Northern Ireland
Courts and Tribunals Service
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A guide to proceedings in the High Court for people without a legal representative

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Foreword

This guide, including a glossary of regularly used legal terms, is part of a larger project to provide some very basic information about court rules and procedure to assist those who find themselves in the position of starting or continuing litigation without legal representation. If you find yourself in that position it is a good idea to seek advice from one of the many excellent voluntary sector advice agencies who operate in Northern Ireland. With or without that advice, the fundamental principle of access to justice means that a person without a lawyer has access to the courts.

The work required from people representing themselves may be very considerable and that work has to be done in an environment which is often unfamiliar. A degree of latitude can be allowed to people without legal representation dealing with the complexities of cases. The exact degree of latitude will depend on the circumstances of each individual case. For instance depending on the circumstances an unrepresented person could be allowed a greater degree of time for preparation. Again depending on the circumstances and in view of the lack of legal training, assistance could be given by the judge in reformulating questions for witnesses. However an unrepresented person in bringing or defending a case has the entire responsibility for preparing and conducting it. Our system is adversarial, that is there are two or more parties putting their case and the judge's role is like that of a referee. Once he or she has heard all the evidence and arguments the judge will make an independent decision. It is the personal responsibility of an unrepresented person to fully set out his case.

It cannot be emphasised too strongly that this guide is not a legal textbook and does not have the force or the authority of law. It does not provide a comprehensive explanation of law and procedure and is not a substitute for proper legal advice being obtained. The responsibility rests with the unrepresented person to ascertain, know and understand relevant textbook references, the rules of the Court of Judicature, legal authorities, protocols and practice directions. This brief guide is no substitute for that task. Thus the information in this booklet does not constitute legal advice for an individual case.

You will be asked to sign for a copy of this guide and you will be expected to have read it. If you are unsure of any aspect of law or procedure, you are strongly advised to seek advice from a solicitor or voluntary sector advice agency. For questions on practice and procedure it is hoped that a pro bono advice scheme will start soon, operated at the Royal Courts of Justice by the Bar Council and Law Society of Northern Ireland. It must be emphasised however that this will not be a scheme to provide legal representation but simply advice confined to practice and procedure. More information may be obtained once the scheme is launched, on www.courtsni.gov.uk.

This guide tries to avoid technical legal language, but legal language is sometimes necessarily technical. Where we have used technical legal language, it has been included in the glossary with a plain English definition, and definitions also appear in the electronic version as hyperlinks where technical legal language terms are used.

Glossary

Advocacy – the skills of arguing and explaining a client's case in court.

Adversarial – when two or more parties are putting their case and the judge's role is like that of a referee.

Affidavit – a statement in writing, made by swearing or affirming before a solicitor, which court rules allow to be used in some cases instead of having a witness come to court.

Barrister – a lawyer who specialises in advocacy and has the right to speak in the High Court. A barrister is usually instructed to act in a case by a solicitor on behalf of the solicitor's client.

Call-over – an occasion in court where dates for all the cases in the next few months are fixed. It is important for the parties or their lawyers to attend the call-over.

Case – the proceedings, arguments and evidence in court and the court hearing.

Certificate of readiness – a document prepared by all the parties to a case jointly, confirming that all the necessary steps have been taken for the case to be heard.

Civil case – any type of case which is not a criminal case.

Close of Pleadings – pleadings are deemed to be closed 21 days after service of the reply, or, if there is no reply, after service of the defence to any counterclaim.

Clinical negligence case – A civil claim for damages where negligence by a doctor, dentist or other healthcare professional is alleged.

Court order – the enforceable decision of the court.

Creditor – a person who is owed money by a debtor.

Criminal case – a case about whether someone is guilty of a crime and, if so, how they should be punished.

Cross-examination – asking questions of a witness in court.

Counterclaim – a claim for damages or another remedy by a defendant against a person who has sued him.

Damages – money paid to one party by the other to compensate for a wrong. Damages are referred to as liquidated, where they are easily calculated, such as a debt owed or the cost of repairing a car, or unliquidated, where they are less easily calculated, for example compensation for pain, suffering and injury.

D**ebtor –** a person who owes money to a creditor.

D**isclosure –** giving access to a document or other evidence relevant to a case to other parties in advance of the hearing.

D**iscovery –** Notifying the other parties about a list of the documents (including paper and electronic documents, maps and photographs, sound and video recordings and information stored in any other way) which are or have been in your possession, custody or control and which are relevant to the case and are not protected by privilege. The duty to make discovery is continuous, so if further relevant documents come into your possession after the exchange of lists, you need to notify other parties about them too.

E**nforcement –** the processes for making sure that a court order is obeyed.

E**vidence –** the statements of witnesses, documents, opinions of experts and other facts which support a party's case.

E**x-parte application –** an application made to a judge by a party to a case without the other parties being required to be there.

E**xpert report –** a report about medical, accounting, engineering or other specialist technical evidence, prepared by a professional with expertise in that area. An expert is the only type of witness who can give evidence about his or her opinion.

G**uardian ad litem –** a relative or friend who defends a case on behalf of a person under a disability named as a defendant or third party. In the Family Division, a guardian ad litem is also the name for the independent social worker who represents the interests of the child in difficult cases.

H**earing –** the trial of a case or preliminary issue in court.

H**earsay evidence –** Evidence of a statement someone made which is presented in court in some other way than by their direct spoken evidence or affidavit. A previous written statement or a description by someone else of what that person told them would both be hearsay. Hearsay evidence is usually, but not always allowed, but it may have less weight than a statement given by someone in court whose evidence can be tested by cross-examination.

I**nterlocutory application –** a procedural matter which has to be decided by a judge (usually a Master) before the final decision can be made in a case. For example, a challenge to one party's refusal to give discovery, or an application for substituted service are interlocutory applications.

J**udgment –** the judge's statement of the court order and his or her reasons for making it. A judgment can be spoken or in writing.

L**itigant –** a person who is a party in a case.

L**odge documents –** send documents to the court office.

L**odgement –** payment of money into court which the payer believes is a reasonable figure to settle a case, but which the other party will not accept. If the other party does not "beat the lodgement" by being awarded a higher sum by the judge, they may not have all their costs paid by the losing party and may have to pay the costs of the other party arising after the date of the lodgement.

M**aster –** a statutory civil procedure judge who deals with certain types of cases in the High Court.

M**cKenzie friend –** a person who supports and advises a personal litigant in court, but does not speak on their behalf.

M**inors –** people who are less than 18 years old.

M**oney in court –** money is paid into court when, for example, a party makes a lodgement of a sum they believe is reasonable to settle a case, or where the person to whom damages should be paid is a person under a disability.

N**ext friend –** a relative or friend who brings a case on behalf of a person under a disability.

N**otice Party –** someone who is not a party but who the court decides has a proper interest in the proceedings and should be notified about the hearing so that they can ask the judge's permission to participate.

O**rder 53 Statement –** the document which starts a judicial review case. It is named after Order 53 of the Rules of the Court of Judicature, which states what must be in an Order 53 Statement.

O**riginating motion –** A document which starts some kinds of High Court cases, described in Rules of the Court of Judicature Order 5, rule 5 and Order 8.

O**riginating summons –** a document which starts some kinds of High Court cases, described in Rules of the Court of Judicature Order 5, rule 3 and Order 8.

P**arty –** the plaintiff, defendant or third or other party in a court case.

P**erson under a disability –** a person under 18 years old or a person with mental incapacity, who cannot be a party in a court case without the help of a next friend or guardian ad litem.

P**etition –** the document which starts a divorce or civil partnership dissolution case, and some other kinds of cases, described in Rules of the Court of Judicature, Order 9 and the Family Proceedings Rules.

P**ersonal litigant –** a person who is a party in a case and does not have a lawyer.

P**leadings –** a series of documents setting out the facts and legal submissions, including statutory duties, relied on in the case.

P**re-action Protocol –** a court document setting out the steps the court expects the parties to take before a court case is started.

