

Legal aid cuts have caused chaos and must be reversed

Andrew Sparrow , *the Guardian* Sun 12 Aug 2018

Barristers and solicitors protesting about cuts don't attract the same level of public support as doctors and nurses. What goes on in the courts is not widely understood, and most people do not expect to need a publicly funded lawyer in the way that they rely on hospitals. Nevertheless, access to justice is a fundamental democratic right, and the chaos and failure unfolding across the legal system as the result of cuts should concern everyone who cares about justice.

Spending on legal aid has shrunk by more than £1bn in five years. By 2019-20 the Ministry of Justice will have seen cuts to its overall budget of 40% – among the deepest of any government department.

Research carried out published in May shows that the disruptive effect of legal aid cuts in England and Wales has spread from the civil courts to the criminal courts, where increasing numbers of defendants are appearing without legal advice or representation, as a consequence of changes including new means tests. More than half of judges questioned for the study voiced concerns about defendants not understanding that a guilty plea could lead to a reduced sentence. As in the family courts, there are concerns about the impact on witnesses of being questioned by people who may have harmed them, while litigants in person are reported to have difficulties presenting legal arguments or complex financial information.

The government knows there is a problem, not least because the £950m reduction in the legal aid bill in 2016, compared with 2010, was more than twice as much as it expected. Ministers have already delayed far too long in the face of clear evidence that cuts in the family courts have been harmful. Official figures show that the proportion of litigants with legal representation fell from 60% in 2012 to 33% in the first quarter of last year, and it is not uncommon for one party in a civil case to be represented by a lawyer while the other is not.

Meanwhile, the Law Society began a judicial review of cuts to the fees paid to solicitors for legal aid work, while a strike by barristers, which saw more than 100 chambers refuse to take on new cases, was called off in June only after the government came up with additional funds.

Some sensible changes have already been suggested in a review commissioned by the Labour party last year. These include a loosening of the criteria for legal aid eligibility to include all cases involving children, and representation for families in inquests where the state is already funding one party such as the police – which represents an essential rebalancing of justice's scales. The report also made the not unreasonable suggestion that law should be taught in schools.

Avoiding costly litigation by encouraging people to treat court as a last resort sounds reasonable, and some of the consequences of the cuts were no doubt unintended. But the current justice secretary, David Gauke, must act to restore confidence in a battered system.

Legal aid began in the UK in the 1940s with the rest of the welfare state. . While the rules in the UK may lack the constitutional underpinning of the USA, people are still entitled to access to justice – including lawyers paid for with legal aid.