

Western Circuit Protocol to apply to fast track and multi-track cases listed in from 1st June – 1st October 2020

This protocol is to be followed by all Western Circuit Chambers/ Counsel in relation to cases listed in the County Court at Barnstaple, Basingstoke, Bath, Bodmin, Bournemouth, Bristol, Cheltenham, Exeter, Gloucester, Isle of Wight, Plymouth, Portsmouth, Salisbury, Southampton, Swindon, Taunton, Torquay, Truro, Weston-super-Mare, Weymouth, Winchester and Yeovil

The aim is to bring to the court's attention hearings that are able to be heard remotely and for the parties to co- operate and undertake preparation so that court time is used as efficiently as possible. All Chambers on the Western Circuit are encouraged to engage with the Protocol. It is not compulsory, but those cases where a response is received in accordance with the protocol are likely to achieve earlier attention/priority listing given the pressures on court staff/ court lists.

Although attended hearings may resume, probably from mid-June the court estate will be very much reduced due to the need to maintain social distancing; so the need to conduct hearings remotely whenever possible will remain for several months (at least). When attended hearings do resume it may be still be necessary for some witnesses to attend remotely.

The hope is that parties can work together constructively to ensure that wherever possible hearings take place. The parties must be realistic about the time that a hearing will take and the capability of all those involved in the hearing to take part in it. However, with proactive case management by the parties, witnesses should, where necessary, be able to attend remote hearings and the Court should be able to hear remote hearings with e-bundles (although may not be an absolute necessity for every hearing).

E-bundles or paper bundles should be sent to the relevant court by 2pm three days before the hearing. Wherever e-bundles are being constructed, the guide at <https://st-philips.com/creating- and-using-electronic-hearing-bundles/> may be of use. 1

Protocol

1. The civil clerks of Chambers shall, as a matter of urgency, identify all fast track and multi-track trials listed between 1st June – 1st October 2020 in which that Chambers has a booking for counsel.
2. They will:
 - a. (In so far as Counsel has not been allocated as yet by name) identify Counsel to be allocated to that case;
 - b. Contact Counsel so allocated and inform him/her of the potential hearing;
 - c. Contact, or ask Counsel to contact, the instructing solicitor and enquire as to the current status of that potential hearing.
3. If the case is still effective allocated Counsel shall request that the Instructing Solicitor consider, again as a matter of urgency, the practicalities of the hearing proceeding remotely, including with the other party/parties, using the checklist annexed to this protocol.
4. As soon as practicable the parties (preferably jointly), either through instructed solicitor(s) or through allocated counsel's clerk(s), shall inform the Court by e-mail of the results of the enquiry. Specifically the Court should be informed ;
 - a) If it is agreed by all parties that the case cannot properly proceed to a remote hearing together with very brief reasons why not ;
 - b) If it is agreed by all parties that the case can properly proceed to a remote hearing together with an indication of whether it can proceed by telephone and/or Skype for Business/Teams and/or Cloud Video Platform (a method of remote video hearing administered by the Court in which a person simply requires a device with internet access) and/or some other medium agreed by the parties;
 - c) If there is disagreement as to whether the case can properly proceed to a remote hearing, also briefly setting out the reasons behind each party's view (the Court may then arrange a short telephone hearing to determine the issue).

His Honour Judge Cotter QC (Designated Civil Judge for Avon, Somerset and Gloucestershire)

His Honour Judge Gore QC (Designated Civil Judge for Devon and Cornwall)

His Honour Judge Parkes QC (Designated Civil Judge for Hampshire, Wiltshire, Dorset and the Isle of Wight)

18th May 2020

Appendix: Checklist

The following should be considered

1. The ability of the parties, legal representatives and witnesses, to participate in a remote hearing bearing in mind
 - (a) the need for suitable equipment (phone, computer etc) and reliable Wifi;
 - (b) the need for a suitable quiet space (which can be used without interruption)
 - (c) the need to access any bundle (or part of a bundle)
 - (d) the need to give/take instructions
2. A realistic time estimate for the hearing if conducted remotely
3. The ability to produce, file and share an e-bundle (or if not possible, a paper bundle)
4. Telephone contact details and, if possible, e-mail for any party, representative or witness

(if the hearing is to proceed by remote hearing and the Court does not have full details of those attending by 2pm three days before the hearing the case may be removed from the list)