

PRELIMINARY HEARINGS – COURT PROGRAMMING PROPOSALS

1. This paper is being issued to provide practitioners and others with an explanation and overview of how it is currently proposed that High Court criminal business will be organised following the introduction of preliminary hearings.

Preliminary hearings

2. Preliminary hearings will be held in Edinburgh and Glasgow initially, and extended to Aberdeen when accommodation work there is completed in the summer of 2005.
3. Hearings (5 per day) will be programmed for either 10.00am or 2.00pm at the above locations. An allowance of one hour will be programmed for each preliminary hearing, whether new or continued. This should be adequate in the vast majority of cases, as in many cases where the accused pleads guilty the preliminary hearing will require to be continued to a further diet for production of reports. The majority of those cases that do not require this step to be taken should be capable of being dealt with within the hour allowed. If a hearing is expected to last longer than one hour, the court should be advised beforehand to allow a decision to be made by the preliminary hearing judge as to best arrangements for the hearing of the case.
4. While it is thought that Edinburgh, Glasgow and Aberdeen will be the main centres for preliminary hearings, it is envisaged that it might be possible to use other sites, particularly in the North of Scotland, for some victim-related preliminary hearing business.

Edinburgh

5. Preliminary hearings will normally be held on three days per week. This will reduce in the summer of 2005 to probably two days with the introduction of preliminary hearings in Aberdeen.

Glasgow

6. One judge will sit each day, Monday to Friday, to deal with preliminary hearings.

Aberdeen

7. When the accommodation at Aberdeen is ready, the majority of preliminary hearings that result from cases arising in the Sheriffdom of Grampian Highland and Islands, plus the Sheriff Court districts of Dundee and Forfar, will be held there. To accommodate this change, there will be a full-time High Court in Aberdeen. Judges will sit there for four weeks at a time.
8. The first week of the period will be dedicated to preliminary hearings, programmed throughout the day in the same way as in Edinburgh and Glasgow.
9. Weeks two, three and part of four will be allocated mostly to trial business with a small number of custody time-limit preliminary hearings programmed into the period dedicated for trial business. The remainder of week four will be used for (a) preliminary diets adjourned from week one and (b) deferred sentences resulting from pleas tendered at the preliminary hearings in week one. It will be left to the discretion of the court to arrange for these cases to call at such times and on such days as thought appropriate during the course of that week. Deferred sentences from trial diets which cannot be accommodated during the four-week period will be dealt with as for any other circuit court.

Trial diets

10. Four trial courts will sit each week in Glasgow, with a fifth on stand-by to deal with 'spill overs', long trials, peaks in business etc. Either two or three courts will sit in Edinburgh to deal with trial business. The sixth court in Glasgow will be used for preliminary hearings.

11. The court will sit on circuit for three-week periods with the exception of the High Courts in Glasgow and Aberdeen which will be permanent courts, and the High Court in Inverness which will continue to have two-week trial periods. The concept of sittings will be replaced by “trial periods”.
12. As regards the number and allocation of trials fixed for each trial period, it will be open to parties to approach the Clerk of Court in advance of the preliminary hearing being called to try to identify a trial diet suitable to all parties and within the statutory time limits. Attempts to accommodate Counsels’ diaries will be made as far as reasonably possible.
13. For the purposes of court programming, there will be three category of trials:-
 - fixed trials – which will be assigned to a specific court with a definite starting date for a prescribed period;
 - dedicated floating trials – which will be assigned to a specific court but may float for a prescribed number of days to accommodate the possibility of the previous trial in that court running over; and
 - floating trials – which will not be dedicated to any court but will float for a prescribed period awaiting the early disposal of the other two categories of trials.

Floating trials will be assigned only to the three primary courts in Edinburgh, Glasgow and Aberdeen and will be managed by the fiscal managers in these three areas.

14. Floating trials will in the main be managed by the Crown, who will, in consultation with the trial judge, decide on the information available to the Advocate Deputes conducting the business, which floating trials should be brought in on any particular date. All floating trials (but normally not the witnesses) will be brought in on the first day of the floating period, for management purposes. Floating trials will be allowed to ‘float’ for a maximum of four days within the period (meaning that the trial could commence on any one of five days). During the floating period the case can be allocated for trial either within the court of citation or transferred to another High Court, preferably sitting within the region. If, after that time, a slot still has not been found within the period, the case will be adjourned to another period as a fixed trial.
15. In Edinburgh and Glasgow, while the fixed trials will be allocated to a specified court, the floating trials will simply be allocated *en bloc* for each week. This will allow for maximum flexibility in finally allocating them to a trial hearing, depending on which of fixed trials do not proceed.
16. The procedures for adjourning deferred sentences etc. will continue as at present. It is planned to programme additional court time in Glasgow High Court for the disposal of deferred sentences following upon pleas of guilty tendered at the preliminary hearing court
17. This method of programming trial business should result in a greater certainty of trials proceeding during the trial period, and also make it much easier to establish at the start of the proceedings the date and time when cases will actually commence during such periods.

Summary of proposals

- Preliminary hearing courts to be held only in Edinburgh and Glasgow, with Aberdeen being added as from mid-summer 2005;
- One preliminary hearing court to take place daily in Glasgow and for three days in Edinburgh until Aberdeen commences. The remaining two week days in Edinburgh can also be used for additional preliminary hearings as required; The first week of the four week period in Aberdeen will be assigned to preliminary hearings.

- Preliminary hearings to be programmed for for 10.00am (3) and 2.00pm (2) at the three locations.
- There will be a limited number of victim-related preliminary hearings held in other circuits outwith Edinburgh Glasgow and Aberdeen.
- Four trial courts to sit each week in Glasgow, with a fifth in reserve. Two or three rial courts to sit in Edinburgh, the remainder allocated to the circuit courts.
- For court-programming purposes, there will be three categories of trial. 1. Fixed diet trials. 2. Dedicated floating trial and 3. Floating trials.
- Floating trials not to be allowed to 'float' for more than four days (meaning that they will be capable of starting on any one of five days).
- Floating trials will be both allocated to and managed by the three main regional High Courts in Edinburgh, Glasgow and Aberdeen.

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