

Chief Constables' Council

Title: Virtual Hearings and Video Enabled Justice Update

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Force/organisation: Sussex Police

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Coordination Committee: Criminal Justice

Portfolio: Digital First

Attachments @ paragraph: None

1. INTRODUCTION/PURPOSE

- 1.1. The purpose of this paper is to provide an update on the work being completed by the Digital First Programme in response to the HMCTS Reform Programme's proposals with regard to Virtual Hearings. The paper includes reference to how the London & South East Video Enabled Justice Programme, funded by the Police Transformation Fund, will contribute to the policing response to the proposals.
- 1.2. The paper:
 1. Seeks support for the approach to HMCTS Reform being taken by the NPCC Digital First Programme on behalf of policing;
 2. Seeks views on HMCTS Reform proposals around Video Remand Hearings (VRH); and
 3. Requests a mandate to begin formal discussions with the Home Office and Ministry of Justice as to how associated implementation and ongoing revenue costs might be met.

2. BACKGROUND

- 2.1. Her Majesty's Courts and Tribunals Service (HMCTS) are investing nearly £1billion to modernise the courts and tribunals service, through the HMCTS Reform and Criminal Justice System (CJS) Common Platform Programmes.
- 2.2. Virtual Hearings (VH) are a key component of HMCTS Reform and will modernise the outdated systems found across the CJS and provide flexibility for all parties to engage with the justice system without the need to always appear in court physically.
- 2.3. In order for HMCTS Reform to successfully implement their new Crime Service Model (CSM), there is a need to deliver new capabilities including an efficient and effective VH model for bail and remand



hearings, trials (police officer, civilian and expert witness evidence via live link) and other statutory applications (e.g. warrants, extradition).

- 2.4. Many of the elements of the proposed Virtual Hearing model, if agreed and implemented, would require significant technical and business process change across policing in order for the wider CJS to fully realise benefits of HMCTS Reform.
- 2.5. Part of the future CSM proposed by HMCTS is dependent upon producing defendants for remand hearings by video from police custody suites (Video Remand Hearings).
- 2.6. The strategic level Criminal Justice Integration Board (CJIB) have chosen to prioritise the detailed development of VRH proposals due to their inherent complexity. As a result, much of the work carried out to date by the Digital First Programme has focused on this area, however future plans encompass the wider VH scope.
- 2.7. There is a need to determine whether the proposal that has been made by HMCTS Reform- that policing will be responsible for producing defendants for remand hearings by video from custody suites- is one which should be agreed.
- 2.8. It should be noted that the timescales cited by HMCTS Reform for VRH implementation are highly ambitious. The national rollout phase is currently proposed to begin in July 2019, with completion by the end of March 2020. Aside from the need to resolve the issues described above regarding funding, any implementation plan will necessitate significant co-ordination between agencies on national, local and regional levels.

3. PROGRESS TO DATE

- 3.1. A number of forces, or groups of forces, have already implemented a version of VRH based on the 'as-is' process and technology currently in use in CJS agencies. Those forces have found implementation of VRH in the 'as-is' state to be cost prohibitive. For example, in a letter to the Lord Chancellor, sent on behalf of the Kent Criminal Justice Board in January 2017, ACC Blaker (Kent) wrote:

As a Board, we feel it is our responsibility to highlight to you that Kent Police cannot continue to sustain the financial cost of delivering Virtual Courts for the benefit of the CJ system in Kent as a whole. We would ask that urgent consideration is given to the long term future of Virtual Courts with consideration to a financial arrangement that does not create a disproportionate burden to any single agency.

- 3.2. In the 'to-be' state, under the CSM, it is envisaged that digital scheduling and listing tools, seamless sharing of case file information and evidence, virtual access to legal representation, more flexible and frequent Prisoner Escort & Custody Service (PECS) transfers, and extended court and prison reception hours, will be in place to deliver a more effective and efficient VRH process, thereby reducing the cost burden on Policing.
- 3.3. The main risk that has been identified to date with regard to the HMCTS Reform proposals for VRH relates to the legitimate concern that some custody suites may simply not have appropriate (or indeed any) spatial capacity to include a VRH room. There is a high probability that some custody suites would require some drastic or highly expensive action to comply with the VRH requirements.
- 3.4. In order to enable all police custody estate nationally house two VRH rooms per custody centre, there would likely be a need to build new custody suites in some areas. During a survey of police custody estate, carried out by the Digital First Programme in March 2017, several custody suites returned 'not sure' answers in relation to available space. These answers have been used to bound high and low costs either taking 'not sure' as meaning 'yes, we have the space' or 'no, we do not have the space'.

