



# Ministry of Justice

# Equality Statement

## Crime Lower Consultation

### Policy Summary

1. This Equality Statement has been written to be read alongside the crime lower consultation, to which this statement is annexed. Crime Lower mostly covers work carried out by legal aid providers at police stations and in magistrates' courts in relation to people accused of or charged with criminal offences. On the other hand, Crime Higher refers to legal representation in the Crown Court and above.
2. As outlined in the consultation, the government's proposals would add an expected £21.1m per annum on solicitor fees in police stations and the Youth Court. This is part of the longer-term reforms to help ensure we pay more fairly for work undertaken by criminal defence practitioners. The specific proposal would change the following areas:
  - Police Station Fee Schemes: partially harmonising the fee schemes as a step towards CLAIR recommended structural reform;
  - Youth Court: Increased payment for Indictable Only (IO) and Triable Either Way (TEW) offences in the Youth Court.
3. These proposals are following on from the government's full response to the consultation on Criminal Legal Aid Independent Review (CLAIR) published in November 2022.
4. This Equality Statement accompanies the January 2024 Crime Lower Consultation. It addresses the impacts of our proposed changes on people with particular protected characteristics as set out in our Consultation Document.

### Equality Duty

5. Section 149 of the Equality Act 2010 ('the 2010 Act') requires Ministers and the Department, when exercising their functions, to have 'due regard' to the need to:
  - eliminate discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act;
  - advance equality of opportunity between different groups (those who share a relevant protected characteristic and those who do not); and
  - foster good relations between different groups (those who share a relevant protected characteristic and those who do not).

6. Paying 'due regard' needs to be considered against the nine 'protected characteristics' under the 2010 Act – namely race, sex, disability, sexual orientation, religion and belief, age, gender reassignment, marriage and civil partnership (in respect of the first limb above) and pregnancy and maternity.

## **Methodology to determine discrimination potential**

7. Adhering to guidance published by the Equality and Human Rights Commission (EHRC), our approach to assessing the potential for particular disadvantage resulting from the measures has been to identify the individuals whom the changes will impact (the 'pool'), and then draw comparisons between the potential impacts of the changes on those who share particular protected characteristics, with those who do not share those characteristics.
8. Guidance from the EHRC states that the pool to be considered at risk of potential indirect discrimination should be defined as those people who may be affected by the measures (adversely or otherwise) and that this pool should not be defined too widely.

## **The pool of affected individuals**

9. As the changes apply to crime lower work, the primary pool of individuals affected will be legal practitioners who deliver criminal legal aid services in this area. Practitioners can broadly be categorised as 'Litigators' which includes solicitors, legal executives and accredited police station representatives.
10. In this statement, we also refer to legal aid 'providers'. This refers to the firms who hold legal aid contracts.
11. The other pool of individuals who may be affected are legal aid clients. In this statement we used the term 'clients', 'defendants' and 'suspects' when referring to this group.
12. We acknowledge that barristers or advocates may also be affected from the changes made in the Youth Court. This is because solicitor firms can choose to instruct a barrister to cover a Youth Court case. However, the amount paid to barristers on these occasions is negotiated between them and the solicitor firm. We also do not hold any data on the proportion of cases where a solicitor firm has instructed a barrister on a case or the amount negotiated. As all of the allocated funding will initially go to solicitor firms and it is unclear to what extent barristers would be impacted, we have decided to not include barristers as part of this equality statement.

## **Data sources**

13. We have identified the following as the most relevant data sources for assessing equality impacts. We do not have access to the same time periods for each data set:

For Practitioners:

- Summary Information on Publicly Funded Criminal Legal Services, (the Data Compendium (hereinafter DC)), published by MoJ in February 2021<sup>1</sup>;
- Chartered Institute of Legal Executives' (CILEX) and CILEx Regulation's joint submission<sup>2</sup> (Independent Review of Criminal Legal Aid: Call for Evidence, published in May 2021); and Diversity Report 2021<sup>3</sup>;
- The Law Society Annual Statistics Report 2021<sup>4</sup>;
- Criminal Legal Aid Data Share 2017-2020<sup>5</sup>; and
- Legal aid statistics: April to June 2023<sup>6</sup>.

For Clients:

- Criminal Justice System statistics quarterly: December 2022<sup>7</sup>; and
- Legal Aid Agency (LAA) data on clients collected through provider billing information, 2022-23<sup>8</sup>.

