



glasgow bar association  
established 1959

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

13<sup>th</sup> May, 2021

Press Statement

**Custody Courts at Glasgow Sheriff Court - Further Action on 17<sup>th</sup> May 2021**

**Ongoing concerns regarding Legal Aid Provision in Scotland**

We would invite the members of the press to publicise the following –

Due to ongoing concerns that the goodwill of legal aid practitioners is being exhausted by the Scottish Government, our Executive Committee of the Glasgow Bar Association will invite all solicitors who have a client appearing on Monday from custody to instruct us to represent their client. This direct action is a necessary step along the path to ensure that our value in this Justice Partnership is fully recognised. Our aim is to ensure the long-term provision of legal aid services in Scotland, which have suffered from a progressive decline in real terms due to a persistent lack of investment from successive Scottish Governments. There are already parts of this country where there is either no legal aid provision or it is very scarce. We believe that the people of Scotland deserve better.

Deemed essential workers by the Government, unlike our Justice partners and other sectors who have received Pandemic support, the package promised to us has not been delivered. There has been a systemic failure to disperse a £9 million Resilience Fund. Court business has been impacted by lockdown and the suspension of summary cases, with Justice of the Peace cases still being administratively adjourned and trials now being assigned for

the end of this year and next year. We have an unprecedented number of prisoners on remand for longer periods than there has ever been in living memory. Additional courts are expected to sit this Autumn to begin to clear the backlog of cases and Criminal Defence Agents are being stretched beyond reasonable limits. Many legal aid practitioners are now leaving the profession. This has been compounded by recent successful negotiations between this Government and COPFS to address pay equality issues. Public sector terms and conditions are such now that private practice cannot compete with flexible working, salary packages and pension provision, giving real cause for concern about the sustainability of legal aid provision, which currently sees access to services a challenge or non-existent in some areas of the country. The Justice Minister's pledge to provide a Traineeship scheme has not materialised and because of the issues detailed above, there is no realistic prospect of long term commitment to Defence provision after qualification because of this widening gulf. There is no current realistic prospect of a mechanism of legal aid fee review being implemented, notwithstanding that the Review of that was commissioned in February 2017. The disparity in Holiday custody court payments has not been addressed. As previously advised, at each of these specially convened custody courts across Scotland, Defence Agents have sacrificed holiday entitlement to discharge their duties to the Court and to their clients to ensure the effective and expeditious representation of the accused, in the most challenging of circumstances caused by the Covid-19 pandemic. Every other participant in those appearances except the Defence is on an enhanced payment system. While we duly acknowledge that the Justice Minister has delivered on his promise to increase legal aid rates by 5% this year, this still falls below what an inflation based adjustment after decades of underinvestment would provide. We have gone to extraordinary lengths now for over a year under pandemic conditions. We have adapted to using technology implemented by SCTS to keep essential business going for the administration of justice with no payment for IT adaptations or for PPE to perform our role. In a year when we have seen a malicious prosecution case be established against the Crown and settlement of the claims in excess of £20 million to the two victims, we seek to place the overarching principle of access to justice at the forefront and heart of this newly elected Government. We pled our case about the impact of the pandemic to the Scottish Government via the Law Society of Scotland and thereafter directly. Our first approach to our representative body was by letter dated 3<sup>rd</sup> June 2020. We recognise the hard work undertaken by the Law Society of Scotland on

our behalf. The fact is that the Government is failing to implement timeously measures that would support our profession. We now know from a colleague's Freedom of Information request that the Scottish Legal Aid Board have had an underspend in their budget during the pandemic of a sum in excess of £20 million. Previously, in 2019 we received an increase of 3% across legal aid fees, having gone without a review for decades in some aspects of the provision. Thereafter, the Scottish Legal Aid Board disclosed an underspend of over 8% on their budget. The Scottish Government, at the start of the pandemic, promised to support every SME. Their recent proposals have not delivered on this commitment to legal aid provision.

We are rightly proud of our legal system and our principle of legal aid provision for those most in need of assistance at the most vulnerable times in the lives. However, no other sector would be prepared to sustain a workload with no consistent investment in it for decades. Our treatment at the hands of successive Governments has led us to the current crisis which necessitates this further action. We are seeking equality of arms to defend our citizens against inequality.

Our members have indicated a willingness to undertake further direct action and to escalate that to impact both the criminal and civil areas of law in which we practice. We have already undertaken two days of direct action on holiday custody courts. We remain committed to engaging with our Justice Partners to address the issues faced but there is an urgency to this situation that the Government is not acting upon. This pandemic has seen the creation of the Scottish Solicitors' Bar Association as a national mechanism to achieve our common goals for longevity for legal aid provision and access to justice for the most vulnerable members of our society. We are aware that other colleagues across the nation will be taking similar action to demonstrate the level of concern about our situation. Legal Aid provision is demand led. There is clearly demand for this essential service. Investment in PDSO and CLAO demonstrates this. We will not accept being discriminated against or being faced with inequality. We would invite the Scottish Government to take action immediately to address these imbalances and to deliver on their promises to our profession.

Thank you.

The Executive Committee of the Glasgow Bar Association