

The year ahead

January is on us, the debris of the party season has been swept away and we all return to work looking forward, maybe with some trepidation, to what the New Year will bring. Trepidation is the right word to describe how many legal aid practitioners will be approaching 2010. This is also a general election year and LAG wants to raise the profile of issues we see as crucial to access to justice.

In an otherwise scathing attack on New Labour's legal policies, Baroness Helena Kennedy QC praised the Human Rights Act (HRA) 1998 in LAG's annual lecture 2009, although she pointed out that Tony Blair and other senior government figures often seemed loath to defend it in public (see page 6 of this issue). LAG believes that the HRA embodies common principles that should be at the heart of a civilised society. It seems likely that the Conservative party's plan to recast the HRA as a 'British Bill of Rights' will be an issue for debate in the run-up to the general election. Turning back the legislative clock to force British citizens to enforce their human rights by appealing to the European Court of Human Rights would be wrong, as would unpicking all the good work done in embedding human rights in the work of public authorities. Any such moves should be resisted vigorously, but we also acknowledge the need to win the argument with the public about the importance of the HRA. LAG will play a key role in informing and educating people on the impact of any changes proposed.

In the lead-up to the general election, *Legal Action* will publish a series of articles profiling the major political parties' policies on access to justice and legal aid. LAG also hopes to hold a conference on legal aid in early summer, soon after the election.

As a result of LAG's ongoing concerns about the state of the legal aid system, we will be forming the Alliance for Legal Aid (AFLA) with other organisations early this year. The idea behind the alliance is to bring together all those with an interest in legal aid to fight back against cuts and to campaign for a better level of

service for the public. AFLA's slogan will be: 'Legal aid – help when you want it'. We hope that *Legal Action* readers will endorse the campaign fully.

For legal aid practitioners this will be a year of change. Criminal practitioners now face cuts in fees for committals and file reviews (see page 4 of this issue). A substantial number will also have to cope with reductions in fees for police station work. It seems that the cutbacks will not end there; a further consultation on fee cuts in very high cost cases (VHCC) was also published just before Christmas (see page 4 of this issue). The government now wants to extend the litigator graduated fee to VHCC. This is likely to be resisted fiercely by the elite of the Bar.

However, it looks like the final nail has been hammered into the coffin of best value tendering (BVT) at least for now. The government has announced that it will delay plans for two pilots in Greater Manchester and Avon and Somerset. The tendering process was due to start in the New Year. This climb down will come as a considerable relief to practitioners in these areas. LAG believes that the government was swayed by the argument that it was unfair to expect firms to tender for the work when the consultations on the Crown Court and VHCC were still pending; firms needed to know what fees they could expect across the board in criminal work before tendering for police station work.

The government and the Legal Services Commission (LSC) have said that they are going to work up alternative plans; however, their implementation will be down to the next administration. Both the government and the LSC still seem convinced that a form of competitive tendering can provide the magic bullet to control legal aid costs.

In civil legal aid, new contracts for face-to-face advice in immigration and asylum law are out to tender currently: applications have to be in by 28 January 2010. These and the rest of the civil contracts will begin in October this year. The immigration bidders are acting as guinea pigs to test the bidding system.

The first thing in the in-tray of many civil practitioners will be to attend training on the bidding process in the next two months. Doubts about how the LSC will select between bidders if there are more than necessary in a particular area are casting a cloud over this process, although clues are provided in the immigration tender documents as the LSC has devised a scoring system to differentiate between suppliers. However, bidding across more than one area of law is more complex, and so the criteria, when they are published, will need to be scrutinised carefully.

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