Comparison to General Population:

- Office for National Statistics (ONS) Census 2021<sup>9</sup>.

14. We have used data from the Data Compendium that shows the ethnicity, specialisation, and seniority of solicitors, and firm size. We have used data from Legal Aid Statistics that shows age, sex and seniority of solicitors. We have drawn upon the Chartered Institute of Legal Executives' (CILEX) and CILEx Regulation's joint submission to CLAIR to show age, ethnicity and sex of CILEX members who are both educated in and working on criminal practice. For disability, we have used data from CILEx Regulation's Diversity Report 2021.
15. We currently do not have practitioner data on disability, and we do not have practitioner, provider or client data on sexual orientation, religion or belief, marriage and civil partnership (in respect of the first limb above), pregnancy and maternity or gender reassignment.
16. The criminal legal aid duty solicitor numbers reported represent the number that were matched as part of the MoJ and The Law Society data share matching work. The numbers reported do not represent the actual number of duty solicitors in the criminal legal aid market, which will be higher. The match rate is above 95%.

---

<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/960290/data-compendium.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/960290/data-compendium.pdf). Please note the Data Compendium covers the period 2014-15 to 2018-19 when it refers to fee income paid for the work undertaken by solicitors. References to duty solicitor data in the Data Compendium cover the years 2017 to 2019.

<sup>2</sup> [https://www.cilex.org.uk/wp-content/uploads/cilex\\_submission\\_-\\_independent\\_review\\_of\\_criminal\\_legal\\_aid\\_call\\_for\\_evidence.pdf](https://www.cilex.org.uk/wp-content/uploads/cilex_submission_-_independent_review_of_criminal_legal_aid_call_for_evidence.pdf).

<sup>3</sup> <https://cilexregulation.org.uk/wp-content/uploads/2021/10/Diversity-Report-2021.pdf>

<sup>4</sup> <https://www.lawsociety.org.uk/topics/research/annual-statistics-report-2021>.

<sup>5</sup> [Criminal Legal Aid Data Share](#).

<sup>6</sup> <https://www.gov.uk/government/statistics/legal-aid-statistics-april-to-june-2023>.

<sup>7</sup> [Criminal Justice System statistics quarterly: December 2022 - GOV.UK \(www.gov.uk\) - used to report on Youth Court statistics for clients](#).

<sup>8</sup> [Legal aid statistics: January to March 2023 - GOV.UK \(www.gov.uk\)](#).

<sup>9</sup> [2021 Census - Census of Population - Data Sources - home - Nomis - Official Census and Labour Market Statistics \(nomisweb.co.uk\)](#).

17. Hereinafter, 'general population' refers to Census 2021 data which has been used when comparing the age, disability, ethnicity, and sex of clients and practitioners.
18. All percentages reported have been rounded.

## Monitoring and evaluation

19. Going forward, we will continue to monitor the equality impacts of these measures.
20. We will continue to pay 'due regard' to the Public Sector Equality Duty as the measures are implemented and will consider the most effective ways of monitoring equalities impacts.

## The demographics of criminal legal aid practitioners and criminal legal aid clients

### Criminal Legal Aid Practitioners

#### Litigators:

21. The Criminal Legal Aid Data Share shows that there were just under 10,750 solicitors working for Criminal Legal Aid (CLA) firms in 2021-22<sup>10,11</sup> However, it is important to highlight that information was not available on how many of them worked on CLA related cases.

**Table 1: Total number of Practising Certificate (PC) holders<sup>12 13</sup>**

Year	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
PC holders	133,367	136,187	139,624	143,167	145,529	149,923	153,274	156,979
Criminal Legal Aid solicitors	14,799	12,720	12,102	13,170	11,716	11,553	11,363	10,741

22. **Sex:** The split by sex for solicitors working for CLA firms has closely matched that in the general population, particularly between 2016 and 2020, however, in 2021 and 2022, there has been an increase in the 'unknown'<sup>14</sup> category which made the overall trend in the data unclear.

<sup>10</sup> The Data Compendium includes data from 2014-15 to 2018-19.

<sup>11</sup> We define CLA firms as those firms of solicitors that received criminal legal aid fee payment during that year.

<sup>12</sup> Data source: Criminal Legal Aid Data Share.

<sup>13</sup> PC holder\* numbers from The Law Society.

