

COVID-19 GUIDANCE FOR COURTS
FAMILY PROCEEDINGS (ALL COURT TIERS)

ISSUED 23 September 2020¹

This guidance applies to family proceedings in all court tiers.

Courts will continue to undertake as much business as possible remotely or in the form of a hybrid hearing where the judge directs. Members of the public and legal representatives should not attend court unless specifically required. Where it is necessary for people to come to court in person such hearings can only take place where it is safe to do so. You should consult the NICTS guidance on security, social distancing and cleaning of court buildings before attending.

The following general framework will be adopted in the listing, reviewing and hearing of family proceedings:

- Where a case has been listed for hearing, the parties should lodge **form [HR1](#)²** (unless otherwise specified in [Masters Composite Guidance](#)) with the relevant court office setting out all details needed to inform listing arrangements specific to that case (the court office will notify all parties of the date, time and type of hearing and the details of any call-over which may be arranged in advance of the hearing);
- Where the parties wish to highlight urgent business or non-contentious matters where they have agreed a way forward to be undertaken on the papers they should lodge **form [HR1](#)²** for the judge to determine whether a hearing is required or whether the case may be dealt with administratively;
- Where the parties wish to request a hearing in a matter which has not yet been listed they should lodge **form [HR1](#)²** indicating that the matter is ready to be heard;
- Judges may continue to undertake administrative reviews to assist with managing outstanding cases, and may issue lists or parameters of cases to be reviewed and state the date by which **Form [FCI1](#)²** must be lodged. The Judge may also direct Form [FCI1](#)² to be lodged in an individual case where they require additional detail to inform their directions. It would assist the office staff and the Judges if electronic copies of any documents relied upon or referred to in the form were attached to it on submission, and the nature of the review eg FCC Review, should be highlighted in the subject line of the email.

¹ This replaces guidance issued on 12 June, and incorporates FCC and FPC Recovery guidance issued 22 May and 7 August 2020.

² The Judge or Master may direct completion of [Form \[FCI1\]\(#\)](#) in place of [HR1](#) where they feel this is more appropriate.

Forms should be completed collaboratively, narrowing the issues for determination by the court, and lodged with the relevant court office as directed by the judge. The form should include all the details needed to inform listing arrangements should the judge determine that a hearing is to proceed. Parties are asked to state whether the case is ready to proceed on the trial date and if so whether it should proceed remotely, in person in a courtroom or by a combination of remote and in person. Representatives are also asked to identify suitable dates for listing where applicable and dates to be avoided. They should also state whether there has been meaningful engagement. The names of witnesses to be called, including experts, should be provided along with information as to whether their evidence is to be given remotely or whether they are required to attend the court.

Where a physical/hybrid hearing is to take place form HR1² should be lodged no later than 10 working days in advance of the hearing so that appropriate arrangements can be made by court staff to manage footfall in court and in public areas of the court building.

Solicitors and family justice partners should refer to ICOS case tracking for details of their individual cases to allow them to prepare for any court listing (including Sightlink details) and to check for compliance with any directions or orders previously issued by the court. Where structured administrative reviews are to be undertaken, the profession and family justice partners will be given advance notice of the list or parameters of cases to be reviewed and the date by which form [FCI²](#) must be lodged. Unrepresented parties/Litigants in Person will be asked to complete Form HR1 and provide contact details in advance of any hearing in their case and will be notified directly by the court office of the arrangements.

Where a hearing is to proceed as a physical/hybrid hearing, the parties who are required to attend will be asked to come to court for their allocated time slot. Restrictions on the number of person who can be present in court buildings whilst complying with the Executive and Public Health Agency guidance means that no waiting facility will be available prior to the hearing and parties will not be admitted until the action is ready to proceed. Legal representatives should ensure that they have identified a waiting area for themselves, their clients and witnesses in close proximity to the court on the day of the hearing.

Where the hearing is to proceed remotely, the court office will provide the Sightlink details.

If a matter is unable to proceed on its allocated date / time the relevant court office must be advised as soon as possible.

