

**COVID - 19 GUIDANCE
MASTERS' COURTS
21 SEPTEMBER 2020**

The following guidance replaces the guidance for Masters' Courts that was published on 4 September 2020 and contains updates for the following business areas;

- Chancery - Arrangements for new Interlocutory Summonses and Arrangements for Ex-parte Applications.

Practitioners should note that reduced staffing levels will impact on the time required to deal with all matters.

QUEEN'S BENCH and APPEALS

KEY CHANGES TO PREVIOUS GUIDANCE

Arrangements for the disposal of contested summonses on the papers or where a hearing is required.

SUMMONSES

The Master has commenced a review of all interlocutory summonses which were previously listed for hearing between 20 March and the end of the Trinity Term and automatically adjourned in the absence of any request for directions.

This exercise will be completed in 2 phases over the vacation period and a list of the cases to be considered at each stage will be issued through the Law Society and the Bar Council.

Review - Phase 1

The first phase of the review commenced on 30 June 2020. Legal representatives were required to complete and lodge form **HR1** by email with the Central Office (centraloffice@courtsni.gov.uk) no later than 4.00pm on 10 July 2020, however, in a significant number of cases, legal representatives have failed to comply with that instruction.

Those cases have been adjourned for consideration at an **Explanation Court on 5 November 2020** thereby providing parties with a final opportunity to submit form **HR1** or an explanation in writing setting out the reasons for non-compliance. A list of the cases which fall into that category will be issued through the Law Society and the Bar Council.

Parties must not attend court on 5 November 2020; the Master will deal with cases administratively (on the papers /written submissions). Where a form **HR1** or a written explanation is not submitted by email to the Central Office **by 2 November 2020**, the Master may in the absence of good cause **Strike Out** the summons.

Review - Phase 2

Legal representatives should collaboratively complete and lodge form **HR1** by email with the Central Office (centraloffice@courtsni.gov.uk) **no later than 4.00pm on 11 August 2020**. The subject line of your email should state "**QBD Master's Interlocutory Summons Review**

- **Phase 2**". Where a party is not represented or is a litigant in person, they will be contacted directly by the Court Office and asked to complete and return form **HR1** to the Central Office.

Completion and return of forms

For the purpose of this exercise a form must be completed in all cases which appear on the list provided (Review – Phase 2) and returned within the prescribed timeline. Where a form is not submitted, the case will be listed before the **Explanation Court on 5 November 2020 for non – compliance**. Where only one party responds, the Master may proceed on the basis of that party's proposals.

NEW BUSINESS

New interlocutory summonses will be permitted to issue with effect from **27 July 2020** with summonses allocated first return dates to Friday Summons courts commencing 11 September 2020. The court will deal with new summonses administratively (on the papers/written submissions) therefore parties **must not** attend court on the date which appears on the summons.

Parties should collaboratively (where possible) complete and file form [QBC12](#) together with an agreed order or where there is a difference of opinion between the parties as regards what directions should issue, the parties, if they agree, should file brief written submissions indicating their respective positions. This information must be lodged by email with the Central Office (centraloffice@courtsni.gov.uk) **at least 5 days** before the court date. The subject line of your email should state "**QBD Master's Summons Court (Administrative) – on (insert court date)**".

If the defendant is not legally represented, the party issuing the summons will be responsible for providing a copy of this guidance with the summons.

Where a Form QBC12 containing the requisite information is not provided by the due date, the summons may be **Struck Out**.

Adjournments

Requests for adjournments if agreed, will be dealt with administratively by the court office and adjourned to a future Friday Summons Court, unless a hearing date has been fixed.

Urgent Business

The Masters will continue to expedite the listing of urgent business where genuine urgency is demonstrated.

CONTESTED SUMMONSES

Disposal of Contested Summonses – On the Papers

Subject to consideration of any objection by the parties, the Masters will continue to deal with straightforward contested summonses for such relief as discovery, remittal and removal, compelling replies and similar applications, on the papers. They will also, in appropriate cases, at the request of or with the agreement of the parties, deal with all or part of more complex summonses on the papers. The directions as to the filing of electronic bundles will apply to such summonses.

In the more complex summonses, bundles must include detailed written submissions together with bundles of authorities (subject to any direction by the Master as to the filing of hard copy bundles).

