

Soul and Conscience Certificates

A soul and conscience certificate from a doctor is the appropriate mechanism for seeking the Court's consent to an accused person or a witness being absent from a court hearing because of illness or injury.

A soul and conscience certificate submitted on behalf of an accused person is lodged by the defence or prosecution with the Court for its consideration. The Court may accept or reject the certificate. As part of the Court's decision making process, the Court may require the requesting party to provide further detail or evidence of the reasons for the request. This may include requiring the certifying doctor to attend Court and give parole evidence of their assessment.

Delay and discontinuation of proceedings due to ill health of the accused

The decision to postpone a court hearing is a matter for the Court. It is for the Court to assess and decide whether or not the reasons put forward by any party, including an accused person or their legal representative, are legitimate and justify the postponement of a court hearing. As part of the Court's decision making process, the Court may require the requesting party to provide further detail in support of the request.

Prosecutors have a duty to keep cases under review to ensure that proceedings remain appropriate in the public interest. Where there is a material change of circumstances or where the prosecutor receives new information, including information relating to the ill health of an accused person, the prosecutor will consider whether or not the prosecution should continue. Where it is no longer in the public interest to prosecute, or where it is no longer considered that there is sufficient evidence, the case should not proceed.

Accused person appearing at trial by video link

The Criminal Procedure (Scotland) Act permits accused persons in detention to appear in court via video link in certain circumstances. This option cannot be used for hearings at which evidence is to be led.

Trials out with the presence of the accused

The Criminal Procedure (Scotland) Act 1995 makes provision for proceedings to take place in the absence of the accused in certain circumstances. This can be granted by the Court either on the application of the prosecutor or of the Court's own accord.