



NORTHERN IRELAND COURTS AND TRIBUNAL SERVICE

&

POLICE SERVICE OF NORTHERN IRELAND

**SERVICE LEVEL AGREEMENT
FOR THE MANAGEMENT OF CIVIL ORDERS MADE UNDER
FAMILY HOMES AND DOMESTIC VIOLENCE (NI) ORDER
1998**

December 2014

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INTRODUCTION

The objective of this protocol is to set out a mechanism to ensure that information regarding the existence of specified civil orders issued by the Northern Ireland Courts and Tribunal Service under The Family Homes and Domestic Violence (NI) Order 1998 is shared as expeditiously as possible with the Police Service of Northern Ireland.

These orders require the PSNI to be informed, when issued, and at times, require service thereof on the respondent. Whilst acknowledging developments in technological solutions may be available in the future, this document is intended to provide a mechanism pending future opportunities for the electronic sharing of information.

No orders or associated documents should be faxed between NICTS and PSNI or any other party or their representative. Fax may only be used between NICTS and PSNI if secure electronic communication is unavailable.

It is intended that this guidance will reassure those who are entitled to the protection of the orders are fully supported and informed of progress, whilst holding accountable through the criminal justice system those who have breached these orders.

TYPES OF ORDERS

1. THE FAMILY HOMES AND DOMESTIC VIOLENCE (NI) ORDER 1998

The Family Homes and Domestic Violence (NI) Order 1998 provides for the application of two civil orders in the protection of a victim of domestic abuse.

NON MOLESTATION

Applications for Non Molestation Orders (NMOs) are most commonly dealt with in the Domestic Proceedings Court (Magistrate's Court) but can also be made by the County Court and High Court. These orders may be granted to a wide variety of people, regardless of marital status, ownership of property and whether or not the parties still reside together. Furthermore, they may apply to current and former spouses, current and former co-habitees and current or former same sex partners, (also to siblings, parents, adults and children etc).

A NMO forbids the respondent from molesting the applicant or a relevant child and forbids them instructing, encouraging or in any way suggesting that any other person should do so. Molestation can include, for example, violence, threats, pestering and other forms of harassment. The court can forbid particular acts of the respondent, molestation in general, or both.

OCCUPATION ORDERS

An Occupation Order may be granted by a court to regulate the occupation of the premises or part thereof, enforcing the applicant's right to occupy, enter or have peaceful enjoyment of the premises, and may prohibit, suspend or restrict the respondent's right to occupy the dwelling house, require them to leave, exclude them from a defined area or restrain them from disposing of any estate in the dwelling house.

In making any decision to place the restrictions on one party, the court shall have regard to all the circumstances of the case including the financial resources of the parties; the housing needs and resources; and the likely effect on the health, safety or well-being of the parties and of any relevant child; and the conduct of the parties in relation to each other and otherwise.

The court may, in any case where it considers just and convenient, make an Occupation Order or a NMO even though the respondent has not been given such notice of the proceedings as would otherwise be required by rules of court. Where an ex-parte order is made, the court shall specify a date for a full hearing. In granting an ex-parte order, the court shall have regard to all the circumstances including:

- any risk of significant harm to the applicant or a relevant child, attributable to conduct of the respondent, if the order is not made immediately;

- whether it is likely that the applicant will be deterred or prevented from pursuing the application if an order is not made immediately; and
- whether there is reason to believe that the respondent is aware of the proceedings but is deliberately evading service and that the applicant or a relevant child will be seriously prejudiced by the delay involved in effecting service of proceedings or substituted service.

Where a person breaches an Occupation Order but there is no NMO in force the complainant should be advised to inform their solicitor of the breach to make further application to the court.

Under Article 25 of the 1998 Order, any person who without reasonable excuse contravenes a NMO, or where there is in force a NMO prohibiting that person from molesting another person, an Occupation Order, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or both.

On 2nd September 2013 The Magistrates' Courts (Domestic Proceedings) (Amendment) Rules (Northern Ireland) 2013 [SR 2013 No. 203] amended the provisions for the service of certain Occupation and Non-Molestation Orders made under the Family Homes and Domestic Violence (Northern Ireland) Order 1998. The Rules amend the provisions for service of inter partes orders made by consent and inter partes orders made when the respondent is present in court or is represented by a solicitor or known to be represented by a solicitor.

