

Remote Justice? Virtual benefits tribunals and disabled clients: Briefing

Introduction

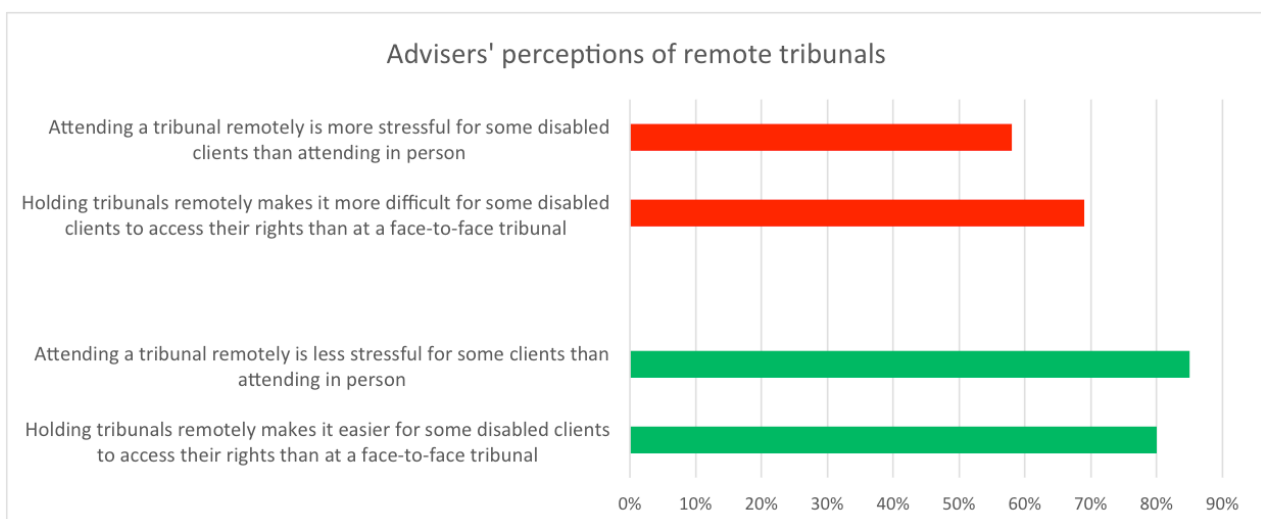
IPR is an advice agency, funded by Islington Council and charitable trusts, that has served residents of Islington and surrounding boroughs for over 50 years. The majority of our clients are vulnerable or disabled. With support from Trust for London, the IPR Justice project is offering advice and representation to clients challenging welfare benefits decisions at First-tier Tribunals. The pandemic has accelerated Government plans to hold more tribunals by phone or video. IPR Justice has carried out research with advisers and a small number of clients to understand the advantages and pitfalls of these remote hearings.

Summary

- Telephone and video tribunals can work for some disabled people if they are supported and represented by a specialist advice service
- But many experience problems – remote tribunals are not always the best option
- It is essential that all disabled clients are offered a choice of format including the option of a face-to-face hearing in a reasonable timeframe
- Remote tribunals could be improved through changes to systems and guidance, as well as judges allowing time for breaks during the hearings
- Telephone hearings appear to work less well than video hearings. Barriers to video hearings should be tackled, but the telephone option should still be retained for those who need or prefer it
- More research is needed into whether the format of the tribunal has an impact on the likely outcome i.e. whether clients are less likely to win their cases at remote hearings

Key findings

Advisers have mixed views on the value of tribunals for disabled people. 80% thought remote tribunals made it easier for some of their clients to access justice but 69% thought they made it more difficult for some.



Problems with remote hearings....

- Technical difficulties: problems with the clients hearing and being heard were widely reported. Problems understanding how to join video sessions were also common and difficulty or lack of confidence were common reasons why clients chose to join video calls through their telephones
- Stress: 60% of clients who attended remote tribunals said they became stressed or upset. 34% said they had felt isolated or alone during their remote hearing. In terms of advisers reporting their

tribunals; 50% of advisers had observed this with their client on the phone during video hearings; and 59% of advisers had observed this during full video hearings

- Lack of communication between advisers and clients: 35% of clients said they could not communicate with their adviser during their remote tribunal. In telephone tribunals only 43% of advisers said they could 'always or often' communicate with their clients, and in video tribunals (with the client also on video) this only rose to 55%
- Lack of understanding and participation: Only 7% of advisers, when considering telephone hearings, said their clients 'always' found it easy to understand and participate in the proceedings. This only rose to 25% for video hearings.
- Lack of breaks: Thinking about video tribunals where their client had joined by video, 58% of advisers said they had 'always' been able to request a break and another 11% said they had 'often' been able to. By contrast, for telephone hearings, only 31% of advisers said 'often' and 20% said they had 'never' been able to request a break.

...and a concern

Many advisers expressed concerns that remote tribunals, although preferred by some disabled clients, might put them at a disadvantage, as the severity of their condition was less apparent than at a face-to-face hearing. This needs further research.

Steps to improve remote hearings...

- Process changes: more advanced notice, more liaison between DWP, advisers and HMCTS would all lead to a smoother process and reduce stress for clients
- Technological issues: joining instructions could be improved, and if there are communication difficulties on the day, the tribunal should be rescheduled to a face-to-face one
- Time: judges should check that advisers and clients can communicate between themselves, and if not, proactively offer breaks to allow them to confer. Remote tribunals should be scheduled for longer slots, to allow for technical difficulties to be resolved and for breaks
- Mitigating stress: clients should be advised to have someone with them during the tribunal for emotional support. Judges should be mindful of potential client stress and offer breaks as needed

...and an idea

Both advisers and clients responded positively to the idea of the client and the adviser being in the same physical space during the tribunal. Clients confirmed that this would make it easier for them to talk to their adviser, making the tribunal less stressful than joining from home, and enabling them to have someone with them for emotional support. We recommend advice agencies explore the feasibility of this approach.

Methodology and limitations

The research consisted of online surveys, which were answered by 38 clients and 72 advisers. Between them the advisers who answered the online survey had experience of at least 387 remote tribunals. Surveys were followed up with interviews with six clients and ten advisers and a further, free-text survey of advisers (14 responses). Clearly, these are small samples. In addition, it is likely that the clients who responded are disproportionately confident with technology compared with all claimants, as they all completed the survey online - no one took up the offer of a paper form. Almost all the claimants who responded had an adviser during their tribunal – hence IPR is not making any recommendations about unrepresented claimants.

Find out more

This briefing is just a snapshot and we highly recommend reading the full report, available on IPR's website: <https://www.iprAdvice.org.uk/wp-content/uploads/2021/11/Remote-Justice-Full-Report-Pdf.pdf>



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