

UPDATE

Conducting Civil Litigation in Guernsey during the COVID-19 Pandemic

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The spread of COVID-19 has had a significant impact on the global economy. Our team is closely monitoring this rapidly evolving situation, offering guidance to help clients navigate the uncertainty, be informed of the latest developments and manage related opportunities and risks at this time. Many are well on their way and taking clear, transparent steps to navigate the current and potential impacts of COVID-19. This update details the measures put in place by the Guernsey Court to ensure civil litigation continues.

The most obvious question any litigation update should tackle in the current circumstances is whether the Guernsey Courts are still functioning? Can parties still access the courts, pursue and defend existing claims and is the Court still open for business for new matters such as trustee and liquidator blessing applications?

The good news is that the Guernsey Court has been quick to adapt to the current circumstances where it can no longer hold hearings in person as is normal. Hearings are now being conducted virtually through the Microsoft Teams platform. No subscription is required, the Greffe set up the "meeting" and send the participants a link that enables them to see and hear the court proceedings.

We have recently been involved in a virtual hearing of a trustee's blessing application. This platform enabled seven separately represented parties to participate and to watch the proceedings together with their clients and extended legal team.

From our early experience of conducting litigation in this new environment we offer two points that you may wish to take into account if you are likely to be involved in civil litigation conducted remotely.

First, for as long as the pandemic continues there is always the risk that someone important to the hearing will fall ill (or a member of their family), and that might disrupt either your or another parties' ability to participate in the hearing. Depending upon the importance of the proceedings for your organisation, you may wish to consider whether steps can be taken to build resilience into your team so that you can continue if someone falls ill or their personal circumstances change so they cannot so readily participate in the proceedings.

Second, you need to put in place and be comfortable using a mechanism whereby your team can communicate in advance of and during the hearing. We have all become used to meeting face to face to discuss any issues that arise during a hearing. We suggest that potential participants in civil litigation need to work on a way of communicating that works for them that best replicates the sort of earnest discussion that can take place during and around a court hearing.

The most important point to note is that you should not assume that court proceedings will just stop until the pandemic ends. Whilst the Guernsey Court will no doubt have to give priority to certain matters, and not others, those who are involved in civil litigation should consider whether they are able to devote sufficient resources to managing the exigencies of dealing with hearings in the virtual world and whether they are able to cope with the risk that key members of their team may become indisposed at a crucial time.

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