About MWSL

MWSL is a 20 branch consumer law “high street” practices with offices in London, Kent, Surrey, Sussex and Devon, becoming earlier this year, the first legal aid high street law firm to obtain equity investment from Business Growth Fund. It holds legal aid contracts in several areas including family and children, criminal defence, clinical negligence and civil liberties.

Executive Summary

Heads of MWSL’s employment and criminal defence departments, share their experiences to date on the new charging regimes in both areas.

How have the increased court fees and the introduction of employment tribunal fees affected access to justice? How have they affected the volume and quality of cases brought?

Anecdotally, we know that ETs are hearing around 70% fewer contested final hearings. This is because of fees and unattractiveness of deferred funding arrangements to clients who have low to moderate value claims. Contested ET litigation has been severely hit. This has affected the group of litigants in most need-low-modestly paid-who cannot afford to pay for litigation and has clearly a massive impact on justice. It is important to remember that employment legislation has always been introduced to balance the disparity in resources and negotiating power between employer and employee-the changes have re-balanced what was always a finely balanced equation in favour of the employer-if the employer refuses to negotiate the employee has 2 options-put up or pay. That is a entirely unsatisfactory situation.

How has the court fees regime affected the competitiveness of the legal services market in England and Wales, particularly in an international context?

Too early to tell and we do not have an international litigation business.

What have been the effects on defendants of the introduction of the criminal courts charge? Has the criminal courts charge been set at a reasonable and proportionate level? Is the imposition and collection of the charge practicable and, if not, how could that be rectified?

The Criminal Court charge is only just beginning to sink in with Defendants. Defendants now face being hit in the pocket in a number of ways:

1. financial penalties for the offence – a fine
2. victim surcharge
3. contribution towards Prosecution costs
4. compensation – usually when there is some quantifiable loss but not limited as victims of physical violence are often compensated as well.
5. when a privately funded client wins his case he can only recover costs out of central funds at Legal Aid rates in the Magistrates Court or nothing at all in the Crown Court unless there has been an unsuccessful application for Legal Aid
When you take into consideration the above five factors the newly implemented Criminal Court charges can be considered to be heavy-handed. In addition to that it may make a Defendant plead guilty just to avoid a higher Court charge in the event that he/she is found guilty.

I am told that some senior District Judges at one Magistrates Court are ignoring the CCC even though it is meant to be mandatory.

It is a well documented fact that the HMCTS is owed a great percentage of the financial penalties that are imposed. There is also the additional expense of enforcement via collection orders. It is anticipated that a huge amount of these Criminal Court charges will remain unpaid not because the Defendant flagrantly refuses to pay but simply because they are unable to do so.

Some Magistrates are ameliorating the effect of the mandatory CCC by not imposing other financial penalties in the way they otherwise would have done. This often means that the Prosecution loses out on a contribution to costs.

In summary, there are real practical difficulties surrounding the imposition and collection of the CCC. Is anything going to be done about Judges that ignore it? After all what is sauce for the goose is sauce for the gander!

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