

**COVID - 19 GUIDANCE
MASTERS' COURTS
12 NOVEMBER 2020**

The following guidance replaces the guidance for Masters' Courts that was published on 30 October 2020 and contains updates for the following business areas;

- Matrimonial: Arrangements for Progress Courts commencing on 23 November 2020.

Practitioners should note that reduced staffing levels will impact on the time required to deal with all matters.

QUEEN'S BENCH and APPEALS

KEY CHANGES TO PREVIOUS GUIDANCE

Arrangements for the disposal of contested summonses on the papers or where a hearing is required.

SUMMONSES

The Master has commenced a review of all interlocutory summonses which were previously listed for hearing between 20 March and the end of the Trinity Term and automatically adjourned in the absence of any request for directions.

This exercise will be completed in 2 phases over the vacation period and a list of the cases to be considered at each stage will be issued through the Law Society and the Bar Council.

Review - Phase 1

The first phase of the review commenced on 30 June 2020. Legal representatives were required to complete and lodge form **HR1** by email with the Central Office (centraloffice@courtsni.gov.uk) no later than 4.00pm on 10 July 2020, however, in a significant number of cases, legal representatives have failed to comply with that instruction.

Those cases have been adjourned for consideration at an **Explanation Court on 5 November 2020** thereby providing parties with a final opportunity to submit form **HR1** or an explanation in writing setting out the reasons for non-compliance. A list of the cases which fall into that category will be issued through the Law Society and the Bar Council.

Parties must not attend court on 5 November 2020; the Master will deal with cases administratively (on the papers /written submissions). Where a form **HR1** or a written explanation is not submitted by email to the Central Office **by 2 November 2020**, the Master may in the absence of good cause **Strike Out** the summons.

Review - Phase 2

Legal representatives should collaboratively complete and lodge form **HR1** by email with the Central Office (centraloffice@courtsni.gov.uk) **no later than 4.00pm on 11 August 2020**. The subject line of your email should state "**QBD Master's Interlocutory Summons Review - Phase 2**". Where a party is not represented or is a litigant in person, they will be contacted

directly by the Court Office and asked to complete and return form **HR1** to the Central Office.

Completion and return of forms

For the purpose of this exercise a form must be completed in all cases which appear on the list provided (Review – Phase 2) and returned within the prescribed timeline. Where a form is not submitted, the case will be listed before the **Explanation Court on 5 November 2020 for non – compliance**. Where only one party responds, the Master may proceed on the basis of that party’s proposals.

NEW BUSINESS

New interlocutory summonses will be permitted to issue with effect from **27 July 2020** with summonses allocated first return dates to Friday Summons courts commencing 11 September 2020. 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 **QBCI2** 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 Central Office (centraloffice@courtsni.gov.uk) **at least 5 days** before the court date. The subject line of your email should state **“QBD Master’s 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 QBCI2 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 Friday Summons Court, unless a hearing date has been fixed.

Urgent Business

The Masters 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 Masters will continue to deal with straightforward contested summonses for such relief as discovery, remittal and removal, compelling replies and similar applications, on the papers. They 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 directions as to the filing of electronic bundles will apply to such summonses.

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) and in the case of remittal or removal applications, may file agreed summaries of the medical evidence in lieu of the full medical and other reports. 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 the court, 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, 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.

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 PHA advice.

REVIEW LISTS: PERSONAL INJURIES AND CLINICAL NEGLIGENCE CASES

Those cases which were previously listed for review (20 March -30 June 2020) and adjourned in the absence of a request by the parties for directions, will be dealt with by the court administratively (on the papers /written submissions).

Parties should collaboratively (where possible) complete and lodge Form **HR1** by email with the Central Office (centraloffice@courtsni.gov.uk) on or before **30 September 2020** setting out agreed directions or, if there is a dispute, their respective proposals. The subject line of your email should state "**QBD Master's Review List (Administrative) – Trinity Term**". Where a party is not represented or is a litigant in person, they will be contacted directly by the Court Office and asked to complete and return Form **HR1** to the Central Office.

Where a Form **HR1** is not returned by 30 September, the case will be listed at an **Explanation Court** for non-compliance in the week commencing **2 November 2020**. Where there is a response by one party only, the Master may proceed to issue directions on the basis of that party's proposals only.

