PRACTICE DIRECTION 6/2011

(As amended with effect from 5th September 2012 and 8th January 2016)

COURT OF JUDICATURE OF NORTHERN IRELAND

COURT OF APPEAL (CIVIL AND CRIMINAL DIVISIONS)
CHANCERY DIVISION
QUEEN'S BENCH DIVISION
FAMILY DIVISION

PART A - SKELETON ARGUMENTS AND RELATED DOCUMENTS

PART B - APPEAL BOOKS

PART C – ELECTRONIC BUNDLES AND CORE BUNDLES

1. **This Practice Direction revokes and replaces Practice Direction 4/2005 and sets out the current requirements in the Court of Appeal and certain High Court actions as to timetabling and submission of skeleton arguments, trial bundles and books of appeal. It makes provision for the electronic submission of documents.**

2. In this Direction:-

(a) "applicant" refers to an appellant or a plaintiff, a petitioner, or any other applicant by originating or other process (excluding a counterclaim) under which the relevant proceeding has been listed for hearing;

(b) "respondent" refers to a defendant or other respondent to the moving party's application or appeal;

(c) "the Office" refers to the appropriate Court Office (contact details of which are indicated in Annex F) for the relevant proceedings;

(d) "the court" includes masters**;** and

(e) "other party" refers to a party who is not the applicant or respondent who is given leave, or is directed by the court, to participate at the hearing.

(f) "litigant in person" refers to an applicant, respondent or other party who is participating in proceedings without being represented by a solicitor or barrister.

PART A – SKELETON ARGUMENTS AND RELATED DOCUMENTS

Proceedings where skeleton arguments are compulsory

3. Subject to paragraphs 4 to 5 skeleton arguments must be provided by the applicant, respondent, or other party as follows:

(a) in civil and criminal appeals before the Court of Appeal, including sentencing appeals, cases stated and references by the Director of Public Prosecutions under section 36 of the Criminal Justice Act 1988;

(b) in any judicial review proceedings;

(c) in proceedings in the Chancery Division commenced by writ;

(d) in any other class of proceedings in the Queen's Bench, Chancery or Family Division where a judge directs, including those involving litigants in person;

(e) in any class of proceedings (not covered by (c) or (d)) before masters where the master directs;

(f) in any proceeding where the applicant or respondent anticipate that points of law of any complexity will be argued; and

(g) in any other proceedings where the court directs.

4. In the case of a criminal appeal to the Court of Appeal for which leave is required the applicant shall lodge a skeleton argument with the notice of appeal, to enable the Single Judge to properly consider the case. Where the skeleton argument does not contain sufficient information to enable the Single Judge to do so, he may refuse leave.

4A. When making an application for leave to appeal under the Extradition Act 2003, the applicant shall lodge a skeleton argument with the ex parte motion to enable the Single Judge to properly consider the case. Where the skeleton argument does not contain sufficient information to enable the Single Judge to do so, he may refuse leave.

5. In any proceeding the court may dispense with the requirement for skeleton arguments.

6. A litigant in person will be expected to provide a skeleton argument unless the court dispenses with the requirement.

7. The Court may require the provision of a supplemental skeleton argument by the applicant, respondent, or other party.

Form and content of skeleton arguments

8. Skeleton arguments must be typed and shall state:

(a) The full title and record number of the proceedings

(b) The name of the party providing the skeleton argument;

(c) The name of counsel and the solicitor appearing on behalf of that party. (Or the phrase "acting in person" in the case of litigants in person).

(d) Where the points in the skeleton argument arise from portions of a transcript of evidence or from police interviews, the relevant portion or portions of the transcript or police interview (that is the page of the Book of Appeal, the paragraph and line number).

(e) Where there are references to legislation; the relevant statute, article, section, regulation etc.

(f) Where there are references to authorities the proposition of law that the authority demonstrates shall be clearly stated. Authorities and, if appropriate, the part of the judgment that supports the proposition shall be cited with reference to the particular page number and (where available) paragraph reference for the passage in the case, textbook or journal.

