

By Email:

- Max Hill QC (DPP) and Greg McGill (Director of Legal Services),
Crown Prosecution Service
- DCC Martin Lewis (Chair) and DCC Nev Kemp (Lead for Custody),
National Police Chiefs' Council
- Stephanie Boyce (President) and Stuart Nolan (Chair, Criminal Law Committee),
Law Society
- Daniel Bonich (Chair),
Criminal Law Solicitors' Association
- Mark Troman (President),
London Criminal Courts Solicitors' Association

5 May, 2021

Dear Protocol Signatories,

Re: Remote police station legal assistance under Covid-19

We are writing to welcome your decision to end the emergency measure of remote police station advice from Stage 3 of the Government's roadmap out of lockdown, for both children and mentally vulnerable adults. We would also like to thank you for your ongoing work to ensure an end to remote legal assistance for all suspects no later than Stage 4, when legal limits on social contact end.

Our joint research report, [Not remotely fair?](#), substantiates our grave concerns about the fact that suspects have not been able to exercise their right to free legal advice in person in the police station during the pandemic. The negative impact on communication, and consequently effective participation and representation, have been exacerbated by poor internet connections, wide use of audio-only technology, and facilities unable to ensure confidentiality between clients and solicitors. We are also concerned about the longer-term risks of miscarriages of justice for people who were unable to understand and exercise their rights without a lawyer present in person, including because their vulnerabilities were not identified.

Despite the wide recognition that remote assistance is a poor substitute to assistance in-person, we do however appreciate the reasons for moving to remote advice as an exceptional response to the pandemic. As the Law Society said in response to our report:

"It must not be forgotten that some solicitors and police station reps have died of Covid... What should happen, and what safely can happen during the pandemic, are not going to be the same."

During the pandemic, when some unvaccinated solicitors understandably felt unsafe attending police stations, we recognise that remote assistance was better than no assistance at all.

Our organisations' focus is on the human rights of people in police custody but we also appreciate the many pressures remote legal advice places on those working in the criminal justice system. The [recent HMICFRS report](#) highlights some of the ongoing challenges police are facing in implementing this emergency response:

“the police service faces significant problems arising from the use of virtual legal advice and representation for detainees rather than solicitors attending in person, in accordance with the temporary interview protocol. It has cost, capacity and demand implications. In addition, forces' lack of information to show how detainees have received their legal rights while in custody may have implications for the Criminal Justice System.”

Appropriate adults (who continued to attend in person) have also had to take on additional responsibilities where lawyers have advised remotely and we recognise that lawyers have found it harder to build relationships of trust with their clients, to intervene during interviews and to ensure their clients are able to understand and exercise their rights.

For all of these reasons, the end of this emergency measure cannot come soon enough. We therefore welcome the steps being taken to overcome any remaining practical challenges so that lawyers can resume their work in person, such as those taken to enhance the Covid-security of police stations. We also thank those many criminal justice professions (including many lawyers) that continued to attend police stations in person during the pandemic regardless of the health risks.

Looking to the future it is essential to the operation of policing and the integrity of our justice system that the value of legal assistance in person at the police station is properly recognised and that it is funded appropriately. It is also clear that this is what the public wants and expects (in a recent poll 83% said they would want in person legal advice if arrested and detained by police). We therefore look forward to working with you and the legal community to make the case for the legal aid reforms needed to underpin this crucial human right.

Yours sincerely,

**Chris Bath, National
Appropriate Adult Network**

**Penelope Gibbs, Transform
Justice**

Jago Russell, Fair Trials

Copy [by email]:

- Alex Chalk MP, Parliamentary Under Secretary of State, Ministry of Justice
- Kit Malthouse MP, Minister for Crime and Policing, Home Office
- Jane Harbottle, Chief Executive, Legal Aid Agency