

Preliminary Hearings: Video Links Evaluation of Pilot Projects

Final Report

April 1999

*Joyce Plotnikoff and Richard Woolfson
Consultants in Management, IT and the Law
Cheldene
Church Lane
Preston
Hitchin
Herts SG4 7TP
Tel: 01462 457555
Fax: 01462 457229
E-mail: woolfsonr@aol.com*

Video Link Pilot Evaluation

Contents

	Page
Summary	4
Chapter 1: Introduction	11
Video links and the justice system	11
Background to the current pilots	11
Objectives	13
Structure of the report	14
Acknowledgements	14
Chapter 2: Methodology	16
Pre-pilot baseline data	16
Requests for comments and discussion meetings	16
Data collection at pilot sites	17
Data on costs	18
Chapter 3: The video link	20
Chapter 4: Key issues	22
Equipment performance and reliability	22
Client contact and video link consultations	26
Confidentiality	27
Court listing	29
Courtroom security	30
Accommodating the timetabling needs of courts and prisons	31
Booking video consultations	32
Applications for defendants to appear in person	34
Bail applications made over the link	35
Other business dealt with over the link	38
Use of interpreters	39
Cases involving co-defendants	39
Impact of the video link on the length of hearings	41
Standardising procedure	42
Training	44
Legal visits	46
Defendants' degree of involvement in proceedings	46
Impact on defendants	48
Views on fairness	50
Chapter 5: Costs and savings	54
Introduction	54
One-off costs	54
Recurrent costs	55
Savings resulting from video link hearings	56
Other factors with financial implications	58
Chapter 6: Conclusions and recommendations for wider implementation	59
Do video link hearings have a place in the criminal judicial process?	59

Consultation	60
Equipment performance and reliability	60
Selecting video courtrooms	60
Lawyer/client consultations and confidentiality	62
Court listing	62
Running order	63
Timeliness	63
Bail applications	64
Applications to appear in person	65
PSRs and committals for sentence	65
Standardising procedure.....	65
Training	66
Implementation options	67
Appendix A: Characteristics of pilot sites	69
Appendix B: Statistics relating to pre-pilot and pilot hearings.....	76

Video Link Pilot Evaluation

Summary

This is the report of a study commissioned by the Prison Service to evaluate the pilot use of video links between prisons and magistrates' courts for preliminary hearings in which the defendant is held in custody. The use of video links for this purpose is permitted by Section 57 of the Crime and Disorder Act 1998. The evaluation sought to establish whether video links are an effective way in which to conduct such hearings and whether the use of this technology is compatible with the interests of justice. It also looked at the costs and savings involved and the implications for introducing video links on a wider scale.

The pilots demonstrated that, provided appropriate procedures are in place to safeguard the rights of defendants, video links can successfully be incorporated into the criminal justice process. This is illustrated by the fact that all pilot sites have asked to retain and continue use of the video link equipment even though the evaluation period has ended. Subject to the adoption of the recommendations in this report, the pilots have made the case for wider implementation of video links in magistrates' courts.

Pilot courts at Bristol and Swindon were linked to Horfield prison and Eastwood Park prison. The third pilot court was Manchester City Magistrates' Court which had links to Manchester prison and Hindley Young Offenders Institution. The courts began listing video link hearings towards the end of November 1998 and in the period up to 5 March 1999, a total of 748 hearings had been conducted over the link.

Prior to the start of the pilots, the three courts involved were asked to collect data at hearings that would have been eligible for the link had it been available. The results served as a baseline for comparison with data collected subsequently at a sample of video link hearings. Data were also collected during the pilots at initial remand hearings where the defendant was produced in person from police custody as an overnight prisoner. Defendants remanded in custody at such hearings were eligible for a video link hearing on their next appearance. The information collected covered basic facts about the defendant, the composition of the court, the length of the hearing, the kind of business dealt with and whether bail applications were granted. At hearings during the pilot, note was also made of applications for a defendant to appear in person at the next hearing and the reasons given by the bench when such an application was granted.

The data collected at hearings were supplemented with the responses of participants to questionnaires distributed at pilot courts and prisons. Separate questionnaires were designed for magistrates, justices' clerks, prosecutors, defence lawyers, defendants and prison officers. Views were sought on the performance of the equipment, the impact of the technology on the manner in which decisions were reached and the fairness of the process. Defence lawyers were asked about the confidentiality of communications with their clients before, during and after each hearing. A total of 269 questionnaires were completed and returned to the evaluators in the course of the pilots. Additional comments were received in letters, e-mails and at meetings held in each of the pilot areas. Equipment faults and suppliers' speed of response were recorded in logs maintained at each pilot site. Information on costs was obtained from the Prison Service which provided funding for the pilots.

The rooms chosen as video link courtrooms varied in size and layout. Monitors in the courtroom at the court provided a view of the defendant to everyone present, including any

members of the public present to observe proceedings. A single camera focused on whoever was speaking. If the room was small, the clerk had to swivel the camera using pre-programmed settings to point at the speaker. In the largest pilot courtroom at Swindon, the camera was able to capture all participants in a single view and so its position remained fixed throughout the hearing. The picture from the camera at the court appeared on the defendant's monitor in the courtroom at the prison. A prison officer accompanied the defendant in the courtroom during the hearing. Fax machines at the prison and the court enabled documents to be exchanged. Defendants could indicate to the court if they wanted to give instructions to their lawyer in the course of the hearing. With the court's permission, the lawyer and client then spoke using a telephone provided for this purpose.

In addition to the courtrooms, there were consultation booths with video link equipment at each pilot site. These were used for consultations between lawyers and defendants before and after hearings. Notices posted in the booths contained guarantees of the confidentiality of the consultations from the Prison Service and the courts and an undertaking from the system suppliers that no monitoring devices had been installed.

The following key points emerged from analysis of the data collected during the pilots:

- The equipment performed reliably throughout the pilots and where faults occurred, they were remedied by the suppliers within a reasonable time. No hearing had to be abandoned because of equipment failure.
- The vast majority of participants described equipment performance as acceptable or excellent. Defence lawyers were most critical of performance although their criticisms related more often to the quality of the link in consultation booths than that in the courtroom. The problems that did arise were usually related to the sensitivity of the equipment to its operating environment, for instance the heat of the room or the noise from passing traffic.
- Most defendants had discussed their case with their lawyer prior to the video link hearing: 69 per cent had taken part in a videoconference on the day of the hearing and another 20 per cent had either spoken to their lawyer on the telephone or been visited in prison by a legal representative. Eleven per cent said they had had no contact with their lawyer since going to prison. Lawyers had spoken to 39 of the 40 defendants they represented before the hearing, either by video link, on the telephone or during a legal visit to the prison.
- A third of defendants said they had spoken to their lawyer over the telephone in the course of the video link hearing. Out of 95 defendants, 36 (38 per cent) had spoken to their lawyer after the hearing.
- Despite the assurances displayed in consultation booths, 22 out of 33 lawyers (67 per cent) had concerns about the confidentiality of video consultations, telephone conversations or both. Six of these (and four others with no concerns about links or telephone calls) also felt that legal consultations during prison visits were monitored using covert listening devices.
- Pilot courts differed as to the ease with which they were able to accommodate video link hearings in their lists. Manchester, the largest of the pilot courts, was able to absorb video link hearings into their listing strategy with the least difficulty. None of the pilot courts required an extra prosecutor or court staff to run the video link court but Swindon had to cancel an all-day trial court which increased waiting times for such cases.

Video Link Pilot Evaluation

- Prior to the start of the pilots, prosecutors at Manchester and Bristol expressed some concern about their personal safety because of the small size of the video courtroom. In practice, there were no threatening incidents during the pilot and video link hearings were rarely attended by members of the public. However, the possibility of such problems arising in a small courtroom cannot be ruled out, particularly if supporters of both victim and defendant were to attend court.
- Before the start of the pilots, there was much concern about reconciling court sitting hours and the constraints of the prison timetable, particularly in relation to meal times. In practice, this issue was successfully resolved at all pilot sites through discussion.
- A running order for video link hearings was prepared at all pilot courts. However, changes were often made to the pre-assigned order on the day of the hearing, particularly at Bristol Magistrates' Court. These last minute changes caused difficulty at the prisons where prisoners were brought to the holding area in the order they appeared on the list. Because of changes to the order, some prisoners were left waiting in the holding area for many hours while other defendants were brought from the cells to appear ahead of them. This caused discontent among those left waiting and negated the main benefit to defendants of appearing over the link, namely reduced disruption to their routine. At Swindon and Manchester City Magistrates' Courts, hearings were assigned a specific start time and adherence to the running order was better than at Bristol.
- Despite strenuous efforts to inform lawyers of the booking arrangements for consultation booths, many failed to book slots in advance. Requests for consultations made on the day of the hearing were all accommodated but caused difficulties for prisons and contributed to disruptions in running order.
- Applications for an appearance in person at the next hearing were made at 43 out of 105 initial remand hearings (41 per cent). At video link hearings, there were applications at 17 out of 106 hearings (16 per cent) where the defendant was remanded in custody for a further preliminary hearing. Magistrates granted the vast majority of such applications. By far the most common reason for granting an application was a defence indication that a guilty plea would be entered on the next occasion. Otherwise, the pilot experience did not suggest any standard grounds for making an application to appear in person although benches were sympathetic to requests on behalf of prisoners who might have problems in coping with the link because of physical or mental health problems.
- The most controversial application of the link was for bail applications. Some lawyers objected in principle to the use of the link for this purpose. Others felt that their clients' chance of being granted bail was adversely affected when they were not physically present at the court. This was not borne out by the evaluation data which showed no difference in the proportion of bail applications granted before and during the pilot.
- Some practical problems emerged with respect to providing information to support bail applications at video link hearings. Horfield prison in particular experienced increased demands to investigate the availability of a bail hostel place. Resourcing problems sometimes prevented the prison from responding to such requests when they were made at short notice. A probation officer at Manchester City Magistrates' Court expressed concern about the quality of bail information that her prison-based colleagues could provide due to their lack of information about the applicant's previous convictions and the circumstances of the current offence.

- A wide range of other business was dealt with over the link including pleas, pleas before venue, committals for trial, legal aid applications and pre-trial reviews. The link was also used for defendants who were unrepresented and others who required the services of an interpreter. There was some confusion as to whether reports could be ordered over the link following a guilty plea.
- Cases involving co-defendants were heard over the link in the later stages of the pilots. The number of co-defendants that could be accommodated was limited by the camera's field of view of the size of the courtrooms at the prison and the court. Manchester was the only pilot court to hold video link hearings involving co-defendants in custody at different pilot prisons. This was achieved by splitting the screen in four so that the courtrooms at both prisons and the court were visible at the same time.
- Link hearings with and without bail applications took slightly longer on average than corresponding hearings in person. However, the difference was small and it was not possible to match samples according to the other business dealt with. In contrast, most participants considered that hearing lengths were shorter than when defendants appeared in person. They also felt that there was less delay at the start of link hearings compared to hearings in person.
- During the pilots, a need was identified for the introduction of standard practice to some areas of procedure relating to video link hearings. Aspects suitable for national guidance are identified in Recommendation 9 below.
- Although a comprehensive programme of training was undertaken in conjunction with the pilots, some participants in video link hearings had not been trained. Some clerks were confused as to which hearings were eligible for the video link and two out of 33 lawyers who completed questionnaires were not aware that they could apply for their client to appear in person instead of over the video link. Some participants felt that only minimal additional skills are needed by those participating in video link hearings but observation of pilot hearings suggests otherwise.
- Lack of accurate pre-pilot data prevented the evaluators from examining the effect of video links on the frequency of legal visits to prisons. However, 49 defendants (52 per cent) appearing over the link said they had been visited in prison by a legal representative prior to the day of the hearing. Lawyers said they, or their representative, had visited 22 out of 40 clients (55 per cent) in prison prior to the video link hearing.
- Participants other than defence lawyers considered that the link was as good as or better than an appearance in person at holding defendants' attention and maintaining eye contact. Lawyers overwhelmingly took the opposite view.
- Of the 88 defendants appearing over the link who responded, 69 (73 per cent) said they would rather be in the prison than the court for their hearing. Benefits to defendants included not having to pack up belongings and clear the cell, avoiding the discomfort of travelling to and from court in a cellular van, the availability of hot prison food, reduced time spent waiting at court and attendance at visits, education and work sessions that would otherwise be missed.
- Eighty-three per cent of defence lawyers felt that the link was unfair in some respect. Among all other classes of participant, including defendants, 80 per cent or more felt that the link was fair.
- Although the evaluators identified a wide range of potential costs and savings associated with the use of video links, it was only possible to estimate a subset of these during the pilots. For example, video link hearings saved around 1,500

Video Link Pilot Evaluation

movements between courts and prisons but calculation of the associated cost savings required more detailed information about transportation costs than was available to the evaluators. Also, items such as building costs associated with installation of video link courtrooms and booths varied greatly according to the characteristics of each site. To cost accurately options for wider implementation of video links would therefore require a more detailed study than was possible within the scope of this evaluation.

The introduction of video links in the pilot areas impacted not only courts and prisons. Its effects were felt across the agencies of the criminal justice system. Acceptance of the technology depended not only on the equipment's reliability but also on gaining the confidence of the criminal justice community that the procedures associated with its use adequately safeguarded the rights of defendants. The pilots demonstrated that this can be achieved through open inclusive discussion with all those affected and responding constructively to valid concerns. The following ten recommendations are based on the evaluation findings:

Recommendation 1: As a first step in the introduction of video links to new courts and prisons, working groups should be established with a membership that includes, as a minimum, representatives from each court and prison, magistrates, the CPS, local firms of defence solicitors, the probation service and the suppliers of the video link equipment. The working groups should develop guidance on local practice relating to video links and act as a forum at which problems can be raised and addressed. They should also be responsible for disseminating information about the links more widely among the local criminal justice community.

Recommendation 2: The attention of all who use video link equipment should be drawn to its sensitivity to changes in control settings and environment. Suppliers should be required to demonstrate the performance of their equipment in its intended environment. Court and prison staff who receive technical training should be capable of re-tuning the equipment if settings are adjusted.

Recommendation 3: The Prison Service and the LCD should draw up guidance for prisons and courts to assist them in deciding where to locate a video link courtroom. The guidance should point to the dangers of using building costs as the sole criterion and highlight the need to consider a range of factors relating to equipment performance, ancillary facilities and procedure before making a decision.

Recommendation 4: The specification for consultation booths and housing for telephones used to take instructions during a hearing should include a requirement that conversations conducted at normal volume must not be audible to anyone other than the lawyer and the defendant. The standard procedures adopted for video link hearings should include an instruction that dock officers leave the prison courtroom while defendants speak to their lawyers on the telephone.

Recommendation 5: The running order for video link courts should be published at least 24 hours in advance and each hearing should be given a specific starting time. Training for magistrates and clerks should stress the importance of adhering to the order wherever possible and to require explanations from defence advocates who do not appear at the appointed time. Guidance for defence advocates should explain the booking system for

consultation slots and the consequences for defendants of late disruption to the running order of hearings.

Recommendation 6: Local preparations for the introduction of video link hearings should address the provision of bail information. Defence advocates who intend to make a bail application at the first video link hearing should be encouraged to request bail information at the initial remand hearing in order that the Probation Service can interview the defendant in the cells at court. Where responsibility for the subsequent provision of information is transferred from the court to the prison, there must be adequate resources provided to respond to requests. The arrangements should ensure that defendants appearing over the link receive the same quality of service in respect of bail information as those brought to court.

Recommendation 7: No specific rules should be laid down for magistrates on when to grant an application for a defendant to appear in person. The court should consider each case on its merits and local guidance on factors to consider should be provided in training for magistrates and clerks. This should point out that applications may be particularly appropriate when there are concerns that a defendant may have difficulty in coping with the link because of physical or mental health problems.

Recommendation 8: The Home Office should provide guidance for courts on ordering reports and committing for sentence in relation to defendants appearing at video link hearings. The guidance should take account of the wishes of the defendant and the desirability of the defendant being present, either on the link or in person, when the decision is announced.

Recommendation 9: National guidance should be produced on certain aspects of video link hearings. This should cover, for example:

- *matters to be addressed by the clerk in the introductory remarks to the defendant at the start of the hearing*
- *procedure to be followed for telephone consultations between defence advocate and defendant during the hearing, including the need to mute the video link at both ends and for the dock officer to leave the video link courtroom*
- *bench pronouncements in relation to granting bail and allowing an application for an appearance in person at the next hearing*
- *at the end of a hearing, asking whether the defendant wishes to speak to his or her lawyer*
- *procedures for a video link hearing where the defendant requires an interpreter*
- *procedure to be followed in the case of a defendant who refuses to take part in a hearing over the link*
- *procedure in the event that a video link hearing is abandoned because of equipment failure or other reasons*
- *arrangements at the prison for defendants to receive medical attention following a hearing*
- *information for victims about video link hearings.*

The guidance should be supplemented with local practice and disseminated during training. Good practice for advocates representing clients over the video link should be included in the guidance currently being prepared by the Law Society. In particular, this should stress the

Video Link Pilot Evaluation

importance of speaking to defendants following the hearing to ensure they understand the decisions of the court.

Recommendation 10: Each area in which the video link is to be introduced should develop a training programme for participants. This should include both procedural matters and video link technique. The opportunity to practise on the link and to participate in mock hearings should be given to all trainees and to defence advocates. Measures should be taken to ensure that, wherever possible, only those with the necessary training are allowed to take part in video link hearings.

Recommendation 11: A study should be undertaken of the various options for extending the use of video links to other courts and prisons. The study should address not only the costs and savings associated with each option but also the process for referral of cases to video link courts, the implications for court caseload and the acceptability of the arrangements in light of the commitment of magistrates' courts to deliver local justice.

Chapter 1

Introduction

- 1.1 This is the report of an evaluation of the pilot use of video links for preliminary hearings in magistrates' courts. The pilots began in November 1998 and involved three magistrates' courts and four prisons. The evaluation was carried out by Joyce Plotnikoff and Richard Woolfson (The Partnership) on behalf of the Prison Service. The purpose of the evaluation was to examine whether video links provide an effective way of conducting preliminary hearings in a manner compatible with the interests of justice, and to quantify the costs and savings involved.

Video links and the justice system

- 1.2 The use of video links in the justice system in England and Wales is not new. As far back as 1992 a pilot project investigated a video link between Norwich prison and Great Yarmouth Magistrates' Court, although the link was not used for actual hearings. Some witness testimony is given by video link. The 1988 Criminal Justice Act contained provisions permitting overseas witnesses in murder and fraud trials and certain categories of young witnesses outside the courtroom to give evidence by video link and most Crown Court centres now have facilities to allow witnesses to give evidence in this way. There are also a number of examples of expert witnesses in civil trials giving their evidence over a video link with a consequent saving of the expert's time and of cost to the instructing party.
- 1.3 Video links have also been used for conferences with clients in custody. In 1993, a pilot project linked in this way lawyers at studios in London and Hampshire and remand prisoners at Dorchester, Shrewsbury and Canterbury prisons. In 1997, the Co-ordination of Computerisation in the Criminal Justice System Unit of the Home Office initiated the pilot use of videoconferencing links between Hereford and Worcester and West Midlands Probation Services and HMP Blakenhurst and HMP Featherstone.
- 1.4 The increasing use of video links reflects experience elsewhere. In the United States the National Law Journal reported in June 1997 that at least 29 states and many federal courts use videoconferencing for arraignments, bail hearings and other proceedings. Subject to appropriate safeguards, video technology in court is likely to become more prevalent in the future. *Speaking up for Justice*, the 1998 Home Office Report of the Interdepartmental Working Group on the Treatment of Vulnerable or Intimidated Witnesses in the Criminal Justice System, recommends the availability of video links in the magistrates' court as well as extending eligibility to a much wider group of witnesses than at present. In addition, Lord Hylton has proposed legislation which would allow testimony to be taken from witnesses overseas in 'sex tourism' prosecutions.

Background to the current pilots

- 1.5 Video links provide real-time, two-way transmission of video images and sound between two or more locations. Until this decade, the major stumbling block to the use of video links was the cost and inflexibility of the technology. Thus the report of a feasibility study carried out in 1990 by the Attorney-General's Department in Victoria, Australia concluded that although videoconferencing was suitable for use in certain

Video Link Pilot Evaluation

types of court proceedings, the savings and quantifiable benefits were insufficient to justify the costs involved. The problems stemmed from the fact that specialised equipment was needed to digitise the information coming from the camera.¹ Speed of transmission was also a crucial factor. The situation has changed recently because of technical advances in microelectronics and the availability of high-speed, high bandwidth ISDN² lines. These developments greatly increase the convenience and reduce the cost of video links.

- 1.6 The enabling legislation to allow preliminary hearings involving a defendant held in custody to take place over a video link is contained in Section 57 of the Crime and Disorder Act, 1998. Section 57(3) requires a magistrates' court that decides not to direct that a hearing should take place over the link (where the link is available) to give reasons for its decision. The government made clear during the debate on the Bill in Committee that the intention of this clause is to create a presumption that video links will be used. This presumption is an important element. Experience in a 1997 pilot of videoconference hearings before Queen's Bench Masters suggested that lawyers are likely to opt out of using the video link if permitted to do so.
- 1.7 For the purpose of evaluation, Section 57 has been implemented in seven pilot sites comprising three magistrates' courts, two adult male prisons, one female prison and one young offenders' institution. The legislation allows the link to be used for all preliminary hearings before the start of trial. However, the scope of the pilot was restricted to second and subsequent remand hearings in the magistrates' court, although an extension of the pilots to the Crown Court is under consideration. The defendant may, if he or she chooses, enter a plea over the video link but once a guilty plea has been accepted, the proceedings should be adjourned for the defendant to be present for sentence.³ In the case of a not guilty plea, the start of trial is defined as 'the swearing in of the jury or the beginning of the prosecution evidence in a summary trial'.⁴
- 1.8 The previous evaluation of video links between courts and prisons was unable to test the ability of the system to serve a number of courts in different locations, each wishing to hear cases at much the same time of day. Nor could it look at the feasibility of video link hearings in cases with multiple defendants held in custody in different prisons. The design of this pilot allows these matters to be investigated: Horfield prison and Eastwood Park female prison are linked to Bristol and Swindon Magistrates' Courts; Manchester prison and Hindley Young Offenders' Institution are linked to Manchester City Magistrates' Court.
- 1.9 As well as differences in size and throughput, the participating courts and prisons have certain other relevant characteristics. Manchester and Horfield both hold remand

¹ It is possible to transmit the analogue signal without digitisation, as with the closed circuit TV link sometimes used for child witnesses in the Crown Court, but this is less suitable for long distances as transmission requires a large amount of bandwidth that cannot be compressed.

² ISDN stands for Integrated Services Digital Networks.

³ In fact, there is no statutory requirement for the defendant to be present when a pre-sentence report is ordered to assist the bench in the sentencing process. The issues concerning the ordering of such a report over the link are discussed later in this report.

⁴ Hansard, 19 May 1998.

prisoners whose security status is up to and including category ‘A’.⁵ At Manchester City Magistrates’ Court video link hearings are conducted by both stipendiary and lay magistrates. Although a visiting stipendiary sometimes sits at Bristol, he has not presided at video link hearings during the pilot. However, he does preside when defendants are produced as overnight prisoners and remanded in custody for a video link hearing at the next appearance. Practice differs between pilot prisons as to whether information in relation to second bail applications is provided by the Probation Service or by bail information officers in the prison.

- 1.10 For the purposes of the pilot, equipment was procured from two suppliers with relevant experience: British Telecom provided all the ISDN lines as well as equipment and support for Manchester City Magistrates’ Court and Manchester and Hindley prisons. Telindus Networks provided equipment and support for the magistrates’ courts at Swindon and Bristol and for Horfield and Eastwood Park prisons.
- 1.11 The evaluation required a broad perspective that took account of interests of justice issues, equipment performance and support, the attitude of all categories of participant and the impact on the management of court business and on prison regimes. It looked also at the costs incurred by the Prison Service and the courts and whether these resulted in benefits and savings not only to those agencies but also to the system as a whole.

