



Safe Travels: Can Bermuda's Testing Approach Offer Lessons?

Author: Julie McLean, Director

The aviation industry has been one of the worst hit by the Covid-19 pandemic. If airlines and associated businesses are to survive, it is essential that people start flying again. How to do that safely without promoting the spread of the virus is the sixty-four billion dollar question.

Despite the start of vaccination programmes, aviation bosses including the chief executives of British Airways, Delta Air Lines, Airbus and EasyJet continue to call for pre-flight coronavirus tests for airline passengers to replace quarantines, arguing that encouraging and enabling people to resume air travel is an immediate priority to prevent further crippling industry losses. Waiting for a vaccine roll-out will just take too long, they say. Airline industry group IATA has warned that global airlines face combined losses of \$118.5billion for 2020, and \$39 billion in 2021.

At present, those travelling between most countries face a lengthy self-isolation or guarantine on arrival – up to two weeks in many places. For the majority, this rules out vacations or business trips, indeed any air travel except the most necessary. The UK has just introduced a requirement for all international arrivals to prove a negative Covid-19 test before being allowed entry, and the USA has expanded its negative pre-test requirement to all air passengers entering the country from 26 January. Other countries, such as Germany and Ireland, also use testing to allow visitors or returning residents to self-isolate for periods as short as five days.

Bermuda is one of those who have adopted a pre-testing regime as a way to keep its borders open and offer its struggling tourism sector the opportunity to recoup at least a little of its lost revenues. Although Bermuda is a small island jurisdiction, perhaps there are some lessons to be learned from its experience with the pre-test approach. While the Cayman Islands, for example, kept its airport closed from March to October apart from repatriation flights (and still requires a two week quarantine for all arrivals), Bermuda reopened its airport to international travel on 1 July, after a 14 week closure. Preparatory to reopening, a testing protocol was put in place that differs slightly between visitors and returning residents.

Both visitors and residents travelling to Bermuda must apply for a Covid-19 Travel Authorisation one to three days before departure. To obtain the authorisation, visitors must provide proof of valid negative Covid-19 PCR test taken no more than five days before arrival (recently reduced from seven days). A pre-test is not mandatory for returning residents, though they are encouraged to get one. With the exception of small children, everyone is tested at the airport on arrival and subsequently on days four, eight and fourteen post arrival. Visitors with a negative pre-test only need to self-isolate until they get a negative result from their airport test. Residents without a negative pre-departure test must quarantine until they receive results from their day eight test. Anyone who tests positive at any point is required to guarantine immediately, and the local Health Department carries out contact tracing for that individual.

Of course, much depends on people's willingness to follow the rules and there are always those who don't. For example, in October two visitors attended a wedding before receiving the results of their arrival test, and at least one resident has been caught going straight to a bar from the airport.

Despite some rule-breaking, initially the travel testing protocols seemed to work well. Between the reopening of the airport on 1 July and mid-November, there was no community transmission in Bermuda. All new positive cases were those picked up by the airport or post-arrival tests, with just a couple of cases of on-island infection after contact with a known imported case. On 5 October there were just two active cases on the island. However, as the 'second wave' began to sweep across the northern hemisphere, so the numbers of infectious arrivals on Bermuda shores mounted; the rate of positive test results tripled from September to October. On 13 November the first case of local transmission in two months was announced, and by 17 December there were 221 active cases on the island. With the reintroduction of stricter regulations including limits on gatherings, that has now dropped to again to double digits, with 86 active cases at the time of writing.

January 2021 | Bermuda

If there is a lesson to be learned from this, it is that with high rates of infection in the countries from which travellers are arriving, even pre-testing, arrival testing and post-arrival testing protocols are not enough to contain the virus and prevent onward spread within the destination country.

Though many airlines would like to see pre-test regimes that eliminate quarantine periods entirely, Bermuda's experience suggests that testing alone may not get people flying again. A robust testing regime alongside active follow up to ensure required quarantines are being complied with, combined with strict protocols around contact tracing, may be the only solution. Whether governments have the resources available (or the desire) to implement such regimes will determine whether regular air travel will resume again any time soon. If not, we may all be staying put until the vaccines are widely available across the globe.

Author:

Julie McLean **Director** julie.mclean@conyers.com +1 441 299 4925

Conyers is a leading international law firm with a broad client base including FTSE 100 and Fortune 500 companies, international finance houses and asset managers. The firm advises on Bermuda, British Virgin Islands and Cayman Islands laws, from offices in those jurisdictions and in the key financial centres of Hong Kong, London and Singapore. We also provide a wide range of corporate, trust, compliance, governance and accounting and management services.

This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and give general information.

For further information please contact: media@conyers.com