

Guidance for MLR Writers Preparing Remote MLRs during COVID-19

For ALL MLRs

All MLR writers willing to participate in writing MLRs remotely are asked to apply the following:

1. Please download WhatsApp (or some other videoconferencing software. HBF is reviewing options and will share these with you as soon as possible). WhatsApp is free and can be downloaded onto a phone (if you have a smartphone). It is then possible to use WhatsApp on a laptop with a further app, but the phone must be kept switched on. Guidance and 'training' will be provided so that you can familiarise yourself with WhatsApp video and voice calls.
2. Familiarise yourself with Conference calling, so that you can dial both a client and any interpreter (on WhatsApp this involves calling one person, then another and then syncing the calls). A test call can be arranged with two parties at HBF and all parties' numbers will be given to you prior to the assessment.
3. We recommend that if you are using WhatsApp to call the subject and any interpreter, then at the end of the call you should advise the subject that they must put any further questions they have to their legal representative and that the interpreter should contact HBF with any questions. Using WhatsApp discloses the phone numbers of the parties to the call to each other. Therefore we strongly recommend that you should then 'block' those numbers after the assessment. (Guidance on how to do so will be provided.)
4. If you would prefer to use video-conferencing software other than WhatsApp then please let us know now (and, in any event, in advance of any appointments). We can ask the legal representative to speak to their client about this to ensure that compatible software is available to their client. For the time being we recommend WhatsApp because it is most likely to be accessible to clients and is likely to be well known to many of them if they have, or have access to, a smart phone.
5. If you have any concerns about undertaking an MLR assessment remotely or if you would like to talk through the plan for your assessment in advance then please let us know and we will arrange a phone call from our MLR Legal Protection and/or medical/clinical team to provide advice and support.
6. We are in the process of developing standardised wording for our MLRs to explain the use of remote assessment. Templates will be circulated and this can be discussed with your reviewer at legal review stage.
7. You should record in the body of your MLR any issues where you believe the method of assessment may have influenced or interfered with the assessment. As always, you should pay particular attention to recording any points at which it became clinically inappropriate to continue with a line of questioning or to suspend the assessment.

Founder: Helen Bamber OBE, DU (Essex)

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8. If you attempt the assessment by video link and this is entirely unsuccessful (e.g. if the client can't understand or won't disclose anything) then please speak to the Head of Legal Protection (Jennifer) or a Legal Officer (Beth or David) to make plans for next steps, copying Serena into any emails.
9. If there is a technical difficulty and the video link is unsuccessful, despite your best efforts, attempt to conduct the assessment using audio only and flag the difficulty after the assessment with Serena. . Please be patient if you have to try a few times or suggest people move to locations where there is better signal/nearer a router etc.
10. We will describe all reports as guided by the Istanbul Protocol rather than fully Istanbul Protocol compliant

For MLRs documenting Physical Sequelae (known as 'full' MLRs)

11. HBF Legal Protection Team staff will try to ensure that the instructions given provide details of all physical injuries in advance of the appointment.
12. We will ask the representative (who may also be working remotely) to ask their client to take photographs of the injuries of which they are aware.
13. We will insist on digital copies of the photographs so that we can provide you with the metadata of the picture (i.e. when you look at a digital picture's properties you can see when and sometimes where it was taken, usually if sent as an email attachment this data should be intact) to confirm the date on which it was taken). We will not be able to accept photographs without the metadata.
14. As always, physical injuries without visible signs may have a significant impact on the subject. For example, you may ask the subject to move the afflicted limb or walk in the event that they complain of a limp. Explain that they should position the video call camera far enough away for them to demonstrate this.
15. Any assessment of physical injuries conducted by phone or by consideration of photographs cannot achieve the level of evidence usually required, but it does achieve the standard of 'best available evidence' in the circumstances.
16. Inevitably your findings will be more limited than they might have been in any face-to-face examination and this will be explained in the report which will be described as 'Interim' (see paper 'MLR assessments using video or teleconferencing software').
17. Please ensure you keep record of the hours spent in preparing the report – and assessment time, as usual. If, despite all efforts, it turns out the report cannot be accomplished remotely, please ensure you have still recorded your hours, because we will still invoice for the preparatory work undertaken.
18. As in paper 'MLR assessments using video or teleconferencing software' we will consider whether an addendum to the 'Interim' report is necessary when conditions normalise. This will be done on a case-by-case basis. We should avoid producing addenda just for the sake of it.

V1 20 March 2020
HBF Legal Protection Team