



Criminal legal assistance update

1 February 2012

In this latest update you will find information on:

- Applications for the 2012/2013 Court Duty Plans
- Identification parades
- Stipendiary magistrates cases in Glasgow
- Legal aid online - automatic receipt of complaints and petitions from COPFS
- Legal aid online - criminal appeals
- Police station duty scheme update

Applications for the 2012/2013 Court Duty Plans

We have already invited applications for the 2012/2013 court duty plans, which will run from 1 April 2012. All solicitors who wish to participate in the court duty plans will need to complete an application at this stage. This includes Glasgow solicitors, where annual applications have not been needed in the past.

Application forms for the new court duty plans were issued on 24 January 2012 and are also available on the Board's website. Completed forms need to be returned to us by 15 February 2012.

Legal aid online - automatic receipt of complaints and petitions from COPFS

As part of the development of our online criminal applications systems, we have been working with the Crown Office to develop an automatic system for obtaining copy complaints and petitions in criminal cases directly from COPFS. This means that when an online application is received at the Board,

you can ask us to request a copy of the complaint or petition directly from COPFS, so that you do not need to send us these documents to us with the application.

We have successfully piloted this approach with summary and solemn criminal applications, and plan to go live with this on 1 March 2012.

In summary criminal cases, where we have consent, we will be sent copies of the complaint, disclosable summary and any previous convictions, and in solemn cases the petition and any previous convictions. The online application will allow you to opt out of this process if you wish, but where you do so, you will continue to have to send us these documents either by submitting scanned copies or using the bar code paper process.

If the COPFS system is unable to match the case and applicant details you have provided, we may still have to ask you to provide a copy of the complaint and petition, but our testing of the system has shown it to be very reliable,

where we have the correct applicant's details and PF reference number.

We are currently working on extending this process for criminal ABWOR cases, where complaints have been issued, and hope that this will be introduced in the near future.

Identification Parades

Recent changes in Crown practice have meant that identification parades can now be held much earlier in the proceedings, and it is not now uncommon for these to take place before the first court appearance.

If an ID parade is being held "pre legal aid" (before the grant of solemn or summary criminal legal aid, or ABWOR) then there is provision for either the duty solicitor or nominated solicitor to be paid for work in connection with an ID parade in terms of regulation 5(1) of The Criminal Fees Regulations. This work cannot be covered under Advice and Assistance. Payment for these cases under the "non rota" duty scheme is at the following rates:

- In solemn cases (and where legal aid is or becomes available)- £114 for the first hour, and £12.67 per quarter hour thereafter
- In summary cases (or where legal aid is not or does not become available) - £93.80 for the first hour, and £11.82 per quarter hour thereafter.

In solemn cases, these fees are paid over and above the solemn block fees if solemn legal aid is subsequently granted.

However, in summary cases, if the work is being done by a "nominated solicitor", the separate ID parade fee can only be paid where the case does not proceed to a grant of legal aid or ABWOR. The nominated solicitor cannot be paid separately for this work as it will be subsumed within the case disposal/fixed payment fee, whichever is appropriate. Similarly if the ID parade is being held post legal aid (after the grant of legal aid or ABWOR), then the work is subsumed within the fixed payment/case disposal fee whichever is appropriate.

Stipendiary magistrates' cases in Glasgow

In summary criminal and criminal ABWOR cases, stipendiary magistrates' fees can only be paid in cases which were set down or marked for this court.

The Crown Office is now clearly marking copy complaints to show if the case has been marked as a stipendiary or a lay magistrate case. In some instances this may not always correspond with the court where the case first calls, or is subsequently disposed of.

The Board is currently conducting checks of cases where the higher stipendiary magistrates' fees have been claimed against the court for which these cases were originally marked for.

If you are in any doubt as to where a case has been marked for, enquiries should be made with the Glasgow COPFS office to confirm the status of the case.

Legal aid online - criminal appeals

The online application process for criminal appeals and special urgency cover under Regulation 15 has now been available for a number of weeks now. From 15 February 2012, we will no longer accept any paper applications, and any received after that date will be returned unregistered. The online applications are working well, and the following are a few tips to help you take full advantage of this.

