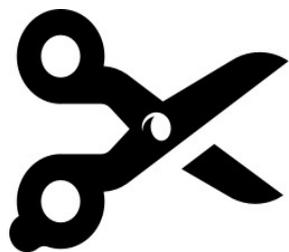


MYTHBUSTERS: LEGAL AID



MYTH 1:

“THE COST OF LEGAL AID IS SPIRALLING, THE SYSTEM IS INEFFICIENT AND CUTS ARE OUR ONLY OPTION.”

- ① The cost of legal aid is not spiralling out of control. Legal aid spend is falling. Spending on legal aid for 2012/13 decreased by 8% compared to the previous year and has reduced 20% since 2009/10. [1](#)
- ② The Government’s proposals are not solely about reducing spending. The Secretary of State has admitted the proposals are ideological. [2](#)
- ③ The proposals will not save money. Knock on costs have been estimated of £47 million. [3](#)
- ④ Research has shown that the right legal advice early on can save money. [4](#)
- ⑤ The Government’s proposed reforms do little to address inefficiencies in the system & cost drivers such as poor government decision making.
- ⑥ In 2009/10 it cost over £120 million to administer the legal aid budget.[5](#) More must be done to tackle this cost before cutting critical frontline services.



MYTH 2:

“LEGAL AID LAWYERS ARE FAT CATS”

- ① In a survey conducted by Young Legal Aid Lawyers the majority of respondents earned less than £20,000 [6](#). This is comparable to a teacher or police officer and much less than private legal practice salaries. This is in the context of student debts frequently amounting to tens of thousands of pounds.
- ② 65% of respondents to the survey had or will have around £15,000 debt from post university law school & 15% will have £35,000 debt.[6](#)
- ③ Many desperate junior barristers are now on take-home pay of less than £10,000 a year for working weeks of 60 or 70 hours. [7](#)
- ④ Legal aid rates for criminal solicitors have not been increased for 20 years; in fact they have been cut. [8](#)
- ⑤ The Ministry of Justice’s own figures reveal that 24% of criminal barristers undertaking publicly funded work (including both prosecution and defence) receive less than £20,000 p.a. [9](#). The suggestion that the proposed further cuts will affect only top earners is wrong. They will be felt most keenly by low-earning junior lawyers.



MYTH 3:

“JUDICIAL REVIEW CASES ARE RARELY SUCCESSFUL AND WASTE GOVERNMENT MONEY”

- ① On 23 April 2013 Chris Grayling said only 144 out of 11,359 applications for judicial review were successful. This was based on a misunderstanding of the judicial review process. The figure of 144 measures judicial review cases that succeeded at a full hearing. Numerous cases are settled before a full hearing with a positive outcome for the claimant.
- ② Every case must have at least a 50% chance of success in order to get legal aid funding. Merits are reassessed at each stage of the case and the Legal Aid Agency (which is part of the Government’s Ministry of Justice) can already stop funding if concerned that any case is unlikely to succeed. Legal aid money is not available to fund frivolous cases.
- ③ Judicial Review is a crucial means by which the citizen can hold the State to account for unlawful acts. Access to this fundamental right should not be curtailed unnecessarily and without a sound evidential basis.

1. <http://www.justice.gov.uk/downloads/publications/corporate-reports/lsc/legal-aid-stats-12-13.pdf>

2. <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmjust/91/130703.htm>

3. <http://detentionaction.org.uk/wordpress/wp-content/uploads/2013/06/Nick-Armstrong-Costing-the-civil-legal-aid-proposals-130624.pdf>

4. www.citizensadvice.org.uk/towards_a_business_case_for_legal_aid.pdf

5. <http://www.justice.gov.uk/downloads/publications/corporate-reports/lsc/legal-aid-stats-12-13.pdf>

6. <http://www.younglegalaidlawyers.org/sites/default/files/One%20step%20forward%20two%20steps%20back.pdf>

7. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269061/laa-barrister-spend.pdf

8. <http://www.publications.parliament.uk/pa/cm201011/cmpublic/legalaid/memo/la108.htm>

9. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269061/laa-barrister-spend.pdf



MYTH 4:

“WE SPEND MORE ON LEGAL AID THAN ANY OTHER COUNTRY IN THE WORLD”

⌚ Chris Grayling has been quoted as saying we have the most expensive legal aid system in the world and spend more than New Zealand and Canada on legal aid.⁹

He needs to get his facts straight!

