



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Briefing Paper: Department of Justice
Consultation on Audio and Video links
(Live Links)
for
Northern Ireland Court and
Tribunal Hearings**

September 2022

Table of Contents

Summary of Recommendations	3
1.0 Introduction	4
2.0 Protocol Article 2	5
3.0 Use of 'Live Link' Technology	7
4.0 Vulnerable Court Users	10
Disabled People	10
Persons for whom English is not a first language	13

Summary of Recommendations

The Northern Ireland Human Rights Commission (NIHRC) recommends that:

- 3.10 any future legislative provision for the use of live links should provide for live links to be utilised only when a court or tribunal considers the use of a live link to be 'in the interests of justice'. In determining if the use of a live link is in the interests of justice, a court or tribunal should pay due regard to Article 6 of the ECHR and to relevant jurisprudence of the ECtHR.**
- 4.6 the Department conducts or commissions research to determine if the use of live links has had adverse consequences on the ability court users with disabilities to participate in and understand the proceedings. This research should specifically examine whether there has been any hindrance to court users with disabilities consulting with their legal representatives**
- 4.9 in the development of live links legislation and policy, the Department carefully considers the provisions of the EU Victims' Directive relating to victims who are disabled, to ensure they are able to actively participate in court hearings on an equal basis with others.**
- 4.11 the Department conducts or commissions research to determine if the use of live links has had adverse consequences on the ability court users for whom English is not a first language to participate in and understand the proceedings. This research should specifically examine whether there has been any hindrance to court users without English as a first language consulting with their legal representatives**

4.14 the Department carefully considers the provisions of the EU Victims' Directive and the EU Directive on Interpretation and Translation in Criminal Proceedings in relation to vulnerable court users, particularly those for whom English is not a first language, in the development of live links legislation and policy.

4.16 the Department conducts or commissions research to assure itself that existing arrangements for informing a court or Tribunal of the circumstances of court users are sufficiently robust to ensure decisions relating to the use of live links are appropriately informed of the circumstances of all court users.

1.0 Introduction

- 1.1 The Northern Ireland Human Rights Commission (the NIHRC), pursuant to Section 69(1) the Northern Ireland Act 1998, reviews the adequacy and effectiveness of law and practice relating to the protection of human rights. The NIHRC is also mandated, under section 78A(1) to monitor the implementation of Article 2(1) of the Protocol on Ireland/NI of the UK-EU Withdrawal Agreement (Protocol Article 2). In accordance with these functions the NIHRC provides this submission to the Department of Justice's consultation on Audio and Video links (Live Links) for Northern Ireland Court and Tribunal Hearings.
- 1.2 The NIHRC bases its advice on the full range of internationally accepted human rights standards, including the European Convention on Human Rights (ECHR), as incorporated by the Human Rights Act 1998 and the treaty obligations of the Council of Europe (CoE) and United Nations (UN) systems. In addition to these treaty standards, there exists a body of 'soft law' developed by the human rights bodies of the CoE and UN. These declarations and principles are non-binding, but provide further guidance in respect of specific areas.

1.3 The NIHRC further advises on the UK Government's commitment in Protocol Article 2 to ensure there is no diminution of rights, safeguards and equality of opportunity in the relevant section of the Belfast (Good Friday) Agreement as a result of the UK's withdrawal from the EU. This is given effect in UK law by section 7A of the EU (Withdrawal) Act 2018. In addition, section 6 of the NI Act 1998 prohibits the NI Assembly from making any law which is incompatible with Protocol Article 2. Section 24 of the 1998 Act also requires all acts of NI Ministers and NI Departments to be compatible with Protocol Article 2.

