Fountain Court CHAMBERS

Innovation in a time of uncertainty: A practical guide to remote hearings

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Introduction

English courts and tribunals have long had the power to hold hearings remotely, including by video conference. CPR 3.1(2)(d) provides that the court may "*hold a hearing and receive evidence by telephone or by using any other method of direct oral communication*". Likewise, tribunals have always had a wide discretion in this regard. The use of telephone hearings for uncontentious directions hearings and the receipt of evidence by video link or skype where witnesses were located abroad, was relatively commonplace. However, prior to the advent of COVID-19, the prospect of substantive hearings and trials being conducted on a fully remote basis was almost unimaginable.

The Courts Service (**HMCTS**), judges, legal practitioners and clients are now having to rapidly adapt to what is, for the foreseeable future, the new "normal". The speed at which they have done so is commendable, but it will inevitably be a learning process. The more successfully the various stakeholders can adapt, the more justice will be served and the more likely that the legal landscape will be permanently altered after the current restrictions come to an end.

Although there is obvious potential for unfairness, which needs to be guarded against, remote hearings have the potential to offer real benefits to the justice system on a longer-term basis. They

can reduce the cost of attending court in straightforward lower value cases, which may allow well-founded claims to be brought where they would not otherwise be. This may increase access to justice for individuals and smaller to medium businesses alike, as opposed to litigation only being affordable by large corporations and the super-wealthy. They also offer an important means of facilitating the attendance at court by parties whose physical disabilities make it difficult for them to attend in person[1], and may bring environmental benefits of less paper and less air travel being generated.

In this article we consider some of the challenges (both practical and principled) that remote hearings pose for parties and seek to provide practical tips on how some of those difficulties can be mitigated.

Remote hearings and remote trials

The Protocol Regarding Remote Hearings issued on 26 March 2020 (the **Remote Hearings Protocol**)[2] anticipates that it will normally be possible for all short, interlocutory, or non-witness applications to be heard remotely. However, it is becoming increasingly apparent that substantive hearings, including those involving witness evidence, will also have to be heard remotely. There are several reasons for this.

The first is the large number of trials listed to be heard imminently, which have been prepared at considerable expense to the parties. Those trials should proceed where it is possible for them to do so. In addition to the financial costs, delaying hearings may affect recollections of witnesses and may prolong the stress of a case "hanging over" a party.

The second is the effect that the adjournment of multiple hearings will have on a court system that is already creaking at the seams in terms of capacity. It simply would not be feasible to adjourn all trials to be relisted once the current restrictions come to an end. By way of illustration, at the time of writing (April 2020), it is not possible to secure a Commercial Court hearing date of 1-2 days before October 2020, and hearings of two days or more will not be listed before January 2021.[3] In the Chancery Division, trials are being listed with delays ranging from October 2020 (for trials of 1-2 days) to June 2021 onwards (for trials of over 10 days).[4]

As the Lord Chief Justice noted in a message to the judges of the Civil and Family Courts, published on 19 March 2020:[5]

"*Final hearings and hearings with contested evidence very shortly will inevitably be conducted using technology. Otherwise, there will be no hearings and access to justice will become a mirage. Even now we have to be thinking about the inevitable backlogs and delays that are building in the system and will build to an intolerable level if too much court business is simply adjourned*."

"Those trials should proceed where it is possible for them to do so. In addition to the financial costs, delaying hearings may affect recollections of witnesses and may prolong the stress of a case "hanging over" a party.

[1] The obligation not to discriminate under section 29 of the Equality Act 2010 does not apply to judicial decisions, which are excluded from the scope of the Equality Act (see paragraph 3 of Schedule 3 to the Act). But as a matter of general law the exercise of a judicial discretion (including in relation to case management issues), the court must consider all relevant considerations, including any disabilities of the parties. See *J v K* [2019] EWCA Civ 5 [33]-[34]

[2] https://www.judiciary.uk/wp-content/uploads/2020/03/Remote-hearings.Protocol.Civil_.GenerallyApplicableVersion.f-amend-26_03_20-1-1.pdf

[3] https://www.gov.uk/guidance/commercial-court-hearing-and-trial-dates

[4] https://www.gov.uk/guidance/trial-date-windows-for-chancery-division

[5] https://www.judiciary.uk/announcements/coronavirus-covid-19-message-from-the-lord-chief-justice-to-judges-in-the-civil-and-family-courts/

> “ The Judge also noted that the experience of the courts to date in conducting remote trials to date was that they had been, on the whole, successful, even when the proceedings involved multiple parties and large numbers of witnesses.

