



From: Ian Gaunt, President of the LMAA

2 April 2020

Dear Member and Colleague

COVID 19 – Arbitration Hearings

I am writing to inform you of some of the measures the LMAA is taking to meet the challenges caused by the COVID 19 pandemic. I would be grateful if you could pass this email on to everyone in your organisation who is involved in maritime arbitration in London.

LMAA arbitrators are functioning normally, mostly working from home. They are accepting appointments and dealing with interlocutory document applications and making awards on documents in the usual way by email. Courier and postal services are currently functioning satisfactorily.

The only real difficulty that has arisen is with oral hearings. The conventional hearing, where everyone involved assembles in a hearing room will not be possible, at least for the foreseeable future. Conventional hearings are rapidly being replaced by virtual hearings conducted by video link through already well-established technologies, which in our experience are very good and perfectly adequate to enable virtual hearings to take place satisfactorily.

The Business and Property Courts, which include the Commercial Court, have also made it clear that business will continue with virtual hearings. Arbitration applications and appeals continue to be heard.

We anticipate that once the users of London maritime arbitration have developed greater experience of and confidence in such technologies, they may not necessarily see the need to return entirely to the conventional type of hearing and/or will at least wish to use some of the newer techniques to make hearings more streamlined, efficient and cost-effective. There will be benefits to our user community from these developments in working practices.

The LMAA has set up a Working Group to address the problems and the opportunities which may arise through the use of this technology. It comprises Ian Gaunt (Chairman), Simon Gault (Secretary), Duncan Matthews QC, David Owen QC, Clive Aston, Sarra Kay, Daniella Horton and Damian Hickman. It will meet regularly during the current crisis and thereafter also

continue to consider other technologies which may assist in the efficient conduct of LMAA arbitrations. It will call on others with appropriate skills and expertise as appropriate from time to time. Its initial role is to develop and put into effect the LMAA's response to COVID 19, and, in that context, to preserve London's pre-eminence as a centre for maritime arbitration. In particular it will consider and provide to the LMAA guidance on the arrangements for the conduct of virtual hearings. It will also, in due course, consider other proposals for the further use of information technology in the efficient, cost-effective and environmentally friendly conduct of London maritime arbitration.

Initial steps that the LMAA working group has so far taken include: –

1. It has pursued a dialogue with the IDRC and Opus2 to provide the video link and bundling services necessary to conduct a virtual hearing. This is by no means to the exclusion of other providers of such services, merely to ensure that there is a service provider ready and able to support virtual hearings in an effective manner.
2. It has explored alternative methods (which may be particularly suited for lower value claims, applications and directions hearings) such as Zoom, which appears to provide adequate video link, including breakout room facilities.
3. It is recommending the use of the Seoul Protocol on Video Conferencing in International Arbitration a copy of which is attached as attachment No. 2 until with the benefit of more experience in practice the LMAA can as necessary develop its own protocol for use in LMAA arbitrations. We envisage that this will ultimately become a schedule to the LMAA Terms.
4. It is encouraging and helping its members to acquire the software, hardware and skills necessary to conduct a virtual hearing.
5. It is investigating the range of support services available to assist in the preparation of electronic bundles at the lower end of complexity, where electronic bundles might not have been envisaged for the hearing but for the intervention of COVID 19 and their absence might otherwise create impediments to a virtual hearing.

I would be extremely grateful if you/your organisation could provide the Working Group with any feedback on your experience of and the advantages and disadvantages of virtual hearings, so that the LMAA can publicise the advantages and address any problems which may arise. In the first instance it would be helpful if you would address your feedback to Clive Aston (cliveaston@cliveaston.com) who can arrange for the matters raised to be addressed by the Group.

Yours sincerely

Ian Gaunt