

Number 23

IfJ COVID-19 Updates.

17/05/20-24/06/20

These notes are a summary of information shared with IfJ and organisations involved in the justice system and those working with users of the system. In sharing these comments and providing links to resources, IfJ provides this material but does not accept responsibility for its content which may not represent the opinions of IfJ.

IfJ news

The regular Zoom meeting for IfJ members which began at the start of the pandemic continues, providing an

opportunity to discuss current issues, experiences and to gain support during ongoing and evolving situation. -Notes on the meeting will be on the web site.

A new survey has been sent to the intermediary community and we anticipate results being available next week.

The Update notes are divided in to: 'Remote process', Covid-19 transmission, children, Gov.UK, updates, other , resources and appendix A .

Intermediary Discussions

Adoption Papers: When a local authority plan is for a child to be adopted, they have to apply to court for the placement order and the court and papers are sent to the parents.

Working with a young defendant with poor understanding of social distancing measures: suggestions were made to use a portable Perspex screen as now being used by police officers, muting sound so court can see intermediary and defendant but no hear explanations etc., use a flip chart to write explanations.

United Voices of the World: **United Voices of the World** (UVW) is an independent grassroots trade union formed in 2014, and based in Waterloo, London. A number of intermediaries have recently joined this union. The union is keen to support intermediaries, so they have a collective, united voice to raise and address issues that are affecting their working lives.

Through the pandemic UVW/LSWU has supported workers across the legal sector to help secure safe Covid 19 working practices.



Within this context the union has also been investigating the working status and working rights of intermediaries. The union has initiated communications with the MoJ. A copy of UVW/LSWU letter to the MoJ and MoJ response has been shared by individual intermediaries and not IfJ. The letters are available to read in appendix A -Individuals names and details have been removed.

Remote Process

Remote hearing 'removes valuable visual cues' for people with learning disabilities :

<https://www.lawgazette.co.uk/news/remote-hearing-removes-valuable-visual-cues-for-people-with-learning-disabilities-/5104653.article>

“There has been no change in the requirements regarding appearing remotely. The Coronavirus 2020 legislation (and sections 57A Crime and Disorder Act 1998 and 56 Criminal Justice Act 2003) permits the court to make a direction allowing a person to take part in a hearing through either a live audio link or a live video link if the court is satisfied that it is in the “interests of justice” in the particular case.: <https://www.criminalbar.com/resources/news/judicial-office-statement-remote-working-20-06-20/>

Covid-19 Transmission

How exactly do you catch Covid? There is now a growing consensus

<https://www.wsj.com/articles/how-exactly-do-you-catch-covid-19-there-is-a-growing-consensus-11592317650>

In Court of Protection today there was discussion of P's capacity to understand public health advice about coronavirus. Judge: "Quite a lot of us don't understand what the restrictions actually are. It makes me wonder how to assess that capacity in

P"<https://twitter.com/kitzingercelia/status/1274091595017617410?s=21>

Children

Other

Motivation and engagement as standalone intervention shows promise for offenders with personality disorders.: <http://www.russellwebster.com/motivation-engagement-pd/>



Of all police requests for mobile phones recorded in the survey, 19% involved those belonging to children. Some victims consider the police demands to be intrusive.

In 22% of those cases, involving 84 complainants, officers made a formal request for access to digital records. In 100% of the cases where the complainant subsequently refused to hand over their mobile, officers discontinued their inquiry; that subset related to 14 individuals.

<https://www.theguardian.com/society/2020/jun/17/police-in-england-and-wales-dropping-inquiries-when-victims-refuse-to-hand-in-phones>

More courts set to resume jury trials

<https://www.judiciary.uk/announcements/more-courts-set-to-resume-jury-trials/>

Resources

The Modern Judiciary: Relaunch on- line courses:

<https://www.judiciary.uk/announcements/the-modern-judiciary-relaunch-of-online-course/>

Gov.UK guidance

Appendix A

Union Letter to MoJ



UNITED VOICES OF THE WORLD

9 June 2020

We are a group of registered and independent intermediaries who are members of Legal Sector Worker United, a branch within the independent trade union United Voices of the World. We have joined this union because the nature of our job often leaves us feeling disconnected from one another. We are seeking a united voice with which to raise issues which affect our working lives. We hope and trust that the Ministry of Justice will respect our efforts, and will engage in constructive collaboration with our membership.

