



glasgow bar association
established 1959

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

16th July 2020

By Email Only
Ian Moir and Patricia Thom,
Legal Aid Conveners,
Law Society of Scotland.

Dear Ian and Pat,

Feedback from the Glasgow Bar Association for the Tripartite Meeting on 21st July 2020

Many thanks for your correspondence received by us on Saturday 11th July 2020, providing us with the opportunity to feedback to you the views of our members for representations to be made by the Law Society of Scotland on behalf of legal aid practitioners at your tripartite meeting.

We have completed two Executive Committee meetings for this purpose, an Office Bearers' meeting, we have for the first time canvassed views of our members via a Zoom meeting and we invited our members to complete an online survey, mirroring the issues you wished us to address. We recognise the relatively short time frame permitted for this turnaround and acknowledge the importance of the representations to be made, which in our opinion are crucial to determining the future of legal aid provision in Scotland.

We would summarise the responses from the Glasgow Bar Association as follows:-

1. 100% of those polled support the Law Society of Scotland's request for a substantial increase in fees across all legal aid provision.
2. 99% of those polled support the Law Society of Scotland's request for a grant to legal aid practitioners.
3. 86.3% of those polled support the provision of a grant to individual legal aid practitioners.

4. 58.8% of those polled support the proposition that a grant should reflect fee income.
5. 61.8% of those polled support the proposition that a grant should reflect the size of the business.
6. The majority supported the proposal that the number of office locations should not be factored into the grant provision.

Our survey then posed open questions about what other criteria should apply to the provision of a grant (A below), what other costs have been incurred to adapt work places during lockdown (B below) and finally, we invited general comments (C below).

As anticipated, there were a diverse number of responses. We provide a summary and where appropriate, a few salient responses for your consideration as follows:-

A. Additional criteria

Those with an office. It should not be the same for those who have no office and little overheads. Should reflect agency work. Provide to those who are in poorer, rural communities promoting access to justice. Where a firm has trainees this should be taken into account. Number of solicitors per firm, whole staff per firm. Additional money for start ups. Income of individual solicitor/firm for 2 / years / 3 years /5 years. Length of service as a legal aid practitioner. A simple formula which is easy to implement. Fixed rate per principal. Different types of work carried out should be a factor. As a proportion of legal aid to other income.

B. Workplace adaptations

IT. PPE. Furniture to store files while working from home. Mail redirection for 3 months - £200.00. Topping up staff salaries who are on furlough. Rent, rates, utilities on unoccupied offices. Increase in household bills for homeworking. Infrastructure works to office buildings for staff and client safety compliance with Government guidance. Broadband upgrade. Loss of work, toll on mental health. Loan repayments. Childcare. “Business has been decimated entirely. It is impossible for my business to continue in light of the current climate and will close as a direct result.”

C. General comments

- (i) “As an agent who works predominantly in the solemn criminal forum I have had no work during lockdown...it looks like my lack of earning will continue beyond the end of the furlough scheme and therefore I will potentially be reliant on universal credit and have to return the vehicle I

purchased in January which will further impact on my ability to earn given that I reside in a rural environment. This situation is not born out of lack of willingness to work it comes from government imposed sanctions which have, effectively, curtailed the ability for me to continue the work that I have spent in excess of 20 years building up expertise in.”

- (ii) “I have been lucky enough to secure a traineeship in a firm that provides services that I’m passionate about, for those often vulnerable....there may come a point in the future where there are no solicitors willing, or more importantly able to do legal aid work.”
- (iii) “A significant amount of additional responsibility has been placed on the shoulders of agents to ensure the wheels of justice turn. i.e. summary written records, written submissions in civil cases. All where no additional fees paid. We are the last to be consulted and often the first to be complained about. There is no recognition that many firms have had to furlough staff and that we are still expected to be available and more at full capacity when the courts snap back into action.”
- (iv) “My GP has now referred me to Scottish Association for Mental Health as the stress of trying to continue the business has been difficult... I have survived on credit cards since March 2020 but I am now reaching my limits.”
- (v) “The profession is hugely vulnerable at the moment. If support is not received there will be an unmet legal need in terms of justice. It has broken my heart to close my practice. It is everything I have worked for... For decades, we have been underpaid and underappreciated. We are still not consulted in decision making by other justice partners even on issues that have a direct impact on our lives...The profession is headed for a massive crisis. It’s like watching a car crash.”
- (vi) “The profession are keen to embrace new working practices but the system requires to be funded to allow this to happen. Solicitors can’t be the only people in the system asked to adapt without any change to funding.”

We recognise the devastating impact of lockdown on legal aid practitioners, with those principally undertaking Agency work most deeply affected. The ability of Court practitioners to undertake the same level of business as before will be impossible, with the introduction of court slots, remote trials and custody appearances by remote representation. There are ordinarily 27 Courts in operation in Glasgow Sheriff Court when it is operating at full capacity, so the assistance of local Agents is invaluable and ensures cases are called promptly. This invaluable resource is already being diminished and we anticipate the damage will be irreversible. Separate to our survey, we have

received information from practitioners who are principally Agents and illustrate their plight as follows:-

- (a) “As far as income is concerned, my income on average was roughly (before tax) £1100 a week. Throughout the months of March- July I’ve earned just £160 in agency fees so effectively nothing. I won’t be returning to defence work. It’s simply not sustainable to operate at such a huge loss. Unless the courts get up and running soon I’m very worried about the future of the criminal bar.”
- (b) “As discussed agency is not my main source of income but I have received no agency instructions since lockdown. On average I would have had about £3600 agency fees in the same period in a normal year. I am not expecting any agency instructions in the near future.”

In conclusion, there is overwhelming support for an urgent grant and fee increase package. Legal Aid practitioners are now in crisis. The operation of only 10 hub courts across Scotland during lockdown, the cessation of all but urgent business and custody appearances has substantially impacted upon cash flow for the businesses we support and the communities we serve. There is no anticipated start date for Solemn trials. Our Sheriff Principal has confirmed by correspondence today this will not be before October 2020. Technology is being rolled out with different platforms being used, e.g. SCTS - Webex, Police Service of Scotland - Lifesize, SCRA - Vscene and Objective Connect, COPFS on CJSM, with everyone in the justice partnership receiving Government support to facilitate this except legal aid practitioners. Financial support to legal aid practitioners is essential to continue to promote access to justice for the people of Scotland.

We trust that this summary will be of assistance in your forthcoming discussions. We await hearing from you.

Kind regards,

The Office Bearers of the Executive Committee of the Glasgow Bar Association