

Consultation on permanent changes to our Rules to hold remote Health and Care Professions Tribunal Service hearings

Analysis of responses to the consultation on remote hearings and our decisions as a result.

Contents

1. Executive Summary	2
2. Introduction.....	4
3. Analysing your responses.....	6
4. Summary of responses	9
5. Thematic analysis of responses.....	10
6. Our decisions	17
7. List of respondents.....	34

1. Executive Summary

- 1.1 The Covid-19 pandemic has had a major impact on the way that organisations across the world carry out their work. During the pandemic we had to adapt some aspects of our fitness to practise and registrations appeals processes to ensure that we could continue to regulate effectively. This included the introduction of remote hearings in March 2020. In March 2021, emergency rules were introduced by Government, which expressly allowed regulators, like the Health and Care Professions Council (HCPC), to hold their hearings remotely during an emergency. These rules will come to an end in 2022.
- 1.2 Our experiences of holding remote hearings during 2020 and 2021 suggested that having the option to hold remote hearings beyond the emergency period could offer greater flexibility for all parties involved, increase engagement and make the process more efficient. We therefore launched a public consultation in August 2021 to seek views from our stakeholders.
- 1.3 Feedback from the consultation showed that most respondents had concerns about remote hearings being potentially imposed on registrants and stressed the importance of taking registrants' views and their needs (including equality related needs) into account. Responses flagged that remote hearings might not be appropriate for individuals with communication disadvantages, connection or technological issues.
- 1.4 Respondents also highlighted a number of benefits relating to holding hearings remotely. These included where a remote hearing had been requested by a registrant, where holding remote hearings could reduce time and costs and where parties might find participating remotely less stressful and more supportive of certain mental health conditions, such as anxiety.
- 1.5 We have listened to the feedback from the consultation and considered it carefully alongside our equality impact assessment and our experience of holding remote hearings over the past two years.
- 1.6 Following our review, we have concluded that remote hearings can be an effective tool that can support registrants going through fitness to practise and registration appeals. We recognise the concerns expressed by those who responded to our consultation and have sought to address these in the approach that we set out in more detail below.
- 1.7 Remote hearings offer flexibility that can speed up the process. Crucially, they can reduce the waiting time for registrants, and enable them to mitigate the impact of having to take time off or have longer periods away from home. We have seen higher levels of engagement when hearings are remote, with increased registrant attendance. Retaining the ability to access this new technology means we can offer a greater range of options, and better take into

account registrant choice. We will now be able to cater for the individual needs of those going through the process, and not have to impose a one-size-fits-all approach.

- 1.8 Our decision to continue to offer remote hearings does not mean that hearings will take place remotely in all cases. For final fitness to practise hearings, the format of the hearing will be decided on a case-by-case basis. This decision will be informed by a number of factors which take into account issues raised in the consultation. Although the starting point for non-final fitness to practise hearings and registration appeals will be a remote hearing, if evidence suggests that a hybrid or in-person hearing is more appropriate, then these options will remain available.
- 1.9 We appreciate that the use of remote hearings is still fairly new. We have committed to monitoring the impact of our decisions to identify any areas that may require a change in approach. We will conduct a full review of our approach after one year.

2. Introduction

About the consultation

- 2.1 Emergency rules were introduced by government on 4 March 2021 in response to the Covid-19 pandemic. These rules gave HCPC, and other healthcare regulators, express provisions to hold a meeting or hearing fully by audio or video conferencing facilities.¹
- 2.2 Between 31 August 2021 and 23 November 2021 we consulted on a proposal to seek an amendment to our legislation which would give us express powers to hold hearings remotely once the Coronavirus emergency powers come to an end.²
- 2.3 We informed a range of stakeholders about the consultation including professional bodies, employers, and education and training providers. We advertised the consultation on our website and on social media, and issued a press notice.
- 2.4 We received 630 responses to our consultation and would like to thank all those who took the time to respond. You can download the consultation document from our website: www.hcpc-uk.org/aboutus/consultations/closed.

About us

- 2.5 The Health and Care Professions Council (HCPC) is a statutory regulator of healthcare and psychological professions governed by the Health Professions Order 2001. We maintain a Register of professionals, set standards for entry to our Register, approve education and training programmes for registration and deal with concerns where a professional may not be fit to practise. Our role is to protect the public.
- 2.6 We regulate the members of 15 professions:
 - Arts therapists
 - Biomedical scientists
 - Chiropodists / podiatrists
 - Clinical scientists
 - Dietitians

¹ But note that the Health Professions Order 2001 and the HCPC's Procedural Rules do not prohibit the use of remote or hybrid hearings.

²Our Rules are made under the Health Professions Order (2001) and set out the detailed procedures and requirements for several key HCPC functions. On 4 March 2021 we were given emergency powers: The Health and Care Professions Council (Coronavirus) (Amendment) Rules Order of Council 2021.

- Hearing aid dispensers
- Occupational therapists
- Operating department practitioners
- Orthoptists
- Paramedics
- Physiotherapists
- Practitioner psychologists
- Prosthetists / orthotists
- Radiographers
- Speech and language therapists

About this document

2.7 This document summarises the responses we received to our consultation on remote hearings and our decisions as a result.

- Section three explains how we handled and analysed the responses we received, providing overall statistics relating to the responses.
- Section four provides a summary of the responses we received.
- Section five provides a thematic summary and outlines the general comments we received on the consultation proposals.
- Section six outlines the decisions we have taken and how we have responded to the consultation feedback we received.
- Section seven lists the organisations which responded to the consultation.

3. Analysing your responses

- 3.1 We have read and analysed all of the written and survey responses we received in response to our consultation.

Method of recording and analysis

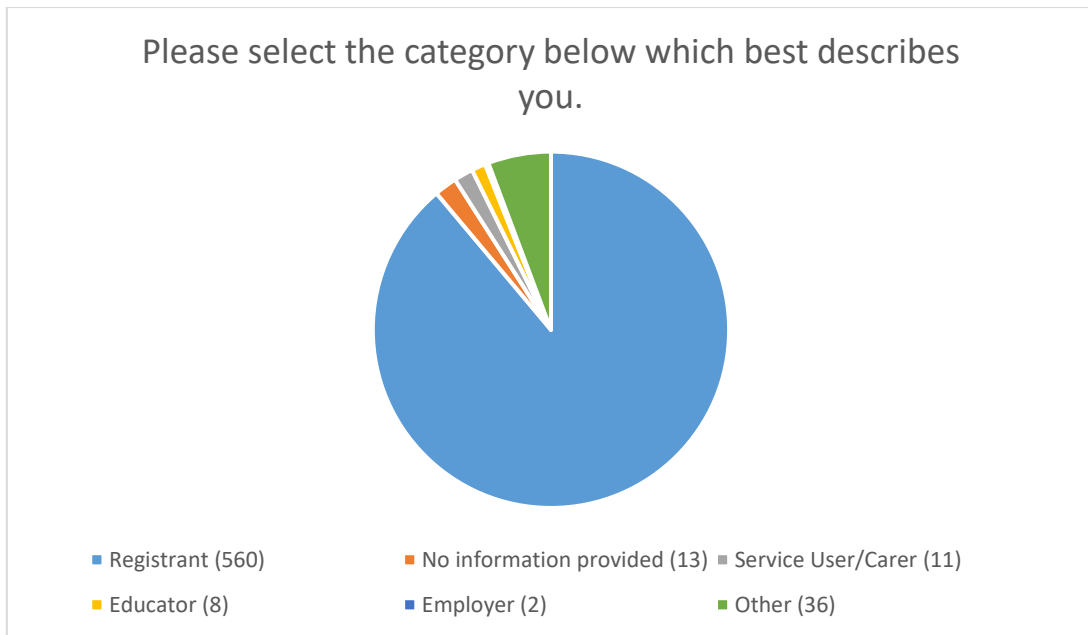
- 3.2 The majority of respondents used our online survey tool to respond to the consultation. They self-selected whether their response was an individual or an organisation response, and, where answered, selected their response to each question (e.g. 'yes', 'no', or 'don't know').
- 3.3 Where we received responses by email, we recorded each response in a similar manner as those from the online survey.
- 3.4 When deciding what information to include in this document, we have assessed the frequency of the comments made and identified themes. This document summarises the common themes across all responses and indicates the frequency of themes and comments made by respondents.

