



SHERIFF APPEAL COURT
GUIDANCE FOR PRACTITIONERS
APPEARING IN THE BAIL APPEAL COURT

[1] The Bail Appeal Court currently sits in Court No 1 at Edinburgh Sheriff Court (ESC). Due to necessary changes in the deployment of appeal sheriffs and technology introduced as a response to the current COVID 19 emergency the court adopted a new operating model on 22 June 2020 with the Appeal Sheriff appearing in a virtual format. As from the week commencing Monday 17 August 2020 the Court will move to a fully virtual format, sitting each weekday morning at 9am and all participants will join the proceedings by WebEx video-conferencing, which has already been deployed successfully in other Scottish courts, including the Sheriff Appeal Court.

[2] An important consequence of the new procedure is that counsel and/or solicitors will be admitted to the virtual court by the clerk. In order for the court to operate smoothly Justiciary Office will finalise the running order for the court not later than 2 pm on the business day prior to the court. A draft roll will be issued to practitioners in listed cases by 1 pm on the second business day prior to the court. Solicitors will require to confirm to Justiciary Office at bailappealreport@scotcourts.gov.uk by 12 noon on the business day prior to the court sitting that they are acting in particular cases, which counsel or solicitor will be appearing on their behalf and whether an instructing solicitor or agent will be attending and, if so, the name of that person. They must at the same time provide an email address at which any such counsel, solicitor or agent can be contacted directly on the day of the hearing, should that be

necessary. They should also advise Justiciary Office of any particular considerations which may be relevant to the running order of the Court. At the time of publication of the final roll Justiciary Office will also communicate the final running order to solicitors and Crown Office.

[3] A further important consequence of the Appeal Sheriff and all parties appearing from a remote location involves the preparation of electronic papers for each appeal. All papers, including bail reports and any relevant previous convictions will be uploaded onto a digital folder and transmitted to the bail sheriff before close of business the day prior to the Court. All documents to which parties propose to refer to must be lodged in electronic format attached to an email addressed to this mailbox bailappealreport@scotcourts.gov.uk no later than 4pm on the day prior to the hearing. The email must be headed BAIL APPEAL (along with the date of the hearing) including the name of the case together with both the court and PF reference. The email should be copied to Crown Office (email address bailtrainees@copfs.gov.uk) or as the case may be the Appellant.

[4] Those intending to attend Bail Appeal hearings and whose attendance has been properly intimated will require to join the proceedings by WebEx or, if that is not possible, dial in and enter the virtual court lobby not later than 0845 on the morning of the court. They will require previously to have ensured that the equipment that they are using, such as a laptop, mobile phone, tablet etc is in working order and that WebEx can be accessed on it, that there is sufficient charge in the device and a charging socket available if necessary. Guidance on joining the hearing and testing of equipment will be provided to those intimating an intention to participate. It is important that they have tested their equipment and connectivity at least one day before their first participation.

[5] The virtual Bail Appeal Court is a court, sitting in chambers and no-one may be present or able to hear the proceedings without the permission of the court. Recording of the proceedings is prohibited. Participants must be appropriately dressed for a court hearing, ensure that they are connecting to the court from a suitably private location and that there will be no risk of disturbance to the running of the proceedings. When participants are not speaking they should mute their microphone to avoid interference or feedback.

[6] Once they have joined the meeting for the bail appeal hearing, participants will be held in the virtual lobby by the clerk of court until the cases in which they have intimated an interest are called. Once their cases have concluded, counsel and solicitors are responsible for ensuring that they leave the hearing and close down WebEx.

[7] Practitioners should note that, unlike the pre-COVID-19 Bail Appeal Court, under the virtual court procedure the Appeal Sheriff will, in advance of the hearing, have seen all case papers that have been timeously lodged. It is therefore unnecessary to read out passages from the sheriff's report or otherwise, but the Appeal Sheriff should be directed to any particular matters which the practitioner wishes to address.

[8] This guidance will have effect from Thursday 13 August 2020 as regards the issue of draft court rolls and preparation of court running order and from Monday 17 August 2020 as regards Bail Appeal hearings and will continue to have effect until further notice.

Mhairi M Stephen

Sheriff Principal M M Stephen QC
President of the Sheriff Appeal Court

5 August 2020