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## **APPG on Legal Aid Bulletin**

### **14th Edition - December 2018**

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Welcome to the 14th bulletin from the APPG on Legal Aid. This edition has three sections:

1. Dates for your Diaries
2. APPG+ Training Events
3. Legal Aid news

#### **1. Dates for your Diaries**

Drinks Reception – Access to Justice ‘ We all stand together’ 28 January 2019

We will be hosting an event in the Attlee Suite of Portcullis House from 6-8pm on Wednesday, 28th January 2019 to bring all of the organisations that provide resources that are useful to busy caseworkers together and to publicise the training programme that we have put together for MPs and their casework staff. Canapes and wine will be provided.

If you would like further information about either of these events or would like to hear more about the work of the APPG on Legal Aid, please contact Rohini Teather at

[rohini.teather@lapg.co.uk](mailto:rohini.teather@lapg.co.uk)

## **2. APPG+ Training Events**

### **Intro to Special Education Needs – 16 January 2019**

On Wednesday, 16 January 2019 we are very excited to be hosting the next instalment in our caseworker training, delivered in partnership with the House of Commons Library. The half-day session will be centred around the basics of SEND law, challenging decisions involving SEN and common casework queries. Training will be delivered by Polly Sweeney, a Partner in the Public Law and Human Rights department at Irwin Mitchell. For booking please look at the ACT website or contact Rohini Teather at [rohini.teather@lapg.co.uk](mailto:rohini.teather@lapg.co.uk).

### **Intro to Housing Law training November 2018**

Thanks again to Diane Astin of Deighton Pierce Glynn (author of the 'Handbook of Housing Law'), Tessa Buchanan and Connor Johnston (Garden Court Chambers and co-authors of 'Housing Allocation and Homelessness Law') and Giles Peaker (Partner at Anthony Gold Solicitors, co-author of the Homes (Fitness for Habitation) Bill with Karen Buck MP and the writer of the Nearly Legal blog) for running the one day Introduction to Housing law training in connection with the House of Commons Library. Feedback from the day, which covered Security of Tenure, Disrepair, Eviction, Homelessness and Social Housing, was excellent and we hope to repeat the initiative in the future.

## **3. Legal Aid News**

### **Homes (Fitness for Habitation) Act 2018 receives Royal Assent**

We are delighted that Karen Buck MP's Bill is now an Act. This will make a significant difference for the standard of rented accommodation available and will provide redress for those whose landlord's refuse to maintain and repair rented properties. Karen is chair of the All-Party Parliamentary Group on Legal Aid, supported by both LAPG and YLAL, and we're immensely grateful to Karen and her team for their tremendous work getting this passed into law.

The full text of the Act can be found [here](#).

### **LASPO post-implementation review delayed**

As reported in [The Gazette here](#) on 13 December 2018, and now widely publicised, despite assurance from the government it will no longer publish the outcome of the LASPO PIR by the end of 2018. The outcome will now be published 'early in the New Year'.

## **Bar Council Chair says rule of law is at risk because of political folly and expediency**

In his speech to the Annual Bar and Young Bar Conference on 24 November, Andrew Walker, the Chairman of the Bar, spoke of the risk to justice and the rule of law because of cuts.

He cited research rebutting claims that funding cuts were the inevitable consequence of a decade of austerity. "You might also think that the cuts to justice are comparable to the experiences across all publicly funded services," Walker said. "You might think that, but you would again be wrong."

He pointed out that in the past decade, the economy and government spending have grown by 13% in real terms. Health spending, in contrast, has risen by 25% in real terms.

"Justice, by contrast – by which I mean our prisons, courts, judges, prosecutors and legal aid – has gone the other way," Walker said. "It has been cut by 27% in real terms – and yet it amounts to just 1% of total spending by the taxpayer. The damage has been reduced only by huge hikes in court fees."

"The independence of judges and lawyers, and the rule of law that they protect, are our most precious inheritance," Walker said, "So too is a system of justice in which our citizens can have confidence. But our politicians and the public have a choice to make. They must make it wisely. If they take all this for granted, then I fear that we will all pay the price."

## **Extra £8m for criminal trial fees**

On 24 November, following consultation, the Government announced an extra £8m for barristers' trial fees in serious criminal cases. This will be in addition to the £15m announced in August, bringing the total to £23m.

The news comes after barristers went on strike in protest at the introduction of the Advocates' Graduated Fee Scheme (AGFS), the new system for determining legal aid payments for defending people in Crown Courts introduced by the MoJ in April.

