

# COVID-19 - GUIDANCE FOR COURTS

24 APRIL 2020

This guidance revokes and replaces the guidance note issued on 24 March 2020. Court business will continue to be consolidated in the Royal Courts of Justice (RCJ), Laganside Courts, Lisburn, Dungannon and Londonderry Courthouses. Taking into account Public Health Agency guidance, the Lord Chief Justice has initiated reviews of cases listed for hearing in the Court of Appeal and High Court with a view to commencing the gradual and incremental recovery of court business.

The key changes to note are:

- The reviews of cases listed for hearing in the Court of Appeal and High Court;
- The forthcoming review of cases listed for hearing in all other courts;
- The arrangements for Grants of Representation, Probate: and
- The listing of Preliminary Enquiries for hearing where the defendant is in custody.

## CURRENT POSITION

The following matters are currently being progressed by way of a court hearing (the form of which will be determined by the relevant judge) or on the papers where possible.

- 1. Urgent Matters.** Examples of urgent matters, which typically involve the immediate liberty, health, safety and wellbeing of individuals include:
  - a. Criminal proceedings** - First remands in the Magistrates' Courts (overnight charges and first appearance on charge sheets after 28 days); Custody remands; Bail applications; PACE applications; and Sentencing where delay may mean time on remand exceeds any likely/realistic custody period under the sentence.
  - b. Family proceedings** - Non-molestation Orders; Applications under the Children (NI) Order 1995 such as Care Orders, Prohibited Steps Orders, Emergency Protection Orders and Secure Accommodation Orders; Declaratory judgments in patients' cases; Child abduction.
  - c. Civil proceedings** - Habeas Corpus applications; Urgent injunctions; Urgent judicial reviews.
  - d. Other matters where the legal representative or a party to the proceedings has requested a hearing and the judge considers it urgent or necessary.**
- 2. Agreed matters or where approval is required.** Where parties have agreed a way forward in their case and are seeking an order from the court or approval from the court, they should complete the relevant form, sharing it with the

other party/parties to enable it to be completed, and lodge it with the court office by 4.00 pm five working days before the case was scheduled for hearing. Please note that this option applies to all cases.

Where the requirements of fairness and justice require a court based hearing, and it is safe to conduct one, then a court based hearing should take place. The judge may limit the number of persons present in court at any time. **Members of the public should NOT attend court.** The matters listed above will generally be undertaken remotely either by Sightlink, telephone, email or BTMeetme etc. A party or legal representative should notify the court office of the means by which they will engage with the court.

All forms, correspondence and emails MUST include the ICOS number, the relevant Courthouse (and the court number if a Laganside Courts case). They should be lodged with the court office by 4.00 pm five working days before the case was scheduled for hearing. Forms for all court tiers can be found on the [Covid-19 page](#) of the Judiciary NI website. Please note that other than as set out below no form, correspondence or email is required where an adjournment is the preferred course of action.

## MAGISTRATES' COURTS

Magistrates' Courts business is amalgamated in the following courthouses:

- Laganside, Belfast - also dealing with Ballymena, Antrim, Ards and Downpatrick;
- Lisburn - also dealing with Craigavon, Armagh, Newry and Banbridge;
- Dungannon - also dealing with Omagh, Enniskillen and Strabane;
- Londonderry - also dealing with Magherafelt, Limavady and Coleraine.

The parties should check ICOS to confirm the date to which a case has been adjourned. Court staff will advise non-represented parties (defendants) of the revised date for hearing where a judge determines that it should be listed for hearing. Where a case has been adjourned no formal notification will issue.

Arrangements are being developed to facilitate the hearing of Preliminary Enquiries at the magistrates' court, where the defendant is in custody.

## HIGH COURT REVIEWS

1. **Court of Appeal.** A review of Court of Appeal cases will take place on Friday 1 May 2020. Representatives have already been asked to submit forms.
2. **High Court Family Cases.** The judge will undertake an administrative review of High Court Family cases listed for hearing between 26 March and 8 May 2020. Representatives should complete and lodge form FCI1 by email with the Family Office in the RCJ by **1 May 2020**

(RCJChildrenoffice@courtsni.gov.uk). Where the judge determines a review hearing is required this will take place on **Monday 11 May 2020**.

