



A Manifesto for Justice

AdviceUK
The General Council of the Bar
ILEX
JUSTICE
Law Centres Federation
Legal Action Group
Legal Aid Practitioners Group
Liberty

Law and the public interest



An effective and accessible justice system is a hallmark of a free, just and democratic society in which people, organisations and businesses can fulfil their potential.

For too long, the law has been associated with cost, difficulty and delay. Its rules and processes have been seen as standing in the way of the public interest, not advancing it.

In many ways, law has changed for the better: the development of legal aid, the growth of judicial review to challenge the power of the state, the introduction of easier civil procedures such as small claims and the milestone reform of the Human Rights Act have all improved the legal landscape.

But too often media myths and received opinions have been used as the basis for attacks — either on legal aid, or on fundamental legal rights, such as the right to a fair trial before a jury.

This new Manifesto for Justice seeks to make a clear, strong case for the role of a good justice system in contributing to a healthy society.

It has been prepared by a broad coalition of organisations with an interest in the justice system, as public service lawyers, or as advocates for the socially excluded, who are often the true victims of under-provision of advice and representation.

We need justice and the rule of law to underpin a democratic society, if all of its people are to be able to share its freedoms and prosperity.

We therefore ask for three principles of justice:

- good governance and the rule of law
- respect for human rights and civil liberties
- access to justice

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Good governance and the rule of law



We need to restore confidence in law-making. For those in politics, legislation is too often equated with action. Every year Parliament passes over 15,000 pages of new legislation, across wide areas of civil rights and obligations. Some 3,500 new criminal offences have reportedly been introduced by the present administration.

Too often, new legislation and regulation makes a significant contribution to the complexity of the law and increases legal costs for private interests and the public purse in both criminal and civil law.

The role of the Law Commission in helping to create better law should get greater recognition, and an increased amount of Parliamentary time per session should be devoted to the consideration and, if agreed, enactment of Law Commission recommendations.

Public confidence in the legislature needs to be rebuilt over the long term; this requires transparency over financial matters, professional integrity in public life and a clearer separation of powers between Parliament and Government.

The independence of the judiciary remains central to freedom in our society. We benefit from a corruption-free, highly trained and motivated independent corps of judges. This asset deserves investment in the long term for the good of society. A judiciary which reflects the diversity of the communities it serves will enjoy greater confidence.

We also benefit from an internationally respected common law jurisdiction, which generates considerable income for the country in terms of jobs and invisible earnings, most recently estimated at £20 billion a year. The UK legal brand deserves long term strategic support from Government.

Criminal justice

Balancing public protection and civil liberties

The Government's craving for an annual Criminal Justice Bill has got to stop. Ministers should, except in truly exceptional circumstances, be required to evaluate how existing laws might work better before they can introduce a new Criminal Justice Bill.

There is a need for clearer separation between civil and criminal procedures. Only proportionate use should be made of surveillance powers under the Regulation of Investigatory Powers Act (RIPA). Judicial safeguards are required to govern the exercise of these powers and the number of public bodies with access to these powers needs to be limited.

The public should continue to be protected by prison sentences for dangerous criminals. But more courage is needed in the debate over the record size of the UK prison population, which has continued to grow alarmingly, and over the desperate state of some prison institutions.

Short prison sentences are expensive and can simply entrench criminal behaviour. There needs to be coherent and more consistent support for alternatives, or measures complementary to custody, such as restorative justice and meaningful community sentences. A strong and well-funded probation service is needed if we are to achieve this.

We are concerned at the over-use of indeterminate sentences, with no tariff, which can see an increased number of prisoners languishing in prison with no prospect of release or incentive for good behaviour.

The identity card scheme and its legislative framework should not be pursued. Identity cards and the database to which they will be linked present an unacceptable interference with our personal privacy. The scheme is hugely expensive, will do nothing to deter terrorism and will likely exacerbate division, tension and exclusion in our society.

Jury trial should remain for trying all serious crimes. It is the most democratic, trusted and proven method available. Jury service should be promoted as a core civic duty.

Less serious cases should continue to be tried before magistrates, who should be recruited from a representative cross-section of society. Victims need to be treated with understanding and respect at all stages of a criminal case, including during the trial.

Vulnerable witnesses and defendants should be properly protected both inside the courtroom, using existing powers, and outside it, with police support if necessary.

Civil justice

From rights to social inclusion

The civil courts and tribunals have a major role to play in resolving disputes and ensuring that individuals' rights are protected. A fresh look should be taken at measures to ensure that civil cases are dealt with more speedily, appropriately and cost-effectively.

More facilities for mediation and alternative dispute resolution should be part of the court system, together with advice points available in all courts for people with debt or money problems. To ensure that people's rights are protected and to foster social inclusion, the civil courts must be accessible to all.

We need to challenge the notion that the court system can be run on the basis of 'full costs recovery'. Escalations in court fees and costs only serve to deny access to justice to the poorest in society.

No win no fee agreements (CFAs) can help bring cases to court, but they can be risky and complicated — a fundamental review of how access to the courts could be improved and funded is needed. Consideration should be given to the role that the Contingent Legal Aid Fund (CLAF) could play in widening access to justice.

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Respect for human rights and civil liberties

The European Convention on Human Rights, drafted in the aftermath of the horrors of the Second World War, is now enshrined in UK law by the Human Rights Act 1998 (HRA). The first decade in which the Act has been in force, however, has not been easy — it has been subjected to a string of unwarranted attacks. Unfortunately, what the Act does and does not do has never been properly explained to the public.

