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**Bulletin from the APPG on Legal Aid
16th edition – March 2019**

Dear Parliamentarian,

Welcome to the 16th bulletin from the APPG on Legal Aid. This edition has four sections:

1. Event

- 1. APPG on Legal Aid Meeting – the LASPO Post-Implementation Review 27 February 2019**
- 2. Legal Aid Lawyer of the Year Awards 2019**

2. APPG+ Training Events

- 1. MP caseworker training on anti-social behaviour 12 March 2019**
- 2. MP caseworker training on interview skills 28 February 2019**

3. Legal aid news

- 1. LASPO Post-Implementation Review PIR**
- 2. Justice Committee News**

1. **The HMCTS reform programme**
 2. **Draft Sentencing Guidelines**
 3. **- Legal Aid at Inquests**
 4. **- Right to Rent Scheme**
 5. **- Homes (Fitness for Habitation) Act 2018**
 6. **- YLAL and the next generation of legal aid lawyers**
4. **Justice Questions**

1. Events

APPG Meeting – LASPO Post-Implementation Review Wednesday, 27 February 2019



On Wednesday 27 February the APPG on Legal Aid hosted a panel discussion on the newly published LASPO PIR. We were delighted to be joined by Lucy Frazer QC MP, Parliamentary Under-Secretary of State at the Ministry of Justice; Richard Burgon, Shadow Secretary of State for Justice and Shadow Lord Chancellor; Bob Neill MP, Chair of the Justice Committee; Richard Atkins QC, Chair of The Bar Council; and David Greene, Vice-President of The Law Society.

The meeting was an opportunity to discuss the PIR and for many in the legal aid sector to have

their say. Chaired by Karen Buck MP, the event was a huge success, with a full attendance and contributions from parliamentarians including Lord Low, Andy Slaughter MP and Alex Chalk MP, as well as detailed questions and comments from some of the many representative bodies and interested individuals in the audience.

Lucy Frazer MP addressed concerns raised by the APPG over what was meant by the term “legal support”, clarifying that it refers to the full range of legal services available, “including where individuals with legal problems turn to first, such as friends, family members, the internet, Citizens Advice – anyone who gives advice”. Ms Frazer went on to explain that this was part of a wider effort to move to a more “holistic legal system”. She explained that the government wants to explore if legal advice is always the best system of support. The Minister also stressed that although only £8m is explicitly laid out in the Action Plan, this is not the extent of the proposals. Adding that the government would like more people to access advice which is in scope for legal aid and that this would require further resources.

The Shadow Justice Secretary Richard Burgon stated that he believed the review was “too little, too late”, and contained no credible plan to tackle the problems created by LASPO. He described the government’s £8m in the Action Plan as a “drop in the ocean” in comparison with how much has been cut from legal aid since LASPO. Mr Burgon also took the opportunity to announce that a Labour government would introduce non-means-tested legal aid for inquests into state-related deaths. 2019 is the 70th Anniversary of legal aid, and Richard Burgon added that this should be used as a chance to make a positive case for legal aid, to counter press criticism, and to recognise access to justice as a fundamental right.

There was consensus on the panel that the MOJ’s recognition of the importance of early legal advice is a welcome change, and David Greene highlighted that the Law Society has been campaigning for its reintroduction for years. The issue of the rise of litigants in person and cases going to court unnecessarily was also raised. Bob Neill MP particularly expressed concerns about this development, highlighting that the government has not yet picked up on how much of this is simply passing costs on to other parts of the welfare state.