Quantitative analysis

- 3.5 We received 630 responses to the consultation. 608 responses (96.5%) were made by individuals and 22 (3.4%) were made on behalf of 20 separate organisations. Of the 608 individual responses, 560 (92.1%) were HCPC registered professionals.

Graph 1 – Breakdown of individual respondents

Respondents were asked to select the category that best described them (registrant, service user/carer, educator, employer, or other). The respondents who selected 'other' identified themselves as representing unions, law firms, professional bodies, other government/NHS bodies, another regulator, students/pre-registration health care professionals on other registers (such as midwives), a Justice of the Peace and a Panel Chair.



- 3.6 We asked three questions in our consultation. The first two questions related to our consultation proposal and the third asked whether respondents found the online survey tool helpful in responding to the consultation. We have not provided details of the feedback received to question three in this analysis, as this question did not relate to the substantive consultation proposals. We do however wish to thank respondents for their feedback and will reflect on this for the purpose of future consultation activity.
- 3.7 The consultation proposed amending our rules to allow us to continue to hold hearings remotely following the end of the Covid-19 emergency period. The consultation asked whether we should continue to hold remote hearings where it was fair and practical to do so and provided an overview of our experience in holding remote hearings during the pandemic. We outlined the approach that we had used in deciding which format a hearing should take (remote, in-person or hybrid) including taking into account reasonable adjustments and the registrant’s wishes. We highlighted a number of benefits relating to remote hearings including reduced time and financial costs for all parties involved and increased engagement from registrants. We also recognised potential disadvantages, including that technology could act as a barrier to participation.
- 3.8 We also asked respondents to highlight any equality and diversity impacts in connection with our proposals.

Table 1 – Breakdown of responses by question – All responses [Percentages are rounded to nearest whole number so may exceed 100%]

	Yes	No	Don't know	No answer/Blank
Q1. We would like to amend our Rules so that we can continue to hold hearings remotely once the emergency period ends, where it is fair and practical to do so. Do you think there are any reasons why we should not be able to hold remote hearings once the emergency period ends?	542 (85%)	83 (13%)	10 (2%)	0
Q2. Do you consider there are any equality and diversity implications for groups or individuals as a result of the proposed change to our Rules? If yes, please explain what could be done to change this.	428 (68%)	85 (13%)	117 (19%)	0

Table 2 – Breakdown of responses by respondent type³

	Individuals			Organisations		
	No	Yes	Don't know	No	Yes	Don't know
Q1	78 (13%)	525 (86%)	5 (1%)	5 (23%)	17 (77%)	0
Q2	83 (14%)	408 (67%)	117 (19%)	2 (9%)	20 (91%)	0

³ Percentages in the table have been rounded to the nearest whole number.

4. Summary of responses

- 4.1 Thirteen per cent of respondents indicated they did not see any reasons why we should not hold remote hearings after the emergency period ends, though some raised issues with how we might implement this approach.
- 4.2 Respondents who were supportive of our proposal indicated that holding remote hearings could be appropriate in certain circumstances. The examples given were: where a registrant has requested it; where it may reduce time and cost to the hearing parties; and where parties might find it less stressful to participate remotely as they can be in their home environment, which could ease any anxiety and existing mental health conditions that could be exacerbated by participating in a hearing.
- 4.3 As set out above, the majority (85%) of respondents to the consultation indicated that there were reasons why we should not be able to hold remote hearings once the emergency period ends. The main reasons flagged in the responses were: the need to take account of registrant choice and not enforce remote hearings where they were not wanted or strictly necessary; communication disadvantages; connection or technological issues; and registrant welfare.
- 4.4 The issue of registrant choice was flagged by many respondents who suggested there were reasons for us not to hold hearings remotely. This suggests that those who responded in this way thought that both remote hearings and in-person hearings should be an option.
- 4.5 Over two thirds of respondents to question two (68%) said they thought the proposals could have implications for equality and diversity. The main reason flagged in the responses related to the socio-economic status of registrants, with respondents noting that those from lower socio-economic backgrounds may not be able to fully participate in the hearing due to a lack of technology or necessary equipment.

5. Thematic analysis of responses

- 5.1 This section provides an analysis of the responses we received based on the common themes that were identified.

Question 1: We would like to amend our Rules so that we can continue to hold hearings remotely once the emergency period ends, where it is fair and practical to do so. Do you think there are any reasons why we should not be able to hold remote hearings once the emergency period ends?

- 5.2 Many of the responses we received to this question were concerned to avoid a situation in which remote hearings were the only option, or where remote hearings were required against registrants' wishes.
- 5.3 While 21 respondents did express a clear view that in all cases hearings should take place in person, 214 respondents suggested that the primary consideration of any decision around the format of the hearing (in-person or remote) should be registrant choice.
- 5.4 It was suggested by 23% of respondents that each case should be reviewed individually to assess whether a hearing should be held remotely or should be held remotely in agreement with the registrant. One respondent recommended that we should adopt a hybrid model of hearings whereby there could be a mix of face-to-face and remote events.

Respondents who answered 'no' (i.e. that there were no reasons why we should not be able to hold remote hearings once the emergency period ended) – 83 responses

- 5.5 Eleven respondents commented that they would be in favour of remote hearings as they would save time and resources and so be faster to organise. Respondents who expressed these views pointed out that this would have advantages to the registrant, as this approach would not prolong the hearing process and so could be fairer. It would also mean that witnesses would have some flexibility, particularly in instances where the order of parties or witnesses to be called to give evidence is changed with short notice.
- 5.6 Ten further responses highlighted the saving in transport costs and how a remote hearing would allow the registrant to be in a comfortable environment.
- 5.7 Five responses cited that remote hearings could be less stressful for the registrant, as they could allow the registrant to receive support at home and would reduce the impact of travel, cost and time.

- 5.8 One response highlighted that allowing the registrant to attend the hearing remotely would make the hearing less personal for the registrant as they would be behind a screen, which in turn may make the hearing less daunting.
- 5.9 One response made the argument that holding remote hearings may encourage a more diverse panel, as panel members who do not live in or around London would be able to participate.
- 5.10 One respondent referenced their own experience at a remote hearing, stating that they did not feel as though being there in person would have had “any further benefit”.
- 5.11 Fifteen respondents who indicated their support for our proposal caveated their responses by saying they were only in favour of us continuing to hold hearings remotely online where it was fair, or that they were only in favour when all parties were in agreement or that in-person hearings should be the default position.
- 5.12 It appears that ten respondents may potentially have misinterpreted the question and selected ‘no’ by mistake because the further comments they made indicated that they were opposed to remote hearings. Their responses argued that hearings should be face-to-face as they felt that the pandemic was nearly over and we were nearing normality.