While courts at all tiers will deal with the following matters within their available court time and in line with normal court procedures, should the circumstances require it they may adopt additional contingency arrangements to deal specifically with the following urgent matters:

- **Non-Molestation order (NMO) applications under Family Homes and Domestic Violence (NI) Order 1998**

Interim orders may be made for a specified period or until further order (Article 20(7)). NMOs made on an ex parte basis should be made for a specific period (Article 23(3)). Any interim orders, including NMOs made on an ex parte basis, made to a specific date will be reviewed by the judge and may be further extended.

The respondent may apply to the court for an earlier inter-partes hearing via their legal representative, or by themselves if they are unrepresented, using Form **HR1**.

As a **temporary measure**, which will be kept under review, where an affidavit cannot be obtained, courts are content to accept a statement providing the solicitor must firstly **confirm they have read through the statement carefully with the applicant and confirm it is completely accurate, and secondly, if the statement is unsigned, provide an undertaking to lodge a signed statement as soon as is practicable.**

Similarly, as a temporary measure subject to review, to verify grounding statements in ex-parte applications **in the Domestic Proceedings Court**, a solicitor may provide written confirmation from the applicant, including by text or email, to confirm that (s)he agrees the Statement, or, if that is not feasible for reasons stated, a written assurance from the solicitor that the Statement has been read to the applicant and approved.

Where the Applicant is under 18 years of age the application should be made to the High Court to be dealt with by the Master (Care and Protection) using Form **FCI1**.

Please note the provision in Article 20(1)(b) which means that an adult can, as an applicant, make an application for a 'relevant child' in the Domestic Proceedings Court.

If the respondent is under 18, the case should be commenced in the Domestic Proceedings Court but then transferred to the Family Care Centre.

On receipt of the required papers, the judge will determine whether the matter can be dealt with administratively or will require a hearing, and the court office will contact the parties to make any necessary arrangements.

INTERIM CARE and SUPERVISION ORDERS

Article 57 of the Children's (NI) Order 1995 deals with the making of Interim Care Order (ICO) or Interim Supervision Orders (ISO) for specified periods which may not exceed 8 weeks for a first order or 4 weeks for subsequent orders. Where the court is satisfied that Article 57(2) is complied with, existing interim orders may be renewed by Administrative Order where the matter is not listed for hearing. Any objections must be received by email submissions before the specified date. The Trust may be required to provide more information to support the renewal of the ICO/ISO if there are any objections.

- **CONTACT ORDERS under The Children (Northern Ireland) Order 1995**

It is important that children should maintain their usual routine of spending time with each of their parents³ in compliance with a Contact Order unless to do so would put the child, or others at risk with regards to Government and Public Health Authority (PHA) guidance in effect at the time. Where Coronavirus restrictions cause the letter of a court order to be varied, the spirit of the order should nevertheless be delivered by making safe alternative arrangements for the child. If it is not possible to maintain the child's routine due to illness or self-isolation, or non-availability of, or risk to, people who ordinarily support contact, **the courts will expect alternative arrangements to be made to establish and maintain regular contact between the child and the other parent**, for example remotely – by Face-Time, WhatsApp Face-Time, Skype, Zoom or other video connection or, if that is not possible, by telephone.

Temporary variations to contact orders WITHOUT REFERENCE TO THE COURT can be made where parents agree to temporarily vary the arrangements of a contact order they are free to do so, and each should record such an agreement in a note, email or text message sent to each other and to their legal representative (if they have one).

Where parents do not agree and a party to the proceedings feels a **matter of contact requires a court determination** they may request a hearing by lodging the requisite Form HR1. On receipt of the form the judge will determine whether the matter can be dealt with administratively or will require a hearing. Where the judge determines a hearing is required the parties will be notified of the arrangements, date and time. It must be noted that new emergency legislation makes it an offence to record or transmit an image or sound which is being transmitted via audio or video live link.

These arrangements will be kept under review and will be revisited as circumstances develop.

³ 'Parents' is used throughout this document but applies also to any person with parental responsibility or who has been granted contact with the child under Article 8 of The Children (Northern Ireland) Order 1995