



SHERIFFDOM OF SOUTH STRATHCLYDE, DUMFRIES AND GALLOWAY
GUIDANCE FOR PRACTITIONERS AND LITIGANTS
COVID-19 : MANAGEMENT OF CIVIL BUSINESS

Introduction

1. This guidance sets out the arrangements for the management of business in the Sheriffdom of South Strathclyde, Dumfries and Galloway. It supersedes "*Covid-19 : Management of Civil Business*" dated 21 July 2020. This guidance has immediate effect and will be subject to on-going review.
2. The purpose of the guidance is to facilitate insofar as possible the efficient disposal of civil business in the sheriff courts in light of the ongoing social distancing requirements caused by Covid-19.
3. Practitioners and litigants should be aware of the "*Guidance Note for Practitioners and Litigants Covid 19 : Electronic Submission of Documents*" dated 7 July 2020¹.

¹ <http://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/coronavirus-temp-orders/ssdg-orders/ssdguidance-for-practitioners-and-litigants---electronic-submission-of-documents-070720.pdf?sfvrsn=4>

Civil Hearings

4. Part I of Schedule 4 of the Coronavirus (Scotland) Act 2020 (“the 2020 Act”) suspends the requirement for physical attendance at court unless the court otherwise directs in circumstances where that would (i) result in prejudice to the fairness of the proceedings or (ii) it would otherwise be contrary to the interests of justice. A person excused from a requirement to attend at court must instead appear before the court by electronic means in accordance with a direction issued by the court.
5. All civil hearings in the Sheriffdom which do not require the leading of evidence will, unless otherwise directed by the court, be conducted remotely.
6. Hearings which require the leading of evidence may also be conducted remotely. Where social distancing restrictions can be adhered to and where evidence cannot be led remotely, the physical presence of witnesses may be permitted.

Conduct of Hearings

7. Procedural and substantive business in the Sheriffdom will be managed in accordance with the three phased approach to the recovery of civil business published on the Scottish Courts and Tribunal Service website on 1 June 2020².
8. The initial default approach to conducting procedural hearings, opposed motions or debates is by telephone conference call (teleconference). The media will be provided with access to teleconference hearings on request and where call capacity permits. Where hearings are conducted by video conferencing, similar arrangements will apply.
9. Approaches to the management of remote hearings requiring the presentation of productions and witnesses will be discussed with parties on a case by case basis. The use of affidavits in lieu of evidence, in whole or part, is encouraged.

² <https://www.scotcourts.gov.uk/about-the-scottish-court-service/scs-news/2020/06/01/sheriff-courts-business-update>

10. Where parties have an agreed position in respect of any hearing which, if accepted by the sheriff, might allow the hearing to be administratively discharged or orders in agreed terms granted, they should advise the relevant sheriff court by email (using the mailboxes referred to in Appendix 1) at least 48 hours in advance of the hearing.
11. Any party attending a court hearing by teleconference or by other remote means is expected to maintain equivalent standards of behaviour as if they were attending court physically. Parties must ensure a quiet and secure place for their participation in any remote hearing.
12. Parties will be responsible for ensuring that any witnesses cited for substantive hearings are able to appear remotely. Where a sheriff has deemed personal attendance of a witness or party at a hearing necessary, those attending will be required to adhere to the instructions of court staff and to observe social distancing requirements at all times. Parties and their witnesses attending a court building must enter the building no earlier than 10 minutes before a time agreed with the court. Within each court, social distancing must be observed.
13. The recording of a court hearing conducted by teleconference or video conference is not permitted without the consent of the court.

Ordinary Cause Proceedings

General

14. The sheriff clerk shall fix and re-fix timetables in ordinary actions assigning Options Hearings in all proceedings which had been administratively continued in terms of "SSDG Local Practice Note Covid 19 No.2" dated 24 March 2020 ("Practice Note No 2"). Options Hearings, Continued Options Hearing, Procedural Hearings, Rule 18.3 Hearings and Opposed Motions Hearings will be assigned. Such hearings may be assigned to a date earlier than that referred to in Practice Note No 2. The interlocutor fixing the timetable or hearing shall set out what information may be required of parties and the means by which the hearing will take place.