The minutes for this meeting can be found [here](#). Follow the APPG on [Twitter](#) to find out about our next meeting and future events: @APPGLegalAid

Forthcoming Events

LAPG’s Legal Aid Lawyer of the Year Awards 2019



LAPG has announced that this year's LALY ceremony will be held on 10 July. Now in their 17th year, the LALYs are an evening to celebrate the vital and life-changing work of legal aid lawyers. Previous winners have included the Hillsborough legal teams for Outstanding Achievement in 2017, and Harriet Wistrich who won Public Lawyer of the Year in 2018 in recognition of her work for the victims of black cab rapist John Worboys. Harriet was in the news again last week for her ground-breaking work winning a retrial for Sally Challen's historic appeal against her conviction for murdering her husband. Nominations for the 11 award categories are now open and close on 30 April. Nominations are often supported by MPs, which is welcomed by the awards' judges. It is also possible to show your support for legal aid by donating to become a Friend of LALY19 (from £10). All donors will have their names included in the 2019 ceremony programme. **To nominate a legal aid lawyer, donate to become a Friend of LALY19, or to book tickets for the ceremony, please click [here](#).**

2. APPG+ Training Events

Upcoming Training

Anti-Social Behaviour - MP caseworker training, 12 March 2019 (10am-4pm, Richmond House)

We will be offering training on anti-social behaviour, on 12 March 2019, through the House of Commons Library. The interactive session will be from 10am-4pm in Richmond House and led by Connor Johnston of Garden Court Chambers. Connor is highlighted in **Chambers UK 2018** and in the **Legal 500 2017** for his social housing work, where he is described as *"Very dedicated and conscientious.....passionate and extremely knowledgeable about homelessness and public law."*

The session is specifically designed to address typical constituent problems. **To book, please click [here](#).**

Recent Training

Interview Skills - MP caseworker training, 28 February 2019 (Richmond House)

The APPG on Legal Aid hosted a training session on interview skills with 31 MP caseworkers as part of its ongoing collaboration with the House of Commons Library and Learning and Development teams. This session with Chris Minnoch, CEO of LAPG and Ro Teather of the APPG, focused on issues to be aware of when advising constituents, structuring interviews and dealing with difficult constituents.

For more information on the training courses that we run for MPs and caseworkers, please contact Ro Teather at rohini.teather@lapg.co.uk.

3. Legal Aid News

LASPO Post-Implementation

On 7 February, the Ministry of Justice published its Post-Implementation Review on parts 1 and 2 of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO), which came into force in 2013.

The Lord Chancellor and Secretary of State for Justice David Gauke tabled the post-implementation reviews of parts 1 and 2 of LASPO, and the outcome of the inquests review, for debate on 7 February 2019. A transcript of the debate can be found [here](#).

The full review can be found [here](#) and a summary of the Action Plan can be found below

MOJ Proposal	Government Action
Part 1 – Accessible and efficient legal aid	
Review of the legal aid means test	We will complete a comprehensive review of the legal aid eligibility regime by summer 2020.
	We will bring forward proposals for extending eligibility for non-means tested legal aid for parents, or those with parental responsibility, who wish to oppose applications for placement orders or adoption orders in public family law proceedings – by Summer 2019, subject to Parliamentary approval.

Awareness and application	We will launch a campaign to improve awareness of how people can access legal support, including legal aid – by autumn 2019.
Improving access for vulnerable groups	We will bring forward proposals to expand the scope of legal aid to include separated migrant children in immigration cases – by spring 2019.
	We will bring forward proposals to expand the scope of legal aid to cover special guardianship orders in private family law – by autumn 2019.
	We will continue to work with The Law Society to explore an alternative model for family legal aid.
Exceptional cases	We will work with legal practitioners to consider whether the process for applying for Exceptional Case Funding can be simplified, and ensure that the forms and guidance are as accessible as possible – by the end of 2019.
	We will work to improve timeliness of the Exceptional Case Funding process, to ensure that people can access funding when they need it – by the end of 2019.
	We will consider whether it is necessary to introduce a new emergency procedure for urgent matters to access Exceptional Case Funding – by the end of 2019.
Discrimination, Debt and Special Educational Needs cases	We will remove the mandatory requirements from the telephone gateway for debt, discrimination and special educational needs cases which are already in scope – by spring 2020.
Inquests	We will consult on proposals to provide separate guidance for families which sets out the inquest process and legal aid system in lay terms.

