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November Bulletin from the APPG on Legal Aid

We're not going to lie, a lot has happened since our last Bulletin and this bumper edition will be full of news of our Inquiry into Sustainability. For those of you who are yet to tune in, over five hundred people booked tickets to watch our expert witnesses talking our Panel of Commissioners through a variety of issues affecting Access to Justice and social welfare law, with hundreds more watching the recordings (see below).



We'll aim to provide you with as comprehensive a summary as possible, but do listen to the recordings if you can. When the Inquiry was launched back in October, we anticipated that much of the oral evidence sessions would focus around the issue of fees. The Inquiry was originally established to gather quantitative data about the provision of services. Indeed, the figures that are emerging are stark and sometimes shocking: fees that don't cover the cost of providing a service; hugely complex, demanding work for vulnerable clients. In reality though, the two sessions held to date on Criminal Legal Aid and Family Legal Aid have gone much further.

It's hard to convey how moving it is to hear from practitioners on the frontline in this way. What comes across time and time again however, is the human cost of working in social welfare law. Issues around diversity, inclusivity and the economic barriers to practice in legal aid. The emotionally draining and complex cases. The system which needs to be propped up with goodwill and expertise and the drain of talent from this frontline service. In its way, each session is a love letter to access to justice and the rule of law. We are grateful to all of our witnesses and panel members for their time and energy in putting this Inquiry together.

The Parliamentary Panel itself comprises:

Karen Buck MP as Chair
James Daly MP (Vice-Chair),
Baroness Helena Kennedy
Baroness Natalie Bennett
Lord Willy Bach

Lord Colin Low
Yvonne Fovargue MP
Daisy Cooper MP
Andy Slaughter MP
Gareth Bacon MP

The next oral evidence session will take place on **Thursday 17 December 2020, 10:00-13:30**. This will be a live event, with expert witnesses from the world of Civil Legal Aid/Public Law giving evidence to the panel.

[Register here to watch the third oral evidence session on Civil Legal Aid.](#)

Witnesses will include:

- Henrietta Hill QC, Doughty Street Chambers
- Nicola Mackintosh QC (Hon), Mackintosh Law
- Jo Hickman, Public Law Project
- Jawaid Luqmani, Luqmani Thompson & Partners
- Rosaleen Kilbane, Community Law Partnership
- Polly Sweeney, Rook Irwin Sweeney

Witnesses will be invited to give evidence on a broad range of issues, such as the role of public law within society, fees, the means test, bureaucracy, LAA decision-making and wider influencing factors across the justice system.

The other sessions that will make up the Inquiry are:

- [The Publicly Funded Bar – 28 Jan 2021](#)
- [Access to Justice - 25 Feb 2021](#)
- [Experiences of Junior Lawyers: Diversity, Inclusivity & Routes into the Profession - 25 Mar 2021](#)

Click on this links above to book your free places.

1. Events

Oral Evidence Session on Sustainability of the Criminal Legal Aid Profession

On 29 October 2020 the APPG hosted its first evidence session as part of the Inquiry into the Sustainability of Legal Aid, which focussed on the sustainability of the criminal legal aid sector. After introductions by James Daly MP and Karl Turner MP the panel began hearing oral evidence from several brilliant speakers.

Witnesses provided compelling evidence on several issues currently affecting criminal legal aid, such as the deterioration of the sector, the drop in criminal legal aid firms since 2010, and the impact of cuts to legal aid funding on access to justice for clients and on the recruitment of junior practitioners. Issues of diversity within the profession, especially at the junior end, and the role that technology can play within the criminal justice system were also noted by numerous witnesses. One of the speakers further highlighted the crisis facing prison law, both in terms of funding and in terms of access to clients in light of COVID-19. Finally, disappointment at the Government's attacks on the legal sector was noted by a number of the speakers during the session.

To listen to the crime session [please click here](#).

For further information about the session or to read the transcript, [please click here](#).

Oral Evidence Session on Family Legal Aid

The second oral evidence focussed on legal aid for public and private family matters. Legal Aid Minister Alex Chalk MP opened proceedings and was followed by Karl Turner MP. We then heard from a host of expert witnesses from across family law.