P**rivilege –** rules of law which protect a document, recording or other information from being disclosed to the other party to proceedings, for example because it is correspondence between a lawyer and his client.

P**roceedings –** a shorthand term for all the court procedures and documents before the final court order.

P**rocess server –** a professional who serves documents.

P**rohibit –** prevent.

P**roof beyond reasonable doubt –** the standard of proof in a criminal case – not proof beyond the shadow of a doubt, but leaving the judge or jury without the sort of doubt that would affect their decisions in their ordinary life.

P**roof on the balance of probabilities –** the standard of proof in a civil case – "more likely than not", or more than 50% likely.

R**ebuttal –** evidence, or a pleading, which tries to show that the other party's evidence and arguments are not accurate.

R**eview hearing –** a hearing at which a judge or master will ensure that the case is proceeding as efficiently and proactively as it should, and will help the parties define what work still needs to be done.

R**ejoinder –** the pleading in which the plaintiff to a case in the Queen's Bench Division replies to the defendant's Replies.

R**eplies –** As well as its usual meaning, this is a technical legal term for the pleading in which a defendant to a case in the Queen's Bench Division replies to the Statement of Claim.

Right of audience – the right to speak in a particular court.

Serve – court documents are served when they are sent to a person or company in a way required by court rules, so that it can be proved to the judge that the person to whom they are addressed actually received them.

Set off – a claim by a defendant that the person who sued them owes them an amount of money which should be "set off" against the sum the person is suing them for.

Setting down – telling the court office a case is ready for hearing.

Settlement – A solution to a case agreed by the parties before the hearing, usually involving the payment of damages.

Skeleton argument – a summary of the arguments a party will make before the Court.

Solicitor – a lawyer who has an office and meets directly with the public. Some solicitors are trained as solicitor-advocates and have the right to speak in the High Court.

Statement of claim – the pleading in which the person bringing a claim in the Queen's Bench Division sets out in detailed summary the claim they are making

Stay of enforcement – part of a court order which stops it coming into effect as long as a condition (such as making regular payments of a debt) continues to be met.

Submissions – the speeches that lawyers or personal litigants make to the court.

Subpoena – an order from the court requiring a person to attend for a case, either as a witness or in order to bring a specific document to court.

Substituted service – a method of serving documents which the court directs where service by ordinary means is impossible eg where a party cannot be found or is evading service.

Witness – someone who has personally seen, heard, or otherwise experienced the events which the case is about, such as someone who saw a car crash. A witness can only report what they saw, heard or experienced and the inferences they draw from those facts. They cannot give evidence of their opinion.

Witness (expert) – a person with professional qualifications and expertise such as a doctor, engineer, accountant or forensic scientist who can carry out tests, give an expert opinion, or otherwise help the judge to understand what happened, and why it happened. An expert witness can give opinion evidence.

Writ – A document which starts a case in the Queen's Bench Division.

Index

Foreword 3

Glossary 4

1. What help is available to me? 11

(a) Citizens' Advice Bureau
(b) Housing Rights Service
(c) Advice NI
(d) Law Centre (NI)
(e) Legal Services Commission
(f) Solicitors
(g) Barristers
(h) The Bar/Law Society Pro Bono Unit
(i) The Royal Courts of Justice Personal Litigants' Procedural Advice Scheme
(j) Help from a friend or other person (McKenzie Friends)

2. What do I need to know before going to Court 14

(a) What are the alternatives to proceedings?
(b) Will I be expected to know the law and procedures that apply to my case?
(c) What is the courts main aim in dealing with cases?
(d) Have I the right parties?
(e) Am I in the correct court?
(f) What are the different branches of the High Court?
(g) Have I brought my claim within time?
(h) What steps will the court expect me to take before starting my case?
(i) What are the time limits once my case has started?
(j) Will I have to pay court fees?
(k) Will I have to pay the costs of the case?

3. The Pre-Hearing stages 21

(a) How do I start my case?
(b) How do I serve documents?
(c) What are pleadings and how do I use them?
(d) When may a court strike out a case?
(e) When do I need to disclose materials and documents relating to the case?
(f) Are there special rules about medical evidence?
(g) Are there special rules about other types of evidence?
(h) How many experts can I have in my case?
(i) What do I do when my case is ready for hearing?

4. Attendance at Court prior to a hearing 25

(a) What is a review hearing?
(b) Might there be applications about the case before the final hearing?
(c) Who is a Master?
(d) What happens if I want to stop my case?
(e) What if I agree to settle out of court?

5. Preparation for the hearing 27

(a) What evidence will I need?
(b) What do I need to know about my witnesses?
(c) Are there special rules about medical evidence?
(d) Are there special rules about experts?
(e) Do I need to remember anything about maps, plans, drawings, photographs, or models?
(f) What is the trial bundle and book of authorities?
(g) What is a skeleton argument?
(h) What if I have special needs?
(i) How am I expected to behave in court?
(j) How do I find where my case is being heard?

6. The Hearing 32

(a) How do I start my case?
(b) How do I question my witnesses?
(c) Can I question the other witnesses?
(d) Can I ask any final questions to my own witness?
(e) Can I make notes?
(f) How do I sum up my case?
(g) What will the court decide?
(h) Will I know the court's decision?
(i) A special case – divorce and civil partnership dissolution
(j) Who will pay the costs of the case?

7. After the Hearing 36

(a) What happens after the judge has made a decision?
(b) Unreasonable behaviour - contempt of court and vexatious litigants

8. Royal Courts of Justice Contact Details 38

Appendix A 39

Plaintiff's Litigation Timetable Checklist (Queen's Bench Division)
Defendant's Litigation Timetable Checklist (Queen's Bench Division)
Applicant's Litigation Timetable Checklist (Judicial Review)

Appendix B 42

Further resources

1. What help is available to me?

The Court must remain independent to ensure a fair trial, therefore legal advice is not offered by the Court or by Court officials. Court officials are not lawyers. They can offer you general information but cannot advise you about your particular case. If you are not entirely confident that you understand the proceedings in which you are involved, there are several organisations which can provide you with help free of charge. Solicitors and Barristers can advise and refer you. The help voluntary organisations can give you will be different in different situations. They can always provide advice and may be able to provide a McKenzie friends service (this is described below) in court. In some courts they are allowed to provide representation and the organisation you go to will be able to tell you if this is possible.

(a) Citizens' Advice Bureau

The Citizens Advice Bureau Northern Ireland offers free, impartial, confidential and independent advice and direction to members of the public for a wide range of issues, and can sometimes represent clients in court and at tribunals. There are 27 main offices across Northern Ireland and the addresses of individual branches can be found on the organisation's website, www.citizensadvice.co.uk.

(b) Housing Rights Service

This organisation aims to promote and protect the rights of people in housing need. Their services include specialised housing advice service, representation at court and debt advice for those facing repossession, see www.housingrights.org.uk.

4th Floor Middleton Buildings
10-12 High Street
Belfast BT1 2BA
Tel: 028 9024 5640
Fax: 028 9031 2200

(c) Advice NI

Advice NI is the umbrella organisation for a number of free independent advice agencies in various parts of Northern Ireland. It can provide details of an advice centre near you, see www.adviceni.net.

1 Rushfield Avenue
Belfast BT7 3FP
Tel: 028 9064 5919
Fax: 028 9049 2313

(d) Law Centre (NI)

The Law Centre (NI) is a not for profit agency working to advance social welfare rights in Northern Ireland. Although it does not offer services directly to the public, cases are referred to the Law Centre by independent advice centres and the Citizens Advice Bureau, usually where there is a public interest aspect. The Law Centre's work covers social security, employment, mental health, immigration and community care law, see www.lawcentreni.org.