Objectives

- 1.12 The purpose of the evaluation is to investigate the cost-effectiveness of video links, to assess their impact on the quality of justice and to identify examples of good practice that might facilitate any subsequent roll-out of the technology to other levels of court and geographical areas. The key issues to be addressed during the pilot were identified in the Prison Service specification as follows:
 - the costs and benefits, including any disbenefits, of the pilot – not confined to prisons and courts, but looking across the criminal justice system
 - the attitudes of all those involved in using video links in this way, particularly legal representatives for the defence who have concerns about the rights of their client and fear that the reduction in personal contact, when clients no longer attend court, will harm their relationship
 - the effectiveness of the arrangements at pilot sites to enable confidential communication between legal representative and client during the hearing
 - whether changes in behaviour resulted from using video links, specifically whether changes in the granting of bail were recorded when applications were made over the link, including the impressions of the magistrates and their views of their ability to assess the defendant
 - the number and types of hearing where magistrates decided in favour of personal appearance by a defendant, and their reasons
 - the impact on the work of the Prison Escort Service and any implications for the renegotiation of the Escort Service contracts
 - the quality and effectiveness of the presentation for the court, the defendant, the legal representatives and others

⁵ Technically, an unconvicted prisoner’s security status is only provisional.

Video Link Pilot Evaluation

- the reliability and user-friendliness of the equipment
- recommendations about the scope and nature of any further implementation, including lessons learned by the local implementation groups during the pilots.

1.12 The methods employed in order to achieve these objectives included direct discussions with key agencies, attendance at working group meetings and group discussions in pilot areas, case recording forms for completion by court clerks, site visits and observation of proceedings and questionnaires for key participants.

Structure of the report

1.14 The evaluation methodology is described in Chapter 2. A description of the video link courtroom layout and the procedures followed at a hearing are set out in Chapter 3. Key issues that emerged during the evaluation are discussed in Chapter 4. Chapter 5 considers the costs and savings associated with the pilots and the implications for wider implementation of links. Chapter 6 draws together the evaluation findings which form the basis of recommendations relating to the introduction of video links on a wider scale. Appendix A lists the key features of the seven pilot sites and Appendix B presents an analysis of the data recorded at pre-pilot and pilot hearings.

Acknowledgements

1.15 The video link pilots evaluated in this report affected many agencies, organisations and individuals involved in the criminal justice system. The evaluation methodology depended critically on the co-operation of all these groups and the evaluators would like to express their appreciation of the assistance they received. Staff at the three magistrates' courts and four prisons were unfailingly helpful in responding to requests to complete data collection forms and distribute questionnaires. Dave Scanlon, Jonathan Salem, Mike Box and Paul Farrow, clerks to the justices at the pilot courts, were tolerant of our endless enquiries to which answers were always provided. Special thanks are due to Principal Officer Pat Langford at Manchester prison, Principal Officer Harry Dunn and Officer Ian Foulkes at Hindley YOI, Governor Eric Darrie, Senior Officer Les Reynolds and Officer Tom Rogers at Horfield prison and Officer Debbie Rook at Eastwood Park prison. At the Prison Escort and Custody Services, John Gundersen and Teg Davies provided invaluable assistance in evaluating the impact of the links. Lyn Wheeler at Prison Service headquarters was supportive throughout and in explaining the specific issues relating to category A prisoners. Representatives from the Crown Prosecution Service and the Probation Service attended working group meetings and responded to requests for information. At the system suppliers, Rhona Beaumont and Kevin Morgan of BT and Richard Steele and John Scott of Telindus, together with many of their colleagues responded to our many questions about the systems in language even we could understand. David Mellors of Tandberg kindly lent the project a videophone for the duration of the evaluation. Thanks are due to magistrates, justices' clerks, prosecutors, defence solicitors and prisoners officers who attended meetings, provided time to be interviewed and completed questionnaires. We are especially grateful to nearly 100 defendants who completed questionnaires and participated in interviews. Their responses form a crucial part of our evaluation. The agencies and individuals listed at paragraphs 2.2.2 and 2.2.3 provided comments at the start of the project which were helpful in designing data collection forms and questionnaires. Our thanks go to them also. As a member of the evaluation team, Elaine Morrison made many visits to pilot

sites and the report draws heavily on her observations and discussions. Finally, our heartfelt thanks go to Mary Wilkinson, the Prison Service Project Manager for the pilots, whom we have pestered endlessly with requests for information and assistance. She has responded to all our demands with speed and unfailing good humour.

Chapter 2 Methodology

Pre-pilot baseline data

2.1 In September 1998, prior to the start of the pilot, a short data collection exercise was undertaken in each of the three pilot courts. Its purpose was to provide a baseline against which to compare data collected during the pilot. Information was collected at all hearings that would have been eligible to be held over a video link had they taken place during the pilot; in other words, at all hearings where the defendant was produced from prison custody (not as an overnight prisoner) for a pre-trial hearing. The information collected at such hearings included:

- the length of the hearing
- the type of bench that presided
- the age and gender of the defendant
- whether the defendant was legally represented
- the number and remand status of any co-defendants
- whether there was an application for bail and the result of such an application.

Requests for comments and discussion meetings

2.2 In order to inform the design of data collection instruments and interview schedules to be used during the evaluation, a letter explaining the background to the project and inviting comments was sent to around 20 organisations and individuals both inside and outside government. Comments were received by phone or in writing from:

- The Home Office Procedures and Victims Unit
- The Central Council of Magistrates' Courts Committees
- The Association of Stipendiary Magistrates for England and Wales
- The Association of Magisterial Officers
- His Honour Judge Shaun Lyons, Wood Green Crown Court
- The Chief Metropolitan Magistrate
- The Prisons Board
- Liberty
- The Prison Reform Trust
- The Legal Action Group.

2.3 Some of those approached requested a face-to-face meeting or our attendance at a meeting of a committee with a direct interest in the pilots. Such meetings were held with representatives of:

- The Legal Aid Board
- The Law Society
- The General Council of the Bar
- The Court Service
- The Judicial Studies Board

- The Justices' Clerks' Society.

2.4 Discussions were also held with:

- Prison Escort and Custody Services (PECS)
- Telindus Networks, suppliers of video link equipment to the Swindon and Bristol pilot sites
- British Telecom, suppliers of ISDN lines to all sites and of video link equipment to the Manchester pilot sites.

2.5 The evaluators attended a number of working group meetings at the pilot courts and were present at open evenings and mock video link hearings held at each of the three pilot courts. During these visits, there was an opportunity to speak to magistrates, prosecutors, defence lawyers, court staff, prison officers, the Chairperson of the Magistrates' Association and others with an interest in the pilots. More formal meetings were arranged with representatives of the Crown Prosecution Service and local defence solicitors at each pilot site. The evaluators also discussed the project with various Prison Service staff and attended a meeting of the Prison Service's Project Board for the pilots.

Data collection at pilot sites

2.6 There were three main phases of direct data collection during the course of the pilot. These comprised:

- recording of details of relevant hearings by court clerks during a two-week period shortly after the start of the pilot
- distribution of questionnaires to each group of participants involved in video link hearings
- a further two-week period of case data recording by clerks once the pilot had been underway for over two months.

2.7 Separate questionnaires were developed for:

- defendants
- prison officers
- magistrates
- justices' clerks
- prosecutors
- defence lawyers.

2.8 Questionnaire design drew on information provided by those consulted at the beginning of the evaluation and on results of similar pilot schemes conducted in other countries.¹ The questionnaires were extensively piloted during December 1998 and the final versions distributed at video link hearings during January and February 1999. It is perhaps inevitable in exercises of this kind that questionnaires probe more deeply for descriptions of areas of concern than satisfactory aspects. The questionnaires therefore provided

¹ For example, an Evaluation of the Inter-ministerial Videoconferencing Pilot Project between the Ottawa Courthouse and Ottawa-Carleton Detention Centre, May 1996.

Video Link Pilot Evaluation

detailed descriptions of problems even where these only reflected the views and experience of a minority of respondents. Justices' clerks handed out the questionnaires for courtroom participants at each video link session while defendants received their questionnaires from prison officers who also completed their own questionnaire.

- 2.9 All questionnaires were confidential and returnable to a FREEPOST address. The numbers of responses received are shown in Table Chapter 2 .1. Participants in all categories may have completed a questionnaire on more than one occasion, hence the number of respondents may be fewer than the number of returned questionnaires. As questionnaires were anonymous to ensure confidentiality, it is not possible to say how many participants responded. The 33 defence lawyers who completed questionnaires represented a total of 40 defendants over the link on the days to which their responses refer.

Table Chapter 2 .1: Number of responses from each category of participant

Role of interviewee	Number of responses
Magistrates	51
Justices' clerks	26
Prosecutors	28
Defence lawyers	33
Defendants	95
Prison officers	36
Total	269

- 2.10 The evaluators visited pilot courts and prisons to observe proceedings and interview participants. Further interviews with defendants at video link hearings and prison officers were held using a videophone lent to the evaluators for this purpose. A discussion was also held with a Bristol magistrate who is on the Board of Visitors at Horfield prison. During the pilots, this magistrate had observed many video link hearings at the prison and had spoken to defendants before and after they appeared on the link. Her observations are referred to in chapter 4.
- 2.11 In order to let members of the public and other participants who did not receive a questionnaire provide comments on the use of the video link, posters were prepared and displayed prominently at each pilot court and in the holding areas at the prisons. In the event, these posters produced only one response (from a prisoner).
- 2.12 To provide a record of equipment performance and reliability, each pilot site was asked to maintain a log of all faults including the nature of the problem and the speed and effectiveness of remedial action taken by the support contractor.

Data on costs

- 2.13 The evaluators were tasked with assessing the impact on cost of the use of video links. Central to the calculations was the impact on escorting costs. This affects both the

work of the escorting firms which are responsible for transporting all but category A prisoners between the prison and the courts and the Prison Service which retains responsibility for transporting category A prisoners. Although the evaluators had data on the number of defendants appearing over the video link and hence on the number of saved journeys between courts and prisons, the conversion of this into cost savings was complex for reasons discussed in Chapter 5. It was therefore not possible within the scope of the evaluation to estimate the potential savings in escorting costs that would arise if video links were introduced on a wider scale.

- 2.14 Prior to the start of the pilots, there was concern that use of video links might affect the frequency of legal visits to remand prisoners by their legal representatives. An increase in the number of visits would impact legal aid bills while a decrease might raise quality of justice concerns. Discussions with the Legal Aid Board (LAB) revealed that it would not be possible to measure any change in prison visiting by legal firms by looking at legal aid bills. This was because such visits were not separately identified on bills and, in any case, firms often did not submit their bills for many months after completion of the case. Instead, the evaluators had to rely on figures kept by the prisons in the pilot on the number of legal visits to prisoners, although this data also suffered from various defects which are discussed in Chapter 4.
- 2.15 Figures on the capital cost of building work and equipment relating to the pilot were supplied by the Prison Service who funded the entire costs. The Management Consultancy Service within the Prison Service conducted a review of the staffing costs attributable to video links at Manchester and Horfield prisons. PECS provided figures for the numbers of escapes of prisoners from court escorts and the timeliness with which prisoners are produced at court.

Chapter 3 The video link

- 3.1 At first sight, the video link courtroom in the magistrates' court building looks much like any other. The magistrates (or magistrate) are seated at the bench, the clerk is in front of them and the prosecution and defence lawyers sit facing the bench. At the back of the court there are seats for members of the public. Depending on the room chosen, there may also be a dock and separate seating for those attending court in a professional capacity such as probation officers.
- 3.2 Closer inspection reveals some additional features. Television monitors give the magistrates, clerk and members of the public a view of a room in the prison in which the defendant is held in custody. A small courtroom camera is controlled from a panel on the clerk's desk. The panel has controls for adjusting where the camera points. At two pilot courts, the controls have been programmed so that at the touch of a switch, the clerk can move the camera to pre-set positions which bring the bench, clerk or lawyers into picture. The clerk uses this feature to point the camera at whoever is speaking. Participants remain seated throughout the hearing to ensure they remain in shot. The third pilot court is Swindon which has the largest of the video courtrooms. The camera is positioned so that it can capture the bench, clerk and advocates in a single view and so the camera position remains fixed throughout the hearing. The monitors in all three courts use 'picture-in-picture' technology: this shows the picture from the courtroom camera in a small box overlaid on the main view of the prison (some courts do not use this facility on the monitor viewed by members of the public). The clerk has a fax machine for sending to the prison warrants, bail notices and other documents such as defence papers or legal aid forms.
- 3.3 When a defendant appears in person, the lawyer can, with the court's permission, approach the dock to take instructions during the hearing. In order to allow such consultations to take place during a video link hearing, a telephone is provided either in the courtroom or just outside. An acoustic hood or other device should be provided to prevent such conversations from being overheard.
- 3.4 Manchester and Horfield prisons have two video courtrooms, one of which is located in the category A wing. The other two pilot prisons have a single courtroom. During a hearing, the defendant sits in front of a single monitor showing the picture transmitted by the camera in the courtroom at the court. There is a camera pointed at the defendant who remains seated throughout and can see himself or herself on the monitor using picture-in-picture. In the prison courtroom, but usually out of shot, is a prison officer playing an analogous role to the dock officer who accompanies defendants produced at court. There is a telephone in the prison courtroom to allow consultation between defendant and client during the hearing. There is also a fax machine either in the prison courtroom or immediately outside within the view of the defendant.
- 3.5 Before the hearing, the defendant is shown a short video that explains how the hearing will be conducted. A prison officer also explains the procedure and answers any questions the defendant may have. When the hearing begins, the clerk checks that

everyone can see and hear what is happening over the link, verifies the identity of the defendant and introduces the courtroom participants. The clerk explains that the use of the video link does not detract from the seriousness of the matter and that the defendant is subject to the rules of the court in the usual way. During the course of the pilots, it became clear that clerks should include in their introductory remarks instructions to defendants on how to attract the court's attention if they need to speak to their lawyer during the course of the hearing. When this happens and if the court agrees to the request, the link should be muted at both ends, the officer should leave the courtroom at the prison and the lawyer should speak to his client over the confidential telephone. Apart from this, the hearing should proceed in the same way as when the defendant is produced at court.

- 3.6 At the end of the hearing, the clerk faxes to the prison either a bail notice or the authority for the prison to hold the defendant in custody until the next hearing.
- 3.7 In addition to the video courtroom, both the prison and the magistrates' court have booths containing equipment to enable lawyers to hold a videoconference with their clients before and after the hearing. Lawyers should book an appointment for such a videoconference with the prison at least 24 hours in advance to ensure that booths will be available. Guarantees of confidentiality from the Prison Service, the court and the system suppliers are displayed in the booth.

Chapter 4 Key issues

Equipment performance and reliability

- 4.1 In general, the video link equipment both in the courtroom and the consultation booths performed reliably throughout the pilot. At the time of writing this report, no hearing had been abandoned because of equipment failure although some had been delayed and others had suffered from a degradation in the quality of picture and sound.
- 4.2 All seven pilot sites were asked to maintain a log of equipment problems encountered during the pilot. The number of faults reported at each site during the first three and a half months of the pilot is shown at Table Chapter 4 .1.

Table Chapter 4 .1: Number of equipment and line faults logged at each site

Pilot site	Number of faults
Bristol Magistrates' Court	13
Swindon Magistrates' Court	5
Manchester City Magistrates' Court	4
HMP Horfield	12
HMP Eastwood Park	0
HMP Manchester	7
HMP / YOI Hindley	0
Total	41

- 4.3 The majority of the faults related to the ISDN lines rather than the equipment itself. Many of the line faults were fixed by simply switching equipment off and on during the testing process carried out at least an hour before the start of hearings. Where equipment was at fault it was quickly replaced. All serious problems were remedied on the day they occurred. Problems with links to booths were coped with either by using other booths or by using the link to the courtroom for a lawyer/client consultation. One hearing at Swindon was interrupted by a fault but this was mended within ten minutes and the hearing then continued. A line failure from the courtroom at Horfield prison resulted in the defendants being taken to the high risk area and using that equipment instead. On another occasion, one of the three ISDN2 lines to Swindon court went down but the hearing continued using the remaining lines which provided reduced but adequate audio and visual quality.
- 4.4 Participants at the magistrates' court end of the link were asked their impressions of the equipment reliability (Figure Chapter 4 .1). Those who complained about lack of

reliability were often more concerned about picture and sound quality than equipment failure. Three questions were asked about these aspects of equipment performance (Figure Chapter 4 .2, 4.3 and 4.4). The vast majority of all groups described equipment performance as acceptable or excellent. Defence lawyers were most critical of performance although their criticisms related more often to the quality of the link in consultation booths, which uses fewer ISDN lines than that in the courtroom.

Figure Chapter 4.1: Proportion of respondents who said the system worked reliably throughout the session

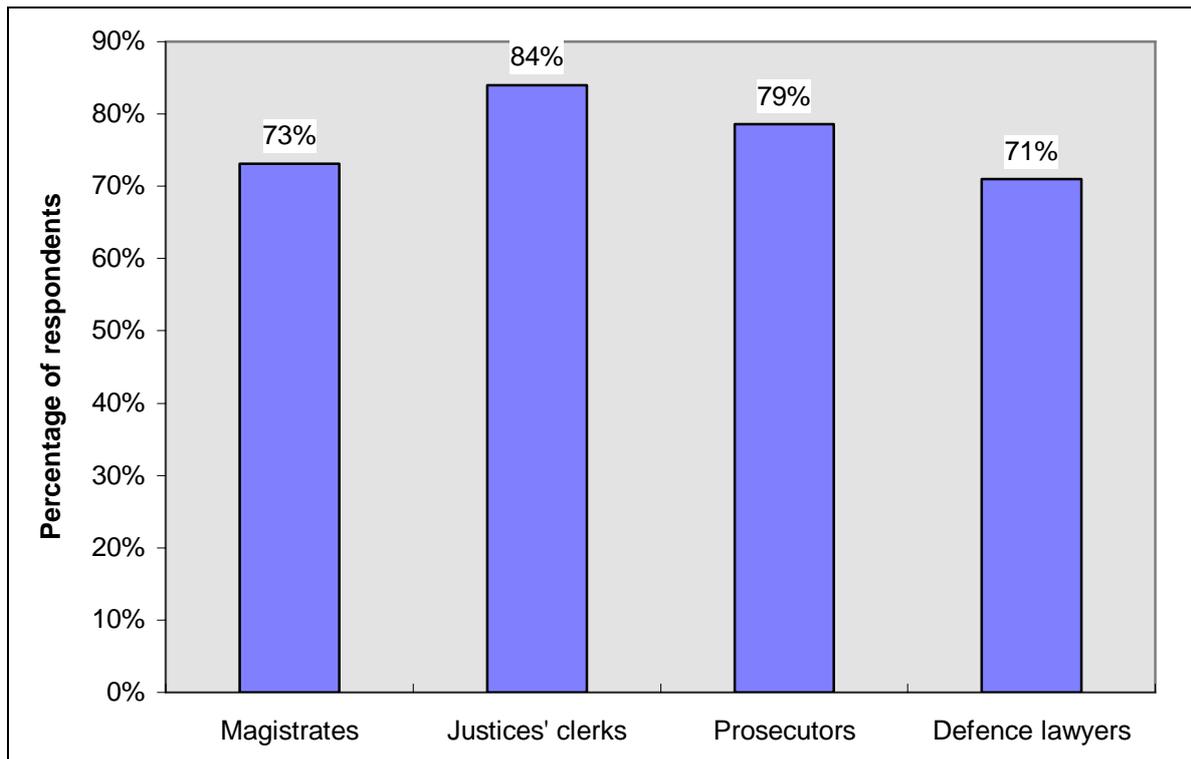


Figure Chapter 4.2: Participants' assessment of video link sound quality

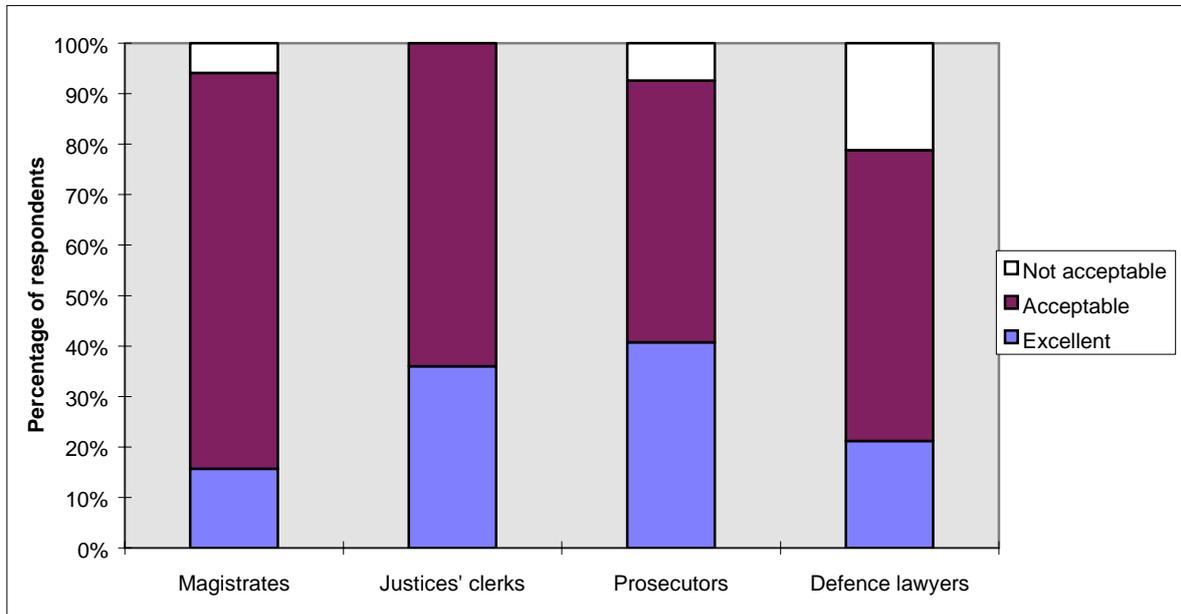


Figure Chapter 4.3: Participants' assessment of video link picture quality

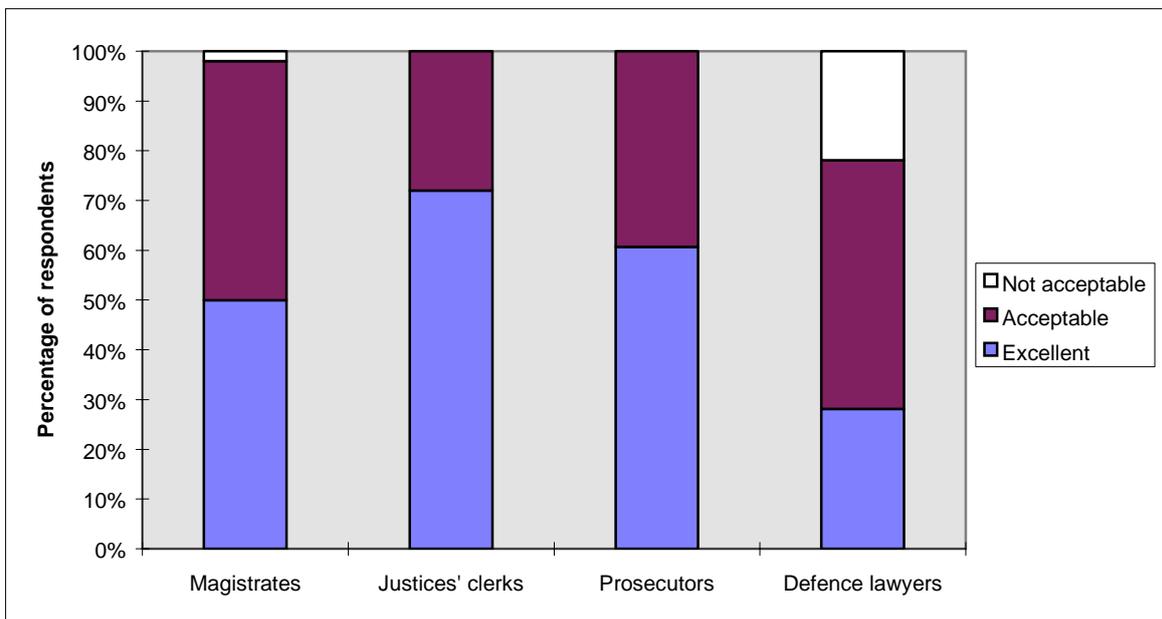
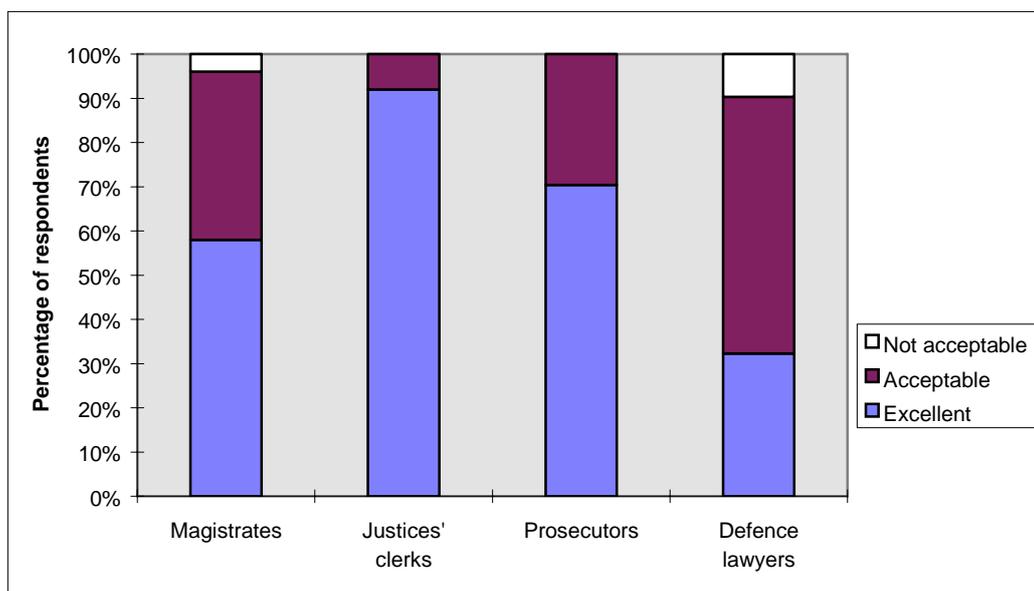


Figure Chapter 4.4: Participants' assessment of visibility of screen from their position in court



4.5 Defendants and prison officers were asked about picture and sound quality at the prison end of the video link. Among defendants, 97 per cent said they could both hear everything that was said in court and see the court clearly on their monitor. One complained that he could not see everyone in court and another said his view of the courtroom was obscured. All questionnaires from prison officers said they could see and hear the court clearly with the exception of one officer at Horfield prison who complained of poor sound quality due to vibration from passing traffic on the link with Bristol Magistrates' Court. He also said that the sound quality on the link with Swindon was much better by comparison. The sound problems on the link to Bristol were confirmed by fellow officers and by the evaluators' own observations during a visit to Horfield.

