

## COVID 19: President's Message to DFJ's 18<sup>th</sup> March 2020

### Unexpectedly back at the helm

1. The first matter to report to you is that, some 36 hours before the off, my planned surgery was cancelled yesterday afternoon (along with all non-urgent cardiac surgery in Birmingham) because of the general COVID 19 crisis. The result is that I suddenly find myself back at work.
2. During the few days of my pre-op absence the world has completely changed. As you know, the senior judiciary have been very fully engaged in monitoring the developing situation with the aim of balancing the twin goals of maintaining business as usual as much as is possible, but at the same time affording priority to the health of all involved whilst acknowledging the inevitable impact on the justice system of increased illness and the need for self-isolation. During this period the interests of the Family Judiciary and the wider Family Justice System have been very effectively led by Lucy Theis and Eleanor King, supported by my most able Private Secretary Maria Kavanagh. I am extremely grateful to each of them for the tireless work and insightful thought that they have delivered over these critical days.
3. As my diary had been cleared for the 'op', my sole focus can and will now be upon the COVID 19 Crisis and how best to lead and support all those working in the Family Justice System. To that end I have already taken part in two Skype meetings with the FDLJs, a meeting with CAFCASS, discussion with HMCTS, a discussion with the Lord Chief Justice ['LCJ'] and regular continuing discussion with Lucy, Eleanor and Maria. From this evening I will be joining the daily 6pm COVID 19 meetings chaired by the LCJ.

### National Guidance for Family Justice

4. This initial message to you all will be short. It is my hope that, following further discussion with the LCJ and others today, it will be possible to issue more detailed guidance tailored to Family Justice either later today or by tomorrow morning. Crime was the primary focus yesterday, today I am clear that full attention must be turned on the needs of the Family Court.
5. I am aware that each DFJ is facing calls and questions almost minute-by-minute as to the way forward as the system tries to cope with the developing situation and the changing government guidance. In addition, reports from each FDLJ indicate that we are already seeing quite significant absences of judges at all levels either as a result of illness or the need to self-isolate. National guidance that I hope to issue in the next 24 hours will be driven by a need to plot a realistic course through this uncharted territory. Our aim should be to 'keep business going safely' where this is possible.
6. Some of you have drawn up local guidance. These are good and well-informed documents and it is my intention to build on these in developing national guidance. We, both within the Family sphere and as part of the wider justice system, need to move together nationally and in line with Civil, Tribunals and Crime, albeit subject to changes dictated by any bespoke aspects of the Family work.

### One immediate task

7. For the immediate present, the one task that I would ask each DFJ to undertake (or delegate) is to examine each Family case that is listed to last for 5 days or more during the next two months. Cases of this length are likely to be particularly vulnerable to the need to adjourn and where, on examination, it looks as if they are likely to be ineffective then case management directions should be agreed/given through paper/email communication with the parties.
8. Where the need to adjourn is not so obvious, the court office should be asked to communicate with the parties in the 5-day-plus cases to enquire whether, at

this stage, the case is still able to be effective and, if not, then case management directions should be agreed or given after a paper/email process.

9. A further step which I would advise, and I suspect a number of you are already undertaking, is to arrange a daily meeting [by phone or Skype is advisable] with the key leaders at your court centre, both in Family and Civil, and including HMCTS. These do not need to be long meetings, but there is importance in an ever-changing situation in the local leadership being fully connected with each other. Please can you also report any significant changes in the situation at your court to your FDLJ who can then feed information in to the daily FDLJ meetings that are being held.

**What are your technical resources?**

10. Looking forward, it is clear that, if business is to carry on in any way, we will have to conduct as many hearings as possible remotely. I am seeking advice from HMCTS on resources. It would be very helpful to know from you (via your FDLJ) if there are any practical or resource difficulties in DJs and CJs conducting hearings over the telephone at your court – HMCTS have commissioned a significant increase in our capacity to use the BT Conferencing service. There is apparently provision in the emergency legislation currently coming to Parliament for magistrates to conduct telephone hearings, I am making sure that this provision extends to Family cases.
11. I know that some of you have encountered technical and shared access difficulties regarding Skype. If, as I understand is the case in some courts, HMCTS have said that Skype is not available, this is simply wrong. Mostyn J is currently engaged in a multi-party COP case which is being conducted entirely over Skype and which is being recorded by use of an internal recording facility within the Skype software. My aim is to be able to cut through any difficulties so that we can all regularly use Skype for confidential Family hearings as soon as possible.

Thank you and look after yourselves

12. Finally, can I thank each of you, and through you every single judge, magistrate and member of staff at your courts, for doing what I know all will be doing to keep the system going in these unprecedented times when, in addition to doing that, we all need to take care for our own health and that of others.

Andrew McFarlane

18<sup>th</sup> March 2020