Dear [Insert Court]

We write in respect of the above matter, which is listed for PTPH at X Crown Court on XX, having been sent by X Magistrates’ Court on X date.

We represented XX in our capacity as [insert] at first appearance and we are instructed to represent them going forward in this matter.

Due to the LAA cyber-attack on 23rd April, the legal aid portal is still unavailable, and we are unable to apply for legal aid.

We therefore do not have a Representation Order for these proceedings but have attached XX’s signed online declaration in the hope this will be sufficient for you to grant us access to CCDCS in the meantime.

The Legal Aid Agency have confirmed that they will backdate Representation Orders and that they are working on contingency arrangements for applications, but we do not yet have any facility to apply for Representation Orders whilst the portal is down. At present there is no way to properly assess means eligibility or confirm benefits entitlement using the Benefits Checker system which has been in place for many years. At the time of writing there are as yet no arrangements in place to allow new applications, assessment of means or interests of Justice, although we are aware that our representative bodies are in discussions with the Legal Aid Agency and we hope some progress will be made soon.

Absent the Legal Aid Agency confirming contingency arrangements and unless and until a Representation Order has been granted, we have no means to establish funding under a Representation Order that would in due course mean we will be remunerated for our work.  Although on occasion some firms may choose to undertake some limited work at the risk of not being paid, this may only apply in the clearest of cases where we can confidently predict Legal Aid will be granted. It is unlikely that this would ever extend to the instruction of counsel (or an advocate with Higher rights) – as in doing so our firm becomes liable to pay fees in the event legal aid is not granted.

There are already significant difficulties in operating a legal aid practice in the criminal justice system. As such, the risk of incurring significant disbursements for counsel’s fees without any assurance of payment from the LAA is simply too high.

We shall apply for Legal Aid funding as soon as we are able to, and hope that this will not cause any issues, but would like to put the Court on notice that we may have no alternative but to apply for the PTPH to be adjourned so that an advocate can be instructed and the necessary work carried out under a Representation Order to ensure an effective PTPH. Given the lack of funding in place we are also unable to send a representative to Court to explain the position.

Thank you in advance for your time, and do not hesitate to contact us should any queries arise.

Yours faithfully