

Managing the Return to Work in Chambers when it is necessary to do so

Introduction

Following the Government's recent announcements, chambers will wish to consider how to manage a gradual return to work as and when the lockdown restrictions start to be reduced and are ultimately lifted, in line with the increased operation of the justice system.

From the outset, it should be stressed that the purpose of this document is *not* to encourage sets to increase their current level of working from chambers (if any), but to help them plan for this when it becomes appropriate. The Government's instruction at the moment remains that "everyone should work from home, unless they cannot work from home". If it is not *essential* for a member of chambers or its staff to work from chambers, then they should not do so. Nevertheless, chambers should now be starting, if they have not already done so, to conduct their planning and physical surveys, procuring any necessary supplies and equipment and carrying out preparatory works.

It is possible that many sets will want to consider whether returning to precisely the same way of working as before is either necessary or even desirable; the COVID-19 lockdown may have brought to mind changes in working practices that better suit barristers, staff, chambers, the justice system and wider society. Chambers will need to consider these along with the obligations imposed by the Government on employers to safeguard their staff and others as they begin again to operate from their offices and other workplaces. It may also be a good opportunity to check that all chambers' operating policies and procedures are up to date.

Planning should also make contingency for the sudden re-imposition of Government lockdown restrictions.

Government Guidance

The Government has issued [Our Plan to Rebuild](#), its COVID-19 recovery strategy, and [Working safely during COVID-19 in offices and contact centres](#), its guidance for employers, employees and the self-employed. Chambers' leaders and managers will want to read both of these documents before planning the detail of their return-to-work arrangements. The following comments amplify some of the Government's guidance in relation to barristers' chambers but should be read in conjunction with, rather than instead of, the more comprehensive Government guidance:

Thinking about risk

Conduct a risk assessment.

A useful interactive tool for office risk assessment produced by the Health & Safety Executive is [here](#).

Employers have a duty to consult their people on health and safety.

Chambers will want to consult both its staff and its barristers. Consider setting up a specific email address to which staff and members can send comments or setting up an online chat room to share comments. Larger chambers should enable staff and members to appoint one or more representatives for formal discussions with chambers' management.

Managing risk

Employers have a duty to reduce workplace risk to the lowest reasonably practicable level.

Make every reasonable effort to enable working from home as a first option.

Use the list of functional areas of chambers' work, below, to help your assessment, as well as the steps in the Government's guidance.

Where working from home is not possible, make every reasonable effort to comply with the social distancing guidelines. *(See further, below.)*

Where the social distancing guidelines cannot be followed in full, in relation to a particular activity, consider whether that activity needs to continue for the business to operate, and if so, take all the mitigating actions possible to reduce the risk of transmission.

Who should go to work?

Everyone should work from home if at all possible.

See the steps in the Government's guidance, including those on monitoring the wellbeing of staff remaining at home and providing them with appropriate equipment for homeworking, where necessary. Also establish a process for ensuring contact with barristers working from home to monitor their wellbeing.

Chambers will need to ensure that they do not discriminate against any employee in the decisions they make about who should and should not return to work in chambers and who they furlough. Chambers will also need to ensure that appropriate reasonable adjustments are made for disabled workers.

Some staff may be reluctant to return to work in chambers. It is thought that an employee would be legally obliged to obey a reasonable instruction from their employer to attend work ([see this note on employment law](#)). Chambers will, however, want to be empathetic and as accommodating as possible in their discussions with staff about their individual or collective concerns.

Protecting people who are at higher risk

Until 1 August 2020, "clinically extremely vulnerable" should not return to work in chambers but should continue to stay at home and be "shielded".

Chambers should particularly note the guidance on other "[clinically vulnerable](#)" workers. If any such person is not able to work from home, chambers will want to assess very carefully and discuss with the person the options for the "safest available on-site roles", if, indeed, any can be identified. Particular attention should also be paid to staff who live with clinically extremely vulnerable individuals.