Belfast Office:
124 Donegall Street
Belfast BT1 2GY
Telephone: 028 9024 4401
Fax: 028 9023 6340

Londonderry/Derry Office:
9 Clarendon Street
Londonderry BT48 7EP
Telephone: 028 7126 2433
Fax: 028 7126 2343

(e) Legal Services Commission

The Legal Services Commission funds lawyers and other advice providers to help people who are eligible for legal aid to protect their rights in civil matters and to help people who are under investigation, or facing criminal charges. To see if you qualify for legal aid, check www.nilsc.org.uk.

2nd Floor, Waterfront Plaza
8 Laganbank Road
Mays Meadow
Belfast BT1 3BN
Tel No: 028 9040 8888
Fax No: 028 9040 8990

(f) Solicitors

If you feel that bringing your claim is too complicated and requires professional help, on a legal aid or paying basis, there are solicitors' firms available in all major towns, cities and many villages throughout Northern Ireland. A list of solicitors is available on the website of the Law Society of Northern Ireland, www.lawsoc-ni.org/solicitors-directory/. It is also sometimes useful to ask friends who have had similar cases if there is a solicitor they would recommend.

(g) Barristers

Barristers are not instructed directly by clients, but take instructions from the client's solicitor. A solicitor will be able to advise whether your case needs the services of a barrister.

(h) The Bar/Law Society Pro Bono Unit

If your case has a strong public interest element; that is, if it is a test case or the outcome will affect a lot of people in similar circumstances, you may be eligible for assistance from the Bar/Law Society Pro Bono Unit. If you are eligible, they will provide a barrister and solicitor who will work on your case free of charge. For more information, contact the Pro Bono Unit by telephone on 028 9056 2349 or by post at 91 Chichester Street, Belfast, BT1 3JQ.

(i) The Royal Courts of Justice Personal Litigants' Procedural Advice Scheme

It is hoped that a pro bono advice scheme will start soon, operated at the Royal Courts of Justice by the Bar Council and Law Society of Northern Ireland. It must be emphasised however that this will not be a scheme to provide legal representation but simply advice confined to practice and procedure. More information may be obtained once the scheme is launched, on www.courtsni.gov.uk.

(j) Help from a friend or other person (McKenzie Friends)

A McKenzie friend, named after the case in which they were first used, is a friend, relative or other person who has no personal interest in the outcome of your case, but who attends court to offer you support and advice.

A McKenzie friend is permitted to sit beside you in court and to offer you quiet advice. He or she is not permitted to speak for you except in exceptional circumstances. More information on the rights and obligation of McKenzie friends is contained in Practice Note 3 of 2012, which can be found on the NICTS website www.courtsni.gov.uk.

2. What do I need to know before going to Court

(a) What are the alternatives to proceedings?

- You should consider what it is you want from going to court and whether there are alternative ways of achieving what you want.

- These alternatives are called Alternative Dispute Resolution (ADR) – which includes arbitration and mediation. For example parties to a commercial contract may agree that an independent person (an arbitrator) can decide the matter.

- A family mediator will often use his or her professional skills to create a neutral environment for parties to make decisions about what is best for their children.

- Mediation is now regularly used in a number of cases such as clinical negligence, some personal injury cases, and even judicial review. It is often less expensive than legal proceedings and can be swifter with the benefit of solutions which are not open to the court.

- If you think ADR may be useful in your case, ask the court office to give you a list of contact addresses[1].

- There are also many different regulatory bodies and investigative bodies in Northern Ireland dealing with misconduct or unfairness by public authorities, professionals or businesses.

- The NI Ombudsman's Office, Law Centre (NI) and Queen's University Belfast have produced a useful booklet called "Alternatives to Court in Northern Ireland.

(b) Will I be expected to know the law and procedures that apply to my case?

Whilst some allowance can be made for the fact that you are not a lawyer, you will be expected to have a good basic grasp of the relevant law and procedure. Initial advice from a solicitor or advice agency should be obtained if at all possible if you are unsure of anything.

Legislation and case law are available on-line and websites are provided in the "Further Resources" section. Rules of procedure are set out in the Rules of the Court of Judicature (RCJ), Practice Directions, Practice Notes and Protocols. They can be found at www.courtsni.gov.uk. All of these terms are explained in the glossary at the beginning of this Guide.

[1] The Law Society and The Bar Library can provide a list of members who are trained mediators. More information is available on their respective websites at http://www.lawsoc-ni.org/role-of-the-law-society/resolving-disputes and http://www.barlibrary.com/about-barristers/access-to-barristers/mediation-services/

(c) What is the courts main aim in dealing with cases?

It is important to appreciate the overriding objectives of the Court of Judicature, found in the Rules of the Court of Judicature Order 1, Rule 1A. They are:

- Ensuring that the parties are on an equal footing;
- Saving expense;
- Dealing with a case in the ways which are proportionate to –
  - (i) the amount of money involved;
  - (ii) the importance of the case;
  - (iii) the complexity of the issues;
  - (iv) the financial position of each party.
- Ensuring that it is dealt with efficiently, promptly and fairly;
- Allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases.

(d) Have I the right parties?

- Remember that you must refer to everyone who should be a party to your case in the court documents, and serve documents on them all. If you find out part-way through preparing for the hearing that someone else should be added to the case, you can usually apply to the court for this to be done.
- A person bringing the case is usually called the plaintiff except in divorce and civil partnership dissolution cases where he/she is called the petitioner and in judicial review, the applicant. A person bringing an appeal is an appellant or, if leave to appeal is needed, the applicant.
- The defendant is usually the person against whom the claim is brought except in divorce and civil partnership dissolution, judicial review and appeals where he/she is called the respondent.
- If more than one defendant is liable they should all be named in the court documents.
- If the defendant wishes to add another party who the defendant believes is involved in the subject of the case that party becomes a third party. The third party may also join a fourth party and so on.
- In judicial review a notice party is someone so closely affected by the decision that they have a right to be represented.

(e) Am I in the correct court?

(i) Higher courts

- The High Court is the court which hears the most serious cases in Northern Ireland and is divided into specialist divisions namely the Queen's Bench Division, Chancery Division, the Commercial Court, the Judicial Review Court and the Family Division (see paragraph 5 below). Before starting a case in the High Court, make sure that a lower court would not be more appropriate.

- The Court of Appeal hears appeals from all divisions. The High Court and Court of Appeal sit in the Royal Courts of Justice.

- The Crown Court hears more serious criminal cases.

- In the High Court, a wrong choice of division can sometimes be altered although extra costs may be incurred so it is best not to do this.

(ii) Lower courts

- The County Court deals with civil cases up to £15,000 (which will rise to £30,000 in January 2013), disputes involving land with a net annual value of up to £4, 060 or a capital value of £400,000 and disputes between landlord and tenant, divorces, family law disputes and appeals from the Magistrates' Courts.

- Magistrates' Courts deal with less serious criminal charges as well as some family cases and other specialist separate proceedings.

- Cases in the lower courts must usually be brought in the court district in which one of the parties lives or has a business. The location and contact details of courts for each region are available at www.courtsni.gov.uk

(iii) Tribunals

- Specialist Tribunals exist to deal with cases such as social security appeals, planning appeals or employment disputes.

(f) What are the different branches of the High Court?

Some of the branches of the High Court are called divisions. The different branches are set out below. For further information on the division under which your claim may fall, see the Rules of Court of Judicature (Northern Ireland) 1980 Order 1 Rules 10-12.

(i) The Chancery Division

The Chancery division hear cases for example involving -

- Bankruptcies and winding up of companies;

- Land and property matters including enforcement of mortgages;

- Trusts;

- Companies, partnerships, copyright or intellectual property;

- Wills and administration of estates;
- Probate of wills and the distribution of deceased persons estates.

As chancery cases have very specific rules and procedures, this guide does not apply to them. Chancery cases can be complex. Sources of help in Part 1 will be of use to you. More detailed information about cases dealing with bankruptcy, probate and repossession of property is available at www.courtsni.gov.uk

(ii) The Queen's Bench Division

The Queen's Bench Division hears civil cases which are normally worth more than £15,000 (from January 2013, this will increase to £30,000) and include actions on:

- Tort including personal injury claims, accidents at work, false imprisonment and medical negligence;
- Breach of contract;
- Defamation;
- Appeals from the County Court;
- Judicial review of decisions of public authorities (this is explained at paragraph (v) below).

