



King's Speech debate on Justice and Home Affairs

Bar Council briefing

July 2024

About Us

The Bar Council represents approximately 18,000 barristers in England and Wales. It is also the Approved Regulator for the Bar of England and Wales. A strong and independent Bar exists to serve the public and is crucial to the administration of justice and upholding the rule of law.

Summary

The justice system requires urgent attention. Crumbling courts, record backlogs, prisons at capacity, insufficient funding and availability of legal aid, a rise in litigants in person set against a backdrop of a workforce shortage to service these growing demands. The system has been starved of resources with cuts in real term spending on justice of 22% since 2009/10.¹

Despite some temporary measures implemented by successive administrations, there has been no significant progress to properly maintain the justice system, despite it being a fundamental public service and bedrock of a good functioning society.

Without immediate investment, the justice system will not be able to function. The legislation announced in the King's Speech is broadly welcome but immediate action coupled with long-term reform is needed.

Manifesto for Justice

The Bar Council's [Manifesto for Justice](#) sets out eight specific recommendations to help rebuild and restore the justice system.

1. Establish a Royal Commission on the criminal justice system

Short term solutions to help ease the mounting backlog and overcrowded prisons have provided some temporary relief but cannot and will not resolve the challenges facing the entire system. We are therefore calling for an end-to-end review of the whole system in England and Wales through a Royal Commission to:

- ensure efficient and effective case progression from first report to release
- support victims and participants with a low witness attrition rate
- treat all users of the system respectfully, fairly and proportionately
- create a sustainable and resilient criminal justice system
- restore public confidence and safety with a reduction in crime

¹ Professor Martin Chalkley and Alice Chalkley (2024) Updated analysis of public spending on justice 2010-2023. Forthcoming.

2. Ensure that Crown Court trials have a start date within six months of the first hearing

The backlog in the Crown Court as of April 2024 stands at 68,125². The backlog began to grow in 2019 and was exacerbated by the pandemic, causing further delays. Twenty-eight per cent of the current outstanding cases in the Crown Court have been waiting for more than a year.³ The input of cases into the system is at a record high and there are simply not enough criminal barristers to service this demand. It should be a priority for the Government to provide a fully evidenced figure for what would be a reasonable standing backlog going forward and ensure that all Crown Court trials start within six months of receipt achieved through proper investment and by boosting the workforce of judges, barristers, solicitors and staff.

3. Invest to secure a sustainable and resilient justice system that commands public trust and confidence

Unlike some other public service Departments, justice spending is not protected. As an unprotected area, this vital public service has suffered cuts of 22% since 2009/10. Whilst the additional funding in the Spring Budget 2024 was welcome, it does not match the investment the system desperately needs.⁴ We estimate that an additional £2.48bn would help rebuild this vital public service and restore public trust and confidence in justice. The sums involved compared to other Departments are modest.

4. Recognise the courts as a vital public service that is the foundation stone of a good society – just like schools and hospitals

Just like hospitals and schools, courts contribute to a proper functioning society. Local courts and local justice matter. However, we have fewer courts than ever before and those left are often dilapidated. The physical court estate has been reduced by 43% since 2011⁵ meaning the administration of justice is becoming more far removed. People have to travel further and longer to get to court, waiting times are increasing and backlogs are rising. The court estate is not fit for purpose and in desperate need of reform to enhance digitisation, provide better technology and enable it to run more efficiently.

5. Support communities by providing easily accessible and trusted early legal advice – online and locally

Some of the most disadvantaged people in our communities need access to legal advice the most. Organisations such as Citizens Advice and Law Centres that historically gave free specialist legal advice have largely closed, leaving people unable to access or afford it. Many legal problems could be addressed well before they enter the court system. For every person in receipt of free advice, the average benefit to the Treasury is £8000 while the average cost of the advice is just £510 per person.⁶

² HMCTS (June 2024) 'HMCTS Management Information April 2024' <https://www.gov.uk/government/statistical-data-sets/hmcts-management-information-april-2024> Some doubts have been raised about the correctness of the figures by [The Telegraph newspaper](#)