Schedules

9. Each skeleton argument shall have the following schedules:

(a) A list of authorities. Full citations shall be given (including of unreported cases) in accordance with the practice set out in Annex E1. For cases, textbooks and articles, page numbers and, where available, paragraph references for the passage relied on are required. The sections of a statute or other legislative instrument relied on shall also be specified. An example is attached at Annex A.

(b) The core authorities upon which a party is relying, especially those that it is definitely intended to cite to the court, whether cases, statutes, textbooks or other material. These shall appear first in the list of authorities, and shall be differentiated from the other authorities by means of an asterisk beside the list number. The number of core authorities in a case shall only rarely exceed ten.

(c) A chronology of relevant events including any previous court history, provided by the applicant. An example is attached at Annex B. It will be assumed that this is agreed between the applicant and respondent unless the skeleton arguments state otherwise.

(d) In criminal appeals a list of the interviews being relied upon, set out in chronological order. These references shall include the page number in Book of Appeal, paragraph number etc.

(e) In complex cases a list of the key persons in the case and their part in the case. An example is attached at Annex C.

Delivery of skeleton arguments, bundles of authorities and related documents

10. Subject to any contrary direction by the court, in cases before the Court of Appeal and the Divisional Court:

(a) the applicant shall lodge in the Office (see Annex F) and copy to the respondent and any other party a skeleton argument, at least thirteen working days before the date fixed for the hearing;

(b) the respondent shall lodge in the Office and copy to the applicant and any other party a skeleton argument at least eight working days before the date fixed for hearing;

(c) any other party shall lodge in the Office and copy to all other parties a skeleton argument at least eight working days before the date fixed for hearing;

Each party shall lodge their book of authorities and all related documents at least seven working days before the date fixed for hearing.

11. Where lodgement is by hard copy, four copies of all documentation referred to in this Part must be lodged with the Office in Court of Appeal cases and three copies in Divisional Court cases.

12. In all other cases, subject to any contrary direction by the Court:

(a) the applicant shall lodge in the Office (see Annex F) and copy to the respondent and any other party a skeleton argument at least ten working days before the date fixed for the hearing;

(b) the respondent shall lodge in the Office and copy to the applicant and any other party a skeleton argument at least five working days before the date fixed for hearing;

(c) any other party shall lodge in the Office and copy to all other parties a skeleton argument at least five working days before the date fixed for hearing;

Each party shall lodge their book of authorities and all related documents at least four working days before the date fixed for hearing.

13. No submission of supplemental skeleton arguments, authorities or other documents is permitted after these deadlines without the leave of the Court.

14. Books of Authorities shall be compiled in accordance with Annex E1. Where a party has less than fifteen authorities, they shall be submitted in hard copy. Where a party has fifteen or more authorities, they shall be submitted electronically and in hard copy, subject to any contrary direction by the Court. Skeleton arguments and schedules thereto shall, where possible, be submitted to the relevant Office in

electronic format. Electronic submission shall be in accordance with Annex E and the relevant e-mail addresses are given at Annex F.

15. Electronic documents may be submitted by e-mail either as a series of Word files or as an unlocked PDF file. Electronically scanned documents should not be submitted. A read-receipt will be required as proof of lodgement. Where the skeleton argument or schedules contain sensitive information, that is information in relation to which reporting restrictions may be imposed by law or requested by a party, it should not be sent by unencrypted e-mail, but instead be lodged by submitting one CD copy or a copy on another commonly used lockable digital recording medium such as a memory-stick to the relevant Office as a PDF file. Further details are in Annex E.

16. Where it is not possible to send copies of particular authorities by e-mail, the requisite number of paper copies shall be lodged in the relevant Office no later than the date of submission of the electronic documents.

17. Any party or their solicitor, where they have one, may request that the Judges' Reference Library provide to them by e-mail a composite electronic PDF document of the skeleton arguments and authorities relied on by all parties, for their use in preparation and in court.

PART B: APPEAL BOOKS

Provision of Appeal Books

18. Subject to any contrary direction by the Court, in civil and criminal appeals to the Court of Appeal, including references by the Director of Public Prosecutions, and in appeals by way of case stated, four copies of the appeal book shall be lodged with the Office by the applicant at least thirteen working days before the appeal is listed for hearing.