This message has been taken on board by the judiciary. On 19 March 2020, Mr Justice Teare directed that the trial in the matter of *National Bank of Kazakhstan and Others v Bank of New York Mellon* would continue as planned, subject to a two-day adjournment to allow for the use of video conferencing technology.[6] The trial was listed for seven days and involved testimony from witnesses and expert witnesses. The trial was conducted via Zoom and live streamed on YouTube. The witnesses, several of whom were subject to travel restrictions, gave evidence remotely.

Likewise, in *Re One Blackfriars Ltd (in Liquidation)* [2020] EWHC 845 (Ch), Mr John Kimbell QC, sitting as a Deputy High Court Judge, refused an application to adjourn a five-week trial, involving four live witnesses of fact and 13 expert witnesses, which was listed to take place in June. The Judge took into account the various guidance issued by the senior judiciary, as well as legislation passed in response to the coronavirus outbreak (specifically, sections 53-55 of the Coronavirus Act 2020 and regulations 6 and 7 of the Coronavirus Regulations SI 350/2020) which, he noted, “*sent a very clear message that [the legislature] expects the courts to continue to function so far as they able to do safely by means of the increased use of technology to facilitate remote trials*.” The Judge also noted that the experience of the courts to date in conducting remote trials to date was that they had been, on the whole, successful, even when the proceedings involved multiple parties and large numbers of witnesses.

On 8 April 2020, the SDT ruled that the adjourned proceedings against Baker McKenzie and its former partner Gary Senior would resume on 27 April 2020. The proceedings had been adjourned part-heard in November 2019 due to the ill health of one of the respondents, Mr Martin Blackburn. At the hearing on 8 April, all parties except Mr Blackburn agreed that the hearing should continue remotely. Mr Blackburn’s objection was based on the contention that it would be unfair for him to be cross-examined remotely when the other respondents had been cross-examined in person. This argument was rejected by the SDT, which directed that the hearing would continue remotely but that the position would be kept under review.

In the main, arbitration centres have, to date, issued limited (if any) additional guidance on the conduct of remote hearings.[7] However, much of the guidance that we offer in this article is of equal application to arbitration hearings, albeit that the consent and co-operation of the parties may play a greater role than in a court setting in terms of what cases may proceed to be heard.

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[6] https://www.ft.com/content/7a74241b-c039-4911-93ca-b92c30e1253a

[7] However, several dispute resolution facilities providers (such as the IDRC in London and Maxwell Chambers in Singapore) are offering tailored virtual hearing solutions, in which an electronic bundle service is integrated with the video conferencing platform.

The conduct of remote hearings: practical considerations

Choice of platform

The success of any remote hearing is dependent on the functionality of the technology being used to facilitate it; different video conferencing platforms offer different advantages and disadvantages. In certain jurisdictions, the courts have issued guidance to the effect that hearings will only be conducted on prescribed video conferencing platforms.[8] In those jurisdictions, parties will have no flexibility as to the form of technology used in court proceedings. The relative merits of the different platforms are therefore not likely to be particularly significant in the context of court hearings, although parties may have greater flexibility in arbitration hearings, where there is more scope to accommodate the preferences of the parties.

The English Courts have, at present, adopted a less prescriptive approach, with the result that parties currently have more flexibility in determining the platform on which their hearings will be hosted. The Remote Hearings Protocol provides that any communication method available to the participants can be considered, if appropriate, and confirms that hearings may be conducted via the following media:

- BT conference call;
- Skype for Business;
- Court video link;
- BT MeetMe;
- Zoom; and
- Ordinary telephone call.

This list is expressly stated to be non-exhaustive.[9]

Whether the approach adopted by the English courts is to be preferred to the route adopted by other jurisdictions will only become apparent as time progresses and teething difficulties are ironed out. However, we are of the view that a flexible approach that embraces a range of potential options to suit the demands of individual cases is to be preferred. For example, issues concerning Zoom's privacy and security flaws have been well-publicised in recent weeks,[10] including reports regarding the availability of Zoom videos (including videos of a private nature) on the internet.[11] Such security issues are likely to be of particular concern where all or part of the hearing is of a sensitive nature and intended to be held in closed session. However, in other cases, the functionality and sound quality offered by Zoom may be preferred. Further, many of the security concerns surrounding Zoom can be addressed by steps that the parties can take themselves, such as by "locking" the hearing to prevent further attendees from joining, and by ensuring that recordings of hearings are saved securely (although, as we explain below, the recording of hearings in the Business and Property Courts will usually be a matter for the court). Practitioners need to be aware of the advantages and disadvantages of each system so that a tailored solution to the hearing and client needs can be swiftly offered.

