

## **Leicester and Leicestershire Family courts: response to Covid 19 and government advice**

**19 March 2020**

**We live in difficult times! The primary goal at the moment must be to keep people safe and well whilst at the same time trying to enable family cases to proceed fairly and efficiently through the courts without unnecessary delay.**

To that end, national guidance has just been published by the Lord Chief Justice and the President of the Family Division which we will be following in family cases currently listed for hearing in Leicester and Loughborough Family courts with immediate effect.

Save in the case of emergency or real urgency, all cases should be dealt with remotely by telephone and/or video link or other electronic means such as Skype until 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. Any case currently listed that cannot proceed remotely may therefore need to be adjourned until arrangements can be made for it to proceed remotely or by attendance at court in a safe way. Judges will need to take a flexible approach on a case by case basis endeavouring to enable cases to proceed if possible. For example, advocates may choose to attend court without their clients armed with full instructions or the ability to take instructions from their clients whilst at court by telephone. If a case cannot proceed, a case management hearing should take place by telephone to consider re-listing arrangements or directions given on paper.

HMCTS are working urgently and speedily to enable judges to have the facility to use Skype for business and other means of electronic communication to enable hearings to take place remotely as soon as possible including those involving multiple parties. The co-operation and assistance of family practitioners in making video conferencing facilities available from their offices/chambers will be greatly appreciated together with any other ideas about hearings could be conducted.

So far as case management and procedural hearings already listed are concerned, please will the applicant make arrangements for them to take place by telephone with a provider who will record the hearing? Judges and legal advisors are invited to look at the lists for the coming week and then further ahead and provide specific time slots for hearings already listed to take place so that the above arrangements can be made. The cost of such arrangements should be borne equally by the parties unless agreed otherwise.

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.

In the future, greater flexibility will be required. Some of the measures that are under consideration and will need to be adapted and adjusted on a case by case basis are as follows:

- ❖ Attended hearings may be able to take place provided adaptations can be made to court rooms and waiting and conference facilities in the court building. If jury trials do not take place more court rooms will become available which may enable attended hearings to take place safely and in line with government guidance.
- ❖ Cases could be listed at specific times rather than in a block list e.g. at 10am 1130am, 2pm which will spread the number of people in the building at any one time.
- ❖ Family Law Act injunctions and Prohibited Steps orders: often begin with urgent (frequently without notice) applications and orders made without oral evidence. Such preliminary applications could therefore continue to be heard in court. Such cases should be the subject of “gatekeeping” scrutiny and referred to a Judge or Bench for an immediate decision. It may be possible for a hybrid arrangement to be devised so an applicant can speak to the Judge at Court over the telephone or by video link to minimise face to face contact.

### **Court of Protection proceedings**

Guidance has been issued by the Vice President of the Court of Protection which should be followed.

**Thank you for everything you are doing in very difficult circumstances to try and continue to deliver family justice through the courts. If we all work together and are prepared to adapt and be creative in our approach, I am confident we can provide a fair and appropriate service to vulnerable children and adults.**

**With very best wishes for the good health of you and those you care about.**

**HHJ George**

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