- ⌚ Comparisons of legal aid spending with other countries do not compare like with like.
- ⌚ Countries have different legal systems (adversarial or inquisitorial) political, cultural and religious traditions and varying quality.
- ⌚ Other countries which spend less on criminal legal aid, spend more on other aspects of the justice system (such as courts and prosecutors) to compensate. Figures compiled by the National Audit Office on European spending on criminal courts, prosecution and legal aid as a percentage of GDP per capita found expenditure in England and Wales to be average.¹⁰
- ⌚ Similarly, a study by the European Commission for the Efficiency of Justice comparing European legal systems, ranked England and Wales 13 out of 41 countries, based on legal spend per inhabitant (€80.80), smaller than that of Spain, Norway, Austria and Belgium and dwarfed by Switzerland (€167.10) and Luxembourg (€137.70).¹¹
- ⌚ The UK has a proud international reputation for fairness and supporting access to justice for the most vulnerable in our society. The proposals to cut legal aid threaten this reputation.

9. <http://www.theguardian.com/law/2013/oct/07/legal-aid-bill-unsustainable>
 10. http://www.nao.org.uk/wp-content/uploads/2012/03/NAO_Briefing_Comparing_International_Criminal_Justice.pdf
 11. http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2012/Rapport_en.pdf



MYTH 5:

“THE CUTS WILL ONLY AFFECT CRIMINALS AND TERRORISTS”

- ⌚ Cuts to criminal law will result in miscarriages of justice. Not everyone accused of a crime is guilty. Innocent people could end up in prison.
- ⌚ Changes to Judicial Review and the introduction of a residence test will remove access to advice for many vulnerable people, including homeless migrant children and victims of trafficking.
- ⌚ The residence test will also affect access to justice for victims of trafficking, victims of domestic violence & survivors of torture. Vulnerable women and children will be left without help.
- ⌚ The residence test will prevent those suffering mistreatment at the hands of the police or other public officials in positions of power from holding the state to account.
- ⌚ Examples of people who would not have qualified for legal aid if the residence test were in place at the time include the Gurkhas, the Afghani interpreters, the family of Baha Mousa, Binyam Mohamed, the parents of Victoria Climbié, the family of Jean Charles de Menezes, and the family of Jimmy Mubenga.
- ⌚ The residence test applies to everyone. You will have to prove you are lawfully here to get legal aid even if you are British. Many people who are British citizens or have permission to stay in the UK do not have ID documents or passports. They are still here lawfully but if they can't produce the right documents to prove status and their legal residence for 12 months they will be denied free help.



MYTH 6:

“OTHER SERVICES WILL FILL THE GAP”

- ⌚ Free legal advice agencies cannot meet the additional demand that will be created if the Government's proposals are implemented. Law Centres, Citizens Advice Bureaux, and other independent community advice agencies are also facing cuts to multiple funding streams and many rely on legal aid funding.
- ⌚ Few volunteers can offer the necessary time commitment to develop the level of expertise required, or long-term presence necessary for casework.
- ⌚ Pro bono advice cannot fill such a large gap. Legal aid lawyers carry out specialist work on behalf of vulnerable clients. Volunteers or commercial lawyers giving up their time, cannot be expected to replicate this specialist service, especially when you get to the more complex stages of a case like in the courts or tribunal. You also need special accreditation or supervision to provide immigration advice or it is a criminal offence.
- ⌚ The Government will still pay for lawyers whenever it wants them but will stop ordinary people getting help even in cases against the state.

Produced by Young Legal Aid Lawyers
www.younglegalaidlawyers.org
 @YLALawyers

Thanks to Luis Prado, Scott Lewis, and Sergi Delgado from The Noun Project for the images

