

Date: 19/05/2022

Your Ref:

Our Ref:



**Convenor to the Criminal Justice Committee**

Scottish Parliament  
Holyrood

Assistant Chief Constable  
Kenny MacDonald  
Police Scotland Headquarters  
Tulliallan Castle  
Kincardine  
FK10 4BE  
Tel: 01259 733133

[ACCCriminalJustice@scotland.pnn.police.uk](mailto:ACCCriminalJustice@scotland.pnn.police.uk)

Dear Convenor

**Criminal Justice Committee's report on Stage 1 of the Coronavirus Recovery bill**

Following publication of the Criminal Justice Committee's report on Stage 1 of the Coronavirus Recovery Bill and the stage 1 debate in Parliament held on the 12th May 2022, I wanted to take the opportunity to provide some additional information in respect of points raised by members of the committee relating to the operation of Virtual Custody Courts.

Whilst responsibility for the effective operation of all Custody Courts lies with the Scottish Courts and Tribunal Service (SCTS), the roll out and ongoing operation of virtual custody courts has been a significant cross-justice collaboration and they have enabled first hearings from police custody to operate safely throughout the COVID pandemic.

Given the speed at which this capability needed to be deployed there were, as you would expect, early challenges which SCTS, Police Scotland and justice partners have worked collectively to overcome. This partnership approach has been vital across our COVID response and remains so as we continue to build on the learning from this period and further transform and enhance the Justice System.

I would like to offer additional context in respect of the specific points raised,

- Technical problems with equipment leading to delays; and
- Provision of access for Defence Solicitors and Social Work

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### **Technical problems with VC Equipment**

All equipment used in VC courts primarily consists of a Video Conferencing unit within a dedicated room in a Police Custody Unit (PCU) via a broadband link. These rooms are fitted with additional sound enhancing speakers to ensure optimal sound quality to and from accused and court. Over the last year, Police Scotland have also refurbished a number of the rooms utilised for VC courts by adding additional sound proofing within to enhance sound quality to the court room. Each room is tested whenever VC capability is installed to ensure visual and audio requirements are suitable from the PCU.

Each PCU also has access to hand held mobile devices which are used to facilitate video consultations between Defence Agents and accused. Consultations between other agencies such as independent custody visitors, mental health assessment/consultations etc. are also facilitated via these mobile devices. The operation of these devices has varied from site to site with some operating on local Wi-Fi connections or on 4G and there have been challenges in some areas ensuring stable connectivity where a broadband connection was not available. In all cases, the primary means for consultation should be done via the VC unit with the mobile device or a telephone call being offered as a secondary means of consultation.

Over recent months, Police Scotland have now installed Wi-Fi to all primary PCU's where VC courts will operate from which will significantly enhance the capability of mobile consultation devices. Over the period of virtual custody courts, audio challenges have also been reported where other participants are physically located in the court building (Hybrid model) however SCTS have worked to address these across the court Estate.

I note that a specific query was raised in respect of Glasgow Sherriff Court on Monday 09 May 2022. From our records, there were no technical faults reported to Police Scotland and I am therefore unable to offer a reason why the court did not conclude its business until 9:30pm. Ultimately, this is a matter for SCTS rather than Police Scotland however I am committed to ensuring the Custody Court runs as efficiently and as quickly as possible and to ensure accused's persons are not held any longer than necessary in Police Scotland Custody.

### **Provision of access for Defence Solicitors and Social Work**

The current arrangements for any Defence Agent or Social Worker wishing to visit an arrested person within any Police Scotland PCU has not changed from the pre-pandemic arrangements i.e. if an agent or social worker wishes to visit they would make contact with the custody staff at the specific PCU and an agreed time and private consultation would be facilitated by Police Scotland.

Under the virtual custody model, it is clearly no longer possible for defence agents to consult clients in person at the court building and virtual consultations are instead facilitated by GeoAmey staff who conduct the day to day operations of the VC court.

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As I detailed above, the primary method for this consultation is via the VC unit with a mobile consultation device or a telephone call being offered only as a secondary means of consultation.

This method is the same for Social workers and other professionals who wish to consult with accused persons in custody but are not able to attend in person. I am aware there have been scheduling issues and challenges with consultations both as a result of technology and indeed communication and understanding of the processes.

I am confident that any residual technical challenges on the PCU side will now be overcome by the deployment of broadband capability to all our sites and we continue to work with SCTS and all parties including defence agents to refine and improve the process and guidance which supports this.

Finally, I also wanted to offer comment on the provisions relating to National Jurisdiction which I believe might help afford greater fairness to accused persons and address human rights challenges regarding the length of time people spend in police custody. Under current arrangements, an accused person who is wanted on warrant in different sheriffdoms will often be held over in police custody for additional days and moved across the country to appear in each relevant sheriffdom due to jurisdictional restrictions. I believe that retention of National Jurisdiction provisions will better enable us to work together to ensure all matters are addressed as quickly and effectively as possible and to minimise the amount of time any person required to spend in police custody.

I trust this additional information will be helpful however, should you require any further information, please let me know.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kenny MacDonald', written in a cursive style.

Kenny MacDonald  
Assistant Chief Constable  
Criminal Justice