



glasgow bar association
established 1959

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

6th January 2021

By Email only

Lord Carloway, The Lord President and Lord Justice General

Dear Lord Carloway,

Your Publication yesterday about the current lockdown

We note the online video and statement published yesterday arising from the First Minister's lockdown announcement.

While we understand the basis upon which you have made your statement that court buildings have been adapted for use (to some extent) during the virus, what does not seem to have been taken into consideration is that the media reports of this strain being a mutated super spreader will invariably have an impact on the confidence of the public and court users and conflicts with the basic message to "stay home".

Court users have adapted impressively to facilitating court hearings since lockdown, but the impact of the virus is most keenly felt on the persons who are accused or their witnesses, who are invariably from a lower socio-economic group, have associated health issues and are apparently at higher risk of contracting and spreading this virus.

Sufficient adaptations have not been made to interview facilities at court nor in the dock. Even getting into the building at Glasgow Sheriff Court can often involve a long queue at the entrance for Test and Protect registration, particularly since the onset of the inclement weather.

It is not always possible to obtain a client's instructions in advance of their case calling. Matters arise during the conduct of a trial. Criminal Justice Social Work Reports are not made available until the day of sentencing.

Your advice is to avoid consultations with client in court wherever possible. Please note the case of Nicola Jane Gallagher v HMA, 2010 SCCR 636 wherein at paragraphs 12 and

13 a Defence Agent was criticised by the Court for taking instructions outside the Court building.

The reality is the Court estate has insufficient accommodation to allow Court practitioners to obtain their client's instructions in a manner which allows privileged information to be discussed privately and safely in the current pandemic. You have to date been relying upon the goodwill of practitioners to persevere, but that goodwill is being rapidly exhausted.

To compound your message with the ultimate sanction of contempt is a matter which we strongly object to. We are in correspondence with our professional body and at the Glasgow Bar Association, we have an ongoing arrangement with Faculty to provide free representation to any member threatened with this sanction.

The principle of our system of justice operating in the face of adversity is a noble aspiration and essential for accused in custody. However, court users from members of the public will invariably travel to and from court by public transport, they will have or members of their family will invariably have health issues and the media will be ramped up to scare people about leaving their home to come to court. We are then also faced with the prospect of dealing with cases that could otherwise be dealt with administratively or remotely if the set up was improved. We would be happy to discuss this particular aspect in further detail with you but make reference to the difficulties being faced with PIDMs, Intermediate Diets requiring attendance when a telephone call or video conference would suffice and attendance for trial diets when the Crown are aware of witness difficulties.

If the goal is to stop the spread of this latest mutation, it is with regret and concern that we write to advise that the current measures in operation will fail to achieve that.

We would of course be happy to have further discussions with you to improve matters. In the meantime, we look forward to hearing from you in response.

Kind regards,

The Executive Committee of the Glasgow Bar Association