



CHIEF CORONER

GUIDANCE NO. 39

RECOVERY FROM THE COVID-19 PANDEMIC

Introduction

1. On Monday March 23rd 2020 the Prime Minister announced a series of measures that have been summarised as a 'lock down' in a move to limit the incidence of deaths from COVID-19. In the days that followed many aspects of the working and business lives of our countries came to a halt. Legal proceedings in most courts are one aspect of the normal running of the infrastructure of England & Wales to have been affected. By way of example, on the day that the lockdown was declared the Lord Chief Justice announced that all new jury trials would be postponed.
2. All of the measures announced by the government have had the effect of bringing to a halt many of the court hearings, including inquests, that would normally take place in all forms of courts across England & Wales. Some courts have managed to continue with urgent and essential hearings, but every coroner area is likely to have a substantial number of inquest hearings that have had to be put on 'hold'. The third note on COVID-19 issued on 19th March 2020 set out advice on approaching adjournments in inquest hearings due to take place between the end of March and the end of August 2020. Guidance 35 'Hearings during the pandemic' further set out the approach during lockdown.
3. On Sunday 10th May the Prime Minister announced that there would be a gradual process of lifting the measures of the 'lock down.' On Monday 11th May, the Lord Chief Justice announced that he hoped the first new jury trials would begin from May 18th 2020. In the period since new jury trials have started at a limited number of court centres with other court centres preparing to resume in due course. The judicial system is therefore in a period of recovery. What is clear is that the process of returning to 'business as normal' will take some considerable time. On Tuesday 23rd June 2020 the Prime Minister announced that there would, as from Saturday 4th July, be further relaxations in the 'lock down' measures including some relaxation in certain circumstances of the rules as to social distancing.
4. It is with that backdrop that planning to conclude those inquests required to be held that were in train as of March 23rd as well as managing all new cases that have come in since, will take very careful thought and planning. The purpose of this note is to assist all coroners in addressing that process. The level of resources available will vary across coroner areas and so this note should not be seen as a 'blueprint' for all

areas. It will be essential for each and every senior coroner to work closely with their local authority or local authorities and the police, where they employ coroners' officers to make sure that a return to conducting more inquest hearings is done in a safe way – that risks to coroners, members of staff or any other person connected with the operation of the system of coronial proceedings are managed appropriately. Some areas will have existing court space that can accommodate inquest hearings with appropriate social distancing – others will not.

5. Inquests with juries will pose particular challenges notwithstanding that in an average year there are less than 500 jury inquests and that the vast majority of the inquests each year (approximately 30,000) are without juries and many are comparatively short.

General principles

6. The coroner service in England and Wales should now be moving towards routinely conducting hearings again.
7. It is the statutory responsibility of the relevant local authority to provide staff and accommodation as set out under section 24 of the Coroners and Justice Act 2009 and local authorities will therefore need to support (financially and otherwise) the necessary adjustments that will need to be made to ensure hearings can run in the post-COVID context. Where the police provide coroners officers, they may also be asked to provide additional resource (and such conversations should also involve the relevant authority).
8. Senior coroners should be in active and two-way discussion with their local authority about how the coroner area can return to hearing cases in court – this should encompass an overall plan as well as matters of detail including an indication and discussion of cost pressures which may arise for the relevant authority.
9. This note does not cover prioritisation of reports of death. Chief Coroner Guidance 28 covers that topic in full <https://www.judiciary.uk/wp-content/uploads/2018/05/guidance-no-28-report-of-death-to-the-coroner-2010517.pdf>
10. See **Annex A** to this note for links to resources and guidance.
11. Each coroner area is different and the Chief Coroner cannot lay down prescriptive rules about how a recovery should be managed in each area. However senior coroners should keep the following principles in mind:

Infrastructure

12. When conducting a hearing, the coroner must be in court and the court must be open to the public.
13. The use of video and audio for partially remote hearings should be actively pursued. By using technology, and subject to the interests of justice on individual cases, the attendance at the court by those other than the coroner and their staff may be avoided. See Chief Coroner's Guidance No. 38. <https://www.judiciary.uk/related-offices-and-bodies/office-chief-coroner/guidance-law-sheets/coroners-guidance/chief-coroners-guidance-no-38-remote-participation-11-06-20/>

