

COURT OF SESSION

COURT USER GUIDANCE

CIVIL JURY TRIALS DURING THE COVID-19 PANDEMIC

DELIVERY APPROACH

1. During the Coronavirus pandemic Court of Session civil jury trials will be scheduled on the understanding that should a civil jury trial proceed, the court will sit in Lawnmarket and the jury will be located remotely in Screen Room 5 at the Remote Jury Centre (RJC) at Fort Kinnaird.

Approval of Issue

2. An issue or counter-issue lodged for approval for civil jury trial must be lodged in MS Word format to allow for electronic authentication should the motion be granted.
3. Where an issue or counter-issue is approved for civil jury trial a direction under Schedule 4 of the Coronavirus (Scotland) Act 2020 directing jurors to appear by electronic means will be issued in the interlocutor approving the issue.

Fixing of Civil Jury Trial Dates

4. Once an issue has been approved an [e-fixing form](#) must be submitted to keepersfixing@scotcourts.gov.uk to request a date for civil jury trial. First dates offered will be at least 12 weeks ahead to allow requests for precepts to be lodged.
5. Only one civil jury trial will be scheduled on any given week in order to minimise the impact on the Lawnmarket criminal trial diary.

Civil Jury Precepts

6. Requests for a jury precept must be emailed to the relevant General Department mailbox (determined by the type of action – personalinjuries@scotcourts.gov.uk or gcs@scotcourts.gov.uk).

Jury Citations

7. All civil jurors will be cited to attend at the Remote Jury Centre at Fort Kinnaird. Covid-19 citations, Jury Service – Information Sheet (see Annex A) and '[Jury Trials - Your Safety is our Priority](#)' (v1.2) leaflet will be issued by the Offices of the Court of Session to all jurors on the list of assize.

8. Excusal requests will be monitored and managed by the Offices of the Court of Session. Should the civil jury trial settle in advance of the scheduled date the Offices of Court will notify all cited jurors who have not already been excused.

Civil Jury Trial Case Management Issues

9. Schedule 4, Part 1 section 2 (2) of the [Coronavirus \(Scotland\) Act 2020](#) requires physical attendance at trial diets unless the court directs otherwise. On lodging lists of witnesses in accordance with the Rules of Court parties must indicate if they intend to lodge a motion to ask the court to issue a direction to disapply the requirement for physical attendance in respect of any particular witness.
10. Schedule 4, Part 1 section 3 (4)(a) of the Act requires a direction issued by the court excusing attendance in person to set out how the person is to appear by electronic means. An early By Order is therefore likely to be required to enable witness attendance issues to be addressed.
11. A By Order hearing will be assigned during the week preceding the trial date so that the court can hear parties on any preliminary matters to mitigate the possibility of delay on day 1 of the trial.

Civil Jury Trial Procedure

12. All cited jurors who are not excused will attend at the RJC at Fort Kinnaird on the first day of the scheduled civil jury trial. Arrival time will be 9.15 am.
13. Jurors will be checked in by Reception staff using the list of assize and directed to Screen 5 (maximum capacity with distancing - 45). On entry to Screen 5 jurors will be double checked by the Jury Attendant against the list of Assize and seated according to physical distancing guidelines.
14. Designated Juror seat numbers 1 to 12 will be left vacant. Juror packs will be placed on seats 1-12.
15. The Jury Attendant will advise the Clerk of Court by phone when all potential jurors are in attendance and advise of any absentees.
16. One camera (camera 16) will be switched on so that the court has a broad view of Screen 5. It will not be possible to see individual jurors on this view – some will be seated behind the camera and others will be too far away from the camera to be clearly in view.
17. The Clerk of Court will deliver their jury speech from the courtroom to Screen 5 via the audio/visual link. **Note: Individual Jurors will not be clearly visible to the court at this time.**

