

Letter from Karen McCall – Sheriff Court

Further to Andrea's email below, we are still experiencing many solicitors attending at the offices making various enquires. I'd be grateful if you could reiterate the information below to your members as a reminder of the procedures that have been put in place.

In addition, in relation to court 3, we continue to be experiencing many issues with social distancing, in particular with solicitors failing to adhere to the guidance shown in relation to maximum occupancy in the waiting area outside the court, and also the number of solicitors entering the court at any one time.

Can I ask that you advise members that we will have a member of security monitoring the area outside court 3 to ensure that only 1 solicitor at a time is present in the waiting area. The maximum occupancy of 1 person at any time in this area will assist with social distancing. There is sufficient space within the waiting areas outside the court to allow the solicitors to wait until they require to enter the court for their case. The Admin support will still be available to monitor the "running order" for the court. Can you also advise them that only one agent at a time will be permitted within the courtroom to maintain social distancing.

Notices will be displayed to remind solicitors of this, but if you could also reiterate this to your members this would be helpful.

Thank you for your co-operation

Karen

Letter from GBA Executive Committee in response

Dear Karen,

GBA Member's concerns at Court

Thank you for your email. We wanted to take your comments to the Executive Committee meeting on Tuesday evening, to have a full discussion on these matters and invite member feedback. This has now been done. We would make the following comments:-

1. As you are aware, not every solicitor who attends Glasgow Sheriff Court is a member of the Glasgow Bar Association, nor may be local Agents. We are a representative and not regulatory organisation and membership is voluntary and not compulsory. We have

communicated extensively with and on behalf of our members since the commencement of lockdown and will continue to do so.

2. Our members are also expressing concern about their own safety and wellbeing. It seems to many of our members that whilst the safety of others in the court process has been addressed, little or no attention has been given to their safety. This perception has perhaps not been assisted by the Covid 19 measures being introduced with no consultation with the Bar. This omission is surprising given that our members are a fundamental part of the justice system and one of the main stakeholders.
3. The introduction of the Protect Scotland registration system is a welcome development, but this is impacting upon the flow of people into the building, is causing delay to the ability to conduct the Court business and it seems will only become more problematic as business continues to grow and with the onset of inclement weather. Clients have been waiting in queues to enter this week and some have not gained entry into the building until 10.40 this week, some 40 minutes after their cases were scheduled to call. We therefore need either for this service to be staffed adequately at the peak flow times in the building and/or to review the fifteen minute deadline allocated to when members of the public can present before being allowed entry into the building. Separately, we note those undertaking this service have minimum PPE and equipment to allow them to discharge this work and trust that a suitable risk assessment has been undertaken.
4. Avoiding delays in the conduct of Court business is a priority for us. With Criminal cases, the best way to do this is to have effective communication with all interested parties, Defence, Crown, SCTS and the Judiciary. It is for this reason that we are copying into our correspondence the Sheriff Principal, Moira Orr and her Head of Summary Prosecution and the Sheriff Clerk. There was previously a custom in place whereby Deputes would present in Court 30 minutes before the allocated start time. Our Vice President has spoken with Ms. Sweeney about this being resuscitated and we understand this proposal is being discussed with Ms. Orr. We believe this will assist with the efficient conduct of the Court business and can allay concerns about gatherings of Defence Agents to discuss cases with Deputes who are currently arriving with minutes to spare before the Court sits.
5. Court 3. While only the basic custody requirements were processed in the early days of lockdown, the challenges presented by the court location made it unsuitable for the processing of the business required and the court business was transferred to the ground floor. This issue remains unchanged. We appreciate there are logistical challenges to this Court as the corridor within is a main thoroughfare to access custody consultation rooms and the video facilities. We had previously communicated with our Justice partners about these issues and it is disheartening that only now these matters are being addressed, by way of criticism of the Bar, which criticisms are ultimately caused by

factors outwith our control but ultimately by introducing measures that can be welcomed by us.

As indicated above, one of the main problems identified is the lack of a P.F. being available prior to the Court beginning. The Petition Court as you know starts at 2pm and it is normal for a Depute to attend this Court at 2pm – in some instances a few minutes earlier. The Defence Agents, who require to speak to the Fiscal, are then required to queue to speak about their respective cases. If the Fiscal was in court, at say, 1.30pm then this would be avoided. It would also ensure the prompt start of the Court.

