

Reply to:

emmapalmer@whitehead-monckton.co.uk

Honorary Secretary of Kent Law Society

13 May 2013

Dear

Government consultation paper: Transforming Legal Aid

Founded in 1818, Kent Law Society is one of if not the oldest law societies in England and Wales. The Society has over 500 members who are practising lawyers living or working within the county. Our members work both in the public and private sector. Their practices range from sole practitioners to multi partner practices or companies working in all disciplines of law.

We are writing to you on behalf of our members to make their views known in relation to the Government Consultation Paper “Transforming Legal Aid”. As a Society made up of lawyers practising in all areas of law and in all parts of the County of Kent, we are concerned in the extreme by what would appear to be the Government’s somewhat cavalier attitude to the question of access to justice.

The proposals betray a belief that universal access to justice is unaffordable and in some way a luxury. This is the thinking that a public service to do with ‘the guilty being got off’ is a waste of money. We must be quite clear that it is not so, and that this is about ensuring that the innocent are acquitted, the guilty are efficiently and fairly processed, and the law enforcement authorities are being held accountable.

The paper promotes social division, as only the wealthy elite will be able to choose their own solicitor and, worse than that, those who cannot afford to pay and choose their solicitor will be allocated one by a call centre which may place them miles away from where they actually live. We understand that only five firms will be allocated this work for the whole of Kent: a County with a population of over 1,500,000 and covering approximately 1,440 square miles!

Has the government addressed how a client will afford to travel potentially miles across the County to see their allocated solicitor let alone the affect on the environment of all this unnecessary travel? Would the government think it is acceptable for people to have to access their GP in this way? We think not!

The knock on affect on the Court service will be vast because people without a lawyer representing them do not deal with matters as promptly as when they have representation and many defendants are suffering from drink and alcohol problems and may have limited education. They are being denied access to justice if they cannot read and understand the papers.

We also question the source of the figure of £220 million quoted as required cuts. It is not at all clear where this figure comes from. Does this figure take into account the substantial cuts already made to the criminal law budget, the burden of which has already been felt by your constituents through the closure of courts, and the consequent reduction in local criminal law practices.

We are hugely disappointed at the lack of consultation directly with our criminal law practitioners as to other options that could work to reduce the spend on criminal legal aid without destroying the fundamental principles of access to justice.

Our criminal lawyer members are very concerned also by the weighting of the consultation paper to giving financial incentives towards entering a guilty plea, this is only likely to create suspicion between client and lawyer and attacks the essential principle of trust that is necessary for this lawyer/client relationship.

Our society has grave reservations about the suggestion in the paper that the most cut throat price will determine which lawyers survive. Lawyers strive to develop a sterling professional reputation and build up a client base on recommendation, but the paper seems to promote the cheapest over the best. We acknowledge that Lexcel or LSC Specialist Quality Mark will be required of tenderers, but these are systems certifying practice management, not quality of advice or service.

We believe that the reduction in firms offering criminal legal aid proposed in the paper will have a huge affect on those needing to instruct the services of a criminal lawyer. The availability of local advice at an early stage is crucial. It is commonly forgotten that when solicitors help accused persons work out what pleas they should be making, they play a crucial role in promoting the efficient working of the courts service. We can predict that many of those constituents who are unable to travel across the county to get legal advice are quite likely to appear in your surgeries needing assistance: are you prepared to assist them?

All this also has an overall economic impact on your constituency. If the number of firms reduces, there will be redundancies of lawyers, clerks, secretaries and support staff and knock-on negative impacts on local suppliers.

However, this is not about lawyers taking a “fat cat” approach to protect their legal work. Legal aid lawyers are amongst the lowest paid “leanest” lawyers in the country and many earn significantly less than other professions. Legal aid lawyers do this type of work because they care – about access to justice and about the right of freedom to defend their clients freely and to the best of their ability. Many legal aid lawyers provide assistance beyond the call of duty, helping clients access help with addictions and training problems. If they are not involved then we fear that the likelihood of reoffending will be even higher.

If you dismiss this letter and their concerns then you do this country and your constituents a disservice. Representatives of our members would be keen to meet with you directly to discuss these issues in more details and we welcome hearing from you in this regard.

Yours sincerely

**On behalf of the members of
Kent Law Society**