



## LEGAL AID CONSULTATION PAPER CORE CASE

We are calling on the Ministry of Justice to reconsider its plans to introduce further changes to civil and family legal aid, and to introduce Price Competitive Tendering (PCT) for criminal legal aid. Cumulatively, these proposals will irreversibly undermine access to justice and damage the reputation of our justice system all over the world.

We believe that all members of society are entitled to be represented in cases that fundamentally affect their everyday lives. It is a basic right in our democratic society.

We believe that all people should be entitled to choose a lawyer to represent them based on quality, not just be allocated one on the basis of whoever can do the job for the lowest price. In so many areas of public spending, the Government has encouraged informed customer choice; legal aid must not be an exception.

**PROPOSALS WILL DAMAGE CIVIL JUSTICE FURTHER:** Following the severe cutbacks in the scope of civil legal aid introduced by LASPO, the proposals for change in civil and family justice are discriminatory, and will severely weaken the fundamental principle of equality before the law, if applicants for civil legal aid are required to satisfy a residence test. It will also be much easier for Government departments and public authorities to reach adverse decisions about some of the most vulnerable in society, such as those in housing or immigration cases, if the authorities' decision-making is subject to less oversight by the courts, which will be an inevitable outcome if funding for judicial review of such decisions is only available when the court grants permission.

Further withdrawal of civil representation, on top of already huge cuts from scope, will mean that even more vulnerable individuals will be left with no legal help at all.

Citizens will no longer be equal before the law. As we approach the 800<sup>th</sup> anniversary of Magna Carta, that is a desperately sad message.

**A TWO-TIER SERVICE:** Quality and an individual service in criminal cases will disappear. There will be no choice for those accused of a criminal offence, and the only driver will be price. Instead of having equal access to justice, regardless of means, we will have a two-tier system: one for those who can afford high quality representation and one for those who can't.

**COSTS LIKELY TO OUTWEIGH SAVINGS:** Substantial contracts for criminal work will be issued to a small number of organisations, many of which will have no

background or experience in law, offering block legal services at the lowest price. That may look cheaper, but the knock-on costs in terms of tendering bureaucracy, poorly managed cases, appeals and miscarriages of justice will far outweigh any savings made. With crime rates and prosecutions falling, the main motivation of the Consultation Paper – to save money – is, in any event, unwarranted.

**A DUTCH AUCTION THAT WILL INHIBIT COMPETITION:** PCT will not promote competition; instead it will force bidders to tender at least at 17.5% or less below current rates in the Magistrates' Courts, and will give successful suppliers exclusive rights to Crown Court work, further restricting competition. The system will make suppliers into "processors" of justice and incentivise them to do the minimum work at the lowest acceptable standard.

**DAMAGE TO OUR LEGAL SERVICES 'BRAND':** We have a justice system for which we are respected and admired all over the world, in which we treat people as innocent until they are proven guilty before a court, in a fair and transparent trial. This impacts on the way our justice system is regarded internationally: our commercial courts are a valuable asset which are regarded as the best in the world. They enable quality advocates to play their part in upholding the Rule of Law and attracting billions of pounds of much-needed overseas' investment. This is because our system – civil and criminal – is seen globally as fair and open. These proposals, in addition to huge recent civil legal aid cuts, will gravely undermine that.

**DESTROYING A NATIONAL NETWORK AND CREATING ADVICE 'DESERTS':** We are concerned that access to legal aid via the nationwide network of high street law firms will be undermined as 1,200 out of 1,600 firms will be forced to close or pull out of legal aid. The advice 'deserts' we already see in some rural areas will spread more widely, making it harder for millions to get the right advice and support.

**CUTS UPON CUTS ARE THE HARSHTEST PAY CUTS ANYWHERE IN PUBLIC SERVICES:** The further cuts of up to 35% in criminal advocates' fees come on top of the 2010-2012 fee cuts of 13.5% to all advocates crown court fees and 39.5% cut to some of the most difficult cases. This comes alongside the removal from scope for some areas of civil legal aid and eye-watering cuts, with more still to come as a result of the present proposals. No other area of public service has suffered this level of cuts. It's a funding landscape which means the best lawyers are turning away from public service law instead of aspiring to it. The impact on the quality of justice is inescapable. The independent Bar, which has long provided a constitutional bulwark against injustice, will quickly be eroded, starting with the junior Bar, which will struggle to generate the income to meet significant student debt.

**UNDERMINING EFFORTS TO CREATE A MORE DIVERSE PROFESSION AND JUDICIARY:** Because of their track record in public service law, female and Black, Minority and Ethnic (BME) practitioners are expected to be hit the hardest by the changes. Our collective aspirations for a more diverse profession and judiciary will be critically undermined by what is proposed.