

My Lord. Can I start by recognising the first Opening of the Legal Year since the installation of Your Lordship and Lord Beckett as Lord Justice Clerk. There has been a changing of the guard, but no change in the necessary engagement with the legal profession and beyond, engagement for which I am most grateful.

Thank you also, My Lord, for your comprehensive address marking the opening of the Scottish legal year. Your remarks on modernisation, investment, and the challenges facing our justice system resonate deeply with the pressing realities confronting Scotland's legal profession today.

While I commend the progress achieved in reducing criminal trial backlogs from 43,000 to under 18,000 cases, and the innovative Summary Case Management initiative's remarkable success in reducing outstanding summary trials by approximately half, I must address two critical issues raised by YL which threaten the very foundation of our justice system: the urgent need for comprehensive legal aid reform and the imperative to defend judicial independence.

The legal aid system you reference requires immediate, transformative action. Scotland faces an unprecedented legal aid crisis that threatens access to justice for our most vulnerable citizens. The stark statistics paint a devastating picture: legal aid solicitor numbers have plummeted by 12% in just three years, with just over 1,100 solicitors now registered for criminal and children's legal aid. More alarmingly, 41% of current legal aid solicitors plan to cease this work within two years or remain uncertain about continuing.

This crisis extends beyond mere numbers. In real terms, £25 million less is being spent on legal aid now than in 2016-17, despite inflation. Legal aid payments account for only one-third of median turnover for participating firms, making this vital work economically unsustainable. The consequence is the emergence of legal aid deserts, particularly in rural areas where only 5% of legal aid payments reach firms serving 29% of Scotland's population.

The human cost is profound. Victims of domestic violence contact 30-50 solicitors seeking representation. The Scottish Solicitors Bar Association reports criminal lawyers leaving the profession entirely.

That being so, recent steps taken by SG to improve matters are welcome, if long overdue. Like your Lordship, I am hopeful of a swift resolution of what is fairly described as a crisis. But the momentum must be maintained, and discussions cannot be allowed to stall. Technological improvements will be as of naught if legal representation cannot be secured.

Equally urgent is the need to defend judicial independence against mounting threats. While Scotland has not experienced to the same extent attacks seen elsewhere, we cannot afford complacency. Recent parliamentary inquiries have revealed that 94% of judges express concern about government conduct toward the judiciary. The erosion of constitutional safeguards weakens the institutional protection judges require.

Judicial independence is not a privilege for judges – it is the foundation of impartial justice and democratic governance. Every attack on judicial integrity, whether through misrepresentation of decisions or inadequate defence of the judiciary by parliamentarians, corrodes public confidence in our legal system. As Lord Hodge has warned, the greatest threat may come not from direct assault but from political disengagement and a shallowness of understanding between politicians and judges.

We need immediate action on multiple fronts. Legal aid improvements need urgent implementation. The Scottish Government's approach to reform, while welcome, must be implemented before the system collapses. We cannot await lengthy consultations while solicitors abandon legal aid work daily. I believe that significant progress has been made, but this needs to translate into swift real life change which arrests the decline.

And government ministers must explicitly defend judicial independence when it comes under attack. The duty enshrined in the Judiciary and Courts (Scotland) Act 2008 requires active protection, not passive silence. Ministers must speak out against misleading criticism and personal attacks on judges, restoring and reinforcing public confidence in judicial impartiality.

My Lord, we stand at a defining moment for Scottish justice. The modernisation and technological advances you celebrate risk becoming irrelevant if we lack lawyers to operate the system and public confidence in judicial decisions. Legal aid reform and judicial independence protection are not separate issues – they are interconnected pillars of access to justice.

I urge immediate action on legal aid, and unwavering government commitment to defending judicial independence. Justice delayed is justice denied, but justice without adequate representation or judges in whom the public has confidence is no justice at all.

Faculty stands ready to collaborate and assist. The time for action is now, lest Scotland's proud legal system suffers irreparable damage to the rule of law we all cherish.