



JUDICIARY OF  
ENGLAND AND WALES

**COVID 19: LOCAL GUIDANCE FOR FAMILY WORK (EXCLUDING COP & FINANCE)**

1. These are interesting times indeed and a challenge for all of us. The primary objective is to maintain a reasonable court service without exposing anybody to unnecessary risk. The situation is developing apace and we all need to be as flexible and creative as possible whilst ensuring that fairness is maintained. Some of what follows remains aspirational and it will take some time for remote hearings to become a reality in every case.
2. It is imperative that we all take sensible precautions to keep ourselves and others healthy. No-one should be at work if unwell or advised to self-isolate.
3. I have established a small committee of representatives from the Court, LA, Cafcass and local practitioners and ask to be informed of any major virus-related developments.
4. As from Monday 23 March all cases will be conducted remotely unless that is not possible or feasible. Where cases have to come into court, directions should limit the number of attendees so far as possible and look to join as many parties/witnesses as possible remotely.
5. If cases are likely to be ineffective for covid 19-related reasons please notify the Court asap with proposals for remote re-listing, agreed if possible.
6. Paragraph 16 of the President's Guidance will apply in terms of where the responsibility falls for arranging remote hearings, that is:
  - a) The LA in a public law case;
  - b) The Applicant, if legally represented, in a private law case;
  - c) The Respondent, if legally represented and where the applicant is not in a private law case;

d) The Court where no party is represented.

7. Those responsible for arranging the hearings should liaise with the Court and agree the appropriate service for the hearing. I am told that the Court will bear the cost.
8. As at now, the options in terms of the Court arranging a remote hearing are limited. I am told that judicial telephones have the facility to join in up to 4 external numbers for a telephone hearing although at present we are experiencing difficulty joining more than 2. The recipient numbers must accept calls from 'caller withheld' numbers. The Courts have a bulk contract with BT Conferencing. We are also looking at BT MeetMe. A judge is able to join a Skype hearing arranged by others and I have just received an email suggesting that a Judge may be able to set up a Skype meeting using advocates' email addresses. Skype is free.
9. Telephone hearings conducted on judicial telephones will need to be recorded using the Court's standard recording equipment.
10. All arranged Conference facilities should allow for a period of discussion between the advocates before the Judge is joined. If a telephone hearing takes place using a judicial phone, pre-hearing discussion will not be possible and will have to be conducted by a separate method.
11. Conducting hearings with lay parties who are not in a secure venue is inevitable. In such circumstances, at the outset of the hearing, the Judge should make it clear to the lay parties that they must not a) permit any third party to be present or within listening distance during the hearing; and b) will not record the hearing. It should be made clear that any breach would be treated as a contempt of court.
12. Judges and professionals working remotely must ensure confidentiality and should:
  - be working from a room where they cannot be overheard;
  - ask others in the household not to enter the room when the door is shut
  - where possible, use headphones and do not play the call on loudspeaker.
13. Any cases which cannot be dealt with remotely and which involve parties who are ill or self-isolating may have to be adjourned. For those involving persons self-isolating because of age or underlying susceptibility, an adjournment of at least 12 weeks may be necessary.
14. This Court does not currently have the facilities to allow for electronic bundles to be filed.
15. It might well become necessary for the Court to prioritise the cases it hears. Priority will be given to cases where children or vulnerable adults are or might be at

significant risk. Listed cases may have to be adjourned to make way for more urgent matters.

16. An already stretched Court staff is working very hard to help make all this happen. Please do not contact the Court unless strictly necessary.
17. I am seeking authority to waive fees for applications for urgent adjournments.

### **Public Law**

18. It should be possible for most hearings in public law cases to take place remotely. Cases involving one or more LiPs or requiring interpreters/intermediaries are likely to cause more difficulty although I am aware that Mostyn J is currently successfully hearing a multi-day COP case by Skype in Nottingham. I also annex a helpful, recent communication from Communicourt.
19. If an attended hearing cannot be avoided, the court will endeavour to maximise the opportunity for attendees to heed Government advice on social spacing. A more intensive cleaning programme is in operation.
20. Wherever a hearing is to take place by telephone, directions should provide for an early Advocates' Meeting and provision for all parties to file Position Statements on key issues.
21. The Court will be looking to deal with all interim applications without the need for a hearing. If applications are opposed, Judges may call for written submissions from all parties, limited to eg 4 sides of A4 and including a submission as to whether an oral hearing is necessary and, if so, why. The Judge may then opt to deal with the application on paper, sending out a brief written Judgment or alternatively make directions for a remote hearing to take place.