- 3.5. There is a need to validate the answers given by forces as part of the custody estate survey, understanding what is possible at each individual site. Therefore, the costs given below in 3.6 and 3.7 should be considered as indicative only at this stage, as they have been based on a number of assumptions.
- 3.6. It has been necessary to assume that there are only two paths available to enable the VRH requirement to be met by policing (as opposed to being met by HMCTS or another agency): where there is space, adapt existing rooms or, where there is physically no available space without operational impact, build a new and equivalent custody suite. This is clearly a very broad assumption, which is due to the unique nature of the custody environment.
- 3.7. New builds of custody suites are prohibitively expensive and were this to be required could result in a build cost of between £211m and £720m to VRH-enable all custody estate nationally. It is accepted that this option is completely unrealistic and it has therefore been assumed that this should be ruled out as an option.
- 3.8. As an alternative consideration, the cost of enabling only that custody estate which currently has available space for VRH is between £1.1m and £9.1m, in respect of build costs only. This results in a corresponding VRH coverage of between approximately 50% and 80% of custody suite sites. As, stated above at 3.5, the true build cost will be dependent on validation of the custody estate survey responses.
- 3.9. Appendix A, below, gives an indicative view of the coverage of VRH capabilities by police force area, resulting from the assumptions previously made if it is assumed that new builds will not be provided and that VRH is not facilitated where it cannot currently be accommodated. It is assumed that 65% VRH *cell coverage* would be acceptable, less than 35% not acceptable. A more detailed geographic impact assessment is required, as per 3.5.
- 3.10. Adapting only existing police custody estate which has available space creates a number of risks in relation to 'cost shunting' between agencies, increased costs with regard to people and processes, and a potential 'postcode lottery' of service provision. It may be that this option is as inefficient and costly as building new custody suites, due to the potential need to transport detainees from a non-VRH enabled custody suite to a VRH enabled one.
- 3.11. It is important to note that none of these costs include technical infrastructure (both capital and revenue), people or process costs. As noted above at 3.1, revenue costs have been found to be prohibitively high in forces that have adopted VRH in the 'as is' state.

4. PROPOSAL

- 4.1. The Digital First Programme has planned a series of works on VH / VEJ covering the following:
- Future demand analysis and how that impacts costs and benefits;
 - Prioritisation of analysis of people and process costs once the HMCTS Reform operating model has been defined to a sufficient level of detail;
 - Mapping of relevant delivery timescales and dependencies across Policing, HMCTS Reform and the CJS Common Platform Programme to identify areas of divergence and conflict, as well as opportunities for better alignment;
 - Continued participation in HMCTS Reform and CJS Common Platform Programme governance on behalf of Policing.
- 4.2. In addition, Digital First will be working in partnership with the London & South East VEJ Programme, sponsored by PCC Katy Bourne (Sussex) and led by ACC Tony Blaker (Kent), and HMCTS Reform to test the preliminary design of the new operating model in a live environment. The London & South East VEJ Programme will not only look at VRH, but will additionally provide improved video link capabilities for both police officer and civilian witness evidence, particularly where victims and

witnesses are vulnerable and / or intimidated. This presents an opportunity to bring the new CSM to life, provide a greater degree of certainty on levels of cost and benefit, assess levels of business process change required, and most importantly, to improve access to justice for everyone.

- 4.3. There is a pressing need to begin formal discussions with the Home Office and Ministry of Justice as to how implementation costs and ongoing revenue related to the proposals might be met. It is proposed, dependent on endorsement of the contents of this paper, that those discussions are commenced as a matter of urgency. An update on the position reached in those discussion, further iterations of costs and benefits and potential implementation plans will be brought back to the next Chief Constables' Council.
- 4.4. The above work does not preclude the operation of any ongoing or new VH / VEJ initiatives at a local or regional level. However, it should be borne in mind that consideration should be made to how these initiatives will converge with any national model in the future. Digital First will support forces in this area and would request that forces with new or ongoing initiatives engage with the Programme, if they haven't done so already. In particular the provision of any information on force estate strategies affecting custody provision is useful in shaping any potential future implementation plans for VRH. In conjunction with the NPCC Courts Portfolio, led by ACC Tony Blaker, the Digital First Programme will lead communication with forces regarding progress nationally with VH / VEJ.

