



NEW COURT NEWS

In this issue...

Page 2 – 3

Remote Hearings - Trials and Tribulations: Members of NCC give some of their recent experiences of remote hearings.

Page 4

A summary of what NCC can offer to facilitate remote hearings and conferences

A list of useful links to the most up to date guidance

New Court Blog

newcourtchambers.com/blog

The New Court Blog is regularly updated with the latest family law and COP news. To visit our blog go to newcourtchambers.com/blog

New Court News: Issue 15 COVID-19 Special Bulletin

Over the last few weeks, in response to the COVID-19 pandemic, there has been a raft of new guidance and revisions to policy from all stakeholders including the Ministry of Justice, the Judiciary, the Bar Council and the FLBA. We are all being called upon to find new ways of working to ensure that it is 'business as usual' as much as possible whilst at the same time adhering to the 'stay at home' and social distancing restrictions put in place by the Government.

In this bulletin, some members of chambers provide their recent experience of remote hearings and their thoughts on the same. We also include references to the current guidance for family practitioners and a summary of what New Court Chambers can offer to facilitate remote hearings and conferences. We hope readers will find this useful.

In these truly unprecedented times, all of us at New Court Chambers wish to extend our best wishes and words of support to all our friends, colleagues and clients.



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Remote Hearings - Trials and Tribulations

Members of New Court Chambers offer some of their recent experiences and thoughts of conducting remote hearings, not to mention some potential pitfalls to watch out for!

Zoom Video Conferencing

I had the benefit of being involved in the trial run for the video conferencing app Zoom being used within a complex fact-finding hearing in the High Court. It is without a doubt the most advanced platform that I have used and it feels the closest to actually being in court. On the first run, the Judge, advocates, professional and lay clients all dialled in to the meeting with ease and the move from the Royal Courts of Justice to home settings was seamless. As long as there is a good enough internet connection, you are good to go. There are two modes, 'gallery mode' which allows the Judge to see everyone as if they were in court, and 'speaker mode' which has the person who is talking directly on screen. It has the ability to 'share screen' which makes paperless working far more manageable especially where witnesses are directed to documents to comment upon during cross-examination. It has an in-conference messaging facility where messages can be sent "to all" or directly to certain parties dialling in. There is also the facility to leave the main hearing to attend a private conference to speak confidentially, which bypasses the difficulties in taking instructions faced by telephone hearings. Using this platform, the case has been able to continue as listed with the court hearing evidence from a number of experts and lay witnesses.



Niamh Daly



Sabrina Polak

Skype For Business

I found the Skype hearing that I had generally worked well and two lay clients managed to join the call with ease. However, there were some difficulties with one advocate and the social work team joining the call as their email addresses had not been provided to the Court in advance. This led to a small delay in the hearing commencing and stressed the importance of the Court being given all the details of participants for the hearing as early as possible. Skype has the useful benefit of individuals being able to temporarily switch off their camera and mute their device, which allows an opportunity for parties to take instructions over the phone and for the Judge to in essence stand down the matter when considering any decisions. For my case, submissions on a contested interim application were heard with ease and in that sense the use of Skype was a success for my hearing. However, as the Court who organised the call only began the call at 10am, the advocates needed to think again for pre-hearing discussions. We opted for Zoom to 'test it out' and again were very impressed with this. Another difficulty was that the social workers were not all able to join the Skype call and, therefore, had to join by loudspeaker over the phone. What is clear is that everyone is trying to work around any difficulties to make sure the remote hearings work – even if this means using a number of different technologies and devices at once.

Telephone Hearings

I recently represented a local authority in an application for an Interim Care Order at the Central Family Court. We were informed in advance that the Judge's clerk would dial us all in at the start of the hearing. Everyone was dialed in, including the lay parties. An Advocates' Meeting had taken place by telephone in the usual way 2 working days beforehand; this was undertaken by my instructing solicitor but I had full instructions as to the remaining issues so I was able to flag these up in my case summary. It is now more important than ever to be able to summarise things succinctly for the Judge, especially what the remaining issues actually are. The hearing proceeded without any major difficulties. Whilst the social work team were dialed into the hearing, prior to the hearing we discussed how best I could take instructions from them whilst we were 'before' the judge. My instructing solicitor provided me with mobile numbers for all the social work team. As they all had Whatsapp installed on their phones, I was able to set up a Whatsapp group solely for the purpose of me taking instructions from them during the hearing. The benefit of using Whatsapp is that you can access it from any computer as well as from a mobile phone, so I could take notes and take instructions on the same screen. This also allowed me to save the Whatsapp conversation and send this to my instructing solicitor along with the attendance note after the hearing.