We write to you today to comment on the Ministry of Justice's handling of the Coronavirus pandemic as it relates to the work of intermediaries, to ask questions and to make recommendations.

THE CURRENT GUIDANCE

Specific guidance for intermediaries was published on 17th April 2020. As a community we feel that this guidance is lacking in the following respects:

Personal Protective Equipment and other safety measures

The Guidance contains no mention of facemasks. Intermediaries are frontline key workers, who spend lengthy periods of time with others in small enclosed spaces. Government advice is that our faces should be [covered](#). The MoJ guidance should reflect this, and should require end-users to wear masks to protect both us and the vulnerable people with whom we work. Given that facemasks are now being handed out for free in a number of train stations, the MoJ should reassess whether there are now sufficient supplies such that masks can be provided to intermediaries and vulnerable witnesses when they attend police stations and courts.

The Guidance does not address aerosolized transmission. Research shows that the virus can live in the air for up to 3 hours. When you breathe air that has the virus floating in it, it gets into your lungs. If an intermediary is in a small space for protracted periods of time it is likely that this kind of transmission can occur. The majority of court meeting rooms and interview suites fall under this description. Whilst it may not be the primary source of transmission, the risk of aerosolized transmission should not simply be discounted. Instead, the Guidance should include a reference to good ventilation of the space in which the work is being done.

Prioritising Safety

It must be made much clearer to intermediaries that once they have entered into a contract with an end-user (by signing the Request for Service in the criminal courts, or by being named in a court order when working with defendants or in the family courts) they are still able to prioritise safety over this



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obligation. Intermediaries must be explicitly assured that they will receive no detriment whatsoever for cancelling an obligation due to Covid-related safety concerns.

Protecting and Empowering Vulnerable Witnesses

The extremely vulnerable people with whom intermediaries work should be empowered to make informed choices about whether to attend face-to-face assessments and interviews during the pandemic.

To this end, there ought to be a version of the guidance which is made available to, and tailored for, vulnerable witnesses. The guidance for intermediaries should meanwhile note that providing the witness with information about Coronavirus and how it spreads, and obtaining the witness's informed consent to face-to-face contact, are integral parts of the risk assessments which we are instructed to undertake.

Intermediaries must also be given better tools for and information about how to protect vulnerable witnesses. The guidance states that we should conduct an assessment of "the ability of the vulnerable person to understand and comply with protective measures". We need some explanation of how this assessment is proposed to be carried out. Likewise, we are unclear about what we should do if our assessment turns out to be incorrect. What steps should we take, for example, if a young person is unable to maintain social distancing during an assessment?

COMMUNICATION WITH INTERMEDIARIES

The way in which the Guidance was prepared and published has left a great many intermediaries feeling disrespected and undervalued.

First, it was published long after similar guidance was produced by the NPCC for those working in custody settings. That guidance also has a clearer emphasis on safety. These two facts have left intermediaries with the sense that we, and the vulnerable people we work with, are less important than lawyers and defendants.

Second, the intermediary community as a whole was not consulted about the Guidance, or given the opportunity to input our thoughts. We note that some intermediaries *were* approached, but this was at a very late stage in the process and they were not permitted to share the draft guidance with their colleagues.

The MoJ guidance was circulated via email to Registered Intermediaries on 17.4.20. It has also been uploaded onto the [Registered Intermediary government portal](#) with the accompanying statement: 'This will be updated as and when new advice and guidance becomes available'. One month on, in a very different phase of the pandemic, and no further updates have provided. Again, this leaves the intermediary community feeling like an afterthought.

FUTURE WORKING

On May 11th 2020 the government issued their '[p lan to rebuild](#)' stating that:



'Government will need to steadily redesign the current social distancing measures with new, smarter measures that reflect the level of risk at that point in time, and carefully wind down economic support schemes while people are eased back into work'.

