
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 123

The Court Files Privileged Access Rules (Northern Ireland) 2016

Citation and commencement

1. These Rules may be cited as The Court Files Privileged Access Rules (Northern Ireland) 2016 and shall come into operation on 30th March 2016.

Interpretation

2. In these Rules—

“Charity” has the same meaning as in the Charities Act (Northern Ireland) 2008^{M1}.

“Court files” means records created by, or originating from, any court in Northern Ireland, including records relating to inquests.

“Incident” means an event or series of events which caused serious physical or psychological harm to a person.

“Minister” means the Minister responsible for the Public Record Office of Northern Ireland and “Department” shall be construed accordingly.

“Office” means the Public Record Office of Northern Ireland.

“Partner” includes “Director”.

“Relevant authority” means:

- (a) In the case of a court file which has been transferred to the Office from a government department in the charge of a Minister of the Crown, the Minister of the Crown who appears to the Minister to be primarily concerned;
- (b) In the case of a court file which has been transferred to the Office from a Northern Ireland Department, the Northern Ireland Minister who appears to the Minister to be primarily concerned; or
- (c) In the case of a record transferred to the Office by any other person, the person who appears to the Minister to be primarily concerned.

“Solicitor” has the same meaning as in article 3 of the Solicitors (Northern Ireland) Order 1976.

[^{F1}“the UK GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10) and (14) of that Act);]

Textual Amendments

F1 Words in rule 2 inserted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), **Sch. 3 para. 103** (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

M1 2008 c.12 (N.I.)

Persons who may apply for court files

3.—(1) An application for a court file held by the Office will be accepted from a person (an “applicant”) who, at the time of the application, is aged eighteen years or older and who meets any of the following eligibility criteria—

- (a) a person who appears to the Department to be—
 - (i) a person who has sustained physical or psychological injury as a result of an incident which has been recorded in a court file;
 - (ii) a person who has been bereaved as a result of an incident which has been recorded in a court file; or
 - (iii) a person who has been seriously adversely affected, in a manner other than as described at (i) and (ii), as a result of an incident which has been recorded in a court file.
- (b) a solicitor acting on behalf of a person who meets any of the eligibility criteria set out at rule 3(1)(a).
- (c) an employee of a charity acting on behalf of a person who meets any of the eligibility criteria set out at rule 3(1)(a).

Applications for a court file

4.—(1) An application for a court file under these Rules shall—

- (a) be made in writing on the relevant form which shall be published from time to time via the official web-site for the Office;
 - (b) be signed by the applicant; and
 - (c) contain such particulars as the Department may reasonably require.
- (2) An application for a court file under these Rules shall be made to the Office at the address specified on the form.
- (3) The Department may request such further particulars as it requires.
- (4) Where an application for a court file is made by, or on behalf of, a person who meets any of the eligibility criteria set out at rule 3(1)(a), that person must supply a completed form and provide a signed copy of the undertaking set out at Schedule 1.
- (5) Where an application for a court file is made by, or on behalf of, two or more persons acting together, each of whom meets any of the eligibility criteria set out at rule 3(1)(a), each person must supply a completed form and provide a signed copy of the undertaking set out at Schedule 1.
- (6) Where an application for a court file is made by a solicitor who meets the eligibility criteria set out at rule 3(1)(b), a partner in the legal firm must supply a completed form and provide a signed copy of the undertaking set out at Schedule 2.
- (7) Where an application for a court file is made by an employee of a charity who meets the eligibility criteria set out at rule 3(1)(c), each person requiring access to the file must supply a completed form and provide a signed copy of the undertaking set out at Schedule 3.

Information that may be released

5. A court file shall be deemed eligible for release under these Rules only to the extent that the release of the information complies with the Data Protection Principles set out in [F2—

- (a) Article 5(1) of the [F3UK GDPR] , and
- (b) section 34(1) of the Data Protection Act 2018.]

Textual Amendments

- F2** Words in rule 5 substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 408](#) (with [ss. 117, 209, 210](#)); [S.I. 2018/625](#), reg. 2(1)(g)
- F3** Words in [rule 5\(a\)](#) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), [Sch. 3 para. 104](#) (with [Sch. 3 para. 112](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Ministerial decision and duty on the Department to consult

6. Prior to the Minister making a decision about the release of a court file under these Rules the Department shall consult the relevant authorities, and, were the Relevant Authority in any particular case is not a Minister of the Crown, the Department, in addition, to consulting the Relevant Authority shall also consult the Secretary of State for Northern Ireland.

Provision of information

7.—(1) An applicant who meets the eligibility criteria set out at rule 3(1) may be provided by the Department with all information deemed eligible for release.

