



glasgow bar association
established 1959

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

18th October, 2021

By Email only
Ms. Ash Denham, MSP
Mr. Keith Brown, MSP
Mr. Colin Lancaster – Chief Executive, SLAB

Dear Ash, Keith and Colin,

GBA Members Vote to OPT OUT of COP26 DUTY

I am writing to advise you that we have conducted both a survey of our members and had a meeting of our members today after receiving your proposals for payment and the draft Duty plan, after hours last Wednesday. The deadline for opting out was fixed at 5pm today.

An overwhelming number who responded to the survey voted in favour of opting out of the Duty Plan for COP26 and for declining to attend the weekend custody courts, again imposed without consultation with us, nor with any thought to an enhanced payment package to represent our own clients for the conference period. At our meeting today, there was a unanimous vote to adopt this position. **Our members have voted to opt out of the COP26 Duty Plan and to decline to attend to represent our clients for their weekend custody appearances.**

Although I sought assurance from SLAB that all those Firms on the Duty Plan in Glasgow had received a copy of your proposal, that does not seem to be the case and the relevant Department at SLAB has failed to respond.

The proposal from the Government was incomplete and failed to confirm a proposal for Non-COP26 cases called over the three successive weekends of Saturday and Sunday Courts that will operate in Glasgow. Neither the Scottish Government representatives nor the relevant Department at SLAB have responded and confirmed a proposal.

Legal Aid practitioners are under pressure as they have been at no time before in living memory. Pay disparity with our justice partners means we are unable to train and retain staff who are leaving us to better terms and conditions and sometimes double their salary

in equivalent roles in COPFS and Scottish Government Departments. Your recent employment drives typify the disparity. Unless urgent action is taken, there will be a lack of gender equality, racial diversity and age diversity in the profession and the aging population of Criminal Defence Practitioners will not be replaced. Your own figures illustrate this. We are a declining population of practitioners.

Under the Government's Recover, Renew and Transform platform, we are undertaking an unprecedented level of business at court to clear the backlogs that arose when only urgent business took place during the early stages of the pandemic. The suspension of Jury and summary trials during the conference period will only add to the backlog. We have fewer practitioners undertaking more work. There is no scope to take on more business, particularly when we are given less than two weeks' notice of your proposals, the proposals are incomplete and not all practitioners received your proposals. We need not remind you that this is a conference that should have taken place last year. That we find ourselves in this position demonstrates the long-held belief that Defence practitioners are always an afterthought. Time and again since the effects of the pandemic impacted upon the Court programme, we have demonstrated our willingness to participate in meetings to effect better communication and make progress. There is still more to be done, clearly.

As an Association, we are seeking immediate discussions with you and our colleagues in the affected Bar Associations, Law Society of Scotland representatives and our SSBA colleagues. We are seeking a commitment to a substantial increase in the legal aid rates and not simply the 5% promised by regulations next March, pending long awaited legal aid reform and a mechanism to review future legal aid provision to reflect the commitment of practitioners to this essential work for the most vulnerable members of our society. We are also seeking a commitment to resolve the holiday court dispute before the next National Holiday which is St. Andrew's Day, a year after our Association started action to address this matter. Only once we have a commitment from you about these essential matters, would we be willing to make a recommendation to our members to consider participating in the COP26 duty plan and weekend courts for own clients.

This position is mirrored across the country. Legal Aid practitioners advocate daily for their clients' interests. Association and Faculty leaders are now doing so on behalf of their members. It cannot be right that there is a prioritisation of case processing and funding for COP26 cases and not for all others who will be arrested and detained during this period of substantial disruption to the rule of law in Scotland. This is manifestly contrary to the interests of justice and to an individual's human rights.

I await hearing from you to consider if these issues are capable of being resolved.

Kind regards,



Fiona McKinnon,
President,

On behalf of the Executive Committee of the Glasgow Bar Association