(iii) The Family Division

This division hears cases dealing with the following:

- Divorce, civil partnership dissolution, nullity of marriage/civil partnership and judicial separation including financial and child care arrangements;
- Adoption;
- Patients suffering from mental incapacity;
- Care of children at risk;
- Orders for protection from domestic violence can be granted alongside any of these applications as well as in the Magistrates' Court or County Court.

More detailed guidance and information about matrimonial and children's proceedings is available at www.courstni.gov.uk.

(iv) The Commercial Court

This is a specialist court within the Queen's Bench Division, which hears disputes where the parties are businesses, usually involving breach of contract or torts. The court recognises the importance to the commercial community of economy, efficiency and the maintenance of good business relationships and so adheres to a different timetable to normal, adjusted to the needs of business users. It is set out in the Commercial Lists General Practice Direction (Practice Direction 1/2000).

(v) The Judicial Review Court

The judicial review court is also a specialist court within the Queen's Bench Division. It deals with cases where the applicant believes a decision by a public body has been made improperly, and wishes the court to rule on whether or not the decision should stand. The question in judicial review is not whether the decision is wrong, but whether it was taken fairly and within the law. Judicial review cases are quite different to cases in other courts. Evidence is usually given by a sworn statement (affidavit), and the cases must be brought as quickly as possible after the decision is taken and in any event within three months. There are specific rules of procedure in Rules of the Court of Judicature Order 53, and a Practice Note (1/2008) on judicial review also exists.

(g) Have I brought my claim within time?

Limitation periods

- Proceedings must be started within a certain period of time under the Limitation (Northern Ireland) Order 1989. Thus proceedings must be started:
- For personal injuries within three years of the injury or the date when the plaintiff knew or should have known of his or her injury.
- For defamation within twelve months.
- For breach of contract within six years.
- For judicial review, the case must be brought promptly and in any event not later than three months.
- For minors and persons under a disability, there is often an extension of time to bring a case for six years after a minor has reached 18 years old or any other reason they are under a disability ceases to apply.

If a person wishes to bring a claim which is outside the limitation period an application must be made to the court. The court will consider such matters as:

- The length of delay.
- The reason for delay.
- The prejudice if any to the other parties.
- The degree, if any, to which the other side has assisted or hindered the person taking the case in identifying the relevant facts.
- The duration of any disability affecting the person taking the case after the cause of action accrued.
- Whether the person taking the case has acted promptly and reasonably.
- The extent to which medical or other expert advice has been taken.

(h) What steps will the court expect me to take before starting my case?

If you are considering litigation the courts have produced pre-action protocols setting out the steps which each party will be reasonably expected to take before proceedings are commenced. It is very important that you consult the appropriate pre-action protocols which exist in areas such as:

Personal injury proceedings.
Pre-action Protocol

Clinical negligence.
Pre-action Protocol

Judicial review.
Pre-action Protocol

Defamation.
Pre-action Protocol

Repossession proceedings.
Pre-action Protocol

(i) What are the time limits once my case has started?

Once proceedings have started, there are time limits within which procedural steps must be taken. Although the court often has a power to extend or shorten the time within which the steps are to be taken, it is also open to the court to strike out the entire case where there has been a failure to comply with the time limits or to make an order for costs against a persistently late party. Such time limits include:

- In the case of Road Traffic Accidents, a person taking a case must serve a notice to a defendant's insurance company (if there is one) within seven days of serving the writ which informs the defendant's insurers that the case is pending. Without it a judgment against the defendant is not enforceable directly against his or her insurer. Where the other driver is not insured proper notice of the case must be given to the Motor Insurers' Bureau (MIB) within 14 days of lodging the writ, and a copy of the writ with the High Court seal on it must be sent with the notice to the MIB. More information, and the MIB's contact details, can be found at www.mib.org.uk/Home/en/default.

- A defendant must case a memorandum of appearance within fourteen days of the service of the writ using RCJ Form No. 12. The person taking the case will usually send a blank copy along with a writ which should be signed and completed by the other side or his/her solicitor.

- In the absence of an appearance or defence, judgment can be applied for by the person taking the case.

- The Statement of Claim is the legal document setting out the details of the claim. It must be served within six weeks of receipt of the memorandum of appearance.

- The defence must be served within six weeks of the Statement of Claim setting out the defence case, dealing with each allegation in the Statement of Claim. A set off or counterclaim should be lodged with the defence if such a claim is to be made.

- The person taking the case must reply to the defence within 21 days although this is not compulsory.

- The close of this process (the pleadings) is 21 days after the last pleading is lodged.

- Appeals must be brought within a specified period, usually set out in the governing statute. Any application for an extension of time must be made to the Court of Appeal directly.

(j) Will I have to pay court fees?

To process your civil court proceedings the Courts and Tribunals Service has to carry out procedural work at each stage for which a fee usually has to be paid. You may obtain a list of civil court fees from any court office or from our website www.courtsni.gov.uk. Fees are often significant. For example, in 2012 it costs £200 to lodge a writ and they may increase.

In some situations help may be available in paying fees when a person is in receipt of legal aid, or of social security benefit or is experiencing hardship. Form ER1 is available from the court office to help you to apply for fee exemption. If you do not provide the details or the evidence required in the form, your application to avoid paying fees or have the cost of fees remitted may be delayed or refused.

(k) Will I have to pay the costs of the case?

Once your case is finished the normal rule is that the person who loses pays the costs of all the successful parties even if you have not employed a legal representative. If you lose, this will normally mean that you have to pay all the solicitors and barristers, expert witnesses and all their expenses.

Even if a party has been successful the judge may order costs against them if they have behaved unreasonably during the case.

3. The Pre-Hearing stages

(a) How do I start my case?

(i) Most civil cases are commenced in the High Court by preparing one of the following documents:

- Writ of summons, typically in Queen's Bench cases.
- Originating summons, typically in chancery cases.
- Originating motion or petition, such as in divorce or civil partnership dissolution cases.

(ii) Judicial review cases are begun using a special procedure set out in the Rules of the Court of Judicature (Northern Ireland) 1980 Order 53 accompanied by sworn statements (affidavits) setting out the facts on which the claim is based. Remember that judicial review proceedings must be commenced promptly and not later than three months after the decision about which there is a complaint. It is a two-stage process. A first application is made for leave permission to bring the case. At this stage, the applicant must show an arguable case in order to proceed to a full hearing. This is often done without the other side being represented. This is called an ex parte application.

(iii) The Rules of the Court of Judicature (Northern Ireland) 1980 at Orders 6-9 explain which document is appropriate in each type of case. Once ready, the document must be lodged in the court office and served on all the other parties.

(iv) Templates for each type of document are found at the back of the Rules of the Court of Judicature (Northern Ireland) 1980.

(v) If you have begun a case using the wrong form, in some circumstances it can be changed to the right form by making an application to a Master who deals with certain types of case or procedural issues in the High Court.

(b) How do I serve documents?

The writ, or other originating document, as well as pleadings, affidavits and other documents in the case must be served on all the other parties. Service simply means that they are sent to the parties in a way required by court rules, so that it can be proved that the person to whom the document is addressed actually received it. The requirements for most cases are in Rules of the Court of Judicature (NI) 1981, Orders 10 and 11. For divorce petitions and petitions for dissolution of civil partnership, the requirements are in rules 2.09 and 2.10 of the Family Proceedings Rules. For bankruptcy, you should consult the Insolvency Rules (NI) 1991.

The main methods of service are postal service and personal service, but some specified documents must be served personally. For example, a court document requiring someone to attend the court hearing as a witness (a subpoena) cannot be served by post. Service by fax or e-mail is not permitted for any type of documents.

