

COURT OF SESSION
GUIDANCE NOTE FOR PRACTITIONERS

22 JUNE 2020 (revised 7 August 2020)

COVID-19

1. This guidance has effect from 22 June 2020 and will remain in effect until further notice. The guidance will be subject to ongoing review.
2. The purpose of this guidance is to facilitate insofar as is possible the efficient disposal of court proceedings in the Court of Session during the ongoing Covid-19 emergency.
3. Schedule 4 Part 1 1 of the Coronavirus (Scotland) Act 2020 enables the use of electronic signature and electronic transmission of court documents. Where a document requires to be signed electronic signature will be accepted in accordance with Schedule 4. Part 1 2 of Schedule 4 of the Act suspends the requirement for physical attendance at court unless the court directs otherwise. Under these provisions all hearings in the Court of Session will be conducted remotely until further notice unless the court directs otherwise.

Inner House

4. The Inner House will sit as an on-line court to hear civil appeals. Substantive hearings will proceed by way of WebEx video conference or written submissions. Procedural hearings will proceed by way of written submissions or where required may be conducted by WebEx video conference.
5. In all cases parties will be contacted directly by Division Clerks to confirm the manner in which hearings will be conducted and make the necessary technical arrangements. All remote hearing access codes will be provided to parties by Division Clerks. The media will be provided with video access and members of the public will be provided with audio only access to appeal hearings on request.

6. Until further notice parties will be required to provide electronic copies of documents currently held only in hard copy by the court. The Division Clerks will advise when such electronic documents are required.
7. All documents lodged in respect of current and new actions in the Inner House and all emails relating to Inner House matters should be sent to innerhouse@scotcourts.gov.uk. This email inbox is monitored during working hours. Urgent matters will be prioritised. Due to reduced staff resource non-urgent matters will take longer than usual to be progressed.

Outer House

8. Procedural hearings in the Outer House will proceed as scheduled. Procedural business is no longer being cancelled administratively and hearings that were cancelled administratively up to 31 July are being re-fixed as required and in discussion with parties. The preferred approach to conducting procedural hearings is by telephone conference call (teleconference). Hearings may proceed by way of written submissions with the agreement of the court. All parties will be contacted by a clerk of court to confirm the manner in which hearings will be conducted and make the necessary technical arrangements. All teleconference joining instructions and access codes will be provided by the clerk of court. The media and members of the public will be provided with access to teleconference hearings on request and where call capacity permits.
9. All documents required for procedural hearings will require to be provided in electronic form. Where hard copy papers have already been lodged for procedural hearings that will call before 30 September parties will be required to provide electronic copies of those documents. Clerks of court will advise where electronic documents are required.
10. No civil jury trials are able to run for the time being. Other substantive hearings, including proofs, in the Outer House may proceed by way of WebEx video conference or “in-person” where physical distancing can be accommodated. Where a party considers that a hearing cannot proceed by WebEx video conference, or cannot entirely be conducted in this manner, that party should advise the court of the reasons for that. It will be a matter for the Lord Ordinary to determine whether the hearing is suitable for a WebEx video conference. If the Lord Ordinary determines that WebEx is not suitable, consideration will be given to whether a physically distanced “in-person” hearing can be accommodated. A substantive business warning list is

contained in the weekly [Rolls of Court](#) published on the SCTS website. Parties whose actions appear on the warning list should contact the Keeper's Office (keepers@scotcourts.gov.uk) to advise of readiness to proceed and suitability for video conferencing. Actions with substantive hearings fixed are being allocated to specific judges for active case management. By Order hearings may be fixed to enable consideration of readiness to proceed and approach to conducting hearings. [Court of Session Practice Note No 1 of 2020](#), Substantive Hearings by Video Conference, provides direction on the management of witness evidence and presentation of productions at remote hearings. Approaches to the management of remote hearings requiring the presentation of productions and witness evidence are still evolving and will be discussed with parties on a case by case basis. Additional guidance may be issued as experience develops.

11. Where substantive hearings are to proceed by way of video conference clerks of court will liaise with parties to make the necessary technical arrangements and provide access codes. The media and public will be provided with access to the remote hearing where appropriate. Productions to be presented at substantive hearings will require to be lodged in electronic form as set out in Practice Note No 1 of 2020. During the transition to remote video conference hearings productions should be lodged in accordance with any instructions issued by the presiding judge.

Appearance at remote hearings

12. Any party attending a court hearing by video conference or teleconference call is expected to maintain equivalent standards of behaviour as if they were attending the Court physically. Parties must ensure a quiet and secure space for their participation in the remote hearing. Parties will be responsible for ensuring that any witnesses cited for substantive hearings are able to appear remotely in accordance with Rule of Court 36.9 (4).
13. As with other court proceedings, mechanical or audio recording of a court hearing conducted by video or teleconference call is not permitted without the consent of the Court.