Once again, there was some focus on the cuts and the impact that fixed fees have had in relation to retention of staff and the viability of this work. A junior barrister spoke of the impact of COVID on her practice. The common thread amongst all of the witnesses however, was the emotional cost of this work and the difficulties of doing it within the current system. This area of practice involves working with highly traumatised clients. Post-LASPO, they told us, the system does not pay for or make allowances for the time that is needed to spend with them. Witnesses reported their exhaustion from plugging the gaps caused by cuts to social care, refuges, the courts system and judicial sitting days. Public law family practitioners in particular report an increase in children going into care as a result of COVID and the mental health of clients suffering in unprecedented ways.

To listen to the family session [please click here](#).

For further information about the session or to read the transcript, [please click here](#).

One last thing. You will have seen [#WeAreLegalAid](#) being used on social media. The Inquiry is intended to be very grassroots and practitioner-focussed to make public the realities of practice in this sector. We want to counter some of the negative attention that legal aid receives in the popular press and to celebrate the work of the incredible individuals within it.

Should you wish to hear more about the Inquiry then please get in touch with Rohini.Teather@lapg.co.uk and have a look over on our [website her](#)

#WEARELEGALAID

2. Legal Aid in the News

G.R., R (on the application of) v Director of Legal Aid Casework & Anor [2020] EWHC 3140 (Admin) (24 November 2020)

A single mother and domestic abuse survivor who was denied legal aid on the grounds of a house she owns with her ex-partner has won her High Court challenge, in a ruling that provides 'important clarification for victims of domestic abuse'.

Last week's High Court ruling means that the LAA now has discretion over whether legal aid should be granted to survivors of domestic abuse where they have 'trapped capital' in homes which cannot be sold or borrowed against. The LAA will now have to reconsider whether to grant legal aid to Claire.

Public Law Project lawyer Daniel Rourke noted:

"No one should face an abusive former partner in the family court alone because they cannot afford legal representation. Today's judgment goes some way to affirming that. This important clarification of what the legal aid rules mean is a positive step towards better access to justice.

"The ruling has implications for other women in Claire's position. The LAA will have to carefully consider whether it is appropriate to include the value of their homes when considering their applications for legal aid.

"The judgment could also help other homeowners on low incomes who need help with a legal issue that is within the scope of legal aid and have good reasons why they cannot sell or raise money against their homes to pay for legal advice or representation privately."

Read more about this [on Public Law Project's website here](#).

Beck Fitzgerald [has also released a statement](#) which provides further context on the law in this area.

Legal Aid loses out in the Spending Review

The Times deemed Justice to be a winner in the Spending Review announced on Wednesday 25 November, with £4billion to be spent on a prison-building programme aiming to create 18,000 new prison places in England and Wales by the middle of the decade. There was also some additional funding made available to assist with the growing backlog of cases in the crown court, a pre-existing issue that has been exacerbated by the pandemic.

There was, however, no increase to legal aid funding or to eligibility rates. There have been no rate increases for civil or criminal legal aid since the 1990's, and legal aid fees have decreased by 34% in real terms since 1998.

Legal Aid Evidence Reveals Wellbeing Crisis

More than 400 people responded to the Legal Aid Practitioners Group's mental health and wellbeing survey, which was carried out between June and September and has been detailed in the group's submissions to the Commons justice select committee's inquiry. [The responses reveal the devastating impact that the pandemic is having on lawyer's well-being.](#)

The results show that 79% of respondents experienced stress, 66% were having difficulty switching off from work, and 59% were having trouble sleeping. Over half were working longer hours and at least four in 10 had more work due to fewer staff. A similar figure found it difficult to juggle their responsibilities at home and their workload.

Respondents to the survey called for "basic support and caring attitudes" from supervisors and partners as well as a need for grants and funding for legal aid providers faced with fixed overheads but reduced income.

In their evidence to the select committee LAPG stated that the survey, along with other evidence, demonstrates that the appeal of choosing a career doing legal aid work "is wholly outweighed by any common sense approach to having a viable career. It is no longer the case that those sufficiently committed can "make a go of it"...We are faced with a lethal combination of low fees, delays in court hearings and trials leading to delayed payment, LAA bureaucracy, and an aging workforce of stressed and burnt-out staff."

To read the response in full, please [click here](#).