2.0 Protocol Article 2

2.1 Protocol Article 2 requires the UK Government and the NI Executive to ensure that no diminution of rights, safeguards and equality of opportunities contained in the relevant part of the Belfast (Good Friday) Agreement 1998 occurs as a result of the UK's withdrawal from the EU. This includes an obligation to "keep pace" with any changes made by the EU to the six Annex 1 Equality Directives which improve on the minimum levels of protection available, on or after 1 January 2021.¹

2.2 For other EU obligations which underpin the rights, safeguards and equality of opportunity in Protocol Article 2, the UK Government commitment to ensure 'no diminution' is measured by the relevant EU standards on 31 December 2020. Further, where required by the UK-EU Withdrawal

¹ Directive 2000/43/EC, 'EU Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin', 29 June 2000; Directive 2000/78/EC, 'EU Council Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation', 27 November 2000; Directive 2004/113/EC, 'EU Council Directive on Implementing the Principle of Equal Treatment between Men and Women in the access to and supply of goods and Services', 13 December 2004; Directive 2006/54/EC, 'EU Council Directive on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation', 5 July 2006; Directive 2010/41/EU, 'EU Parliament and EU Council Directive on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity', 7 July 2010.; Directive 79/7/EEC, 'EU Council Directive on the Progressive Implementation of the Principle of Equal Treatment for Men and Women in Matters of Social Security', 19 December 1978.

Agreement, including the Protocol and Article 2, the EU Charter of Fundamental Rights continues to have relevance in NI.

- 2.3 The parties to the Belfast (Good Friday) Agreement affirmed their commitment to a non-exhaustive list of rights including the “right to equality of opportunity in all social and economic activity, regardless of class, creed, disability, gender or ethnicity”. The chapter also recognises “the right of victims to remember as well as to contribute to a changed society”.² The UK Government has recognised that this includes, but is not limited to, the EU Victims’ Directive.³
- 2.4 In addition to the listed rights, safeguards and equality of opportunity protections, the Belfast (Good Friday) Agreement also commits the UK Government to the incorporation of the ECHR. Thus, the non-diminution commitment in Protocol Article 2 encompasses the full range of rights set out in the ECHR, to the extent that they are underpinned by EU legal obligations in force on or before 31 December 2020.
- 2.5 Article 6(3)(e) of the ECHR states that everyone charged with a criminal offence has the right “to have the free assistance of an interpreter if he cannot understand or speak the language used in court”. The EU Directive on Interpretation and Translation in Criminal Proceedings establishes minimum protections for suspected or accused persons who do not speak or understand the language of the criminal proceedings.⁴ This Directive facilitates the application of Article 6 ECHR and aims “to ensure the right of suspected or accused persons to interpretation and translation in criminal proceedings with a view to ensuring their right to a fair trial”.⁵ As the UK

² Belfast (Good Friday) Agreement, 10 April 1998, Part 6 on Rights, Safeguards and Equality of Opportunity.

³ Directive 2012/29/EU, ‘Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime’, 25 October 2012.

⁴ Directive 2010/64/EU, ‘Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings’, 20 October 2010.

⁵ Recital 14, Directive 2010/64/EU, ‘Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings’, 20 October 2010.

had opted into the EU Directive on Interpretation and Translation in Criminal Proceedings,⁶ it was binding on the UK on 31 December 2020 and the NIHRC considers this Directive as falling within the scope of Protocol Article 2.

3.0 Use of 'Live Link' Technology

- 3.1 As acknowledged in the consultation paper, the COVID-19 pandemic has led to increased use of live links in courts throughout the UK, a trend which has been replicated internationally. During the pandemic, the use of 'live links' was largely a necessity to facilitate the continued operation of the courts. As the Department considers how the use of live links can be normalised across the courts system, it is important to ensure that human rights principles are appropriately embedded in the decision-making framework. In preparing this submission, the NIHRC has referred to the International Committee of Jurists publication, 'Videoconferencing, Courts and COVID-19 Recommendations Based on International Standards' which may be of interest to the Department.⁷
- 3.2 In the consultation document, the Department acknowledges the relevance of Article 6 of the ECHR and refers to a number of relevant decisions of the European Court of Human Rights (ECtHR). In this section, the NIHRC will set out a number of decisions of the ECtHR which should inform any decision on the use of the live links.
- 3.3 The ECtHR has ruled that, "it is of capital importance in the interests of a fair and just criminal process that the accused should appear at his trial, and the duty to guarantee the right of a criminal defendant to be present in the

⁶ Recital 35, Directive 2010/64/EU, 'Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings', 20 October 2010.