19. The applicant shall supply the respondent with an exact copy of the appeal book and retain an exact copy for his or her own use in Court. A party is free during court proceedings to use his or her own annotated papers from the trial proceedings.

However, he /she must refer the court to the relevant section in the court's appeal book as supplied by the applicant.

20. The book of appeal must contain an index of all documents. Every document shall be clearly separated by a page divider and all pages in the book of appeal shall be numbered sequentially from page 1 to the end. The index shall clearly list all documents in the book of appeal each document being identified by reference to the appropriate divider number and page number(s). A sample index for a criminal case is attached at Annex D.

21. The documents to be included, where relevant, in a book of appeal in respect of a criminal appeal to the Court of Appeal are:

(a) Form 2 – Notice of Appeal

(b) Form 3 – Grounds of Appeal

(c) Form 4 – Particulars of Trial

(d) Indictment

(e) Details of Co-Accused

(f) Pre-sentence report

(g) Previous Convictions of Appellant and any Co-Accused if relevant

(h) Prosecution Statement

(i) Defence Statement

(j) Defendant's Article 13(3) statement

(k) Medical Report

(l) Transcripts of Evidence and the summing up

(m) Additional Evidence

(n) Index to Crown Court Witnesses

(o) Index to Crown Court Exhibits

(p) Sentence and sentencing remarks

(q) The legal aid certificate (if any) and / or the Single Judge's decision on legal aid, where granted; and

(r) Any other documents which may be relevant to the appeal.

22. The documents to be included in a book of appeal in respect of a reference by the Director of Public Prosecutions are:

(a) Director of Public Prosecutions' reference;
(b) Form 4 – Particulars of Trial;
(c) Details of co-accused;
(d) Transcript of sentence;
(e) The legal aid certificate (if any);
(f) All relevant papers that were before the trial judge; and
(g) Any other relevant material.

23. The documents to be included in a book of appeal in respect of a civil appeal to the Court of Appeal are:

(a) The notice of appeal;
(b) The respondent's notice;
(c) The judgment or order of the court below;
(d) The pleadings (including particulars), if any; in the case of an appeal in an Admiralty cause or matter, the preliminary acts, if any;
(e) The transcript, if any, of the judgment of court below or, in the absence of such a transcript, the judge's note of his reasons for giving the judgment or making the order;
(f) Such parts of the transcript, if any, of the evidence given in the court below as are relevant to any question at issue on the appeal or, in the absence of such a note, such parts of the judge's note of the evidence as are relevant to any such question;
(g) Any list of exhibits made under Order 35, rule 8 of the Rules of the Court of Judicature, or the schedule of evidence, as the case may be;
(h) Such affidavits, exhibits, or parts of exhibits, as were in evidence in the court below and as are relevant to any question in issue in the appeal;
(i) The legal aid certificate (if any) granted to the appellant and / or respondent; and
(j) Any other documents which may be relevant to the appeal.

24. "Any other documents" shall include, for example, a bundle of correspondence agreed between the applicant and the respondent where correspondence is at issue.

25. The documents to be included in a book of appeal in respect of an appeal by case stated to the Court of Appeal are:

(a) The requisition to state a case;
(b) The case stated;
(c) The legal aid certificate (if any) granted to the appellant and / or respondent; and
(d) Any other documents which may be relevant to the appeal.

26. Where available a copy of the judgment or order giving rise to the case stated shall form part of the book of appeal.

PART C - CORE BUNDLES

27. In any case mentioned in Paragraph 3 above, where the trial bundle or book of appeal extends to more than 500 consecutively numbered pages, excluding transcripts, a core bundle shall also be agreed between the parties and lodged not more than four working days before the hearing.

28. The core bundle –

(a) shall contain only the documents which are central to the appeal; and

(b) shall not exceed 250 pages without the leave of the court, which may be sought by letter explaining why more is required, to which is attached a paginated index of the proposed core bundle.

