

# Urgent Action Required

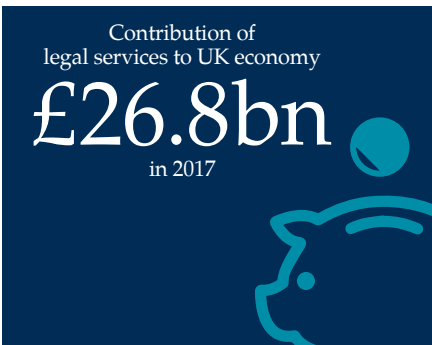
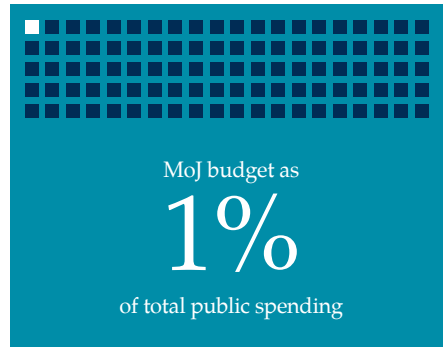
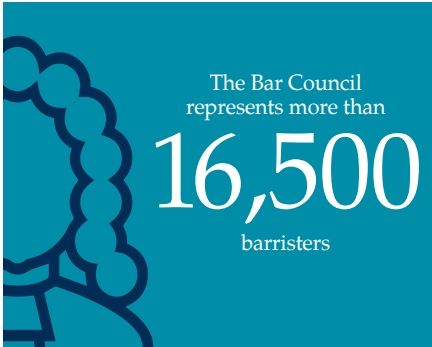
The Bar Council's  
2019 manifesto for  
the justice system



The Bar Council

# The Bar Council

Representing barristers, promoting access to justice and championing the rule of law



# Our recommendations to the next Government:

## A strong and effective justice system

1. A properly funded justice system that underpins our society, democracy and economy.
2. A court system that places accessible justice for all at its heart.

## Ensuring everyone has fair access to justice

3. Properly funding legal aid.
4. Abolishing the 'innocence tax'.

## Recognising the value of legal services

5. Recognising the value of legal services - to society and the economy.
6. Promoting the Bar's position as an internationally respected world leader and promoter of democracy and the rule of law.

# Foreword

This General Election takes place at a time of great uncertainty and instability in our country.

The rule of law and independence of the judiciary are fundamental pillars of our democracy. Judges apply the law without fear or favour, and this must not be undermined.

Once highly regarded as a vital public service, today's justice system is widely acknowledged to be suffering from years of under-investment. Crime is increasing, yet prosecutions are falling. Too many people are unable to access justice quickly or effectively. As a result, there is understandable public dissatisfaction with the state of the justice system. Urgent action is required to remedy this.

The Bar Council's six recommendations, if implemented, should help restore trust in our justice system. They will help rebuild a strong and effective justice system, which will enable everyone to have fair access to justice. They should also ensure that the value of legal services - both to society and the economy - is recognised and promoted.

**Richard Atkins QC**  
**Chair of the Bar**

# A strong and effective justice system

## 1. A properly funded justice system that underpins our society, democracy and economy.

**40%** cut to the Ministry of Justice budget from 2011 to 2020

A properly funded justice system is long overdue. For years, successive governments have damaged it. The cumulative effect of ill-conceived, short-term decisions over the last decade is undeniable: swingeing cuts to civil, criminal and family legal aid; court closures; under-resourcing the Crown Prosecution Service; the increase of unrepresented people filling courts (Litigants in Person); a criminal justice system on its knees with crime going up and prosecutions going down. As a matter of urgency, the next Government must address the state of the justice system.

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*“Yet again we are seeing evidence that the criminal justice system is faltering as it struggles to cope with increasing demands with diminishing resources.”*

John Apter, national chairman of the Police Federation of England and Wales, *The Times*, 16 August 2019.

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## 2. A court system that places accessible justice for all at its heart.

**277** courts and **18** tribunals closed in the last decade

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*“Overall police detection rates nationally are low, woefully low I would say in some instances, and the courts are emptying, not filling.”*

Cressida Dick, John Harris lecture for the Police Foundation, 25 June 2019.

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Justice must not become a postcode lottery. We have fewer courts than ever before. 277 courts and 18 tribunals across England and Wales have closed over the last decade. There are huge backlogs of cases in many of our remaining courts and yet courtrooms are lying empty.

Court reforms must be fit for purpose and properly designed. Not only must justice be done, it must be seen to be done. The next Government should:

- i. Recognise courts as a vital public service that contribute to a proper functioning society - like schools and hospitals.
- ii. Invest in court infrastructure.

# Ensuring everyone has fair access to justice

## 3. Properly funding legal aid.

Access to justice underpins a fair, just and reasonable society. It is not a commodity and must never be a luxury available only to those who can afford to pay for it.

Legal aid should be recognised as being as much a part of civil society as the NHS, housing, social security and education. It should be reintroduced to help the most vulnerable and marginalised citizens who are currently left to fend for themselves. The next Government must reinvest in legal aid, reversing a decade of cuts.

## 4. Abolishing the ‘innocence tax’.

**37%** cut to legal aid from 2010/11 to 2017/18  
because of implementation of the Legal Aid, Sentencing  
and Punishment of Offenders Act 2012 (LASPO).

There can be no place for an ‘innocence tax’ in this country. The current situation of the state prosecuting an individual, refusing to give him or her legal aid and then refusing to fully reimburse their private legal costs when they are acquitted is desperately unfair. It must be reformed.

# Recognising the value of legal services

## 5. Recognising the value of legal services - to society and the economy.

Our legal services and justice system uphold and promote the rule of law. Our economic growth, social fabric and prosperity depend upon respect for the rule of law. But it goes further than that.

The quality of our legal services coupled with the rule of law is what makes our jurisdiction so attractive - and has done for decades. The English and Welsh Bar is often the first choice for citizens and businesses across the world on a broad range of issues from environmental harm to intellectual property to arrest and detention.

Legal services contribute huge sums to the British economy (£26.8bn in 2017) and allow an array of other sectors to flourish, from financial services to pharmaceuticals to retail to tech. The next Government must recognise the value of legal services to society and the economy by:

- i. Enabling UK citizens and businesses to continue to obtain judgments and to enforce them across borders when the need arises as a result of, for example: family cases involving custody and contact with children; an accident abroad or a commercial dispute involving a party in another country; and to ensure that existing benefits deriving from the EU in the workplace, consumer rights, and arrangements for the protection of the environment, can continue to be enforced in the UK.
- ii. Ensuring that UK/EU co-operation continues in: the investigation and detection of crime; obtaining and exchanging of evidence; and the extradition of suspects and defendants.
- iii. Safeguarding and promoting the UK's international reputation as a world leader for the provision of legal services in the face of increasing competition from overseas.

**£26.8bn** contributed to the  
British economy by  
legal services in 2017

## **6. Promoting the Bar's position as an internationally respected world leader and promoter of democracy and the rule of law.**

Across the world, the Bar of England and Wales has a strong, respected reputation for excellence, integrity and high standards. The UK accounts for around 10% of the global market for legal services, second only to the US. It is also the largest market in Europe, accounting for around a fifth of Europe's legal services fee revenue. This position is at risk as a result of the rise of international dispute resolution centres and the possible ramifications of any Brexit. The next Government should therefore promote England and Wales as the law and jurisdiction of choice for international contracts and disputes. It should ensure that judgments can be enforced across the globe and that the free movement of lawyers is protected.



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