

Some problems with the Tribunal estate: Note from a former barrister

I was an immigration/asylum barrister until the end of last year. From my experience of representing people in a variety of immigration hearings, both bail hearings and appeals, there are several logistical problems caused by the inadequacy of the Tribunal estate.

Videolink

For videolink bail hearings, at some hearing centres the conference between advocate and client is limited to 10 minutes. This is often too short to discuss matters adequately, and it is sometimes difficult to understand and communicate with clients over the videolink. Technical problems with the videolink can also delay hearings, or even prevent applicants being present at their own hearings altogether. The inability to have an adequate conference can create significant problems for advocates. Bail summaries, which are typically served on the afternoon before the hearing, sometimes contain inaccuracies and/or raise new allegations at the eleventh hour, meaning that it is important to be able to take detailed instructions before the hearing commences.

Bail hearings due to be heard in person

But bail hearings where the client is to be produced in person are not necessarily much better. Sometimes clients are not produced at court until hours after the hearing was due to start, significantly delaying the list. Sometimes the client is not produced at all - for instance, this can happen when a prison is on lockdown - and the application must either be heard in absentia or withdrawn. There are particular logistical difficulties where the client is held in the prison estate rather than an IRC, because people in prison are not allowed their own mobile phones and so it is usually impossible to contact them from court to take instructions.

Lack of conference rooms

The situation isn't much better for appeal hearings in which the client is not detained. Some hearing centres (particularly Hatton Cross) have a severe shortage of conference rooms. This can force advocates to hold their conferences with their clients in the public waiting area - obviously a serious problem given that (a) the advocate may need to discuss confidential/privileged matters and (b) vulnerable clients should not be forced

to discuss their trauma histories and other deeply personal matters in a public place. (Other hearing centres, such as Newport, are much better designed.)

Interpretation

Interpretation can also be an issue. Advocates are not generally allowed to use the court interpreter for their conference with the client (unlike in a criminal court). Solicitors can and often do arrange their own interpreter for the advocate's conference, but in hearings which are being conducted pro bono there is obviously no funding for this. And solicitors' interpreters are not always available for the whole hearing, meaning that there is no one to check the accuracy of the court interpreter's translation. This can be a major problem - even the best interpreter makes mistakes sometimes, and the court interpreter may be from a wholly different country from the appellant. (For instance, Iranian Farsi interpreters are sometimes booked for Afghan Dari-speaking clients, and vice versa.)

None of this is meant to be a criticism of court clerks and other HMCTS staff, who work very hard to keep the system running smoothly. But the arrangements, including the buildings themselves, are often grossly inadequate.

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