³ Ministry of Justice (28 March 2024) 'Criminal court statistics quarterly, England and Wales, October to December 2023' <https://www.gov.uk/government/statistics/criminal-court-statistics-quarterly-october-to-december-2023/criminal-court-statistics-quarterly-october-to-december-2023>

⁴ The Bar Council (March 2024) 'Bar Council reaction to the Spring Budget' <https://www.barcouncil.org.uk/resource/bar-council-reaction-to-the-spring-budget.html>

⁵ The Bar Council (June 2022) 'New data reveals decline in access to justice' <https://www.barcouncil.org.uk/resource/new-data-reveals-decline-in-access-to-justice.html>

⁶ Access to Justice Foundation (September 2021) 'Defending the public purse: The economic value of the free legal advice sector' <https://atjf.org.uk/wp-content/uploads/2021/09/Defending-the-public-purse-The-economic-value-of-the-free-legal-advice-sector-September-2021.pdf>

This is not just a great benefit to justice but also to the public purse and the courts. The Government should support communities by providing easy and early legal advice, both online and locally.

6. Ensure access to justice by widening the scope of legal aid eligibility across civil, family and crime

The implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) removed whole areas of law from legal aid including social welfare, housing and immigration, making it harder for people to access justice. Over the past 14 years, government spending on legal aid has reduced by 40% from £52.52 per person in real terms in 2009/10 to £31.76 in 2022/23.⁷ As a result, there has been an increasing number of unrepresented people in court (Litigants in Person). The Government should introduce a targeted restoration of legal aid to assist vulnerable citizens.

7. Uphold, respect and promote the rule of law

Our justice system upholds and promotes the rule of law. However, recent and repeated political attacks on the legal profession and on the independence of the judiciary has undermined public trust and confidence in our system. Parliamentarians carry a responsibility for upholding the rule of law and respecting the separation of powers when shaping, debating and passing laws. The UK has a longstanding reputation across the world for leading, upholding and respecting the independence of judges and the rule of law – this reputation has been jeopardized and we should fully restore it. The new Lord Chancellor⁸ and the new Attorney General⁹ have made very positive statements in this respect, including at their swearing in and declaration on 15th July 2024.

8. Promote the Bar's position as an internationally respected world leader and recognise the value of legal services

Legal services contribute huge sums to the British economy (£34bn in 2022)¹⁰, employs over 350,000 in England Wales alone (two-thirds of whom are based outside London) and allow an array of other sectors to flourish, from financial services to pharmaceuticals to retail and tech. Similarly, the English and Welsh Bar is often the first choice for individuals and businesses across the globe to access legal expertise. The quality of our legal services together with the rule of law is what makes our jurisdiction so attractive. The soft power of the UK by reason of the quality of its laws, judges, and lawyers should be hard to overstate. It is already the most open, liberal jurisdiction taking 10% of the World's legal services economy. It has enormous potential to grow further. It is vital for the Government to prioritise the promotion of the UK's exceptional legal services globally.

Conclusion

The public must have confidence in the justice system. Access to justice is a right that no one wants to have to exercise. But it is vital that it is available at the point of need, just like the health service. Our manifesto for justice makes the case for effective change, sets out the policies and reforms needed alongside the level of investment required.

⁷ Professor Martin Chalkley and Alice Chalkley (2024) Updated analysis of public spending on Justice 2010-2023. Forthcoming.

⁸ Ministry of Justice (July 2024) 'Lord Chancellor swearing-in speech: Rt Hon Shabana Mahmood MP'

<https://www.gov.uk/government/speeches/lord-chancellor-swearing-in-speech-rt-hon-shabana-mahmood-mp>

⁹ Attorney General's Office (July 2024) 'Attorney General swearing-in speech: Rt Hon Richard Hermer KC'

<https://www.gov.uk/government/speeches/attorney-general-swearing-in-speech-rt-hon-richard-hermer-kc>

¹⁰ TheCityUK (2023) 'Legal excellence, internationally renowned: UK legal services 2023' <https://www.thecityuk.com/our-work/uk-legal-services-2023/>