

**COVID - 19 GUIDANCE
MASTERS' COURTS**

CHANCERY AND PROBATE

9 DECEMBER 2020

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

This guidance replaces the composite guidance for Masters' Courts that was published on 12 November 2020

KEY CHANGES TO PREVIOUS GUIDANCE

- Probate - The Master reminds practitioners that the **original will** must be submitted notwithstanding that a certified copy is exhibited with the Statement of Truth.

CHANCERY

ORDER 88 BUSINESS

Solicitors acting for banks and building societies may submit a written submission in respect of every case they have in the list each day specifying the relevant points and the relief sought. Any submission must be sent by email to the Chancery Office (chanceryoffice@courtsni.gov.uk).

The Master has directed that new **Order 88 originating summonses** will be permitted to issue.

Separate guidance relating to **Order 88 proceedings** was published on 2 October 2020 (revised 29 January 2021) and can be accessed [here](#).

The Master when dealing with possession proceedings shall take account into all circumstances, including the guidelines issued by the Department for Communities during this period of public health emergency.

Final Orders

Final orders will continue to be made if upon consent or if undisputed. The Master will only make final orders in cases where he is satisfied that it is right to do so. If he has any concerns whatsoever about prejudice and the fairness of the process he will

simply adjourn the case. Solicitors should check ICOS to confirm adjournment dates or contact the Chancery Office.

INTERLOCUTORY SUMMONSES

The court will deal with new summonses **administratively** (on the papers/written submissions) therefore parties **must not** attend court on the date which appears on the summons.

Parties should collaboratively (where possible) complete and file form **ChanCI2** together with an agreed order or where there is a difference of opinion between the parties as regards what directions should issue, the parties, if they agree, should file brief written submissions indicating their respective positions. This information must be lodged by email with the Chancery Office (chanceryoffice@courtsni.gov.uk) **at least 5 days** before the court date. The subject line of your email should state "**Chancery Master's Interlocutory Summons Court (Administrative) - on** (*insert court date*)".

If the defendant is not legally represented, the party issuing the summons will be responsible for providing a copy of this guidance with the summons.

Where a Form **ChanCI2** containing the requisite information is not provided by the due date, the summons may be **Struck Out**.

Adjournments

Requests for adjournments if agreed, will be dealt with administratively by the court office and adjourned to a future summons Court, unless a hearing date has been fixed.

Urgent Business

The Master will continue to expedite the listing of urgent business where genuine urgency is demonstrated.

Contested Summonses

Disposal of contested summonses - On the Papers

Subject to consideration of any objection by the parties, the Master will continue to deal with straightforward contested summonses for such relief as discovery, outstanding replies, joinder applications, leave to amend pleadings and similar applications, on the papers. He will also, in appropriate cases, at the request of or with the agreement of the parties, deal with all or part of more complex summonses on the papers.

The party who issued the summons will be responsible for providing the court with case management directions and a complete **electronic trial bundle**. The electronic document must be numbered in ascending order throughout. Pagination should begin with the first page of the first document and should be continued throughout

the entire series of documents. The index page must be hyperlinked to the pages or documents to which it refers.

In the more complex summonses, bundles must include detailed written submissions together with bundles of authorities (subject to any direction by the Master as to the filing of hard copy bundles).

In the more straightforward summonses, the parties may file short written submissions (authorities will generally not be required). For the purpose of taxation of costs, summonses dealt with on the papers which include counsels' written submissions will be certified for counsel.

Disposal of contested Summonses - Hearing required

If there is a need for the matter to be resolved by a hearing, the Master will facilitate a hearing via one of the following options:

- Remote Hearing (using Sightlink or WebEx)
- Live Hearing
- Hybrid Hearing (partly remote /partly live)
- Telephone Conference.

Where the Master determines that a contested summons will be dealt with via a remote, live or hybrid hearing or a telephone conference, the party who issued the summons will be responsible for providing the court with case management directions and a complete **electronic trial bundle**. The directions referred to above for the filing of electronic bundles will apply to such summonses.

Parties should note that any live hearings will be strictly timetabled and capacity within the Masters Chambers and the Masters Courtroom will be restricted to ensure compliance with social distancing requirements and advice from the Public Health Agency.

EX-PARTE APPLICATIONS

The Master will deal with ex parte applications on the papers and if necessary give directions for any further submissions to be made either in writing or orally.

PROBATE

GRANTS OF PROBATE OR ADMINISTRATION

The issue of Grants of Probate and Letters of Administration (and the temporary use of statements of truth) will continue in accordance with the practice outlined below which shall remain in place until further notice. The position is unlikely to change before 31 March 2021.

All applications for a Grant of Probate or Letters of Administration must be accompanied by a completed signed **checklist** confirming that the application has been checked for compliance with the relevant legislation, Practice Guidance Notes

and Practice Directions. **Applications will not be processed unless a [completed checklist](#) is submitted.**

Practitioners should note that normal turnaround times for issuing Grants of Probate or Administration will not apply given reduced staffing resources. Applications will take a longer time period to process. Practitioners must 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.

Statements of Truth

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 signed by the applicant 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.

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.

The use of Statements of Truth where affidavit evidence is unavailable shall apply to all non-contentious probate business including ex parte applications and summonses. Practitioners should note that the Master will exercise discretion as to whether to accept statements of truth. He is unlikely to do so in matters where there is significant evidential dispute or where he feels affidavit evidence is essential.

Wills

Where a statement of truth is filed rather than an affidavit, a copy of the will bearing the applicants initials will be accepted. Practitioners should note that when lodging

applications for a grant of probate, they should lodge a certificate certifying that the initialled copy of the will is a true copy of the original will.

The Master reminds practitioners that the **original will** must be submitted notwithstanding that a certified copy is exhibited with the Statement of Truth.