PARTS A, B AND C – NON COMPLIANCE

29. Where the applicant, respondent, or any other party fails to comply with this Practice Direction in any respect he or she will be required to account for the failure to the Court and, in the absence of a good and sufficient explanation, the party in default may be penalised in costs.

Commencement

32. This Direction comes into operation on 21 December 2011 and will apply to proceedings listed for hearing on or after that date.

Dated this 21 December 2011

Lord Chief Justice

Annex A

LIST OF AUTHORITIES

NAME OF PROCEEDINGS: Smith v Jones (2010 No. 200)

PARTY PROVIDING THE LIST: The Plaintiff

NAME OF COUNSEL: A N Other QC, BC Dobbs

CASES

1*. Manchester Corporation v Connolly [1970] 1 Ch 420 at 427G to 429B

2* Guild v IRC [1992] 2 AC 310 at 315G to 316B

3 Higgins v Job [1982] EGLR 300, page 72, line 8 (copy provided)

TEXT BOOKS

1* Chitty on Contracts V51 (27th Edition) p.300 paragraph 3.22

2 Cheshire, Fifoot and Furmston's Law of Contract (13th edition) p. 217

ARTICLES

1* "Possessory title and licences" by Grabbit and Keep [1980] MLR 300, page 63, paragraph 6.36, (copy sent by hand)

STATUTES

1* The Limitation (Northern Ireland) Order 1989 Arts 100 and 89 as amended by The Limitation (NI) Order 2002 Art 3.

2* Land Registration Rules (Northern Ireland) 1994 (SRO No. 424) Rules 3 and 4

Annex B

CHRONOLOGY OF EVENTS

Date	**Event**
2.30pm Monday 16 May 2011	John Morgan strikes teacher, Ms Patterson
4.10 pm Monday 16 May 2011	School excludes John Morgan
Tuesday 17 May 2011	Call made to parents by teacher, Mr Jones
Wednesday 18 May 2011	Parents interviewed by teacher
Thursday 26 May 2011	Parents seen by Headmaster
Friday 27 May 2011	Parents and son meet Chairman of Board of Governors
Wednesday 1 June 2011	School refuses to permit student to return to school to sit exams
Friday 3 June 2011	Proceedings issued
Tuesday 7 June 2011	Leave refused by Judicial Review Judge
Thursday 9 June 2011	Applicant applies to renew leave application to Court of Appeal

Annex C

LIST OF KEY PERSONS

Name	**Role**

Mr James White	Accused
Mr John White	Victim
Ms Yellow	Mother of victim – key witness as to intent
Mr Brown	Co-accused
Mr Pink	Friend of victim – key witness for defence

Annex D

HER MAJESTY'S COURT OF APPEAL
IN NORTHERN IRELAND

THE QUEEN

-v-

JOHN BLACK

Appeal against conviction – DIPLOCK

BOOK 1

TAB		PAGE
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2.	Form 3 – Grounds of Appeal	2-3
3.	Form 4 – Particulars of trial	4-5
4.	Skeleton submitted with Notice of Appeal	6-12
5.	Decision of the Single Judge	13
6.	Indictment	14-15
7.	Details of co-accused	16
8.	Pre-sentence report	17-20
9.	Previous convictions of appellant	21-22
10.	Additional evidence	23-26
11.	INDEX to crown court witnesses	27
12.	Witness statement from Mr X	28-30
13.	Witness statement from Mr Y	31-40

14.	Witness statement from Mr Z	41-50
15.	INDEX to crown court exhibits	51

BOOK 2

16.	INDEX to various transcripts of evidence	52
17.	Evidence of Mr Brown	53-63
18.	Evidence of Mr White	64-74

Annex E1

Citation and Submission of Authorities

The following practice should be followed when an authority is cited and submitted:

1. Where a judgment is reported in the Official Law Reports (N.I.; N.I.J.B.; A.C.; Q.B.; Ch.; Fam.) on behalf of the Council of Law Reporting for Northern Ireland or the Incorporated Council of Law Reporting for England and Wales, that report must be cited. Other series of reports and official transcripts of judgments may only be used when a case is not reported in the Official Law Reports.

