

PLAN FOR THE RESUMPTION OF BUSINESS WITHIN THE SERVICE COURTS¹

Issued by the Judge Advocate General – 1 May 2020

PURPOSE

The purpose of this plan is to ensure that, when the Government eases the current CV-19 'lockdown' measures, the Service Courts are in a position to resume business immediately subject to the constraints identified below. MCS, SPA and AMCA have all been consulted in the development of this plan.

This plan applies equally to both Military Court Centres at Bulford and Catterick. Use of other permanent or ad hoc courts will be considered as required by the business need.

This plan is designed to be adaptable to both changing circumstances and, in particular, timings and/or directions provided by relevant governmental departments such as HMCTS.

ASSUMPTIONS

- HM Government begins to ease the strict 'lockdown' measures before the assize commencing on 18th May 2020;
- As an essential public service the Service Courts will, subject to social distancing and other appropriate CV-19 counter measures, re-commence public hearings with effect from the first day of the second assize period after the lifting of strict lockdown measures (currently planned as commencing on 1st June 2020);

¹ This applies to the Court Martial, the Summary Appeal Court and the Service Civilian Court

- The effect on MCS staff of other ‘easing’ measures (including, but not limited to, the re-opening of schools) will continue to be considered as time progresses.
- The Service Courts will work (albeit with lower capacity) during August leave period to address the backlog of work. The Army has agreed to provide board members; the RN and RAF are currently being consulted.

CATEGORIES OF BUSINESS

For the purposes of this Plan, the Courts’ business will be divided into three categories, namely:

- (a) preliminary hearings (such as IHs/PTPHs/Mentions) and sentences in the SCC, none of which require a Board;
- (b) sentences in the Court Martial, trials in the SCC and appeals against punishment in the SAC;
- (c) trials in the Court Martial and appeals against finding in the SAC.

CONSTRAINTS

It is recognised that, once the Courts re-open, and for the foreseeable future, it cannot be pre-CV-19 ‘business as usual.’ The Courts must therefore operate within the following constraints and in accordance with the current Government guidance:

- The requirement to ensure social distancing;
- Strict hygiene controls;
- The availability of Service personnel to act as Board members and court administrative staff.

At the time of drafting this plan the Military Court Centre at Catterick has both a serious MCS staffing deficit and water supply issues which would severely

restrict their operation even without CV-19. Director MCS is seeking an urgent solution to both problems with the aim of mitigating the staff shortage and ensuring the water supply is repaired by 18 May.

OUTLINE PLAN

Period 1: Now until commencement of Period 2

	<u>ACTION</u>	<u>RESPONSIBLE</u>
1.1	PRIORITY Resolve Catterick water pump defect.	MCS
1.2	URGENT Maintain progress with Catterick manning issues.	MCS
1.3	Develop and test digital case file handling system, with detailed procedures and guidance.	SPA/MCS/DJAG/RJs/Defence Representatives
1.4	Develop routines which are compliant with Government guidance for all court functions and all court personnel (eg entry to site, deployment of admin teams, access to common areas, file handling, food supply and distribution, provision of PPE/cleaning equipment, cleaning of courts/offices).	MCS
1.5	Plan re-allocation of office space/computer terminals for court staff.	MCS
1.6	Plan allocation of court space for other court users (eg Board members).	RJ/MCS

1.7	Revise standard listing correspondence to include Covid-19 procedures such as attendance by Skype/Zoom, reassurance re social distancing measures if required to attend court.	MCS
1.8	Review all cases in accordance with Interim SPA guidance on Covid-19 (provide link)	SPA
1.9	Review all cases with a view to resolving cases where appropriate, discussing with SPA and seeking assistance from judiciary by email or video hearing if appropriate.	Defence representatives
1.10	List PTPHs for Period 3 and warning parties.	RJ/MCS
1.11	Plan for other actions required in Period 2 (eg sanitisation Day 1 Period 2).	MCS
1.12	Plan for public access in accordance with JAG directive.	RJ/MCS
1.13	Plan for how cases are to be recorded.	RJ/MCS

