

CORONERS SERVICE FOR NORTHERN IRELAND

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

CASE MANAGEMENT DIRECTION

CMD Legacy No 1

1. The Presiding Coroner is in the process of carrying out reviews of a number of historic matters relating to inquests, applications for judicial review and civil actions for damages. These matters have arisen out of the civil unrest in Northern Ireland, and are commonly referred to using the generic term "legacy".
2. The restrictions placed on the operation of the courts, the Coroners Service and the legal profession by certain COVID-19 regulations has resulted in delay across all court business during 2020 and now into 2021. It has also impacted on the work of those responsible for dealing with disclosure of documents relating to legacy matters.
3. The purpose of the reviews is to ascertain the current position in relation to all the matters.
4. Many judicial review cases and civil actions are stayed pending the outcome of various appeals. The review will inform case management decisions as to whether the cases, if stayed should remain stayed, and if not stayed or the stay is removed, whether they can be listed for hearing.
5. On 17th January 2020, Sir Ronald Weatherup issued a direction in relation of judicial review cases, and this has formed the basis of the court's approach to any decisions to stay certain applications. This current review will focus on this direction and in particular will determine if the four cohorts of cases continue to be accurate, and if any stay decision for the stated reason is still valid. A copy of the direction is attached.
6. The historic inquest cases require review to ensure that the inquests currently designated as "Year 1"¹ legacy inquests under previous reviews are timetabled for listing during this calendar year. The reviews may also identify cases that are potentially ready to be listed in the "Year 2" cohort of inquests, to appoint coroners to those cases and to commence the process of case management towards listing. Provisional consideration for preparing the cohorts of inquests for subsequent years may also be undertaken.
7. For completeness the Presiding Coroner will also review a number of inquests (i.e. recent directions) which did not fall into the original Five Year Plan.

¹ Year 1 inquests were planned for the NICTS financial year April 2020 – March 2021.

8. It may also prove to be beneficial if inquests and Queen's Bench cases with common themes are identified and cross-referenced to ensure that all matters can be processed with the greatest efficiency and expedition.
9. Initially the review will be a desk review, so it is essential that the legal representatives are in a position to lodge with the Legacy Inquest Unit and the High Court an updated analysis of the position in relation to each matter. If the reviewing judge or coroner considers that an oral review would be beneficial, the parties will be advised.
10. The updated analysis should be in the forms provided by this Case Management Direction, and should be completed **collaboratively** by all parties and properly interested persons, and one single form should be submitted. If the parties or properly interested persons are unable to complete the form collaboratively within the time designated, the judge or coroner may direct that the matter be listed for review by oral hearing. The listing of a case for oral review should be considered the exception rather than the rule, and if the judge or coroner considers the listing of the matter was unnecessary, the judge or coroner may make such order or direction against a party or parties in respect of party-party costs for the review hearing in Queen's Bench, or to the Legal Service Agency to disallow costs for a review hearing.
11. It is the intention to forward this Case Management Direction to every solicitor who is on record for a party or properly interest person, but it will also be published to the Law Society of Northern Ireland and the Bar Council, in case an error is made in the distribution or the court has not identified a particular case. Solicitors are encouraged to submit a form in any matter they consider falls into any of the categories of matter referred to above.

Inquests

12. The legal representatives of all Properly Interested Persons should complete the form in Annex 1, and return it to the Legacy Inquest Unit, Laganside House, Belfast by delivery, post or email no later 22nd March 2021. To avoid delay correspondence by email is advised - legacy@courtsni.gov.uk.

Judicial Review

13. The legal representatives of all applicants, respondents and proposed respondents should complete the form in Annex 2, and return it to the Judicial Review Office, High Court of Justice, Belfast by delivery, post or email no later than 22nd March 2021. To avoid delay correspondence by email is advised - judicialreviewoffice@courtsni.gov.uk.

High Court civil actions

14. The legal representatives of all parties should complete the form in Annex 3, and return it to the Central Office, High Court of Justice, Belfast by delivery, post or email no later than 22nd March 2021. To avoid delay correspondence by email is advised - centraloffice@courtsni.gov.uk.

