



**MARK GOSNELL**  
DESIGNATED CIVIL JUDGE

## LISTING PROTOCOL DURING THE COVID-19 PANDEMIC

23rd March 2020

### **Introduction**

This document is an attempt to explain how the courts are likely to approach the listing of hearings during the current crisis. It has not been possible to provide this information sooner as the picture is currently changing nationally. I anticipate that this guidance will be amended regularly in the future as we have to react to further advice from Government and the Lord Chief Justice.

As stated in the most recent national Protocol (20/02/20) when a hearing is fixed or approaching there will be three options:

- I. A remote hearing by a specified communication method (BT conferencing, BT MeetMe, Skype or Zoom);
- II. A Face to Face hearing proceeding in court with appropriate precautions (with social distancing throughout in a sufficiently large court room to ensure this);
- III. The hearing will have to be adjourned because neither of the previous two options are practicable.

It is likely that the parties will be notified which option the Judge dealing with the case has chosen but given the opportunity to email with any reasoned objections which can then be dealt with by the Judge on paper only without a hearing.

### **1.Small Claims Track hearings:**

These are challenging for two reasons; firstly, they often involve litigants in person who may have difficulty with remote hearings; secondly, they are commonly block-listed so it would be impossible to list them all at the same time remotely. I have decided therefore to vacate and relist the block list small claims hearings for the next four weeks to give us some breathing space to rearrange future lists.

After the four-week period litigants will receive a letter in which they will be given the option to choose between:

- a) Asking the Judge to determine the claim on paper and without attendance pursuant to CPR 27.9;
- b) Having the hearing take place remotely using one of the approved methods;
- c) Having their hearing adjourned until it is safe to have a face to face hearing.

I have decided not to give parties in small claims hearings the option of a face to face hearing until it is medically safe to do so given the risks to participants, staff and judiciary. Court staff may well then have to unpack the block lists so that individual

cases are give a separate hearing time for their remote hearing. The final decision on whether to list the claim for a remote hearing will be made by a District Judge.

## **2. Fast track and Multi track trials, Injunctions and Committals**

In each case the parties will be contacted, and the three options outlined in the introduction above will offered to them. I am not anticipating many takers on the remote hearing option, but it may be suitable in cases where witness evidence is not really disputed, and it is more a matter of construction of documents. If a face to face trial is to take place, then a Judge (probably me) will assess whether we are confident a hearing can be conducted safely. This will depend on how long the hearing is likely to last and how many participants are likely to be in the courtroom. I do not anticipate these hearings taking place in District Judge's hearing rooms unless they are of a size and configuration to be considered a court room.

Injunction applications can in all probability be dealt with on paper initially with a right to review by remote hearing. Final contested hearings for injunctions will be treated like trials in accordance with the preceding paragraph

Committals I suspect will have to remain listed in court for face to face hearings, but the court can always adjourn if it is not considered to be safe or convenient for there to be a court hearing

## **3. Appeals**

Applications for permission to appeal will continue to be dealt with on paper. Any oral renewals will be dealt with by remote hearing. This will also apply to litigants in person who will either take part in a BT MeetMe call or alternatively be telephoned by court staff and put through to the Judge who will conduct a telephone hearing.

Contested appeals unless very complex will be done remotely. If not capable of being done remotely they will probably be adjourned until a face to face hearing is safe.

## **4. CCMC's and chambers lists**

This will cover all interim applications including applications to set aside judgment, relief from sanctions and extensions of time. All such hearings will now be dealt with by remote hearing. Represented parties will be encouraged to co-operate and agree the mode of hearing. If BT conferencing is to be used then one party will organise it, if Skype or BT MeetMe is to be used then the organisation and recording will be controlled by the court. It Litigants in Person are parties in the case they should be involved in the remote hearing.

## **5. Stage 3 hearings and disposals**

These are typically done in back-to-back lists with many hearings listed with attendance on both sides. Henceforth they shall be done by remote hearings, preferably Skype to reduce the pressure on phone lines. This may result in the back to back hearings having to be unpacked and each case being given a time slot so that it can be done remotely successfully. Co-operation from practitioners is required and guidance may need to be given about the electronic filing of bundles

## **6. PCOL mortgage and possession cases (both private and social landlords)**

I am aware of the announcement made by the Prime Minister about staying possession claims for 3 months but it was not clear if it applied to cases already reaching a final hearing. In the absence of any further guidance I have decided to vacate and re-list all possession hearings for the next three months. Applications to suspend evictions will be listed and heard urgently. I am not convinced it is in anyone's interests to evict litigants from their homes to have them wandering around looking for new accommodation when we should be encouraging people to stay at home.

## **7. Orders to obtain information, attachment of earnings and third-party debt orders**

Appointments to obtain information will be vacated and relisted after 3 months. The risk to members of staff interviewing litigants in small rooms is not acceptable. Attachment of earnings and third-party debt orders can be dealt with on paper with review hearings conducted remotely for those who wish to attend / object.

## **8. Insolvency and BPC work**

Will no doubt be the subject of separate guidance from that court.

## **9. Infant and Protected Party approvals**

These will be done by remote hearings from now on. It may be necessary to remind Claimant's solicitors of the various documents that will need to be filed such as the CFO form and the birth certificate. If all the documents are in order, I see no reason why the hearing could not be done on paper without the need for a telephone hearing.

## **10 Practical Matters**

The first point to make is that this is intended as general guidance and individual courts and Judges may choose to depart from it for good reason. I also anticipate that it will change as the overall situation develops. It at least gives litigants, Judges and Court Staff a starting position to work from over the coming weeks.

I am aware that BT Conferencing have indicated that they are already at capacity and cannot meet the increased demand. Each court should have a new facility BTMeetMe which will enable them to set up conference calls and record them. This has only really come online today, and we are still working out how to use it. In Leeds we have 15 licences (lines) spread through civil, criminal and family so it is not unlimited. It would therefore be helpful if Judges used Skype for Business wherever possible to take the pressure off the phone lines.

Each hearing will still be in public and should be recorded either electronically or on the recording system already in the Judge's chambers

I am attaching some guidance which will be sent out to represented parties about remote hearings

### 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 Wednesday 25 March 2020 in the county court North and West Yorkshire or in the District Registry of the Queen's Bench Division in Leeds. It does not apply to the Business and Property Courts or the Family Court.
2. All hearings covered by this guidance shall be conducted by telephone, Skype, BTMeetMe or some other mutually convenient method. In the case of telephone conferencing 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. In the case of BT MeetMe or Skype arrangements shall be made by the Court
3. No less than 3 days before the hearing is to take place the parties shall send to the court at [hearings.leeds.countycourt@justice.gov.uk](mailto:hearings.leeds.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 100 pages.
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

M Cox



**Yorkshire**

**Designated Civil Judge for North and West**