



JUDICIARY OF
ENGLAND AND WALES

MR JUSTICE HAYDEN
VICE PRESIDENT OF THE COURT OF PROTECTION

Further Guidance for Judges and Practitioners in the Court of Protection arising from Covid-19

Dear Colleagues,

On the 18th March 2020 I disseminated guidance addressing the circumstances in which the Court of Protection could hear cases remotely. Yesterday evening saw a further sea change in the restrictions on personal movement arising from the continued spread of the Coronavirus.

Following the Prime Minister's broadcast last night, the Lord Chief Justice met with a number of very Senior Judges and further reviewed the conduct of court hearings in England and Wales. Shortly before 11pm the Senior Presiding Judge, Lady Justice Thirlwall communicated the Lord Chief Justice's directions. In respect of hearings in County and Family Courts the LCJ has stated:

“No hearings which require people to attend are to take place in any County or Family Court until further notice, unless there is a genuine urgency and no remote hearing is possible. All cases currently being heard should be adjourned part heard so that arrangements can be made, where possible, to conduct the hearings remotely”.

The Lord Chief's directions did not address the Court of Protection but it seems to me that exactly the same measures should be extended to it.

Accordingly, as from today no hearings which require people to attend are to take place unless there is a **genuine urgency** and it is **not possible to conduct a remote hearing**. Many of you will have noticed that Mostyn J recently conducted an extremely complex and urgent hearing entirely by Skype conference. The press, through an accredited representative, were also able to listen in. The judgment is not

yet available but there is a review of the hearing in the Law Society Gazette¹. I highlight this as it illustrates the fact that even cases of “genuine urgency” may be heard remotely.

Perhaps more than any other court, the Court of Protection is required to hear cases which can properly be described as “genuinely urgent” and sometimes involve decisions concerning life and death. Some judges have expressed concern as to how these very serious cases will be identified and afforded priority in our present challenging circumstances. The short answer is that for now the existing procedures will continue to apply. Thus, the application will be issued at First Avenue House and then transferred to Tier 3 (the Royal Courts of Justice) via the generic email. A judge will then be allocated to hear the case. Though most of the staff are presently working remotely the system is continuing to work effectively. However, I do understand the judicial anxiety about this particular category of case. Accordingly, if there is any difficulty in issuing or processing these applications, my clerk may be emailed directly and I will ensure that a judge is identified (Debra.Cooper1@justice.gov.uk). I would however wish to emphasise that this is a backup arrangement to be followed only if there are difficulties in processing the case through the usual channels.

As we all appreciate the landscape has changed on a fairly regular basis over the course of the last ten days. It is equally obvious that the challenges are not going to be resolved quickly. May I, once again, thank all of you for your continuing hard work and professionalism.

24th March 2020

¹ [Gazettehttps://www.lawgazette.co.uk/practice/first-all-skype-trial-tests-crisis-working-at-cop-/5103541.article](https://www.lawgazette.co.uk/practice/first-all-skype-trial-tests-crisis-working-at-cop-/5103541.article)