

FURTHER NOTICE

FRC HEARINGS LISTED AT THE CENTRAL FAMILY COURT BETWEEN 4th May – 3rd July 2020

The current national public health emergency requires all financial remedy cases to be heard remotely unless personal attendance is unavoidable in the interests of fairness and justice. The court must prioritise urgent cases and those involving vulnerable parties. The CFC is required to have regard to the Family Business Priorities previously agreed by HMCTS with the President of the Family Division.

<https://www.gov.uk/guidance/hmcts-daily-operational-summary-on-courts-and-tribunals-during-coronavirus-covid-19-outbreak>

The court's objective is to hear as many cases as practicable but this is subject to identifying adequate judicial and administrative resources. Where hearings are adjourned the court will give the parties as much notice as is practicable but the parties must be aware that there remains a risk of hearings being adjourned near to the date of the hearing due to lack of resources. Non urgent hearings which cannot be accommodated because of lack of court resources may be adjourned and shall be re-listed on the first available date. Given the limitations imposed upon the Court Service by the current situation and in order to alleviate pressure upon the lists as many cases as possible are encouraged to take up ADR.

This Notice replaces all earlier Notices.

These Directions apply to all cases listed on or after 4th May up to and including Friday 3rd July 2020. Paragraphs 50-52 apply to all new applications for Financial Remedy Orders (Form A) intended to be issued in London.

In each case to which these directions apply, there is permission to apply to the court to vary or set aside the directions, as it may apply in that particular case. Any such application shall be made to cfc.fru@justice.gov.uk marked for the urgent attention of His Honour Judge O'Dwyer, Her Honour Judge Gibbons or District Judge Hudd.

CONTENTS OF THIS NOTICE:

SECTION 1: DIRECTIONS IN RESPECT OF URGENT APPLICATIONS	page 1
SECTION 2: DIRECTIONS IN RESPECT OF NON-URGENT HEARINGS:	page 1
FIRST APPOINTMENTS	
FINANCIAL DISPUTE RESOLUTION APPOINTMENTS	
FINAL HEARINGS	
SECTION 3: ALTERNATIVE DISPUTE RESOLUTION	page 4
SECTION 4: ELECTRONIC PAPER HEARINGS	page 5
SECTION 5: CONSENT ORDERS	page 5
SECTION 6: WHERE A REMOTE HEARING IS NECESSARY	page 6
SECTION 7: WHERE A PERSONAL ATTENDANCE IS ABSOLUTELY NECESSARY	page 7
SECTION 8: HEARINGS LISTED ON OR AFTER 6th JULY 2020	page 7
SECTION 9: NEW APPLICATIONS	page 8
SECTION 10: COMMUNICATIONS WITH THE COURT	page 8

SECTION 1: DIRECTIONS IN RESPECT OF URGENT APPLICATIONS

1. Urgent applications including (but not limited to) Maintenance Pending Suit, Interim Maintenance, Legal Services Payment Orders, applications under s37 MCA 1973 and Enforcement by D50K and D11.
2. In all such cases the parties shall identify within the application or confirm by email, no later than 7 days before the hearing or upon issue of the application, that they consider that the case is “urgent” and if so what factors are relied upon in support of the matter being urgent.
3. The court will determine the urgency under the overriding objective applying FPR 2010 r 1.4 taking account the submissions of the parties and the current public health emergency.
4. Where the court is satisfied as to the urgency of a hearing it will list a hearing (which may take place on paper, remotely or in person) as the case requires.
5. If the court is satisfied that oral submissions are required the court shall list a remote hearing to take place or shall give directions to enable a hearing already listed to proceed as a remote hearing (see below “Where a remote hearing is necessary”).

