I am a barrister who specialises in criminal law. I also sit as a Recorder in the Crown Court.

I write as a practitioner who must advise clients and as a judge who must direct that the charge be paid.

I recognise that many submissions will have been made as to the likelihood of defendants (innocent or guilty) pleading guilty in the magistrates’ court so as to avoid paying the upper tier following a finding of guilt.

However, there are other considerations based on my experience as counsel:

**Preferring to Have a Trial Rather than Plead Guilty**

(i) Some clients feel that since they cannot afford to pay £150 on pleading guilty they may as well run the risk of being charged £520 (which they cannot afford either) if convicted after a trial.

(ii) In each case the enforcement of the payment will result in their being liable to pay a nugatory sum which is unlikely to be recovered.

(iii) The likely consequence is that the Courts will have more Not Guilty pleas entered than Guilty, thus increasing the pressure of work in the Magistrates’ Courts.

**Either-Way Offences**

(i) Many cases which begin in the Magistrates’ Courts are so-called “either-way” offences. That is to say that they can be tried either in the Magistrates’ or the Crown Court. A classic example is Actual Bodily Harm.

(ii) A Defendant may wish to plead guilty to this offence before the Magistrates’ and incur the £150 charge.

(iii) However the Magistrates have the power (often used) to send the case to the Crown Court. In such circumstances no plea can be accepted in the
Magistrates’ Court. So when the Defendant arrives at the Crown Court and pleads guilty the charge has risen from £150 to £900.

(iv) Often in the Crown Court a plea to a lesser offence than has been sent from the Magistrates is accepted. For example an offence contrary to section 20 of the Offences Against the Person Act (wounding) will be accepted. Although the Defendant could have been sentenced in the Magistrates’ Court (£150) he will have to pay £900. This is not of his choosing.

Sentencing in the Crown Court

(i) My aim when sentencing for offences of, for example, causing injury to another, or to their property, is to find some form of recompense if funds are available for such payment – albeit payment may take many months. This is what is called “compensation”.

(ii) The Criminal Courts Charge, however, takes precedence over compensation to the victims of Crime.

(iii) Accordingly, given an Offender with no means (and most Offenders are on state benefits) I cannot sensibly order Compensation.

(iv) The statutory surcharge (incorrectly described in publications by the MoJ as the “Victim Surcharge”) is also secondary to the Courts’ Charge.

(v) The CPS have, after these depredations, no chance at all of recovering any contributions to their costs.

(vi) In summary – victims of crime will be put at the very back of the queue for financial sanction. I cannot in any reason order compensation when it will never be paid.

6 September 2015