

Practice Note 3/2012
McKenzie Friends

<u>Contents</u>	<u>Page</u>
Part I - Reasonable assistance from a McKenzie Friend	2-5
Part II - Rights of audience and rights to conduct litigation	5-7
Annex A - Code of Conduct for McKenzie Friends	8-10
Appendix A - Application form to be completed by an individual who wishes to provide assistance to a litigant as a McKenzie Friend	11-14
Appendix B - Addendum to Practice Note 3/2012 (as revised) and the Code of Conduct for McKenzie Friends	15
Appendix C - Glossary of Terms	16-21

Introduction

1. This Practice Note applies to all court business. It is issued as guidance (not as a Practice Direction) by the Lord Chief Justice. It is intended to remind courts and litigants of the principles set out in the authorities [1] and does not change the law. It supersedes any previous guidance. It is issued in light of the increase in personal litigants and should be read in conjunction with the Code of Conduct for McKenzie Friends at Annex A.

Part I – Reasonable assistance from a McKenzie Friend

2. A personal litigant has a right to have reasonable assistance from a layperson, sometimes called a McKenzie Friend. Personal litigants assisted by McKenzie Friends remain litigants-in-person. McKenzie Friends have no independent right to provide assistance. They have no right to act as advocates or to carry out the conduct of litigation. In *McA v McA* [2006] 10 BNIL 63 [2], Master Redpath held that a McKenzie Friend may be allowed a right of audience in very exceptional circumstances. While a personal litigant ordinarily has a right to receive reasonable assistance from a McKenzie Friend, the court retains the power to refuse to allow such assistance where it is satisfied that the interests of justice or fairness do not require the personal litigant to receive such assistance.
3. Please note that should a situation arise where a barrister is called upon to act as McKenzie friend, in a lay capacity, they need to establish how they could do so in a manner that would be compatible with their professional obligations. The Bar council's position is that a barrister called in Northern Ireland cannot be paid to act as a McKenzie friend.

What McKenzie Friends may do

4. McKenzie Friends may:
 - (i) provide moral support for personal litigants;
 - (ii) take notes with the permission of the judge;
 - (iii) help with case papers;
 - (iv) quietly give advice on any aspect of the conduct of the case which is being heard.

What McKenzie Friends may not do

5. McKenzie Friends may not:

- (i) conduct the litigation, acting as the personal litigant's agent in relation to the proceedings;
- (ii) manage the personal litigant's cases outside court, for example by signing court documents; or
- (iii) exercise a right of audience by addressing the court, making oral submissions or examining witnesses unless this has, in very exceptional circumstances, been authorised by the court. It is a criminal offence to exercise rights of audience or to conduct litigation unless properly qualified and authorised to do so by an appropriate regulatory body or with leave of the court. The very exceptional circumstances in which a McKenzie Friend can apply for rights of audience or to conduct litigation are set out in paragraphs [14-18] below.

Confidentiality

6. A McKenzie Friend must observe strict confidentiality in relation to any documents they have sight of and any information they hear in relation to the proceedings. Breach of such confidentiality will usually amount to a contempt of court, giving rise to sanctions including a fine and imprisonment. If you are assisting a litigant in person in respect of a family matter you should pay particular attention to the addendum to this Practice Note at page 15.

Exercising the Right to Reasonable Assistance

7. While personal litigants ordinarily have a right to receive reasonable assistance from McKenzie Friends the court retains the power to refuse to permit the giving of such assistance. The refusal may occur on initial application or at any time during the hearing. A personal litigant may be denied the assistance of a McKenzie Friend or a particular McKenzie Friend because its provision might undermine or has undermined the efficient administration of justice. Illustrations of circumstances where this might arise, which are not exhaustive, are:

- (i) the assistance is being provided for an improper purpose;
- (ii) the assistance is unreasonable in nature or degree;
- (iii) the McKenzie Friend is subject to an order such as a civil proceedings order or a civil restraint order or has been declared to be a vexatious litigant by a court in Northern Ireland or in another jurisdiction of the United Kingdom;

