develop the new policy and approach.

## 10. Summary of the analysis of the effects on equality

**This section sets out what action will be taken as a result of the analysis.**

No impact identified: no change to the policy or project	<input type="checkbox"/>
Equality impact identified: continue the policy	<input checked="" type="checkbox"/>
Equality and/or Welsh language impact identified: adjust the policy and continue	<input type="checkbox"/>
Equality and/or Welsh language impact identified: stop and remove the policy	<input type="checkbox"/>

### **The reasons for this decision are:**

- 10.1 We have carefully considered the feedback through the consultation relating to the potential impact of our proposals on individuals or groups who share protected characteristics and any other impacted individuals or groups.
- 10.2 There is evidence that the impact of the proposed changes may be greater on some individuals or groups, for example, disabled people for whom video or audio conferencing hearings would be unsuitable, or those who may be digitally excluded.
- 10.3 We have also identified a number of positive impacts. For example, having the option to attend hearings remotely may also have a positive impact on those that would find travel to the hearing a significant barrier.
- 10.4 Ultimately, it is our responsibility to ensure a process is fair, and it is therefore vital that relevant vulnerabilities of any participants are identified, so the Committee Chair can make appropriate decisions and introduce necessary measures to ensure someone can participate effectively and fairly.
- 10.5 Overall, we do not anticipate that the proposed changes will give rise to significant or disproportionate impacts on those sharing certain protected characteristics. And, we consider that the proposed changes are a justified and a proportionate means of achieving the legitimate aim of protecting the general public, by enabling us to perform our statutory functions and progress hearings without delay.
- 10.6 Where some possible negative impacts have been identified, we consider that this can be mitigated through adjustments based on individual needs and circumstances.
- 10.7 We are satisfied that these potential impacts can be mitigated through the development and implementation of new policy and guidance, to explain how we'll use the new power in practice and in appropriate cases. This will take account of the important feedback received through the

consultation, as well as the guidance produced by other regulators with similar emergency powers and the Courts, to help ensure consistency in approach, where possible.

10.8 Any new guidance will also be published on our website in due course for full transparency.