4.6 Despite the fact that most participants found the quality of picture and sound adequate, the evaluators noted some minor problems during their visits to sites. These included:

- degraded picture quality when the system is first switched on followed by improvement in quality as it warms up
- a noticeable time lag between sound and picture on the link between Manchester City Magistrates' Court and Manchester prison during the early part of the pilot
- some problems in the early stages of the pilot with the quality of the sound on the link between Hindley prison and Manchester City Magistrates' Court
- a time lag and sound quality problem when using the consultation booth at Swindon Magistrates' Court
- sound problems with the link to Bristol Magistrates' Court due to traffic noise at the court end (referred to in paragraph 4.4.5).

Video Link Pilot Evaluation

- 4.7 Equipment problems were discussed at working group meetings in each of the pilot areas. The equipment suppliers responded to the complaints in various ways including replacing and upgrading of equipment, repositioning of microphones and alterations to lighting. Most of the problems were either eliminated or brought within acceptable bounds. Clearly, each video link site presents a unique set of conditions and it is likely with any new installations that fine-tuning of equipment will be needed in order to optimise performance. Nevertheless, the pilot experience suggests that sound quality will be improved if the video link suite is sited in a quiet part of the court or prison.
- 4.8 All video link equipment used in the pilot conformed to international standards which ensured a basic level of compatibility. However, experience in the pilot confirms technical advice that the best quality of link is likely to be obtained when using identical equipment at both ends of the link.

Client contact and video link consultations

- 4.9 Lawyers who completed a questionnaire had spoken to 27 of the 40 defendants they represented over a video link before the hearing began. A videoconference was held with one other client on a day prior to that of the hearing. Of the 12 defendants who did not have a videoconference, 11 had either been visited in prison before the day of the hearing or spoken to on the telephone on the day before the hearing began (or both). The remaining defendant had had no contact of any kind with his lawyer, nor had the lawyer representing him at the video link hearing acted for him at previous hearings. Their first contact appears to have been when they spoke over the confidential telephone line during the hearing. Expressing his dissatisfaction with such telephone conversations, the lawyer said “there was no spontaneity and my client appeared inhibited”.
- 4.10 During the pilots, a number of lawyers talked to the evaluators about the unsuitability of video link consultations for the discussion of sensitive matters such as allegations of a sexual nature or cases involving police taped or video evidence or large volumes of documentation. During observation at a hearing in Manchester involving a young offender accused of taking a vehicle without the owner’s consent and driving while disqualified, his solicitor applied for the defendant to be produced in court for the next hearing:

“I expect to want to ask my client questions about the police taped transcripts of interview and it’s difficult enough over the phone let alone a television screen”.

The clerk at this point intervened to remind the magistrate that the link should be used except in exceptional circumstances. The solicitor then continued:

“Well if the matter is to be adjourned for three weeks to await the police transcripts, I will be on holiday and a colleague would not have the time to visit the prison to take instructions within that time”.

The application was granted.

- 4.11 Defendants were asked about contact with their legal representatives: 66 out of 95 (69 per cent) had taken part in a videoconference on the day of the hearing. Of the remainder, 19 (20 per cent) had either spoken to their lawyer on the telephone or been visited in prison by a legal representative. Ten defendants (11 per cent) said they had had no contact with their lawyer since going to prison. Only one defendant complained specifically about lack of contact with his lawyer. This person had participated in a videoconference but had not received a visit in person at the prison.
- 4.12 A Bristol magistrate on the Board of visitors at Horfield prison had spoken to many defendants who had appeared over the link. One complained that at a video consultation, his lawyer had told him “I will not discuss your case with you over the video link, only at a face-to-face meeting”. However, on a separate occasion she had spoken to 12 defendants and 11 had said they preferred video consultations to speaking to their lawyer at court. They felt that in the cells at court, lawyers were often distracted by what was happening around them. At a videoconference, defendants had their lawyers’ undivided attention.
- 4.13 Fifteen out of 33 lawyers (45 per cent) took instructions from at least one client over the telephone in the course of the hearing.¹ Their concerns about the confidentiality of such conversations are discussed in paragraph 4.4.22. Thirty-one out of 95 defendants (33 per cent) spoke to their lawyers over the telephone during the hearing including three of the ten who had not been in contact beforehand.
- 4.14 Post-court consultations between lawyer and client serve an important role. Many defendants do not understand court procedure and find it hard to follow proceedings. Solicitors have a duty to explain to their clients the decisions the court has reached. The solicitors who returned questionnaires reported holding five video consultations and seven telephone conversations with clients following video link hearings. This means that 28 of their 40 clients (70 per cent) had no post-court conversation with their lawyer. Out of 95 defendants, 36 (38 per cent) had spoken to their lawyer after the hearing.

Confidentiality

- 4.15 Among the concerns expressed by lawyers in relation to video link hearings, the most common and widely expressed related to the confidentiality of client consultations. The concerns related both to the use of consultation booths for a video link conference before or after the court hearing and to telephone conversations between lawyer and client for the purpose of taking instructions during a video link hearing.
- 4.16 Perhaps the most controversy surrounded the use of the video link booth designated VL1 at Bristol Magistrates’ Court. Lawyers had expressed concern that at least one booth should be located close to the video courtroom. In response, VL1 was sited next to the courtroom but this placed it in a busy public area and the sound characteristics meant that conversations in the booth were audible to those standing outside. Attempts to introduce soundproofing seemed to aggravate rather than solve the problem. An alternative approach using headsets was tried but this was not popular

¹ At video link hearings, these telephone conversations replace the short exchanges between defendant and lawyer that take place across the dock in the courtroom.

Video Link Pilot Evaluation

with lawyers and raised health and safety issues related to the potentially large number of headset users. The problems with VL1 also raised lawyers' concerns that the prison end of the conversation could be overheard by prison officers.

4.17 Towards the end of the pilot, VL1 was redesignated as suitable for brief consultations only with no guarantee of confidentiality. Lawyers requiring an assurance of confidentiality use one of the other two consultation booths instead. The change was accompanied by some switching of equipment in order that one of the consultation booth links used the same equipment at both ends.

4.18 In order to allay concerns that consultations between client and lawyer would be monitored, the Director of Security in the Prison Service signed the following undertaking which was displayed inside consultation booths:

“I am writing to clarify the status of communication between advocates at court and defendants in custody in relation to the above projects, which takes place either:

using ISDN lines and videoconferencing equipment *before* or *after* a court hearing; or,

using a phone link from court to the prison *during* a hearing.

I confirm that no recording or monitoring of either form of communication is undertaken by the prison establishments.”

4.19 Similar undertakings signed by the clerks to the justices at each pilot court were also displayed along with a confirmation from the system suppliers that no monitoring or recording devices were attached to the equipment in the booths or on the ISDN and telephone lines.

4.20 Despite these assurances and invitations to lawyers to inspect prison facilities, they continued to express concerns about confidentiality. Eighteen lawyers, 16 from Bristol and two from Manchester, said they were not satisfied with the confidentiality of video consultations. The concerns of the Bristol lawyers related predominantly to the problems with VL1 described above but some remained sceptical about the undertaking from prison governors:

“The prison has not given satisfactory assurances as to confidentiality.”

“I believe there is no such thing as a confidential phone call to or from the prison.”

“I am concerned about officers listening outside the booth at Horfield.”

“I am concerned about confidentiality at the prison as my voice appeared to be quite loud there.”

“Often prison officers are aware that the interview has ended before the defendant attempts to leave the room – how?”

4.21 One Manchester lawyer shared these concerns:

“I believe this is a fatal flaw! I’m naturally suspicious on this issue. Taped conversations have been a much used tool in prosecutions.”

4.22 Of the 31 defendants who spoke to their lawyer over the telephone during the hearing, ten (32 per cent) said a prison officer could overhear the conversation.² Five of the ten were at Manchester prison, three at Hindley, and one each at Eastwood Park and Horfield. Ten lawyers from Bristol and five from Manchester were worried about the confidentiality of such telephone conversations. The Bristol concerns arose because the telephone provided for lawyers to take instructions during a video link hearing was located in an alcove in the courtroom and could be overheard. An acoustic hood was fitted over the telephone but did not cure the problem. The court is now planning to fit a door to isolate the telephone area from the rest of the court. In Manchester, the telephone was located in a corridor outside the courtroom and again the concerns related to conversations being overheard. To allay such fears, the court has blocked off public access to the part of the corridor where the phone is located.

4.23 In all, 22 lawyers (67 per cent) had concerns about the confidentiality of video consultations, telephone conversations or both. Six of these (and four others with no concerns about links or telephone calls) also felt that legal consultations during prison visits were monitored using covert listening devices.

Court listing

4.24 Use of video links does not change the overall number of hearings which a court must list, apart from an occasional special hearing for an application that a defendant should appear in person. Nevertheless, pilot courts differed as to the ease with which they were able to accommodate video link hearings. Manchester, the largest magistrates’ court in the pilot, seemed able to cope with the new hearings with the least disruption to its business. Rather than run an extra court, the video link hearings replaced a trial court whose work was absorbed into the list of other courtrooms. This avoided the need for extra prosecutors, magistrates and court staff. The ease with which video link hearings were accommodated is certainly related to Manchester’s size which ensured a continuous supply of video link hearings and a large number of courtrooms over which to spread the work of the cancelled trial court. The length of the video link list was due, in part, to Manchester being the only pilot court linked to both an adult prison and a young offenders’ institution.

4.25 Bristol, the second largest of the three pilot courts, decided to run the video link hearings as an addition to its existing list. This should have required additional court resources as well as the co-operation of the Crown Prosecution Service in providing an extra prosecutor. As it happened, the pilot coincided with the closing of an existing courtroom for repairs so no extra staff will be needed until this re-opens. Video link

² Although voices are lowered when a lawyer takes instructions across the dock in the courtroom, the dock officer and others in court can often overhear what is said.

Video Link Pilot Evaluation

hearings relieved some of the pressure on the four custody courts at Bristol whose lists were lightened by around 24 hearings a week. However, court staff in these courts reported little noticeable impact on their workload.

- 4.26 Video link hearings had the greatest impact on the work of Swindon, the smallest pilot court, even though no extra courts were run to accommodate video link hearings. The initial intention was to run an additional court but the CPS were not able to provide the extra prosecutor that would have been needed and so this plan was abandoned. Swindon was the only pilot court to use an existing custody courtroom as a video link court. This meant that any other type of case, including those where the defendant appeared in person from custody, could be heard if the video link list was short or delayed. However, listing adjustments had to be made in order to hold video link hearings. Listing of all-day trials on a Thursday was cancelled with consequent increased waiting times for such trials. The underlying problem is again related to Swindon's size. Although no extra courts were run, the supply of work for the video link court was limited and hence its level of utilisation was low, even taking account of its ability to hear other types of case. The need to ensure that the video link courtroom was available, however short its list, precluded the court from assigning all day trials to it. As a result, the court could not list as effectively as previously. In the view of the clerk of the court, the problem would be eased if video link hearings could also be held with Reading YOI as this would increase the utilisation level of the video link court.
- 4.27 Experience in the pilot suggests that large court centres will be able to absorb video link hearings into their listing strategy with the least difficulty. For smaller courts, video link hearings are an additional constraint on listing that could have a detrimental effect on waiting times for other types of cases. The problems may be alleviated if video links are established with all prisons serving the court at the same time. The implications of this for planning the wider implementation of video links are discussed in Chapter 5.

Courtroom security

- 4.28 Prior to the start of the pilots, some concern was expressed by prosecutors at Manchester and Bristol about their personal safety. They felt that because the video link courtrooms at these courts were small (Manchester's video link courtroom measures about 4 metres by 6 metres and the one at Bristol is about twice this size), a prosecutor might be vulnerable to intimidation or attack from members of the public seated in the courtroom. In practice, there have been no such incidents at any pilot court and very few hearings have been attended by members of the public.
- 4.29 Nevertheless, the possibility of problems cannot be ruled out. One Manchester solicitor wrote in a letter to the CPS:

“The courtroom at Manchester is very small. When, as was the case in a rape bail application which I did, both supporters of the defendant and family of the victim came into the courtroom there was a feeling of tension which perhaps might not have assisted a bail application.”

- 4.30 Although there may be attractions, particularly in larger court centres, in siting the video link in a small room, the potential difficulties when family of both victim and defendant wish to attend court should not be overlooked.

Accommodating the timetabling needs of courts and prisons

- 4.31 Before the start of the pilots, there was much concern about accommodating court business hours within the constraints of the prison regime. Magistrates' courts normally begin sitting at 10:00 a.m., rise for lunch at 1:00 p.m. and sit again from 2:00 p.m. until all matters have been dealt with. Because of set mealtimes, prisons are more suited to an earlier start and finish time. There are also administrative problems in releasing defendants who are granted bail late in the afternoon. In practice, agreement on start and finish times was reached in all pilot areas through discussion at working group meetings. At the request of Manchester prison, Manchester City Magistrates' Court agreed to begin hearings at 9:30 a.m. instead of 10:00 a.m. and to finish the morning session at 12:30 p.m., although in practice sessions often continue till 1:00 p.m. or even later. So far, it has not been necessary at Manchester to run the video link court in the afternoon. The other prisons found it possible to accommodate hearings within the normal court working hours, although the Horfield list often runs into the afternoon session. All prisons in the pilot were able to offer legal consultations over the video link outside court sitting hours. A sharp rise in the number of video link hearings could pose problems for prisons but the experience of the pilot suggests that there can be flexibility on both sides provided the issues are discussed fully and openly.
- 4.32 Prisons encountered problems when courts departed from the previously agreed running order on the day. Discussions at working group meetings confirmed that this happened at all pilot courts although the problem was most acute at Bristol (see paragraph 4.4.8). Changing the order of hearings on the day is standard practice in courts as they try to make best use of the time available. A switch may become necessary for a number of reasons: a legal representative might be held up in another courtroom by a hearing that takes longer than expected; there may not have been adequate opportunity for a client consultation prior to the scheduled start time; and discussions may be underway with the CPS in relation to plea or some other aspect of the case. Although changing the running order causes few problems for courts, it can pose difficulties for prisons in the case of video link hearings. Prisoners are brought to the holding area near the video courtroom in groups and a switch in order can result in additional escorting to and from the cells if the defendant is not already in the holding area. This can cause discontent among prisoners and potential control problems: on one occasion at Horfield prison observed by the evaluators, prisoners who had been brought to the waiting area early saw others brought later being dealt with first and then returned to the wing. The inmate who had originally been second on the list had a video consultation with his lawyer at 9:55 a.m. but his hearing was not called until after midday. His case finished at 12:40 p.m. when he was granted bail but due to the lunch lock down, he was not moved back to the wing for his release to be processed until 1:30 p.m.
- 4.33 Such incidents cause resentment among prisoners and can negate the main benefit of video links from the defendant's perspective, namely a reduction in the disruption to routine caused by attending court. Courts and advocates require some flexibility in

Video Link Pilot Evaluation

running order to maintain efficiency but it is important that they appreciate the difficulties this can cause prisons in the case of video link hearings. The problems at Bristol underline the need for early discussions between prisons, courts and defence solicitors on how such situations will be dealt with. It is important, for instance, that any changes in the running order are communicated to the prison at the earliest opportunity so that prisoners are not left in holding areas for hours on end.

Booking video consultations

4.34 The need to alter the running order on the day can be attributed in part to the failure of solicitors to pre-book slots for video consultations with clients. The system at all sites was intended to work along the following lines:

- a list indicating running order is posted in the court and sent to prisons at least 48 hours before the hearing
- advocates telephone the prison at least 24 hours in advance to book a consultation slot of 15 minutes with their client on the day of the hearing (or a previous day). If a longer consultation is needed, consecutive slots can be booked
- the prison informs the court of times at which slots have been booked
- on the day of the hearing, the consultation takes place at the pre-arranged time followed by the hearing.

4.7 In each pilot court, strenuous efforts were made to inform the legal community of these procedures. Explanatory leaflets were prepared and distributed and advocates were invited to meetings at which the procedures were discussed. Advocates were also handed a note describing the booking arrangements in court when the bench ruled that the next hearing would be over the video link.

4.8 Despite these efforts, some lawyers did not book consultations in advance. The problems were most acute in Bristol, the pilot court where the legal community expressed the most concern about the use of video links in general. Even towards the end of the evaluation period, few Bristol lawyers were using the appointments system. For instance, during February 1999 only 17 out of 89 video consultations were pre-booked. Horfield prison was able to accommodate all requests made on the day for a video consultation but said that doing so was disruptive and gave rise to delays in the start of hearings. This was confirmed by a Bristol magistrate who complained of long delays at the start of hearings due to solicitors taking instructions at the last minute. One of his colleagues agreed, complaining that he had spent longer in the retiring room than in court because of solicitors needing to speak to their clients.

4.9 At a meeting in February 1999 to discuss the problems at Bristol, one lawyer claimed that it was not practical for advocates to book slots in advance:

“It is extremely difficult for advocates to know where they will be 48 hours in advance of a court hearing. They might be at police stations, other courts or out of the county. There are also ten other courtrooms at Bristol Magistrates’ Courts where they could be called, the majority of cases being listed at 10:00 a.m. It is impossible to indicate a slot. The prison should be

more flexible and be able to pull from the pool of prisoners' cases as the advocates are ready.”

4.38 A similar point was made by one Manchester lawyer:

“The system does not and cannot take account of other hearings either at Manchester or other magistrates' courts. What happens if a case elsewhere overruns? What about overnight bail applications elsewhere? It is impossible to plan one's court list.”

4.39 Some Bristol lawyers who had booked a slot found that their client was not available at the pre-arranged time:

“I booked the video link for 9:35 a.m. I arrived at court at 9:20 a.m. and was told that my slot had been cancelled by the prison as the case was listed in the afternoon. It took 1½ hours to bring my client to the booth from the cells.”

“My client was not brought out of his cell for some time which delayed the taking of instructions”.

“My appointment at 9:15 a.m. did not take place until 9:30 a.m.”

4.40 Swindon, on the other hand, experienced few problems. This may have been because it had many fewer video link hearings than Bristol, but it may also relate to certain differences in practice. The running order for video link hearings at Swindon was divided into half-hour slots with each case given a specific time. In contrast, Bristol listed four cases in order for each hour that the court was sitting. The clerk at Swindon assigned a consultation slot when listing a video link hearing. This practice was not used at Bristol. Swindon also gave priority to the video link court over its other courts in adhering to the pre-arranged order. This practice was not adopted in Bristol because of the disruption it could cause.

4.41 Manchester also experienced fewer problems than Bristol with booking consultations despite dealing with similar numbers of hearings. Only one of the Manchester lawyers who completed a questionnaire had experienced problems with booking slots. He said he “forgot [to book] through pressure of work, given that bookings cannot be made until the day or two before”. Like Swindon, Manchester allotted hearings a specific time on the day with 10, 20 or 30 minutes being allocated to each hearing according to the matters to be dealt with. In general, the pre-arranged running order was more likely to be followed than at Bristol. This may have been partly due to the use of a stipendiary magistrate for many video link hearings which seemed to inspire better lawyer punctuality than a lay bench.

4.42 As with many aspects of the evaluation, the pilot experience in relation to booking slots underlines the need for discussions to take place with the local legal community at the earliest opportunity. Arrangements must take account both of the need of prisons for predictability in running order and of the problems of lawyers whose presence is sometimes needed in several places at once. The setting of individual

Video Link Pilot Evaluation

hearing times seems to be more effective than simply specifying a start time and a running order. Once ground rules have been agreed, the bench can help ensure they are adhered to by adopting a robust attitude to requests to change the running order.

Applications for defendants to appear in person

- 4.43 Applications for an appearance in person at the next hearing were made at 43 out of 105 initial remand hearings (41 per cent) at which data were collected. At video link hearings, there were applications at 17 out of 106 hearings (16 per cent) where the defendant was remanded in custody for a further preliminary hearing. Magistrates granted the vast majority of such applications (see paragraphs B.B.10 and B.B.17). The reasons given by benches for granting applications are set out in paragraph B.B.13 and in Tables B.3 and B.4. Many applications were granted on practical grounds, for instance: a defendant who was appearing for trial on matters unrelated to those being considered for the video link; a defendant who was already a serving prisoner in a prison not in the pilot; and a defendant remanded to police cells. A number of applications were granted in response to a defence claim that they would have no opportunity to interview their client prior to the next hearing. However, by far the most common reason for granting an application was a defence indication that a guilty plea would be entered on the next occasion. Courts took the view that such a plea brings to an end matters that can be dealt with over the link and would therefore result in an adjournment for the defendant to be brought to court. The issues relating to ordering reports and committing for sentence over the link are discussed in paragraph 4.4.62 below.
- 4.44 Apart from these situations, the pilot experience did not suggest any standard grounds for making an application to appear in person. A case involving an interpreter was granted an appearance in person but in two other cases an interpreter was used for a video link hearing. At least two unrepresented defendants appeared over the link (see paragraph 4.4.64). Early in the pilot, defendants charged jointly with others were brought to court but later cases with more than one defendant were heard over the link. One defendant was allowed to attend court to give evidence in relation to an alleged breach of bail conditions, but in other cases defendants gave evidence over the link in support of a bail application. However, the evaluators are not aware of any pilot court refusing an application to appear in person made on behalf of a defendant with mental health problems.
- 4.45 Lawyers at video link hearings who returned questionnaires had made applications for an appearance in person at the next hearing on behalf of two out of 40 clients (five per cent), but it was not clear how many of the 40 were eligible for another video link hearing. The lawyers' views on the circumstances in which they would apply for an appearance in person are set out in Table Chapter 4 .2.