- (iv) the McKenzie Friend is using the case to promote his or her own cause or interests or those of some other person, group or organisation, and not the interests of the personal litigant;
 - (v) the McKenzie Friend is directly or indirectly conducting the litigation;
 - (vi) the court is not satisfied that the McKenzie Friend fully understands and will comply with the duty of confidentiality. The consequences of not being appropriately supported have been reported in the recent judgment of *Y v Z* [2023] EWFC 205 in which His Honour Judge Hess made a costs order against the wife's litigation friend.
8. The following factors are NOT of themselves sufficient to justify the court refusing to permit a McKenzie Friend to assist a personal litigant:
- (i) The case or application is simple or straightforward, or is, for instance, a directions or case management hearing;
 - (ii) The personal litigant appears capable of conducting the case without assistance;
 - (iii) The personal litigant is unrepresented through choice;
 - (iv) The other party is not represented;
 - (v) The proposed McKenzie Friend belongs to an organisation that promotes a particular cause;
 - (vi) The proceedings are confidential, and the court papers contain sensitive information relating to a family's affairs.
9. A personal litigant who wishes to exercise this right should inform the judge as soon as possible indicating the identity of the proposed McKenzie Friend. The proposed McKenzie Friend should produce a short curriculum vitae or other statement setting out relevant experience, confirming that he or she has no personal interest in the case and understands the McKenzie Friend's role and the duty of confidentiality.
10. The court may refuse to allow a personal litigant to exercise the right to receive assistance at the start of a hearing. The court may also circumscribe or remove the right during the course of a hearing where the court forms the view that a McKenzie Friend, or a particular McKenzie Friend, may give, has given, or is giving, assistance which impedes the efficient administration of justice. The court may in the first instance issue a firm and unequivocal warning to the personal litigant and/or McKenzie Friend. It is likely that the court may give reasons for

refusal and the personal litigant, but not the McKenzie Friend has a right to appeal the decision.

11. Where a personal litigant is receiving assistance from a McKenzie Friend in care proceedings, the court should consider the desirability of the McKenzie Friend's attendance at any joint consultations directed by the court and, if he or she is to attend, the most effective and appropriate way in which that person should be involved in the joint consultation, bearing in mind the limits of their role, and should give directions accordingly.
12. Personal litigants are in general permitted to communicate any information, including filed evidence, relating to the proceedings to McKenzie Friends for the purpose of obtaining advice or assistance in relation to the proceedings. In the case of proceedings involving children, however, this may only be done with the permission of the judge [3]. This requires an application to the judge for permission and if the judge grants it then ordinarily conditions will be imposed giving further protection to confidentiality.
13. Legal representatives of other parties should ensure that documents are served on personal litigants in good time to enable them to seek assistance regarding their content from McKenzie Friends in advance of any hearing or advocates' meeting.

Part II - Rights of audience and rights to conduct litigation

14. Rights of audience and the right to conduct litigation on behalf of another are not part of the function of a McKenzie Friend but the following paragraphs apply to a McKenzie Friend, or to another individual, who wishes to apply for such a right. Unlike an application for reasonable assistance from a McKenzie Friend, there is no presumption in favour of granting these rights. Application should be made at the earliest possible opportunity and preferably before the hearing.
15. Courts should be slow to grant any application from a personal litigant for a right of audience or a right to conduct litigation to any lay person, including a McKenzie Friend. This is because a person exercising such rights must ordinarily be properly trained, be under professional discipline (including an obligation to insure against liability for negligence) and be subject to an overriding duty to the court. These requirements are necessary for the protection of all parties to litigation and are essential to the proper administration of justice.
16. The court will only be prepared to grant a right of audience to a lay person, including a McKenzie Friend in exceptional circumstances where there is a good reason to do so, taking account of all the circumstances of the case. Relevant factors include physical health problems, where mental well-being or other disability issues including learning difficulties arise, where English is not a first language,

where other communication issues arise such as literacy or other social, cultural or domestic circumstances apply which preclude the personal litigant from addressing the court or conducting litigation where qualified legal representation is not available to the personal litigant.

