**IMPORTANT INFORMATION**

**(revised 25 June 2020)**

**Please note that guidance and advice issued nationally can be found at the following address**

[https://www.judiciary.uk/coronavirus-covid-19-advice-and -guidance/?utm\_medium=email&utm\_source](https://www.judiciary.uk/coronavirus-covid-19-advice-and%20guidance/?utm_medium=email&utm_source)

This local guidance provides some general information about cases proceeding at Birmingham High Court (Queen’s Bench Division) the Business and Property Courts and the County Court at Birmingham in light of the Covid-19 pandemic and the Coronavirus Act 2020. It does not apply to proceedings in the Family Court, the Administrative Court or the Upper Tribunal or First Tier Tribunals in the Birmingham CJC.

The revision of this guidance reflects the present position after an assessment by HMCTS of arrangements to reopen more courts for face to face hearings, and the increased availability of staff and equipment. The safety of all who use the Courts remains the priority. The Court remains open but currently is able to use only 14 out of 52 courts for face to face hearings, so it remains the case that hearings are being conducted remotely wherever possible.

The following is a guide to the general approach the court is taking, but it does not deal with every kind of case or with every situation. If your case does not fall into one of the categories of work described below, the Court will still be considering how it is to proceed and will give directions accordingly.

1. **Multi track trials**

Multi Track trials remain listed as in person, or face to face hearings and will continue to be listed as such. If the parties consider that there are particular reasons why a case is either suitable for a remote hearing because of the nature of the dispute between the parties, or if a party will be unable to attend court because of Covid-19 the affected party will be required to make an application for a remote hearing or an adjournment of the hearing which will be considered by a judge.

1. **Trials of Fast Track cases**

Fast Track trials listed from the start of the lockdown in March to 15 June 2020 were block vacated.

The Court is seeking to re-list the vacated cases in the autumn. The court may contact the parties with a questionnaire to be completed by the parties to ascertain effectiveness and whether the trial is suitable for remote hearing. The Court will give particular consideration to the views of the parties.

In road traffic accident cases the court does not currently generally consider it suitable to order a remote hearing unless both parties consent, fundamental dishonesty is unlikely to be an issue, all the witnesses have access to a laptop or tablet (not a mobile phone) and a hard copy of the bundle and there are no more than 2 witnesses in the case.

Remote hearings are more likely to be suitable where the factual dispute between the parties is limited or the facts can mainly be derived from the contemporaneous documentation, or the issues are more of law than fact.

1. **Trials of Fast Track cases from 15 June 2020**

Since 15 June 2020 the court has resumed hearing some fast track trials in person and some fast track trials remotely and some hybrid trials. However, the social distancing restrictions mean that the Court cannot operate a block list at present and the number are limited.

Fast track trials listed from 15 June remain in the list unless and until the parties are informed by the Court that the trial has been vacated or other direction made. The parties should therefore continue to prepare for trial and ensure that any negotiations towards settlement are conducted sooner rather than later. If a case settles the parties are to inform the Court as soon as possible by email to [fast-track@justice.gov.uk](mailto:fast-track@justice.gov.uk) If the Court is informed in good time that a case has settled it will enable another case to be heard that otherwise might have had to be adjourned off.

The Court may contact the parties in advance with a questionnaire to be completed to ascertain suitability for a remote hearing. If so, it is important that the parties complete the questionnaire promptly to enable the court to decide the appropriate method of trial. It is essential to provide contact details – both email and telephone numbers - to enable the staff to contact you, possibly at short notice. You will be informed by the court staff in advance of the hearing about the method the judge has decided as to the conduct of the trial.

1. **In person Hearings at Court**

Where a case is to be conducted in person, or partly in person at an attended court hearing HMCTS will supply information in advance about the practical arrangements necessary for the safety of all participants and the staff and judiciary conducting the hearing. You must follow the directions set out in this document.

HMCTS is responsible and has conducted a thorough risk assessment of the building and installed signage and introduced systems to enable court users and members of the public safely to enter Priory Courts and attend the hearing.

**From 1st July civil (including BPC) in person hearings in the Priory Courts will usually commence at 11am** to ensure a staggered arrival time for court users. No pre-hearing conference facilities will be available before the hearing, although consultation rooms should be available for use by the parties if there are breaks in the hearing.

**Robes** need not be worn by advocates in any hearing including committal hearings while social distancing measures remain in place. Judges will continue to robe for committal hearings and may robe at their discretion in other cases.

The parties are reminded that they have a duty to cooperate with the court which includes, during the public health emergency, notifying the court and the other side immediately of any obstacle to attendance at a face to face hearing due to e.g. illness, self-isolation, shielding.

If we know about a party/witness’ difficulties in time, we may be able to replace that trial with another.

1. **Trials of Small Claims**

The Court has block vacated all Final Small Claim Hearings from 23 March to 1 July 2020.