Review lists – Michaelmas Term onwards

Thursday Review Courts will recommence on **10 September 2020**. Cases listed for review will until further notice be dealt with by the court **administratively** (on the papers / written submissions), therefore parties **must not** attend court.

Parties should collaboratively (where possible) complete and lodge Form **HR1** by email with the Central Office (centraloffice@courtsni.gov.uk) at least **5 days before the court date** setting out agreed directions or, if there is a dispute, their respective proposals. The subject line of your email should state "**QBD Master's Review List (Administrative) - on (insert court date)**". Where a party is not represented or is a litigant in person, they will be contacted directly by the Court Office and asked to complete and return Form **HR1** to the Central Office.

Where a Form **HR1** is not returned within the prescribed timeframe, the case will be listed at an **Explanation Court** for non-compliance in the week commencing **2 November 2020**. Where there is a response by one party only, the Master may proceed to issue directions on the basis of that party's proposals only.

Where there is a difference of position between the parties as regards what directions should issue, the parties should file brief written submissions indicating their respective positions. A complete electronic file of the submissions should be sent to the Central Office by one of the parties. Those submissions will then be considered and the court will issue a direction. In the event that a party fails to engage in agreeing directions, the Master will consider the directions proposed by the other party/parties.

Telephone conferencing will continue to be used for reviews in cases where there is a dispute about proposed directions which cannot be resolved in the papers.

EX -PARTE APPLICATIONS

Urgent ex parte applications will be given priority. Such applications must be clearly marked urgent and the papers may be filed by email to the RCJ Front of House: Frontofhouserj@courtsni.gov.uk

AFFIDAVITS

QBD Masters will accept unsworn affidavits in ex parte and inter partes applications subject to the solicitors' undertaking to provide a sworn affidavit as soon as is possible and in inter partes applications, subject to any objection by another party.

INTERIM PAYMENTS

Practitioners should provide a digital hearing bundle containing the summons and grounding affidavit, any replying affidavit, the pleadings, short written submissions, and an agreed summary of the medical evidence. The timetable for the sequence of affidavits and submissions should be agreed between the parties. Authorities are not required. If a contested hearing is required the Master may deal with it on the papers.

If the application is by consent and the terms agreed, the Master will direct that an order be issued in those terms. A formal ex parte application in these circumstances will not be required.

All documents should be in a single digital bundle with an index otherwise the Master will not accept them.

CHANCERY AND PROBATE

KEY CHANGES TO PREVIOUS GUIDANCE

- Arrangements for new Interlocutory Summonses
- Arrangements for Ex-Parte Applications

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.

New **Order 88 notices of appointment** should not be issued until further notice unless it is urgent, in which case the reasons must be clearly specified in writing.

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 Master undertook to complete a review of all interlocutory summonses which were previously listed for hearing between 20 March and the end of the Trinity Term and automatically adjourned in the absence of any request for directions.

Legal representatives were required to complete and lodge form **ChanCI1** by email with the Chancery Office (chanceryoffice@courtsni.gov.uk) no later than 4.00pm on 14 August 2020. However, in a significant number of cases, legal representatives have failed to comply with that instruction.

Those cases have been adjourned for consideration at an **Explanation Court on 5 November 2020** thereby providing parties with a final opportunity to submit form **ChanCI1** or an explanation in writing setting out the reasons for non-compliance. A list of the cases which fall into that category will be issued through the Law Society and the Bar Council.

Parties must not attend court on 5 November 2020; the Master will deal with cases administratively (on the papers / written submissions). Where a form **ChanCI1** or a written explanation is not submitted by email to the Chancery Office by **2 November 2020**, the Master may in the absence of good cause **Strike Out** the summons. Where only one party responds, the Master may proceed on the basis of that party's proposals.

NEW BUSINESS

New interlocutory summonses will be permitted to issue with effect from **21 September 2020**. 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 directions as to the filing of electronic bundles will apply to such summonses.

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 the court, 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 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.

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.

From 12 May 2020 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.

