

APPG Legal Aid
7 December 2016, 4-5pm, Committee Room 17

Lord Bach – Bach Commission
Amnesty International Report – Rachel Logan

Parliamentarians:

Henry Bellingham (Chair)

Karen Buck MP

Andy Slaughter MP

Karl Turner MP

Lord Low

Lord Bach

Christina Rees MP

Yvonne Fovargue MP

1. Bach Commission report

HB introduced LB – HoL, and P&CC Leicester

Lord Bach – special work by APPG on Legal Aid in recent years, keeping legal aid and access to justice in front of members of parliament, of all parties.

LB acknowledged that all parties act differently in opposition than in government. But particular actions by coalition government

Two major issues:

2010-2015 – particularly severe attack on legal aid – LASPO, severe impact on access to justice. See family, social welfare law – frankly cheap rate for the number assisted. Number now assisted by horrific amount, even before the implementation in 2013 but particularly since the Act. Number of providers, see NfPs, 3226 in 2005 down to 1462 in 2015.

None of the major political parties in 2015 election manifesto did enough about this issue. Lib Dems most forward but only to assuage their guilt as didn't stand their ground on LASPO when in coalition. Labour made a couple of promises on crime tender and DV, not for lack of trying by Andy Slaughter when shadow minister for justice, but the powers that be in the party didn't support justice in the manifesto. Conservatives silent on this issue.

Has been good work on this issue, Lord Low present today, produced three excellent reports during the last three years inviting parties to take note. Other great work by YLAL and LAPG manifesto, and others too. With Jeremy Corbyn's election as leader in 2015, he has had a decades long record on justice issues. He took up this challenge three days into leadership, along with Charlie Faulkner, invited Lord Bach to chair fundamental review in to access to justice and legal aid. First time a major party has done this in many years.

Decided early on not to make this party-political. Commissioners chosen for expertise not political affiliation. All committed heavily interested in access to justice and legal aid and wanting to find a way forward in tricky area. Early support from Fabian Society – cannot praise enough. Superb people who know how to produce these types of reports. Particular mention to Tobias Phibbs, very able and wrote much of the report.

Follows that in the business of trying to come up with policies that the Labour Party could support, but even better if could become part of a board consensus on access to justice and legal aid. Legal aid most effective when parties agreed – may disagree on the fringes - see last 50-60 years, but that has gone. Trying to get that back, so this is a role of the Commission.

Final report second half of 2017, hope and expect that parties look for common ground and hopefully work together. Look for consensus.

Interim review two weeks ago. Considerable interest from the media. Surprising level given media interest in the past. There is therefore an understanding, wider than lawyers, that there is a potential if not existing crisis in this area. Grateful for comments of Chairman of Justice Committee, Bob Neil, and for his support.

Copies of the report here. Will not go through the report today. Please come back to the Commission with ideas. This is not the end. Heard from brilliant witnesses, some here today, and accept that there are big gaps in this report. I.e. not enough about criminal law and criminal legal aid. A lot of work to do there. Commissioners also noted not enough about the future of legal aid lawyers. We know there are many less and far fewer students training in this area. Need to come up with proposals. Otherwise won't be enough lawyers coming through.

Summary of executive summary. Sets out 6 key issues undermining justice system. (see report)

Comments from LB:

Was ECF scheme a genuine attempt – won't comment now

Labour set aside money for PLE but that disappeared – shame as much ignorance about rights and responsibilities and legal system

Has government given ground on court fees?

Lord Bach pushed in government to bring LAA back into MoJ. Thought it was a good idea at the time but now thinking independence is preferred – what should be the role of the LAA? Is independence possible if part of a department of state. But real issue is bureaucracy – all too time consuming and must be a better system. Easy to say but difficult to do.

Really need to embrace technology. Keeps costs down and give better justice, but not replace face-to-face advice.

Cannot turn around LAPS0 but can we reverse the worst of the cuts?

Second stage

More round of meetings, more time to listen.

Principals guiding work:

- Establish a minimum standard for access to justice in Britain. The idea of original legal aid system was not to create/match NHS. But it is time to do that. DO it in statute and then enforce minimum standards.
- Reforming the legal aid system
- Transform PLE
- Increase the availability of legal advice – considerably. Better early triage. (Carol took Karl turner's baby out of the room)
- Increase technological innovation.

Wants to thank Karl Turner, shadow attorney general. Christina Reese, shadow justice team, support has been brilliant. Richard Burgon incredibly helpful, shadow Lord Chancellor. As has JC and his office.

We don't want this to end up as a great report gathering dust on a MOJ shelf for next 20 years. Need to talk about it but also act on.

2. Rachel Logan – Cuts that Hurt – Amnesty International report

RL, Law and Human Rights Programme Director

Why did AI look at this? Increasingly focussing on HR at home, demonstration effect for other countries, and because need to address at home. Question deals with civil legal aid, which is the bedrock of HR protection in UK. Proper access critical – right to effective remedy, equality before the law. Increasingly eroded. Want to effect policy change.

