



Covid-19 Guidance for members

Update - 6th November 2020

Following the publication of the Scottish Government's Scotland's Strategic Framework, which replaced the previous phases in Scotland's Route map with a new tier system, the President and Executive Council have updated the Society's guidance to members.

As with our previous guidance, our approach is to mirror the steps taken by the Scottish Government and, in particular, the steps outlined for Community and public services, of which officers of court form a part.

This guidance will set out an approach for each of the 5 tiers of protection levels - with the caveat, mentioned in our previous guidance, that all members assess carefully what is reasonably practicable in respect of instructions, taking into consideration the most up to date official government advice.

Members should also continue to follow all general guidance around working safely, for their own protection, their colleagues', employees' and members of the general public's.

The new tiered approach differs most significantly from previous guidance in that different protection levels are now applied to each local authority area. As many of our members will carry out instructions in a number of local authority areas, it is important to check which tier is applicable to the area in which you are working.

In respect of the new tiers we suggest the following approach:

Protection Level 0

This is the lowest level, in which officers of court should be carrying out their official functions without restriction, whilst continuing to pay close attention to general public health guidance.

Protection Level 1

Service: Initial Writs, Summonses, Simple Procedure Claims, Summary Applications, Petitions, Interdicts, ASBOs, Statutory Demands, Demand Letters and other Notices that require to be served under statute.

Enforcement: Charges for Payment, Arrestments, Inhibitions, Earnings Arrestments, Attachments, Money Attachments, Ejections and Exceptional Attachment Orders.

Protection Level 2

Service: Initial Writs, Summonses, Simple Procedure Claims, Summary Applications, Petitions, Interdicts, ASBOs, Statutory Demands, Demand Letters and other Notices that require to be served under statute.

Enforcement: Charges for Payment, Arrestments, Inhibitions, Earnings Arrestments, Attachments, Money Attachments, Ejections and Exceptional Attachment Orders.

Protection Level 3

The designation Level 3 indicates an area in which there is a high prevalence of the virus. In these areas we recommend that you do not carry out Exceptional Attachments or Ejections at domestic premises.

Protection Level 4

This is the highest level and, in addition to the restrictions in Level 3, we also recommend that you do not execute Attachments, except at commercial premises that remain open.

Lockdown

In the event that a further national lockdown is announced, it would be appropriate to recognise the difference between it and the initial lockdown of March 2020. In a further lockdown, it is likely that public services such as the courts would continue to function, as would schools and universities. In such circumstances, we recommend that members restrict their activities in citation to service of Initial Writs, Summonses, Simple Procedure Claims, Interdicts, ASBOs and other Notices that require to be served under statute. With regard to enforcement; we recommend that members restrict their activities to the execution of Arrestments, Inhibitions and Earnings Arrestments (where a Charge has previously been executed) and, at business or commercial premises only, Charges for Payment.

Ejections

We recognise that there are certain circumstances, e.g. anti-social behaviour cases, or unauthorised occupations, where ejections may still be required urgently, regardless of the Protection Level. In these instances, members should exercise their professional judgment and liaise closely with parties before proceeding.

There will also be cases where an ejection is instructed in a low tier area, however the occupants either have the virus or are self-isolating. An officer of court should take all reasonably practicable steps safely to verify such claims and, if they are verified, we recommend that the ejection should be re-arranged for a later date. Again, it will be important to exercise professional judgment and liaise closely with parties.