

Bridging the justice gap

From its inception 60 years ago, legal aid has been stymied by financial and other constraints. The 1945 Rushcliffe report, which was the inspiration behind the establishment of legal aid, had envisaged a system in which people of 'small or moderate means' would get help with cases in which lawyers usually represented private clients. LAG argues that change is needed in the legal aid system in order to maintain the rule of law and ensure ordinary people are able to enforce their rights. LAG's conference, 'Legal aid at 60: bridging the justice gap', which will be held this month is an opportunity to debate the way ahead and help practitioners get the best out of the legal aid system for their clients.

LAG has ten proposals to improve legal aid and realise the original vision of providing access to justice for the majority of the population. These are summarised below and set out in detail in LAG's book, *The Justice Gap: whatever happened to legal aid?*

■ Six foundation principles will act as the ideological cornerstone for the legal aid system:

- Access to justice is the constitutional right of each citizen.
- The right of access to justice applies equally to civil and criminal law.
- The interests of the citizen should determine policy on access to justice issues.
- The right to be treated as innocent until proven guilty should be respected.
- Access to justice requires policies across a range of areas, including law reform, education and legal services.
- Proposals for reform should take into account realistic levels of resources, but these should not be a defining policy.
- Separate the civil and criminal legal aid budgets. Throughout its history, the civil budget has been raided to meet the demands of the criminal budget.
- Establish a fair means of setting fees. Fee levels need to be set which lead to sustainable legal services that provide high-quality advice and representation.

■ Reform the Legal Services Commission (LSC). LAG does not want to see the administrative expertise that has built up in the LSC lost, but fears that budget cuts will mean the loss of experienced staff. We are calling for the responsibility for quality control of the legal aid system to be passed to the Legal Services Board.

■ Alternative sources of funding for legal aid services. LAG has a number of proposals to provide extra money for services, including applying the 'polluter pays' principle, raising money from banks and other lenders that are at the root of some debt problems, looking again at insurance-backed services with the proviso that there should be greater transparency around referral fees and evaluating the viability of a contingent legal aid fund.

■ Connect legal aid to the communities it serves. Bodies such as the Civil Justice Council should be given the responsibility of researching demand for, and consulting communities on, the provision of legal services.

■ Establish a free legal service for all. A universally available advice and legal education service should be provided to everyone by reconfiguring existing funding. As well as providing access to justice, this would galvanise support from the wider public for the legal aid system.

■ End the social welfare law postcode lottery. LAG has three main proposals to achieve this:

- to reform the tendering process for local legal services;
- to encourage direct commissioning of specialist services; and
- to consult on the establishment of a separate social welfare law fund.

■ Establish a network of coverage for domestic violence cases. LAG suggests the creation of a grant scheme to fill gaps in the provision of advice services, and match those services, where possible, with social welfare law services. We are also calling on the government to ensure that there are no impediments to childcare proceedings.

■ Ensure fair trials in the criminal justice system. LAG has three main proposals on criminal legal aid:

- to compensate the criminal legal aid budget for external cost drivers such as new legislation and procedures;
- to abandon plans for best value tendering: it will not improve access to justice or save any money; and
- to reassert the principle that defendants should not have to pay costs if they are prosecuted wrongly.

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