

Guidance Note - Civil Proceedings in the County Court

December 2023

Following a meeting of the County Court Civil Justice Liaison Group in October 2023, HHJ Gilpin, the Principal Civil Judge and HHDJ Duncan, the Presiding District Judge, wish to highlight a number of matters to the Bar and the Law Society to assist in the disposal of civil proceedings in the County Court.

This guidance replaces the previous guidance issued in June 2023.

1. Place of Hearing of Civil Bills

LCJ's Direction 5/16, para 19, provides inter alia, that proceedings in the County Court may be commenced or heard in a county court for the administrative court division where:

- the defendant resides or carries on business (in the case of a body corporate where it has its registered office or principal place of business) or
- the cause of action arose.

In *McClenahan v SEE&LB* [1999] 3 BNIL 75, HHJ Hart QC held that as county courts exist "to provide a local forum for the resolution of disputes save in exceptional circumstances, a case should be heard in the court where the cause of action arose...."

Going forward where a Plaintiff has chosen to commence a case in an administrative court division other than where the accident or event occurred the court office will refer the papers to the judge in order that a decision can be taken whether to transfer the matter to the administrative court division where the accident or event occurred.

Para 31 of the LCJ Direction 5/16 provides that the judge can, of their own motion, transfer a case for "good reason."

2. Remitted Actions

Where an action has been remitted from the High Court, Order 22 Rule 8 of the County Court Rules (NI) 1981 requires the Plaintiff to lodge the Original Writ or other originating process with the County Court within 14 days from the date of the Order of Remittal. This requirement was previously highlighted to the professions but compliance remains below what it should.

3. Removal to the High Court

Where on review the County Court is informed a case is subject to an application for Removal to the High Court an estimate of the length of time until the outcome of the Removal application is known should be given to the judge.

4. Certificate of Readiness

When drafting a Certificate of Readiness careful consideration must be given to ensure an accurate estimate of the time required for hearing is stated thereon.

When a Certificate in lieu of an Affidavit is submitted by a solicitor in support of an Interlocutory Application pursuant to Order 14 the Certificate must be signed by the solicitor personally and not in the name of the solicitor's firm.

5. Lodgement

If a lodgement has been made it is the responsibility of the Plaintiff to ensure the Notice of Lodgement is drawn to the attention of the judge when the court is notified of any settlement or when judgment is handed down. Late applications to uplift a lodgement require a formal application and payment of the relevant fee.

6. Trial Bundles

It is the Plaintiff's responsibility to ensure an agreed, paginated trial bundle is lodged with the court at least 5 working days before the date listed for hearing for every case that is proceeding to hearing. The trial bundle must include not only documents the Plaintiff wishes to be included but also those of the Defendant.

It is the responsibility of the Plaintiff's solicitors to apply the test for discovery and thereafter only to provide those parts of medical notes and records properly discoverable.

7. Documents Accepted by Email

In a change to the Guidance published in June 2023 the following documents will be accepted by the court office by way of email:-

- Certificates of Readiness
- Forms 98a

The court office does not require hard copies if the acceptable documents are lodged via email and arrangements for the appropriate fee payment has been made. To avoid duplication, a hard copy should not be sent.

8. Documents Only Accepted in Hard Copy

The following documents will only be accepted by the court office in hard copy:-

- Civil Bills
- Notices of Intention to Defend
- Injunctions
- Trial Bundles
- Interlocutory Applications
- Minor Petitions
- Ancillary Relief Applications
- Applications to extract a Decree
- Applications seeking an Order for Discovery

To avoid duplication, an emailed copy should not be sent.

9. Title of Action

All Minor Petitions fall solely within the equity jurisdiction of the County Court Judge. The title on a Minor Petition must reflect this.

Care must be taken in drafting a Civil Bill if it falls within the equity jurisdiction of the County Court to ensure the Civil Bill is entitled to reflect this.

Care must be taken to ensure the title to the proceedings reflects whether, given the damages claimed, the matter falls within the jurisdiction of the County Court Judge or the District Judge.

10. General

The staff of the Northern Ireland Courts and Tribunals Service are not in a position to provide legal advice and should not be asked to do so.