

Policy – Impact Assessment

Step 1: Scoping the IA

Name of the policy/function:	<i>FTPC Remote Hearings</i>
Assessor:	<i>Kiran Gill</i>
Date IA started:	<i>4/5/20</i>
Date IA completed:	<i>5/5/20</i>
Date of next IA review:	<i>31/07/20</i>
Purpose of IA:	<i>To assess and manage the potential impact of the GOC listing FTP matters for remote hearing, with particular regard to fair process.</i>
Approver:	<i>Dionne Spence</i>
Date approved:	<i>5 May 2020</i>

Q1. Screening Assessment

- Has a screening assessment been used to identify the potential relevant risks and impacts? Tick all that have been completed:
 - Impacts**
 - Information Governance (Privacy)**
 - Human Rights, Equality & Inclusion**
 - None have been completed**

Q2. About the policy, process or project

- What are the main aims, purpose and outcomes of the policy or project?
- You should be clear about the policy proposal: what do you hope to achieve by it? Who will benefit from it?

Aims: *Remote hearings will enable the GOC to continue its FTP functions at a time when physical hearings are impossible or impractical, and may enable the GOC to discharge these functions in a more cost-effective and inclusive manner after the current COVID-19 emergency has passed.*

Purpose and Outcome: *Minimise delays and expense, maximise participation and fairness.*

Who will benefit:

Public protection, Registrants, Complainants, Witnesses and the GOC.

Q3. Activities or areas of risk or impact of the policy or process

- Which aspects/activities of the policy are particularly relevant to impact or risk? At this stage you do not have to list possible impacts, just identify the areas.

Activity/Aspect

The starting point that all hearings will be listed to be held remotely.

Although the GOC may list a physical hearing when needed, and the final decision rests with the FTPC, the GOC's reputation may be affected by a perception that this process has been introduced primarily to save costs.

There may be an impact on public protection if the GOC does not properly consider all aspects before listing a matter: agreeing an adjournment where a remote hearing could have been held, or listing a remote hearing where this could result in unfairness to a participant. The former could result in increased delays and higher costs, the latter in PSA criticism and a successful appeal.

Q4. Gathering the evidence

- List below available data and research that will be used to determine impact of the policy, project or process.
- Consider each part of the process or policy and identify where risks or implications might be found for: 1) Impacts; 2) Information Governance and Privacy implications; and 3) Human Rights, Equality and Inclusion.

Available evidence – used to scope and identify impact

User feedback.

At this point, we have limited information on impacts, based on concerns that have been specifically raised by registrants and their representatives, as well as GOC staff's own awareness of the types of issues that may arise with registrants, panellists and witnesses.

Q5. Evidence gaps

- Do you require further information to gauge the probability and/or extent of impact?
- Make sure you consider:
 - 1) Impacts;
 - 2) Information Governance and Privacy implications; and
 - 3) Human Rights, Equality and Inclusion implications.

If yes, note them here:

Yes.

As more remote hearings are listed, and the GOC continues to engage with panellists and registrant representatives, we will have more information on impacts.

Q6. Involvement and Consultation

Consultation has taken place, who with, when and how:

There has been direct discussion (informal consultation) with the PSA, other regulators, hearing panellists, defence bodies and GOC staff.

Summary of the feedback from consultation:

So far, feedback has been largely positive.

Some issues have been raised, which will need careful consideration by the Hearings team in deciding whether to list for a remote hearing, and by FTPCs in deciding whether, and if so how, a remote hearing should take place. We have been specifically asked to consider the impact on:

- *Registrants with limited hardware, eg smartphone but no laptop/ tablet (raised by AOP)*
- *Emotional impact on registrants of their personal space being “tainted” by remote attendance from their home (by AOP)*
- *Participants with visual impairment (by Registrar)*
- *Participants with learning difficulties or other special needs (by Director)*
- *Registrants who would have more confidence in the process if they can address a committee direct (by representatives)*
- *Participants with limited WiFi bandwidth/ unreliable internet (by Legal team)*
- *Young or vulnerable witnesses (by Legal team)*

Link to any written record of the consultation to be published alongside this assessment:

n/a

How engagement with stakeholders will continue:

Defence Stakeholder Group, Director communication and the GOC consultation platform.