In the more straightforward summonses, the parties may file short written submissions (authorities will generally not be required) and in the case of remittal or removal applications, may file agreed summaries of the medical evidence in lieu of the full medical and other reports. For the purpose of taxation of costs, summonses dealt with on the papers which include counsels' written submissions will be certified for counsel.

Disposal of Contested Summonses – Hearing required

If there is a need for the matter to be resolved by the court, the Master will facilitate a hearing via one of the following options:

- Remote Hearing (using Sightlink or WebEx)
- Live Hearing
- Hybrid Hearing (partly remote /partly live)
- Telephone Conference

Where the Master determines that a contested summons will be dealt with via a remote, live or hybrid hearing, the party who issued the summons will be responsible for providing the court with case management directions and a complete **electronic trial bundle**. The electronic document must be numbered in ascending order throughout. Pagination should begin with the first page of the first document and should be continued throughout the entire series of documents. The index page must be hyperlinked to the pages or documents to which it refers.

Parties should note that any live hearings will be strictly timetabled and capacity within the Masters Chambers and the Masters Courtroom will be restricted to ensure compliance with social distancing requirements and PHA advice.

REVIEW LISTS: PERSONAL INJURIES AND CLINICAL NEGLIGENCE CASES

Those cases which were previously listed for review (20 March -30 June 2020) and adjourned in the absence of a request by the parties for directions, will be dealt with by the court administratively (on the papers /written submissions).

Parties should collaboratively (where possible) complete and lodge Form **HR1** by email with the Central Office (centraloffice@courtsni.gov.uk) on or before **30 September 2020** setting out agreed directions or, if there is a dispute, their respective proposals. The subject line of your email should state **“QBD Master’s Review List (Administrative) – Trinity Term”**. Where a party is not represented or is a litigant in person, they will be contacted directly by the Court Office and asked to complete and return Form **HR1** to the Central Office.

Where a Form **HR1** is not returned by 30 September, the case will be listed at an **Explanation Court** for non-compliance in the week commencing **2 November 2020**. Where there is a response by one party only, the Master may proceed to issue directions on the basis of that party’s proposals only.

Review lists – Michaelmas Term onwards

Thursday Review Courts will recommence on **10 September 2020**. Cases listed for review will until further notice be dealt with by the court **administratively** (on the papers /written submissions), therefore parties **must not** attend court.

Parties should collaboratively (where possible) complete and lodge Form **HR1** by email with the Central Office (centraloffice@courtsni.gov.uk) at least **5 days before the court date** setting out agreed directions or, if there is a dispute, their respective proposals. The subject line of your email should state “**QBD Master’s Review List (Administrative) – on (insert court date)**”. Where a party is not represented or is a litigant in person, they will be contacted directly by the Court Office and asked to complete and return Form **HR1** to the Central Office.

Where a Form **HR1** is not returned within the prescribed timeframe, the case will be listed at an **Explanation Court** for non-compliance in the week commencing **2 November 2020**. Where there is a response by one party only, the Master may proceed to issue directions on the basis of that party’s proposals only.

Where there is a difference of position between the parties as regards what directions should issue, the parties should file brief written submissions indicating their respective positions. A complete electronic file of the submissions should be sent to the Central Office by one of the parties. Those submissions will then be considered and the court will issue a direction. In the event that a party fails to engage in agreeing directions, the Master will consider the directions proposed by the other party/parties.

Telephone conferencing will continue to be used for reviews in cases where there is a dispute about proposed directions which cannot be resolved in the papers.

EX -PARTE APPLICATIONS

Urgent ex parte applications will be given priority. Such applications must be clearly marked urgent and the papers may be filed by email to the RCJ Front of House: Frontofhousercj@courtsni.gov.uk

AFFIDAVITS

QBD Masters will accept unsworn affidavits in ex parte and inter partes applications subject to the solicitors’ undertaking to provide a sworn affidavit as soon as is possible and in inter partes applications, subject to any objection by another party.

INTERIM PAYMENTS

Practitioners should provide a digital hearing bundle containing the summons and grounding affidavit, any replying affidavit, the pleadings, short written submissions, and an agreed summary of the medical evidence. The timetable for the sequence of affidavits and submissions should be agreed between the parties. Authorities are not required. If a contested hearing is required the Master may deal with it on the papers.

If the application is by consent and the terms agreed, the Master will direct that an order be issued in those terms. A formal ex parte application in these circumstances will not be required.

