



JUDICIARY OF
ENGLAND AND WALES

SUPPLEMENTARY GUIDANCE COVID 19: FAMILY

1. This is where we were at as at 24.3.20. Things are changing/progressing on a daily basis.
2. Every effort must be made to avoid attendance at the Court building.
3. All hearings will now take place by telephone save in the most exceptional circumstances. As yet there is no reliable, shared video-conferencing facility fully available although work on this is proceeding apace.
4. Cases which cannot be dealt with remotely are likely to be adjourned unless exceptionally urgent ie where there are reasonable grounds for considering that a child or adult is at risk of significant harm. In such cases the Court will either direct a telephone hearing for those parties able to take part so that consideration can be given to how to set up an all-party hearing or alternatively call for written submissions on that issue.
5. Priority will be given to
 - Urgent new care applications
 - Urgent interim removal or change of placement applications
 - Emergency Protection orders
 - Secure accommodation orders/DOL applications
 - Non-molestation/Occupation Orders
 - Private law disputes where there are significant safeguarding concerns.
6. This Court is now able to receive electronic bundles of limited volume (250 pages). Larger bundles will need to be sent in sections.
7. All documents should be submitted electronically

Applications to Adjourn.

8. The Court has established a dedicated telephone line for urgent applications to adjourn. The number is 01205313571. Email applications should continue to be sent to family.lincoln.countycourt@justice.gov.uk Please enter into the subject title the

word “Adjourn” followed by the date of the hearing and the case number. **Avoid the use of the word “Urgent”**. The staff will search the inbox for the word “Adjourn”

Non-Molestation Orders/ Occupation Orders (NMOs & OOs)

9. Where possible all applications should be submitted by email to family.lincoln.countycourt@justice.gov.uk Please enter into the subject title the words “Injunction application”.
10. Without Notice applications will be dealt with in accordance with my previous guidance in respect of NMOs. Orders will be usually be made for 6/12 months.
11. The Court will require a comprehensive written statement and a draft Order where possible.
12. The Court no longer has the facility of bailiff-service. Orders may be served:
 - By email, text or other electronic means if the court is satisfied this will bring the order to the attention of the respondent. This will require the applicant to provide the court with reliable email addresses or telephone numbers for the respondent.
 - By process server instructed by the applicant.
13. The Court will require confirmation of service by an approved method and will then send them to pnc.desk@lincs.ppn.police.uk
14. Enquiries are being made at national level as to whether the Police will temporarily accept orders with no proof of service.
15. The Court will fix a return date within 28 days when only the respondent need attend by telephone. If a respondent proposes to attend the hearing to oppose they must:
 - Notify the Court as soon as possible that they will be attending the hearing, by email to family.lincoln.countycourt@justice.gov.uk entering into the subject title the word “Injunction” followed by the date of the hearing and the case number. **Please do not use the word urgent**. Alternatively, the Court can be contacted on 01522551525.
 - Confirm that they will be available at the time of the hearing to attend by telephone providing a telephone number **which must accept calls from withheld numbers**.

16. If the respondent fails to notify the court or fails to make themselves available at the time of the hearing, the without notice order will be left in place.
17. If the respondent attends on the return date and wishes to challenge any without notice order the court will give directions for a remote hearing.

Public and Private Law Urgent Applications

18. All urgent public/private law applications (other than applications to adjourn) should be submitted by email to family.lincoln.countycourt@justice.gov.uk Please enter into the subject title the words “Public Law application” or “Private law application” followed by any next hearing date and case number if appropriate.
19. The court will require telephone contact details for all parties.

Adoptions

20. In addition to the usual directions for timetabling in any applications for leave to oppose the standard directions will include a provision for the LA representative and any parent wishing to attend the final hearing to contact the Court to provide a contact telephone number on which they can be contacted for the purposes of a remote final hearing. The telephone number **must accept calls from withheld numbers**. Contact should be made by email to lincolnadoptions@justice.gov.uk or by telephone to 01522 551525 (email is best). The case number and hearing date must be provided. The order will emphasise that if no number is provided or if the number is called and not answered, the court may proceed to make the Order.
21. The Court is currently working through the final hearings already listed and requiring telephone contact details to be provided for any LA representative and any birth parent wishing to attend. Some may have to be adjourned for a short period to allow time for compliance.
22. At any remote hearing the Court will contact those who have supplied numbers by telephone. If the court is satisfied that the parents have been properly served and have either not supplied numbers or have not answered a call, a final order may be made.

Interpreters

23. Big Word is currently refusing to undertake telephone interpreting. This is being taken up at national level.

Latest Guidance on Fees

Version 1 24 March 2020

Remote Family Hearings: updated ways of working

1. Following the publication of National Guidance published by the President of the Family

Division on 19 March 2020 (which can be found here:

<https://www.judiciary.uk/announcements/covid-19-national-guidance-for-the-family-court-message-from-president-of-the-family-divison/>) and a significant increase in remote family hearings this documents sets out the how the Family Advocacy Scheme (FAS) will operate. The document will be updated on a regular basis as further issues emerge.

Arranging remote hearings, conferences and meetings

Who is responsible for arranging a remote hearing and how will the costs be covered?

2. HMCTS have produced guidance which can be found here:

<https://www.gov.uk/guidance/hmcts-telephone-and-video-hearings-during-coronavirus-outbreak>

3. It is a matter for the judiciary whether to hold a hearing via telephone or video conferencing. If it's a teleconference, then HMCTS staff will set it up using the BT Meet Me and there is no cost to other participants. If an advocate or client incurs any costs in joining a remote hearing this can be claimed as a disbursement.