Bundles

There is nothing about remote hearings per se that requires the use of electronic, rather than paper, bundles. However, the use of electronic bundles is more likely to facilitate remote working by legal teams, both during the current lockdown and more generally going forward. Urgent consideration needs to be

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[8] For example, the Supreme Court of Singapore has issued guidance which provides that hearings are to be conducted by Zoom only. See: https://www.supremecourt.gov.sg/docs/default-source/default-document-library/2020-03-27---guide-to-telephone-conferencing-and-video-conferencing11082d0c2d8042478a9434c23af6fdac.pdf. Likewise, the Texan Courts are holding all hearings on Zoom.

[9] https://www.judiciary.uk/wp-content/uploads/2020/03/Remote-hearings.Protocol.Civil_.GenerallyApplicableVersion.f-amend-26_03_20-1-1.pdf Somewhat confusingly, this Protocol contrasts with the guidance published by HMCTS on the conduct of remote hearings during the coronavirus outbreak, which states that hearings will be conducted on Skype for Business and Kinly Video Conferencing, with parties being notified of the details prior to the hearing https://www.gov.uk/guidance/hmcts-telephone-and-video-hearings-during-coronavirus-outbreak

[10] See, for example, https://www.forbes.com/sites/kateoflahertyuk/2020/03/31/are-your-zoom-chats-private-heres-why-you-should-think-before-opening-the-app/#6b65cdb31979 and https://www.consumerreports.org/privacy/zoom-tightens-privacy-policy-says-no-user-videos-analyzed-for-ads/

[11] https://www.washingtonpost.com/gdpr-consent/?next_url=https%3a%2f%2fwww.washingtonpost.com%2ftechnology%2f2020%2f04%2f03%2fthousands-zoom-video-calls-left-exposed-open-web%2f The Protocol on Remote Hearings envisages that hearings may be recorded on the remote communication programme being used, including on Zoom. For those who are seeking further information on the practices in the jurisdictions in which they practice, Remote Courts Worldwide is a helpful resource that has information on issues such as which courts (if any) remain open in different jurisdictions and the measures being taken to facilitate the conduct of remote hearings: https://remotecourts.org/

given by all legal service providers to ensuring that this can be done in an efficient and cost-effective way on all cases (and not merely those with a large budget). It is imperative for all concerned to become familiar and comfortable with a far greater use of electronic material than has been the case to date, with hard copy bundles being reserved for core documents (as opposed to being the norm).

In addition to being a practical necessity in current circumstances and a desirable development from an environmental point of view going forward, electronic bundles have unique advantages of their own. Most of the major video conferencing platforms (including Zoom, MS Teams, and Skype for Business) allow participants to share their screens or documents with other participants. Advocates can use this function to share pages of the bundles with the Judge and/or witnesses on screen (or in pre-hearing conferences), which can considerably speed up the location of documents both during and before the hearing. In order for this facility to work effectively, it is essential that the electronic bundle is easily navigable and includes only documents which are truly required for the hearing. Documents within the bundle should also be OCR enabled, so that parties can use the word search function to navigate to the text of the document more easily.

Electronic bundles need to be both readable during the hearing and able to be marked up and highlighted by advocates as part of their preparation. It is therefore worth investing in software that offers such functionality, such as Adobe Pro DC or PDF Expert, particularly as PDF bundles are likely to be the norm going forward. If the budget permits, the ideal is a cloud-based solution on which lawyers and clients can collaborate digitally in real time when reviewing case documents on an accessible interface system.

Obviously the more sophisticated the functionality the better – in the past this has only come at considerable cost, making clients and firms reluctant to invest in the technology, save in high value and complex cases (and then often very late in the process). The development of more cost effective and easily accessible electronic platforms and bundles is an imperative going forward.

