

Call this 'access to justice'??

The Community Legal Service, set up under the 'Access to Justice Act' 1999, was supposed to improve legal aid for civil and family cases. But legal aid is now in a state of crisis. Only the poorest people qualify for public funding – and further cuts are planned. It's getting harder by the day to find lawyers and advisers willing to take on legal aid cases – or even give first-stage advice. Many people who need legal help with basic needs such as housing and benefits simply can't get it.

How can this be called 'access to justice'?

Attend the public meeting:

SATURDAY 9 April 2005
2.00 pm

Oliver Thompson Room, Tait Building
City University
Northampton Square
London EC1V 0HB
(10 minutes from Angel underground station:
turn left down St John Street)

SPEAKERS INCLUDE: Helena Kennedy QC
(Baroness Kennedy of the Shaws); Shami
Chakrabarti (director, Liberty); and Professor
Michael Zander QC.

To express your support or to donate to our
campaign fund:

Access to Justice Alliance
c/o PLP, 266-268 Holloway Road
London N7 6NE
accesstojustice2005@yahoo.co.uk

A legal service for the community?

The Community Legal Service (CLS), a manifesto commitment of the Labour government, made radical changes to civil legal aid. Launched in April 2000, the CLS was intended to provide a seamless network of legal information, advice and representation services throughout the country. Funding would come partly from legal aid through the Legal Services Commission and also from other sources such as local authorities. But gaps in the CLS network (often dubbed 'advice deserts') are getting bigger, with some communities having almost no advice agencies or legal aid firms. Although the commission has invested in telephone advice, this is no replacement for specialist, face-to-face legal services.

Five years on, the CLS is not
living up to its ambitious promise.

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What has happened to the legal aid budget?

The Access to Justice Act was designed to control spending on publicly funded legal services. The Legal Services Commission has to contain legal aid expenditure within a fixed budget – currently around £2.2 billion per year. This covers criminal defence work, as well as advice and representation for civil and family law cases. But rising expenditure on criminal legal aid has been eating into the budget for civil and family work. The commission is trying to balance its books by making cuts to civil legal aid, which it describes as ‘reprioritising’ and ‘targeting’ the CLS fund.

The effect of these cuts will be to prevent many people from enforcing basic rights.

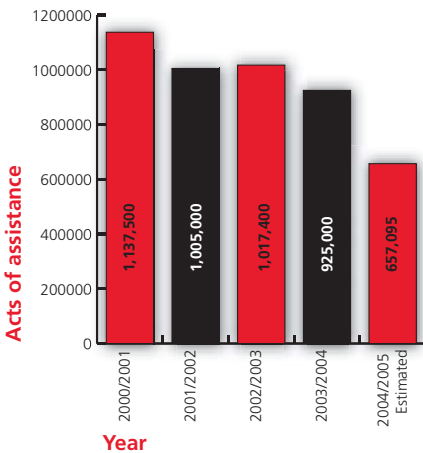
What cuts have been proposed?

The Commission’s package of cuts would fall on areas of law such as housing, welfare benefits, community care, education, immigration and employment. They would take effect by:

- **Preventing** most homeowners from qualifying for legal aid
- **Reducing** the upper income limit for legal aid to cover representation in court, so that fewer people qualify
- **Forcing** more people to use ‘no win, no fee’ agreements to fund their cases, even if they can’t afford insurance against the risk of court costs
- **Encouraging** people to use mediation and ombudsman schemes instead of the courts

These measures could well create a two-tier system of justice, with poorer people effectively excluded from the courts.

The number of ‘acts of assistance’ (or cases) funded under civil legal aid has gone down by 42% over the past 4 years



Why not control spending on criminal legal aid?

External pressures on the criminal defence budget are difficult to control. But criminal legal aid can’t be capped: it needs to be widely available so that the government can meet its legal obligations to protect the interests of suspects and defendants – in particular, to ensure a fair hearing at all stages of the criminal justice process. Nobody denies that expenditure on criminal legal aid is going up: over the past three years alone, it has increased by over 35 per cent. The reasons for this rise are not fully understood, but could well include:

- New government targets to bring more offenders to justice
- The increasing complexity of criminal cases, meaning longer trials
- New criminal offences and changes in court procedures

But the government has not got to grips with the pressures on legal aid from its own criminal justice policies

Why are solicitors abandoning legal aid work?

