

LCCSA call for action during major incident in London

On 5th January the Lord Chief Justice announced that the justice system would continue to function through the 3rd national lockdown and noted the importance of reducing footfall in courts.

London has been in effective lockdown since the end of the autumn school term, but infection rates remain extremely high, leading the Mayor of London to announce a major incident on 8th January. We are in an unprecedented national emergency and all parts of our public services should be acting to curtail all social contact to that which is absolutely essential.

Our members report that local magistrates' courts are once again too crowded and applications to appear remotely are being underused. They encounter security guards, custody staff and other court users not wearing masks as they conduct their business. Cells, consultation rooms and courts are poorly ventilated, too small to allow for social distancing and so frequently in use they cannot be disinfected. Moreover, there are instances of defendants being brought from prison or a police station who have tested positive for Covid -19 or who are clearly symptomatic.

The timing of the police withdrawal of support for hosting overnight remand prisoners could not have been worse and represents a failure of government at the highest level; an accommodation could and should have been reached. It is our members, prisoner escort, custody and court staff and the defendants who will bear the consequences of it.

More must now be done. We call for:

1. *The suspension of summary trials, save for those remanded in custody pending trial.*
2. *All prosecutors, probation officers and defence advocates should appear at NGAP and GAP courts remotely by default. Courtrooms without CVP facilities should not be used for these case types.*
3. *There should be a presumption that Defendants on bail, who have the means to use CVP in a private suitable space, should appear remotely at NGAP and GAP courts.*
4. *During this emergency there should be an amendment to the relevant CPR / CPD to reflect the above presumptions at 2&3 and to require the decision maker to justify why it should not apply.*
5. *Those with mental disorders or communication or learning difficulties, where their advocate argues remote participation is unsuitable, should have their cases adjourned in advance.*
6. *Sentence hearings where the bench did not rule out the risk of custody should be adjourned. Those where a Community Order was to be considered should be heard remotely as per 2-4 above.*
7. *The Ministry of Justice must accommodate the support needs of police forces to ensure overnight prisoners are once again hosted at police stations. In the meantime, HMCTS must ensure adequate numbers of confidential phone lines are installed in all courts to enable remote advice and representation.*
8. *All Youth Court cases with defendants on bail should be adjourned for at least 4 weeks as remote participation is less suitable.*
9. *Members of the public, save journalists, should not be permitted to enter magistrates' courts. Attending someone else's court hearing is not a reason to leave home during the lockdown. This would not apply to those assisting a court participant with a disability.*
10. *Security guards should be provided with non-contact thermometers to check entrants to court buildings, as is the case for other sectors.*

The above envisages some defendants would still attend on bail or to answer a requisition, but overall reductions in footfall would ensure it is safer to do so.

The above measures would still enable the justice system to function far more effectively than the first lockdown but would ensure a far safer environment for those left attending court. The current arrangements do not keep people safe and do not help protect the NHS or enable us to control the spread of infection to come out of lockdown.

We seek to work with HMCTS to implement these changes. Without urgent change we cannot advise our members it is safe to continue to attend magistrates' courts in London during this major incident.

LCCSA Committee
12/01/2021