

## OPENING OF THE LEGAL YEAR 2023/2024

Welcome to the opening of the legal year. I thank you all for coming. Since the abolition of formal court terms, today is primarily a ceremonial occasion, but it remains a useful opportunity to reflect on the progress we have made in the past year, and on what will, or at least might, happen next.

I extend a special welcome to Lord Burnett of Maldon, the Lord Chief Justice of England and Wales and thank him particularly for his work during his years in office in ensuring that Scotland's voice was heard on legal matters in the Halls of Westminster and elsewhere.

### **Law Reform: Regulation of Legal Services and Criminal Justice**

Looking to what it is that might happen next, there are two Bills on which views are currently being sought. Each proposes a series of notable reforms to the justice system.

The first is the Regulation of Legal Services. The senior judiciary recently responded to Parliament's call for views on the Bill. They were unanimous in the view that the Bill, as currently drafted, gives rise to serious constitutional concerns about the rule of law and the separation of powers. It is a threat to the independence of the legal profession and the judiciary. If the Bill is passed in its current form, Scotland will be viewed internationally as a country whose legal system is open to political interference. This will have serious adverse consequences.

The rights of clients, who are the ultimate consumers of legal services, to obtain legal advice, must be protected from interference by the government. The only way to ensure that lawyers will be able to stand up for the individual, whether a person or an institution, against the government of the day, is for the Lord President, and the Court of Session, to remain as the ultimate regulator of the legal profession.

On a more encouraging note, the Victims, Witnesses and Justice Reform Bill contains proposals for significant reform of the criminal justice system, many of which are based on the Lord Justice Clerk's Review. The judiciary welcome the reforms insofar as they aim to make giving evidence a less traumatic experience for witnesses, including the creation of a right to anonymity and to independent legal representation for complainants in relation to applications under the rape shield legislation, the establishment of a specialist sexual offences court and the abolition of the not proven verdict.

Overall, the judiciary believe the Bill proposes a number of measures which, in principle, represent improvements to the existing system.

## **The Criminal Courts: Recover, Renew, Transform**

Following the build-up of criminal cases which have waited for a considerable period of time to go to trial as a result of lockdown, the court service began the Recover, Renew and Transform programme in September 2021.

The recovery aspect aimed to restore the courts to their pre-pandemic capacity. It involved recruiting more sheriffs and court staff and the setting up of more High Court and sheriff trial courts. Good progress has been made. The challenge now is an ever-increasing volume of indictments and complaints which libel sexual offences. In the face of this new volume of criminal business, we no longer expect to restore matters to the pre-pandemic position. We need to adjust our expectations and set a new reasonable baseline for the number of cases waiting to go to trial at any one time.

Our modelling predicts that the number of High Court cases waiting for trial will recover to a new reasonable baseline level by March 2025, and sheriff solemn trials by March 2026.

Prisoner escort services are causing those in custody to arrive at court late. This has an impact on the smooth operation of the criminal courts. We are looking to accelerate plans to move to virtual custodies. Pilots have already taken place. As I have said many times before, the need to bring those arrested before a court as soon as practicable, must remain a priority.

The purpose of renewal is to establish better ways of working which promote the resolution of cases at the earliest opportunity. The Summary Case Management pilot continues in Dundee, Hamilton and Paisley Sheriff Courts. It aims to reduce the number of hearings to those which are necessary, by encouraging early resolution through early disclosure. Early disclosure has allowed the Crown to take a more targeted approach to the citation of witnesses. There has been earlier resolution of proceedings brought in the pilot courts and a reduction in the number of witness citations being issued in those proceedings. Work is underway to roll the pilot out to Glasgow Sheriff Court.

Specialist online courts are being set up to deal with domestic abuse cases. The idea is to ensure that the complainer and the accused do not require to meet each other. This reduces potential trauma for complainers.

Juries continue to be balloted remotely, thus sparing the public the inconvenience of coming to court. Over the course of the past year, over 450 police and expert witnesses have given their evidence remotely in High Court trials.

A key component of transformation lies in the implementation of the recommendations of Lady Dorrian's Review. The court service has been making substantial progress in relation to those recommendations which do not require legislation. The creation of facilities to pre-record the evidence of children and vulnerable witnesses and the giving of evidence remotely is being accelerated. We now have designated facilities for commissions in Edinburgh, Glasgow, Inverness and Aberdeen.

Earlier this month, I visited the Bairns' Hoose. The Hoose is designed to feel like a family home. It is based on an international model first developed in Iceland, called the Barnahus, which brings together justice, health, social work and recovery support for children in one location. The Hoose is, in essence, a comfortable and safe space in which children can give evidence, receive medical care, take part in decisions about their protection and obtain support to recover from trauma.