14. For hearings involving physical participation, adjustments will inevitably need to be made in the court room to comply with social distancing and other public health requirements. This is to enable participants (i.e. IPs and their legal representatives, witnesses) to be able to attend and participate and to ensure that the public and press can attend to observe inquests in a socially distant way. Staff (ushers or others) and volunteers (e.g. Coroners Courts Support Service) required in court will need to be accommodated safely. The relevant authority should be actively involved in helping the senior coroner make these adjustments. This may include arranging for risk assessments including by Public Health England / Wales or other organisations. Consideration will not only have to be given to measures in the courtroom itself, but in the precincts of the court (adjustments may include one-way systems, signage, an enhanced cleaning regime, air flow, screens etc).
15. The participation of witnesses should be handled sensibly and sensitively. If attendance is necessary in person, witnesses should not be expected to spend significant lengths of time waiting at court to be called to give evidence, since this is inconsistent with social distancing and reducing the spread of COVID-19. Time will be crucial for those clinical and other staff who may be witnesses at inquests and so their availability may not be so good. Wherever possible the evidence to be given by key workers and others should be taken by remote link. Where necessary the coroner should list inquests for a Pre-Inquest Review (PIR) to seek to narrow the key issues and to identify witness statements that can be admitted under Rule 23 and those witnesses who can give evidence remotely so as to limit the numbers required to attend an inquest in person.
16. HMCTS Guidance on the adjustments made to the running of the mainstream courts can be found at **Annex A**. Although the Guidance is not intended to cater for the unique situation of coroners (and talks in terms about arrangements within HMCTS which may not be applicable or familiar in the coroner world) it is very useful as a framework. Other government guidance on workplaces may also be useful – again see **Annex A**.
17. Adjustments for the press and public are likely to involve limiting the number of people who can be present in the public gallery so social distancing rules can be adhered to. Other possibilities for public or press access include using courtrooms, rooms or other spaces within the court precinct to relay images of proceedings from the main courtroom, for the purposes of press and public access to a hearing only. See Chief Coroner Guidance No. 38 paragraph 7.
18. The senior coroner should discuss with the relevant authority the provision of IT and audio-visual equipment in court. What IT facilities are currently available? Are there any more video screens available that may be used in court? Is it possible to use Skype for Business, Microsoft Teams or other similar commercially available applications to take evidence from witnesses or for remote participation by IPs? When discussing with local authorities the need to upgrade IT senior coroners should bear in mind that using such facilities will bring about some costs savings in terms of expenses for witnesses – for example, travel costs, reduced waiting time - and it should make the running of inquests easier.
19. The relevant authority should also make (if they have not already done so) the required workplace adjustments for coroner office spaces to function safely, in discussion with the senior coroner and with other employers (such as the police) as necessary. As part of these arrangements, home working by coroners and staff, in whatever capacity and scope agreed locally to ensure the service is managed effectively and safely, will no doubt continue. There should be sufficient IT available

for these types of arrangements.

Listing, deployment and adjustments for individual cases

20. The senior coroner should take a planned approach to listing (and re-listing) cases during the recovery, including which hearings may have to be prioritised. Reasons for listing decisions particularly where previously planned hearings have to be delayed should be recorded and communicated to IPs. It may be necessary to have additional staff available to help marshal the running of the coroner's court when hearings are taking place.
21. For complex inquests, which typically involve lots of participants, whether with a jury or not, careful planning will be required. It may be difficult or impossible to hold these inquests in the normal court accommodation because of social distancing, so the senior coroner may need to enlist the active assistance of the relevant authority in finding alternative accommodation for some inquests. Some senior coroners and relevant authorities are now joining together to obtain access to a shared regional location where jury or other complex inquests from a number of coroner areas can be heard. Some HMCTS accommodation may be available (although spare HMCTS court room capacity available to coroners may drop significantly because of social distancing requirements) and contact should be made with HMCTS locally in the first instance.
22. Support services should be factored in. The Coroners Court Support Service (CCSS) have suspended activity during the pandemic but are currently undertaking a staged return locally. The CCSS Helpline has remained open and could be used by families even if local volunteers have not yet returned: 0300 111 2141 Monday - Friday 09.00-19.00 Saturday 09.00 - 14.00. helpline@ccss.org.uk
23. For obvious reasons jury inquests present an additional layer of complexity. There is some information at **Annex A** about how the criminal courts are approaching jury trials in the recovery. The coroner dealing with the case should be in early dialogue with IPs about the prospects for listing, including explaining the reasons for any delay (following the overall approach developed for the Area by the senior coroner).
24. With jury inquests, the senior coroner should consider how many jurors need to be accommodated and how can they be accommodated and socially distance in the courtroom and in other areas in the building. Is there a larger space that could be used as a secure retiring room? Could the jury retire to a courtroom? If they are to use another space to retire to, are there toilets available for the jury to use? When will those toilets be cleaned? Does the local authority have other accommodation that may be suitable for the holding of inquests with juries, for example town halls, council chambers, school or colleges?
25. Coroner juries have in law to be 7-11 in number, so for short jury cases the senior coroner should perhaps assemble 8 or 9?
26. If jurors are to be provided with copies of any documents, sufficient copies should be provided for each juror to have their own copies, perhaps with files to retain their own notes and documents? Court sitting times may need to be staggered to allow for the jury to arrive and exercise social distancing. Can the jurors drive to the court and provision made for them to park so as to avoid travelling on public transport?

