



BIRMINGHAM LAW SOCIETY
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**FAO: Area Contract Manager
Legal Aid Agency**

24 August 2020

By email to: dutysolqueries@justice.gov.uk.

Dear Sir/Madam,

Through its Criminal Law Committee, Birmingham Law Society has canvassed the views of criminal practitioners on the proposal to increase capacity of the Saturday court to include bail cases, and the concomitant need for additional cover by defence representatives on Saturdays. What follows represents the view of the many members who have responded to the proposal.

It will not surprise you to learn that the unanimous and very strongly-held view of all members who responded was that they are opposed to any requirement to attend court on Saturday to cover bail cases of any sort. We note this is also the view of the national Law Society, as expressed in consultations on extended working in other CJS areas.

It is no understatement to say that defence practitioners are in crisis. They have all struggled anxiously for months to keep their jobs and businesses afloat. They have gone above and beyond the call of duty to keep the criminal justice system running and to do the best by their clients, many of whom are among the most vulnerable in society and have been hardest hit by the pandemic. At times, many of them have risked their health and that of their loved ones in order to do so. Those with young families and healthcare commitments are already stretched to breaking point between their domestic and professional duties. Now, they are being asked to further give up their already scarce personal time for (no doubt) little or no compensation. Enough is enough.

The backlog, as we know, is largely a result of chronic and long-term government underfunding of the criminal justice system that predates the COVID pandemic by years. In the Society's view, it falls to government to cure this problem, not by asking defence practitioners to make further sacrifices, but by funding more courtrooms and more judges and magistrates to deal with cases during the ordinary working week, and to ensure that systems are improved so that this can be done safely. It is difficult to reconcile the suggestion that it is necessary to expand court sitting hours on a Saturday, when practitioners see courts more than half-empty during the week.

One other issue that has been raised by members is the potential equality implication of increased unsocial sitting hours. Research undertaken by the Midland Circuit Women's Forum into the impact of extended Crown Court sitting suggests that extending court sitting beyond normal hours has a disproportionate and exclusionary impact on those with childcare and other caring responsibilities (mainly women practitioners), and also on those who are particularly vulnerable to COVID-19 (statistically, there is a significantly disproportionate risk to BAME practitioners). The same considerations inevitably apply to increased Saturday working, and we wonder if due thought has been given by HMCTS to that factor before deciding to implement this pilot.

We trust that these views will be fed back to those with whom you have been in discussion about the pilot, and considered along with the views expressed by others. We would welcome further dialogue on any of the matters raised.

Please do update us through the Chair of the Criminal Law Committee when further details of the proposals become available. In particular, we are uncertain how a guarantee can be given that PSRs will not be required to resolve the sort of cases that it is proposed be heard on Saturdays, given that you say the cases will be imprisonable and therefore might attract legal aid funding. The two propositions appear to be mutually exclusive.

Yours sincerely

A handwritten signature in black ink, appearing to read 'I. Brown', with a long horizontal flourish extending to the right.

Inez Brown
President, Birmingham Law Society

A handwritten signature in black ink, appearing to read 'Matt O'Brien', with a long horizontal flourish extending to the right.

Matt O'Brien
Chair, Birmingham Law Society Criminal Law Committee