17. The grant of a right of audience or a right to conduct litigation to lay persons who hold themselves out as professional advocates or professional McKenzie Friends or who seek to exercise such rights on a regular basis, whether for reward or not, will only be granted in exceptional circumstances. To do otherwise would tend to subvert the will of Parliament.
18. Rights of audience and the right to conduct litigation are separate rights. The grant of one right to a lay person does not mean that a grant of the other right has been made. If both rights are sought their grant must be applied for individually and justified separately.

Remuneration

19. Personal litigants can enter into lawful agreements to pay fees to McKenzie Friends for the provision of reasonable assistance in court or out of court by, for instance, carrying out clerical or mechanical activities, such as photocopying documents, preparing bundles, delivering documents to opposing parties or the court, or the provision of legal advice in connection with court proceedings. Such fees cannot be lawfully recovered from the opposing party.
20. Fees claimed to have been incurred by McKenzie Friends for carrying out the conduct of litigation, where the court has not granted such a right, cannot lawfully be recovered from either the personal litigant for whom they carry out such work or the opposing party.
21. Fees claimed to have been incurred by McKenzie Friends for carrying out the conduct of litigation after the court has granted such a right are in principle recoverable from the personal litigant for whom the work is carried out. Such fees cannot be lawfully recovered from the opposing party.
22. Fees claimed to have been incurred by McKenzie Friends for exercising a right of audience following the grant of such a right by the court are in principle recoverable from the personal litigant on whose behalf the right is exercised. Such fees are also recoverable, in principle, from the opposing party as a recoverable disbursement: Rules of the Court of Judicature (Northern Ireland) 1980, Order 62 Rule 18(1) and (2).

Signed



The Right Honourable Dame Siobhan Keegan
Lady Chief Justice of Northern Ireland

Dated this 7th day of June 2024

[1] *McA v McA* [2006] 10 BNIL 63, *Potter v Potter* [2003] NIFam 2, *R v Leicester City Justices, ex parte Barrow* [1991] 260, *Chauhan v Chauhan* [1997] FCR 206, *R v Bow County Court, ex parte Pelling* [1999] 1 WLR 1807, *Attorney-General v Purvis* [2003] EWHC 3190 (Admin), *Clarkson v Gilbert* [2000] CP Rep 58, *United Building and Plumbing Contractors v Kajla* [2002] EWCA Civ 628, *Re O (Children) (Hearing in Private: Assistance)* [2005] 3 WLR 1191, *Westland Helicopters Ltd v Sheikh Salah Al-Hejailan (No 2)* [2004] 2 Lloyd's Rep 535, *Agassi v Robinson (Inspector of Taxes) (No 2)* [2006] 1 WLR 2126, *Re N (A Child) (McKenzie Friend: Rights of Audience) Practice Note* [2008] 1 WLR 2743.

[2] Master Redpath stated that the principles used in English statute should be applied here. They were originally contained in sections 27 and 28 of the Courts and Legal Services Act 1990, but now see Part III and Schedule 3 of the Legal Services Act 2007, which replicates the court's general discretion to grant a right of audience or right to conduct litigation in particular proceedings. The factors set out in this Practice Note will be relevant to the exercise of this discretion.

[3] To avoid contravening section 12 and Schedule 2, Part II of the Administration of Justice Act 1960 and Article 10(2) of the Children (NI) Order 1995.

Annex A

Code of Conduct for McKenzie Friends

7th June 2024

Introduction

A McKenzie Friend is someone who assists a litigant in person in a court of law by prompting, taking notes and quietly giving assistance. A McKenzie Friend need not be legally trained or have any professional legal qualifications. The term McKenzie Friend originates from the case of *McKenzie v McKenzie* [1970] 3 WLR 472 CA where the right to use a McKenzie friend was set out by the Court of Appeal.

This Code of Conduct summarises what is involved if you apply for the status of McKenzie Friend and what the court will expect of you.

This Code of Conduct should be read in conjunction with the Practice Note 03/12 on McKenzie Friends, as amended and [A guide to proceedings in the High Court for people without legal representation](#).