Key themes from respondents who answered ‘yes’ – 542 responses

Registrant choice

- 5.13 The primary theme to emerge from this question, was a concern that remote hearings would be forced upon registrants. 200 (38%) respondents who answered ‘yes’ to this question made some reference to the need for registrant choice to be a determining factor in whether a hearing should be held remotely or not. These respondents reasoned that an individual’s livelihood can rely on the outcomes from these hearings, and that this made the issue of registrant choice particularly important.
- 5.14 21 respondents went further and called for in-person hearings to be the only approach, with some expressing the view that it would be unacceptable for the HCPC’s Rules to allow us to unilaterally decide to hold a remote hearing without a registrant’s consent. One response also suggested that it should be possible for consent for the hearing to be held remotely to be withdrawn at any time.

Communication disadvantages

- 5.15 Many respondents (114 responses, 21.2%) felt that remote hearings did not allow for context in terms of body language, tone or other verbal and non-verbal cues.

Eight responses highlighted the difficulty of not having a 360 degree view of the proceedings, with parties in the hearings reduced to the size of a “postage stamp”.

- 5.16 Overall, 24 responses emphasised the view that remote hearings mean explanations of events may not come across in the way they are intended and can be taken in the wrong context. 14 respondents gave the view that in-person hearings allow for the registrant to properly show compassion, empathy and sympathy.
- 5.17 Respondents also commented that it could be difficult to convey thoughts and feelings or be able to comment at the right time due to an individual’s technology or internet access which may have delays due to internet speed.
- 5.18 This view also extended to the role of witnesses. One respondent suggested that where a hearing is centred on very serious allegations, it could be important for the panel to be able to make a full observation of the demeanour of all parties in order to reach a conclusion on their credibility.⁴

Connection or technological issues

- 5.19 The next most prominent theme was that of connectivity or technological issues; 76 responses (14.2%) answering ‘yes’ to question one mentioned this. Respondents commented that not all registrants will have the technological knowledge to carry out a remote hearing, which would leave them at a disadvantage during the hearing. Other respondents commented on the potential impact of poor internet connection or a lack of digital technology to facilitate the remote hearing.
- 5.20 Five respondents noted that slow internet speeds have previously meant registrants have had to turn their cameras off and interact with the hearing in an audio-only capacity which could put them at a disadvantage.
- 5.21 Two respondents suggested that registrants would need training in the software being used to run the hearings. It was suggested that this could be rectified by issuing guidance documents on how to set up for a remote hearing.

Registrant welfare

- 5.22 Another theme raised (62, 11.5%, ‘yes’ responses mentioning) was that of registrant welfare. 16 responses highlighted that remote hearings could worsen the impact on registrants’ health, as an entirely remote process is a much more isolating experience and it could make it difficult for registrants to access emotional support.

⁴ We note that there is case law suggesting that demeanour unlikely to assist when assessing the reliability of a witness's evidence

- 5.23 There were comments that remote hearings could dehumanise a registrant subject to a fitness to practise case. One response felt that the approach of holding remote hearings painted the HCPC in a bad light and suggested we did not understand our impact on registrants' health and wellbeing. Another respondent suggested that holding remote hearings would mean that the HCPC would not be able to identify and refer people at risk of or with mental health conditions or anxieties that could be exacerbated by the hearings process and would not be able to offer in-person support.

An inappropriate medium

- 5.24 Of respondents who answered 'yes' to this question, 54 respondents (~10%) expressed the view that having such an important hearing in this way was inappropriate and was not in keeping with the high impact and significance of a hearing. Seven respondents argued that remote hearings do not give weight to the matter being considered and are impersonal for both registrants and witnesses. Three others said that it could make the tribunal more intimidating.

Potential disadvantages for the registrant

- 5.25 29 responses (5.4%) noted that studies on remote hearings have shown significant disadvantages by comparison to in-person hearings. One quoted Sir Keith Lindblom, Senior President of Tribunals for the Courts and Tribunals Judiciary: "We must acknowledge that for many people and in many cases they are not going to provide the best form of hearing we can offer".⁵
- 5.26 15 respondents referenced there being data which suggested that remote hearings result in poorer outcomes for registrants and expressed concern we had not analysed this over the past year. Some responses suggested that the HCPC had not offered evidence to support the proposal of continuing remote hearings.

Confidentiality issues and abuse of process

- 5.27 25 responses (4.6%) referenced concerns that holding hearings remotely may force some registrants to attend their hearing in a non-confidential place as they may not have access to a quiet and private space. This may lead to extra strain as they may not want their cohabitants or others to know about the fitness to practise process they are subject to.
- 5.28 Six respondents expressed concerns that holding a hearing in this way may also leave the process open to abuse, as witnesses may be able to be fed information from someone off screen, or that parties may be able to record the hearing

⁵ <https://www.judiciary.uk/announcements/understanding-the-impact-of-covid-19-on-tribunal-hearings/>

without the agreement of the other parties.

Barriers to communication and support between registrant and representative

- 5.29 18 responses (3.4%) made mention of this theme, with concerns that remote hearings mean that a registrant cannot speak freely and openly with their legal representation. Respondents commented that this may mean that a registrant is disadvantaged during the hearing.

Cost saving for the HCPC

- 5.30 16 responses (2.9%) questioned whether holding hearings remotely would save the HCPC money and resources, and whether this cost saving would be reflected in the HCPC's fees.

Lack of benefits for the registrant

- 5.31 14 responses (2.6%) noted that the consultation referenced remote hearings being "fair and practical" but suggested that this was set out in reference to the HCPC and not to a registrant undergoing a hearing. They also said that no benefits to registrants had been put forward in the consultation.
- 5.32 One response highlighted that the consultation document referenced increased engagement with hearings but did not specify what this meant and whether it was positive or negative.

Question 2: Do you consider there are any equality and diversity implications for groups or individuals as a result of the proposed change to our Rules? If yes, please explain what could be done to change this.

Respondents who answered 'yes' – 428 responses

- 5.33 428 respondents answered 'yes' to this question. Some of the respondents who answered 'yes' to this question gave no further details (63 responses).
- 5.34 The main theme raised in the responses to this question related to technological issues including a lack of computer literacy and issues with computer and broadband speed, which may be impacted by a person's age and socio-economic circumstances.
- 5.35 Many respondents who answered 'yes' to this question did not provide suggestions for how concerns could be addressed. Most of those who did provide suggestions, recommended offering face-to-face hearings in order to avoid adverse implications on groups or individuals (12 responses). There were also

suggestions to issue guidance documents and consider making technological improvements for remote hearings if they were to be held.

- 5.36 Two responses suggested that having a remote hearing may be advantageous for those with certain physical disabilities, or for those who live far from the hearings centre.

