



The Scottish Justices Association

Chair: Mr G. Hunter JP

Secretary: Mr D. W. Barr BA (Hons) JP

Address for Correspondence

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Dear Mr Imrie,

Justice of the Peace – Expenses and Allowances Rates

Thank you for providing us with a copy of the response from the Chief Executive of SCTS, regarding the issues raised in our previous letter regarding JP Expenses and Allowances. We do feel that it would be helpful if we could provide some clarity and background to some of the areas covered in Mr McQueen's letter.

We are pleased to note that the results of the consultation were provided as a separate document and in it they do candidly confirm that the SJA was 'treated as a single response, although it is recognised it may represent a synthesis of responses from a number of JPs.' We would confirm that we did consult with our members and derived our collective response from the views received. We would therefore question the overall validity of the consultation report.

We also believe that it is inappropriate to compare JP expenses rates with those of salaried judiciary. As you are aware JPs provide their time without any remuneration, and according to the 'Volunteers Charter', which is supported by the Scottish Government, one of the Charter points is:-

'Volunteers should receive no financial reward for their time however out of pocket expenses should be covered, no one should be prevented from volunteering due to their income.'

This in essence is the principle that we feel is not being fully addressed with some, and only some, of the expenses and allowances rates.

For clarity, we are content with the car mileage rates provided, and they do reflect the actual costs of running a car as identified by independent agencies (AA and RAC). In fact we

welcomed the introduction of rates that are designed to reduce environmental impact (rates for bicycle use and for electric/hybrid vehicles). Similarly, we believe the rates for overnight allowances are fair and reasonable. This does not, however, mitigate our view that the limitations placed on the three allowances that we have highlighted are inadequate to cover actual expenditure incurred.

Rather than compare JPs to salaried judiciary, we would like to point out that the lunch allowance for local government councillors in Scotland is £12:00p, and like ourselves must be covered by receipts. This may be considered as a more appropriate comparison.

We note that no comment is made with reference to carer's rates other than they were increased. The rates are so low as to be indefensible, and the maximum hourly rate permitted is simply unobtainable. It is significant that SCTS do not make an attempt to justify the proposed maximum hourly rate of £10.00p for a carer.

With the loss of earnings rates it should be recognised that the rates applicable from 1st April 2020 have been increased by 3% from the 2009 rates, to align them with the rates payable to Magistrates in England & Wales. These rates in England & Wales were fixed in 2010. Reference must be made to the Report published on 18th June 2019 by the Westminster Parliament's Justice Committee on 'The Role of the Magistracy – Follow-Up Comments' and specifically paragraph 55 which to quote in full is:-

'We are disappointed by the delay in reviewing the Financial Loss Allowance, leading to a situation in which some magistrates are effectively subsidising HM Courts and Tribunals Service. This is clearly unacceptable. *The Government must fulfil its commitment to completing the review of the Financial Loss Allowance by the end of 2019*'. (their italics)

Unfortunately this review has been adversely affected by the Covid-19 pandemic and as far as we can establish through our contacts with the Magistrates Association has not been completed. The SJA fully accept the principle of alignment with magistrates in England & Wales. We simply seek agreement that the Loss of Earnings rates applicable in Scotland will be aligned automatically and immediately with those in England and Wales when they are adjusted.

We do have to take issue with the comment that the SJA has received assurances that the rates will be reviewed. The matter was raised at a SJA/SCTS Liaison meeting on 8th August 2019, when SCTS advised that reviews would be undertaken, however no specific time period was mentioned, simply that it would be two or three years. This SCTS comment was not formally minuted. Given it has been a full decade since rates were last set, we do seek a written assurance from SCTS that expense rates will be reviewed and this review should be biennial. We do believe that this requirement to undertake this review should be incorporated into the legislation identified by Mr McQueen.

A final point that we would wish to mention relates to the Latimer House Agreement which provides a framework for the relationship between the government and judiciary and has

been signed by all Commonwealth countries. One of the essential principles of the Agreement is:-

‘As a matter of principle, judicial salaries and benefits should be set by an independent body and their value should be maintained.’

Whilst we would not wish that the payment of any expenses should be considered in any way to be remuneration of for a JPs time, we do believe that the underlying basic principle that an independent body should set benefits, including the reimbursement of actual expenses, to be a guiding principle for SCTS in setting the level of JP expenses. However, in the consultation report attached to Mr McQueen’s letter and under the ‘Carers Expenses it explicitly states that, ‘the affordability to revising the rate for carer expenses, at a time of continued austerity and flat cash budget settlements, means that there is simply no flexibility within SCTS budgets to cover any increases’; and further on in the same section the comment is made that, ‘as noted throughout the document the affordability of any increase must fit in with budgetary constraints that SCTS face each year’.

It is clearly evident therefore that the determination of certain JP expenses and allowances is being set by the limitations of the SCTS budget and not based on the principle of what is fair, reasonable and just. It is to achieve these principles of fair, reasonable and just rates for all expense and allowance is our objective. To that end we would reiterate our earlier statement that we would fully co-operate and assist with an independent review of JP expenses and allowances.

I trust that these comments are helpful.

Yours sincerely,

Dennis W. Barr

Secretary