Matthew Burman

Microsoft Teams

Last week I represented a Guardian at a CMH in Milton Keynes, which was conducted through Microsoft Teams. This worked extremely well with the Local Authority's solicitor liaising with the court in advance and taking the lead in setting up the hearing. Calendar invitations were sent out to all participants by email, which appeared in my chambers diary automatically, and enabled me to accept the invitation without difficulty. The agreement between the parties was that the advocates would join the meeting an hour early to have pre-hearing discussions and the judge would email shortly before she was ready to join. There were some minor teething issues for the judge who initially couldn't hear the other parties, but this was quickly resolved. The hearing itself lasted nearly 2 hours. As with all remote hearing platforms, to be effective they require the judge to clearly set out how the hearing will be conducted from the outset and to manage the hearing so that nobody seeks to speak out of order. I've found that in some respects this makes hearings run much more smoothly because judges are conscious that they cannot interrupt and engage in conversations with advocates as much as they might ordinarily as there is sometimes a delay with the audio. Consequently each advocate is given much more opportunity, without interruption, to set out their client's position in full, which is important in circumstances where the client may be listening in but not able to prompt you if you miss anything.



Rob Wilkinson

Useful links:-

In order to try and keep up to date with the rapidly evolving situation, a large number of documents giving guidance on the family court's approach to hearings within the current pandemic have been produced by various members of the judiciary. These are changing on a near daily basis and practitioners are advised to continue to check they are using the most up to date guidance as this bulletin is clearly only current as of today.

The **President of the Family Division** issued general guidance on 19.3.20 for all hearings in the family court and the Family Division of the High Court. This sets out a "default position" that all hearings should take place remotely: <https://www.judiciary.uk/announcements/covid-19-national-guidance-for-the-family-court-message-from-president-of-the-family-divison/>

Mr Justice MacDonald has provided further, more technical, guidance in "**The Remote Access Family Court**". Currently at the time of writing, this is in its second version (dated 25.3.20). It is noted that this document is incorrect, at least in so far as it lists New Court Chambers' services, which are contained elsewhere within this bulletin. <https://www.judiciary.uk/wp-content/uploads/2020/03/The-Remote-Access-Family-Court-Version-2-Final-25.03.20.pdf>

Specific guidance for financial remedies hearings was provided by **Mostyn J** on 17.3.20:-
<https://www.dropbox.com/s/0my1ibgcrmuzc2x/Mostyn%20J%20%20COVID19%20financial%20remedies.pdf?dl=0>

The **FLBA** has published very helpful user guides for all the main video conferencing platforms:
<https://www.dropbox.com/s/m13u7aly87scoih/FLBA%20video%20conferencing%20guide.pdf?dl=0>

Guidance has also been issued at a local level by a number of DFJs, who are clearly taking different approaches. A selection in relation to some of the courts most frequently visited by members of chambers is listed below but will clearly not cover all of the court centres used.

Pan-London (up to date on 20.3.20):-
<https://www.dropbox.com/s/u0ze37fqdiqbyom/Pan%20London%20document%2020%2003%2020.pdf?dl=0>
and also see the guidance issued from the **Central Family Court** on 30.3.20:-
<https://www.dropbox.com/s/norwcy7x3ct2ns/CFCCovid19Guidanceapproved.pdf?dl=0>

Surrey (up to date on 19.3.20):-
<https://www.dropbox.com/s/i20orxy9aa6mdsf/Surrey%20guidance%20COVID%2019.docx?dl=0>

Northampton (up to date on 20.3.20):-
<https://www.dropbox.com/s/bz79nykwe2ss4vl/Remote%20Hearings%20Northampton.pdf?dl=0>

New Court Chambers can offer:-

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|---------------------------|--|
| Microsoft Teams | We have a chambers-wide subscription to this service, which can be used for video conferencing. All members of chambers are able to set up their own video conferences by sending out invites by email. |
| Skype For Business | Whilst some members of chambers have SFB accounts, it is no longer possible to subscribe or download this service. In any event, SFB has been incorporated into Microsoft Teams. As with any other users, members of chambers are still able to accept invitations from those users who have a pre-existing SFB account. |
| Zoom | We can host more than 10 'meetings' at any one time, which offers an alternative to telephone based advocates meeting or hearings. We await to see whether this software will be more extensively used. All members of chambers are well-versed in using Zoom; this has been used even more frequently in the last few weeks for internal chambers meetings. |
| Telephone | With the expected increase in the use of Advocates' Meetings, almost all members of chambers now have their own POWWOW account and are therefore able to set up their own meetings. |