Legal aid is now delivered through a tightly controlled system of contracts. High street solicitors have become increasingly demoralised by the bureaucratic and inflexible contract system, by poor rates of pay – and by the latest proposals for cuts. Those who can are pulling out of this work. There are fears that central and local government does not understand the importance of specialist legal representation in the landscape of advice. Legal aid is getting a tarnished image – and newly qualified lawyers are reluctant to pursue this work as a career,

whether in solicitors' firms, law centres, citizens advice bureaux or other advice centres.

Soon, there may not be enough legal aid lawyers and advisers to maintain this essential public service.

Why does this matter to you?

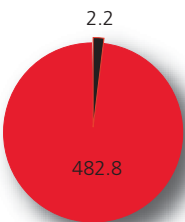
As the cases in this leaflet demonstrate, legal aid helps ordinary people facing extraordinary problems. Most of the people whose stories appear here never thought they would need to use legal aid – until their circumstances dramatically changed. The legal aid scheme should be part of the welfare state – like the National Health Service, the National Insurance scheme and the state education system. But legal aid represents a tiny fraction of public spending – only 0.45 per cent.

We need to protect legal aid – and advice services – for everyone's benefit.

What work is at risk?

An elderly widow in poor health needed help getting repairs done to her rented home. She had lived in the property since World War II and during that time the landlord had carried out no works. Her legal aid practitioner issued court proceedings and within three weeks the outstanding works were completed, and the client was awarded a compensation payment.

Although his medical condition was no better, a man lost his incapacity benefit because the rules changed on who could qualify. Legal aid helped him challenge this. The court decided that the government had not consulted properly before



Public spending in 2004/2005 is expected to reach £485 billion – legal aid takes up only 0.45% of this.

- Other public spending
- Legal aid budget

making the changes and had misled its own advisory committee, saying that the new rules would not affect people on benefit. As a result of the case, the old rules were still in place and the man got arrears of incapacity benefit.

A woman employed by a large local authority wanted flexible hours on return from her maternity leave. Although the authority had a policy allowing this, it did not comply and she had to give up her job. The legal aid practitioner filed a sex discrimination and part-time worker discrimination claim which was settled for £10,000 before the hearing.

Legal aid helped six community groups to stay open by challenging funding cuts by the local council. One group ran a women's centre which had 300 women and children using its crèches, after-school clubs, counselling services and baby milk clinic. These services would have been in jeopardy without legal aid funding to challenge their closure.

About our campaign

Our campaign is supported by community groups, national charities, lawyers, advisers and others who feel strongly that justice should remain accessible to all. We believe that the funding crisis facing legal aid cannot be ignored any longer.

The government must restate its commitment to legal aid – and provide adequate funding to protect fundamental rights and ensure equality before the law. Access to justice is not a reality unless people can find out about their rights and enforce them – through the courts if necessary. We call on the government to take the following action as a matter of urgency:

- **Scrap** plans to cut eligibility for civil legal aid and to prevent certain types of case from being funded
- **Make sure** that the whole legal aid scheme is properly resourced so that both civil and criminal work can operate within a realistic budget
- **Protect** the civil legal aid budget so that it cannot be used to cover rising expenditure on criminal legal aid
- **Ensure** that local authorities contribute properly to the appropriate funding of independent advice services in their area
- **Recognise** the effect of policies in other parts of government on legal aid spending – and make sure that the legal aid budget is compensated
- **Provide** co-ordinated funding for legal education, law reform and other non-casework services

The Access to Justice Alliance includes:

Advice UK
Advice Services Alliance
Child Poverty Action Group
Citizens Advice
Haldane Society of Socialist Lawyers
Justice
Law Centres Federation
Legal Action Group
Legal Aid Practitioners Group
Liberty
Public Law Project
Rights of Women

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