

COVID-19 GUIDANCE FOR COURTS

CROWN COURTS & CRIMINAL CASES

12 MAY 2020

This note replaces the Guidance issued on 27 March 2020.

Judges will continue to sit to hear urgent matters or those where the legal representative or party to the proceedings has requested a hearing and the judge considers it appropriate. The party wishing the matter to proceed should complete the requisite form, sharing it with the other party in sufficient time to enable it to be completed and lodged with the court office by 4.00 pm five working days before the case is listed. Unless specifically required Defendants need not necessarily be produced and interpreters may attend remotely.

Furthermore the Judges will undertake an administrative review of cases listed. When requested the Prosecution and Defence Representatives should collaboratively complete and lodge form [Crown CCI1](#) by email with the relevant court office.

Where the judge determines a review or other hearing is required the parties will be notified of the date and time.

Where the requirements of fairness and justice require a court based hearing, and it is safe to conduct one, then a court based hearing should take place however the judge may limit the number of persons present in court at one time. However matters will generally be undertaken remotely either by live link, email, telephone or other remote means. A party or legal representative should notify the court office of the means by which they will engage with the court.

Should a defendant request an arraignment/re-arraignment this may be facilitated if the defence indicate to the court that it is likely to result in a guilty plea. In these circumstances witness availability does not need to be checked by the PPS.

Where a defendant asks the court to conclude his sentencing, including where he may be time served, the judge will consider what nature of hearing should be conducted and who, if anyone, needs to be present. A similar process will apply to Magistrates' Court Appeals against sentence. The judge may require that only the parties in that one case are in the courtroom at the time and the hearing should be kept as short as possible. Legal submissions may be made by telephone, or live link as long as they are loud enough to be heard on the court recording.

Bail applications for all criminal matters should be conducted in accordance with the Guidance issued by the Lord Chief Justice's Office (High Court and Crown Court Bail Applications – 9 April 2020) and should be on the relevant form, [BAIL1](#).

Form [BAIL1](#) should be completed by the defence for all bail applications and forwarded to the prosecution to complete their views. The form will then be returned to the defence for submission to the relevant court office. Thereafter the court will place the matter before the Judge who may decide the application on the papers and issue his decision or he may list the matter for hearing.

Completion of the form provided, [CROWNCCI1](#), should be used for all other cases where the defence or prosecution is seeking to have a matter dealt with, such as third party disclosure, special measures, hearsay, bad character and other applications. There is no need to submit a separate bring forward application. The moving party completes their part of the form and submits it to the other side for completion and once the form is returned to the moving party it is submitted to the court office and will be listed to be dealt with if the Judge agrees.

Urgent PACE and POCA applications will be referred to the duty judge who will decide if the case should be listed and, if so, how the evidence is to be received. The judge will determine whether the application can be heard using live link or whether a witness is required to attend. The enabling provisions for the use of live link are contained in sections 55 & 57, and Schedule 26 & 27 respectively of, the Coronavirus Act 2020. See the attached note by the Recorder of Belfast setting out the process to be followed.

**NOTES FOR APPLICATIONS TO THE
COUNTY COURT AND CROWN COURT
FOR PRODUCTION ORDERS, SEARCH WARRANTS ETC under
Police and Criminal Evidence (NI) Order 1989 (PACE), Proceeds of Crime Act 2002
(POCA), Terrorism Act 2000, Regulation of Investigation Powers Act 2000 (RIPA)
etc.**

12 MAY 2020

1. These notes relate to applications for Production Orders, Search Warrants and similar orders to the County Court and to the Crown Court.
2. The court will require evidence to be given by the normal method, i.e. written application setting out the background and the evidence which grounds any suspicion, and why the order is required. A hearing will then be fixed with evidence given under oath or by affirmation.
3. Applicants should lodge the application and supporting documentation, with draft order, in a sealed envelope, with the envelope flaps signed and sealed, and on the outside mark the envelope: “Application by [*state name and position*] for [*state type of order sought*] under [*state legislation*]. Do not provide any other details, save for the applicant’s contact details – mobile telephone and email address.
4. The envelope will be retained by the court office in a secure location and will not be processed until such time as the court is able to conduct a hearing which complies with government Covid 19 guidelines on social distancing etc. Applicants will be contacted by the court office to advise them of the date of the hearing in due course.
5. If an applicant considers that an application is urgent (either when lodged or after the passage of time it becomes urgent) the court will make every effort to facilitate the applicant.
6. The applicant must complete the Form [PACE/POCA CII](#), setting out the reasons why the application is, or has become, urgent. This form should be sent by email to the relevant crown or county court office (see [Annex A](#)) – stating in the subject line ‘Urgent Form PACE/ POCA CII’. Please do not telephone the court office.
7. The [PACE/POCA CII](#) should not contain any confidential or sensitive material. It should also state whether the hearing can be conducted from a remote location by Sightlink or whether the applicant is available to attend a courthouse in person. Use of Sightlink may not be suitable for certain confidential or sensitive hearings.

8. The form and the sealed envelope shall be referred to a judge who shall consider whether it is necessary and expedient to conduct a hearing.
9. If the urgent hearing request is refused, the applicant will be advised by email, and the matter will be dealt with in accordance with paragraph [4] above.
10. If the judge decides to conduct a hearing the applicant will be advised by email of the date and time of the hearing, and whether he or she will be required to attend the courthouse or can give evidence by remote live link. If by live link, the applicant must ensure that they have a compatible system to enable them to participate in the hearing on the court's Sightlink facility.
11. The court will make arrangements for any Sightlink hearing at the agreed time and date. The applicant will be advised by email of logging on details. The parties to be included in the link will be the court clerk, the judge, and the applicant.
12. The hearing will be a formal court hearing held in chambers which means that it is a private hearing. During the hearing no-one else should be present in the room with the applicant. Proper decorum should be followed at all times, with the dress and behaviour of those participating of a similar standard to that expected when attending a courthouse.
13. At the commencement of the hearing, the applicant will be required to take an oath or make an affirmation. If the oath is to be taken the applicant must ensure that they have with them the holy book upon which they intend to take the oath, and the court should be advised beforehand the nature of the oath to be taken - e.g. I swear by almighty God, I swear by Allah etc.
14. Clarification can be provided on any issue by emailing the relevant crown or county court office. Please quote the applicant's name, the nature of the order sought, and the date on which the application was lodged. Please do not attempt to telephone the court office.
15. If an order is granted, it will be signed in the usual way. If the applicant is not present at the courthouse, arrangements will be made by email for a mutually convenient time and date when it can be collected.

His Honour Judge McFarland
Recorder of Belfast
12th May 2020