

## **Guidance for Practitioners** *Clinical Negligence Case Management Reviews*

### **Case Management Reviews**

From the *10<sup>th</sup> November 2022*, Form 'KBCI3' is no longer required. Case Management Reviews will be dealt with in-person. Please refer to the updated guidance in respect of remote attendance. The parties will be required to complete a Master's Review questionnaire, updated for Clinical Negligence actions, [here](#) . These Reviews are important milestones in the life of a case and will ensure the litigation progresses in a manner which is just, expeditious and likely to minimise costs.

### **Overriding Objective**

Practitioners are reminded of the need to bear in mind the overriding objective set out at Order 1 rule 1(a) of the Rules of the Court of Judicature. Having regard to this, Practitioners should be aware that all Clinical Negligence actions will be subject to robust, active case management.

### **Active Case Management**

Active case management includes;

- a) Encouraging the parties to co-operate with each other in the conduct of the proceedings;
- b) Identifying the issues at an early stage;
- c) Fixing realistic timetables and controlling the progress of the case;
- d) Dealing with as many aspects of the case as possible on the same occasion;
- e) Giving directions to ensure that the case proceeds fairly, quickly and efficiently;
- f) Consistency (with sufficient flexibility) from the Master;
- g) Procedural steps which are devised and tailored to suit each case;
- h) A culture of compliance with court directions.

### **Attending a Review**

Practitioners attending for Case Management Reviews are expected to have full knowledge of the action. It is expected that ordinarily the Solicitor with carriage of the action or counsel, fully and properly instructed, will appear at the Review. Parties will be expected to be able to address the Master on all matters relevant to the action.

### **Case Management Review Process**

It is the Master's expectation that Clinical Negligence cases will normally require a maximum of 3 Case Management Reviews, after which the matter should be set down and timetabled toward trial. *NB The Thursday Master's Court will deal with cases at stages 1-3.*

- Review 1 = Initial directions
- Review 2 = Active Case Management
- Review 3 = Pre-setting down Review

Any case which, due to its complexity, the number of parties involved or where, due to exceptional circumstances, it has already been reviewed 3 times or the writ was issued more than 48 months prior to the date of Review, and is not yet set down for Trial may, at the request of the parties or upon direction of the Master, be listed for Review on another day to be allocated by the Court, via in-person hearing or Webex.

### **Timely Resolution**

Practitioners are reminded it should be the aim of all parties in Clinical Negligence cases to ensure that, save in exceptional circumstances, the matter is fully resolved within 48 months of the date of issue of the Writ.

### **Aged cases**

The Master intends to list for Review all Writs issued between 2010 and 2021 which have not yet been the subject of a Master's Review. Correspondence will issue from the Central Office in relation to these actions with practitioners requested to provide a response to the Court within 21 days indicating whether the matter has settled or otherwise resolved, failing which the action will be listed for Review with the parties required to attend in person/remotely.

### **Sanctions**

Practitioners are reminded of the Court's powers to impose procedural penalties and costs sanctions, where appropriate. This can include instances of persistent default or delay by a party such as, inter alia, failure to adhere to the rules of court, previous directions from the Master or the Clinical Negligence Protocol.

### **Clinical Negligence Protocol**

Practitioners should familiarise themselves with the Protocol and Practice Direction for Experts which took effect from 1<sup>st</sup> October 2021.

<https://www.judiciaryni.uk/sites/judiciary/files/decisions/Practice%20Direction%202021.pdf>