



THE SCOTTISH LEGAL AID BOARD

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Criminal Legal Assistance

Direct Dial Number: 0131 240 2085

Please quote the department above and
Our reference: KT/TB

14 October 2009

Dear Madam/Sir

REVIEW OF DUTY SOLICITORS SCHEME 2009

As part of the wider monitoring and review of the summary justice reforms, the Board is continuing to look at the operation of the duty schemes throughout the country. We have gathered views on the operation of the duty plans, which will help us finalise a consultation paper and ensure that the needs of all stakeholders can be addressed. We have also been attending meetings of the Local Criminal Justice Boards throughout the country to discuss this review.

In July, we advised that we were planning to issue this consultation paper on the review of the duty solicitor's scheme by the end of September 2009, allowing for the usual 12 week consultation period to run to December 2009. As a result, we planned to invite applications for the revised duty plans to run from 1 April 2010 to 31 March 2011, and extend the 2009 plans up to 31 March 2010.

We are not now able to issue our consultation paper in this timescale. We are now aware that the Appeal Court will hear submissions in the case of *McLean v PF Forfar* on 20/21 October 2009. This is in relation to the ECHR compatibility of Scottish practice on access to legal advice prior to the police questioning detained suspects, and has arisen as a result of the *Salduz v. Turkey* decision by the European Court of Human Rights. It is possible that the Appeal Court's decision in this case could have major implications on the operation of the duty solicitors' scheme, so we believe that we should await this decision before completing our review, and issuing our consultation paper.

Therefore, we now hope to issue our consultation paper by the end of the year, if we have an indication of the likely outcome of the *McLean v PF Forfar* case by then. This means that the interim plans for 2010 will now need to be extended to 30 June 2010 to ensure adequate duty arrangements during the consultation period, and the application and drafting stages of the new duty plans. As the interim plans will now be in force for longer than originally intended, we consider that solicitors who are now eligible for inclusion on a duty plan should have the opportunity to apply for the interim plans.

Clearly, if the judgement on the *McLean v PF Forfar* case is to be substantially delayed, we will need to reconsider the timescales for next year's plans, with a view to considering the introduction of interim changes to the plans.

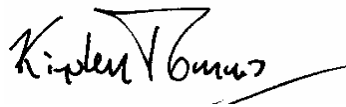
When our consultation paper is issued, we will be happy to meet with local Faculties or Bar Associations, and others to discuss the proposals during the consultation period.

What you need to do for the 2010 interim plans to 30 June 2010:

- If you are already on the 2009 plans and wish to remain on the plan there is no need to do anything, you will automatically be included on the 2010 interim plans. We will be circulating drafts of these interim plans in November.
- If you are currently on the 2009 plans and do not wish to be included on the 2010 interim plan, please write to advise us of this by Friday 30 October 2009.
- If you are not currently on the 2009 plans and you are now eligible to be included on the 2010 interim plan please contact Miss Batchelor on 0131 240 1945 for an application form, by Friday 30 October 2009. Providing you are eligible and there are vacancies you will be added to the 2010 interim plan

Thanks for your assistance with these matters.

Yours sincerely

A handwritten signature in black ink that reads "Kingsley Thomas". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Kingsley Thomas
Manager, Criminal Legal Assistance