MATRIMONIAL

KEY CHANGES TO PREVIOUS GUIDANCE

- Arrangements for **Progress Courts** commencing on 23 November 2020

PROGRESS COURTS

Those cases which were adjourned during the lockdown period to a date to be fixed, will be listed before Master Sweeney and Master Bell for consideration at **Progress Courts commencing on 23 November 2020**. The purpose of such listings will be to establish the current position in respect of those proceedings and to give appropriate directions in order to move them on.

Completion and return of forms

Parties should collaboratively complete and send **Form HR1** by email to matrimonialmastersteam@courtsni.gov.uk at least **5 days** in advance of the court hearing date. The subject line of your email should state "**Progress Court - Master Sweeney/Bell-(insert court date)**". Where a form HR1 is not submitted within the prescribed timescale, the

Master may in the absence of good cause make whatever order he /she considers appropriate. Where only one party responds, the Master may proceed on the basis of that party's proposals.

Where a party is not represented or is a litigant in person, the court office will contact them directly to confirm the arrangements for the court hearing and provide a form HR1 for completion.

Court Hearings

Parties must not attend court unless directed by the court. The Progress Courts will be remote hearings held via Webex or Sightlink, or as directed otherwise by the court, until the public health position improves. Copies of the court lists will be issued through the Law Society and Bar Council for onward transmission to legal representatives, the lists can also be accessed [here](#) and via [Public Court Lists Online](#).

Parties should join the remote hearings at the appointed time by connecting to **Sightlink 26** (Master Sweeney) or **Webex** (Master Bell). Guidance on connecting and using **Sightlink** and **Webex** can be found here:-

[Sightlink A Consolidated Guide for the Public](#)
[Webex Virtual Hearings - A Guide for External Participants](#)

Where the remote hearing is to take place via **Webex**, the court office will send notification with the details you need to join the hearing to the email addresses provided at Part 2 of form HR1.

Adjournments

If the parties want to request an adjournment, a **HR1 Form must be completed** and filed for consideration by the Master. **This applies even if the adjournment is by consent.**

Court Orders

It may take up to 10 days before results from the Progress Courts will be available on ICOS, please do not contact the Matrimonial Office to enquire about results unless this information is not available on ICOS after the 10 day period has elapsed. The court office will contact parties directly in the event any urgent action is required.

Solicitors may at any time make a request to the Matrimonial Office for the inclusion of a particular case in a Progress Court list and it will be listed as soon as possible.

MAINTENANCE PENDING SUIT

Maintenance pending suit applications should be supported by an affidavit and served on the Respondent to the application who should, within 14 days of service, file by email and serve by email an affidavit in reply. The application will be dealt with either on foot of written submissions emailed to the Court, or by remote hearing via Webex or Sightlink. Written submissions should provide detail of the parties' income, outgoings, and other resources and should be compiled in a complete electronic trial bundle.

FINANCIAL DISPUTE RESOLUTION HEARINGS

Public health guidance has limited the number of people in Master Sweeney's courtroom to a maximum of five people. This number includes the Master and the parties. FDRs before Master Sweeney will therefore be hybrid hearings with counsel and the parties being

physically present in court and the solicitors attending via Sightlink from consultation rooms outside the building. Time allocations must be strictly adhered to. Following the FDR hearing, the courtroom participants will leave the building and join the solicitors to continue the consultations and negotiations.

Public health guidance has limited the number of people in Master Bell's chambers to a maximum of three people. This prevents Master Bell from facilitating in-person FDR hearings. In respect of those proceedings before Master Bell, FDRs will therefore be held remotely via Webex.

Where the parties confirm on an **FCI1 form** that the proceedings are ready for an FDR hearing before either Master, and that there are no outstanding issues, they will be allocated a provisional FDR hearing date. If core issues are not filed 14 days in advance, the hearing date will be vacated and a new FDR date will be provided when the Core Issues are filed. Where the parties disagree as to the readiness of proceedings for an FDR hearing, they should request that the case is listed in a Progress Court list or file an FCI1 form seeking administrative adjudication by the Master.

NEW BUSINESS

All previous restrictions on the issuing of new matrimonial summonses have already been lifted.

New ancillary relief applications are allocated a date for First Directions by the Master and, in advance of that date, an FCI1 form must be emailed to the matrimonialmastersteam@courtsni.gov.uk to reflect any agreed directions, or submissions in relation to directions not agreed and, if relevant, confirming how service has been effected. The FCI1 form shall have attached a paginated, electronic, and hyperlinked bundle containing the summons, affidavits and any discovery or correspondence relied on.

