



COURTS AND  
TRIBUNALS JUDICIARY

In the Crown Court at Gloucester

COVID 19

Court Operation Protocol & Social Distancing

[ver 1.26<sup>th</sup> March 2020]

For the foreseeable future Gloucester Crown Court will operate on the basis that nobody will attend the court for any hearing save essential staff. For future hearings the only person in the courtroom will be a court clerk ensuring all court communications are recorded on the DARTS system.

Therefore, all trials, Newton hearings and contested POCA hearings have been removed from our lists till the end of April when matters will be reviewed.

Contacting the court.

Core contact number for court if using phone

- [i] The court will set up link to open the line and you then
- [ii] Dial in 02034639741 followed by
- [iii] When prompted 92818524#

Additionally, where the court has arranged a pre con for video links, Csl MUST provide the court ( in good time) with a direct number that the court can call Csl on to link in the pre con with the prison, as we cannot use the main conference number for the pre con. This can be done in the booth or if necessary in the 2<sup>nd</sup> court with everybody ejected. It is worth noting that the court will ring on a withheld number as this is our system, so please do not to ignore a withheld number.

If Csl have a client in custody & the deft is in **HMP Hewell**. Expect the court to move the listing date to a Friday as that is the only day we can book a court video link.

[A] **Introduction**

[i] **Objective.** The collective safety of all court participants is our primary concern, but it is equally important, despite the enormous pressure brought to bear on all of us by COVID 19, that the court continues to operate, as far as it is safe and practical to do so, with all cases beyond trials. We are endeavouring to put in place measures to ensure that the requirement for personal attendance at court therefore is minimised for all cases save in exceptional circumstances and with court's agreement

[ii] There is significant scope to do this under our present powers via **CPR 3.3(2)(e)** and with the availability of technology such as Skype and video links. Our powers no doubt will be fine-tuned with the **Coronavirus Act 2020**. [sections 53-57] This act contains extensive new powers to hold remote hearings.

[iii] Our aspiration is to avoid attendance by all participants unless it is deemed absolutely necessary for people to attend. Where attendance at court is unavoidable, a distance of 6ft/2m from others should be maintained in accordance with government guidance.

[B] **Steps to be Taken.**

[i] We will hold as many pre-trial hearings as possible by telephone or by Skype or any alternative suitably secure system. We will try Skype but that may well be a learning curve for most of us. HHJ Lawrie QC and HHJ Cullum have now both got Microsoft Business skype downloaded onto their laptops, but this can only be used by judges and staff. The plan is for the judge to phone or video link into court, either from chambers or remotely but the defence and prosecution to link in via phone or video. The same, when appropriate for the probation to do likewise. The system has been road-tested over the last few days and odd glitch aside it works.

[ii] We will review all forthcoming pre-trial hearings and assess them for suitability for hearing by telephone or video link. All trials lifted from the April list will be set down for FCMH to evaluate whether the case is capable of resolution and if not confirm what issues are present and general housekeeping. At the moment, if those trials are not resolved by suitable pleas, we will re fix for September onwards. [Please note section [xi] on credit below]

[iii] Pre-trial hearings which are currently regarded as suitable for remote hearing (audio or video) include:

- PTPHs
- FCMHs
- Compliance hearings
- Preparatory hearings
- Applications to stay for abuse of process
- Applications for joinder or severance
- Applications for indication of sentence
- Intermediary applications
- Ground rules hearings
- Uncontested bail applications
- Bail Variation applications
- Defendant's contested bail applications
  - if D has waived his right to attend, or
  - if D attends via video link, or
  - if D was present when bail was previously withheld and has been in custody continuously since then
- Prosecution contested appeal against grant of bail
  - if D has waived his right to attend, or
  - if D attends via video link, or
  - if the court is satisfied that it would be just to proceed even though the defendant is absent
- Custody time limit extension applications
  - if D has waived his right to attend, or
  - if D attends via video link, or
  - if the court is satisfied that it would be just to proceed even though the defendant is absent.
- Defendants arrested on BWNBB. [See D/1 below]

[iv] Pre-trial hearings held by telephone or Skype will be administered by a clerk, in a courtroom. The hearing will be recorded on DARTS or if on the Spider phone

recorder via hand held recorder. We have only one spider phone located in Judge Lawrie's chambers but free for use when convenient and only as a last resort because it has to be recorded by hand held device. Sadly, the Spider phone cannot be used in the court itself for technical reasons. The courts preference is to conduct the hearings via the court recording system.

- [v] Judges will not necessarily be present in Court but link in remotely via Skype or phone. The DCS will contain a note for view by all parties to confirm this has been done and what has happened.
- [vi] Where a direction is made for a pre-trial hearing to be heard by telephone or video link, we will ensure that dial-in or Skype details are at the top of the widely shared comments section of the DCS. Please use these details and ensure that you attend the hearing promptly. We will hope in due course to compile a directory of such contact details.
- [vii] Advocates should make a special effort to liaise in advance to cover the issues that are to be discussed, preferably set out in an email. This system will not cope with surprise issues by advocates and will lead to immediate adjournment! The court and parties need to be alert to the issues as time will be of the essence. All relevant documents need to be on the DCS in good time. We do not have the flexibility of parties before the court in person which is why it is imperative there is a true collaborative approach by everybody. The list will need to run on time.
- [viii] Hearings will continue to operate in "open court" but access for safety reasons will be restricted. All forthcoming sentencing hearings for defendants in custody will be done via an appropriate link. Defendants on bail will need to arrange via their legal adviser/advocate to link in with separate or shared line or video link.
- [ix] **Cells** The cells at Gloucester have been closed until further notice to all prisoners for reasons of safety. **[Arrested on warrant see below D/1]**
- [x] **Trials.** We can confirm trials at Gloucester are currently suspended until the end of April although we will obviously keep the position under constant review. Outside CTL cases all cases will be refixed to follow on from current listed cases which is

mid-September onwards. All trials removed in the next month or so will be listed for a FCMH but close to their initial listing date. This will be done for the parties to revisit as to whether the case is capable of resolution and if not a plea of guilty then appropriate housekeeping will be conducted. This will be opportunity for CTL application and the current circumstances will arguably qualify as '**some other good and sufficient cause**' .