27. The senior coroner and relevant authority should plan for the maximum possible use of assistant coroners to aid the recovery in order to ensure that any backlogs are cleared as quickly as possible. There are many assistant coroners who have been unable to do their planned sittings during the pandemic and are ready to work. The Chief Coroner understands that even if a coroner area has an abundance of judicial resources, space constraints are likely to remain a problem. Cases may not be able to be listed as quickly as we would all like because of this. However, where the relevant authority has been historically reluctant to pay for assistant coroners to hear significant numbers of cases on a routine basis, or for more than one court to sit in parallel, the senior coroner should raise and discuss this with the relevant authority. There may be a need for additional court and support staff. Provision for this should be discussed with the local authority.
28. There will be many competing factors in the prioritisation to the listing of cases and it will be necessary for each senior coroner with overall responsibility for the running of their coroner area to ensure there is a plan to address those cases that have to be dealt with; a plan that has taken into account the competing priority issues. Listing is (and remains) a judicial function.
29. In terms of facilitating the individual hearing:
- If family members are likely to attend, how many may wish to attend, and are they coming from a distance?
 - Do any family members wishing to attend have underlying health issues and, if so, can arrangements be made for them to attend without needing to be present physically?
 - How many interested persons are there, and are any or all of them represented?
 - What are the ages of any key witnesses, where it is relevant?
 - What is the estimated length of hearing / inquest?
 - Is a jury required or will any interested person seek to argue a jury is necessary for the inquest?
 - How adequate are the general adjustments for social distancing (etc) in court for the inquest in question? Is the court large enough? Does the layout of the court need to be adapted further to allow for social distancing, including the use of additional rooms in the court building?
 - Are IT and audio/video facilities adequate for the individual case, including for overseas witnesses?
 - Are the Coroners' Courts Support Service normally present at court? The CCSS is undertaking a staged return to operations locally. Are their volunteers available to work in the period of the inquest? If so, what additional facilities might they need in terms of space, cleaning, sanitisers etc?
 - With inquests where evidence can be read or summarised (paper inquests), can arrangements be made for the family and any other interested persons to attend by remote link? Is the family content for the hearing to take place without their

attendance? Can you conduct some tests with the remote links to make sure they work and that those attending in this way can follow all the proceedings?

Conclusion

30. Dealing with the recovery and the backlog of cases will take time. In due course it will be for the Chief Coroner to explain the reasons for any national backlog of cases to the Lord Chancellor and parliament. The fact that the backlog will only be eased gradually must be factored into any strategy. Well-being for all coroners and coroners' officers has been a feature of recent training events. Care should be taken to make sure that the current work and the backlog is not done in haste so as to physically exhaust the coroner and the officers. It will take some considerable time to get through all the work and so senior coroners should please take time. There will be some serious catching up to be done, not forgetting that new work will continue to come in. Collectively, we all need to be wary of any second wave of COVID-19.
31. Resilience and the welfare of coroners and staff is important. This means salaried coroners should ensure to take their normal leave and the relevant authority should always cover that leave by the area coroner or assistant coroner as applicable.
32. The Chief Coroner and the Judicial College are looking at delivering training by means of eLearning rather than by residential training. This should mean that people do not have to travel to attend training. Training remains compulsory – it is likely to cover topics of particular concern in this period of time. Senior coroners should make sure that all have the time to complete training and local authorities and the police should support this for coroners and staff in the normal way, including financially.
33. Work patterns will need to accommodate debriefs and lessons to be learnt and the prospect of further waves once the behaviour of the virus is better understood.
34. Senior coroners should share this document with their local authority as well as with coroner's officers and local police forces. Working to tackle the outstanding cases will require a team effort. The local authority may well have creative and helpful suggestions to help the recovery effort which you have not considered.
35. Finally, in some coroner areas levels of work may mean that some senior coroners may be able to offer assistance to neighbouring areas. If that is the case, please make contact with your colleagues directly or let the Chief Coroner's Office know.

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CHIEF CORONER

29 JUNE 2020

Annex A: resources

HMCTS

<https://www.gov.uk/guidance/coronavirus-covid-19-courts-and-tribunals-planning-and-preparation> (this is HMCTS focused and elements may not be relevant to coroners but see in particular the assessment tools, which may be useful to adapt, and some remarks about special arrangements for jury trials).

<https://www.gov.uk/guidance/keeping-court-and-tribunal-buildings-safe-secure-and-clean>

Gov.uk general guidance (including travel)

<https://www.gov.uk/coronavirus>

<https://www.gov.uk/guidance/coronavirus-covid-19-safer-travel-guidance-for-passengers>

<https://www.gov.uk/government/publications/staying-safe-outside-your-home>

Gov.uk workplace guidance

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19>

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/5-steps-to-working-safely> Whilst there is not specific sector guidance on public services (or the courts in particular) the '5 steps to working safely' Guidance is helpful since it sets out the general approach to making a public environment safer and can be applied intelligently to the particular setting in each coroner area or court facility.