Period 2: First assize period after relaxation of lockdown - currently 18-29 May

	ACTION	RESPONSIBLE
2.1	No courts will sit.	
2.2	Subject both Court Centre buildings to a thorough 'disinfection' clean (Day 1).	MCS
2.3	Prepare and distribute notices/signs; hand sanitizers etc.	MCS

2.4	General administration (including opening of mail; file management etc.).	MCS
2.5	Reallocate staff office space/computer terminals if required.	MCS
2.6	Test routines developed during Period 1.	RJ/MCS/SPA/Defence
2.7	List sentences in Period 4 and warning parties.	RJ/MCS
2.8	List trials in Period 5 and warning parties.	RJ/MCS
2.9	SPA and defence to be required to inform MCS within 7 days of notification of trial listing: <ul style="list-style-type: none"> • whether the witnesses originally specified are definitely required • whether they can attend by video link (if required in person, to give reasons) • whether any additional issues are envisaged as a result of Covid-19 working practices (eg timing, access to exhibits for witnesses). 	SPA/Defence Representatives
2.10	Develop and test routines for video cases to be heard in Period 3, including for press and public access (these are mainly in place already). Developments within HMCTS will be monitored when deciding the best means of remote video communication.	RJ/MCS/SPA/Defence

Period 3: Second assize period after relaxation of lockdown - currently 1 – 12 June

	ACTION	RESPONSIBLE
3.1	Hearings for category (a) work will commence before the RJ on a priority basis, limited to a maximum of 4 hearings a day. These will be held with all personnel	RJ/MCS/SPA/Defence

	appearing by video link, unless otherwise ordered by the judge.	
3.2	Develop and test routines for holding a sentencing hearing.	RJ/MCS/SPA/Defence

Period 4: Third assize period after relaxation of lockdown - currently 15-26 June

	ACTION	RESPONSIBLE
4.1	Category (a) work will continue to be conducted remotely. One Court per centre will be in session for category (b) work.	MCS
4.2	The Court will begin to hear sentences beginning with those who are (i) post-conviction and/or (ii) in custody awaiting sentence. It is envisaged that, at the start of this period, there should be no more than two sentences listed for each day for each Court.	RJ/MCS/SPA/Defence
4.3	The default for sentencing hearings is that all personnel will appear by video link. However, the judge specified for each sentencing hearing case will determine in advance whether anyone should attend in person, having received representations by email. Board members and the judge will normally be present in court.	Specified Judges
4.4	Develop and test routines for holding a contested trial.	RJ/MCS/SPA/Defence

Period 5: Fourth assize period after relaxation of lockdown - currently 29 June - 31 July

	ACTION	RESPONSIBLE
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5.1	Category (a) work will continue to be conducted remotely. One Court per centre will be in session for category (b) and some (c) work.	MCS
5.2	Trials which involve (i) allegations of serious sexual offences and/or (ii) vulnerable witnesses or complainants will be given priority. Consideration will also be given to operational requirements and pre-existing delay	RJ/MCS

Period 6: Summer leave – 31 July – 30 August

	ACTION	RESPONSIBLE
6.1	Category (a) work will continue to be conducted remotely. One Court per centre will be in session for category (b) and some (c) work	JAG/MCS/SPA/RJs
6.3	Develop and test routines for opening both courts in both Military Court centres.	RJ/MCS/SPA/Defence

Period 7: Fifth assize period after relaxation of lockdown - currently 31 August – 11 September

	ACTION	RESPONSIBLE
7.1	Aim to open both courts in both Military Court Centres to conduct category (a), (b) and (c) work, subject to Government guidance on social distancing and working practices. Category (a) work may be conducted remotely.	MCS
7.2	Aim to conduct as much work as possible via live link	RJ/MCS
7.3	No courts sitting on 9, 10 and 11 September (JAG conference RAF Leeming)	RJ/MCS

Throughout Periods 1-5 the Resident Judges and Court Officers will re-list all cases which have been affected by the Covid-19 lockdown. No multi-handed trials (i.e where there are three or more Defendants) will be listed prior to Period 7.

HHJ Jeff Blackett
Judge Advocate General

1 May 2020