

Dear local practitioner and other court users,

Covid 19 arrangements and temporary measures at Liverpool and Chester County Court and other courts in the Cheshire and Merseyside cluster for CIVIL WORK

There have been several requests for some standard guidance in relation to the conduct of court business over the forthcoming weeks in the light of the present public health crisis, and in particular the advice that is given at national level that we should avoid unnecessary travel or personal contact (“social distancing”), and bearing in mind that many vulnerable individuals will be self-isolating to avoid exposure to the virus. If we continue to insist on face-to-face hearings this will exclude a significant portion of court users.

It has not been possible to provide any clear guidance before now because of the ever-changing picture, and the advice which is being received from the senior judiciary and HMCTS. Leadership judges have been keen to ensure a consistency of approach, insofar as that is possible, but as you will appreciate different courts have different resources and there is no “one size fits all”. Further, as you will appreciate our guidance and arrangements put in place are likely to evolve in coming days.

I and my colleagues, in drawing up these arrangements, have taken into account the fact that many of our court users are litigants in person, and will not have access to the same technology available to lawyers, and it is important that not only is fairness assured, but also that accessibility to the court is not restricted. The starting point, in accordance with national guidance, is that all our hearings, other than urgent cases and one or two exceptional categories, will be conducted remotely, by such means as are available as soon as possible. Currently that is by telephone through BT conferencing controlled by the BT manager, or the judge (BT meetme), or by video, through Skype and Microsoft Teams. Unfortunately, there is insufficient capacity in the court to use the installed video link widely, and this must be reserved for the most urgent of cases. Currently the technical barriers restricting external Skype conferencing are being investigated and hopefully will be resolved.

Accordingly, the following procedures will apply immediately for ongoing court work. (Because of the difficulties of sending out notices there will probably remain some conventional lists in the week commencing 23rd March, but it should be expected that these practices will be followed for all weeks thereafter until further notice).

1. Small claims track hearings.

All small claims track lists will be vacated until after 4th May, and orders will be sent out accordingly. It is considered that it would not be practicable to have these matters, in most of which the parties are unrepresented, proceed by telephone or remotely. Because of the way these cases are listed, there is likely to be significant personal contact between individuals and court staff, which is not justified in the circumstances. New dates will be sent out in due course.

2. Fast track and multitrack trials and other open court face to face hearings such as injunctions and committals

The default position for all fast track and multi-track cases will be that they shall be vacated for a minimum period of four weeks from 25th March 2020. The position will be reviewed for the period thereafter. It is considered that insufficient safeguards can be introduced for the majority of trial work to ensure social distancing and negligible contact with staff and other court users. **As it is the default position, it will be clear from orders vacating, (a judicial order subject to CPR 3.3 (5)) that parties can apply for a variation and the reinstating of the trial.** However it is only in the most exceptional cases that any such order will be varied and it will be incumbent on the parties to demonstrate that safety can be assured and social distancing preserved and that continuation of the trial is consensual between all parties and advocates.

Trials listed within a window up to 1st June will be vacated and parties will be notified of the new trial window in due course. Any payment of the hearing fee will also be deferred to a later date.

Committals (including arrest cases for ASBI and gang breaches) and injunctions will remain listed in court but may be subject to vacating after assessment by a judge.

3. Appeals

Oral renewals will be heard from 30th March remotely. Litigants in person will be given a number to dial into, in the absence of any representative, but if a party is legally represented it is expected that the responsibility will lie with the lawyer to set up as usual. Arrangements are being put in place to have full appeals proceed remotely in straightforward cases, although it is likely that more complicated heavy documented appeals will be stood out.

4. CCMCs and Chambers lists

This will cover interim applications, pre-trial reviews, applications to set aside etc, as well as costs and case management. All cases will now proceed by remote hearing. Parties are encouraged to cooperate in the mode of hearing (usually telephone) and the usual arrangements for telephone hearings will apply, with one party being directed to organise (see guidance attached at appendix 1). It should be borne in mind that litigants in person are not to be excluded from the telephone hearing process, and lawyers are encouraged to ensure that unrepresented parties are aware of the process involved and can properly participate. If both parties are unrepresented, they will be contacted by the court with a number to dial into. There is active consideration being given to a new telephone system for hearings from BT which can be controlled by the judge, and full details will be supplied when this is up and running (BT Meetme).

5. Stage 3 hearings and disposals (back-to-back lists)

It is proposed that these should now proceed by a remote method, preferably by Skype. There is to be liaison with local practitioners as to the processes involved, including the filing of the necessary documents to enable consideration by the judge, but the intention will be that where cases are block-listed they can be assigned to a particular judge (say 4 or 5 cases per hour) and counsel can still enter the video-conference as and when it is necessary to consider a particular case. This will still enable counsel to attend on other Skype conferences, in a virtual courtroom, in much the same way as happens now in actual courtrooms. These procedures will require the cooperation of practitioners to work efficiently. Current technical difficulties are being ironed out.

6. PCOL, mortgage and possession cases (both private and social)

Whilst some housing work will continue (e.g. urgent ASBI injunctions, committals etc) in accordance with national guidance the default position will be that all possession claims and evictions will be vacated and postponed for at least three months. The current working date is 19th June, although this may change.

7. Oral examinations, attachment of earnings and third party debt orders

Oral examinations will be vacated. It is clearly inappropriate for members of staff and members of the public to be in such close association. Fresh dates will be provided after 19th June. Consideration is being given to moving attachments of earnings hearings and third party debt order hearings to a remote method, but this has not yet been finalised. For the time being, parties should assume that these cases will continue as before.

