

Sheriffdom of Grampian, Highland & Islands**Coronavirus****Order in respect of Summary Criminal Business – Virtual Trials****No 1 of 2021**

[1] The purpose of this Practice Note is for the provision of virtual trials in domestic abuse summary proceedings in Aberdeen sheriff court, to allow additional trials to those otherwise allowed within the restrictions imposed from time to time during the remainder of the Coronavirus pandemic and to allow additional trials over and above normal levels of business within the traditional court programme to clear the backlog once the pandemic is over.

[2] Without prejudice to the terms of Article 2(5) of Part 1 of Schedule 4 of the Coronavirus (Scotland) Act 2020, (prejudice to the fairness of proceedings or otherwise contrary to the interests of justice), and subject to the provisions following hereon, all trials in domestic abuse summary proceedings in Aberdeen Sheriff Court will proceed by way of a virtual trial.

[3] In the event that both the Crown and the defence are agreed at the first calling that the case is not suitable for a virtual trial, the court will fix a trial diet with the physical attendance of the participants.

[4] In the event that at the first calling the Crown or the defence alone consider that the case is not suitable for a virtual trial, the court will determine the matter.

[5] In the event that the accused is not represented when a plea of not guilty is tendered, the Court will ensure, having regard to the terms of sections 288DC and 288D of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”), that a solicitor is appointed before a trial is fixed.

[6] In the event that following the fixing of a virtual trial diet the Crown and the defence are agreed that the case is no longer suitable for a virtual trial, on a joint incidental application in terms of Section 137 of the 1995 Act or at the intermediate diet, whichever is earlier, the virtual trial diet will be administratively discharged and a further trial diet will be fixed with the physical attendance of the participants (or otherwise as the parties are agreed and the court decides).

[7] In the event that following the fixing of a virtual trial diet the Crown or the defence alone consider that the case is no longer suitable for a virtual trial, at any calling of the case or at a hearing following upon an application in terms of Section 137 (4) or (5) of the 1995 Act, as the case may be, the court will determine the matter.

[8] For cases where a trial diet or intermediate diet has already been administratively discharged or the intermediate diet has taken place and the case has been continued to an existing trial diet and the Crown or the defence wish to proceed by way of a virtual trial, the following procedure will apply:

(i) where the Crown and the defence agree that a virtual trial diet be fixed, a joint application in terms of said Section 137 will be lodged and a trial diet will be administratively fixed;

(ii) where the Crown or the defence is opposed to the fixing of a virtual trial diet, the Crown or the defence, as the case may be, will lodge an application in terms of said Section 137(4) or (5) and a hearing will be fixed before the court to determine the matter.

[9] Only the accused and, if so advised, the defence agent will attend the court for the virtual trial, where the accused's attendance and appearance before the court will be supervised by court officers.

[10] Where the Court requires to determine a matter in terms of paragraph 4, 7 or 9 hereof, the case will call in front of the designated sheriff and if necessary be continued for that purpose.

[11] For the avoidance of doubt, the detailed provisions for the preparations required for virtual trials during the previous pilot, all as set out the Lord Justice General's Practice Note No 3 of 2020, will not apply. It will be for the parties to determine the preparations which are required for a virtual trial diet, but in respect of which assistance will be available from the sheriff clerk's office and the Digital Services Unit of the Scottish Courts and Tribunals Service.

Sheriff Principal D C W Pyle

11 March 2021