

## **Criminal Legal Aid Review**

### **Submission on behalf of Linenhall Chambers**

Linenhall Chambers was created in 2010 following the merger of two long established common-law sets of barrister's chambers in Chester. The traditional split between practice income has been 50/30/20 (crime, family, civil). In recent years the combined Chambers have produced a number of outstanding criminal practitioners. The current Resident Judges of North Wales, Cheshire and Wolverhampton are former members, as are Lord Carlisle of Berriew, Mr Justice Spencer and the Chief Coroner of England and Wales. In addition to these individuals operating at the highest level of judicial appointment, Chambers has also produced many silks and circuit judges. Sadly, the reduction in criminal fees has led to fewer barristers specialising in crime. The effect has been particularly noticeable among female members of Chambers.

Since 2018, the family team has overtaken the criminal team in terms of both the number of members and overall income. The split is now closer to 45/35/20. Sadly, this change has occurred largely because of the push factors away from crime. The average age of our criminal barristers has increased, and their average income has decreased. There remains a considerable demand for capable young criminal barristers. However, it is difficult to persuade talented barristers to take on challenging work involving anti-social hours, appearing before overstretched judges at a low rates of pay.

Practicing criminal law has and will always involve long hours of work, often in circumstances of high pressure. Police, prison or expert witness conferences routinely occur at anti-social hours. Ensuring a complex trial stays on track requires huge amounts of work after normal office hours. The phone rarely stays silent at weekends. The commitment and expertise required needs to be properly remunerated. Since the role requires flexibility, appropriate childcare becomes particularly costly. There is a particular issue with retaining our best female criminal barristers.

Counsel conducting family cases are paid for advocates meetings aimed at resolving issues before the court. They are also entitled to event payments if a case involves particular complexity or overruns. There is greater flexibility in terms of arranging virtual attendance and far fewer logistical issues than might relate, for example, to prisoners or the need to accommodate jurors. The payment system relating to family law appears to recognise the importance of care proceedings and rewards legal professionals accordingly. By contrast the payment for criminal legal aid cases has fallen dramatically at a time when the burden on criminal barristers has increased repeatedly.

By way of example the guilty plea fee for arson is £405, the fee is £710 if there is an intent to endanger life. Nearly all cases of arson require a psychiatric report for sentence. Many require such a report before a plea can be taken. These cases inevitably require more than one conference and a number of mention hearings at which instructed counsel will be obliged to attend and for which the fee is just £91. These fees are a fraction of what a talented lawyer could expect elsewhere. The brief fee for a dangerous driving trial is £784

with refreshers of £400 a day. Assuming eight hours preparation the hourly rate is considerably less than £50. The hourly panel rates for insurance backed cases is £175.

Senior and successful criminal barristers can earn more money by taking on too much work, concentrating on private cases and avoiding unremunerative and complex cases. This is a poor model for encouraging excellence and diversity in a profession which provides an essential public service. Notwithstanding the societal benefits derived from a criminal justice system staffed by highly skilled, dedicated professionals of the highest integrity, the authorities do not seem to value those professionals as other publicly funded professionals conducting similarly responsible roles. It is a particularly poor model for encouraging the careers of young women who may hope to become High Court Judges.

The simple answer is to provide better rates of pay and more support for the provision of infrastructure within which the profession can operate . It is no accident of history that when legal aid rates were better, there was an expansion in the criminal bar and a marked increase in the number of women specialising in crime. The underfunding of the criminal justice system has led to a reversal of that progress.

Linenhall Chambers  
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