All documents should be in a single digital bundle with an index otherwise the Master will not accept them.

CHANCERY AND PROBATE

KEY CHANGES TO PREVIOUS GUIDANCE

- Arrangements for **new Interlocutory Summonses**
- Arrangements for **Ex-Parte Applications**

Chancery

ORDER 88 BUSINESS

Solicitors acting for banks and building societies may submit a written submission in respect of every case they have in the list each day specifying the relevant points and the relief sought. Any submission must be sent by email to the Chancery Office (chanceryoffice@courtsni.gov.uk).

The Master has directed that new **Order 88 originating summonses** will be permitted to issue.

New **Order 88 notices of appointment** should not be issued until further notice unless it is urgent, in which case the reasons must be clearly specified in writing.

The Master when dealing with possession proceedings shall take account into all circumstances, including the guidelines issued by the Department for Communities during this period of public health emergency.

Final Orders

Final orders will continue to be made if upon consent or if undisputed. The Master will only make final orders in cases where he is satisfied that it is right to do so. If he has any concerns whatsoever about prejudice and the fairness of the process he will simply adjourn the case. Solicitors should check ICOS to confirm adjournment dates or contact the Chancery Office.

INTERLOCUTORY SUMMONSES

The Master undertook to complete a review of all interlocutory summonses which were previously listed for hearing between 20 March and the end of the Trinity Term and automatically adjourned in the absence of any request for directions.

Legal representatives were required to complete and lodge form [ChanCI1](#) by email with the Chancery Office (chanceryoffice@courtsni.gov.uk) no later than 4.00pm on 14 August 2020. However, in a significant number of cases, legal representatives have failed to comply with that instruction.

Those cases have been adjourned for consideration at an **Explanation Court on 5 November 2020** thereby providing parties with a final opportunity to submit form **ChanCI1** or an explanation in writing setting out the reasons for non-compliance. A list of the cases which fall into that category will be issued through the Law Society and the Bar Council.

Parties must not attend court on 5 November 2020; the Master will deal with cases administratively (on the papers /written submissions). Where a form **ChanCI1** or a written explanation is not submitted by email to the Chancery Office by **2 November 2020**, the Master may in the absence of good cause **Strike Out** the summons. Where only one party responds, the Master may proceed on the basis of that party's proposals.

NEW BUSINESS

New interlocutory summonses will be permitted to issue with effect from **21 September 2020**. The court will deal with new summonses administratively (on the papers/written submissions) therefore parties **must not** attend court on the date which appears on the summons.

Parties should collaboratively (where possible) complete and file form **ChanCI2** together with an agreed order or where there is a difference of opinion between the parties as regards what directions should issue, the parties, if they agree, should file brief written submissions indicating their respective positions. This information must be lodged by email with the Chancery Office (chanceryoffice@courtsni.gov.uk) **at least 5 days** before the court date. The subject line of your email should state "**Chancery Master's Interlocutory Summons Court (Administrative) - on (insert court date)**".

If the defendant is not legally represented, the party issuing the summons will be responsible for providing a copy of this guidance with the summons.

Where a Form **ChanCI2** containing the requisite information is not provided by the due date, the summons may be **Struck Out**.

Adjournments

Requests for adjournments if agreed, will be dealt with administratively by the court office and adjourned to a future summons Court, unless a hearing date has been fixed.

Urgent Business

The Master will continue to expedite the listing of urgent business where genuine urgency is demonstrated.

Contested Summonses

Disposal of contested summonses - On the Papers

Subject to consideration of any objection by the parties, the Master will continue to deal with straightforward contested summonses for such relief as discovery, outstanding replies, joinder applications, leave to amend pleadings and similar applications, on the papers. He will also, in appropriate cases, at the request of or with the agreement of the parties, deal with all or part of more complex summonses on the papers. The directions as to the filing of electronic bundles will apply to such summonses.

In the more complex summonses, bundles must include detailed written submissions together with bundles of authorities (subject to any direction by the Master as to the filing of hard copy bundles).

In the more straightforward summonses, the parties may file short written submissions (authorities will generally not be required). For the purpose of taxation of costs, summonses dealt with on the papers which include counsels' written submissions will be certified for counsel.

Disposal of contested Summonses - Hearing required

If there is a need for the matter to be resolved by the court, the Master will facilitate a hearing via one of the following options:

- Remote Hearing (using Sightlink or WebEx)
- Live Hearing
- Hybrid Hearing (partly remote /partly live)
- Telephone Conference.

