

**COVID - 19 GUIDANCE
MASTERS' COURTS**

CARE AND PROTECTION

8 JANUARY 2021

During the current COVID-19 outbreak, the work of the **Master (Care and Protection)** will continue in accordance with the arrangements and procedures set out below.

This guidance supplements the [Guidance for Family Proceedings \(all court tiers\)](#) and replaces the composite guidance for Masters' Courts that was published on 12 November 2020

CHILDREN'S CASES AND NON-MOLESTATION ORDER CASES

Applications for directions or a Hearing should be presented by way of Form FCI1 or Form HR1 (for unrepresented parties/Litigants in Person). Forms should be completed collaboratively, served on all parties and filed by email with the relevant court office (**Children** - RCJCHILDRENOFFICE@courtsni.gov.uk or **Patients** - OCP@courtsni.gov.uk)

If an application is urgent, it must be accompanied by a Certificate of Urgency clearly stating the reasons why it is urgent.

Urgent ex-parte applications and single party applications requiring a hearing shall continue to be carried out remotely in accordance with case specific directions of the Master.

PATIENTS' CASES (TO INCLUDE ENDURING POWER OF ATTORNEY)

All Patient matters, are being processed by the Patients Office

Urgent ex-parte applications and single party applications requiring a hearing shall continue to be carried out remotely in accordance with case specific directions of the Master.

Statutory Will

If a Summons for a Statutory Will is deemed to be urgent, the applicant must file medical or other evidence to explain why the application is deemed to be so urgent.

Affidavits / Statement of Truth

Affidavits remain the most acceptable way of providing supporting evidence. Subject to express directions in any particular case, parties may submit evidence

supported by **Statements of Truth** rather than affidavits, where it has not been possible to have evidence taken by affidavit.

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."

Parties are at liberty to submit an application by email to the **Children's Office** RCJCHILDRENOFFICE@courtsni.gov.uk or to the **Patient's Office** OCP@courtsni.gov.uk (for Controllership matters and general queries) or epa@courtsni.gov.uk (for Enduring Power of Attorney queries).

Applications should be made by way of a Form [FCI1](#) or in exceptional circumstances by E-Letter or email to request a Directions Order or other Order. If other parties are involved, the person making the application must at the same time place the other parties on notice of their application.

Hearings

Court Orders in Children and Patient cases shall be made on an administrative basis by the Master upon consideration of the papers filed to include Form [FCI1](#) and Form HR1. If a Hearing or Review Hearing is deemed by the Master to be necessary it will be conducted remotely in accordance with case specific directions of the Master.

Only in very exceptional circumstances and subject to the express approval of the Master, will a Hybrid or in person hearing take place. In such cases a form HR1 must be filed at least 5 days prior to the hearing setting out the full names of all participants and each persons proposed location (in court or remote) for the hearing.

Medical Report for a Controller Application

The Master appreciates that during the pandemic practitioners may experience difficulties obtaining a Medical Report or Form F5 Medical Certificate as required by Article 97(1) of the Mental Health (NI) Order 1986 for a Controller Application.

During the pandemic, in non-contentious cases, the Master will accept a Medical Report or Medical Certificate based upon the Patient's GP and/or HSCT medical/social work/nursing home records rather than the doctor carrying out a face-to-face assessment. The doctor should consider, as part of the assessment, if it is possible or useful to speak to the Patient by phone or by video link using WhatsApp, Zoom or other remote link. Further, the doctor should consider, as part of the assessment, if it is possible to speak to the Patient's own GP or key carer or family member.

The doctor may be able to access sufficient information from NI electronic care records for purposes of Article 97(1) requirements. If practitioners require a Court Order for disclosure of relevant GP or HSCT Medical or Social Work Records or Nursing Home Records they should file a written application to the Office of Care and Protection providing as much information as possible, setting out the doctor's proposals for carrying out the assessment and full details of the disclosure requirements. The Court Fee for a Disclosure Order of this nature is £98.

Safeguards

1. The Controller application requires service of the application upon the Patient and their close family; should issues arise as a result of the service process as to whether Article 97(1) criteria are met, case specific directions from the Master regarding the assessment and the case generally will be required.
2. The Patient, the Controller, close family and relevant HSCT are at liberty to make an application for Restoral (i.e. to seek to have the Controller Order discharged because the Patient has recovered and is able to manage their property and affairs) at any time.
3. As part of the Office of Care and Protection annual review process in any case where the Article 97(1) Medical Report or Medical Certificate has been carried out without a face to face assessment the Review Team will invite the Controller (subject to the Patient's health and Covid-19) to file an up-to-date medical report based upon the doctor meeting the Patient.