

# THE NATURE OF THE ROLE OF A MASTER

## Introduction

The primary jurisdiction of Masters in the Court of Judicature in Northern Ireland is derived from Order 32, rule 11 of the Rules of the Court of Judicature and the Judicature (Northern Ireland) Act 1978 sections 70 to 74 and Schedule 3. Various other Rules of Court and Statutory Provisions confer on particular Masters' additional basis for the exercise of their jurisdiction. Historically, Masters have been appointed to specific posts, for example Chancery Master or Matrimonial Master, and tend to work predominately within a particular field. However, Masters, to varying degrees, are regularly required to sit in Divisions and Departments of the High Court other than that to which they are assigned, adapting to the different systems in operation, and the different law applicable, in those other Departments. The appointment of a Presiding Master is intended in part to facilitate Masters working across the board when required, whilst continuing to specialise in the particular area of work to which they are primarily appointed. Nevertheless, each post remains unique, with very different demands in terms of the jurisdiction exercised, the nature of the work and the listing and other systems in operation. There are 7 full time Masters, 6 of which are specifically assigned to a particular Division or Department, whilst the seventh is assigned to both the King's Bench Division and Matrimonial Office. It is not possible to devise a single job description which entirely covers the nature of the role of a master for all posts.

## Presiding Master

Presiding Master duties are set out in a Presiding Master Protocol issued by the Lady Chief Justice in June 2013 and include: (a) managing the workload across the Divisions which requires continuous monitoring and contact with all masters; (b) managing the use of deputy cover, including organisation and management of training; (c) liaising with the Lady Chief Justice's Office and Northern Ireland Court Service (d)

sitting on appointment panels (e) sitting on numerous committees including the Judges Council (f) controlling Masters' leave including approval of leave during term time; (g) identifying training needs and making provision for training of Masters and Deputy Masters and (h) exercising a pastoral role. The Presiding Master chairs the Masters' General Business Committee.

## **Master (King's Bench and Appeals)**

The primary jurisdiction of the Master (King's Bench and Appeals) is provided by Order 32, rule 11 of the Rules of the Court of Judicature, in addition to specific jurisdictions pursuant to Order 37 (Assessment of Damages), Order 70 (obtaining evidence for foreign courts), and Order 75 Admiralty Proceedings. The Master (King's Bench and Appeals) is assigned full time to this work and is the senior King's Bench Master. He is assisted by the Master (High Court) who spends 3 days a week on King's Bench work. The Master (King's Bench and Appeals) has additional duties of a quasi-judicial and judicial nature under the Criminal Appeals (NI) Act 1980 and the Criminal Appeals (NI) Rules 1968 and sits as a member of the Crown Court Rules Committee. He is Registrar of Deed Polls and Bills of Sale. His primary judicial duties include: (a) Review of personal injuries actions with particular focus on clinical negligence cases, to include giving directions and making interlocutory orders; (b) Hearing interlocutory applications either at the King's Bench Summons Court or by special appointment, including assisting the Commercial Hub Judge in often complex commercial applications; (c) Hearing assessments of damages under Order 37 (no monetary limit); (d) Exercise of Admiralty Jurisdiction as Admiralty Registrar; (e) attending to and adjudicating upon requests for the obtaining of evidence by foreign courts. He is also responsible for the supervision of minor's funds in court. Interlocutory applications are heard "in chambers". In the case of the Summons Court this is open to the public and the press, the term "in Chambers" being used essentially as an administrative convenience. Assessments of Damages and multi-party applications are heard in the Masters' Courtroom. Most other matters are attended to in Masters' Chambers which are equipped for hearings including remote hearings using video technology. The King's Bench Masters sit almost exclusively in the Royal Courts of Justice building in Belfast. The technical nature of much of a King's Bench Masters' work inevitably

means that a considerable amount of time is spent on advanced preparation for cases and the writing of judgments.

## **Master (Chancery)**

Much of the judicial business assigned to the Chancery Division by Order 1 rule 10 of the Rules of the Court of Judicature for Northern Ireland is assigned to the Master (Chancery) under Order 32 rule 11 of the Rules. This includes: (a) applications by mortgagees for possession and for stays of execution of orders for possession; (b) interlocutory applications including applications for summary judgment under Order 86 of the Rules; (c) accounts and inquiries; (d) applications brought by summons in the Chancery Division, including suits for the administration of deceased estates under Order 85 of the Rules; (e) non-contentious probate applications including disputes about entitlement to grants of representation, and (f) actions and applications as referred to the Master from time to time by the Chancery Judge. A typical daily list will contain 35 to 40 cases, with the Court sitting morning and afternoon on most days. In practice most of these cases are in category (a) above.