Specifically, Rule 12A(2) of the Magistrates' Courts (Domestic Proceedings) Rules (Northern Ireland) 1996 is amended to add to those orders which may be served by the Clerk of Petty Sessions under Rule 10A(3)(a)(ii) or (b) of the 1996 Rules:

- orders made by consent,
- orders made when the respondent is present and
- orders made when he or she is represented by a solicitor.

This provides for the above orders to be served either by:

- first class post to the respondent's residence or last known residence when he or she is not known to have a solicitor on record and,
- where the respondent is known to have a solicitor on record, by DX or first class post to the solicitor's address.

There is therefore no requirement for inter parte orders granted as detailed above to be served personally.

There are no changes to the provisions in respect of service of ex-parte orders and thus orders should continue to be served in accordance with Rule 12 A(1).

RESPONSIBILITIES:

1. ACTION UPON ISSUANCE OF SPECIFIC EX PARTE CIVIL ORDERS:

NORTHERN IRELAND COURTS AND TRIBUNAL SERVICE (NICTS)

The NICTS will, by close of business on a working day, or within 2 hours of making an order out of normal NICTS operational hours, take the following action in relation to the court making such order:

- (1) Send a copy of the order to the applicant for their information (and in the event of a breach of the order, to assist the police in taking decisive action).
- (2) Email the following documents to PVI (PVI@psni.pnn.police.uk) the relevant contact in the PSNI:
 - (a) A copy of the order (including relevant address and details at (d), (e), and (g) below);
 - (b) Applicant's application and summons (if appropriate);
 - (c) Applicant's affidavit/statement (if appropriate);
 - (d) Where possible, details of the applicant's and respondent's date of birth;
 - (e) Details of expiry date or until further order;
 - (f) Applicant's contact numbers;
 - (g) Applicant's Solicitor details including telephone number.

The email will include a copy of the service endorsement and a certificate of service for completion by PSNI to return to NICTS after service has been effected.

- (3) Where the order is issued by the High Court or County Court, it is the responsibility of the applicant or their solicitor to supply PSNI with copies of the order.
- (4) If no receipt is received from the PSNI within 72 hours of (eg due to a technical failure), court staff should make enquiries by telephoning 101 and asking to speak to PVI. It can then be established whether the email has been received and contingency arrangements made for communication until the technical issues are resolved.
- (5) If the order is subsequently revoked or varied, the NICTS will email a copy of the order to PSNI. PVI will confirm receipt and amend records accordingly.

POLICE SERVICE OF NORTHERN IRELAND (PSNI)

The PSNI will within 72 hours of receipt of the email from NICTS containing the order:

- (1) Acknowledge receipt of the documents outlined in the paragraphs (2)-(3) or (5) above by means of an email to NICTS. In so doing, the NICTS will assume that appropriate police action will follow pursuant to the instructions/orders.

The PSNI will thereafter, as soon as practicable:

- (1) Open a live serial with the details of the relevant order. This serial will not be closed until service has been achieved.
- (2) Upon serving the order, the officer should ring and update the Applicant of service. If there is no contact number or the Applicant does not answer two telephone calls, the officer should contact the Applicant's solicitor and advise them, or leave voicemail message for their information. No voicemail message should be left on the Applicant's phone.
- (3) The serving officer will, prior to the termination of duty, complete the particulars of service electronically and workflow PVI of service. PVI will within 8 hours of being so informed, notify NICTS of this development forwarding details of the service endorsement and certificate to NICTS via email.
- (4) PVI will link the order to the Applicant and Respondent on Niche with appropriate flags ('NMO Applicant' and 'NMO Respondent'), along with any supporting information, with particular reference to the expiry of the order or if it is effective until further order. Where the order is issued 'effective until further order', PVI will set expiry date of the order at 100 years hencewith. Where relevant, an 'Occupation Order' flag should be attached to the relevant address. A 'warning flag' should be added with the expiry date for the order(s) noted.
- (5) Where the DOB or other information indicates or directs that the Respondent of a civil order (ie Non Molestation/Occupation Order) is a young person (under 18 years of age), or an otherwise vulnerable person, Social Services should be notified prior to service of document, particularly when the person is being excluded from the family home. It is recognised that these young people may have particular needs or concerns and who require support - therefore, the liaison between PSNI and Social Services is necessary to ensure that the situation is assessed as appropriate and relevant services are arranged to support the individual.