Code of Conduct

1. You may apply to the judge for the status known as “McKenzie Friend” for the purpose of assisting, not representing, an identified litigant. If you follow the Practice Note and this Code of Conduct then your involvement may be of material help to the person you are assisting and to the court.
2. You must complete the application form attached to this Code of Conduct at Appendix A entitled, “Application Form to be completed by an individual who wishes to provide assistance to a litigant as a McKenzie Friend.” Before doing so you must familiarise yourself with all available case papers and existing court orders and directions, as well as the Practice Note 03/2012 as amended.
3. If you have a financial interest in the outcome of the case, you should normally decline to assist.
4. If you have a personal interest in the outcome of the case, then before agreeing to assist you should think about whether someone else who does not have a personal interest might be better placed to assist.
5. You may attend the hearing of the court case unless the court indicates otherwise.
6. You may read the papers for the court case unless the court indicates otherwise. You should be mindful of the need for strict confidentiality at all times as set out

in Practice Note 03/12 as amended. A breach of confidentiality can amount to contempt of court punishable by fine and/or imprisonment.

7. You should let court staff know as soon as you arrive that you have been asked to assist.
8. If you are being paid to assist or if you regularly assist a number of different people as a McKenzie Friend then you should make the court aware of that.
9. With the permission of the judge and in accordance with the guidance set out in Practice Note 3/2012 as amended you may provide moral support, take notes, help with case papers and quietly give advice to the person you are assisting.
10. Normally the person you are assisting will be the one to speak to the judge, but if that person cannot manage, the judge may let you speak instead.
11. You may apply to the judge for rights of audience. This measure may only be granted in exceptional circumstances and where reasonable and in the interests of justice to do so: for example where the litigant concerned has physical or mental health problems or some disability or learning, literacy or communication difficulties or where English is not the litigant's first language. You should make this application at the earliest possible opportunity, providing all relevant available supporting evidence.
12. It is a criminal offence to exercise rights of audience unless qualified and authorised to do so by an appropriate regulatory body or with leave of the court.
13. You must observe all directions and orders of the court.
14. You must seek and obtain all extant directions and orders made by the court in the case in question.
15. You must always follow any instructions given by the judge.
16. If the judge asks the person you are assisting to do something, please encourage them to do it, and remind them of any deadlines.
17. You must familiarise yourself with all relevant Practice Directions and rules of court.
18. You are expected to be courteous, cooperative and respectful to everyone at all times.
19. You must ensure that your presence and conduct in court does not cause any disruption or distract others. This is particularly important when someone else is speaking to the judge or the judge is speaking.
20. You must behave with the utmost integrity and honesty and must not do anything that might mislead the court or anyone else.

- 21.** You should make the court aware at the earliest possible opportunity if you or the person you are assisting require any reasonable adjustments.
- 22.** You should consider at regular points whether the person you are assisting might benefit from a support agency such as [Housing Rights](#), [Advice NI](#), or one of its members, or [Law Centre \(NI\)](#) . If you conclude that they might, you should give careful consideration to encouraging the person you are assisting to seek that further help. It may be very helpful if you go with them. The person you are assisting may at any time seek legal advice. Should they wish to do so they should contact the [Law Society](#).
- 23.** Please remember at all times that you are there to assist someone else and are not attending court on your own behalf.
- 24.** Finally, you must remember at all times that your paramount duty is owed to the court.

Appendix A

**APPLICATION FORM TO BE COMPLETED BY AN INDIVIDUAL WHO WISHES
TO PROVIDE ASSISTANCE TO A LITIGANT AS A McKENZIE FRIEND**

**A. IDENTIFICATION OF THE CASE IN WHICH YOU WISH TO PROVIDE
ASSISTANCE**

CASE REFERENCE NUMBER:

NAME(S) OF PLAINTIFF(S):

NAME(S) OF DEFENDANT(S):

NAME(S) OF THIRD AND SUBSEQUENT PARTIES (if any):

PARTY WHOM YOU ARE PROPOSING TO ASSIST:

**B. INFORMATION ABOUT THE PERSON WHO WISHES TO PROVIDE
ASSISTANCE AS A McKENZIE FRIEND.**

FULL NAME:

ADDRESS:

EMAIL ADDRESS:

TEL NO. :

ANY REASONABLE ADJUSTMENTS REQUIRED:

C. PLEASE ATTACH A COPY OF YOUR CV TO THIS APPLICATION

D. IDENTIFICATION OF THE PERSON WHOM YOU WISH TO ASSIST

FULL NAMES:

ADDRESS :

EMAIL ADDRESS :

TEL NO. :

ANY REASONABLE ADJUSTMENTS REQUIRED:

E. REASONS FOR YOUR APPLICATION

F. DETAILS OF ALL PREVIOUS APPLICATIONS OF THIS KIND

[In particular name(s) of case(s), name(s) of court(s), whether granted or refused and anything else of note eg a ruling by the court revoking your McKenzie Friend status or a comparable decision by the litigant concerned.]