Where the Master determines that a contested summons will be dealt with via a remote, live or hybrid hearing or a telephone conference, the party who issued the summons will be responsible for providing the court with case management directions and a complete **electronic trial bundle**. The electronic document must be numbered in ascending order throughout. Pagination should begin with the first page of the first document and should be continued throughout the entire series of documents. The index page must be hyperlinked to the pages or documents to which it refers.

Parties should note that any live hearings will be strictly timetabled and capacity within the Masters Chambers and the Masters Courtroom will be restricted to ensure compliance with social distancing requirements and advice from the Public Health Agency.

EX-PARTE APPLICATIONS

The Master will deal with ex parte applications on the papers and if necessary give directions for any further submissions to be made either in writing or orally.

Probate

Grants of Probate or Administration

The issue of Grants of Probate and Letters of Administration (and the temporary use of statements of truth) will continue in accordance with the guidance issued by the Lord Chief Justice on 24 April 2020 for the duration of for the duration of the Long Vacation and shall be further reviewed by the Master at the start of the New Term.

From 12 May 2020 all applications for a Grant of Probate or Letters of Administration must be accompanied by a completed signed checklist confirming that the application has been checked for compliance with the relevant legislation, Practice Guidance Notes and Practice Directions. Applications will not be processed unless a [completed checklist](#) is submitted.

Practitioners should note that normal turnaround times for issuing Grants of Probate or Administration will not apply given reduced staffing resources. Applications will take a longer time period to process. Practitioners must alert the Probate Office to reasons for any

requirement for priority handling. Those applications which are identified as urgent will continue to be passed to the Master to determine if they should be afforded priority.

Statements of Truth

During the current Public Health Emergency, and subject to regular review by the Probate Master, the Probate Master and the administrative staff of the Probate Office shall accept applications for Grants of Representation supported by Statements of Truth signed by the applicant rather than affidavits, where it has not been possible to have evidence taken by affidavit.

Affidavits remain the most acceptable way of providing supporting evidence, but the Master recognises that this is not practical in many cases due to the Government's current measures to enforce social distancing. Statements of Truth shall begin simply with the following wording "I/We Name and Address make the following Statement". There will then follow the substance of the Statement which will conclude prior to signature with the following wording "I/We believe that the facts stated in this witness statement are true and understand that criminal proceedings for fraud may be brought against me/us if I/We are found to have been deliberately untruthful or dishonest in the making of this Statement."

Insofar as Grant applications are concerned, the layout of the commonly used oaths of executor/administrator will otherwise be identical save for the opening and concluding wording as above. The Statements will simply be signed. There is no need for the signature to be witnessed.

In respect of any application which proves to be disputed, it shall be for the Master to be satisfied as to the quality of the evidence and such disputed matters may well simply have to be adjourned until affidavit evidence becomes available.

The use of Statements of Truth where affidavit evidence is unavailable shall apply to all non-contentious probate business including ex parte applications and summonses Practitioners should note that the Master will exercise discretion as to whether to accept statements of truth. He is unlikely to do so in matters where there is significant evidential dispute or where he feels affidavit evidence is essential.

Wills

Where a statement of truth is filed rather than an affidavit, a copy of the will bearing the applicants initials will be accepted. Practitioners should note that when lodging applications for a grant of probate, they should lodge a certificate certifying that the initialled copy of the will is a true copy of the original will.

MATRIMONIAL

Ancillary relief and Matrimonial Summonses

Upon application, those cases which were adjourned until a date to be fixed, may be relisted where;

- the directions or proposed Court order is agreed;
- if contentious, the legal representatives for the parties agree to email submissions for consideration/adjudication by the Master;

Any urgent applications (including maintenance pending suit applications) should be identified as such and will be listed for directions in relation to the e-mail submission of necessary documents to enable adjudication.

Maintenance Pending Suit

Maintenance pending suit applications should be supported by an affidavit served on the Respondent to the application who should within 14 days of service, file by email and serve by email an affidavit in reply. The application will be dealt with on foot of written submissions emailed to the court. The written submissions should provide detail of the parties' income, outgoings and other resources. Once the court has a complete electronic trial bundle including submissions, discovery (to include proof of income) and any authorities relied upon, a decision shall issue to the parties.