Step 2: Assess impact and opportunity to promote best practice

- Using the evidence you have gathered what if any impacts can be identified. Please use the table below to document your findings and the strand(s) affected.
- What can be done to remove or reduce any impact identified?
- Consider each part of the process or policy and identify where risks might be found for equality, human rights and information governance and privacy.
- Ensure any gaps found in Q5 are recorded as actions and considerations below.

Use the table below to document your strengthening actions (already in place or those to further explore or complete).

The table below will be updated as potential impacts are identified.

	Activity/ Aspect	Potential/actual Impact	Strengthening actions to remove or reduce impact. For actions, include timeframes.
1.	<i>Registrants with limited hardware, eg smartphone but no laptop/ tablet</i>	<i>Registrants may find it more difficult to read documents on a small screen while also watching for panellists' non-verbal cues.</i>	<ul style="list-style-type: none"> • <i>Longer time estimate, to enable the committee (if appropriate) to allow more frequent breaks.</i> • <i>Longer notice of hearing date, so registrant can (should they so wish) make handwritten notes in advance of the hearing.</i> • <i>In extreme cases, provide the registrant with a paper bundle by post.</i>
2.	<i>Emotional impact on registrants and/or other witnesses of their personal space being "tainted" by remote attendance from their home</i>	<i>The hearing may cause these participants lasting distress, or may make it more difficult for them to fully participate in the hearing process.</i>	<ul style="list-style-type: none"> • <i>The hearings officer to share any such advance concern with the committee chair or legal adviser</i> • <i>The hearings officer to use a laptop or other large screen (especially if one or more panellist or the legal assessor is joining by smartphone), and is ready to suggest a break if a participant appears distressed during the hearing.</i> • <i>GOC to allocate more than one hearings officer to more sensitive cases.</i> • <i>GOC to list with a longer time estimate, allowing time for more breaks.</i> • <i>In extreme cases, GOC to list the matter for a for the registrant / witnesses to attend the office (while maintaining social distancing).</i>
3.	<i>Participants with visual impairment</i>	<i>They may find it more difficult to absorb information (written documents and facial expressions) on screen.</i>	<ul style="list-style-type: none"> • <i>The hearings officer to share any such advance concern with the committee chair or legal adviser, so the committee can arrange for relevant information to be read aloud.</i> • <i>GOC to allocate more than one hearings officer, so one officer can pay attention to non-verbal cues from such participants, and draw the committee chair's attention to the need for information to be read aloud.</i> • <i>GOC to list with a longer time estimate, allowing time for reading aloud.</i>
4.	<i>Participants with learning difficulties or other special needs, or who find the proceedings</i>	<i>They may find a remote hearing more isolating/ intimidating, making it more difficult for them to participate fully, and possibly reducing their confidence in the process.</i>	<ul style="list-style-type: none"> • <i>GOC's witness care manager to make advance enquiries of what additional support is needed (eg translator).</i> • <i>The hearings officer to share any such advance concern with the committee chair or legal adviser.</i> • <i>GOC to allocate more than one hearings officer.</i>

