

Stoke and Staffordshire Recovery Planning

Care and adoption proceedings:

We are planning to recommence attended hearings in family proceedings from Monday June 1st. We understand that the status of Stoke Combined Court Centre and Stafford Combined Court Centre will be changed from 'staffed' to 'open' from June subject to HMCTS issuing a safety authorisation. We are awaiting the interim report of the National Family Recovery Group for any guidance that they may produce and will adapt our local plans as appropriate if national guidance is issued.

Limits on these arrangements:

Any arrangements for attended hearings must comply with current Government and public health guidance. Nobody will be expected to attend court if it places their individual health at risk. Social distancing measures will be strictly observed. HMCTS are undertaking detailed planning to ensure the safe operation of any open court centres including security arrangements and cleaning. Details of the HMCTS risk assessment for opening courts is available from the HMCTS website. We would ask for the cooperation of everyone in adhering to the safety measures put in place.

The arrangements set out below should be regarded as emergency measures implemented for the purposes of recovery following the unprecedented disruption to family work caused by COVID 19. They do not set a precedent for any longer-term alteration to court hours or working practices.

Context:

In Staffordshire we will need to secure on average the equivalent of 80 sitting days per month to prevent further backlog building. In order to achieve any reduction in the backlog we will be dependent upon replacing matters listed from June onwards which will not be effective with 'trial ready' adjourned cases.

We are facing significant challenges in terms of available courtroom accommodation.

HMCTS have carried out a site survey of both Stoke and Stafford combined court centres. In order to meet social distancing requirements within the courtrooms the maximum number of people allowed within Court 4 and Court 5 at Stoke will be 9 people respectively (inclusive of Judge and any HMCTS staff). At Stafford, Court 3 will accommodate 16 people and Court 5, 9 people. For most care cases we will therefore have to implement some form of 'hybrid' model because of restricted courtroom space. Parties may need to observe proceedings via internal video links or remotely by MS Teams, skype for business or the new CVP when available. As set out within the President's Guidance on remote hearings and the subsequent Court of Appeal authorities, the arrangements for any hybrid hearing must be considered and determined on the needs of each individual case to ensure a fair hearing is achieved. However, by way of general guidance, it may be appropriate for professional parties such as the social worker and/or Guardian to observe the proceedings remotely via video link or skype/MS Teams/CVP except when they are giving evidence.

We will also need to observe social distancing requirements within the communal spaces of the court centres. There are significant limitations on these spaces. This will necessitate staggered entrance and exit times and strict adherence to times given to each courtroom for breaks.

Overall model:

Attended family hearings will alternate between Stoke Combined Court Centre and Stafford Combined Court Centre on a weekly basis. We will utilise Courts 4 and 5 in Stoke and Courts 3 and 5 in Stafford. There will therefore be two family courts open in Staffordshire every day. We may be able to open more courts in the future but only if social distancing requirements can be safely met.

In order to achieve the required 80 sitting days we will need to double capacity by operating a 'two shift' system. We are acutely aware of the difficulties that this will pose for some professionals and court users, particularly those with caring responsibilities. However, as a temporary emergency measure we have taken the difficult decision that such a step is necessary to prevent any further build-up of cases causing significant ongoing delays for children.

The 'two shift' model would operate as follows: Court 4 at Stoke/Court 3 at Stafford would commence session 1 at 9 am and run until 1 pm (15-minute break 10.45 am – 11 am). Court 5 at Stoke/Court 5 at Stafford would commence at 9.30 am and run until 1.30 pm (15-minute break 11.15 am to 11.30 am). Session two would commence at 1.30 pm in Court 4 at Stoke/Court 3 at Stafford and run until 5.30 pm (15 minute break 2.15 pm – 2.30 pm). Court 5 at Stoke/ Court 5 at Stafford would commence session 2 at 2 pm and run until 5.45 pm/6 pm (15-minute break 2.45 pm until 3.00 pm). The afternoon session would be a different Judge from the morning session, hearing a different case. Nobody would sit both sessions. Only one final hearing or fact-find will be listed at each session. Although the usual 'court day' will be reduced from 5 hours to 4 hours, there will be no short matters listed alongside the main hearing and so a more focused approach should be possible.

Remote telephone hearing lists (before different Judges) will continue alongside the attended court hearings to deal with case management and applications on submissions. These will continue to be listed in normal court hours of 10 am – 4 pm. There will need to be some flexibility in managing cases that would usually be reserved to a particular Judge. We would continue to urge as many straightforward case management matters as possible to be dealt with by way of advocates' meetings and consent order to ease the considerable pressure on court lists.

Preparations for recommencing listed hearings:

Parties to previously adjourned cases and those listed June through to August have been asked to work with the local authorities and notify the Court by way of completed standard orders as to their 'trial readiness'. When the court has the information required for June, it will undertake a listing exercise to accommodate as many 'trial ready' cases as possible. We will endeavour to maintain as many cases as close to their original listings as possible. Those previously adjourned cases that are 'trial ready' will be listed into any available slots. In general terms cases where there are placement order applications will be prioritised although each case will be considered on its merits.

