

Appendix 1 - Rural Needs Impact Assessment (RNIA) Template

SECTION 1 - Defining the activity subject to Section 1(1) of the Rural Needs Act (NI) 2016

1A. Name of Public Authority.
Department of Justice

1B. Please provide a short title which describes the activity being undertaken by the Public Authority that is subject to Section 1(1) of the Rural Needs Act (NI) 2016.
Audio and Video links for Northern Ireland Court and Tribunal Hearings: A Public Consultation

1C. Please indicate which category the activity specified in Section 1B above relates to.						
Developing a	Policy	<input type="checkbox"/>	Strategy	<input type="checkbox"/>	Plan	<input type="checkbox"/>
Adopting a	Policy	<input type="checkbox"/>	Strategy	<input type="checkbox"/>	Plan	<input type="checkbox"/>
Implementing a	Policy	<input type="checkbox"/>	Strategy	<input type="checkbox"/>	Plan	<input type="checkbox"/>
Revising a	Policy	<input checked="" type="checkbox"/>	Strategy	<input type="checkbox"/>	Plan	<input type="checkbox"/>
Designing a Public Service		<input type="checkbox"/>				
Delivering a Public Service		<input type="checkbox"/>				

1D. Please provide the official title (if any) of the Policy, Strategy, Plan or Public Service document or initiative relating to the category indicated in Section 1C above.
Audio and Video links for Northern Ireland Court and Tribunal Hearings.

1E. Please provide details of the aims and/or objectives of the Policy, Strategy, Plan or Public Service.

Background, Aims and Objectives

The pandemic accelerated the Northern Ireland Court and Tribunal Service digital modernisation Programme to meet the challenges presented by Covid-19. Since 2015 digital transformation of public services was part of the Programme for Government objectives. The need to extend the use of Live Links for remote hearings by the judiciary and other justice stakeholders beyond the 25 March 2022 – an automatic date for expiry established within the Coronavirus Act 2020 unless the power to extend the provisions was used – was identified in 2021.

The Coronavirus Act 'live links' provisions arose out of the March 2020 Covid lockdown and the need for the Justice system to ensure continuity of business and access to justice. In October 2021, the Minister, with the agreement of Executive colleagues, recognised that the provisions included within Schedule 27 of the Coronavirus Act 2020 would require extending beyond 24 March 2022 to support and facilitate the continuation of the work of the judiciary in the courts and tribunals. This led to the passing into law the Coronavirus Act 2020 (Extension of Provisions Related to Courts, Tribunals and Inquests) Order (Northern Ireland) 2022 followed by approval of the Northern Ireland Assembly in March 2022.

A Recovery Strategy for the justice system across all the differing courts and tribunals is a clear priority as Northern Ireland comes through and out of the pandemic. Live links have been used extensively since March 2020 by a wide range of participants and are considered by judiciary and the main justice agencies as critical to the Northern Ireland Courts and Tribunals Service's (NICTS) ability to maintain the recovery of the justice system. The current recovery plan, in particular for the criminal courts, is dependent on the 'live links' arrangements introduced by section 57 and Schedule 27 of the Coronavirus Act 2020 not expiring in September 2022 and a further extension order being made before or by 23 September 2022.

This current policy development is aimed at proposing a range of options of appropriate legislative provisions for inclusion within an Assembly bill in due course as part of the digital transformation of public services to make better use of available resources and integrate into court and tribunal proceedings the wider use of audio and video conferencing technology, known generically as live links.

The Department in drafting the consultation document and options not only considered the experience of live link provisions within the United Kingdom and a number of common law jurisdictions around the world but also responses received to an engagement exercise, with the main users of live links, for four weeks in November 2021. Having ascertained feedback upon the use of live links, a series of follow up meetings with a number of those organisations who responded to the November 2021 engagement were held. This consultation builds upon these earlier exercises with a focus on whether the same or somewhat similar provisions to those provided in the Coronavirus Act 2020, or whether a more modified legislative provision should be made for the future use of live links in a way which facilitates a more digitalised justice sector as part of the agreed modernisation vision for courts and tribunals.

