

Dear Member of the Bar

## **Dual Contracts**

We write regarding the issue of Dual Contracts.

As you are aware The Law Society, CLSA and LCCSA recently lost their Judicial Review against the government who have now re-opened the tender process. We supported the Judicial Review and we are most concerned about Dual Contracting for a number of reasons. We cannot sit back and do nothing and we wanted to make you aware of our concerns and how Dual Contracts might affect both Solicitors and the Independent Criminal Bar.

You should already know that we were made the subject of an 8.75% cut to our fees last March. This had a considerable impact upon criminal legal aid firms and we know a number of firms have closed as a consequence of this first cut. It is the current Lord Chancellor's plan to make a further 8.75% cut across the board making a total cut of 17.5% across our fees in just over twelve months. This is a situation that is intolerable. If Dual Contracts are introduced by a Conservative government then the following will happen;

At least 1073 contract holders will lose all access to new clients through the Duty Solicitor Scheme. Many of those losing the 1073 contracts will be forced to wind down as they will not only lose all access to potential new client's but they will also be hit by the 17.5% cut across fees for the remainder of their own client work. This is unsustainable for obvious reasons.

There will be 527 contract holders. Some of those contracts will be held by the same firm across multiple areas.

The contract holders will be expected to conduct work at 17.5% less than they were receiving just over twelve months ago. Not only will they be forced (by virtue of the new contract requirements) to employ more staff to cope with the increase in volume but they will also be forced to make savings to absorb the fee cut. As it stands the AGFS hasn't been subject to a reduction. It is therefore common sense that this area of work is more profitable than others. In order to ensure that a firm remains financially viable throughout the life of the contract it is likely that many firms will retain Crown Court advocacy in-house either by way of Solicitor-Advocate or employed in-house Counsel. The net effect of this will be a **substantial** decrease in the number of cases briefed out to the Independent Junior Bar. This is something that will be done without any risk to our professional obligations as those firms will ensure that the person conducting the advocacy is capable and competent and that the client is happy with the instruction.

It is essential that you are made aware that Dual Contracts are an issue for the Criminal Bar. You will be affected in at least one of two ways; either the firms that instruct you regularly will close and therefore all work from them will cease or they will stay in business and be forced to consider retaining Crown Court advocacy thus substantially reducing cases briefed out to Counsel.

We write to ask you to consider the consequences of what is happening to Solicitors as a result of Dual Contracts. It may be that your focus over the last two years has been upon the threat of an 8.75% cut to the AGFS. We do not suggest for one moment that this cut is not concerning however we think you will agree that the position set out above would have a far wider impact upon the Junior Bar.

The CLSA, LCCSA and The Law Society have fought extremely hard against the tender process and the cuts which we know will have a devastating effect upon access to justice for the vulnerable, not to mention the profession as a whole. We are currently considering how best to approach what is an extremely tough time. Please do not think that we are somehow failing to take action. The rules for Solicitor's in terms of what can be done without breaching the contract with the Legal Aid Agency make the situation more challenging. Many firm owners also have a responsibility to a number of employees who also stand to lose their jobs if the firm is to lose the

contract. This responsibility and duty to colleagues weighs heavily upon us at all times. The Bar are fortunately not constrained by such issues. Please do not let anyone allow you to believe that the short lived no returns campaign of 2014 was not difficult for solicitors who participated. A vast amount of unpaid hours were spent pacifying clients and courts in trying to secure representation. The adjourning of cases also had a significant effect upon cash flow which is relied upon to cover staff salaries. We are proud at the stand that we have taken and that we have done everything possible thus far to prevent a collapse of the justice system. We would like to continue the fight against this on a united front and would be interested to hear your views.

The issue of legal aid and Dual Contracts is very much a political issue. You will be aware that Labour has made a commitment not to press ahead with Dual Contracts if they are successful. They have not committed to reversing the first cut but they have made assurances that they will listen and properly engage with the profession. The LCCSA and CLSA have made a decision to target the marginal seats. A full list has been compiled and firms in those areas have been identified. Parliamentary candidates will be invited to sign a pledge and we will do our best to ensure press coverage for those candidates. On Monday 27<sup>th</sup> April the campaign will see action nationwide and details will be provided in due course. The campaign is to be called #Vote4Justice and we would very much like to see Members of the Bar giving this campaign their full support, particularly if you are either resident or working in a target marginal area. If you are interested in supporting this then please sign up here <http://eepurl.com/biD595>

As a firm of Solicitors we are currently supporting the CLSA, LCCSA and The Law Society. We would urge you to speak with your Representative Body to air any concerns that you have and to take advice about what the Bar can do.

Yours Sincerely