- (6) If PSNI records indicate that the Respondent is 'Looked After' whether on a voluntary basis or under an Interim or Full Care Order, the Director of Social Services for the relevant HSCT or the named Key Worker should be notified prior to service, to allow for a suitable time/place for service by the police and social services to be in attendance to support the individual. NICTS will also highlight to PSNI, any specific instructions given by the court which are to be adhered to by those parties concerned.
- (7) In exceptional circumstances, where prior contact with Social Services is not possible, liaison should be made as early as possible thereafter to advise them of the situation and what action has been taken.
- (8) On occasion, police officers will be required to serve an order on a resident of a Women's Aid refuge. This can be a particularly distressing experience for the other women and children at the refuge. Whilst Women's Aid acknowledges that in certain circumstances, the PSNI may have no alternative other than to serve an order or effect an arrest at these premises, Women's Aid have requested that where this is necessary, that contact be made with the Refuge Manager and inform them of the necessary actions. The Refuge Manager will advise the police whether the person is present in the Refuge and provide access to the premises for police purposes. It is anticipated that police will respond sensitively and discretely, bearing in mind the other residents and the circumstances under which they have sought refuge.
- (9) Whilst every effort shall be made to serve the order on the respondent, where, after 72 hours, the police have been unsuccessful in the service thereof, the order will be returned to the local court by PVI, with an email requesting assistance in locating address details for the respondent. In this instance, the NMO and Command & Control (C&C) details will be attached to the applicant on NICHE (PSNI's integrated IT system) a record included in the comments box advising the officer to check the (Occurrence Enquiry Log) OEL for details in order to effect service.

RESPONSIBILITIES:

1. ACTION UPON ISSUANCE OF SPECIFIC INTER PARTES CIVIL ORDERS:

NORTHERN IRELAND COURTS AND TRIBUNAL SERVICE (NICTS)

The NICTS will within 5 days of making of the order:

- (1) Send a copy of the order to the Applicant (if unrepresented) or their solicitor¹ for their information (and in the event of a breach of the order, to assist the police in taking decisive action).
- (2) Where the Order was made by consent; when the Respondent was present at the hearing; or when the Respondent was represented by a solicitor, copies of the order will be emailed to PVI (PVI@psni.pnn.police.uk). The email will indicate that these are for PSNI information only.
- (3) Where the order was made without the Respondent being present at the hearing or represented by a solicitor, the order(s) will be forwarded to PVI to arrange service on the Respondent. In such situations, the PSNI will arrange service as per Section 1 (pages 7-8).
- (4) If the order is subsequently revoked or varied, NICTS will email a copy of the order revoking or varying the order to PVI, who will confirm receipt and amend records accordingly.

POLICE SERVICE OF NORTHERN IRELAND (PSNI)

The PSNI will within 72 hours of receipt of the email from NICTS containing the order:

- (1) Acknowledge receipt of the documents outlined in paragraphs (2)-(4) above by means of an email to NICTS. In so doing, the NICTS will assume that appropriate police action will follow pursuant to the instructions/order(s).
- (2) PVI will link the order to the Applicant and Respondent on Niche with appropriate flags ('NMO Applicant' and 'NMO Respondent'), along with any supporting information, with particular reference to the expiry of the order or if it is to be effective until further order. Where the order is issued 'effective until further order', PVI will set expiry date of the order

¹ For inter partes civil orders, a copy will only be forwarded to the applicant if unrepresented, otherwise, the applicant's solicitor.

at 100 years hencewith. Where relevant, an 'Occupation Order' flag should be attached to the relevant address. A 'warning flag' should be added with the expiry date for the order(s) noted.

