

COVID - 19 GUIDANCE
CHANCERY MASTER'S COURT
ORDER 88 BUSINESS

2 October 2020

This guidance supplements the Chancery and Probate Masters' Courts guidance and applies to actions under Order 88 of the Rules of the Court of Judicature 1980. **It has effect during the period beginning on 19 October 2020 and ending on 28 March 2021.**

Interpretation and application

1. In this guidance -
 - (a) "stayed action" means an action which was brought on or before 19 October 2020 and includes actions adjourned generally by the court and actions relating to the enforcement of a final order for possession;
 - (b) "new action" means an action brought after 19 October 2020.
2. Paragraphs 4 to 10 of this guidance apply only to stayed actions.
3. Paragraphs 11 and 12 applies to all actions (including stayed actions).

Reactivation Notices

4. Unless the court directs otherwise, no stayed action is to be listed, relisted or heard until one of the parties lodges and serves a written notice ("a reactivation notice"¹) confirming that they wish the action to be listed, relisted or heard.
5. A reactivation notice must -
 - a. confirm that the party lodging and serving it wishes the case to be listed, relisted or heard;
 - b. be served upon any party on record in the action; and
 - c. where the Housing Rights service has previously been involved in the action, be served upon Housing Rights.
6. If a reactivation notice is not served in any stayed action by 4pm on 29 January 2021, the stay in that action will automatically be continued.

¹ See Appendix for template Reactivation Notice

Reactivation Notices in Actions in which Case Management Directions have been made

7. A reactivation notice in any stayed action in which case management directions were issued prior to 20 October 2020 must have attached –
 - a. a copy of the last directions order together with proposed new dates for compliance with the directions taking account of the stay before 20 October 2020; and
 - b. either –
 - i. A draft order setting out additional or alternative directions (including proposing a new hearing date) which are required; or
 - ii. A statement in writing that no new directions are required and that an existing hearing date can be met.

Hearings in Stayed Actions

8. On receipt of a reactivation notice, the Northern Ireland Courts and Tribunal Service will list the action for an initial review hearing before the Master. This review hearing will be conducted administratively and **parties will not be permitted to attend.**
9. Unless the court directs otherwise, the parties to an action shall be given at least six weeks' notice of any initial review hearing which is listed in response to a reactivation notice.
10. Having conducted the initial review hearing administratively, the Master will issue case management directions and may list the action for further review or final hearing².

Providing Information as to the Effect of the Pandemic

11. In any action (whether a new action or a stayed action), at least 21 days prior to an initial review hearing date, the requesting party must –
 - a. lodge an affidavit setting out –
 - i. where the Plaintiff is the requesting party, what knowledge the Plaintiff has as to the effect of the Coronavirus pandemic on the defendant and their dependants;
 - ii. where the Defendant is requesting party, the effect of the Coronavirus pandemic on the Defendant and their dependants;

² At this stage, the Master will seek the views of the parties as to whether the case is suitable for hearing by consideration of the papers only, by telephone or video-link or whether a full oral hearing in chambers or a court is appropriate.

- iii. the position regarding arrears prior to March 2020 and since March 2020;
 - iv. whether the defendant has had a payment deferral period;
 - v. details of the defendant's current circumstances, to include any vulnerability and whether they are or are known by the Plaintiff to be 'shielding';
 - vi. details of any engagement between the parties and proposals put forward by the defendant;
- b. serve the affidavit on any other party to the action; and
 - c. lodge a certificate of service with the Court Office.
12. If a party to an action does not agree with any of the matters advanced under paragraph 11 (a)(i) to (vi) they must -
- a. at least 5 days before the initial review hearing, lodge a replying affidavit setting out areas of disagreement;
 - b. serve the affidavit on any other party to the proceedings; and
 - c. lodge a certificate of service with the Court Office.
13. The Master may direct at the initial administrative review and any subsequent adjourned hearings such further affidavit evidence as the Master considers appropriate.

Appendix – Template Reactivation Notice

2020/1234

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
CHANCERY DIVISION

BETWEEN:

XXXXXXXX Plaintiff;
and
XXXXXXXXX First-Named Defendant;
and
XXXXXXXXX Second-Named Defendant.

ORDER 88 ACTION - REACTIVATION NOTICE

Take notice that the [Plaintiff / Defendant etc] requests that the stay in this action be lifted and that it be [listed / re-listed / heard] on a date to be fixed.

Signed _____

[Plaintiff / Defendant etc]

[Address]

To: The Chancery Master
Royal Courts of Justice
Chichester Street
Belfast, BT1 3JY

The [Defendant / Plaintiff etc]

[Address] [Current / Last Known / c/o etc]

Housing Rights Service [if applicable]