

MANCHESTER BUSINESS & PROPERTY COURTS

HEARINGS DURING THE COVID-19 PANDEMIC BEFORE CIRCUIT AND DISTRICT JUDGES

1. This Guidance is provided further to the Position Summary and Guides for Urgent Applications from the Vice-Chancellor dated 31 March 2020 (“the Vice-Chancellor’s Guidance”). It is intended to provide guidance about the procedure for arranging hearings before a BPC circuit or district judge (“the Judge”) in Manchester and the basis on which such hearings will be conducted. This includes the hearing of matters that have already been listed for hearing.
2. The three overriding principles, identified by the Vice-Chancellor, are that: (a) the aim of the BPCs in those centres is to continue to provide a service to court users during the COVID-19 pandemic; (b) the parties and their advisers should co-operate well in advance of a scheduled hearing to agree a suitable means by which, subject to the court’s agreement, the hearing can proceed remotely; (c) given the extraordinary demands upon the limited numbers and resources of judges and court staff it is necessary for the parties to take responsibility as far as practicable for the preparation for and conduct of the hearing. The steps to be taken are as follows.

STEP 1 – HEARING ARRANGEMENTS

3. The parties are strongly encouraged to discuss and agree the best means for holding a remote hearing (including the provision of electronic bundles, skeletons and authorities and for recording the hearing) and, so far as possible, to do so before any application or request for a hearing and well in advance of any scheduled hearing. A means which imposes the least administrative burden on the court staff and the Judge is to be preferred.
4. The Vice-Chancellor’s Guidance provides for remote communication by (1) video-conferencing through Skype for Business; or (2) telephone through BT Meetme. Further guidance will be provided if and when other methods of communication are approved. For Skype for Business hearings the legal representative for the applicant or claimant will generally be expected to assume responsibility for arranging the call and ensuring that the same is recorded by audio only and such recording is held to the order of the court, whereas in BT Meetme cases that will be undertaken by the court. However, if the applicant or claimant is unrepresented, the other party or parties’ legal representative will be expected to assume responsibility for the Skype for Business hearing.
5. The party or parties who are deemed to have assumed responsibility for the above shall notify the Court of their proposed method of communication, whether agreed or otherwise, at the earliest opportunity. For matters already listed they should advise the Court of their proposed method of communication not less than 5 days before the date listed for the hearing and, in doing so, they should state whether the same has been agreed. If agreement is reached before a fresh application is issued or a hearing request

made, they should advise the Court in the same or in correspondence attaching it. Any fresh application issued or hearing request made must in any event state the proposed method of communication.

6. After considering the proposed method and any legal representations about it, the court shall determine the appropriate method and advise the parties of the same together with any other directions and the relevant contact details of the Judge, either in the notice of hearing or by other communication.
7. Unless otherwise proposed or directed, electronic bundles should contain only the documents which are essential for the hearing and should be prepared in accordance with paragraphs 10.2(b) & (c) and 10.3 of PD51O – The Electronic Working Pilot Scheme [<https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part51/practice-direction-51o-the-electronic-working-pilot-scheme>] - regardless of whether the Scheme formally applies.
8. If the proceedings are on CE-File, the bundle should be uploaded to the CE File AND, in any event, emailed to the designated email address for hearings given for the Judge as required by paragraph 10.2(c) at least by 4pm three working days before the hearing, unless that is impracticable or arrangements have already been made for the electronic bundle to be made available to the Judge at an online data room with a link and any password being provided to the designated email address for hearings.
9. Skeleton arguments (which should always contain a realistic reading list and an estimated reading time) and bundles of authorities should also be uploaded to the court CE File, if applicable, and emailed to the above email address – at least by 4pm two working days before the hearing, unless that is impracticable. The advocate should not over-burden the Judge with authorities, so that: (a) where the relevant principle is well understood and referred to in an authoritative textbook only the relevant part of the textbook need be supplied; (b) where the relevant principle is self-contained and appears in one part of a lengthy judgment, only the front page/headnote (if available), and the relevant page(s) need be provided.

STEP 3 – THE HEARING

10. The hearing shall proceed as provided for in the hearing notice or subsequent direction.
11. The legal representative responsible for making and holding the recording of the hearing if conducted by Skype for Business must ensure that the recording is uploaded to the court CE File, if applicable, and also kept by the legal representative in a secure location and is dealt with in accordance with the order of the court at the hearing. All legal representatives in attendance at the hearing must seek to take a reasonable written note of the hearing so that an agreed note may be obtained if for any reason the recording is lost or corrupted. All parties are reminded that making an audio or audio-visual recording of the hearing without the permission of the court is a contempt of court.