5. DECISIONS REQUIRED

- 5.1. Chief Constables are asked to endorse the approach to HMCTS Reform being taken by the NPCC Digital First Programme.
- 5.2. Chief Constables are invited to comment on HMCTS Reform proposals around Video Remand Hearings (VRH).
- 5.3. Chief Constables are invited to agree that formal discussions should commence with the Home Office and Ministry of Justice as to how implementation and ongoing revenue costs associated with HMCTS Reform proposals might be met.

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APPENDIX A

% of total cells covered by VRH capability per force area

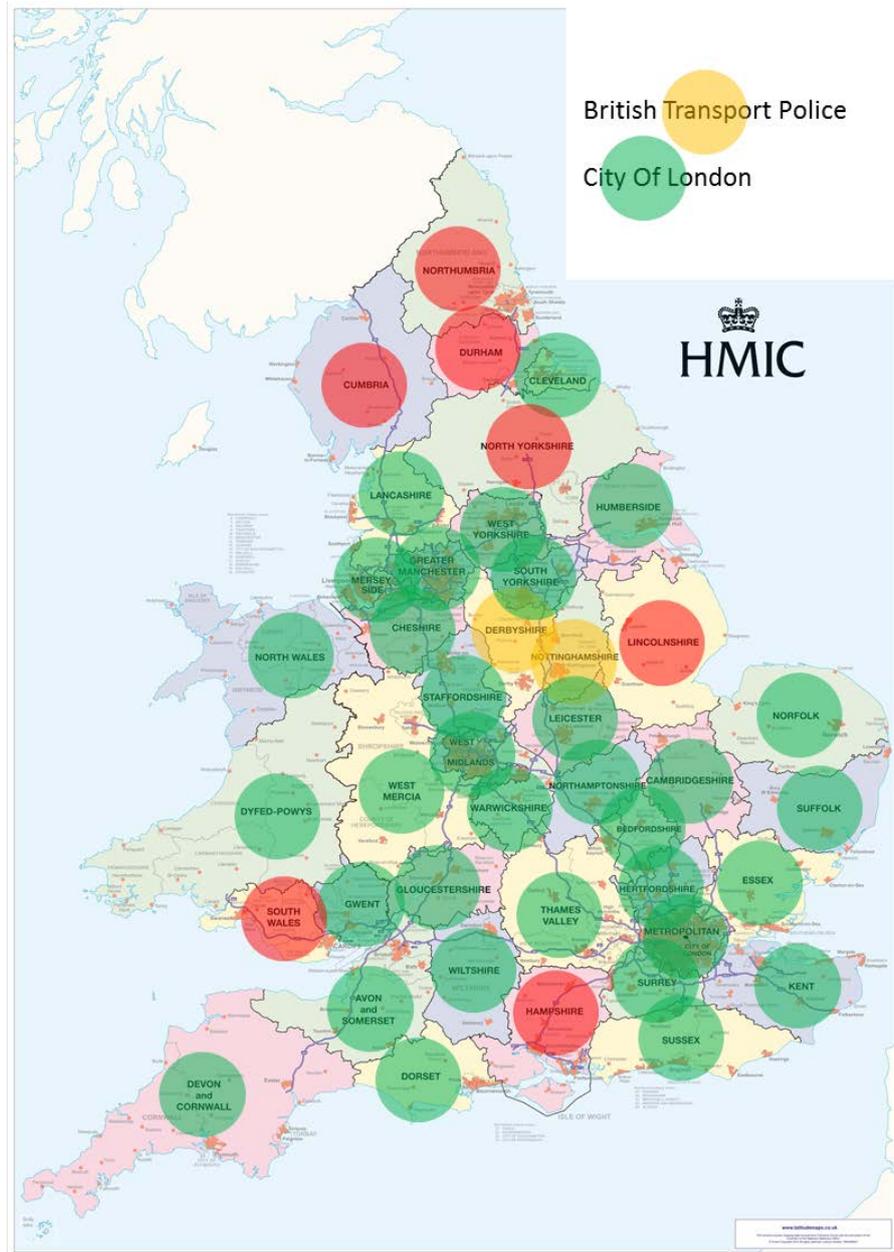
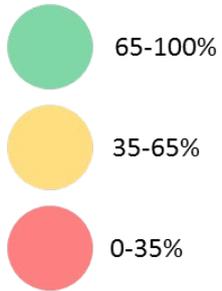


