JUDICIARY OF
ENGLAND AND WALES

MR JUSTICE MOSTYN
HIS HONOUR JUDGE HESS

FINANCIAL REMEDIES COURTS

We have been asked to clarify the implications for financial remedy cases of the Lord Chief Justice's letter to Circuit and District judges sitting in civil and family dated 9 April 2020 as supplemented by the President's email of 14 April 2020.

This letter is written with the approval of the President.

The points made on page 3 of the letter at (e) – (h) for "Family Cases" do not apply to financial remedy cases. They only apply to private and public law children cases.

The general points on that page at (a) – (d) have to be applied in context to financial remedy cases. Financial remedy cases below High Court judge level are generally relatively short and straightforward. There will be no question of having to prove liability, as in a civil action. The majority will be needs cases which will not depend on a credibility assessment. Even in cases that do require a credibility assessment, for example where non-disclosure is alleged, the case is likely to be relatively short and the relevant issues are likely to be able to be exposed and assessed by remote testimony.

Generally, the court should start from the position that a remote hearing is likely to be consistent with the interests of justice. This will be especially so if the hearing will not involve live testimony; however even in the latter case the court can safely assume in many cases that a remote hearing will be consistent with the interests of justice.

The court should be alive to the possibility that opposition to a remote hearing is motivated by a desire to delay the resolution of the case.

We reiterate the President's words in his email of 14 April 2020: "the letter was intended to do little more that remind judges that the decision about listing is theirs, without directing them."

15 April 2020