15. All motions lodged in terms of chapter 15 of the Ordinary Cause Rules shall be accompanied by brief written reasons in support of the motion. All oppositions to motions shall similarly set out brief written reasons explaining the basis of the opposition. The interlocutor assigning the Opposed Motion Hearing will set out any additional information that may be required of parties in advance of the hearing.

Debates

16. Sheriffs will actively case manage all cases in which a debate has been assigned or has been administratively discharged due to Covid-19, and will make such orders as are considered necessary to expeditiously progress the action.
17. The interlocutor assigning a diet of debate will direct parties:
 - (a) to exchange draft written submissions two weeks before the diet of debate; and
 - (b) to lodge and exchange:
 - (i) final written submissions;
 - (ii) a joint bundle of authorities;
 - (iii) copies of any documents referred to in the pleadings to which reference may be made in the course of the debate; and
 - (iv) a note setting out the name, e-mail address and telephone number of the person who will conduct the hearing for each party.
18. The diet of debate will be conducted by teleconference. The dial in details will be provided to the parties in advance of the call.
19. Parties' written submissions should address all matters the parties intend to raise at the debate. The exchange of submissions between parties in draft form will allow parties to focus the areas in dispute in the final submissions lodged with the court.

While the length of written submissions is not prescribed, the court favours brevity.

The written submissions must—

- (a) state, in brief numbered paragraphs, the points that the party intends to make;

- (b) after each point, identify any document on which the party relies in support of the point;
 - (d) for every authority relied upon (i) state the proposition of law that the authority demonstrates; and (ii) identify the page or paragraph references for the parts of the authority that support the proposition; and
 - (e) cite only one authority for each proposition of law, unless additional citation is necessary for a proper presentation of the argument.
20. The bundle of authorities should not (a) include authorities for propositions not in dispute or (b) more than 10 authorities, unless the court gives permission for additional authorities to be included. The passages on which each party intends to rely (as specified in that party's written submissions) may be marked or highlighted.
- Where more than 10 authorities are sought to be included in the joint bundle, the pursuer's agent should seek permission to lodge the additional authorities by emailing the court using the email addresses set out in Appendix 1.
21. The sheriff will consider the written submissions in advance of the hearing. In the hearing, unless the sheriff otherwise directs, each party will be afforded a maximum of 30 minutes to make additional oral submissions.

Proofs

22. Sheriffs will actively case manage all cases in which a proof or evidentiary hearing has been assigned or has been administratively discharged due to Covid-19. The sheriff shall make such orders as are considered necessary to expeditiously progress the case.
23. Where proof management hearings are assigned in terms of OCR 27.17A, such hearings will proceed by teleconference.
24. Interlocutors assigning proof management hearings will direct parties to lodge a note setting out the following information at least two days in advance of the hearing:
- (i) when the parties expect to be able to proceed to proof or to continued proof;

- (ii) the likely availability of witnesses;
- (iii) the extent to which the proof or continued proof and the attendance of witnesses, may be conducted remotely and how that might be achieved;
- (iv) the extent to which affidavit evidence may be used;
- (v) whether any special measure are necessary in respect of any witnesses or parties;
- (vi) whether interpreters are required for any witnesses or parties;
- (vii) the anticipated length of the proof;
- (viii) such other information as may assist the sheriff to conduct the hearing; and
- (iv) the name, email address, and telephone number of the person who will conduct the hearing for each party.

25. Where the sheriff fixes a pre-proof hearing, the interlocutor assigning a pre-proof hearing will direct parties to lodge *inter alia* the following information or items of process at least two days in advance of the pre-proof hearing:

- (i) a list of witnesses;
- (ii) a summary of the matters the witness may speak to and the likely duration of each witnesses' evidence;
- (iii) a joint minute of admissions; and
- (iv) affidavits.

