

# COVID-19 GUIDANCE FOR ALL COURTS

30 September 2020

Courts are now sitting at all court venues<sup>1</sup>. All types of court business is being undertaken, albeit in a slower timeframe in some cases to comply with the Executive and Public Health Agency guidance. Courts continue to undertake as much business as possible remotely or in the form of a hybrid hearing where the judge directs. Members of the public and legal representatives should not attend court unless specifically required. Where it is necessary for people to come to court in person such hearings can only take place where it is safe to do so.

It is essential that court office managers are aware of the numbers who are attending on a given day and for that reason legal representatives should collaboratively complete and lodge the generic **Form HR1** 14 days in advance of the hearing date so that appropriate arrangements can be made by court staff to manage footfall in courtrooms and public areas of the court building.

**Form HR1** will be used for the **listing, reviewing and hearing of proceedings at all tiers**<sup>2</sup>:

- Where a case has been **listed for hearing** the parties should lodge form **HR1** with the relevant court office setting out all the details needed to inform listing arrangements should the judge determine that a hearing is required;
- Where the parties wish to highlight urgent business or non-contentious matters where they have **agreed a way forward** to be undertaken on the papers they should lodge Form **HR1** for the judge to determine whether a hearing is required or whether the case can be dealt with administratively;
- Where the parties wish to **request a hearing** in a matter which has not yet been listed they should lodge Form **HR1** indicating that the matter is ready to be heard. This includes contests in the Magistrates' Court or where a solicitor wishes to put a case or group of cases forward to be scheduled together.

Only those persons who have been notified to the court as attending in person on Form HR1 will be admitted to the courtroom. The court office will inform parties of the date, time and type of hearing (including Sightlink details where applicable) and the details of any callover which may be arranged in advance of the hearing. If a

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<sup>1</sup> With the exception of Limavady, Magherafelt and Strabane.

<sup>2</sup> With the exception of the Court of Appeal, Chancery Division and Masters' Courts. **Form HR1** replaces forms **CCCI1, CIV1, CIV2 and MCCI1**. Specific forms for Court of Appeal, Chancery Division and Masters' Courts can be found on the [Judiciary NI Covid-19](#) page.

matter is unable to proceed on its allocated date, or the action has been settled, the relevant court office must be advised as soon as possible.

There are restrictions on the number of persons who can be present in court buildings while ensuring public safety and complying with advice from the Public Health Agency. Those required to attend, including jurors, should consult the [NICTS guidance](#) on security, social distancing and cleaning of court buildings before attending. No waiting facilities will be available prior to the hearing and parties will not be admitted until the action is ready to proceed. Legal representatives should ensure that they have identified a waiting area for themselves, their clients and witnesses in close proximity to the court on the day of the hearing.

**Where a physical/hybrid hearing is to take place Form HR1 should be lodged no later than 14 days in advance of the hearing date** so that appropriate arrangements can be made by court staff to manage footfall in courtrooms and public areas of the court building. Parties should refer to ICOS case tracking for details of their individual cases to allow them to prepare for any court listing (including Sightlink details) and to check for compliance with any directions or orders previously issued by the court. Unrepresented parties/Litigants in Person will be asked to complete **Form HR1** and provide contact details in advance of any hearing in their case and will be notified directly by the court office of the arrangements.

## **CROWN COURT & COUNTY COURT JUDGE CRIMINAL BUSINESS**

Criminal business will be subject to case management by the relevant judge. Trials have recommenced in Laganside Courts, Belfast and are restarting in each of the designated Crown Court venues: Antrim, Coleraine, Craigavon, Dungannon and Newry.

Completion of **Form HR1** is required as set out above. This also includes where the defence or prosecution is seeking to have a matter dealt with, such as third party disclosure, special measures, hearsay, bad character and other applications. There is no need to submit a separate bring forward application. The moving party completes their part of the form and submits it to the other side for completion and once the form is returned to the moving party it is submitted to the court office and will be listed to be dealt with if the Judge agrees.

**PACE and POCA applications** will be referred to the duty judge who will decide if the case should be listed and, if so, how the evidence is to be received. The judge will determine whether the application can be heard using live link or whether a witness is required to attend. See the attached note by the Recorder of Belfast setting out the process to be followed.

Belfast County Court will continue to treat all hearings under the **Extradition Act 2003** as urgent. The attached note by the Recorder of Belfast sets out the process to be followed.

