



# Criminal legal assistance

To be issued to all criminal legal assistance solicitors

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## NEW INTERIM POLICE STATION DUTY PLANS JULY TO SEPTEMBER 2011

The purpose of this update is to confirm the arrangements for the new interim Police Station Duty scheme which commences at 9.00 am on Monday 4 July 2011, and to correct some of the inaccuracies about the scheme contained in the recent information distributed by the Law Society.

Although some local faculties have decided not to participate in the interim scheme, police station duty plans with rotas of private solicitors have now been issued for most areas, and in other areas, as requested by the Cabinet Secretary for Justice, we will ensure suspects' access to a solicitor by greater use of employed solicitors and public defenders. We share the Cabinet Secretary's regret that this course of action is necessary. Over the past few days, a number of local solicitors have asked to go back on the plans, and we will continue to include the names of any other solicitors who wish to do the same during the three month period of the interim scheme.

The interim Police Station Duty scheme will replace the current informal arrangements which have been operating since June 2010. In most areas, the new interim police duty plans will run from 4 July 2011 to 30 September 2011 in the first instance. These plans will complement, but be distinct from the existing court duty plans, and provide rotas of firms of solicitors to be on duty to cover the provision of advice to suspects being held in police stations for questioning, who do not have their own solicitor. The key points are:

- A telephone solicitor contact line operated by Board employed solicitors will provide 24/7 cover and will be the initial contact point for the police. If the suspect has their own solicitor, the Board staff will contact the

named solicitor/firm so that they can assist the suspect.

- Named solicitors will always be contacted first by the Board, even where they are not involved in the police duty scheme.
- Where a named solicitor intends to assist the suspect, they must contact the police station to advise them of this within 30 minutes of receiving the contact line call. If a personal attendance by a solicitor is required at a police station and from the point they inform the Police that they will attend, it is anticipated that 1 hour is a reasonable timescale for a solicitor to attend the police station if they live in an urban area and 2 hours to attend if they live in a rural area, (although consideration will be taken of issues such as availability of modes of transport and weather conditions); or alternatively at a mutually agreed time with the investigating officer.
- A named solicitor who intends to advise a suspect can only be paid for this under the advice and assistance scheme if they are included on a police duty plan. Personal attendances can be made by a named solicitor if the solicitor appears on a local or an adjacent police duty plan.
- Named solicitors who are not on a police duty plan can still advise suspects by telephone or personal attendance, but cannot admit them to advice and assistance for this.
- The payment arrangements remain the same under advice and assistance, with enhanced payments for work carried out between 22.00

and 07.00. The upper income and capital eligibility thresholds have been removed, although contributions from income still remain in place.

- If Board staff are unable to speak directly to the named solicitor, or another representative at their office, a message will be left that a client is seeking advice, and the solicitor should advise the Board that the message has been received within 15 minutes.
- If no call is received, Board staff will make a further call seeking a response within an additional 10 minutes. If no response is received in this time, the Board will contact the police station to advise that we have been unable to contact the named solicitor, and offer telephone advice to the client or an attendance by the duty solicitor. This gives a combined 25 minutes to contact the Board to acknowledge the call (not to advise the suspect).
- Board employed solicitors will be providing telephone advice to suspects where this is requested, as well as providing back up cover for duty solicitors for attendances at police stations to provide face to face advice.
- The value of any advice given to the suspect by Board employed solicitors, whether on the telephone, or face to face will not be subsumed into any subsequent grants of ABWOR or summary criminal legal aid, and deducted from the fixed payment.
- The named solicitor can request from the Board details of any advice given directly to a client in police custody, and/or the identity of any duty solicitor who may have advised the client personally. The Board can be contacted on 0131 240 2696 for this information.

Please ensure that we have your up to date contact details, particularly any mobile or other numbers you may use for contacting out of hours. This information will only be used by the Board for contacting named solicitors when a suspect is seeking advice from them.

This information can be sent to us at the above address or sent by email to - [batchelortr@slab.org.uk](mailto:batchelortr@slab.org.uk) You can also use this address or email if you now wish to be included on a local police station duty plan in your area.

Details of the scheme and the duty application form can be found on the Board's web site - [www.slab.org.uk](http://www.slab.org.uk)

Further information can also be obtained from Kingsley Thomas, Manager of Criminal Legal Assistance on 0131 240 2085 or at [thomaski@slab.org.uk](mailto:thomaski@slab.org.uk)

It is important to recognise that this remains an interim scheme. The new police duty plans are being drafted and issued in three month blocks to enable us to take into account any changes on practice easily. In addition, these are interim arrangements until the outcome of Lord Carlaway's Review is known and the Scottish Government has decided on the way forward. It has been recognised that all aspects of the scheme (including feeing arrangements) would be reviewed once the outcome of Lord Carlaway's Review was known.

The scheme was developed in line with our preference for substantial private practice involvement alongside some employed solicitors and limited PDSO involvement. The scheme aims to have wide involvement from firms across the country to help limit the impact on individual solicitors and firms of their duty plan responsibilities and to enable named solicitors to engage with their clients. It does not prevent named solicitors being contacted or giving advice to their clients.

In addition, the telephone contact line is being introduced to provide greater certainty of contact with named solicitors and access to timely telephone advice for those suspects who do not have a solicitor or their named solicitor was unavailable.

The scheme will be implemented on 4<sup>th</sup> July and we will make the necessary adjustments to take account of the different approaches by local faculties. We have issued plans for July - September only at this stage and will monitor the situation on a monthly basis.