	We will bring forward changes to the ECF application process as a whole to address the perceived problems with the complexity of the forms and the time needed to complete them.
	We will consult on introducing a provision for the backdating of the legal help waiver, so that all such payments can be backdated to the date of application should a waiver be granted.
Part 2 - Complementary forms of legal support	
Effective signposting	We will undertake a pilot to explore how we can better co-ordinate and signpost legal support.
Telephone support	We will also test a series of changes and enhancements to triage and signposting support offered as part of the Civil Legal Aid Telephone Advice Service by summer 2019.
Face to face support as a pilot for social welfare	We will bring forward proposals to pilot and evaluate the expansion of legal aid to cover early advice in a specific area of social welfare law – by autumn 2019.
Co-location of support services – a holistic approach	We will work collaboratively with the sector to pilot, test and evaluate the provision of holistic legal support hubs to more effectively support earlier resolution of a person’s legal problems.
Enhancing support for litigants in person	We will enhance the support offered by MoJ and HMCTS for litigants in person, as well as increasing our funding for the Litigants in Person Support Strategy to £3m for the next two years.
Part 3: Better systems, processes and decisions	
Cross-government action	We will work more closely across government, including through existing cross-government groups, and bringing

	together departments and support providers to focus on ways to reduce preventable demand.
Part 4 – Fostering a culture of innovation	
	We will continue to work across the justice system to explore how we can use data more effectively.
	We will set up a Legal Support Advisory Network to make use of external expertise, shape our research and evaluation proposals, and potentially explore new research opportunities and collaborations.
Part 5 – Legal service providers	
Criminal Fee Schemes	We will complete a comprehensive review of the criminal legal aid fee schemes and structures – by summer 2020.
Administrative Processes	We will complete a comprehensive review of the regulatory and administrative requirements passed onto providers and work with users to streamline these where possible – by the end of 2020.

Justice Select Committee

LASPO Review

On Tuesday 5 February, the Justice Committee heard from representatives from The Bar Council, Law Centres Network, Citizens Advice Bureau, The Law Society and the APPG on Legal Aid, who provided insight into how the LASPO Review was carried out.

The Chair of the Committee Bob Neil MP responded to the review stating that this was a “critical moment in the future of legal aid support”, and that the results of this review are well overdue. He stated that the review and accompanying action plan contained a number of positive proposals, including the expansion of legal aid to include certain immigration matters, the reinstatement of immediate face-to-face legal advice in some areas, as well as the intention of intervening earlier to catch problems before they escalate. However, Mr Neil also added that proposals for further reviews and pilot schemes risked “kicking the can down the road”, and called for clarification of the term “legal support” in the review. The Committee will now urgently discuss what action to take. **The full remarks can be read [here](#).**

Delays to the HMCTS reform programme and calls for evidence

On 5 March 2019, HMCTS announced a one year delay to the completion of its £1bn courts modernisation programme. The finish date has now been pushed back to 2023. The announcement comes following feedback received by HMCTS from the Public Accounts Committee and the National Audit Office.

HMCTS have said that their plan is now to recorder aspects of the programme and allow more time to develop some of the shared systems that will form the basis of the next set of online services. It is unclear from the announcement which services will be affected by the delay.

The Justice Committee is welcoming evidence of the effects and potential effects of Court and Tribunal Reforms programme. The deadline for submitting evidence is 11 March. **To find out more, click [here](#).**

Draft Sentencing Guidelines

In other news, on 8 February the Justice Committee published a report on Draft Sentencing Guidelines for offences where there is no specific guideline. **The report can be found [here](#).**

