

A MANIFESTO FOR JUSTICE



THE VALUE OF JUSTICE

This manifesto puts forward the case for an effective and efficient system of justice which is accessible to all.

The justice system underpins the principles of liberty and democracy, the rule of law, and our human rights and fundamental freedoms.

Justice is not like any other public service.

But it is tempting, especially in times of austerity, for governments to treat justice as a mere commodity. Justice is precious. The price we pay for it should reflect the value we place on living in a just and ordered society.

This is not to say that the resources allocated to the administration of justice should be limitless. But it does mean that the administration of justice must be properly resourced in order to avoid a denial of justice or an outcome which cannot be said to be just.

The justice system should therefore be a matter in which government and citizens can take pride. It reflects our values as members of a civilised society.

OUR COALITION

'A Manifesto for Justice' has been prepared by a broad coalition of organisations. We have a shared interest in the future of justice in our country, which is in the public interest. Our coalition includes lawyers in private practice as well as public service, many of whom act for some of the most vulnerable in society.

We are motivated by a shared desire to provide an effective and accessible system of justice which enables all people, organisations and businesses to flourish.

We are keen to engage with the next Government to find pragmatic and creative solutions to the challenges ahead.

After setting out an assessment of the current state of the justice system, this manifesto sets out our positions in relation to:

- Civil and family justice
- Criminal justice
- Judicial Review
- Surveillance
- The regulation of legal services

OUR ASSESSMENT AND RECOMMENDATIONS

Legal aid is an indispensable element of a just and fair society. It should enable justice to be available for all.

Since the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012, whole areas of law have been removed from the scope of legal aid. Even where it remains available, such as in domestic violence cases, the evidence needed to prove eligibility for legal aid may be harder to obtain. Caps on income mean that many of those who need legal advice in child custody cases, or in education, welfare, debt or employment matters will find it difficult to get help from a lawyer.

Recent changes to judicial review have restricted the ability of groups and individuals to challenge unlawful decisions made by Government and public authorities. The range of people who can now apply for judicial review favours those with substantial means at their disposal.

The need to defend ourselves against the threat of terror and those who seek to do us harm has resulted in legislation that makes deep encroachments on the rights and freedoms of citizens at large. We have to ask how far it is right that these should be curtailed.

The UK legal system is the envy of the world. Our legal practitioners are of the highest quality and our judiciary is renowned for its quality and incorruptibility. Our commitment to the rule of law helps to attract significant investment in our country and underpins the safety and stability of our society. If we neglect to invest in the administration of justice, the global influence and reputation of the UK will be damaged.

WE CALL ON THE NEXT GOVERNMENT TO

- Uphold the rule of law
- Restore access to justice for all
- Enable the legal services sector to grow and develop in the public, as well as the national, interest

400,000
PEOPLE PER YEAR ARE NO LONGER
RECEIVING LEGAL ADVICE ON
EMPLOYMENT, HOUSING, WELFARE,
FAMILY OR OTHER LEGAL ISSUES
FOLLOWING LASPO

CIVIL AND FAMILY JUSTICE

Since the LASPO Act came into effect, legal aid is no longer available for entire areas of law.

This includes:

- Welfare benefits
- Employment
- Clinical negligence
- Debt
- Immigration
- Most family and housing issues
- Education

30%
**MORE CASES IN COURT HAVE NEITHER
PARTY PROFESSIONALLY REPRESENTED
SINCE LASPO LEGAL AID CUTS**

Frontline legal advice providers, such as Citizens Advice Bureaux, AdviceUK member centres and Law Centres, speak of vulnerable and confused clients overwhelmed by the complexity of the issues they face. They are being turned away because there are insufficient resources to help them. Their problems can spiral out of control because early intervention is no longer available. This increases the stress for the advice seeker and increases the cost of any intervention. It is the most vulnerable - victims of domestic violence, those with disabilities and the poorest - who suffer the most.

Those who do navigate their way to court are increasingly likely to represent themselves and must often rely on judges and court clerks to guide them as best they can. This creates huge problems for the judiciary and their staff, who have to try to assist these 'litigants in person' while remaining impartial.

Cases involving litigants in person inevitably take longer to determine. They create delays. They result in more appeals. They increase the risks of injustice, especially in family cases involving vulnerable children whose welfare can permanently be damaged by acrimonious disputes between parents.

In some cases, where parties are not represented, children are being cross-examined by alleged abusers. This cannot be right.

In such situations, the interests of justice are not being served effectively and the savings which are being made in legal aid are being made at the expense of wider, social costs. The impact of changes to legal aid have not properly been assessed with the result that available resources are not being targeted effectively.

Our concerns about access to civil justice have been reinforced by massive increases in court fees, recently introduced in civil cases, which are over and above the direct cost of providing court services. For people of even moderate means the path to justice is becoming too steep.