Table Chapter 4.2: Circumstances in which lawyers said they would apply for their client to appear in person

- Cases involving complex unresolved issues; clients with difficulties in following proceedings; when there is a possibility of resolution by the next hearing
- Complex case; cases with several defendants, some on bail and some in custody; if the client has visual or hearing difficulties

- I think it is necessary to take any sort of instructions face-to-face and will therefore object to every case being video linked save for the simplest of remands
 - For bail applications
 - If my client has communication difficulties
 - If my client has other matters due before the court at a later date or mental health problems/learning difficulties
 - If I am likely to receive papers from the CPS on the day of next hearing as I will need to take full instructions on the day. Also for second bail applications
 - If my client is charged with a large number of different offences and it is not possible to have seen him in person at prison
 - If my client is blind or deaf or if instructions taken prior to the video link hearing indicate that progress can only be made if person is present at court
 - If it was a complex case, it would benefit to see the client in person at the hearing which may be effected into a contest. This includes bail applications. But for adjournments after bail was determined I would prefer the video link
 - Where there are complicated issues, new allegations or a likely custodial sentence (so that on an appeal legal aid can be immediately applied for)
 - If my client did not understand or have belief or was suspicious of the video link; if a bail hostel place or address had to be considered; if charge might be reduced and instructions on plea were needed; if an interpreter was needed or in the case of a blind or deaf and mute client
 - Where there is any decision of importance to be made
 - For a bail application
-

Bail applications made over the link

- 4.46 There was much discussion before and during the pilots as to the suitability of bail applications for hearing over a video link. Concern about such hearings was expressed during the discussions on the Bill in Committee and by lawyers and magistrates during the pilot. The Probation Service in Manchester also expressed concern about the difficulty of providing adequate bail information in support of a bail application over the link.
- 4.47 There are no national figures on the success rates of bail applications which could serve as a baseline for experience in the pilots. In the pre-pilot data collection, 19 out of 46 bail applications were granted at hearings that would have been eligible for the link had it been available. This success rate of 41 per cent is identical to that at link hearings during the pilot where data were collected (see paragraph B.19). Horfield prison made a separate record of the success of bail applications made on behalf of its inmates at video link hearings between 13 January and 12 March 1999. There were 63 such applications of which 26 were granted, which is again a success rate of 41 per cent. It would be unwise to read too much into these identical rates in view of the relatively small numbers involved. Nevertheless, they do suggest that there were no dramatic differences in the proportion of cases granted bail over the link compared with when the defendant is present in the courtroom.
- 4.48 Courtroom participants were asked whether the link affected the way the merits of bail applications were assessed. None of the magistrates or clerks felt that it made any

Video Link Pilot Evaluation

difference although one clerk suggested that “if anything, arguments should be clearer over the link”. However 12 out of 20 lawyers (60 per cent) and two out of 20 prosecutors (10 per cent) who responded to this question said that it did make a difference. When asked why, five lawyers and one prosecutor took the view that magistrates find it easier to refuse bail over the link because the defendant is already in prison; four lawyers felt that the link had a dehumanising effect and that the demeanour and personality of the defendant were therefore not taken into account by the bench when considering bail. The second prosecutor was concerned that the seriousness and repeated nature of the alleged offences in one case were not appreciated by the bench because of the link. The remaining lawyer thought that magistrates might be influenced either for or against the defendant:

“There is a sort of status quo in a bail application that they are in prison and therefore should remain there. On the other hand, magistrates might overcompensate for the video link and grant bail to prove there is no prejudice with the new technology.”

- 4.49 One Bristol lawyer who did not feel that the link affected how magistrates evaluated bail applications was nevertheless critical of the use of the link for this purpose:

“I am concerned about the principle of a defendant being deprived of his or her liberty when not physically in court.”

- 4.50 Concerns about bail were also expressed at meetings and in correspondence. A letter on 2 January 1999 from the chairman of Bristol magistrates set out the views of himself and two colleagues who had presided at a video link court. They took particular exception to the positioning of the defendant in the courtroom at Horfield prison where, because of the limited space available, the prisoner is placed in one corner of the room with the camera in the opposite corner:

“Positioning the chair on a corner was having a profound psychological effect on the male prisoners.”

- 4.51 Nevertheless, the writer went on to express concern about the ability of the bench to assess the demeanour of the defendant over the link and the possible dehumanising effect of this type of hearing. The letter concluded:

“The video link is doubtless a great technical achievement and one which must be used for the well known reasons of efficiency, cost and security. But not for contested bail hearings other than, perhaps, in exceptional circumstances. Justice is essentially about dealing with people. Those people are entitled to feel that they are fairly treated. We fear that video links are some way from achieving that.”

- 4.52 Despite the strength with which these views were expressed, they were not reflected in other feedback from magistrates during the pilot. However, concern among lawyers was more widespread. A defence solicitor attending a meeting of the Manchester working group said that he and his colleagues “feel the link is unfair for bail applications, even if there is no effect on the probability of getting bail”. At a meeting

of Swindon defence solicitors, one was implacably opposed to the link for all but routine matters:

“Second bail applications should not be on video. They are your best effort and your client should be there – his liberty is at stake. Why should we treat people in this demeaning fashion?”

4.53 However, this view was not shared by colleagues at the meeting:

“I like [the video link] and what it can give us. I have not found it a stumbling block to taking instructions or getting clients bail.”

4.54 Some practical problems emerged during the pilots with respect to providing information to support bail applications at video link hearings. The availability of a bail hostel place is often a crucial factor in deciding whether to award bail. A prisoner brought to court for a bail application can be interviewed by a probation officer who can then make enquiries about whether there is a bail hostel willing and able to accept him or her. In the case of video link hearings, these enquiries have to be made by the prison and pressure of other duties can affect the ability of prison officers to respond to requests for bail information at short notice. The head of legal services at Horfield prison explained the problems they face:

“The prisoner is interviewed the day after they come to prison. If they want to go for bail their solicitor is contacted. The solicitor should then do various things but they do nothing. They then phone on the day to ask about a bail hostel.”

4.55 In interview, a probation officer at Manchester City Magistrates’ Court expressed concern about providing bail information for video link hearings. She felt that it was not possible for her colleagues based at the prison to prepare an adequate report because of lack of information about the applicant’s previous convictions and the circumstances of the current offence. The CPS does not allow these details to be faxed to the prison because of data protection concerns. Prior to the link, she often received a call from the prison to say that an attempt had been made to prepare a report but it would need to be finished at court. This was obviously not possible in the case of a video link hearing.

4.56 The officer had not tried to interview a bail applicant over the video link but she did not feel that this would solve the problem. She pointed out the pressure the Probation Service was under in respect of risk assessment and public safety. Important factors such as eye contact, body language and smell were harder to assess over the link, particularly using the system in the video consultation booth where she felt picture quality was poor. The link also made it harder to identify drugs and mental health problems. The problems were most severe for defendants who were not seen by probation at their first court appearance. If it was known at that time that there would be a bail application on the next occasion then it was best if the defendant was seen immediately in person by a probation officer.

Video Link Pilot Evaluation

- 4.57 Bail applications were the most controversial aspect of video link hearings. Lawyers' fears that their clients would be less likely to be granted bail over the link were not borne out by experience in the pilot. However, many lawyers continue to hold objections in principle to the use of the link for this purpose. In terms of bail information, defendants must not be disadvantaged by appearing on the link.
- 4.58 At Swindon Magistrates' Court, bail information for inmates is already provided by prisons while in Bristol and Manchester the task was undertaken by the Probation Service prior to the pilot but transferred to the prison for applications over the video link. Horfield prison in particular had difficulty in responding to the increased demand for bail information and this sometimes resulted in a successful application for a defendant to be brought to court. In one case a defendant was allowed to appear in person rather than over the link "to ensure the bail information service gives the defendant priority". Similarly, an application in Manchester was granted because "probation need to interview on the next occasion about a possible bail hostel". These examples raise issues of resourcing and staff skill levels in relation to bail information.³ A preferred approach may be for probation officers to hold bail information interviews at court when the defendant first appears as an overnight prisoner but this requires advocates to inform the Probation Service that a bail application is likely on the next appearance. Early consultation between the groups involved is important to develop the lines of communication needed for this to happen.

Other business dealt with over the link

- 4.59 As Figure B.6 indicates, a wide range of business was dealt with over the video link during pilot hearings. In respect of legal aid applications, the LCD confirmed in a letter to the Prison Service on 16 February 1999 that it was acceptable for legal aid forms to be faxed to courts from prisons provided that the original form was forwarded to the court as soon as possible thereafter. In respect of supporting documentation on means, the letter points out that "courts are expected to be diligent in requesting evidence of means in support of an application, in particular when the applicant is granted bail. If evidence is not supplied within 14 days courts should be looking to withdraw the legal aid".
- 4.60 Many defendants entered a plea, including a guilty plea, over the link but others used the fact that they intended to plead guilty as the basis of an application to appear in person. Such applications were always granted although there were instances of an indicated guilty plea not actually materialising at the hearing.
- 4.61 Section 57 of the Crime and Disorder Act allows use of the video link at "any particular hearing before the start of trial". In relation to magistrates' court proceedings, "start of trial" means the acceptance of a guilty plea or the point in a summary trial when the court begins to hear evidence for the prosecution. During the pilots, this was usually interpreted as meaning that no further business can be transacted over the link after a guilty plea is accepted. This was a source of frustration in pilot cases that were adjourned for the defendant to be brought to court only in

³ Towards the end of the pilot, Horfield prison announced that it had been allocated a full-time probation officer.

order that the Probation Service could be asked to prepare a pre-sentence report (PSR). These cases were then immediately adjourned for a further three weeks until the report was ready. Other convicted defendants were brought to court only to be committed for sentence to the Crown Court. Such instances were seen as wasteful of time and resources and throwing away many of the benefits which the video link brings. In some pilot hearings, the defence asked for a PSR to be ordered over the link in order that the sentencing process could proceed without delay. Such requests were complied with in a few pilot cases.

- 4.62 In fact, there is no statutory requirement for a defendant to be present when the court orders a PSR or at most committals for sentence to the Crown Court.⁴ Magistrates' courts have therefore the power to take these decisions at a video link hearing (or even after the link has been switched off). However, when defendants appear in person rather than over the link the ordering of reports and committals for sentence are invariably conducted in their presence. Moreover, the decisions inevitably involve benches in consideration of what sentence is appropriate. It could be argued that it is against the spirit of the Crime and Disorder Act for these decisions to be taken at video link hearings without the explicit agreement of the defence.
- 4.63 Some defendants were even willing to be sentenced over the link. Such situations arose, for instance, where a defendant was committed for trial to the Crown Court over the link on a serious charge at the same time as pleading guilty to one or more unconnected summary offences. In such cases, the law requires that the defendant be brought to court for sentencing regardless of the wishes of the defendant.

Use of interpreters

- 4.64 Interpreters were used at two video link hearings in Manchester at which data were collected. On both occasions the interpreter was in the courtroom during the hearing. However, these hearings did not adequately demonstrate the viability of the video link for defendants who require an interpreter: in one case the services of the interpreter were not called upon and in the second the court ordered that the defendant should be at court for the next preliminary hearing because interpretation was required.
- 4.65 The evaluators were told of a video link hearing with an interpreter at Swindon. The interpreter was reported as saying that he preferred the video link over an appearance in court by the defendant because he could control the pace of proceedings better over the link. However the clerk felt that proceedings had become disjointed as a result.
- 4.66 More experience with cases that require an interpreter is needed in order to assess their suitability for video link hearings.

Cases involving co-defendants

- 4.67 In the early stages of the pilot, cases with co-defendants were not listed for a video link hearing as it was felt necessary first to gain experience in the use of the link for

⁴ Because of a legislative quirk, the presence of the defendant is required at committals for sentence under section 38(a) of the Crime (Sentences) Act, 1997. These occur where a defendant is convicted on some charges that are suitable for sentencing in the magistrates' court but is committed to the Crown Court for trial on other charges following plea before venue.

Video Link Pilot Evaluation

single defendant cases. However, during the second period of data collection in February 1999 there were 12 video link hearings at Manchester in cases with co-defendants and one each at Bristol and Swindon. One Manchester case involved a single co-defendant on bail while the Bristol and Swindon cases had two defendants in Horfield prison and a third on bail. The small size of the courtroom at Horfield made it impractical to have more than two defendants on the link at the same time.

- | | |
|------|--|
| 4.68 | Manchester was the only pilot court to hold video link hearings involving co-defendants in custody at different pilot prisons. There were eight such hearings during the data collection period, two of which were observed by a researcher. Using bridging services provided by BT, the screen was split into four to allow both pilot prison courtrooms to be seen simultaneously (see Figure Chapter 4 .5) and the hearings proceeded without technical problems. However, one case involved two defendants in Hindley and one in Manchester prison. Each defendant had a different solicitor and there was insufficient room in the courtroom to accommodate all three and their files. Because of this, the court ruled that the defendants should be brought to court for the next hearing. As the evaluation came to an end, Manchester City Magistrates' Court was preparing for a video link hearing involving four defendants in custody at Manchester prison. This case did not pose overcrowding problems at the court end as all defendants were represented by the same solicitor. |
| 4.69 | Tests of split screen configurations at Swindon and Bristol were beginning as the evaluation period came to an end. Because the size of the picture from each site is reduced, some loss of picture quality can be expected and further evaluation of this mode of operation will be required. Nevertheless, early indications from Manchester suggest there are no inherent obstacles to video link hearings involving two prisons simultaneously (see Figure Chapter 4 .5). |

Figure Chapter 4.5: Split screen configuration at Manchester for hearings with co-defendants in different prisons

Impact of the video link on the length of hearings

- 4.70 A comparison of the time taken by video link hearings with similar hearings held prior to the pilots is presented in Figure B.9. It shows that link hearings took slightly longer on average than hearings in person regardless of whether a bail application was made. However, it would be wrong to attach too much weight to these figures in view of the relatively small numbers involved and the wide range of business, apart from bail applications, that might be dealt with.
- 4.71 The data on the length of hearings was supplemented with three questions to courtroom participants. Their responses, which may be drawn from experience in different sessions, are illustrated in Figure Chapter 4 .6, Figure Chapter 4 .7 and Figure Chapter 4 .8. A majority of participants in all categories considered that link hearing starts were less delayed and hearing lengths were shorter than when defendants appeared in person.

Figure Chapter 4.6: Was there a delay of more than five minutes in producing any defendant?

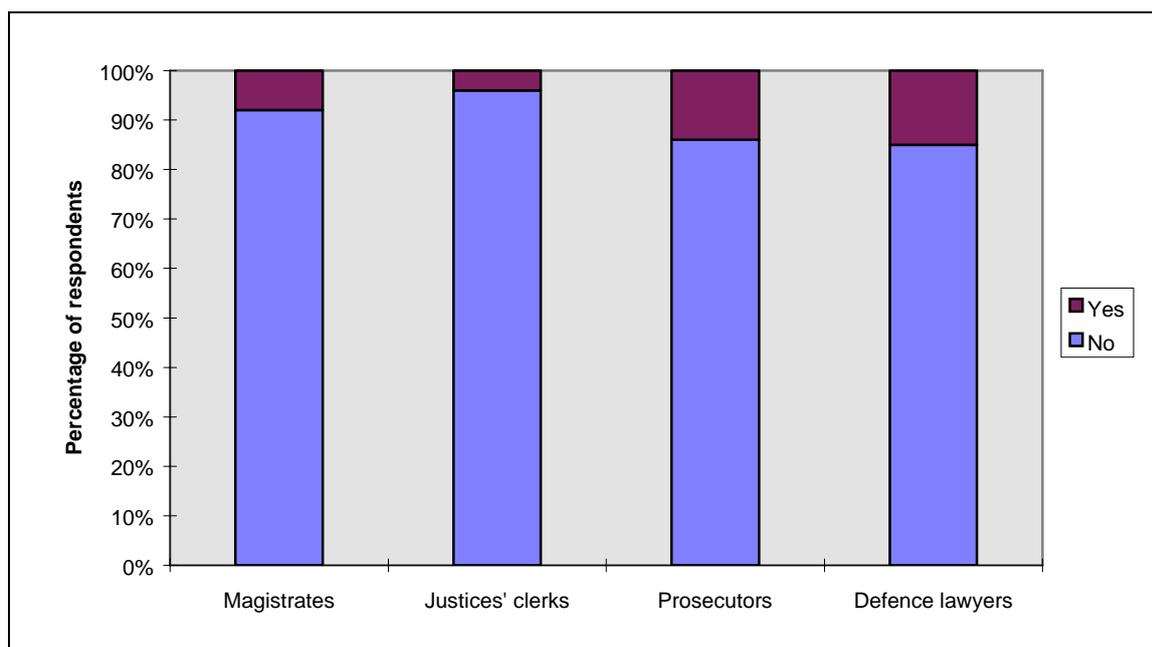


Figure Chapter 4.7: Time to produce defendants in video link hearings compared with from the cells at court

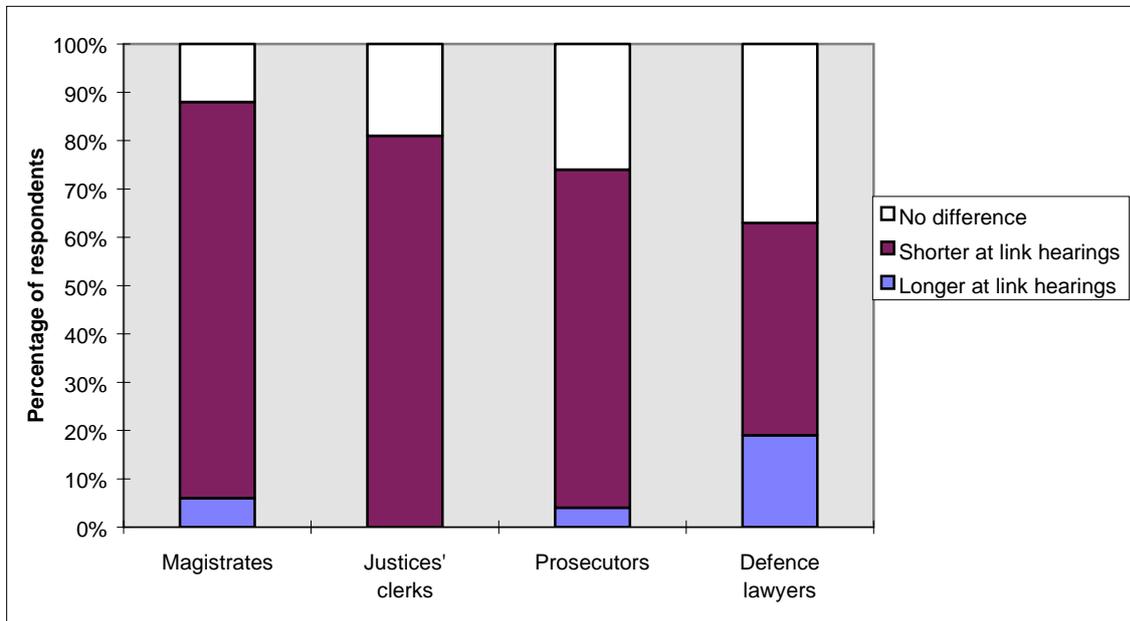
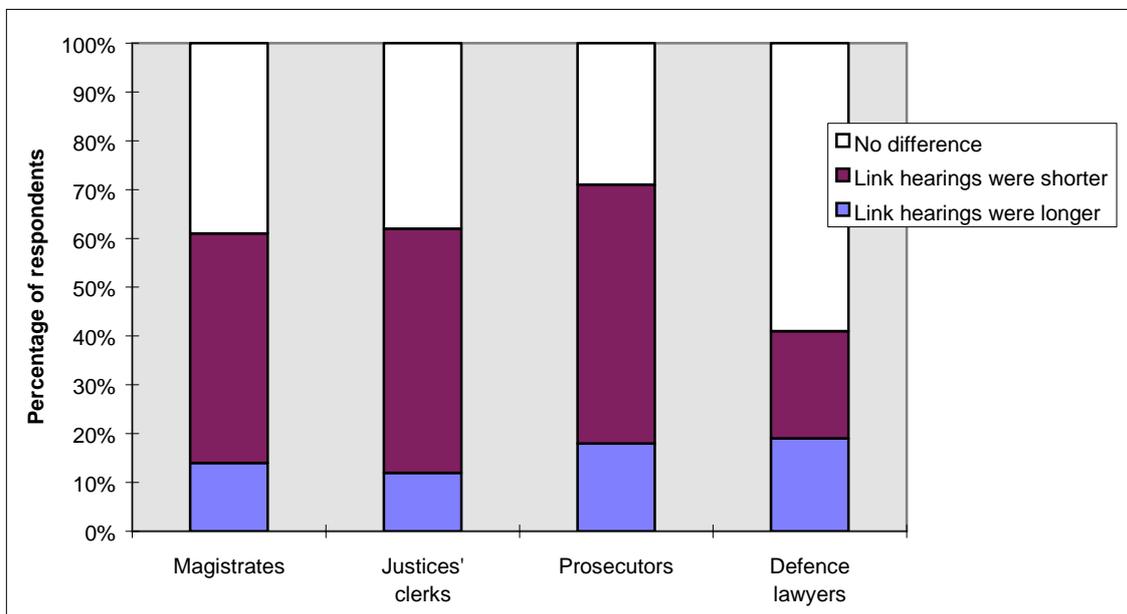


Figure Chapter 4.8: How did the length of today's hearing compare with those where defendants appear in person?



Standardising procedure

4.72 During the course of the pilot, it became evident that there was a need to standardise certain aspects of procedure associated with the use of video links. Those aspects that call for some consistency of practice include:

- an introductory acknowledgement of the defendant by the chairperson of the bench to personalise the hearing and establish eye-contact
- the explanation given to a defendant by the clerk at the start of the hearing covering the nature of the hearing, introduction of courtroom participants, acknowledgement of the presence of friends or relations of the defendant in the public gallery and how the defendant should signal to the court a wish to speak to his or her advocate during the hearing
- procedure to be followed when the court grants a defendant's request to speak to his or her lawyer on the telephone during a video link hearing
- written instructions on the procedure for booking video link consultations to be distributed in court to advocates on each occasion that a video link hearing is ordered
- whether or not the defendant should remain in the courtroom at the prison when the magistrates retire
- bench pronouncements at the conclusion of the case, when granting bail and in allowing an application for an appearance in person at the next hearing
- at the end of the hearing, allowing defendants to indicate that they wish to speak to their lawyer
- arrangements for hearings where an interpreter is needed
- procedure to be followed in the case of a defendant who refuses to take part in a hearing over the link
- procedure in the event that the hearing is abandoned because of equipment failure or other reasons
- arrangements at the prison for defendants to receive medical attention following a hearing
- information for victims about video link hearings.

4.52 In some of these matters, procedure will need to be tailored to local circumstances but there should at least be consistency between hearings at the same court. In others, it may be desirable to have national commonality of practice.

4.53 There were several examples during the pilot of standard practice being developed and disseminated in relation to some of the items above. However, particular concerns arose about defendants signalling to the court in the course of a hearing that they wished to speak to their lawyer. Early practice was for prison officers to tell defendants to raise their hand when this occurred. However, this was sometimes not noticed by the court and the defendants eventually lowered their hand. Sixty-two defendants said they did not speak to their lawyer during the hearing. Seven (14 per cent) of the 50 who gave a reason said they did not want to interrupt the proceedings:

“The prosecutor can chat shit about you and you feel you cannot interrupt to tell him otherwise because no one is looking at you in court and there's an officer right next to you.”

4.75 Three defendants said they tried to indicate to the court but no-one noticed. In one instance observed by a researcher, a defendant raised his hand as instructed by the prison officer to be told sternly by the bench chairman “if you were in court you would not be allowed to interrupt. If you wish to say something or to speak to your

Video Link Pilot Evaluation

lawyer you will be given the opportunity later”. It is clearly important that the procedure for intervening is explained to the defendant at the start of the hearing *by the court* to avoid misunderstandings of this kind.

- 4.76 There were also difficulties in the pilot concerning telephone instructions given in the course of a hearing. The video link was muted at both ends when this occurred but in one pilot prison the dock officer remained in the courtroom while the conversation took place. The presence of the prison officer was felt by some solicitors and defendants to infringe confidentiality. The prison, on the other hand, said the officer needed to remain for the sake of good order and that, in any case, the officer could not make sense of a conversation where only one end could be heard. This is an area where practice needs to be agreed and adopted uniformly by prisons participating in video link hearings.

Training

- 4.77 A comprehensive programme of training was undertaken in conjunction with the pilots. This comprised: one-to-one technical training sessions with system suppliers for court clerks and prison officers; procedural training for court clerks, magistrates, prosecutors and prison officers; and sessions for advocates provided by the court.
- 4.78 As well as formal training sessions, various other steps were taken to familiarise all those affected with procedure at video link hearings. The Prison Service commissioned a training video to demonstrate the use of the video link. Different versions of the video were produced for magistrates, court clerks, prosecutors, defence lawyers, defendants and prison officers. Information leaflets were prepared and distributed by the courts to all those groups affected by the link. In Manchester, the leaflet for defendants was translated into three languages. In the month preceding the start of video link hearings, open evenings were held in each pilot area where the list of invitees included voluntary and charitable organisations with an interest in the justice system as well as government departments, magistrates and members of the local legal community. Mock hearings were also held to allow those involved to practice their skills. The Prison Service project manager attended court user group meetings and delivered a presentation on the use of video links.
- 4.79 Despite these efforts, not everyone who needed training or familiarisation with video link hearings received it. Of those defendants who responded to our questionnaire, 80 (87 per cent) said they had been shown the video and 12 (13 per cent) that they had not. One of these said he was seeing the doctor at the time that the video was shown. However, all but five defendants (five per cent) had been given an explanation of the proceedings beforehand by either a prison officer or their legal representative.
- 4.80 All justices’ clerks who completed questionnaires said they had received training and all felt the training was adequate for the purpose. One felt that “the clerk only needs to observe a couple of times as to what occurs in court and how to use the equipment”. However, some of the hearings observed by evaluators suggest otherwise. In one appearance of an overnight prisoner, the clerk did not draw to the attention of the bench that the next hearing should be by video link, subject to applications from the parties. In discussion afterwards, it emerged that the clerk mistakenly thought that the video link could only be used for the defendant’s third appearance from custody.