2. If a judgment is not (or not yet) reported in the Official Law Reports but is reported in the Weekly Law Reports or the All England Law Reports (All ER), that report should be cited. If the case is reported in both the W.L.R and the All ER, either report may be properly cited.

3. If a judgment is not reported in the Official Law Reports, the W.L.R. or the All ER but is reported in any of the authoritative specialist series of reports which contain a headnote and are made by individuals holding a Senior Courts qualification (for the purposes of section 115 of the Courts and Legal Services Act 1990), the specialist report should be cited.

4. Where a judgment is not reported in any of the reports referred to in paragraphs 1 – 3 above but is reported in other reports, they may be cited.

5. Where a judgment has not been reported, the official transcript may be cited using the neutral citation. Official transcripts may be obtained from, for instance, www.courtsni.gov.uk and www.bailii.org. The handed down version of a

judgment should not be used as it may have been subject to later revision. An unreported case should not usually be cited unless it contains a relevant statement of legal principle not found in reported authority.

6. Occasions arise where one report is fuller than another, or where there are discrepancies between reports. On such occasions, the practice outlined above need not be followed but the court should be given a brief explanation as to why this course is being taken and the alternative references should be provided.

7. Where a person is self-represented and is unable to access the Official Law reports, he/she may cite and submit the best case reports that he/she is able to access.

Annex E

Formatting of electronic documents and creation of electronic books of authorities

To be easily incorporated into the PDF document used by the court, an authority should be provided to the relevant Office listed in Annex F in the following format:

1. As a word document or as part of an **unlocked** PDF file.

2. If possible, and especially for PDF documents, the text should be converted to Book Antiqua font size 12.

3. Highlighted text and hyperlinks generated by search engines should be removed.

4. Only the relevant portions of statutes and delegated legislation should be provided.

5. If text is not available online, the requisite number of hard copies should be provided.

6. Internet material (for example Blackstone's Online) should be cited in the same format as the hard copy (eg "2011 edn, para D1-137") where possible. Where traditional citation is not possible, internet material should be cited by web address.

7. If a large number of authorities is to be sent and a zipped file cannot be used, the word documents or PDF should be provided on a CD or other commonly used data storage medium such as a memory stick.

8. The skeleton argument and schedules should be provided on a CD or other lockable data storage medium and not sent through the internet in unencrypted form where they contain sensitive information; that is information in relation to which reporting restrictions may be imposed by law or requested by a party.

Annex F

LIST OF OFFICES

1. Court of Appeal
   Fax No – 90235186
   Tel Nos – 90724671 & 90724667
   Email address – centraloffice@courtsni.gov.uk

2. Chancery Office and Bankruptcy and Companies Office
   Fax No – 90313836
   Tel Nos – 90724705, 90724703, & 90724710
   Email address – chanceryoffice@courtsni.gov.uk

3. Central Office
   Fax No - 90235186
   Tel Nos – 90725913 & 90724679
   Email address – centraloffice@courtsni.gov.uk

4. Commercial List Office
   Fax No – 90235186
   Tel Nos – 90725945 & 90724748
   Email address – commerciallistoffice@courtsni.gov.uk

5. Judicial Review Office
   Fax No – 90235186
   Tel Nos. 90724682 & 90725917
   Email address – judicialreviewoffice@courtsni.gov.uk

6. Probate Office
   Fax No – 90313836
   Tel Nos – 90724678, 90724683 & 90724694
   Email address – probate@courtsni.gov.uk

7. Matrimonial Office
Fax No – 90322782
Tel Nos – 90724676, 90724677, & 90724679
E-mail address – matrimonial@courtsni.gov.uk

8. Office of Care and Protection (Patients)
Fax No – 90725939
Tel Nos – 90724647, 90724725 & 90725955
E-mail address – ocp@courtsni.gov.uk

9. Office of Care and Protection (Children)
Fax No – 90322782
Tel Nos – 90725915, 90724781 & 90724676
E-mail address – rcjchildren@courtsni.gov.uk