Technology

- 5.37 145 responses (34.6%) mentioned technology issues. These included some registrants not having access to a computer, webcam, or the correct equipment. They also made comments about broadband speed, and noted that should the hearing cut out, this could have a detrimental effect on the registrant with them missing parts of the hearing or being unable to respond correctly to other parties and meaningfully engage with the process.
- 5.38 The role of electronic bundles was also mentioned in the responses, as the size of them could impede a registrant's ability to quickly access them and cross reference during the hearing. One respondent suggested that this could significantly increase anxiety levels as well as delay the hearing due to time spent seeking assistance.
- 5.39 Three respondents suggested that we should provide certain technological equipment for registrants going through the hearings process. There were also suggestions around the provision of step-by-step guidance for those unfamiliar with the programmes used.

Disabilities

- 5.40 111 responses (26.5%) highlighted the issue of registrant health conditions and disabilities and how remote hearings may be a disadvantage. Respondents raised concerns that those with sensory impairment, for example a visual or hearing impairment, may need additional support and could potentially struggle remotely. Many of these responses highlighted that some registrants may have impairments that could make it difficult for them to use online meeting rooms, for example the ability to lip read may not be effectively carried out as the camera may not be at the right angle and framed without a delay on the voice and picture.
- 5.41 Other responses underlined how those with learning disabilities, dyslexia or dyspraxia, autism, ADHD and other neuro-divergences could be negatively affected as they may take longer to process information, could need the information to be presented in a different way, or could need in-person discussions and specific environments to help them engage with the process.
- 5.42 One response noted that those with disabilities may find having a remote hearing an advantage, as it would mitigate any travel difficulties that may otherwise be encountered.

Mental health

- 5.43 The next most prominent theme (32 responses, 7.6%) was that of mental health and how the remote hearings process would potentially negatively impact this. Respondents raised concerns that registrants who have reported mental health conditions may find it difficult to cope without the in-person support that a face-to-face hearing may offer.

Home environments

- 5.44 29 responses (6.9%) made specific reference to parents, people with other dependents or caring responsibilities, single parents, multigenerational households (that may disproportionately affect certain cultures and races), and younger people (more likely to be renting and living in a shared space). 16 respondents suggested that people in such circumstances would be less likely to be able to access a quiet and confidential space and therefore potentially unable to meaningfully engage in the hearing. There was a concern from one respondent that people appearing distracted might also affect the attitude of the panel.

Cost and socioeconomic circumstances

- 5.45 This theme was cited in 26 responses (6.2%) with respondents suggesting that people from lower socioeconomic backgrounds were less likely to have access to good IT equipment or high-quality Wi-Fi/ internet. It was noted that if equipment needed to be purchased to access the hearing, this group was most likely to be negatively impacted. One respondent also linked this with the fact that female workers may be more likely to be less well paid and so could be disproportionately affected.
- 5.46 One respondent made the argument that a sizeable proportion of HCPC registrants under investigation may not have any form of representation during the Fitness to Practice (FTP) process – they may not have the financial means or legal knowledge to seek representation and so may be disadvantaged by a remote hearing.

Language barriers

- 5.47 20 responses (4.7%) touched on this theme. They highlighted that those who speak English as a second language may find remote hearings more of a disadvantage if they could not pick up on body language and non-verbal cues.

Age

- 5.48 19 responses (4.5%) highlighted this theme, suggesting that older people may be generally less IT proficient, less confident or less used to using software such as Zoom or Teams. Other responses stated that younger people are more likely to be renting accommodation and therefore not have access to confidential private spaces for the remote hearing.

6. Our decisions

- 6.1 We have carefully considered all the feedback we received to our consultation, including the equalities impacts identified. We have carried out an equality impact assessment and have used this, alongside our feedback, to inform our decisions.
- 6.2 We recognise that the majority of respondents felt that there were reasons why remote hearings might not be appropriate. It was also clear from responses to the consultation that many people were concerned that seeking an express power to hold hearings remotely would mean we would hold remote hearings in all cases.
- 6.3 A smaller proportion of people who responded to our consultation indicated support for remote hearings, though some raised issues with how we might implement this approach. We also received responses highlighting how remote hearings could benefit hearing participants.
- 6.4 We agree that it may not be appropriate to hold remote hearings in all cases. We acknowledge the importance of registrant choice, amongst other factors, in deciding what form a hearing should take. We understand the concerns raised by respondents relating to remote hearings. We recognise the benefits that holding a remote hearing may have in some cases as well as the benefits that in-person hearings may have in some cases. We have considered the points raised by our equalities impact analysis, which has been informed by the consultation responses. Taking this into account, we believe that having the option to hold hearings in different formats (remote, hybrid or in-person) is likely to support greater choice and ensure that equalities-related needs can best be accommodated. We also reflected on the fact that outcomes for remote hearings are comparable to those for in-person hearings.
- 6.5 Taking all of these considerations into account, alongside our recent experience of holding remote hearings, we have decided to seek an express power in our legislation to enable us to hold remote hearings post-pandemic. This will support us to hold hearings in the appropriate format, whether remotely, in-person, or to take a hybrid approach. In order to address the concerns raised in response to the consultation, we will:
- Decide on a case-by-case basis whether a final FTP hearing should take place in-person, remotely or by way of hybrid arrangements.
 - Ensure that our decisions are guided by a set of factors which will allow us to take into account the equalities, personal and logistical circumstances in relation to each case. These will include:
 - ◆ Any evidence that suggests the integrity, fairness or smooth running of the hearing may be impacted by holding it in a particular format;

- ◆ Whether there are reasonable adjustments or special measures required to allow a participant to engage fully and effectively in the proceedings, which may benefit from the hearing being held in a particular format;
 - ◆ The view of the registrant;
 - ◆ Any technical, logistical, personal or circumstantial barriers that might prevent a participant engaging effectively in proceedings if the hearing is not held in a particular format;
 - ◆ Any features of the case which makes it particularly difficult for it to be held in a particular format (For example, the number of participants, witnesses involved in the case, or the nature of the case).
- Use remote hearings as a starting point for listing non-final FTP hearings and registration appeals hearings unless evidence suggests that a hybrid approach or an in-person hearing is more appropriate.
 - Monitor the impact of our decisions on hearing formats to identify any issues that may require a change in approach and conduct a full review of the approach after one year.

6.6 The following section sets out the decisions we have taken in more detail, and how we have responded to the feedback received, taking into account issues raised. Our decisions have been made without regard to the financial impacts on HCPC of holding hearings remotely, compared to in-person. Our focus has been on fair outcomes that support patient safety, the impacts on attendees and in consideration of the various other factors outlined in this document.

Decision 1: We will seek an express power in our legislation to enable us to hold remote hearings post pandemic.

- 6.7 We have reached the decision to change our legislation to give us an express power to hold hearings both remotely and in person after carefully considering the responses to the consultation, our ongoing experience with remote hearings, and our equalities impact assessment.
- 6.8 This will support us to hold hearings in a range of formats: in-person as well as remotely and through hybrid means.