Another clerk appeared to be unaware that a defendant could be committed for trial over the link. Some clerks had difficulty with the camera positioning, forgetting to move the camera to the person speaking. Although the camera positions were pre-set, there were often problems with the settings which meant that the speaker was partly out of view.

- 4.81 Among magistrates who completed a questionnaire, 25 (53 per cent) had been trained and 22 (47 per cent) had not (magistrates who submitted more than one questionnaire were asked to give this information once only). Two of those who had received training said it was inadequate. One of these said that his training had consisted only of a familiarisation visit to an empty courtroom. At a visit to one pilot court in December 1998, the chairman of the bench told the evaluators that he had seen the video but the two wingers had not and did not know what to expect. During courtroom observation, some magistrates forgot to look at the camera rather than the monitor when speaking to the defendant. Others moved around in their seats and hence moved out of shot. There were also some examples of poor practice, for instance the rebuking of a defendant who interrupted proceedings by raising his hand as he had been told to do by the prison officer (see paragraph 4.4.75).
- 4.82 Nineteen out of 26 prosecutors (73 per cent) who sent back forms said they had been trained. All felt the training had been adequate. One of those who had not received training had taken the court on short notice when the designated prosecutor could not attend. There was at least one instance during the pilot of a video link hearing with a prosecutor from an agency other than CPS. The person concerned was not aware of link hearings and had not received any familiarisation material.
- 4.83 Two out of 33 lawyers (6 per cent) were not aware that they could apply for their client to appear in person at the following hearing. Sixteen out of 24 defence lawyers (67 per cent), and seven out of 11 appearing at a video link hearing for the first time, had had no opportunity to practise on the link beforehand. However, ten of the 16 (and four of the seven appearing for the first time) said that a practise session would not be helpful.
- 4.84 At working group meetings, prisons in the pilot reported that all staff assigned to video link duties had been trained and were “comfortable with the training they received”. Nevertheless, one officer complained to an evaluator that some untrained staff had been allocated to the video link area. He considered it important that only trained staff were used and that video link duties occurred with enough regularity to allow an individual’s expertise to be built up.
- 4.85 Despite the strenuous efforts made in the pilot to ensure that training was provided to all those who needed it, many participants at link hearings were inadequately prepared for their role and the experience from the defendant’s perspective suffered as a result. Although it may appear to participants that only minimal additional skills are needed by those participating in video link hearings, the evidence from the pilots suggests that this is not so. Performance at video link hearings needs to be monitored and assessed and the results used in designing on-going training for participants.

Legal visits

- 4.86 Prior to the start of the pilots, there were competing concerns about the likely impact of video links on the frequency of prison visits to defendants by their legal representatives. Some feared that the number of such visits would increase due to the reduced opportunity to speak to clients in the cells at court and that this would produce added legal aid costs. Others felt that video link consultations might replace face-to-face interviews altogether in video link cases and that the quality of service to clients would suffer.
- 4.87 In practice, the evaluators had difficulty in gauging the effect of links on legal visits because of the poor quality of available data. Delays in the submission of legal aid bills meant that data for the pilot period would not be available from the LAB in the required timeframe. In any case, bills submitted to the LAB do not identify separately claims in respect of prison visits.
- 4.88 Although prisons keep records of the numbers of “special” visits, these are not sufficiently detailed to answer the questions of interest in the pilot. The pre-pilot figures do not distinguish visits made to prisoners due to appear at a pilot court nor do they separately identify visits to remand and convicted prisoners. Some prisons collect only aggregate figures which include visits by police officers, probation officers, social workers and others as well as legal visits. For all pilot prisons, inmates appearing at a video link hearing represent only a small proportion of the total remand population. Prisons responded to our request for a detailed breakdown of legal visits during the pilot but the lack of comparable pre-pilot data made it impossible to draw any conclusions as to whether the frequency of visits had changed. The impact on legal visiting should therefore be monitored during any wider implementation of video links and should include detailed data collection for a period prior to the introduction of links.
- 4.89 In their responses, 49 defendants (52 per cent) said they had been visited in prison by a legal representative prior to the day of the hearing. Lawyers said they, or their representative, had visited 22 out of 40 clients (55 per cent) in prison prior to the hearing. It would be possible to carry out a small survey of criminal solicitors to see if these figures are similar to those for defendants appearing at non-pilot courts but it was not feasible to undertake such an exercise as part of this evaluation.

Defendants’ degree of involvement in proceedings

- 4.90 During the consultations that took place prior to the start of the pilots, concern was expressed that defendants appearing over the link would feel remote and detached from what was happening in the court. It was felt that the difficulty of establishing and maintaining eye contact over the link would aggravate the problem and, as a result, defendants would find it hard to concentrate on what was happening in the courtroom. These concerns were repeated during the pilot in response to questions about the fairness of the link (see paragraphs 4.4.104 to 4.4.115).
- 4.91 During the pilot, participants at the court were asked to compare eye contact and the defendants’ ability to follow proceedings over the link with when they are present in the courtroom. Their responses (Figure Chapter 4 .9 and Figure Chapter 4 .10) show

that, apart from defence lawyers, the link was considered as good or better at holding defendants’ attention and maintaining eye contact. One prosecutor felt that during link hearings:

“There is a full and frank discussion of the issues and defendants pay more attention than when in court.”

4.92 Lawyers overwhelmingly disagreed:

“It is imperative that the defendant should be present in person to feel involved properly in the proceedings and to feel that justice is being done.”

“I have seen bail applications presented by colleagues and it seemed almost as though the defendant was irrelevant because he was not physically present.”

“The client is not so much a person with rights as a soap opera.”

Figure Chapter 4.9: Participants’ views of defendants’ ability to follow proceedings

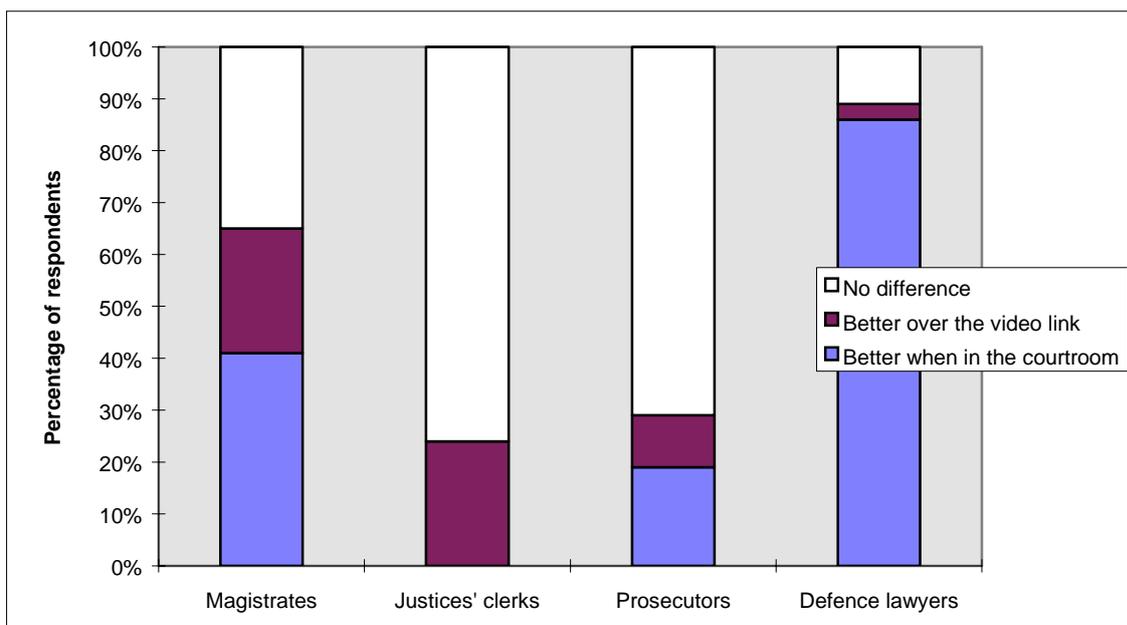
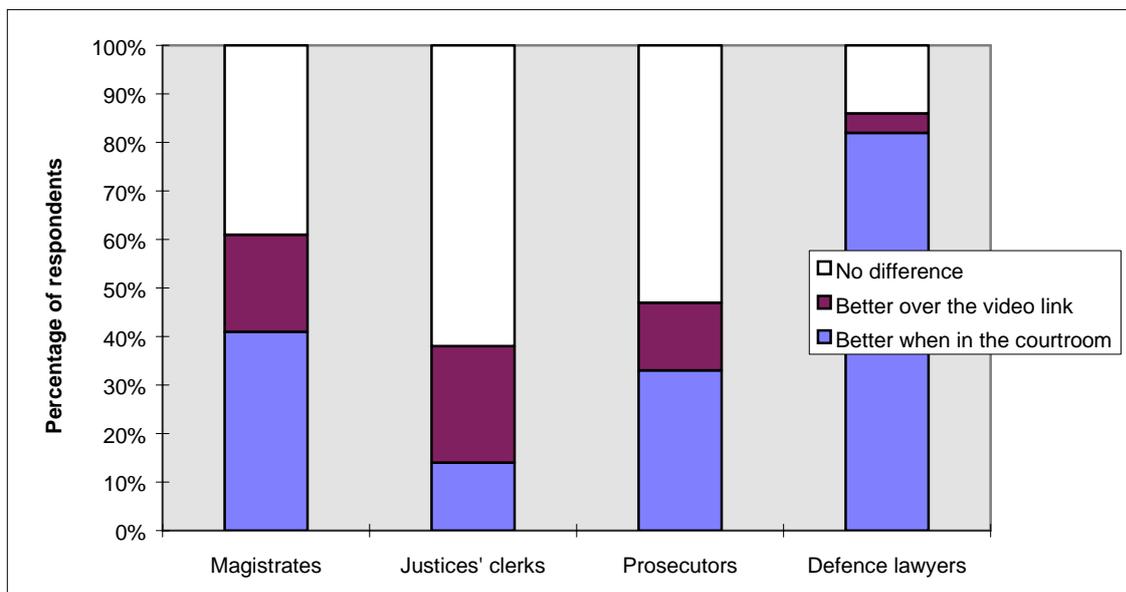


Figure Chapter 4.10: Participants' views of magistrates' ability to maintain eye contact with defendants



4.93 The questions for prison officers and defendants took a slightly different form. Officers were asked whether defendants paid attention to proceedings over the link and could understand what was happening in court. Over 90 per cent answered yes to both questions. The remainder felt that some but not all paid attention and understood.

4.94 Defendants were asked if they felt that people in court were looking at them when they were being spoken to. Their answers were at odds with the views of advocates. Out of 91 replies, 77 (85 per cent) did feel they were being looked at and 14 (15 per cent) said they did not. Some in the latter group put their feelings into words:

“It felt like I was speaking at this TV and not the court.”

“It’s a strange experience. It’s more real in court.”

“I feel that the person should be face-to-face with the court. I feel it is impersonal and don’t feel that I am in court.”

“I don’t feel that I am in the court or involved in what’s going on. You can hear and see everything OK but it’s like watching a telly programme.”

4.95 But the majority of defendants did not feel cut off from what was happening at court:

“The video link was just like being in a normal court.”

“I felt very much part of it.”

Impact on defendants

4.96 In discussions before and during the pilots, it was felt that many defendants would prefer coming to court because it meant a break from prison routine and it was an

opportunity to see friends and family at court. Some might also feel that they would not get a fair hearing unless they were physically present in the courtroom. Attitudes to fairness are discussed below but of the 88 defendants who responded, 69 (73 per cent) said they would rather be in the prison than the courtroom for their hearing. Only one defendant referred to seeing his family at court:

“Court is the only opportunity you get to see your loved ones who are stood there for you.”

- 4.97 During the pilot it emerged that there were a number of potential benefits to defendants in remaining in the prison for their hearing. A trip to court involves packing up your belongings and clearing your cell (if you return to prison it will probably be to a different cell), being processed through reception (twice if you return to prison) and being transported in a cramped and uncomfortable cellular vehicle to and from court. The day usually begins early and ends late; meals consist of sandwiches rather than the hot food available at the prison. Because attending court normally means being away from prison for the whole day, defendants often miss a visiting session, an education class or a work session with consequent loss of pay. Instead, most of the day is spent in the van or in the cells at court waiting for your hearing to be called or for other hearings to finish in order that the return journey to the prison can begin. A defendant appearing on the link at Manchester prison told the evaluators:

“It’s great, it’s the best thing since sliced bread...I think it is better than having to get in the box (prison van) and having to wait around all day at court and then not getting back here to reception until sometimes eight o’clock at night. It is better here. You just sit and read the paper with no messing about.”

- 4.98 Similar sentiments were expressed by some prisoners who completed questionnaires:

“Because it is so short, it is much better than going to court.”

“The link is good because it avoids all the messing around when you go to court.”

- 4.99 The general approval of the link by defendants was reflected in the comments of the Bristol magistrate who had observed hearings at the prison. She reported her conversations with one defendant who appeared over the link early in the pilot. Prior to the hearing, a prison officer had been to the cells to explain to him what would happen and he had taken part in a video consultation with his solicitor. Despite this, he was nervous and apprehensive about the prospect of appearing over the link. Following the hearing, he spoke again to the magistrate. He said that the experience had been much less intimidating than he had expected and that the hearing had proceeded exactly as had been explained to him beforehand. The magistrate also reported her conversations with four sex offenders who appeared on the link. They were unanimously of the view that the link was preferable to appearing in person because they felt less ‘on show’ than when they were in the dock at court.

Video Link Pilot Evaluation

4.100 Even some lawyers acknowledged that the link had advantages for their clients:

“Defendants seem to appreciate not been brought to court and sitting outside all day, for instance for a simple remand hearing.”

4.101 But one defendant opposed to the link was not concerned about waiting around:

“At the end of the day it’s a time saver but we’ve got plenty of time to waste.”

4.102 During a visit by the evaluators to Manchester prison, a defendant expressed his feelings about the link as follows:

“Sometimes you feel that you are not part of it and it would be better to go [to court]. Other times it is a load of hassle and you think ‘what’s the point of going to court to wait around all day?’ It just depends on how things are going with your case but I think we should have some choice.”

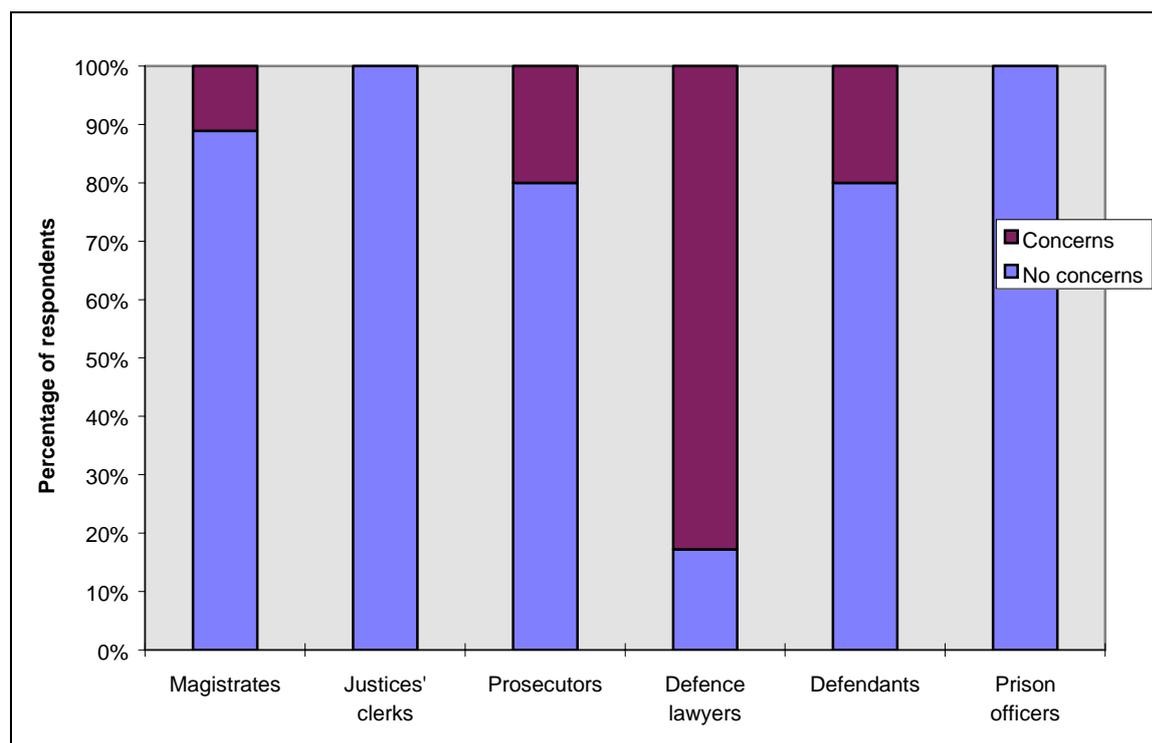
4.103 Despite the fact that most defendants preferred the link over going to court, the benefits for prisoners depend on less time being spent waiting for their case to be heard than when they appear at court. Such a reduction will only be assured if the pre-arranged running order for video link hearings is adhered to by the court (see paragraph 4.4.32). A prisoner appearing over the link at Bristol court wrote:

“My only complaint is I was brought over at 7:30 a.m. and I have been waiting since then.”

Views on fairness

4.104 Questionnaires for all categories of participant asked whether the video link was a fair way to hold a pre-trial hearing. Figure Chapter 4 .11 shows the proportion of respondents that had concerns about fairness. The highest level of concern was among defence lawyers, 83 per cent of whom felt that the link was unfair in some respect. Among all other classes of participant, including defendants, 80 per cent or more felt that the link was fair.

Figure Chapter 4.11: Participants' views of the fairness of video link hearings



4.105 All clerks and prisoner officers who completed a questionnaire felt that link hearings were fair. The five magistrates with concerns about fairness were drawn from all three pilot courts. Their concerns focused mainly on the defendant's experience of the link:

“Because defendants are technologically illiterate, they will feel alienated from proceedings and remote from their solicitor. They will feel their rights have been prejudiced even if they have the same right to be heard as in court.”

“The defendant's view of proceedings is limited to the person speaking. In a bail hearing they can't assess how magistrates are reacting to their solicitor's case as he makes it. This could restrict a defendant's ability to follow and feel involved in proceedings.”

“Some defendants may feel a degree of intimidation when viewing themselves on the screen.”

“I would like to see feedback from the defendant's point of view as I wondered if they really felt part of the proceedings.”

“I wonder how the defendant feels? Also, I am unable to appraise fully the demeanour of the defendant, who else is in the room and what they're doing.”

4.106 However, many magistrates were enthusiastic about the link:

Video Link Pilot Evaluation

“Defendants seem to find it less stressful than when produced in the courtroom.”

“The link appears to be potentially less disruptive for the prisoners and far less resource hungry.”

“A first class idea.”

4.107 The concerns of four prosecutors centred on the problem of communication between lawyer and client at link hearings:

“Defendants appear frightened and confused about what is going on. They are unable easily to give instructions. The only one not present is the one whose future is being decided.”

“The defence find it difficult to communicate with clients before and during the hearing, particularly if they wish to take instructions on voluminous papers.”

“It may hamper the ability to take on the spot instructions if queries arise during a hearing or if incorrect information is given to the court by advocates. Also, the bench cannot determine demeanour.”

“The defendant cannot see the demeanour of the magistrates while advocates are talking. The defendant has difficulties in communicating with his solicitor or speaking to the bench during the hearing.”

4.108 CPS representatives at Swindon and Manchester felt that the video link court had made the organisation of their work easier because of its predictability. At all pilot sites, prosecutors were generally in favour of video link hearings.

“I see no problems with the link and I don’t think the proceedings lack atmosphere.”

“It’s clearly the way ahead.”

4.109 Although only 20 per cent of defendants thought the link was unfair, discontent was higher in the south-west pilot area. Twelve of the 18 defendants who said video link hearings were unfair explained why they felt this way (some said it was unfair for more than one reason). Eight said the experience of taking part in a hearing over the link was unreal and impersonal and that they did not feel part of proceedings (see paragraphs 4.4.90 to 4.4.95). Two could not see the courtroom clearly and three said that they could not communicate properly with their solicitor. One found the process more demeaning than being at court: “I felt that the clerk was laughing at me”.

4.110 Only one prisoner wrote to the evaluators in response to the request for comments posted in the video link waiting area at prisons. This person was generally in favour of the link but felt that “you should have your solicitor with you in person in the prison at the time you are on the link”.

4.111 Some lawyers reported their clients' dislike for link hearings:

"I have dealt with 2 defendants over the video link and they both felt aggrieved that they were not brought to court for their hearing. Neither would give instructions over the video screen. Both left with feeling that they hadn't had a proper hearing." (Bristol solicitor)

"One of my clients was very unsettled. Half way through the hearing we spoke on the phone. It was much more immediate than the link which he felt out of place with." (Swindon solicitor)

4.112 For others, the evidence was less clear cut:

"Most of my clients do not seem to have particularly strong views on the video link. Some like it and some do not."

4.113 Lawyers concerns about use of the link for bail applications are discussed in paragraphs 4.4.46 to 4.4.57 . Others were opposed to all link hearings as a matter of principle:

"Let the defendant face his accuser in person."

"This is not open justice."

"I do not, on balance, think that video hearings should replace traditional hearings because I believe that it is an important part of the criminal justice system that defendants are brought to court in person, whatever the cost."

4.114 However, the majority of objections from lawyers were more specific: eight referred to the impersonal and artificial nature of the experience for the defendant and two were worried about the problems of communicating with their client. Other reasons for feeling the link was unfair included lack of confidentiality in respect of video consultations, the defendant's inability to see his or her advocate at all times during the hearing, the difficulties for defendants in following what was happening in court, the demeaning effect of the link on the defendant and the limitations the link placed on advocacy skills.

4.115 A few lawyers welcomed the link without reservation:

"I believe this innovation is to be embraced by the profession, indeed encouraged."

"I like the link and what it can give us. I have not found it a stumbling block to taking instructions or getting clients bail. I'm thinking of getting my own equipment to reduce the number of prison visits we make."

Chapter 5 Costs and savings

Introduction

- 5.1 This chapter examines the costs and savings associated with the use of video links for preliminary hearings. The data from the pilot is discussed in relation to one-off and recurrent costs.
- 5.2 A wide range of potential costs and savings is identified. However, during the pilots it has only been possible to estimate, even approximately, a subset of these. To provide accurate figures would require a more detailed study of costs before and during the introduction of video link equipment than was possible within the scope of this evaluation. For these reasons, it was not possible to cost options for wider implementation of video links although the sources of costs and savings are discussed.
- 5.3 All costs referred to in this chapter include VAT.

One-off costs

- 5.4 The one-off costs to prepare and equip pilot sites for use of video links were met by the Prison Service. They related to:
- building work to accommodate video link facilities and provide prisoner waiting areas
 - installation of ISDN and telephone lines.
- 5.4 Rounded Prison Service figures for these costs are presented in Table Chapter 5 .1. The unique features of each pilot site meant that different approaches were adopted to housing the equipment involving varying amounts of preparatory building work. These differences are reflected in the wide range of costs involved. For instance, Bristol Magistrates' Court chose a room that had not previously been used as a courtroom on a regular basis. It was also decided to create an alcove within the room in which to locate the telephone for consultations between lawyer and client during the hearing. Costs were further increased due to the presence of asbestos. These and other factors combined to produce building costs at Bristol of around £14,000. In comparison, Swindon chose an existing courtroom as the video link court and housed the telephone on a wall outside the courtroom. Costs were limited to a table in the courtroom and an acoustic hood for the phone outside. Similar differences applied in pilot prisons. Eastwood Park housed the video link in a portable cabin and building costs were low. In contrast, Manchester and Hindley prisons chose a location within existing prison buildings and conversion costs were high.

