

ELIGIBILITY CRITERIA FOR INCLUSION ON THE DUTY PLANS 2012/13



Allocations on the various plans will be made to Solicitors' firms on the basis of the number of eligible solicitors who apply and meet the following criteria:

1. Solicitors must hold a practicing certificate with no restriction affecting their entitlement to provide criminal legal aid as at the closing date for applications.
2. Solicitors must be accepted on to the Criminal Legal Assistance Register.
3. At the time of applying for inclusion on the plans, solicitors must have a place of business within the sheriff court area for which the duty plan is being prepared and conduct the majority of business within that area. However, this requirement can be disregarded where local circumstances necessitate it.
4. Duty solicitors must be able to provide professional services which are of a quality which could reasonably be expected of any competent solicitor conducting criminal business. In order to meet this definition, prospective duty solicitors must be able to demonstrate that they are regular, competent and knowledgeable criminal practitioners. Such values would normally be demonstrated by reference to, for example:
 - the number of criminal instructions taken in the High Court, Sheriff Court and JP court;
 - the number of criminal trials carried out per month;
 - the number of appearances in the criminal court on a weekly / monthly basis
 - their continuing professional development record;
 - their continuing compliance with the Code of Practice;
 - their quality assurance compliance record;
5. A solicitor must be able to demonstrate, on application for inclusion on the duty plan and if called upon, that they practice in the criminal courts in a significant way; have regimes in place to keep abreast of developments in criminal law, procedure and practice; and meet the requirements of the quality assurance and compliance schemes.
6. If a solicitor moves to another sheriff court area he/she is entitled to inclusion in the local duty plan on application, subject to availability, if he/she has undertaken similar duties in the previous sheriff court area.
7. If a solicitor moves from one firm to another, the respective shares of the duty plan(s) will remain the same until new plans are drafted. If the new firm features on a police station duty plan, that solicitor will still be entitled to provide duty services for the new firm.
8. A solicitor will be entitled to apply for inclusion on both the Sheriff & JP court plans (there is no longer the requirement to serve 1 year on the JP court)
9. A solicitor and their firm can normally only be included on a duty plan for one sheriff court district at any one time, unless the firm has more than one place of business in different court areas, where allocations can be made on each plan based on the eligible solicitors conducting their business at each office. However, this requirement can be disregarded where local circumstances necessitate it.
10. As duty solicitor you must:
 - give priority to the performance of these services
 - be available when the particular court requires it (even if the papers are not ready) to perform these services during each sitting by the court that you are attending as duty solicitor.
11. Your firm may not, for good reason, be able to carry out all or part of their period of duty. If, after making *bona fide* efforts, you cannot contact the alternate or any other firm on the duty plan, you may delegate your duties to any other solicitor practising within the same sheriff court district who can perform them. If you have had to delegate your duties, you must always tell the Board why you could not carry out your duties in person, and the name and business address of the solicitor to whom you have delegated your duties.
12. If you fail to attend to your duties without making provision for another solicitor to attend to them, you may be considered unsuitable for inclusion in a future duty plan. Any other solicitor who, in these circumstances, is required by the police, court or Board officials to substitute for the duty solicitor is deemed to be acting as duty solicitor for the purposes of the plan.
13. If you wish to withdraw from the plan for any reason you must give at least one month's notice to the Board, or undertake the duties you have agreed to carry out.