In any available attended court time we will look to re-commence adoption work, discharge applications and non-contested SGO applications that cannot be fairly managed by remote means.

Private Law

Due to restrictions on courtroom accommodation we do not envisage being able to list fact-finds/final hearings for some time. We will however continue to progress matters as effectively as

possible and will keep the listing of final hearings under review in light of progress made in public law cases and whether any further courtroom space becomes available.

We also have to manage the significant difficulties arising in private law from the inability of the lay justices to sit as a court at the current time.

FHDRA and DRA lists will be re-instated as a priority to begin to work through the backlog. In order to assist in addressing the backlog we will introduce the following changes to the CAP programme with immediate effect:

Gatekeeping Stage:

Applications should include email addresses of both parties and solicitors to assist with service of electronic documents and orders.

All applications will continue to be gatekept by the gatekeeping legal adviser or District Judge and allocated.

Urgent matters will be listed for consideration in the usual way and further directions given. For the time being it is recognised urgent matters will be dealt with by the District Bench.

COVID related disputes:

Where the dispute relates to a breakdown of the child's usual arrangements and the breakdown appears to relate to COVID 19, the Court will write to the parties following gatekeeping enclosing a copy of the President's approved letter and emphasising the importance of exercising Parental Responsibility to promote a child's relationship with both parents. Parties will be encouraged to consider ADR such as solicitor led negotiations or mediation.

At the initial safeguarding stage and in preparing the Schedule 2 letter Cafcass will speak to parents regarding the need to co-parent responsibly during COVID 19. The parents will be encouraged to reach agreement and the applicant to consider making a written request to withdraw the application. Provided the Schedule 2 safeguarding letter identifies no issues of concern, permission can be given to withdraw on paper using the draft standard order approved by the President.

FHDRA:

No case will be listed for a FHDRA until the Schedule 2 safeguarding letter has been received and considered by a District Judge or Legal Adviser depending on allocation. Listed time will be identified for 'triaging' all applications at this stage and to enable previously adjourned cases to be considered. Cafcass should continue to send Schedule 2 safeguarding letters to the parties unless there are grounds for non-disclosure.

Directions for progressing the application will either be given on paper or the case will be listed for a FHDRA.

Cafcass support:

A Cafcass duty officer will be available to support the FHDRA lists as follows:

Week commencing June 1st – one DJ FHDRA list (Wed) and one legal adviser FHDRA list (Thurs)

Week commencing June 8th – one DJ FHDRA list (Wed) and one legal adviser FHDRA list (Thurs)

Thereafter – two DJ FHDRA lists (Tues and Wed) and one legal adviser FHDRA list (Thurs).

Priorities for FHDRA listing:

- The more straightforward matters where the requisite directions to move matters forward are clear, will be dealt with on paper. This would include cases where all that may be required is the filing of statements or a s 7 report directed. Standard orders are to include a reminder re: ADR and solicitor led negotiations to find agreement.
- If the matter is more complex e.g. (non-exhaustive)
 - (i) if a determination is required as to whether a fact-finding hearing is necessary; or
 - (ii) if all contact appears to have been stopped with one parent without justification; or
 - (iii) there is a significant history of hostile litigation impacting upon the child's emotional welfare; or
 - (iv) safeguarding issues have been identified requiring immediate oversight by a Judge, such as allegations of child abuse or domestic abuse

the matter will be listed for a FHDRA hearing.

DRA listing:

New applications allocated to District Judge level will be listed for remote Dispute Resolution Appointments by telephone in the usual way. Those cases previously adjourned where all evidence has been filed and/or assessments completed will be prioritised for listing for DRA before a District Judge. **All standard orders will provide that if the matter is straightforward, evidence may be heard at the DRA and a decision given with short reasons.** We will endeavour to run three s 8 lists per week in addition to the FHDRA lists. These will be remote hearings by telephone.

Where one party is in default of previous directions, orders may be made on paper to deal with the non-compliance and sanctions applied.

In straightforward cases allocated to the Bench, rather than list for a DRA the parties will be contacted by the legal adviser to explore whether an agreed way forward can be found and a consent order filed for approval. Where an agreed way forward cannot be found the matter will be listed for final hearing before the Bench when that becomes possible.

Next Steps:

HHJ Harris will host a Q & A session for legal professionals on Friday 22nd May at 2 pm. The session will be via skype for business. If you would like to join the Q & A please provide your name, professional affiliation and email address to HHJ Harris by 1.30 pm on Friday. A further session will be held in early June – details to follow.

The operation and effectiveness of these plans will be kept under regular review and amended as appropriate.

HHJ Harris, Designated Family Judge for Stoke on Trent and Staffordshire

20th May 2020