The Remote Hearings Protocol provides that the parties should (if necessary) prepare an electronic bundle of documents and an electronic bundle of authorities for each remote hearing, indicating a clear preference for electronic bundles for use in remote hearings. The Protocol also recognises that large electronic bundles can be unwieldy to use and provides that electronic bundles should contain only documents and authorities that are essential to the remote hearing. With time and experience, more prescriptive guidance is likely to follow. Indeed, the COVID-19 measures issued by the Administrative Court require that applications be accompanied by an electronic bundle and

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> “Nothing ever becomes real til experienced - even a proverb is no proverb until your life has illustrated it.
>
> **John Keats**

provide detailed directions regarding the formatting of such bundles.[12]

Advocacy for remote hearings

There are several key points an advocate should bear in mind when conducting a remote hearing:

1. The written submissions may take on an increased importance. Don't rush these and ensure that they cover all important points and all key authorities.
2. Make your oral advocacy as crisp and concise as possible. Be succinct and direct at all times.
3. Conversely, ensure your delivery is not too rushed and you can be clearly heard and understood by the judge/tribunal, the witness and the transcribers.
4. Remember that you will not be able to hand up documents or authorities during the hearing, so timely preparation is even more important.
5. Think about your background, lighting and positioning so you can communicate as effectively as possible through the remote medium. Remember your facial expressions (and indeed anything else you do!) will always be graphically on display when you are in video mode.
6. Objection is particularly distracting when everyone is operating remotely. Wait for an appropriate moment to raise any points of principle which arise, or consider using the messaging function to signal an objection to the judge or tribunal to questions being asked.

Witness and expert handling

The Business and Property Courts and Tribunals are familiar with the use of video links for receiving evidence. However, prior to the COVID-19 pandemic, the most common model was for the judge/tribunal and the advocates to be in the same room and for the witnesses to be in a remote location (sometimes with a solicitor present in the room with them to assist in locating documents).

The giving of oral evidence in a fully remote manner gives rise to certain practical considerations which require careful planning and preparation:

1. The witness needs to have suitable technological equipment to give his or her evidence and needs to know

[12] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/878790/Ops_update_-_Admin_Court_Office_Guide.pdf

how to operate it. Trial runs are essential to ensure that this will work as smoothly as possible. A professional witness may find this process easier to navigate than a lay witness so proper training and support is required.

2. The witness needs to be able to easily navigate the documents during his or her evidence. Often the simplest way of achieving this is for a specific bundle to be prepared for the cross examination which contains only the documents the advocate may wish to take that witness to. The concern that a witness will then have time to prepare his or her evidence by having advance sight of such documents can be alleviated by it being agreed that the bundle is not provided to the witness and the opposing team in advance, but only opened during the cross examination (on the basis of an understanding that it contains documents from the trial bundle only).
3. More than ever, witness statements need to be concise and well-structured. There is nothing new in this. All of the Court Guides in the Business and Property Courts caution against including irrelevant or inadmissible material, extensive reference to or quotations from contemporaneous documents, and/or argument. However, the issue becomes more acute in the context of remote hearings (particularly those conducted with electronic bundles), where the length of a document has a significant impact on the ability of the Judge/Tribunal and parties to navigate documents during the hearing. Moreover, properly formulated witness statements allow for cross-examination to be conducted more efficiently at the hearing, and to focus on those factual issues which are truly in dispute. All lawyers should also be familiar with the Report of the Witness Evidence Working Group, which contains a useful summary of guidance that the Group considered to be best practice in preparing witness statements.[13]
4. Be prepared for cross-examination to take significantly longer than it would in person. That is particularly so given the inevitable interruptions from transcribers who cannot hear the witness, and loss of time due to technical glitches. Interruptions and crosstalk are particularly difficult to avoid given the potential lag in messaging time, particularly as everyone gets used to the technology. It therefore helps to build in additional pauses to ensure the judge or tribunal can ask any questions they may have.
5. Make sure that any attachments to expert reports which are required to be considered during the hearing are in the bundle. Do also ensure that non-Word appendices are able to be easily read in electronic form (for example ensure that spreadsheets are displayed in Excel as opposed to PDF form which enables them to be easily navigated).

