



glasgow bar association
established 1959

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

24th September 2021

By Email Only -

Cabinet Secretary for Justice – Mr. Keith Brown, MSP
Minister for Community Safety – Ms. Ash Denham, MSP

Dear Keith and Ash,

Scottish Government Holiday Custody Courts
Glasgow Bar Association

I am writing on behalf of our Executive Committee to confirm that until further notice, our members who are nominated solicitors have made a decision that they will not be attending these holiday custody courts. The reasons for this are explained below.

Last Spring, the Lord President, Lord Carloway, confirmed that custody courts would be convened on each court holiday. There was no consultation with the defence. There was no thought given to providing an enhanced remuneration package for defence agents to relinquish their entitlement to such holidays. We are aware that enhanced remuneration is provided to other justice partners participating in these holiday custody courts. Please treat this correspondence as a Freedom of Information request to confirm once and for all the payments or compensation package the following receive for these courts – Sheriffs, Sheriff Clerks, Procurators Fiscal, PDSO employees, Police, GeoAmey Custody officers, SCTS staff, Health care staff for CPN assessments, SLAB employees and Social workers for bail services in comparison with their standard daily rate.

During my period as Vice President and in my current capacity as President of the Glasgow Bar Association, I have engaged in many meetings and alerted our Justice partners to the manifest unfairness of the position we, as defence practitioners have been put in by this chronic underfunding. We no longer have equality of arms and legal aid provision is in crisis. There is an immediate and urgent concern about the prospects of an independent bar unless this terminal decline is reversed as soon as possible.

We have highlighted the issue by taking direct action in the following holiday custody courts:-

1. St. Andrew's day – 30th November 2020.
2. New Year – 2nd January 2021.

We united with other faculties across the country to highlight the matter on 17th May 2021 when a “Gown’s down” campaign was publicised and direct action was taken in many courts across the country. Since then, a new Scottish Government has been elected. Bar Association Presidents and representatives from the Law Society of Scotland are meeting with your representatives to address our concerns and we have now been advised that there is no reasonable prospect of our concerns being addressed by legislative change until next Autumn at the earliest due to your recently published programme for legislation. It would appear that legislative reform for legal aid is not a priority for this Government. The suspension of court holidays for next year has already been published by our Sheriff Principal.

In light of this information, we have taken a poll of our members. Such is the strength of feeling about this matter that all of those who responded are in favour of this course of action. This would ordinarily be anathema to us as our *raison d’être* is to help those who are most vulnerable in our society. It is clearly symptomatic of decades of underinvestment in the defence and the widening gulf in investment between Crown and defence. Insult has been added to injury by the underspend in the Legal Aid budget by £21.5 million during the pandemic compared to the reinvestment of £9 million, disastrously implemented by your Resilience Fund and only rescued with the input of Bar Association Presidents and Law Society representatives in the RRT Fund after consultation with your representatives. Those reinvested funds, of course, pale into insignificance when compared with the payouts arising from the failed Rangers Football Club prosecution, which will forever leave a stain upon the Scottish Justice System.

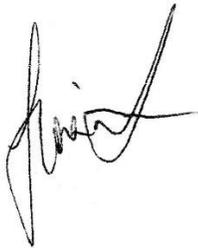
Our members have therefore voted in unity to enjoy public holidays and will decline to attend your holiday custody courts until further notice. No member who voted was in favour of continuing to work holiday custody courts without achieving pay parity with our justice partners. That there is complete unity about this demonstrates the strongly held beliefs that practitioners have about their treatment by successive Scottish Governments and the apparent lack of respect towards us amongst our justice partners. We are simply seeking pay parity with our colleagues in the justice partnership on this issue. Until this is resolved, our members will not be participating in any holiday custody courts, unless in their capacity as duty solicitor or to fulfill their contractual obligations as PDSO employees. We would invite all defence practitioners across Scotland to join with us about this issue.

Glasgow Sheriff Court is the flagship court of Scotland. The spotlight of a world stage will soon be visited upon us because of COP26. While we have only this week received a more detailed plan of the operation of the custody courts for the conference, the duty solicitor plan is yet to be finalised and payment for defence agents is still to be finalised. The conference commitments have necessitated SCTS planning for three consecutive weeks of Saturday and Sunday courts in Glasgow. Our members will be undertaking court appearances from Monday 25th October until Friday 19th November 2021. This is 26 consecutive days of custody appearances in addition to their business as usual workload, caused by the court backlog. This is an unprecedented demand upon our services and no other justice partners will have the same workload. Again, there was no consultation with us about this level of commitment. We understand that the UK Government is financing the conference costs and until such time as details of funding are resolved, our members cannot make an informed decision about participating in the duty solicitor scheme. A decision is required urgently.

As always, I would be happy to discuss matters further with you and extend an open invite to visit us at Glasgow Sheriff Court.

I look forward to hearing from you.

Kind regards,

A handwritten signature in black ink, appearing to read 'Fiona McKinnon', with a stylized flourish at the end.

Fiona McKinnon,

President,

Glasgow Bar Association