

Agreed Positions on Covid Safety for Members working in Courts and Prison OMUs

COURTS

Siobhan Foreman has been working to raise the concerns of members with regards to Court work for some months. In response to the worsening of the crisis situation this month she has worked with Napo's sister unions to agree the following position. This has now been issued throughout the NPS command structure. Any members working in Courts who have concerns about their workplace safety should refer these to their local branch reps in the first instance. Branch reps can escalate matters to Siobhan if they are not able to resolve them in the Region.

NPS Directive on Court Operations

NPS staff based at courts will work in line with the Lord Chief Justice direction that wherever possible professionals will not work in court. As such, NPS staff should work from home where possible unless they need to be present at court in order to complete tasks or activities which require their presence either at or in court. This should include ensuring that appropriate NPS staff coverage is available to provide sufficient flexibility to deal with the needs of the courts which may arise on the day. The level of staff required is to be determined locally by NPS managers in conjunction with the court, based on local knowledge and circumstances, and agreed by the RPD.

The following points support the above statement and are key to Health and safety of staff and the smooth administration of justice via the courts.

The Lord Chief Justice sets out his view in a letter to the judiciary dated 05.01.21 that keeping the courts open is necessary in the interests of justice and encourages judicial colleagues to facilitate remote access for professionals as the default position.

The decision as to whether to allow NPS remote access to a court is via the judiciary only and on an individual defendant basis. Members of the judiciary in many courts are allowing remote access and have agreed a single application for remote access via CVP for PSR preparation and breach prosecutions at the start of court business each day. HMCTS have agreed that they will facilitate this arrangement, subject to judicial agreement and arrangements should be put in place locally to liaise with HMCTS colleagues to make the necessary arrangements.

HMCTS staff are required to be in court to keep courts operational. They are considered key workers and the judiciary take the view that it is in the interests of justice for them to service the courts. Some HMCTS staff in some circumstances are working remotely.

The CPS position is that attendance in courts is at the discretion of the judiciary. CPS staff are working remotely in particular circumstances as per HMCTS and only once this is agreed with the judiciary.

The HMCTS health and safety risk assessments are endorsed by the PHE&W and each court has an escalation process for raising any queries or concerns (see HMCTS RA which is embedded in courts EDM). Concerns not resolved locally can be escalated nationally.

There is an expectation, which is monitored, that regions review the NPS risk assessments (see NPS court risk assessment which is embedded in the courts EDM) which includes the operation of the HMCTS risk assessments. Following the recent Government announcement (06.01.21), review arrangements should be in train.

The courts EDM is at an Amber level because of the measures that are in place e.g. social distancing in courts – please see RA documents in the courts EDM.

There is an expectation that regions involve the TUs in RA decisions in courts.

NPS court staff can be available in the court building i.e. at court rather than in court rooms and be available on request in court for PSR and other purposes. Arrangements should be in place daily to ensure all courts have the correct contact details for NPS staff in the court building.

Staff attendance in a court **room should be considered** if the following circumstances apply:

- HMCTS and NPS Health and safety risk assessments are in place and operational
- CVP is not available in the court room or court building and the court do not adjourn the case for a PSR which can be conducted via a phone and submitted in writing to the court
- The case is very high risk
- The case is an overnight remand and information is required by the court on the day which involves interviewing the person concerned in the court cells
- Assistance is required to facilitate the preparation of reports required on the day e.g. ensuring remote access in an interview room
- Specific enforcement courts which cannot be conducted remotely
- To prepare PSRs on cases with specific needs-
 - Severe mental health difficulties
 - Learning disabilities
 - Diversity considerations e.g. hearing impairments
 - Complex cases requiring direct f2f contact with other agencies
 - Cases where remote access to interpreters is not achievable

This is not an exhaustive list but intended to provide guidance for court managers in preparation for the provision of services to the courts.

Remote planning meetings between NPS court managers and HMCTS staff forms part of the court EDM and should facilitate the process to enable the smooth administration of justice with remote working being the default position and with the minimum necessary staff in court rooms subject to judicial agreement as per the LCJ letter.