

The following members of the Criminal Bar Association,

1. Recalling that Article 9 of the Association's constitution provides for the calling by 50 members of an Extraordinary General Meeting within 6 weeks of receipt by the Secretary of a written request;
2. Recalling that the Association's constitution does not provide for referenda in circumstances other than constitutional amendments;
3. Noting the ballot of the membership in which 96% of participants called for direct action in the event that dual contracts are proceeded with by the government;
4. Noting the intention of the Lord Chancellor to proceed with dual contracts;
5. Noting the decision of the Committee at their meeting on 17 June 2015 not to call direct action over dual contracts but instead to consult with the government on issues such as the educational requirements for those in the Crown Court, the way contracts are distributed, and regulation of higher court advocacy, without any commitment by the government to make any actual concession on any issue;
6. Concerned that the Committee has consistently delayed the calling of direct action, and that this latest delay will mean that direct action could not be called until after the implementation of dual contracts is already accomplished;
7. Noting that the majority of elected members of the Committee voted in favour of immediate direct action;

Resolve to call an Extraordinary General Meeting of the Association at the earliest possible date to debate and vote on the following two motions only, in order, which may be amended at the Extraordinary General Meeting:

1. **That in order to ensure that the Chairman and Vice-Chairman are free to set out their views in debate openly rather than being confined to acting as an impartial chair, the Extraordinary General Meeting shall be chaired by a person it chooses at its outset.**
2. **“Direct Action Now” (in the form attached);**
3. **That all members of the Committee should consider whether they can continue in their position in light of the outcome of this Extraordinary General Meeting.**

Direct Action Now

The Association Believes

1. If “dual contracts” come into effect the criminal bar will not survive.
2. Years of cuts to advocates fees have been driving the criminal bar to a slow death for years. If advocates’ fees receive further significant cuts, again the bar will not survive.
3. Litigators’ fees have also been cut for years on end. If litigators’ fees receive further significant cuts, solicitors will be obliged to move advocacy in house to HCAs and in-house counsel to make a profit. The criminal bar will again not survive.
4. Only by collective direct action can the criminal bar survive.
5. Collective direct action on the part of the bar will be at its most effective if conducted alongside solicitors, but can be conducted independently of them.
6. The criminal bar supports direct action to protect our profession. The Committee of the Association is aware of this. The Committee of the Association has declined to lead the criminal bar in direct action.
7. Whilst direct action is needed, it will be most effectively organised if members of the bar know what to expect of it and what its aims are. To that end they are set out below.

The Association Resolves:

1. If the government expresses any intention to do one or more of the following “Triggers” or anything which amounts to one or more of the Triggers, the Committee of the Association will begin Direct Action as set out below. The Triggers are:
 - a. Failing to drop the policy of “dual contracts” or taking action to continue the policy of “dual contracts”, including but not limited to public or private pronouncements in favour of “dual contracts”, and taking steps to award contracts under the policy.
 - b. Cutting advocates’ fees for any criminal matters without an immediate corresponding increase in other advocates’ fees which makes up for the cut.
 - c. Cutting litigators’ fees for any criminal matters without an immediate corresponding increase in other litigators’ fees which makes up for the cut.
2. “Direct Action”, all of which will be triggered by any of the Triggers, shall involve the Committee of the Association organising the following:
 - a. Within 2 days of the Trigger, restart the “no returns” policy.

- b. Within 1 week of the Trigger a 1 day walkout from court (on the same terms of exceptions being granted in the most exceptional cases as previously).
 - c. Within 2 weeks of the Trigger a 2 day walkout from court (on the same terms of exceptions being granted in the most exceptional cases as previously).
 - d. Within 3 weeks of the Trigger a 1 week walkout from court (on the same terms of exceptions being granted in the most exceptional cases as previously).
 - e. Within 6 weeks of the Trigger an indefinite walkout from court (on the same terms of exceptions being granted in the most exceptional cases as previously).”
3. The Direct Action shall continue until the following Minimum Demands are met:
 - a. The Trigger neither exists nor is threatened by the government.
 - b. Any professional disciplinary action or economic sanctions taken or threatened against any person as a result of taking Direct Action is cancelled.
4. At the discretion of the Committee of the Association, the Direct Action may continue until the following Further Demands are met:
 - a. Advocates’ fees are increased in line with RPI with a reference point of 1 January 2000.
 - b. Cuts to VHCC contracts from the last 2 years are reversed.
5. If the Committee wishes to call off any of the Direct Action set out above before the Minimum Demands have been met, the following process shall apply:
 - a. The Committee shall call a referendum of the whole membership of the Association before calling off any of the Direct Action.
 - b. The referendum shall be open for voting for at least 48 hours and shall be publicised in advance and during its course by the Committee. The Committee shall afford in its own communications equal time, space, and prominence for debate by both sides of the referendum.
 - c. A decision of a referendum not to bring Direct Action to an end shall be binding on the Committee.
 - d. A decision of a referendum not to bring Direct Action to an end shall preclude the Committee commencing a further referendum on the same topic for 7 days unless 90% of the Committee vote in favour of holding a further referendum sooner.
 - e. The result of a referendum to bring Direct Action to an end shall not prohibit further Direct Action being called at a later date.