

## **Courts Coming Out of Lockdown**

### **Sir James Dingemans - June 2020**

1. As the courts have been sitting hearing cases remotely via video link in lockdown, the judiciary and the legal profession have learned and understood more about what type of cases are well suited to remote video hearings, which case are not so well-suited, and which cases (certainly with current technology) are impossible to hear remotely. This new understanding will assist in deciding what cases can continue properly to be heard remotely in the coming months.
2. As the current restrictions are eased, albeit with social distancing remaining, courts will start hearing again cases in a traditional face to face manner. It seems likely that social distancing will remain until either a vaccine or treatment for COVID-19 is developed.
3. However before Courts can be opened to permit face to face hearings with social distancing a great deal of work has had to be undertaken by Her Majesty's Courts and Tribunal Service. Cleaning has to be undertaken. Risk assessments have to be performed. Courts have to be assessed for size and layout to ensure that hearings can take place with social distancing observed. Some chairs in court have had to be taped off.
4. One set of trials which had proved impossible to hear remotely in the lockdown were jury trials. On 26 May 2020 jury trials commenced in Bristol, Cardiff, Manchester and at the Old Bailey with social distancing observed between the defendant, judge, jurors, legal representatives and witnesses.
5. It is inevitable that the number of courts in which social distancing can be maintained will represent only a part of the court estate. This means that remote hearings will

need to continue for some time to assist in addressing new work and work which has backed up. In addition to the continuing need for remote hearings new ways of working are already being adapted. Hybrid hearings with judge, counsel and parties present, but with witnesses appearing by remote video link are becoming more usual.

6. All of this heightens the importance of increasing an understanding about what work is, and is not, well-suited to remote hearings. Some research has been carried out by the Nuffield Family Justice Observatory, analysing the early experience of remote working in the family courts. The Civil Justice Council has recently published a review of civil hearings carried out between 1 May and 7 May 2020. More work needs to be done so that future decisions about what cases continue to be heard remotely can be made on a principled and fair basis.