⁷ International Committee of Jurists, 'Videoconferencing, Courts and COVID-19 Recommendations Based on International Standards' (November 2021).

courtroom – either during the original proceedings or in a retrial – ranks as one of the essential requirements of Article 6”.⁸

3.4 The ECtHR has further held that, “although the defendant’s participation in the proceedings by videoconference is not as such contrary to the Convention, it is incumbent on it to ensure that recourse to this measure in any given case serves a legitimate aim and that the arrangements for the giving of evidence are compatible with the requirements of respect for due process, as laid down in Article 6 of the Convention”.⁹

3.5 When utilising live links in proceedings, the ECtHR has highlighted that, “it must be ensured that the detainee is able to follow the proceedings, to see the persons present and hear what is being said, but also to be seen and heard by the other parties, the judge and witnesses, without technical impediment”.¹⁰ With regard to civil claims, the ECtHR has emphasised the need for courts to consider whether the use of a live link will provide the claimant with an opportunity to present their case effectively.¹¹

3.6 In relation to witnesses giving evidence in a criminal trial via live link, the ECtHR has made clear that “the Convention requires an accused to be given an adequate and proper opportunity to challenge and question a witness against him, either at the time the witness was making his statement or at some later stage of the proceedings”.¹² The ECtHR has further held that, “All evidence must normally be produced in the presence of the accused at a public hearing with a view to adversarial argument”.¹³ A defendant should

⁸ *Dijkhuizen v the Netherlands* (Application no. 61591/16) 8 June 2021, at para 50.

⁹ *Dijkhuizen v the Netherlands* (Application no. 61591/16) 8 June 2021, at para 53.

¹⁰ *Yevdokimov and Others v Russia* (Applications nos. 27236/05, 44223/05, 53304/07, 40232/11, 60052/11, 76438/11, 14919/12, 19929/12, 42389/12, 57043/12 and 67481/12) 16 February 2016, at para 43. See further, *Sakhnovskiy v. Russia* [GC], (Application no. [21272/03](#)) 2 November 2010, at para 98.

¹¹ *Yevdokimov and Others v Russia* (Applications nos. 27236/05, 44223/05, 53304/07, 40232/11, 60052/11, 76438/11, 14919/12, 19929/12, 42389/12, 57043/12 and 67481/12) 16 February 2016, at para 51.

¹² *Asadbeyli and Others v* (Applications nos. 3653/05, 14729/05, 20908/05, 26242/05, 36083/05 and 16519/06) 11 December 2012, at para 134.

¹³ *Gani v Spain* (Application no. 61800/08) 19 February 2013, at para 38.

be “given an adequate and proper opportunity to challenge and question a witness against him either when he or she was testifying or at a later stage of the proceedings”.¹⁴ The ECtHR has emphasised that when assessing the suitability of a live link there is a need for an appropriate balance to be struck which takes account of the variety of values protected by the ECHR.¹⁵

3.7 The ECtHR has also emphasised the need to ensure the privacy of any video-conferencing system provided to allow a defendant to consult with their lawyer.¹⁶ The ECtHR has made clear that “... individuals who consult a lawyer can reasonably expect that their communication is private and confidential”.¹⁷

3.8 Article 14(3)(b) of the ICCPR provides for the right of everyone charged with a criminal offence “[t]o have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing”. The UN Human Rights Committee has emphasised the right to communicate with a lawyer of one’s own choosing, “in conditions that fully respect the confidentiality of their communications”.¹⁸

3.9 The consultation paper sets out proposals for the introduction of a general power for the courts to allow live links where this is considered to be ‘in the interests of justice’. The Department asks whether there is a need to include alongside the interests of justice test a reference to an additional element of fairness. The NIHRC considers that legislation providing for the authorisation of live links should expressly require a judge to consider Article 6 of the ECHR and the relevant jurisprudence of the ECtHR.

¹⁴ Ibid.

¹⁵ *Asadbeyli and Others v (Applications nos. 3653/05, 14729/05, 20908/05, 26242/05, 36083/05 and 16519/06)* 11 December 2012, at para 134.

¹⁶ *Sakhnovskiy v. Russia [GC]* - 21272/03 November 2010.

¹⁷ *Altay v Turkey (No 2)* (2019) ECHR 276, at para 49.

¹⁸ CCPR/C/GC/32, ‘UN Human Rights Committee General comment no. 32: Article 14, Right to equality before courts and tribunals and to fair trial’ (23 August 2007), at paras 32 and 34.