The aim of the policy is to facilitate digital working, not prescribe it, as part of a wider solution to improve and enhance access to justice in a way which meets the needs of the Northern Ireland population. This consultation offers the opportunity to design legislation to meet the specific needs of Northern Ireland rather than adapting policies developed elsewhere.

The NICTS digital strategy is fundamental to improving access to court and tribunal services. The Digital programme is a core element of the Vision 2030 project. This live links policy takes account of the NICTS Digital Strategy 2021 to 2026

1E. Please provide details of the aims and/or objectives of the Policy, Strategy, Plan or Public Service.

including the principle “Digital First”¹ and the commitment that in determining the most appropriate environment for the next steps the Department will be guided by a number of factors. Those factors include ensuring that this policy does not present any new access to justice barriers for the parties involved, including litigants in person.

The Consultation Process

The Department decided, as part of a potential wider policy development on retaining audio or video links for the receiving of evidence remotely to build on past engagement during and since November 2021. This consultation looks beyond the impact of the pandemic on the justice system and considers how the benefits of increased use of technology to court and tribunal business can be maximised.

Most respondents to the November 2021 engagement considered the remote hearing facilities worked well. Most, if not all respondents, recognised there was a time, cost and ecological benefit to the reception of evidence remotely.

We accept that some concerns about live links have been recorded and identified in earlier UK based surveys. The consultation document identifies those concerns and makes some proposals to mitigate them. The consultation presents an opportunity to help the Department achieve the right balance between capitalising on the investment and benefits identified from using live links to conduct court and tribunal hearings remotely while having appropriate safeguards in place.

Any proposals adopted and implemented following full consultation will impact on DOJ policy and may result in some changes to the associated policy and legislation.

1F. What definition of ‘rural’ is the Public Authority using in respect of the Policy, Strategy, Plan or Public Service?

Population Settlements of less than 5,000 (Default definition).

Other Definition (Provide details and the rationale below).

A definition of ‘rural’ is not applicable.

¹ NICTS Digital Strategy 2021 -2026; Page 12 “Digital First does not mean Digital Only, but we will optimise the use of digital solutions where appropriate for the delivery of services and for the completion of transactions. We will continue to provide services in the physical environment particularly to support court hearings, where this meets the best interests of justice or where barriers to digital access exist to optimise the use of digital solutions where appropriate for the delivery of services and for the completion of transactions.”
<https://www.justice-ni.gov.uk/publications/nicts-digital-strategy-2021-2026#:~:text=The%20Northern%20Ireland%20Courts%20and%20Tribunals%20Service%20%28NICTS%29,Justice%20Permanent%20Secretary%20and%20the%20NICTS%20Acting%20Director.>

Details of alternative definition of 'rural' used.

Not Applicable

Rationale for using alternative definition of 'rural'.

Not Applicable

Reasons why a definition of 'rural' is not applicable.

Not Applicable

SECTION 2 - Understanding the impact of the Policy, Strategy, Plan or Public Service

2A. Is the Policy, Strategy, Plan or Public Service likely to impact on people in rural areas?

Yes No If the response is **NO** GO TO Section **2E**.

2B. Please explain how the Policy, Strategy, Plan or Public Service is likely to impact on people in rural areas.

This policy review will apply across Northern Ireland equally to people in rural and urban areas.

It is not considered that this policy or legislation will have a significant differential effect on the needs, experiences and priorities of people in rural areas. Any impact appears minimal and temporary in nature. It is linked to the digital infrastructure available in their location.

Out of the 25 responses received from the 80 organisations invited to participate in the November 2021 engagement exercise, only one mentioned rural connectivity as a reservation to making longer lasting legislative provision for live links. However this respondent supported the extension of the Coronavirus Act live links provisions as part of the planned recovery of the justice system. Twenty four of the twenty five responses received in November 2021 made no mention of rural concerns. Over 80% supported some form of wider provision than that which existed before the Coronavirus Act 2020 being made. While connectivity is outside the control of the live links service providers, the service delivered by the Northern Ireland Courts and Tribunal Service will continue to be delivered across the physical and virtual environments.

