



Bar Council Budget submission September 2026

About us

The Bar Council represents the more than 18,000 barristers in England and Wales. It is also the Approved Regulator for the Bar of England and Wales. A strong and independent Bar exists to serve the public and is crucial to the administration of justice and upholding the rule of law.

Introduction

The rule of law is a fundamental principle that underpins a fair and democratic society. Robust, timely, and reliable delivery of justice is a key part of a government's role in supporting the rule of law. Justice is overseen nationally but delivered locally, and local conditions matter when it comes to ensuring fair access to justice for all.

Legal services are a foundation for strong economic growth when embedded in a strong justice system. The justice system must be properly funded, for the long-term, to support both local access to justice and national economic growth.

The international reputation of the legal system in England and Wales is an important draw for business and a contributor to growth.

In 2024, the legal sector contributed £38bn to the UK economy, equivalent to 1.5% of GVA. Total revenue from legal activities in the UK increased to £52.3bn in 2024.¹ The justice sector is a public service which more than pays its way, and the risk to our economy of failure to fund it on a sustainable basis is profound.

Our legal services sector is respected globally and is the second largest in the world after those of the US. This should not be forgotten when considering the shop window which is our domestic justice system. It cannot be allowed to diminish any further.

While various stakeholders in the justice system, ourselves included, have been calling for increased justice funding from an access to justice standpoint, TheCity UK has, in May 2025, called for an urgent strategic review of the justice system from an economic standpoint, arguing that government efforts to deliver growth and public services are stymied by a justice system in crisis.² We agree with that analysis. The

¹ TheCityUK, [UK legal services 2025: Legal excellence, internationally renowned](#), December 2025

² TheCityUK, [Urgent call for strategic review of justice system to support economic growth](#), May 2025

status of England and Wales as a global leader in justice issues is crucial to the UK economy at a local, national and international level. That status is under threat from a historic lack of government recognition, and funding.

Evidence has shown that long-term funding supports capacity to deliver justice effectively at a local level.³ Our own research on access to justice has repeatedly demonstrated that local conditions matter, and we campaign for the preservation and expansion of local justice.⁴ This is important in the physical sense – a leaking courtroom roof or an unreliable IT system undermines confidence in and the effective delivery of justice.⁵ But we are also committed to local justice in the administrative sense.

We see successful measures taken to reduce backlogs at some courts at a local level and we know that recognising local needs matters.⁶ It is unacceptable that, as recent research by LexisNexis has established, almost a quarter of people in England and Wales live in a local authority classed as a 'legal aid desert' in at least one of five key areas of funding.⁷

The expansion of Leeds Courts and Tribunals centre at West Gate (following a long-fought campaign that the Bar Council actively supported) led to the creation of new courtrooms for business and property related matters and tribunals in the city. The local council, Chamber of Commerce, MPs, interested parties and legal community campaigned to illustrate the benefit of having a modern and accessible facility in the city to boost local economic growth⁸ and the city's legal infrastructure. This example fits squarely with the Prime Minister's vision for local communities to have a strong say in the delivery and development of their areas.

For too long, the justice system has been starved of essential funding, undermining the ability of people to access the justice they deserve at a local level, and risking limiting economic growth at the national level. Before the Labour government increased justice spending, we found that an additional £2bn a year was needed in 2022/23.⁹ Had the MoJ day-to-day budget increased at the same rate as the average department over the period since 2007/08, it would have been some 41% (£4.5 billion) higher in 2024/25.

