

FOI RESPONSE ISSUED - 26 NOVEMBER 2021

REQUEST

“The number of criminal law members who have withdrawn from legal aid duty schemes in (a) 2019, (b) 2020, and (c) 2021 (to date), broken down by the relevant area”

OUR RESPONSE TO THE INFORMATION REQUEST UNDER THE 2002 ACT

Thank you for your recent request for details about “the number of criminal law members who have withdrawn from legal aid duty schemes in (a) 2019, (b) 2020, and (c) 2021 (to date), broken down by the relevant area.”

As you may be aware, being part of the duty plans is voluntary and is a decision for each firm to make. We have Police Station and Court duty plans covering 39 Sheriff Court areas around the country. Duty plan slots are given to firms, not individual solicitors. It is for the firm to organise which solicitor in their firm is allocated to the duty solicitor role on any given day. If there are changes in staffing in an individual firm, their duty slot remains and they decide how to cover it.

The key factor in ensuring appropriate coverage of the duty plans is therefore the number of firms involved, rather than the number of solicitors. We keep records of the individual solicitors for two primary reasons. The first is to enable us to match up duty claims with the relevant solicitor’s payment details. The second is that in some areas such as Glasgow we have agreed with the local bar association that the number of slots a firm receives on the plan will vary with the number of individual solicitors each firm advises us are available to do duty work.

Our employed solicitors in the Public Defence Solicitors’ Office (PDSO) and the Solicitor Contact Line (SCL) play important roles in the provision of duty solicitor advice at court and at police stations.

- PDSO are located in seven areas across Scotland: Kirkwall, Inverness, Dundee, Falkirk, Edinburgh, Glasgow and Ayr. In Kirkwall, for example, they provide all duty solicitor services, with the private firm providing back-up cover if needed. In the other areas, they provide around 33% of court duty solicitor services, including in most areas in neighbouring courts e.g. the Edinburgh office provides duty services in both Edinburgh and Livingston courts, while Ayr also serves Kilmarnock.*

- *Police Scotland contact the SCL for all individuals who require the duty solicitor to provide advice and/or representation at police stations. The SCL contacts the duty solicitor, or if they are unavailable or an area does not have private firms providing police station duty services, the SCL provide this service by telephone or in person across Scotland.*

The information you requested is contained in the spreadsheet information below.

First tab - Duty Scheme Overview

- *The number of individual solicitors who have asked to be removed from the plans in 2019 - 2021.*
- *The number of new solicitor applications to the duty scheme 2019 - 2021.*
- *The number of solicitors and firms on the duty plans - to 1 November, 643 solicitors and 352 firms were participating in the duty plans.*
- *The numbers of those both leaving and joining the plans were larger in 2021 than in the previous two years.*
- *Half of the overall reduction in the number of solicitors and almost 40% of the reduction in firms derives from changes in Glasgow, where the Glasgow Bar Association has been proactive in reviewing the duty plan. They contacted firms in their area to ask them whether they should still be on the plan and whether some individual solicitors in their firms should be included or not (as noted above, this affects the number of slots firms in Glasgow are given). This has resulted in bigger proportionate reductions in Glasgow than the rest of the country, but with 105 firms and 182 individual solicitors in 2021, duty coverage in Glasgow remains more than adequate.*
- *In some of the more remote areas where there are fewer firms, duty solicitors can attend from neighbouring areas if necessary, and remote assistance can also be provided using the Scottish Courts and Tribunals Service WebEx system, where this is needed.*

Second tab - COP26 firm withdrawals

- *A number of solicitors' firms (either directly or through their bar association) advised that they would not participate in the duty plans during the COP26 conference period. We have listed these numbers for you separately. This was a temporary position and these firms have returned to the duty scheme. In Glasgow, six private firms did participate in the duty scheme and provided representation during the conference.*

- During COP26, the Scottish Government asked SLAB to utilise PDSO and SCL to provide court duty services across the country when solicitors withdrew from duty services for the period of COP26.

Solicitors give us a variety of reasons for coming off the duty plans. We do not keep individual records of these reasons, and we are not always given a reason.

The most common ones we do receive are:

- The solicitor is now retired or deceased.
- The solicitor has moved to another firm.
- The solicitor is leaving private practice, for example after becoming a sheriff or advocate, or moving to COPFS.
- The solicitor is no longer doing criminal work.