All communications to the Matrimonial Office should be copied to the other side, even where the person emailing says there is agreement.

HEARINGS

All final ancillary relief hearings remain difficult in the current circumstances given the public health guidance on the maximum number of persons permitted in the Masters' Chambers and the pressures on other court accommodation. Where the FDR process has been unsuccessful in resolving the litigation, the parties should collaboratively file Form HR1, paying particular attention to Part 4 of the form. The Master and the Matrimonial Office will then explore the availability of courtroom accommodation in the light of the number of persons who it is wished to have present at the hearing and the expected duration of the hearing. In the event that it is not possible to offer an in-person hearing in the Royal Courts of Justice, alternative suggestions made by the parties shall be considered.

DECREE ABSOLUTES

Applications for decree absolutes will be processed as usual. However, as with other court business, practitioners should note that the normal turnaround times may not apply given reduced staffing resources. Those applications which are considered urgent should be marked as such for the attention of the Master, together with supporting reasons.

CARE AND PROTECTION

Children's cases and Non Molestation Order cases

The Master conducted an extensive Administrative Review of all Children and Non Molestation Order cases that were listed for Hearing or Review between 23 March and 1 June 2020. Directions Orders have issued. These cases will be further reviewed in accordance with the Directions Order. All other cases, including new cases, are now being processed by the Children and Patients Offices [at a speed commensurate with the skeleton staff available].

Applications for further Directions or a Remote Review 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.

For further information see the Guidance for Family Proceedings (All Court Tiers). Legal representatives should also refer to the "Practice and Procedure Update" published by the Law Society on 17 June 2020 following a webinar hosted by the Family Law Committee of the LSNI and the Family Bar Association.

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)

The Master conducted an Administrative Review of all Patients' cases. Directions Orders have issued. These cases will be further reviewed in accordance with the Directions Order. All other cases, including new cases, are now being processed by the Patients Offices at a speed commensurate with the skeleton staff available.

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 critically urgent the applicant must file medical or other evidence to explain why the application is deemed to be so urgent.

Affidavits / Statement of Truth

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. 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."

Orders

The Master will only grant Orders in circumstances where the Master is satisfied that it is the right thing to do and is in the best interests of the Child or Patient. If the Master has any concerns whatsoever about prejudice and the fairness of the process the Master will adjourn the case.

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](#). If a Hearing is deemed by the Master to be necessary it will be conducted remotely in accordance with case specific directions of the Master.

Parties are at liberty to submit an application by email to the Children's Office (RCJCHILDRENOFFICE@courtsni.gov.uk) or Patient's Office (OCP@courtsni.gov.uk) 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.

Medical Report for a Controller Application

The Master (Care and Protection) 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 (ie 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.

BANKRUPTCY AND COMPANIES

KEY CHANGES TO PREVIOUS GUIDANCE

- Arrangements for **Explanation Court** on 15 December 2020
- New Business section has been updated to reflect the consequence of failing to file form [BANKCI1](#) in accordance with the requirements set out below.
- **Legal Update:** The Corporate Insolvency and Governance Act 2020 (Coronavirus) (Schedule 8) (Early Termination of Certain Temporary Provisions) Regulations (Northern Ireland) 2020

EXPLANATION COURT (15 December 2020)

- The Master undertook to complete a **review** of all **Ordinary Applications, Applications to set Aside Statutory Demands** and **Originating Applications** previously listed for hearing or review between 20 March and the end of the Trinity Term, and automatically adjourned in the absence of any request for directions.
- Legal representatives were required to complete and lodge form **BANKCI1** by email with bankruptcyoffice@courtsni.gov.uk no later than 4.00pm on 20th August 2020. However, in a significant number of cases, legal representatives have failed to comply with that instruction. Those cases have been adjourned for consideration at an **Explanation Court** on **Tuesday 15 December 2020** thereby providing parties with a final opportunity to submit form BANKCI1 or an explanation in writing setting out the reasons for non-compliance.
- A list of the cases which fall into that category will be issued through the Law Society and the Bar Council. Parties must **not** attend court on 15 December 2020; the Master will deal with cases administratively (on the papers / written submissions). Where a form BANKCI1 or a written explanation is not submitted by email to the Bankruptcy Office by 4.00pm on 4 December 2020, the Master may in the absence of good cause make whatever order she sees fit. This may include a final order on foot of the application. Where only one party responds, the Master may proceed on the basis of that party's proposals.