The Hoose is the first of its kind in Scotland. The Barnahus model was first advocated for in early 2016, as part of SCTS's Evidence and Procedure Review. I am very pleased to see it implemented into the system, and I hope that we will see more of them developed in due course.

### **The Civil Courts: Technology and Transparency**

On the civil side, there have been a number of notable technological improvements this year.

The importance of making the people's courts as accessible as possible cannot be understated. The advent of new technology means that we can implement new, more efficient and convenient ways to do this. In June, we officially launched Court of Session Live, a new streaming service for Inner House proceedings. I thank Lord Pentland, and his cross-departmental task force, for their hard work in getting this up and running.

Alongside Court of Session Live, we are publishing information about, and summaries of, upcoming appeals much earlier than we have ever done before. We hope that this will enable those who are interested in viewing proceedings, whether online or in person, to make plans to do so.

We launched the new and improved Civil Online portal in May and have significantly expanded the level of service which the portal offers. In Simple Procedure cases, court users can now raise and respond to actions through the portal.

We secured funding from the Scottish Government to start developing a new case management system for the Office of the Public Guardian. The new interface will provide a more accessible and broader range of online services to the public.

Many of our Tribunals are experiencing growth in the volume of business. The work of the Social Security Chamber is expected to increase significantly. The new Local Taxation Chamber has inherited over 40,000 cases from its predecessor, the Valuation Appeals Committee. We are working closely with the Government to ensure that sufficient resources are made available to support this. Reform of the Tribunal system generally also continues, with the further expansion of the General Regulatory Chamber's jurisdiction, and the potential transfer of the MHT into the First-tier Tribunal during 2024.

The court service are in discussions with the Faculty about the re-establishment of the practice of making judiciary and session papers available to the Advocates Library. This will enable advocates and, via the National Library, members of the public, to view them.

We are working hard to deliver these improvements, but, as ever, we can only do as much as resources allow. We will continue to do what we can within budgetary constraints. I ask only that the government continues to support us by providing us with sufficient funding to continue to deliver core services, as well as these improvements to the system.

### **Welcomes and Thanks**

We have a number of guests with us this morning. I have already mentioned Lord Burnett.

We are also joined by a delegation of members of the US Inns of Court, Judge Tony O'Connor from the High Court of Ireland, and representatives from Thomson Reuters. A warm welcome to each of you. I hope you will enjoy your visit to our courts.

I take the opportunity to welcome the new Executive Director of the Judicial Office for Scotland, Riley Power. My thanks go to the outgoing Executive Director, Kay McCorquodale, for all of her hard work and assistance.

I welcome Keren Ramsey to her new role as Keeper of the Rolls. My thanks go to her predecessor Trish Fiddes, for the remarkable efforts which she put in over many years to keep the courts and many individual judges running.

For their help and support, I thank all of my judicial colleagues; especially the Lord Justice Clerk, Lady Dorrian, the administrative judges: now Lords Pentland, Matthews, Erich and Mulholland, and the Sheriffs Principal.

I thank the SCTS chief executive, Eric McQueen, and the other staff working here in Parliament House, in the High Court centres, sheriff and justice of the peace courts, the Office of the Public Guardian and Accountant of Court and the Tribunals Centres throughout the country. I am constantly grateful to them for their unstinting commitment in supporting the judiciary and serving the people of Scotland in the face of increasing volumes of business.

We also welcome the Scottish Law Commission to Parliament House, who have moved into the building after 47 years in Causeway House.

### **Vice Dean of Faculty and President of the Law Society**

Since 2021, I have invited the Dean of the Faculty and the President of the Law Society to say a few words to mark the opening of the legal year. The Dean cannot be with us today. I am pleased to invite the Vice Dean to speak in his stead.

Mr Renucci

Mrs Webster.

### **King's Counsel**

It is now my pleasure to welcome those who have been recommended for the rank and dignity of King's Counsel:

Mr Davidson – during your 28-year career at the junior bar, you built up a practice that covered many different areas of Scots law, including reparation cases, particularly in the area of professional negligence, public law, commercial law, Fatal Accident Inquiries and proceeds of crime. This breadth of experience will be an asset to the senior bar.

Mr McGregor – you have built a busy practice in all areas of reparation since calling to the bar 25 years ago. You have been an independent disciplinary panel member for Scottish Athletics since 2020. You have been on the panels of preferred counsel for the Medical Protection Society, the Medical and Dental Defence Unions. You have been an ad hoc Advocate depute. Your significant and varied experience will enhance the senior bar.

Ms Drysdale – since calling to the bar in 2002, you have held a number of appointments, including Standing Junior to the Scottish Government, Legal Assessor for the General Teaching Council. You have been a member of the Scottish Civil Justice Council, Deputy Clerk of Faculty and a Faculty Skills Instructor. You have taught Civil Court Practice at Edinburgh University for ten years. Your experience and commitment to public service makes you well-suited to hold the rank and dignity of King's Counsel.

