



HM Courts &
Tribunals Service

HMCTS Reform Online Event

An update on recovery in the Civil, Family and
Tribunals jurisdictions

2 December 2020



Civil

Q: Do the warrant of control centres cover the whole of England and Wales? If not, which areas are not covered and when will they be covered?

A: If you're having trouble receiving a verification code to log in to MyHMCTS it could be due to any email security software, you have installed. This may be delaying our emails. Visit our MyHMCTS guidance page for support on what to do. There are no known issues with live cases disappearing from logs so please report those to us <https://www.gov.uk/guidance/myhmcts-online-case-management-for-legal-professionals#get-help-with-myhmcts>

Q: Does the moratorium on possession claims until January 2021 apply to Part 55 claims against trespassers/unauthorised occupiers?

A: There are 12 warrant of control support centers covering England and Wales. All centres have been operational from 1 October 2019 and manage all the warrants of control from 133 feeder courts.

Q: What is the Aim of Review Hearings, are they just a mechanism to slow down Fair Possession claims for landlords and adding extra layer of Bureaucracy?

A: Possession claims will continue throughout December and January. The moratorium extends to the enforcement of possession claims only.

Q: We are experiencing great difficulties in lodging large e-bundles for court hearings in civil cases - what solutions are being implemented for this?

A: On the date of the Review, the Defendant is able to access duty advice who can assist the Defendant to reach an agreement with the Claimant where appropriate. Alongside this, the judge will consider the papers and the outcome of any engagement between parties on the day to provide an order or further directions as appropriate.

Q: Is it standard practice across courts to request an N244 application where an existing warrant - which is exempt from the current suspension. eg it's ASB-based - is required to be executed?

A: At present you are not able to submit these using the online system.

Q: Recently I have heard of civil money claims trials being conducted by Judiciary whose main experience has been in family law. The order given by the judiciary has been completely out of synch with previous findings. Are the Judges whose main experience is in family matters likely to hear these matters and Judges whose main experience in civil matters likely to hear civil matters?

A: Providing the ability for the respondent's legal professional to respond online is a priority for the project. A solution has been built and is currently being integrated with the divorce system and tested. We hope to release this new feature early in the new year.

Q: Certain courts where Pre Action Disclosure applications are made, are asking the applications be made by paper. Are all matters likely to go paperless?

A: We are aware of the issues regarding the filing of large bundles in civil claims and are working to find a solution to resolve this issue. We will keep users updated.

Q: What steps are being taken to change the way civil cases are listed for telephone trials because I have had several trials adjourned on the telephone trial hearing by Judges who have stated the case is not suitable for a telephone trial and that he is the first Judge to actually read the papers.

A: We are following public health advice and are experienced in managing COVID-secure ways of working with a range of mitigating measures in place.

Q: Will smaller hearings such as CCMC's etc remain being remote?

A: You can apply online - please visit <https://www.gov.uk/injunction-domestic-violence>

Q: There was a mention previously of courts sitting early or later than usual. Will this be introduced into civil courts?

A: A Statutory Instrument (SI) approved on the 16 November prohibits attendance by any person (bailiff of High Court Enforcement officer) at a dwelling for the purpose of executing a warrant of possession, save for a set of exemptions, between 17 November 2020 and 11 Jan 2021.

For those warrants that fall into one of the outlined exemptions the following applies:

- Possession orders that are made post 17 November 2020, the court will record in the possession order that the case satisfies one of the exemption criteria for eviction, or
- Possession orders made pre 17 November 2020, the claimant should make an application by way of an N244 to ask the court to declare itself satisfied that the case meets one of the criteria for eviction. The N244 application will be listed on-notice to both parties in the next available possession list.

This practice is subject to review at the end of the SI date.

Q: Are we likely to see an end to the stops on Statutory Demands and Winding Up Petitions under CIGA 2020 come 1 January 2021?

A: We are planning on building an online service for civil partnerships to tie in with the New Divorce Law changes which are expected to come in in October 2021.

CVP

Q: Can links to CVP training for legal professionals please be sent out as I do not appear to have received notifications in respect of any of this training?

A: Providing the ability for the respondent's legal professional to respond online is a priority for the project. A solution has been built and is currently being integrated with the divorce system and tested. We hope to release this new feature early in the new year.

Q: Are resources being provided for improved experience of remote and hybrid hearings? For example large screens and decent sound systems for hybrid hearings; laptops for magistrates; space in court rooms or court space being made available for lay parties to join by video in the company of their legal representative or McKenzie friend.

Yes they can.

Family

Q: We are having terrible problems with the online family portal. We now have to wait for a security pin to enter the portal but they don't arrive in time to log on and then we are timed out. Also, in logging on, some live cases have disappeared from our log. Are you aware of these problems and what is the plan to resolve them.