- [xi] **Discount for plea.** At these FCMH hearings any plea of guilty, even though some time after the PTPH, will be considered for 25% discount.
- [xii] **Listing.** Time block listing [listing by set time segments] will be introduced to enable the lists to have additional time markers to separate cases and to reduce waiting time for all participants. When you have finished a case please leave your link promptly so that the following case can be called on.
- [xii] **If advocate needs to be in court.** If under exceptional circumstances advocates are in court, they should generally avoid the front row to maintain separation from the clerk and court staff. Advocates are invited to spread out to any appropriate position so as to achieve as much safe distance between participants in a hearing. If you are further from a microphone than usual, please be aware that you will need to speak up to ensure that recording and amplification into the dock are effective. As will be clear from the above it is hoped we will not need to have hearings with advocates in attendance at court.
- [xiii] No paper documents should be passed around at any hearing if it is one of the rare attendances in person. In light of the Bar Council guidance on litigation, advocates must upload materials required for their case to DCS and in advance of the hearing.
- [xiv] At PTPH or other hearings police officers in the case will not be required to attend for non-trial hearings: the default position when an officer is required will be for them to be available by telephone. If officer is required a link can be made to either via Waterwells and/or Bamfurlong.
- [xv] **Interpreters** are encouraged to appear, where practical, via video link or skype.

[xiv] **Def on bail.** In hearings where a defendant is on bail and there is no immediate prospect of bail being withdrawn, the hope is they can link in via telephone/video with their defence advocate if the defence has the facility and if not, via telephone. If in court defendants will not be required to surrender to the dock. They will be directed to the rear of the court.

[D] **Particular Hearings**

[i] **Arrest on warrants** not backed for bail. Persons arrested on warrant will be produced before the court via video link from Waterwells Quedgely.

[ii] **Defendants on bail but up for sentence.** All future cases involving prospect of sentence, committals etc are being reviewed. If there is arguable and realistic alternative to custody the case can be dealt with but if risk of custody the case will be adjourned. Those defendants who may be sentenced to an alternative to custody should link in by one means or another, preferably along with their advocate if possible, via office video link or Skype.

[iii] **Probation Breaches.** All probation reviews have been adjourned for 6 weeks. Likewise, all breach cases have been adjourned for 6 weeks.

[iv] **Appeals.** All appeals have been adjourned for next 6 weeks save in cases where the appellant is in custody or subject to disqualification. In those cases, the burden is on the relevant party to make an appropriate application pending resolution of the appeal.

[v] **Non CPS Prosecutions.**

Any non CPS prosecution will follow the procedure asset out above. This note will be distributed to all interested parties who appear before the court.

[vi] **Use of court video facility for conferences.**

In view of the pressure on prison visits etc court video link facilities can be used for conference. This however will not be permitted till the following has been organised by HMCTS:-

- Each video booth is given a thorough clean before the conference link starts.

- The booth is given another thorough clean after that link and before the next one starts.

[vi] **Mental health assessment.** Cases requiring mental health assessment and evidence before the court will be done, with collective consent, via video link

[vii] **VPS.** If a victim wishes to read her statement it will need to be done via a link arranged by the CPS /police.

[C] **What you can do to help:**

[i] Please review your cases listed for trial and the future FCMH. Do not sit on your hands, take positive steps to communicate with the other party, to explore any possibility of resolution without trial.

[ii] Take it for granted all hearings can be heard remotely unless the court indicates otherwise. Please be pro-active in alerting the court if you think it is appropriate for any hearing to be heard with parties at court and give clear reasons as to why it is necessary. The judge retains the discretion to refuse.

[iii] If there is information known to you which would assist the court, please let us know: for instance, if the defendant does not wish to attend a contested bail hearing or a custody time limit extension application, which assists the listing of those applications as a remote hearing.

[iv] Your duty to actively assist the court in fulfilling its duty to actively manage the case includes under **CPR 3.3(2)(e)**, a duty to alert the court to any reason why a live link direction in relation to a pre-trial hearing should not be made, or should be varied or revoked.

[v] If in attendance at court please assist our staff where you can, and in particular help them to maintain parties' distance. Come equipped with gloves and wipes for collective safety.

[vi] Again for reasons of safety we would discourage members of the public attending in support of a defendant and can you do likewise. The court proceedings will be recorded and therefore transparent. The local media will be alerted to the fact our primary aim is to exclude parties attending in person before the court but if they wish to be present whilst remote links are operated that is matter for them.

### **Conclusion**

We ask for your patience and forbearance.

We are in novel procedural territory and I have little doubt we may struggle with the technology till we get our collective eye in on how it all works, we adapt and become familiar with new procedures. Please bear with us, our ultimate purpose is to keep the Criminal Justice System at Gloucester working but importantly ensure everybody is safe.

If you have any further suggestions as to how we might improve these proposals, please email Crown Court, [Claire.price2@justice.gov.uk] and mark your email for the attention of [hhj.ian.lawrie@ejudiciary.net]

I have little doubt the document will be subject to review and refinement.

This document is being distributed to all relevant court participants

**HHJ.Ian Lawrie QC & HHJ Cullum**

**26<sup>th</sup> March 2020**