<sup>14</sup> The 6.1% (2021-22) representing Criminal Legal Aid solicitors with sex marked as unknown is attributed to the options available during the data collection process. At the time of data collection, respondents were presented with options categorized as Male, Female, or Unknown, as seen in the acquired dataset. The consistent increase in the percentage of unknown entries over the years can be attributed to the gender identification options provided, leading more solicitors to choose the 'Unknown' option.

**Table 2: Solicitors working for CLA firms split by sex<sup>15</sup>**

Year	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	General population 2021 as %
Number of solicitors	14,799	12,720	12,102	13,170	11,716	11,553	11,363	10,741	
Female	47%	48%	49%	49%	50%	51%	50%	49%	51%
Male	52%	52%	51%	51%	50%	48%	47%	45%	49%
Unknown	1%	1%	1%	1%	1%	1%	3%	6%	0%
All	100%	100%	100%	100%	100%	100%	100%	100%	100%

23. In terms of age (Table 3), there is a clear decline in the percentage of female solicitors in older groups. Whereas female solicitors made up more than 50% of those under the age of 49, they made up less than 43% in all groups over the age of 49. It is worth noting that we do not have sufficient data to comment on the size of the female population for solicitors under the age of 30 due to the high percentage of “unknowns”.

**Table 3: Solicitors working for CLA firms split by age and sex, 2021-22<sup>16</sup>**

Age	Number of solicitors	Female	Male	Unknown
Under 25	20	10%	10%	80%
25-29	904	44%	13%	43%
30-34	1,397	65%	25%	10%
35-39	1,505	64%	32%	4%
40-44	1,511	60%	39%	1%
45-49	1,181	54%	45%	1%
50-54	1,362	42%	57%	1%
55-59	1,158	39%	61%	1%
60-64	837	33%	67%	0%
65+	865	15%	85%	0%
Unknown	1	0%	100%	0%
All	10,740	49%	45%	6%

24. **Ethnicity:** 18% of solicitors in CLA firms come from ethnic minority backgrounds. This is similar to the general population and those amongst PC holders.

<sup>15</sup> Data source: Legal aid statistics England and Wales tables Apr to Jun 2023.

<sup>16</sup> Data source: [Legal aid statistics England and Wales tables Apr to Jun 2023](#).

**Table 4 (Table 2.6 in DC): Solicitors working for CLA firms split by ethnicity<sup>17 18</sup>**

	2014-15	2015-16	2016-17	2017-18	2018-19
Number of solicitors	14,790	12,710	12,530	13,140	11,760
African-Caribbean	1%	1%	1%	1%	1%
Asian	10%	11%	12%	11%	12%
Chinese	0%	0%	0%	1%	0%
African	2%	2%	2%	2%	2%
Other ethnic origin	2%	2%	2%	2%	2%
White European	74%	73%	70%	68%	67%
Unknown	10%	10%	12%	15%	15%
All	100%	100%	100%	100%	100%
Ethnic minority solicitors as a percentage of all solicitors working for CLA firms	16%	17%	18%	17%	18%

25. Solicitors from ethnic minority backgrounds were more likely to work in small CLA firms (firm size defined by number of partners) and they had higher representation in CLA firms that mainly did CLA work.

**Table 5 (Table 2.22 in DC): Solicitors working for CLA firms split by ethnicity and firm size, 2018-19<sup>19 20 21</sup>**

	Number of solicitors	Very small	Small	Medium	Large
African-Caribbean	140	17%	46%	22%	15%
Asian	1,420	19%	50%	18%	13%
Chinese	50	~	44%	31%	>20%*
African	260	29%	49%	13%	9%
Other ethnic origin	270	14%	40%	26%	20%
White European	7,830	7%	38%	37%	18%
Unknown	1,790	9%	37%	33%	21%
All	11,760	10%	40%	33%	17%

<sup>17</sup> Data source: Data Compendium – Table 2.6.

<sup>18</sup> In Census 2021, ethnic minorities made up 18% of the general population aged 25 to 64.

<sup>19</sup> The percentage eligible for secondary suppression in this table has been replaced by “>20%”, to indicate its actual value is at least 20%. This has been completed to help mitigate potential disclosure risks without omitting a large amount of data in the table.

<sup>20</sup> Data source: Data Compendium – Table 2.22.

<sup>21</sup> The groupings have been informed by the distribution of the data (i.e. number of partners in each firm) and the Law Society’s categorisation of firm size by the number of partners. See page 10 of the Data Compendium for the definitions.