18. The Clerk will advise jurors to raise their hand if they wish to request excusal and not discuss the reasons with any of the other potential jurors.
19. The Jury Attendant will escort those seeking excusal to a private room to speak to the Clerk of Court either over the telephone or via video link as appropriate.
20. Once excusal requests have been dealt with and when the court is ready, the Clerk of Court will proceed to ballot, selecting 12 jurors by drawing slips from the ballot bowl in turn and calling out the citation number and name on the slip.
21. The Jury Attendant will direct each juror whose name is called to seats 1-12 in order. **Once they take their numbered seat the juror will become clearly visible on screen in the court.**
22. Any peremptory challenge must be indicated when the juror takes their seat by counsel saying 'need not serve' or similar. The Clerk of Court will then say to the person challenged '[NAME], you need not serve as a juror. You may leave the court'.
23. Where a peremptory challenge is made the numbered seat will be wiped down and if required the juror pack will be replaced by the Jury Attendant before a replacement juror is balloted.
24. Once 12 jury members have been balloted, the Clerk of Court will read out the issue (and any counter-issue) and ask jurors if they have any personal interest to declare.
25. In the event of a personal interest being declared it may be necessary to excuse that juror and select another. Any excused juror will be asked to leave the court and their numbered seat will be wiped down and the juror pack replaced by the Jury Attendant.
26. The Clerk will administer the oath/affirmation.
27. The Judge will address the jury on impartiality in their Jury Introduction.
28. There will be a 'Hats and coats' adjournment - any juror for whom an impartiality issue has arisen will indicate to the Jury Attendant that they require to speak to the Clerk of Court. The Jury Attendant will escort those seeking excusal to a private room to speak to the Clerk of Court via telephone or video link as appropriate.
29. The Court will reconvene and substitute any juror as required by drawing a replacement name from the ballot bowl. The numbered jury seat will be wiped

down and the juror pack replaced by the Jury Attendant if any substitute is required.

30. The Judge will thank and excuse the unempanelled jurors and make introductory remarks, including any Covid related remarks.

31. The trial will commence with the opening speech.

In-trial Issues

32. Productions will require to be displayed digitally using the digital evidence presentation stack within the court room. Productions will be visible to jurors via the screen at the RJC.

33. Where the court has issued a direction disapplying the requirement for personal attendance of a witness the means by which that witness will appear will have been agreed with the court in advance of the trial. Any necessary technical arrangements must be made in advance of the date of appearance in collaboration with the clerk of court.

NOTE

34. This approach has been devised through discussion between Supreme Courts staff and judiciary, and with RJC administrative and technical staff. Shortly before the start date of the first civil jury trial to proceed while the Coronavirus pandemic remains ongoing, a mock balloting exercise will be arranged to test the procedure. This will seek to involve the judge to whom the civil jury trial is expected to be allocated and the relevant clerk of court. Mock parties will attend at Lawnmarket and mock jurors will attend at Screen 5 at the RJC. Parties will be invited to attend the exercise should they wish.

ANNEX A – AMENDED CIVIL JUROR CITATION

Citation Number: 01
To: [NAME]
[Address Line 1]
[Address line 2]
[Postcode]

Scottish Courts
and Tribunals Service



Name of case: [Insert Name]
Place: **SCTS Jury Centre**
Odeon Cinema Complex
Fort Kinnaird Retail Park
Edinburgh
EH15 3HP

Date: [Insert Date]

Time: **09:15**

Enquiries: **0131 225 2595**

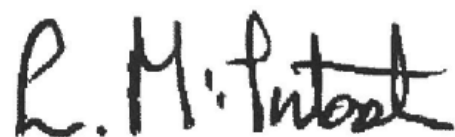
Excusals: courtofsessionjurors@scotcourts.gov.uk

- You have been selected for Jury Service
- Your name was randomly selected from the electoral register
- You may be required to attend over several days
- If you are over 71, you have a right to be excused from Jury Service. If you wish to be excused please see the excusal section overleaf
- If you have any special access or support requirements you should contact us as soon as possible. Please consult the Guide to Jury Service (See overleaf)
- If you fail to attend you may be liable to a fine of up to £1,000

You are cited to attend personally on the date and at the time and place stated above, and on such succeeding days as may be necessary to serve, if required, as a juror. If you fail to attend, you will be liable to the penalty prescribed by Law.

