



SENIOR PRESIDENT
OF TRIBUNALS

Judges' and Members' Administrative Instruction No.2

To all Tribunal Judges and Members

My sincere thanks to each of you for your continued commitment to deliver justice in these uncertain and unprecedented times. I shall use these regular administrative instructions (AIs) to keep you all informed of emergency legislation, formal guidance, rule and practice direction changes. Please continue to check the judicial intranet daily for your own tribunal guidance and instructions. I shall list all of them in my next instruction.

Practice Directions

On Thursday last week, the Lord Chancellor approved my emergency Practice Directions. These are now in force and introduce the measures that I summarised in my first instruction: single judge or [reduced panel constitutions](#) and [pilot contingencies](#) including triage and default paper decisions where no other way of making a decision is possible. Property Chamber site inspections have been suspended. A separate Practice Direction for the [Mental Health jurisdiction](#) was also introduced suspending medical examinations and allowing the use of a reduced panel. Hospital based hearings will not take place during the pandemic. We are seeking urgent legislation to allow for Welsh mental health arrangements to closely follow those in England and Scottish mental health decisions are being separately provided for.

The normal arrangement in all tribunals is now remote hearings and decision making online or by telephone conferencing, video or Skype. All Presidents will be issuing Practice Statements, guidance and protocols on what that means for their jurisdiction as each tribunal will be unique in its requirements. Many of these have already been published but a full list will be made available in Administrative Instruction No 3. There will be a short period of transitional listing to get us there during this week.

Presidents of the employment jurisdictions have also [published their own guidance](#).

Emergency legislation is presently before Parliament and possible Rule changes are being considered by Government. I will deal with these when consideration of them becomes important for you.

Remote Hearings

Leadership judges have been working very hard with HMCTS to extend the use of video and telephone hearings. This may take time to be introduced and please be patient. Both YouTube and written guidance on how to use Skype are [now on the COVID-19 Judicial Intranet page](#). You can find it here under the heading 'Using Skype'.

We are all adapting to new ways of working, as are practitioners and Government departments. This will no doubt be a learning curve and I urge all of you to read the Judicial College materials on LMS and to watch and use their electronic aids to learning. Please flag with your leadership judges if there is guidance on specific IT provisions that would be of use. I have asked Judith Gleeson to write an informal IT blog that comments on what is available and we will publish that separately.

It is important to record and evaluate our use of remote hearings during this period. This will be important information. I am therefore directing that all tribunal jurisdictions use a simple key to record in what format the hearing was conducted as follows:

A: audio whether partly (someone physically in a hearing centre) or fully (all remote)

V: video whether partly (someone physically in a hearing centre) or fully (all remote)

P: paper determination which is not provisional

T: triage provisional decision ie after ENE on the papers

The code should be clearly shown next to the case number on all orders and all reasons/judgments. For video, please add in to your description, in the manner set out below, the type of video: skype, kinly, zoom or hearing centre video-link).

We are now going to use the standard terminology above to refer to these styles of decision making. Please do not invent other descriptions. In every determination or decision (no matter how short) every judge must include a description of the hearing in a form similar to this:

“This has been a remote / paper hearing on the papers which has been consented to / not objected to by the parties. The form of remote hearing was [insert the code and description from the list above]. A face to face hearing was not held because [insert eg it was not practicable and no-one requested the same or it was not practicable and all issues could be determined in a remote hearing / on paper]. The documents that I was referred to are in a bundle of [x] pages, the contents of which I have recorded. The order made is described at the end of these reasons. (The parties said this about the process: [add])”

Please make a note in your note book of the date and number of pages of a bundle / file and any extra documents you were referred to during the hearing. I will provide a standard description for triage in my next AI.

Government Advice

As you will be aware, current Government advice urges social distancing and working from home wherever possible. We must all make sure we are doing our utmost to support this, wherever possible.

Any judicial office holders displaying symptoms of the virus or who are living with others showing symptoms are required to self-isolate. If a judicial office holder is sick for whatever reason then normal rules about sick pay apply. Judicial office holders who are sick or unfit for work with flu-like symptoms should remain at home, rather than come into the workplace. If they are diagnosed with coronavirus they should follow the guidance from [NHS, the relevant public health body in England, Wales, Scotland or Northern Ireland, and the Health and Safety Executive on GOV.UK](#). If they are a fee paid judge then the normal rules for claiming a fee when sick will apply.

Salaried Judges who are not themselves ill but are required by government advice to self-isolate or “very strongly advised” stringently to observe social distancing measures by reason of particular vulnerability will be entitled to paid special leave. Fee-paid Judges and Non-legal members in the same circumstances are entitled to claim the sitting fee for the booked sitting days that have been cancelled.

More information is available [on the Judicial Intranet](#); this is regularly being reviewed and updated so please do check at regular intervals.

At present, there are vulnerable groups who are strongly advised to avoid unnecessary contact with others; this includes those aged 70 or over, those with an underlying medical condition or those who are pregnant. We must support all judicial office holders who fall into these categories to work from home, although we cannot mandate them to. However, if the Government introduces a self-isolating policy for such groups then it must be followed.

Key Workers

The Government has announced that schools will remain open for the children of key workers. The full list of key workers can be found [on the GOV.UK website](#); it includes 'those essential to the running of the justice system.' Please see [the Judicial Intranet](#) for further guidance from myself and the SPJ. In Scotland the same list applies but there are [different arrangements giving discretion to local authorities](#).

Training

The Judicial College has announced that all face-to-face judicial training is suspended until the end of June. The College will work innovatively to deliver as much training as it can remotely. It asks that all those with training booked keep the dates of the training free of other commitments to allow them to deliver it by alternative methods wherever possible. Further information about this will be sent directly to booked attendees.

Intranet

I know you will all be receiving a huge amount of information about the current situation and it is no doubt difficult to stay on top of. Please do check the [Covid-19 intranet page](#) on a daily basis for the most recent updates.

I am regularly taking advice from all levels of leadership judge including your associations and representatives of users and practitioners and Administrative Justice Council members. My aim is to do the best we can for our users during these difficult times and I know you will join me in that.

HMCTS

I would like to take this opportunity to record my gratitude to HMCTS who have been working really hard throughout this period to support us, and will continue to do so. Please remember that not all tribunals are affected in the same way and so it may well seem at times like there is an uneven service throughout. Please work closely with your senior admin officer and DSO throughout.

Many HMCTS staff look to judges for support and leadership and we must be seen to show it in these uncertain times. These are worrying times for us all but I encourage you all to have patience, resilience and fortitude whilst we work alongside HMCTS to continue delivering justice in a safe and effective way.

A handwritten signature in black ink, appearing to read 'Ernest Ryder', with a long horizontal line underneath it.

Sir Ernest Ryder
Senior President of Tribunals