

# Scottish Courts and Tribunals Service



Margaret Mitchell MSP  
Convener  
Justice Committee

(By email)

5 June 2020

Chief Executive's Office  
Parliament House  
Parliament Square  
Edinburgh  
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Dear Convenor,

## **EDINBURGH BAR ASSOCIATION**

Thank you for your letter of 4 June 2020.

I am both astonished and disappointed that the Edinburgh Bar Association (EBA) have chosen to write directly to the Justice Committee without taking the opportunity to raise any of these matters with myself, the Sheriff Principal, Sheriff Clerk or COPFS.

The operation of the custody court in Edinburgh has been the subject of discussion by a Working Group set up by the Sheriff Principal. It is a multi-agency group chaired by an experienced Sheriff and all parties contribute to its work including COPFS, SCTS, GeoAmev, and Police Scotland. The President and Vice President of the EBA are also members. No representations have been made by the EBA to the group during the lockdown period. That is precisely the forum at which issues relating to the safety and efficient processing of custodies ought to be raised.

In normal times the smooth running of the justice system is heavily reliant on collaborative relationships between the court, COPFS and practitioners. During the coronavirus lockdown period these relationships are ever more critical. There is no doubt that coronavirus has impacted significantly on the operation of both the courts and on all individuals at a personal level. Anxiety levels are understandably high, as people are both concerned about their own safety and adapting to new and unusual working practices. But to suggest that my staff and indeed the Sheriff Principal are not taking responsibility for the safe and proper administration of the court is quite frankly insulting and totally inaccurate.

Throughout the lockdown period my staff in SCTS and those in COPFS have been working tirelessly on a daily basis to ensure that all essential business is dealt with. While the numbers of staff are significantly reduced during lockdown, they are first in the court in the morning and last to leave in the evening, making sure that, so far as is possible, the courts have run smoothly and the safety of all court users has been maintained.

The impact of social distancing on the custody courts has been significant. The challenges of managing those presenting with coronavirus symptoms raise complex and resource consuming issues. Public health and social distancing measures limit the numbers held in police and court custody cells, limits the numbers that can be transferred between police units and courts at any time and creates scheduling issues with those cases with coronavirus

symptoms that must be heard by video link. It would be completely unrealistic to think that this would all run like a well-oiled wheel, with no delays. What I do expect, and what we see in most cases, is understanding and professionalism from all involved to work collaboratively in very trying circumstances. It is unfortunate that the EBA have chosen to present a different perspective and chosen to ignore the occasions where solicitors are not prepared for their clients appearance in court; or not aware that their client is awaiting representation in the cells.

Since the beginning of lockdown regular discussions have taken place with the EBA on the operations of the court, the management of custodies and the need for social distancing. As a result a number of new working practices has been put in place:

- In collaboration with the law Society of Scotland and the Crown Office and Procurator Fiscal Service a [social distancing and hygiene protocol](#) was agreed to ensure that our courts provide a safe working environment for all. Provided this is followed by all those using our facilities I have full confidence that the working environment is safe;
- To reduce the need to attend court [remote representation](#) was introduced to allow solicitors to represent clients by electronic means, taking instructions in custody cases and interacting with the court remotely.
- To facilitate the efficient disposal of summary criminal cases in which a plea of guilty is to be tendered [new guidance](#) was introduced eliminating the need for solicitors to attend court.
- We have significantly increased our remote and home working capabilities over the period allowing business in a number of areas, such as civil business and commissary, to be resumed even during lockdown.
- A new procedure for bail reviews commences on 8 June to reduce the number of cases calling in court. They will be dealt with electronically in sheriffs chambers or heard remotely, only calling in court if absolutely necessary.

Very few solicitors practicing at Edinburgh Sheriff Court have elected to use the new approaches outlined above, the majority have elected to continue attending at court.

To ensure the safety of all staff, judiciary and other court users, including those solicitors who continue to choose to attend court, extensive risk assessments have taken place in every building, with measures in place to ensure that strict social distancing and the highest hygiene standards are achieved. The measure taken observe all relevant Public Health Scotland guidance including: social distancing signage, floor markings, queuing indicators, access to hot water and soap, hand sanitisers, wipes and a robust cleaning regime.

These measures extend to the defence agents' common room and the custody cell interview rooms - all of which are provided with hand sanitiser and wipes. There are sufficient stocks of these which are regularly replenished and of course, should they run low at any point, I would encourage members of the EBA to point that out to a member of SCTS staff and further supplies will be provided straight away. The common room is cleaned daily, although this is to an extent dependent on the tidiness of the room. Our cleaners cannot move personal belongings or solicitors' papers which may inhibit cleaning. Edinburgh sheriff court is a large building with many rooms having no windows, however the common room ventilation system has been set to pull in 100% fresh air, to provide the safest environment possible.

We have reopened all our court buildings across Scotland this week, in line with the easing of Scottish Government restrictions, albeit we are a long way from a new business as usual; social distancing requirements will be with us for some time, and will reduce our building and physical hearing capacity by two thirds. An immediate benefit for Edinburgh will be the introduction of custody courts at Livingston providing extra capacity to ensure that the increasing level of custody cases can continue to be dealt with safely and efficiently.

All business relocated to hub courts, such as Edinburgh, will move back to the original courts from the week commencing 15 June. Custody trials will remain a priority and where practicable, non-custody trial courts will also be programmed to allow the acceleration of cases administratively adjourned during lockdown.

These welcome changes will ease the pressure on the hub courts and we will continue to work constructively with the EBA to ensure that collaborative relationships are restored to support the smooth running of the justice system through the next transition period

Yours sincerely

A handwritten signature in black ink, appearing to read 'Eric McQueen', with a long horizontal flourish extending to the right.

Eric McQueen  
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