

Scottish Courts and Tribunals Service



Adoption and Fostering Alliance

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Scottish courts operations during Coronavirus pandemic

Your briefing paper of 16 April 2020 has been passed to me by Roddy Dunlop QC. I note the concerns that you raise regarding the well-being of children as a result of the current Government restrictions and their impact on court business.

It might be helpful if I provide a summary of the approach of SCTS in these unprecedented times. Our approach is to continue only the most essential business, maximise social distancing and minimise contact between individuals in the court and tribunal setting. Accordingly all new jury trials have ceased, all but essential summary criminal trials have been adjourned, as have all civil hearings involving witnesses. Tribunal hearings have been consolidated to only essential hearings, proceeding by audio conference.

With particular reference to civil proceedings, only urgent and necessary business is taking place. A list of civil court priorities in each court is on the SCTS website. This includes applications/motions relating to the care and protection of children such as permanence order applications where an urgent interim order is sought.

You are aware that we are proceeding with our first online court hearings from 21 April 2020, to hear Inner House appeals. Procedural business within the Outer House of the Court of Session will also proceed, as scheduled, from the same date. The judges designated to deal with family matters will accordingly deal with non-urgent, procedural matters including in relation to permanence order cases. The preferred approach is to conduct procedural hearings by teleconference although hearings may proceed by way of written submissions with the agreement of the court. Rolls of court are also being published on a weekly basis. The monitoring of the e mails received by the family department in the Court of Session is to recommence with effect from 21 April.

As far as civil business within the sheriff court is concerned I have consulted the Sheriffs Principal who have responsibility for ensuring the speedy and efficient disposal of business within their sheriffdom. I am advised that permanence and adoption orders constitute priority cases in normal times as delay and uncertainty is regarded as

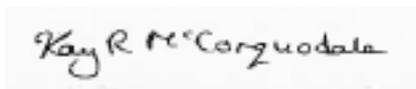
detrimental to children's welfare. There is, however, a concern around the ability to obtain the required reports (from Curator ad litem and Reporting Officer) during this lock down period. I wonder whether your organisation has any suggestions to assist in working around this issue.

Meantime the sheriff courts are progressing urgent business. It is possible to deal with the procedural stages of Adoption and Permanence applications if all material is lodged electronically. Motions or procedural hearings can proceed by remote means however this does not work if the birth parents are not represented. It is not possible currently to have face to face hearings in court. I am informed that progressing and granting 'unopposed or undefended adoptions' may appear a deceptively simple concept however such cases can at stages involve the natural parents. Very often cases which on the face of it are undefended feature an appearance by one or other or both natural parents. A parent cannot appear during the current lockdown. The sheriffs who deal with such applications indicate that it would not be safe to grant an order in such cases.

Going forwards we are currently working with both the Sheriffs Principal and the Law Society of Scotland on the scope of urgent and essential civil business in the sheriff court, to assess whether other business can be carried out remotely and what phased steps can be taken. That consideration will, of course, include all matters which concern the well-being of children such as the resumption of procedural hearings in permanence cases and the granting of uncontested PO and POA applications. Sheriffs are conducting remote hearings for consideration of urgent family business by telephone conference or on written submissions. However, how best any remote hearings can take place, such as by video conference, is also being considered.

I do hope I have provided you with some reassurance that in these unprecedented and challenging times we in the SCTS are very much aware of the issues being faced by your organisation. We are taking measures to increase the volume of business that we are able to conduct remotely whilst ensuring that any steps taken are proportionate to the requirement to protect public health. Our priorities remain protecting our staff, the judiciary and wider court and tribunal users, while maintaining the essential services that support justice.

Yours sincerely



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