

Business Awareness - Court System

Although courts are normally a useful resource for governing bodies if they need to pursue a 3rd party for an unpaid debt or the issuing of a threat to take legal action against the press, in these unprecedented times, we have to be realistic and be aware of how the Covid-19 outbreak has impacted the court system.

The justice system has been designated an essential service and although the courts remain open, all non-urgent business has been adjourned. Here is an outline of how the courts are adapting at this difficult time.

Hub Sheriff Courts

A number of the smaller sheriff courts have closed temporarily and business has been transferred to 'hub' courts. For example, Edinburgh Sheriff Court has been designated as a hub court, taking in court business that would previously have been handled by Livingston, Selkirk and Jedburgh. These 3 courts have closed for the time being. Another example is Hamilton Sheriff Court, which is also now dealing with court business for Airdrie, Lanark and Ayr.

Urgent business

The hub sheriff courts and Court of Session remain open in that they are dealing with all essential or urgent business only. Judges will determine if the matter put before them is urgent or not. Urgent business includes: lodging of caveats, applications for child protection orders, applications for interim interdict and applications in relation to adults with incapacity.

Non-urgent business

It follows then that in general, civil business has been suspended unless it is deemed urgent. Generally, no substantive hearings (for example, civil trials) will take place until at least August 2020. Simple procedure cases (monetary value does not exceed £5,000) have been paused

automatically for a period of four to six months (depending on the Sheriff Court). Certain Sheriff Courts will continue to deal with procedural and debate hearings either by telephone or by way of written submissions, if that is considered feasible. These types of hearings do not require witnesses, whereas a proof (a civil trial) requires evidence to be heard from witnesses, hence the reason that proofs have been adjourned until late summer at the earliest.

Courts have ceased all jury trials, adjourned all but essential summary criminal trials and Tribunals will only proceed with essential hearings by audio conference

Lodging and signing of documents

Documents that require to be lodged at court can be sent electronically, and if a signature is required, such documents can be electronically signed.

What does this mean for SGBs?

Although in Scotland, both civil and criminal courts remain open, their capacity and workload have been heavily curtailed. SGBs generally operate in a cooperative partnership with stakeholders but suppliers and third parties may have more typical commercial relationships. Whilst thankfully SGBs don't regularly require the use of, or be engaged in, the court system, typical commercial relationships are already showing signs of strain with the pandemic impacting businesses and the economy. Businesses are already starting to find that people who owe them money for instance, are not paying, either because they can't, or they are holding back payment due to the uncertain times we are facing. Signs are beginning to show in wider society that relationships are having to be more closely monitored and unfortunately some third parties are beginning to take advantage of the lack of access to justice.

It is necessary for SGBs to have an understanding of the issues signposted in this note to understand the challenges that are beginning to surface across business and the economy, for although the SGB and sports community in Scotland is not typically litigious, you need to be aware of how 3rd parties might possibly begin to behave or impact SGB business. Of course, the reality is that if action is required, it can be taken and it will be processed by the courts in due course; rather it will simply take a good deal longer for litigation to move through the system. This might influence how SGBs think of dealing with any tensions or disputes that start to surface in the coming months.

Of course, there should be no suggestion that an SGB should not assert its position or defend its rights, if it needs to. For example, if it needs to pursue or press a 3rd party for payment, action should and can be taken, and we are here to help SGBs and advise what steps can be taken, early on in a difficult situation. Our visibility of the challenges being faced across society and the economy can help SGBs to take the right steps, at the right time.

Get in touch

SGBs can access the **sportscotland** legal expert resource helpline by email at sportscotlandinfo@harpermacleod.co.uk or by calling 0141 227 9333.