If serving documents by post, you don't need to use recorded delivery. First class post is acceptable, but it is sensible to get a certificate of posting from your Post Office rather than just putting it in a letter box. A legal document sworn before a solicitor (an affidavit) by the person who posted the documents is usually enough to prove service, but where that person is not a solicitor and so is unused to court procedures, it is sensible to have some extra evidence of exactly when and where the document was posted.

Personal service is carried out by handing the document to the person, at their home or some other place where they are known to be. Again, it is proved by an affidavit made by the person who served the documents. Personal service may be by a process server (a professional who serves documents), who can be contacted through your local county court office, see www.courtsni.gov.uk and may charge a fee.

If you do not know how to get in touch with the person to be served with the document, and cannot find out by making reasonable inquiries, you can apply to the Master for an order for substituted service or for service to be deemed good where it is impossible to serve the documents. You will need to provide evidence in an affidavit of the steps you have taken to find the person's address.

(c) What are pleadings and how do I use them?

- Once the document of commencement has been served, the parties in most cases in the Queen's Bench Division go on to provide pleadings, which are a series of documents setting out the facts and legal submissions, including legislative duties relied on in the case.

- Pleadings allow the other side to be informed in advance of the case they have to meet and if you fail to plead a fact, the likelihood is that it cannot be used at the hearing, which may fatally undermine your case. It is therefore very important to ensure that the documents you send to the court are accurate.

- Pleadings must be as concise and clear as possible and avoid irrelevant detail and repetition. They should use ordinary language. You should separate your points into short numbered paragraphs.

- In family cases, parties are required to set out their case in writing although there are no formal pleadings.

- A person taking the case or applicant should set out every remedy sought e.g. financial compensation (damages), an order from the court to do something or stop something from happening (injunction), an order setting out the rights of the parties (declaration) etc and set out the facts which the court will take into account in assessing damages such as any loss of earnings (special damage) and any factors relevant to general damages e.g. inability to play sport etc.

- The other side must set out the facts and law which he intends to rely on in order to defeat the claim of the person taking the case and perhaps to establish any right he has to a counterclaim.

- This stage is important and all documents must be accurate and contain all relevant information. You will not be allowed to raise in court matters which you have not set out in these documents.

(d) When may a court strike out a case?

If there is no reasonable basis for taking the case, the proceedings or parts of it may be struck out by the court. This may also happen if the case is frivolous or an abuse of the court process. Likewise, if the pleadings show no reasonable basis for defending the case, the person taking the case may apply for judgment to be given against the defendant at an early stage.

(e) When do I need to disclose materials and documents relating to the case?

In all cases the overriding objective requires that the parties use a "cards on the table" approach, letting each other know about all the documents which relate to the case in advance of the hearing. This is known as discovery and is dealt with in the Rules of the Court of Judicature Order 24. Discovery applies to –

- All relevant documents and materials whether adverse or favourable to the party.
- It includes words, numbers, images or other information stored in any medium such as a USB stick, microfiche, x-ray or DVD etc.
- The list of documents has two schedules. The first has two parts, part one containing those documents the party is willing to disclose and part two those which the party objects to disclosing.
- The second schedule should list documents which are no longer in the party's possession but once were.
- Each document should be described without identifying the contents. If you object on the ground of privilege e.g. the document contains the advice of your solicitor to you on your case, you must specify the ground of privilege.
- A list of such documents must be served within 14 days of the close of pleadings.
- The duty to provide discovery is a continuing one to be fulfilled at any stage when you come into possession of further relevant documents.
- Disclosure may be obtained against a person who is not a party to the proceedings by applying to the court.
- Failure to comply with Order 24 can lead to cost sanctions and even your case being struck out.
- If the other party does not provide discovery you can apply to the Master for an order requiring them to do so.
- The legal text book "Civil Proceedings in the Supreme Court" by Valentine (SLS Legal Publications, 1997) paragraphs 13.37-13.53 will be of assistance to you in relation to discovery.

If the documents in the first schedule of your discovery list are not too numerous you should provide copies of them to the other parties as a courtesy. If they are too numerous you should specify a time and place when the other parties can inspect them and take copies.

(f) Are there special rules about medical evidence?

Disclosure of medical reports is dealt with separately in Order 25 of the Rules of the Court of Judicature (Northern Ireland) 1980. Medical evidence must be served with a Statement of Claim in all personal injury actions except contested clinical negligence cases where they will be simultaneously exchanged by both parties.

- Medical reports prepared for the purposes of proceedings must be disclosed at the latest ten weeks after the close of pleadings or if they come into existence after that date, within 21 days of receiving the report and in any event not after the first day of the hearing.

- In clinical negligence cases, the deadline for disclosure of medical reports prepared for the purpose of proceedings is 20 weeks after the close of pleadings and you should read carefully Order 25 with reference to such cases.

(g) Are there special rules about other types of evidence?

Expert evidence of all kinds must be shared with the other party at the latest 3 weeks before the trial starts.

Maps, plans, drawings, photographs or models must also be disclosed to the other parties at the latest 3 weeks before the case is heard.

(h) How many experts can I have in my case?

The court rules say that unless you have the court's permission you cannot have more than two medical experts in your case and one expert of any other kind. Permission is usually obtained by applying to the Master well in advance of trial.

(i) What do I do when my case is ready for hearing?

Within six weeks after the pleadings have been completed, either party can apply for the case to be set down for hearing. Discovery should take place within 14 days of pleadings being completed. The appropriate notice must be lodged in the court office together with a Certificate of Readiness which is a document which has to be completed by all the parties, setting out the steps already taken for preparation for trial. Once this has been done, the parties will then be invited to agree a date for hearing. If they are unable to do this, then this is one reason why the case may be referred to the judge to review the case and fix a date for hearing. You should take a careful note of the date at the review.

If you send any correspondence to the court office about your case, such as an adjournment, you must send a copy to the other side first and seek their views about it. It is important that the court office knows that the other party is informed about your letter and, if possible, that they know what the other party thinks about things you are proposing.

4. Attendance at Court prior to a hearing

(a) What is a review hearing?

- A review to make sure the case is progressing efficiently. The judge will want to ensure the parties are taking all necessary steps e.g. obtaining experts such as doctors, accountants, engineers, architects, care experts' reports, applying for any relevant interlocutory orders (eg Orders for Discovery), fixing timetables for various steps to be taken and if necessary arranging a further review.

- In the Queen's Bench Division, in all cases where an appearance was entered after 31 March 2008, there is a review hearing before a Master nine months after the case was commenced.

- The exception to this is in the commercial list where all applications and reviews are dealt with by the Commercial Judge without going to the Master.

- Cases which the Master decides are not ready to be listed for hearing, together with all cases of clinical negligence and involving persons under a disability, come in front of the Queen's Bench Judge to organise the case to get to court.

- Review hearings are also the norm in all other Divisions.

(b) Might there be applications about the case before the final hearing?

- In addition to the set reviews, there may be applications to the court by one or other party, heard by a Master, to ensure compliance with court procedures by obtaining an order. They need to be resolved to ensure the case can proceed. There is a fee for such applications.

- Interlocutory orders may be made at review hearings or at a separate hearing before the Master and occur well before the final hearing. Illustrations include:

  i. To force the other side to give discovery of documents.
  ii. To obtain necessary further particulars of the claim.
  iii. To remit the case to the County Court because it is less than £30,000 in value.

(c) Who is a Master?

A Master is a statutory civil procedure judge who deals with certain types of case in the High Court often involving procedural issues. The powers of Masters are set out in Rules of the Court of Judicature (NI) 1981 Order 32. A court order made by a Master has the same force as an order made by a High Court Judge. The rules of evidence and contempt of court apply just as much in the Master's court as in other courtrooms, although the procedure is sometimes less formal. All Masters, whether male or female, are addressed as "Master" in court.

(d) What happens if I want to stop my case?