Feedback from the consultation

6.9 We recognise that the majority of respondents to our consultation said that there were reasons why we should not hold remote hearings. The reasons given included:

- registrant choice
- communication disadvantages linked to hearings being remote
- connection or technological issues
- issues relating to registrant welfare
- confidentiality issues and abuse of process

- 6.10 As noted above, some respondents were concerned that HCPC seeking the power to hold remote hearings meant that every hearing would be remote, although this is not what we had intended.
- 6.11 Thirteen per cent of people who responded to our consultation indicated that they did not see any reasons why we should not hold remote hearings, though some raised issues with how we might implement this approach. Examples given on how it could benefit hearing parties included where a registrant has requested it, where it may reduce time and cost to the hearing parties (including witnesses), and where parties might find it less stressful to participate remotely as they can be in their home environment, which could ease any anxiety and existing mental health conditions exacerbated by participating in a final hearing. Respondents also suggested that holding hearings in this way would minimise stress and delays if there was to be another lockdown.
- 6.12 Feedback from the consultation also identified a number of positive equality impacts of a remote hearings approach on the people involved. For example,
- people with certain disabilities may find it easier to take part in hearings remotely in order to avoid long periods of travelling.
 - people with caring commitments, who are often women, may be able to avoid travelling and disrupting their responsibilities outside of work.
 - people on lower incomes could avoid the costs associated with travelling or staying overnight in order to attend a hearing that could be a considerable distance from their home and occur over a number of days.

Our experience with remote hearings

- 6.13 In addition to the consultation responses, we have considered our experience in running remote hearings during the Covid lockdown / emergency period. A combination of remote, in-person and hybrid hearings⁶ have been held since March 2020, when national Covid restrictions first came into place.
- 6.14 During this period, we have written to all registrants whose hearings were listed remotely giving them notice and the opportunity to respond. We did not receive high levels of registrants challenging their scheduled hearing. During the strictest Covid lockdown period between May 2020 and May 2021 – we held 979 FTP hearings⁷ (of all types) and we received just 16 requests (2%) from registrants whose hearing was initially listed to take place remotely, asking us to consider an in-person hearing. Any registrants who requested an in-person hearing had their request considered by a panel Chair. Where an in-person hearing was not possible or appropriate, hearings were either held in a hybrid format, or had the scheduling of the hearing put on hold until such time as we could hold a Covid

⁶ A hybrid hearing is where some participants attend by telephone or video link, and other participants attend in person at a physical venue.

⁷ This covers all kinds of FTP hearings – final (substantive hearings), substantive review hearings, interim order hearings, interim order review hearings, preliminary hearings, consensual disposal cases, restoration cases.

secure in-person hearing. After Covid restrictions were eased – the period between June 2021 and March 2022 in which we held 794 FTP hearings – we only received 21 requests (3%) from registrants or their representatives for hearings to be listed in person.⁸

- 6.15 There have been no procedural concerns raised and no appeals of final hearing decisions by registrants or the PSA where the hearing being remote or in-person was a factor.
- 6.16 Some of the comments raised in the consultation expressed concerns that a remote hearing may result in a less favourable outcome for the registrant involved. We have reviewed the outcomes of all final hearings held within the 15 months since March 2020. We compared these outcomes with those from hearings held in the 15 months pre-March 2020. The final hearing outcomes are seen to be comparable, with no large changes period on period in the final sanction handed down.

Table 3

A comparison of final hearing outcomes⁹

Final hearing outcome	No. July 2020 – Dec 2021 Remote hearings only (including hybrid arrangements)	No. Sept 2018 – Feb 2020¹⁰ In person hearings only¹¹
Not well founded (all stages)	81	79
No Further Action	1	4
Caution	31	35
Conditions of Practice	25	28
Suspension	60	61
Strike Off	48	65
Total number of final hearings concluded	246	272

- 6.17 This analysis, and our experience, suggests that in practice the majority of registrants appear to have been content with remote hearings, and that there do

⁸ Ultimately we listed 23 hearings in person during this period, as we identified an additional two cases where the circumstances of the case made them more appropriate to be held remotely, on top of those where we had received a request for an in-person hearing.

⁹ For the period from March – July 2020 only interim order hearings and those hearings that had previously been part-heard were held. Nothing new was listed for the period. We therefore have not included this period in our comparison in Table 3.

¹⁰ To ensure a comparable sample, Social Workers, who stopped being regulated by HCPC in December 2019, have not been included in this analysis.

¹¹ To note, whilst in exceptional cases we might pre-pandemic have arranged for a witness to attend a hearing via video conference, this was unusual, and we would not have classed this as being a hybrid hearing.

not appear to be any significant changes period on period in the final sanction handed down between remote and in-person hearings.

- 6.18 Ensuring that we have the ability to hold hearings remotely, as well as in person, will allow us to address a number of the concerns raised in the consultation, and take into account the equalities-related needs of our registrants and others.

Decision 2: We will decide on a case-by-case basis whether a final FTP hearing should take place in person, remotely or by way of hybrid arrangements

- 6.19 In the context of a global pandemic, with legal restrictions and general nervousness and societal concerns relating to in-person gatherings, we have been holding our hearings remotely since emergency powers were granted to us in March 2021. Our starting point during this time has been to list final hearings remotely where it has been possible, fair and proportionate to do so.
- 6.20 As described above, most final hearings that we have listed in this period have been found to be suitable to take place remotely. However, there are examples of cases where we have recommended an in-person approach. In-person hearing recommendations have, for example, arisen in sexual assault cases where witness evidence is particularly sensitive, and a remote hearing would not allow a witness to give evidence securely screened from view.
- 6.21 In addition, we have also accommodated registrant requests where they have responded to a notice that their final hearing has been listed remotely and have made a request for that hearing to be held in person.
- 6.22 For the 16 hearings for which we received a request between May 2020 - May 2021, when Covid restrictions were at their most severe, we were able to accommodate three requests and held the hearings in-person at a later date, when we were able to do so in compliance with government guidance at the time, or by way of hybrid arrangements.
- 6.23 Since June 2021, after Covid restrictions eased, we were able to accommodate more registrant requests and made arrangements for 23 in-person or hybrid hearings to take place.¹²
- 6.24 We have also received requests from other parties, not just registrants, to hold a hearing in-person, or for evidence to be given in-person. For example, we recently received a request from a witness to give their evidence in person due to their cognitive issues and a preference to interact with the panel and parties in person. We took steps to consult with the registrant and with HCPC's solicitors in order to make reasonable adjustments and appropriately accommodate this

¹² 21 of these were held in person following a request from a registrant / their representative; while 2 hearings were initially proposed to be held in person by the HCPC, taking into account the specific circumstances of the cases.

request.

- 6.25 We recognise that final FTP hearings have a significant impact on registrants and others, such as witnesses, involved in the process. It is where findings of fact can be made against registrants, and where decisions will be made which could impact their future registration status. We recognise the higher levels of concern expressed in response to the consultation around final hearings and views expressed about the impacts on registrants (including equality impacts), and on other parties.
- 6.26 We have therefore decided that the most appropriate approach in relation to final FTP hearings would be a balanced one taking into account a number of different factors (set out below in Decision 3), which give consideration to equality impacts and the needs of parties. These factors will be considered together to reach a decision on a case-by-case basis on whether a hearing should take place in person or remotely. The importance of final hearings to registrants will be taken into account when reaching this decision. We believe that this approach is the best way to ensure fairness and to accommodate equality, diversity and inclusion considerations, as set out in our equality impact assessment.

