



JUDICIARY OF
ENGLAND AND WALES

HIS HONOUR JUDGE BLAIR QC
THE HONORARY RECORDER OF BRISTOL
SENIOR CIRCUIT JUDGE
RESIDENT JUDGE

5 May 2020

Dear all,

I sincerely hope that you are keeping well and coping in these very difficult times. Dealing with such unprecedented circumstances has been a challenge for us all but it is quite apparent that it is one to which people are rising. I wish to take this opportunity to express my personal gratitude to all who have so enthusiastically adopted new ways of working in order to help keep the justice system functioning to the extent that the crisis currently allows.

As you will all be aware one of the consequences of the Covid-19 crisis has been the adjournment of listed trials and this is inevitably producing a significant backlog. As and when we are able to resume conducting jury trials it is going to be essential that we utilise the courts to good effect. It is accordingly beholden upon us all to ensure that, in anticipation of that, cases are kept constantly under review in order to ensure that they will be ready to proceed on the first listing or relisting for trial. It is intended that all the cases that have had to be taken out will be listed for a 'mention to fix' hearing once we know when trials can begin to take place, and those listings will present an opportunity for the state of readiness to be reviewed.

In order for that to be effectively undertaken it is crucial that those both prosecuting and defending have undertaken a thorough review of the case in advance and ensured that any outstanding court orders have been complied with.

It is also very important that (a) the prosecution have updated witness availability and, where relevant, have checked that witnesses are still engaged with the process and (b) the defence have been in contact with the client and discussed with them whether there is any possibility for resolution without the need for a trial.

Given the situation, there may still be some scope for cases that once seemed impossible to be compromised to be susceptible now to sensible negotiation. The potential movement on the part of both prosecution and defence is to be encouraged.

I have asked the case progression team to be pro-active in checking that court orders are being complied with. If we let cases effectively lie fallow during the crisis then the struggle to process the volume of work once trials resume is going to be all the greater. I still consider there is merit in non-compliance hearings in order to maintain focus on efficient trial preparation. If there are, for example, outstanding legal arguments which may be susceptible to resolution in advance of trial then now is a good time to get such matters before the court.

So far as the current listing of cases is concerned there are some ways in which the smooth running of courts may be assisted. Skype/Teams hearings are not without their challenges and, although they have the potential to be effective, they could certainly work better if:

- (a) defendants on bail have had a conference with the instructed advocate (at least by telephone) no later than the day before the hearing. Please ensure these take place as judges will be expecting that to have happened;
- (b) those who defend must inform Listing no later than midday on the day preceding the hearing (when providing Skype/teams details) whether the instructed advocate has already had a conference and, if not, whether they need time for one to be facilitated on the day of the hearing. The lists are disrupted when hearings commence with the instructed advocate requesting the opportunity for a conference and so prior notification will allow for more accurate time markings of cases and that will be for the benefit of all;
- (c) If there is potential for acceptable pleas to be entered please inform the court in advance so that the probation service can be alerted to the potential need for a 'day of hearing' report. Where there are sufficient staff available the probation officers at court are happy to prepare such reports, and they are just as good if not better than alternative arrangements which tend to be by way of telephone or video engagement between defendants and the reporting probation officers.

I am sure we all look forward to the return to something approaching normality. In terms of the functioning of the court system it is going to take a huge effort on the part of us all to address the problems generated by the crisis but I am confident that with commitment, enthusiasm and flexibility we will be able to deal successfully with the challenges that lie ahead. Once again, many thanks for all that you have done thus far.

Peter Blair