Announcing the move, Lord Chancellor David Gauke also pledged to bring forward a 1% increase on all fees to come into effect alongside the new scheme. Mr Gauke said: "Criminal defence advocates play a crucial role in upholding the rule of law, and it is vital that their pay adequately reflects the work they do in a fair and sustainable way."

## **Labour says it would restore legal aid for benefits appeal cases**

Writing in the Guardian on 4 December, the Shadow Justice Secretary Richard Burgon announced that a future Labour government would restore legal aid for people appealing against cuts to benefits such as universal credit.

This would mean that those seeking to challenge decisions by the Department for Work and Pensions on welfare payments, many of which are incorrect, would be able to obtain legal advice to help them pursue appeals.

Burgon argues that restoring such financial support would encourage the DWP to get decisions right first time, thereby reducing costs for the Ministry of Justice.

He said: "Arming people with expert legal advice to challenge incorrect benefits decisions will not only help them get the financial support they are entitled to; it should also reduce the likelihood of flawed decisions being made in the first place. That would be good for the individuals themselves and would help to reduce the tens of millions of pounds of public money spent each year on administering appeals against flawed decisions".

### **Legal aid advice network 'decimated' by funding cuts says BBC Investigation**

On 10 December, the BBC Shared Data Unit published its analysis of Ministry of Justice and Legal Aid Agency data since 2011-12. It found:

- Around a million fewer claims for legal aid are being processed each year.
- More than 1,000 fewer legal aid providers were paid for civil legal aid work than in 2011-12.
- Four legal aid providers for welfare cover Wales and the South West while 41 cover London and the South East.
- Almost half of all community care legal aid providers are based in London.

Analysis also showed that up to a million people live in areas with no legal aid provision for housing, with a further 15 million in areas with one provider.

Commenting on the findings, Campaign group Liberty said access to justice had been "significantly undermined".

Richard Miller, head of justice at the Law Society, said provision of legal advice across England and Wales was disappearing, creating "legal aid deserts".

"Even for those cases where legal aid is still supposed to be available, it can be very difficult for a client to find a lawyer willing to take on the case," he said.

Nicola Mackintosh QC, sole principal of Mackintosh Law, said: "We see people more desperate and in more extreme need than they were five years ago, and there is nowhere to send them. Those people are invisible to the system."

She added "Pre-LASPO, we had a network of advice centres, CABs, law centres and specialist

high-street practices. It was not perfect, but it was pretty good. Now we have a complete decimation of the advice and representation network.

### **Women and Equalities Committee**

On 28 November, the Law Society's Head of Justice, Richard Miller, gave oral evidence to the Women and Equalities Committee as part of their inquiry on enforcing the Equality Act, together with Nick Whittingham, Chief Executive, Kirklees Citizens Advice and Law Centre.

Richard Miller noted that legal aid was withdrawn for discrimination cases under LASPO and argued that the telephone service for discrimination advice is difficult to access.

A full transcript of the session can be found [here](#)

### **Justice Oral Questions 18 December**

APPG Chair Karen Buck, and Labour member for Westminster North, asked the Secretary of State for Justice - What assessment he has made of the prevalence of legal advice deserts.

Responding, Justice Minister, Lucy Frazer accepted that 'in some sparsely populated areas it is more difficult to find service providers' but contended that 'the Legal Aid Agency regularly reviews market capacity to make sure there is adequate provision across the country and moves quickly to fill any gaps that it identifies'.

Karen Buck challenged this, stating that 'new figures reveal that there are 1 million people with no access to a legal aid-provided housing lawyer at all and 15 million people in areas where there is only one provider'.

Liberal Democrat MP for Bath, Wera Hobhouse picked up on this pointing out that 'in all of Somerset, there is only one firm that is authorised to provide legal aid on housing'.

Labour MP Newcastle Upon Tyne North Catherine McKinnell quoted the 'shameful and damning' findings of the United Nations special rapporteur that reductions in the availability of legal aid have 'overwhelmingly affected the poor and people with disabilities, many of whom cannot otherwise afford to challenge benefit denials or reductions and are thus effectively deprived of their human right to a remedy.'

The full proceedings can be viewed [here](#)

### **Justice Written Questions in December**

Thangam Debbonaire (Bristol West) asked the Secretary of State for Justice:

- If he will make an assessment of the effect of the Legal Aid Scheme on the right to a family life for people seeking asylum.

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Dawn Butler (Brent Central) asked the Secretary of State for Justice:

- What assessment he has made of the effect of charging victims of domestic violence up to £175 for a medical letter to prove they were abused on the ability of victims to access legal aid.

Paul Blomfield (Sheffield Central) asked the Secretary of State for Justice:

- With reference to the Home Office's news story entitled New fund to support vulnerable EU citizens apply for settled status, published on 25 October 2018, for what reasons that fund has been set up rather than his Department extending provision of legal aid to cover vulnerable EU citizens applying for pre-settled and settled status.

