

EDINBURGH BAR ASSOCIATION

MEDIA STATEMENT – COP26 DUTY PLAN

The Edinburgh Bar Association has a proud history of working to seek better conditions and payment for our members.

Since our working lives were turned on their heads by the Covid-19 pandemic we have sought at every opportunity to engage with our criminal justice partners to facilitate the running of the courts in as efficient a manner as possible.

Regrettably, in spite of limited offers of assistance which have done little to address decades of neglect in Legal Aid funding, the criminal bar continues to be decimated.

This year alone COPFS have been able to embark on three rounds of recruitment, and in each of these there are more and more young solicitors lost to the defence bar. We have reached a crisis point. Unless there is significant work done to address the imbalance and manifest inequality of arms in the criminal justice system, the system will soon grind to a halt.

It is in this background that we have been asked to assist with what is expected to be a vast number of arrests and consequent prosecutions stemming from the COP26 conference.

Today, 13 days from the beginning of the conference there is still an ongoing lack of clarity as to the practicalities of the running of the courts to process these anticipated arrests. We find this absolutely stunning given the originally planned dates for the conference.

We have engaged for weeks now with representatives of the Scottish Government and Scottish Legal Aid Board who have proposed what might seem an attractive feeing system bespoke to COP26 business to ensure our cooperation. Notwithstanding this, we are disappointed to note that in spite of our Association having withdrawn from the Police Station Duty scheme in 2017, it was still expected that we would accede to assisting with this for the duration of COP26. At no time did we express any willingness or intention to do so.

This leaves us positing why matters pertaining to a conference of this nature can justify such apparent generosity while we are told at every opportunity that there is no justification for this in order to keep the everyday functioning of the courts in order at all times.

In light of this, and in light of the fundamental lack of capacity of our members to take on such anticipated volumes of work, our members have as an association voted not to engage with the proposed COP26 duty solicitor scheme. We cannot in

any good conscience do so at a time whereby we are stretched beyond capacity on a daily basis and retain professional obligations which must be upheld.

This is not a decision taken lightly, but we hope it serves as an indicator of what will continue to happen with the criminal justice system if the alarming inequality of arms is not addressed. The only way in which this can properly be addressed is with a significant increase in Legal Aid fees. These fees remain largely unchanged since 1999. To suggest that this is reasonable is patently unstateable.

We will continue to do all we can to achieve this, but without a change in attitude of those responsible for the management and administration of Criminal Legal Aid, we fear that the system will soon simply not be able to function.

We are heartened however by the response of those other Bar Associations around the country who are similarly impacted by the spectre of business relating to COP26 and are adopting the same position as we are. We are delighted to stand with our colleagues around the country in seeking properly funded access to justice.

Neil Martin,
President,
Edinburgh Bar Association.