

REMOTE INTERVIEWING: THE IMPACT ON ACCESS TO LEGAL REPRESENTATION IN POLICE STATIONS

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POLICY BRIEFING REPORT 2 - APRIL 2022

This policy briefing concerns research investigating the impact of COVID-19 restrictions on the legal representation and advice for suspects of crime. It is part of a wider project on [The interviewing and legal representation of crime victims and suspects using digital communication methods](#). In this study, fifteen legal professionals from England and Wales agreed to take part in additional focus groups and/or one-to-one interviews to follow-up on some of the points they raised during the initial study reported in [Policy Briefing 1](#). Their responses were analysed using Thematic Analysis.

KEY FINDINGS

1. Benefits and risks of remote legal assistance.

Participants reported both positive and negative aspects. The most commonly cited advantages were the speed, efficiency and convenience of remote legal assistance which made it easier for lawyers and accredited representatives to help their clients in police custody at any time of the day, without having to travel. Disadvantages included difficulties in building rapport with their clients, the reduced confidence that suspects had in their lawyers, and difficulties in accessing evidence.

2. **Impact and conditions.** Most participants agreed that remote legal assistance was inappropriate in certain cases, especially for clients they perceived as vulnerable, for example, due to their health conditions.

3. **Use of technology.** Participants reported occasionally experiencing difficulties with technology. Most had an overall preference for video-conferencing technology over audio only, and stated there was a need for investment in more reliable technology in police stations.

4. **Relationships with the police.** Some criticised the police for not adapting adequately to COVID-19, and for preventing them from providing advice remotely, but there were also suggestions that the police had become more efficient during the pandemic.

5. **Impact of early pleas.** The majority of participants did not think that remote advice had any impact on the likelihood of their clients confessing or pleading guilty

IMPORTANCE OF FINDINGS

Our previous survey findings (see [Policy Briefing 1](#)) showed that despite ongoing lockdown restrictions, legal professionals have continued to provide legal assistance to clients in police custody 'as often', or 'even more often', than before the first lockdown in 2020. On the whole, participants believed they had adapted well to remote working, suggesting that the majority of assistance they could provide to their clients in police custody could be provided remotely. However, remote legal assistance was also said to be associated with significant challenges, including not being able to hear or see the client, reviewing materials presented by the police, and building rapport with the client. Some participants from the online survey volunteered to give more detailed accounts of their experiences of working during the COVID-19 pandemic. Analysis of focus groups and interviews with 15 participants revealed five main themes to respondents' conversation which are discussed in this policy briefing report. The majority of respondents were able to see both positive and negative aspects of remote work and discussed issues to consider when making a decision between face-to-face and remote legal advice.

KEY RECOMMENDATIONS

Although this study (see also Policy Briefing 1) provides useful information surrounding remote legal assistance, additional research is needed before offering concrete policy recommendations. However, based on the results of this particular study:

- **Remote legal assistance could disadvantage certain suspects due to communication challenges, and the lack of opportunities for lawyers and their clients to build rapport. In particular, it is not appropriate for suspects who may require additional support and assistance to ensure that their rights protected in police custody, due to their health conditions and/or impairments, and for more complex, more serious cases**
- **If remote legal assistance were to continue post-pandemic, investment in more reliable technology is recommended to avoid communication difficulties and to allow for full video-conferencing communication.**

RESEARCH OVERVIEW

BACKGROUND

The focus of this second policy briefing is to provide findings from focus groups and interviews with 15 legal professionals across England and Wales regarding their experiences of providing legal advice to those who were interviewed by the police during lockdown restrictions. Participants' responses were analysed using Thematic Analysis, a qualitative data analysis method that involves reading through interviews and focus groups, and identifying patterns in meaning across the data to derive themes. This study found five broad themes in relation to remote legal assistance which are outlined below together with participant quotes:

THEME 1: BENEFITS AND RISKS

Positive aspects: Many participants highlighted the convenience of remote legal assistance, stating that it made processes quicker, *"It reduces a lot of the waiting time and it - it doesn't just speed things up in custody for your client, but also from everybody involved"*. Participants suggested they were able to: (i) work more efficiently, and; (ii) take on more work compared to pre-pandemic, specifically in locations that are geographically further away. Being able to provide legal assistance more conveniently at any time of the day, and the flexibility it allowed them to balance work and other responsibilities, such as childcare was a major advantage. In addition, remote legal advice also helped avoid many concerns around COVID-19 infections.