G. REMUNERATION DETAILS

[if applicable] i.e. arrangements (if any) for your payment

H. APPLICATION FOR RIGHTS OF AUDIENCE OR THE RIGHT TO CONDUCT LITIGATION

Please set out the reasons for applying for rights of audience which will only be granted in exceptional circumstances together with any supporting evidence.

I. UNDERTAKING TO THE COURT BY THE PERSON WHO WISHES TO PROVIDE ASSISTANCE AS A MCKENZIE FRIEND

I, the undersigned, confirm that I:

- have no personal interest in the case in which I will be providing assistance;
- have read fully, and will comply with, Practice Note (3/2012) as amended and the Code of Conduct dated 7th June 2024;
- will observe strict confidentiality in relation to any documents I have sight of and any information I hear in relation to the proceedings;
- have attached a copy of my CV to this application form;
- unless stated otherwise below, will not be seeking or receiving payment of any fees for any assistance or services provided by me;

(If you do intend to enter in to any agreement to be paid fees for the service you provide then provide full disclosure of the nature of this agreement, attaching supplementary documents as required.)

- have fully and honestly responded to all of the questions contained within this form and accept that any inaccurate or misleading statements may result in the removal of any permission to act as a McKenzie Friend in this case.

Signed.....(McKenzie Friend applicant)

Signed..... (Litigant)

Date

Appendix B

Addendum to Practice Note 3/2012 (as revised) and the Code of Conduct for McKenzie Friends

1. This addendum provides further guidance for personal litigants who are involved in family proceedings.
2. When conducting family proceedings involving children, the court's paramount consideration will always be the welfare of the children (see Article 3 of the Children (NI) Order 1995). In some cases children will be separately represented parties to the proceedings. The approach of the court will therefore be more inquisitorial in nature than in other types of civil litigation.
3. Proceedings in family courts are governed by the Family Proceedings Rules (NI) 1996 (as amended) (SR 1996/322).
4. Personal litigants should also note that there is an entitlement to legal aid when they are the parent with parental responsibility for a child who is the subject of an application for a care or supervision order, a child assessment order or an emergency protection order by a Health and Social Care Trust. This is irrespective of their means. For more details please refer to the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015.
5. Because of the involvement of children in family proceedings the need for strict confidentiality will be enforced. Personal litigants and their McKenzie Friends are specifically referred to Rule 4.24 of the Family Proceedings Rules 1996 which deals with confidentiality. In addition their attention is also drawn to Article 170 of the Children (NI) Order 1995 which makes it a criminal offence to publish any material which is intended, or is likely, to identify any child as being involved in any proceedings in which any power under the Children (NI) Order 1995 may be exercised with respect to that, or any other child; or an address or school of such a child.

Appendix C

Glossary of Terms

Advocacy – the skills of arguing and explaining a client’s case in court.

Adversarial – when two or more parties are putting their case and the judge’s role is like that of a referee.

Affidavit – a statement in writing, made by swearing or affirming before a solicitor, which court rules allow to be used in some cases instead of having a witness come to court.

Barrister – a lawyer who specialises in advocacy and has the right to speak in the High Court. A barrister is usually instructed to act in a case by a solicitor on behalf of the solicitor’s client.

Call-over – an occasion in court where dates for all the cases in the next few months are fixed. It is important for the parties or their lawyers to attend the call-over.

Case – the proceedings, arguments and evidence in court and the court hearing.

Certificate of readiness – a document prepared by all the parties to a case jointly, confirming that all the necessary steps have been taken for the case to be heard.

Civil case – any type of case which is not a criminal case.

Close of Pleadings – pleadings are deemed to be closed 21 days after service of the reply, or, if there is no reply, after service of the defence to any counterclaim.