WE CALL ON THE NEXT GOVERNMENT TO

- Restore legal aid to areas of law excluded by the LASPO Act
- Remove unrealistic earnings limits on legal aid
- Protect the legal aid budget from further cuts
- Promote mediation and alternative dispute resolution

CRIMINAL JUSTICE

We are past the point at which further cuts can be made to criminal legal aid. If they continue, victims, defendants and society will suffer.

With less time to prepare cases, less money for expert witnesses, fewer qualified practitioners to represent defendants, and more frequent appeals, the court system will grind to a halt.

The pressure to drive down costs already means that defendants are not always represented by qualified legal professionals, but instead are assisted by interns and less qualified staff.

These shortages and recent changes in contracting will cut the supply of experienced lawyers who know their local market and are able to provide advice with flexibility and when it is needed urgently, for example, in a police station. It will become more difficult for lawyers to make the investment in their practices necessary to sustain a service in criminal law.

Being a criminal legal aid practitioner is no longer regarded as a viable career path for young professionals. The result will be fewer advocates who are able to prosecute and defend the most serious cases, and the pool of experienced and able practitioners, from whom the next generation of judges is drawn, will evaporate.

Justice for victims and defendants is at stake. They, and society, deserve better.

WE CALL ON THE NEXT GOVERNMENT TO

- Ensure there are no more cuts in the criminal legal aid budget
- Scrap plans for a dual contracting model for legal aid lawyers
- Make further savings to the criminal justice system through reform and investment
- Implement the reforms of Sir Brian Leveson in relation to the introduction of IT in the courts and restructuring preliminary hearings

JUDICIAL REVIEW

Adherence to the rule of law is the best defence against the exercise of arbitrary executive power. Judicial review provides people with a remedy to challenge unlawful decision-making by public authorities. It provides a mechanism for holding to account those, including governments, who exercise authority over the public.

Recent changes to judicial review have restricted the ability of citizens to hold public authorities to account. In future only those with significant financial backing will be able to seek this remedy. The range of matters on which public authorities are challenged will be narrowed in practice. As a result, governments will be immunised from a range of legal challenges and claimants will be denied the opportunity to seek effective, legal redress.

WE CALL ON THE NEXT GOVERNMENT TO

- Scrap the recent changes to judicial review to ensure it is available to all legitimate claimants and thereby restore citizens' ability to hold public authorities to account through the courts

SURVEILLANCE

Surveillance is a necessary response to the threat of terror, but the rule of law is threatened when there is insufficient protection to prevent widespread intrusion into the private affairs of innocent citizens.

Terror legislation has resulted in recorded cases of police authorities spying for their own interests, local authorities snooping on residents in response to minor suspected offences, and security services ignoring such important principles as legal professional privilege.

Without appropriate safeguards and oversight, surveillance arrangements have allowed public authorities to behave in ways which undermine our fundamental human rights and freedoms and erode our commitment to the rule of law.

WE CALL ON THE NEXT GOVERNMENT TO

- Provide arrangements for proper parliamentary and judicial oversight of surveillance powers to ensure a proper balance between sufficient access to the private communications of those suspected of involvement in serious crime and the right to privacy of the ordinary citizen
- Ensure that communications protected by legal professional privilege are not susceptible to surveillance without prior judicial approval and only when strictly justified

A DYNAMIC AND INDEPENDENT LEGAL SERVICES SECTOR

Our legal services sector is a national asset which brings in over £22.6 billion to the UK economy and makes up 1.6% of our GDP. The UK is an attractive destination of choice for international dispute resolution and arbitration. Over 200 foreign law firms have offices in the UK. The sector's trade surplus doubled over the last decade to £3.1 billion in 2013. Over 300,000 people are directly employed in legal services, over two-thirds of whom are outside of London.

The success of the sector is based on:

- Highly trained and skilled legal professionals
- An incorruptible and independent judiciary
- A competitive market and openness to overseas practitioners
- The common law system and its perceived value in foreign jurisdictions
- Our unrivalled reputation for upholding and respecting the rule of law

However, the attractiveness of the UK as a global leader in dispute resolution has been threatened by the introduction of enhanced court fees designed to generate income above the costs of running the courts.

To remain successful our legal services sector needs to attract people of talent and ability irrespective of their background. The administration of justice must properly be resourced. The regulation of legal services must be proportionate so that consumers are properly protected and practitioners are able to innovate and remain competitive, at home and internationally.

Whether they work in publicly funded or private areas of practice, advice workers, paralegals, chartered legal executives, solicitors and barristers all have a part to play in sustaining and developing the UK's position in legal services, which is in the public as well as the national interest.

WE CALL ON THE NEXT GOVERNMENT TO

- Promote policies which encourage diversity within the legal profession and judiciary
- Scrap the introduction of enhanced court fees
- Continue to promote the UK as the leading global hub for legal services, and for legal education
- Ensure that legal services remain competitive and innovative and that regulation of the sector is proportionate

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