Figure 1 – Indicative view of VRH capabilities if ‘Not sure’ sites have available space

% of total cells covered by VRH capability per force area

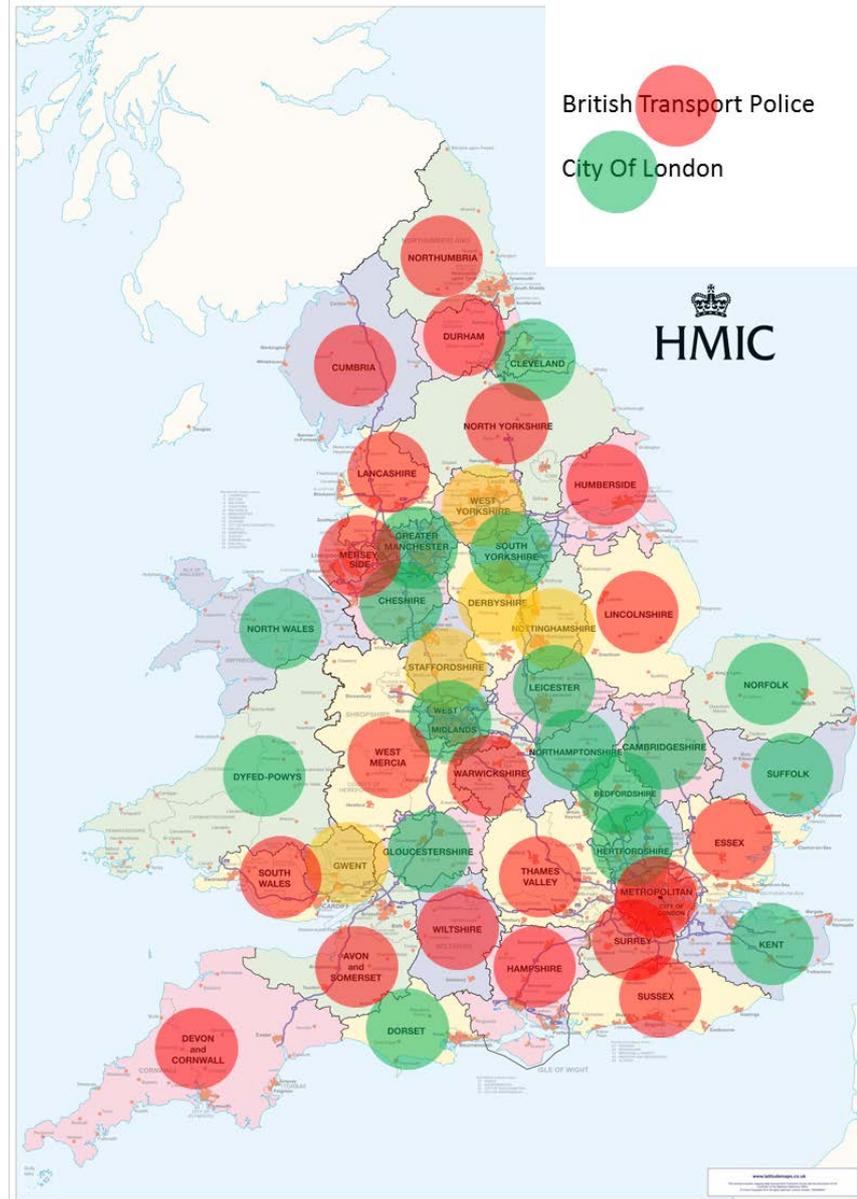
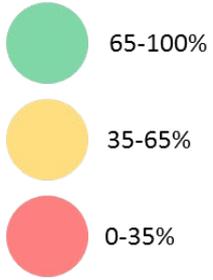


Figure 2 - Indicative view of VRH capabilities if 'Not sure' sites do not have available space