



HM Courts & Tribunals Service

Ministry of Justice
Westminster Magistrates' Court
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20 May 2020

Our Ref: 4138749

Dear Mr Powell,

You wrote to us on 19 May for the attention of the Chief Clerk at Willesden, Westminster and Highbury Magistrates' Court. As the Cluster Manager for London Magistrates' Courts I have responsibility for the risk assessments conducted at all courts across London including the 3 mentioned in your letter.

You requested an insight into our risk assessment process and included some suggestions for us to consider.

HMCTS has published an organisation wide risk assessment at the following link:

<https://www.gov.uk/guidance/coronavirus-covid-19-courts-and-tribunals-planning-and-preparation> .

This page also has detail on our response which I will not repeat in this letter.

HMCTS has comprehensively assessed risk to staff and users during the COVID-19 emergency. To enable us to better share our work with court users we are putting our individual court risk assessments into a standardised format which will be available on request for every courthouse from Wednesday 27 May. We do not propose that the document is distributed to external users either physically or electronically to ensure version control is retained. The assessment will be frequently updated. To be clear, HMCTS has been completing the actions contained within the template assessment or mitigating where not possible for several weeks now but will, from the 27 May, be better able to *communicate* this.

I have attached the generic template to this letter. All courthouses will complete this including the 3 courthouses in your letter. All except points 2, 9 and 10 of your suggested points for inclusion are contained within. Sections 1 to 4 detail our response to the need to adequately search individuals whilst also maintaining a social distance as much as possible.

Of the three courts – only Willesden currently operates the professional user access scheme. This scheme is active and we currently have 235 LCCSA members on our list with 14 showing for Willesden Magistrates' Court. We have amended the protocol to be compliant with social distancing (such as not requiring the user to press the randomiser). As you can appreciate, a rollout to further courts needs to be carefully considered and implemented. The scheme will rollout to more sites in the region in due course, but my assessment is that a rushed rollout will not appropriately balance security risks to all court users and staff and as such I am not currently able to put a date or confirm which sites the scheme will rollout to next. As the blank risk assessment I attach is generic it will not contain this specific detail.

Points 9 and 10 both relate to the ability to take instruction whilst remaining at an appropriate social distance. We recognise this critical aspect of the justice system and the challenges will be different depending on the existing infrastructure at each site. Some sites already have rooms where there is a physical screen between solicitors and defendants. At others there is more of a challenge and as such there is no generic risk mitigation attached (i.e. risk mitigations will be individual).

Where defendants are appearing over Cloud Video Platform other arrangements are in place. With court users appearing remotely, an increasingly small number of defendants appear in person and as such this reduces the risk. Whatever mitigations HMCTS put in place, the risk of attending in person will always be higher than attending over a virtual link.

However, I understand your letter to be concerning defendants appearing in person and I agree we must continue to work on this. You ask about the use of docks as an alternative consultation route. Whilst I am aware of isolated cases of this taking place we should not leave defendants alone in a dock for a consultation as a matter of policy for two main reasons. First, this breaches our duty of care to those in custody. Suicide attempts are unfortunately not uncommon and docks are not assessed as safe places to leave defendants alone. Docks are also, generally, much easier to escape from than other areas of the custodial estate and therefore not suitable to leave defendants alone or with their counsel on the other side of the barrier. To keep a guard on duty whilst a consultation is ongoing, I am sure you would agree, something we should not mandate.

Each court will be working with what it can on its estate to facilitate socially distanced consultations and we will articulate these in our risk assessments.

I am disappointed that you feel that there has been a lack of engagement. HMCTS has hosted regular Defence Engagement meetings. I attended the last one of these on 22 January 2020 at City of London Magistrates' Court but there was a regrettable lack of attendance from defence representatives. I hope this can be reversed at the next meeting which will no doubt be a virtual meeting. This is organised by the Region's Head of Crime, Damian McCleave.

HMCTS believes that the actions taken so far meet the requirements to provide a safe place of work for its employees. Clearly we are unable to make this judgement for others but we are committed to providing as much information as we reasonably can on the actions we have undertaken thus far.

Where you are dissatisfied with something at a court, please raise this as soon as possible with a member of court staff for the attention of the Delivery Manager or Operations Manager if it is not quickly resolved. We are completing regular inspections of our buildings throughout the day but if you or a colleague notices something that is not right please let us know right away if you can.

Normally, if you are dissatisfied with your first response you will be able to refer a complaint to a senior manager, which would normally be either an operations or cluster manager. Since I have answered your letter as a first response, clearly this would not be practical. Therefore, if you are dissatisfied with my answer you can ask for the Customer Investigations Team to take a fresh look at the case. The Customer Investigations Team will aim to reply within 15 working days. The reply will give contact details of how you can escalate a complaint to the Parliamentary and Health Service Ombudsman (PHSO). Please reply to me and I will be able to forward this on if you would like to take this route.

Yours sincerely,

(Signed Electronically)

William Breame
Cluster Manager
HMCTS, London Magistrates' Courts

Annex A – Blank Court Level Risk Assessment