

# THE BRUNEI JUDICIARY'S COVID-19 RESPONSE

5 November 2020

## Introduction

1. Due to the COVID-19 pandemic, Brunei along with countries around the world, have had to adopt emergency measures for the functioning of its judicial system and to allow its courts to remain operational as far as possible. We have made efforts to adjust to the new 'normal' and implemented measures to make the best use of our existing resources to ensure the functioning of our courts. Throughout this period, the main priority for the Judiciary has been to ensure the health and safety of its judges, officers, staff, counsel and the public that we serve and to minimise disruption for services that cannot proceed as normal.

## COVID-19 in Brunei and measures taken by the Judiciary

2. On **9 March 2020**, Brunei reported its first COVID-19 case and whilst Brunei has not had to implement a full scale lockdown in response to COVID-19, our justice system was no different from the rest of the world, and on the advice of the Ministry of Health, the Judiciary followed a number of precautionary measures.
3. On **12 March 2020**, following Chief Registrar's Circular No. 1 of 2020, it was directed that:

- Chamber hearings before High Court judges are to be heard in open court;
  - Chamber hearings and pre-trial conferences before High Court registrars where all parties are represented by counsel are to be heard via video conferencing;
  - Visitors to the Courts are to register themselves when entering the court building;
  - Visitors with no official business are advised not to enter court buildings; and
  - Visitors who show symptoms that include a runny nose, a cough and/or a fever are to inform court personnel immediately if they have matters before the Court.
4. Thereafter on **14 March 2020**, Chief Registrar's Circular No. 2 of 2020 gave the following directions:
- Advising people to stay at home and not to attend Court if they are feeling unwell;
  - Requiring all visitors to register their names, identity card and contact details for the purpose of contact tracing;
  - Suspending all non-essential civil hearings in all Court jurisdictions in all districts including bankruptcy creditors meetings, probate hearings, mediations, Small Claims Tribunal's consultations and adjudications between **14 March to 31 March 2020**; and
  - Limiting those in attendance at civil marriage ceremonies to include only the registrar, bride, groom and witnesses in the court room.
5. During this time criminal hearings proceeded, however, measures were followed to ensure that only essential persons were present in the court rooms.

6. On **16 March 2020**, the Chief Registrar notified all judges, judicial officers and staff of the Ministry of Health's directives on self-isolation and quarantine orders and procedures for workplaces in the event a member of staff is diagnosed with COVID-19. On **17 March 2020**, it was directed that the Court of Appeal session in March-April 2020 was to be adjourned.
  
7. In order to decisively break the chain of transmissions in the community, on **19 March 2020**, the Government announced a series of measures for the safe use of public facilities and other venues during COVID-19 which included social distancing and limits to mass gatherings. Upon the advice of the Ministry of Health, on **21 March 2020** steps were taken to implement a 'shift' system of work from home for judges, judicial officers and staff.
  
8. On **24 March 2020** more stringent measures were issued by the Judiciary that effectively shut down all courts, registries and their service counters in all districts. However, following the implementation of the Business Continuity Plans of each registry, we maintained our essential services but cases were managed remotely and the number of judges, judicial officers and staff allowed at the Courts at any given time were restricted. This allowed us to keep the Courts functional and open for matters with the most critical and time sensitive applications. The following additional measures were put into place:

- All civil and criminal cases were adjourned in all courts and in all districts, including matters involving Road Traffic offences, claims in the Small Claims Tribunals, bankruptcy and probate hearings effective **31 March 2020** to **18 May 2020**;
- For criminal matters, cases relating to custody, detention and bail and urgent applications proceeded in person, however social distancing measures were followed as per Ministry of Health directives;
- For civil matters, cases relating to applications for injunctions also proceeded in person;
- Criminal or civil cases that were deemed suitable for video-conferencing were to be heard remotely; and
- The public were encouraged to call or e-mail the Courts and drop box counters were made available in all court houses.

9. Following the closure of the courts, a recovery plan was instituted by the Chief Justice and upon the advice of the Ministry of Health, immediate action was taken by the Judiciary's Action Team to:

- Fully sanitize all court buildings throughout the country;
- Implement changes in the modality of hearings; and
- Review the backlog as a result of the suspension of cases, and identify priority cases.

10. The Brunei Government's efforts to slow the spread of COVID-19 were swift and we have been fortunate that there have been no local transmissions since **6 May**

**2020.** Whilst the measures impacted the functioning of the justice system in the months affected, with a sizeable number of matters deferred, as of **18 May 2020** we have been able to resume phased functionality of the courts given the country's containment of the virus.

