

His Honour Judge Bedford
Designated Family Judge for Sussex

6 April 2020

Dear All,

The last two weeks have seen many meetings; the Leaderships judges were addressed by the Lord Chief Justice, there was a Skype meeting of all the DFJ of the SE circuit with the Family Division Liaison Judges, a Skype meeting of judges from each of our local courts and in addition we are continuing to receive developing guidance.

We have now received Mr Justice MacDonald's "Remote access Family Court" version 3. Whilst this is a somewhat heavy document I would commend it to you as it provides an accurate, balanced picture of where are now in terms of remote hearings and where we might reasonably expect to get to. As each version is produced, the changes are highlighted in red making easy to dip into and see what is new.

The President has provided further guidance;

**Coronavirus Crisis: Guidance on Compliance
with
Family Court Child Arrangement Orders**

The guidance sets a context for dealing with private law applications in the current crisis and is essential reading for those advising parties, and for parties themselves, in these unique circumstances. It sends the clear message that parental responsibility is exactly that.

The Covid Committee met on Monday and Friday of last week.

The area we are concentrating on locally is developing reliable ways for Court hearings by video link.

I think there is a real tension here, because on the one hand the State must provide a Justice system that continues to function. In our Jurisdiction children need decisions to be made, and parents cannot be expected to wait until we find solutions to this unprecedented situation. On the other, we must not relax our determination to provide a fair system. As the President reminds us:

"Can I stress, however, that we must not lose sight of our primary purpose as a Family Justice system, which is to enable courts to deal with cases justly, having regard to the welfare issues involved [FPR 2010, r 1.1 'the overriding objective'], part of which is to ensure that parties are 'on an equal footing' [FPR 2010, r 1.2]. In pushing forward to achieve Remote Hearings, this must not be at the expense of a fair and just process." (27/3/20)

We must be conscious of the perception of the families involved and the article for the Transparency project which sets out how a remote hearing was experienced by a lay party is vital reading for us all.

<http://www.transparencyproject.org.uk/remote-justice-a-family-perspective/>

The President has made it clear that a number of cases will need to be adjourned, and then prioritised back into the system as part of the recovery period. I have asked Local authorities to keep a log of adjourned cases, and recommend priorities. I intend to reactivate my Local Authority Forum where I meet with all three authorities with a view identifying best practice.

We now have Local Protocols for FHDRA's and Domestic violence in junctions which are sent with this message, with thanks to District Judge Harper, Kim Richardson of CAFCASS and District Judge Clarke.

The current national message is that there can continue to be face to face hearings where justice requires it and a remote hearing is insufficient, so long as it is safe to do so. The family Court at William Street is best suited to social distancing, and we are setting up systems to try to make this as safe as possible. In addition, MoJ has just entered into a new cleaning contract and the signs are good so far as improved performance is concerned. If we do go ahead with face to face hearings it is absolutely essential that everyone follows the social distancing guidelines to the letter. I appreciate that many practitioners will not want to attend face to face hearings for the time being – each case will have to be looked at individually but it may be possible for there to be a mixture of physical and remote attendance and one judge is trying that in the coming days. Other judges are very much against it, but as I have said, each case will need to be looked at individually.

An ongoing difficulty is the need to ensure parents have access to technology so that they can participate not only in remote hearings but also in the increasing number of “remote assessments.” In relation to the latter I have asked for the 3 local authorities to advise me what remote assessments are being undertaken, and which assessments are simply not viable for remote work (for example PAMS and cognitive assessments have been mentioned.) I have asked that when seeking out experts, the enquiry should ask the expert whether they will be intending to carry out the assessment remotely and if so, how they will achieve that and why they say that the integrity of the assessment will not be jeopardised. I think it is important to grapple with this at the outset.

I have asked the three authorities to look at creative ways in which they can facilitate and support parents having access to the necessary technology, and this will be on the agenda at upcoming local authority forum meeting.

Finally, we are expecting some guidance shortly from the DfE as regards contact for children in care.

I would like to thank everyone for their ongoing support. At the top of my list are the heroic Court staff, who are still coming into the Court building, and keeping the system going. Our professional lives are not getting any easier and are likely to be even harder in the weeks to come but I am confident if we continue to work together we will cope.

Kind Regards,
HHJ Robin Bedford.
Designated Family Judge for Sussex.