



Legal Aid  
Agency

**Merseyside Regional Office**

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The Capital  
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Liverpool, L3 9AF

To all members of the South & East Cheshire  
(Crewe/Nantwich/Macclesfield), West  
Cheshire (Chester), North Cheshire  
(Warrington/Halton) Court Duty Solicitor  
Schemes

Date: 16<sup>th</sup> March 2018

Dear Sir / Madam,

**Response to Consultation with scheme members following HMCTS decision to list all first time overnight custody & bail cases identified as Domestic Violence cases at Chester Magistrates Court.**

On 1<sup>st</sup> March 2018, the Legal Aid Agency issued a consultation regarding possible changes to the South & East Cheshire, West Cheshire & North Cheshire Duty Solicitor scheme(s) affected by the HMCTS decision detailed above.

The deadline for responses to the consultation was 15<sup>th</sup> March 2018 and the timetable for the consultation exercise indicated that following consideration of any responses, all affected parties would be notified of the outcome of the consultation. Therefore, this letter is intended as formal notification of the outcome of the consultation.

**Summary of Responses**

A total of three responses to the consultation on proposed changes to the above Court Duty Solicitors Scheme(s), as a result of the centralisation of overnight Domestic Violence cases at Chester Magistrates Court, were received.

Thank you to everyone who has taken the time to provide feedback.

There is no decision that can meet the needs of all those that have fed back on the scheme changes and a decision has been made which provides the greatest fairness to all scheme members that are affected by this change.

One response indicated that the issue of transfer of representation orders, for the convenience of defendants, needs to be addressed. Defendants regularly instruct the Court Duty solicitor to act in any trial only to find out later that the location of the solicitor's office is not convenient. It was suggested that more consideration should be given to applications for transfer of representation orders in these circumstances.

One response indicated that, as a result of the changes, Macclesfield providers will be required to attend 3 different Courts. It was suggested that consideration should be given to a consultation on whether Macclesfield defendants on bail should now remain in Cheshire.

This respondent also suggested that allocating a separate Duty Solicitor for the Domestic Violence Court is not the best option, given the additional cost to the Legal Aid Fund. It was suggested that the Court Duty Scheme for Cheshire is amended, to allow anyone who is currently a Cheshire Duty Solicitor to choose which Court they wish to be Court Duty Solicitor for. They would then remain as Court Duty for that Court for the duration of the rota.

It was also indicated that, in relation to voluntary surrenders, whilst the Court might be assisted by only calling such cases at the end of the main list, this will inevitably cause additional cost to the Legal Aid Fund as a result of the Court Duty Solicitor waiting at Court.

A respondent also indicated that, whilst in favour of the LAA proposal, there should be a bar on any non Domestic Violence Duty Solicitors dealing with any Domestic Violence cases unless instructed on an own client basis before the date of the hearing.

## **Decision**

The Legal Aid Agency notes the response regarding transfer of representation orders, however the decision on whether to transfer representation orders currently rests with HMCTS.

Whilst noting the response regarding Macclesfield Providers attending 3 different Courts; any consultation on where Macclesfield bail cases are listed is the responsibility of HMCTS.

It is accepted that having an additional Duty Solicitor allocated to the Domestic Violence Court in Chester may result in an additional cost to the Legal Aid Fund. However, the Legal Aid Agency's priority is to ensure that any defendants brought before the Court have access to representation. The allocation of Duty Solicitors will be kept under review and, if it transpires that an additional Duty Solicitor is not required, then we will revisit the position.

The comments regarding Duty Solicitor choice of Court Duty Schemes are noted, however, this consultation specifically relates to the centralisation of overnight Domestic Violence cases at Chester Magistrates Court.

After careful consideration of the responses received, and the points raised within the same, the Legal Aid Agency have decided to proceed with the proposal set out in the Consultation Paper.

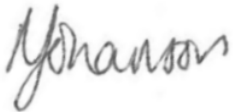
The South & East Cheshire, West Cheshire and North Cheshire Court Duty rotas will be amended so that duty slots for the Cheshire Domestic Violence court are shared across all providers that qualify for the 3 schemes.

All work undertaken in the court is claimable under the rates set out in the Criminal Legal Aid (Remuneration) Regulations.

### **Next steps**

- The option proposed in the consultation document will take effect on 1<sup>st</sup> April 2018.
- New rotas will be issued to cover the period 1<sup>st</sup> April 2018 to 30<sup>th</sup> September 2018.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'J. Hanson', is written below the 'Yours faithfully,' text.

Area Contract Manager