Any use of live links are subject to the safeguards within the legislation, in particular, the requirement that the Judge is satisfied receiving evidence by live link is "in the interests of justice". This test encompasses the requirement all parties

to a case can fully participate in the hearing. Any proposals adopted and implemented following full consultation will impact on DOJ policy and may result in some changes to associated policy and legislation.

Use of technology

The procedure utilised includes for every proposed remote hearing participant, who is using technology for the first time, to have an opportunity to test the technology in advance of attending the remote court. A range of practice directions, guidance and instructions are in place to help facilitate this.

Connectivity

A participant can make the court aware (on the pre court listing form) of any connectivity issues they may have. This enables the court to consider and address the suitability of participation for that participant by way of live links or whether a hybrid or in person hearing should be directed.

Family courts

Family courts often deal with sensitive and difficult cases involving domestic abuse, child contact orders and decisions on children being taken into care. There is family court guidance available which makes clear that courts will continue to undertake business either remotely, hybrid or in person where the judge directs. A general format has been established which allows the relevant parties to a case to provide the details required for suitable listing/hearing arrangements to be made. The most recent Guidance issued from the Lady Chief Justice's Office – 'Guidance on Remote, In-Person & Hybrid Attendance' published 22 June 2022 – indicates proceedings/parts of proceedings involving sensitive and/or complex matters, children or young persons may be more generally suited to predominantly physical attendance. Discussions with NICTS, LCJO, Bar and Law Society indicate there is a place for remote or hybrid hearings in the family proceedings sphere of justice.

This policy and consultation applies equally to participants from rural and urban areas. These measures, to date, have shown demonstrable benefit to the people of Northern Ireland in a number of ways: reducing footfall within court buildings; providing more effective use of court time; and reducing waiting and travelling time as well as the cost for many participants in having to physically attend a courthouse

Any proposals adopted and implemented following full consultation will impact on DOJ policy and may result in some changes to associated DOJ policy and legislation. The responses received to this consultation exercise will feed into Ministerial consideration of potential legislative provisions within an Assembly Bill, to be introduced in the next Assembly mandate.

This policy review and any proposals in regard to continuation of wider live links use by courts and tribunals with a view to primary legislation, will be accessible and apply equally to rural and urban areas. We do not consider there is evidence to indicate that those living in either a rural or urban areas would suffer a significant differential effect.

It is envisaged that the policy proposals will impact positively on rural and urban areas as set out in Section 3E.

2C. If the Policy, Strategy, Plan or Public Service is likely to impact on people in rural areas differently from people in urban areas, please explain how it is likely to impact on people in rural areas differently.

Not Applicable

2D. Please indicate which of the following rural policy areas the Policy, Strategy, Plan or Public Services is likely to primarily impact on.

2C. If the Policy, Strategy, Plan or Public Service is likely to impact on people in rural areas differently from people in urban areas, please explain how it is likely to impact on people in rural areas differently.

Rural Crime and Community Safety – minimising's the impact of the pandemic and post pandemic recovery on the through put of court business, Broadband or mobile communications in Rural Areas. It is also aimed at increasing access to justice for those residing in rural areas.

2E. Please explain why the Policy, Strategy, Plan or Public Service is NOT likely to impact on people in rural areas.

Not Applicable

SECTION 3 - Identifying the Social and Economic Needs of Persons in Rural Areas

3A. Has the Public Authority taken steps to identify the social and economic needs of people in rural areas that are relevant to the Policy, Strategy, Plan or Public Service?

Yes No If the response is **NO** GO TO Section **3E**.

3B. Please indicate which of the following methods or information sources were used by the Public Authority to identify the social and economic needs of people in rural areas.

Consultation with Rural Stakeholder	<input type="checkbox"/>	Published Statistics	<input type="checkbox"/>
Consultaion with other Organisations	<input type="checkbox"/>	Research Papers	<input type="checkbox"/>
Surveys or Questionnaires	<input type="checkbox"/>	Other Publications	<input type="checkbox"/>
Other Methods or Information Sources (include details in Question 3C below)			

3C. Please provide details of the methods and information sources used to identify the social and economic needs of people in rural areas including relevant dates, names of organisations, titles of publications, website references, details of surveys or consultations undertaken etc.

