

PROTOCOL FOR NON-MOLESTATION INJUNCTIONS AND OCCUPATION ORDERS DURING COVID-19 RESTRICTIONS;

1. EX PARTE APPLICATIONS

Ex parte hearings will normally be done by telephone.

On issue, the court must identify a telephone number for the Applicant (or their solicitor) and must check whether it is safe for the court to call them on that number for a hearing (eg the parties may live in the same home).

The court shall attempt to obtain from the Applicant a telephone number for the Respondent for hearings, and an email/WhatsApp address for service.

The court shall email the application and witness statement and any draft order to an available District Judge for an urgent decision about whether the hearing is to be *ex parte* and whether it can be done by telephone. The DJ will give listing directions and will if appropriate forward the email to the DJ who will hear the application.

If a party submits a draft order it must be in Word format without tracked changes. Any order submitted as a PDF is unlikely to be used.

2. THE *ex parte* HEARING

The hearing will normally take place using BT MeetMe to be set up in the usual way.

These applications are suitable for hearing by a judge working at home.

The normal time estimate will be 15 minutes plus 15 minutes for connection.

3. THE ORDER

During the hearing the District Judge will discuss with the Applicant how the order is to be served.

The DJ will email the order to the court if working remotely.

The Order will include the start/finish times of the hearing and a note of the advocate attending if the party has legal aid.

The DJ will provide any specific directions about the return date as usual.

4. SERVICE OF THE ORDER

If the Applicant is represented, their solicitor shall serve the Respondent. If they are not, the court will serve them.

If the Applicant is to serve:

The Applicant's solicitor shall first consider whether a process server may be instructed. Failing that, the order may be served by email/text message/Whatsapp to the Respondent and a copy shall be posted to them by the solicitor. Where possible a Delivery & Read Receipt must be requested and added to the court file.

Within 24 hours of service the Applicant must email a statement of service to the court.

This alternative method of service has been authorised under Family Procedure Rule 6.19 due to the exceptional circumstances of the current national public health emergency.

If the court is to serve:

The court will consider whether a court officer such as the court bailiff can serve using gov.uk notification service. Failing that, the order may be served by email/text message/Whatsapp to the Respondent and a copy shall be posted to them by the court. Where possible a Delivery & Read Receipt must be requested and added to the court file.

The court will serve a copy of the order on the police.

The court will also provide the Applicant with a second sealed copy of the order. In the event that the Applicant needs to call the police, the Applicant may request the police to effect service of the second copy on the Respondent.

5. RETURN DATES/ON NOTICE HEARINGS

These will normally take place using BT MeetMe to be set up in the usual way.

These applications are suitable for hearing by a judge working at home.

If a judge is working at home, the court office will email the following documents to the judge:

- the application
- the ex parte order (if any)
- any witness statements filed by the parties
- proof of service

The normal time estimate will be 30 minutes and 15 minutes between hearings to allow for connection difficulties.

6. UNDERTAKINGS

Undertakings are unlikely to be appropriate because they cannot be signed or personally served. There may be exceptions if the undertaking is submitted in writing in advance and is then given formally over the phone with the appropriate warnings.

7. OCCUPATION ORDERS

An application for an occupation order, as distinct from an injunction excluding a party from an address or a named area, will be referred to a district judge to consider whether it can be heard remotely.

8. FACT-FINDING

Guidance for fact-finding hearings to take place remotely should be consulted when it becomes available.

9. ORDERS

Please see below suggested draft directions for hearing and paragraphs to be added to the injunction order concerning service and to replace the FAS form for advocates.

2 April 2020

NON-MOLESTATION INJUNCTION; DIRECTIONS FOR REMOTE HEARING

BY THE COURT'S OWN MOTION IT IS ORDERED THAT:

1. All hearings in this matter shall take place by way of remote hearing pursuant to FPR 2010 r 4.3 unless the court directs otherwise.
2. The parties and their representatives shall attend all hearings by way of BT Meet Me Conferencing/ video conferencing. Please see the information sheet that accompanies this order.
3. HMCTS shall ensure that the hearing is recorded
4. The Case is allocated to Tier _____

HEARING BY TELEPHONE

5. The next hearing of this application shall take place by telephone/video conferencing

- (a) on [*date*]
- (b) at [*time*]
- (c) at [*name and address of relevant Family Court*]

PROVIDING THE COURT WITH YOUR NUMBER

6. The parties and/or representatives must immediately contact the Court either by e mail or telephone or post

and give details of a telephone number (preferably a land line) on which they can be contacted for this hearing.

If a party is attending with a lawyer on separate telephones then both numbers are required.

SENDING EVIDENCE TO THE COURT

7. The Respondent may file written evidence in response to the Application by emailing it to the court and to the Applicant or by sending it through the post to the court and the Applicant to ensure that it arrives no later than 3 days before the hearing date.

MACKENZIE FRIEND

8. If a party wishes to ask for permission to be assisted by a MacKenzie Friend:-

- a. the MacKenzie Friend must read the guidance which can be found at <https://www.judiciary.uk/publications/mckenzie-friends/> and
- b. complete the standard form (a copy of which is available with the guidance sheet)
- c. return the standard form to the Court by e mail no later than 24 hours before the hearing
- d. the Mackenzie Friend must be in contact with the party during the hearing by e mail or text.
- e. The Mackenzie Friend cannot address the Court but only provide support as detailed in the practice guidance
- f. The Mackenzie Friend must give the Court a contact number

IMPORTANT INFORMATION ABOUT THE CONDUCT OF HEARINGS

PENAL NOTICE

This applies to the Orders set out below

IMPORTANT NOTICE TO ALL PARTIES

YOU MUST OBEY THIS ORDER. You should read it carefully. If you do not understand anything in this order you should go to a solicitor, Legal Advice Centre or Citizens Advice Bureau. You have a right to apply to the court to change or cancel the order.

WARNING: IF, WITHOUT REASONABLE EXCUSE, YOU DISOBEY THIS ORDER YOU MAY BE HELD IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE YOUR ASSETS SEIZED

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE RESPONDENT TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED

9. No unauthorised person may be present at this hearing. When asked, each party to the hearing must confirm who is in attendance with them.

10. All parties are forbidden from recording this hearing. They are further forbidden from allowing anyone else to record the hearing.

11. All parties are forbidden from putting any information from this hearing on the internet in any form whatsoever including social media.

Draft dated 2 April 2020

CLAUSES TO BE ADDED TO NON-MOLESTATION INJUNCTION; COVID-19

SERVICE

1. The Applicant shall ensure that this order is served on the Respondent but shall not try to serve it in person.
2. The Applicant shall first consider whether a process server is available.
3. If not, this order may be served by email/text message/WhatsApp to ----. Where possible a Delivery & Read Receipt must be requested and filed at court.
4. The Applicant shall file a statement of service by email to the court within 24 hours from effective service stating where and when the Respondent was served.
5. This alternative method of service has been authorised under Family Procedure Rule 6.19 due to the exceptional circumstances of the current national public health emergency.

OR

6. The court will serve this order on the Respondent by email/text message/WhatsApp to ----. Where possible a Delivery & Read Receipt must be requested and filed.
7. This alternative method of service has been authorised under Family Procedure Rule 6.19 due to the exceptional circumstances of the current national public health emergency.

PUBLIC FUNDING

This applies to cases where the Applicant/Respondent has public funding. As this hearing has been conducted remotely no FAS form has been completed;

Name of advocate(s) -----

Hearing start time-----Hearing finish time-----

2 April 2020