

## PRACTICE DIRECTION 4 /2010

### WITNESS ANONYMITY ORDERS

1. This practice direction sets out the procedure for an application for a witness anonymity order under the Coroners and Justice Act 2009 (“the Act”) in the Magistrates’ Courts, the Crown Court, the County Courts and the Court of Appeal.

2. An application for a witness anonymity order (“an order”) as defined in Section 86 (1) of the Act should be made by giving notice in writing. The notice shall be served on the clerk of the court and at the same time a copy thereof shall be served on every other party to the proceedings.

3. The notice should contain the following:

- (a) the full names of all defendants
- (b) the venue of the court hearing the case
- (c) the date of the next scheduled court appearance
- (d) the ICOS reference number of the case
- (e) the PSNI reference number of the case
- (f) brief details of the charges ( including the date and location of each offence) to which the application relates
- (g) refer to the witness who is to be the subject of the order by a pseudonym only ( e.g. Witness ‘A’)
- (h) set out the terms of the witness anonymity order sought having regard to Section 86 (2) of the Act
- (i) give brief reasons why the order is being sought
- (j) set out briefly how Conditions A – C in Section 88 of the Act will be met
- (k) contain an undertaking to inform the court (and the prosecution in the

case of an application by a defendant) of the identity of the witness at the hearing of the application or at such other time as the court may direct.

4. (a) A copy of any statement from the witness who is the subject of the application for an order should be attached to the notice. This statement should be appropriately redacted so as to prevent the witness from being identified.

(b) Copies of any other statements (redacted as appropriate) in support of the application should also be attached to the notice.

(c) The notice should contain an undertaking to disclose to the court and the other parties in a similarly redacted form any other "relevant material" as defined in Section 87 (5) of the Act. It is the responsibility of the party making the application to ensure that all material relied upon or served is properly redacted so as to prevent the witness from being identified.

5. All applications for a witness anonymity order should be made at the earliest practicable opportunity, and in any event:

(a) in the Magistrates' Courts within 14 days of service of the committal papers or in summary proceedings within 14 days of a not guilty plea being entered,

(b) in the Crown Court within 28 days from either the date of committal; the date on which Notice of Transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995 was given; the date on which leave was granted to present an indictment under section 2(2)(e) of the Grand Jury (Abolition) Act (Northern Ireland) 1969 or the date on which an order for retrial was made,

(c) in any other cases not less than 21 days before the day fixed for the commencement of the trial or other hearing to which the application relates.

6. Upon receipt of a notice any party wishing to oppose the application shall within 14 days of the date of service, notify the applicant and the clerk of the court in writing of his objection to the application. The notice of objection should include the information listed at paragraph 3 a-f above and include brief reasons for the objection.

7. Upon receipt of a notice of objection the clerk of the court shall fix a date for the hearing of the application and notify each party to the proceedings of the time and place of hearing. Any party to the proceedings may be present at the hearing and be

heard. If no notice of objection is received the Court may direct a hearing or determine the application in favour of the applicant without a hearing.

8. If a notice of application or objection does not comply with the time limits at paragraph 5 above, the notice should also contain an application for an abridgement or extension of time and an explanation for the failure to comply with the time limits. On such an application the court may, if satisfied that the interests of justice so require, abridge or extend time for service of the notice of application or objection.

9. At the hearing of an application the applicant should provide the true identity of the witness in writing in a sealed envelope to the court (and the prosecution in the case of a defendant's application) together with copies of the statement of the witness and any disclosable material from which redacted versions have been prepared. The applicant should also provide copies of such material as is relied upon to establish that Conditions A - C in Section 88 of the Act are met.

10. Any notice including a witness statement which is sought to be admitted as hearsay evidence under articles 18 and 20 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004 should also contain the requisite 'hearsay' notice as required by the applicable court rules.

11. An application for the discharge or variation of an order should be made as soon as possible after the occurrence of any material change in circumstances and, if time permits, should be made by notice in writing to the court with copies served on the other parties. If time does not permit the application may be made orally at the trial. The court may also discharge or vary an order on its own initiative

12. Where the court makes an order, the measures required to be taken in relation to the witness as provided for by Section 86 (2) of the Act should be clearly set out in the order and approved by the court. The court may return any confidential material supplied at the hearing of the application to the party who supplied it upon their undertaking to preserve it and make it available at the court's further direction.

13. This practice direction shall have immediate effect.

Dated this 19th day of February 2010

Declan Morgan  
The Rt Hon Declan Morgan  
Lord Chief Justice