Duty scheme overview

Summary of firm and solicitor numbers 2019-21			
	2021	2020	2019
Private Firms	352	373	392
Private Solicitors	643	705	753

YEAR 2019			
Area	Solicitors removed from duty plan	Solicitors joining the duty plan	Total number of private duty firms
Aberdeen	2	0	20
Airdrie	3	1	12
Alloa	1	0	2
Ayr	0	0	11
Banff	0	0	3
Borders (Jedburgh/Sekirk)	4		5
Campbeltown	1	3	3
Dumbarton	4	0	9
Dumfries	0	0	5
Dundee	5	0	14
Dunfermline	7	1	8
Dunoon	0	0	2
Edinburgh	8	0	36
Elgin	0	0	3
Falkirk	1	0	8
Forfar	0	0	6
Fort William	0	0	2

Glasgow	18	0	120
Greenock	0	0	8
Hamilton	4	1	19
Inverness	2	2	8
Kilmarnock	2	0	18
Kirkcaldy	1	0	15
Kirkwall	0	0	1
Lanark	2	0	3
Lerwick	0	0	1
Livingston	3	2	6
Lochgilphead	0	0	1
Lochmaddy	3	0	2
Oban	2	0	2
Paisley	2	1	9
Perth	1	0	7
Peterhead	0	0	5
Portree	0	0	2
Stirling	1	0	4
Stornoway	2	1	3
Stranraer	0	1	3
Tain	2	2	5
Wick	0	2	1
Total 2019	81	17	392

YEAR 2020			
Area	Solicitors removed from duty plan	Solicitor joining the duty plan	Total number of private duty firms
Aberdeen	2	1	20
Airdrie	0	2	12
Alloa	1	0	2
Ayr	2	0	10
Banff	0	0	3
Borders (Jedburgh/Sekirk)	1		3
Campbeltown	0	3	6
Dumbarton	1	2	8
Dumfries	1	0	5
Dundee	2	1	13
Dunfermline	1	2	6
Dunoon	0	0	2
Edinburgh	5	0	35

Elgin	1	2	3
Falkirk	1	0	8
Forfar	0	0	6
Fort William	1	0	3
Glasgow	27	2	116
Greenock	3	0	6
Hamilton	0	0	18
Inverness	0	0	7
Kilmarnock	5	0	17
Kirkcaldy	0	1	15
Kirkwall	0	0	1
Lanark	1	0	2
Lerwick	0	0	1
Livingston	4	0	5
Lochgilphead	0	0	1
Lochmaddy	0	0	1
Oban	0	0	2
Paisley	2	0	8
Perth	0	0	6
Peterhead	1	0	4
Portree	1	0	2
Stirling	1	0	4
Stornoway	0	0	2
Stranraer	0	0	3
Tain	0	0	5
Wick	0	0	2
Total 2020	64	16	373

YEAR 2021 (up to 1/11/21)				
Area	Solicitors removed from duty plan	Solicitors joining the duty plan	Total number of private duty solicitors	Total number of private duty firms
Aberdeen	3	0	32	20
Airdrie	2	5	21	12
Alloa	1	0	4	2
Ayr	2	1	15	9
Banff	0	0	5	3
Borders (Jedburgh/Sekirk)	0		6	3
Campbeltown	0	1	7	7
Dumbarton	3	1	16	8

Dumfries	2	0	10	4
Dundee	3	0	24	13
Dunfermline	3	0	16	5
Dunoon	0	1	3	3
Edinburgh	7	1	73	34
Elgin	0	0	8	3
Falkirk	2	0	14	7
Forfar	0	0	11	6
Fort William	1	0	3	2
Glasgow	40	10	182	105
Greenock	2	2	9	6
Hamilton	1	0	31	18
Inverness	0	2	15	7
Kilmarnock	5	1	19	14
Kirkcaldy	11	0	27	13
Kirkwall	0	0	1	1
Lanark	1	1	4	2
Lerwick	0	0	1	1
Livingston	0	0	12	5
Lochgilphead	0	0	1	1
Lochmaddy	0	0	0	0
Oban	0	0	2	2
Paisley	1	0	23	8
Perth	1	0	13	6
Peterhead	0	0	4	4
Portree	0	0	1	1
Stirling	1	0	8	4
Stornoway	0	0	2	2
Stranraer	0	0	4	3
Tain	0	3	12	6
Wick	0	1	4	2
Total 2021	92	30	643	352

COP26 firm withdrawals

Firms off the plans for COP26 period (27 October to 15 or 19 November)	
Area	Number of firms off the plans
Aberdeen	20
Airdrie	12

Alloa	2
Ayr	1
Banff	No notification
Borders (Jedburgh/Sekirk)	2
Campbeltown	7
Dumbarton	8
Dumfries	No notification
Dundee	13
Dunfermline	5
Dunoon	3
Edinburgh	35
Elgin	3
Falkirk	7
Forfar	No notification
Fort William	No notification
Glasgow	104
Greenock	No notification
Hamilton	18
Inverness	2
Kilmarnock	14
Kirkcaldy	13
Kirkwall	1
Lanark	No notification
Lerwick	No notification
Livingston	3
Lochgilphead	No notification
Lochmaddy	No notification
Oban	2
Paisley	8
Perth	6
Peterhead	2
Portree	1
Stirling	No notification
Stornoway	No notification
Stranraer	No notification
Tain	6
Wick	2