



## DEBATE PACK

Number CDP-2018-0120, 15 May 2018

# Housing and legal aid

## Westminster Hall, Wednesday 16 May 2018, 2.30pm

A Westminster Hall debate on Housing and access to legal aid is scheduled for Wednesday 16 May 2018 at 2.30pm. The Member leading the debate is Ruth Cadbury MP.

The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

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# 1. Background

## 1.1 LASPO: the basics

The current civil legal aid scheme is set out in the [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#), or LASPO.

Under the previous scheme, set out in the [Access to Justice Act 1999](#), the general approach was that any civil legal matter would be eligible for legal aid provided that it was not one of the “excluded” matters listed in Schedule 2 to the 1999 Act. Individual applications for legal aid funding were assessed by reference to a “Funding Code”, which set out general principles on eligibility for legal aid.

LASPO effectively reversed the 1999 Act’s general approach to legal aid: civil legal matters are excluded from the scope of legal aid unless they are one of the matters listed in [Schedule 1 to the 2012 Act](#). Many areas of civil law were therefore removed from the scope of legal aid.

In very broad terms, the coalition Government argued repeatedly that it had to make savings from the legal aid budget in England and Wales. It also wished to discourage cases from coming to court when they might better be resolved by other means, such as mediation. Critics of the changes, on the other hand, argued that people seeking help with legal problems might be left with nowhere to turn.

### The eligibility tests

Generally speaking, in order to be eligible for civil legal aid under LASPO, an applicant must pass three basic tests:

- 1 The first test is that the case must be within the scope of the legal aid scheme. This means it must be of a type listed in [Schedule 1 to LASPO](#). The Bar Council’s guidance [Civil legal aid: Practical guidance for the Bar](#) (November 2015) provides a useful technical summary of the matters covered: see pages 41 to 47 on housing.
- 2 The second test is a financial means test. This is a complicated procedure and the calculations are usually conducted by a legal aid solicitor on the applicant’s behalf. See Gov.uk, [Civil legal aid: means testing](#) (accessed 11 May 2018) for further details.
- 3 The third test is a merits test. This involves looking at (among other things) the applicant’s prospects of success in bringing the case, and a cost benefit analysis of providing legal aid funding. Detailed guidance on the merits test is set out in section 4 of the

[Lord Chancellor's Guidance under Section 4 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.](#)

The housing charity Shelter has published a guide on how these three tests apply to housing cases: see [Civil legal aid: scope and eligibility](#) [accessed 11 May 2018]. This includes the following summary of the housing matters that are listed in Schedule 1 to LASPO and so are within scope:

- homelessness
- allocations (if homeless/threatened with homelessness)
- community care
- county court duty schemes
- accommodation provision to asylum seekers
- repossession of a rented home (ie not owner-occupied properties)
- lawful and unlawful eviction from the home (but squatters are excluded)
- injunctions relating to harassment in the home
- antisocial behaviour cases in the county court
- disrepair, but only in relation to the removal or reduction of a serious risk of harm to the health or safety of the occupiers (claim for damages are out of scope, save as a counterclaim in possession proceedings)
- judicial review

Housing issues relating to business tenancies or otherwise arising out of the carrying on of an individual's business are usually excluded. However, cases where possession of an individual's home is in issue are not excluded, even if it also concerns business premises. For example, defence of possession proceedings relating to a shop can be funded where the tenancy includes the individual's home.

### The exceptional case procedure

Legal aid for civil legal matters not listed in Schedule 1 will only be available if the legal aid applicant successfully applies to the Legal Aid Agency for an "exceptional case determination" under [section 10 of LASPO](#).

Under section 10, a successful exceptional case determination will involve demonstrating that:

...it is necessary to make the services available to the individual under this Part because failure to do so would be a breach of—

- (i) the individual's Convention rights (within the meaning of the Human Rights Act 1998), or
- (ii) any rights of the individual to the provision of legal services that are enforceable EU rights, or

(b) that it is appropriate to do so, in the particular circumstances of the case, having regard to any risk that failure to do so would be such a breach.

The Lord Chancellor has issued two sets of guidance for the Legal Aid Agency to follow when making a determination, one relating to inquest cases and one to non-inquest cases:

- [Lord Chancellor's Exceptional Funding Guidance \(Non-Inquests\)](#)
- [Lord Chancellor's Exceptional Funding Guidance \(Inquests\)](#)

The Non-Inquests Guidance includes the following comments on housing matters:

56. Claims between parties about housing issues, in contract or tort, are generally likely to involve the determination of civil rights and obligations.

57. Where a case involves the determination of civil rights and obligations, caseworkers should consider whether the withholding of legal aid would mean the applicant will be unable to present his or case effectively or lead to an obvious unfairness in proceedings, having regard to the general factors described above.

