

North West Regional Office
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To: All Firms with Duty Solicitors on
the Kendal/Windermere & Barrow in
Furness Schemes

Date: 7 April 2017

Dear Duty Solicitor,

Response to Consultation – Duty Solicitor Scheme

This letter is the Legal Aid Agency's response to the consultation in respect of changes proposed to Duty Solicitor Schemes in the North West for the Kendal & Windermere and Barrow in Furness Schemes as a result of the reduction in the number of members of the Kendal & Windermere Scheme, and the future closure of Kendal Magistrates Court.

HMCTS have announced that the Kendal Magistrates Court will now close with effect from 30 June 2017.

Background

The consultation ran for 3 weeks from 2nd March 2017 and closed on 23rd March 2017.

The proposals outlined in the consultation attempted to keep changes to schemes to a minimum whilst taking into account the likely impact on levels of service to clients from solicitors whose offices will no longer be local to the court dealing with their matter, alongside maintaining fair and reasonable access to Duty Solicitor work for all firms whose offices are located within the affected Scheme boundaries.

In the event that you have any queries regarding the contents of this response, please address the same to Kathryn.Rothwell@legalaid.gsi.gov.uk

Summary of Responses

A total of 4 individual responses to the consultation on proposed changes to the Duty Solicitor Schemes in the North West as a result of the reduction in the number of members of the

Kendal & Windermere Scheme, and the future closure of Kendal Magistrates Court were received.

- 2 were on behalf of firms who have Duty Solicitor members of the affected Schemes
- 2 were from individual Duty Solicitors who are currently or have been members of the affected Schemes

Three respondents suggested that an alternative and the most appropriate action would be to maintain Kendal as a Police Station only Scheme.

The same three respondents further considered that due to the implications for travel, any merger of the Kendal & Windermere Scheme with the Barrow in Furness Scheme would not be appropriate but suggested that a merger of Kendal & Windermere with the Lancaster Scheme would be a better option.

One respondent considered that there was no immediate need for a change because the volume of work could be dealt with by the remaining Duty Solicitor firm, and that any issues with conflict could be dealt with by referral of matters to Duty Solicitors from neighbouring Duty Solicitor Schemes. This respondent did indicate, however, that if the Legal Aid Agency felt this would not be appropriate, that they felt Option 2 would be the most appropriate.

With regard to the proposals for possible Duty Solicitor cover for the matters to be dealt with in Kendal in an alternative location following the closure of the Court building, two respondents considered that due to the nature and infrequency of the cases likely to be dealt with, there would be no need for a Duty Solicitor 'call in' rota.

Decision

After careful consideration of the responses received, and the points raised within the same, the Legal Aid Agency have decided to proceed with Option 2, and as such the membership of the Kendal and Windermere Schemes will be merged with the Barrow in Furness Scheme and the new Scheme boundary will be changed to encompass all postcodes currently allocated to the Schemes.

Members of the newly created Scheme will, however, be allowed to opt out of being included in the coverage for Kendal Police Station subject to there being sufficient members remaining willing to cover Kendal Police Station. This will be kept under review, and in the event that sufficient coverage from the full membership list is not maintained, then all members of the Scheme will be included in the rota for coverage of Kendal Police Station.

All postcode sectors are mapped into at least one Duty Scheme. The changes detailed here will not affect this.

The Legal Aid Agency do not consider maintaining a police station only Scheme with only one member firm to be a viable and long term option. It is acknowledged that the Duty Solicitor Schemes provide a potential source of new clients, and we must be mindful that access to this work should be as fair as is possible across geographical areas.

Additionally, given the requirements placed upon Duty Solicitors under the 2017 Crime Contract to maintain a minimum number and frequency of cases both at the Police Station and Magistrates Court in order to maintain their Duty Solicitor membership we must ensure that firms are able to fairly access a range of work via the Duty Solicitor Scheme.

We have also considered the impact of any ongoing representation of the client at Court where a client is charged with an offence following representation at Kendal Police Station, and the majority of the work will be dealt with at Barrow in Furness Magistrates Court with a smaller volume being dealt with at Lancaster or Carlisle Magistrates Court. Further, we have considered the current sending path to Crown Courts in the area.

Whilst we appreciate this may provide some challenges for firms in that some matters will require travel, we consider that the greater volume of work going to Barrow in Furness will result in this being manageable for the vast majority of firms.

The clients ability to instruct a solicitor from their local area will not be affected by this decision.

In light of this position, the Legal Aid Agency consider that in order for clients to obtain continuity of representation from their solicitor, it would be more appropriate for any merger of Schemes to be with Barrow in Furness and not with Lancaster.

With regard to the need for Duty Solicitor coverage for matters to be heard in the alternative location in Kendal following closure of the Court, the Legal Agency has had regard to the points made by some of the respondents to this consultation with regard to the frequency and nature of cases, and agrees that there will not be a need for a 'call in' court Duty Solicitor rota. The Legal Aid Agency will work with the other CJS agencies to ensure that clients are encouraged to arrange any representation in advance of hearings at the alternative location.

As the work from Kendal Magistrates Court will be undertaken at Barrow in Furness, Lancaster and Carlisle Magistrates Courts, an increase in the volume of cases dealt with at the other Courts is to be expected. However, it has been confirmed by HMCTS that the maximum number of matters listed into a session, particularly on the busier TSJ sessions will not be increased.

As such, and after carefully considering the average number of clients assisted by a Duty Solicitor each day, we have decided that no increase to the number of Duty Solicitors on duty each day will be required.

In making this decision, the Legal Aid Agency is of course aware that the stated preference of all firms cannot be accommodated. It is the unfortunate nature of any consultation process that not all respondents will be satisfied with the outcome, however it is the Legal Aid Agency's view that, in the given circumstances, to proceed with Option 2 is the best course of action.

Next Steps

The firms who currently have Duty Scheme members in the newly created Kendal, Windermere and Barrow in Furness have been contacted to confirm whether they wish to be included in cover for Kendal Police Station. Sufficient coverage has been obtained from firms at this point. In the event that sufficient coverage from the full membership list is not maintained, then all members of the Scheme will be included in the rota for coverage of Kendal Police Station.

Thereafter, the current Duty Solicitor Rotas for the Kendal and Windermere Scheme and the Barrow in Furness Scheme will be reissued and new slots allocated on the basis of the amalgamated membership.

The reissued rota will be published to cover the period 1st May 2017-30th June 2017. You will receive the re-issued rota by email in the usual way no later than 17th April 2017.

The Scheme boundaries will be merged with effect from 1st May 2017 and will create a new Scheme. To assist providers in determining which Scheme(s) they are eligible to join, the postcode sectors providing access to work within each scheme, which can be found here <https://www.gov.uk/guidance/duty-solicitors-rotas-information-and-guidance> , and will be updated in accordance with this decision.

Yours faithfully

A handwritten signature in cursive script that reads "e.J. Schofield". The signature is written in black ink on a white background.

Carolyn Schofield
Area Contract Manager

