

ILPA information sheet

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Legal Aid 6 – The Latest Proposals

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On 15 November 2010, the Government launched a consultation on proposals to make sweeping changes and cuts to Legal Aid in the UK. The changes and cuts would affect many British citizens and migrants.

This information sheet provides some general information about what is proposed, and makes some suggestions as to how individuals and organisations may respond to these proposals. The “Legal Aid 7” information sheet provides more detail about how the proposals would affect immigration and asylum law, and the “Legal Aid 8” information sheet provides further information for those who want to respond to the Government’s consultation.

What the Government proposes to do

The Government intends to cut the Legal Aid budget by around £350 million by these proposals. In 2008/09, approximately £900 million was spent on civil law Legal Aid. Legal Aid is divided into two broad areas – criminal law and civil law. The proposals are mainly concerned with civil law Legal Aid. That is Legal Aid in non-criminal law areas, such as housing, debt and employment.

The Government intends to make these cuts by removing several areas of civil law from the scope of Legal Aid. This would mean that Legal Aid would generally not be available for advice or representation to assist with asylum support, debt, education, employment, housing, immigration, private family disputes and social welfare. There would be some limited exceptions – for example:

- someone facing the immediate loss of his or her home might be able to obtain Legal Aid to deal with that but someone with several debts problems, which if unresolved could lead to circumstances in which his or her home would be at immediate risk, could not
- someone in immigration detention might be able to obtain Legal Aid about his or her detention but could not obtain Legal Aid to deal with the underlying immigration problem that had caused the detention

Other proposals include changes to financial eligibility (i.e. how much income or savings will disqualify someone) for Legal Aid, increased use of telephone (rather than face to face) legal advice, abandonment of the current provision that permits cases of significant wider public interest to be eligible for Legal Aid whatever the subject matter, reductions in lawyers’ and experts’ fees. For more detail on the proposals please see the “Legal Aid 7” and “Legal Aid 8” information sheets.

Why does this matter?

Legal Aid is provided so that those who are too poor to pay for legal advice and representation can receive advice and representation. This is intended to ensure that there is access to justice for all –

rich and poor alike.

Every year, Government and Parliament makes many new laws. Many of these are designed to provide safeguards and benefits to people or groups of people. Others are designed to restrict people's rights. These laws are complicated, sometimes very complicated. They are changed, sometimes frequently. Finding them is not always straightforward, and reading and understanding them may be very difficult or impossible for some. Often, it is not enough to find and read one piece of law, but it is necessary to be able to understand it in context – how it may affect and be affected by many other laws, sometimes going back over many years or even decades. In 1943, Professor Ernst Joseph Cohn described the need for Legal Aid in the following terms:

“The State is responsible for the law. That law again is made for the protection of all citizens, poor and rich alike. It is therefore the duty of the State to make its machinery work alike, for the rich and the poor.”

The Government says that: “...access to justice is a hallmark of a civilised society.” However, it also says that Legal Aid is unnecessary in many of the cases currently within the scope of civil law Legal Aid. It says that legal representation is unnecessary for many cases coming before tribunals, which deal with matters such as asylum support, immigration and welfare. It says that legal advice can be obtained from advice agencies such as Citizens Advice Bureaux rather than from lawyers and organisations funded by Legal Aid.

The Government is right that access to justice is a hallmark of a civilised society. It should be equal access to justice – i.e. for rich and poor alike. The Government's proposals would not achieve this. Instead, the poor would have very much less access to justice than the rich. Without legal advice, many people simply would not know whether they have been treated fairly or lawfully, including by officials; would not know whether or how they can bring an appeal if treated unfairly or unlawfully and by when they must do so. Without legal representation, many people would struggle with legal procedures – including procedures before tribunals. Moreover, without a full understanding of the law, they would not know what they must say to the tribunal, what evidence to present and what questions to ask of those (such as officials, or employers or banks and other creditors) who oppose their appeal. For many, access to justice would have no real meaning; and for many more, access to justice would not be equal. The rich would have legal advice, including the officials, the employers and banks who oppose appeals. As for Citizens Advice Bureaux and other advice agencies, the work of many of these is currently funded by Legal Aid. The Government's distinction between these and lawyers and organisations funded by Legal Aid is inaccurate; and while some advice agencies receive other funding (e.g. Local Authority funding), this is often to do work outside the current scope of Legal Aid. Much of this other funding is also being cut.

What you can do

Things that individuals and community groups may do in response to these proposals include:

- The Government's consultation closes on 14 February 2011. The consultation document is long and complex. However, it is not necessary to respond to all the consultation questions or be familiar with the entire consultation document in order to give your views to the Government on Legal Aid. Some more information about the consultation and how to respond is given in the “Legal Aid 8” information sheet.
- If you have concerns about the Legal Aid proposals, you can write to or arrange to speak to your constituency MP. If you are worried about Legal Aid cuts, you should make your MP aware of this because he or she will be in a position to vote for or against these cuts in the future.

If you or your community group want more advice about how to respond to the Legal Aid proposals, please contact steve.symonds@ilpa.org.uk at ILPA.