Table Chapter 5 .1: Non-recurrent pilot costs (rounded)

Pilot	Type of expenditure
-------	---------------------

site	Building and Works	Telephone lines
Bristol Magistrates' Court	£14,000.00	£1,200.00
Swindon Magistrates' Court	£220.00	£1,300.00
HMP Horfield	£5,000.00	£0.00
HMP Eastwood Park	£2,500.00	£450.00
Manchester Magistrates' Court	£5,700.00	£900.00
HMP Manchester	£9,500.00	£0.00
HMP Hindley	£5,750.00	£0.00
Total	£42,670.00	£3,850.00

- 5.6 Because building costs are so dependent on the characteristics of the chosen location for the video link court, it is hard to extrapolate from pilot figures to the likely costs of installing equipment in other courts and prisons. These will have to be estimated through survey at the appropriate time.

Recurrent costs

- 5.7 The most obvious and quantifiable recurrent costs relate to the leasing of video link equipment, line rental and call charges. Leasing costs for a period of six months and line rental and call charges for the first quarter of 1999 are set out in Table Chapter 5 .2.

Table Chapter 5 .2: Equipment leasing, line rental and call charges (rounded)

Pilot site	Video link equipment, training and support for 6 months	Quarterly line rental	Call charges for first quarter of 1999
Bristol Magistrates' Court		£689.00	£912.00
Swindon Magistrates' Court		£288.00	£100.00
HMP Horfield	£45,000.00	£681.00	£2,292.00
HMP Eastwood Park		£460.00	£249.00
Manchester Magistrates' Court		£652.00	£1,161.00
HMP Manchester	£43,500.00	£978.00	£126.00
HMP Hindley		£460.00	£16.00
Total	£88,500.00	£4,208.00	£4,856.00

- 5.8 The video link equipment costs include maintenance, support and technical training as well as the leasing of the cameras, monitors and videophones. It may reasonably be assumed that the corresponding costs for wider implementation would be lower due to economies of scale, the downward trend in the price of the equipment and the effects of competitive tendering.
- 5.9 The high cost of calls from HMP Horfield is related to their practice, now discouraged, of opening the links early and leaving them on until they were needed.
- 5.10 Other recurrent costs are more difficult to estimate. They arise from:

Video Link Pilot Evaluation

- training costs for participants (other than technical training relating to equipment operation)
 - prison staff costs relating to supervision of the video link courtroom and the holding area in the prison and to increased demands for bail information
 - court and CPS staff costs associated with running an additional court, if this should prove to be necessary
 - preparation and dissemination of information on video link hearings and associated procedures for the legal community.
- 5.7 Training for magistrates, clerks, prosecutors and prison officers could be incorporated in existing training programmes at little extra cost. The information leaflets developed during the pilots could easily be tailored to reflect local arrangements. The introductory videos developed by the Prison Service for the pilot would also be useful training material in a wider implementation programme.
- 5.8 In February 1999, the Management Consultancy Service (MCS) within the Prison Service conducted a review of the staffing implications of video links at Manchester and Horfield prisons. Although all pilot prisons absorbed the work of running the video link units without additional staff, the review concluded that the resources used to staff the units equated to a cost in a full year of £56,000 at Manchester and £48,000 at Horfield. The reviewers observed that the actual number of staff used at Manchester prison sometimes fell below that used in the calculations because of other operational priorities. The figures do not take account of extra demand on bail information services at Horfield prison resulting from bail applications made over the link. The MCS team felt that once video link were being used for preliminary hearings in all magistrates' courts, there would be little net effect on prison resources. The team recommended that a full profiling study should be undertaken to examine the impact in detail. Arrangements are in hand for this to be done.
- 5.9 Of the courts in the pilot, only Bristol intended to run the video link court as an additional court requiring an extra prosecutor, clerk and magistrates. However, because the pilot coincided with the closing of another courtroom for repairs, there was no net increase in the personnel required. Many courts will be able to introduce video link hearings without the need to run extra courts. It is possible to direct other kinds of work to the video link court if it has a short list. The utilisation of video link courts in the pilot would have been even higher if all prisons serving the court had video link equipment.

Savings resulting from video link hearings

- 5.14 The largest savings that result from video link hearings relate to the reduced movement of prisoners between prisons and courts. As well as the impact on transportation costs, there is reduced pressure on prison reception who process prisoners in and out and on the cell area in the court building. There may also be savings as a result of fewer escapes by prisoners in transit, improved throughput of cases at court through avoidance of delays caused by failure to produce prisoners at the required time and environmental benefits associated with taking vans used to transport prisoners off the road. It was also suggested to the evaluators that there could be a reduction in the extent of the refurbishment of court cells required under health and safety

regulations which come into effect with the passage of responsibility for the cells area from the police to the private escort services. Other possible benefits are even harder to quantify: for instance, many within the Prison Service feel that drugs are sometimes passed to prisoners when they are taken to court. The use of the video link removes this possibility.

- 5.15 Higher savings may be associated with certain classes of prisoners to whom extra resources are assigned. Pregnant women are moved in special transport with a driver and two other staff. Such journeys can be very long due to the large areas served by women's prisons and avoidance of these trips could be of benefit to the women themselves. However, all those consulted agreed that the greatest savings would come from a reduction in the movements of category A prisoners. Such prisoners are transported to and from court by the Prison Service rather than a private escort service. Prison staff also act as custody and dock officers for category A prisoners while at court. The increased security measures required make heavy demands on staff which can have a detrimental effect on the regime at the prison. Armed police escorts are needed when high and exceptional risk category A prisoners are moved. Roads are often closed while the convoy passes through with consequent disruption to traffic and local residents. The costs to the police of providing such escorts vary according to circumstances but two metropolitan forces indicated a figure of around £2,000 a day. The costs in rural areas may be higher due to the longer journeys between prisons and courts.
- 5.16 Although the savings associated with video link hearings involving category A prisoners are high, the numbers suitable may be small. Many cases involve co-defendants and no pilot site could realistically handle more than four defendants at a time. In fact, only one category A prisoner appeared over the video link hearing during the pilot although the link was used for all his magistrate court hearings from second appearance to committal. Because sentencing cannot take place over the link, it does not offer a solution to the problem of high risk prisoners being transported large distances to answer a summary charge in a magistrates' court far away from the prison in which they are being held.
- 5.17 Video link hearings during the pilot saved around 1,500 movements between courts and prisons. However, calculation of the associated savings in cost is not simple. Prisoners are transported by the escort services in cellular vans containing various numbers of units. The cellular design minimises the need for supervision during the journey. Savings can only be made if fewer vans are needed to transport prisoners to and from court. Even then, vans are leased on seven year contracts and it could take some time for the savings to be fully realised, although there may be opportunities to re-deploy vehicles to other areas served by the contractor as leases expire. Staff savings could be realised more quickly as turnover is high.
- 5.18 Savings to escort services will not be passed on immediately to the Prison Service. They will be taken into account when the terms of escort contracts are re-negotiated or contracts are re-tendered. Contracts run for 14 years with the opportunity to re-negotiate terms either after seven years or after five, three and three years, depending on the contract. During the pilot, escort services were provided under existing contracts and savings arising from the reduction in the number of prisoners escorted were not passed on to the Prison Service. The evaluators were therefore unable to

Video Link Pilot Evaluation

quantify these savings or examine the financial implications of extending the use of video links to other courts and prisons.

- 5.19 Between April 1998 and February 1999 there were 52 escapes nationally from court escorts, a decrease of around 20 per cent on the same period in the previous year. As around one million prisoners are handled in a full year, the impact of the pilots on either the total number of escapes or the proportion of prisoner movements resulting in an escape is too small to be detectable.
- 5.20 There was some reduction in the pressure on reception at pilot prisons due to fewer prisoners being processed but the Prison Service review team concluded that the effect was not sufficient to justify any reduction in reception staffing levels.
- 5.21 Currently, the Prison Service pays the police £¼ million a year for use of police cells in connection with late returns from court. Video links could help to reduce this figure substantially.

Other factors with financial implications

- 5.22 As discussed in paragraphs 4.4.86 to 4.4.89 , lack of baseline information made it impossible during the pilot to determine whether video links had affected the frequency of legal visits to prisoners. If video links were to have a systematic impact on lawyers' practice in this respect then this should feed through to legal aid bills.
- 5.23 Although most participants who responded considered that link hearing starts were less delayed and hearing lengths were shorter than when defendants appeared in person (paragraph 4.4.71), it is not possible to convert this into financial savings to the court. Delays still occurred for reasons other than non-appearance of defendants and data collected on hearing length suggested that link hearings were actually slightly longer than when the defendant comes to court (paragraph 4.4.70). Even if video link hearings are less delayed, this does not directly produce financial savings for courts, only an increase in efficiency.

Chapter 6

Conclusions and recommendations for wider implementation

Do video link hearings have a place in the criminal judicial process?

- 6.1 Over the three months of the evaluation, video link hearings quickly became incorporated into the daily routine of the courts and prisons involved. The equipment at all sites has worked reliably throughout and no hearing has been abandoned because of equipment or line failure. In general, video links have been welcomed by all the groups involved with the exception of defence lawyers. Some of their concerns were prompted by problems associated with the technical performance of equipment. These have been brought quickly to the attention of suppliers and remedied to the satisfaction of most participants.
- 6.2 Other criticisms related to quality of justice issues. The pilots can offer little comfort to those who believe that, as a matter of principle, defendants should always be present when issues concerning their liberty are discussed. A barrister reporting on the pilots for the Bar Council invoked Magna Carta in support of this view:
- “The material issue is that the defendant is at risk of losing his liberty. Therefore, it is in the public interest that someone facing a criminal charge must be on all fours with someone actually physically present in the court. Thus Magna Carta states: ‘No free man shall be taken or imprisoned save by lawful judgment of his peers’.”
- 6.3 Whatever the merits of this view, video link hearings are not the only occasions when decisions on bail are decided without the defendant being physically present: bail applications to a judge in chambers are generally made in the absence of the defendant. However, other critics have voiced concerns which can be responded to without abandoning use of the link. Indeed, the pilots have demonstrated that it is possible to respond to such concerns and accordingly persuade many in the legal community of the fairness of the process. One barrister who was also part of the Bar Council team had taken an interest in the pilots from their inception. He wrote to the clerk of a pilot court on 11 March 1999 as follows:
- “When the scheme was first mooted, I had many reservations most of which, if not all, have now been laid to rest. I hope that the scheme becomes permanent.”
- 6.4 The pilots have demonstrated that, provided appropriate procedures are in place to safeguard the rights of defendants, video link hearings can successfully be incorporated into the criminal justice process. Subject to the adoption of the recommendations below, the pilots have made the case for wider implementation of video links in magistrates’ courts. The remainder of this chapter focuses on how such an implementation exercise might draw on the lessons emerging from the pilots.

Video Link Pilot Evaluation

Consultation

- 6.5 Although the video link pilots were a Prison Service initiative, their impact was felt across all the agencies of the criminal justice system. Early consultation with all affected groups proved to be of fundamental importance in achieving acceptance of the technology. Local working groups were established in both pilot areas many months before use of the links began and the composition of these groups expanded during the course of the pilots. Other meetings were held during the pilots to allow specific groups, particularly lawyers, to express their concerns and discuss how these might be addressed. Mock hearings and open evenings were held and information leaflets were distributed. This inclusive and open approach was a key factor in achieving acceptance of the new procedures. Many of those who had reservations about the use of the links at the start came to accept them when their concerns were addressed in a constructive manner.

Recommendation 1: As a first step in the introduction of video links to new courts and prisons, working groups should be established with a membership that includes, as a minimum, representatives from each court and prison, magistrates, the CPS, local firms of defence solicitors, the probation service and the suppliers of the video link equipment. The working groups should develop guidance on local practice relating to video links and act as a forum at which problems can be raised and addressed. They should also be responsible for disseminating information about the links more widely among the local criminal justice community.

Equipment performance and reliability

- 6.6 The video link equipment and the ISDN lines used in the pilot proved to be very reliable but technical performance was very sensitive to conditions. Demonstrations observed by the evaluators showed that the video link equipment used in the courtrooms and the consultation booths is capable of delivering high quality synchronised sound and vision. However, both the quality and synchronisation can be easily disturbed by changes to the settings or to the camera environment. This sensitivity could prove frustrating for users, and lawyers were understandably quick to criticise poor picture or sound quality. This was particularly true for the equipment in the consultation booths which had a smaller bandwidth than that in the courtrooms. Sometimes, a previous user had adjusted settings and the problem was solved by re-tuning, for instance where an echo had been introduced through turning up the volume. In other cases, it was necessary to replace equipment or make changes to the lighting.

Recommendation 2: The attention of all who use video link equipment should be drawn to its sensitivity to changes in control settings and environment. Suppliers should be required to demonstrate the performance of their equipment in its intended environment. Court and prison staff who receive technical training should be capable of re-tuning the equipment if settings are adjusted.

Selecting video courtrooms

- 6.7 Many factors impact the decision about where to site the video link courtroom both in the magistrates' court and the prison. There may be pressures to choose a room that can be converted to accommodate the video link equipment at the least cost but if this

Conclusions and recommendations for wider implementation

is unsuitable for other reasons, there can be additional expenditure later on to render it satisfactory. In addition to the room itself, it is important to consider the provision of associated facilities at both the prison and the court.

- 6.8 A video link courtroom must be quiet, appropriately lit and temperature controlled. Problems were encountered during the pilot due to traffic noise interfering with sound quality, poor lighting degrading picture quality and synchronisation with sound and inadequate cooling which adversely affected equipment and participants. Courts should exercise particular care when choosing a room not used regularly as a courtroom. At Bristol Magistrates' Court, the room chosen had not been used for hearings in the past precisely because the noise of passing traffic made it acoustically problematic. At Manchester prison, the courtroom heated up overnight and the performance of equipment at the start of the day was degraded until fans brought the temperature down.
- 6.9 In smaller magistrates' courts there may be advantages in converting an existing courtroom with a custody dock for use as the video link court. This allows the court to be used for other kinds of hearing, including overnight appearances from police cells, if the video link list is short or interrupted. It can also be used as a courtroom on days when there are no video link hearings. In larger court centres with higher volumes of video link hearings it may be tempting to use the smallest room available, as was the case at Manchester. However, small rooms mean a narrower field of view for the camera and less space for participants and members of the public. It may not be possible to site the camera in line with the magistrates' monitor, creating eye-contact problems when the defendant is addressed by the bench. It may be difficult to accommodate cases with separately represented co-defendants. Prosecutors may be concerned for safety reasons about their proximity to the public and security problems might arise if supporters of defendants and victims are present.
- 6.10 Size is also an issue for prisons where there may again be pressures to keep the courtroom area as small as possible. In Horfield prison, this meant that defendant and camera had to be placed in diagonally opposite corners producing an image of the defendant seated in a corner that some magistrates and lawyers felt was unacceptable. Small prison courtrooms also restrict the number of defendants that can appear simultaneously over the link.
- 6.11 A further consideration at the court end is whether there is a suitable location in or near the courtroom for the telephone used for consultations between lawyer and client during the hearing. Whether the telephone is in the courtroom itself or outside, it must be possible for the conversation to be conducted without being overheard.
- 6.12 Prisons must ensure that there is space outside the courtroom to create a holding area where prisoners can wait until their case is called. Other facilities that need to be within easy reach include toilets and consultation booths for defendants to speak with their lawyers before and after the hearing.

Recommendation 3: The Prison Service and the LCD should draw up guidance for prisons and courts to assist them in deciding where to locate a video link courtroom. The guidance should point to the dangers of using building costs as the sole criterion and

Video Link Pilot Evaluation

highlight the need to consider a range of factors relating to equipment performance, ancillary facilities and procedure before making a decision.

Lawyer/client consultations and confidentiality

- 6.13 Most of the confidentiality concerns expressed by lawyers related to one or more of the following:
- the sound characteristics of the consultation booth at the court meant that their conversation could be overheard by people standing outside
 - for similar reasons, prison officers could overhear the defendant's end of the conversation
 - the telephone at the court used for taking instructions during a hearing was inadequately soundproofed
 - the dock officer at the prison remained in the courtroom with the defendant during telephone consultations.
- 6.13 It proved possible to respond to all these concerns. Use of one consultation booth at Bristol was discontinued because of the sound leakage problem and consultations transferred to the two other booths whose characteristics were acceptable; telephones used by lawyers during hearings were fitted with acoustic hoods or placed in a partitioned-off cubicle to ensure privacy; and prisons were advised that dock officers should leave the courtroom area while defendants spoke to their lawyers on the telephone. The lesson of the pilots is that the issue of confidentiality must be addressed at the planning stage. The design and location of booths and telephones must meet the confidentiality requirements of the defence representatives on the local working group.
- 6.14 A few lawyers believed that electronic surveillance was used as a matter of course to monitor all contact with clients in custody, including legal visits to prisons. However, most accepted the undertakings displayed in consultation booths that no such monitoring was taking place.

Recommendation 4: The specification for consultation booths and housing for telephones used to take instructions during a hearing should include a requirement that conversations conducted at normal volume must not be audible to anyone other than the lawyer and the defendant. The standard procedures adopted for video link hearings should include an instruction that dock officers leave the prison courtroom while defendants speak to their lawyers on the telephone.

Court listing

- 6.16 Video links do not increase the number of hearings that courts have to list, except for a few special applications for an appearance in person. All three pilot courts managed to incorporate video link courts without the need to run an extra court, although Bristol had originally intended to do so. The impact on other court business was greatest at Swindon, the smallest of the pilot courts, where the ability to list all day trials was affected. Larger courts such as Manchester have more listing flexibility because of the number of courtrooms at their disposal. The high volume of cases dealt with means that the video link court is kept busy and there is always other kinds of work it can take if video link proceedings are interrupted or finish early.

Conclusions and recommendations for wider implementation

6.17 Every court develops its own approach to listing which takes account of local circumstances. The pilots demonstrated that larger courts will have the least difficulty in listing for the video link court. Smaller courts may find it harder to maintain the utilisation of the video link court and this could affect overall efficiency. No specific recommendations are made as to listing strategy, but small courts should consider using a courtroom with a custody dock in order to maximise the kinds of cases that can be heard if the video link list is short or interrupted.

Running order

6.18 There were marked contrasts between pilot courts in their ability to adhere to the published order for video link hearings. The consequences of unexpected changes to order can be significant, particularly for defendants. When operating as intended, video links minimise the time spent waiting around and allow defendants to return quickly to their normal routine (see paragraph 4.49).

6.19 The differences between courts seemed to relate to local legal culture and the degree of acceptance of video links among defence solicitors. The problems were most acute in Bristol where order was frequently disrupted due to unavailability of defence lawyers. The order was published at least 24 hours in advance and advocates who were otherwise committed could request that it be changed but few did so. Unlike the two other courts, hearings at Bristol were not listed to start at a specific time and this may have contributed to the problems. Few Bristol defence lawyers complied with requests to book in advance slots for client consultations on the day. This meant that prisons had to make booths and defendants available on the day of the hearing at short notice, which in turn could involve changes to the order in which cases were heard. At Swindon, consultation slots were assigned in court at the time the video link hearing was listed. Lawyers generally adhered to these times and there was little disruption to running order on the day. However, Swindon also had many fewer cases than Bristol. At Manchester, use of the booking procedure for consultations was generally poor although there was some improvement during the course of the pilot. Nevertheless, defence lawyers showed more discipline in appearing for hearings at the appointed time, probably because of the strong line taken by the bench on failures to appear.

Recommendation 5: The running order for video link courts should be published at least 24 hours in advance and each hearing should be given a specific starting time. Training for magistrates and clerks should stress the importance of adhering to the order wherever possible and to require explanations from defence advocates who do not appear at the appointed time. Guidance for defence advocates should explain the booking system for consultation slots and the consequences for defendants of late disruption to the running order of hearings.

Timeliness

6.20 Much interest has centred on the effect of video link hearings on delays at the start of hearings and hearing length. Late arrival of prisoners who are brought to court can delay hearing start times and the court also has to wait between hearings as one prisoner is returned to the cells and the next brought up. With video link hearings, prisoners are kept in a holding area just outside the courtroom and can be produced immediately when the court is ready. On the other hand, concern has been expressed

Video Link Pilot Evaluation

that hearings over the link may take longer than when defendants are brought to court. This could arise because of extra time needed for telephone consultations between lawyer and client during the hearing or the time taken for applications to appear in person at the next hearing.

- 6.21 It was not possible to provide definitive answers to these questions during the pilot. There were few recorded cases of courts having to wait while prisoners were brought to the video link court in the prison. This was confirmed by participants: in all categories, more than 85 per cent had not experienced a delay of more than five minutes in producing a defendant (Figure Chapter 4 .6). This compares favourably with monthly figures kept by PECS on the proportion of escorted prisoners who are produced by the court start time. Similarly, a large majority in all categories felt that it took less time to produce defendants for a video link hearing than from the cells at the court (Figure Chapter 4 .7). However, delays to the start of hearings did occur because defence lawyers were speaking to clients or in discussion with the CPS. Sometimes the court could proceed with other business but at other times it had to wait until the parties were ready. Similar problems arise when defendants are produced at court and a detailed comparison of the reasons for such delays and the amount of time lost was outside the scope of this evaluation.
- 6.22 Measurements of the length of video link hearings suggest that they were slightly longer than similar hearings at which the defendant was produced at court (Figure Appendix B.9). However the difference is small given the number of cases and it was not possible to take account of the precise matters dealt with at the hearing. Initial remand hearings that included an application to appear in person were only fractionally longer than those with no such application (Figure Appendix B.4). Participants were overwhelmingly of the view that video link hearings were no longer than those where the defendant was brought to court (Figure Chapter 4 .8).

Bail applications

- 6.23 Defence lawyers' concerns about the fairness of making bail applications over the link were not borne out during the pilots, at least in respect of the likelihood of bail being granted. There was no difference between the success rate of applications over the link and that of applications made at hearings prior to the pilots. No national comparison is possible as figures are not collected on the success rates of bail applications.
- 6.24 The pilots revealed some problems with the provision of bail information to support applications made at video link hearings. In Bristol, responsibility for providing such information was transferred from probation officers at the court to the prison. Prison officers have other duties and were unable to respond to some late requests for information on the availability of a bail hostel place. At Manchester, the Probation Service had concerns about the quality of bail information that could be provided by their prison colleagues. In some cases, the need for bail information formed the basis of a successful application for the defendant to be brought to court.

Recommendation 6: Local preparations for the introduction of video link hearings should address the provision of bail information. Defence advocates who intend to make a bail application at the first video link hearing should be encouraged to request bail

Conclusions and recommendations for wider implementation

information at the initial remand hearing in order that the Probation Service can interview the defendant in the cells at court. Where responsibility for the subsequent provision of information is transferred from the court to the prison, there must be adequate resources provided to respond to requests. The arrangements should ensure that defendants appearing over the link receive the same quality of service in respect of bail information as those brought to court.

Applications to appear in person

- 6.25 Prior to the pilots, no guidance was issued on what constitutes adequate grounds to grant an application that a defendant should appear in person rather than over the link. Each case was to be considered on its merits and the evaluation would consider the reasons why applications were successful. In fact, no clear principles have emerged. Courts have deemed the link appropriate for hearings involving unrepresented defendants and those who require an interpreter. Some defendants have been brought to court for purely practical reasons, for instance where the number of co-defendants makes it impossible to get them all into the video link courtroom at once or the courtroom at the court cannot accommodate all the legal representatives and their files. Most courts granted an application to appear in person based on an anticipated guilty plea to avoid delaying the start of sentencing. Apart from these situations, only applications based on concerns about the defendant's health, particularly mental health, seem to be consistently successful. Even here, some lawyers representing defendants with health problems have preferred that they appear over the link.

Recommendation 7: No specific rules should be laid down for magistrates on when to grant an application for a defendant to appear in person. The court should consider each case on its merits and local guidance on factors to consider should be provided in training for magistrates and clerks. This should point out that applications may be particularly appropriate when there are concerns that a defendant may have difficulty in coping with the link because of physical or mental health problems.

PSRs and committals for sentence

- 6.26 As explained in paragraph 4.4.62, there is no bar in statute to benches ordering reports or committing for sentence in the absence of the defendant. However, in practice these decisions are acknowledged to be part of the sentencing process and are always taken in the presence of defendants who appear at court. It is likely to be considered unfair for courts to exercise these powers in relation to defendants appearing over the link without their explicit consent. Whatever practice is adopted should apply consistently across all magistrates' courts.

Recommendation 8: The Home Office should provide guidance for courts on ordering reports and committing for sentence in relation to defendants appearing at video link hearings. The guidance should take account of the wishes of the defendant and the desirability of the defendant being present, either on the link or in person, when the decision is announced.