## **Master (Bankruptcy)**

The Master assigned to the Bankruptcy and Companies Office is the Master (Bankruptcy) within the meaning of the Insolvency (Northern Ireland) Order 1989 and as such has power to exercise the jurisdiction as set out in the Insolvency (Northern Ireland) Rules 1991 and the Rules of the Court of Judicature where they do not conflict with the Insolvency (Northern Ireland) Rules 1991. The Bankruptcy Master is in effect the Bankruptcy Judge for Northern Ireland. The power to deal with Insolvency matters in Northern Ireland is exclusively assigned to the Chancery Division of the Court of Judicature in Northern Ireland by Order 1 rule 10 of the Rules of the Court of Judicature. The Insolvency Jurisdiction of the High Court has a high volume of work. Except where a conflict of interest or appeal arises, all bankruptcy proceedings in Northern Ireland are dealt with solely by the Bankruptcy Master.

The Insolvency court sits five days a week. Personal insolvency matters are heard individually in chambers and company matters are heard in open court. The often voluminous caseload includes: (a) overseeing individual and company voluntary arrangements; (b) applications in relation to setting aside statutory demands; (c) bankruptcy, winding up and insolvent partnership petitions; (d) annulment and rescission of bankruptcy winding up, and insolvent partnership orders, (e) originating applications for partition and sale of a bankrupt's property; (f) setting aside preferential transactions and/or transactions at an undervalue; (g) restoring companies to the Companies' Register; (h) disqualification of company directors; (i) company Administrations and liquidations, and (j) other contentious insolvency litigation.

### **Master (Matrimonial)**

The main function of the Matrimonial Master is the division of matrimonial property on divorce and the jurisdiction is founded on the Family Proceedings (Northern Ireland) Rules 1996, the Matrimonial Causes Order (Northern Ireland) Order 1978 and the Rules of the Supreme Court. One Master is assigned full time to this work and another spends two days a week on matrimonial work. The Masters hear all cases in the High Court that are not heard by High Court Judges and the workload is significant. In this jurisdiction virtually no ancillary relief cases are heard by the Family Judge at first instance, at most one or two per annum. There are no monetary limits. A typical workload would consist of perhaps one hundred plus cases per week and including a mixture of reviews, directions hearings, discovery applications, financial dispute resolution hearings (FDRs) and full hearings. Many of the cases that the Matrimonial Master deals with are exceptionally complex, which in England and Wales would normally be heard by a High Court Judge. The Masters case manage all cases from start to finish and so will be aware before any hearing of the general thrust of the case. The present system involves a four stage process: (i) first direction hearing; (ii) first review hearing; (iii) financial dispute resolution hearing; (iv) full hearing. Reasoned judgments have to be given in all cases and in many cases that run written judgments are required.

## **Master (Care and Protection)**

The work of the Master (Office of Care and Protection) involves the hearing of matters relating to: (a) applications under the Children (Northern Ireland) Order 1995 including public and private law cases, emergency and ex-parte applications; (b) Applications under the Adoption (Northern Ireland) Order 1987 and under the Judicature (Northern Ireland) Act 1978 including wardship applications; (c) applications under the Family Homes and Domestic Violence (Northern Ireland) Order 1998, including emergency and ex-parte applications; (d) applications in relation to Patients as defined in Part VIII of the Mental Health (Northern Ireland) Order 1986 to include: appointing Controllers; approving Statutory Wills; approving gifts from or settlement of Patients funds; objections to the registration of Enduring Powers of Attorney, and general matters relating to the property and affairs of patients including the approval of all deeds relating to the sale, transfer or mortgage of Patients property, and investment of Patient's Funds. The monetary limits of the Masters' jurisdiction are not restricted, and frequently the monetary value of a Patient's financial affairs can be very significant and extremely complex involving issues relating to company law, equity, probate, inheritance and other taxation issues to consider when overseeing the management of a Patient's affairs. A contested hearing can last, typically from 60 minutes up to one or two days.

