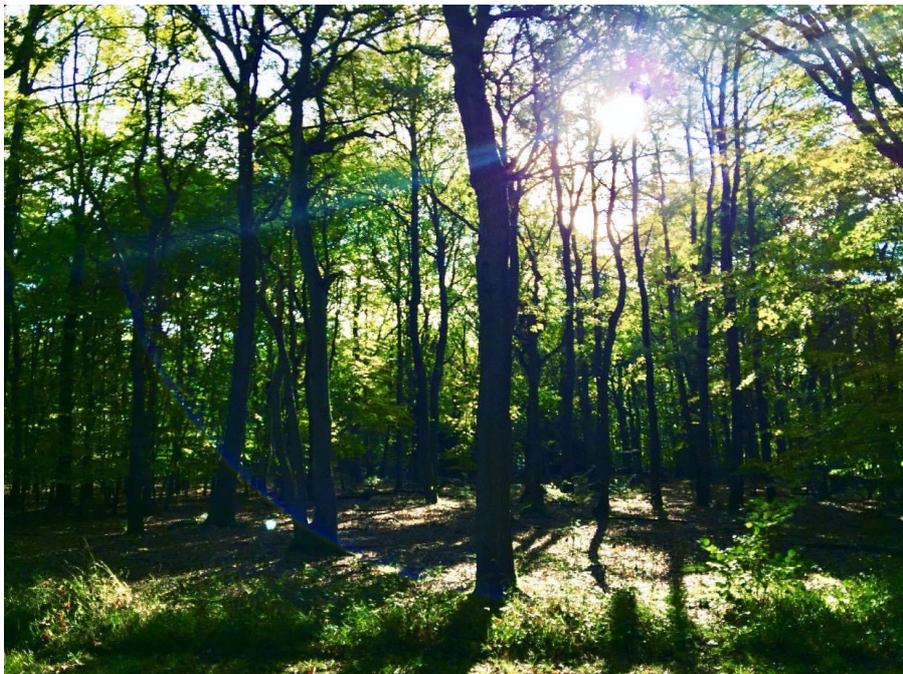


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September Bulletin from the APPG on Legal Aid Inquiry Special



Welcome to our first bulletin of the new session and more “interesting” times, with Justice matters on everyone’s lips (albeit for the wrong reasons). Last week saw party lines blurring in the debate over the Internal Market Bill and the government’s longest serving justice minister, Lord Keen of Elie, resigning over whether proposed Brexit legislation breaches international law. Lord Keen has said that he had ‘found it increasingly difficult to reconcile’ his obligations as a lawyer with provisions in the Internal Market Bill and indeed Sir Bob Neill, Chair of the Justice Committee has spoken out about his deep concern at the Government’s admission that they would be willing to break international law. Other Conservative Grandees such as Geoffrey Cox and William Hague have also found themselves unable to back these proposals in good conscience.

Elsewhere, the Independent Review of Administrative Law (IRAL) has now published, quietly it must be said, a [call for evidence](#) on 7 September 2020, with a deadline for responses on 19 October 2020 (to be emailed to IRAL@justice.gov.uk). The question that the review has been charged with looking at by the Government is this:

“Does judicial review strike the right balance between enabling citizens to challenge the lawfulness of government action and allowing the executive and local authorities to carry on the business of government?”

Accordingly, as the UK sets out its stall as a once-again sovereign state the lines are being drawn as to how we define Justice and the role that it will take as we move forwards. Against this backdrop, the APPG will be looking at the role of legal aid as we emerge from the COVID-19 pandemic and eight years of LASPO. It’s a question that seems very ‘of the moment’ with the Ministry of Justice and the Justice

Committee also taking in-depth looks into this area over the Autumn term. More on that below.

A Jury/ Collaboration of Inquiries

[Ed: there is no official collective noun for Inquiries. Answers on a postcard for the best suggestions]

As mentioned, there are currently three Inquiries which have been launched/ are in the process of kicking off, surrounding the sustainability and recovery of the profession. Whilst there are similarities of focus, the Inquiries will have slightly different remits and evidence requirements which we shall set out in further detail below.

The APPG Inquiry

The Panel

The Westminster Commission on Legal Aid will be chaired by Karen Buck MP. Joining Ms Buck as Commissioners are Baroness Helena Kennedy, Baroness Natalie Bennett, Lord Willy Bach, Lord Colin Low, Daisy Cooper MP, James Daly MP and Gareth Bacon MP. Where possible, oral evidence will be heard in Parliament with witnesses being invited to give evidence via Zoom. The secretariat support for the Commission will be provided by Legal Aid Practitioners Group.

What it will do

Over a period of six months commencing October 2020, the Westminster Commission on Legal Aid will:

- i. hold oral evidence sessions on Criminal Legal Aid, Family Legal Aid, Civil (Non-Family) Legal Aid, Experiences of the Bar, Access to Justice and the Future of the Legal Aid Workforce; and
- ii. carry out an in-depth workforce survey to establish a comprehensive picture of how many organisations and practitioners are currently working in legal aid, their ability to enter and remain in the profession, their capacity to respond to client need, and in doing so to forecast how many legal aid firms and NFP organisations will still be practicing in this area in the years ahead.

There have been many surveys over the years and many calls for evidence. Some have originated as part of Commissions into Justice such as the Low Commission or the Bach Commission. Others have come from the MoJ or the LAA. This will be different. There simply isn't enough data about the practice of legal aid to inform policy makers. We know that there are currently 1,138 firms practicing criminal legal aid and 1,478 firms, currently holding a civil legal aid contract. We don't have data on how many of those firms hold both types of contract and how many cases they see on average each year. We don't have data on average salaries, or the average time spent per matter. And by 'we', we refer to those of us who work in policy and the policy-makers themselves. Collating this information is absolutely crucial so that we can work on change for the profession from a more informed perspective. The information that is collected as part of this survey is intended to encompass every part of the legal aid journey. We want to hear from students and junior practitioners just starting out. To understand their motivations, the courses that are on offer, the support that they receive from their institutions. We would like to understand the routes that they take to enter the profession and the barriers that they face in trying to do so.

