

FHDRA PROTOCOL FOR REMOTE HEARINGS DURING COVID CRISIS

CAFCASS involvement

Generally

Pursuant to the CAP it is already the case that face to face interviews are unnecessary if CAFCASS have already concluded the safeguarding letter.

The FCA will endeavour to conclude safeguarding before the hearing. There will be an increased emphasis on contacting parties prior to the day of the hearing.

The Courts order will encourage parties to contact the FCA when prompted

The FCA will not be attending Court.

Contact centres are shut

SPIP & Domestic abuse programmes are not running

Note President's Guidance on Child Arrangement Orders

Prior to the hearing

- FHDRA list to be sent by the court to Cafcass at least one week in advance of hearings. List to ensure that it has the name of the Judge or Legal Adviser conducting the hearings together with their email – the lists must be sent to SEITgeneric and to local CAFCASS direct
- The FHDRA list will be triaged in detail by the FCA – it will provide information about the application – and whether it has a full safeguarding letter prepared (this will include interviews with both parties – safeguarding checks and advice to the court) or whether there is information missing. Cafcass will highlight whether the SL has been sent to parties or not (due to not having an email address or whether it has not been disclosed due to risk). The FCA will indicate whether parties have been asked as part of the SL interview whether they are available for a remote hearing and any difficulties they may have.
- The triage list will be provided to the Judge or Legal Adviser 2 days in advance with suggestions in respect of which cases will NOT require Cafcass involvement and which cases will need some input (to include contacting the parties on the day (if missing interviews/trying to chase checks – generally supporting the court in terms of making the FHDRA effective). The Judge or Legal Adviser will need to give their agreement for Cafcass not to be involved in certain cases.
- Any cases that can be dealt with by directions on paper could be dealt with at this point
- It would be helpful to FCA's if the Judge/Legal Advisor could reply by email the day before the FHDRA's with comments or suggestions made within the triage list. This will help Cafcass plan the FHDRA day.

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Involvement on the day

- On the day of the FHDRA – the Judge or Legal Adviser and the FCA will have a skype call to discuss how the day will work. The FCA will be responsible for setting up the skype call and inviting the Judge in at 9.
- Making contact with parties where there is missing information and emailing this into the court before the hearing begins.
- Being part of the hearing – if requested by the Judge/Legal Advisers.
- Providing advice before or after the hearing
- Contacting parties if they have not received a copy of the SL in advance (because we do not have their email address or because the SL contains risk and the disclosure needs to be approved)
- Identify which cases will be “looked after” by which FCA
- If updates are provided to the court following further communication between Cafcass and the parties (or SW etc) – this will be emailed to the court and the Judge/Legal Advisor will read it out during the hearing – can also be emailed to parties ahead of the hearing.

After the hearing

- The Judge/Legal Advisor will be responsible for emailing the FCA’s with the outcomes of each hearing.
- Helpful for Judge/Legal Advisor to Skype at end of day if time permits
- Agreed orders before Tier 1 – the Family Bench will approve these at 16.00 remotely
- Cases needing a decision from Tier 1 to be referred to the Judge as and when for consideration at 15.00 or before if time allows

Lists

Gatekeeping to continue to allocate cases in accordance with the President’s guide

Current listing arrangements to continue

Tier 1 – no more than 3 FHRDAs to be listed and no list at 15.00 – 16.00.

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Tier 2 – no more than 7 FHRDAs to be listed and no list at 15.00 – 16.00.

Additional cases such as FLA injunctions, C79s and PSOs are not to be listed before a Judge running a FHDRA list unless one of the 4 slots prior to 15.00 remains free

Documents

Given some hearings will be remote the documentation needs to be limited to the list below

Any previous order if filed with the application or acknowledgment of service

C1A form(s) if any

Any safeguarding report from Cafcass (who may not know which judge to send them to)

Any report from the local authority

Any draft order or position statement

HMCTS Role

- Use the new order
- One week before FHDRA list to be sent to SEITgeneric and to local CAF/CASS direct
- the day before hearing

For any judge who is working remotely away from court, the court will ensure that the following documents are emailed to the judge no later than 3pm on the day before the FHDRA list:

Application

Any statement filed with the application or acknowledgment of service

Any previous order if filed with the application or acknowledgment of service

C1A form(s) if any

Any safeguarding report from Cafcass (who may not know which judge to send them to)

Any report from the local authority

Any draft order or position statement

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