Clinical negligence case – A civil claim for damages where negligence by a doctor, dentist or other healthcare professional is alleged.

Court order – the enforceable decision of the court.

Creditor – a person who is owed money by a debtor.

Criminal case – a case about whether someone is guilty of a crime and, if so, how they should be punished.

Cross-examination – asking questions of a witness in court.

Counterclaim – a claim for damages or another remedy by a defendant against a person who has sued him.

Damages – money paid to one party by the other to compensate for a wrong. Damages are referred to as liquidated, where they are easily calculated, such as a debt owed or the cost of repairing a car, or unliquidated, where they are less easily calculated, for example compensation for pain, suffering and injury.

Debtor – a person who owes money to a creditor.

Defendant- A defendant is the person(s) who a case is being taken against.

Disclosure – giving access to a document or other evidence relevant to a case to other parties in advance of the hearing.

Discovery – Notifying the other parties about a list of the documents (including paper and electronic documents, maps and photographs, sound and video recordings and information stored in any other way) which are or have been in your possession, custody or control and which are relevant to the case and are not protected by privilege. The duty to make discovery is continuous, so if further relevant documents come into your possession after the exchange of lists, you need to notify other parties about them too.

Enforcement – the processes for making sure that a court order is obeyed.

Evidence – the statements of witnesses, documents, opinions of experts and other facts which support a party's case.

Ex-parte application – an application made to a judge by a party to a case without the other parties being required to be there.

Expert report – a report about medical, accounting, engineering or other specialist technical evidence, prepared by a professional with expertise in that area. An expert is the only type of witness who can give evidence about his or her opinion.

Guardian ad litem – a relative or friend who defends a case on behalf of a person under a disability named as a defendant or third party. In the Family Division, a Childrens Court Guardian is also the name for the independent social worker who represents the interests of the child in difficult cases.

Hearing – the trial of a case or preliminary issue in court.

Hearsay evidence – Evidence of a statement someone made which is presented in court in some other way than by their direct spoken evidence or affidavit. A previous written statement or a description by someone else of what that person told them would both be hearsay. Hearsay evidence is usually, but not always allowed, but it may have less weight than a statement given by someone in court whose evidence can be tested by cross-examination.

Inquisitorial - Is a system of justice in which the judge conducts an inquiry developing the facts of the litigant's case.

Interlocutory application- a procedural matter which has to be decided by a judge (usually a Master) before the final decision can be made in a case. For example, a challenge to one party's refusal to give discovery, or an application for substituted service are interlocutory applications.

Judgment – the judge’s statement of the court order and his or her reasons for making it. A judgment can be spoken or in writing.

Litigant – a person who is a party in a case.

Lodge documents – send documents to the court office.

Lodgement – payment of money into court which the payer believes is a reasonable figure to settle a case, but which the other party will not accept. If the other party does not “beat the lodgement” by being awarded a higher sum by the judge, they may not have all their costs paid by the losing party and may have to pay the costs of the other party arising after the date of the lodgement.

Master – a statutory civil procedure judge who deals with certain types of cases in the High Court.

McKenzie friend – a person who supports and advises a personal litigant in court but does not speak on their behalf unless given permission by the judge upon application.

Minors – people who are less than 18 years old.

Money in court – money is paid into court when, for example, a party makes a lodgement of a sum they believe is reasonable to settle a case, or where the person to whom damages should be paid is a person under a disability.

Next friend – a relative or friend who brings a case on behalf of a person under a disability.

Notice Party – someone who is not a party but who the court decides has a proper interest in the proceedings and should be notified about the hearing so that they can ask the judge’s permission to participate.

Order 53 Statement – the document which starts a judicial review case. It is named after Order 53 of the Rules of the Court of Judicature, which states what must be in an Order 53 Statement.

Originating motion – A document which initiates some types of High Court cases, described in the Rules of the Court of Judicature (Northern Ireland) 1980 Order 5, Rule 5 and Order 8.

Originating summons – a document which initiates some types of High Court cases, described in the Rules of the Court of Judicature (Northern Ireland) 1980 Order 5, Rule 3 and Order 8.

Party – the plaintiff, defendant or third or other party in a court case.

