

COVID 19: LOCAL GUIDANCE FOR THE FAMILY COURTS OF STOKE-ON-TRENT AND STAFFORDSHIRE

20th March 2020

Issue 1

1. The purpose of this Guidance is to explain how the National Guidance issued by the President of the Family Division on 19th March 2020 will be implemented over the coming weeks in Stoke on Trent and Staffordshire. The situation is fast evolving and therefore this Guidance will be continually reviewed and revised. We will also have to adapt our plans as we learn what works well and what does not as we implement these arrangements over the next few days and weeks.

Immediate steps:

2. The priority over the next week will be to ensure all urgent cases where there is an identified risk of imminent harm to a child will be heard in a safe and fair way. All cases of an urgent nature which are currently listed next week will remain listed for an attended hearing at court. Typically those cases include:
 - Emergency Protection Orders, Interim Care Orders, contested interim removals;
 - DOLS orders and applications for secure accommodation;
 - Urgent private law applications and FHDRAs where initial safeguarding has identified a risk of significant harm to the child;
 - Applications and return dates for NMOs and Occupation Orders.

If you do not receive notice of an adjournment you should assume your case remains listed for an attended hearing at court.

3. Other than those cases falling within paragraph 2, all other matters listed on Monday 23rd March 2020 will be adjourned to a date to be fixed. We have taken that step to enable us to prepare to implement telephone hearings from Tuesday 24th March 2020.

Public Law:

4. In general terms the following principles will apply:
 - Applications will be issued and gatekept as they currently are. Where possible, the Local Authority should state clearly on the application whether they believe the matter is suitable for telephone hearing or whether it should be listed for an attended hearing at court on the basis it is likely a contested hearing will be required.
 - Any urgent contested matter at which evidence is likely to be heard will be listed for an attended hearing at court. Again, that is likely to include:
 - (i) Interim Care Orders;
 - (ii) Contested interim removals;
 - (iii) Initial DOLS/secure accommodation applications which the child wishes to attend.

For attended urgent hearings at which evidence will be heard the Local Authority will remain responsible for producing a hard copy of the witness bundle. If the

Local Authority offices are closed and a bundle cannot physically be produced HMCTS will provide the bundle.

- First hearings on adoption applications will be listed at court. If a parent attends the hearing and seeks for permission to defend the adoption, directions will be given as to how that application will be disposed of. Depending on the vulnerability of the parent the substantive disposal of the parent's application may require a hearing at court with the social worker in attendance.
- All routine case management/agreed applications (including Part 25s) that are not contentious should be dealt with by consent order on paper. We need to minimise the number of matters that require a hearing.
- The following will be dealt with by way of telephone hearing:
 - (i) Unopposed Interim Care Orders;
 - (ii) Case Management Hearings and Further Case Management Hearings;
 - (iii) Dispute Resolution Appointments;
 - (iv) Applications including those relating to contact to be dealt with on submissions;
 - (v) Final care/placement/SGO hearings to be dealt with on submissions;
 - (vi) Final adoption hearings;
 - (vii) Discharge applications.
- All non-urgent contested matters requiring evidence to be heard (contact disputes/fact-finds/final hearings) will be adjourned to a date to be fixed. We do not currently have the technology in place to run such hearings remotely. We will however retain a short telephone directions hearing in the list to ensure any issues capable of resolution are resolved.

5. Arrangements for telephone hearings will be as follows:

- Lists will be staggered so that each case has a specific hearing time. HMCTS will arrange the hearing which will be facilitated by the Judge's clerk. The Local Authority will be responsible for providing the court with telephone numbers for all parties joining the hearing at least one day before the remote hearing is listed. The hearing will be recorded and transcripts available where necessary.
- It is essential that the case is ready to be heard at the allotted time so careful consideration needs to be given to pre-hearing discussions. The child's solicitor will be responsible for arranging the pre-hearing meeting between advocates.
- Telephone hearings will be listed to start at 10 am.
- Professionals and lay parties will be able to join the telephone hearing if they wish. Their attendance is not however required if they are content for only their legal representative to be on the call.
- Self-representing parties will be able to join the conference call if they have provided the Local Authority with a telephone number. If they are uncomfortable with participating in a conference call they will be offered the option of attending at court in person if the Judge is sitting in an appropriate venue and security arrangements allow.
- Electronic bundles will be filed and served on all parties by the Local Authority in advance of the hearing. Solicitors will be responsible for forwarding the electronic bundle to counsel. The Court's bundle must be filed with the Court on the day

before the remote hearing in accordance with paragraph 18 of the President's COVID guidance. The Judge's bundle can be emailed directly to the Judge copying in the administrative team. Please remember however that care must be taken to ensure the direct email address of the judiciary is not shared with lay parties.