Social distancing at work

Further to the Government's guidance under "Coming to and leaving work", "Moving around buildings", "Workplaces and Workstations", "Common Areas" and "Managing customers, visitors and contractors", Chambers will want to consider the following:

Whatever arrangements are put in place, Chambers still need to ensure proper security of their premises and safety in the event of accident or fire, so ensure that these factors are covered in your risk assessment and plans.

Chambers should establish bulk supplies of cleaning and sanitising products now. The COVID-19 Working Group wants to hear from chambers which have secured high-quality sanitising products and protective equipment from reliable suppliers, in order to inform other sets. This should not, though, delay chambers from sourcing their own supplies.

Specify what should be cleaned, with what, how often and by whom; a method of recording when cleaning has been carried out and by whom; provide all supplies at various “cleaning stations” in each room or area.

Discuss options for additional parking of cars, motorbikes and bicycles with your Inn, landlord or local authority.

Use teams of staff on alternate days, as many chambers had already done prior to the lockdown.

If it is not possible to establish separate entry and exit points, use signs to indicate priority to/over oncoming people.

If it is not possible to establish one-way routes in chambers, use markers or barriers to separate the flow in opposite directions, or signs to indicate “walk on the left” or priority to/over oncoming people. Also, prohibit discussions in corridors, which tend to block the passage.

“Traffic-control” measures will also be required outside lifts, to ensure social distancing of those waiting and those passing by.

If you do not have the ability to survey your working areas adequately and competently, consider commissioning a professional survey from a design company or “space-planner”.

In order to meet the need for workers to sit two metres apart where possible, and sit side by side or back to back rather than face to face, the usual seating arrangements for individual members of staff are likely to have to be changed, and this may be a factor to consider in the allocation of staff to alternating staff teams, if this method is used. The plans will have to be revised as the working practices continue to change. Consider converting meeting rooms or currently unused members’ rooms into staff offices to enable adequate distancing.

If using alternating clerking teams, any floor guides will need to apply to each seating arrangement.

Implement a “clear desk policy” to facilitate the regular cleaning and sanitising of workstations. Also, procure and distribute products and equipment for each worker for cleaning keyboards, mice and phones.

Appoint one or two members of staff to be responsible for handling all printing and copying, to reduce the “high-touch” risk and prevent the grouping of people around printers.

Chambers have a wide variety of types of tea points, kitchens and other communal areas in which drinks and food can be prepared, and each set will have to consider its measures according to its own facilities and resources. Communal areas should not be used unless social-distancing and sanitisation measures can be properly implemented and maintained. Do not use water coolers or fountains. It is strongly advised that no communal equipment for

preparing food or drink is used. Consider asking staff and barristers to bring their own food, utensils, bottles of water and flasks of tea or coffee to work. Particular attention will need to be taken with waste disposal arrangements.

Provide protective screens for reception staff, ensure screens have gaps to permit the passing of any essential documents; mark a line beyond which visitors should not approach the reception desk, and points on the floor for other visitors to queue.

Put up signs with instructions on hand washing and replace hand-dryers and towels with disposable paper towels. There are several websites with designs for free, printable signs. Laminate any paper signs so that the area can be cleaned if necessary. Particular attention will need to be paid to the frequent and regular cleaning of toilets and washrooms and the disposal and replacement of rubbish bags throughout the working day.

Share the results of your risk assessment and your plan

Ensure that all staff and barristers can see the result of the risk assessment by publishing it on your website, intranet or document portal, or even by emailing it.

Prominently display in chambers the poster included in the government's guidance to confirm you have followed the guidance, once you have people on the premises.

Further considerations

Chambers will further want to consider:

Barristers should continue to work from home unless this is not possible. This will be particularly important when staff begin to return to work, as chambers will want to limit the number of people in chambers to those who absolutely need to be there. This may otherwise cause unnecessary anxiety to those who need to be in chambers and counter the protective measures that chambers has put in place. Chambers may wish to document what reasonable justifications there are for members to work in chambers and, when they do, to visit staff offices and communal areas.