Concerns about the adequacy of oral evidence are likely to be of less concern in commercial cases, where judges are usually "*principally guided by the contemporary documents and the inferences which can be drawn from them and from known or probable facts, rather than oral evidence of witnesses*" (see *UBS AG (London Branch) v Kommunale Wasserwerke Leipzig GmbH [2014] EWHC 3615 (Comm)* [70]. See also *Gestmin SGPS S.A. v Credit Suisse (UK) Limited [2013] EWHC 3560 (Comm)* [15]-[23]). Indeed, in *Re One*

[13] https://www.judiciary.uk/publications/report-of-the-witness-evidence-working-group/

Blackfriars Ltd (in Liquidation) [2020] EWHC 845 (Ch), the Judge took account of the fact that "*virtually every step in this administration was recorded, or appears to have been recorded, in a contemporaneous document*" and that there were no allegations of dishonesty or fraud, concluding that the case was not one in which it was essential to have the witness, the cross-examiner, and the judge and the other participants in the same physical space.

Taking instructions

In our experience, once of the biggest concerns posed by remote hearings from an instructing solicitor/client point of view is effective communication between the legal teams. This is a particular issue where members of the legal team and the parties are accessing the hearing from different locations. HMCTS is continuing to develop its bespoke product for remote hearings, which provides for private consultations. As at time of writing, we understand that this facility is not yet fully operational. Zoom offers virtual "breakout rooms" that can be operated at the option of the host. Therefore, it is open to a judge (as host) to move one or more parties into separate breakout rooms in order to take instructions (although do please bear in mind that the judge also has the power to close the breakout room and pull the parties back into the main hearing!). Parties are continuing to use various workarounds, with varying degrees of success. We have participated in hearings where WhatsApp groups are used effectively in place of paper notes being handed up to counsel or with separate Zoom (or equivalent) chat rooms being created (for use both during the hearing and in breaks).

In our experience so far (and assuming technological competence on the part of all concerned), the taking of instructions in remote hearings is as easy as when everyone is in the same room. Indeed, there can also be advantages. For example, the other side cannot see electronic notes being passed and clients and instructing solicitors have direct access to leading counsel (without having to pass notes through junior counsel).

Courts and tribunals have in our experience been sympathetic to advocates requiring a short break to take instructions, and to Counsel receiving electronic instructions continuously in the course of a hearing (in a way which would never be permitted in an actual court room). Indeed, in our experience, the flexibility and patience of the judiciary and tribunals generally has been remarkable. Parties have also been willing to agree a sensible compromise in terms of a way forward in a manner which was unthinkable before the outbreak. It is to be hoped that this is a lasting consequence of COVID-19, but only time will tell.

One word of caution: we have come across proposals for the onward streaming of the hearing to instructing solicitors and/or lay

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clients through a second video conference. The streaming of video hearings is prohibited (subject to some limited exceptions).[14] In civil proceedings, CPR 39.9 provides that no party or member of the public may use unofficial recording equipment in any court or judge's room without the permission of the court.

The prohibition on the live streaming of court hearings has been temporarily abrogated[15] by section 55 and Schedule 25 of the Coronavirus Act 2020, which amends the Courts Act 2003 by the insertion of sections 85A to 85C (and a further provision, section 85D which is an interpretive provision).

Section 85A provides that the court may direct that proceedings are to be broadcast for the purpose of enabling members of the public to see and hear the proceedings. Although, no amendments have been made directly to section 41 CJA 1925 or section 9 CCA 1981, the effect of section 85A must be to effect a further exception to the exceptions included on those provisions.

Section 85B provides that it is an offence to make or attempt to make an unauthorised recording or transmission of a remote hearing broadcast under section 85A. Section 85C of the Courts Act provides that it is an offence for a person to make or attempt to make an unauthorised recording, or unauthorised transmission of an image or sound made by any person while that person is participating in court proceedings broadcast under Section 85A. Under these provisions it would be an offence for an advocate or party to stream a hearing through the telephone or via a second video conference call, or to take a "screen grab" of the hearing.

For the purposes of sections 85B and 85C, the onward transmissions of recordings may be authorised by the court in which the proceedings are being conducted. This provision appears to leave it open to advocates to seek the consent of the Court to onward streaming of the hearing. However, the Remote Hearings Protocol provides that parties and their legal representatives will not be permitted to record the hearing, suggesting that such authorisation will not be given as a matter of course.

Conclusion

While the COVID-19 pandemic has undoubtedly led to challenges for the legal community, remote hearings should be seen as an opportunity to bring about long term positive change. They should therefore be embraced rather than feared. While current working practices will undoubtedly be altered,

[14] Section 41 of the Criminal Justice Act 1925 (the **CJA 1925**), which prohibits the taking of a photograph or making of a picture of court proceedings, including video recordings (as confirmed by *R v Loveridge [2001] EWCA Crim 973; [2001] 2 Cr App R 29* [25]). The publication of sound recordings is prohibited by Section 9 of the Contempt of Court Act 1981 (the **CCA 1981**).