4. If it's a videoconference then HMCTS staff will set it up, they are currently using Skype for Business, in addition to the existing JVS video conference system. The choice of conferencing platform is a matter of judicial discretion. HMCTS are considering additional conferencing platforms and they will update their guidance as necessary.

5. HMCTS staff, when instructed by a judge, will send the notice of the telephone or Skype hearing to all parties. This will advise you how you will be invited to the call and provide information for the hearing to be effective.

6. If somebody requires a reasonable adjustment or an interpreter, HMCTS staff will make sure this is considered and actioned when arranging the hearing. All telephone and Skype hearings will be recorded, even if this is not normally the case.

Who is responsible for arranging a remote advocates meeting or conference and how is this funded?

7. The advocates will decide who should arrange the meeting and set up the telephone or video conference facilities.

8. Where possible advocates should use free services such as Skype or Zoom. Where this is not possible the cost of setting up a teleconference and dialling into the meeting are a claimable disbursement.

Advocates meetings

How many advocates meetings are allowed?

9. Annex 2 to the cost assessment guidance which covers the payment of FAS fees, sets out how many advocates meetings would be expected.

Version 1 24 March 2020

Her Honour Judge B. Clark
Designated Family Judge for Lincolnshire
25 March 2020

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/737499/Costs_Assessment_Guidance_2018_-_Version_1.pdf

10. Paragraph 14.18 states that although it would usually be expected that two advocates' meetings would take place in accordance with the Public Law Outline (PLO), provided that the advocates' meeting is held as directed by the Court and in accordance with the PLO there is no limit to the number of these fees that may be claimed. In the current circumstances there may be an increase in the number of advocates meetings.

11. Paragraph 14.19 makes clear that the definition of advocates' meeting includes meetings held by video conference, webcam or telephone where this appropriate in the circumstances.

What evidence is required?

12. The evidence required by the LAA is an endorsed brief and a copy of the approved order listing the advocates meeting. The brief can be endorsed digitally without the need for a physical signature.

13. Advocates meetings may now be arranged through email rather than court order. The provision of email evidence from the court and/or the judge will be treated as the same as providing the order. The LAA will also accept retrospective recording of advocates meetings in orders which follow such a meeting.

Payment

Paragraph 6.4 of the Civil Finance Electronic Handbook

Paragraph 4.15 of Annex 2 to the Cost Assessment guidance

14. An advocates meeting can take place on the same day as an interim hearing but it may be claimed only if the meeting takes place outside of any time period that is taken into account in calculating the fee for the interim hearing

15. If the advocates meeting leads to an agreed order, with no need for a hearing and a self-employed advocate has undertaken at least 30 minutes of preparation for the hearing, they are entitled to claim a payment for a one-hour hearing (hearing unit 1) if the cancelled hearing was an interim hearing, or half of the final hearing fee if the cancelled hearing was a final hearing.

Hearings

What evidence is required that a hearing has taken place?

Paragraph 6.5 of the Civil Finance Electronic Handbook

Paragraph 4.18 of Annex 2 to the Cost Assessment guidance

16. The guidance sets out that a hearing may take place by any method directed by the court e.g. by either video or telephone conference without attendance at court. If the court directs an alternative method of hearing then the advocate will receive the appropriate fee as if the hearing had taken place.

17. An advocate's attendance form will not be available in hearings undertaken by video or telephone conference.

Version 1 24 March 2020

18. Where a court order sets out all the information that is required i.e. the names of each of the advocates that participated in that hearing, the start and finish times for the hearing (including lunch breaks) and bolt-ons that would be acceptable evidence. If the court order does not have all the required information then we will require an attendance note as well.

19. Bolt-ons may be claimed for telephone/video hearings if appropriate. As there will be no Advocates Attendance Form, notes of the hearing will need to be recorded and the claim justified on CCMS, the CLAIM 1A or the CLAIM 5A.

How are hearing fees calculated?

20. The hearing time will start from the time that the telephone call/videoconference was ordered by the judge. There may be initial discussions which can happen on a conferencing platform which is different to the hearing itself. This time will be counted towards the hearing time. If the judge attends to ensure everyone is present then absents themselves for pre-hearing discussions and then re-joins the telephone hearing that time will be counted.

21. The guidance currently states we expect telephone hearings to be under an hour but this may no longer be the case.

22. An advocate's meeting can take place on the same day as an interim hearing but it may be claimed only if the meeting takes place outside of any time period that is taken into account in calculating the fee for the interim hearing.

23. Advocates may also need some time after the hearing is finished to finalise the terms of the order. Time spent on the phone/videoconference finalising the order can be included in the calculation of hearing time. These discussions may be on a conferencing platform different to the one used for the hearing.

24. The President's National Guidance says that remote hearings may also be conducted by way of an email exchange between the court and the parties. How such hearings are conducted will vary from case to case. Some cases may be resolved in a few emails whilst others may only be resolved after many emails. The time spent by advocates may therefore vary from case to case. We will accept a court order that sets out the start and finish time of the hearing and the names of the advocates. If this information is not on the court order then advocates would need to self-certify the amount of time spent reading and responding to emails. We would expect to see copies of emails and a copy of the court order with the advocate's name recorded.

Conferences

What evidence is required?

25. Conferences can currently take place by video-conference or by telephone. The LAA requires an endorsed brief and a note of the conference. Provided the brief has the start/finish times (especially if it's the same day as a hearing) then only a summary of the notes is required.