6. We will shortly provide a guide to telephone hearings for litigants in person.
7. There may initially be a need to reduce the lists whilst these arrangements are embedded. Any matter adjourned will be re-listed as soon as possible.
8. The overall objective will be to continue to list matters to IRH to enable those matters capable of resolution to be disposed of. For those cases requiring contested hearings we would aim to ensure they are 'trial ready' so that as soon as we have the capacity to conduct contested hearings they can be listed for disposal. We need however to be realistic. Social work and expert assessments are highly likely to be impacted by the current crisis and timetabling will in some cases be somewhat speculative. There will be inevitable delay.
9. We will continue to work to build a technological solution for conducting non-urgent contested hearings. Several options are being explored and further guidance will be provided when available.

Private Law:

10. All applications will be issued and gatekept as they currently are. Any matters requiring an urgent hearing due to the applicant alleging there is an imminent risk of significant harm to the child will be listed at court for an attended hearing.
11. For all other applications, Cafcass will undertake its initial safeguarding and preparation of the Schedule 2 letter in accordance with current practice.
12. As soon as we are able we will implement telephone hearings for the FHDRA lists. We hope that arrangements for telephone FHDRA's will be in place by week commencing 30th March 2020. Arrangements for telephone hearing will be as follows:
 - Lists will be staggered so that each case has a specific hearing time. HMCTS will arrange the hearing. The parties must provide the court with a telephone number on which they can be contacted at the specified hearing time by no less than 24 hours before the listed hearing. The hearing will be recorded and transcripts available where necessary.
 - The Cafcass duty officer will join the telephone hearing. He/she will not have had an opportunity to discuss matters with the parties and so the Cafcass officer will give their recommendation based on discussions during the hearing. Cafcass will provide the court with the telephone number of the duty officer no less than 24 hours before the FHDRA list.
13. The FHDRA will aim to resolve any issues capable of resolution, consider interim contact arrangements and direct the filing of evidence and/or a s 7 report.

14. Once the FHDRA lists are operating successfully we will move to deal with DRA and interim directions by telephone. There are however challenges around ensuring parties have access to all necessary documents. The following will apply:

- If the applicant is legally represented the applicant's solicitor will be responsible for filing and serving an electronic bundle in advance of the hearing. If the applicant is in person it will be the responsibility of the Respondent's solicitor. If neither party is legally represented but there is a rule 16.4 guardian it will be the responsibility of the child's solicitor. The following may assist in the preparation of e-bundles:

<https://www.bundledocs.com>

- If both parties are in person it may not be feasible to conduct DRAs/interim directions by telephone and they will need to be adjourned until a solution to the sharing of documents is found.

Further guidance will be provided when we are ready to implement remote hearings for DRAs and directions hearings. We aim to have this operational by week commencing 6th April 2020.

Financial Remedies:

15. Please see the separate guidance issued by Mostyn J on 17th March 2020. Applications for urgent injunctive relief will be listed by telephone unless that is not feasible.

NMOs and Occupation Orders:

16. Applications for NMOs and OOs will continue to be dealt with by way of attended hearings at court. This includes return dates.

Communication with the Court:

17. I am sure over the coming days there will be considerable uncertainty about the new processes and a myriad of questions. Can I please ask however that you only contact the court if absolutely necessary. The HMCTS family law teams are being asked to implement these very significant changes over an incredibly short timescale and your cooperation in keeping correspondence to a minimum will be appreciated.

18. I am exceptionally grateful for the enormous goodwill that has already been shown in trying to ensure we can maintain a level of service to vulnerable children and families in quite unprecedented circumstances.

HHJ Harris

Designated Family Judge, Stoke-on-Trent and Staffordshire