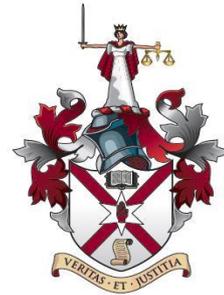


THE **LAW SOCIETY**  
OF NORTHERN IRELAND



## **DEPARTMENT OF JUSTICE**

### **Consultation**

## **EXTENDING THE PROVISIONS WITHIN SCHEDULE 27 CORONAVIRUS ACT 2020**

## **Response of the Law Society of Northern Ireland**

**November 2021**

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## **ABOUT THE LAW SOCIETY**

The Law Society of Northern Ireland (the Society) is a professional body established by Royal Charter and invested with statutory functions primarily under the Solicitors (Northern Ireland) Order 1976 as amended. The functions of the Society are to regulate responsibly and in the public interest the solicitors' profession in Northern Ireland and to represent solicitors' interests.

The Society represents over 2,800 solicitors working in approximately 470 firms, based throughout Northern Ireland and practitioners working in the public sector and in business. Members of the Society thus represent private clients, Government and third sector organisations. This makes the Society well placed to comment on policy and law reform proposals across a range of topics.

Since its establishment, the Society has played a positive and proactive role in helping to shape the legal system in Northern Ireland. In a devolved context, in which responsibility for the development of justice policy and law reform takes place at a local level, this role is as important as ever.

**November 2021**

## RESPONSE

The Law Society of Northern Ireland (the Society) welcomes the opportunity to comment on the extension of provisions made in Schedule 27 of the Coronavirus Act 2020 for facilitating remote hearings for all courts and statutory tribunals.

**It is the view of the Society that the provisions for remote hearings should be extended beyond March 2022 and we are interested in them being made permanent.**

Throughout the Coronavirus pandemic, the delivery of digital services has been developed and improved within the court estate, to allow for court business recovery to progress in accordance with public health requirements and guidance. Access to justice for citizens during the pandemic has been of prime concern to our members. The Society has engaged with other justice agencies since March 2020 to share members' views and concerns on business recovery.

The introduction and extension of facilities for proceedings to take place remotely has been beneficial in allowing court business to resume and has allowed access to justice to be maintained, albeit at reduced levels. Our members acknowledge the work and effort which has been provided by the Department, the NICTS and other justice partners in delivering the initiative to date. Solicitors themselves have also risen to the challenge to ensure that their clients are properly represented. Adaptations have been made to solicitors' offices to allow clients in a Covid compatible manner to attend for advice and on occasion court appearances.

Since March 2020 members of the solicitors' profession have for the most part been positive in relation to the roll out of remote court business. Initial difficulties with regard to sound and video quality have been largely resolved. The vast majority of the membership supports the retention of the facility to use remote courts/live links where appropriate.

In particular remote hearings have proven time saving for judiciary and practitioners in case management hearings and administrative proceedings. During the pandemic the facility to conduct proceedings on SightLink or a similar platform assisted in the movement of cases. The Society believes they will be important tools to aid the reduction in backlogs as we move forward. Many clients reported that joining remotely was

convenient and easy to use. It is certainly the case that the costs to the public purse of the improved technology associated with remote hearings may well be balanced by savings made on travel by practitioners.

As courts and other areas of society open up, members believe that there is a place for remote facilities to be maintained as they are efficient in progressing some types of business. Most members agree that reviews, applications and case management hearings can effectively be dealt with on a remote basis. There are also opportunities where hybrid hearings are appropriate and beneficial. There is a general view however that the majority of cases in fully contested hearings where witnesses are involved do not lend themselves to being conducted remotely

In addition, given the significant investment in technology infrastructure to support remote and hybrid court proceedings by all in the justice system, it is prudent to make use of it in view of the efficiencies it can deliver.

### **Next phase**

We note that there is to be a wider consultation and engagement exercise in 2022 regarding measures for permanent legislative provisions within an Assembly Bill to be introduced early in the next Assembly mandate.

The Society will wish to be an active participant in the drawing up of these proposals and the consultation exercise which will follow.

We consider that different issues may well arise depending on the nature of the proceedings – family, criminal or civil.

Policies and procedures must also be in place that ensure that all parties

- have access to proper equipment platforms and training
- have access to Guidance in Plain English
- can confidentially communicate with one another throughout
- maintain respect for the integrity of the court and court processes

There are also particular issues with regard to the participation of victims and witnesses requiring a range of factors to be taken into account: age, disability, mental health, learning difficulties, English as a second language, experience of trauma, socio-

economic background considerations and caring responsibilities. Cases involving personal litigants may also present certain challenges.

Access to technology will be another issue. It is estimated that roughly 10% of the adult population of the UK are not internet users.

It will also be important to have rigorous and comprehensive data collection.

We believe that a full analysis of the impact of remote hearings on access to justice and on justice outcomes is required before any final decisions are taken. This should include analysis of:

- different types of party
- their perception of whether justice was done
- their ability to understand and take part in proceedings.

**Law Society of Northern Ireland**

**November 2021**