



Legal Aid Agency

To: All Firms with Duty Solicitors on
the Barrow-in-Furness, Kendal &
Windermere and Lancaster Duty
Schemes

Date: 5th November 2018

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 Barrow-in-Furness, Kendal & Windermere and Lancaster Schemes as a result of the reduction in the number of members of the Barrow-in-Furness, Kendal & Windermere Scheme and concerns over the future viability of the scheme.

Background

The consultation ran for 3 weeks from 5th October 2018 and closed on 25th October 2018.

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 karl.ford@justice.gov.uk

Summary of Responses

A total of 8 individual responses were received 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 Barrow-in-Furness, Kendal & Windermere Scheme.

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

It should be noted that there were multiple suggestions from some respondents.

Two respondents suggested that no change was made to existing scheme membership. One respondent suggested a compromise in that those Duty Solicitors in Barrow-in-Furness who

want to relinquish slots are allowed to do so, and those such slots are replaced by other firms in Barrow. Should no other Scheme members come forward the suggestion was to then invite Lancaster Duty Solicitors to join the rota.

Six respondents considered that Option 3 would be the most realistic option in ensuring the scheme remained viable.

One further respondent, although not opposed to Option 3, suggested an opt in/opt out scheme was utilised at the outset, so that providers can do this for any schemes.

One respondent was opposed to Option 3.

All eight respondents were opposed to Option 2.

Two respondents suggested a fourth option of a standalone Kendal Police Station scheme comprised of Kendal and Lancaster firms only.

One respondent suggested that Windermere is dropped from the scheme name.

One respondent questioned the lawfulness of the consultation.

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 3, and as such a separate Kendal Police Station Only Scheme will be created, with an amended boundary to encompass Lancaster providers, via the postcode tool.

Members of the newly created Kendal Police Station Scheme will not be able to opt out so as to avoid a similar scenario and further consultations. Additionally, whilst a suggestion was noted around allowing Barrow-in-Furness firms to relinquish slots, to do so would worsen the current position and automatically lead us to Option 3.

Current arrangements will remain in place for both the Lancaster and Barrow-in-Furness Schemes, with Kendal firms retaining access to the Barrow-in-Furness scheme via the Postcode tool. For clarity, the scheme boundaries can be confirmed as follows:

Kendal Postcode for office – Access to Kendal Police Station Only Scheme and Barrow-in-Furness Scheme.

Barrow-in-Furness Postcode for office – Access to Kendal Police Station Only Scheme and Barrow-in-Furness Scheme.

Lancaster Postcode for office – Access to Kendal Police Station Only Scheme and Lancaster Scheme.

The Legal Aid Agency do not consider maintaining the current position to be a viable and long-term option due to the issues caused by the loss of only 2 members from the scheme and the resulting consultation. Option 3 is considered the best option to protect each scheme in the long-term as the number of members will increase and provide sufficient coverage across all three schemes.

The suggestion of a Kendal Police Station rota with only Kendal and Lancaster members was considered, but ultimately excluded Barrow-in-Furness providers who have provided cover under past rotas, and was not considered satisfactory.

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 3 is the best course of action.

The Legal Aid Agency consider that clients should continue to have the choice to instruct a Solicitor of their choosing, and the clients ability to instruct a solicitor from their local area will not be affected by this decision.

In considering the lawfulness of the consultation, providers are directed to the 2017 Standard Criminal Contract Specification 6.60, which states:

6.60 We may, by prior consultation for at least three weeks with the relevant Providers who are members of affected Schemes, change the postcode boundaries of Schemes if a magistrates' court closure or a Police Station closure (whether temporary or permanent), or reduction in membership of a Scheme necessitates such a change.

Next Steps

A new rota will be issued on Wednesday 7th November 2018, to cover 12th November 2018 to 31st March 2019, and sent via email to all members. The amended rota will be an all-in-one rota with each scheme having their own columns, which enable the rota team to check allocations are equal and avoid clashes. The only amendments made on the current rota will be to the Kendal Police Station column, with other existing slots remaining as currently allocated. Any queries around allocation can be forwarded to the issuing team once the rotas are received.

The Lancaster Scheme boundary will be merged with effect from 12th November 2018 to allow access to Kendal Police Station Only 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 black ink, appearing to be 'Karl Ford', written over a light blue horizontal line.

Karl Ford
Area Contract Manager