

**COVID - 19 GUIDANCE
MASTERS' COURTS
30 JUNE 2020**

The following guidance replaces the guidance for Masters' Courts that was published on 19, 23 March and 21 May 2020. Practitioners should note that reduced staffing levels will impact on the time required to deal with all matters.

QUEEN'S BENCH and APPEALS

SUMMONSES

The Master will undertake 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 two 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

Legal representatives should collaboratively complete and lodge form [QBCI1](#) by email with the Central Office (centraloffice@courtsni.gov.uk) **no later than 4.00pm on 10 July 2020**. The subject line of your email should state "**QBD Master's Interlocutory Summons Review - Phase 1**". 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 [LIPCI1](#) to the Central Office.

The Arrangements for **Phase 2** of the review will be published on **27 July 2020**.

Completion and return of forms

Until now, the default position has been that where no form was received from either party in a case it would be adjourned for four weeks. 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 Summonses

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 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 PHA advice.

REVIEW LISTS

The Master will publish further guidance in respect of those cases which were listed for Review between 20 March and the end of the Trinity Term and adjourned in the absence of any request for directions.

In the interim, the parties should continue to make endeavors to agree directions with a timetable for outstanding matters. It is anticipated that many of the matters can be agreed and these should be communicated to the Central Office and directions will issue in those terms.

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

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 or interlocutory summonses 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

Existing interlocutory summonses will continue to be dealt with remotely. Practitioners should provide an agreed order or where there is a difference of position between the parties as regards what directions should issue, the parties, if they agree, should file brief written submissions indicating their respective positions.

The Master intends to conduct an administrative review of any interlocutory summons which remain extant in forthcoming weeks.

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 [Application for Grant of Probate or Administration 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 [LIPCI1](#). 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 [FC11](#). 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.

Master KH Wells - 21 May 2020

BANKRUPTCY AND COMPANIES

The Bankruptcy and Companies Master continues to operate a daily list remotely. However, practitioners are specifically asked to note that the following two areas of business are currently not being accepted into the list:

1. Creditors' Bankruptcy and Winding up Petitions

In view of continuing restrictions arising from the current public health emergency, and the closure of the offices of the Insolvency Service (Fermanagh House), no bankruptcy or winding up orders may be made on foot of creditors' petitions at the present time. Therefore, existing petitions cannot be progressed and no new petitions are being accepted for the same reasons.

2. Originating Applications for re-possession of the Bankrupt's Home

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

Matters which may be progressed:

Contested Matters

Contested matters may be listed and determined on the papers if the parties are in agreement that it is appropriate to do so, and if the court has had emailed to it all the necessary documentation necessary to determine the matter.

Reviews

Reviews in contested matters may still be conducted remotely upon the parties' request and if there is an agreed position. Reviews may also be conducted either in the daily list or administratively.

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

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

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.

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. In addition, new petitions may also be filed as new business from Monday 22nd June 2020. In all such petitions, the court will deal with these without appearance. The position regarding Creditors' petitions remains unchanged.

TAXING

- The Master continues to:
 - Issue taxation certificates in Civil Legal Aid cases
 - Issue decisions relating to Court of Criminal Appeal decisions and payment certificates
 - Issue assessments in Civil Legal Aid taxation applications
- Contested matters may be dealt with by way of written submissions, telephone or remote hearings (or hybrid hearings).