Financial Dispute Resolution

Where solicitors acting for each party agree that the case is ready for FDR hearing they should both notify the matrimonial office by email using the [FCI1](#) form. The form must include confirmation there are no outstanding issues.

In relation to those FDR cases already listed before Master Sweeney in September 2020, the FCI1 form must be email to the office no later than 30 July 2020. In relation to those cases listed in October, this form must be emailed to the office no later than 30 August 2020.

If the FCI1 form confirming readiness for hearing is not received in relation to any case already listed, that case will be removed from the list and the time slot allocated to a case where the aforementioned form confirming readiness for FDR hearing has been filed.

Public health guidance has limited the number of people in Master Sweeney's Court to a maximum of five people. This will include the Master and the parties. These will be hybrid hearings. Time allocations must be strictly adhered to. Following the FDR hearing the court participants will leave the building to complete consultations/negotiations. It is unlikely that consultation space will be available within the Royal Courts of Justice and this must be borne in mind and alternative consultation venues considered.

Public health guidance has limited the number of people in Master Bell's chambers to three, which prevents Master Bell from facilitating in person FDR hearings. However, FDR hearings may be listed for consideration following email submission of core issues, affidavits and discovery, and where legal representatives of both parties are of the view that a preliminary indication by the Master would assist with negotiations. Should the case not resolve, this indication would not be considered to amount to a formal FDR indication and would be binding. Instead, a formal FDR hearing will be held in person or by video link when circumstances and/or IT arrangements permit.

New Business

New summonses should be primarily issued for urgent business. Emergency applications shall be certified as urgent and supported by written reasons. Adjudication will be made after both parties have been afforded the opportunity to email written submissions for the consideration of the court.

New ancillary relief applications will be allocated a date for First Directions by the Master and, in advance of that date, an FCI1 form must be emailed to the Matrimonial Masters' team to reflect any agreed directions, or submissions in relation to directions not agreed and,

if relevant, confirming how service has been effected. The FCI1 form shall have attached a paginated electronic bundle containing the summons, affidavits and any discovery or correspondence relied on.

All communications to the Matrimonial Office should be copied to the other side, even where the person emailing says there is agreement.

Orders

The Master will only make orders in cases where the Master is satisfied that it is right to do so. If the Master has any concerns whatsoever about prejudice and the fairness of the process the Master will simply adjourn the case. Solicitors should check ICOS to confirm adjournment dates or contact the Matrimonial Office.

Hearings

All hearings (save for maintenance pending suit hearings) and Financial Dispute Resolution hearings, other than those referred to above, will be adjourned and rescheduled as soon as it becomes possible to facilitate the attendance of parties and practitioners in court or by video link.

Decree Absolutes

Applications for decree absolutes will be processed. However, as with all court business, practitioners should note that the normal turnaround times will not apply given reduced staffing resources.

Those applications which are considered urgent should be marked as such for the attention of the Master, together with supporting reasons.

Forms

Form [FCI1](#) should be used to email issues and submissions.

CARE AND PROTECTION

Children's cases and Non Molestation Order cases

The Master conducted an extensive Administrative Review of all Children and Non Molestation Order cases that were listed for Hearing or Review between 23 March and 1 June 2020. Directions Orders have issued. These cases will be further reviewed in accordance with the Directions Order. All other cases, including new cases, are now being processed by the Children and Patients Offices [at a speed commensurate with the skeleton staff available].

Applications for further Directions or a Remote Review Hearing should be presented by way of Form FCI1 or Form HR1 (for unrepresented parties/Litigants in Person). Forms should be completed collaboratively, served on all parties and filed by email with the relevant court office (Children: RCJChildrenoffice@courtsni.gov.uk or Patients: OCP@courtsni.gov.uk).

If an application is urgent it must be accompanied by a Certificate of Urgency clearly stating the reasons why it is urgent.

For further information see the Guidance for Family Proceedings (All Court Tiers). Legal representatives should also refer to the "Practice and Procedure Update" published by the

Law Society on 17 June 2020 following a webinar hosted by the Family Law Committee of the LSNI and the Family Bar Association.

Urgent ex-parte applications and single party applications requiring a hearing shall continue to be carried out remotely in accordance with case specific directions of the Master.

