

SCJC - ICT Committee

Discussion Paper in relation to the provision of wifi access in Sheriff Courts

1. Background

1.1 At the previous meeting of the SCJC ICT Committee, there was some discussion of the desirability of the provision of wifi access in Sheriff Courts. It is noted that this discussion followed on from a discussion of the general desirability of the Scottish courts moving towards a “paperless” model of operations.

1.2 Against that background, I have been asked to produce this brief paper outlining the issues arising in relation to the desirability and functionality of introducing wifi access throughout the Sheriff Courts.

2. The use of electronic communications by the legal professional

2.1 From the practitioners’ standpoint, the delivery of legal services in Scotland is moving inexorably towards electronic forms of communication and documentation and away from the traditional paper based forms. Almost all business clients and the significant majority of non-business clients now expect that the primary form of communication between themselves and their solicitors will be by e-mail. The vast bulk of communications between solicitors and counsel are also conducted by e-mail. Solicitors and clients have little interest in (of use for) the provision of pleadings (or even opinions) in hard copy form – it is more helpful for them to receive these electronically.

2.2 Similarly, there has been a sea-change in the manner by which legal research is undertaken and, in particular, case-law reviewed and accessed. While textbooks still have a significant (and useful) role to play, the ease with which electronic resources (such as Westlaw and other similar products) can be searched means that such electronic databases have become an integral part of the legal practitioner’s resource

base. It is also not to be forgotten that the general internet also provides a wealth of useful (factual and legal) information for those dealing with legal matters. For example, Companies House provides a freely accessible database enabling any person to check and confirm the names and address of all British registered companies and LLPs.

- 2.3 Finally, a significant number of the funding, regulatory and government bodies with whom legal professionals may be required to interact now do so exclusively (or, at least, significantly) by way of electronic means. Notably, I understand that communications between solicitors and SLAB are now expected to take place (at least in the first place) electronically. Similarly, the Faculty of Advocates feeing system now operates on an electronic basis.
- 2.4 Sheriffs will also now (quite properly) expect those appearing before them to be able to make use of electronic tools. For example: (a) if unexpected matters arise during a case, the Court will anticipate that parties will be able to take instruction relatively quickly; (b) similarly, if unexpected legal issues arise during the course of a case, Sheriffs will expect parties appearing to be able to locate relevant authorities quickly; and (c) Sheriffs will frequently expect parties to prepare (and provide in written form) electronic versions of the submissions.
- 2.5 From all of the above, it can plainly be seen, I would suggest, that the work of the legal professional is now likely to be carried out very significantly through electronic means. This is something that benefits both the practitioner and, importantly, the ultimate client (through speed and ease of access). It is also something which, so far as I understand matters, is consistent with the general approach of the SCJC ICT Committee, which seeks to facilitate and encourage the use of ICT within the Scottish Courts system, with an ultimate goal of moving away from paper based service models.
- 2.6 Finally, it is to be noted (though this may be obvious) that many, if not all, of the electronic matters referred to above require access to the internet. Most practitioners will have access to hardware (particularly laptops) that will enable them to do so; the crucial issue is whether they have ready access to the internet by way of that device.

3. *The current position*

3.1 At the present time, there is, so far as I am aware, no central approach taken to the provision of wifi services within the Sheriff Courts of Scotland. I note that certain wifi provision has been introduced in the Court of Session.

3.2 At some Sheriff Courts, the local Faculties have invested in wifi access within the agents' rooms. Plainly, this has been done because it is seen as a desirable service to provide to the professional court user. This is, however, by no means a widespread phenomenon. Many courts have no wifi provision, both in the cities and in more remote locations.

3.3 The absence of wifi plainly hinders the provision of legal services and a streamlined interaction between the courts and legal practitioners. Frequently, it will mean that the various matters referred to at paragraph 2 above, which might usefully be done while parties are physically present within the Sheriff Court building, have to wait until the practitioner has returned to their office. This is particularly undesirable where (a) an "out of town" practitioner is involved, or (b) the matter sought to be addressed is an urgent one, which could be addressed swiftly if there was internet access.

4. *Potential way forward*

4.1 For the reasons discussed above, I would suggest that thought should be given to a programme seeking to introduce wifi accessibility throughout Scotland's Sheriff Courts.

4.2 In the first instance, it is suggested that this might be done by way of the provision of wifi in all agents' rooms. Such a limited approach might allow for an assessment to be made of the practicalities involved.

- 4.3 Assuming that the first stage can be carried out successfully, it is suggested that thought should then be given to making wifi available in the court rooms themselves (both to practitioners and to members of the public). It is appreciated that this would be a significantly larger project and would, no doubt, have greater cost implications that would have to be assessed.
- 4.4 Finally, I would note that, without such internet access being provided, there will be a very significant and obvious impediment to the desired move to a paperless court system. In contrast, if such access is available, it is likely that the legal profession will itself seek to drive forward the paperless model (as something convenient and practical both for themselves and, more importantly, their clients).

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