3. Justice Questions

Karl Turner MP (Kingston upon Hull East) asked the Secretary of State for Justice:

- How many firms of solicitors held a criminal legal aid contract as of 1 November 2020.
- How many firms of solicitors held a civil legal aid contract as of 1 November 2020.

- How much money from the public purse was spent on criminal legal aid from 1 March 2020 to 31 October 2020.
- How much money from the public purse was spent on civil legal aid from 1 March 2020 to 31 October 2020.

Mike Amesbury MP (Weaver Vale) asked the Secretary of State for Justice:

- How many survivors of domestic violence has been ineligible for legal aid due to the capital means test since the implementation of LASPO 2012.
- What assessment his Department has made of potential barriers to justice encountered by survivors of domestic violence since the implementation of LASPO 2012 and whether he plans to bring forward legislative proposals to improve access to justice for that group.
- What assessment his Department has made of whether the implementation of LASPO 2012 has caused an unintended bias in access to justice in favour of the abuser rather than the victim.

Karin Smyth MP (Bristol South) asked the Secretary of State for Justice what steps he is taking to ensure that women on low incomes are able to access legal aid in cases where a child arrangement order has been breached.

Rehman Chisti MP (Gillingham and Rainham) asked the Secretary of State for Justice:

- What the timeframe is for the conclusion of the Criminal Legal Aid Review Part 2.
- When the appointment of the Chair of the Criminal Legal Aid Review Part 2 is planned to be announced.
- When the Criminal Legal Aid Review Part 2 terms of reference are planned to be published.
- How many criminal barristers there were in each of the last 10 years.

Andy Slaughter MP (Hammersmith) asked the Secretary of State for Justice:

- When he plans to announce the Chair of part 2 of the Criminal Legal Aid review.
- When part 2 of the Criminal Legal Aid Review is planned to conclude.

Margaret Greenwood MP (Wirral West) asked the Secretary of State for Justice:

- What assessment he has made of the ability of residents in the Wirral local authority to receive local Legal Aid Housing Advice.
- What estimate he has made of the proportion of the population in England and Wales that live in a local authority area in which there are no housing legal aid providers.
- What estimate he has made of the (a) number and (b) proportion of local authority areas in England and Wales in which there are no housing legal aid providers.

Tim Farron MP (Westmoreland and Lonsdale) asked the Secretary of State for the Home Department:

- Pursuant to the Answer of 5 November 2020 to Question 109252 on Asylum: Legal Aid Scheme, what guidance she has issued to Migrant Help on advising asylum seekers housed at the (a) Napier Barracks in Folkestone and (b) Pengally Training Camp in Pembrokeshire on where they can access legally aided immigration advice.
- What assessment she has made of the adequacy of access to legal aid immigration advice by asylum seekers housed at the (a) Napier Barracks in Folkestone and (b) Penally Training Camp in Pembrokeshire; and if she will make a statement.

Mr David Lammy MP (Tottenham) asked the Secretary of State for Justice, how many (a) domestic violence case applicants and (b) sexual violence case applicants have applied for exceptional case funding in the last five years; and how many of those applicants have been successful.

Baroness Goudie asked her Majesty's Government what plans they have to ensure that legal aid is made available in cases where discrimination is alleged on the grounds of a landlord or letting agency not accepting a tenant on housing or other benefit; and what mechanisms are available to be used by those who have experienced such discrimination to protect their rights.

Lord Blencathra asked her Majesty's Government:

- What steps, if any, they have taken to cease to fund through legal aid the work of the Malik & Malik who have been found to have filed false asylum claims; and whether they have reported that firm to the Solicitors Regulation Authority.
- How much legal aid has been disbursed to those working on the immigration cases that have been refused on the grounds of being without merit in the last five years.

Lord Taylor of Warwick asked Her Majesty's Government what plans they have to commission and independent review into legal aid fees.

Lord Kennedy of Southwark asked Her Majesty's Government what progress they have made towards preventing those needing letters from GPs to access legal aid being charged for such letters.

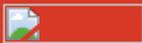
You can read all of the questions and answers [here](#).

Rohini Teather
Head of Parliamentary Affairs
30 November 2020



Visit the APPG on Legal Aid website

The APPG on Legal Aid is co-sponsored by the Legal Aid Practitioners Group



In association with Young Legal Aid Lawyers



Supported by The Legal Education Foundation.

The Legal Education Foundation

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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