

## Police, Crime, Sentencing and Courts Bill Briefing for Peers – Part 12, Clause 168: Remote Juries

### About us

The Bar Council represents approximately 17,000 barristers in England and Wales. It is also the Approved Regulator for the Bar and discharges its regulatory functions through the independent Bar Standards Board. A strong and independent Bar exists to serve the public and is crucial to the administration of justice and upholding the rule of law.

The Law Society is the independent professional body for 200,000 solicitors in England and Wales. We represent and support our members, promoting the highest professional standards and the rule of law.

### Issue

The Bar Council and the Law Society have concerns over *Part 12, Clause 168, 'Expansion of use of video and audio links in criminal proceedings'*, of the Police, Crime, Sentencing and Courts Bill. These concerns are wide-ranging and include: the risk of alienating juries and/or witnesses; ensuring security of proceedings (both in terms of the privacy of the process and individuals, and data privacy); additional expense to the taxpayer; the requirement of new technology and IT systems; and the associated issues arising out of these aspects.

The crucial concern for both the Bar Council and Law Society is access to justice. The impact of the proposed Clause 168 on access to justice is unclear and unproven, with very limited evidence of the effects a remote jury may bring. How jurors interpret body language and facial expressions can be key in a trial and it is simply not known what impact hearing a trial remotely would have in this area. This step should not be put into law without careful review and assessment. We also strongly echo the comments made by the Lord Chief Justice that remote juries would make the jury spectators rather than participants in a trial<sup>1</sup>.

Given the vast majority of the population is vaccinated and the Government is continuing the unlocking of its roadmap, it is unclear under what circumstances remote juries would be needed and how they would be implemented. It also raises questions about whether it would deliver additional capacity to the courts. Such measures were not introduced at the height of the pandemic last year, so it seems odd for them to be implemented now. In short, we feel that the time for such a measure has passed.

### Recommendation

For the reasons given above, The Bar Council and the Law Society oppose the use of remote juries. Further research and evaluation is required, and assurances around access to justice should be given before the use of remote juries is considered further. It would be far better for

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<sup>1</sup> BBC Radio 4, Law in Action (16 June 2020) "Reinventing the Law" <https://www.bbc.co.uk/programmes/m000k2m4>

the Government to provide more appropriate facilities to enable criminal trials to take place in one properly equipped room.

If such a measure were required in future, it could and should be introduced at a point at which the need for such a fundamental change to the jury trial process could be properly considered by Parliament, in the particular circumstances of a new emergency.

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