	<i>particularly traumatic</i>		<ul style="list-style-type: none"> • GOC to list with a longer time estimate, allowing time for more breaks. • In extreme cases, GOC to list the matter for a partially physical hearing.
5.	<i>Registrants or witnesses may have more confidence in the process if they can address a committee in person</i>	<i>There have been reports of witnesses in civil cases feeling “short-changed” since the decision-maker did not have to look them in the eye when delivering an unwelcome decision, and there could also be an impact on our participants’ confidence in the process.</i>	<ul style="list-style-type: none"> • GOC to inform all participants in advance of arrangements for the remote hearing, allowing more time for the information to bed down. • Hearings team to facilitate familiarisation sessions in advance of the hearing • The hearings officer to share any advance concerns with the legal adviser, so they can assure the individual on the prevalence and accepted fairness of remote hearings. • In highly sensitive cases (eg bereaved family member in case involving patient death, having to observe by telephone rather than in person), the reputational risks may be so severe as to justify consideration of a (partially) physical hearing.
6.	<i>Participants’ limited WiFi bandwidth/unreliable internet</i>	<i>The connection may be lost, potentially at a key moment.</i>	<ul style="list-style-type: none"> • Hearings officer to pay particular attention to the number of participants, so they can alert the panel if someone has “dropped off”. • Witness calling letters and hearing notices to include a phone number for telephone participation. • Allow longer listing time, so any breaks do not cause the matter to be adjourned part-heard.
7.	<i>Young, elderly or vulnerable witnesses</i>	<i>They may not have the technological wherewithal to feel comfortable giving evidence online, thus affecting fairness of proceedings and confidence in the process.</i>	<ul style="list-style-type: none"> • GOC's witness care manager to make advance enquiries of what additional support is needed (Eg: testimony of complainant in sexual misconduct case, where a screen would have been needed). • The hearings officer to share any such advance concern with the committee chair or legal adviser (eg panel could consider asking registrant to use muted telephone rather than video-link during complainant’s testimony). • GOC to allocate more than one hearings officer. • GOC to list with a longer time estimate, allowing time for more breaks. • In extreme cases, GOC to list the matter for a (partially) physical hearing.

8.	<i>Loss of confidentiality eg participants discussing case with others during the hearing</i>	<i>If witness evidence is unduly influenced, the fairness of process could be affected, resulting in higher risk of appeal and reduced confidence in the GOC</i>	<ul style="list-style-type: none"> • <i>Committee guidance to highlight this risk and remind witnesses not to discuss their evidence under oath, and to not be contactable by third parties while they are testifying.</i> • <i>GOC to remind newly-appointed panellists, eg when allocating them to a remote hearing, of the need to ensure confidentiality during a hearing, especially a private hearing.</i>
9.	<i>Registrant not being in the same room as adviser, and witness not being in the same room as supporter</i>	<i>If the registrant/ witness cannot consult their adviser/ supporter as easily as passing a note during a hearing, there may be reduced fairness from reduced ability to fully participate.</i>	<ul style="list-style-type: none"> • <i>Hearing team to list with longer time estimate, so participants or adviser/ supporter can request a break when needed.</i> • <i>(Conversely, where the registrant/ witness and legal representative/ McKenzie friend/ supporter are in the same room, they will need to be asked to separate when the registrant/ witness is giving evidence.)</i> • <i>Hearings team to consider allocating dedicated video-link lines. (subject to maximum capabilities)</i>
10.	<i>Continued uncertainty over current health risks and travel options</i>	<i>If a matter is adjourned to a physical hearing, there could be a delay of up to one year before the matter is heard, reducing public protection and effectiveness of witness testimony, and thus affecting fairness of the proceedings and confidence in the outcome.</i>	<ul style="list-style-type: none"> • <i>List all matters for remote hearing unless there are exceptional circumstances that outweigh the benefits from speedier justice</i> • <i>Consider all flexible and reasonable adjustments that may mitigate the concern.</i>
11.	<i>Proceedings being recorded covertly (risk exists in physical hearings but is potentially harder to monitor at remote hearings)</i>	<i>The unauthorised posting of GOC hearings, eg on social media, could infringe the privacy of registrants, witnesses, GOC staff and other participants. There may also be an impact on public confidence in our processes.</i>	<ul style="list-style-type: none"> • <i>Hearing officer to look out for any attempt to record using MST</i> • <i>Any observers to request advance permission from the GOC, so we have a record of their identity in case there is a breach of confidentiality</i> • <i>Hearing officer to warn observers against making any recording</i>

Step 3: Monitoring and review

Q6. What monitoring mechanisms do you have in place to assess the actual impact of your policy?

*This will be a standing agenda item at Defence Stakeholder Group meetings.
There is an existing process for panellists and legal assessors to feedback after each hearing which will be extended to further participants*

Please provide a review date to complete an update on this assessment (three months from initial completion).

Date: 31 July 2020