**Table 6 (Table 2.26 in DC): Ethnic minority solicitors as a percentage of solicitors working for CLA firms split by specialisation, 2018-19<sup>22 23</sup>**

	Average	Mostly criminal work	Some criminal work	No or little criminal work
Ethnic minority solicitors as a percentage of all solicitors working for CLA firms	18%	25%	16%	15%

26. Although diversity improved steadily between 2014-15 to 2018-19 and this increased diversity has gradually fed through senior levels, female solicitors were still under-represented among partners in CLA firms by 2018-19 when compared to the general population.

**Table 7: Solicitors working for CLA firms split by position in the firm and sex, 2021-22<sup>24</sup>**

	Number of solicitors	Female	Male	Unknown
Partners	3,287	35%	65%	1%
Others	7,454	55%	36%	9%
All	10,741	49%	45%	6%
General population		51%	49%	0%

27. **Ethnicity:** The solicitor population for ethnic minority groups tended to be similar to the general population. It is also shown in senior roles that the ethnic minority group is similar to the general population in 2018-19.

**Table 8 (Table 2.18 in DC): Percentage of ethnic minority solicitors split by position in the firm, 2018-19<sup>25 26</sup>**

	Average	Partners	Other	General population
Ethnic minority solicitors as a percentage of all solicitors working for CLA firms	18%	17%	19%	18%

28. **Age:** Broadly the age distribution of solicitors working in CLA firms in 2018-19 resembled that of the whole solicitor population<sup>27</sup> (2019 Law Society Statistical Report), with groups aged 35 to 54 years concentrating more solicitors than younger and older groups. Excluding those aged under 20 years, the general population appears to be split fairly evenly across all of the age bands under the age 65, with 34% aged 30-49 and 49% aged 50 and over. Over the period

<sup>22</sup> Data source: Data Compendium – Table 2.26.

<sup>23</sup> The definition of specialisation is based on turnover from the LS firm files and criminal legal aid payments. See page 12 of the Data Compendium for details.

<sup>24</sup> Data source: Legal aid statistics England and Wales tables Apr to Jun 2023.

<sup>25</sup> Data source: Data Compendium – Table 2.18.

<sup>26</sup> In Census 2021, ethnic minority groups made up 18% of those aged 25-64, and 15% of those aged 25 and over.

<sup>27</sup> 2019 Law Society Statistical Report.

shown, the age distribution of solicitors working in CLA firms has changed so that the group aged 30-49 fell from 59% to 52% and the group aged over 50 grew from 31% to 39% of that population, which points towards an older workforce compared to that in the general solicitor population<sup>28</sup>.

**Table 9: Solicitors working for CLA firms by age<sup>29</sup>**

Year	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	General population aged over 20 years
Number of solicitors	14,799	12,720	12,102	13,170	11,716	11,553	11,363	10,741	
Under 25	0%	0%	0%	0%	0%	0%	0%	0%	8%
25-29	10%	8%	8%	9%	8%	8%	9%	8%	9%
30-34	17%	16%	15%	15%	14%	14%	14%	13%	9%
35-39	15%	15%	16%	16%	16%	16%	15%	14%	9%
40-44	13%	13%	12%	12%	13%	13%	13%	14%	8%
45-49	13%	13%	13%	13%	13%	12%	11%	11%	8%
50-54	11%	11%	12%	12%	13%	12%	12%	13%	9%
55-59	9%	9%	9%	9%	10%	10%	10%	11%	9%
60-64	7%	7%	7%	7%	7%	7%	7%	8%	8%
65+	5%	6%	6%	6%	7%	7%	8%	8%	24%
Unknown	0%	0%	0%	0%	0%	0%	0%	0%	
All	100%	100%	100%	100%	100%	100%	100%	100%	100%

29. As mentioned, the figures above refer to solicitors who worked for CLA firms, regardless of whether they carried out CLA work. For this reason, it is also useful to look into a subgroup of these solicitors, duty solicitors, who we know do work on CLA cases.
30. **Age:** Our data shows that there were around 3,800 duty solicitors<sup>30</sup> in 2022 with an average age of 49. Like all solicitors working in CLA firms, middle-aged groups (specifically age 45-64) tend to concentrate more duty solicitors than younger and older groups. Also, the age distribution of duty solicitors (see Table 10) points towards an older workforce than the general population of CLA solicitors (see Table 9).
31. **Sex:** The sex parity achieved at the wider CLA solicitor level does not feed through to duty solicitors, where around 64% of duty solicitors were male and this percentage remained almost unchanged over the six-year period (Table 11).