- (3) For the purposes of enforcement, police will refer to the date set out in the order in determining its commencement date.
- (4) Where the DOB or other information indicates or directs that the Respondent of a civil order (ie Non Molestation/Occupation Order) is a young person (under 18 years of age), or an otherwise vulnerable person, Social Services should be notified prior to service of document (if necessary), particularly when the person is being excluded from the family home. It is recognised that these young people may have particular needs or concerns and who require support - therefore, the liaison between PSNI and Social Services is to ensure that the situation is assessed as appropriate and relevant services are arranged to support the individual.
- (5) If PSNI records indicate that the Respondent is 'Looked After' whether on a voluntary basis or under an Interim or Full Care Order, the Director of Social Services for the relevant HSCT or the named Key Worker should be notified prior to service, to allow for a suitable time/place for service by the police and social services to be in attendance to support the individual. NICTS will also highlight to PSNI, any specific instructions given by the court which are to be adhered to by those parties concerned.
- (6) In exceptional circumstances, where prior contact with Social Services is not possible, liaison should be made as early as possible thereafter to advise them of the situation and what action has been taken.
- (7) In the event of a reported breach of a NMO, in the absence of evidence to indicate this, consideration will be given by officer as powers pursuant to the Protection from Harassment (NI) Order 1997.

INTERAGENCY ISSUES

The PSNI and NICTS will continue to work with their criminal justice partners and other statutory and voluntary agencies to ensure that the service and breach of orders are effectively and appropriately dealt with.

The PSNI and NICTS will monitor this protocol to ensure that it is being appropriately implemented by each organisation. The protocol will be reviewed annually by Inspector, Public Protection Branch, PSNI and by Central Business Unit, NICTS, with a formal review in January 2016.

The protocol will also be monitored periodically to ensure that any changes in policy or practice are reflected in the agreement. Any changes to the protocol shall be approved by the signatories.

Any dispute arising out of this protocol, or the failure of any party to the agreement to adhere to the agreement which cannot be resolved locally, shall be referred to the signatories for resolution.

Any change to the contact details in the Annex should be immediately conveyed to the other agency.

Signed

Signed

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On behalf of

On behalf of

The Police Service of Northern Ireland

The Northern Ireland Courts and Tribunal Service

Date

Date

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APPENDIX A - CONTACT DETAILS

| | | |
|--------------|--|---------------|
| PVI | PVI@psni.pnn.police.uk | 101 ext 50251 |
| Antrim: | antrimcourthouse@courtsni.gov.uk | 030 0200 7812 |
| Armagh: | armaghcourthouse@courtsni.gov.uk | 030 0200 7812 |
| Ballymena: | ballymenacourthouse@courtsni.gov.uk | 030 0200 7812 |
| Banbridge: | banbridgecourthouse@courtsni.gov.uk | 030 0200 7812 |
| Coleraine: | colerainecourthouse@courtsni.gov.uk | 030 0200 7812 |
| Craigavon: | craigavoncourthouse@courtsni.gov.uk | 030 0200 7812 |
| Downpatrick: | downpatrickcourthouse@courtsni.gov.uk | 030 0200 7812 |
| Dungannon: | dungannoncourthouse@courtsni.gov.uk | 030 0200 7812 |
| Enniskillen: | enniskillencourthouse@courtsni.gov.uk | 030 0200 7812 |
| Laganside: | csmlaganside@courtsni.gov.uk | 030 0200 7812 |
| Limavady: | limavadycourthouse@courtsni.gov.uk | 028 7772 2688 |
| Lisburn: | lisburncourthouse@courtsni.gov.uk | 030 0200 7812 |
| Londonderry: | londonderrycourthouse@courtsni.gov.uk | 030 0200 7812 |
| Magherafelt: | magherafeltcourthouse@courtsni.gov.uk | 028 7963 2121 |
| Newry: | newrycourthouse@courtsni.gov.uk | 030 0200 7812 |
| Newtownards: | newtownardscourthouse@courtsni.gov.uk | 030 0200 7812 |
| Omagh: | omaghcourthouse@courtsni.gov.uk | 030 0200 7812 |
| Strabane: | strabanecourthouse@courtsni.gov.uk | 030 0200 7812 |