- 3.10 **The NIHRC recommends that any future legislative provision for the use of live links should provide for live links to be utilised only when a court or Tribunal considers the use of a live link to be ‘in the interests of justice’. In determining if the use of a live link is in the interests of justice, a court or tribunal should pay due regard to Article 6 of the ECHR and to relevant jurisprudence of the ECtHR.**

4.0 Vulnerable Court Users

Disabled people

- 4.1 The use of live links can have specific implications for certain groups of court users, in particular court users with disabilities. Article 13 of the UN CRPD requires States to:

ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.

- 4.2 In its concluding observations in 2017, the UN CRPD Committee was concerned about the level of awareness of the rights of disabled people under the UN CRPD within the criminal justice system. It urged the UK Government and NI Executive to “develop and implement capacity-building programmes among the judiciary and law enforcement personnel, including judges, prosecutors, police officers and prison staff, about the rights of persons with disabilities”.¹⁹ As the Department takes forward this initiative, it is important to consider how courts and Tribunals will be informed of any

¹⁹ CRPD/C/GBR/CO/1, ‘UN CRPD Committee Concluding Observations on the Initial Report of the UK of Great Britain and NI’, 29 August 2017, at para 33(a).

characteristics of a court user which may make the use of live links challenging.

- 4.3 Whilst the Department states that there is a general acceptance that live links are suitable for use in criminal and civil cases, it acknowledges that during engagement events concerns were raised regarding the suitability of live links for young people and those identified as “vulnerable”.²⁰ Despite these comments, the Department has not yet conducted a full equality impact assessment.
- 4.4 The Department acknowledges a survey conducted by the Magistrates’ Association for England and Wales which identified concerns relating to the suitability of live links for neurodivergent defendants and those who are mentally unwell.²¹ Within this report, the Magistrates’ Association emphasised that “assessing effective participation is not a straightforward task”.²² In addition to this research, the NIHRC would point towards research by the Law Society of England & Wales which reported that only 16% of solicitors considered that vulnerable defendants were able to effectively participate in remote hearings.²³
- 4.5 The Department does not set out any specific research which it has conducted into the experience of disabled court users in Northern Ireland. Research into the use of live links tends to emphasise the importance of reliable technology and appropriate accommodation, which facilitates confidential communications between a court user and their legal representative.²⁴ The Department has not set out within the consultation

²⁰ Department of Justice, ‘Consultation paper: Audio and Video links (Live Links) for Northern Ireland Court and Tribunal Hearings’ (DOJ, 2022), at para 8.18.

²¹ Magistrate’s Association, ‘Magistrates’ courts and Covid-19: Magistrates’ experiences in criminal courts during the pandemic’ (April 2022).

²² Ibid, at 30.

²³ Law Society of England & Wales, ‘Law under lockdown: the impact of COVID-19 measures on access to justice and vulnerable people’ (2020).

²⁴ Equality and Human Rights Commission, ‘Interim Evidence Report on ‘Inclusive Justice: A System Designed for All’ (ECHR, 2020).

paper how relevant court infrastructure has been developed and upgraded to accommodate the increased use of live links and ensure their accessibility for disabled court users.

4.6 The NIHRC recommends that the Department conducts or commissions research to determine if the use of live links has had adverse consequences on the ability of disabled court users to participate in and understand the proceedings. This research should specifically examine whether there has been any hindrance to disabled court users consulting with their legal representatives.

4.7 The EU Victims' Directive reinforces existing national laws and establishes minimum standards on victims' rights. Its purpose is to ensure victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings.²⁵ The EU Victims' Directive emphasises that, in the interests of justice, it is imperative that victims are able to "participate actively in court hearings".²⁶ Therefore, Protocol Article 2 requires that the Department gives consideration to the suitability of live links technology for victims, especially those victims who are vulnerable, for those who do not speak English as a first language and disabled victims.

4.8 The Directive provides that States should ensure that "victims with disabilities are able to benefit fully from the rights set out in this Directive, on an equal basis with others", and emphasises the need to take account of communication difficulties faced by victims with disabilities during criminal proceedings.²⁷ Article 3 of the EU Victims' Directive directs Member States to ensure victims understand and are understood, and that any

²⁵ Article 1, Directive 2012/29/EU, 'Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime', 25 October 2012.