Litigants in Person

15. If a party or Properly Interested Person is representing himself or herself in any matter, they should liaise with solicitors acting for other parties or properly interested persons, and if they are uncertain about the identity of any solicitor they should contact the Legacy Inquest Unit or the High Court.

Civil Bills

16. Although reference has been made to High Court civil actions, should there be any civil bills which are linked to any legacy inquest, judicial review proceedings or High Court civil actions, solicitors are invited to complete the Annex 3 form for the civil bill action and return it to the Central Office of the High Court. Please amend the form so that it can be clearly identified as a civil bill case. The review of the civil bill will be carried out in liaison with the assigned civil county court judge.

Mr Justice McFarland
Dated 25th February 2021



IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
QUEENS BENCH DIVISION (JUDICIAL REVIEW)

BEFORE THE RIGHT HONOURABLE SIR RONALD WEATHERUP

on Friday the 17th day of January 2020

LEGACY CASES

IN THE MATTER OF APPLICATIONS FOR JUDICIAL REVIEW IN THE CASES
LISTED BELOW
DRAFT GENERAL RULING AND DIRECTIONS OF
THE COURT

1. **The Court previously made a General Ruling and Directions Order dated 20th June 2019. On 10th December 2019 the Crown Solicitors Office sent a Paper on the present position of cases listed in the General Order at the request of the Senior Judicial Review Judge.** Following from this all legacy cases will be reviewed on 28 February 2020 by the judicial review judge. In the meantime, the following is ORDERED:
 - (a) 2014/56084/01 - Margaret Kennedy;
 - (b) 2014/69483/01 - Patrick Arthurs & Ors;
 - (c) 2014/117285 - Anthony Fox;
 - (d) 2016/5507 - Colin Stuart;
 - (e) 2017/54285 - Hugh Kenny;
 - (f) 2017/54802 - Colm Cameron;
 - (g) 2017/65900 - John McEvoy;
 - (h) 2015/68794/02 - Bridget Irvine.

3. A stay of all cases where the pleaded case raises issues concerning damages for breach of Article 2 on grounds of delay and pending the appeal to the Supreme Court in *Re: Jordan (damages)*, (excluding the part heard case of Raymond McCord 2017/54207) specifically;
 - (a) 2015/55997 - Linda Hewitt
 - (b) 2016/1552 - Samuel McColgan;
 - (c) 2009/86474 & 2009/101386 - Brigid McCaughey & Letitia Quinn
 - (d) Francis Norney 2019/79006/01- Lindsay O'Hara
 - (e) 2015/1539 - Bridie Brown

4. That the Crown Solicitors Office and/or Departmental Solicitors Office file a position paper by 14 February 2020 in relation to those cases which raise issues concerning funding as per the High Court determination in *Re: Hughes (Brigid) Application [2018] NIQB 30* and which are as follows;
 - (a) 2014/128226/01 – Colm Benstead;
 - (b) 2014/55045 – James O’Donnell;
 - (c) 2014/128706 – Martina Dillon;
 - (d) 2014/117285 – Anthony Fox;
 - (e) 2016/5507 – Colin Stuart;
 - (f) 2014/102603/01 – Stan Carberry;
 - (g) 2016/102333 – Briega Voyle.
5. The cases from 2 (a) to (h), 3 (a) to (e) and 4 (a) to (g) are listed for review on 28th February 2020 where the issue of the stays will be revisited. Any party who wishes to raise an issue about the stays should do so in writing by 21 February 2018. The parties are also encouraged to consider isolating the main issues in each category of case to allow for efficient court management given other related legacy litigation which is ongoing.
6. The following cases as identified in the General Direction of June 2019 do not fall into the aforementioned identified categories and are to be managed in the general Judicial Review List. They will also be reviewed on 28 February and the parties are asked to file a short position paper as to the proposed way forward by 21 February 2020, joint if possible.
 - (a) Terence Keenan 18/95518
 - (b) Marc Moreland 18/98112
 - (c) Veronica Ryan 17/97529
 - (d) Brendan Morgan 19/30056
7. The parties shall have liberty to apply and;
8. The costs of this application shall be reserved until the conclusion of the Judicial Review proceedings.

Stephen O’Hara

Proper Officer

Time Occupied: 17 January 2020 0 mins

Filed date