

LEGAL AID – WHAT’S GONE WRONG?

1. Legal Aid was set up by the post-war Labour government as one of the three primary rights of a just society – the right to health, the right to education and the right to justice.
2. Free access to GP’s and schools is universal, but what has happened to access to legal aid? I have been looking at the LSC’s own statistics, focusing on the entry points to legal aid, legal help and controlled legal representation under civil contract.
3. At the beginning of the first full year after the Access to Justice Act was implemented, in April 2000, there were 5,535 solicitors’ firms and not-for-profit organisations with civil contracts. **(1 and 2)** At the end of the most recent year, in March 2005, there were 4,430, **(3 and 4)** and at the beginning of the current year, April 2005, there were 4263 **(5 and 6)** – a drop of nearly 23%.
4. This in itself would not necessarily be a problem, as it could be evidence that services were being provided by fewer, larger organisations. However this turns out not to be the case.
5. The number of cases started in the first full year – 2000/2001 by firms and not-for-profit organisations was 780,769 **(7 and 8)** In 2004/2005, it was 660,952 **(9 and 10)** – a drop of over 15%.
6. Nine years ago, in 95/96, there were 1,527,000 **(11)** Green Form and ABWOR "acts of assistance", as matter starts used to be called, so the reduction since then is nearly 57%
7. Interestingly, the costs of administering the system have gone in completely the opposite direction; £52.4m for the Legal Aid Board in 95/96. **(12)** £62.4m in 99/2000 **(13)** (the year the Legal Aid Board morphed into the LSC) £72.4m in 2000/2001 **(14)** (the first full year of the LSC) and £83.9m in 2003/2004 **(15)** – a total increase of just over 60%

8. If one looks at the figures since 1997, when this government came to power, matter starts have fallen by nearly 59%, from 1,604,000(16) to 660,952 (9 and 10) and the cost of administering the system increased by nearly 46%(£57.5m (17) and £83.9 (15)between April 1997 and March 2004.

9. Unless you believe, as I don't, that the reduction in matter starts reflects a reduction in need or a reduction in demand, these figures show that the plans for a brave new legal aid system, despite the good intentions of the Legal Services Commission (and I do believe in their good intentions) have failed miserably.

Why is this?

10. Like Deep Throat says," Follow the money"

11. In 1997 spending on the NHS was nearly 46 billion, and in 2004 it was over 85 billion, an increase of 58% in real terms.(21)

12. Between 95/96 and 2003/04, central government spending on education went up by 76% in real terms.(22)

13. Changes in the total value of contracted work are harder to calculate, because they weren't separated out from certificated work in the earlier annual reports. However if one takes civil legal aid as a whole, including certificated work, the payments to practitioners and experts has gone up, in cash terms from £774m in 1995/1996 (18) to £792.9m in 97/98(19) and to £897.9m in 2003/2004 (20) - a decrease in real terms of 7.3% overall, and 1.2% since 1997.

14. The gross income cap for legal aid this year is £ 27,456. An inner-London school teacher earns more than this in their fourth year of teaching (and if they are teaching special needs children they will earn more than this after 3 years); a newly qualified staff nurse working unsocial hours in an inner London NHS hospital earns more than this, and a

Metropolitan police officer earns more than this after 18 weeks basic training. These are all people who were entitled to free education and expect it for their children, together with good quality free or subsidised healthcare.

15. The only way that they would be eligible for free or subsidised access to justice would be if they had more than 4 children.
16. Of course many people earn much less than £27,456, but the gross income cap is based on the total income of a family, unless the need for legal aid relates to a dispute between family members. A family with 2 children where one parent earns £16,000.00 and the other earns £10,500.00 will be (taking into account their child benefit) ineligible for legal aid.
17. Clearly, Legal Aid has become a distress service, and has thereby become unpopular with the tax-paying public, who have to shell out for something from which they do not expect to benefit, but which will benefit people who appear to them to be undeserving of the support .
18. I think this hasn't happened by chance
19. There is clearly plenty of money for deserving causes, so what is it about legal aid that makes it so undeserving? Many people would see it as self-evident that lawyers are not a deserving cause, but it can't be that.....after all the government has no apparent wish to apply the same controls to other publicly funded lawyers, such as those who act for them (the Bloody Sunday enquiry is estimated to have cost £155 million, which is more than 40% of the civil contract spend of £383.8m **(23)** in 2003/04), or for hospital trusts or PCT's (I applied for details of a the charging rates of a well known firm acting for a hospital trust under the Freedom of Information Act earlier this year, and discovered that its partners' rate 10 years ago was about 4 times what mine is now....).

20. The fact is, the people who control the money don't like what we do, and they are unperturbed, whether they acknowledge it or not, that legal aid is collapsing. That being the case, there's not much point trying to point out the crisis to them, because they already know what they are doing. For instance, by lumping the civil and criminal budgets together, they can point to an increasing budget, whilst failing to mention that the Government is almost entirely responsible for the increase, through its creation of new crimes and its failure to get to grips with the inefficiencies of the criminal justice system.
21. Much more to the point would be to try and persuade the Daily Mail that civil legal aid, (which currently costs £17 per head per year, as compared to £1,618 per head for the NHS) should be revitalised as a way of giving ordinary people, including hard working families, access to justice.
22. This does not necessarily mean more money for lawyers, although that is going to happen at some point, as otherwise there will not be enough lawyers to do the work. Much more effort could be made to reduce the need for lawyers, by improving the state's decision-making which is so often a trigger for legal action.
23. Much more also needs to be done to show how timely legal action reduces other pressures from the public purse, so that those who do not care about access to justice will be convinced by the economic arguments.

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