

Summary of meeting with HHJ Roberts 24 March 2020.

In attendance:

HHJ Lynn Roberts

Yvonne Hume (BTMK)

Tina Harrington (Trinity Chambers)

David Wilson (David Wilson Solicitors)

Sarah Duxbury (East Anglian Chambers)

Note: the Guidance referred to in this document is the MacDonald J The Remote Access Family Guidance Court version 1 dated 23 March 2020.

Things are moving very quickly so another meeting has been arranged for Friday.

What platform should be used for hearings?

Skype or BT MeetMe (but only 12 users can use that). The Judges don't necessarily have access to the other platforms. They cannot use Zoom at the moment. All new matters that are being listed, will have a preliminary hearing listed, to take place to consider how hearings should be dealt with. In those directions it states that listing should be contacted [chelmsfordcentrali@justice.gov.uk] to make the necessary arrangements. Copy of the directions is attached.

Preliminary hearings should not take place if there are already directions and hearings listed.

Who decides, and when, as to whether telephone or video hearing.

In absence of the Judge directing it the advocates need to agree the platform.

In care proceedings the LA should take the lead but essentially it will be the court who will arrange through the platform MeetMe. In private law and financial remedy (FR) it will be the applicant if represented if not the respondent if they are represented (or child's solicitor in 16.4 cases). It is current experience that longer hearings are required if they are remote appointments. Tina Harrington will be in touch with DJ L Ashworth so that we can improve

the present system regrading FR cases. It is hoped that this is a field of law that will work well with remote hearings.

The Judges tend to have more than one hearing currently listed to commence at 10.00am before a full hearing listed at 10.30am. Is it appropriate for the court to consider staggering these listings. Is start times for directions appointments 30 minutes or 1 hour apart?

Guidance from MacDonald J is that cases will be listed at a specific time with little or no option to extend the time estimate for the hearing once it has commenced (para 23). In reality Public Law cases that aren't ready for final hearing within the next week are probably not going to be ready to be heard as various reports, testing etc will not be available in the time frames provided.

Concerns about ability of advocates to provide confidentiality in circumstances where families are being told to stay at home/childcare considerations.

See Guidance (MacDonald J). Advocates should also be in a room on their own in the same way as envisaged by MacDonald J in the Guidance in relation to witnesses. NB Zoom is not yet available to all the Judiciary.

How can lay clients be involved in the process but still keep their distance from court – how are they to ensure confidentiality if they do participate remotely (they are likely to have family members present or could be in a hostel)

This is a difficult one it is particularly difficult in adoption and this has been fed back to ECC. It needs to be looked at on a case by case basis.

How is the court going to consider body language and demeanour, especially in fact finding hearings if can't see the lay client?

There is a balance between the delay and credibility being an issue. This will need to be looked at on a case by case basis.

How will lay clients access court bundles? They are unlikely to have the technology to access an electronic bundle and a hard bundle is now almost impossible to provide.

Care clients only receive key documents - access electronically.

For advocates software that is available to assist with viewing documents and use of electronic note book/ipad to take notes can be used.

Andrew Bailey has provided a note setting out details of the best software and costs relating to using PDF documents. See attached.

Is it appropriate for final care hearings where adoption is a realistic outcome, appropriate for a remote hearing.

It will need to be looked at on a case by case. It was pointed out that a pre hearing appointments to consider this will be necessary.

Who is to fund the telephone conferencing?

BT MeetMe paid for by the court. This is recorded and transcribed please remind trial Judge that the 'button' ***/hash 8** is pressed.

Court security/social distancing - In the event of emergency hearings (with attendance at court) security searches are an issue.

It is unlikely to affect us as matters have moved on.

FAS forms. The president has given guidance but how will this be addressed if Judges are working from home?

We do not need FAS forms. This may change. If advocates arrange an advocates' meeting then you should get paid but it has to be at a different time from the hearing. David Wilson and Sarah Duxbury to feed back.

[Note since the meeting the FLBA in consultation with others (Law Soc, ALC, LAPG) have had a meeting with the LAA about FAS today and the first new guidance and FAQ's should be out tonight].

Judge made plain she is happy to agree any recital to ensure payment.

Court orders – can they be sent electronically to advocates rather than through post/dx

Court orders should be sent electronically for the time being. The fallback position is that in the event that the orders are not sent out by court staff (due mainly to lack of staff) it is proposed that the agreed draft order be sent in to the Judge and once approved the Judge return the order to all advocates with an email confirming that the order is so approved.

Judges having e-bundles?

Yes. Care - core bundles only for Judiciary. Smaller focused bundles in private law proceedings. We may not be able to comply with the Guidance re e-bundles.

Judge reminded us that we are all key workers.