Walls of Court

14. A weekly [Court Roll](#) is being published on the SCTS website. This details Inner House and Outer House procedural and substantive business expected to call

in the following week. Publication of daily Court Rolls recommenced on Monday 3 August. A Calling list is being published as required. Paragraph 1A(1) of Schedule 4 of the Coronavirus (Scotland) Act 2020 provides for any requirements to intimate documents on the walls of court to be fulfilled through the SCTS website. Petition walling slips are being published as required. A downloadable [electronic walling slip](#) is available on the website. A completed electronic walling slip must be lodged with every petition and will be published on the Court of Session Court Rolls page of the SCTS website.

Mailboxes

15. The CoS Urgent mailbox set up to assist with management of urgent business was closed on 22 June. With effect from start of business on Monday 10 August all correspondence should be emailed to the appropriate generic mailbox as follows:

- CMT Motions – courtofsession.motions@scotcourts.gov.uk
- Fixing of substantive Outer House business (see paragraphs 24-25 below) – keepersfixing@scotcourts.gov.uk
- Keeper's Office – Keepers@scotcourts.gov.uk
- Inner House – innerhouse@scotcourts.gov.uk
- Ordinary, Family and Commercial departments, including group proceedings - gcs@scotcourts.gov.uk
- Personal injury actions - personalinjuries@scotcourts.gov.uk
- Petitions department - petitions@scotcourts.gov.uk

16. These mailboxes are monitored during working hours, however, the staff resource available to deal with non-urgent correspondence continues to be reduced and response times may be longer than normal. With effect from Monday 10 August the commercial mailbox (commercial@scotcourts.gov.uk) should be used only for copying in to urgent commercial motions and for contacting commercial clerks. All other commercial matters should be emailed to gcs@scotcourts.gov.uk. To support the transition to digital processes the following naming convention should be used in the email subject line for all emails sent to any of these mailboxes:

- Case name - Case reference number - Subject matter (e.g. A Smith v B Jones – A908/20 – entering appearance).

Electronic documents

17. All documents lodged in respect of current and new actions in the Court of Session should be submitted by email. This includes new summonses, petitions, appeals, motions and caveats. The following naming convention should be used for all electronic documents to be lodged in process:
 - Case name - Case reference number – Nature of document (e.g. A Smith v B Jones – A908-20 – Defences).
18. For the time being documents should not be lodged and correspondence should not be sent by post wherever this can be avoided. Further guidance on the lodging of hard copy documents will be issued in due course if required.
19. With effect from 5 August all new summonses will be signetted electronically. Summonses lodged in pdf form will have the words 'Certified signetted on [date]' and an electronic signature of the registering admin clerk added to them.
20. Initiating documents for new actions and documents that require to be lodged in accordance with a court timetable or interlocutor will be deemed to have been lodged with the Court on the date when the email with the document attached is received. Initiating documents in any action that is about to become time-barred should be emailed to the relevant mailbox and marked 'urgent'.
21. In respect of productions, only inventories of productions should be lodged by email. With the exception of actions appearing on the substantive hearings warning list principal productions should not be lodged until further notice.
22. Documents in excess of 30MB in size cannot be lodged by email. Wherever possible electronic documents should be kept to less than 30MB. Where this is not possible parties should liaise with the clerk of court dealing with their action to agree a way forward.

Motions

23. Where documents previously lodged in hard copy are required to enable motions to be progressed parties will be contacted for electronic copies. All motions lodged by email should be accompanied by an electronic copy of the most up to date pleadings (i.e. a record where one has previously been lodged, failing which the summons and defences), as well as any document required

for consideration of the motion. The naming conventions set out in paragraphs 16 (emails) and 17 (documents) should be applied.

Fixing

24. The Keeper's Office resumed fixing of proofs and substantive hearings on Monday 6 July. All fixing is done electronically between 10.00 a.m. and 4.00 p.m. on Monday to Friday. A new [electronic fixing form](#) has been added to the Court of Session current business page of the SCTS website. [Guidance](#) on the process for electronic fixing has also been added. A dedicated fixing mailbox has been established. With effect from start of business on Monday 6 July all completed electronic fixing forms should be emailed to keepersfixing@scotcourts.gov.uk.

Fees

25. Where a fee is payable, it will be charged to your Court of Session account. If you do not have a Court of Session account, staff from the Offices of Court will contact you to take payment by debit/credit card over the telephone.

Court of Session

22 June 2020

(Revised 07 August 2020)