<sup>28</sup> Based on own calculation using 2019 Law Society Statistics Report, table 2.4.

<sup>29</sup> Data source: Legal aid statistics England and Wales tables Apr to Jun 2023.

<sup>30</sup> As mentioned in Paragraph 15 the criminal legal aid duty solicitor numbers reported represent the number that were matched as part of the MoJ and The Law Society data share matching work. For further detail around the data, see [User guide to legal aid statistics in England and Wales - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/user-guide-to-legal-aid-statistics-in-england-and-wales)



**Table 10: Proportion of duty solicitors by age, 2017-2022<sup>31</sup>**

Year	2017	2018	2019	2020	2021	2022
Number of duty solicitors	<b>4,992</b>	<b>4,744</b>	<b>4,372</b>	<b>4,269</b>	<b>4,085</b>	<b>3,809</b>
Under 25	0%	0%	0%	0%	0%	0%
25-34	14%	12%	10%	9%	8%	9%
35-44	30%	29%	29%	28%	26%	25%
45-54	32%	33%	34%	34%	33%	33%
55-64	18%	19%	20%	21%	23%	25%
65+	6%	6%	7%	8%	9%	9%
Unknown	0%	0%	0%	0%	0%	0%
All	100%	100%	100%	100%	100%	100%
Average age	47	47	48	48	49	49

**Table 11: Proportion of duty solicitors by sex, 2017-2022<sup>32</sup>**

Year	2017	2018	2019	2020	2021	2022	General population
Number of duty solicitors	<b>4,992</b>	<b>4,744</b>	<b>4,372</b>	<b>4,269</b>	<b>4,085</b>	<b>3,809</b>	
Female	36%	36%	35%	35%	35%	34%	51%
Male	64%	64%	64%	64%	64%	64%	49%
Unknown	0%	0%	1%	1%	1%	2%	0%
All	100%	100%	100%	100%	100%	100%	100%

**Legal Executives:**

32. Finally, it is also worth pointing out that, according to the CILEX and CILEX Regulation's joint submission to CLAIR, 1,287 CILEX members were working in criminal practice. Of them:
- two thirds are females, which is a lower percentage than among all CILEX members but higher than the percentage of women in the general population (51%);
  - 17% identified themselves as ethnic minority – a higher percentage than among all CILEX members and a similar percentage to the general population (18%);
  - 7% have disability, compared to 4%<sup>33</sup> among all CILEX members and 18% among the general population; and
  - average age for criminal practitioners was 44.

**Criminal legal aid clients:**

33. Our data on the characteristics of Crime Lower clients have been used to inform equality considerations where it is considered that defendants who share a particular protected characteristic are likely to be affected. To the extent that increased fees for Crime Lower work could improve case progression in the criminal justice system, this section considers the demographics of both legal aid clients in police stations and the Youth Court.

<sup>31</sup> Data source for duty solicitor numbers and percentages: Legal aid statistics England and Wales tables Apr to Jun 2023. The average age of duty solicitors is taken from the Criminal Legal Aid Data Share.

<sup>32</sup> Data source for duty solicitor numbers and percentages: <https://www.gov.uk/government/statistics/legal-aid-statistics-april-to-june-2023>.

<sup>33</sup> <https://cilexregulation.org.uk/wp-content/uploads/2021/10/Diversity-Report-2021.pdf>

34. Table 12 and 16 below suggests defendants in Crime Lower are much more likely to be male compared to the general population. As 30% of the ethnicities are unknown for police station attendance (Table 13), it is not clear whether any group of defendants are under- or over-represented when compared to the general population; therefore, we cannot comment on this. Furthermore, data on the age of defendants is not available for police station attendance so we cannot comment on this aspect either.
35. Table 14 suggests that the proportion of police station clients with a disability (9%) appeared to be less prevalent than in the population as a whole (18%). However, 32% is recorded as unknown which means the percentage could be higher, but we cannot say. The impacts on defendants are discussed further under “Overall summary of equality impacts”. Unfortunately, we do not have access to any data on disability in the Youth Court for clients.
36. Table 15 suggests that black and mixed children in the Youth Court are overrepresented in indictable only and triable either way cases when compared to the general population. The data in Table 17 also suggests that older children (15-17 years old) are overrepresented in the Youth Court when compared to the general population.

