

Equality Impact Assessment Template

Step 1 – Scoping the EIA

Title of policy or activity	
Remote Hearings Protocol	
Is this a new or existing policy/activity?	
New	
What is the main purpose and what are the intended outcomes of the policy/activity?	
<p>The COVID-19 pandemic requirements of social distancing and the continuing safety of our stakeholders means that remote hearings will be necessity for some time to come. Throughout this period, we need to continue to fulfil the GOsC's fitness to practise function for the protection of the public. The Remote Hearings Protocol is designed to set out the framework and our approach to managing remote hearings and provides guidance for all hearing attendees, including members of the public. It also enhances the transparency of our processes.</p>	
Who is most likely to benefit or be affected by the policy/activity	
<p>All hearing attendees including:</p> <ul style="list-style-type: none"> - Registrants under investigation - Witnesses (including vulnerable witnesses) - PCC and HC panellists - Legal Assessor - Defence representative and GOsC case presenter - GOsC Hearing clerk - Members of public wishing to observe hearing 	
Who is doing the assessment?	
Hannah Smith, Regulation Manager	
Dates of the EQIA	
• When did it start?	22 June 2020
• When was it completed?	26 June 2020
• When should the next review of the policy/activity take place?	September 2020

Useful information

What information would be useful to assess the impact of the policy/activity on equality?
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- What are the implications of the protocol, if any, for the accessibility of hearings?
- What are the implications of the protocol, if any, for the fairness of hearings?

Is there data relating to people with any/each of the protected characteristics?¹

EDI information is collected from registrants at the outset of investigations.

Where can we get this information and who can help?

- PCC Committee members - feedback on interim protocol has been obtained from PCC members during training on remote hearings dated 22 June 2020.
- Witnesses – the protocol will be provided to all hearing attendees and accessibility will be discussed in advance of the hearing.
- Defence and legal stakeholders – the protocol will be provided to defence representatives and legal counsel for feedback.

Step 2 – Involvement and consultation

If you have involved stakeholders, briefly describe what was done, with whom, when and where. Please provide a brief summary of the response gained and links to relevant documents, as well as any actions.

We obtained feedback and insights from the Patient Focus Group which met online on 4 June 2020. The session focussed on the possible impact of giving evidence at remote / blended hearings from a patient perspective. Feedback encompassed:

- Elderly witnesses and confidence with technology and access to suitable equipment
- Looking at own face while giving evidence may cause confusion and affect expressions and presentation
- Access to documents (how will confidentiality of their records/information be kept secure)
- Ensuring witnesses giving evidence remotely don't have someone else in the room providing prompts / giving notes / influencing testimony
- What support will be available after giving evidence

A training day was held for all PCC members on 22 June 2020. The draft protocol was shared at this training. PCC members acknowledged the substantial hurdles presented by return to attended hearings in the present context and recognised the necessity of exploring alternative ways to fulfil the GOsC's fitness to practise function, both in the interests of the public and of registrants. PCC members accepted that remote hearings offer a pragmatic and workable solution to managing fitness to practise cases during the Covid-19 pandemic. As regards EDI considerations, the PCC's feedback was as follows:

¹ The nine protected characteristics in the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- Consideration needs to be given to how special measures will be managed for vulnerable witnesses, e.g. when a witness requires a screen to prevent the registrant from being able to see them.
- A later start time would be appropriate to allow any technical issues to be resolved in advance.
- Lighting should be tested before the hearing to make sure all participants are visible
- Remote hearings make it easier for panel members living further away from London to attend hearings
- Remote hearings are far more tiring, so longer hearings listings will be necessary. This may cause problems for osteopath members who are unable to be away from practice for extended periods of time.
- Members of the public observing should not have access to the chat function.

Step 3 – Data collection and evidence

What evidence or information do you already have about how this policy might affect equality for people with protected characteristics under the Equality Act 2010?

Please cite any quantitative (such as statistical data) and qualitative (such as survey data, complaints, focus groups, meeting notes or interviews) relating to these groups. Describe briefly what evidence you have used.

We have conducted a literature review of emerging protocols and guidance within other jurisdictions, including the civil courts. The courts and tribunals have long had the power to hold hearings remotely, including by video conference. The GOsC has already held a small number of virtual hearings and meetings during the pandemic for urgent matters that could not be delayed including interim suspension order hearings and review hearings. Other healthcare regulators have also held urgent cases remotely and have started to consider other cases by remote hearing during the covid-19 pandemic. We have carefully evaluated the experiences of remote hearings both at the GOsC and other jurisdictions.

What additional research or data is required to fill any gaps in your understanding of the potential or known effects of the policy? Have you considered commissioning new data or research?

