

Scottish Courts and Tribunals Service



GUIDANCE FOR SUPREME COURT USERS

This guidance has been prepared in consultation with the Lord President and the Lord Justice Clerk.

Following the emergence of the Omicron variant, a more transmissible form of the COVID-19 virus, protective measures were announced by the Scottish Government on 14 December 2021. As a result, the business that is conducted physically in the buildings of the Scottish Courts and Tribunals Service will be restricted to reduce footfall. This will support the public health response to COVID-19 in minimising the risk of community transmission and ensure that those who are required to attend physically can do so safely.

The guidance will take effect from 20 December 2021 and will remain in place until further notice. These arrangements will be the subject of regular review.

1. The High Court of Justiciary

1.1 Bail appeal court

The bail appeal court will continue to hear cases virtually as per current arrangements. Cases will call on the dates assigned. Where appropriate, the personal attendance of parties and the appellant may be required at a bail appeal hearing, or accused persons may appear by video link.

1.2 High Court adjourned diets (for sentence) and Section 76's

All sentencing diets, and diets assigned in terms of section 76 of the Criminal Procedure (Scotland) Act 1995 will call on the dates assigned. Accused persons remanded in custody for sentence may appear by video link, but in the case of accused tendering an acceptable plea of guilty at a section 76 hearing, they must appear in person. Those accused persons released on bail or ordained, must attend court in person unless their attendance has been excused.

1.3 Preliminary and continued preliminary hearings

The court will continue to hear cases virtually in line with the existing arrangements. All preliminary and continued preliminary hearings will call on the dates assigned unless adjourned administratively. Accused persons (whether in custody or on bail) should attend in person if a plea of guilty is to be tendered and accepted. Accused who are in custody but who are not tendering an acceptable guilty plea may appear by video link. The Court may excuse the attendance of accused persons on bail.

1.4 High Court trials

All solemn trials will call on the dates assigned or within the float period, under the existing arrangements.

1.5 Evidence on Commission hearings and miscellaneous business

All hearings will call on the dates assigned with parties in attendance with the exception of the accused who may view proceedings remotely by arrangement.

1.6 Criminal appeal court

Cases will call on the dates assigned. Hearings before the Criminal Appeal Court will return to being conducted via WebEx, with the appellant appearing remotely unless otherwise directed by the Court.

2. Court of Session

2.1 Civil appeals

All business of the Inner House of the Court of Session will be conducted virtually by default or be dealt with on the basis of written submissions as directed by the Court.

2.2 Civil First Instance

All procedural business of the Outer House of the Court of Session will be conducted virtually by default or be dealt with on the basis of written submissions as directed by the Court.

There will be a presumption that hearings which require the leading of evidence will also be conducted virtually. Only in exceptional circumstances, where physical distancing

restrictions can be adhered to and where evidence cannot be led remotely or it is considered detrimental and undesirable in all of the circumstances to be led remotely, will the physical presence of witnesses be permitted and accordingly such substantive business may be heard in a hybrid manner – that being part virtual and part in-person.

Civil jury trials will continue to be fixed and heard using the Remote jury centre model.

3. The Scottish Land Court

All procedural business of the Scottish Land Court will be conducted virtually by default or be dealt with on the basis of written submissions as directed by the Court.

There will be a presumption that hearings which require the leading of evidence will also be conducted virtually. Only in exceptional circumstances, where physical distancing restrictions can be adhered to and where evidence cannot be led remotely or it is considered detrimental and undesirable in all of the circumstances to be led remotely, will the physical presence of witnesses be permitted, and accordingly such substantive business may be heard in a hybrid manner – that being part virtual and part in-person.

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