(2) Without prejudice to the generality of rule 7(3), the Department shall review any requested court file to ensure that its release complies with the Data Protection Principles set out in [F4—

- (a) Article 5(1) of the [F5UK GDPR] , and
- (b) section 34(1) of the Data Protection Act 2018.]

(3) The Minister may withhold the whole or part of any court file and may impose such conditions, as the Minister sees fit, on the release of the whole or part of any court file.

(4) In order for the Department to release a court file to an applicant under these Rules, the applicant shall—

- (a) attend the Office at a time agreed by the Office; and
- (b) produce photographic evidence of identity which is reasonably capable of establishing their identity.

(5) Without prejudice to the generality of rule 7(4), the Department may release a court file to an applicant by such other arrangements as the Department may determine where it appears to the Department that it is appropriate to do so.

Textual Amendments

- F4** Words in rule 7(2) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 409](#) (with [ss. 117, 209, 210](#)); [S.I. 2018/625](#), reg. 2(1)(g)
- F5** Words in [rule 7\(2\)\(a\)](#) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), [Sch. 3 para. 105](#) (with [Sch. 3 para. 112](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Conditions applicable to a released court file

- 8.—(1) An applicant to whom the Department has released a court file under these Rules must—
- (a) keep the court file confidential and stored securely;
 - (b) not copy, or permit the copying of, the court file other than as permitted by rule 8(3);
 - (c) not reformat, or permit the reformatting of, the court file;
 - (d) not publish, or permit the publication of, the court file, except where such permission has been sought and granted under rule 9; and
 - (e) notify the Office in writing of any change of name or address.
- (2) A person who is subject to the undertaking at Schedule 1 may share with a solicitor a court file released under these Rules for the purposes of obtaining legal advice.
- (3) A solicitor who is subject to the undertaking at Schedule 2 may copy, or permit the copying of, a court file released under these Rules for the purposes of—
- (a) sharing the court file with counsel;
 - (b) sharing the court file with medical or other expert witnesses; or
 - (c) making a submission to the Attorney General to request a new inquest under section 14(1) of the Coroners Act (Northern Ireland) 1959 ^{M2}.
- (4) An applicant who receives a court file under these Rules shall within ten years of the date on which the Department released the court file—
- (a) return to the Office the court file and any copy of the court file; or
 - (b) apply in writing to the Department for permission to retain the court file for a further period of time.
- (5) Upon receipt of an application under rule 8(4) the Minister may permit the applicant to retain the court file for such further period of time as the Minister may decide.

Marginal Citations

M2 1959 c.15 (N.I.)

Application to publish released court file

- 9.—(1) An applicant may seek the Minister's permission to publish a court file released under these Rules by applying in writing to the Office.
- (2) An application must—
- (a) identify the information intended for publication;
 - (b) identify the purposes for which publication is required; and
 - (c) provide any other information relevant to the application.
- (3) Prior to the Minister making a decision about the publication of the court file the Department shall consult the relevant authorities.
- (4) Without prejudice to the generality of the Minister's power under rule 9(1) to grant permission, permission will be granted to use information for court purposes in any case in which the applicant's rights under Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms so require.

Application for review of a decision

10.—(1) An applicant who meets any of the eligibility criteria set out at rule 3(1) who has been refused access to a court file under these Rules, may apply in writing to the Minister for a review of the decision to refuse access to that court file.

(2) An application for review under rule 10(1) must be made within one calendar month of the date of the Department issuing notification that all or part of a court file will not be released.

(3) An application for review under rule 10(1) must be on the grounds that—

- (a) the process was not properly followed; or
- (b) all of the relevant information was not available to the Minister at the time the decision was taken.

(4) An application for review under rule 10(1) must detail—

- (a) confirmation of the applicant's eligibility;
- (b) the grounds for the review; and
- (c) relevant information that was not available to the Minister at the time that the decision was taken.

(5) Prior to the Minister making a decision the Department shall consult the relevant authorities.

(6) The Minister may in respect of an application for review under rule 10(1)—

- (a) dismiss the application; or
- (b) allow the application and overturn the decision in whole or in part.

(7) The Department shall inform the applicant in writing of the Minister's decision.

Recall of released court files

11.—(1) Where the Minister has reasonable cause to believe that an applicant has failed to comply with an undertaking provided under rule 4, or conditions applied under rule 7(3) and rule 8, the Minister may require that the applicant return court files received under these Rules, and any copies, within such period as the Minister shall specify.

(2) Where a requirement is made under rule 11(1), it shall be the duty of the applicant to comply with it.

Sealed with the Official Seal of the Department of Culture, Arts and Leisure on 4 March 2016

L.S.

Department of Culture, Arts and Leisure

Michael Willis
A senior officer of the

Changes to legislation:

There are currently no known outstanding effects for the The Court Files Privileged Access Rules (Northern Ireland) 2016.