



**Orbital Law**  
Information Technology Solicitors

# Application of New Technology and Access to Justice

May 18 2020

# Agenda

- Covid-19 and court proceedings
  - Open Justice
  - Recorded Hearings
  - Practical Considerations
  - Challenges
  - Remote Courts Worldwide
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# Covid-19 and Court Proceedings

- UK perspective
  - Severe restriction on movement and gathering
  - New legislation – Coronavirus Act 2020
  - All proceedings to be conducted remotely including trials
  - 750 hearings by end of March
  - 1250 hearings by mid April
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# Open Justice

“Justice should not only be done but should manifestly and undoubtedly be seen to be done”

– Lord Chief Justice Hewart in R v Sussex Justices x part McCarthy ([1924])

- Art 6 of European Convention of Human Rights – right to a fair and public trial
  - How will public access be maintained?
  - Courts can hold hearings in private
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# Recorded Hearings

- Proceedings must be recorded.
  - Only authorised recording permitted
  - Method for recording the hearing
  - Recordings – where are they stored?
  - GDPR considerations
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# Practical Considerations

- Documents and evidence
  - Communication in private
  - Different technologies
  - Bandwidth issues
  - Devices – professional and personal – security issues
  - Swearing in of Witnesses
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# Challenges

- Interpreters – difficult to coordinate
  - Unrepresented people – may not have access
  - People with disabilities
  - Security – parties recording proceedings and taking screenshots
  - Wellbeing
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# Conclusion

- A number of the issues raised today are the result of having to implement remote hearings in an emergency
    - Different platforms and apps being used
    - Different forms of audio and video conferencing
    - No standardisation of how evidence will be delivered and reviewed during proceedings
  - All this can be addressed by a well thought out standardised approach.
  - It is definitely possible to conduct hearings remotely but maybe not for jury trials or complex trials
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# Remote Courts Worldwide

- Collaborative project - the Society for Computers and Law, the UK LawTech Delivery Panel and Her Majesty's Courts & Tribunals Service
  - Platform to share experiences of remote alternatives to traditional court proceedings
  - Over 40 countries participating
  - [www.remotecourts.org](http://www.remotecourts.org)
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# Tina Fernandez

- Barrister and Solicitor, Managing Partner at Orbital Law
- England and Wales and Malaysia qualified
- Private practice and in-house experience
- Major transaction experience in telecommunications, outsourcing, cloud services, robotics and autonomous systems
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# Orbital Law

- London-based niche technology law firm.
  - Partners with over 40 years' combined private practice and in-house experience.
  - IT contracting specialists.
  - Data Privacy and cybersecurity specialists.
  - New technology experience – Blockchain, Robotics, Autonomous Systems.
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