



## **SHERIFFDOM OF LOTHIAN AND BORDERS**

### **COVID-19**

### **GUIDANCE IN RESPECT OF CIVIL BUSINESS**

#### **Introduction**

[1] The purpose of this guidance is to facilitate the efficient disposal of categories of civil business in the courts within Lothian and Borders during the current COVID19 emergency. This guidance has effect from 22 June 2020 and supersedes the guidance issued on 30 April 2020.

[2] The UK and Scottish Government measures to address COVID19 must be complied with. The court continues to operate with reduced staff resource to support both civil and criminal business mainly due to the impact of social distancing. The Coronavirus (Scotland) Act 2020 ("the 2020 Act") suspends the requirement for physical attendance at court unless the court directs otherwise.

[3] Schedule 4 Part 1.1 of the 2020 Act 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.

[4] All hearings will be conducted remotely until further notice.

#### **Urgent business**

[5] Urgent ordinary, family, adoption/permanence, personal injury, commercial, insolvency and AWI business including urgent motions and all caveats for the courts within

Lothian and Borders will continue to be prioritised. Urgent business should be directed to the court having jurisdiction. All courts in the Sheriffdom have now reopened.

[6] The urgent [L&B@scotcourts.gov.uk](mailto:L&B@scotcourts.gov.uk) mailbox will no longer be active and will not be monitored. Practitioners should use the appropriate mailbox from the list in Appendix 1. If the matter is urgent that should be clearly highlighted in the title of the email which should also give the case name and court reference if one has been allocated already. Urgent matters relating to children, interim interdicts and other urgent business such as imminent time bar writs or on cause shown will be prioritised.

[7] Do not email any urgent business or motion to multiple email addresses. This will simply slow down the service that the court can provide by inhibiting the staff from focussing on the truly urgent business.

### **Non-urgent civil business**

[8] All **non-urgent** ordinary, family, personal injury, commercial, AWI, children's referral and simple/summary cause business intended for Edinburgh Sheriff Court should be emailed to the appropriate mailbox from the list in Appendix 1. Simple procedure applications will only be considered at a later stage in the phased return to business and must be lodged by Civil Online via the portal. Any non-urgent matters intended for Livingston or Borders Courts should be directed to the respective home courts via their local mailboxes (see Appendix 1).

### **Civil Business**

[9] Civil business should be lodged and will be processed in the local court having jurisdiction. From Monday 22 June 2020 restart applications in terms of the "Guidance in respect of the progressing of certain categories of civil business in the Sheriff Courts" will no longer be accepted.

### **Civil Hearings**

[10] Procedural and motion hearings will be conducted by telephone conference call but may proceed by way of written submissions with the agreement of the court. Parties will be advised by the clerk of court by email of the date and time of the teleconference and will

provide the joining arrangements. The media will be provided access to teleconference hearings on request.

[11] On receipt of the joining instructions, parties must provide:

- (i) Details of participants and
- (ii) Electronic copies of any documents to be referred to or relied on.

It is essential that these be sent to the court not less than 48 hours before the hearing. Failure to comply with this requirement may lead to the hearing being postponed and/or will have consequences in relation to expenses.

### **Debates**

[12] Debates will proceed by electronic means which will usually be conference call unless the court has agreed to decide the matter based on written submissions.

### **Proofs and Substantive Hearings**

[13] The court is reviewing how civil proofs can proceed including the use of Webex video conference technology for procedural hearings and proof. Parties to actions where a proof had been fixed for a date between 17 March and 19 June 2020 should carefully review preparedness for proof; the availability of witnesses and the suitability of the case for proof by video conference or, exceptionally, if it must proceed in the conventional manner in a courtroom with the physical presence of witnesses. Parties should contact the court by email after reviewing. A joint approach to the court is preferred even if parties differ as to the conclusion they reach. Actions in this category will be allocated to sheriffs for case management. Procedural hearings may be fixed to allow consideration of matters including preparedness for proof and how the proof is to be conducted.

### **Remote Hearings**

[14] Any party attending a court hearing by way of video or teleconference 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. As with other court proceedings the recording of a court hearing conducted by video or teleconference is not permitted without the consent of the court.

## **Electronic Submission of Documents**

[15] All documents in relation to new and existing cases should be lodged electronically by email to the appropriate email address set out in Appendix 1. Please note that electronic submission of documents in simple procedure cases should be made via civil online and not sent by email.