8. Insolvency and BPC work

It is intended that separate guidance will be issued in relation to the BPC (mainly Chancery and TCC) work which is conducted in Liverpool, in line with national and regional guidance for these cases, which is likely to involve a substantial amount of remote hearing. Please consult that guidance when available. In relation to corporate and personal insolvency, consideration is being given to finding alternative methods of dealing with these cases, but for the time being please assume that they will continue as face-to-face hearings until notified to the contrary.

9. Infant Approvals

In the short-term infant approval hearings are being dealt with as telephone hearings. Parties should be aware of the need to ensure the judge has sight of the birth certificate and the CFO form by filing them at court 3 days prior to the hearing. However, over coming weeks in Liverpool at least I propose to adopt the new Birkenhead practice of having these hearings proceed as “paper hearings” to minimise the strain on the telephone capacity. Please see the attached guidance at Appendix II for the practice to be followed once adopted.

10. Other matters

I am conscious that this is not a comprehensive list of all matters which proceed in the Liverpool and Chester civil courts at present and that there are various species of case, the method of hearing of which has yet to be resolved, and which will depend upon a number of circumstances. Both I and other senior judges are happy to receive representations about the best method of proceeding in the current climate. After all, we are all on a learning curve. Please send any suggestions my Diary Manager, Alison Blunsden, at alison.blunsden@justice.gov.uk;

- Please note in relation to the above arrangements, that orders will be sent out by the court where the listing is to be varied, or where a case is to be vacated. In all instances the order should include the right of the parties to apply pursuant to CPR 3.3 (5) for a variation of that order. Exceptionally it might be considered that either a telephone hearing is inappropriate, or that a case otherwise due for a face-to-face hearing should not be vacated. Formal applications for a variation with the payment of fee are unnecessary, but any request should be put in writing, with full and cogent reasons given as to why an exceptional course should be taken. This request will be referred to a judge, who may consider a brief telephone hearing if it is considered to be valid.
- These arrangements are being put in place in the Liverpool and Chester civil courts. I have liaised with the district judiciary in Birkenhead, St Helens and Crewe and it should be expected that similar arrangements will be followed in those courts. However, because each court centre has different resources and priorities, you should consult the individual court to determine their practice over the coming weeks and not assume that it will precisely coincide with the Liverpool arrangements.

I also set out in the separate sheet attached at Appendix I, guidance for the practice to be followed for those cases which are now converted to remote hearings (i.e. not face-to-face). This applies principally to the cases described at paragraph 4. Separate guidance will be provided in relation to stage 3 and disposals when it has been agreed with practitioners.

Kind regards

Graham Wood

His Honour Judge Graham Wood QC

Designated Civil Judge for Cheshire and Merseyside

21st March 2020

The Guidance

1. This guidance applies to all interim applications, costs and case management conferences and pre-trial reviews listed to be heard on or after Monday 30th March 2020 in the County Court at Liverpool and Chester or in the District Registry of the Queen's Bench Division in Liverpool. It does not apply to the Business and Property Courts.
2. All hearings covered by this guidance shall be conducted by telephone, skype, BTMeetMe or some other mutually convenient method. In each case arrangements for the remote hearing shall (unless otherwise agreed in writing between the parties) be made by the Claimant or, if the Claimant is a litigant in person the first named represented party
3. No less than 3 days before the hearing is to take place the parties shall send to the court at enquiries.liverpool.countycourt@justice.gov.uk
 - a. An agreed focussed reading list of documents for the Judge who will conduct the hearing together with an agreed estimate of the time it will take the Judge to read the documents.
 - b. attached to the email as separate attachments each document referred to in the reading list or where appropriate relevant extracts from such documents. The total length of the attachments when printed shall not exceed 50 pages and the total size of the email and its attachments must be less than or equal to 10mb.
4. The parties should prepare the focussed reading list and attachments on the basis that the Judge may have no previous knowledge of the case and may not have access to the court file.
5. Not less than 2 days after the telephone hearing the Claimant shall draft the order (in Word) and send it to the court at LiverpoolCivilOrders@Justice.gov.uk
6. To help the court you must file your electronic Court documents correctly. The subject field of any email sent to the court must include the following:
 - a. Case number
 - b. Party names (abbreviated where appropriate)
 - c. The date and time of any hearing to which the email relates
 - d. Subject matter title

eg E43YJ345 Smith v Jones hearing 23 March 2020 @ 2pm – list of documents

BIRKENHEAD INFANT APPROVALS

Due to the ongoing Public Health crisis concerning Covid-19, there is a need to reduce attendance at Court to a minimum whilst, in so far as is possible, enabling matters to be dealt with.

The arrangements for Infant Approval hearings in Birkenhead are being varied with effect from 26 March 2020. The arrangements will last, in the first instance, until 1 June 2020. This is to enable the hearing to proceed remotely. For the avoidance of doubt, these steps are to be considered “a hearing” for the purpose of costs.

The Claimant’s solicitor will need to file at Court, electronically, the following documents:

1. The medical report;
2. The Claimant’s Litigation Friend’s witness statement;
3. Confirmation from the Defendant as to the final offer and the position on costs;
4. A certified copy of the Birth Certificate; and
5. **IN A SEPARATE PDF**, a signed copy of the C320

The judge will then, insofar as is possible, approve the award and complete the relevant paperwork without attendance of the parties.

There should also be details included within the e-mail of a representative of the Claimant who can be contacted at the time of the hearing as is necessary.

In any case where the award cannot be approved, further listing directions will be given.

This memo is being distributed to the Claimants’ Legal Representatives in all up-coming lists. It is their responsibility to forward this memo to a representative of the Defendant.

Of course, should either party have representations at the hearing, they are free to do so but they will need to be made in writing.