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**CLSA response to Crime Lower Consultation**  
**Closing Date 28<sup>th</sup> March 2024**

The Criminal Law Solicitors' Association is the only national association entirely committed to professionals working in the field of criminal law. The CLSA represents criminal practitioners throughout England and Wales and membership of the Association is open to any solicitor - prosecution or defence - and to legal advisers, qualified or trainee - involved with, or interested in, the practice of criminal law. The CLSA is responding to the consultation on behalf of its members.

## **Police Stations**

### Consultation Questions

**1. Which option (1 or 2) do you think would be best to implement during the next financial year (2024/25)? Please explain the reasons for your answer.**

*The CLSA is a professional association representing criminal defence solicitors across the whole country and so the option that benefits the majority of our members would be the preferred option of the two available. Option 2 is therefore the preferred option as it ensures more providers will benefit from the increase in rates.*

*However we submit that a better option would be a reduction in the minimum fee to around £220-223 which would allow for those savings to be used to give a very small uplift to those schemes at the very top end of the current fees. This would mean that all providers would see some benefit and it would also achieve the harmonisation being sought by the proposals.*

**2. Which option (1 or 2) do you think would better achieve meeting CLAIR's recommendations mentioned in paragraphs 13 and 21? Please explain the reasons for your answer.**

*The harmonisation of police station fees but continuing with a fixed fee payment that does not reflect the complex nature of some investigations, the vulnerability of some clients, the increase in time spent on cases requiring interpreters, the seniority of the solicitor attending and the work actually done is flawed. It in fact penalises those firms who provide the best service and deals with the most complex and demanding cases. It is in our view more important that there is a restructuring the police station payment system to reflect the work actually done.*

*Different areas of the country have differing issues and therefore some areas may have a high proportion of complex cases for which the providers will spend longer at the police station and will receive the same police station payment as other areas where there may be lots of minor crime.*

*The fixed fee payment for police stations is no longer fit for purpose. Although it was originally designed on a Swings and Roundabouts principle, the fees were calculated on historical data which is no longer valid and has never been updated.*

**3. Do you agree with our approach to amending the escape threshold for the affected schemes? Please explain the reasons for your answer.**

*We do not agree with the approach for amending the escape fee threshold. The cases attracting the escape fee are mostly the most serious and complex cases where experienced solicitors need to attend to advise their clients over many hours. The system requires the provider to work unremunerated for a number of hours beyond the fixed fee until the escape threshold is reached, and even then, the provider is only paid for the work conducted after that threshold. This can involve a senior solicitor carrying out 6 or 7 hours work without remuneration.*

*This does not incentivise the most senior solicitors to attend the police station to carry out this work as it is not financially viable.*

*It is submitted that a fixed fee should be payable based on the hourly rate of the fee earner attending up to the fixed fee and thereafter an additional hourly rate paid with no work conducted being unremunerated.*

**4. Are there any other views or observations you would like to share?**

*The fixed fees do not take into account changes to Duty Scheme Boundaries, Changes to police stations being covered by an individual duty scheme, police station closures etc. This has resulted in providers having to travel further to carry out police station work and so increasing the core costs of attendance. This applies to all areas over the country but is even more apparent in rural areas where schemes are at risk.*

*I. Examples in Urban Area – Greater Manchester*

*Salford Duty Solicitor Scheme historically serviced clients at Swinton Police Station. 4 miles from Salford Magistrates Court. That scheme has now merged with Bolton. A duty solicitor from Salford will now cover police station cases across*

*Swinton Police Station £204.68*

*Bolton Police Station £189.34*

*Wigan Police Station £195.58*

*As you will see the rates vary per police station and a duty solicitor in Salford currently has to incur the additional travel time and core costs to attend different police station for a lesser fee.*

*II. Examples in Rural Area – North and South Ceredigion*

*North and South Ceredigion duty solicitors cover a wide area with travelling times for most lawyers of 1 hr to the "local" custody suite. The fee has been higher in this area to take into account greater travelling. The proposals are that the fixed fee will not increase in this county and so the proposals will do nothing to address the issues in rural areas such as this one which struggle to attract duty solicitors.*

*In light of the fact that the money being put into lower crime in this consultation is in fact money that was set aside for LGFS reform it should actually benefit ALL and not MOST suppliers and would be better spent increasing the basic fees in LGFS*

## **Pre Charge Engagement**

Consultation Questions

**5. Have you previously claimed for pre-charge engagement work? Please state yes or no.**

*It is our understanding that very few providers make a claim for this work*

**6. If no, please explain why?**

*It is time consuming, the hourly rates are too low and providers are concerned that work carried out will be disputed on audit*

**7. If yes, please share your experience of engaging with this work including: a) your experience of engaging with the police and prosecution; b) your experience of claiming payment.**

*N/A*

**8. Have you experienced or witnessed any limitations in carrying out this work**

*The police are mostly unaware of the requirement for a formal or informal agreement and so this work is not carried out as it remains an audit risk for providers.*

## **Youth Court**

Consultation Questions

**9. Do you agree with having a separate Youth Court fee scheme outside of the current magistrates' fee scheme? Please explain your answer.**

*It is agreed that having a separate Youth Court Fee Scheme would be more straight forward than using the current Magistrates Court Fee Scheme*

**10. Do you agree with the enhanced fee proposal for the Youth Court? Please explain your answer.**

*Yes. Youth Court work is both complex and specialist and should have its own payment scheme to reflect the work done for the most vulnerable clients.*

**11. Do you agree with the enhanced fee being targeted towards the most serious offences (i.e. indictable only and triable either way offences)? Please explain your answer.**

*Yes, as this work is often serious and in the case of an adult would be sent to the Crown Court and so much more work is involved. However there are also some complex summary only cases involving children which will have a profound impact on their life and so high quality representation is essential for all youth court cases should also attract an enhanced fee.*

## **Prison Law**

Consultation Questions

**12. Do you agree with our proposal to not make changes to the Prison Law and CCRC fee scheme at this stage?**

*We do not agree. This is a specialised area and in view of the reduction in fees and scope of work, very few providers now carry out this work. If more providers are to be incentivised to carry out this work the fees need to be increased.*