³ JUSTICE North, '[Closer to Home: Principles for a justice system shaped by communities](#)', April 2026

⁴ The Bar Council, '[Access to justice dashboard](#)'

⁵ The Bar Council, '[Access Denied: The state of the justice system in England and Wales in 2022](#)', November 2022

⁶ The Bar Council, '[New court stats cast serious doubts over plans to cut jury trials – Bar Council](#)' 25 June 2026

⁷ LexisNexis, '[The LexisNexis legal aid deserts report 2026](#)', August 2026

⁸ Ministry of Justice, '[Leeds to become beating legal heart of the North with new state-of-the-art courts and tribunals](#)', 15 February 2024

⁹ The Bar Council '[Small change for justice](#)', July 2020 ; The Bar Council, '[Justice Short Changed](#)', September 2024

We welcome the positive steps the government has taken to increase the MoJ budget since coming to power. However, more needs to be done to counteract the impact of severe cuts and underinvestment in recent years, particularly relating to capital cuts and legal aid underfunding.

The consequences of insufficient resources are plain to see – record backlogs in all jurisdictions, a crumbling court estate and unacceptably long waiting times for cases to be heard. Only just over half (52%) of private family law cases are dealt with within the statutory target of 26 weeks.¹⁰ The most recently published statistics are that the backlog for Crown Court cases – the most serious criminal cases – is at 80,061, and the backlog in the magistrates’ courts is at a high of 370, 222.¹¹

Research commissioned by the Bar Council showed that in the financial years 2009/10 to 2022/23, legal aid spending was cut more than any other constituent part of the justice system – by 39.5% in real per person terms.¹² Since 2023 there have been welcome fee increases to immigration and housing areas of law, and an increase announced for criminal legal aid, but they only balance out the further erosion from inflation in recent years, and there have been no increases at all for family legal aid or other areas of civil legal aid. This has had serious consequences on access justice.

This submission sets out our priorities for restoring the justice system and putting it on a sustainable footing, in line with the new government’s plan to rebalance opportunities across the country, provide greater localism to kickstart the economy, modernise public services and halve violent crime and violence against women and girls in a decade.

Summary of priorities and key proposals

1. Addressing the long-term sustainability of the justice system

- Immediate uplift of criminal, family and civil legal aid fees to provide enough publicly funded barristers to meet demand
- Establish an independent fee review body to properly reward and sustain a publicly funded Bar, keeping fees (at a minimum) in line with inflation
- Immediate 30% fee increase for general family legal aid work
- Immediate 50% fee increase for Family Law Act and Children cases, to bring the rates back to what they were in 2012 in real terms

2. Modernising public services and devolution: a long-term strategy for court infrastructure and efficiency

- Increased capital spending of at least £1.3bn for HM Courts and Tribunal Service.

¹⁰ The Ministry of Justice (MoJ), [Family Court Statistics Quarterly: January to March 2026 - GOV.UK](#), 25 June 2026

¹¹ Ministry of Justice (MoJ), [Criminal court statistics quarterly: January to March 2026 - GOV.UK](#), 25 June 2026)

¹² The Bar Council, [‘Justice Short Changed’](#), September 2024

- Actively reduce inefficiencies across the justice system, for example by ensuring the next contracts for the Prisoner Escort and Custody Services (PECS) enable the timely delivery of people in custody to court.¹³
- Develop a longer-term infrastructure plan to rebuild and modernise the court estate so it can function efficiently – akin to the approach taken with prison building

3. Halving violence against women and girls: a properly resourced criminal and family court system and specialist courts

- Widen access to legal support to tackle violence against women and girls (VAWG) through:
 - Removing means testing for legal aid for alleged victims and survivors of domestic abuse and bring all cases involving domestic abuse within legal aid scope for both parties
 - Implementation of ‘Jade’s Law’ to automatically suspend parental responsibility in cases of femicide
 - Commitment that applications under the Domestic Abuse Protection Orders and Notices scheme will remain free for complainants and the police to give immediate and ongoing protection to victims of domestic abuse
 - Funding for the rollout of the Child Focused Courts across England and Wales
 - Specialist domestic abuse and child abuse support and assessment services for all members of the affected family
 - Establishment of specialist courts for sexual offences and domestic abuse cases, with those cases heard by a specialist judge and a jury

4. Early legal advice and legal aid investment to reduce downstream costs to the Treasury, courts, and other public services

