

High Court Refuses to Adjourn Trial Because the Recent COVID-19 Legislation Indicates that Hearings Should Proceed Using Remote Technology

by Joseph Lewin

On 6 April 2020, the High Court handed down an interesting judgment in which it refused to adjourn a 5-week trial that was due to start in early June this year on the basis that the recent COVID-19 legislation requires the parties involved to continue with proceedings remotely.

The Applicant in this matter argued that the adjournment of the trial was necessary because of the restrictions imposed by the UK government to combat the spread of COVID-19, and stated that the trial could not proceed without risking the health and safety of those involved. The Applicant also highlighted the technological challenges associated with conducting a 5-week trial remotely and the potential risk of unfairness which could be caused as a result of a remote trial.

The Respondent argued, among other things, that proceeding with the trial was in accordance with the recent COVID-19 legislation that had been enacted in response to the pandemic and that the trial could go ahead remotely.

The Judge rejected the application for adjournment and concluded that:

- The recent COVID-19 legislation and other materials that have been published on the matter, including the Protocol regarding Remote Hearings, indicates that hearings should proceed remotely providing they are conducted in a safe manner.
- The parties should cooperate and take steps so that the trial can proceed remotely and safely.
- High Court Judges can hear trials remotely with counsel and witnesses in other locations.
- The COVID-19 legislation permits (i) counsel or witnesses to travel to a location with high-quality video link facilities; and (ii) remote trial service providers to travel to assist with the operation of remote technology.
- It may be preferable for a witness to travel (as close to their home as possible) to give evidence in a location with proper IT systems and infrastructure, instead of using their home location to give evidence remotely without assistance.
- Although technological challenges were likely, that did not constitute a reason to

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adjourn, and the parties should conduct robust testing from any remote locations that are to be used.

A copy of the High Court Judgment can be found [here](#).

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