Patients' cases (to include Enduring Power of Attorney)

The Master conducted an Administrative Review of all Patients' cases. Directions Orders have issued. These cases will be further reviewed in accordance with the Directions Order. All other cases, including new cases, are now being processed by the Patients Offices at a speed commensurate with the skeleton staff available.

Urgent ex-parte applications and single party applications requiring a hearing shall continue to be carried out remotely in accordance with case specific directions of the Master.

Statutory Will

If a Summons for a Statutory Will is deemed to be critically urgent the applicant must file medical or other evidence to explain why the application is deemed to be so urgent.

Affidavits / Statement of Truth

Subject to express directions in any particular case, parties may submit evidence supported by **Statements of Truth** rather than affidavits, where it has not been possible to have evidence taken by affidavit. Affidavits remain the most acceptable way of providing supporting evidence but the Master recognises that this is not practical in many cases due to the Government's current measures to enforce social distancing.

Statements of Truth shall begin simply with the following wording "I/We Name and Address make the following Statement". There will then follow the substance of the Statement which will conclude prior to signature with the following wording "I/We believe that the facts stated in this witness statement are true and understand that criminal proceedings for fraud may be brought against me/us if I/We are found to have been deliberately untruthful or dishonest in the making of this Statement."

Orders

The Master will only grant Orders in circumstances where the Master is satisfied that it is the right thing to do and is in the best interests of the Child or Patient. If the Master has any concerns whatsoever about prejudice and the fairness of the process the Master will adjourn the case.

Hearings

Court Orders in Children and Patient cases shall be made on an administrative basis by the Master upon consideration of the papers filed to include Form [FCI1](#). If a Hearing is deemed by the Master to be necessary it will be conducted remotely in accordance with case specific directions of the Master.

Parties are at liberty to submit an application by email to the Children's Office (RCJCHILDRENOFFICE@courtsni.gov.uk) or Patient's Office (OCP@courtsni.gov.uk) by way of a Form [FCI1](#) or in exceptional circumstances by E-Letter or email to request a Directions Order or other Order. If other parties are involved the person making the application must at the same time place the other parties on notice of their application.

Medical Report for a Controller Application

The Master (Care and Protection) appreciates that during the pandemic practitioners may experience difficulties obtaining a Medical Report or Form F5 Medical Certificate as required by Article 97(1) of the Mental Health (NI) Order 1986 for a Controller Application.

During the pandemic, in non-contentious cases, the Master will accept a Medical Report or Medical Certificate based upon the Patient's GP and/or HSCT medical/social work/nursing home records rather than the doctor carrying out a face-to-face assessment. The doctor should consider, as part of the assessment, if it is possible or useful to speak to the Patient by phone or by video link using WhatsApp, Zoom or other remote link. Further, the doctor should consider, as part of the assessment, if it is possible to speak to the Patient's own GP or key carer or family member.

The doctor may be able to access sufficient information from NI electronic care records for purposes of Article 97(1) requirements. If practitioners require a Court Order for disclosure of relevant GP or HSCT Medical or Social Work Records or Nursing Home Records they should file a written application to the Office of Care and Protection providing as much information as possible, setting out the doctor's proposals for carrying out the assessment and full details of the disclosure requirements. The Court Fee for a Disclosure Order of this nature is £98.

Safeguards

1. The Controller application requires service of the application upon the Patient and their close family; should issues arise as a result of the service process as to whether Article 97(1) criteria are met, case specific directions from the Master regarding the assessment and the case generally will be required.
2. The Patient, the Controller, close family and relevant HSCT are at liberty to make an application for Restoral (ie to seek to have the Controller Order discharged because the Patient has recovered and is able to manage their property and affairs) at any time.
3. As part of the Office of Care and Protection annual review process in any case where the Article 97(1) Medical Report or Medical Certificate has been carried out without a face to face assessment the Review Team will invite the Controller (subject to the Patient's health and Covid-19) to file an up-to-date medical report based upon the doctor meeting the Patient.

BANKRUPTCY AND COMPANIES

KEY CHANGES TO PREVIOUS GUIDANCE

- **Review of Ordinary/Original applications and Set Aside applications**
- **Important Legal Update**

REVIEW

The Master will undertake a review of all Ordinary Applications, Applications to set Aside Statutory Demands and Originating Applications previously listed for hearing or review between 20 March and the end of the Trinity Term, and which were automatically adjourned in the absence of any request for directions. This exercise will be completed before the end of

next month and a list of the cases to be considered will be issued through the Law Society and the Bar Council.