- Ensure legal aid rates paid for inquests are sustainable to support the government’s commitment to widen the eligibility for legal representation for families in inquests through the Hillsborough Law.
- Support the targeted re-introduction of the early legal advice sector across the country to restore local access to justice and realise savings across departments including health, work and pensions, and the Home Office

¹³ Bar Council, [Reporting the late delivery of prisoners](#), June 2026

Our priorities and proposals in detail

Priority 1: Addressing the long-term sustainability of the justice system

i. Criminal legal aid

Recommendations:

- Immediate uplift of legal aid fees to provide enough publicly funded barristers to meet the demands of the system
- Establish an independent fee review body to properly reward and sustain a publicly funded Bar

In 2021, Sir Christopher Bellamy published the ‘Independent Review of Criminal Legal Aid’ report.¹⁴ It recommended an immediate 15% legal aid fee increase “as the first step in nursing the system of criminal legal aid back to health after years of neglect.” (Paragraph 1.38). The 15% increase was introduced at the end of 2022/2023, after action by the Criminal Bar Association (CBA). This year an additional 10% is expected to be introduced following the government’s consultation on the Advocates Graduated Fee Scheme (AGFS).¹⁵

The 2 December 2025 announcement, whilst welcome, continues to be only a relatively small step. Closer examination also shows that the £34 million figure is inclusive of VAT and includes the £3.6m underspend under the MoJ/CBA/Bar Council deal in 2022 which we have argued should be funded separately (see below for more detail).

The government rightly recognises the need to support victims. It announced £550 million over three years for victim and witness support.

Victim support and a properly funded criminal Bar are not competing priorities. It is incoherent to spend hundreds of millions of pounds supporting victims to courts that are empty or delayed because of a lack of investment in the barristers required to conduct the cases.

The consultation is welcomed. However, it took until 15 July 2026 - over 7 months from the 2 December 2025 announcement of the investment of the “up to £34m” (incl VAT) to the issue of the consultation documents.¹⁶

At the time of the announcement, the government expressed the investment as its

¹⁴ Ministry of Justice, [‘Independent Review of Criminal Legal Aid’](#), November 2021

¹⁵ Ministry of Justice, [‘Criminal legal aid: Proposals for Advocates’ Graduate Fee Scheme reform’](#), July 2026

¹⁶ Ministry of Justice consultation, [‘Criminal legal aid: Proposals for Advocates’ Graduated Fee Scheme reform’](#)

response to the courts emergency. There is little urgency evident.

There still is no date for implementation of the increase and the consultation refers only to the £34m being available “once fully implemented and in steady state.”

Increases in legal aid must apply to ongoing cases rather than only being available for new legal aid representation orders which relate to cases that will complete in the future.

The current system of remuneration of barristers at the completion of the case – often years in the future – is not sustainable.

In 2022, the Legal Aid Agency was able to apply increases to AGFS fees to current cases i.e. those in the backlog. It can do so again in relation to this increase.

Delays caused by successive governments’ underinvestment in the criminal justice system mean that cases do not complete within a year. It is fundamentally unfair for increases to legal aid not to apply to ongoing cases that are in the backlog. No other profession is paid out of public funds in this manner.

The government announced “additional investment in criminal legal aid fees for advocates of up to £34 million a year” and “additional investment into the independent Bar” and to “bolster the workforce that ultimately powers the courts and keeps the wheels of justice turning.”¹⁷ It should fulfil this commitment.

Underspend on previous legal aid commitment

The previous increase to AGFS legal aid was announced after action by the Criminal Bar in 2022.

The underspend on pre-recorded cross examination under Section 28 of the Youth Justice and Criminal Evidence Act 1999 (‘Section 28’) plus the underspend on special and wasted preparation, over the 2022-2025 spending review period amounted to £4.5 million excluding VAT (£5.4 million including VAT).

Since early 2026, the current Chair of the Bar has raised the requirement for the MoJ to address the 2022 underspend. This is separate to the December 2025 announcement as it related to an earlier commitment from an earlier spending review.