A: Whether to mute participants on a telephone hearing is ultimately a decision for the judiciary. Unfortunately HMCTS cannot ask judges to conduct telephone hearings in a particular way.

Q: I do mainly family work but also some TOLATA. Do TOLATA claims have to be issued on paper please?

A: As part of our CE File Project we are planning to introduce CE File including the e-filing software into the Administrative Court in 2021

Q: The HMCTS Online Divorce system is a huge upgrade on the paper-based system, so well done on that. However, it baffles me that there remains a glitch in the system that both parties cannot be represented by legal advisors i.e. the Respondent's solicitor cannot be named as the address for service nor can they return an acknowledgement of service, otherwise the Suit reverts to being paper-based - which is now clearly unfit for purpose. Any ideas when this particular issue will be resolved?

A: Yes you can do this using the FR contested online service which we are already live in some Regions but are due to roll out between January and April 2021

Q: Why don't you just re-open all the courts properly? Lots of problems for people online and especially for clients in Family cases, in person and in court is a far better way to communicate and process cases. For a virus with an over 99% survival rate for the very few people who will become ill with it, surely it is time for the Legal System to get back to normal.

A: It is too soon to say what will happen to the mediums hearings are conducted in once the restrictions from the pandemic are over. We will work with the judiciary, who decision it is on whether a

Questions and Answers

hearing should be remote, and wider stakeholders to assess the role of remote hearings in the future.

Q: Why is it that FL401s can't be done on line. A real barrier to Litigants in Person when the environment is already very hostile to Lips

A: Additional resources are being secured to try and improve the timeliness and backlogs in Financial Remedy we appreciate this is taking some time but HMCTS is working extremely hard to allocated more resources to improve these areas.

Q: When are we going to be able to file dissolution petitions for civil partnerships online? It seems strange to have a process for divorce peitions but not for dissolution when it is effectively the same process and the same forms being completed.

A: The decision of which cases to hear is ultimately a matter for the judiciary.

Q: Can a respondent be legally represented in an on-line divorce now? In the past this resulted in the divorce being transferred to BSE as a paper app.

A: Listing is ultimately a judicial function and it is in the gift of the judiciary when to list social security hearings.

Q: Can a solicitor for respondent in financial app apply for a consent order on-line if applicant is not legally represented?

A: Where an order is prepared by the parties and emailed to the court to approve HMCTS do copy that order into our casemangement to produce the official court order. This enables orders to be produced quickly but also for a permanent record to be held on the case management system and statistics to be maintained.

Q: Are there any plans to enable the filing of financial consent orders using the online portal even where contested proceedings have previously been issued on paper? The difference in timescales is vast.

A: Thank you for the feedback regarding Pre-Action Disclosure applications. We are constantly seeking improvement and enhancements to ways of working and we will consider this further.

Q: What plans are there to clear the backlog in financial remedy cases. I appreciate these have been considered the lowest priority, but my experience is that where hearings were adjourned due to Covid-19, the cases have not moved forward since and it is taking 4 months to even get a response to correspondence, leaving clients in limbo.

A: Public guidance for joining a CVP hearing is available on GOV.UK. <https://www.gov.uk/government/publications/how-to-join-a-cloud-video-platform-cvp-hearing/how-to-join-cloud-video-platform-cvp-for-a-video-hearing>

Given the fact we have a number of standard Orders produced by the Family Working Group and approved by the President of the Family Division, why is the court wasting time in typing up draft orders which have been submitted using the approved standard orders? Surely it would save time for the court to just stamp the draft Order submitted, date it and send it out to every party.

"Guidance has been made available through Family Resolution/Law; HMCTS is ensuring priority is given to any cases highlighted that require urgent issue leading up to Christmas/New Year all users must ensure they try to submit their applications well before the deadline of 31st December. HMCTS are open between Xmas and New Year i.e. 29th, 30th and 31st December. HMCTS is also prioritising issue of both divorce and financial remedy applications by diverting resources to this area, a practice direction for online cases is also being amended to remove the cut off of 4.30pm in terms of receipt of the application. The supporting guidance is as follows for Digital Cases – CTSC

For any online divorce or financial remedy cases you can email the below email box to flag that you have issued a case online and then the case workers will be able to identify it as a priority and issue the proceedings.

email: onlineDFRjurisdiction@justice.gov.uk

Paper Cases – RDC's

For any paper cases these would have to be sent via post and include a covering letter flagging that this is an urgent case so case workers can identify it these should be sent to Bury St. Edmunds."