Negative aspects: Despite recognising that remote legal assistance is generally quicker and more convenient for legal representatives, the majority of participants accepted that being unable to help their clients in person often led to: (i) difficulty in reading non-verbal cues of their client; (ii) difficulty in building rapport with clients and providing reassurance remotely, and; (iii) some clients feeling less able to trust their lawyers and seek advice from them, *"Some suspects do feel they haven't been 'represented' because you weren't there"*.

Overall: The majority of participants believed that in some cases, there was little difference in the quality of assistance they provided to their clients and the time they spent with them when they assisted their clients remotely, as opposed to in person.

THEME 2: IMPACT AND CONDITIONS

Most participants agreed that the suitability of remote legal assistance should be judged on a case-by-case bases, and they specified various types of cases in which remote assistance could be more appropriate. Most were against providing remote legal assistance to clients they perceived as 'vulnerable', but also expressed concerns about the difficulties in identifying their clients' health conditions, characteristics, or mood, if they could not

see them in person, "You want to try and pick up on somebody's mood, someone's anxieties, you know, I can't see somebody's legs shaking under the table if I am not physically there to see it". The vast majority of our sample highlighted that, in general, legal assistance should be provided in-person where: (i) the suspect was vulnerable, and/or; (ii) the suspect has been charged with a serious offence. Many participants also suggested that remote legal assistance was likely to be more appropriate for clients who already have experience of criminal proceedings, and one participant suggested that lawyers were more likely to be able to provide effective assistance remotely the more experienced they are. Whereas some participants stated that they would meet their clients in person if they were requested to do so, others seemed much more reluctant citing poor pay and the perceived lack of advantages of face-to-face meetings as key reasons for refusing to attend police stations.

THEME 3: USE OF TECHNOLOGY

Some participants expressed the need for investment in better technology if remote legal assistance were to continue post-pandemic. Several expressed difficulties they have experienced with using technology to provide legal advice such as Wi-Fi and network failures, difficulty reaching the officer at the police station, and lack of knowledge on how to use the equipment, *"Sometimes you'd be in the middle of a Teams link, and the Wi-Fi would just come down and then obviously you have to wait and someone has to go and call you and it was all just very patchy"*. Overall, several participants reported only being able to access audio-only communications with their clients, highlighting that video technology enables them to provide assistance more comparable to face-to-face assistance.

THEME 4: RELATIONSHIPS WITH THE POLICE

There were several participants that criticised police officers for preventing them, or discouraging them from providing legal assistance remotely, *"The Police didn't think there was a need for any change at all. So the Police were quite happy to carry on just as they had done before. So the Police didn't want remote interviews ... in other forces, they were remote from pretty much the start, I think, but they weren't here"*. However, several had positive views of the police, suggesting that they became more efficient as a result of the pandemic with more flexibility and were generally co-operative in working together with them.

THEME 5: IMPACT ON EARLY PLEAS

The majority of participants did not think that remote advice had any impact on the likelihood of their clients confessing or pleading guilty. Some suggested that they believed clients might be less willing to be open and honest when speaking over remote communication, *"I don't know whether clients are sort of less likely to be frank and open with me over the telephone. It's perfectly possible that if they're sitting there face-to-face, they'll be more willing to admit things"*.

FURTHER INFORMATION

For more information on the overall project, please visit our website [HERE](#) or:

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