The principle is clear in the letter dated 3 February 2023 from former Ministry of

¹⁷ Ministry of Justice, [‘Deputy Prime Minister to Announce “Swift and Fair Justice”’](#)

Justice Minister Freer (shown at Appendix 1 of the Bar Council’s recent consultation response¹⁸). He was referring to the part of the underspend that was applied to Section 28 and the commitment to spend £4 million excluding VAT (£4.8 million including VAT) by March 2025. The same principle applied to the underspend in relation to the commitment to spend £3.3 million excluding VAT (£3.96 million including VAT) on special and wasted preparation fees.

The Statutory Instrument (SI)¹⁹ was laid on 3 July 2026 and it came into force on 28 July 2026. This is the first increase since the September 2022 deal (and its Section 28 uplift in November 2023).

We welcome the implementation of receipt of the shortfall expenditure. Page 34 of the consultation document estimates it at £3.6 million including VAT per year.

We impress the importance of this being kept under review to address any shortfall between the projection and reality, which historically occurs.

The full “up to £34m” should be spent on fee increases, and the £3.6m to put right the 2022 shortfall should be additional.

Further, whilst these increases are welcome, they are far below inflation rates for the long period during which time criminal legal aid fees were either frozen or cut.

These recent increase in 2022/2023 had the benefit of stabilising the number of barristers prepared to undertake criminal legal aid work, and this is helping to halt the increase in Crown Court backlogs. However, KCs continue to be in shortage in the criminal justice system.

Further investment is needed to bring the backlogs down, reduce the number of abortive trials (due to no advocate being available) and reduce the costs of the system caused by delay.

When the establishment of a Criminal Legal Aid Advisory Board (CLAAB) was brokered during the deal between the previous government and the CBA, we gave a qualified welcome to the idea. We said there needed to be a mechanism – such as an independent fee review board or index-linking – to break the cycle of lurching from crisis to crisis every few years over fees, as fees fail to be uprated.

We continue to support and take part in the work of the CLAAB. It is a useful forum in which to discuss across different stakeholders the funding and sustainability of

¹⁸ <https://www.barcouncil.org.uk/static/b387127a-4448-4e84-bb1a0d24a737c207/202608-AGFS-BC-consultation-response-final.pdf>

¹⁹ The Criminal Legal Aid (Remuneration) (Amendment) (No. 2) Regulations 2026.
<https://www.legislation.gov.uk/uksi/2026/744/made/data.pdf>

the criminal justice system. Unfortunately, it is not a fee review body outside of the aegis of the Ministry of Justice, which would give it greater clout and speed.

The desire for an independent fee review body is shared. As the government noted in December 2022, “The Criminal Bar Association (CBA), the Law Society and Bar Council all suggested that the Board should be able to advise on fees and yearly remuneration.”³⁶

This would be in line with the approach for most frontline public sector workers including NHS staff, teachers, police, the Armed Forces and prison officers whose pay is set based on recommendations from independent pay review bodies. All of these professions have recently benefited from the government fully accepting all of the pay recommendations for these sectors, having balanced out the cost of such increases against the wider cost of further industrial action and disruption to service users.

Establishing an independent fee review body, would demonstrate that the government values the service provided by publicly funded barristers by giving greater certainty and predictability to their career plans and income progression.

ii. Family legal aid and other civil legal aid

Recommendations:

- Immediate 30% fee increase for general family legal aid work
- Immediate 50% fee increase for Family Law Act and Children cases, to bring the rates back to what they were in 2012 in real terms

Family legal aid is by far the largest category of civil legal aid. Successive governments’ neglect of family legal aid is well documented. Family fees were last uprated in line with inflation in 1996.²⁰

Since 1996 as well as having no fee increases, it has had fee cuts. The National Audit Office’s report published in February 2024²¹ stated:

“In real terms, spending on legal aid fell by £728 million (from £2,584 million to £1,856 million, a 28% reduction) between 2012-13 and 2022-23.”

