

York Family Court
Local implementation of Covid 19- National Guidance for the Family Court (1)

1. This guidance is to have immediate effect and should be read alongside the National Guidance for the Family Court issued by the President of the Family Division released on 19th March 2020.
2. The default position is for the time being,
 - i) all Family Court hearings should be undertaken remotely either via email, telephone, video or Skype, etc ['remote hearing'], The preferred method being Business for Skype which will enable the hearing to be recorded by the court.
 - ii) where the requirements of fairness and justice require a court-based hearing, and it is safe to conduct one, then a court-based hearing should take place. In such cases the process will be agreed at IRH.
3. The National Guidance confirms that the Family Procedure Rules 2010 provide for the use of remote hearings in appropriate cases.
4. This Guidance will be updated as and when necessary to reflect national guidance.

Remote Hearings - General

5. Where possible the current position will be that all hearings should be conducted remotely. If the requirements of fairness and justice demand a court based hearing and it is not possible to conduct that hearing remotely the court will give directions regarding future listings. The court will decide on a case by case basis (see below for process)
6. The following categories of hearing are suitable for remote hearing:

All directions and case management hearings;

 - a. Public Law Children:
 - i. Emergency Protection Orders
 - ii. Interim Care Orders
 - iii. Issue Resolution Hearings;
 - b. Private Law Children:
 - i. First Hearing Dispute Resolution Appointments
 - ii. Dispute Resolution Appointments

- iii. Other interim hearings
 - iv. Simple short contested cases
 - c. Injunction applications where there is no evidence that is to be heard (or only limited evidence).
 - d. Financial Cases [see the guidance issued for the Financial Remedies Court by Mostyn J on 17th March].
 - e. Appeals.
 - f. Other hearings as directed by the judge concerned.
7. When conducting a remote hearing, there is a need for the judge or magistrates to use their best endeavours to ensure that only those who would be allowed into the court room for an oral hearing are privy to the remote hearing and that all parties understand that the system used by the court will record the proceedings and that no other recording is to be made by any of the parties.
8. All parties have an individual responsibility to ensure that when they are joining a hearing remotely that only those entitled to be in the court room for that hearing are able to access the remote hearing and that it remains confidential
9. The point of contact at the court for the practical arrangements for submitting a consent order or C2 to request a remote hearing is the same e mail address as currently used for new applications namely , Yorkpublawapps@Justice.gov.uk . Due to the number of court staff with access to this account it will be easier for e mails dealing with court hearings to be picked up more quickly than if the family box was used during this period.

Public Law Hearings

Cases already listed for hearing.

10. The priority of the court is to ensure that directions are made on all current live cases which are listed for hearing and parties are due to attend court.
11. On each case the Applicant Local Authority should submit either a consent order or C2 to the court to request a remote case management hearing. These applications should be sent to the court in order of urgency depending upon the current timescales for filing (deadlines coming up first).

Contested hearings- Any cases listed for contests are likely to be subject to a short adjournment whilst arrangements are clarified regarding all parties (advocates and clients) joining into the adjourned hearing remotely.

New applications- unless there is a need for an urgent contested hearing the matter will be initially listed for a remote case management hearing with only advocates dialling in via skype.

12. Where there is agreement a consent order should be sent to the court to request a remote case management hearing. The purpose of these hearings is to review the timetable and make any additional directions. These hearings will be conducted remotely without any personal attendance at court and it is anticipated that advocates will represent the views of their clients. Client Instructions should be taken in advance of hearings and additionally clients should be contactable should any issues arise during the hearing. Should any client wishes to attend the hearing remotely then all parties and the court must be advised in order that agreement can be reached.
13. The consent order should include the details of the advocates who are representing the parties at the remote hearings this should include e mail addresses and contact telephone numbers. The court will generate a directions order and set up the court hearing enabling parties to join remotely. A template consent order is included below for ease of reference.



Draft Consent Order
for agreement for ren

14. At the hearing parties are encouraged to utilise the draft directions order attached to the President's Guidance at Appendix A below. For each case there are likely to be several case management hearings which should be conducted remotely if possible. The Appendix A should be completed so that it is confirmed that the existing hearings will be conducted remotely. A word version of the document is attached for ease of reference.



APPENDIX A.docx

15. In addition consideration should be given to whether matters can be conducted administratively with an agreed consent order presented to the court for approval this is particular helpful if it is a single issue matter such as re-timetabling , etc. This is encouraged for re- timetabling the filing of evidence in recognition of the impact the current crisis is likely to have on the completion of assessments. Where not possible to seek agreement then a C2 should be presented to the court.
16. In advance of any future remote directions hearings, which are not due to be heard imminently or evidence filed) the following process will be as follows;
- i) Arrangements should be made so that a telephone advocates meetings takes place ideally four days prior to each hearing to assist in narrowing the issues that require judicial determination.