- A person taking a case or a defendant who has a counterclaim can withdraw the case up to 14 days after the service of the defence without obtaining the permission of the court.

- After that stage, the permission of the court would be required although the party doing so may still be liable to pay the other party's costs.

(e) What if I agree to settle out of court?

- In most cases in the High Court the parties reach an agreement before the case is heard. Settling the case allows the parties to get on with their lives, limits the costs of the case and where there is an on-going relationship e.g. between two business people, can lessen the damage to that relationship which legal proceedings can cause.

- An unrepresented person can negotiate directly with the opposing party to reach a settlement on appropriate terms. Those terms may be announced to the court or kept private. If they are kept private, the settlement is announced to the court as "settlement on terms endorsed" and a written agreement is made between the parties which sets them out. If this is done, you must under no circumstances disclose the terms of the agreement to anyone. To do so could be a breach of the agreement.

- It is important to ensure that every settlement deals with costs and the disposal of any money that has been lodged in the court.

- If settlement is achieved, the court office must be informed immediately, especially if there is money in court.

- Once you have agreed to settle and the settlement is announced in court you cannot change your mind and re-open your case.

5. Preparation for the hearing

- The only witnesses who can give evidence of their opinion are experts. For instance only a doctor can give evidence of his opinion that a certain course of treatment for a medical condition was not what a normally competent doctor would have provided, and only a structural engineer can give evidence as to why a bridge gave way. Other witnesses may only give evidence as to things they themselves heard, saw or experienced, and the inferences they draw from those perceptions.

- A person taking the case, in order to succeed, must prove his case in a civil court on the balance of probabilities (ie. more than 50% chance that his/her version is correct). This is different to the Crown Courts where the judge or jury have to be certain beyond reasonable doubt that the accused person is guilty.

- It is important to think about how convincing your evidence is and whether you will be able to prove your case before you issue proceedings.

- Except in courts such as Chancery and Judicial Review where evidence is usually given by way of sworn statements (affidavits), oral evidence has to be given by the witnesses, or the documents containing the evidence must be shown to the court. In the absence of agreement or order to the contrary evidence not by a person in the court, whether reported by others or in documentary form (known as Hearsay evidence) is admissible.

(a) What evidence will I need?

You will need evidence to support every relevant part of your case on which you are relying. Common items of evidence to support a case include:

- Witnesses' evidence in court;
- medical reports;
- health and safety report;
- a written contract;
- correspondence between the parties;
- bills and invoices;
- photographs or maps of the scene of an accident;
- receipts to show that money was paid.

Documents such as receipts and invoices should be the original provided by the tradesman or shopkeeper, although in limited circumstances a photocopy of the original may be acceptable. The fact that it is a photocopy should be drawn to the court's attention.

(b) What do I need to know about my witnesses?

If you need to ask potential witnesses to give evidence, do so well in advance. If a witness is unwilling to attend, you can apply to the court for a document requiring them to attend (a subpoena) to force the person to come to court under Order 38 Part II of the Rules of the Court of Judicature (Northern Ireland) 1980.

A subpoena can also require a witness to bring a specified document to court. Apply for this well in advance of the hearing.

Witnesses may give their evidence after swearing an oath on the Bible or another holy book or may choose to affirm instead of swearing an oath. Whether they swear or affirm, failure to tell the truth when giving evidence may result in a criminal investigation and conviction for perjury.

Witnesses can normally only give evidence of what they saw, heard or experienced or the inferences they drew from their perceptions.

(c) Are there special rules about medical evidence?

If the case involves allegations of personal injury, the person taking the case will need to provide medical evidence from a medical professional to support all personal injuries alleged.

A medical professional will be aware of his or her duty to the court to give his or her expert opinion objectively and not to skew it to help the case of the party who has asked for the report. A statement of his or her duty as an expert witness must be included in the report (see Practice Direction 11 of 2003).

Medical evidence must be served on the other parties with the signed Statement of Claim as otherwise it will not be permitted in evidence.

Unless a Master has given permission for more, only two medical witnesses are usually allowed for each party and one other expert (see Order 38 of the Rules of the Court of Judicature (Northern Ireland) 1980).

(d) Are there special rules about experts?

The report from any expert containing his or her evidence should at least include:

- The expert's academic and professional qualifications.
- A statement outlining the purpose of the evidence.
- A timeline (chronology) of the relevant events.
- Details of documents or evidence relied on in the report.

- Relevant extracts of any expert or technical literature relied on.
- A history from the party instructing the expert.
- A summary of the conclusions reached.

As with medical reports, a statement of any expert's duty as an expert witness must be included in the report (see Practice Direction 11/2003).

(e) Do I need to remember anything about maps, plans, drawings, photographs, or models?

No map, plan or other drawing, photograph or model can be received in evidence at the hearing unless at least three weeks before the hearing the other parties have been given an opportunity to inspect it and to agree to its admission without the need for it to be formally proved to the trial (see Order 38 of the Rules of the Court of Judicature (Northern Ireland) 1980).

(f) What is the trial bundle and book of authorities?

It is very important that a person taking the case provides, hopefully with the agreement of the defendant, a bundle of all the relevant documents necessary for the hearing which have been indexed, put together and numbered chronologically in a lever arch file. Guidelines on the preparation of bundles are set out in Practice Direction 6 of 2011.

If you are relying on legislation, case law and sections of legal text books, copies should be provided to the court and the other parties in a booklet form appropriately indexed and each page numbered so that everyone can find the documents easily in court.

This book of legal cases can be sent in as an electronic document in PDF or Word format. See Practice Direction 6/2011 for more details.

The general rule is that the person taking the case must ensure one copy of a properly prepared bundle and book of authorities is delivered to the appropriate court office not less than three days before the hearing. In the Divisional Court and Court of Appeal, three and four bundles respectively are required.

(g) What is a skeleton argument?

- All parties in the case, including those without legal representation, are expected to prepare a written summary of their argument which is called a skeleton argument.
- Exceptions are where the application is so short that a skeleton argument is not required or where the application is so urgent that its preparation would not be practicable.
- It is not a substitute for oral argument at trial but it will help the parties to focus on the relevant issues.

- A skeleton argument should at least:

  (i) Concisely identify the nature of the case and the relevant background facts.

  (ii) Identify the law to be relied on including references to relevant case law.

  (iii) Briefly refer to the facts in the context of the evidence to be called.

  (iv) Be short and in no circumstances more than 20 pages of double spaced A4 paper.

  (v) Contain numbered paragraphs and headings.

  (vi) Avoid arguing the case in great detail. It is a skeleton argument and no more.

(h) What if I have special needs?

- If you have special needs in relation to mobility or communication you should let the court office know as soon as possible and certainly before the case is listed for hearing.

- There are good access facilities in the High Court. If you let the court office know in advance, your case can be allocated to a courtroom that best suits your needs for things like wheelchair access, induction loops for hearing aids or live television links.

- If you need an interpreter for sign language or a language other than English, or have any other special requirements, you should also let the court office know before the case is listed for hearing so that provision can be made.

(i) How am I expected to behave in court?

- Arrive early for your case. Ensure you make your way to the correct court.

- Assistance will be given by the court security receptionist and the court clerk.

- You must inform the court clerk that you have arrived.

- If your case has not been called and you have had to wait more than 30 minutes then please ask for information from the security receptionist or other member of court staff.

- High Court Judges should be addressed as “My Lord”.

- No smoking, eating, drinking or chewing gum is allowed in court although advocates and witnesses have access to a glass of water if required.

- Note-taking may only be done with the court’s permission. No audio or video recording or photography is allowed.

- Mobile phones must be switched off. You may not connect to the internet on your phone or computer during the hearing and the use of Twitter in court is only permitted in Northern Ireland with the express permission of the judge hearing the case.

- In the High Court building staff can direct you to a special children's waiting area but no supervised crèche facilities are available and children must not be left unsupervised.

- Children under the age of 14 are not normally allowed in the courtroom unless they are giving evidence or have the court's prior approval.