“Civil fees have been frozen since 1996, then MoJ reduced them by 10% between October 2011 and February 2012. In real terms, civil legal aid fees are now approximately half what they were 28 years ago.”

The only legal aid fee increases that there have been in civil legal aid are in the areas of housing law and immigration.

²⁰ National Audit Office, ‘[Government’s management of legal aid](#)’, February 2024

²¹ Ibid.

In July 2026 the Justice Committee published its report on “Access to Justice: Legal Aid.”²² It recommended, “Uplifting other civil legal aid fee schemes in line with housing and immigration increases.” Those uplifts were 24% for housing, and 30% for immigration.²³

The Committee also recommended that “civil legal aid rates should be subject to regular independent review and uplift to ensure continued viability of providers”.

Regarding family legal aid fees, the immediate steps that need to be taken immediately are:

- A 30% fee increase for general family legal aid work (as recommended by the Justice Committee, referred to above)
- A 50% fee increase for Family Law Act and Children cases, to bring the rates back to what they were in 2012 in real terms, and
- Specific improvements to the fee scheme of:
 1. A fee should be due whenever an Advocates’ Meeting is directed by the Court
 2. A conference should be payable whenever that is necessary and should not be limited to two per case. Necessity could be determined by the judge or on application to the LAA
 3. Bundle payments under FAS should be payable for each hearing day
 4. Payment should be made across all fee schemes at a reasonable hourly rate for drafting written documents as directed by the court
 5. Payment should be made across all fee schemes for listening to or watching audio and video material at a reasonable hourly rate
 6. Payment should be made across all fee schemes for looking at digital / data download material at a reasonable hourly rate
 7. An enhanced fee should be paid when cases settle or are vacated at short notice

Priority 2: Modernising public services and devolution: a long-term strategy for court infrastructure and efficiency

Recommendations:

- Increased capital spending of at least £1.3bn for HM Courts and Tribunal Service
- Actively reduce inefficiencies across the justice system, for example by ensuring the next contracts for the Prisoner Escort and Custody Services (PECS) enable the timely delivery of people in custody to court

²² Justice Committee, ‘[Access to Justice: Legal Aid](#)’, July 2026

²³ Ministry of Justice, ‘[Civil legal aid: Towards a sustainable future](#)’, July 2025

- Develop a longer-term infrastructure plan to rebuild and modernise the court estate so it can function efficiently – akin to the approach taken with prison building

As part of its mission to deliver modern public services, the government should repair and improve the much-neglected court infrastructure. We endorse the need for capital spend of £1.3bn identified by HM Courts and Tribunal Service.

Local courts matter and local justice matters. There is an increasing demand, and indeed expectation, for access to local public services, including access to justice.

However, the physical court estate has been reduced by 43% since 2010 meaning that the local administration of justice is becoming less and less possible. The closure of so many courts over the last decade means that people must travel further and often for longer to get to court. It also means that waiting times have got longer and backlogs have grown, across all jurisdictions. What remains are crumbling buildings often without basic amenities or reliable technology.

The government must commit to a long-term rebuilding of the entire court estate and act to actively reduce and combat inefficiencies across the justice system so that the administration of justice can function smoothly, and courts can regain their place as a vital public service – like schools and hospitals.

Rebuilding the court estate can support the government's commitment to tackling violence against women and girls by implementing special trauma-informed measures in courts, for example the provision of screens in all court buildings, separate waiting areas, trauma-awareness training for Cafcass and case progression officers, and independent domestic violence advisors (IDVAs) trained in family justice as well as criminal justice.

If people cannot access justice quickly, efficiently and safely, they will lose confidence in the system, and ultimately the rule of law. Rebuilding the court estate and combatting inefficiencies across the system are key to supporting our priority to address the long-term sustainability of the justice system.

