Scottish Court Service’s (SCS) proposals on a future court structure in Scotland

Thank you for your letter of 22 May and for the invitation to provide oral evidence to the Committee on 21 May.

We have considered the effect of EU Directive 2012/29/EU, establishing minimum standards on the rights, support and protection of victims of crime, on the Scottish Court Service’s recommendations. Article 18 requires Member States to “ensure that measures are available to protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation.” Article 19 makes specific provision for the avoidance of contact between the victim and the accused in court premises, though there is a risk of repeat victimisation, intimidation or retaliation taking place while travelling to the court. This is a higher risk in rural areas with less frequent public transport.

The SCS recommendations envisage sheriff and jury cases being dealt with in 16 locations. We understand that sheriff and jury cases which would previously have been heard in Oban or Wick, for instance, will now customarily be heard in Dumbarton or Inverness respectively. We believe that this will create not only logistical challenges around travel times and costs but also significant risk to the victim. Between Oban and Dumbarton or Wick and Inverness, there is only one train and one bus each day that can bring people to court within reasonable time.

It may be that the individual assessment of needs, as required by Article 22, will consider whether a victim or their family is reliant on infrequent rural public transport and the special measures detailed in Articles 23 and 24 will be deployed. We welcome the wider deployment of videoconferencing, and particularly in these circumstances. However, there will be circumstances in which the victim will attend court in person and it is unclear what arrangements will be made by SCS to avoid the risk of repeat victimisation, intimidation or retaliation. If there is judicial discretion to hear sheriff and jury cases outside the 16 courts currently recommended, we believe that this would mitigate that risk; if there is not, we would be concerned that the SCS recommendations would not meet the requirements of the Directive.

We met with SCS following the dialogue events and again twice during the consultation process. The discussions were focused on the recommendations currently before the committee.
I hope that this information is helpful and would be happy to assist further.

Andrew Alexander
Head of Access to Justice
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