

Dear President

On behalf of the members of West London Law Society [WLLS], I would like to send you congratulations upon your election as President in what will be, undoubtedly, a difficult year for a substantial number of solicitors.

As practising criminal defence solicitors I, and the undersigned Committee Members of WLLS, would like to raise some very important issues with you upon which I would hope for Law Society support.

As you will be aware, the Criminal Justice System [CJS] is under huge strain. This has been caused by a combination of factors, for which politicians of all parties, as well as civil servants in the Ministry of Justice, Her Majesty's Courts and Tribunal Service and the Legal Aid Agency [LAA], have to accept responsibility.

The important social aims of achieving access to justice, having a thriving and sustainable CJS, and ensuring that the 'players' in the CJS can promote diversity and set out a career path for younger entrants, are vitally important. Examination of the Law Society's 'heat map', produced a short time ago, will show that the duty police station and Court solicitors are ageing and not being replaced as swiftly as they should.

Recently we have seen the Lord Chancellor and Lord Chief Justice confirm publicly that the CJS is under huge strains. These range from attracting new criminal defence lawyers, stagnating fees (last set in or about 1998 with no adjustments even for inflation despite increased professional responsibilities), firms in severe financial difficulties, and a crisis in recruitment when the CPS can offer far superior career packages with which private practice can hardly compete.

One major problem relating to the sustainability of the criminal defence 'community' concerns payment of fees for major cases. As you will be aware, payment is made to defence firms after a case is concluded, whether it be in a police station, Magistrates' or Youth Court or in the Crown Court (The new Covid allowance for Interim payments after Plea and Trial Preparation Hearings are of little value as the payments are determined on the extant page count which bears no resemblance to the true figure at trial).

Taking each of those areas in turn: -

1. Police station cases are poorly paid and the practice by the police of releasing suspects under investigation for what may be months or even years, is unfair on suspects and on defence lawyers who may have to wait months before any claim for work can be submitted to the LAA

2. Magistrates' and Youth Court cases are also poorly paid with fees based upon 'historic' calculations and no allowances for inflation and drivers which increase the cost to defence lawyers. If one factors in the increased Custody Time Limits and administrative adjournments due to the current COVID-19 pandemic, payments to defence lawyers may be made many months after the case started. This causes, as you can imagine, huge cash-flow problems

3. Crown Court cases are being delayed beyond the imagination of most lawyers. The backlog is huge and the prospects of sufficient interim payments to hard pressed criminal defence lawyers seem to be diminishing. With some trials being listed in 2022, asking a defence lawyer to fund a criminal defence case for two years is unreasonable and totally unfair, especially when this does not apply to other parts of the CJS. The effect is that many criminal defence firms will have to find funding whilst work-in-progress remains unpaid for two years or more.

The criminal defence community, which is largely made up of solicitors in private practice and mostly paid from public funds/legal aid, and who will be partners, employees or consultants, is feeling the pinch and the sustainability of the defence part of the CJS is being called into question. Self-employed lawyers are finding it increasingly difficult to fund their firms for the reasons outlined above. Recruitment, mental health wellbeing and sustainability are in crisis, and firms are finding funding more difficult when any projections about dates for payment can only be best described, at present, as speculative.

Please can you, on behalf of criminal defence solicitors, urge the Treasury to invest urgently in the CJS, the Court system and infrastructure. This would ensure that the CJS returns to some form of normality in 2021 and that will restore the confidence of the public that their concerns about the CJS will be dealt with efficiently and effectively.

We look forward to hearing from you soon, and remain

Yours sincerely

Julian Young
President, West London Law Society

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

Committee Members, West London Law Society