The Court is undertaking a Small Claim Track (SCT) Pilot from 1 July 2020 in which final hearings are converted to 30 minute Dispute Resolution Hearings by telephone (using BT Meet Me) using the powers of the court under CPR 27.6. Notices are being sent to the parties. In cases that remain unresolved after the Dispute Resolution Hearing (DRH) any further necessary directions will be made at the DRH and the case listed for a Final Hearing either on the papers, by telephone, by video hearing or in person. If an in person hearing is necessary there may be a long delay before the hearing can be listed.

Final Hearings that were vacated due to the Covid-19 Pandemic will also be listed for a Dispute Resolution Hearing as above.

1. **Other Claims**

It is proposed to begin remote hearings of Stage 3 assessments and other types of case which do not involve hearing oral evidence as soon as possible on paper, by telephone or by video hearing as appropriate as soon as they can be listed.

1. **Directions for trial**

When giving course management directions the court will wish to address the likely mode of trial and whether it can be conducted remotely or requires a fully or partial face to face hearing, and if so why.

1. **Applications**

The Court is dealing with urgent applications in accordance with national guidance. It is also hearing much of the interlocutory work which would otherwise be listed.

A Judge will review your application and decide how it should be heard (the usual order is for a telephone hearing by BT Meet Me). Please be aware that the Judge may decide that your application is not one which can or should be heard at this time and adjourn it, or list it for hearing at some point in the future. You will receive an order from the Court telling you what that decision is.

1. **Possession Hearings**

Your attention is drawn to the Practice Direction 51Z of the Civil Procedure Rules which came into force on 27 March 2020 and the Amendments to Practice Direction 51Z to Stay Possession Proceedings and The Civil Procedure (Amendment No.2) (Coronavirus) Rules 2020. This gives effect to HM Government’s decision to stay proceedings for, and to enforce, possession until **23 August 2020**.

The Court is planning for the resumption of possession hearings after the lifting of this stay and notices will be sent out after 23 August 2020.

1. **Evictions**

Court Bailiffs are not undertaking evictions at the present time.

1. **Appeals**

Appeals are being dealt with on paper and remotely.

1. **Costs**

Assessments and other costs work is being dealt with on paper and remotely.

1. **Audio/Video hearings**

If your case is listed for an audio or video hearing, you will be asked to provide the relevant contact details or (if directed by the court) to make the necessary arrangements for the hearing with the appropriate provider.

These hearings are recorded by the Court. Please note that to make or to attempt to make an unauthorised recording or transmission of such a hearing is a criminal offence; see section 85B of the Courts Act 2003 (as amended by Schedule 25 of the Coronavirus Act 2020).

1. **Electronic Bundles for hearings**

You may be asked to agree an electronic bundle or a core bundle of documents which can be easily emailed to the Judge for a remote hearing. Your cooperation with other parties in the preparation of bundles is very important.

In the interests of simplicity, the County Court and the Queen’s Bench Division now adopts the Guidance for bundles which currently applies in the Business and Property Courts in Birmingham. A copy of the relevant section is set out below.

**Attendance and Bundles**

1. The parties must liaise and lodge the following JOINT documents, not later than three clear business days before the hearing:
   1. An Index to a joint electronic bundle of documents for the hearing, and
   2. An Index to a joint bundle of authorities.
2. The Hearing Attendance Forms and Indices:
   1. Must be Word documents in the form of the specimens sent by the court with these directions, and
   2. Must be lodged by email to the BPC address. In addition (if the case is on CeFile) they may also be lodged using CeFile.
3. In relation to the individual documents to be included in the bundles of documents and authorities:
   1. All such documents must be sent to the court by email (NOT CeFile) at the same time as the relevant Index. Alternatively, documents may be stored on a download site and a link sent to make them accessible to the judge.
   2. If required to comply with size limits, multiple emails may be used, but each email should attach only documents or authorities, not both.
   3. Documents may be attached in a zipped file.
   4. Each email must include in the subject line "[Case No]: [Documents] Bundle- hearing on [date] before [judge]"
   5. The individual documents may be retained in their native format (eg Word, pdf or Excel) and with any appropriate file name, BUT each file name must be prefaced with a number corresponding with the relevant Index, eg " 4 Smith v Jones Defence and Counterclaim.doc". This is to ensure they display in the same order as the index when saved by the court.
   6. Each document should be internally paginated if possible.
4. Generally, bundles should comply with the relevant court guidelines as to content and organisation into sections. In particular, the bundle and index of documents should include any skeletons, case summary, chronology and dramatis personae.
5. In order to manage the size of electronic bundles however:

Only those documents essential to the conduct of the hearing in question should be included. For short/single issue applications, the parties should aim for no more than 50 pages. For more substantive hearings (such as PTRs and CCMCs), the parties should aim for no more than 150 pages.

Lengthy authorities should be edited to include only the relevant sections.

Authorities available on public websites (such as legislation or cases reported on BAILII) should not be copied in to the bundle; instead the Index should include a hyperlink (not simply an unlinked web address).

Skeleton arguments should be provided as separate documents, whether or not indexed in the bundle.

1. This Guidance is kept under review and will be updated at regular intervals as appropriate.

HHJ Stacey, Acting Designated Civil Judge for Birmingham

HHJ Cooke, Business & Property Court

25 June 2020