Draft email for LCCSA committee to send to members

**Fees to counsel for magistrates’ court work**

The purpose of this note is to remind our members of the obligation, when briefing out a magistrates’ court hearing, to pay fairly for the work and within a reasonable time.

**Promptness of payment**

A recent survey undertaken by the Young Barristers’ Committee (YBC) of the Bar Council of their members who undertake magistrates’ court work has been drawn to our attention.

The survey was completed by 292 junior barristers, which is approximately 25% of the estimated 1140 of barristers under 7 years’ call practising in criminal law.

The survey found that the average wait for the barrister to receive payment from the firm for a magistrates’ court hearing was:

Less than a month 2%

1 - 3 months 32%

3 - 6 months 32%

6 - 12 months 24%

Over a year 10%

LCCSA members will be aware of the 2017 Standard Crime Contract Standard Terms:

“**Your responsibility for third parties**

3.3 You will remain responsible to us for the fulfilment of all of your obligations under this Contract irrespective of whether you have entered into a sub-contract or appointed an Agent, Counsel or Approved Third Party in respect of the same. If you appoint: [...]

(b) any person pursuant to this Clause 3 you are responsible for ensuring that:

(i) all payments are made to them for their work within 30 days from receipt of a valid invoice;”

Irrespective of any contractual obligation, the LCCSA have always been of the view that if a firm instructs another professional to undertake work for the firm, those financial obligations should be settled promptly. As long ago as 2001 the LCCSA agreed a Protocol with the Bar Council for magistrates’ court work which stated, “payment shall be made in the month following receipt of counsel’s fee note and report of result of hearing.”

**Level of payment**

The YBC survey also found that half of their members had undertaken magistrates’ court work where they understood they would never be paid.

The Bar Council and the Criminal Bar Association have assured us that any chambers who offer junior barristers to undertake magistrates’ court work for little or no fee as a ‘loss leader’ in order to secure the Crown Court brief for more senior members of chambers, are in breach of the Bar Standards Board’s code of conduct (e.g. BSB Handbook rC110.i).

The LCCSA committee agrees that such behaviour is wrong and that firms should neither invite, nor collude with any such practice.

It is in the common interest of the legal profession, both solicitors and barristers, that there should continue to be an economically viable junior criminal Bar.