In the News

The sector responds to government conclusions on legal aid at inquests

Alongside its LASPO review, the government confirmed that it would not introduce legal aid funding for bereaved families at inquests where public bodies are legally represented. The Ministry of Justice stated that the additional £30m-£70m to fund this policy would “run counter to its wider policy intention”, and that means-testing served to target legal aid to those most in need. However, this decision was described as a “dishonest response and betrayal” by Deborah Coles, director of the charity Inquest, accusing the MoJ of failing to confront the reality of an uneven playing field faced by bereaved families. Ellie Reeves MP for Lewisham West and Penge, who has introduced an EDM calling for the introduction of legal aid in these cases, called this decision “disappointing”. **For further information, click [here](#).**

Right to Rent Scheme takes a hit in the High Court

The Government’s “right to rent” scheme has been declared by the High Court to be discriminatory and incompatible with human rights law. This controversial scheme introduced by the Immigration Act 2014 requires landlords in England to check the immigration status of prospective tenants with heavy fines or even prison available when they fail to do so.

The JCWI, which brought the case, argued that the impact of the scheme was entirely predictable. Studies found that between 25% and 43% of landlords were less likely to rent to anyone without a UK passport.

The Home Office has been granted leave to appeal and in the meantime the scheme remains in place.

To read the judgment, please click [here](#)

Legal Aid and the Homes (Fitness for Human Habitation) Act 2018

Chair of the APPG on Legal Aid, Karen Buck MP, sponsored the Homes (Fitness for Human Habitation) Act 2018, which will come into force on 20 March 2019. It will apply to all new tenancies of a term of less than 7 years (including new periodic tenancies) granted on or after the 20 March 2019 and includes 'replacement' tenancies.

It will also apply to all tenancies that began as a fixed term before the commencement date, but become a periodic tenancy after the commencement date including statutory periodic tenancies arising after an assured shorthold fixed term, a secure tenancy arising after an introductory tenancy or an assured tenancy after a 'starter' tenancy.

Landlords (or agents acting on their behalf) in England must ensure their rental properties are fit for human habitation at the beginning and throughout the tenancy. If they are not, the new act gives tenants powers to take landlords to court for breach of contract, force them to carry out improvement works and claim compensation.

Legal aid will be available for these cases on exactly the same basis as for disrepair claims, in other words, limited to remedying issues causing a serious risk to health and/or safety of the occupiers. As is currently the case, funding will not extend to a damages claim or remedying lesser issues (save as part of a defence and counterclaim in possession proceedings.)

Young Legal Aid Lawyers still have "real concerns" about where the next generation of legal aid lawyers will come from

In the wake of the LASPO review, Young Legal Aid Lawyers co-chair Oliver Carter has repeated concerns in a piece for The Justice Gap that successive governments have made it increasingly difficult and uneconomic for lawyers to take on publicly-funded work, so much so that it is difficult to see how the next generation of lawyers will maintain viable practices to serve their communities. Carter declares that, at best, the jury is still out on whether LASPO has succeeded on its own limited terms, but does highlight some promising "wider themes" to have come out of the post-implementation review. He concluded that whether or not the review of LASPO marks a turning point for legal aid may depend on the outcome of the government's proposed action plan, and what changes come from the review of means testing and the pilot of early advice in social welfare law. **For further information, click [here](#).**

Justice Questions in February and March 2019

Andy Slaughter MP for Hammersmith asked the Secretary of State for Justice, what legal aid will be available for (a) applications and (b) appeals in relation to the EU settlement scheme.

Gloria De Piero MP for Ashfield asked the Secretary of State for Justice:

