

Exploring the case for Virtual Jury Trials during the COVID-19 crisis – an evaluation of a pilot study conducted by JUSTICE – DRAFT survey results

JUSTICE commissioned experts in court design, evaluating justice spaces and experiential and procedural justice, Professor Linda Mulcahy and Dr Emma Rowden, to independently evaluate the virtual mock jury trials. The report has the following objectives:

- to evaluate how well the technology worked in the virtual trials;
- to compare the conduct of the trial with traditional face to face hearings;
- to consider whether there are any benefits to virtual trials;
- to appraise whether there were any problems that arose which might give cause for a legal challenge; and
- to evaluate what lessons might be learnt from the two virtual trials conducted to date.

The academic evaluation concludes that “It is in the view of the authors that HMCTS should seriously consider the benefits of this format for restarting criminal jury trials, in order to deal with the significant backlog facing the criminal justice system.”

These are extracts of comments from jurors who took part in the fourth trial to the University of Oxford survey. I am told that in each test satisfaction levels increased amongst participants. We will receive the complete results later this week.

On holding the event in a local hall

When I first approached the building on a side road of a quiet residential area, rather than in the centre of the city, I initially thought it seemed a little unprofessional. However, this actually allowed us to be far more focused on the case, as there were very few distractions even when we took our breaks. In addition, I think having the setting in a community area pushed home the human nature of the work we were doing. It did inevitably detract from the solemnity of the court (which the judge and barristers did well to reclaim by still appearing in full garb and with a royal court of arms visible), but I think this was balanced out by this human aspect. This wouldn't have been the case if, for example, we had met in a conference room; in that case I think we might have lost both the solemnity and the humanity.

On the technology

I thought the technology was extremely user friendly. I had two links (one for the virtual court and one for the chat room). The technology was much better than I experience on a daily basis when using Skype for Business and/or Microsoft Teams. I thought the sound was very good and I a clear view of the court at all times. I was impressed with the ease I was able to move from the virtual court to chat room and back again.

The technology helps to ensure that everyone is talking about the same photo/document, and has the potential to speed up the admin elements of trials. On the whole, all parties seemed able to play their allotted roles via technology as well as they would in person.

The experience as a whole worked really well, a few minor hiccup's that can easily be sorted.

You could see all parties and defence counsel could move to another virtual room without having to move actual rooms as you do now with Justice Video System

It worked really well. It was clear who was speaking and what was going on. Evidence was easy to see as it appeared on the other screen. There were no significant issues. It was easy to see everyone else at all times.

The way in which the jury was removed whilst legal discussions took place was very effective. Similarly when witnesses and the defendant had finished in the witness box they were seamlessly removed or their position altered on screen as applicable.

On the fairness of the trial

He/she is able to see and hear everyone. In many ways it may be less daunting for some. Appearing in court for the first time can be an uncomfortable feeling. This way people may not feel quite so 'visible' and looked at. The experience may seem less threatening.

It is a replica of the courtroom and the same legalities applied. If I was awaiting trial I would be much happier to proceed this way than to languish in custody. That makes it even fairer as this will allow the legal system to take its course. I think it's a fabulous initiative!!

The Defendant was represented. He had the opportunity of speaking to his counsel. Through counsel witnesses were cross examined without any issues arising. His case was put in clear terms and the evidence was capable of being tested. The Defendant gave evidence and was able to call his own witness. I was really impressed by the jury and the attention they were able to pay and did pay to the proceedings. They listened to the evidence with care, they demonstrated by a question they asked in retirement that they had followed the evidence and that is essential.

For this mock at least, and for my role as a juror, I did not feel like my deliberation and decision was affected by the rest of the court being held virtually.

Judge picked up on several points to adhere to in order to make it fairer to the defendant (e.g. not stating that he was taking part from prison). Judge explained points of confusion to defendant Judge also sought to reassure defendant when his sound cut that nothing had happened

We were given direct access to the facts in a clear manner and I did not feel any undue pressure. I'm a little uncertain whether having the Defendant and witnesses in the room with us would have made a difference, and whether this would have made the trial more or less fair. I don't believe that people are the best at judging demeanour and I'm not sure if

this should have an affect on their decisions. On the one hand, humanising the process might have changed people's judgements as they would have been more aware that their decision will send a specific person to jail (which is a relevant factor!) On the other hand, parties might be able to use this, and guilty defendants could try to present as well as possible on the day in order to sway the jury. Currently, I think that this method is still fair, because although we had limited access to the Defendant we did have contact with his representative who was able to put his case across fully. Maybe more focus on character background could also be used to humanise the process when the Defendant isn't in the room, or more character judgements by witnesses.

The main reason as to why I believe it would be fair is because the trial, from my perspective, gave the defendant the opportunity to have their case heard. I thought that the case was considered in a careful, meticulous way. The defendant, on multiple occasions, was asked by the judge whether he had heard what was going on. Save for the advocates a couple of times forgetting to switch themselves off mute, everything that was discussed was audible. I also thought it was very effective, from my position as a juror, to see the evidence on screen and larger than how it normally appears on paper. Frankly, I am much more used to seeing documents on a screen, so it was, somehow, easier to focus on the text of the documents which we were seen during the course of the trial. For these reasons, I am of the view that running the trial in this way would be fair to the defendant.

Issues

Proceedings were repeatedly delayed by the defence barrister, prosecution barrister and clerk when they spoke without turning their microphones on. This happened countless times throughout the proceedings. The judge had to repeatedly remind them to turn their microphones on, which became quite tiresome and distracting. However, he did so in good spirit and I wonder, had this been a more serious criminal case involving sensitive witnesses or defendants whether this would have been appreciated. I think not. There were general time lags, meaning sometimes members of court spoke over each other. Whilst if this happened in real life, I am sure you would have heard one, if not both voices speaking over each other, the nature of having all sound tunnelled through headphones meant neither voice was decipherable.

Procedures and treatment mirrored trial in person. Clear explanations as to what would happen and opportunities to ask questions (on procedures and technology) were given throughout. My only concern would be influencing/pressurising of a witness which might take place from the other side of a closed door.