

COURT OF SESSION
GUIDANCE NOTE FOR PRACTITIONERS

1 JUNE 2020

COVID-19

1. This guidance has effect from 1 June 2020 and will cease to have effect from 22 June 2020 unless extended. 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.

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. Where hard copy papers have already been lodged in respect of actions that will be heard before 22 June parties will be required to provide electronic copies

of those documents. Division Clerks will advise where 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 significantly reduced staff resource non-urgent matters will take longer than usual to be progressed.

Outer House

8. Most procedural hearings in the Outer House will proceed as scheduled. Some By Order hearings (predominantly those arising from a failure to comply with a step of process, expired sists etc.) will be cancelled administratively and will come out again By Order on a future date. 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 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 22 June 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 in the Outer House may proceed by way of WebEx video conference where appropriate. The suitability of video conferencing should be considered on a case by case basis. 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. The use of video conferencing for Outer House substantive hearings is currently in its infancy. 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. 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 WebEx video 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, the 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. 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. Publication of petition walling slips on the SCTS website will commence in the week beginning 1 June 2020. A link to a downloadable electronic walling slip will be added to the Court of Session [Court Rolls](#) page of the SCTS website for completion and lodging with petitions. A link to published walling slips will be added to the same page when publication commences.

Mailboxes

15. Urgent ordinary, family, personal injury and petition business, including urgent motions (see paragraph 23 below), and all caveats should continue to be emailed to CoSurgent@scotcourts.gov.uk. **Please do not use this email address for non-urgent business.** The CoSurgent mailbox is monitored during working hours and urgent matters will be put before a judge for consideration. Urgent matters relating to child abductions, interim interdicts and other matters on cause shown will continue to be prioritised.
16. All non-urgent ordinary, family, personal injury and petition business should be emailed to the following generic mailboxes:
 - Petitions department - petitions@scotcourts.gov.uk
 - Ordinary and Family departments - gcs@scotcourts.gov.uk
 - Personal injury actions - personalinjuries@scotcourts.gov.uk
17. These mailboxes are monitored during working hours, however, the staff resource available to deal with non-urgent correspondence continues to be limited and response times will be longer than normal. All email subject headings should use the following naming convention: case name - case reference number - subject matter (e.g. A Smith v B Jones – A908/20 – entering appearance).
18. All emails relating to first instance commercial actions should be sent to commercial@scotcourts.gov.uk. This mailbox is monitored during working hours. Urgent matters will be prioritised. As the staff resource available to deal with non-urgent matters continues to be limited response times will be longer than normal.

Electronic documents

19. 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. 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. 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).

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 ordinary, family, personal injury or petition actions that will become time-barred before 22 June should be emailed to CoSurgent@scotcourts.gov.uk
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. Non-urgent motions lodged since 24 March are being processed. Where documents previously lodged in hard copy are required to enable motions to be progressed parties are being contacted for electronic documents. While significant progress has been made in processing the backlog of non-urgent motions it is anticipated that due to ongoing reduced staffing levels, the backlog will take around a further two weeks to clear. Urgent motions should continue to be emailed to the CoSUrgent mailbox until further notice and will continue to be prioritised.
24. 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 17 (emails) and 19 (documents) should be applied.

Cancelled business

25. Outer House business that has been cancelled administratively since 23 March due to the COVID-19 outbreak will be re-fixed in due course. Any parties who had Outer House business cancelled administratively should email Keepers@scotcourts.gov.uk if you have not already done so, to advise that you require this business to be rescheduled in due course. While this inbox is being

monitored you will not receive a response until such time as fixing is able to recommence. While no fixing can be done at present due to lack of staff resource we anticipate that an update on the resumption of fixing will be issued during the currency of this guidance note.

Fees

26. 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

1 June 2020