[16] Where the rules of court require specific documents be lodged with an initiating writ or defences, such documents should also be sent to the court in hard copy by post with a covering letter confirming that they have also been lodged electronically.

[17] With the exception of those documents referred to in the previous paragraph, only in exceptional circumstances which must be clearly set out in a covering letter or where a sheriff so directs in advance of a hearing should documents be lodged in hard copy. If a party to an action wishes to lodge productions only the inventory of documents should be lodged. The hard copy documents should not be lodged with the court until further notice.

[18] The following naming convention should be used for the subject line of all emails submitting electronic documents to be lodged in process; case name – case reference number – nature of document (eg A Smith v B Jones – A900-20 – Defences).

[19] Any document lodged electronically will be deemed to have been lodged with the court on the day the email is received. An automated acknowledgment of receipt will be issued.

[20] Documents submitted electronically should be by PDF and each document must not exceed 5mb in size.

## **Social Work Referrals**

[21] Further guidance will be issued in respect of proceedings under the Children's Hearings (Scotland) Act 2011.

## **Summary Cause**

[22] Summary cause actions proceeding under chapter 30 of the Summary Cause Rules 2002 will be sisted until further notice. Other miscellaneous summary cause actions will be reviewed and progressed in phase 3 no earlier than 31 July 2020.

## **Simple Procedure Applications**

[23] All current simple procedure case management discussions and hearings will be adjourned and the case paused. The court will not consider applications to restart until the next phase no earlier than 31 July 2020.

[24] Any new simple procedure applications must be lodged via the civil online portal but will not be processed until 31 July 2020 at the earliest.

## **All Scotland Sheriff Personal Injury Court (ASSPIC)**

[25] Separate guidance remains in place for ASSPIC and this should be referred to. That guidance is subject to specific review and updates will be provided.

## **Local Personal Injury Actions**

[26] These actions fall outwith ASSPIC although practitioners may wish to have regard to guidance issued for ASSPIC in relation to proofs from 3 August 2020. Local PI proofs which were due to proceed to proof between 17 March and 31 July 2020 will be allocated new proof dates in January and February 2021.

## **Out of hours urgent business**

[27] Normal out of hours provision will continue to apply.

*Mhairi M Stephen*

**Sheriff Principal of Lothian and Borders**

**19 June 2020**

## APPENDIX 1

### Edinburgh Sheriff Court civil mailboxes

General Enquiries:	<a href="mailto:edinburgh@scotcourts.gov.uk"><u>edinburgh@scotcourts.gov.uk</u></a>
Personal Injury:	<a href="mailto:edinburghpersonalinjury@scotcourts.gov.uk"><u>edinburghpersonalinjury@scotcourts.gov.uk</u></a>
AWI:	<a href="mailto:edinburghawi@scotcourts.gov.uk"><u>edinburghawi@scotcourts.gov.uk</u></a>
Commissary:	<a href="mailto:CRU@scotcourts.gov.uk"><u>CRU@scotcourts.gov.uk</u></a>
Commercial:	<a href="mailto:edinburghcommercial@scotcourts.gov.uk"><u>edinburghcommercial@scotcourts.gov.uk</u></a>
Family:	<a href="mailto:edinburghfamily@scotcourts.gov.uk"><u>edinburghfamily@scotcourts.gov.uk</u></a>
Children's Referrals:	<a href="mailto:edinburghreferrals@scotcourts.gov.uk"><u>edinburghreferrals@scotcourts.gov.uk</u></a>
Ordinary Cause:	<a href="mailto:edinburghordinary@scotcourts.gov.uk"><u>edinburghordinary@scotcourts.gov.uk</u></a>
Simple Procedure/Summary Cause:	<a href="mailto:edinburghsummcause@scotcourts.gov.uk"><u>edinburghsummcause@scotcourts.gov.uk</u></a>

Livingston Sheriff & JP Court – [Livingston@scotcourts.gov.uk](mailto:Livingston@scotcourts.gov.uk)

Selkirk Sheriff & JP Court – [Selkirk@scotcourts.gov.uk](mailto:Selkirk@scotcourts.gov.uk)

Jedburgh Sheriff & JP Court – [Jedburgh@scotcourts.gov.uk](mailto:Jedburgh@scotcourts.gov.uk)