11. In implementing the recovery plan instituted by the Judiciary and upon the advice of the Ministry of Health, we gradually proceeded to:

- Commence staggered hearings of civil and criminal cases and resume full hearings;
- Commence staggered opening of service counters and thereafter resume full operations of service counters; and
- Cease the 'shift' system of work from home for judges, judicial officers and staff and resume work at the courts with segregated and social distancing compliant workspaces.

12. As of **1 November 2020**, with 179 days since the last locally transmitted case of COVID-19 in Brunei, we continue to take the necessary precautionary measures by:

- Screening court visitors with temperature checks;
- Complying with social distancing;
- Sanitizing the courts and ensuring a clean working environment; and
- Ensuring that all persons use the BruHealth contact tracing application upon entry to all court buildings.

### **Impact of COVID-19 and access to (online) justice**

13. Whilst the closure of the courts was necessary to protect the health and safety of all court users, it was equally important that access to justice was maintained throughout these most challenging times.

14. Our existing case management systems and business continuity plans were designed so that we could respond to and continue to work even in these extraordinary circumstances. The public service of justice was maintained as much as possible and we continued to provide access to justice to the public through our e-Filing system (EFS) and e-Payment gateway which ensured that registry services, filings and payments were provided online. Further, the use of our Judicial Case Management System (JCMS) for judges, judicial officers and court personnel continued uninterrupted as cases were processed, monitored and managed remotely. We also strengthened access to up-to-date information on the Judiciary website for the convenience of all court users.

15. The Judiciary made full use of Microsoft Teams and Zoom for the continued functioning of the courts during the COVID-19 pandemic through the conduct of remote hearings and video conferencing. For criminal matters involving defendants in remand, physical attendance at the courts was dispensed with and video conferencing platforms were used between the courts and the prison. For

civil matters in the High Court and Intermediate Court, registrars conducted chamber hearings and pre-trial conferences online on Zoom in cases where all parties were represented by counsel. On 12 October 2020, the Brunei High Court conducted its first virtual hearing on Zoom with witnesses in Kuala Lumpur, Malaysia and counsel in Brunei appearing before our High Court judge in Singapore.

16. We have welcomed the use of such technology and find that for the foreseeable future, it will be commonplace to use applications such as Zoom in the conduct of hearings and pre-trial conferences in order to deliver justice efficiently and expeditiously in the new 'normal' environment of the COVID-19 pandemic.

17. Although the measures we took invariably affected the physical operations of our courts, the accessibility and visibility of judicial processes especially in urgent criminal matters were seen as essential. The face to face in person aspect of arraignments, taking of pleas, bail applications and sentencing were deemed indispensable and were allowed to be brought before a judge or magistrate with necessary social distancing measures strictly put in place for all court users. These measures included:

- Limiting the number of people entering the courthouse and court rooms to ensure safe distancing can be maintained;
- Leaving a one seat space in the public gallery;

- Encouraging good hygiene practices in wearing masks and using hand sanitizers;
- Screening all persons through the BruHealth application upon entry; and
- Taking temperatures of all persons at entry points.

### **Key lessons and the post pandemic justice system**

18. I would now like to reflect on how we managed our response to COVID-19 and what the pandemic means for the future of our justice system. At the outset, our focus was to maintain a core justice system that involved the most urgent and essential cases that needed face to face hearings. At the same time, we also sought to minimise disruption to our services and introduced emergency innovative practices through the use of technology in maintaining a service to the public. In our experience, the approach and response to changes in the modality of hearings online through video conferencing platforms were met positively and the Judiciary took this as an opportunity to allocate more resources in supporting the use of these online services. As an example, the Judiciary obtained licenses and subscriptions for both Microsoft Teams and Zoom for its judges and judicial officers.

19. One way or another, the pandemic has transformed the future of our justice system and impacted operations in all our courts. As adjournments had to be made to hearings during this time, we have made efforts to absorb and mitigate the delays caused as a result but it is not realistic to suppose that effects from it won't be felt.



It is of vital importance that the administration of justice does not grind to a halt as a result of the pandemic, however, supporting our Government's efforts to save lives and protect the vulnerable must be at the forefront of our response to COVID-19.

20. Our Judiciary will continue to closely monitor the COVID-19 advice provided by the health authorities and we will act and adhere to them accordingly in order to ensure a strong and lasting recovery for all. We have drawn many lessons from this formative experience and we hope to ensure the continuity of our work and access to justice during and after this global health crisis. Thank you very much.