

## **F A Q's on Criminal Law**

### **I had the duty solicitor in the police station. How do I find a proper solicitor now that I am charged?**

Most solicitors in the County who specialise in criminal work assist with the rotas at the police station and carry out duty solicitor work. These schemes are in place to ensure people get specialist assistance when it matters most. It is a requirement of the Legal Services Commission that solicitors carry out duty work in order to qualify for legal aid work. The solicitor you saw is not a second rate solicitor because (s)he carries out duty work. They are doing their job properly.

### **I have been charged with a criminal offence. Can I get legal aid?**

Means testing now occurs in both the Magistrates' Court and the Crown Court. The effect of this is different in each court.

In the Magistrates' Court not everyone can expect to be given legal aid. There is an [interests of justice test](#) that has to be satisfied in all cases. There is a [means test](#). If you earn over a set figure you will not be eligible for legal aid unless you can satisfy the [hardship test](#).

In the Crown Court the rules are quite complicated, but if your case goes to the Crown Court for trial you will automatically qualify on the "interests of justice" test. You will qualify for legal aid financially, but depending on your [income and outgoings](#) you may have a contribution to pay, which is payable monthly x 5. Contributions will be repaid to you if you are acquitted on all charges. You may be ordered to pay more at the end of a Crown Court trial if convicted if the contribution does not cover all of the legal aid costs and if you have capital that can be used to contribute to those costs.

### **Why should I pay for a solicitor when I am not guilty?**

This should only concern you for a trial in the Magistrates' Court. Legal Aid is available for all trials in the Crown Court although you may have to pay a contribution.

It is a matter for you whether you have a solicitor although you might conclude the outcome of the case is too important and your knowledge of the law and the system is not sufficient to make you confident you will do your case justice.

A solicitor has to charge for his time otherwise he cannot continue in business to assist you and others. He is not allowed to conduct the case on a no win - no fee basis. It would be usual for you to 'pay up front' but if you win the court will, in most cases, allow you to recover some of your costs out off 'central funds'.

### **I am due to go to the Magistrates' Court and I am thinking of pleading guilty. What sentence can I expect to receive?**

In order to introduce consistency in sentencing around the country, the [Sentencing Guidelines](#) are now well entrenched in the psyche of the Magistrates' Courts. You

need to bear in mind that these are regularly updated and you may want to check the web to see if there are further [advice notes](#) for specific crimes.

**I have been charged with a criminal offence. I am not guilty. How can I be ready for the first day in court?**

This only applies to the first day in the Magistrates' Court. If you need a solicitor you will have to make the arrangements quickly and as far ahead of the first hearing as possible. If you might qualify for legal aid you should arrange to fill in the forms immediately in order that they can be submitted to the court for consideration.

If you are in work you are unlikely to qualify for legal aid. Speak to a solicitor about this. They can tell you what the likely cost of the case will be. You may have to raise this money before you can be represented.

You need to get your hands on the disclosure from the prosecutor to find out what the case against you amounts to. You should write out your own notes of the case to share with your solicitor and check what your witnesses can say. Do make sure you know what dates to avoid as the Court wants to fix the trial on the first day you appear at court. The full trial date will usually be within 6 to 10 weeks.

**A member of my family has been remanded in custody but not convicted of a crime. Does (s)he have any extra privileges?**

An unconvicted prisoner ought to receive different treatment from the prison as compared to a convicted prisoner. [Click here](#) for more information on the differences and of other material to explain rights and duties.

**A member of my family has been sent to prison. How can I find information to help me to keep in touch?**

The [Prison Service](#) does issue guidance both on the WWW and also at its various visitor centres at each prison and elsewhere. You are well advised to study the arrangements at each prison you are interested in. Be prepared for frustrating alterations to the arrangements as well as delays at visiting times. You will also want to take careful note of the quite strict routine on entry into any prison as a visitor. The rules on searching will apply to everyone.