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Many intermediaries do want to work but are not able to. Some intermediaries by virtue of their age or their existing health conditions fall within the clinically vulnerable category or are caring for a loved one who is clinically vulnerable. Intermediaries may be recognised as key workers but many, understandably, do not wish to expose their children to risk of infection transmission by sending them into school; therefore, their childcare commitments preclude them from fulfilling intermediary duties at the present time.

Intermediaries want to facilitate communication to enable vulnerable people to give their most complete, coherent and accurate evidence but this needs to be done safely. Just as the government has issued its 'plan to rebuild' the MoJ needs to issue a comprehensive covid-19 plan for the immediate, medium and long-term future for intermediaries. At the very least, as a matter of urgency, Registered Intermediaries need to be informed as to the individual and collective adjustments that can and will be made to the minimum time commitments for remaining on the WIS register, currently set down in the [Registered Intermediary Procedural Guidance Manual](#) as 24 days per year, with a minimum of 12 days of face to face casework.

As we mentioned at the start, we reach out to you in a spirit of constructive collaboration, and look forward to working proactively with the MoJ to resolve the issues which this letter raises.

We request a response to our letter by Tuesday 16th June. These matters being of universal significance to the intermediary community, we intend to disseminate your reply amongst our colleagues.

Yours sincerely,

The Intermediary Members of Legal Sector Workers United

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Response from MoJ



Dear Intermediary Members of Legal Sector Workers United

Thank you for your letter of 9 June in relation to the Ministry of Justice's handling of the Coronavirus pandemic as it relates to the work of intermediaries.

The Covid-19 pandemic has resulted in particularly challenging times and we have endeavoured to produce comprehensive guidance, in a short amount of time, to enable intermediaries to deliver their vital role. It is disappointing to hear that you feel the guidance provided is lacking and I have carefully considered the points that you raise. Use of facemasks is not mentioned as it is not a requirement that they are worn within the settings that intermediaries work; HMCTS advise that it is not necessary to wear a face covering inside court buildings and the Police only advise the use of PPE when working in close quarters where social distancing is not possible. Social distancing and hygiene measures remain the primary measures for reducing the spread of Covid-19. Aerosolized transmission of the virus is not considered a risk by the World Health Organisation under standard conditions. That said, I can confirm that the guidance already refers to ventilation in the checklist provided.

You will be aware that there has been a significant amount of guidance for vulnerable groups published since the Covid-19 restrictions were introduced. The suggestions for further guidance set out in your letter are already covered in the existing intermediaries' guidance. It is considered within an intermediary's skill set to assess an individual's ability to understand and follow instructions and if a vulnerable individual is unable to adhere to safety measures during an assessment then the intermediary may discontinue the assessment and report this finding to the end-user. In the context of our communication with intermediaries I think that it is important to note that all intermediaries receive a daily update from the Ministry of Justice. If any intermediaries are not receiving this update then they can contact me at samantha.dine@justice.gov.uk and I will arrange for them to do so.

Intermediary input on the guidance was sought from the outset and significant content drafted by two highly experienced Registered Intermediaries. A more comprehensive consultation on the guidance could not be conducted due to the urgency with which it was required. The guidance states, under 'restoration of normal service', that changes as the restrictions in place due to Covid-19 are lifted will be communicated via email to all parties. Whilst it is true that there have been some small changes, we are still in the very early stages of restoration to normal service. The guidance has been kept under review, with input sought from both Registered and non-registered intermediaries, and no changes have so far been required. We will continue to keep the guidance under review and intermediaries are able to provide input at any point.

With respect to your broader request for a comprehensive Covid-19 plan for the immediate, medium and long-term future for intermediaries, I think that it is essential to consider how this fits into the bigger picture. Intermediaries work within the justice system and the impact of Covid-19 affects the whole system, which means that forward planning needs to take place as part of the overall restoration of a normal level of



service. I note your request regarding minimum time commitments for remaining on the WIS register and can confirm that the QAB will take into account the exceptional challenges of this year.