

COURT OF SESSION

PRACTICE NOTE

No 3 of 2010

Digital recording of proceedings

1. The purpose of this practice note is to provide guidance to presiding judges, and to legal representatives and other court users, on the proper use of the equipment installed in the courtroom to support digital recording of proceedings, and (where installed) sound enhancement and hearing impaired systems. It should be noted that, where there is no requirement to record proceedings, the sound enhancement system and assistance for the hearing impaired part of the system (where installed) will still be in operation. Such recording and other systems are designed to facilitate the administration of justice by improving the quality of recording and of audibility in court.
2. With the exception of the Bench microphones for the digital recording and the sound enhancement / hearing impaired systems, which, through a single push button on the Bench, have a press-to-mute facility to permit private conversation between judge and clerk of court, all other microphones are live and cannot be unplugged or muted. As “evidence at a proof” and “proceedings at a jury trial” must by rules (RCS 36.11(1) and 37.5A(1) respectively) all be recorded, the use of this facility should be rare.
3. It is recognised that on occasion legal representatives wish to engage in private conversations at the Bar and wish to exclude completely the possibility of such conversations being overheard in the courtroom. It should be noted that testing has demonstrated that softly spoken conversations undertaken away from the direct vicinity of microphones are unlikely to be

picked up by either of the recording or sound enhancement systems. That can be achieved by those conversing turning away from the microphones. In the event of any concern about a particular conversation being overheard, it is open to the presiding judge to interrupt the proceedings and direct the clerk to turn off the sound enhancement system. Such interruption is unlikely to be necessary.

4. Even in proceedings that do not require to be recorded, sound enhancement systems should not routinely be turned off when the court is in session since the general public and persons with impaired hearing will not be able to hear proceedings.
5. It is important that court users speak directly towards a microphone when addressing the court. Most of the microphones installed in the courtrooms can be moved to a certain extent; so court users may position the microphone closer to them if required.
6. Apart from the minor position adjustments noted above, legal representatives and other court users should not move or interfere with the microphones or association equipment, and should not obscure microphones with books or file binders, since this is likely to affect adversely the recording of court proceedings.
7. All participants in court cases should speak audibly, clearly and insofar as it is practicable in the direction of the microphones to ensure that all parties can hear proceedings and to facilitate clarity of recording.

8. If a transcript is required under RCS 36.11(8) or 37.5A(8) details of available transcribers can be provided by the Offices of the Court of Session.

Lord President

Edinburgh

November 2010