



## Family court 'takes stock' of long road ahead

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The full family court estate should be open for public use by early July, a report published today states.

However, the road to normality is long, says President of the Family Division Sir Andrew McFarlane in his document, *The Road Ahead for the Family Court in England and Wales*.

He says this “significant change in perspective” will impact every case management decision.

However, family practitioners are concerned at the impact both on the parties, particularly lay people.

The report sets out a broad framework for the next six months or more with a focus on time management and the ongoing restrictions on the court process.

He said the reality is that for a sustained period, the court must seek to achieve the “fair, just and timely determination of a high volume of cases with radically reduced resources in sub-optimal court settings”.

Publication of the report follows the in-depth report published last week following a rapid review into the impact of covid-19 on civil court users, conducted by the Civil Justice Council; and the earlier report from the Nuffield Family Justice Observatory on remote hearings in the family court in early May.

The President referred to the existing “bedrock of experience of remote working” and said we have reached a juncture in the family court’s journey through this crisis when it is “possible and necessary to take stock and to consider the road ahead”.

In his introduction to the report, he added: “It is necessary to look at the road ahead because any earlier rose-tinted thoughts that ‘this will all be over by July’ have sadly evaporated.”

He said it is sensible to assume social distancing restrictions will remain in place for many months and that it is unlikely that anything approaching a return to the normal court working environment will be achieved before the end of 2020 or even spring 2021.

In the meantime, a form of ‘hybrid’ hearings will start to emerge over time as the court starts moving away from almost totally remote hearings.

So-called ‘hybrid’ hearings (where some parties attend in person and the remainder engage remotely) will, says the report “in part depend upon the availability of a COVID-safe working environment in courtrooms and court buildings”.

But those resources will be in short supply and may have to be shared with the criminal, civil and tribunal jurisdictions.

Time management is the report's key message.

The President emphasises that there is a high volume of work (the court was not coping with the pre-covid-19 workload in any event before the pandemic); and the system's ability to process cases is now compromised.

He warned that delay in determining a case is likely to prejudice the welfare of the child.

All public law children cases are still expected to be completed within 26 weeks.

He said: "If the Family Court is to have any chance of delivering on the needs of children or adults who need protection from abuse, or of their families for a timely determination of applications, there will need to be a very radical reduction in the amount of time that the court affords to each hearing."

Linda Lamb, director at LSL Family Law agreed that matters need to be dealt with in this time of uncertainty and that the hearings should be more focused.

But she added: "Unfortunately, I suspect that those parties and litigious lawyers, who seldom consider alternatives to court, will argue that the shortened time in court has caused unfairness leading to possibly more litigation.

"Perhaps part of the robust management will be for the judges to enquire of the parties the steps that they have taken to find an alternative to court and remind the parties of the alternatives."

Rhiannon Lloyd, family barrister at 4PB, said compromises have to be made in the conduct of hearings.

"Practitioners cannot wait for normal service to resume", she added.

"We must consider the 'least worst' option and try to ensure fairness when conducting remote or hybrid hearings: finality and the child's welfare demand it."

She commented that this "pragmatic response" to the situation will still worry many "as it relies heavily on technology to make it work".

"This may disenfranchise many lay users", warned Lloyd.