The space in this Court and immediately outside this Court is a problem. When the Petition Court was calling in Court 8 – this made for a much safer environment. As with all the outer doors to the Court rooms, there are no windows and the door therefore has to be opened to see if it is safe to enter the corridor then the Court room itself. When Solicitors enter the corridor immediately outside the Court, they inevitably put themselves at risk if another solicitor is present due to the dynamics of the corridor because it is such a small space. We had previously proposed the assistance of a Bar officer to attend outside the Court and form a system of ‘one in and one out’. We welcome this development but would still prefer the Petition Court to be relocated.

6. Movement of Solicitors around the Court. It would appear to us, with regards to Court personnel required in each Court, that the only personnel who are mobile are the Defence. (We acknowledge the necessary role of Bar officers/Police officers and GeoAmev staff entering and exiting but returning to the same position each time). The Fiscal, Clerk and Sheriff are all seated and remain seated throughout proceedings. This causes us deep concern and poses a high risk of transmission of the virus in that, as each Defence Agent appears and leaves the Court room, the space occupied by the Agent is not cleaned after each case. It is the same for the dock area where an accused is appearing. It is the same for the interview booths where the accused are brought from the cells. It is the same for the cells area. We acknowledge that hand sanitiser and wipes are provided for Agents in the booths but we had to petition for this in the early days of lockdown after supplying that for our members. The general introduction of hand sanitiser stations around the Estate are also welcome. It would be extremely helpful if this omission can be explained and remedied. It will inevitably cause some delays but if it is a necessary measure for Sheriffs, Clerks and Fiscals, then Defence and Accused cannot be excluded from these measures.
7. We are also very concerned about the collection of CJSW reports and have raised this previously. We had suggested that the papers be left in the robing room on the first floor. It is a secure room with a lock and pass code. This space was identified by SCTS as a safe and GDPR compliant room previously and we cannot understand the reasoning for this not to be a suitable room for this purpose. Solicitors have to queue every day along with members of the public to uplift the reports, again putting

themselves at risk. We would welcome a solution to overcome this difficulty. Queueing inevitably causes delays to the start of the Court business and we wish to avoid this.

8. Distancing measures. By now, we are all aware of the two metre social distancing guidance and it is a matter of personal responsibility to adhere to this. For what it is worth, we have observed three and four Court security staff congregating at the front entrance and numerous Police officers congregating beside the reception desk in flagrant breach of this guidance. However, each individual has the ability to speak up about concerns, but to do so in a manner that is respectful. We have recently received reports of Bar Officers being confrontational and speaking in a disrespectful manner when seeking to enforce guidance. This is not particularly helpful. There is a general concern that measures are arbitrary and are being followed rigidly rather than using common sense. For example, in the larger Court rooms, where there is ample space to allow social distancing to be observed, the rigid implementation of one Defence Agent at a time within the bar area is a barrier to the efficient discussion of cases with the Crown, compounded by the current arrival times of Deputes as detailed above. We appreciate that one rule is easier to apply than multiples but we do not need to be approached with behaviour that is manic, aggressive or panicked when the circumstances do not merit it.
9. Provision of bottles of water. Many Solicitors are in Court for the best part of a day and there should be ready supplies of water available. We can supply the extensive correspondence we have entered into about this topic with Estates, given the ongoing issues with the repeatedly faulty water dispenser in the Bar Common Room. You are fortunate to see a bottle or two on the table in Court rooms but we should not have to ask for water, it is a basic human need, not a luxury. We trust this can be addressed and Bar officers can now be instructed to ensure there is a plentiful provision of water in the Estate.

In summary, we are all working in challenging circumstances, none more so than Solicitors who have worked tirelessly to ensure their clients are represented and to work with our Justice partners to ensure the continuation of the Court programme. Unlike those partners who have the full support of the Scottish Government's financial package and have remained on full salaries regardless of their working hours, Defence Agents are the ones with the most incentive to efficiently progress cases to a conclusion and their goodwill is not infinite. We are very keen to improve matters to our mutual benefit and look forward to hearing from you in response.

Kind regards,

The Executive Committee of the Glasgow Bar Association.

