

## London: A Unique Quarter

In February 2021 the MoJ released a data compendium entitled ‘Summary Information on Publicly Funded Criminal Legal Services.’ This research reminds us of the importance and fragility of the market in this global city.

While a ‘Levelling Up’ agenda might be called for in commerce and infrastructure, it cannot be justified in the criminal legal aid sector.

### Significance of the capital

Over the period studied by the MoJ, the data shows that London is home to 25% of criminal legal aid firms and 28% of all duty solicitors in England and Wales. This is a larger share than would be expected when comparing London’s equivalent share of the population (estimated in 2019 to be 8.9 million compared to 59 million in total in England and Wales).

The data showed a consistent reduction in the number of duty solicitors nationally, tracked by region. 27% of those who left were based in London, showing that the talent flight problem applies to this region as much as the rest.

### Age

Another concern, first highlighted by the Law Society, is the aging profile of duty solicitors. The average age has increased by one year in each year of the three studied and now stands at 49. In the compendium the analysts report on the percentage of solicitors who are under a notional mid-point of 45 years of age, the younger half to put it crudely. Nationally 38% of duty solicitors are in the younger half. In London it is only marginally above average at 41%. This is not evidence of healthy situation in the capital. Firstly, 41% is a worryingly low figure, particularly when one considers that it is part of a downward trajectory overall. Secondly, it is long acknowledged the capital is a ‘graduate magnet’. Young lawyers are attracted to work in the capital in their twenties before moving to their home region to establish themselves. That is still the case, and yet London does not see the thriving younger criminal legal aid market that one might expect in a capital city.

London courts see a high proportion of serious and complex crimes in areas such as terrorism, sophisticated fraud in financial markets or large-scale drug trafficking operations. Extradition cases are only heard in London and a significant number of defendants (or “Requested Persons”) are represented by solicitors at Westminster Magistrates Court with the benefit of legal aid. While this raises the stakes were the market to fail, it does not grant the suppliers of CLA services safety from the impacts of cuts and stagnation in fees. There are many problems that providers in the capital face.

### Inefficiencies

The criminal justice infrastructure is dispersed irrationally around the capital. Unlike the civic quarters of many small cities and market towns, few police stations are sited close to magistrates’ courts. Magistrates’ courts are rarely close to their Crown Courts and London’s prisons are sited in inconvenient locations. Three of the eight prisons in the city are all located next to each other in one remote corner. Car ownership is low down on Londoners’ priorities and the congestion charge and scarcity of parking may it an unattractive alternative.

London firms compete fiercely for clients and often rely primarily on own client work. Their clients are inconveniently arrested away from the firm's home borough and so a morning's list of remand hearings will take staff to all corners of the city. London's firms remain relatively fragmented, so the benefits of economies of scale do not apply to the same degree as in other areas.

With no payments for travel and waiting time, the above issues make lower crime work more unprofitable than elsewhere. Though frequent, London trains and buses crawl slowly through central areas. Travel to some of the furthest London courts and prisons often include two changes of public transport (with the inevitable delays caused by frequently disrupted services) and can take more than one hour each way.

As an international city it is natural that clients require interpreters more often than elsewhere. Acute mental disorder is also more frequently encountered in big cities. In a sector where payments either have no bearing on work done (Police Station and Crown Court work) or are tapered at loss-leading levels (magistrates' court work) these two types of special need are a further reason why a London practice is made more unprofitable.

### Recruitment and Retention

If banks will lend 4.5 times your salary for a mortgage and the median price of a three-bedroom property in London is around £750,000, what chance would the average duty solicitor have of owning a modest home and raising a family? Duty solicitors in the capital are estimated to earn around £30-35,000 pa. If they want to live that dream, they will need to spend fewer evenings in police custody and more time finding a life partner with a higher income.

CLA solicitors see their work as a vocation or a calling. Their idealism, passion for the work and dedication to their clients leads to self-exploitation, working long hours for relatively low pay. That is less likely to be found in practice support staff. An accounts clerk, receptionist, secretary or paralegal might welcome the experience they gain from working in a CLA firm. But once they have been trained it would be illogical not apply for the same post with a city law firm who can offer far better pay.

Owing to the London salary weighting and vibrant corporate legal sector, London CLA firms struggle to recruit support staff to make solicitors more efficient. The depressed salaries of duty solicitors make de-skilling the workload unviable.

The Independent Review into Criminal Legal Aid will question every aspect of the current fee structures. The London weighting will no doubt be under review, but the forces that led to its introduction apply more so now than ever before. Currently the weighting is only applied in a minority of CLA fee areas. Not only should it be retained, it should be embedded throughout the schemes.

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