Summary Applications and Summary Cause actions

26. Unless otherwise directed and subject to paragraphs 27 and 28 below, the procedure set out in paragraphs 16 to 18 will apply to all summary applications and summary cause proceedings *mutatis mutandis*.

27. In all summary applications for the enforcement of security over residential property within the meaning of Part IV of Chapter 3 of the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999, any hearing previously assigned (including any evidential hearing) will be discharged and the application sisted until further order of the court.
28. Summary Cause Actions seeking recovery of possession in terms of the Housing (Scotland) Act 2001 will be sisted. Any party wishing to recall the sist and progress the action should do so by lodging an Incidental Application setting out the reasons for seeking to have the sist recalled and the proposals for further procedure. New actions raised under the 2001 Act may be lodged and will be registered. All actions raised on rent arrear grounds (Ground 1 of Part 1 of Schedule 2 of the 2001 Act) will be automatically sisted on the Calling Date without the need for attendance by any party. Any party wishing to recall the sist and progress the action should do so by lodging an Incidental Application setting out the reasons for seeking to have the sist recalled and the proposals for further procedure. All new actions raised on any other Ground contained in the 2001 Act will progress to a Calling Date which parties will require to attend.

Peremptory diets

29. Interlocutors assigning peremptory diets will, in accordance with Part 1, Schedule 4 of the 2020 Act specify that the party in respect of whom the diet has been assigned will not require to attend physically but must instead appear before the court on a specified time and date by way of teleconference. The teleconference details will be specified in the interlocutor. The party responsible for intimating the peremptory diet will be required to send a letter with the Form G10 in the terms appended to the interlocutor.

Adults with Incapacity Applications

30. All hearings after service in respect of applications under the Adults with Incapacity (Scotland) Act 2000 will call in court and physical attendance will be permitted by the applicant, the adult and any party who has received intimation.
31. All subsequent hearings will be conducted remotely in all such applications where all parties are legally represented.
32. All opposed applications will be case managed by a sheriff. Where evidence is necessary, the sheriff will discuss how that evidence is to be presented on a case by case basis.

Orders in terms of Section 11 of the Children (Scotland) Act 1995

33. Practitioners and Litigants should be aware of the terms of Practice Note 15 of 2020 "*Orders in terms of Section 11 of the Children (Scotland) Act 1995*" dated 19 June 2020³.

Petitions for Adoption and Permanence Orders

34. All preliminary hearings will call in court and physical attendance will be permitted by the petitioners and any party who has received intimation.
35. All continued preliminary hearings and pre-proof hearings will be conducted remotely in applications where all parties are legally represented.
36. All opposed applications will be case managed by a sheriff. Where evidence is necessary, the sheriff will discuss how that evidence is to be presented on a case by case basis.

³ <http://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/coronavirus-temp-orders/ssdg-orders/ssdg-local-practice-note-15.pdf?sfvrsn=2>

Proceedings under the Children's Hearings (Scotland) Act 2011

37. Practitioners and Litigants should be aware of the terms of Practice Note 14 of 2020. *"Children's Referrals and Related Applications under the Children's Hearings (Scotland) Act 2014"* dated 19 June 2020⁴.

Simple Procedure

38. All existing simple procedure actions will be case managed. In those cases where case management discussions were administratively adjourned, further procedure will be assigned.



Sheriff Principal A Y Anwar

Sheriffdom of South Strathclyde, Dumfries and Galloway

24 August 2020

⁴ <http://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/coronavirus-temp-orders/ssdg-orders/ssdg-local-practice-note-14.pdf?sfvrsn=2>

Appendix 1

Airdrie Sheriff Court	airdriecivil@scotcourts.gov.uk
Ayr Sheriff Court	ayrcivil@scotcourts.gov.uk
Dumfries Sheriff Court	dumfriescivil@scotcourts.gov.uk
Hamilton Sheriff Court	hamiltoncivil@scotcourts.gov.uk
Lanark Sheriff Court	lanarkcivil@scotcourts.gov.uk
Stranraer Sheriff Court	stranraercivil@scotcourts.gov.uk