Legal representatives should, as far as possible, **collaboratively** complete and lodge form **BANKCI1** by email with the Bankruptcy Office (Bankruptcyoffice@courtsni.gov.uk) no later than 4.00pm on 20th August 2020. The subject line of your email should state “**Bankruptcy and Companies Master’s Review**”. Where a party is not represented or is a litigant in person, they will be contacted directly by the Court Office and asked to complete and return Form **HR1** to the Bankruptcy Office.

Completion and return of forms

For the purpose of this exercise a form must be completed in all cases which appear on the list provided, and returned within the prescribed timeline. The Master may require legal representatives to attend a remote hearing to provide an explanation for non-compliance with this instruction. Where only one party responds, the Master may proceed on the basis of that party’s proposals.

Contested matters

In the event that the parties cannot agree a position and there is a need for the matter to be resolved by the court, the Master will facilitate a hearing via one of the following options:

- Remote Hearing (using Sightlink or WebEx)
- Live Hearing
- Hybrid Hearing (partly remote /partly live)
- Telephone Conference.

Where the Master determines that a contested application will be dealt with via a remote, live or hybrid hearing or a telephone conference, the party who issued the application will be responsible for providing the court with case management directions and a complete **electronic trial bundle**. The electronic document must be numbered in ascending order throughout. Pagination should begin with the first page of the first document and should be continued throughout the entire series of documents. The index page must be hyperlinked to the pages or documents to which it refers.

Parties should note that any live hearings will be strictly timetabled and capacity within the Masters Chambers and the Masters Courtroom will be restricted to ensure compliance with social distancing requirements and PHA advice.

LEGAL UPDATE

Practitioners are advised to familiarise themselves with the **Corporate Insolvency and Governance Act 2020** which came into effect on 25 June 2020 and which makes significant amendments to company and corporate insolvency legislation. The Act can be accessed at the following link: <https://www.legislation.gov.uk/ukpga/2020/12/contents/enacted>

GENERAL

1. Creditors’ petitions

Practitioners are advised that there is no change to the position regarding Creditors’ petitions. This is due to the ongoing public health emergency and its attendant restrictions. In addition, the offices of the Official Receiver remain closed. That closure prevents the

Official Receiver (and his staff and agents) from discharging his statutory duties on foot of any order made by the Court. This means that no bankruptcy or winding up orders may be made on foot of creditors' petitions even where the order is by consent. It also means that existing petitions cannot be heard and determined, and no new creditors' petitions may be presented unless the Master considers the circumstances to be exceptional, and has approved the presentation of the petition. Any change to that position will be reflected in updated guidance. Creditors' petitions will, however, be accepted into the list for the purposes of withdrawal or dismissal.

2. Originating Applications relating to the Bankrupt's Home

These applications will also not be accepted into the Court list until further notice.

3. Final orders

Final orders will only be made where the Master is satisfied that either the parties have agreed such an order, or that it is right and just in all the circumstances to do so. If the Master has any concerns whatsoever about prejudice and the fairness of the process she will simply adjourn the case. Solicitors should check ICOS for the status of their case or contact the Bankruptcy Office (bankruptcyoffice@courtsni.gov.uk)

NEW BUSINESS

1. Applications to set aside Statutory Demands

New applications to set aside Statutory Demands will be automatically accepted.

2. Directors' Disqualification applications and Leave to Act Applications

These will now automatically be accepted as new business from Monday 27th July 2020.

3. New urgent Ordinary or Original Applications

Practitioners seeking to have **new** Ordinary Applications or Originating Applications filed on the basis of urgency and importance must first submit an email request for the Master's consideration. Thereafter, the Master will make whatever determination or directions as to the filing and general management of the application as she sees fit.

4. Debtors Bankruptcy Petitions and Director's Winding Up Petitions

The Official Receiver has recently confirmed that the Insolvency Service will now accept court orders made on foot of Debtors' Bankruptcy Petitions and Directors' Winding up Petitions. Examiners will undertake their statutory duties remotely in these cases for the time being due to the continuing closure of Fermanagh House. Any such petitions adjourned in March will now be processed and the relevant petitioners informed.

New Debtors Bankruptcy Petitions and Director's Winding Up Petitions may also be filed as new business from Monday 22nd June 2020; the court will deal with these without appearance.