- ii) Three days in advance of a remote hearing a draft order is to be filed with the court providing contact details telephone and e mail addresses of advocates to enable the court to invite parties to a remote hearing
 - iii) The court will send out a standard directions order and invite parties to attend the hearing remotely
 - iv) The day before the hearing stands as a 24 hour notice period
17. In addition, before each remote hearing a Pre-Court Discussion should be conducted to clarify outstanding issues and agree the position of the parties and any impact on length of the remote hearing if possible.
- i) Pre Court Discussions will be recorded on the order to take place by telephone in the same way they are at present i.e 60/90 minutes before the court hearing;
 - ii) The solicitor for the child is responsible for arranging the telephone facility via a POWWOW
 - iii) If a consent/agreed order can be formulated in pre court discussions it should be sent to the Judge no later than 15 minutes prior to the commencement of the remote hearing;
 - iv) It is a matter for the Judge to consider whether a telephone hearing is then required.
18. The question of whether any particular case is heard remotely must be determined on a case-by-case basis.
19. As noted above where a case cannot be listed for a remote hearing (ie it is noted that final hearings are not included in the list at para 8 of the President's Guidance) then any existing listing should be adjourned and the case must be listed promptly for a remote directions hearing to determine how the proposed hearing will progress. The primary aim of the remote directions hearing should be to identify the optimal method of conducting the court process in order to achieve a fair and just hearing of the issues but, at the same time, minimising as much as possible the degree of inter-personal contact between each participant.
20. Multi-party hearings have taken place nationally by using the Business for Skype system that is available on the judicial laptop.
21. In other cases if it is identified that it is necessary for the personal attendance at court, for some or all of the hearing, by some or all of the participants, these cases will be adjourned. If this is the case in future hearings when resumption of court attended appointments resumes protective measures will need to be put in place for all participants.

22. At any directions hearing to discuss the future hearing arrangements, judges and magistrates should also require the parties to focus on the realistic options that are currently available to meet the child's welfare needs during the present straightened circumstances.

Urgent Cases

11. Even where a case is urgent, it should be possible for arrangements to be made for it to be conducted remotely. Initially there will be a remote hearing with advocates present to confirm arrangements when parties can be available remotely to participate in the hearing. It is recognised this is likely to be within a short timescale, likely to be the same day in the event a case requires urgent judicial determination. At the current time the default position should be that the hearing is conducted remotely. In the event government guidance is relaxed and face-to-face hearings resume in circumstances (in terms of the physical arrangement of the court room and in the waiting area) which minimise the opportunity for infection.

Technical matters

Court Bundles

12. Unless specifically directed by the court there is a cessation in the expectation that paper copies of the bundles will be produced for hearings. If the need does arise this will be considered on a case by case basis.
13. On the day before a remote hearing the applicant must electronically file a PDF bundle which complies with the FPR PD27A and which must include as a minimum:
- a. A case summary and chronology;
 - b. The parties' positions statements;
 - c. The previous orders that are relevant to the remote hearing;
 - d. All essential documents that the court requires to determine the issues that fall for determination at the remote hearing;
 - e. A draft order;
 - f. Completed advocates' forms together with the single address that the signed and sealed forms are to be returned to for distribution to the advocates.

14. Both Local Authorities have facilities which enable court users to access bundles remotely. Please see attached guidance on each system. CYC se Doqex and NYCC use the NY Drive. Once court users have the necessary passwords they are able to access the bundles.



NYCC+Drive+User+
Guide (1).doc



Doqex guidance for
the court.docx

Remote Hearings: technical matters

14. In York the preferred method of conducting remote hearings is to use Business for Skype. Remote hearings may be conducted using the following facilities as appropriate to the individual case:
- By way of an email exchange between the court and the parties;
 - By way of telephone using conference calling facilities;
 - By way of the court's video-link system, if available;
 - The use of the Skype for Business App installed on judicial laptops;
 - Any other appropriate means of remote communication, for example BT MeetMe or FaceTime.

The most recent HMCTS update on the use of video and telephone hearings (issued on 18.3.20) during the coronavirus pandemic is at

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

Recording:

15. Any arrangement for a remote hearing must make provision for the hearing to be recorded. Where the hearing takes place with the judge/magistrates in a court room, recording will take place in the ordinary manner. If BT Conferencing is used for a telephone hearing then that system will produce a transcript of the hearing. Where Skype for Business is used, there is a facility within the software for the digital record of the hearing to be recorded (this is not the same as a typed transcript but may suffice for most purposes).
16. The responsibility for making technical and other arrangements for a remote hearing and for confirming the details of the arrangements for the hearing to the other parties no later than 24 hours prior to the remote hearing taking place is to be undertaken by the following party liaising with the court:
- The local authority 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; this includes a 16.4 appointed Child's Guardian
- d. The court where no party is legally represented.

Costs

17. Any costs incurred in obtaining a typed transcript will be deemed to be an appropriate use of public funds and the costs divided between those legally aided parties.
18. Any costs incurred in obtaining a typed transcript will be deemed to be an appropriate use of public funds and the costs divided equally between the parties including those legally aided parties.

Private Cases

Cases already listed for hearing.

Where a case in one of the categories listed above has already been listed for a hearing at which the parties are due to attend court then, if it is possible to make arrangements for the fixed hearing to be conducted remotely, the hearing should go ahead remotely without any personal attendance at court.

- i) If any party is legally represented then it is the responsibility of the applicant (or the next legally represented party) to make the necessary arrangements to facilitate a remote hearing.
- ii) If the parties are litigants in person the court will send the notice directly with details of how to join the remote hearing.