**Table 12: Diversity of Legal Aid Clients (Police Station Attendance) 2022-23 compared to general population from Census 2021 – Sex<sup>34</sup>**

	Female	Male	Sex unknown
Police Station Attendance	16%	83%	1%
General Population	51%	49%	0%

**Table 13: Diversity of Legal Aid Clients (Police Station Attendance) 2022-23 compared to general population from Census 2021 - Ethnicity<sup>35</sup>**

	Ethnic minority	White	Ethnicity unknown
Police Station Attendance	17%	52%	30%
General Population	18%	82%	0%

**Table 14: Diversity of Legal Aid Clients (Police Station Attendance) 2022-23 compared to general population from Census 2021 - Disability<sup>36</sup>**

	Disabled	Not considered disabled	Disability status unknown
Police Station Attendance	9%	59%	32%
General Population	18%	82%	0%

<sup>34</sup> Data source for Police Station Attendance figures: Legal aid statistics: January to March 2023.

<sup>35</sup> Data source for Police Station Attendance figures: Legal aid statistics: January to March 2023.

<sup>36</sup> Data source for Police Station Attendance figures: Legal aid statistics: January to March 2023.

**Table 15: Diversity of Defendants in Youth Court, 2022 – Ethnicity<sup>37 38 39</sup>**

	Asian	Black	Mixed	Other	White	Not stated	Grand Total
Indictable Only & Triable Either Way	4%	14%	7%	1%	45%	29%	11,301
Summary Non-Motoring & Summary Motoring Only*	N/A	N/A	N/A	N/A	N/A	100%	6,806
General population*	9%	4%	3%	2%	82%	0%	59,597,542

**Table 16: Diversity of Defendants in Youth Court, 2022 – Sex<sup>40 41</sup>**

	Female	Male	Not known	Grand Total
Indictable Only & Triable Either Way	9%	87%	3%	11,301
Summary Non-Motoring & Summary Motoring Only*	15%	79%	6%	6,806
General population	49%	51%	0%	12,392,212

**Table 17: Diversity of Defendants in Youth Court, 2022 – Age<sup>42 43</sup>**

	10-11 years	12-14 years	15-17 years	Grand Total
Indictable Only & Triable Either Way	0%	14%	86%	11,301
Summary Non-Motoring & Summary Motoring Only*	0%	17%	83%	6,806
General population	26%	38%	36%	5,635,551

### Overall summary of equality impacts

37. When taken as an overall package, it is our view that the police station fee scheme and Youth Court proposals will benefit providers across criminal legal aid by helping to ensure that we pay more fairly for work done. The changes to the fee schemes and increased fees for crime lower work could speed up case progression for clients through early engagement. This may be due to the changes encouraging providers to spend more time on a case from an earlier point which could improve the quality of advice provided. This may have a benefit for clients with particular protected characteristics if cases conclude earlier and/or they get a better outcome due to the improved quality of advice.

#### Police Stations

38. For police stations, our data shows that in 2022, the split by sex of duty solicitors was around 64% male to 34% female (with 2% unknown). The age band showing the highest proportion of duty solicitors in 2022 is 50-54 with an average age of 49. As the current profile of duty solicitors are typically older males, this demographic will likely benefit from any positive changes to the police station fee scheme. CILEX members act as accredited police station

<sup>37</sup> Data source for Youth Court ethnicity figures: Criminal Justice System statistics quarterly: December 2022 – Outcomes by Offence data tool based on cases 'Proceeded against' where Age group = '01: Children'.

<sup>38</sup> 'General Population' figures taken from Census 2021 which is not available by age, hence drawn from the population as a whole.

<sup>39</sup> Ethnicity data is not available for Summary Offences for youth cases.

<sup>40</sup> Data source for Youth Court sex figures: Criminal Justice System statistics quarterly: December 2022 – Outcomes by Offence data tool based on cases 'Proceeded against' where Age group = '01: Children'.

<sup>41</sup> 'General Population' figures taken from Census 2021 and represent the ratio between female, male and sex unknown in the population aged under-18.

<sup>42</sup> Data source for Youth Court sex figures: Criminal Justice System statistics quarterly: December 2022 – Outcomes by Offence data tool based on cases 'Proceeded against' where Age group = '01: Children'.

