

On 14 September 2020 the Master of the Rolls Working Group produced a lengthy document to set out how the courts will deal with stayed and new possession claims when the stay is lifted at the end of this week: <http://431bj62hscf91kqmgj258yg6-wpengine.netdna-ssl.com/wp-content/uploads/2020/09/Possession-Proceedings-Overall-Arrangements-Final-Version-at-14.9.20-before-lifting-the-stay-on-20.9.20.pdf> More guidance is expected on Friday from the Ministry of Housing, the National Residential Landlords Association and HMCTS.

The headlines are:

- There is a strong emphasis on parties attempting to reach a compromise rather than issuing proceedings;
- Claims brought before 3 August 2020 will require a reactivation notice. A template is now available from the court service website – this can be filed from 21 September 2020 – 29 January 2021. 21 days notice of the Review hearing will need to be provided;
- New claims will require information to be provided to the court about the impact of the pandemic on the tenant;
- Court centres will “try” to provide the same amount of court time as before March 2020 to possession claims;
- New temporary court centres may be set up;
- Court centres will ensure social distancing is possible and assign DJ’s and DDJ’s familiar with that court to those hearing with a designated usher per day. 200 additional DDJ’s have been assembled to assist if required and training has been provided to all;
- There will be a designated possession email address and staff allocated to dealing with possession cases to ensure document flow;
- Legal representative may appear by video link if available if their client is at court and vice versa;
- Parties can request that a file is “marked” as related to COVID-19;
- When a claim is issued or reactivated, the matter will be listed for a Review hearing with rules requiring an electronic bundle for the court and paper bundle for the tenant. This will be a 5 minute hearing with the parties not attending but gives an opportunity for the tenant to obtain free advice and to reach an agreement on that day. The Review hearings will take place at the end of the court day so that any consent orders can be sent to the Judge. If agreement is not reached, the Judge will conduct the Review. The Judge will either dismiss the claim if there are errors, make directions or list for a Substantive hearing;
- If the duty advisor on the Review date believes the matter is capable of being resolved by mediation, they can (with agreement of the landlord) refer a set number of cases per day to a mediation pilot – this is usually for COVID

marked cases. This will be publicly funded and could take place by video or phone for around an hour;

- If necessary, the matter will proceed to a Substantive hearing (usually in person) no sooner than 28 days after the Review. This will be a 15 minute appointment and will either resolve the claim or list for trial;
- Accelerated possession claims will still be initially dealt with on paper but are unlikely to be priority cases. The Judge can list for a Review or Substantive hearing;
- Prioritisation will apply on listing and those cases involving ASB, extreme rent arrears, squatters, DV, fraud, unlawful sub-letting, abandonment, death of tenant and possession of temporary accommodation;
- The duty advice scheme has been revised to provide advice at the Review and first Substantive hearings and to be provided either face to face or via video/phone;
- 14 days notice must be given of any eviction whether carried out by county court bailiffs or High Court Enforcement Officers;
- The measures will be kept under review.

Also of note is the House of Commons Briefing Paper: Coronavirus: A ban on evictions and help for rough sleepers which is a useful overview of the measures introduced since March: <https://commonslibrary.parliament.uk/research-briefings/cbp-8867/>

There is a new form N5B for accelerated possession cases, new form 6A notice seeking possession for AST's and new notice seeking possession for assured tenancies: <https://www.gov.uk/guidance/assured-tenancy-forms>

So, there is a plan, how it will work in practice remains to be seen. It will be particularly interesting whether the mediation pilot is well used and how quickly prioritised cases will be listed.

An update will follow after Friday's anticipated guidance is available.



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