

## FURTHER NOTICE

### *FRC HEARINGS LISTED AT THE CENTRAL FAMILY COURT BETWEEN 6<sup>TH</sup> APRIL –1<sup>ST</sup> MAY 2020*

*The current national public health emergency requires all financial remedy cases to be heard remotely unless personal attendance is absolutely unavoidable in the interests of fairness and justice. The court must prioritise urgent cases and those involving vulnerable parties.*

### ***These Directions apply to all cases listed on or after 6<sup>th</sup> April up to and including Friday 1<sup>st</sup> May 2020***

*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](mailto:cfc.fru@justice.gov.uk) marked for the urgent attention of His Honour Judge O'Dwyer, District Judge Gibbons or District Judge Hudd.*

#### ***DIRECTIONS IN RESPECT OF URGENT APPLICATIONS***

1. Urgent applications include (but are not limited to) Maintenance Pending Suit, Interim Maintenance, Legal Services Payment Orders, 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 if later, 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”).

#### ***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. Where the parties are unable to agree directions First Appointments shall proceed as listed but as a paper hearing only and no party or legal representative shall attend the court building. The parties shall submit electronically by the day before the hearing 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 (limited to 2 pages) (agreed or one per party);
- A questionnaire (limited to 4 pages) (one per party);
- A draft order setting out proposed directions (agreed or one per party);
- Short written submissions not exceeding 6 pages in respect of the directions sought including addressing any disputes in respect of any further disclosure sought (if known) and any representations regarding the need for a remote telephone hearing;

The court will consider, on paper, any request for a remote hearing and the parties will be notified of any relisted remote hearing.

7. If your hearing is listed as a PRE-TRIAL REVIEW or a FINAL HEARING the matter will proceed on the day (or first day) of the hearing as a remote directions hearing with a time estimate of 1.5 hours in order to consider (i) the urgency of the case, (ii) the suitability of the case for ADR, (iii) the listing of any future hearings and (iv) the appropriate arrangements for future hearings to proceed remotely. 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.
8. ALL OTHER NON-URGENT HEARING which cannot be accommodated because of lack of court resources may be adjourned and shall be re-listed as a remote mention hearing unless a non-court based dispute resolution has been adopted to determine whether a court hearing is necessary and if necessary to give appropriate directions.

#### *ALTERNATIVE DISPUTE RESOLUTION*

9. 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.
10. 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.
11. 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>)
12. Where the court is not satisfied that the parties have appropriately explored ADR, the hearing will be adjourned so that this may be explored.

#### *PAPER HEARINGS*

13. The parties shall consider whether the matter is able to be dealt with on written submissions in order to determine any disputed issues and if so:
14. 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;
15. The court will consider the written submissions and documents and give a ruling electronically without the attendance of the parties wherever possible.

#### *CONSENT ORDERS*

16. In any case, where the parties have agreed the terms of an order, the draft consent order and any accompanying documents shall be submitted by email.
17. 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.
18. Final Consent Orders: a Statement of financial information under Rule 9.26 FPR 2010 (Form D81) must be lodged. 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](http://www.gov.uk/government/publications)
19. Where a signature is required (e.g. undertakings) the court will accept a scanned PDF copy.

#### *WHERE A REMOTE HEARING IS NECESSARY*

20. If, after consideration of the above matters, the parties still require a telephone 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.
21. All 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.
22. 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;
23. The hearing shall take place via BT Meet Me organised by the court unless the court orders otherwise. The parties must, by no later than 10am on the day before the hearing send to the court at [cfc.telephonehearings.gov.uk/cfc.fru@justice.gov.uk](mailto:cfc.telephonehearings.gov.uk/cfc.fru@justice.gov.uk) their contact details, including email address and telephone details to facilitate the hearing.
24. The current methods available for remote hearings supported by HMCTS are

- a. Meet Me
- b. Skype for Business (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.

25. Electronic bundles are essential for ALL such hearings to proceed. The bundle must be searchable and electronically paginated. The provisions of FPR 2010 PD27A shall continue to apply.
26. 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.
27. 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 and an electronic bundle containing the relevant documents for the hearing to proceed.
28. All documents must be lodged by email save in exceptional circumstances.
29. Any email sent to the court concerning the case shall contain, in the subject line, the case name, the case number and the date of the hearing.

*WHERE PERSONAL ATTENDANCE IS ABSOLUTELY NECESSARY ("IN PERSON HEARINGS")*

30. Where any party considers that the arrangements set out in this notice will not enable the court fairly to conduct a hearing, whether because of security or privacy issues 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.
31. Where any request is made for the court to convene an "in person" 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.

*HEARINGS LISTED ON OR AFTER 4<sup>TH</sup> MAY 2020*

32. Hearings listed on or after Monday 4<sup>th</sup> May 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 Notices and Directions.

33. Where parties consider that it is not currently practicable to proceed with any application that has already been issued and seek to stay or adjourn proceedings they shall jointly notify the court at the earliest opportunity. The court will consider the period of time during which any proposed adjournment or stay is proposed to operate. The court will list the matter for a remote mention hearing on the first available date after 6 months unless otherwise ordered. Any such application should be submitted by email ([cfc.fru@Justice.gov.uk](mailto:cfc.fru@Justice.gov.uk)) marked for the urgent attention of HHJ O'Dwyer, District Judge Gibbons and District Judge Hudd
  
34. Where parties consider that any hearing listed on or after 4<sup>th</sup> May 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 ([cfc.fru@Justice.gov.uk](mailto:cfc.fru@Justice.gov.uk)) marked for the urgent attention of HHJ O'Dwyer, District Judge Gibbons and District Judge Hudd to assist the court in allocating available judicial resources to hear contested cases remotely over the coming weeks.

*HHJ Martin O'Dwyer*

*Lead Judge London Financial Remedies Court*

*30<sup>th</sup> March 2020*