Not Applicable

3D. Please provide details of the social and economic needs of people in rural areas which have been identified by the Public Authority?

Not Applicable

3E. Please explain why no steps were taken by the Public Authority to identify the social and economic needs of people in rural areas?

The policy objective is to increase the use of technology for court and tribunal business and allowing the continued use of live links, not only as part of a strategy to ensure the critical recovery of the justice system from the impact of the restrictions required to facilitate the progression of court and tribunal business due to the risk posed to public health and safety from Covid-19 but to provide an enhanced digital court environment which will support the needs of court users and contribute to speeding up access to justice.

There has already been secondary legislation to extend the utilisation of such facilities beyond 24 March 2022. A further extension of six months will be required on or before the 23 September 2022.

Any decision to use live links for part or the whole of a court or tribunal hearing occurs only where the judge is satisfied that use is in the interests of justice, having taken account of the view of any participant as well as being able to rescind any direction where it appears to be in the interests of justice to do so.

It is not considered that the requirement to participate in the hearing by telephone or video represents a disadvantage to a person living in a rural or urban area. The use of live links does, and will continue to operate alongside current traditional practice and procedure.

These measures, to date, have shown demonstrable benefit to the people of Northern Ireland in a number of ways:

- reducing the impact on people, especially those who are vulnerable, when going through what is already a stressful event;
- allowing children to give evidence remotely in a child friendly and neutral environment;
- reducing the risk of unplanned encounters with defendants or their relatives;
- meeting the Victim's Charter obligation of providing separate waiting area from defendants and
- savings in time, cost and impact on the environment (reducing the carbon footprint) with the reduction in travelling to and from Court.

The use and investment made into facilitating wider availability of live links into current practice and procedure whilst prioritising the safeguarding of the key principles of our justice system for users has not identified any significant adverse or differential impact on people living in rural areas. The targeted engagement exercise conducted in November 2021 produced no evidence of differential impact in this regard.

If the response to Section 3A was YES GO TO Section 4A.

SECTION 4 - Considering the Social and Economic Needs of Persons in Rural Areas

4A. Please provide details of the issues considered in relation to the social and economic needs of people in rural areas.

Not Applicable

4A. Please provide details of the issues considered in relation to the social and economic needs of people in rural areas.

SECTION 5 - Influencing the Policy, Strategy, Plan or Public Service

5A. Has the development, adoption, implementation or revising of the Policy, Strategy or Plan, or the design or delivery of the Public Service, been influenced by the rural needs identified?

Yes

No

If the response is **NO** GO TO Section **5C**.

5B. Please explain how the development, adoption, implementation or revising of the Policy, Strategy or Plan, or the design or delivery of the Public Service, has been influenced by the rural needs identified.

Not Applicable

5C. Please explain why the development, adoption, implementation or revising of the Policy, Strategy or Plan, or the design or the delivery of the Public Service, has **NOT** been influenced by the rural needs identified.

As noted in question 2B and 3E the continued availability for the use of live links on the various options posed in the consultation will not remove any current mechanism or services for people (either rural or urban) who engage with courts and tribunal services. The targeted engagement exercise conducted in November 2021 produced no evidence of differential impact in this regard.

If the response to Section **5A** was **YES** GO TO Section **6A**.

SECTION 6-Documenting and Recording

6A. Please tick below to confirm that the RNIA Template will be retained by the Public Authority and relevant information on the Section 1 activity compiled in accordance with paragraph 6.7 of the guidance.

I confirm that the RNIA Template will be retained and relevant information compiled.

Rural Needs Impact Assessment undertaken by:	Máire Sheehan
Position/Grade:	Grade 6: Senior Principal Legal Officer
Division/Branch	DOJ - Access to Justice: Criminal Justice Policy Legislative Division
Signature:	Máire Sheehan
Date:	6 July 2022
Rural Needs Impact Assessment approved by:	Maura Campbell
Position/Grade:	Grade 5: SCS
Division/Branch	DOJ - Access to Justice: Criminal Justice Policy Legislative Division
Signature:	
Date:	6 July 2022