

## Local Guidance for London FRC judges

- 1 I am sending this Local Guidance with the agreement of the London DFJs. It is intended to meet the immediate urgent circumstances of the Covid-19 Virus. It will apply to all London FRC cases up to and including April 3<sup>rd</sup> 2020. The situation is changing rapidly and further and other Guidance may be issued in the coming days.
- 2 Attached is yesterday's Guidance from the President in respect of the conduct of court business during the times of Covid 19
- 3 Of importance for Financial Remedy cases is the **Guidance of Mostyn J National Lead Judge of the Financial Remedies Court** at Appendix B of the President's Guidance
- 4 All judges should have regard in the management of their cases to the principles set out therein. They include the following
  - 1 Physical hearings should only take place where this is absolutely unavoidable
  - 2 The default position for hearings should be that they should be done remotely: either by Skype for Business or by telephone (other means are not currently approved by HMCTS)
  - 3 The use of ebundles should be virtually mandatory. The physical lodging and handling of bundles should be avoided
  - 4 FRC judges should endeavour to do as much work as they possibly can from home
- 5 Having spoken with the London DFJJ and consulting with FRC judges in Central London and HMCTS it is clear that the Court's immediate capacity to deal with large numbers of Remote Cases is limited.
- 6 Emergency measures need to take place over the next 2 weeks to enable the court and judiciary to have in place the necessary tools for the remote conduct of cases.
- 7 Each court will vary and many courts (particularly those with civil centres) may be well set up for dealing with cases by telephone at least.
- 8 It is a matter for individual courts to consider how hearings may be conducted with the best regard for the safety of all court users
- 9 Directions will be given therefore in relation to financial cases at the CFC as follows:
  - 1 All First Appointments should in the first instance be conducted by the "accelerated" paper only procedure. Directions will make provision for this immediately. All cases listed in the next 2 weeks will be given the opportunity to invoke the procedure and will be given 28 days further to submit to the court the appropriate documents. If the

parties are unable to comply with the accelerated (paper only ) procedure the directions have not been agreed, the matter will then be listed for a hearing which will either (i) be dealt with on concise written submissions from each party which identify clearly the directions which require adjudication by the judge via email and without any attendance by the parties either in-person or remotely; or

(ii) a remote hearing by skype or telephone

- 2 FDRs. All FDRs should if possible be dealt with by way of private FDR. They should then be conducted remotely. They are being operated effectively and have the advantage of the parties being able to employ technology not yet available on Judicial computers. The court will allow all necessary time to enable this. All court FDRs will be conducted remotely so far as possible unless physical attendance is unavoidable. Parties will need to make arrangements and confirm to the court that arrangements are in place to enable the FDR to be conducted electronically. The court hearing will then take place over Skype or telephone link.
- 3 Final hearing. All parties must consider and agree directions to enable the hearing to take place electronically. Videolink, Skype and telephone are the current options. Zoom has not yet been approved by HMCTS. Those final hearing in the next two weeks will be adjourned for 28 days to a (remote) directions hearing to enable arrangements to be put in place to enable this.
- 4 Urgent hearings (including interim maintenance). So far as possible these will proceed as listed but be heard remotely. It is the duty of the parties to put the court in a position to proceed in such a way. It will also be for the parties to satisfy the court as to the appropriate directions.
- 5 Committal hearings. These will continue to be listed to be heard in court but all will be subject to an initial directions hearing to identify whether committal is likely be the appropriate remedy or whether other remedies are appropriate. The initial directions hearing will be heard remotely
- 6 Other applications. All applications will initially be considered electronically in writing. The Applicant should identify the method by which the application should be heard as well as the urgency of the case. The Respondent should be given an opportunity to reply and the judge will determine the method and timing of any hearing required. Preference will be given were possible to resolve the matter on paper submissions.
- 7 All hearings will move to be time slotted. Proper time must be allowed for potential difficulties with the hearings being managed remotely.
- 8 Ebundles should comply with Practice Direction 27A of the Family Procedure Rules 2010 (as set out at paragraph 18 of the President's Guidance) and specifically should be no more than 350 pages unless the Court has given permission for additional pages.
- 9 Where practicable the working day before a remote hearing, the applicant's legal representative, copying in the other parties' legal representative (where both parties are represented) or the respondent's legal representative (where the applicant is in person) shall email the court and where possible the trial judge to ascertain from them:
  - (i) whether judge has received the ebundle; and
  - (ii) whether the remote hearing is to take place by telephone or Skype business and confirm the timeslot the call is to take place at the next day;

10. In any case where one of the parties is legally represented and the other party is a Litigant in person (LiP) the legal representative shall ensure the LiP has a copy of the ebundle; the dial in details for the remote hearing and the time slot for the call.

The LiP shall also be provided with a copy of any email correspondence between the legal representative and the judge,

- 11 When both parties are LiPs then the Application shall be responsible to ensure the court has the electronic bundle. It is recognised that there may be challenges to some LiPs in assembling the Bundle but the important matter is to ensure that the judge has all the relevant documents from both sides to be able to decide the matter. All LiP's in money cases are strongly advised to seek the advice of Solicitors or Direct Access Barristers in relation to their applications and presentation of their case to the court

- 10 CFC judges are currently drafting appropriate general form orders. They will be made available to all shortly. How the above matters apply to each case however is a matter for the discretion of the judge in the circumstances of each London Court. it is likely that all but the most urgent cases until 3.4.20 will need to be adjourned with appropriate directions

- 13 The aim should be that there should be no physical attendance required at any FRC hearing for the foreseeable future unless the judge is satisfied that such physical attendance is unavoidable in any event.

- 14 If the court is satisfied that the parties and the court are in a position to achieve an effective and fair remote hearing then the hearing may proceed.

- 15 I appreciate the gravity of the above steps. The courts must remain open for business in these difficult circumstances and it is hoped that by the introduction of these immediate procedures that business may be conducted with due regard to the challenges faced by all in these times.

HHJ Martin O'Dwyer

Lead Judge

London Financial Remedies Court

20<sup>th</sup> March 2020