<sup>43</sup> 'General Population' figures taken from Census 2021 and represent the ratio between numbers of 10-11 year olds, 12-14 year olds, and 15-17 year olds.

representatives who can also cover police station work. Therefore, police station representatives tend to have more females and a younger workforce in comparison to the duty solicitor population. This group of practitioners may also benefit from the proposed changes. For clients in police station, our data shows that they are much more likely to be male compared to the general population. Therefore, any improvements to the service provided at police stations will benefit this group.

39. It is important to note that for the police station proposals, the majority of the fee schemes across England and Wales will see a fee increase but there will be a proportion of fee schemes which will remain the same. The police station proposals are aimed at bringing the lowest fees up to a certain rate, therefore any fee scheme already above this rate would not be included in the fee increase. Unfortunately, we do not have published data which gives a breakdown of protected characteristics for clients or practitioners across any particular geographic area. Therefore, we cannot comment on which groups of clients or practitioners with protected characteristics will receive the benefit. However, all practitioners will either be positively affected or not affected at all. Any improvements made to the fee schemes will likely benefit all providers in the long run as we would be moving towards a fee scheme structure that would pay more fairly for work done. Therefore, this would also benefit practitioners with particular protected characteristics.
40. Some legal aid practitioners will benefit more than others from the delivery of all these changes, particularly those who are based outside of London. There will also be some legal aid practitioners who will not benefit at all from these changes. However, we do not believe that these potential uneven impacts will result in any particular disadvantage for any groups of practitioners who share a particular protected characteristic as the data we have does not indicate this. However, we also recognise that we do not have data on practitioners protected characteristics split across geographical areas/regions. Therefore, we cannot comment on whether or not any groups of practitioners with particular protected characteristics could be disadvantaged.

#### Youth Court

41. The increased funding for indictable only and triable either way offences in the Youth Court may improve the quality of service provided to children by encouraging providers to spend more time on those cases and specialise in Youth Court work. This could help improve the overall outcomes for children in the Youth Court.
42. For the Youth Court, Table 15 shows that black and mixed children are over-represented in indictable only and triable either way cases when compared to the general population. This means that the increased funding in this area may particularly benefit black and mixed children. Tables 16 and 17 show that older children (15-17 years old) and males are over-represented in the Youth Court in comparison to the general population, therefore these groups may also benefit from the increased funding allocated to this area.
43. The current proposal does not include an increase to fees for summary offences. Unfortunately, ethnicity data for summary offences is not available in the criminal statistics covering youths, therefore we are not able to comment on this aspect. However, these groups may indirectly benefit from the impact of increasing funding in the Youth Court, if the overall quality of service provided

in Youth Court improves, therefore also experiencing the benefits mentioned in Paragraph 37 above.

44. Furthermore, although funding has not been allocated towards summary offences, it is expected that legal aid practitioners who cover Youth Court work will take on a mix of cases with different offence types and, therefore, may benefit from the increase in funding for indictable only and triable either offences depending on how their firm operates.
45. However, it is worth noting that firms may choose to give the lower paid summary offence work to more junior solicitors and the most serious offences to more senior solicitors. This could result in a disadvantage for junior solicitors. Furthermore, our data suggests that females are less likely to be in senior roles than their male counterparts so could also result in a disadvantage for this group. However, we believe that notwithstanding any such effects, the policy is justified as one of the aims of this policy is to ensure the most serious offences would attract for more experienced solicitors to take on these cases and encourage solicitor firms to specialise in this area. The most serious offences in the Youth Court would be triable in the Crown Court if the child was an adult while summary offences would not. Nonetheless, indictable only and triable either way offences make up the majority of cases in the Youth Court (around 70%). We believe that legal aid practitioners in the Youth Court will likely pick up a mix of cases due to the volume of indictable only and triable either way cases. Therefore, any practitioner with particular protected characteristics who take on Youth Court work would likely benefit from the positive change in funding.
46. Overall, the youth court proposal does not represent any decrease in remuneration to any group of practitioners, but we recognise that there could be a chance of unequal effects depending on how solicitor firms distribute their work between junior and senior practitioners. This may also affect female solicitors who are more likely to be in junior positions. We believe that any unequal effects would be justified in order to ensure that youth court fees better reflect the seriousness and complexity of the work done in the Youth Court. Indictable only and triable either way offences would be triable in the Crown Court, if the defendant was an adult but not for summary offences. Although it is appropriate for the majority of children to be trialled in the Youth Court, targeting the funding to the most serious offences will help reflect the seriousness of these cases even though they have to remain in the Youth Court.