- How many people were rejected for legal aid for harassment cases in each year since 2011.
- How many people received legal aid for harassment cases in each year since 2011
- How many people have received legal aid in cases concerning care proceedings in each year since 2011.
- How many applications for legal aid in cases concerning the Children's Act were rejected in each year since 2011.
- How many cases concerning the Children's Act received legal aid in each year since 2011.
- What consultations his Department (a) sought and (b) held with bodies on its review of the means testing element of legal aid at inquests in its review of legal aid for inquests report, published in February 2019.
- What evidence his Department received from external bodies on his Department's review of the means testing requirement for legal aid at inquests involving the state in its review of legal aid for inquests report, published in February 2019.
- Which members of the (a) legal profession and (b) judiciary were consulted as part of the Government's most recent review of the (i) civil and (ii) criminal legal aid means test thresholds.
- How many grants of emergency legal aid have been revoked when contributions determined through the legal aid means test were not fulfilled in each year for which information is available.
- How many civil legal aid offers have not taken forward by the applicant following an assessment of the level of contribution that they will need to provide through the legal aid means test in each year for which information is available.
- What estimate he has made of the number of people that have been excluded from legal aid eligibility as a result of the criminal legal aid means test threshold not being updated in line with inflation since 2009.
- If he will make an estimate of the number of people that have been excluded from legal aid eligibility as a result of the civil legal aid means test threshold not being updated in line with inflation since 2008.
- How many times and on what dates the criminal legal aid means test threshold has been evaluated since it was last reviewed and updated.
- How many times and on what dates the civil legal aid means test threshold has been evaluated since it was last reviewed and updated.

Richard Burgon MP for Leeds East and Shadow Justice Secretary asked the Secretary of State for Justice:

- How many inquests were granted legal aid for civil representation;
- What the average amount awarded was for those cases;
- How much funding was allocated for that representation in each year since 2013.

Tom Brake MP for Carshalton and Wallington asked the Secretary of State for Justice:

- What assessment he has made of the long-term viability of the criminal duty solicitor scheme in England and Wales.
- What assessment he has made of the effect on the criminal justice system of reductions to his Department's budget.

Baroness Mone asked Her Majesty's Government, further to the Written Answers by Lord Keen of Elie on 28 January, whether they intend to publish a report into the provision of legal aid in cases where the individual has absconded; if so, when; and if not, why not.

Lord Truscott asked Her Majesty's Government what is their current policy on allowing legal aid to be provided to avowed terrorists or those who overtly support terrorism.

Lord Beecham asked Her Majesty's Government:

- What assessment they have made of people's access to housing lawyers.
- How much legal aid they have provided to housing lawyers in (1) 2012, (2) 2013, (3) 2014, (4) 2015, (5) 2016, (6) 2017, and (7) 2018.
- What estimate they have made of the current availability of (1) legal advice and (2) legal representation through the legal aid system for different categories of case and geographical location.
- Why the mandatory requirements from the telephone gateway for debt, discrimination and special educational needs cases will not be removed until spring 2020.
- What extent the number of exceptional cases in which legal aid has been granted has risen in recent years.
- What steps they are taking to ensure that most people are aware of their entitlement to legal support; and what estimate they have made of the number of people likely to be eligible for support by way of (1) legal advice and (2) legal representation.
- What form the review into thresholds for legal aid and entitlement will take, as

referred to in Legal Support: The Way Ahead; and what is the expected timescale for the completion and publication of the review and its recommendations.

Ellie Reeves MP for Lewisham West and Penge asked The Secretary of State for Justice, how many criminal legal aid firms were in operation in each year since 2010.

You can read all of the questions and answers [here](#).

Rohini Teather

Head of Parliamentary Affairs

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7 March 2019

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About the APPG on Legal Aid

The All-Party Parliamentary Group on Legal Aid aims to promote parliamentary and public understanding of the importance of the role of publicly funded legal services. It is chaired by Karen Buck MP. Secretariat support is provided jointly by the Legal Aid Practitioners Group (LAPG) together with Young Legal Aid Lawyers (YLAL) with funding from The Legal Education Foundation.

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About the APPG Plus Project

LAPG and the APPG on Legal Aid have been funded by The Legal Education Foundation to

engage with MPs and councillors and their caseworkers to ensure that there is a good understanding of what is left in legal aid in the wake of LASPO, and to offer constructive advice, resources and training on how busy MPs and their caseworkers can engage better with lawyers and advice charities in the legal aid sector. In doing so, we aim to assess current access to justice issues facing the public and to help inform future decision making at a policy level.

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