PLEASE TURN OVER FOR IMPORTANT INFORMATION ABOUT JURY SERVICE

PLEASE BRING THIS CITATION WITH YOU WHEN YOU ATTEND



Sheriff Clerk

WHAT I SHOULD DO NOW

Due to changes in our jury citation and selection process due to COVID-19, please read and carefully follow the instructions below:

RESPOND to the jury citation within 7 days. Please respond as soon as possible, even if seeking excusal. **If you fail to respond you may receive a reminder letter.** You can respond by:

Emailing courtofsessionsjurors@scotcourts.gov.uk or telephoning 0131 225 2595

- Please provide your full name, citation number and the date you are cited to attend court, all of this information is found on the front page of your jury citation.
- Please provide at least **one contact telephone number and an email address (if possible).**

Information about measures to ensure your safety during the COVID-19 pandemic

Enclosed is a leaflet "*Your Safety Is Our Priority*" outlining the measures SCTS has put in place that ensures the safety of those attending for jury trials, and what is expected of you. **Please read this carefully.**

Also enclosed is a *Jury Service Information Sheet*. This sets out what you should expect when you attend for jury service. It describes **the new processes we have adopted when selecting a jury** and the action we have taken to **accommodate physical distancing** requirements set down by public health guidance. **Please also read this carefully.**

When do I attend?

After 5pm the Friday before you have been cited for jury service, you should telephone the jurors attendance update line. It is important that you do this, you will hear a recorded message which will give you up to date information regarding your attendance.

JURORS ATTENDANCE UPDATE LINE: 0800 731 9060

If you are unable to contact the update line, you must contact 0131 225 2595 at 09:00am the next working day.

Excusal from jury service

If you wish to apply for exemption or excusal from jury service, please read both the ‘**Guide to Eligibility and Excusal**’ at www.scotcourts.gov.uk/coming-to-court/jurors and the juror section in the enclosed leaflet “*Your Safety Is Our Priority*”. If you fall within one of the categories noted in the guide or excusal section of the leaflet, please email us at courtofsessionsjurors@scotcourts.gov.uk. Please provide a supporting document as to why you are seeking excusal, some examples are: a doctor’s letter, holiday booking confirmation or a letter from your employer. Please also include your full name, citation number and the date you are cited to attend court, all of this information is found on the front page of your jury citation. **Please note at this time we are not able to accept postal applications for excusal.** Photographs from your phone or scanned documents will be accepted as evidence for excusal where requests are made by email.

READ the following guidance leaflets carefully before attending court:

- Guide to Jury Service
- Guide to Jury Service Eligibility & Applying for Excusal
- Guide to applying for Expenses for Jury Service
- Jury Expenses Claim Form
- Jury Service Certificate of Loss of Earnings

These can be found at
www.scotcourts.gov.uk/coming-to-court/jurors.
If you do not have access to the internet, **please let us know by calling 0131 225 2595** and we will arrange for the documents to be sent to you.

Thank you for contributing to jury service in Scotland

JURY SERVICE - INFORMATION SHEET FOR CIVIL JURY TRIALS

This is an information sheet for Jurors who have been cited for jury service on a civil jury trial. It sets out what additional steps Scottish Courts and Tribunals Service (SCTS) has taken to ensure your safety.

1. Jury Service

You have been cited to attend at an SCTS Jury Centre. A jury centre is a facility that allows SCTS to provide accommodation for jurors, which is both comfortable and at which we can ensure physical distancing. Using state of the art secure audio-visual technology, the jury centre will link directly to the courtroom, allowing jurors to see and hear proceedings.

In the courtroom a live image of the jurors will be shown. There will be the ability for the jury to communicate with the courtroom. SCTS staff will be on site to support jurors at the jury centre throughout their service.

2. Jury Attendance Update line

After 5pm the day before you have been cited to attend, you should call the jury attendance update line number. It is important that you call this number as it will provide you with up to date information about your jury service. You may be asked to call the jury attendance update number several times throughout the week, so you should listen carefully to the message.