The HRA sets out a bundle of the most fundamental human rights including among others the right to freedom from torture and inhuman and degrading treatment, the right to liberty, fair hearing, freedom of speech and association, the right to a private and family life and crucially the right to equal treatment. The HRA needs to be protected and promoted and the rights it contains must not be undermined by any Government or public authority.

While the response to crime needs to be robust, the justice system must also protect the following:

- the presumption of innocence until proven guilty
- the minimum rights of those charged with an offence, including the right to choose one's lawyer.

More widely, the international rule of law should always be supported and its principles respected. Progressive democracies have much to gain by demonstrating that they are prepared to promote and adhere to such principles, including subjecting themselves to remedies under international law.

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Access to justice

Access to legal advice and representation is itself a basic human right. We support policies which focus on the delivery of the best possible outcomes for consumers.

However, the reform of legal aid by the Legal Services Commission has not been successful. The Commission should be subjected to a full review of its role to ensure that it is fit for purpose and that it can exercise its functions independently of Government. The Ministry of Justice should accept full political accountability for policy-making in the system.

There needs to be consistent provision across the country — no postcode lottery or advice deserts in rural areas — and the impact of advice should be properly evaluated to show that best value is being obtained.

Gaps in knowledge lead to unhelpful and misleading debates — for example, the confusion over ‘common law’ marriage, assisted suicide and the right to self-defence.

We are committed to the provision of co-ordinated and properly funded legal education, including in schools, and see great opportunities for the increased use of digital media in the delivery of legal education and training.

People in need should have the right to access legal advice for initial guidance about their problems, with referral to representation thereafter, if necessary. Innovative models of face-to-face provision should be explored, for example community legal practices, mobile legal surgeries and other user-friendly forms of interaction, as well as, with caution, expanded telephone services, along the lines of NHS Direct. As with NHS Direct, which is staffed with professional nurses rather than para-nurses, it is important that any such services in the legal field are provided by properly qualified and experienced lawyers.

The public should be entitled to independent legal advice. The right to choose your own suitably qualified lawyer, particularly in a serious case, is an important guarantee of that independence.

Properly funded legal advice in the police station after arrest is a substantial bulwark against malpractice and the types of miscarriages of justice seen in the 1970s and 1980s.

The introduction of Best Value Tendering for this and other forms of legal advice should be subjected to more rigorous examination before it can be taken any further.

Adequately funded civil legal advice can prevent people falling into social exclusion and, as such, it is important to promote access to justice for those of poor and moderate means.

Reducing eligibility may generate costs for other parts of the welfare state far in excess of the original savings being sought.

Greater co-ordination is needed between central Government, local authorities and other funders in the provision of advice and representation on social welfare law. The LSC Community Legal Advice Service model to achieve this is too rigid, but we support the opportunity given by the Commission for providers to work together to deliver legal aid in consortia (provided flexibility is maintained particularly for specialist firms). More, though, needs to be done to assist the development of services in local areas where there are no advice agencies or solicitors available to offer civil legal aid services and we would suggest a system of pump-priming grants might be the way forward to achieve this.

The Community Legal Service needs to build its capacity to serve the diverse needs of those who cannot afford to pay for legal advice. This will be impossible as long as civil legal aid faces continued Treasury pressure; we need the civil legal aid budget to be ring-fenced, and support moves in this direction.

Additional development funding needs to be made available in areas where there are no advice agencies or solicitors available to offer civil legal aid services, otherwise these areas will simply remain advice deserts.

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A healthy legal services market and independent professions



Access to justice is enhanced by a thriving and diverse market of legal services and professionals offering consumers services that are effective and affordable. Independent lawyers and advice providers protect the rule of law, often standing as a bulwark against an over-mighty state by challenging its authority through the courts.

This role must be safeguarded and enhanced by good quality regulation which seeks to balance the interests of consumers and the independence of the professions. Lawyers should speak up for the weak, provide high quality and proportionate dispute resolution services, as well as continuing to generate significant value for UK plc.

Effective and appropriate regulation can bolster the values and standards of legal services and should not be used to undermine the independence of the professions, but rather to encourage good practice and ethics, drive business innovation and support consumer confidence. The regulatory objectives of the Legal Services Act should therefore be the touchstone for oversight of the professions.

The legal profession itself needs to focus on its diversity and service to customers, and rise to the challenge of social mobility by ensuring that legal careers are open to the most talented, regardless of their background. However, this means that public service law should be properly supported and remunerated. Judges should also be representative of the public and the communities they serve by ensuring that the Judicial Office is open to competent persons from all parts of the legal profession.

Find out more

AdviceUK

Phil Jew
020 7469 5700
phil.jew@adviceuk.org.uk
www.adviceuk.org.uk

The General Council of the Bar

Mark Hatcher
020 7611 1366
mhatcherdrp@barcouncil.org.uk
www.barcouncil.org.uk

ILEX

Diane Burleigh
01234 845743
dburleigh@ilex.org.uk
www.ilex.org.uk

JUSTICE

Roger Smith
020 7329 5100
rsmith@justice.org.uk
www.justice.org.uk

Law Centres Federation

Julie Bishop
020 7842 0720
julie@lawcentres.org.uk
www.lawcentres.org.uk

Legal Action Group

Steve Hynes
020 7833 2931
ahannah@lag.org.uk
www.lag.org.uk

Legal Aid Practitioners Group

Carol Storer
020 7183 2269
carol.storer@lapg.co.uk
www.lapg.co.uk

Liberty

Isabella Sankey
020 7378 5254
bellas@liberty-human-rights.org.uk
www.liberty-human-rights.org.uk