

Text of further Letter to the President

Dear David

I am writing to you following our correspondence last year and to raise concerns recently raised by criminal defence solicitors at a recent committee meeting and their subsequent emails.

It seems to us that both the Ministry of Justice and Legal Aid Agency are ignoring the obvious signs that the Criminal Justice System is in severe crisis. This affects not only barristers but also solicitors who make up the essential backbone of the CJS and who deal with the vast majority of criminal cases, from arrest, interview and Court hearings to appeals.

The Law Society 'heat map' shows that the ages of duty solicitors is rising and that the number of new duty solicitors is falling. Most criminal defence Firms are small or medium sized businesses with a high proportion of BAME employees and are in need of financial and other support if the market is to remain sustainable and the goal of diversity in the profession is to be maintained. There are definite signs that younger lawyers are not attracted to criminal defence litigation primarily due to problems with career progression, low/stagnating incomes and low morale. Add to the mix the more attractive employment opportunities offered by the CPS, Central and Local government, and commercial practice, and that danger of a breakdown in the system is real and obvious.

Your own researchers will be able to confirm that a solicitor in the criminal defence community is now paid at rates below those set in about 1998, with no allowances for inflation, increased costs of running a practice etc. Your researchers could also establish the percentage increases in remuneration paid over the same period, 1998 to date, to, say, civil and public servants, police, NHS staff, fire and ambulance staff, military personnel, the Judiciary and ... MPs. Might I suggest that a suitable chart be published in the Law Society Gazette?

It has been suggested that the following steps might assist the hard-pressed defence solicitors who are facing delays of [possibly] years until they are aid for work properly undertaken, especially in Crown Court cases: -

1. An immediate uplift for legal aid funded solicitors from, say, mid-February 2021 - this would raise the flagging morale of the defence lawyers. The 'Grayling' 8.5% reductions should be reversed as a matter of urgency.
2. There is a real and urgent need for Crown Court cases to have increased interim fees (at least the full cracked trial fee) and second interim payment made after, say, 9 months if the trial has not been started in a proper and meaningful way. In addition the issue of low payments for page count should be addressed.
3. There should be immediate and urgent investment in the Courts to ensure that cases are progressed more swiftly and the pressures on defendants [who may be in custody], witnesses/complainants [who may be vulnerable] and defence lawyers are reduced as well as trying to show that the CJS is still viable.
4. To raise morale, it would be a small, but much appreciated, gesture if you, the Lord Chief Justice, the Lord Chancellor and the Chair of the Bar Council could publish an article

confirming that the criminal defence community [already recognised as 'essential key workers'] are appreciated for all their hard work at the coal face of the CJS and for frequently working long and unsocial hours.

I appreciate that the Criminal Legal Aid Review has started but putting a commercial lawyer at the head of the Review does not inspire great confidence in the judgment of the defence community. That Review will take months to prepare a report and then I fear that civil service/Treasury inertia will kick in. By the time there is any meaningful movement on these issues, the CJS and defence community as we know it may not exist or be viable.

I would be happy to speak to you or to others about the issues raised if you so wish.

With best wishes

I remain

Yours sincerely

Julian Young
President West London Law Society

James Chaplin, Ben Lansbury, Judy Ramjeet and Andrew Wainwright.
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