The extent of work that will have to be carried out in chambers will be affected by the degree of remote participation in hearings that is continued or introduced by HMCTS, the Judiciary, arbitration authorities and in other jurisdictions, and the appetite of professional and lay clients for the increased use of remote meetings. The ability and willingness of barristers, solicitors and the Courts to operate on electronic rather than printed documents will also have an impact. Consider providing training for barristers and staff in working paper-free and preparing electronic bundles.

The re-opening of courts and the general resumption of the justice system will almost certainly be a gradual process and will probably accompany the arrangements under the extension and then removal of the furloughing scheme. Plans should therefore include a series of stages in a gradual return to working from chambers, as well as considering how chambers will address the changing furloughing provisions which, from 1 August, will include the option of some part-time working by furloughed staff.

Physical and electronic security of personnel, data, equipment and premises, and commercial confidentiality remain as important as ever and the threat of compromise through error or malicious attack often increases in crisis situations. Such threats must therefore be considered in chambers' risk assessments. It is hoped that HMCTS will be standardising applications and processes for remote participation in hearings and related conferences; the C19WG is planning to obtain an assessment of the security standards of common video-conferencing platforms for the purposes of chambers' confidential client meetings.

Which staff functions cannot be carried out remotely? What are the business advantages and disadvantages of homeworking for those that can be? Many chambers operate in slightly different ways, employing different staff with different titles to carry out the functions listed here. The following is therefore intended simply as a convenient grouping of functions in order to provide chambers' leaders with a helpful list to facilitate their planning:

Clerking:

- Client relations and communications, including new business
- Case allocation
- Case management
- Barrister relations and communications
- Fee calculations, billing, collection and repayment to members
- Bundling
- "Court runs"

Business development:

- Client relations and communications, including new business
- CRM database management
- Research and reporting
- Marketing campaigns
- Events design and management

Business leadership and management:

- Strategic planning, including budgeting
- Policy development
- Regulatory compliance, across all functional areas
- Representational/ambassadorial work
- Routine business management and reporting, including financial management
- Personnel management and leadership (applies to all line managers)
- Board/committee meetings

Reception & housekeeping:

Handling telephone calls

Managing meetings

Courier collections and deliveries

Food and drink facilities

Waiting rooms/areas

IT:

Infrastructure and network maintenance and security

Equipment procurement and setup

“Helpdesk” and first-line support to users

Operations/Facilities:

Mail and DX collection and deliveries

Physical security

Health & Safety, including risk assessments

Property maintenance, including cleaning and waste disposal

Managing suppliers and contractors

Human Resource and Equality & Diversity:

HR management, including staff structures and recruitment processes

Training and development

Handling concerns and complaints

Library:

Management of printed resources

Management of electronic resources

Use of physical library facilities

Pupillage:

Working space

Supervision and training

Tenancy process

Conclusion

Having considered which functions may or may not be carried out remotely and the relevant advantages and disadvantages, Chambers should also consider the ability of staff and members to work reasonably from home – do individuals have the space, facilities and suitable environment for homeworking? Can chambers provide support to improve the situation, if necessary?

In the immediate relaxation of the COVID-19 lockdown, chambers will need to take into account any public transport or other travel issues for staff. This may impact upon any decision to ask staff to work from chambers and the scheduling of individuals' start and finish times.

The assessment of the new working environment will enable chambers to better identify the requirements for their IT infrastructure, and their equipment and space needs to provide the optimal solution for remote communications, both in chambers and for staff and members working from home.

Taking the time now to consider each of these functional areas, the government guidance and further information specific to your chambers, along with anything that your chambers wants to achieve in the way of changes to former working practices, will enable you to conduct a comprehensive risk assessment of the stages of a return to work in chambers and produce a plan with suitable remedial measures that you can discuss with members and staff and then implement when appropriate.

The Bar Council, LPMA and IBC COVID-19 Working Group

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