## **Eliminating unlawful discrimination, harassment and victimisation**

### **Direct discrimination**

47. Our assessment is that each of these measures are not directly discriminatory within the meaning of the Equality Act. We do not consider that the proposals would result in people being treated less favourably because of any protected characteristic.

## **Indirect discrimination**

48. The key principle underpinning the changes is paying more fairly for work done. Our long-term ambition is to move towards fee schemes where the pay is more reflective of the work done. We believe the measures mentioned as part of the Crime Lower consultation will help take a step towards this. We do not consider that the impact of these measures will result in any particular disadvantage to any other groups of legal aid practitioners who share particular protected characteristics as the data we have on police stations does not indicate this. However, we also recognise that we do not have data on practitioners protected characteristics split across geographical areas. Therefore, we cannot comment on whether or not any groups of practitioners with particular protected characteristics could be disadvantaged.
49. Furthermore, we also recognise that depending on how a firm distribute their work, it is possible that more junior solicitors who cover Youth Court work may not receive as much benefit as their seniors as they may be assigned the lower paid summary work. This may also affect female solicitors who, according to our data, are more likely to be in junior positions. We believe that any unequal effects would be justified in order to ensure that Youth Court fees better reflect the seriousness and complexity of the work done in the Youth Court. Indictable only and triable either way offences would be triable in the Crown Court, if the defendant was an adult but not for summary offences. Although it is appropriate for the majority of children to be trialled in the Youth Court, targeting the funding to the most serious offences will help reflect the seriousness of these cases even though they have to remain in the Youth Court.
50. Overall, it is expected that legal aid practitioners who cover Youth Court work will take on a mix of cases with different offence types due to the volume of indictable only and triable either way cases. Therefore, any practitioner with particular protected characteristics who take on Youth Court work would likely benefit from the overall positive change in funding.
51. We believe that the data on clients with particular protected characteristics in regards police station and Youth Court work does not indicate any disadvantage to any particular group. We also recognise that we do not have data on the breakdown the protected characteristics of clients with a summary offence in the Youth Court or the breakdown of geographical areas for police station work.
52. In summary, we recognise that there may be some uneven impacts as a result of these measures; however, where the impacts are uneven the measures represent a practical approach to achieving our legitimate objective – to pay more fairly for work done and for the fee schemes to better reflect the seriousness of the work. If any disadvantages do materialise or if there was to be a disproportionate effect on a particular group, our conclusion remains the same, that this will be justified as a means of meeting the legitimate aim of paying more fairly for work done.

## **Harassment and victimisation**

53. We do not consider there to be a risk of harassment or victimisation as a result of these measures.

## **Advancing equality of opportunity**

54. Consideration has been given to how these measures will impact on the duty to advance equality of opportunity by meeting the needs of practitioners who share a particular characteristic where those needs are different from the needs of those who do not share that particular characteristic. We recognise that depending on how a firm distribute their work, these changes may not advance the equality of opportunity for junior solicitors if they are mostly assigned the lower paid summary offence work. This may also affect female solicitors who, according to our data, are more likely to be in junior positions. However, we believe it would be expected that legal aid practitioners who cover Youth Court work will take on a mix of cases with different offence types due to the share volume of indictable only and triable either way cases. The CLAIR report indicated that Youth Court work may be undertaken by junior solicitors. If this is the case and solicitors cover a mix of offence types, then these changes may advance the equality of opportunity for Youth Court work.
55. Overall, we assess that our proposed reforms will enhance access to justice and advance greater equality of opportunity. The increased funding of £21.1m per annum will contribute towards the sustainability of the market. This funding will support solicitor firms who do legally aided work under Crime Lower. The increased funding may also attract more firms to cover work that falls under Crime Lower, thereby increasing the pool of practitioners in this area which would allow greater equality of opportunity and enhance access to justice for those who need it. This is considered as an overall benefit to the system across England and Wales but for police stations, we do not have data broken down into geographical areas for clients and practitioners with protected characteristics to know if some groups will benefit more than others.
56. The Ministry of Justice (MoJ) is mindful of the need to encourage those with protected characteristics to participate in public life and the need to advance equality of opportunity generally.

## **Fostering good relations**

57. Consideration has been given to how these measures impact on the duty to foster good relations between people with different protected characteristics. We do not consider that there is anything within these measures that will have a negative impact regarding this objective.