Decision 3: We will ensure that our decisions in listing final FTP hearings are guided by a set of factors which will allow us to take into account the equalities, personal and logistical circumstances in relation to each case

- 6.27 In considering the responses to the consultation and the issues raised through our analysis of impacts on equality and the protected characteristics, we have developed a list of factors to consider in relation to listing a final hearing. The factors are not set out in a hierarchy and each will be considered when coming to a final decision as to whether a hearing should be held in person, remotely, or by way of hybrid arrangements. The factors are as follows:
- Any evidence that suggests the integrity, fairness or smooth running of the hearing may be impacted by holding it in a particular format;
 - Whether there are reasonable adjustments or special measures required to allow a participant to engage fully and effectively in the proceedings, which may benefit from the hearing being held in a particular format;
 - The view of the registrant;
 - Any technical, logistical, personal or circumstantial barriers that might prevent a participant engaging effectively in proceedings if the hearing is not held in a particular format;
 - Any features of the case which make it particularly difficult for the hearing to be held in a particular format. (For example, the number of participants, witnesses involved in the case, or the nature of the case).
- 6.28 This list is not exhaustive as each case will be considered on its own merits, taking into account all evidence relevant to the decision. We will keep these

factors under review as we learn from our experience in holding a mixture of virtual, hybrid and in-person hearings. We consider that taking these factors into account on a case-by-case basis in relation to final FTP hearings will allow us to come to appropriate decisions about the format of the hearing that best suit the registrant and other parties to the hearing, and support fairness and patient safety.

- 6.29 Many of the factors set out above directly respond to areas of concern highlighted by consultation responses, including examples of cases in which respondents felt hearings should not be held remotely. The factors include taking into consideration issues relating to protected characteristics, which were incorporated into our equality analysis. The factors set out above will ensure that we take appropriate issues into account when taking decisions on how we list hearings. Using these factors on a case-by-case basis means we will not apply a blanket rule which may, for example, disadvantage registrants and other parties to the hearing, who might have need for a particular format of hearing to take place.
- 6.30 Considerations relating to equality are inherent to this approach and registrants and other parties will have the opportunity to request reasonable adjustments or special measures and highlight any barriers which may restrict them from participating. Many groups may find having the ability to advocate for a remote hearing an advantage, as it incurs less cost and time to the registrant, as well as can support people who have certain needs such as caring responsibilities. Others may advocate for a hybrid or in-person approach. Our decision to proceed on a case-by-case basis, weighing up the above factors in considering the format of a hearing allows us to assess the advantages and risks relevant to the particular case, and an appropriate approach. The factors set out in our decision provide the opportunity for matters related to protected characteristics and social status, and to individuals more widely, to be raised as appropriate, and seek to ensure fairness and equity in each individual case.
- 6.31 We outline below the process by which a decision on whether a hearing should take place in person, remotely or by way of hybrid arrangements:
- a. The case will be reviewed by the Health and Care Professions Tribunal Service (HCPTS), who will consider the evidence the HCPC holds pertaining to each of the relevant factors.
 - b. The HCPTS will write to the registrant setting out the proposed means of holding the hearing and will provide the registrant and/or the representative with a form for them to complete inviting the registrant to provide their view on the type of hearing that should be held, as well as providing reasons/ factors/ evidence for the HCPC to consider where they do not agree with the recommendation.
 - c. If a registrant disagrees with the recommendation, the HCPTS will consider the information provided and will consider what could be done

in response. This might involve further correspondence with the registrant to consider any adaptations that could be made to the approach (e.g. a hybrid hearing) with the aim of both parties coming to an agreement on the best approach.

- d. If an agreement cannot be reached on whether a final hearing should take place in person or remotely, then the matter will be referred to the panel Chair to make a final decision taking all evidence into account. (We expect we will only need to revert to a panel Chair in exceptional circumstances.)
- e. The decision will need to be kept under review as the case progresses as witnesses and other parties might need adjustments which could impact on whether a case should be held in person or remotely. These issues might only come to light as the case progresses

6.32 Following consideration of the above factors, where a remote hearing is considered to be an appropriate approach to the final hearing, we would work to facilitate this, in a similar way to how we would ensure appropriate facilitation for registrants for 'in-person' hearings. So, for example, if a registrant raised issues with being able to attend a remote hearing because they did not have access to the technology they would need, or they did not have access to a private place in which they could take part in a hearing, then we could look to see whether they could be provided with the relevant technology to take part in the hearing, or whether suitable hearing accommodation could be found local to them. Similarly, we can support (and have been supporting) registrants who may have a lack of knowledge on how to use the technology by providing suitable guidance and support on the use of the technology. This approach addresses some of the concerns raised by respondents to the consultation and considered as part of our equality impact analysis.

6.33 Our approach is responsive to the needs and preferences of registrants, and we will look to accommodate registrant preference wherever possible. However, it may not be possible to accommodate every registrant's preference for an in-person, or remote, hearing. Other factors will need to be considered, for example, relating to the availability of participants (registrant, witnesses, panel, HCPC) or reasonable adjustments required by one or more participants to the case. We will therefore take preferences into account and balance these alongside the other factors and circumstances which apply to the particular case. This may be achieved, for example, through a hybrid hearing where some participants attend in person and others remotely. We will seek to accommodate the preferences and requirements of all participants, with reference to the factors set out in paragraph [6.27](#) above and consider all available options in determining the hearing format, whether remote, in person, or hybrid.

6.34 Where an agreement cannot be reached on the location of the hearing, the involvement of the panel Chair will be important in ensuring that the decision is taken independently. Clear guidance will be provided to support panel Chair

decision-making.

6.35 Further information about our current process is set out in our [Remote Hearing Guidance](#) and also the [PSA guidance for regulators on fitness to practice hearings during the Covid-19 pandemic](#). We will be updating this guidance in line with the decisions set out in this document in due course.

Decision 4: We will use remote hearings as a starting point for non-final FTP hearings and registration appeals hearings unless evidence suggests that a hybrid approach or an in-person hearing is more appropriate

Non-final FTP hearings

6.36 Much of the feedback received to the consultation focussed upon final hearings. However, the proposed changes to our legislation would allow us to hold remote hearings for all of our FTP hearings.

6.37 The table below sets out the different kinds of hearings that can take place within the FTP process.

Table 4 – FTP hearings a comparison in terms of typical length and purpose

Hearing type	Typical Length ¹³	Purpose
Final (substantive) hearing	4 days	Hearing that concludes a fitness to practice investigation to determine whether a registrant's FTP is impaired, and if so what sanction should be imposed. Witnesses may be called to give evidence. Registrant and/or their representative may attend and may give evidence and/or make representations to the panel.
Substantive review hearing	1 day	Hearing to review a suspension or conditions of practice order imposed at a final hearing. A substantive review hearing must take place before the order expires otherwise the HCPC will lose jurisdiction of the matter. No witnesses are called. Registrant and/or their representative may attend and make representations to the panel.
Interim Order hearing	1 day	Risk assessment conducted by a panel to determine whether interim measures need to be imposed to

¹³ Hearings can vary in length and complexity. These figures are estimated based on data we have collected relating to actual hearing times.