- If your children have to accompany you to the High Court, you should bring someone with you to look after them during the hearing.

- There are no strict rules on dress code but your appearance must show respect for the court. If you have a particular religious or cultural dress requirement, the court will respect it wherever possible.

- Parties must remain quiet so as not to disturb the hearing. Disrupting court hearings is a contempt of court and can result in punishment.

(j) How do I find where my case is being heard?

- The Court of Judicature List is updated daily and the complete list for the next sitting day is available daily on the NICTS website from approximately 4:30pm www.courtsni.gov.uk/en-GB/Services/CourtLists/COJList/Pages/CourtofJudicatureList.aspx

- Public Court Lists Online allow you to view the court lists for civil and criminal business for any court venue for up to 7 days ahead. These lists are refreshed daily at 10:00pm and can be accessed via the NICTS website. www.courtsni.gov.uk/en-GB/Services/CourtLists/Pages/PublicCourtLists.aspx

- In some types of case you may have attended a hearing to set a date (a call-over) at which the court office has found a date that suits both parties. In others, the judge may have fixed a date.

- In any event you will always receive a letter stating when your case is to be heard. It is important that you try to keep to this date. Adjournments will only be granted for good reason.

- If you cannot come to court on that date you can apply in writing for another date although you may be required to attend before a judge to give an explanation of your need for an adjournment. If you need an adjournment you should apply as soon as possible.

- Upon arrival in the main hall at the Royal Courts of Justice building you will see two wooden notice boards in the middle of the hall containing lists indicating the location of each case.

- Information about how to find the courtroom and other facilities (tearoom, bathrooms etc) will be obtained by reporting to the reception desk or to a member of security staff in the entrance hall.

6. The Hearing

- The courts in Northern Ireland use a system of adversarial hearings rather than fact finding hearings where a judge asks most of the questions. This does not mean that a hearing is to be a heated argument but rather a structured procedure permitting the opposing parties to bring evidence to support their argument and to test each other's evidence by cross-examination.

- In an adversarial hearing the judge's role is not to act as an investigator but rather as a neutral referee between the parties.

- Avoid rhetoric and emotion which will not impress the judge.

- Ensure your voice can be heard but do not shout. Being rude to the other side or constantly interrupting is unacceptable and unlikely to help your case.

- Important things to remember about presenting your case include the need to be focused, concise and factual.

(a) How do I start my case?

- At the start of the case you will have an opportunity to briefly summarise to the court what the main points of your case are.

- It may be useful to write down what you want to say in your opening submissions before the hearing. The judge will have read your skeleton argument in advance and you should build your opening around that.

- Try to summarise the main points of your argument in around 15 minutes. If you are preparing notes, it is a useful guide to remember that it takes about 3 minutes to read out one A4 page of text typed in the size of font used in this booklet (that is, in 12 point size).

(b) How do I question my witnesses?

- If you have asked witnesses to attend to give evidence for you, get them to tell their story in court by asking them simple questions – "What happened then?" or "Did you see a person?".

- The judge will not allow you to ask the witnesses questions which include clues about the right answer e.g. "Did you see John get into the red car?" Once the witness has identified John you would get this information by asking "What did you see John do then?" and when they have said get into a car ask "What colour was the car?"

- Do not make statements during your questioning. Your arguments will have been made during your opening submissions and the judge does not need to be reminded.

(c) Can I question the other witnesses?

You will have the opportunity to cross-examine any witness called by the other parties in order to put your case to them and ask about elements of their evidence which you do not accept. This should be done in a straightforward, low-key manner and will be stopped by the judge if you are badgering or bullying the witness.

Always be courteous even if the witness is not. You will have an opportunity in your closing statement to explain why the witness's statement is wrong.

(d) Can I ask any final questions to my own witness?

After cross-examination of your witnesses by the other party you will have the opportunity to question them again. This is not an opportunity to bring out new points that you forgot to ask about – this will be stopped by the judge – but to correct or clarify any points which came up in cross-examination.

(e) Can I make notes?

Keep a careful note of what witnesses say (with the judge's permission) so that you can refer to it later in the case.

(f) How do I sum up my case?

At the end of the hearing each side will have the opportunity to sum up their case. You may base this on your skeleton argument and use your presentation to point out the most important aspects of your case on which you are relying, using the evidence that has been given or shown in court.

The same technique of relying on your skeleton argument will be very useful in the Judicial Review Court or the Court of Appeal where it is not usual to call witnesses.

You should bear in mind however, that where written sworn statement of evidence called an affidavit has been the basis of the evidence, in certain circumstances you may apply to the court to call the witness for cross-examination. In the Judicial Review Court if you do not accept the content of the other sides sworn statements you should consider applying to have that witness called to give evidence in person.

(g) What will the court decide?

The court can make a number of different kinds of order. The main orders are:

- Damages – an order for money to be paid by the other side compensating the person taking the case for loss.
- Specific performance – an order requiring a defendant to carry out promises made in a contract.
- Injunction – an order requiring a person to take a certain step (a mandatory injunction) or preventing him or her from doing something (a prohibitory injunction).

- Declaration – an order which has no legal effect except to state what the result of existing law is, for example in a declaration that a marriage was void or that a Government Minister did not have the power to make a certain decision.

- Statutory remedies – A number of pieces of legislation, such as the Children (NI) Order 1995 or the Family Homes and Domestic Violence (NI) Order 1998 provide for specialist orders (such as contact, residence or non-molestation orders) in different types of case.

You should state on your commencement document what remedies you are seeking. The usual rule is that an order is effective from the time when the judge pronounced it in court, but can only be enforced from the point in time when it is served on the other side.

(h) Will I know the court's decision?

Sometimes the judge will give a decision immediately but if he or she needs to decide a difficult point of law he or she will give a written judgment later. The court office will tell you the date when the decision will be read out in court.

(i) A special case – divorce and civil partnership dissolution

The exception to the rule that court orders can be enforced as soon as they are served is the decree of divorce or civil partnership dissolution, which comes in two stages. The judge at the hearing pronounces a decree nisi (marriage) or conditional dissolution order (civil partnership), which is the first stage in a two part order. Because the law regards divorce or civil partnership dissolution as an especially serious matter, this period is seen as necessary. The parties cannot remarry or re-enter another civil partnership until a decree absolute (marriage) or final dissolution order (civil partnership) has been made. The person bringing the case is free to apply for one of these final orders, which is granted without a hearing, six weeks and one day after the decree nisi or conditional dissolution order, and the other party may also apply if the person taking the case has not applied for one after a further three months.

(j) Who will pay the costs of the case?

- Costs are dealt with in Order 62 of the Rules of the Supreme Court (Northern Ireland) 1980. The normal rule is that the party who loses the case pays their own costs and those of the winning party.

- Even if you have no costs because you ran your own case, you may have to pay a substantial amount in this event. If you are not sure that your case will succeed, this is an important factor to bear in mind.

- A personal litigant who wins his or her case may in some instances receive limited costs for his/her time. In addition a claim can be made for other legal expenses (eg court fees) and the fees for expert witnesses etc.

- Even if a party is ultimately successful, if he or she has delayed, failed to obey court rules, acted in such a way as to unnecessarily lengthen proceedings, or been otherwise unreasonable, the court may make a costs order in favour of the other party in relation to all or part of the case.

- Costs in the High Court are normally assessed by an independent procedural judge, called the Taxing Master, whose office is at 7th Floor, Bedford House, Bedford Street, Belfast, BT2 7FD, telephone 028 90 328594.

- In the judicial review court, on very rare occasions, a court order to limit costs in advance can be sought (a protected costs order) in some categories of case (such as environmental cases) to limit the liability for costs of an unsuccessful plaintiff where there is a public interest in bringing the case. You should take legal advice and be very sure that a protected costs order is likely in your case before taking a judicial review in reliance on obtaining such an order.

7. After the Hearing

(a) What happens after the judge has made a decision?

