

Guidance in relation to Remote Hearings – Attendance by Electronic Means

1 Introduction

- 1.1 The Coronavirus (Scotland) Act 2020 (“the 2020 Act”) came into force on 7 April 2020.
- 1.2 Court hearings can now take place without the physical attendance of the accused, the procurator fiscal (“PF”) or the defence solicitor who are able to attend by electronic means from a remote location.
- 1.3 This document sets out the procedure to be followed to facilitate the attendance of parties by electronic means in certain classes of case.
- 1.4 Where resources permit, each of the ten hub courts will provide a dedicated court to facilitate attendance at hearings by electronic means.

2. Cases Beginning With An Appearance From Custody

- 2.1 A case beginning with an appearance from custody is one which is defined by paragraph 8 of Schedule 4 to the 2020 Act.

In advance of the hearing

- 2.2 A solicitor for an accused in custody who wishes to represent their client by electronic means, should contact the court via the dedicated email address (see Appendix) no later than 10 am on the day the case will call.
- 2.3 The solicitor’s e-mail should:
 - provide an email address and the telephone number the solicitor wishes to be contacted on by the court; and

- be headed with 'Custody' and contain in the heading the date on which the case is to call and the name of the accused.

- 2.4 The solicitor should advise COPFS at the earliest opportunity that they are representing the accused and should provide to COPFS both an e-mail address and telephone number.
- 2.5 In response to the e-mail from the solicitor, COPFS shall provide a copy of the petition or complaint to the solicitor by e-mail as soon as reasonably practicable.
- 2.6 It is anticipated that a solicitor will consult with his or her clients by telephone. It is the responsibility of the solicitor to contact the relevant police custody suite and to make arrangements to consult with the accused.
- 2.7 SCTS will endeavour to schedule video links so as to minimise any delay in dealing with the business of the court.
- 2.8 In advance of the court, the clerk will liaise with COPFS and determine the order in which the accused will appear before the court. If the PF wishes to attend by electronic means he or she shall provide an email address and the telephone number they wish to be contacted on by the court.
- 2.9 No more than four cases in which attendance by electronic means has been requested will be scheduled per hour.
- 2.10 The court will contact the solicitor advising of the time scheduled for the hearing. Solicitors must be available at the scheduled time and for no less than one hour thereafter.
- 2.11 The solicitor should be fully instructed prior to the hearing commencing.
- 2.12 SCTS staff will be responsible for managing each hearing by ensuring instructions are passed to police staff over the video link, or by telephone as appropriate.

- 2.13 Police Scotland will have the accused ready to appear 30 minutes prior to the calling of the case.

The hearing

- 3.1 The court convenes in the courtroom with the sheriff and the clerk present. The accused, the PF and / or solicitor may also be present (or may attend from a remote location by electronic means). Where the PF and / or the solicitor have expressed a wish to participate in the hearing by electronic means, the clerk will contact the PF and / or solicitor using the contact numbers provided by them.
- 3.2 Where the accused is to attend from a remote location the clerk will establish the video link with the accused at the relevant police custody suite.
- 3.3 The clerk will ensure that the proceedings are recorded by mechanical means and that the recording is retained in accordance with the applicable SCTS policy for retaining recordings of criminal proceedings.
- 3.4 Once the PF; the solicitor; and the accused are either present or have joined by either video link or by telephone, the clerk will commence the electronic recording of proceedings
- 3.5 The sheriff will confirm who is present in court; and who has joined by telephone and / or video link: that parties can hear, and that the solicitor is fully instructed. The hearing will then proceed. At the conclusion of the hearing the recording will be stopped and the clerk will complete the minute.
- 3.6 Where bail is granted the bail order will be prepared and sent electronically to the police custody suite. The police will ensure that any bail order is signed by the accused prior to release. The police will then return the signed bail order to the relevant sheriff court.
- 3.7 Where the accused is remanded in custody the police will ensure that the extract (provided by SCTS) is printed off and passed to the escort contractor to allow the accused to be conveyed to the relevant prison.

3.8 If required, SCTS staff will forward onto the relevant prison the original signed copy of the extract warrant to the relevant prison by DX or registered post.

4. Undertakings

4.1 This part applies to persons released on an undertaking given under section 25(2)(a) of the Criminal Justice (Scotland) Act 2016.

4.2 A solicitor representing a person released on an undertaking who wishes to represent their client by electronic means, should contact the court specified in the undertaking via the dedicated email address (see Appendix) no later than seven days prior to the date the person released has undertaken to appear on.

4.3 The solicitor's e-mail should:

- provide an email address and the telephone number the solicitor wishes to be contacted on by the court; and
- be headed with 'Undertaking' and contain in the heading the name of the person released on the undertaking and the date they have undertaken to appear on.

4.4 The procedure to be followed in advance of the undertaking hearing is as set out in paragraphs 2.6 to 2.13 above.

4.5 The undertaking hearing will be conducted in the manner set out in Part 3 above.

5. Other Criminal Proceedings

5.1 This part applies to all other diets in criminal proceedings, other than those in which provision has previously been made in this document and trial diets.

5.2 Criminal proceedings are defined by paragraph 9(4) of Schedule 4 to the 2020 Act.

5.3 A solicitor representing an accused in criminal proceedings who wishes to represent their client at a diet (other than a trial diet) by electronic means, should contact the court via the dedicated email address (see Appendix) no later than seven days prior to the diet.

5.4 The solicitor's e-mail should:

- provide an email address and the telephone number the solicitor wishes to be contacted on by the court; and
- be headed with the name of the accused; the nature and date of the diet; and the court reference number.

5.5 The procedure to be followed in advance of the diet is as set out in paragraphs 2.6 to 2.13 above.

5.6 The diet will be conducted in the manner set out in Part 3 above.

APPENDIX

Dedicated email addresses to be used for communication in relation remote representation only:-

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| Glasgow | RRGlasgow@scotcourts.gov.uk |
| Edinburgh | RREdinburgh@scotcourts.gov.uk |
| Dundee | RRDundee@scotcourts.gov.uk |
| Falkirk | RRFalkirk@scotcourts.gov.uk |
| Inverness | RRInverness@scotcourts.gov.uk |
| Aberdeen | RRAberdeen@scotcourts.gov.uk |
| Paisley | RRPaisley@scotcourts.gov.uk |
| Kilmarnock | RRKilmarnock@scotcourts.gov.uk |
| Hamilton | RRHamilton@scotcourts.gov.uk |
| Dumfries | RRDumfries@scotcourts.gov.uk |