SECTION 2: DIRECTIONS IN RESPECT OF NON-URGENT HEARINGS:

- FIRST APPOINTMENTS
 - FINANCIAL DISPUTE RESOLUTION APPOINTMENTS
 - FINAL HEARINGS (INC PRE-TRIAL REVIEWS)
 - DIRECTIONS HEARING
 - MENTION HEARINGS
6. **FIRST APPOINTMENTS:** the parties shall, wherever possible, follow the accelerated First Appointment procedure set out in the fourth schedule to the Financial Remedies Court Good Practice Protocol (<https://www.judiciary.uk/announcements/financial-remedies-courts/>).
 7. Where the parties are unable to agree directions First Appointments shall proceed as listed but as an electronic paper hearing only in the first instance and no party or legal representative shall attend the court building nor shall they attend remotely.
 8. The parties are reminded of the obligation to comply with the provisions of FPR 2010 r9.14. It is of particular importance that parties comply with r9.14(5) in order to enable the parties to identify and enter into a dialogue about the issues in the case no later than 14 days prior to the hearing date.
https://www.justice.gov.uk/courts/procedure-rules/family/parts/part_09#IDAYCLMC
 9. Parties should at the same time as serving their First Appointment documents on the other party also communicate a summary of directions to be sought. Each party should provide a response to the directions sought by the other party and detail their objections in relation to any questions no later than 7 days before the hearing.

10. The parties shall submit electronically by 10am the day before the hearing a pdf bundle containing all relevant documents to enable the court to consider giving directions on paper including:
 - The parties' Form Es (without attachments);
 - A chronology (agreed or one per party);
 - A statement of issues (agreed or one per party);
 - A questionnaire (one per party) in Word and pdf format highlighting the questions in dispute and indicating on the face of the document the objection taken to a particular question and the justification so that it can be amended by the court once approved;
 - A draft order setting out proposed directions (agreed or one per party) in Word and pdf format;
 - Short written submissions not exceeding 6 pages in respect of the directions sought including, where necessary, addressing any disputes in respect of any further disclosure sought (if known).

11. The court will consider, upon receipt of written submissions received electronically (see 12 below), any request for a First Appointment to proceed as a remote hearing. The judge in any event retains a discretion to direct a further FDA hearing by remote means if the interests of justice require this.

12. In the event any party contends that the issues in the case are of sufficient complexity to require the court to proceed with a remote hearing of the First Appointment it shall notify the court as soon as practicable and no later than 7 days prior to the hearing date. The parties will be notified no later than 24 hours prior to the hearing whether the court has directed the listing of a remote hearing and whether it is possible for the matter to be heard on the original date or whether it will be relisted.

13. **FINANCIAL DISPUTE RESOLUTION APPOINTMENTS:** The court will endeavour wherever practicable to accommodate FDR appointments proceeding on the day listed as remote hearings. They will be given a minimum time estimate of 1 hour 30 mins and will be listed either at 10am or 11.30 am. This allows for a 1 hour hearing to take place in the morning and a short hearing (or hearings) in the afternoon to give further indications, approve any agreement or to give further directions.

14. The parties should consider in advance of any FDR appointment whether the time allowed by the court will be sufficient for the matter to proceed as a remote hearing and to conclude within the time estimate. They must inform the court at the earliest opportunity if a longer time estimate is considered appropriate.

15. FDR hearings will be listed to take place as telephone hearings arranged by the court via BT Meet Me unless the court directs the use of an alternative platform such as Skype for Business or the Cloud Video Platform ("CVP").

16. Prior to the day of the hearing the parties should arrange an advocates meeting or exchange correspondence confirming what the arrangements will be for the parties to communicate offers to one another and to negotiate on the day of the hearing at times when the judge will not be facilitating the hearing itself.

