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21 May 2020

Dear Mr Kerr

**SCOTTISH PARLIAMENTARY QUESTION S5W-29143
*OPERATION OF HUB COURTS DURING COVID-19***

The Cabinet Secretary in his response to the above PQ indicated that it related to operational matters within the responsibility of the Scottish Courts and Tribunals Service corporate body. I am now writing in response to the matter raised.

S5W-29143 asks the Scottish Government what its response is to reported criticism that its policy of closing local courts and moving business to hubs during the COVID-19 outbreak may actually increase the risk of spreading the virus.

The circumstances that we have all had to adapt to over recent weeks have required flexibility and resilience. During the outbreak of COVID-19 SCTS has worked with justice sector partners to support the public health response, whilst maintaining public confidence in the justice system by ensuring that the most essential court business continued during the lockdown period. The health and safety of our staff, court users and the general public is, and will remain, our key priority throughout this crisis.

Following the announcement made by the Prime Minister on 23 March SCTS moved as quickly as possible, with the agreement of Sheriffs Principal, both to reduce the range and number of cases required to call in court to those essential to maintain public confidence in the justice system and to consolidate business to a smaller number of court locations. This step was taken to ensure continuity of service whilst safeguarding staff and court users to the greatest possible extent.

Throughout this period, the message from the Government, based on public health advice, has been clear – stay at home – protect the NHS – save lives.

There were two main reasons for consolidating sheriff court business into 10 hub courts across Scotland. Firstly, this significantly reduced the number of people required to physically attend courts on a daily basis. SCTS has over 1,600 staff based at some 50 facilities across Scotland, supported by facilities management contractors

who manage, clean and maintain each building. We would have been rightly open to significant criticism had all those facilities remained open. Whilst current regulations permit travel to court to participate in legal proceedings¹ such journeys should be minimised to the greatest possible extent. By consolidating business at key locations a smaller core team at each facility have been able to focus on the essential business that has been maintained throughout.

Had such business been held at a wider range of locations this would have significantly increased the number of people required to support the courts in order to manage both the buildings and the proceedings concurrently. Such an approach would have involved more people taking more journeys each day to process the same level of business. In addition to increasing the number of journeys it would have increased the number of individuals interacting in and supporting our facilities every day. That would have been contrary to the advice in place and would have increased the risk of potential infection.

Secondly, as an organisation we have had to manage the impact that COVID-19 has had on our staffing levels. Absence levels across all types of business, including the public sector, are above normal at this time as a consequence of those who are unwell, those self-isolating, school closures, those with unexpected caring responsibilities and those required to stay away from the workplace as a consequence of pre-existing health conditions. Often the absences arising from such issues arise at short notice. Had we attempted to keep all facilities open this would have led to critical staff shortages at some locations, which would only have become apparent at short notice. Such an approach would have led to business being postponed on the day, creating risks around the management of cases and generating multiple unnecessary journeys. Once again we would have been rightly criticised had we failed to foresee that possibility and placed people at risk for no reason.

By consolidating business at the hub courts we have ensured continuity of both staffing and service, throughout this period. It goes without saying that, as an organisation, we would prefer to keep all court locations open where possible – recognising the importance of local justice. The approach we have taken has sought to strike the best balance between the need to maintain public confidence and the imperative of supporting the public health response to the greatest possible extent.

Given that the consolidation of business may increase the travel time required for some agents to attend hub courts we have introduced new approaches. In agreement with the Law society we have established a system that allows [remote representation](#) to take place – where agents can represent clients by electronic means, taking instructions in custody cases and interacting with the court remotely. A number of solicitors have elected to use this approach with very positive initial feedback.

We have been working at pace to develop video conferencing links between police custody facilities and all of our hub courts – to minimise the number of accused required to appear in person. Whilst this facility was initially introduced to deal with accused who had or were displaying symptoms of COVID-19, this is now being expanded to allow more custodies to appear via video link. Once additional facilities are available it is our intention to move to a position where the vast majority of custodies appear by video link. When combined with remote representation facilities

¹ Attending court to participate in legal proceedings is permitted under the public health regulations currently in force (section 8(5)(h) of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 SSI 2020. No. 103

for agents this will significantly reduce the footfall within court buildings for custody cases.

All court users are currently expected to comply with strict social distancing measures. In collaboration with the law Society of Scotland and the Crown Office and Procurator Fiscal Service we agreed a [social distancing and hygiene protocol](#) for all court users in March. This was agreed to ensure that our courts provide a safe working environment for all. By consolidating the locations from which business is held we have been able to maintain and enhance cleaning regimes, focusing on touch points and higher usage areas, to ensure hygiene is maintained.

A copy of this letter will be placed in the Scottish Parliament Information Centre and published on the Scottish Courts and Tribunals Service website.

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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