We want to know what it's like to be a practitioner at the coal-face. The salaries, the working hours, the particular stresses that they face working in legal aid, what motivated them to join the sector in the first place. We also want people to answer this survey on behalf of their organisations; to tell us about their business models, fee structures, overheads, training and recruitment issues. To give us the nuts and bolts of putting on a legal aid service in the COVID-19 pandemic; the business choices that have been made by organisations and the impact that they have had.

Finally, we want to hear from people who used to practice in legal aid. We'll be speaking to the LAA and contacting those organisations that used to hold legal aid contracts but for whatever reason no longer do so. We want to hear from the practitioners who used to work at the coal-face but who have moved on to other fields of work and to understand why. This is data that we should have. But we don't. Answers will be anonymised and read by our panel of MPs. It will be used as baseline data for the profession moving forwards but we need every individual in the sector to take part.

Oral Evidence sessions

The six oral evidence sessions will be held from October 2020- March 2021. Witnesses will be called in front of the panel (see the Commission above) to provide evidence from the various practice areas within legal aid and in relation to those areas which LASPO removed from scope. The testimony will feed into the information being gathered in relation to the financial barriers to practicing legal aid, the emotional cost to practitioners, the difficulties associated with providing a service in these circumstances and the impact that this has on those seeking legal advice. Each session is expected to last no longer than 2.5 hours and witnesses will join the meetings virtually in order to comply with COVID-19 guidelines. Each session will be attended, in an observational capacity, by justice ministers and/ or senior members of the MoJ and Shadow Justice team. Sessions will be broadcast live through Parliament TV/ Zoom.

The first evidence session will be on Criminal Legal Aid and held via Zoom on Monday 29 October. To register for tickets please email rohini.teather@lapg.co.uk

The Workforce Survey

The Workforce Survey aims to provide the most detailed analysis of legal aid practitioners to date, collating baseline data which can be built upon year on year. It's ambitious, yes, but necessary. Respondents will be able to complete the survey online or to arrange a brief telephone interview whereupon volunteers will collect the responses on their behalf. Respondents will have the opportunity to answer the questions in the following capacities:

- as Managers/ Owners within legal aid organisations;
- as Managers/ Owners and legal aid fee-earners;
- as legal aid fee earners;
- as students and those trying to join the legal aid profession; and
- as former legal aid practitioners who have chosen to leave the sector.

It is our aim to make practical recommendations which promote short- to medium-term recovery of the sector, to develop solutions to the challenge of diversity within the sector and to create a better system of collating quantitative data to inform thinking about the longer-term future of the profession as a whole.

The Justice Committee Inquiry into the Future of Legal Aid

On Tuesday 8 September the Justice Committee (JC) announced its upcoming Inquiry into the future of legal aid. The Inquiry will form part of the Committee's ongoing role examining the policies and spending of the MoJ and its associated bodies. Indeed, the JC has done some sterling work in holding the Government to account over the cuts to legal aid when it examined the changes to civil legal aid in 2014 and the changes to criminal legal aid in 2018.

This Inquiry has been brought about as a response to difficulties in accessing justice during the COVID-19 pandemic and the financial hardships experienced by many providers. It aims to look ahead to the future of legal aid, to identify the major challenges facing clients and providers and how they might be tackled.



The inquiry is especially keen to hear about the sustainability of the legal aid market, the impact of Covid-19 and the increasing reliance on digital technology to deliver legal advice and court services.

The Committee has asked for written submissions to be made on these subjects via its website [which can be found here](#), with particular emphasis on the following terms of reference:

- How LASPO has affected access to justice views on the post-implementation review and the criminal legal aid review;
- The role of the Legal Aid Agency;
- Recruitment and retention problems among legal aid professionals;
- The impact of the court reform programme and the increasing use of technology on legal aid services and clients;
- The impact of Covid-19 on legal aid services and clients; and
- What the challenges are for legal aid over the next decade, what reforms are needed and what can be learnt from elsewhere.

The Justice Committee is accepting evidence until **Monday 19 October 2020**.



The Ministry of Justice Inquiry

You may also have heard that the MoJ has started an internal exercise to consider the sustainability of civil legal aid providers which has in turn fed into its recommendations for the Spending Review. At this stage the review is in its initial stages with the department having held meetings with a number of different representatives of the sector. We've been told that their intention is to consider "the issue of civil legal aid sustainability, taking a broad approach to this issue in looking at both the delivery model for civil legal aid to ensure the system is operating in as modern and efficient a way as possible, as well as the levels of remuneration for this work."

We will continue to keep you updated on all three processes as the autumn progresses.

Written Questions

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

- How many firms of solicitors hold a criminal legal aid contract as of 1 September 2020.
- How many firms of solicitors hold a civil legal aid contract as of 1 September 2020.
- What assessment he has made of the implications for his policies of the Bar Council's July 2020 survey which found that 38 per cent of criminal barristers are uncertain whether they will still be practising law in 2021.
- What assessment he has made of the effect of the reduction of standard monthly payments to criminal legal aid firms on those firms.

One final point to those of you still reading. There are some excellent written questions being asked at the moment and the page is well worth a watch.

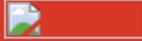
You can read the questions and answers

Rohini Teather
Head of Parliamentary Affairs

21 September 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.

For more information contact:
rohini.teather@lapg.co.uk

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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