17. The parties are reminded of the importance of offers having been exchanged in all cases listed for FDR appointment in advance of the hearing in order to enable the hearing to commence at the listed time. There will be an expectation that offers will have been exchanged by the parties by no later than 7 days before the FDR unless otherwise ordered by the court.
18. If your hearing is listed as a **PRE-TRIAL REVIEW** or a **FINAL HEARING** the court will endeavour wherever practicable to accommodate the matter proceeding on the day listed as a remote hearing within the existing time estimate subject to the court being satisfied that:
 - a. The case may be appropriately and fairly heard as a remote hearing;
 - b. The case is ready for trial; and
 - c. The case will be completed within the time estimate.
19. In order to be so satisfied (and save where the court has already otherwise directed at any pre-trial review) the court must have received no later than 7 days prior to the hearing:
 - a. a single trial bundle (in searchable pdf form) which shall include all those documents required for the hearing and as set out in Practice Direction 27A of the Family Procedure Rules 2010 https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_27a and in the Financial Remedies Courts e-bundle Protocol dated 3 March 2020 <https://www.judiciary.uk/announcements/financial-remedies-courts-e-bundles-protocol/> Paper bundles will not be accepted save in exceptional circumstances where parties can demonstrate a good reason for not complying with the standard direction for provision of an electronic bundle.
 - b. an agreed statement by both parties stating that the matter
 - i. is appropriate for hearing remotely; and
 - ii. is trial ready
 - c. an agreed trial and witness template including time allowed for judicial reading, preparation of judgment after conclusion of submissions and delivery of judgment.
20. The court may list a further pre-trial review to explore the suitability of the case proceeding as a remote hearing and the necessary practical arrangements for the hearing and/or a hearing at which to test the parties' ability to use the appropriate video technology proposed to be used for the final hearing. Such hearings will be listed to take place remotely via BT Meet Me or Skype/CVP (unless the court orders otherwise) and may be listed at short notice.
21. Although the court will attempt to maintain all Final Hearings there are at this time very limited resources available to the court and all parties are put on notice that the Final Hearing may be adjourned if there are insufficient administrative or judicial resources.
22. In considering whether a Final Hearing may be adjourned through lack of resources the court will have regard to the overriding objective and matters including (i) the urgency of the case, (ii) the needs of other court users and their cases and (iii) the suitability of the case for ADR. In all cases the parties must investigate whether it is possible and appropriate to resolve outstanding issues by way of arbitration or other alternative dispute resolution procedure.

SECTION 3: ALTERNATIVE DISPUTE RESOLUTION

23. The parties and the court shall consider at all stages of the proceedings all routes by which the matter may be resolved other than by a further court hearing. Parties should make use of private FDRs, arbitration and ADR wherever possible.

24. Pursuant to FPR 2010 r3.3(1) the court must consider in all proceedings whether non-court based dispute resolution is appropriate and may exercise its powers pursuant to FPR 2010 r3.4(1) to adjourn proceedings:

- (i) to enable the parties to obtain information and advice about, and consider using, non-court dispute resolution or
- (ii) where the parties agree, to enable non-court dispute resolution to take place.

25. It is the duty of the parties and of the court under Rules 3.3 and 3.4 to consider alternative means of resolving the dispute. The court will need to be satisfied that the parties have properly explored such means. These include but are NOT restricted to:

- Arbitration (Institute of Family Law Arbitrators or Forum of Family Arbitrators);
- Private FDRs where an experienced professional barrister, solicitor or retired judge will assist the parties from a neutral standpoint to reach a settlement;
- Mediation (<https://www.gov.uk/government/publications/family-mediation>)

Parties may also wish to refer to the Resolution website (www.resolution.org.uk) which contains information about ADR routes and providers.

26. Where the court is not satisfied that the parties have appropriately explored ADR, the hearing will be adjourned so that this may be explored.

SECTION 4: ELECTRONIC PAPER HEARINGS

27. The parties shall consider in appropriate cases whether the matter is able to be dealt with on written submissions in order to determine any disputed issues and if so:

28. The parties shall lodge written submissions by email and an electronic bundle restricted to immediately relevant documents only by email by no less than 3 clear days before the hearing;

29. The court will consider the written submissions and documents and give a ruling electronically without the attendance of the parties wherever possible.

SECTION 5: CONSENT ORDERS

30. Final Financial Remedy Orders: In order to minimise delay all represented parties are required to utilise where available the Electronic Consent Order process. Please see paragraph 51 below for sign up details. The ECO minimises necessary staff handling processes and enables the Consent order to be processed far more quickly. If the process is not used it is likely that the delays in paragraph 31 will apply.

