

ADDRESS TO CHIEF CONSTABLE

Dear ,

Re: Health and Safety at Work Etc Act 1974 and subordinate legislation

Risks posed to Legal Representatives attending custody suites by the COVID-19 pandemic

As you will appreciate all firms of solicitors are subject to a non-delegable legal duty under Sections 2 & 3 of the above legislation to protect their employees (and agents) from material risk.

It is beyond question that the current COVID-19 pandemic has imposed an additional burden on legal practices which will necessitate them taking additional control measures if they are to stay within the law.

Every firm will need to assess the infection risks posed to its personnel in relation to its own particular circumstances. There are however challenges presented by the very nature of Police Station work which prevents the risks being managed adequately without the cooperation and assistance of your officers and staff.

To assist us in meeting our legal obligations we require urgent information from you as to the physical environment our visiting staff will work in when providing legal advice and assistance to suspects arrested and detained pending a charging decision.

Having reviewed our own procedures it is clear that in managing the risk posed by the COVID-19 pandemic we will go some significant way to achieving compliance if we follow the advice provided by Public Health England. Put simply we must ensure (so far as is reasonably practicable) that our visiting staff minimise close contact with other persons and avoid places where infection is highly likely.

Presumably as part of meeting your own obligations we assume that each custody suite has been Risk Assessed in terms of its continued use during the current pandemic? We also assume this would have identified any elevated risks posed to visiting legal representatives? If so then may we have a copy of any such assessments including any additional control measures identified so that we can review them against our own control measures to ensure compatibility?

If there is currently no single document or documented process in place then please can you provide me with the following information about entry to your custody suites:

1. Will investigating officers and custody staff be wearing PPE throughout their time in custody suites?
2. Will suspects be required to wear PPE?
3. Will legal representatives be provided with PPE upon attendance or will they be expected to provide their own?
4. If providing PPE what items can we expect to be provided and of what specification?

5. Will officers be trained in the correct fit of PPE so as to be able to police its effectiveness whilst our staff are in the custody suite? What instruction will officers be given as to dealing with any person or persons whose PPE is either not being worn or deemed defective?
6. Will the custody sergeant have ultimate responsibility for ensuring compliance with the measures referred to in 5 above?
7. What cleaning schedule has been implemented for custody suites to deal with the elevated risk of infection during the pandemic? Does this regime extend to Solicitor consultation rooms?
8. Will records of cleaning be maintained and available for inspection by our staff within the custody suite?
9. How will custody suites and consultation rooms be cleaned and by whom?
10. How often will prisoners' cells be cleaned and by whom?
11. How will they be cleaned?
12. How often will interview rooms be cleaned?
13. How will they be cleaned?
14. What measures are in place to ensure that the 2-meter minimum distance will be maintained from our staff attending the custody suite, conference rooms and interview rooms?
15. Where parts of the building do not permit 2 metre minimum distancing what alternative arrangements are in place so as to ensure our staff will not be exposed to unnecessary risk?
16. Are measures in place to ensure the 2m minimum distancing will not be infringed during the entirety of the attendance including PACE interview? Have custody staff been trained on how to conduct their work and maintain safe working practices including distance?
17. What measures if any have been taken to increase ventilation of consultation and interview rooms?

The safety of our staff during legal visits to custody suites remains a matter of the highest priority. Regardless of the age or health of our staff we are concerned that normal practices in police custody suites would create an unacceptable risk in the presence of the current pandemic.

The custody suite environment presents a number of infection control challenges to any Force which you will fully appreciate. The high-turnover of people, many of whom are likely to have weakened immune systems or poor personal hygiene does not help matters. Add to that the fact that Police officers are required to have close personal contact with these people through arrest, restraints and body searches means the potential for infection is rife. Something we have to manage in terms of our staff so as far as is reasonably practicable.

I would appreciate your attention and urgent response to these important questions. Our objective is simply to ensure the safety of everyone involved in the custody process and not just those whom we employ. Lawyers can carry infection also.

As must be evident, we do not believe any safe system of work can be achieved without cooperation and flexibility. We hope that will be a given in these unprecedented times.

Yours sincerely,