### **Private Law**

22. The aim should be for all hearings to take place remotely. I am considering moving to a system of timed appointments for FHDRA's if that can be achieved. The Court will aim to invite all parties to submit a contact telephone number which accepts calls from caller withheld numbers, prior to the FHDRA. Parties will be discouraged from attending in person. If a Cafcass representative is present at Court, he/she may attend the hearing in person. Alternatively, it may be that Cafcass will have to be joined in to the telephone hearing when required. All Judges and Legal Advisors should have access to a full list of Cafcass telephone numbers. Cafcass should inform the Court prior to FHDRA days, who the Cafcass Officer is and whether or not he/she will be

attending. The court is also looking at having one or more Magistrates available remotely on FHDRA days to ensure that substantive Orders can be made.

23. A flurry of applications in respect of covid-19 issues is to be expected. Medical evidence of illness/the need for self-isolation is unlikely to be available. The Court will look to deal with these without the need for a hearing where possible.

### **FLA Injunctions**

24. All without notice applications should be dealt with by telephone. If the Applicant is represented, the Solicitor can be contacted by telephone at a pre-arranged time. An unrepresented litigant should supply a telephone number which accepts calls from caller withheld numbers and can be given a time slot when the Judge will contact them.

### **Adoption Final Hearings**

25. Many birth parents attend adoption final hearings without contacting the Court or the LA in advance and many of them are not contactable in advance. LA representatives/ Social Workers should supply the Court with a telephone number which accepts calls from withheld numbers so that they can attend the hearing remotely.

### **Generally**

26. Every endeavour should be made to avoid the need for court time. Consent applications are encouraged.
27. All Court users are expected to follow Government guidelines on hand-washing, social distancing etc where possible. Surface spray and paper towels will be made available in the robing rooms and elsewhere. Please use them and DO NOT REMOVE as replacements will be hard to come by.
28. Thank you all for your assistance, co-operation and goodwill.

Her Honour Judge B. Clark

Designated Family Judge for Lincolnshire

20 March 2020



Communicourt intermediaries are set up to work remotely.

All Communicourt intermediaries already have access to:

- Company laptops
- Managed IT support (remote)
- Company mobile phones
- Skype supervision
- Secure virtual servers

Technologically, we are therefore in the position to support the courts' remote hearings.

Communicourt practitioners are currently receiving training on how to provide intermediary support remotely. This is something we have done before through conference calling and supporting vulnerable people from different geographies.

Things to bear in mind when intermediaries are working remotely:

- Vulnerable people with communication difficulties will still need regular recovery breaks as well as explanation breaks
- Explanation breaks may need to be extended to allow opportunity for the intermediary to explain to the vulnerable person concepts that they may otherwise have explained in real time.
- These explanation breaks can take place remotely in the absence of other court staff. Only the intermediary, the vulnerable person, and their legal representative need to be present in the virtual conference room
- A short ground rules hearing at the start of all remote hearings will be all the more important, to iron out any potential practical arrangements and any barriers to justice
- The intermediary may need time before a hearing to meet, virtually, the vulnerable person to gain rapport and also to assess and flag up if there are any additional or different recommendations. These may be different from or in addition to the recommendations in the report, where recommendations will have been made for a face to face court setting
- The intermediary should have opportunity to virtually 'pass a note' to the judge as a result of any virtual conference if there are any concerns or problems. This could be done via email.

Where a case is urgent, and there is a need for pressing issues to be determined, and it is not possible to conduct a remote hearing then intermediaries would be available to attend physical

hearings whilst maintaining a social distance as to minimise the opportunity for infection. It may be the case that in these hearings, the intermediary and the vulnerable person attends court, but that other parties attend remotely.

We are currently consulting staff on their remote working capabilities (access to office space/confidential room, access to Wi-Fi etc) so we can ensure that intermediaries remotely accessing hearings can do so safely and effectively.