31. Final Consent Orders: The court will continue to process final consent orders submitted for approval as soon as practicable but timescales should be expected to be longer than usual. A statement of financial information under Rule 9.26 FPR 2010 (Form D81) must be lodged with a final consent order submitted for approval. It will be acceptable if the financial information required is set out in an appended schedule, provided that the D81 is signed by both parties to confirm that the information provided is accurate and that each party has read the D81 provided by the other party. For litigants in person, Form D81 can be downloaded from www.gov.uk/government/publications

32. Agreed directions orders, including those made at pre-trial review, must be supported by an agreed Position Statement (or jointly signed letter) setting out the issues in the case and how the draft case management directions provide for such issues to be resolved including the appropriate arrangements proposed by which to conduct any future hearing.
33. At the date of this notice it is unclear when the court will be able to resume in person hearings in most cases and parties must therefore include within draft orders appropriate provision as to the arrangements for future hearings in the event government guidance regarding social distancing remains in place.
34. If the parties wish to invite the court to take into account the parties' availability for the listing of any further hearing relevant dates must be lodged with the consent order. The court will not make provision for the separate lodging of availability and will not direct matters to be listed by liaising with counsel's clerks.

SECTION 6: WHERE A REMOTE HEARING IS NECESSARY

35. If, after consideration of the above matters, the parties still require a remote hearing, they may apply under the liberty to apply provision and must satisfy the court that they have taken all reasonable steps to pursue ADR and that the matter is not suitable for a paper hearing.
36. Where the court lists a remote hearing of its own motion or at the parties' request the parties will be notified of the time no later than 24 hours prior to the hearing. This may be subject to change up to the day before the hearing due to the current limited administrative and judicial resources.
37. All remote hearings in this matter to which this Notice applies shall take place by way of telephone hearing pursuant to FPR 2010 r4.1(e) unless the court directs otherwise; accordingly, the parties and their legal representatives shall not attend in person at the CFC on the day of the hearing.
38. No unauthorised person may be present at any hearing. When asked, each party and legal representative must be able to confirm that no unauthorised person is in attendance or able to listen to the hearing;
39. The hearing shall take place via BT Meet Me organised by the court unless the court orders otherwise.
40. The parties must, by no later than 10am on the day before the hearing send to the court at cfc.telephonehearing@justice.gov.uk their contact details, including an email address and telephone number for every proposed participant in order for the court to facilitate the hearing. No other communications should be sent to this email address.
41. The current methods available for remote hearings supported by HMCTS are
 - a. Meet Me
 - b. Skype for Business or CVP (by prior arrangement with the agreement of the judge)Please note that other applications such as Zoom, Lifesize and Teams are not currently approved for remote use by HMCTS. It will be a matter for the allocated judge as to whether any alternative method is approved for a particular case.

42. Electronic bundles are essential for ALL such hearings to proceed See <https://www.judiciary.uk/announcements/financial-remedies-courts-e-bundles-protocol/>
43. Where the applicant is legally represented the applicant's solicitor (or where the applicant is unrepresented, the respondent's solicitor) shall take the lead in providing the court with the parties' contact details and the lodging of the e-bundle. Wherever practicable all contact details for each of the parties and their legal representatives shall be provided to the court in one email.
44. Where both parties are unrepresented they shall each provide to the court by 10am on the day prior to the hearing their email address and contact telephone number (sent to cfc.telephonehearing@justice.gov.uk) and an electronic bundle containing the relevant documents for the hearing to proceed (sent to cfc.fru@justice.gov.uk).
45. All documents must be lodged by email save in exceptional circumstances.

SECTION 7: WHERE PERSONAL ATTENDANCE IS ABSOLUTELY NECESSARY ("ATTENDED HEARINGS")

46. Where any party considers that the arrangements set out in this notice will not enable the court fairly to conduct a hearing, whether due to security or privacy issues, the need for special measures for any vulnerable parties or witnesses or for other reasons, and where that party therefore considers it to be necessary for some or all of the parties and/or their legal representatives to personally attend at court for the purposes of any hearing they shall set out their reasons either (i) in any application made to the court or (ii) no less than 7 days before the date of any remote hearing listed within the relevant proceedings.
47. Where any request is made for the court to convene an "in person" attended hearing the court will consider whether the hearing can proceed:
- (i) as a remote hearing or
 - (ii) partly as a remote hearing and partly as an in person hearing or
 - (iii) whether the interests of fairness and justice require the attendance of all parties and their legal representatives

and, in the event the court considers that any party or their legal representative must attend an in person hearing it shall have regard to the available resources and the safe arrangements required to be put in place in order for any such hearing to proceed.