(i) Think about enforcement at the very start

- The judge will either make a judgment for or against you. The Enforcement of Judgments Office (EJO) makes sure that court judgments are carried out (enforced). The EJO is a department of the Northern Ireland Courts and Tribunals Service and is responsible for the enforcement of court orders in respect of money, goods and property. Enforcing court orders incurs costs which can be added to the debt.

- If you are suing a person or company for money and are not sure of their financial standing, it is sometimes helpful to ask the Enforcement of Judgments Office to carry out a search to see if there are any outstanding judgments against the proposed defendant in other cases. If you have to "join the queue" of judgment creditors relating to a defendant who has no financial means you may be less likely to get your money. While there is a fee for a judgments search, it can sometimes save you money if it helps you decide if it will be worthwhile to take a court case.

(ii) When a court order has been made

There are a number of steps to be taken to enforce a court order:

- Obtain an official copy of your court order from the Court Office.

- If you do not receive payment from the person who owes you money after two weeks you can contact the Enforcement of Judgments Office.

- Check if there has been a suspension of enforcement (Stay of Enforcement) placed on the order.

- For example, the judge may have granted a stay of enforcement provided that the debtor pays an agreed amount per week. If the debtor has stopped paying, the stay will have to be removed before enforcing the judgment.

Form 1 (To serve the Notice of Intention on Debtor), and Form 3 (Application for Full Enforcement) can be obtained online.

For advice on completing application forms and the costs of applying for enforcement please visit the EJO website at: www.courtsni.gov.uk/en-GB/Services/EJO/Pages/default or alternatively email postroomejo@courtsni.gov.uk.

(b) Unreasonable behaviour - contempt of court and vexatious litigants

- It is important to be aware of the powers of the High Court to enforce compliance with the rules and with the steps the judge tells each side involved in the case to take (directions). Failure to obey a court order is a contempt of court, which is punishable by a fine or imprisonment.

- Disruptive or disrespectful behaviour in court can also be punished as contempt.

- An important point to remember is that attempting to make a recording or take a photograph of court cases (including using a mobile phone for these purposes) is also a contempt of court under the Contempt of Court Act 1981 and can be punished.

- Some kinds of cases, such as cases involving children and cases involving allegations of sexual crimes, are held in private to protect the vulnerable subjects of the case, and a judge may make a reporting restrictions order in respect of any other cases where the balance between open justice and the rights of the parties requires it. Disobeying a reporting restriction is a serious contempt of court, as it will often breach the rights of other parties to the case.

- If the judge warns you that a certain step would be contempt of court, the warning should be taken very seriously, as it can have significant consequences for you, including the possibility of imprisonment.

- The right of access to a court is a very important right, but this also means that it is important that it should not be abused. A very small number of people repeatedly bring cases which are referred to as "frivolous and vexatious" – in other words, they have no hope of success and are a waste of the court's, and the parties' time. A court may make a civil restraint order, stopping a person from pursuing a particular case any further.

- The most serious step which can be taken is for the Attorney General to apply to have a person declared a vexatious litigant. This means that they cannot take a case about any subject without the permission of a judge.

8. Royal Courts of Justice Contact Details

Chichester Street
Belfast
BT1 3JF
Phone: 028 9023 5111
Fax: 028 9031 3508

Email: adminoffice@courtsni.gov.uk
Website: www.courtsni.gov.uk

Opening hours are from 9.30 am to 4.30 pm.

Details of other court offices can also be found on the website, www.courtsni.gov.uk.

Appendix A

Plaintiff's Litigation Timetable Checklist (Queen's Bench Division)

ACTION	YES/NO	DATE
Limitation period – is the action within time?		
Start date – writ is served.		
Notice to insurers (within 7 days of start date).		
Receive defendant's memorandum of appearance (within 14 days of start date).*		
Statement of claim (within 6 weeks of memorandum of appearance).		
Receive defence (within 6 weeks of statement of claim or, where statement of claim was issued before 6 January 2010, 21 days).		
Reply to defence – optional (within 21 days of defence).		
Date of close of pleadings (21 days after service of last pleadings).		
Each party discovers their list of documents to the other party (within 14 days of close of pleadings).		
All medical evidence shared (10 weeks after close of pleadings).		
All expert evidence shared (10 weeks after close of pleadings).		
Skeleton argument submitted if required – plaintiff (3 days before hearing).		
Skeleton argument submitted if required – defendant (8 days before hearing).		
Trial bundle and book of authorities lodged 7 working days (Court of Appeal, 13 working days) before hearing).		
Date of hearing.		

Defendant's Litigation Timetable Checklist (Queen's Bench Division)

ACTION	YES/NO	DATE
Writ of Summons received.		
Serve memorandum of appearance (within 14* days of receipt of writ of summons). Order 12 Rule 1.		
Receive Statement of claim (within 6 weeks of memorandum of appearance). Order 18 Rule 1.		
Serve defence (within 6 weeks of statement of claim or, where statement of claim was issued before 6 January 2010, 21 days).		
Receive Reply to defence – optional (within 21 days of defence).		
Date of close of pleadings (21 days after service of last pleadings) Order 18 Rule 20.		
Each party discovers their list of documents to the other party (within 14 days of close of pleadings).		
Case set down by plaintiff (within 6 weeks after the close of pleadings) Order 34 Rule 2.		
All medical evidence shared (10 weeks after close of pleadings).		
All expert evidence shared (10 weeks after close of pleadings).		
Skeleton argument submitted if required – plaintiff (3 days before hearing).		
Skeleton argument submitted if required – defendant (8 days before hearing).		
Trial bundle and book of authorities lodged 7 working days (Court of Appeal, 13 working days) before hearing.		
Date of hearing.		

* 21 days if served in England, Scotland, Wales or RoI.

Applicant's Litigation Timetable Checklist (Judicial Review)

ACTION	YES/NO	DATE
Has the applicant complied with the Pre-Action Protocol? (Judicial Review Practice Direction 1/2008 Part A).		
Limitation Period. Has the application been lodged as promptly as possible and in any event within 3 months of the decision under challenge? (Order 53 Rule 4 (1).		
Ex-parte docket, Order 53 statement and affidavit. Has the application been lodged with the court and the proposed respondent?		
Leave Hearing (Scheduled by Court).		
If leave is granted, has the Notice of Motion been lodged on the court and the respondent within 14 days of the grant of leave?		
Skeleton argument and trial bundle to be lodged with the Court and the respondent 10 working days before the date for full hearing.		
Full hearing.		

Appendix B

Further resources

Northern Ireland case law, rules of court, practice directions and guidance on specific cases can be found on the NICTS website – www.courtsni.gov.uk.

Legislation and statutory rules (legal regulations) are available at www.legislation.gov.uk.

Case law from England and Northern Ireland can be found on www.bailii.org.

Information about the law, practice and procedure in different types of High Court proceedings is available in a range of legal textbooks, available from your local library. Some of the most helpful are:

- Brice Dickson, The Legal System of Northern Ireland (SLS Legal Publication, 4th Edition 2012);
- B.J.A.C Valentine, Civil Proceedings – The Supreme Court (SLS Legal Publications (NI)) 1997);
- John F Larkin QC and David A Scoffield BL – Judicial Review in Northern Ireland – A Practitioner's Guide (SLS Legal Publications (NI) 2007);
- Gordon Anthony, Judicial Review in Northern Ireland, (Hart Publishing 2008);
- Charles O'Neill – The Law of Mortgages in Northern Ireland, (SLS Legal Publications (NI) 2008);
- Sheena Grattan – Succession Law in Northern Ireland (SLS Legal Publications (NI) 1996);
- Fionnuala Connolly – Immigration Law in Northern Ireland (SLS Legal Publications (NI) 2011);
- Citizens Advice Bureau Advice Guide – An online advice guide on a wide range of legal topics from the Northern Ireland Association of Citizens' Advice Bureau is available at http://www.adviceguide.org.uk/nireland.htm.

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