3. The Ballot Procedure

The ballot is the approach the Court must take to choose a jury for trial. We have developed a new procedure which means **jurors will be balloted at the jury centre.**

The ballot will take place on the day that you have been cited for. It is important that you arrive at the jury centre at the time stated on your citation. If for any reason you think your name should not be entered into the ballot, please let the jury minder at the jury centre know. The jury minder will contact the clerk of court and you will be asked to have a conversation with the clerk of court, in private, to discuss the reason why you think your name should not be entered into the ballot. The clerk of court will carefully consider the reason you give and will advise you whether you can be excused or not. For further information on applying for excusal or exemption from jury service, please read the '[Guide to Jury Service – Eligibility and Applying for Excusal](#)' document on the SCTS website and the '[Jury Trials – Your Safety is our Priority](#)' leaflet.

The ballot will be conducted by the clerk of court before the judge and counsel/solicitors for parties to the action. The clerk will select 12 names from the ballot bowl to be the jury and a further number of names to be substitute jurors,

should they be required. If your name is selected in the ballot you should move to the seat assigned to your juror number in the jury centre.

During the selection of the jury, each party in the case may object to up to four selected jurors without giving a reason and may object to further selected jurors if an assigned reason is given. Objections may be made for many reasons; for instance, to keep a balance between male and female jurors, or to ensure that various age groups are represented. You should not be worried or offended if your name is objected to.

4. SCTS Jury Centre

In line with Government guidance and following detailed risk assessments, we have implemented a number of safety controls at the Jury Centre.

We have introduced measures in all areas, putting in place arrangements to maintain physical distancing. The measures include:

- Sanitising stations placed at entry/exit points.
- Systems to manage the flow of people, such as floor and wall markings, public seating marked for use or sealed off/ removed.
- Advising those entering or leaving the jury room to avoid cross-traffic.

In addition to floor markings, posters are in place throughout the Jury Centre reminding all jurors and SCTS staff of the need to observe physical distancing and to wash hands thoroughly and regularly. Robust and frequent cleaning measures are in place to ensure the Jury Centre is clean throughout the day.

The Jury Centre ventilation systems use air handling units to extract stale air and replace with a supply of clean, fresh and filtered air.

5. On Arrival

Upon arrival at the Jury Centre you will be asked to observe the following:

- To keep physically distanced, in line with current government guidelines, between yourself and others while queuing and on entering the building.
- A security officer or a member of SCTS staff will invite you to enter the building when appropriate to ensure physical distancing is adhered to. You will be asked to confirm that you do not have any symptoms of coronavirus - such as a high temperature, fever, continuous cough or a loss of taste or smell. Unless exempt you will be required to wear a face covering at all times when moving around the building. You may continue to wear a face covering while seated in the jury room unless the Court requests you to remove it. You will be given a face covering if you do not have one. You can also wear your own face coverings.

- Our security officers will carry out a “hands off” bag search, maintaining a safe distance. You will need to open your bag and place items in a tray, so that security officers can check you are not carrying any items that are not allowed in the building. You may be asked to empty the items in a tray and step back.

Once you have passed through security you will be directed to the main reception where a member of staff will direct or escort you to the appropriate room. You will be asked to turn off your mobile phone prior to entering the room.

6. The Trial

As a member of the jury you will view the trial from a location separate to the courtroom. Each juror has an allocated seat and you must stay in this seat for court purposes.

If you develop symptoms of coronavirus during the trial, you must alert a member of SCTS staff immediately. You will then be excused. With physical distancing in place, other jurors will not need to self-isolate and the trial will continue.

All documents that are given to you during the trial will be passed to you by a member of staff who will be wearing gloves. Where jurors are provided with a document, we ask that they do not share them.

7. Personal Protective Equipment

You are required to wear a face covering while moving around the building unless you are exempt. You can bring your own face covering should you wish. We will provide you with suitable face coverings if you do not have your own. You may be asked to remove your face covering during the trial while seated in the jury room.

Hand sanitiser will be available for you to use. You can bring your own if you wish.

8. Lunches

We will provide you with a lunch each day that you attend. This will be in the form of a packed lunch, which will have been freshly prepared and delivered to the room in which you will have your lunch. If you have any dietary requirements please inform us when you respond to your jury citation by email at courtofsessionjurors@scotcourts.gov.uk or by telephone on 0131 225 2595.

9. Travel Expenses

If you are concerned about the mode of transport that you will use to attend for jury service you should advise us when you respond to your jury citation by email at courtofsessionjurors@scotcourts.gov.uk or by telephone on 0131 225 2595.