		<p>restrict or prevent a registrant from practising whilst an FTP investigation is carried out.</p> <p>Hearing is convened at short notice due to urgency (usually within 16 days of the decision being made to apply for an Interim Order).</p> <p>No witnesses are called. Registrant and/or their representative may attend and make representations to the panel.</p>
Interim Order Review hearing	1 day	<p>Hearing to review an interim suspension or conditions of practice order imposed at an Interim Order hearing.</p> <p>Review hearing must take place at regular intervals during the order.</p> <p>No witnesses are called. Registrant and/or their representative may attend and make representations to the panel.</p>
Preliminary hearing	1 day	<p>Case management hearing to ask a panel to make directions prior to a substantive hearing or review hearing, amend allegations or admit evidence.</p> <p>No witnesses are called. Registrant and/or their representative may attend and make representations to the panel.</p>
Consensual disposal cases	1 day	<p>A final panel decision is required on any case we want to resolve by consent with the registrant. This includes voluntary removal, discontinuance of the case or consent to a sanction.</p> <p>No witnesses are called. Registrant and/or their representative may attend and make representations to the panel.</p>
Restoration cases	1 day	<p>Registrant may apply to be restored to the Register a minimum of 5 years after they were struck off the register.</p> <p>No witnesses are called. Registrant and/or their representative may attend and make representations to the panel.</p>

6.38 Since the introduction of our emergency power to hold remote hearings, we have in almost all¹⁴ cases held hearings non final FTP hearings remotely. As can be seen from the table above, final hearings are generally longer compared to other kinds of FTP hearings which typically tend to last less than a day. All hearings

¹⁴ We have recently held a very small number of Interim Order and Review hearings in person.

have impact on registrants and others involved, however final FTP hearings generally have a greater long-term impact on registrants and others involved as witnesses can be called, findings of fact made, and final sanctions imposed. Some other types of hearings can benefit from being held remotely. For example, Interim Order hearings need to be convened at short notice due to urgency. Accommodating these remotely not only supports public safety by making it easier for hearings to be convened quickly, but also increases the accessibility of these hearings for registrants, who might otherwise be unable to attend, given the short notice nature of them. This is particularly important given that Interim Order hearings can potentially have a significant impact on a registrant if an Order is imposed. Interim Order Review hearings and Substantive Review hearings also have specific timeframes. Having the facility to hold hearings remotely gives us more flexibility to accommodate these hearings at a time convenient to more parties.

- 6.39 Holding hearings other than final hearings remotely has seemed to meet with the approval of registrants involved, as it has saved on the costs of them physically attending multiple hearings each of which may only be a few hours long. We have also observed an increase in registrant attendance since these hearings have been held remotely, which could be due to the fact that attending remotely is less burdensome than traveling to an in-person hearing, meaning that more registrants are able to attend more of the hearings which relate to their cases.
- 6.40 Holding hearings remotely has positive equality benefits on those who might find attending a hearing in person challenging for example for reasons of age, disability, caring responsibilities etc. However, we recognise that there are also potential negative impacts on certain groups, such as those who may face difficulties in accessing the technology needed to participate. In deciding on our approach to non-final FTP hearings, we have balanced these considerations to ensure that we can provide certainty to parties about what they can expect in a case, whilst still providing the opportunity for them to raise any issues and a process for these issues to be taken into account and in-person or hybrid hearings considered where appropriate.
- 6.41 We have therefore decided that our starting point for non-final FTP hearings should be that they are held remotely, unless there is evidence that supports an alternative approach (this could include evidence relating to the factors we set out above at para [6.27](#)) with any decision in listing non-final FTP hearings complying with our duties under the Equalities Act. We will give registrants and other parties the opportunity to provide evidence as to why we should consider holding any of these hearings in person or by way of hybrid arrangements, as we do in the case of final hearings. If there is evidence that supports an alternative approach, this evidence would be considered by the HCPTS, and potentially the independent panel Chair if agreement cannot be reached between the parties.

Registration appeals/hearings

- 6.42 The power to hold hearings remotely will also apply to registration appeals hearings.
- 6.43 There are a number of different registration appeals that can be made to the Council against decisions taken by the HCPC to:
- a. Refuse admission, readmission, renewal or additional register entry
 - b. Impose conditions on admission or readmission
 - c. Revoke registration for breach of indemnity requirements
 - d. Revoke registration for CPD or a return to practice breach
- 6.44 Appeals may also be made against a failure to make a decision within the statutory deadline.
- 6.45 Prior to the Covid-19 pandemic, all registration hearings took place in person. Following the introduction of the emergency powers however, all registration hearings have taken place remotely.
- 6.46 We did not receive any feedback to our consultation that was specific to registration appeals hearings. However, we recognise that some respondents' views may have applied across all hearing types and so we considered our approach to registration hearings taking those views into account.
- 6.47 We usually receive around 50 registration appeals each year, and around 10% of the registration appeals we receive are ultimately dealt with by consent, meaning that a hearing does not take place.
- 6.48 Around 80% of the registration appeals we receive are from overseas applicants. Prior to the introduction of the emergency power to hold remote hearings, applicants who live overseas would have had to travel internationally in order to attend an appeal. For overseas applicants, we therefore recognise the very real benefits to them in terms of their appeals being dealt with remotely. It avoids the need for them to travel overseas to attend the hearing, saving a great deal of time and expense.
- 6.49 We have also noticed an improvement in the timeframes in which registration appeals are able to be heard since the introduction of remote hearings. Scheduling in-person hearings was previously very challenging, particularly for overseas applicants who had to arrange long-distance travel which often led to significant delays in hearings being held.
- 6.50 Based on the profile of the appeals cases we generally receive, and the range of factors set out above, we have decided that our starting point for registration appeals hearings should be that they are held remotely unless there is evidence that supports an alternative approach.

6.51 We will still give appellants the opportunity to provide evidence as to why we should consider holding any of these hearings in person or by way of hybrid arrangements, just as we have outlined in relation to FTP hearings. This evidence could include issues relating to the factors that we outlined above (paragraph [6.27](#)) such as the need to take into account any reasonable adjustments or other measures, as well as the views of the registrant.

Decision 5: We will monitor the impact of our decisions on remote hearings to identify any issues that may require a change in approach and will conduct a full review of the approach after one year

6.52 We recognise that we are moving into new territory with implementation of remote hearings as part of our ordinary ways of working, and that the outcomes we have seen so far may change over time. As such, we have decided to monitor the impact of our decisions over time and will reflect on whether the approach we have set out here remains fit for purpose. We will collect and review data which will allow us to reflect on outcomes and equalities impacts and consider how to effectively respond to any challenges presented by the arrangements we implement.

6.53 A new approach will need time to embed to ensure that outcomes from monitoring are representative and useful. We will, therefore, commence a review following a year of implementing our new approach.

Impacts of our decisions

6.54 We recognise that implementing these decisions will need to take into account the different impacts upon different protected groups. We have considered these and outlined them in more detail in our equalities impact assessment (EIA). We also recognise that impacts may change over time and should be monitored, as we have set out above.

6.55 For all hearing types, the approach that we have decided upon will allow us to evaluate a range of factors (including those set out at paragraph [6.27](#)) when listing a hearing, particularly taking into account the context of a person's needs, reasonable adjustments, or other factors when listing the hearing. Our approach will allow issues relating to a protected characteristic to be taken into consideration and have a bearing upon the location or format of the hearing.

Equalities impacts

Age

6.56 We identified that holding a hearing remotely may have impacts on those who are not confident in using certain equipment and software, something that may have more of an effect upon those who are older. The use of remote hearings could therefore negatively impact on the ability of some older people to

participate fairly in the fitness to practice process. There may also be consequences for those who are in shared housing, which are more likely to be younger people, who may feel uncomfortable at participating in a remote hearing without proper privacy.

