



Ministry
of Justice

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TRANSFORMING LEGAL AID – FURTHER CONSULTATION AND GOVERNMENT RESPONSE

I am writing to make you aware that I will today be publishing the response to the recent *Transforming Legal Aid: delivering a more credible and efficient system* consultation.

I believe that legal aid is a vital part of our justice system - it goes to the heart of a civilised society, and underpins access to justice. This Government's commitment to legal aid means we must ensure that it is put on a sustainable footing, for those who need it, those who provide it, and those who ultimately pay for it – the taxpayer.

This Government has embarked upon a process of restoring the public finances after an unprecedented financial crisis. The Ministry of Justice will see its budget reduce by nearly a third between 2010 and 2016. No area of our spending has been immune from scrutiny during this period. Given that our legal aid system is a major part of my Department's budget, it is necessary that we look to make savings here too.

In April, my Department published a set of proposals to deliver these savings and to ensure a sustainable criminal legal aid market. Since then we have been engaged in extensive consultation, to refine these proposals in line with our objectives. I would like to thank those who have engaged constructively in this process. In particular, we have been involved in detailed negotiations with the Law Society. As a consequence of these discussions, I have agreed with them a sensible set of proposals for a sustainable legal aid market in criminal litigation.

These proposals mean that all those accused of a crime will receive high quality legal representation; that defendants will be free to choose their lawyer, whether they want a big firm, their local high street solicitor or a particular specialist; that all those who currently provide criminal legal aid services can continue to do so for own client work, provided they meet minimum quality standards; and that access to justice is guaranteed nationwide through a new method of contracting duty solicitors, based on the capacity and capability to provide this service on an ongoing basis.

The financial limits that my Department faces mean that fee reductions are inevitable. However, I have agreed to phase these between February 2014 and May 2015, in line with a new timetable for contracting, so that firms have time to prepare and adjust. Though the Law Society has made clear they are challenging for many lawyers, these proposals represent a long term and sustainable way forward both for


the Government and for the profession. We are today inviting views on these proposals.

In relation to advocacy fees, we are publishing two options for reform. One builds on the proposals we put forward in April, but sets a floor below which fees cannot go, and recognises that there should be a different fee for guilty pleas and trials. The other is based on a scheme put forward by the Bar Council, drawing on that used by the Crown Prosecution Service. Both represent a sensible way to reduce fees, particularly for the highest earners, as well as speeding up and simplifying the administration of the legal aid system. We will be guided by the views of the profession and other stakeholders in reaching a final decision on which scheme to implement.

I think it is important to recognise that it is not simply fee arrangements which determine the success and viability of the legal professions, and I am today announcing a series of steps which demonstrate that this Government is serious about maintaining the legal profession in this country as a world leader. First, I understand the financial challenges that businesses around the UK are facing, and therefore we will introduce an enhanced system of interim payments for long running cases, to help with the cashflow of legal firms and self-employed Barristers. Second, I want to ensure that the criminal justice system is more efficient so that cases do not demand more resources than necessary, both in terms of public money and in terms of lawyers' time. For example, we need lawyers to spend less time on process hearings that can take up hours as they travel to court for a few moments in front of a judge. We are therefore putting together a panel of criminal lawyers to look at the legal process, identifying scope for improvements and drawing up proposals for reform. Finally, it is clear to me that advocacy is facing an uncertain future, given the rise of different routes into the profession, increasing supply but decreasing demand, regulatory changes, as well as financial challenges. I have therefore, in collaboration with the Law Society and the Bar Council, asked Sir William Jeffrey to conduct an independent review of the future of criminal advocacy in England and Wales, to report in six months time. I believe these three actions will help to secure the long term sustainability of the professions in the more difficult financial environment that we face.

I do not deny some of the proposals will be challenging for many, but in the context of unavoidable spending restraint, I have worked with representatives from both the Solicitors' profession and the Bar to achieve the best outcome for everyone. I believe it offers value for the taxpayer, stability for the professions, and access to justice for all.

I hope you will engage constructively in the consultation process that we have begun today.

With best wishes


CHRIS GRAYLING