Q: How do we make sure that family applications (divorce, finance) that need to be issued before Brexit are issued before Brexit? It is concerning that there is conflicting advice and that the CTSC is closed between 23-29 December

A: All aspects of listing, including how hearings are to take place are a matter for the judiciary and without specifics it is difficult to know exactly what has happened in these cases. We are happy to look into this further if you wish to provide further information direct.

Please can you brief all judges on the role of volunteers from Support Through Court. At a recent emergency hearing, the judge was not familiar with family law (ie stated CAFCASS must be involved whatever CAFCASS is), excluded the volunteer supporting a client who had experienced domestic abuse and thereby increased the difficulties faced by a LiP who discovered on the day that her ex-partner had employed a barrister.

We will continue to send out hard copies of orders and notices

Q: Any ideas when a document upload platform for Court Bundles in the Family Court will be available? Most bundles, especially for FDR, etc. and after being OCRd are far in excess of the file size the HMCTS email account allow. You won't accept use of OneDrive, despite it being capable of being secured, so can this be resolved? It is available elsewhere.

A: The judiciary receive their training via the Judicial College - please refer here for more details <https://www.judiciary.uk/about-the-judiciary/training-support/judiciary-trained/>

Q: With over 50% of Private Law cases being heard by lay magistrates, when is there going to be a nationwide roll out of laptops, perspex screens?

A: For Financial Remedy the capability to upload bundles will be being made available with the Contested FR online service this is being rolled out between January and April 2021 please get in touch with HMCTSFInancialRemedy <HMCTSFInancialRemedy@justice.gov.uk> if you require any further information.

Q: When is the online Divorce going to be able to include respondent's solicitors details? This is causing difficulties in practice when a client is paying for a service yet all divorce papers are going to the client who then has to send them on to us?

A: Nationally, we are rolling out 700 new sets of video facilities to courtrooms which do not already have them, to improve capacity to run video / hybrid hearings. Some courts are making "CVP booths" available for people to use in the court buildings, making use of office or other space unused in the current COVID-19 situation, for example, but, each court building is different.

Q: Can you confirm what we do where old divorce cases are linked to one employees account and they have subsequently left the firm?

A: All listing decisions, including the means by which a hearing takes place, is a judicial function.

Family/Civil

Q: What is the future plan for Family & Civil Hearings in terms of remote & attended Hearings? Will the majority of Hearings continue to be remote?

Latest published statistics indicate that a mean average clearance time of 31 weeks.

Tribunals

Q: In the Administrative Court, Manchester Civil Justice centre, we are still filing applications by email to a nominated email address. This carries issues surrounding inbox capacity, max attachment size and likelihood of emails being overlooked (due to all users sending to same email address). Any plans to introduce an online portal in this jurisdiction?

A: We will raise with DWP colleagues.

Q: Why are December social security listings on the agenda for w/c the 28th?

A: Please could you send further details and we would be happy to investigate.

Q: Could it be possible that orders are not stating a hard copy will be sent out as we are all working from home - 1st Tier SEND Tribunals.

A: There are no current plans to introduce this into County courts. Birmingham are going to address their backlog of small claim cases by having sittings on three Saturdays in the new year.

Q: Do we know the current waiting time for Social Security Benefit appeals?

A: All emergency legislation in place as a result of COVID-19 will be kept under review by the appropriate Government departments and adjusted as appropriate.

Q: Is it possible for you to liaise with DWP to send Welfare Benefit appeal paperwork bundles by email via attachment especially for representatives as well as appellants as it presents a big problem posting bundles when reps have little access to post working from home etc.

A: The role of the Magistracy in Family court is vitally important. A national rollout of laptops is currently underway and are being delivered to sites throughout December and January. A large number of court rooms have or are in the process of being installed with Perspex screens.

Q: I am having trouble tracking DWP appeals as my IT dept tells me that the security certificate for your site has expired. Could you please look into this?

A: Providing the ability for the respondent's legal professional to respond online is a priority for the project. A solution has been built and is currently being integrated with the divorce system and tested. We hope to release this new feature early in the new year.

Q: Have user groups been facilitated during the pandemic for the Immigration Tribunal to find/discuss ways forward.

A: For Divorce and Financial Remedy we will be providing new functionality which will enable you to share a case with more than one colleague this is due to be delivered early in the New Year 2021. G33 The ability to remove a user is also being made available in Quarter 1 next year 2021.

Q: I have had some telephone hearings where the otherside is a LiP. This has led to arguments taking place between the parties with neither me or the Judge being able to control them or on occasions get a word in! Would it be possible to ask Judges to mute the parties and only to unmute them if necessary to enable them to make their submissions or to confirm that they have understood the decisions being made, their agreement, etc.?

A: We have held a number of stakeholder groups to discuss issues throughout the pandemic. Please do get in touch if you'd like further details.



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