A February 2023 National Audit Office report on the court reform programme²⁴ concluded: "Following repeated delays, HMCTS's priority has been on delivering its reforms at pace rather than embedding sustainable change. Some services it has delivered are not working as efficiently as expected... HMCTS must now focus on achieving the anticipated benefits of the reforms and prioritise remaining funding on maximising financial and wider benefits. Failure to do this effectively will pose a risk to value for money."

²⁴ National Audit Office, '[Progress on the courts and tribunals reform programme](#)', February 2023

The Ministry of Justice identified in October 2025 a £1.3bn maintenance backlog within the court estate.²⁵

A programme of court building could deliver modern public services and also contribute to significant local regeneration and growth – as well as employment – as is the case with the building of a new magistrates’ court in Blackpool. This model should be followed in other parts of England and Wales where the court estate has been decimated.

Case study: Leeds West Gate Courts and Tribunal expansion

What?

The longstanding call had been to increase business and property court capacity in Leeds. The creation of a civil justice 'hub' in Leeds would better serve the legal needs of individuals, businesses, legal professionals, the city and the wider Yorkshire and the Humber region.

Why?

- **Practical needs:** Leeds was the only Business & Property Court Centre in the country without a dedicated civil justice centre. As a result, business cases in the area were conducted in the Combined Court Centre which dealt with predominantly criminal cases. These premises were so unsuitable that a significant amount of business court work which should have been heard locally in Leeds was having to take place in superior facilities in London or Manchester.

Benefits of the expansion

- **Criminal courts backlog benefit:** Taking all the civil cases to a different location would free up more courtroom space in the Combined Court Centre for hearing criminal cases, thereby helping get through the backlog of criminal cases more quickly.
- **Localism boost:** Business and legal communities in and around Leeds are going from strength to strength. Many businesses have relocated to Leeds, including Channel 4, Sky and Burberry. The city has many large, internationally renowned law firms and a specialist barrister profession, both of which are dealing with increasingly valuable and complex Business and Property Court work. The new courtrooms mean that businesses are able to resolve disputes locally, more efficiently and with major cost savings compared to conducting that litigation elsewhere. There will be an increase in

²⁵ UK Parliament, [Courts: Repairs and Maintenance](#), October 2025

work for the legal sector in Yorkshire and the Humber and ancillary businesses that benefit from increased activity around a court centre.

- **Socio-economic benefit:** The increase in high-quality legal work in the region will result in more opportunities to attract and retain talent from the large number of universities in Yorkshire and the Humber.
- **Environmental benefit:** A reduction in the need for travel to use other business and property premises in London and Manchester.

Priority 3: Halving violence against women and girls: a properly resourced criminal and family court system

Recommendation:

Widen access to legal support to tackle violence against women and girls (VAWG) through:

- Removing means testing for legal aid for alleged victims and survivors of domestic abuse and bring all cases involving domestic abuse within legal aid scope for both parties
- Implementation of 'Jade's Law' to automatically suspend parental responsibility in cases of femicide
- Commitment that applications under the Domestic Abuse Protection Orders and Notices scheme will remain free for complainants and the police to give immediate and ongoing protection to victims of domestic abuse
- Funding for the rollout of the Child Focused Courts across England and Wales
- Specialist domestic abuse and child abuse support and assessment services for all members of the affected family
- Establishment of specialist courts for sexual offences and domestic abuse cases, with those cases heard by a specialist judge and a jury

The Bar Council supports the government's focus on tackling violence against women and girls. This is historically considered as a criminal justice issue, but many cases in the family courts include allegations and findings of domestic abuse. All victims and survivors of domestic abuse – whether in the criminal or family court – should be entitled to legal advice and representation by appropriately qualified lawyers. Barristers demonstrably have the appropriate expertise and skillset.

In May 2023 the Ministry of Justice introduced passporting for victims of domestic abuse on universal credit,²⁶ meaning that they are not subject to means testing in order to access legal aid. The Bar Council welcomed this development but called for

²⁶ Ministry of Justice, '[Government response to the legal aid means test review](#)', May 2023

recommendation 9 of the Domestic Abuse Commissioner's Report²⁷ that the government should remove the means test for legal aid for all victims and survivors of domestic abuse going through private family law proceedings to be fully implemented. This would provide critical support to them when navigating the legal system.