Bambos Charalambous (Enfield, Southgate) asked the Secretary of State for Justice:

- How many successful applications for exceptional case funding were made in relation to an application for refugee family reunion in (a) 2016 and (b) 2017
- What estimate the Government has made of the cost to the Ministry of Justice budget of the increased number of litigants in person as a result of the means test threshold not being uprated in line with inflation in (a) civil legal aid since 2008 and (b) criminal legal aid since 2009.

Tonia Antoniazzi (Gower) asked the Secretary of State for Justice:

- If he will make an assessment of the potential merits of applying the so-called escape fee to the Civil Legal Advice scheme to ensure that advisers are paid above the fixed fees that apply where costs exceed the national fixed fee by a multiplier of three, in line with other parts of the Legal Aid system.
- If he will make an assessment of the adequacy of support for the Civil Legal Advice housing and debt telephone service in order to ensure continued provision of specialist advice and assistance through contracted firms and that those firms are properly paid for the services they provide.

Jim Cunningham (Coventry South) asked the Secretary of State for Justice:

- How many people have used legal aid to fund their legal case in each year since 2010.

Richard Burgon (Leeds East) asked the Secretary of State for Justice:

- What estimate he has made of the spend by (a) each Government department and (b) the Government on legal representation at inquests in each year since 2012.
- What estimate his Department has made of the potential cost of not taking into

account jointly-owned homes when assessing the eligibility of victims of domestic violence for legal aid.

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

- How many people received legal aid for (a) divorce, (b) child custody, (c) clinical negligence, (d) welfare, (e) employment, (f) immigration, (h) housing, (i) debt, (j) benefit and (k) education cases in each year since 2010.
- When the Government plans to publish its review of the legal aid reforms brought in by the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
- How many procurement areas have (a) zero or (b) one legal aid advice provider in the area of law related to (i) divorce, (ii) child custody, (iii) clinical negligence, (iv) welfare, (v) employment, (vi) immigration, (vii) housing, (viii) debt, (ix) benefits and (x) education.
- How many children were granted legal aid under exceptional case funding each (a) year and (b) quarter since 2010.
- How many young adults were granted legal aid under exceptional case funding each (a) year and (b) quarter since 2010.
- How many people were granted legal aid under exceptional case funding each (a) year and (b) quarter since 2010.
- What proportion of applications for exceptional case funding were granted legal aid in every year since 2010.
- How many people have represented themselves in cases related to (a) divorce, (b) child custody, (c) clinical negligence, (d) welfare, (e) employment, (f) immigration, (g) housing, (h) debt, (i) benefits and (j) education in each year since 2010.
- How many cases have been brought to court related to (a) divorce, (b) child custody, (c) clinical negligence, (d) welfare, (e) employment, (f) immigration, (g) housing, (h) debt, (i) benefits and (j) education in each year since 2010.
- What assessment he has made of the number of people turned away from legal aid providers since 2010.

Wera Hobhouse (Bath) asked the Secretary of State for Exiting the European Union:

- With reference to Article 10 and Article 18 of the Draft Withdrawal Agreement, published on 14 November 2018, whether the Government plans to confer on EU parents who have lived in the UK for more than 3 months but less than 5 years, the same status as a UK citizen in terms of (a) social security benefits and (b) legal aid after the invocation of Article 50.

Edward Vaizey (Wantage) asked the Secretary of State for Justice:

- Whether he plans to consult specialist bereavement organisations on Government policy to support bereaved families in seeking legal aid.

Helen Hayes (Dulwich & West Norwood) asked the Secretary of State for Justice:

- How many people applied for legal aid for (a) legal advice and (b) represented in public law to secure a special guardianship order for a child; how many of those applications resulted in legal aid being awarded; and how many such applications resulted in a special guardianship order being made in 2017-18.
- How many people in 2017-18 applied for legal aid in order to (a) receive legal advice or (b) be represented in private law proceedings to secure a special guardianship order for a child; how many such applications resulted in legal aid being awarded; and how many such cases resulted in a special guardianship order being made.
- How many people who were related or known to a child but not to their parents applied in 2017-18 for legal aid to receive legal advice or be represented in care proceedings; how many of those applications resulted in legal aid being awarded; and how many such proceedings involving an individual who had been granted legal aid resulted in the child living with that person under (a) a care order, (b) a special guardianship order, (c) a child arrangements order and (d) another legal arrangement.

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

**Rohini Teather**  
**for the APPG on Legal Aid**  
**20 December 2018**

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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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