Standardising procedure

- 6.27 A small group of defence advocates were opposed to video link hearings on principle. However, most participants were willing to accept the use of the video links providing there were practices and procedures in place to ensure the fairness of the process.

Video Link Pilot Evaluation

Some practice in the pilot fell short of the high standard required. There was also some undesirable inconsistency across areas in the way in which practice was applied. Tailoring of procedure in response to local circumstances is a necessary feature of the criminal justice system. Nevertheless, certain basic features in relation to video link hearings should be common to all courts. The implementation of such standard features will help to structure training and promote confidence in the fairness of video link hearings. The Law Society is currently preparing a Good Practice Guide for criminal practitioners in the new environment created by the Crime and Disorder Act. In particular, the Guide should address good practice for advocates appearing in video link hearings

Recommendation 9: National guidance should be produced on certain aspects of video link hearings. This should cover, for example:

- *matters to be addressed by the clerk in the introductory remarks to the defendant at the start of the hearing*
- *procedure to be followed for telephone consultations between defence advocate and defendant during the hearing, including the need to mute the video link at both ends and for the dock officer to leave the video link courtroom*
- *bench pronouncements in relation to granting bail and allowing an application for an appearance in person at the next hearing*
- *at the end of a hearing, asking whether the defendant wishes to speak to his or her lawyer*
- *procedures for a video link hearing where the defendant requires an interpreter*
- *procedure to be followed in the case of a defendant who refuses to take part in a hearing over the link*
- *procedure in the event that a video link hearing is abandoned because of equipment failure or other reasons*
- *arrangements at the prison for defendants to receive medical attention following a hearing*
- *information for victims about video link hearings.*

The guidance should be supplemented with local practice and disseminated during training. Good practice for advocates representing clients over the video link should be included in the guidance currently being prepared by the Law Society. In particular, this should stress the importance of speaking to defendants following the hearing to ensure they understand the decisions of the court.

Training

6.28 As well as involving unfamiliar procedures, applications and decisions, video link hearings require professional participants to master skills not usually associated with their role. Clerks need to be familiar with equipment controls and adept at moving the camera between speakers. They must also be alert to signals from defendants who wish to speak to their advocate. Others need training in video link technique, for instance waiting till they are in shot before speaking, looking at the camera rather than the monitor when addressing the defendant and avoiding movements which take them out of shot while speaking. Prison officers also need training in the use of the

Conclusions and recommendations for wider implementation

equipment, in responding to prisoners' questions and in procedures designed to ensure the confidentiality of conversations between defendants and their lawyers. A training programme aimed at equipping those involved with the necessary skills is a clear prerequisite for successfully introducing the link to new areas.

- 6.29 The preparation for the pilot included a comprehensive programme of training and familiarisation. However, the content of that training now needs to be reviewed in the light of the experience gained during the pilots. Moreover, the question of who should receive training requires some thought. Focusing on a small group is cost effective and should ensure that those receiving the training have the opportunity to use their skills on a regular basis. However, on a number of occasions during the pilots, untrained personnel were drafted in to participate in video link hearings. This can arise, for instance, when magistrates exchange sittings with each other, when someone falls ill or when pressure on resources results in trained staff being seconded to other duties. Account should be taken of these issues when devising local training strategies.

Recommendation 10: Each area in which the video link is to be introduced should develop a training programme for participants. This should include both procedural matters and video link technique. The opportunity to practise on the link and to participate in mock hearings should be given to all trainees and to defence advocates. Measures should be taken to ensure that, wherever possible, only those with the necessary training are allowed to take part in video link hearings.

Implementation options

- 6.30 Section 57 of the Crime and Disorder Act authorises use of the video link, subject to representations from the parties, at all preliminary hearings. Only magistrates' courts proceedings were covered in this evaluation although the government has indicated that it intends to run pilots at the Crown Court in the near future. The viability of video links in the criminal justice system could depend on this extension of their use. Other measures in the Crime and Disorder Act currently being piloted include the transfer of cases involving indictable only offences to the Crown Court after one, or at most two, appearances in the magistrates' court. It is intended to extend this procedure throughout England and Wales during 2000. This will reduce significantly the number of magistrates' courts hearings involving a defendant in custody and hence the number eligible for a video link hearing. Other measures aimed at improving case management and reducing delay may reduce still further the number of magistrates' courts hearings eligible for the video link. These changes need to be borne in mind in planning the introduction of video links on a wider scale.
- 6.31 The difficulties discussed in Chapter 5 of quantifying precisely the costs and savings associated with use of video links makes it hard to compare different implementation options, at least from a financial standpoint. In terms of workflow, the simplest solution would be to provide all local prisons and magistrates' courts with video link equipment. This would ensure that the link was available for any eligible hearing where the defendant was held in prison. However, as there are around 50 local prisons and 450 magistrates' court buildings, the cost of equipment, building works and training means that this option is unlikely to be justified on grounds of cost.

Video Link Pilot Evaluation

6.32 A more financially feasible approach would be to equip with the video link all local prisons and selected magistrates' courts designated as 'video link centres'. Surrounding magistrates' courts would transfer to the nearest centre any case in which a defendant was remanded in custody by the court and no application for an appearance in person was granted. Although this approach may be more viable financially, it gives rise to other problems. Magistrates in courts that were not video link centres might resent having a significant and interesting part of their caseload taken away. Increased travelling to video link centres by lawyers would impact organisation of criminal defence work, including duty solicitor schemes, and the legal aid fund. The defendant's family could be deterred from attending hearings because of the distances involved. If a video link centre retained a transferred case to its conclusion, extra costs could be incurred in relation to witnesses attending trials. If cases were returned to the originating court for trial or sentencing, the question of transferring records and files would need to be addressed. A detailed comparison of the relative merits of these options will require a more thorough examination than has been possible during this evaluation.

Recommendation 11: A study should be undertaken of the various options for extending the use of video links to other courts and prisons. The study should address not only the costs and savings associated with each option but also the process for referral of cases to video link courts, the implications for court caseload and the acceptability of the arrangements in light of the commitment of magistrates' courts to deliver local justice.

Appendix A
Characteristics of pilot sites

The courts

Bristol Magistrates' Court

Number of courtrooms		Eight in regular use prior to pilot. Video link court was not used regularly as a courtroom prior to the pilot
Number of remand courtrooms (i.e. with a dock linked to the cells)		Four
Number of magistrates		320 lay magistrates
Characteristics of video link courtroom		Smaller than average for a courtroom. Adjacent to busy road with continuous traffic noise. No dock
Days on which video link hearings held with each prison	Horfield Eastwood Park	Monday, Wednesday, Friday Monday, Wednesday, Friday
Start and finish times for these sessions	Horfield Eastwood Park	10:00 to 13:00; 14:15 to 17:00 10:00 to 13:00; 14:15 to 17:00
Number of video link consultation booths		Three, but only two designated as providing confidentiality
Video link equipment and supplier		PictureTel Concorde 4200 in the courtroom. PictureTel mm220 videophone in VL1 and VL2, PictureTel Swiftsite system in VL2 and VL3. Supplied by Telindus Networks
Location of telephone for 'in-hearing' consultations		In courtroom alcove. Door being fitted to provide extra privacy
Impact on listing of video link hearings		Video link court run as an extra court three days a week, although pilot coincided with closure of another courtroom for repairs. Relieving other courtrooms of 24 custody hearings each week although staff claim no noticeable impact

Video Link Pilot Evaluation

Manchester City Magistrates' Court

Number of courtrooms		Twenty
Number of remand courtrooms (i.e. with a dock linked to the cells)		Nine
Number of magistrates		Three stipendiaries and 415 lay magistrates
Characteristics of video link courtroom		Smallest of the video link courtrooms. No dock
Days on which video link hearings held with each prison	Manchester Hindley	Every weekday Monday, Tuesday, Thursday, Friday
Start and finish times for these sessions	Manchester Hindley	9:30 to 13:00. No requirement for afternoon sessions so far 10:00 to 11:45. No requirement for afternoon sessions so far
Number of video link consultation booths		Three
Video link equipment and supplier		PictureTel Venue system in the courtroom. Tandberg VS1 videophones in the consultation booths. Supplied by BT
Location of telephone for 'in-hearing' consultations		In corridor behind locked door to prevent access by the public
Impact on listing of video link hearings		No extra courts required. Video link court replaced trial court

Swindon Magistrates' Court

Number of courtrooms		Six
Number of remand courtrooms (i.e. with a dock linked to the cells)		Four
Number of magistrates		129 lay magistrates
Characteristics of video link courtroom		Full size courtroom with custody dock
Days on which video link hearings held with each prison	Horfield Eastwood Park	Tuesday, Thursday Tuesday, Thursday
Start and finish times for these sessions	Horfield Eastwood Park	10:00 to 13:00 10:00 to 13:00
Number of video link consultation booths		One
Video link equipment and supplier		PictureTel Concorde 4500 in the courtroom. PictureTel mm220 videophone in consultation booth. Supplied by Telindus Networks
Location of telephone for 'in-hearing' consultations		Outside courtroom in public area. Fitted with a hood to provide some privacy
Impact on listing of video link hearings		No extra courts being run. Video link court hearing a mixture of business including custody cases with the defendant present in the courtroom. However, the video link court has resulted in the cancellation of an all-day trial court on a Thursday and the delay in listing all-day trials has increased as a result

Video Link Pilot Evaluation

The prisons

HMP Eastwood Park

Average remand population (approximate)	50
Number of magistrates' courts served on a daily basis	100
Characteristics of prisoners held (gender, age range, security category)	Female, 16 and above (remand), 15 and above (sentenced)
Days on which video link hearings held	Bristol Magistrates' Court Monday, Wednesday, Friday Swindon Magistrates' Court Tuesday, Thursday
Start and finish times for these sessions	10:00 to 13:00
Number of video link consultation booths	One
Number of officers on duty in video link area	One officer who acts as dock officer and escorts prisoners to and from cells
Number of prisoners held in waiting area at any time	Not applicable (no waiting area)
Video link equipment and supplier	PictureTel Concorde 4200 in the courtroom. PictureTel Swiftsite system in consultation booth. Supplied by Telindus Networks
Location of telephone for 'in-hearing' consultations	In the courtroom
Location of fax machine	In the courtroom
Arrangements for bail info for 2 nd bail applications	Notice required. Cannot respond to a request on the day
Legal visiting hours	9:30 to 11:45 and 13:45 to 16:15 Monday to Friday

HMP / YOI Hindley	
Average remand population (approximate)	350
Number of magistrates' courts served on a daily basis	20 to 25
Characteristics of prisoners held (gender, age range, security category)	Males aged 15 to 21
Days on which video link hearings held	Monday, Tuesday, Thursday, Friday
Start and finish times for these sessions	10:00 to 11:45
Number of video link consultation booths	One
Number of officers on duty in video link area	Two; a dock officer and an officer supervising the consultation booths and waiting area
Number of prisoners held in waiting area at any time	Five (but capacity for up to eight)
Video link equipment and supplier	PictureTel Venue system in the courtroom. Tandberg VS1 videophones in the consultation booth. Supplied by BT
Location of telephone for 'in-hearing' consultations	In the courtroom
Location of fax machine	In office at the side of the video link courtroom
Arrangements for bail info for 2 nd bail applications	None
Legal visiting hours	10:00 to 10:40 and 11:00 to 11:40 Monday, Tuesday, Thursday, Friday; 14:00 to 14:40, 15:03 to 15 45 every weekday

Video Link Pilot Evaluation

HMP Horfield		
Average remand population (approximate)		200 to 300
Number of magistrates' courts served on a daily basis		Seven
Characteristics of prisoners held		Males over 21 in all security categories Males under 21 with category A security classification
Days on which video link hearings held	Bristol Magistrates' Court	Monday, Wednesday, Friday
	Swindon Magistrates' Court	Tuesday, Thursday
Start and finish times for these sessions		10:00 to 13:00; 14:00 to 17:00
Number of video link consultation booths	Standard Cat A	Three None (courtroom system used for consultations)
Number of officers on duty in video link area	Standard and Cat A	Three; dock officer, officer outside the courtroom to look after waiting area, officer to escort prisoners between cells, video link court and consultation booths
Number of prisoners held in waiting area at any time	Standard	40 in smoking area (main visit holding area) and three in adjoining non-smoking room
	Cat A	Four
Video link equipment and supplier		PictureTel Concorde 4200 in the standard courtroom and Concorde 4500 in the High Risk Visits area. One PictureTel mm220 videophone and two PictureTel Swiftsite systems in consultation booths. Supplied by Telindus Networks
Location of telephone for 'in-hearing' consultations		In the courtroom
Location of fax machine		In video link courtroom
Arrangements for bail info for 2 nd bail applications		Can respond at short notice to request for bail information
Legal visiting hours		9:15 to 11:30 and 14:00 to 16:00 Monday to Friday; 18:00 to 19:30 Wednesday

HMP Manchester

Average remand population (approximate)		175
Number of magistrates' courts served on a daily basis		16 for standard risk prisoners; 55 in the last year for Cat A prisoners
Characteristics of prisoners held		Males over 21 in all security categories Males under 21 with category A security classification
Days on which video link hearings held		Every weekday
Start and finish times for these sessions		9:30 to 13:00
Number of video link consultation booths	Standard	Two
	Cat A	One
Number of officers on duty in video link area	Standard and Cat A	Three; dock officer, officer to escort prisoners between cells, video link court and consultation booths and operational support grade officer
Number of prisoners held in waiting area at any time		12 to 15
Video link equipment and supplier		PictureTel Venue system in the courtroom. Tandberg VS1 videophones in the consultation booths. Supplied by BT
Location of telephone for 'in-hearing' consultations		In the courtroom
Location of fax machine		In office in video link area
Arrangements for bail info for 2 nd bail applications		None requested to date
Legal visiting hours		8:30 to 11:45 and 14:00 to 17:00 Monday to Friday

Appendix B

Statistics relating to pre-pilot and pilot hearings

Hearing numbers

- B.1 Prior to the start of the pilot, data were collected at the three pilot courts over a two-week period at hearings that would have been eligible to be heard over the video link had it been available. This provided a baseline for comparison with data collected during the pilot.
- B.2 On Monday 16 November 1998, the pilot courts began to schedule the ‘next’ hearing as a video link hearing for appropriate defendants who appeared and were remanded in custody. Actual video link hearings began the following week. Using a form designed by the evaluators, data were recorded by justices’ clerks at initial hearings at which defendants were remanded in custody and at video link hearings during a two-week period beginning on Monday 30 November. The exercise was repeated during February 1999 after the pilot had been running for over two months at each site. In addition, sites kept a running tally of the number of video link hearings held (Table B.1).

Table B.1: Total number of video link hearings up to 5 March 1999

Magistrates’ Court	Prison	Number of video link hearings
Bristol	Horfield	277
	Eastwood Park	18
Swindon	Horfield	45
	Eastwood Park	5
Manchester	Manchester	322
	Hindley	81
Total		748

- B.3 Pilot data collection covered only a small proportion of these video link hearings. Data were also collected at initial remands at which defendants were produced from custody as overnight prisoners and remanded back into custody, usually for a further preliminary hearing. Finally, data were collected at a small number of special hearings to consider applications that a hearing scheduled to take place over the link should instead be conducted in the presence of the defendant. The numbers of defendants involved in hearings at which data were collected are shown in Table B.2.

Statistics relating to pre-pilot and pilot hearings

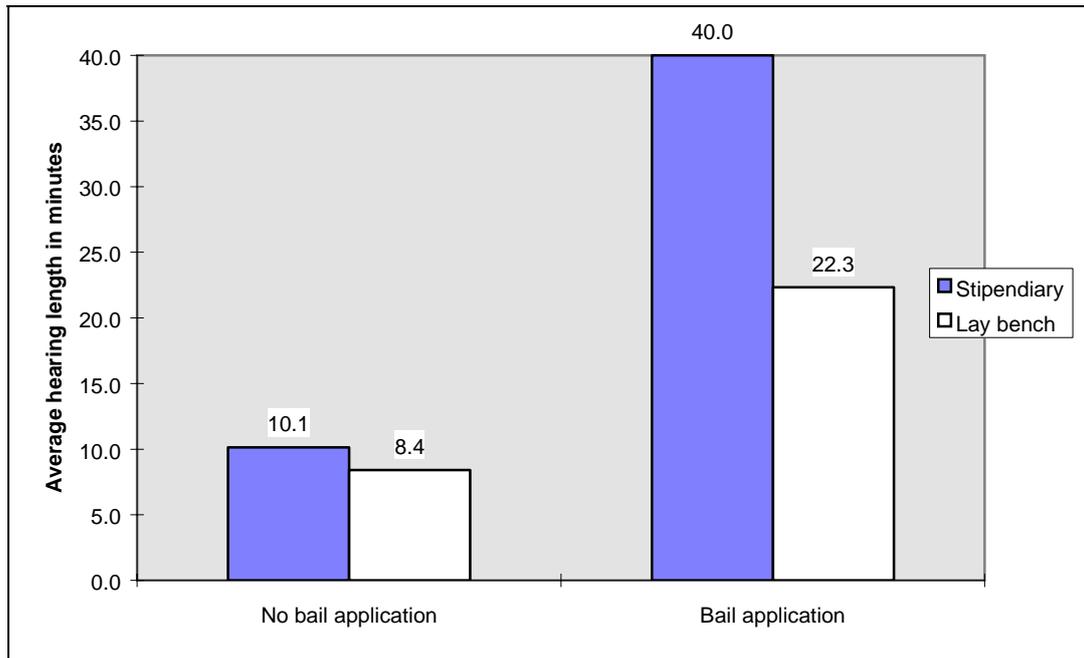
Table B.2: Number and type of hearings at which data were collected

	Manchester	Bristol	Swindon	Total
Pre-pilot remand hearings that would have been eligible for the link	57	75	24	156
First appearances where the defendant was remanded in custody to a prison in the pilot	44	46	15	105
Special hearings for application that the defendant appears in person at the next hearing	4	0	1	5
Hearings held over the video link	105	62	15	182
Total	210	183	55	448

Pre-pilot hearings that would have been eligible for the video link had it been available

- B.4 Data were collected at 156 hearings at which a defendant was produced from prison custody for a pre-trial hearing. Nineteen hearings involved jointly charged co-defendants and in 12 of these at least one co-defendant was also in custody. Twelve defendants were women with ages between 20 and 39. The ages of male defendants ranged from 15 to 59.
- B.5 Manchester benches varied in their composition: 11 hearings were presided over by a stipendiary, six by three lay magistrates, 38 by two lay magistrates and two by a single lay magistrate. All other benches comprised three lay magistrates with the exception of one hearing at Swindon at which two lay magistrates presided.
- B.6 There were 46 bail applications for which the result was recorded. Nineteen of these applications were granted, a success rate of 41 per cent.
- B.7 The length of hearings is illustrated in Figure Appendix B.1 which distinguishes a stipendiary from a lay bench and whether or not the hearing included a bail application. The figures for stipendiaries should be treated with caution as they are based on only eight hearings with no bail application and three with a bail application.

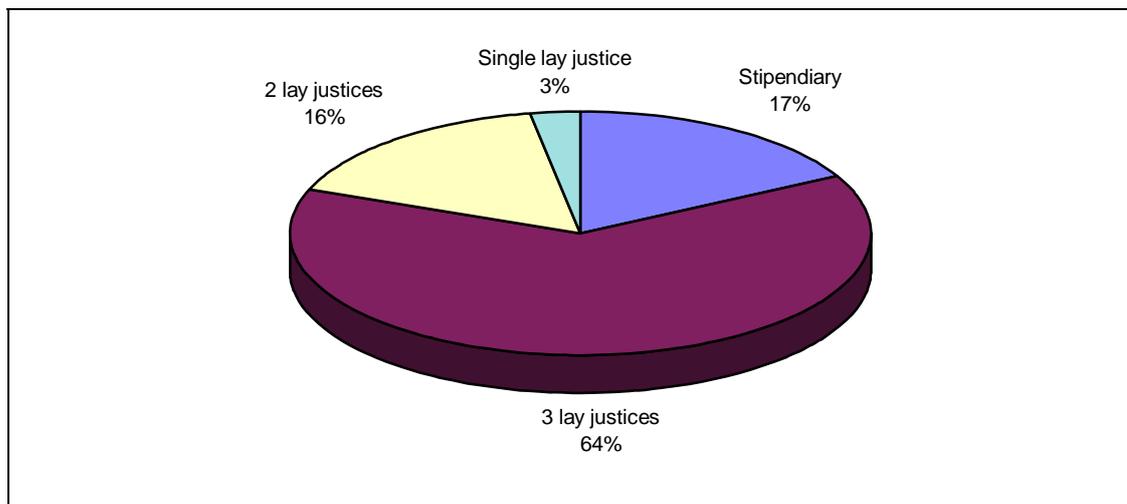
Figure Appendix B.1: Average length in minutes of pre-pilot hearings by type of bench



Initial remands when the defendant is produced as an overnight prisoner and remanded in custody to a prison in the pilot

B.8 One hundred defendants at these hearings were male and five were female. All were legally represented. The men’s ages ranged from 18 to 64 while the women were between 20 and 27 years of age. Twenty-one defendants were jointly charged with others and the number of co-defendants ranged from one to 12. In 12 instances a co-defendant was also remanded in custody to a prison in the pilot. The composition of the bench at these hearings is illustrated in Figure Appendix B.2.

Figure Appendix B.2: Type of bench at initial remand hearings



Statistics relating to pre-pilot and pilot hearings

- B.9 Unsuccessful bail applications were made on behalf of 66 defendants (63 per cent). In 43 instances (41 per cent) there was an application for the defendant to appear in person at the following hearing instead of over the video link. Twenty-seven of these were made by the defence alone, ten were made jointly by the defence and prosecution, two were made by the prosecution alone and four were made on the initiative of the court without an application from either party.
- B.10 Thirty-four applications to appear in person were granted, a success rate of 79 per cent. The reasons for granting applications are set out in Table B.3.