In addition, non-means tested legal aid should be made available to both parties where there are allegations of domestic abuse. This means legal representation not only for the alleged victim, but also the alleged perpetrator.

Currently, in circumstances where the unrepresented alleged abuser wishes to cross-examine their alleged victim, the court is required to find and appoint a qualified legal representative (QLR) to carry out the cross-examination. However, there has been difficulty with some courts finding an available QLR in time. Quality also can be inconsistent. Further, the role is a limited one and can be no proper substitute for full advice and representation throughout the proceedings. Generally, QLRs have not been an effective sticking plaster.

A February 2024 National Audit Office report found from January to March 2023, in 40% of family dispute cases neither the applicant nor respondent had legal representation.²⁸ Litigants in person (LiPs) often slow down the court process as judges have to explain legal processes to the litigant in person and support their participation, and time is taken up by the individual raising unarguable points, which – if they were advised and represented – would not be made.

Investment in the experience for victims when they go through courts has shown positive early results. Leeds Crown Court for example created a victims' suite which enables separate access to the courtroom and provides a comfortable space for complainant victims to participate in proceedings, supported by family and ISVAs, via a television link to the court. The rollout of such facilities in other courts make a substantial difference to the experience of witnesses attending court.

The government's commitment to tackle violence against women and girls should encompass all forms of violence and harmful practices that affect women and girls including so-called 'honour-based' violence, female genital mutilation (FGM) and harmful practices through witchcraft belief and ritual attacks.

Within the family justice system, we propose a package of measures to support this commitment including:

- Implementation of 'Jade's Law' (introduced through the Victims and Prisoners Act 2024) to automatically suspend parental responsibility in cases of femicide. This will require funding to ensure all parties, including the

²⁷ Domestic Abuse Commissioner, '[The Family Court and domestic abuse: achieving cultural change](#)', July 2023

²⁸ National Audit Office, '[Government's management of legal aid](#)', February 2024

children and caregivers, are represented and have access to non-means-/non-merit-tested legal aid

- Commitment that applications under the Domestic Abuse Protection Orders and Notices (DAPOs and DAPNs) scheme will remain free for complainants and the police to give immediate and ongoing protection to victims of domestic abuse
- Funding for the rollout of the Child Focused Courts (previously known as Pathfinder Courts) across England and Wales. These courts take an investigative and problem-solving approach to private law proceedings to improve the court responses to domestic abuse and enhance the voice of the child within proceedings
- Specialist domestic abuse and child abuse support and assessment services for all members of the affected family
- Establishment of specialist courts for sexual offences and domestic abuse cases, with those cases heard by a specialist judge and a jury

Priority 4: Widening legal aid eligibility and making greater provision for early legal advice to promote access to justice and save costs to the Treasury

Recommendations:

- Whilst we welcome the government's commitment to widen the eligibility for legal representation for families in inquests in the Public Office (Accountability) Bill, in order for this to be effective, the rates paid for this work need to be increased so that they are realistic and attractive enough for practitioners to undertake the exponential increase in inquest work the Ministry of Justice anticipates. Reliance on goodwill is untenable.
- Support the early legal advice sector to restore access to justice and realise savings across departments including health, work and pensions, and the Home Office.

Inquests

The Bar Council supports the aims of the Public Office (Accountability) Bill and welcomes the commitment from the government to widen access to publicly funded legal representation for bereaved families at inquests when a public body has been named as an interested party.

However, we remain concerned the legal aid fee scheme currently proposed by the Ministry of Justice to deal with this expansion of legal aid is not fit to meet the exponential rise in inquest cases the Ministry of Justice predicts will occur once the Bill takes effect, nor will it adequately address the serious problem the Bar Council

has previously raised²⁹ with inequality of arms when it comes to bereaved families being represented at inquest hearings.