Mr Wilson – after calling to the bar in 2005, you specialised in insolvency, company and commercial litigation. As a Chartered Accountant, you are one of a rare breed of advocates who can count. You became an AD in February of this year. Your obvious intellectual ability and experience will be a welcome addition to the senior bar.

Mr Caskie – you called to the bar in 2006. You are currently Counsel to the Scottish Covid Inquiry. Before that, you practiced particularly in immigration and asylum cases, often dealing with urgent applications. You have also been a judge of the Immigration and Asylum Chamber for over 20 years. I have no doubt that you will continue to make valuable contributions at the senior Bar.

Mr Gill – you have been an Advocate depute since 2021. Prior to that, you had a busy practice in public law, and in the specialist area of valuation for rating. You have acted in a number of public inquiries and were a Standing Junior Counsel to the Advocate General and the Home Office. Your appointment will be of great benefit to the senior bar.

Mr Hay – since you called in 2008 you have specialised in employment law. You are a founding member of the Faculty of Advocates Employment Law Group. You have been an ad hoc Advocate depute since 2019. You have taken an active interest in training the next

generation of lawyers, having taught delict at the University of Edinburgh, and having been a Faculty Skills Instructor. Your experience will serve you well as King's Counsel.

Ms Watts – since calling to the bar in 2009, you have established a well-regarded professional negligence and commercial practice. You are frequently instructed by medical professionals. You have been instructed in several high profile public inquiries. Since 2022, you have been an ad hoc Advocate depute. You are also the Chair of the Institute of Chartered Accountants of Scotland Disciplinary and Appeals Panel. This experience makes you suitable for appointment as King's Counsel.

Ms Ower – you are a stalwart of the commercial bar. You have been a Standing Junior to the Scottish Government for over a decade, and have appeared in the Supreme Court. You have written notes for Lexis Nexis on restructuring and insolvency, and are on their Panel of Experts. Your appointment as King's Counsel represents an important addition to the senior commercial and corporate bar.

Mr Paterson – since calling to the bar in 2010, you have developed a busy commercial and regulatory practice. You have significant experience in public law, having been a Standing Junior to the Scottish Government since 2015, and a Convener of the Mental Health Tribunal for Scotland since 2021. This varied experience will stand you in good stead as senior counsel.

Mr Byrne – you passed advocate in 2010 and developed a successful practice in public and commercial law. You have appeared as counsel in the UK Supreme Court on several occasions. You have been a Standing Junior to the Scottish Government for over a decade. The senior Bar will be strengthened by your experience.

Mr Mohammed – your practice at the bar has been busy and varied. You were appointed an Advocate depute in 2020, and then Senior Advocate depute in 2022. Before that, you practices over a broad range of areas, including planning, commercial, property, professional negligence, public law and licensing. You are a former Standing Junior to the Advocate General. I have no doubt that you will bring all of that experience to bear as senior counsel.

Mr Reid – your reputation in the areas of reparation and public law precedes you. You have been a Standing Junior to the Scottish Government since 2015, and were appointed First Standing Junior in 2020. You have a significant number of important reported cases to your name, including appearances in the Supreme Court. You teach public law at the University of Edinburgh and are responsible for Green's Concise Guide to Public Law. You have been a part-time Sheriff since 2022. You will be an asset to the senior bar.

Mr Cameron – you trained with COPFS, qualifying as a solicitor in 2003. You were appointed an Advocate depute in 2012, marking sexual offences cases until you qualified as a Solicitor Advocate in 2014, when you began running trials. You were made a Senior Advocate depute in 2019. You have appeared in the UK Supreme Court. I have no doubt your wealth of experience will serve you well as senior counsel.

Mr Jessop – you were admitted as a Solicitor Advocate in 2004. You have worked for the Crown Office and Procurator Fiscal Service in various roles since in 2000, including as Assistant Procurator Fiscal in the High Court Division, interim District Procurator Fiscal for West Lothian and most recently, senior Advocate depute. You have conducted a great number of complex and important trials. Your appointment will strengthen the senior criminal bar.

I have given the briefest summaries of what have been full and fruitful careers. Appointment to the rank and dignity of King’s Counsel is the culmination a great deal of hard work. It is primarily a mark of distinction in advocacy and of intellectual ability, but it is also a mark that the bearer has a reputation for honesty and plain dealing and the trust of the Courts and colleagues. Each of you has proven, and will continue to prove, that you are worthy of it. I offer you my congratulations and best wishes for this next chapter in your legal careers.

There will be those who will be disappointed at not being recommended this year. Several will merit silk in the future, some perhaps in the near future. Individual feedback is offered, but I repeat what I have said in the past that, in general, when determining suitability, I attach particular importance to appearances in the Appellate Divisions and to service as an advocate depute.

My thanks again to you all for coming this morning. The court will now adjourn.