NEW BUSINESS

Ordinary Applications, Originating Applications and Applications to Set Aside Statutory Demands

- **New Ordinary/ Originating Applications and Set Aside Applications** will now be accepted as new business and issued without the need for prior approval by the Master. As far as it is reasonably practicable to do so, and subject to staff availability, new applications will be allocated a return date upon filing.

- The applications will, in general, be considered in the first instance on paper and standard directions given where appropriate. **Parties must not attend Court unless directed to do so.**
- Parties should collaboratively (where possible) complete and file Form BANKCI1 which is to be filed by secure email to bankruptcyoffice@courtsni.gov.uk at **least 5 days** before the court date. The subject line of the email should state “**Bankruptcy and Companies Master’s Court [Administrative] for [insert date]**”. The form should reflect any agreed directions, or submissions in relation to directions not agreed and, if relevant, confirming how service has been effected. The form should also be submitted in advance of every review within the timeline prescribed and using the same subject line. **Failure to submit Form BANKCI1 in the manner and timeline prescribed and in advance of each review, may result in the application being struck out or any other order that the Master sees fit. This also applies to reviews of existing applications, which have been restored to the daily list.**
- The applicant will be responsible for including a copy of this guidance when serving any application on a private individual, together with advice as to how to access online the latest notices and directions from the Office of the Lord Chief Justice in relation to the coronavirus pandemic.

CONTESTED MATTERS

Disposal of Contested applications – on the papers

- Subject to consideration of any objection by the parties, the Master will continue to deal with straightforward contested applications such as Applications to Set Aside Statutory Demands, Applications for Bankruptcy Restrictions Orders, Applications for Income Payments Orders and similar applications, on the papers. She will also, where appropriate, at the request of or with the agreement of the parties, deal with all or part of more complex applications on the papers. The directions as to the filing of electronic bundles will apply to such applications.
- In the more complex applications, 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 applications, the parties may file short written submissions (authorities will generally not be required). For the purpose of taxation of costs, applications dealt with on the papers, which include counsels’ written submissions, will be certified for counsel.

Disposal of Contested applications – Hearing required

- In the event that the parties cannot agree a position and there is a need for the matter to be resolved by the Court, the Master will (if circumstances and/or IT arrangements permit) 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 application will be dealt with via a remote, live or hybrid hearing or a telephone conference, the party who issued the application 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.
- 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 PHA advice. Parties will be required to carefully complete and submit form HR1 before the Court will list a contested matter.

SUPERVISORS' PETITIONS AND ADMINISTRATORS' PETITIONS FOR WINDING UP

- Following consultation with the Official Receiver, it has been agreed that these petitions may be filed as new business from 1st October 2020. The presentation of the petition must be accompanied by a completed HR1 form in order to obtain a listing allocation which will be for initial directions only as to the conduct of the hearing of the petition. The form should then be emailed to bankruptcyoffice@courtsni.gov.uk, the subject line of the email should state **"Bankruptcy and Companies Master: request for hearing"**.

EX PARTE PETITIONS UNDER THE ADMINISTRATION OF INSOLVENT ESTATES OF DECEASED PERSONS ORDER (NORTHERN IRELAND) 1991

- These are now accepted as new business and will be dealt with on the papers unless the Master decides otherwise.

PUBLIC AND PRIVATE EXAMINATIONS

- Applications for Public and Private Examinations will now be accepted and listed for a face to face hearing subject to the availability of a suitable courtroom with Covid-19 precautions. The applicant will be required to complete and submit a form HR1 before any Examination is listed. The form must be submitted by secure email to bankruptcyoffice@courtsni.gov.uk. The subject line of the email should state **"Bankruptcy and Companies Master: Application to fix a date for a Public/Private Examination."**

CONTINUITY ARRANGEMENTS FOR EXISTING BUSINESS

Debtors' petitions

- These will continue to be dealt with on the papers unless the court directs otherwise.

Directors' Petitions

- These will continue to be dealt with on the papers unless the court directs otherwise.