In our response to the Ministry of Justice's consultation on changes to fee scheme arrangements for legal aid related to inquests,³⁰ we raised concerns that barristers' fees will remain unchanged with the proposed scheme, with no indication from the Ministry of Justice that these will be increased with the enactment of the Bill, which in effect amounts to a real terms cut. The scheme also fails to account for the substantial pre-hearing work barristers routinely undertake, effectively leaving barristers unremunerated. The fee scheme additionally ignores the complexity often inherent in inquest work, meaning that a barrister's skills and experience are unaccounted for in these fees.

These issues are central to whether the proposed scheme will be capable of supporting the Ministry of Justice's anticipated and substantial expansion of legally aided inquest cases. The proposed fee scheme will simply not attract the necessary amount of counsel required to meet this coming surge in demand, leaving bereaved families at risk of losing access to the skilled and experienced representation they require, jeopardising the Bill's legislative intent.

Early legal advice

The economic and social value of providing early legal advice cannot be overstated. When legal problems such as debt, housing problems, employment rights issues, or issues with benefits are addressed quickly, they can avoid spiralling into more complex, costly and time-consuming issues. Individuals in receipt of advice, and those in their households, can benefit from improved employment rates, better health and wellbeing, and reduced reliance on benefits.

Not only is providing free early legal advice of significant benefit to communities, it also generates net savings and likely effectiveness and value for money to the Treasury based on our 2024 report with the Access to Justice Foundation, which details the economic value of the free legal advice sector.³¹

Providing free specialist legal advice is an area where the government should 'spend to save' and could save the government £4.5 billion for every half a million people who receive it. Researchers found that free legal advice and support at an average cost of £3,300 per case saved the government £9,100 in 2023 – meaning that for every £1 the Treasury spent on legal advice, it saved the public purse £2.71 – a nearly threefold saving on investment.³² The mechanisms for delivering early legal advice

²⁹ Bar Council, '[Running on empty](#)', January 2021

³⁰ Bar Council (June 2026) [Bar Council response to the Ministry of Justice consultation on changes to fee scheme arrangements for legal aid related to inquests](#)

³¹ Access to Justice Foundation and Bar Council '[The value of justice for all](#)', August 2024

³² Access to Justice Foundation and Bar Council '[The value of justice for all](#)', August 2024

are already in place, and providers report that the legal need in communities is certainly ready to be met.

The Ministry of Justice's own research found that an early legal advice pilot delivered a 'benefit: cost ratio' of 4:1. So, for every £1 spent on early legal advice, £4.10 of public value benefits would be realised.³³

The Bar Council agrees with the recommendations of the 2021 report of the Westminster Commission on Legal Aid,⁵³ in particular that: "the government restores legal aid for early legal advice to pre-LASPO levels for all areas of social welfare law (including debt, employment, welfare benefits, immigration and housing)."³⁴

In 2012, prior to the cuts, the spend on this early legal advice was:

- Housing: £10m
- Welfare benefits: £26m
- Debt: £17m
- Employment law: £4m
- Immigration: £10m
- Private family: £31m

The total of £98m adjusted for inflation would be £137m. This is a relatively small sum for the government to fund and, as evidenced above, would create greater savings in the long term than cost for the Treasury.

Conclusion

The justice system is in a perilous state and in urgent need of both proper funding and a long term strategy for managing the system. Without these, access to justice will continue to be dismantled. The new government's aims of rebalancing opportunities across the country, providing greater localism to kickstart the economy, modernising public services and halving violent crime and violence against women and girls in a decade are ambitious. Our priorities for restoring the justice system and putting it on a sustainable footing will help the government to meet those aims.

For more information please contact:

Piran Dhillon-Starkings, Adviser to the Chair of the Bar
pdhillon-starkings@barcouncil.org.uk

³³ Ministry of Justice, '[Early Legal Advice Pilot evaluation: Final evaluation report](#)', August 2024

³⁴ Ibid, page 25.