



Knowledge bite:

Undertaking Dispute Resolution work remotely

In view of the current need to move towards a fully remote service, Work To First Hearing (WTFH) FCAs will be required to undertake dispute resolution work remotely with parents at the FHDRA. This will require FCAs to video conference or phone both parents individually and/or as a group three-way meeting.

Guidance on how HMCTS will use video and telephone conferencing during the Covid-19 pandemic can be found [here](#). Remote FHDRA can be conducted using the following:

- Email correspondence (where appropriate).
- By telephone using conference call and audio facilities.
- Using the courts video link system (if available).
- Using skype or skype for business on judicial laptops.
- Other telephone conferencing platforms such as google duo, facetime and WhatsApp.



Welcome letters have now been updated to ask parents what their preferred video conferencing option would be. WTFH FCAs can also email parents the [participating in a video conference guidance](#) to assist them. Guidance on how FCAs can schedule an external skype meeting with parents (by laptop and mobile phone) can be found [here](#). FCAs are also encouraged to read the knowledge bite [on Using skype for interviews with parents and direct work with children](#).

In matters where the safeguarding letter contains clear advice for a s.7 to the Local Authority or to Cafcass, it may not be necessary for any further remote contact to be made with these parties. The court may be content order the report at this point, in effect without a remote FHDRA.

Responsibilities for making arrangements for remote hearings, as set out in the President's Guidance:

Please [see guidance](#) from HHJ McDonald on remote working with the court.

“The responsibility for making technical and other arrangements for a remote hearing and for confirming the details of the arrangements for the hearing to the other parties no later than 24 hours prior to the remote hearing taking place is to be undertaken by the following party liaising with the court:

- a. The applicant, if legally represented, in a private law case
- b. The respondent, if legally represented and where the applicant is not, in a private law case;
- c. The court where no party is legally represented.”



Is Dispute Resolution work suitable?

In view of the challenges of conducting dispute resolution work remotely it is essential that EIT FCAs are correctly identifying suitable cases during their initial telephone interviews. FCAs should not be recommending dispute resolution work if either parent is unwilling to participate in a direct three-way telephone call or skype meeting however shuttle mediation by phone could still be considered in these cases and where resources allow. FCAs should be clear about how the dispute resolution work will be carried out remotely and clarify that both parents are able to access the same video conferencing platforms listed above.

Where Dispute Resolution work has been identified as an appropriate pathway EIT FCAs should record this clearly on the safeguarding letter along with their preferred conferencing platform and the type of dispute resolution preferred (direct or shuttle). FCAs should utilise the same skills as they would conducting face to face Dispute Resolution work however you can refresh your knowledge and skills relating to Dispute Resolution work by accessing the [Dispute resolution skills and techniques guidance](#) in the Child Impact Assessment Framework (CIAF).

How will it work?

Court duty FCAs will need to identify cases where DR work has been recommended as early as possible. If private law applications start to reduce in demand it may be possible for local EIT teams to identify designated FCAs to pick up the matters where Dispute Resolution is appropriate and frontload interviews/DR work ahead of the court hearing date to minimise the scope of work at the FHDRA. FCAs will need to have an individual call with each parent at least one hour prior to the FHDRA to introduce themselves, lay the groundwork for negotiations, clarify if anything has changed, explore where agreements could be reached and confirm that they are still happy to proceed with a three-way video conference. It is likely this call can be completed through a normal telephone call however the three-way meeting should be done using one of the courts preferred conferencing options.

Role of the FCA in dispute resolution and pre-FHDRA work: The role of the FCA is key, in carrying out the dispute resolution and pre-FHDRA work to support the smooth running of the list and for hearings to be focused with clear orders made.



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Feedback from an FCA and Legal Adviser, running a remote FHDRA list:

“It went very well. It requires a plan being made at the beginning of the day between the FCA and the court to ensure things can remain organised and focused throughout the day. This also ensured that the parties were kept updated too as it is likely to be confusing for them, but they responded very positively. I found doing this by telephone meant the interactions were clear and focused throughout. The parties I spoke to were happy to engage over the phone and I think it worked very well. Organisation and close communications with the court will be key though”.

Family Court Advisor Feedback

“After each set of parties in each case were spoken to, I called the FCA back and we went through the discussion. At this point I could then call that case on and the FCA was then free to call the parties in the next case.

I think a system like this could work well in the immediate future if needs be. I think in terms of throughput a normal list is easily manageable.”

Legal Advisor Feedback

“Today was the first day that we went remote on a ‘FHDRA’ day. I have told the DFJ that I could not have asked for anything better today. The pre-hearing work undertaken was thorough and in all of the cases led me to be able to make clear orders in record time. Without that preparation and hard work in contacting the parents and ironing out some of the issues the hearings would have been longer and probably less manageable.”

Legal Advisor Feedback





How are we assisting FCAs with remote working?

NIS are currently working in partnership with IT services to create a schedule of emergency remote working webinars designed to assist FCAs to access and use the remote working technology. These webinars should be available to book on Cafcass Learning within the next two weeks. Notifications will be made as soon as they are available to book.



Top tips to consider:



1. Make sure you **clarify that both parents are in a neutral environment** and there are **no other people present** to hear the discussions. It is essential that children are not present during sensitive discussions. If parents cannot access a private space Dispute Resolution should not take place.
2. Make sure that the **parents can connect through wi-fi** wherever possible as this will significantly improve the quality of the video call and reduce the costs of using mobile data.
3. Be **mindful of the parents' experience** during the call. If you are concerned that a parent is struggling or feeling vulnerable during the video call it is advisable to end the call and direct the case back for judge lead conciliation with an update on your concerns and pre-court discussions.
4. Make sure you follow the [guidance on recording any cases](#) that have been impacted by the Covid-19 pandemic by accessing the [Covid-19 PowerAPP](#).
5. Remember that **parents that have already been interviewed by EIT do not need a full substantive interview** at the FHDRA. Any dispute resolution interviews with parent's should be short and focussed.
6. **Keep judges/magistrates informed** regarding your proposed work with parents and seek their views during your morning meeting/conference. It will also be necessary to clarify which video conferencing platforms you will be using for individual cases.



Specific advice on the impact of Covid-19:

- FCAs are likely to be faced with **concerns regarding children starting a new spending time arrangement in a new household**, as well as issues, regarding self-isolation scenarios. In these cases, **FCAs should focus on what the final Child Arrangements Order will look like** when it is safe to resume child contact. Any specific details regarding restrictions as a result of the Covid-19 pandemic can be recorded in the court order.
- Many families are already **keeping in contact through social media platforms** therefore FCAs should promote interim indirect contact schedules as much as possible.
- FCAs **will not be in a position to adjudicate over issues** relating to the safety of contact as a result of the Covid-19 virus. These issues will **need to be addressed by the judge or magistrates** sensitively and sensibly in line with current government guidance.
- Cafcass may be faced with an **increase in enforcement applications** as a result of **contact being stopped by some parents** however this is likely to be managed in line with any trends or further developments.