## **Master (Taxation) and Master (Enforcement of Judgments Office)**

The Master (Taxation) is also appointed as The Master in the Enforcement of Judgments Office. He divides his working time between the two posts according to demand, with the greater part of his time being spent on Taxation work. It should be noted that the jurisdiction is exclusively vested in the Taxing Master, and is unlimited as to amount. The range of duties and level of responsibility corresponds very closely to the jurisdiction and functions carried out in England and Wales by the Taxing Masters [now called Costs Judges] of the senior courts. The Master is responsible for assessing costs incurred in all the Divisions of the High Court, which include: personal injury and clinical negligence actions, commercial court actions, family cases (divorce,

separation, adoption, wardship, non-molestation, child abduction, all Children Order cases), chancery cases, probate actions, cases involving patients affairs, and judicial review. Because the majority of the cases are disposed of by adjudication on the papers and the acceptance of the provisional assessment, those cases which require to be listed for hearing tend by definition to be contentious. Disputes between solicitor and client are particularly acrimonious. Appeals by their nature require a hearing. In all these circumstances a formal adversarial hearing and determination is required. The ex parte adjudications on the papers take up on average two working days, with two days per week of listed cases. The fifth working day is given over to the work of the Master (Enforcement of Judgments).

Uniquely within the UK, Northern Ireland has had a centralised statutory system for the enforcement of all judgments delivered by the civil courts, together with a range of tribunal and arbitral awards, and including judgments of other UK, EC and foreign judgments registered for enforcement in NI. The enforcement jurisdiction exercised by the Master is unlimited in monetary value. The equivalent judicial functions in England and Wales are exercised in the several tiers of civil courts by way of enforcement of their respective decisions. In NI the enforcement of all civil judgments of all court tiers falls within the oversight and jurisdiction of Master in the Enforcement of Judgments Office, and orders made by the Master rank statutorily as orders of the High Court. The principal functions of Master include: issue of warrants of arrest; issue of seizure, receiver and charging orders over property; issue of garnishee orders (typically freezing of bank accounts); issue of orders for the delivery of possession (evictions); issue of certificates of unenforceability; setting aside of enforcement orders and granting stays of enforcement.

## **Masters' other duties and activities**

All Masters sit on the Liaison Committees associated with the Office or Department to which they are assigned and are consulted with respect to, and contribute actively in relation to, all changes in practice and procedure in that Office or Department. In addition, they sit on a wide range of committees including the Judges' Council and its

sub-committees, the Judicial Studies Board, the Court of Judicature Court Users Group, Court of Judicature I.T. Liaison Committee, the Crown Court Rules Committee, and also on wider public bodies such as COAC (Children Order Advisory Committee). Out-of- court activities include lecturing in the Institute of Professional Legal Studies at Queens University Belfast, and also at CPD events organised by the Bar Council and Law Society.

The working life of a Master is challenging and varied. The workload is increasingly demanding both in terms of volume and complexity. For example, Masters now hear undefended divorce petitions which previously would have been heard by a Judge of the High Court. They also routinely hear matters which in the past would have been referred to a Judge of the High Court, with the result that there is greater emphasis on the writing of judgments, which generally must be done outside normal working hours. It can be particularly challenging when a master is required to step outside his/her comfort zone in order to take on cases in a division or department to which they are not primarily assigned, but this adds to the variety in workload. There is a Society of Masters which represents the interests and views of the masters viz-a-viz the Department of Justice, other tiers of the judiciary and outside bodies, and also through the organisation of social occasions facilitates the maintenance of a strong collegiate ethos among its members. Masters meet (for lunch) regularly, which occasions are a combination of the social and business, but are a valuable means of providing mutual support and the early identification of emerging problems.

The Masters are supported in all Departments by a team of Deputy Masters who are an essential and integral part of the Masters' team. The Deputy Masters provide cover where Masters are absent because of other duties or sickness, and also where the volume of work requires additional resources. In general, Deputy Masters are engaged on a day by day basis to attend the cases listed on a particular day and are not assigned any of the additional work associated with certain posts, such as for example Registrar of Deed Polls. However, from time to time Deputy Masters may be engaged for longer periods of time, for example where a Master is on longer term sick leave, and in those circumstances they would be expected to perform the full duties, including the additional work, of the Master whose post they are covering. Deputy Masters sit

either in the Deputy Masters' Chambers on the 2nd Floor of the High Court building, or in the chambers of the Master whose post they are covering.

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