



**THE CHAIRMAN
TIMOTHY DUTTON QC**

To: All Heads of Chambers
All Senior Clerks and Practice Managers

30 January 2008

Dear Colleague

**REVISED PROTOCOL FOR PAYMENT OF FEES
IN THE MAGISTRATES' COURTS**

In 2002, a protocol was agreed with the London Criminal Courts Solicitors Association (LCCSA) as to appropriate levels of remuneration for junior barristers acting as unassigned counsel in the Magistrates' Courts.

The Bar Council has consulted the LCCSA and has updated the protocol. The revised protocol is attached and we request that it is widely circulated.

We stress that the fee levels set in the protocol are minimum levels, and have been set to give a minimum standard in London where remuneration of junior barristers has been particularly poor.

The historical need for chambers to adhere to the protocol has been explained to the profession before and is reiterated here.

The Bar Council remains concerned about the level of fees being paid to junior barristers instructed as unassigned counsel in the Magistrates' Courts. Like the 2002 protocol this new protocol is not compulsory but it is considered that the rates of payment represent fair and appropriate fees for the work likely to be done.

In the past some chambers have been unwilling to offend solicitors who instruct more senior members of chambers regularly and, in some cases, put pressure on junior members to accept very low fees, and certainly not to adhere to the recommended rates of the protocol.

Problems also arise over the, often, excessive delays in obtaining fees from solicitors. Again, the perception has been that chambers are unwilling to press solicitors for the fees.

THE BAR COUNCIL

www.barcouncil.org.uk

Both these practices cause considerable hardship to young barristers and are unacceptable and can engage certain specific points of the Code of Conduct which will be treated very seriously. Specifically, under Paragraph 404.2 of the Code of Conduct, Heads of Chambers have a duty to ensure that “the affairs of [their] chambers are conducted in a manner which is fair and equitable for all barristers and pupils”. Requiring junior barristers, who are often in no position to refuse, to undertake work as unassigned counsel for rates significantly below the protocol or failure to collect their fees in the times suggested by the protocol, are likely to amount to a breach of the requirement. The Bar Council will view justified complaints of this sort very seriously, and will not hesitate to take appropriate action if necessary by referring a matter to the Bar Standards Board.

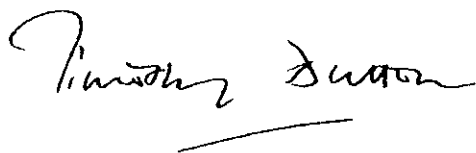
The Bar Council recommends that it is good practice for Chambers to adopt the following timetable:

1. put in place systems properly and effectively to submit invoices for work undertaken in the Magistrates’ Court within 14 days of the work done;
2. put in place systems to ensure that payment is made within 30 days of the submission of the said invoice;
3. require payment of the invoice within a further 14 days if payment is not made within 30 days of the submission of the invoice;
4. report the matter to the Legal Services Commission if payment is not received within 7 days of (3) above in accordance with Paragraph 2.15(5) of the General Criminal Contract.

If a Chambers fails to have regard to these guidelines and, in particular, if barristers find themselves unable to claim fees as a result of the delay by Chambers, then there may well be a breach of paragraph 404.2 and the barrister or the Bar Council can refer these to the Bar Standards Board. The Bar Standards Board has powers to investigate Chambers and to inspect records. It can also take disciplinary action against Heads of Chambers or others responsible for the administration of Chambers for failure to comply with this paragraph.

I commend the adoption and implementation of the revised Magistrates Courts Protocol to you and urge chambers to ensure that junior members of the Bar are treated fairly and properly if only to maintain the reputation of the entire profession.

Kind regard



Timothy Dutton