

BACK TO BUSINESS

Almost 2 years ago, I messaged everyone that all but urgent business was suspended until we could work out how to safely get the show back on the road. It has been an exhausting 2 years and I can only thank everyone for the efforts made to keep the wheels of family justice at ELFC turning, albeit in far too many instances, painfully slowly. We are, as you know, still overwhelmed by backlog and that is added to by our unrelenting volume. We are still very much in recovery and I need the assistance of all of you to ensure that we maximise our resources and get through as much court business as we can whilst not bringing you, our staff and our Judges to their knees. It is clear to me and my Judges that the only way in which we can tackle our workload without simply adding to our increasing backlog is by returning to more normal ways of working and in-person hearings.

1: Attended hearings are the default position for the majority of court business

Going forward, whilst there will undoubtedly be a place for some virtual hearings, we are clear at ELFC that **the default position** must now change so that **ATTENDED** is the norm. This is in keeping with the recent announcement by the President regarding attendance at first hearings at the RCJ. This change in attitude will be essential to our recovery.

Hearing notices going out **from MONDAY 28th February 2022** for the majority of hearings will no longer default to a virtual listing unless a virtual or hybrid hearing is sanctioned by a Judge. Currently we are listing many weeks and months in advance except in respect of urgent applications. What this means is that if on 28th Feb the court receives an application for an ICO, for example, that hearing will be listed in default as attended. If one of the Judges lists a CMH/ IRH/ FF/ Final Hearing in care proceedings it will be listed in default on the basis of a full attendance. FHDRAs and DRAs which are currently waiting months for a listing, if going into lists created after 28th February, will be listed as attended.

There will be some local variations to this where court business demands it. For instance, where court room space does not permit attendance because the Judge is hearing the case has to do so from his/her chambers. This is something that we are still having to do as we have insufficient court rooms across the cluster to accommodate our lists. The important point, however, is that this is a judicial decision and will be made only when the Judge is also satisfied that the hearing can and should proceed in that way. Another exception might be (depending upon the venue) return dates after ex parte FLA applications. Judges will continue to deal with ex parte FLA applications on paper as currently and the return date lists will continue to be virtual for now in some of the centres, but not all.

In respect of cases already listed as virtual or hybrid, advocates and litigants need to be aware that the allocated Judge may take the view that the hearing would be better dealt with on an attended basis. Any changes in the arrangements set out in notices already sent out will be made with sufficient notice to all concerned. This is not likely to happen frequently.

The important message is that we must all now approach litigation on the basis that attendance at a court building is the norm and an arrangement for a hybrid/ virtual hearing the exception.

Exceptions to the default position of attendance at the court building can be sought, for instance, where the lay party is not fit enough to attend or has a particular vulnerability and is able to supply medical or some other evidence. That will not necessarily excuse his/her representative from attendance. Exceptions will not be extended on the basis of convenience or preference. Permission will always need to be sought from the Judge.

2: PD27A must be observed

It is almost impossible to get through the volume of business in this court without a Bundle and the PD documents and yet on a daily basis the Judges here receive late PD docs, no PD docs, and

sometimes no Bundle. In the ‘covid-spirit’ that prevailed over the last 2 years many of the Judges here have put up with this but if we are to function properly it must stop.

From 28th February there will be a policy of zero tolerance for breaches of PD27A. As PD27A, para12, sets out, failure to comply may result in the Judge removing the case from the list or putting the case further back in the list. Some Judges may decide to accept late filed PD documents but read them during the hearing, meaning that the time allocated to the case will simply be reduced.

3: Emails should rarely, if ever, be sent directly to a Judge

During the pandemic, there has been an increasing practice of by-passing the admin staff and communicating directly with the judge by email. This has become ‘normalised’, with the result that we are all bombarded with emails about cases – asking for listing dates to be changed, asking for consent orders to be approved, notifying of non-compliance, serving late Position Statements etc or simply asking the Judge’s views. This is improper and inappropriate. The Judge’s role is to decide the case in the court room. We are not listing officers or members of the admin staff. We do not determine the litigation by email. We understand that there may be concerns at the capacity of the staff to deal with matters promptly where that is required. If that is justified, then it is for the admin staff to resolve and it is not a reason to attempt to go directly to the Judge (save in a real emergency). By-passing the staff and going straight to the Judge will no longer be permitted. Any such emails will NOT be responded to or actioned by judges.

4. Take the opportunity to get involved in our LFJB

On a more upbeat note, the East London LFJB has had a recent injection of new and enthusiastic membership. We are currently examining public law performance and developing a Respect Charter (see Recommendation 1: PLWG) designed to embed better collaborative working between different agencies and the court. For the future there is much to be done in the area of private law, and FLA work. If you are interested in playing a part in the development of family justice across East London or have some ideas of things we might look at, then let my clerk know and you will be added to the list of invitees.

HHJ Carol Atkinson

ELFC

21st February 2022