



CORONAVIRUS
EDINBURGH SHERIFF COURT
GUIDANCE IN RESPECT OF FAMILY COURT BUSINESS

This guidance sets out the arrangements for the management of family court business in Edinburgh Sheriff Court with immediate effect.

The family court sheriffs met on Friday 20 March to discuss how best to progress family business during the current pandemic & thought that it would be helpful to provide guidance with the Sheriff Principal's approval. We have agreed on some general principles & three specific areas which will require to be targeted as follows:

1. In respect of proof weeks between now & the end of May 2020, agents are asked to review the proof allocation. Individual sheriffs will also review the cases due to call in his or her sitting. In line with wider guidance, the norm will be that proofs will be discharged unless agents contact the court by 4pm on Wednesday 25 March to set out exceptional circumstances. Any such submission should be mindful that the court may not be able to allow the proof to proceed having regard to considerably reduced staffing, reduced shrieval availability, availability of witnesses & technology & wider public health concerns. In addition to setting out exceptional circumstances, agents must address how it is proposed that evidence will be led and the practicality of such arrangements. Agents are encouraged to discuss matters in detail with the other party's agent before making such a submission. Once the court has the submission, a telephone conference can be arranged with the sheriff to consider the submission. Please be mindful of the unprecedented nature of the current public health concerns when seeking to argue exceptional circumstances.

2. Week beginning 23 March. At present, cases will call in the family court as normal although new procedures may emerge towards the end of the week. Again agents are

encouraged to consider whether a case must call or whether it can be discharged administratively. Brevity & co-operation will be encouraged. Agents are asked to approach cases realistically having regard to restrictions on available diets in the coming months, the very limited ability to fact find & test allegations & the fact that appointment of child welfare reporters can only take place in urgent circumstances at present. Where child welfare hearings have been fixed to monitor contact, agents will be discouraged from seeking further such hearings in the coming months or from seeking interim variations unless there are significant child welfare concerns or it is of necessity in the current public health climate.

3. From 23 March, a duty sheriff will triage cases. This will include consideration of all child welfare hearings from 30 March to 31 May inclusive, with a view to discharging them *ex proprio motu* or contacting parties in cases which appear urgent to explore whether the hearing should still take place (for example, cases where the purpose of the hearing is to monitor contact which appears to be working well, may be discharged). Clearly, if urgent issues arise in those or any other actions, such issues can be brought to the court's attention by motion. Any such motion should set out fully & carefully the urgency. Discussion with the other party's agent should take place in advance to seek resolution failing which the duty sheriff will consider the most appropriate way in which to hear representations which is likely to be by written submissions & telephone conference.

In relation to the discharge of proof diets, please be mindful that the discharge of a proof does not preclude continuing negotiations & any joint minutes will be processed. Every effort should be made to settle actions where possible, especially in light of the pressure on future diets post-pandemic.

Finally, please be aware that the sheriff clerk's office is under considerable pressure. This is exacerbated by repeated telephone calls & emails asking about individual cases. We do appreciate that there has been uncertainty about how business will be managed but hope that this provides clarity.

Family Sheriffs

20 March 2020