[15] Most provisions of the Coronavirus Act (including section 55 and Schedule 25) will cease to have effect two years after the Coronavirus Act entered into force (see section 89). The amendments to the Courts Act 2003 effected by those provisions will likewise lapse.

those changes are manageable, provided that there is sufficient forward planning and investment (both of money and of time) in technology.

While some hearings may not be suitable for a fully remote approach, the mere fact that a case is complex or involves multiple witnesses does not mean that it cannot be conducted remotely (as *National Kazakhstan* shows). Nor will proceedings necessarily be adjourned simply because the outcome of the proceedings might have serious repercussions for one or more of the parties (as the SDT's ruling in the Baker McKenzie proceedings would tend to suggest). Experience may show that (all things being equal) in-person hearings will be preferred for cases involving fraud, or where the credibility of a witness is in question, as it is considerably more difficult to assess the demeanour of a witness giving evidence by video-link than in person. However, the present circumstances provide the perfect opportunity for judges, legal practitioners, and parties to fully investigate both the benefits and limitations of remote justice.

It remains to be seen to what extent the developments now being seen in the English courts (as well as those in other jurisdictions) will play out across the arbitration community. Although the use of remote hearings for case management matters has been a relatively common feature in arbitration hearings for some time, the conduct of substantive hearings on a fully remote basis is new territory. Moreover, the focus on party autonomy in arbitration (which is ultimately a consensual means of dispute resolution) means that tribunals may be less able to compel parties to proceed by way of remote hearing in the way that a court can.

On the other hand, the advantages offered by remote hearings (flexibility and reduction of costs) are all the greater in the context of an international arbitration, where the parties, their legal teams, and even the members of the tribunal, may be spread over multiple geographic locations and time zones and may give the client greater choice in terms of the team it uses. International arbitration also allows the common and civil law approaches to be mixed and matched. There may become an increased reliance on written as opposed to oral advocacy in all arbitration disputes. However, in our view, oral submissions and evidence still have an invaluable part to play. The key is to make it properly focused.

In the court setting there remain concerns about access to justice, which will need to be carefully managed. Practice Direction 51Y makes provision for some limited public access to justice.[16] It provides that the court may direct that a hearing be broadcast in a court building, permit journalists to attend a

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[16] http://www.justice.gov.uk/courts/procedure-rules/civil/rules/part51/practice-direction-51y-video-or-audio-hearings-during-coronavirus-pandemic

remote hearing, or direct that the hearing be recorded in order that it can be accessed in a court building by request at a later date. However, the recent amendments to the Courts Act 2003 give more extensive tools to the courts to facilitate public access to justice. In particular, the effect of section 85A is that cases can be live streamed over the internet where appropriate.[17] If remote hearings are to become a more permanent feature of the legal landscape (whether through necessity or through choice), it is to be hoped that the innovation displayed by HMCTS and the judiciary in facilitating the conduct of remote hearings will also extend to ensuring public access to those hearings.

In summary, we should all keep our minds open to new and better ways of conducting hearings, whilst at the same time retaining the fundamentals of the English justice system that have worked so successfully through many centuries.

For more information or to make an enquiry, please contact our clerking team.

[17] Somewhat ironically, the live streaming of appeals from the Court of Appeal has been suspended as a result of the pandemic: https://www.justice.gov.uk/courts/court-lists/list-cause-rcj

We would like to express our thanks to Richard Lissack QC, Patricia Robertson QC and Leonora Sagan, all of whom kindly contributed their own additional experiences to ours in writing this article.

Patricia Robertson QC is representing Baker McKenzie in the ongoing proceedings before the SDT. Richard Lissack QC and Leonora Sagan were co-counsel with a team of New York attorneys in an examination under CPR 34.8 in support of a New York seated arbitration following the decision of the Court of Appeal in *A and B v C D and E* [2020] EWCA Civ 409.

Since the advent of COVID-19 Anneliese Day QC has conducted two injunction hearings as lead advocate in the TCC and Commercial Court in London, delivered two days of closing oral submissions in a multi-party 4 week TCC trial, is acting as an arbitrator in a London seated remote arbitration and is shortly due to appear remotely as Counsel in the DIFC Court of Appeal.

Niamh Cleary is shortly due to appear remotely as sole advocate in a contested application and case management hearing.