

**LADY CHIEF JUSTICE'S OFFICE
GUIDANCE ON REMOTE, IN-PERSON & HYBRID ATTENDANCE**

22 June 2022

This updated Guidance on Remote, In Person & Hybrid Attendance has been developed to balance the efficient dispatch of business and the interests of justice both while the public health guidance applies and beyond.

Whilst we are not entirely clear of the pandemic, we are in an improving situation, which means that we can be forward looking within the justice system. Over the summer, the NICTS will increase capacity in courts to reflect the reduction in social distancing requirements to 1m. This will enable an increased number of people and practitioners to attend court in person unless directed not to, or unless courts adopt remote methods for certain types of hearings.

To that end it is important that courts adopt the learning opportunities brought about by the pandemic. There is an opportunity to use newly available technology and the increased digital experience of judges and court users as a platform for wider reforms to improve access to justice. The use of digital technology for certain types or stages of cases or where certain types of evidence is to be given has recognised benefits and it is essential that these are retained as we move towards, and beyond, recovery from the pandemic while maintaining the integrity and structure of the court.

While the position is that physical attendance should return in all types of hearings my key message is that proactive consideration must also be given, by the judiciary, in consultation with members of the legal profession, to identifying where hearings and parts of hearings can be effectively achieved remotely.

Judges will therefore continue to decide whether participants in each case should attend a hearing remotely or in-person applying the "interests of justice" test in light of all the circumstances. This is a statutory requirement. The interests of justice are very broad and wider than the circumstances of the individual case and holding an effective hearing. The factors to be considered may vary widely in different courts at different times but will include the nature of the proceedings; the types of parties to the case; whether or not parties have legal representation; the efficient despatch of business overall, the availability of judicial, staff, technical and other resources. Judges will consider, in criminal proceedings for example, the seriousness of the charge, the intention of victims or their families to attend and the amount of public interest, in determining whether it is appropriate for any of the parties or their legal representatives to attend in person or remotely and how involvement of the various parties is to be scheduled during a hearing.

This guidance, which will continue to apply when the social distancing requirement is removed, is intended to assist in promoting consistency and predictability of approach to the question of remote attendance in courts, whilst recognising the need for flexibility in individual cases to suit the specific proceedings/parts of proceedings.

Matters, which are generally suited to predominantly physical attendance include:

- Full, final or lengthy proceedings/parts of proceedings (for example those anticipated to take more than one hour to complete);
- Proceedings/parts of proceedings involving sensitive and/or complex matters, children or young persons, those requiring an interpreter, those where quantum is an issue; or some personal litigants;
- Proceedings/parts of proceedings requiring client instructions to be taken at regular intervals in the course of the proceedings;
- Proceedings/parts of proceedings where there is a challenge to substantive evidence or where the demeanour or credibility of a witness is important.

Proceedings/parts of proceedings in which a witness is to give evidence, whether in person or remotely, will normally require the legal representatives who is to examine or cross examine that witness to be present in court unless the court otherwise orders.

In general, it is considered that the following matters are suited to primarily remote attendance unless the court otherwise orders:

- Short or uncontroversial procedural business, such as mentions, reviews, directions, interlocutory applications, case management hearings or technical/administrative proceedings;
- Non-complex contested proceedings/parts of proceedings likely to take less than one hour;
- Proceedings/parts of proceedings that are mainly or fully by way of legal submissions or expert evidence;
- Where evidence is being given by medical, forensic and equivalent expert witnesses;
- Where the evidence is uncontested and both parties are represented;
- First appearances and bail applications. The necessity for transportation from a custody suite or prison to a court is not effective or efficient for short hearings;
- Where evidence is being given by professionals, such as health professionals, emergency medical staff, social workers, psychiatrists, psychologists and forensic scientists
- Where evidence may be given effectively from an appropriate remote evidence centre (RECs).
- Where PSNI officers are giving evidence, in appropriate cases at appropriate stages of proceedings;

- Where the parties are abroad;
- Where parties are in agreement to proceedings/parts of proceedings being held remotely and the court is content;
- Where the situation requires immediate protection of a child/vulnerable adult;
- Initial and ex parte applications for non-molestation/occupation orders.

Courts will continue to endeavour to make arrangements for listing and scheduling attendance while balancing the interests of all parties, including legal representatives, and the need to conduct the business of the court effectively and efficiently. It must be understood that those arrangements are likely to vary from court to court and day to day according to the interests of justice, the needs of the court, those involved and the prevailing conditions. Practitioners are encouraged to continue to complete HR1 and HR2 forms to enable court managers to manage footfall for the time being.

This guidance will be subject to ongoing review through engagement with NICTS and representatives of the justice system as to its useful application. There are many aspects to learning from our recent experience, including for example the use of electronic case files, which will also be advanced through collaboration with all those involved.

It is important to emphasise that the fact a proceeding or part of a court proceeding is being carried out remotely does not change the solemnity or the importance of the proceedings. Those participating remotely should ensure the environment they link in from respects the integrity and formality of a court and that they behave, as they would be expected to if physically in court. Full guidance in respect of remote hearings can be found [here](#).