

Subject: please circulate

Date: Thursday, 19 March 2020 at 14:06:06 Greenwich Mean Time

From: Plunkett, HHJ Christopher

To: Elizabeth Miles, Mark Cooper

CC: Redmond, Elizabeth

Dear All

You will have had from Liz this morning the general guidance from the PFD.

This is the first of a number of emails designed to keep you informed about what follows.

First, hearings tomorrow are being 'negotiated' by the individual judges concerned.

Second, hearings from Monday 23rd on will be remote hearings. There will be no attended hearings at any FC site until further notice. Please make it very clear to your clients that attendance at court is not, express order of an individual judge aside, permitted. Please do not ask for an attended hearing without exhausting all other possibilities. There will be, sadly, no child visits to judges for the time being. It may be possible to arrange some remotely, which I am happy to facilitate.

Third, and consequentially, hearings will take place by telephone or skype or similar. Interlocutory hearings will proceed. Final hearings will proceed if agreement is reached, or if they can properly be resolved without an evidential hearing. It may be in due course we have the technology to do evidential hearings remotely. We do not, currently. Listed evidential hearings will remain in the list, but with a shorter time estimate at the discretion of the judge informed by the parties to see what can be resolved – but resolved remotely. The court will work one week ahead. Please do not contact the court about hearings further down the line. We will get to them.

Fourth, the medium for these remote hearings, and who pays for it, is currently under discussion. The old rule was that the applicant paid, or the party seeking the hearing paid. I am conscious that would place a huge burden on the LAs not of their own making. I am trying to work out other means of providing for these hearings, for it is not for the local authorities to fund such matters in the absence of others. Further detail will follow.

Fifth, many of you will be unfamiliar with telephone hearings. Until we all get used to them, please accept it if your judge says in a rather Victorian 'way no one speaks until they are spoken to'. With a number of parties they can be challenging to manage. Discourtesy is not intended.

Sixth, preparation for such hearings is even more important than for attended hearings. The applicant will provide to the judge an electronic bundle. The court will not receive a paper bundle without especial dispensation. Without being rude, paper bundles harbour all sorts of viruses – those we are used to and just possible the one we are not. The index will be shared with others in the usual way. Case summaries and draft orders are vital. In every case you must try to arrange an advocates meeting prior to the telephone hearing. We will not have time to use the slots for cross party discussions. You will have seen the draft order at the end of the PFD's guidance. Expect to receive many of them in the coming weeks.

Seventh, consequentially, block listing will cease. Every case will have a time slot. The judges will manage the hearings to ensure everyone who needs to speak does, but written position statements in advance should obviate the need for significant submissions on contentious points.

Eighth, I appreciate arrangements for participation by lay clients, particular LiPs in private law cases, will throw up a number of problems. If anyone joins in from home, particularly on a secondary link via an advocate, then measures must be taken to ensure that only appropriate persons are in the room with the

litigant, and that the litigant has whatever necessary to enable participation. I further appreciate that private law cases with DV throw up further management issues. Bluntly, we are going to have to work much of this out as we go along.

Ninth, please be aware that at the court; amongst the court staff and the judiciary, including the Magistrates, the same problems occur that you are facing in your own practices and at home. Staff absence for self protection and or illness mean the already limited numbers are denuded. The ability of the court to resolve practical issues is far less than it normally is, at a time when the need will be far greater. Please do not contact the court unless essential. Always try and resolve issues with the other parties and agree a position before approaching the court and not after. I am sure you will show the same consideration to each other.

Tenth, please keep communications with the judges to an absolute minimum. I am heartened to hear of many contributions from many individuals coming up with ideas as to how we can do this. Over time we will, between us, evolve the best practices we can – but just at this greatest time of transition, do not copy me in.

Finally, may I offer you one nugget I found in the correspondence of a Canadian infectious diseases specialist. My paraphrase is 'it is not the disease I am frightened of. It is humans' responses to that disease. Stop being surprised...' Stop being surprised (by each semi-apocalyptic headline) is a kinder way of saying 'just deal with it'. And we are going to need some kindness for each other, for the lay parties caught up in this, and for those at home. Between us we will work out what we can manage and how. My priorities will remain ensuring children are safe. Where we go, and what 'clear up' operation we face in three months or so are for another day.

For now, stop being surprised

Chris Plunkett
DFJ