Person under a disability – a person under 18 years old or a person with mental incapacity, who cannot be a party in a court case without the help of a next friend or guardian ad litem.

Petition – the document which initiates a divorce or civil partnership dissolution case, and some other types of cases, described in the Rules of the Court of Judicature (Northern Ireland) 1980, Order 9 and the Family Proceedings Rules (Northern Ireland) 1996.

Personal litigant – a person who is a party in a case and does not have a lawyer.

Plaintiff- A plaintiff is a person who brings a civil action against another person or entity in court.

Pleadings – a series of documents setting out the facts and legal submissions, including statutory duties, relied on in the case.

Practice Direction - a court document setting out the steps the court expects parties to take once a case is before the court. The court may also refer to a Protocol or Practice Note which also sets out the steps the court expects the parties to take once a case is before the court. All Practice Directions/Protocols/Practice Notes and Pre-Action Protocols can be accessed at the following link [Judicial decisions and directions – search results | Judiciary NI](#).

Pre - Action Protocol – a court document setting out the steps the court expects the parties to take before a court case is started.

Privilege – rules of law which protect a document, recording or other information from being disclosed to the other party to proceedings, for example because it is correspondence between a lawyer and his client.

Proceedings – a shorthand term for all the court procedures and documents before the final court order.

Process server – a professional who serves documents.

Proof beyond reasonable doubt – the standard of proof in a criminal case – not proof beyond the shadow of a doubt but leaving the judge or jury without the sort of doubt that would affect their decisions in their ordinary life.

Proof on the balance of probabilities – the standard of proof in a civil case – “more likely than not”, or more than 50% likely.

Rebuttal – evidence, or a pleading, which tries to show that the other party’s evidence and arguments are not accurate.

Review hearing – a hearing at which a judge or master will ensure that the case is proceeding as efficiently and proactively as it should and will help the parties define what work still needs to be done.

Rejoinder- the pleading in which the plaintiff to a case in the King’s Bench Division replies to the defendant’s Replies.

Replies – As well as its usual meaning, this is a technical legal term for the pleading in which a defendant to a case in the King’s Bench Division replies to the statement of claim.

Right of audience – the right to speak in a particular court.

Serve – court documents are served when they are sent to a person or company in a way required by court rules, so that it can be proved to the judge that the person to whom they are addressed actually received them.

Set off – a claim by a defendant that the person who sued them owes them an amount of money which should be “set off” against the sum the person is suing them for.

Setting down – telling the court office a case is ready for hearing.

Settlement – A solution to a case agreed by the parties before the hearing, usually involving the payment of damages.

Skeleton argument – a summary of the arguments a party will make before the court.

Solicitor – a lawyer who has an office and meets directly with the public. Some solicitors are trained as solicitor-advocates and have the right to speak in the High Court.

Special Measures - Special measures are a series of provisions that help vulnerable and intimidated witnesses give their best evidence in court and help to relieve some of the stresses associated with giving evidence.

Statement of claim – the pleading in which the person bringing a claim in the King’s Bench Division sets out in detailed summary the claim they are making.

Stay of enforcement – part of a court order which stops it coming into effect as long as a condition (such as making regular payments of a debt) continues to be met.

Submissions – the speeches that lawyers or personal litigants make to the court.

Subpoena – an order from the court requiring a person to attend for a case, either as a witness or in order to bring a specific document to court.

Substituted service – a method of serving documents which the court directs where service by ordinary means is impossible eg where a party cannot be found or is evading service.

Third Party - a third party may be an individual or entities that are not the plaintiff or defendant in a case. They may have a stake in the matter or be indirectly impacted by the proceedings.

Witness – someone who has personally seen, heard, or otherwise experienced the events which the case is about, such as someone who saw a car crash. A witness can

only report what they saw, heard or experienced and the inferences they draw from those facts. They cannot give evidence of their opinion.

Witness (expert) – a person with professional qualifications and expertise such as a doctor, engineer, accountant or forensic scientist who can carry out tests, give an expert opinion, or otherwise help the judge to understand what happened, and why it happened. An expert witness can give opinion evidence.

Writ – A document which initiates a case in the King’s Bench Division.