²⁶ Recitals 34-36, Directive 2012/29/EU, 'Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime', 25 October 2012.

²⁷ Recital 15 and 21, Directive 2012/29/EU, 'Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime', 25 October 2012.

communications with victims takes into account the personal characteristics of the victim “including any disability which may affect the ability to understand or to be understood”.²⁸

4.9 The NIHRC recommends that, in the development of live links legislation and policy, the Department carefully considers the provisions of the EU Victims’ Directive relating to victims who are disabled, to ensure they are able to actively participate in court hearings on an equal basis with others.

Persons for whom English is not a first language

4.10 The Department has acknowledged that the use of live links may have a differential impact on persons for whom English is not a first language or where an interpreter is required.²⁹ The Department refers to a survey conducted by the Magistrates’ Association for England and Wales which identified concerns relating to the effective participation of persons for whom English is a second or other language.³⁰ However, the Department found in its equality screening test that any indirect impact on equality of opportunity is safeguarded by the ‘interests of justice’ test.³¹ The Department therefore considers that the judicial discretion available through the ‘interests of justice’ test will prevent any possibility of differential treatment of persons for whom English is not a first language. As noted above, the Department has not conducted a full equality impact assessment.³²

²⁸ Article 3, Directive 2012/29/EU, ‘Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime’, 25 October 2012.

²⁹ Department of Justice, ‘Consultation paper: Audio and Video links (Live Links) for Northern Ireland Court and Tribunal Hearings’ (DOJ, 2022), at para 8.18.

³⁰ Magistrate’s Association, ‘Magistrates’ courts and Covid-19: Magistrates’ experiences in criminal courts during the pandemic’ (April 2022), at 30.

³¹ Department of Justice, ‘Equality Screening Form: Audio and Video links (Live Links) for Northern Ireland Court and Tribunal Hearings’ (July 2022).

³² See para 4.3.

4.11 The NIHRC recommends that the Department conducts or commissions research to determine if the use of live links has had adverse consequences on the ability of court users for whom English is not a first language to participate in and understand the proceedings. This research should specifically examine whether there has been any hindrance to court users without English as a first language consulting with their legal representatives.

4.12 Article 7 of the EU Victims' Directive provides for the right to interpretation and translation for victims "who do not understand or speak the language of the criminal proceedings concerned".³³ Reflecting concerns about the limitations presented by videoconference technology in some circumstances, the EU Victims' Directive states that "videoconferencing, telephone or internet may be used, unless the physical presence of the interpreter is required in order for the victims to properly exercise their rights or to understand the proceedings".³⁴ In light of the possible barriers to active participation of people for whom English is not their first language, the Department should ensure there is mechanism for assessing the suitability of live links technology for a victim who does not understand or speak English to ensure they can properly exercise their rights and understand the proceedings.

4.13 Article 2 of the EU Directive on Interpretation and Translation in Criminal Proceedings makes specific provision for the right to interpretation.³⁵ Underlining the risk of the possible negative impact of live links for people for whom English is not a first language, Article 2(6) of the Directive states

³³ Article 7, Directive 2012/29/EU, 'Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime', 25 October 2012.

³⁴ Article 7(2), Directive 2012/29/EU, 'Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime', 25 October 2012.

³⁵ Article 2, Directive 2010/64/EU, 'Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings', 20 October 2010.

that communication technology may be used, “unless the physical presence of the interpreter is required in order to safeguard the fairness of the proceedings”.³⁶ The Directive also emphasises that interpretation should be of sufficient quality to safeguard fairness in the proceedings and that it takes account of any potential vulnerability that affects their ability to follow proceedings and make themselves understood.³⁷ Moreover the Directive clarifies that the protections it sets out should never fall below the minimum standards as provided by the ECHR and interpreted by the ECtHR and the EU Charter of Fundamental Rights as interpreted by the Court of Justice of the EU.³⁸

4.14 The NIHRC recommends that the Department carefully considers the provisions of the EU Victims’ Directive and the EU Directive on Interpretation and Translation in Criminal Proceedings in relation to vulnerable court users, particularly those for whom English is not a first language, in the development of live links legislation and policy.