Companies' matters

- **Applications for extension of time to register company charges** will continue to be listed for paper determination by the Court. There will be **no appearances** by any party. The Court will order a hearing only where, on considering the application on paper, it considers it necessary to do so. The requirement to produce the original charge is waived in this period and evidence of solvency will be accepted by secure

email to bankruptcyoffice@courtsni.gov.uk. The subject line of the email should state “**Bankruptcy and Companies Master’s Court [Administrative] for [insert date]**”.

- **Applications for the restoration of companies to the register** will continue to be listed for a paper determination by the Court. There will be **no appearances**. Practitioners will, however, have to include evidence in the application of any prior insolvency of the Company for the purpose of the paper determination. The Court will order a hearing only where, on considering the application on paper, it considers it necessary to do so.
- **Applications for rectification of the companies register and to extend the term of an administration** will, for the time being, continue to be listed for a paper determination by the Court. There will be **no appearances**. The Court will order a hearing only where, on considering the application on paper, it considers it necessary to do so.

LEGAL UPDATE

- Practitioners are advised to familiarise themselves with the Corporate Insolvency and Governance Act 2020 (Coronavirus) (Schedule 8) (Early Termination of Certain Temporary Provisions) Regulations (Northern Ireland) 2020]. These Regulations provide that certain provisions in Part 2 of Schedule 8 to the Act cease to have effect from 14th October 2020.

GENERAL

Public Health Guidance

- Public Health guidance has limited the number of people in Master Kelly’s courtroom to a maximum of 5 people. This number includes the Master and the parties. Time and seating allocations must be strictly adhered to. It is unlikely that consultation space will be available within the Royal Courts of Justice and this must be borne in mind and alternative consultation venues considered.

Forms

- Practitioners will note the introduction and widespread use of forms. Please note that this is necessary as new ways of conducting court business safely are implemented and we all adapt to them. The forms provide a consistent and structured approach to hearings and reviews, and practitioners should, as far as possible, collaboratively complete and submit them in accordance with the specified timelines.

Final Orders

- Final orders will only be made where the Master is satisfied that either the parties have agreed such an order, or that it is right and just in all the circumstances to do so. If the Master has any concerns whatsoever about prejudice and the fairness of the process she will simply adjourn the case. Solicitors should check ICOS for the status of their case or contact the Bankruptcy Office bankruptcyoffice@courtsni.gov.uk

Affidavits

- Proceedings should be grounded on sworn affidavits unless the Master directs otherwise.

Urgent business

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

Reactivation of Creditors’ bankruptcy and winding up petitions adjourned from March 2020 to the end of the Trinity Term

To be the subject of further and separate guidance.

Creditors' petitions as new business

- Priority must first be given to the hearing of petitions adjourned from March 2020 to the end of the Trinity Term before new creditors' petitions can be presented. At present there is a large volume of petitions currently adjourned from this period and the Court will only be able to hear them strictly timetabled and in very small numbers. This is a process which will inevitably be lengthier, more complex and very different to the process which existed prior to the pandemic. It is therefore likely to take considerable time. It also means that new petitions cannot be presented until the Court has acquired adequate capacity to accommodate them. It is not therefore anticipated that guidance on new creditors' petitions will issue in the short term.
- Practitioners are also reminded that the Insolvency Court is meant to be a court of last resort. Insolvency proceedings, being neither litigation nor debt collection proceedings, ought not to be used for debt recovery purposes. They are further reminded that bankruptcy and winding up orders are made only in the exercise of the Court's equitable discretion and not as of right.
- Long established and effective legal remedies exist for the purpose of debt recovery. Those, and the exploration of alternative methods of debt resolution, are strongly encouraged at this time. Alternative methods of resolution are possible without offending the principles of insolvency particularly if due diligence is undertaken by a creditor, or where there is legal representation on both sides and/or the involvement of a licensed insolvency practitioner.
- Practitioners should therefore take great care to ensure that creditor clients are properly advised and that their expectations are judiciously managed. They should also bear in mind (among other things) that bankruptcy and winding up orders necessarily involve expense to the public purse, and that there is therefore legitimate public interest in ensuring that the jurisdiction of the court is invoked only where it is necessary and appropriate to do so.