



Funded by



Judge Siobhan McGrath,  
First-tier Tribunal,  
10 Alfred Place,  
London  
WC1E 7LR

Date:13/3/2020

Dear Judge McGrath,

Coronavirus: suggestions for RRO cases

We have started to see Respondents using the government-advised self-isolation precautions as a reason for non-attendance at hearings and this is now likely to grow following recent Government announcements. As this self-isolation is not certificated, the Tribunal cannot ask for the normal proof and has little alternative but to re-list or cancel hearings.

We predict that this problem is likely to grow, not only through genuine cases of self-isolation but also through exploitation by opportunistic Respondents attempting to avoid justice.

You are no doubt also concerned about the risk of infection amongst staff at the FtT, as well as the impact of inevitable staff shortages on the throughput of cases.

In these circumstances we would like to suggest some solutions that would not only reduce Tribunal workload and help to mitigate the disruption at the FtT, but also minimise personal contact through hearings:

1. Paper Hearings. Usually both Applicants and Respondents select this option but so far the FtT in London has held that an oral hearing is necessary where the alleged offences are criminal and required to be proved "beyond reasonable doubt". However:
  - 1.1. Other Tribunals do conduct paper determinations in RRO cases:  
[MAN/00CB/HMG/2019/0008](#) is an example we have come across.
  - 1.2. Many RRO cases are effectively proven at the time of application, leaving the hearing to do little more than assess the quantum, which can be done just as well on paper. Examples of this are:
    - 1.2.1. Selective Licensing offences. We have 4 such open applications currently and have several more in preparation. In one of these we even submitted the Applicants' evidence bundle with the application and requested that this phase of the procedures, at least, be bypassed.
    - 1.2.2. Prior conviction/CPN RROs. Where the Respondent has already been convicted or issued an un-appealed CPN for the same offence, the case has already been proven. It would make sense to allocate such cases to paper determination. We have one of these also in process: LON/OOAG/HMF/2020/0011.
    - 1.2.3. Many normal RRO applications for licensing offences have such a weight of evidence behind them that an oral hearing can be justifiably dispensed with. A triage of

applications at reception could allocate oral hearings only to those where evidence is weaker.

2. Video Hearings. We understand from the Tribunals' annual report that video hearings are in trial and that it is planned to extend this. Given the current crisis it would make sense to accelerate this process which avoids the necessity for travel and human contact. In one of our open cases, where some of the Applicants are in Italy, it was offered that they could participate in the hearing via skype (JT/LON/OOAG/HMF/2019/0089 & 0091). Most Applicants and Respondents have access to this technology which allows up to 25 people to participate in a skype video conference. The current situation could justify the adoption of such solutions pre-emptively.

We hope you find these suggestions helpful and accept them in the spirit of cooperation that is intended at this difficult time.

With kind regards

Yours sincerely,



NG Morris