

01.11.21 - EBA REPLY TO SCTS LETTER OF 1st NOVEMBER 2021

Mr Fraser,

Thank you for your email.

I'm afraid it causes more concerns than it provides answers.

The solicitor in question was there in his capacity as an EBA representative. He was advising accused persons of their rights, including their right to represent themselves, and providing leaflets explaining why their nominated solicitor was not present. He was doing so on our behalf, as has been done on any occasion when we have taken action in respect of custody courts, including by myself on a previous occasion. No issue was taken with this then. Indeed, our representative was there providing advice on behalf of those nominated solicitors who were not attending. This clearly fits within the parameters of your noted access permission.

These consultations between our representative and accused persons are entirely confidential, and take place in secure booths in the cell complex. This begs the question of where the erroneous suggestion of a dissuasion from using the services of the duty solicitor originated? Indeed, it has come to my attention that there was actually gratitude expressed to our representative by one of the duty solicitors present for explaining matters to accused persons so that they did not have to.

Are we approaching a situation whereby if SCTS do not like the advice offered to an accused person, then that accused person's representative can be summarily ejected from the building?

Moreover, our representative was approached in the cell complex while speaking to a client who had asked for his services, not anyone else as you claim. This approach was by a serving officer of Police Scotland, not a member of SCTS staff and told that there was an instruction from a duty Sergeant that he be removed from the building, and that the officer involved had intervened before other officers came and were rather less friendly in their approach.

In addition to this, following the allegation made can you please confirm as a matter of urgency why no investigation was initiated into same at the time? There was a circular list emailed round relevant stakeholders of contact numbers and emails in case of situations arising during COP26. My mobile telephone number and that of our Association's Vice President were contained therein. There was no contact with us. Indeed, the allegation itself was not put to our representative, it seems to have simply been accepted and acted upon.

I trust you will understand the grave concerns this causes us notwithstanding the assurance you note in your letter. With the greatest of respect, given the clearly inaccurate picture painted of the incident in your letter, the assurance offers little comfort and leaves us having to consider our options with regards to how we can proceed from here. What you note in your letter is simply untrue. Unless this is retracted, then I do not know how we can progress from here.

As indicated over the weekend I am perfectly happy to make myself available to discuss matters with a view to resolving this issue and allowing the throughput of business to continue. We do

not feel that we can do so in a situation whereby our views and our rights are being wholly disregarded based on a loose and unverifiable allegation. We have a situation whereby a solicitor acting in his capacity as an officer of the court was removed from the building without any evidential basis for doing so. As is clear from the public outcry at this incident, the ramifications of this are incredibly alarming.

During the pandemic we as an association, and all of our members have gone to great lengths to assist SCTS in any way we can. The way this assistance is being repaid is beyond disappointing. Given my intention to publicise this letter I do not wish to include my mobile telephone number herein, but you can access it from your colleagues in Edinburgh Sheriff Court should you wish to discuss matters.

Kind regards,

Neil Martin

President, Edinburgh Bar Association