Should a defendant request re-arraignment witness availability does not need to be checked by the PPS.

Similar processes will apply to Magistrates' Court Appeals.

Bail applications for all criminal matters in the Crown Court should be conducted in accordance with the Guidance issued by the Lord Chief Justice's Office (High Court and Crown Court Bail Applications - 9 April 2020). Form [BAIL1](#) should be completed by the defence for all bail applications and forwarded to the prosecution to complete their views. The form will then be returned to the defence for submission to the relevant court office. Thereafter the court will place the matter before the Judge who may decide the application on the papers and issue his decision or he may list the matter for hearing.

## **MAGISTRATES' and YOUTH COURTS - CRIMINAL PROCEEDINGS**

### **Bail**

Defence practitioners should continue to complete Form [BAIL2](#) where there is to be an application for bail or variation of bail, other than in relation to a first appearance and forward it to the prosecution to complete their views. The form should then be returned to the defence for submission to the relevant court office at least 2 clear working days in advance of the date listed/requested. Where a prescribed form is required for the particular bail application being sought, eg Form 96A for compassionate bail, it must also be attached to Form BAIL2. The court will place the matter before the Judge who may decide the application on the papers and issue his decision or he may list the matter for hearing. The hearing will generally be dealt with by live link. The accused is not required to attend the application by live link unless he/she is a self-represented remand prisoner. If the accused is a self-represented remand prisoner he/she can attend the proceedings by live link.

**Form HR1** should be used for contests in the Magistrates' Courts or where it is anticipated that a matter is likely to last for an hour or more. Members of the public are reminded that it is possible to enter a plea of guilty by post in some cases and they may want to consider consulting a solicitor about this option. Where there is an option to enter a plea of guilty by post a summons, from the Public Prosecution Service, is accompanied by a Form 3 Notice setting out details of how you can enter a plea of guilty together with a Form 6 or Form 6A. You may request that the case be dealt with on foot of this written plea of guilty without having to attend court by completing the appropriate Form 6 or 6A which should be returned at least three days before the date fixed for the hearing. The Court will record a conviction and issue notification of the sentence. Should the Court decide to adjourn the hearing before passing sentence, you will be given notice in writing of the time and place of the adjourned hearing.

**NOTES FOR APPLICATIONS TO THE  
COUNTY COURT AND CROWN COURT  
FOR PRODUCTION ORDERS, SEARCH WARRANTS ETC under  
Police and Criminal Evidence (NI) Order 1989 (PACE), Proceeds of Crime Act 2002  
(POCA), Terrorism Act 2000, Regulation of Investigation Powers Act 2000 (RIPA)  
etc.**

**12 MAY 2020**

1. These notes relate to applications for Production Orders, Search Warrants and similar orders to the County Court and to the Crown Court.
2. The court will require evidence to be given by the normal method, i.e. written application setting out the background and the evidence which grounds any suspicion, and why the order is required. A hearing will then be fixed with evidence given under oath or by affirmation.
3. Applicants should lodge the application and supporting documentation, with draft order, in a sealed envelope, with the envelope flaps signed and sealed, and on the outside mark the envelope: "Application by [*state name and position*] for [*state type of order sought*] under [*state legislation*]. Do not provide any other details, save for the applicant's contact details - mobile telephone and email address.
4. The envelope will be retained by the court office in a secure location and will not be processed until such time as the court is able to conduct a hearing which complies with government Covid 19 guidelines on social distancing etc. Applicants will be contacted by the court office to advise them of the date of the hearing in due course.
5. If an applicant considers that an application is urgent (either when lodged or after the passage of time it becomes urgent) the court will make every effort to facilitate the applicant.
6. The applicant must complete Form [PACE/POCA C11](#) setting out the reasons why the application is, or has become, urgent. This form should be sent by email to the relevant crown or county court office- stating in the subject line 'Urgent Form PACE/ POCA C11'.
7. The [PACE/POCA C11](#) should not contain any confidential or sensitive material. It should also state whether the hearing can be conducted from a remote location by Sightlink or whether the applicant is available to attend a courthouse in person. Use of Sightlink may not be suitable for certain confidential or sensitive hearings.
8. The form and the sealed envelope shall be referred to a judge who shall consider whether it is necessary and expedient to conduct a hearing.
9. If the urgent hearing request is refused, the applicant will be advised by email, and the matter will be dealt with in accordance with paragraph [4] above.
10. If the judge decides to conduct a hearing the applicant will be advised by email of the date and time of the hearing, and whether he or she will be required to attend the courthouse or can give evidence by remote live link. If by live link,

the applicant must ensure that they have a compatible system to enable them to participate in the hearing on the court's Sightlink facility.