Video Link Pilot Evaluation

Table B.3: Reasons given at initial remand hearings for granting applications to appear in person at the next hearing

No.	Applicant	Type of bench	Reasons given
1	Defence	2 lay justices	Witnesses were called on breach of bail. Further enquiries to be made concerning allegations that the injured party has been contacting the defendant. CPS may call the police officer in the case as well. Defendant to be in court to hear (and possibly give) evidence
2	Defence	2 lay justices	Because of the nature and complexity of the evidence in the case involving video and tapes
3	Defence	2 lay justices	Probation need to interview on next occasion about a possible bail hostel
4	Defence	3 lay justices	Defendant has mental health problems
5	Defence	3 lay justices	Case adjourned to next day which was not one on which there was a video link court
6	Defence	3 lay justices	Defendant is serving prisoner at Dartmoor prison
7	Defence	3 lay justices	Guilty plea will be entered at next hearing
8	Defence	3 lay justices	Guilty plea will be entered at next hearing
9	Defence	3 lay justices	Large numbers of offences (24) plus TICs. Guilty pleas likely to be entered on next occasion. Likely that reports will not be ordered and an immediate custodial sentence imposed
10	Defence	3 lay justices	Defendant consented to overnight remand as no bail hostel place available but wanted to make bail application the next day when no video link available
11	Defence	3 lay justices	Remanded for police enquiries
12	Defence	3 lay justices	Co-accused on bail
13	Defence	3 lay justices	Possibility of defendant receiving immediate custodial sentence once guilty pleas entered on the next occasion
14	Defence	3 lay justices	For plea
15	Defence	stipendiary magistrate	Defendant did not have his own solicitor today. Should have personal meeting with her the next day. No working days between today and next hearing so she cannot see client in prison
16	Defence	stipendiary magistrate	Defendant concerned with female co-defendant and no video link at Risley. All defendants to be kept together for plea before venue and video link court has no dock
17	Defence	stipendiary magistrate	As above
18	Defence	stipendiary magistrate	Defendant has ill health problems and is not appropriate for the video link
19	Joint request	2 lay justices	Number of defendants and complex nature of the case (all co-defendants on bail)
20	Joint request	2 lay justices	To appear to answer charge. In custody for breach of police bail. Couldn't get paperwork before the court

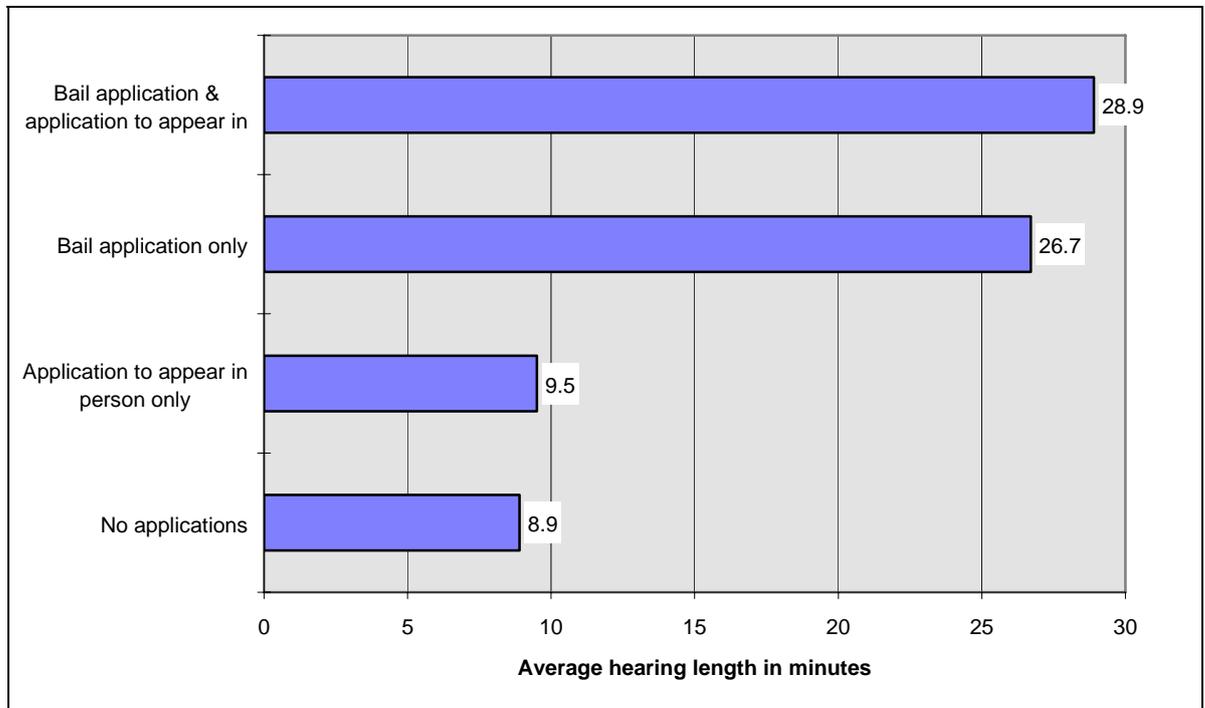
Table B.3: Reasons given at initial remand hearings for granting applications to appear in person at the next hearing

No.	Applicant	Type of bench	Reasons given
21	Joint request	2 lay justices	Likely to proceed to sentence on next occasion
22	Joint request	3 lay justices	To ensure the Bail Information Service give the defendant priority
23	Joint request	3 lay justices	Likely to progress to sentencing on next occasion
24	Joint request	3 lay justices	For plea before venue. Seriousness to be determined
25	Joint request	3 lay justices	Co-defendant was remanded to Reading jail
26	Joint request	3 lay justices	To list for trial on one matter
27	Joint request	single lay justice	To appear for trial and committal at next hearing (presumably on unrelated matters)
28	Joint request	stipendiary magistrate	Two co-defendants are female and no facilities at Risley for video link. All 3 defendants should be kept together for PBV and video link court has no dock
29	Prosecution	3 lay justices	Application for 48 hours lie down on next occasion
30	Prosecution	3 lay justices	24 hour lie down (defendant remains in police custody)
31	Court	2 lay justices	Time slot on video link not available on next occasion for a split screen hearing with co-defendant at Hindley. No time on day before and Hindley does not have link hearings on Wednesdays
32	Court	2 lay justices	As above
33	Court	3 lay justices	Defendant will be pleading guilty and a PSR requested at the next hearing
34	Court	3 lay justices	To be sentenced and PSRs ordered on matters not going to the Crown Court

Video Link Pilot Evaluation

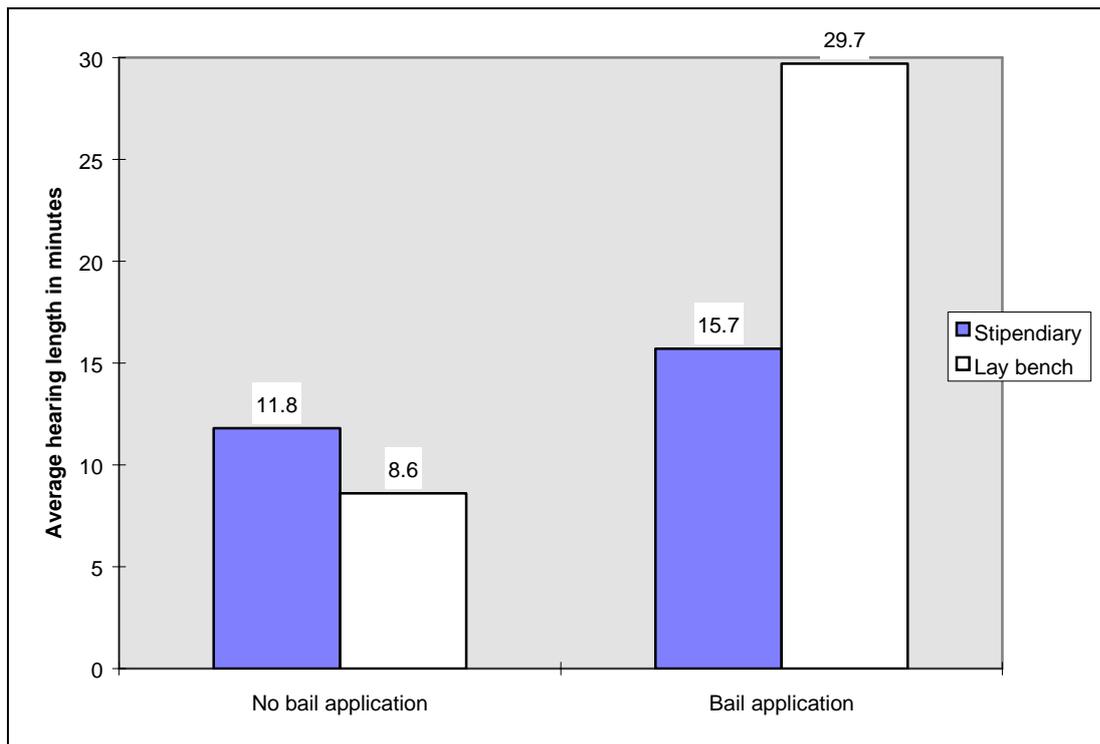
B.11 The length of the initial remand hearing was recorded in 98 cases. These lasted on average for 21 minutes but ranged in length from two minutes to an hour and a half. Figure Appendix B.3 shows the relationship between hearing length and applications made in 96 cases for which data were recorded.

Figure Appendix B.3: Average length in minutes of initial remand hearings



B.12 A comparison can also be made between the length of hearings before stipendiaries and before a lay bench (Figure Appendix B.4). Because the number of stipendiary hearings is small, the comparison distinguishes only whether or not there was a bail application.

Figure Appendix B.4: Average length in minutes of initial remand hearings by type of bench



Special hearings for an application that a defendant scheduled to appear over the link should instead appear in person

B.13 There were only five such hearings and it would be unwise to draw definitive conclusions from such a small number. The following details are recorded for completeness:

- four applications related to a female defendant and one to a male defendant
- all applications were heard by a lay bench
- three applications were made by the prosecution, one by the defence and one was made jointly by defence and prosecution
- the three applications made by the prosecution related to co-defendants in the same case. The application was made on the grounds that the case was complex and the defendants were in different pilot prisons. The application was refused
- only the joint application was granted. The reasons were that the case involved sensitive matters, the hearing was to be in camera and the defendant was considered to be at possible risk and had been remanded in custody for his own protection
- the successful application lasted only a few seconds. One (unsuccessful) hearing lasted for 30 minutes. The length of the hearing in relation to three prosecution applications was not recorded.

Hearings held over the video link

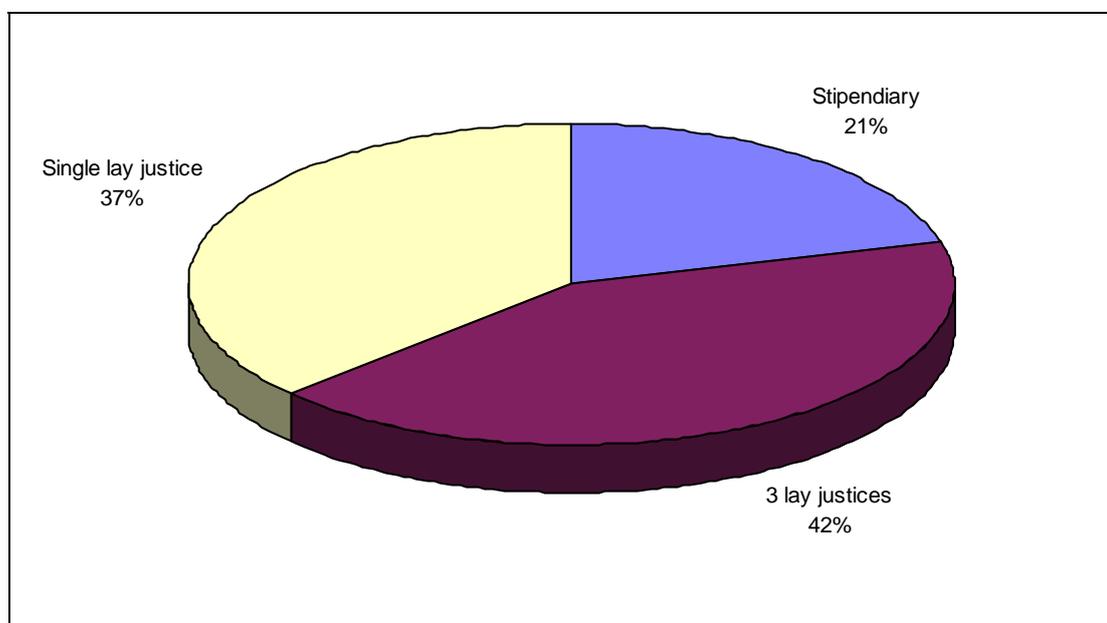
B.14 Data were collected in relation to 182 video link hearings. All but two of the defendants appearing at these hearings were male. Some defendants appeared more than once over the video link. During the period of the pilot, only one video link hearing involved a

Video Link Pilot Evaluation

defendant who was provisionally classified as a category A prisoner but his hearing was not among those for which data were collected.

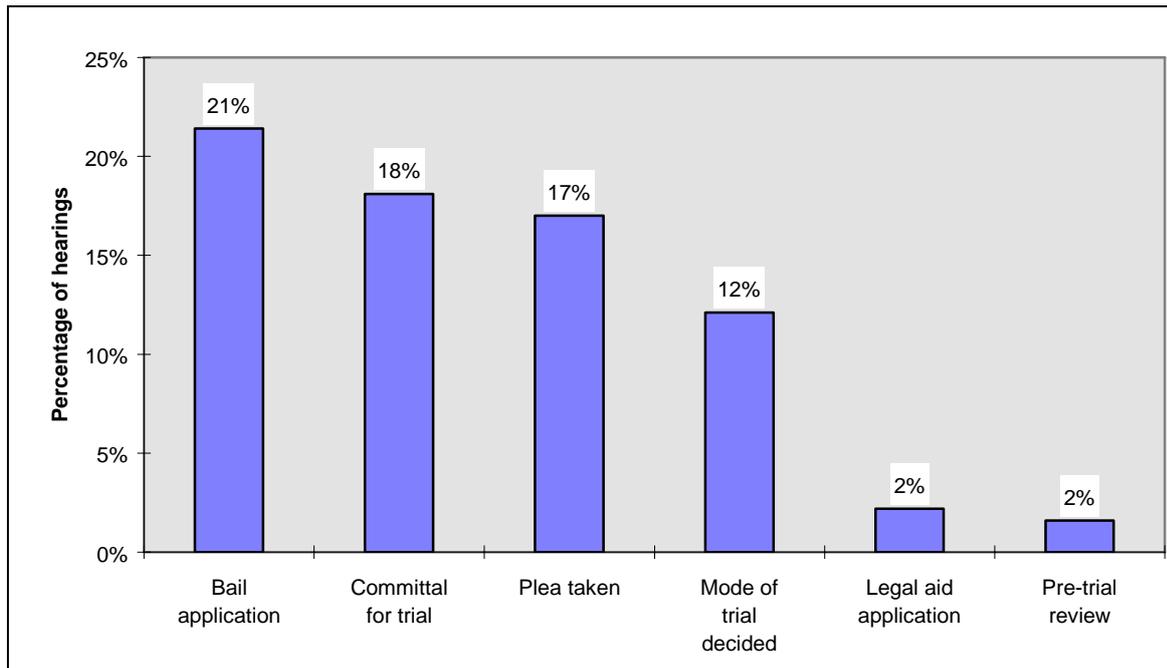
- B.15 The ages of defendants appearing over the link ranged from 16 to 54. Five defendants had a co-defendant who appeared in person at the hearing, 22 had a single co-defendant in custody who also appeared on the link and six had two co-defendants appearing on the link. The 28 cases in which two or more defendants appeared over the link comprised 20 in which defendants were located in the same prison and eight where they were in different pilot prisons.
- B.16 Swindon and Bristol Magistrates' Courts used only benches of three lay magistrates at video link hearings; Manchester used either a stipendiary or a single lay magistrate. Figure Appendix B.5 shows the proportion of the 182 hearings presided over by each type of bench.

Figure Appendix B.5: Type of bench at video link hearings



- B.14 Two hearings involved defendants who were not legally represented. All lawyers for the other defendants were at the magistrates' court end of the link during the hearing. Two represented defendants had interpreters who were also located in the courtroom at the magistrates' court.
- B.15 Defendants in 60 hearings (33 per cent of those at which data were collected) gave instructions to their lawyer over the telephone during the course of the hearing.
- B.16 The range of business dealt with at video link hearings is illustrated in Figure Appendix B.6. Of the 39 bail applications made over the link 16 were granted, a success rate of 41 per cent.

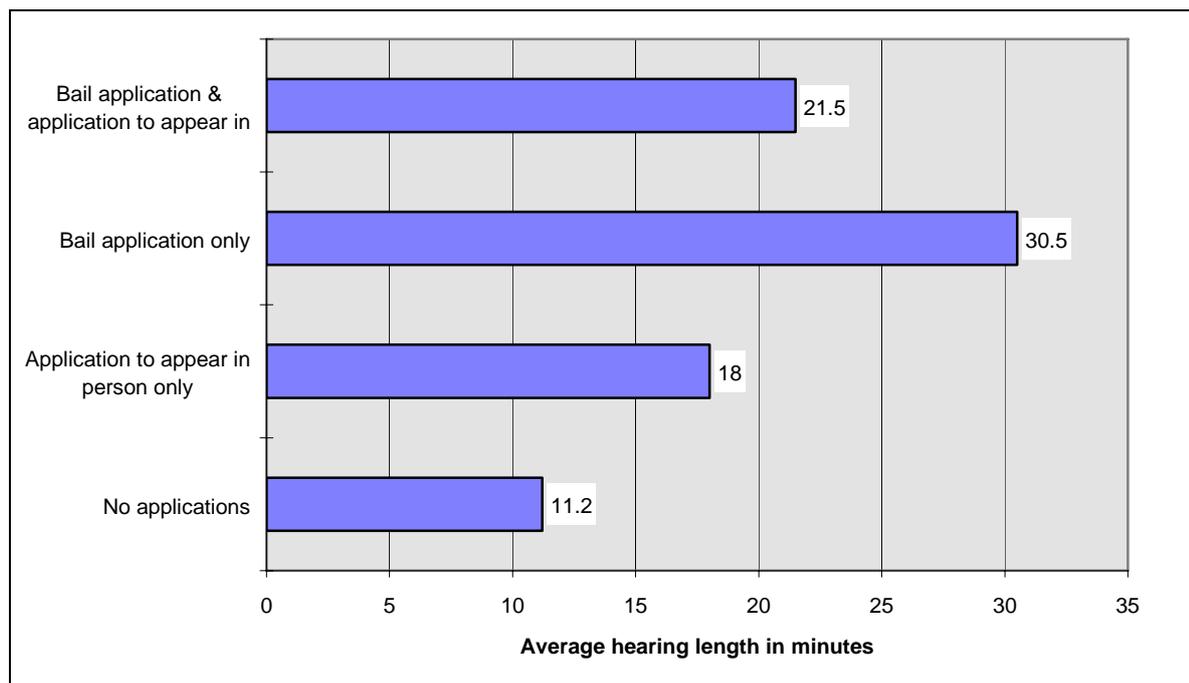
Figure Appendix B.6: Business dealt with at video link hearings



- B.17 In 106 of the 182 video link hearings, the defendant was remanded back into custody for a further hearing which was eligible for use of the video link. In 17 of these cases there was an application that the defendant should appear in person at the next hearing instead of over the link; 15 of these applications (88 per cent) were successful. The reasons given by benches for granting applications to appear in person are listed in Table B.4.
- B.18 The duration of 174 video link hearings was recorded. These varied in length from under a minute to 90 minutes with an average of 15.7 minutes. Figure Appendix B.7 shows hearing length according to the applications made at the hearing.

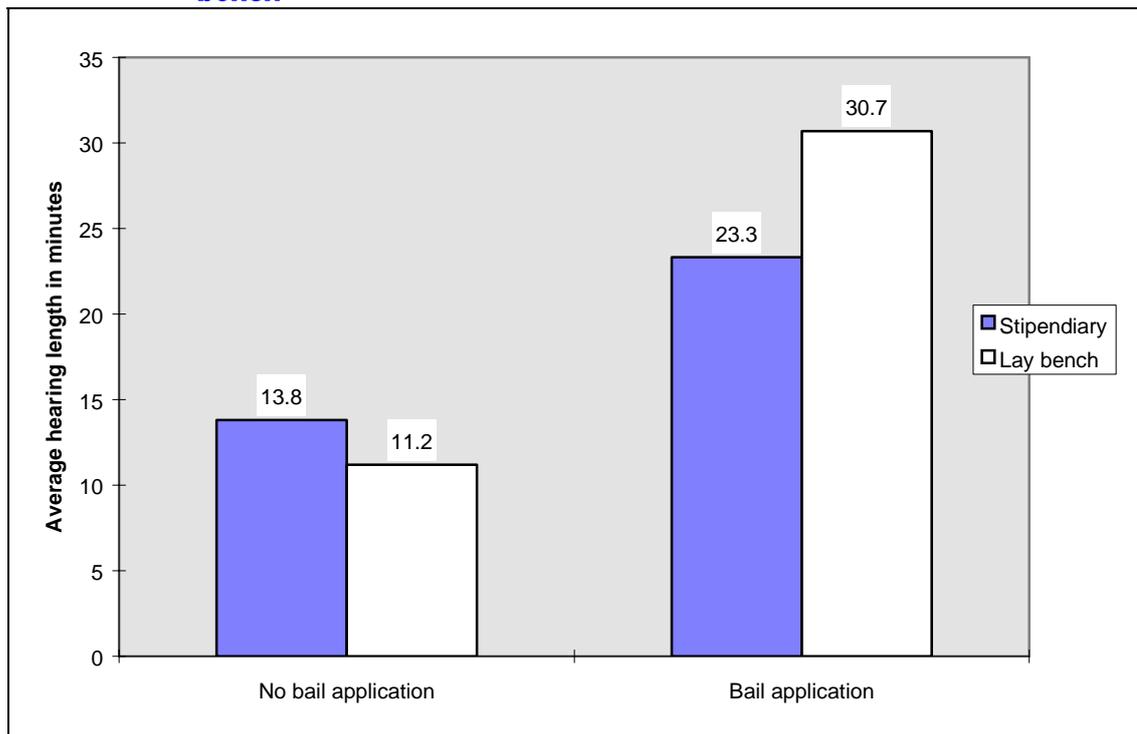
Video Link Pilot Evaluation

Figure Appendix B.7: Average length in minutes of video link hearings



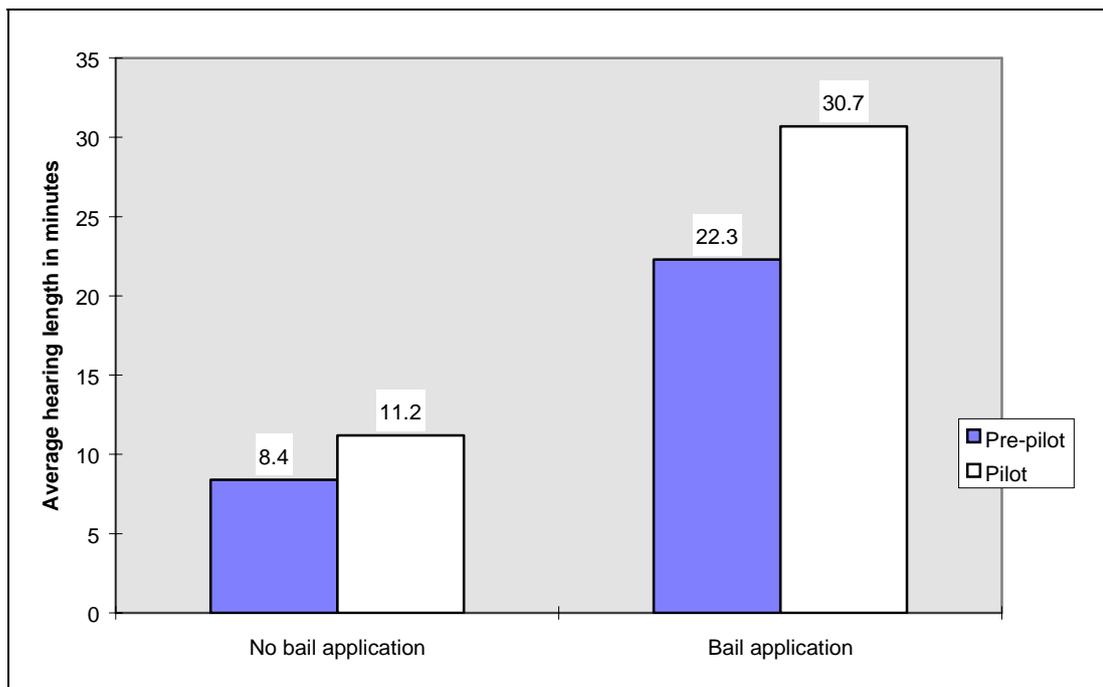
- B.19 The average length of hearings at which both a bail application and an application to appear in person was made is based upon only four cases and it would therefore be unwise to attach too much significance to it.
- B.20 As with initial remand hearings, a comparison can also be made between the length of hearings before stipendiaries and before a lay bench, distinguishing hearings according to whether or not a bail application was made (Figure Appendix B.8). There was no significant difference in the average length of hearings measured during the early and the later stages of the pilot.

Figure Appendix B.8: Average length in minutes of video link hearings by type of bench



B.21 The final chart (Figure Appendix B.9) compares pre-pilot and pilot hearing lengths for lay benches (numbers of hearings involving a stipendiary are too low for meaningful comparison). Hearing lengths over the video length were slightly longer.

Figure Appendix B.9: Comparison of pre-pilot and pilot hearing lengths in front of a lay bench



Video Link Pilot Evaluation

Table B.4: Reasons given at video link hearings for granting applications to appear in person at the next hearing

No.	Applicant	Type of bench	Reasons given
1	Defence	3 lay justices	Committal papers served today. Solicitor needs to go through them with client. Will be able to do so in court cells on Monday
2	Defence	3 lay justices	Indication that guilty plea will be entered on next occasion
3	Court	stipendiary magistrate	Reason not recorded
4	Joint request	stipendiary magistrate	Appearing in any event for trial on unrelated matters
5	Court	single lay justice	Interpreter required therefore not suitable for video link court
6	Defence	single lay justice	Lack of room in court for 3 solicitors plus all their files
7	Defence	single lay justice	Lack of room in court for 3 solicitors plus all their files
8	Defence	single lay justice	Lack of room in court for 3 solicitors plus all their files
9	Defence	3 lay justices	Plea to be entered on next occasion and seriousness determined
10	Defence	3 lay justices	Plea to be entered on next occasion and seriousness determined
11	Joint request	3 lay justices	For a remand to police cells
12	Joint request	3 lay justices	Plea to be entered on next occasion and seriousness determined
13	Defence	3 lay justices	Reason not recorded
14	Joint request	3 lay justices	Because pleas will be entered and committal for sentence effected on next occasion
15	Defence	3 lay justices	Defendant needs legal representation and has to see a solicitor before the next hearing