4.15 The Department suggests that before applying the ‘interests of justice’ test a court or Tribunal will be informed of the circumstances of individual court users due to the completion of a “requisite form identified in the relevant practice direction”.³⁹ A report for HM Courts Service in England & Wales highlighted the importance of courts being made aware of the circumstances of court users before determining the suitability of a remote hearing.⁴⁰ However, the consultation paper does not include an assessment of current practices. Overall, the Department has not demonstrated that the current arrangements are leading to courts and Tribunals being appropriately

³⁶ Article 2(6), Directive 2010/64/EU, ‘Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings’, 20 October 2010.

³⁷ Recitals 27 and Article 2(6), Directive 2010/64/EU, ‘Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings’, 20 October 2010.

³⁸ Recitals 32, Directive 2010/64/EU, ‘Directive of the European Parliament and of the Council on the right to interpretation and translation in criminal proceedings’, 20 October 2010.

³⁹ Department of Justice, ‘Consultation paper: Audio and Video links (Live Links) for Northern Ireland Court and Tribunal Hearings’ (DOJ, 2022), para 8.20

⁴⁰ Janet Clark, ‘Evaluation of remote hearings during the COVID 19 pandemic Research report’ (HMCTS, 2021).

informed of the circumstances of court users before applying the ‘interests of justice’ test. In addition, the Department has not provided a list of the relevant practice directions.

4.16 The NIHRC recommends that the Department conducts or commissions research to assure itself that existing arrangements for informing a court and Tribunal of the circumstances of court users are sufficiently robust to ensure decisions relating to the use of live links are appropriately informed of the circumstances of all court users.

4.17 The Consultation paper does not consider accessibility issues which may arise for persons who are required to use live links in the course of their employment. As a State Party to the UN CRPD, the UK must give effect to the principle of non-discrimination by taking “all appropriate steps to ensure that reasonable accommodation is provided”.⁴¹ Moreover, to give effect to the right of persons with disabilities to work on an equal basis with others, States Parties must “[e]nsure that reasonable accommodation is provided to persons with disabilities in the workplace”.⁴² Thus, steps should be taken by the Department to ensure that the needs of disabled persons are reasonably accommodated to prevent digital exclusion as a result of increased reliance on live links technology.

4.18 Further, the UK must give effect to the principle of accessibility under the UN CRPD.⁴³ The UN CRPD Committee has stated that “[n]ew technologies can be used to promote the full and equal participation of persons with disabilities in society, but only if they are designed and produced in a way that ensures their accessibility”.⁴⁴ Whilst recognising that the use of live

⁴¹ UN CRPD, Article 3(b).

⁴² UN CRPD, Article 27(1)(i).

⁴³ UN CRPD, Article 3(f).

⁴⁴ CRPD/C/GC/2, ‘UN CRPD Committee General Comment No. 2 - Article 9 : Accessibility’, (11 April 2014), at para 22.

links may improve accessibility for many disabled persons, the UN CRPD Committee has stated that “[n]ew technologies, including artificial intelligence and the shift to digital work, can create new barriers or forms of discrimination”.⁴⁵

4.19 According to the Law Society for England and Wales, many disabled people in the legal profession welcome the flexibility provided by technology. However, “this is not universal and there continues to be issues with accessibility, technology and procedures”.⁴⁶ For example, legal representatives who have a hearing impairment have expressed frustration with technology used for live links in England and Wales making lip-reading more difficult.⁴⁷ Thus, the Department should consider the possible barriers faced by disabled legal representatives in the development of live links legislation and policy.

⁴⁵ CRPD/C/GC/8, ‘UN CRPD Committee General comment No. 8 (2022) on the right of persons with disabilities to work and employment’, (09 September 2022), at para 5.

⁴⁶ The Law Society of England and Wales, ‘New research into the impact of COVID-19 on disabled people in the legal profession’ (2 November 2020).

⁴⁷ Debbie Foster and Natasha Hirst, ‘Legally Disabled? The impact of Covid-19 on the employment and training of disabled lawyers in England and Wales: Opportunities for job-redesign and best practice’ (The Law Society of England and Wales, October 2020), at 34.

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