

Virtual Courts

Defendant suitability criteria

Before a Virtual Court hearing is offered to a defendant, the Custody Sergeant must determine whether the case is suitable to be dealt with by live link. In determining whether a case is suitable, the Custody Sergeant should take account of representations received from all parties involved, and these representations should be recorded on the custody record.

The suitability of a defendant in police detention for a Virtual Court hearing should be kept under constant review by the Custody Sergeant following an initial decision that a case is suitable. Where a defendant is granted live link bail at the point of charge, a risk assessment should be carried out when the defendant returns to the custody suite to answer live link bail.

There is a presumption that where a defendant is charged with an offence the case is suitable for a Virtual Court hearing in the magistrates' court unless:

1. The defendant (or if there is more than one defendant, at least one of them) involved in the case is under 18 years of age;
2. The case involves more than two defendants or, in a case with two defendants, one of the defendants is not suitable. Space constraints in the interview room may also need to be considered;
3. The defendant requires immediate medical attention;
4. The defendant has been identified as vulnerable and requiring an appropriate adult. Defendants identified as vulnerable and requiring an appropriate adult should be considered unsuitable for Virtual Courts if they have not received face-to-face legal advice. Where a such a defendant has received face-to-face legal advice, they should only be considered suitable if their legal representative is in agreement;
5. The defendant requires an interpreter and it is not possible for an interpreter to be found to attend in sufficient time to enable the Virtual Court hearing to take place;
6. Information in the case file is classified above RESTRICTED under the Government Protective Marking Scheme;
7. The case papers requiring upload to the collaboration space for the first hearing consist of more than approximately 50 pages;
8. Items of evidence essential for Advanced Information cannot be produced digitally/electronically in time for the hearing (eg video clips);
9. As a result of the ongoing risk assessment by the custody officer, conducted in accordance with the Home Office circular 034/2007 (with the right for the defence solicitor to make representations as appropriate, which must be recorded on the custody record), the Custody Sergeant considers that there is a substantial risk of the defendant becoming violent before, during or after the Virtual Court hearing, and considers that this makes them unsuitable for the Virtual Court.