



JUDICIARY OF
ENGLAND AND WALES

The Derbyshire Family courts: response to Covid 19

19 March 2020 updated 23rd March

I am conscious everyone will rightly be anxious about the current situation, some may be unwell and others self isolating to protect themselves or others. Being in the middle of any family court case is also stressful.

We now have some clearer guidelines about how the courts should work to ensure we can deliver justice but keep safe and well. While medical advice is clear I am also concerned about the wellbeing of many who will be affected by anxiety impacting on their wellbeing. At the moment, we are still reacting to the crisis and there will be mistakes and omissions. Communication will not always be good. Normal administrative processes will take second place to the obvious priorities. I am sure we are all doing our best.

Staff at court , judiciary and legal advisors should not work if unwell or need to self isolate. Lawyers and family law professionals such as Cafcass should only work remotely if well enough to do so. I am conscious that many workers eg social workers are facing very stressful and difficult decisions about how they work to protect children and are also now having to manage childcare responsibilities as well. **We need to ensure there is almost no one in the court building if we can.**

I expect anyone who has to come to court, perhaps for an emergency to leave the building immediately if they become unwell, for any reason.

We will follow the national guidance delivered



President

I also direct

- All statements can be signed electronically eg by typing
- Applications for urgent adjournments can be made by email without a fee in current circumstances
- No papers to be sent by post – so social services do not need to give us a paper file and **we will require litigants in person to efile- this may be by photographing their applications or documents and e mailing them in**
- Save in the case of emergency or real urgency, all public law cases should be dealt with remotely by telephone and/or video link or other electronic means such as Skype or MS Teams. I am now told we may be able to download Zoom shortly. **What is more important is that we all know how to use it effectively which means we need to practice. This enable hearings to take place, documents shared and evidence given. The court will always be responsible for recording and no one else must. We will issue oral directions at the start of any hearing about this.**
- This would also apply to private law cases where all parties are represented – if not it will be telephone or possibly Skype
- It may be that arrangements can be made to enable parties and/or their lawyers to attend in person in a safe way in line with government advice about social distancing **but only if nothing else would enable fairness and their full participation. This might apply to a parent who needs an intermediary present – but distanced for example. We will need to consider how interpreters might work. This would need to be agreed by the parties and the court.**
- Attendance should never be forced on anyone who does not wish to attend in the current circumstances though they cannot avoid participation by telephone or e mail. It is certainly possible many may simply be unable to get to court.
- Remote evidence would be likely by affirmation.
- We are having to consider if current cases can or cannot proceed remotely, We may need to hear the views of the parties about that. Judges will be taking a flexible approach on a case by case basis endeavouring to enable cases to proceed if possible. I consider fairness can be achieved by properly prepared hearings in such circumstances.
- If a case cannot proceed, a case management hearing should take place by telephone to consider re-listing arrangements or directions given on paper.
- Courts judiciary all have Skype for business which enables multi party hearings and hearing of witnesses and experts by Skype.
- We will also be using phones – likely us dialling out to 4-6 parties or organising a BT call to more . We have 3 lines for the combined court but others for St Marys Gate and Chesterfield – by midweek we should have a line per judge.

Legal advisors will be able to receive calls and justices . Likely staff will organise this for us

- Of course a package of communication might work – video ,Skype and telephone/facetime.

Avoiding the need for a hearing

The parties are directed to try and agree directions in advance of hearings and submit a consent order for approval so that attendance can be avoided altogether. If not everything is agreed, an advocates meeting should take place before the telephone hearing takes place so that the issues are narrowed and succinct arguments can be put to the court. Alternatively, the parties may agree that the issue(s) in dispute can be the subject of short written submissions which the court can decide on the papers.

Family cases before justices

You will know we are short of legal advisors and magistrates already so if any of them become ill there will be serious challenges. We will do what we can to enable courts judiciary to assist if needed. **I am not clear present arrangements for magistrates to sit can be safely managed due to proximity and will be discussing this with the Family Panel Chair and legal advisors.**

They have different IT challenges and as of now I am assuming they too can manage telephone hearings, but unlikely Skype. Since we are ending paper bundles as they are unsafe this presents a serious issue which we are considering. We have been promised laptops for them but they are not yet available.

Private Law

We are moving all cases at first hearings now onto timed lists and by telephone only . Cafcass have confirmed they will be available by phone.

Dispute resolution appointments will also move onto the same regime. How final hearings can be dealt with will need some investigation.