- 6.57 We have considered these carefully, with our processes in listing a hearing (e.g. the factors that we will take into account or the ability to provide further evidence) providing the opportunity for matters related to age, such as these, to be raised as appropriate, and seek to ensure fairness, equity and the effective consideration of factors related to age in individual cases.
- 6.58 We would also seek, where appropriate, to support any needs and reasonable adjustments related to the provision of guidance, equipment, space and support.
- 6.59 Some of the impacts that we have identified in relation to age may also cross over into disability, as some older people may have health conditions which may be considered a disability. These are set out further in the section on disability.

Race

- 6.60 Race is also a factor we have considered. For example, it was raised through the consultation that those with English as a second language may be at a disadvantage in a remote hearing, as they may struggle to understand what is being said remotely and be less able to use body language to support their understanding.
- 6.61 Cases where this is a relevant factor will be considered on an individual basis to determine which format would be best for the hearing. Support, such as translation and other resources, would be available both for remote and well as in person hearings. Our processes in listing a hearing (including the factors that we would consider and the ability for parties to provide evidence that a remote hearing would not be appropriate) provide the opportunity for matters related to race to be raised as appropriate, and seek to ensure fairness, equity and the effective consideration of factors related to race in individual cases.
- 6.62 Registration appeal hearings tend to relate to international applications. Since they have been held remotely, registrants not based in the UK do not need to travel. As such, remote hearings would largely have a positive impact upon those involved in registration appeal hearings.

Disability

- 6.63 Both remote and in-person hearings can have positive and negative impacts for those with disabilities. A particular hearing format may not be suitable for all participants, for example those who cannot use remote or hybrid technology due to a disability or health condition. Some may require the support of an advocate

or support service such as a sign language interpreter.

- 6.64 Remote hearings may provide many benefits to those with disabilities and health conditions. It may be beneficial for those with some physical disabilities for example, as it would prevent them potentially having to travel to the hearings centre.
- 6.65 Fitness to practise and registration hearings can be stressful and create additional anxiety for those with mental health conditions. Where a registrant or vulnerable witness is participating in a remote hearing from their own home or other site in isolation, they may not have access to support mechanisms and contacts they require. However, for some participants, remote or hybrid approaches could reduce stress and adverse effects from the hearing, as they may find participating remotely a less personal and intimidating experience or may have access to greater support in a more familiar environment.
- 6.66 In the face of potential future Covid waves, remote hearings may also be of benefit to those who are vulnerable, who may have disabilities, who wish to start minimising contact again, for example, in winter months when Covid cases may rise, to have the ability and structure in place to participate in a hearing remotely.
- 6.67 Our processes in listing a hearing (including the factors that we would consider, as outlined above, and the ability to raise issues with us) provide the opportunity for matters related to disability to be raised as appropriate, and seek to ensure fairness, equity and the effective consideration of issues related to disability in individual cases. In addition to determining how the hearing should be formatted, an individual's needs will be taken into account in the support that we provide to enable them to effectively participate in the hearing.

Gender reassignment

- 6.68 Our processes in listing hearings (including the factors that we would consider, as outlined above, and the ability to raise issues with us), would allow any registrant undergoing gender reassignment surgery or processes to raise that as a factor to be considered in determining whether a hearing should be held remotely, hybrid or in-person as appropriate.

Sex

- 6.69 Any cases involving sexual misconduct may need specific additional support. For example, evidence may need to be given from behind a screen, additional personal support may be needed, or there may be a significant number of witnesses. Such needs may be best served in-person or remotely and are important to consider in any decision relating to listing the hearing and deciding which format may be more appropriate. The processes that we have outlined

above for listing hearings will allow people to raise these issues with us and for them to be taken into consideration.

Pregnancy and maternity

- 6.70 In listing a case, consideration of needs relating to pregnancy and maternity can also be factored into the decision under the approach we have set out above. Having the ability to have a hearing remotely may allow those further away from the hearing centre to participate in the hearing, which would save on travel and accommodation costs for many, as well as cut down on time travelling and attending the hearing in person, which could benefit those with caring responsibilities, particularly those who are on maternity leave.

Religion and belief

- 6.71 While no considerations relating to religion or belief have been raised with us by stakeholders, there may be considerations related to the format of hearings that have not yet been identified. For example, Muslims may have additional needs during the Ramadan fasting period that may be better met through either a remote or in-person hearing. We will consider this as part of our monitoring around equalities impacts going forward.

Wider impacts

-Socio-economic status, residency status, area inequality and financial impact

- 6.72 We have considered participants who may also be disadvantaged by their socio-economic status, residency status, or area inequality.
- 6.73 The format of hearings may have an impact on these individuals. They are more likely to face barriers to accessing the technology should they be required to participate in a remote hearing. However, they may also benefit from participating remotely in hearings as it may save on travel and accommodation costs, as well as cutting down on time travelling to attend the hearing in person. The ability to participate remotely may benefit those who are self-employed and cannot afford or who are unable to take considerable time away from work.
- 6.74 Having the facilities for remote hearings available, and the ability for participants' needs to be considered (either through consideration of the factors outlined above or by being able to raise such issues as evidence for consideration) could help to advance equality of opportunity as it would level the playing field for those who may struggle to meet the demands of attending hearings in a particular format.

-Impact upon time

- 6.75 The use of remote hearings may also be a more economical use of time for both the hearing parties and the panel members themselves. For in-person hearings, it may be necessary for attendees to take time away from work, and from various

personal commitments in order to attend a hearing. Being able to take part remotely may mitigate some of these impacts.

-Hearing parties' preference

6.76 Some respondents to the consultation expressed the view that registrant choice should be taken into account when deciding on the format of a hearing. We recognise that for some participants the ability to operate in a remote environment may be preferred as it may reduce the stress they feel in taking part. Other participants may prefer to participate in person. The processes that we have outlined above, including the factors and the evidence that we will take into account when deciding upon the format of a hearing provide the opportunity for hearing parties' views to be considered.

-Environmental impacts

6.77 The strategy we have taken in listing hearings will likely have positive environmental impacts. Where hearings are held remotely, this will remove the need for people to travel potentially long distances, as well as potentially reducing the need for large amounts of printing.

-Further Covid impacts

6.78 In the event of further pandemic-related restrictions or if there was another wave of Covid in the future, having a clear legal basis and processes for holding hearings remotely in this way would minimise stress and delays to proceedings.

6.79 Overall, the principles and processes set out in our decisions provide the opportunity for matters related to any protected characteristic, to social status, and to individuals more widely, to be raised as appropriate, and seek to ensure fairness and equity in each individual case.

7. List of respondents

Below is a list of all the organisations that responded to the consultation.

BLM Law

Brabners LLP

Chartered Society of Physiotherapy

HCPFC Fitness to Practise (FtP) Forum Representative Bodies

Health Education England

Kingsley Napley Law

London Ambulance Service

National Community Hearing Association (NCHA)

North West Ambulance Service NHS Trust

Nutribytes Ltd

Professional Standards Authority

Royal College of Occupational Therapists

Royal College of Podiatry

Support Medical Group

The College of Paramedics

The Office for the Chief Allied Health Professions Officer for NHS England and Improvement

UNISON

Unite the Union

Welsh Ambulance Service Trust

West Midlands Ambulance Service