11. The court will make arrangements for any Sightlink hearing at the agreed time and date. The applicant will be advised by email of logging on details. The parties to be included in the link will be the court clerk, the judge, and the applicant.
12. The hearing will be a formal court hearing held in chambers which means that it is a private hearing. During the hearing no-one else should be present in the room with the applicant. Proper decorum should be followed at all times, with the dress and behaviour of those participating of a similar standard to that expected when attending a courthouse.
13. At the commencement of the hearing, the applicant will be required to take an oath or make an affirmation. If the oath is to be taken the applicant must ensure that they have with them the holy book upon which they intend to take the oath, and the court should be advised beforehand the nature of the oath to be taken – e.g. I swear by almighty God, I swear by Allah etc.
14. Clarification can be provided on any issue by emailing the relevant crown or county court office. Please quote the applicant's name, the nature of the order sought, and the date on which the application was lodged.
15. If an order is granted, it will be signed in the usual way. If the applicant is not present at the courthouse, arrangements will be made by email for a mutually convenient time and date when it can be collected.

His Honour Judge McFarland  
Recorder of Belfast  
12<sup>th</sup> May 2020

## **PROTOCOL FOR THE HEARING OF CASES UNDER THE EXTRADITION ACT 2003 DURING THE COVID 19 EMERGENCY PERIOD**

1. Article 17 of the Framework Decision of 13<sup>th</sup> June 2002 (Reference 2002/584/JHA) provides that “a European arrest warrant shall be dealt with and executed as a matter of urgency”.
2. Consistent with that provision, Belfast County Court will treat all hearings under the Extradition Act 2003 as urgent and will endeavour to list cases for hearing as soon as the judge considers it is possible to proceed.
3. Depending on the nature of the issues in the case, the judge will determine whether the case can proceed wholly or in part, by remote link, or whether attendance at the courthouse is required by some or all of the participants. Such hearings shall be convened under the Coronavirus Act 2020.
4. If any party wishes to make any submission to the judge relevant to the listing of the case they should do so by email to Belfast Court Office, and the judge shall take into account such submissions when determining whether a case can be listed, and if so, when it should be listed.
5. If a hearing proceeds either in full or in part with anyone’s physical presence in the courtroom, social distancing based on the then current advice from the Northern Ireland Executive shall apply to the hearing in the courtroom, and in accordance with the courtroom layout as directed by NICTS.
6. If English is not the mother tongue of the requested person and an interpreter is required to facilitate the translation of the proceedings, if on bail, the requested person must answer his bail and attend the courthouse where an interpreter will also be present. It is highly desirable in such circumstances, but not mandatory, that either the solicitor or counsel for the requested person is also present at the courthouse.
7. If an interpreter is required, it is the responsibility of the requested person’s solicitor to ensure that any affidavit or statement of evidence is provided to the interpreter to be lodged with the court 72 hours in advance of the hearing in a sealed envelope.
8. If the requested person is in custody, he or she will attend by Sightlink, however if an interpreter is required the judge will determine if it is feasible for a hearing to proceed, and if so, on what basis it will proceed.
9. If the requested person or a witness on his or her behalf, is intending to give evidence it is the duty of the solicitor for the requested person to provide to the requested person or the witness a copy, including any translation if required, of his or her statement or affidavit of evidence. If the requesting state wish to cross examine the requested person out of any other document it shall be the duty of the Crown Solicitor’s Office to provide a copy of that document, including any translation if required. All documents must be prepared and submitted in a sealed envelope to the court office at least 72 hours before the hearing.

10. In advance of any hearing it is the responsibility of the requested person's solicitor to ensure that the requested person has had the opportunity to refresh his memory from his or her affidavit or statement.
11. The requesting state and the requested party shall provide such written submissions as shall be directed by the judge. If either party does not submit written submissions as directed by the judge it shall be deemed by the judge that no submission is being made.
12. Oral submissions shall be kept brief and to the minimum, and shall be strictly controlled as to length and content, by the judge.

Dated 15<sup>th</sup> June 2020  
His Honour Judge McFarland  
Recorder of Belfast