- if you apply for Regulation 15 cover and then follow up an appeal application please ensure you use the same personal identifier for the applicant on both applications
- make sure you enter the same details for the case at first instance e.g. the date of conviction/sentence and court location etc on the Regulation 15 cover as on the full appeal application

- please enter the same method of appeal on the Regulation 15 cover as on the full appeal application. These details have to link up.
- if legal aid was granted for the case at first instance you must enter the solemn or summary LARN. The system will not accept an ABWOR LARN as this is not criminal legal aid. If ABWOR was granted for the case in the first instance then full financial details of capital, income and outgoings will be required
- If Regulation 15 cover is granted, simply click on the notification. This will allow you to print off the details of the grant and the cover granted. Please note this should be completed each time as you may not be granted all the cover you requested.
- As appeal applications are now being dealt with quickly on-line and you can see the current status of the application, it may not be necessary for you to apply for Regulation 15 cover in all appeal cases. As such we are considering removing the facility for applying for this cover by telephone in the near future.

Unfortunately, there is currently no facility to allow Edinburgh agents to access the Criminal Appeal application, which is sometimes required for submitting sanction requests. However, this is being further developed and will be available shortly. Please note that once Edinburgh agent access is available the firm code and the practitioner code of the Edinburgh agent must be entered on the system at the time of applying.

Police station duty scheme update

We were pleased to host a visit to our Solicitor Contact Line service by Kenny MacAskill, Cabinet Secretary for Justice recently. Mr MacAskill spoke to staff who provide the service as well as seeing our new video conferencing facilities which offer a video link to Stornoway Police station.

Mr MacAskill said:

“it is clear that the scheme is working well and in delivering access to legal advice for those in police custody, it is doing what it should do.”

We continue to see an increase in the number of private solicitors who are now participating in the Police Station Duty scheme, following the decision by the Law Society and local faculties that solicitors should now participate in the scheme.

As at Monday 30th January 2012, there were 645 solicitors (including 23 PDSO and 11 Board Employed solicitors) and 281 firms participating in the Police Station Duty Scheme (PDSO and the Board’s Solicitor Contact Line are included as one firm each).

Of the 49 duty plan areas:

- 11 are covered solely by private solicitors.
- 36 are covered by a mix of private solicitors, Board employed solicitors and PDSO.
- 2 are covered by Board employed solicitors and PDSO only.

For the first six months operation of the Solicitor Contact Line (from 4 July to 2 January) we received 11,340 calls from police stations about suspects who are seeking legal advice. In 3,947 (35%) of these cases, telephone advice was given by solicitors in the Contact Line. In the remaining 7,393 cases (65%) the suspect requested advice from a named solicitor.

In the same period, we are aware of 1,006 suspects who required a personal attendance. 517 suspects (51%) were visited by a private duty solicitor, 195 suspects (19%) were visited by a solicitor from the PDSO, 145 suspects (14%) were visited by a solicitor from the Contact Line, and 149 suspects (15%) were visited by a private named solicitor.

These 149 suspects attended by private named solicitors are of course only the cases that we are aware of. Named solicitors may well have made more personal attendances once the

details of the cases were passed on to them. For the period 4 July to 2 January, there was an average of 62 suspects requesting legal advice per day.

Samples of our cases indicate that 23% of suspects receive telephone advice immediately from the Contact Line. 41% of suspects receive advice from 1 to 10 minutes, 17% receive advice from 11 to 30 minutes, and 17% over 30 minutes.

Where a suspect requests legal advice, the overall time that the suspect remains in custody has reduced by 23.7% since the start of the Contact Line service. Prior to 4 July, the average time in custody for clients seeking legal advice was 4 hours 55 minutes. Since the start of the Contact Line, this average time has reduced to 3 hour 45 minutes.

Who to contact if you have any questions

If you have any questions about any of the issues raised in this update, or if there are any other matters you would like us to cover in further criminal updates please contact us:

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