Priority areas, non-exhaustive, specific groups – children & YP, migrants, special vulnerabilities. Make it hard for them to engage with the justice system.

Met with wide range of providers and those using the justice system to tell the human stories. Detailed interviews with 30 individuals. Hard to identify because locked out of the system, but tended to get access via NFPs/NGOs who trying to help. But very difficult to work out how many people locked out of the system as who is supporting them and gather data – need better research. Findings – see report.

Conclusion overall – because access to justice undermined severely, UK in violation of international HR obligations.

Therefore -review has to happen soon, and focus on impact on vulnerable groups and breach of obligations of international HR

Today – Liz Truss saying review will be carried out 'shortly'

Other specific recommendations – see report

Will push the report with vigour in the NY.

Questions

Lords Bach and Low left to vote.

HB – questions for Rachel re Amnesty? Noted interesting that AI looking at domestic sphere. Karen Buck (KB) – one of the issues we are struggling to get over, reduction in legal aid and effective representation, leads to additional costs elsewhere in the system. See costs/impact of LIPs in the civil system. And impact on SWL, massive disparity in outcomes between those represented/not represented in courts and tribunals.

RL – spent five days with PSU. Clear not possible that LIPs cannot access the system without representation.

KB – project by law firm, looking at impact on MPs surgeries. KB has noticed a dramatic increase in demand on surgeries, without anyone to represent themselves and having lost and then come to MP. Clear they had no grasp of what was needed to get across to succeed in tribunal. Unprecedented level of demand in 25 years as a counsellor and MP.

HB – all MPs finding the same phenomenon. Has AI looked at knock-on costs on other parts of government. Can we capture that data?

RL – must be in the Review.

CR – noted Bach Commission findings on savings to state for money invested in report. Noted many constituents don't even realise their problems are legal.

CS, LAPG – in preparation for today, reread some of the reports, noted Bob Neil's tremendous work and TUC report, and Lord Chief Justice report, interesting particularly on civil courts. Law Works event with Sir Terrence Etherington, Master of Rolls – concerned about new issue not covered by Bach Commission – Terrence discussed matching law students with LIPs to deal with two problems. There appears to be a view that people can make progress with their legal problems and that there are sources of help available, when that's not really true. Now about 50 law clinics trying to do what they can. But worried that we will get to a position where there is an appearance of justice, a facsimile of it, but much of it won't be good enough. Need for experience and expertise. Needs to be followed up with by Commission.

HB – much of the work done on identifying the problems is excellent. But in terms of solutions, elaborate on these because in reality the treasury won't allow MOJ to restore legal aid to previous levels. Maybe scope to move in the margins, but looking, i.e. CLAF, legal expenses insurance. There is no silver bullet, but number of ideas on non-government sources of funding (that the govt might want to pump prime).

LB – in the market for solutions, want to hear from as many as possible – see website. The truth is that LASPO was brought in to save MOJ without thinking of the cost on other departments. Savings important – see James Sandbatch research, who explained based on LSC data – cost benefit calculation of positive outcomes, the cost of achieving them, and the ratio between. Polluter pays comes up, Lord Bach noted that whichever government comes to power, this is not likely to happen because Ministers won't support it.

LB stressed no decisions made yet – open to all ideas. Timescale for stage 2 – late summer early autumn to time with conference.

JS – think tanks should get involved – great value as policy debates don't tend to feature legal aid. They have genuine influence on policy.

Next meeting of the APPG – Sir Oliver Heald MP QC coming and will discuss MOJ plans. **17.01.17**

Regina, YLAL – problems with MOJ website, instructions confusing and flawed as people (LIPS) use as first point of contact and cannot access it properly.

Richard Nixon – family, crime, and..., was a school teacher, recipient of legal aid. Took six months to get family legal aid but got crime instantly. Got ESA, PIP once autism diagnosed, recently spoke at family justice council about experiences. But has now been reassessed as not entitled to ESA so will

lose legal aid. Also problems with financial eligibility because of earnings. Stressed the lack of joined up approach across different departments – i.e. MOJ and DWP.

NB, LCN – one of the great unknowns is the missing evidence – finding the people affecting my legal aid cuts and falling through the cracks. Used to be way of looking how people progress through the justice system but dismantled. Lack of research and independent scrutiny – so struggling to get evidence of a systematic way. Interested to see how the MOJ approaches this.

LB – this has always been a problems but particularly acute now.

SC – university law clinics – will send in more information, but noted Master of the Rolls idea – missed key idea that law clinics are teaching environments, under supervision. Newly qualified or graduates not in a position to do legal work.

HB – invited all to next meeting with Rt. Hon Oliver Heald – 17.01.17.