



glasgow bar association
established 1959

Room 1.29
Glasgow Sheriff Court
1 Carlton Place,
Glasgow
G5 9DA

3rd June 2020

By Email Only
Mr. Ian Moir and Mrs. Patricia Thom,
Co-convenors, Joint LANT,
Law Society of Scotland.

Dear Ian and Pat,

Legal Aid Provision under Lockdown

At an Executive Committee meeting of the Glasgow Bar Association (GBA) on 2nd June 2020, it was agreed that correspondence would be issued to you and the undernoted, as our representatives at the Law Society of Scotland to invite you to make representations to the Scottish Government (SG) on behalf of legal aid practitioners. We are mindful that legislation is being progressed in relation to certain legal aid matters and it is hoped that the contents of this letter can inform further movement in this regard.

We would invite you to coordinate with the SG to recognise the excellent work being undertaken by legal aid practitioners during lockdown, the hardships being caused to the profession arising therefrom, the additional burden of work being undertaken during these challenging times and urge the SG to honour its commitment to supporting the profession. Whilst the Committee are appreciative of the efforts of the SG and SLAB in relation to the payment schemes set up for interim fees to be submitted, these payments do not in fact supplement or financially support the profession. They are simply advance payments of fees that would have been made at some point in the future. The SG committed to helping SME's through this crisis financially and payment in advance of fees that would have made anyway is not in our view assistance. Many practitioners will not have been able to seek the small business grant and others will not qualify for the self-employed grant.

In essence, we believe these unprecedented times warrant a positive review of the fixed fees and unit charges applicable across all aspects of legal aid provision. This could be applied to all work from March 2020 for a period of six months or longer if Court business continues to be impacted by the route map.

In relation to solemn business, no jury trials have been undertaken since March and while there is a High Court pilot during the summer, it is not envisaged that Sheriff Court Juries will be able to commence until September or October. We have seen a 15% drop in Glasgow Petition appearances between March and May 2020, compared to the equivalent period last year. There has been a substantial reduction in summary business over lockdown, as the Police Service of Scotland has understandably had to concentrate on the more serious categories of criminal conduct.

We could ask you to consider canvassing for instance the merits in allowing a time in line provision for summary trials and other detailed alterations to the appropriate schemes of provision, but we believe time is of the essence and that a broad brush approach to a universal formula for an increase in all legal aid and assistance provision would be the most fair approach. We are aware that there are regulations soon to be put before the Parliament regarding fees and an increase of the fees available could be incorporated into those regulations.

The hub courts have resulted in long delays occurring whilst papers are made ready, Videoconferencing is facilitated and waiting times in Court have naturally lengthened. The latest Guidance will impose upon practitioners the additional burden of a substantial Written Record for Intermediate Diets in summary proceedings.

In relation to Civil business, the process of obtaining instructions and processing applications is a lengthier process when done remotely. The restart process and request for written submissions is unprecedented and has no legal aid charge allocated to them, although we understand an agreement has been reached that the restart process will be treated as a motion for accounts purposes.

The Scottish Legal Aid Board must be able to attest to the downturn in applications across the spectrum of provision, which effectively “frees” up the budget to allow for a universal increase in unit fees allowable.

We are obviously aware that the Scottish Courts and Tribunals Service (SCTS) has invested in IT to promote remote representation. We are aware the Scottish Children’s Reporter’s Administration (SCRA) is using a different platform again to allow remote representation. We are also aware that the Crown Office and Procurator Fiscal Service (COPFS) had funds made available to invest in laptops and mobile telephones to allow their staff to work remotely. We also acknowledge that our partner agencies are being funded to promote social distancing and be compliant with the Coronavirus legislation.

Legal Aid practitioners are at the heart of the justice system, representing those most vulnerable members of our communities across Scotland. As small businesses contributing an invaluable service to our communities, we believe that there are merits to our proposal

for a universal increase to legal aid provision during this pandemic. We welcome your feedback.

Lastly, on a personal note we would like to extend our congratulations to our new President and Vice President on their recent appointments and we look forward to working with them. Thank you in anticipation of your assistance.

Kind regards,

The Executive Committee of the Glasgow Bar Association

Undernote

Joint LANT members
Lorna Jack – Chief Executive
Amanda Millar – President
Ken Dalling – Vice President