SECTION 8: HEARINGS LISTED ON OR AFTER 6TH JULY 2020

48. Hearings listed on or after Monday 6th July 2020 currently remain listed and shall be heard remotely, subject to appropriate technology being confirmed to be available and resources being identified. However, future listing arrangements must necessarily remain subject to review and may be subject to further directions.
49. Where parties consider that any hearing listed on or after 6th July 2020 is not likely to be effective and/or seek to adjourn for the purposes of enquiring into or engaging in ADR or for any other reasons they are encouraged to make any such application promptly to cfc.fru@justice.gov.uk marked for the urgent attention of HHJ O'Dwyer, Her Honour Judge Gibbons and District Judge Hudd to assist the court in allocating available judicial resources to hear contested cases remotely over the coming weeks.

SECTION 9: NEW APPLICATIONS

50. Represented Parties: During Covid precautions all Solicitors seeking to issue an application for a Financial Remedy Order on behalf of their client (Form A) will be expected to follow the Contested Online Platform route. This is far less intensive of staff resources and can be processed far quicker than an emailed application. In order to reduce the handling of papers no paper applications will be accepted from represented parties except in exceptional circumstances. If represented parties need to make a paper application they should email in advance explaining why the online process cannot be followed and why they are unable to send in any application by email. Arrangements may then be made for processing such necessary paper application.

51. The Contested Online Platform (Represented parties only)

- To sign up for the online divorce / Financial Remedy/Consent Order service, please visit <https://register-org.platform.hmcts.net>
- To use the new service, you must have a Pay by Account (PBA) account. This account allows you to use the HMCTS Fee Account system to pay for online applications.
- To set up a PBA account, go to: <https://www.gov.uk/government/publications/form-fee-account-application-form-fee-account-customer-application-form>
- Once you have signed up, we will need to approve your request. It takes up to 3 working days for the onboarding process to take place.
- Once your onboarding request is successfully confirmed, you will be able to manage your accounts at <https://manage-org.platform.hmcts.net> and start your online divorce applications at <https://manage-case.platform.hmcts.net>
- Guidance can be found here: <https://www.gov.uk/guidance/hmcts-online-services-for-legal-professionals>

52. Unrepresented parties (litigants in person) : so far as possible Litigants in person should email in their application. They will be contacted for payment of the fee by the court. The link to download Form A is - <https://www.gov.uk/government/collections/divorce-and-civil-partnership-dissolution-forms#financial-orders-and-maintenance> If unrepresented parties are unable to email in their applications they may send in their paper application and explain why they are unable to email. Arrangements are in place to ensure that unrepresented parties are not at a disadvantage by reason of being unable to access the Contested Platform

SECTION 10: COMMUNICATIONS WITH THE COURT

53. Any email sent to the court concerning the case shall contain, in the subject line, the case name, the case number, the type of hearing, the date of the hearing and the name of the Judge if known. If the parties have agreed the terms of a consent order this should also be identified in the subject line.

54. The court is receiving unprecedented numbers of e-mails because of the changes necessitated to facilitate remote hearings. Parties and their legal representatives are reminded of the need to avoid sending unnecessary communications to the court given the limited resources with which the court is operating.

55. The court will process all correspondence and refer appropriate communications to judges where appropriate as soon as practicable, however, it may take longer for the court to reply to emails than usual at the current time. "Chaser" emails should not be sent unless the matter is urgent.

56. The parties must comply with the above directions in good time in order to provide the court with the appropriate information for hearings to be fully effective. Contact telephone numbers and email addresses should be sent to cfc.telephonehearing@justice.gov.uk. No other communications should be sent to this email address. Bundles, position statements and any other relevant documents and communications should be sent to cfc.fru@justice.gov.uk. Emails should not be copied to individuals or to other court email addresses save where there is a specific reason to do so in the relevant case or if a judge has so directed.
57. The parties should send relevant information to the court in as few emails as possible. The parties should not send multiple emails save where absolutely necessary to lodge necessary information and documentation with the court.
58. The parties should not copy the court into correspondence between the parties. The parties should only communicate with the court when lodging applications, documents or making enquiries about hearings. When corresponding with the court parties should copy in the other party save where it is inappropriate to do so due to the subject matter of the communication.

HHJ Martin O'Dwyer

Lead Judge London Financial Remedies Court

24th April 2020