

Practice Direction 1/2008

SUPREME COURT OF JUDICATURE OF NORTHERN IRELAND
IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

PERSONAL INJURY LITIGATION - GENERAL PRACTICE DIRECTION

Generally

Personal Injury litigation in the Queen's Bench Division should be conducted in accordance with the overriding objective set out in Rule 1A of the Rules of the Supreme Court (Northern Ireland) 1980:-

"1A-(1) The overriding objective of these Rules is to enable the court to deal with cases justly.

(2) Dealing with the case justly includes, so far as is practicable -

(a) Ensuring that the parties are on an equal footing;

(b) Saving expense;

(c) Dealing with the case in ways which are proportionate to -

(i) the amount of money involved;

(ii) the importance of the case;

- (iii) the complexity of the issues;
- and
- (iv) the financial position of each party;
- (d) Ensuring that it is dealt with expeditiously and fairly; and
- (e) Allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases".

This Practice Direction is designed to assist the parties involved in personal injury litigation to comply with the overriding objective and to reach just and expeditious resolution of their disputes.

Discovery

Subject to the flexibility required by the circumstances of any particular case the parties should use their best endeavours to comply with the Rules of the Supreme Court which prescribe deadlines for the delivery of pleadings. Discovery of documents shall be completed by each party exchanging lists not later than 14 days after the pleadings are closed or deemed to be closed in accordance with the provisions of Order 24 of the RSC. Inspection of documents shall take place not later than 14 days from the exchange of such lists.

Notice for Particulars

Where a party requires further particulars of any pleading delivered by the other party in accordance with Order 18 of the RSC, he shall request those particulars by notice within 14 days of service of the relevant

pleading. Replies to any such request by notice shall be furnished not later than 14 days from service of the notice.

Remittal

Parties are encouraged to adhere to the principles set out in the Guide to Good Practice in Remittal Applications to be found in the Appendix to the Consolidated Practice Notes for the Queen's Bench Summons Court.

Inspection by engineers or other non-medical experts

A party seeking facilities for the inspection or observation of premises, location, process, plant, equipment or other property the subject matter of the cause or action, which is in the possession of another party, or who seeks facilities for the taking of samples thereof, should write to the other party providing a clear and concise description of the property etc the inspection of or taking of samples from which is required, and the reason why such facilities are necessary or expedient. The party to whom the request is directed should respond as soon as the circumstances of the case permit, indicating its objection or consent to the request or asking for further time for consideration. Generally, a summons should not be issued unless such correspondence has taken place between the parties, or there is urgency or other reason requiring the matter to be brought promptly before the court.

Review of actions before the Master

(a) Unless early review has been requested by a party, nine months after an appearance is entered in an action the Central Office shall notify all parties of the date and time when the case shall be listed for first review before a Master. The purpose of this review is to establish whether

any interlocutory matters remain outstanding and to inquire about the general progress of the action, including readiness for listing. Routine or non-contentious issues will be attended to in the course of the review hearing. Special appointment hearings shall be arranged for lengthy or more complex contested matters.

(b) The Central Office shall send with the notification of listing for review a questionnaire which must be completed by each party and handed to the court at the commencement of the hearing. The purpose of the questionnaire is to identify clearly the matters which the court will address, thereby expediting the hearing to the benefit of both the court and the parties.

(c) An action may be listed for early review by the Master at any stage after close of pleadings. On receiving a request in writing for early review the Central Office shall notify all parties of the date and time of the review hearing, and shall provide each party with a questionnaire to be completed and handed to the court at the commencement of the hearing. The review hearing shall take the same form as a review under paragraph (a) above.

(d) If the parties are agreed at the review hearing that a case is ready for listing for trial, the Master will direct that it be set down for trial and added to the Principal Clerk's Callover List for a week which is acceptable to all parties.

(e) If at review the action is not ready for listing for trial, and the Master makes an order or gives directions for the further conduct of the case, it shall be listed for a second review before a Master. The purpose of

the second review is to establish that all orders made and directions given at the first review have been complied with in full. Non-compliance will be dealt with by way of unless order. The Master will also attend to any further interlocutory issues which may have arisen, either in the course of the hearing or by arranging a special appointment hearing, and he shall review the case generally including its readiness for listing.

(f) If the parties are agreed at the second review hearing that a case is ready for listing for trial, the Master will direct that it be set down for trial and added to the principal Clerk's Callover List for a week which is acceptable to all parties. If at the second review hearing the case is not yet ready for listing for trial, unless within 3 months from the date thereof the parties set the action down for trial and request the Central Office for listing in the Principal Clerk's callover, the case shall be referred to the Senior Queen's Bench Judge.

(g) If at any stage, either before the first review hearing, or where a second or further review hearing has been fixed by the Master, the parties agree that all interlocutory matters have been attended to, and the action is ready for listing for trial, they may write jointly to the Central Office indicating that review is not required. The action may then be set down for trial, and the Central Office will add it to the Principal Clerk's Callover List for a week which is acceptable to the parties. No action should be set down for trial unless ready for listing.

(h) In general, no action shall be reviewed before the Master on more than two occasions. In the event of continued non-compliance with any direction of the Master given at a review hearing, or order other than an unless order made, the party complaining should not issue a summons

for compliance but instead write to the Master setting out the nature of the complaint. The Master will either notify the parties of a date and time for them to attend before him, or he shall refer the action to the Senior Queen's Bench Judge.

(i) At all review hearings each party must be represented by a solicitor with carriage of the action or sufficient knowledge of the case to enable him to deal with any issue which is likely to arise, including readiness for listing. Counsel may appear at a review hearing but will not be a substitute for a solicitor with carriage of, or knowledge of, the case unless sufficiently briefed to deal with any issue which is likely to arise, including readiness for listing.

Principal Clerk's Callover

The purpose of the Principal Clerk's Callover is to fix dates for the trial of actions. The Principal Clerk will not adjudicate as to whether or not an action is ready for listing for trial. The Principal Clerk will either list the action for trial or refer it to the Senior Queen's Bench Judge. Actions will not be adjourned to any subsequent Principal Clerk's callover.

Adjournment of Actions

Once a case has been listed for trial, either by the Principal Clerk or following referral to the Senior Queen's Bench Judge, only in exceptional circumstances will an action be taken from the list for the allocated date of trial.

Commencement

This practice direction shall come into operation on 31st March 2008 and will apply to all cases where an appearance has been entered but the case has not yet been set down for hearing..

Dated this 10th day of March 2008

Brian Kerr

Lord Chief Justice

Revised this 27th day of June 2008