

Clerkenwell & Shoreditch Family and County
Court

29-41 Gee Street, London EC1V 3RE

20 May 2020

Dear Court User,

ARRANGEMENTS FOR LISTING POSSESSION CLAIMS AT THIS COURT

AFTER 25 JUNE 2020:

A CONSULTATION

Context

The current stay on claims for possession is presently due to be lifted on 25 June 2020.

This Court is therefore now at the planning stage of arrangements to list possession hearings again **from Monday 29 June 2020** - both for cases already in the pipeline (but stayed) and for new cases to be issued at our Court or through PCOL from that date. This covers not only the PCOL/Housing list cases but also other cases caught by the stay (e.g. directions hearings, applications to set aside possession hearing or warrant suspension applications) which had or would be listed either in the urgent business or a general list.

We invite your views on our proposals as to how that might best be done.

We recognise that it is highly likely that several restrictions imposed in consequence of the COVID-19 crisis will still be in place when the stay is lifted, not least social distancing.

The result is likely to be that, at least until the Autumn, most possession hearings will take place remotely i.e. not by way of a face-to-face hearing in our court building

That will be as true for undefended claims – previously block-listed for hearings in person in courtrooms – as for others.

We will move back to face-to-face hearings just as soon as it is safe to do so. This paper is about the situation from 29 June 2020 until then.

As always, when - and in what way - any hearing takes place is ultimately a matter for the judiciary. These proposals simply relate to the necessary administrative arrangements.

Proposals

Our present thinking is that:

1. In the first instance, our court will arrange and conduct possession hearings by telephone (probably through BT Meet Me) or by use of Skype or Teams (subject to parties being able use/having access to them).
2. In relation to the PCOL/Housing list cases, we will be listing cases at 30-minute intervals (but with the parties being informed in advance that they may need to be contacted by the court staff within the hour before or after their allocated time, depending on the progress of the Court's list).
3. If listed on the hour and half-hour each morning and afternoon that would enable each judge hearing a possession list to deal with 10 hearings a day (as well as with paper applications for possession under the accelerated procedure).
4. At that rate, our court will need at least one possession judge sitting each day, every working day, to handle the volume of possession work already in the system, as well as that we anticipate being issued after 25 June 2020.
5. As there will be no physical presence of the parties or their representatives at the court building, our staff will need to generate revised notices to accompany court papers. These will need to:
 - a. ask the parties for the *individual* telephone numbers and other contact details of those intending to be heard at each hearing;
 - b. emphasise the importance of complying with the deadlines set out in orders, directions and notices from the Court and the increased risk of hearings being lost if they are not met;
 - c. more strongly encourage the taking of early legal aid assistance by defendants;
 - d. point out that there will almost certainly be no 'duty solicitor' scheme in operation;
 - e. stress that claimants will have to file and serve in advance of the hearing a witness statement/bundle with all the evidence needed to prove the claim because it will no longer be possible for parties, housing officers or solicitors' agents to rely on handing-up arrears accounts, notices, etc during the hearing; and
 - f. emphasise that 'last minute' documents sent or delivered to the court are unlikely to reach the judge (who may not even be working from the court building).

6. In relation to the other type of housing cases (e.g. the directions hearings, applications to set aside possession orders and warrant suspension applications) it is likely that these will remain listed as part of a general applications list with the hearing being held remotely. Again, the parties will need to comply with the requirements set out in paragraph 5 above.

It is currently our view that these proposed listing arrangements represent the least-worst way of dealing with these possession claims in present circumstances.

We well understand that these cases have previously involved large numbers of mainly unrepresented defendants with limited means attending our court and, in some cases, meeting and reaching agreements with representatives of claimants in the court building. That cannot be accommodated during the current crisis. The parties will therefore be expected to engage with one another well before the hearing date to a much greater degree than previously.

However, our judges will be alert, to ensure that, so far as possible, vulnerable tenants are not prejudiced by the new process and cases will be adjourned in advance (on application) or even on the day, where appropriate.

Your Input

We welcome your general comments on these proposed arrangements.

Most importantly, this is your opportunity to tell us whether – if you are a claimant or act for claimants – you are ready to resume conduct of your possession claims.

We are aware that many major landlords and lenders are reviewing their approach to recovery of arrears by use of possession proceedings and that some do not presently have the staff or other resources to deploy to this work for the immediate future.

We do not want to start listing claims again only to find that claimants are not ready and seek adjournments which we could not easily accommodate.

If you will not be ready to have your cases included in lists from 29 June 2020, please let us know immediately with a realistic date from which we should start including your cases in our lists.

If you consider that there are particular cases, or classes of case that should be listed more urgently than others, or that there are particular cases or classes of case that can wait until much later in the year to be listed, please let us know. Likewise, if there are cases or classes of case for which a telephone hearing will not be fair, please identify them.

In order to assist the Court office, we would be grateful if you could submit your information regarding cases as to whether they are to be relisted or not, and whether they are urgent, using the attached form.

If your organisation mainly assists defendants, you will want to ensure that they are encouraged to obtain assistance and complete any defence forms in good time. Legal Aid remains available for the majority of these cases. We are working with the Legal Aid Agency to ensure that up-to-date practical advice drafted by them – on how to get help – is included with or in our hearing notices.

If you have a contribution to make on any of these points please let us have it as soon as you can in writing by Email to:

enquiries.clerkenwellandshoreditch.countycourt@justice.gov.uk

To assist you we have attached one form to return which is in two parts;

- beige section to confirm your details and any contributions to the discussion by 26 May 2020 and
- blue section for possession cases information by 5 June 2020.

A Discussion

In addition to inviting your written feedback, we will be hosting a Court User Group meeting solely devoted to this topic on **Thursday 28 May 2020 at 4.30pm until 6.30pm.**

The meeting will be conducted by Skype for Business [or Teams]. If you wish to join that discussion, please complete the attached form, **return to the email address provided by 26 May 2020** and you will be sent an invitation.

We look forward to hearing from you in writing and/or at that meeting

Regards

On behalf of the Operations Managers for

County Court at Clerkenwell County Court and Stratford Housing Centre