Personal; protection and urgent hearings

- We want people to issue by e mail
- We plan to deal with by phone or skype if we can
- There will always be a judge available to deal with these

Communication

I know this is a troubling time. We will communicate with you what we can. Please don't contact staff unless it is really necessary and if so by email. They have more difficult circumstances than most of us since they are required to be in a court building working together and before this began under considerable pressure

Thank you all for everything you are doing in very difficult circumstances to try and continue to deliver family justice through the courts. We are all doing our best to provide a fair family justice service to enable timely decision making for children and families in extraordinarily challenging circumstances.

We need to look after ourselves as well as others at times like this

My very best wishes to you all

HHJ Sue Williscroft

Using Skype – some guidance (with thanks to HHJ S Harris)

We are now in a position to move immediately to remote hearings facilitated through Skype for Business for these hearings. Other court centres may adopt different platforms for facilitating such hearings (MS teams or Zoom). We will keep the functionality of those alternative platforms under review.

1. Where an urgent contested hearing is requested and evidence is likely to be required the Judge may deem it inappropriate to be conducted via a telephone hearing and list it as a Skype hearing. If a hearing is likely to be contested on evidence please make this clear on the application. The following arrangements will apply to Skype hearings:
 - Participants will need to download the '**Skype for business app**' on a phone, I-Pad or computer in advance of the hearing. Downloading the skype for business app is free. It is available from google play or from the App Store. When you begin the download process go as far as the sign-in page. You do not need to set up an account with sign-in details as you will join the hearing as a guest. Simply close the app when you reach this point. The device you will use for the hearing (phone, I-pad, computer) will need a camera function. Lay parties should contact their solicitors for further assistance.
 - Not less than 24 hours before the hearing (or as soon as possible if the matter has been listed on shorter abridged notice), the Local Authority will file and serve on all parties an electronic bundle.
 - Not less than 24 hours before the hearing (or as soon as possible if the matter has been listed on shorter abridged notice), the Local Authority will collate the email addresses of all participants to the Skype hearing and send them to the Court.

- Lay clients should attend the hearing with their solicitor or barrister at the solicitor's office or counsel's chambers. A parent must not join the hearing from their own home, particularly if the subject child is present. If a parent's solicitor or counsel is not able to facilitate the lay client attending at a solicitor's office or counsel's chambers, the lay client should attend at court if security arrangements allow but we are looking with local authorities if any other venues might be available. Appropriate arrangements can then be made for them to join the hearing. This should be regarded as a last resort as the parent will be without the support of their legal representative. It may be that telephone or whatsapp contact with them so that they can hear and give instructions might work
 - Professionals (social workers, guardians, experts) may attend from a remote location via skype.
 - The participants to the hearing will receive an invite from the Judge to their email address to join the hearing. Please accept the invite upon receipt.
 - At the time specified for the hearing to commence go to the email invite and click on 'join skype meeting' towards the bottom of the email. This will open Skype. Click on join the meeting as a guest.
 - Once joined to the hearing, please ensure you have the video turned on (click the icon at the bottom of the screen shaped liked a video camera) and are sat down in a position where you can be clearly seen. There is a button to mute and unmute sound that looks like a microphone, again at the bottom of the screen. Please keep the sound on mute unless invited by the Judge to speak.
 - The Judge will be able to see all of the participants throughout the hearing.
 - Any witnesses required to give evidence will take the affirmation.
 - It may also be possible for the Judge to share pages from the electronic bundle within the skype hearing.
 - The hearing will be recorded by the Court and retained. A transcript will be available if required.
2. We have endeavoured to test the functionality of using Skype for Business to facilitate hearings in this way and are confident it can be secure and effective. There will however be some teething problems and potentially issues beyond our control such as band width capacity. Please be patient as we work to resolve them.

And from Judge Bellamy

As you know, as a result of the coronavirus crisis it has been necessary to cancel the book launch which was to take place in London on 26th March. I am pleased to inform you that in its place the publishers have been able to organise a webinar which will take place on 26th March from 4.00 – 4.45pm. Participation is, of course, free. If you are interested in taking part it will be necessary for you to register. I have copied below information from the publisher about how to register

I have published a blog post on our site where people can register

<https://bathpublishing.com/blogs/what-were-up-to/the-secret-family-court-fact-or-fiction-join-our-free-launch-webinar>

Or you can send contacts the direct registration link here

<https://register.gotowebinar.com/register/3570551167143614732>

a good example of ways to stay in touch during this pandemic

Learning

There is good learning about Skype and MSTeams on the internet

eg Cloisters running a virtual ET hearing

Don't hesitate to contact with any feedback or suggestions to improve how we are able to work