



17 March 2021

By email

Dear Lord President,

I am writing to raise concerns on behalf of our members regarding the increased use of holiday courts and the potential introduction of weekend courts.

Today (17 March) is a year to the day since the announcement that no new criminal trials would commence, and no new juries would be empanelled because of the pandemic. While that was the right decision at the time for clear public health reasons, we cannot ignore that the impact on the Scottish legal profession, and court practitioners in particular, has been devastating.

That impact goes far beyond the economic crisis caused by months when defence agents were unable to undertake regular work. It includes the societal, mental health and wellbeing impact seen by defence and crown agents, complainers, accused, and witnesses waiting for justice and a resolution of cases. The full impact of which cannot yet be fully appreciated or understood.

As we begin to see the light at the end of the tunnel, with an increase in throughput of court business, the profession is keen to continue to play its role, as it has done throughout, to allow justice and the rule of law to continue.

I understand that additional holiday court arrangements are intended to be in place until the end of 2021, and that the potential use of weekend trial courts is being considered as part of the recovery phase to deal with the backlog in summary trials.

Rest assured that we remain motivated to work collaboratively towards reducing the backlog. We have shown already that we are willing to work towards and build creative solutions, and there is an opportunity now to look at engaging the profession and wider stakeholders within the justice system to find new ways forward which best serve the public interest. Solutions which go beyond simply increasing the number of trials which can be heard.

However, I am concerned that additional holiday court arrangements and weekend court trial courts are being introduced with no consultation. There is a need to establish whether the essential parts of the justice system, including prosecutors, defence agents, victim support, rehabilitation delivery agencies and beyond, are able to service such an increased workload.

The hard work ahead must be balanced with space to rest and recuperate, and that is why I, and our members are so concerned about how sustainable the imposition of holiday courts or the introduction of potential weekend courts will be.



Immense pressure has been placed on hard pressed practitioners on both sides of the table over the past year. I recognise that there will continue to be growing pressure to deal with the mounting case backlog, particularly as public health restrictions continue to ease.

However, I stress that there is a finite resource with which to tackle this problem. Expanding the working week and removing the public and local holidays which have traditionally allowed court practitioners to take time off, risks severely damaging the resilience of a profession already scarred by the past 12 months.

Our members are also parents and carers and individuals with many responsibilities, as well as professionals with obligations to their employers, employees, clients, and the courts. Increasing the number of days on which their professional court obligations must take priority should not be undertaken lightly. There are practical implications too as holiday courts are not necessarily held locally, and may require travel time for agents to attend, making them more onerous than a normal court day.

I know that we can find solutions to these issues. There are innovative ways of working to tackle the case backlog in a manageable way. Ways in which we can address the laudable aim of reducing the time people are held in custody before their first appearance in court. But, I believe these are solutions we can only find by working together with representatives from all the parts of the system which support our courts, and understanding the impact on all involved.

I would be pleased to discuss this further and look at how we at the Law Society can support this work.

Kind regards,

Amanda Millar
President, Law Society of Scotland