

COVID – 19 GUIDANCE
MASTER (CARE AND PROTECTION)
24 November 2021

Children’s Office email -	RCJCHILDRENOFFICE@courtsni.gov.uk
Patient’s Office email – (Controller)	ocp@courtsni.gov.uk
(EPA)	epa@courtsni.gov.uk

1. Due to the ongoing impact of the pandemic upon High Court business and staff resources, the work of the **Master (Care and Protection)** continues in accordance with the arrangements and procedures set out below. This guidance supplements the [Guidance for Family Proceedings \(all court tiers\)](#) and replaces the Master’s guidance published on 8 January 2021.

KEY CHANGES

Children’s cases and non-molestation order cases

- Applications for a Hearing or Directions in Children’s and Non -Molestation should be presented by way of formal application i.e. Form C1 or Form C2.
- Form FCI1 no longer required unless specifically directed by the Master.
- Position papers to be filed in lieu of FCI1

Patient’s cases (to include Controller and Enduring Power of Attorney)

- Form FCI1 no longer required unless specifically directed by the Master
- Applications to be presented in Form 3 or Form EP3 as appropriate.

CHILDREN’S CASES AND NON-MOLESTATION ORDER CASES

2. Applications for a Hearing or Directions should now revert to being presented by way of formal application i.e. Form C1 or Form C2 for supplemental directions (or equivalent under the 1998 Order).

3. Use of Form FCI1 shall be phased out with a return to Position Papers, preferably one Joint Position Paper collaboratively completed, served on all parties and filed by email with the relevant court office on the date directed prior to each Court Listing. The Master may still expressly direct the filing of a Form FCI1 if deemed by the Master to be more appropriate than a Position Paper in any particular case. The Children’s Office will continue to accept a Form HR1 for unrepresented parties/Litigants in Person.

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

5. Unless otherwise directed the Master will accept a Statement of Evidence or Statement of Truth in lieu of an Affidavit, but the evidence must be signed and dated, or sworn if an Affidavit. Electronic copies will be accepted in the first instance, but the original (hard copy) Statement or Affidavit must be lodged with the Court Office as soon as possible thereafter or within the timescales directed by the Master.

6. Statements of Evidence and 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."

7. LCJ Guidance for those attending court or participating in court proceedings can be accessed here. In uncontentious matters the Master has discretion to make Directions or Determinations based on the papers filed without a Hearing, or to list the case for a Hearing.

8. Initial Hearings and Directions Hearing before the Master will continue to take place remotely.

9. Final Hearings will also continue to take place remotely unless there are cogent reasons for an in-person hearing and the Master accepts that there is a necessity for an in-person hearing or a hybrid hearing.

10. Unless otherwise directed a **Form HR1** must be filed at least 14 days in advance of all in-person and hybrid Hearings. Form HR1 must be fully completed and contain the name of each person proposed to attend the hearing. This information is required to inform judicial considerations and listing arrangements and ensure compliance with Covid safety arrangements in line with guidance from the PHA and Executive.

11. Staff resources continue to be impacted by the pandemic. Court users to include the legal profession should only email the Children's Office when it is absolutely necessary to do so. While the office aims to acknowledge correspondence within 3 days of receipt and to provide a substantive response within 15 days, some delay may be unavoidable depending on availability of resources. Practitioners should where possible use [ICOS Case Tracking Online](#) to securely access case details for cases in which they are involved. Genuinely urgent matters will be given priority and the Master will endeavour to issue directions to the Court Office within one working day subject to other Court and business demands.

PATIENT'S CASES (TO INCLUDE CONTROLLER and ENDURING POWER OF ATTORNEY)

12. Paragraphs 2-10 above apply to Patient's cases save at No 2 the correct process is a Form 3 General Form of Application in Patient's cases and Form EP3 in Enduring Power of Attorney cases.

Form 3 General Form of Application (Order 109 Rule 4(1) of The Rules of the Court of Judicature (NI) 1980) can be found [here](#)

Form EP3 General Form of Application (Order 109 Rule 4(1) of The Rules of the Court of Judicature (NI) 1980) can be found [here](#)

Statutory Will

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

Medical Report for a Controller Application

14. The Master 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.

15. 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.

16. 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.

Controller Application - Safeguards

17. 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.

18. The Patient, the Controller, close family and relevant HSCT are at liberty to make an application for Restoral (i.e. 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.

19. 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.

Casework Administration – Patients Office

20. The OCP Patient's Office is under significant pressure and dealing with the increasing demand of new business in addition to current workloads. As a consequence the normal timelines for responding to correspondence are not being met. The postal backlog is being managed with constant overview by senior management to ensure those requests and enquiries where a clear need for urgency is identified are actioned. To accelerate this process it is essential that all correspondence by email or in writing is clearly marked as urgent. All court users must be mindful of the exceptional demands upon this Office currently, and must only email the Office if the issue is essential.

21. Regrettably, OCP Patient's Office is not able to manage incoming phone calls at present. Urgent enquiries should be emailed to ocp@courtsni.gov.uk or epa@courtsni.gov.uk and must be clearly marked in the subject line of your email as URGENT. The position with the phone service is kept under review by senior management, and will be restored when recovery from the pandemic is progressed.

Master KH Wells