Further data on the witness experience of remote hearings is essential. The GOsC is not intending to commission research on this as this is an area at this stage as we are aware that is an area in which a cross-regulatory research proposal is already being developed by a team at the Open University.

Step 4 – assessing impact and strengthening the policy

What does the data reviewed tell us about the people the policy/activity affects, including the impact or potential impact on people with each/any of the protected characteristics?

Remote hearings can potentially pose a particular challenge when considering the fair participation of some individuals. Technology may present an impediment to some participants' engagement that would have been avoided if the hearing was taking place 'face to face'. However, some individuals may welcome a remote hearing as providing a layer of protection which makes the process more accessible.

Our observations to date are that remote hearings can improve the accessibility of hearings for some witnesses but only where appropriate and adequate support is put in place. With attended hearings, the presence of each hearing attendee is usually required in person unless an application to the panel for special measures has been granted. By contrast for remote hearings attendance by videolink is the default for all attendees, which enables those unable to attend in person (due, for example, to disability, age or family reasons) to attend in the same way as all other parties without making an application for special measures.

For the hearings we have run to date, some participants have been concerned about being able to access the hearing because they are unfamiliar with the technology. We recognise that the reliance on videoconference technology could potentially place barriers to access if not accompanied by appropriate support. Any potential accessibility issues will therefore be explored with all parties in advance of the hearing, and a test call will be carried out with the in advance with each attendee. In addition, IT support is available for any technical glitches on the day. The protocol sets out that the hearing must not proceed whilst any key participants are unable to join for technology-related reasons. The feedback following hearings has been that the platform used (GoToMeeting) is in fact user-friendly and the pre-hearing test calls have been helpful to resolve any potential issues.

Concerns have been raised by defence representatives about the ability to assess demeanour of witnesses in remote hearings and the potential impact of this on the fairness of outcomes for their clients. Balanced against this is that videolink is a well-established method for hearing evidence of vulnerable witnesses and is generally considered to assist such witnesses to give their best evidence. Emerging case law throughout this period does not support this view and demonstrates the Courts taking a pragmatic approach to the conduct of remote hearings: for example: (*A Local Authority v Mother* [2020] EWHC 1086 (Fam)). We will keep this under close review.

The PCC have queried about how vulnerable witnesses may be adequately supported during remote hearings. To ensure that the appropriate support is provided, the GOsC will explore each witnesses' needs in advance of the remote hearing and, as set out in the protocol, will make arrangements for blended hearings where additional witness support is necessary.

No other potential impacts for those with protected characteristics have been identified.

Are there any implications in relation to each/any of the different forms of discrimination defined by the Equality Act?

No

What practical changes will help to reduce any adverse impact on particular groups?

Please see above for changes implemented to support hearing attendees with IT use.

What could be done to improve the promotion of equality within the policy?

- Feedback should be sought from all participants post-hearing to ensure that any improvements identified are proactively addressed.
- Wider feedback from key stakeholders including: the PSA, Victim Support, the Institute of Osteopathy and other healthcare regulators.
- A period of public consultation focussing on key issues, such as accessibility.

Step 6 – making a decision

Summarise your findings and give an overview of whether the policy will meet the GOsC's objectives in relation to equality.

Remote hearings are not expected to adversely affect people with protected characteristics where appropriate support and assistance is put in place. Whilst this is a new and emerging area of work for all healthcare regulators and evidence at this stage is therefore limited, it is anticipated that the use of remote hearings will improve equality of access to hearings for some witnesses.

What practical actions do you recommend to reduce, justify or remove any adverse/negative impact?

N/A

What practical actions do you recommend to include or increase potential positive impact?

Ongoing review of the protocol, encouraging feedback and suggestions for improvement and awareness of good practice in the wider field of professional

regulation and in the courts will enable us to respond proactively to ensure our hearings are fair with all able to participate effectively..

Step 6 – monitoring, evaluation and review

How will you monitor the impact/effectiveness of the policy/activity?

By requesting feedback from all case parties post-hearing. By reviewing the PCC Chair's feedback.

A review of the policy will take place in September 2020, at which point we anticipate that there will be more certainty about the extent to which the Covid-19 working arrangements will continue.

What is the impact of the policy/activity over time?

This protocol is being introduced as an interim measure to enable the GOsC to continue to fulfil its statutory functions and progress fitness to practise cases during the Covid-19 pandemic. The format of future hearings will be reviewed at the point where there is more certainty about the longer-term impacts of Covid-19 for regulation.

Where/how will this EIA be published and updated?

The EIA will be available on request and will be updated in September 2020 when the remote hearings protocol is reviewed.

Step 7 – action planning

Please detail any actions that need to be taken as a result of this EIA

Action	Owner	Date
Feedback form devised for hearing parties	Hannah Smith	23/6/20