



**GUIDANCE FOR COURT USERS
SHERIFF AND JUSTICE OF THE PEACE COURTS**

INTRODUCTION

This guidance has been prepared in consultation with the Sheriffs Principal in order to provide national guidance. However, practitioners and litigants should also have regard to further guidance which may be issued locally in any Sheriffdom.

Following the emergence of the Omicron variant, a more transmissible form of the COVID-19 virus, protective measures were announced by the Scottish Government on 14 December 2021. As a result, the business that is conducted physically in the buildings of the Scottish Courts and Tribunals Service will be restricted to reduce footfall. This will support the public health response to COVID-19 in minimising the risk of community transmission and ensure that those who are required to attend physically can do so safely.

The guidance will take effect from 20 December 2021 and will remain in place until further notice. These arrangements will be the subject of regular review.

The purpose of this guidance is to set out arrangements for the disposal of proceedings in the Sheriff and Justice of the Peace Courts, the All Scotland Sheriff Personal Injury Court (ASSPIC) and the Sheriff Appeal Court.

CRIMINAL COURTS

1. Solemn Business

1.1 All solemn trials will call on the dates assigned, using the remote jury centres. There will be no change to scheduled jury sittings.

1.2 First Diets will continue to call on the dates currently assigned. All accused persons should attend in person. Accused persons who are remanded in custody may appear at a First Diet by remote means.

1.3 All sentencing diets, including diets assigned in terms of section 76 of the Criminal Procedure (Scotland) Act 1995 will call on the dates assigned. Accused persons remanded in custody may appear by video link. Those accused persons who are ordained or subject to bail must attend in person unless their attendance has been excused.

2. Custody Courts

2.1 All sheriff courts which currently process custody business, will continue to do so in accordance with the current arrangements in each Sheriffdom.

2.2 The attention of practitioners is drawn to the *“Guidance in relation to Remote Hearings – Attendance by Electronic Means for Custody Cases”*. Practitioners are encouraged to make use of the facility for remote representation wherever possible.

3. Summary Sheriff Court Trial Diets

3.1 Trial diets involving an accused person who is remanded in custody in relation to those proceedings will proceed as scheduled.

3.2 All part heard trials will proceed on the date and at the time assigned.

3.3 In relation to all remaining trials calling on or after 27 December 2021, the sheriff clerk will set a maximum capacity for each court building having regard to the number of witnesses, the number of trials which involve an accused person in custody and the need for physical distancing. The sheriff will consider the number and nature of trials assigned to call in each summary trials court. Where it is identified that the number of witnesses or the number of accused persons exceed the numbers which can be safely accommodated in the court building, the sheriff will identify those trials which require to be adjourned. The sheriff clerk will advise the Crown and the defence of any trial which is to be adjourned five working days prior to the diet. The Crown and defence shall provide the sheriff clerk with unsuitable dates prior to the trial diet, for the purposes of a subsequent adjourned diet. The diet will be adjourned on the morning of the trial without the need for attendance by the accused or his/her agent. The court will intimate the date of the new trial diet to the Crown and defence. All cases proceeding to trial will be published in the court rolls via the SCTS website.

3.4 For the purposes of paragraph 3.3, when identifying the trials which are to proceed the sheriff will give priority, where possible, to:

- (a) those cases which involve allegations of domestic abuse;
- (b) those cases involving vulnerable witnesses;
- (c) those cases with a lengthy or protracted procedural history; and
- (d) the information contained in the PIDM report pertaining to the case.

3.5 All trials calling in the week commencing 20 December 2021 will proceed as programmed. Local arrangements will be made to restrict the number of witness in attendance.

4. Cited Courts/Undertakings

4.1 Cited courts will continue to call as programmed. Accused persons are not required to attend. The court will deal primarily with letter pleas. Practitioners are required to lodge and intimate letter pleas (irrespective of the plea) for cases calling within the cited court. Time limits for continuations may be extended in terms of the provisions of the Coronavirus (Scotland) Act 2020. If personal appearance is required following a plea of guilty, a diet will be fixed and intimated.

4.2 Undertakings will continue to call as programmed. Accused persons are required to attend at the allocated time.

5. Intermediate Diets

5.1 Intermediate diets will call as programmed in accordance with the current arrangements in each Sheriffdom. Practitioners are reminded of the terms of *Practice Note No 4 of 2020* dated 1 December 2020.

5.2 In particular, practitioners and deutes should have regard to paragraph [10] of the Practice Note which sets out the limited circumstances in which a case should require to a call at Intermediate Diet.

6. Remand/Sentencing Courts

6.1 All accused persons are required to attend unless otherwise directed by the court. Accused person in custody may appear by video link.

7. Justice of the Peace Courts

7.1 All trial diets calling between 20 December 2021 and 21 January 2022 will be treated as notional trials diets. Accused persons are required to attend all such diets.

7.2 Intermediate diets will call as programmed in accordance with the current arrangements in each Sheriffdom.

7.3 Cited courts will continue to call as programmed. Accused persons are not required to attend. The court will deal primarily with letter pleas. Practitioners are required to lodge and intimate letter pleas (irrespective of the plea) for cases calling within the cited courts. Time limits for continuations may be extended in terms of the provisions of the Coronavirus (Scotland) Act 2020. If personal appearance is required following a plea of guilty, a diet will be fixed and intimated.

8. CIVIL BUSINESS

8.1 All procedural business will be conducted virtually by default or be dealt with on the basis of written submissions as directed by the Court.

8.2 There will be a presumption that hearings which require the leading of evidence will be conducted virtually. Only in exceptional circumstances, where physical distancing restrictions can be adhered to and where evidence cannot be led remotely or it is considered detrimental and undesirable in all of the circumstances to be led remotely, will the physical presence of witnesses be permitted and accordingly such substantive business may be heard in a hybrid manner – that being part virtual and part in-person.

9. FAIs

9.1 Preliminary Hearings will be conducted virtually by default or be dealt with on the basis of written submissions as directed by the Court.

9.2 There will be a presumption that Fatal Accident Inquiries which require the leading of evidence will be conducted virtually. Only in exceptional circumstances, where physical distancing restrictions can be adhered to and where evidence cannot be led remotely or it is considered detrimental and undesirable in all of the circumstances to be led remotely, will the physical presence of witnesses be permitted and accordingly such substantial business may be heard in a hybrid manner – that being part virtual and part in-person.

10. ASSPIC

10.1 Current arrangements for business in the All Scotland Sheriff Personal Injury Court will continue to apply. Guidance on the resumption of Civil Jury Trials has been issued and is available on the SCTS website. Consolidated Guidance on the conduct of business in ASSPIC is available on the SCTS website.

11. SHERIFF APPEAL COURT

11.1 Current arrangements for appellate business civil and criminal will continue to apply.