

Guidance Note in relation to Hybrid Hearings in the Court of Session

Background

New Operating Procedures

The [guidance for Supreme Court users](#) which came in to effect in April 2022 states:

“Civil First Instance The presumption for substantive first instance hearings in the Outer House of the Court of Session, such as proofs, debates and judicial review hearings is that these will be conducted in-person. However the court may allow parties or their witnesses to be heard remotely on cause shown. A party seeking a remote, or hybrid, hearing should apply to do so by motion. In relation to hearings of a procedural nature in the Outer House, including applications for permission to proceed in judicial review petitions, and preliminary and procedural hearings in the Commercial Court, the presumption will be for these to be conducted using WebEx or, if directed by the Court, they may be dealt with on the basis of written submissions. The court may allow the hearing or part thereof to be conducted in person on cause shown. A party seeking an in person or hybrid procedural hearing should apply to do so by motion.

All documents will continue to be lodged electronically in line with the current guidance.”

The above guidance is readily available for practitioners on the [SCTS website](#).

A Q & A note in relation to how hybrid hearings work in practice in the court room in the Court of Session, has now been developed to help court users.

How are productions (core bundles) presented to witnesses appearing in person?	<p>Productions (core bundles) are lodged in process electronically so the preferred method of presentation is digital and there are a few ways this can be done:</p> <ol style="list-style-type: none">1. Parties can connect their own laptops to the courtroom stack and display productions on the screens available in court. There is an HDMI cable available in every courtroom to connect laptops to the stack. It would be for parties to operate the laptop and navigate the productions. Please note there will not always be an area set up for parties to sit down beside the courtroom stack.2. Parties can bring the productions on a USB stick or CD. These can be inserted into the stack PC. It is within the role of a Macer to do this, present and navigate the productions. USB and or CD's should be returned to parties when they are no longer required for the presentation of evidence, these should not be lodged or retained by the court. <p>There is no need to virus check external media before plugging them into the stack, as the stack is not connected to the SCTS network.</p>
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	<p>There is a display screen on every witness box in Parliament House to enable the witness to see electronic productions closely.</p> <p>How productions are best presented to a witness will depend on matters such as what the production is, the quality of the original, and the witness themselves i.e. can they see it/hear it properly. It is ultimately a call for counsel to decide how to present their case, we can only advise them what is possible with the technology available in each court room.</p> <p>Ultimately, it is open to parties to bring physical copies of the core bundle/productions to court, but the court will not request that they do so.</p>
<p>How are productions presented to witnesses appearing by WebEx?</p>	<p>Options 1 and 2 above apply in this scenario too (the clerk will have guidance on how to then share the productions with the WebEx witness)</p> <p>The clerk can alter the view that the court has of a witness appearing via WebEx and a production, and the view a remote witness has of a production and the court, by selecting the 'Layout' menu on the tablet on the clerk's desk. Colleagues have found the 'Prominent' and 'Overlay' views to work well in this scenario.</p> <p>A third option; The clerk may provide the agents for the parties who are attending court in person with the clerk's WebEx meeting room link. The agents displaying productions can then join the WebEx meeting and screen share productions in the same way they would in a virtual proof. The document being shared will display on the monitors around the court room as well as on the remote witness' screen. In this scenario, the clerk requires to give the agent who will be screen sharing the productions presenter privileges. Agents joining the WebEx meeting room in order to screen share productions should ensure they are muted and have their camera switched off.</p> <p>To use this option, access to Wi-Fi is required, please note SCTS guest Wi-Fi can be obtained via the Law Society (for solicitors) or the Faculty (for counsel).</p> <p>Ultimately, it is open to parties to provide a WebEx witness with physical copies of the core bundle/productions, but the court will not request that they do so.</p>

<p>Will the court have a macer when a proof (hybrid or in person) is running?</p>	<p>The aim is to have a macer available for civil proofs. The current staffing position may mean that the macer is unable to remain in one court for the whole time as they may be required to support several civil hearings at once. The need for assistance with</p>
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	witnesses and evidence presentation will be a matter for the clerk to discuss with the relevant managers on a case-by-case basis. (recruitment of macers is underway)
Whose responsibility is it to provide the meeting link to witnesses?	The party who cited the witness. This emulates as far as possible the procedure where the party who cites the witness tells the witness where to be and when if they are appearing in person. The clerk will provide the link to parties as part of their preparations for the hearing.
Can parties request testing sharing productions etc in advance of the hearing?	Yes, of course, please contact the clerk a couple of days before the hearing so arrangements can be scheduled.

Civil courts 4 to 12 have undergone digital transformation and the necessary IT upgrade of equipment should now be available in all of these court rooms. This now allows them the capability of hosting In Person and Hybrid Proofs.

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6 May 2022 (updated on 25 May 2022)