3. **Chancery Cases.** The judge will undertake an administrative review of t Chancery cases listed in week commencing 27 April and week commencing 4 May 2020. Representatives should complete and lodge form ChanCI1 by email with the Chancery Office (chanceryoffice@courtsni.gov.uk), RCJ by **4 May 2020**. Where the judge determines a review hearing is required this will take place on **Monday 18 May 2020**.
4. **Judicial Review Cases.** The judge will undertake an administrative review of Judicial Review cases listed in week commencing 27 April and week commencing **4 May 2020**. Representatives should complete and lodge form JRCI1 by email with the Judicial Review office (judicialreviewoffice@courtsni.gov.uk) by **5 May 2020**. Where the judge determines a review hearing is required this will take place on **Tuesday 19 May 2020**.
5. **Commercial Court.** The judge will undertake an administrative review of Commercial Court cases listed in week commencing 27 April and week commencing 4 May 2020. Representatives should complete and lodge form COMCI1 by email with the Commercial Office (Commercialist@courtsni.gov.uk), by **6 May 2020**. Where the judge determines a review hearing is required this will take place on **Thursday 21 May 2020**.
6. **Queen's Bench Division (QBD).** The judge will undertake an administrative review of QBD. Representatives will shortly be notified of the date for submission of forms. Cases listed in w/c 27 April will be adjourned for four weeks.

**Unrepresented parties or personal litigants should complete and submit LIPCI1 to the relevant office.**

This process will involve the judge considering the information provided in both the case files and the forms before determining a way forward, which may be for example, issue of Directions, requests for further information, list for review on the allocated Review Court date, adjourn or list for a future hearing.

Where a review hearing is required it will be undertaken remotely on the dates as identified above. Representatives/parties to the proceedings will be notified of the time and details of how to log into the hearing.

If a future hearing date is required it is anticipated that generally they too will be dealt with remotely, which will be in slower time than usual to take account of the need to sequence and timetable this type of hearing. Initially the focus will be on addressing uncontentious matters, matters where the issues have been narrowed, where there is legal argument and where limited oral evidence is required.

## GRANTS OF PROBATE

In relation to Grants of Representation from the Probate Master the LCJ directs as follows:

During the current Public Health Emergency, and subject to regular review by the Probate Master, the Probate Master and the administrative staff of the Probate Office shall accept applications for Grants of Representation supported by Statements of Truth rather than affidavits, where it has not been possible to have evidence taken by affidavit. Affidavits remain the most acceptable way of providing supporting evidence, but the Master recognises that this is not practical in many cases due to the Government's current measures to enforce social distancing. 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."

Insofar as Grant applications are concerned, the layout of the commonly used oaths of executor/administrator will otherwise be identical save for the opening and concluding wording as above. The Statements will simply be signed. There is no need for the signature to be witnessed.

This guidance will last initially until **30th June 2020** when it will be reviewed by the Master. In respect of any application which proves to be disputed it shall be for the Master to be satisfied as to the quality of the evidence and such disputed matters may well simply have to be adjourned until affidavit evidence becomes available.

Practitioners should note that normal turnaround times will not apply given reduced staffing resources. Applications will take a longer time period to process. Practitioners should alert the Probate Office to reasons for any requirement for priority handling. Those applications which are identified as urgent will continue to be passed to the Master to determine if they should be afforded priority.

## ALL OTHER MATTERS

Generally all other court business will follow the broad approach of reviewing cases and identifying next steps on a progressively phased basis and further advice will issue. Consideration is being given for example to brigading non-contentious work into specific remote hearings, for example, undefended divorces (at both the county court and high court).

In the interim the current arrangements will continue for urgent and agreed matters. Representatives should complete and submit the relevant form to the relevant court

office when applying for a hearing providing as much detail as possible and attaching the relevant documents.

Otherwise the default position remains that all other matters will be adjourned by a judge without a hearing unless they fall within the categories identified above, urgent or agreed. **Where a case is to be adjourned the adjournment date should be fixed.** The period will generally be for four weeks unless the particular circumstances indicate the need for a different timeframe. Representatives should not contact court offices or members of the judiciary unless a case is urgent or agreed or where they have been specifically requested to do so in relation to a non-urgent matter.