58. In applications relating to out of scope housing disrepair claims the following matters may be particularly relevant:

- Where the applicant is seeking to claim damages, what is the level of damages sought? Do they include damages to compensate for items of particular importance to the applicant, such as damage to important medical equipment?
- To what extent is expert evidence necessary to resolve disputes concerning the allegations of disrepair, the medical effects of disrepair or the nature of remedial work required?

The [2018 Standard Civil Contract Category Definitions](#) makes clear that where exceptional case funding is granted in respect of a housing case, this includes the following matters (as well as those that are within scope by virtue of being listed in Schedule 1):

...all other Legal Help and related proceedings in relation to matters which concern the possession, status, terms of occupation, repair, improvement, eviction from, quiet enjoyment of, or payment of rent or other charges for premises (including vehicles and sites they occupy) which are occupied as a residence, including the rights of leaseholders under the terms of their lease or under any statutory provision (including enfranchisement). Cases including allocation, transfers and the provision of sites for occupation are also included.

## 1.2 Statistics

### Legal Help and Controlled Representation Matters Started

The below table shows the number of legal help matters started for housing cases and by type of provision.

| <b>LEGAL HELP MATTERS STARTED FOR HOUSING CASES BY TYPE OF PROVISION</b> |                |             |                                     |                |                                    |
|--|----------------|-------------|-------------------------------------|----------------|------------------------------------|
| 2010/11 to 2016/17   |                |             |                                     |                |                                    |
|  | Not for profit | Solicitor   | Specialist telephone advice service | Total          | % change on previous year of total |
| 2010/11  | 45,213         | 42,369      | 24,578                              | <b>112,160</b> |                                    |
| 2011/12  | 44,601         | 36,595      | 20,709                              | <b>101,905</b> | <b>-9%</b>                         |
| 2012/13  | 36,503         | 29,101      | 19,588                              | <b>85,192</b>  | <b>-16%</b>                        |
| 2013/14  | 18,571         | 16,896      | 11,694                              | <b>47,161</b>  | <b>-45%</b>                        |
| 2014/15  | 16,674         | 15,226      | 10,980                              | <b>42,880</b>  | <b>-9%</b>                         |
| 2015/16  | 15,260         | 13,113      | 10,930                              | <b>39,303</b>  | <b>-8%</b>                         |
| 2016/17  | 14,144         | 11,462      | 9,868                               | <b>35,474</b>  | <b>-10%</b>                        |
| <b>% Change since</b>  |                |             |                                     |                |                                    |
| 2010/11  | <b>-69%</b>    | <b>-73%</b> | <b>-60%</b>                         | <b>-68%</b>    |                                    |
| <b>% Change since</b>  |                |             |                                     |                |                                    |
| 2012/13  | <b>-61%</b>    | <b>-61%</b> | <b>-50%</b>                         | <b>-58%</b>    |                                    |

Note: Figures have been revised from previous published figures

Source: MoJ, Legal Aid Statistics: October to December 2017, [Table 5.1](#) and Legal aid statistics [England and Wales more detailed data](#)

Since 2010/11, the number of Legal Help matters started for housing cases has declined by 68% and since 2012/13 (the year before the introduction of LASPO) by 58%.

### Exceptional Case Funding

Figures for Applications and Grants for Exceptional Case Funding for Housing are combined with cases related to land law in the Legal Aid Statistics. Since the introduction of Exceptional case funding in 2013/14 there have been 211 applications for assistance related to Housing/Land Law matters of which 13 (6%) were granted.

| HOUSING/LAND LAW EXCEPTIONAL CASE FUNDING |              |           |                    |
|---|--------------|-----------|--------------------|
| 2013/14 to 2016/17                        |              |           |                    |
|   | Applications | Grants    | Percentage granted |
| 2013/14                                   | 80           | 1         | 1%                 |
| 2014/15                                   | 29           | 3         | 10%                |
| 2015/16                                   | 54           | 2         | 4%                 |
| 2016/17                                   | 48           | 7         | 15%                |
| <b>Total</b>                              | <b>211</b>   | <b>13</b> | <b>6%</b>          |

Source: MoJ, Legal Aid Statistics: October to December 2017, [Table 8.2](#)

### Numbers of Housing Legal Aid Providers

The Law Society in July 2016 found that a third of legal aid areas have just one solicitor provider specialising in housing providing advice available through Legal Aid. Areas such as Surrey, Shropshire and Suffolk had no legal aid provider specialising in housing.<sup>1</sup>

The Law Society additionally produced an interactive [map](#) with the number of legal aid providers with housing contracts. Clicking on each legal aid area will provide figures for providers with housing contracts.

The Bach Commission in its [report](#) in September 2017 on the right to justice found that the number of Legal Help & Controlled legal Aid providers specialising in housing had declined by **219 providers** since 2012 from **646 in 2012/13** to **427 in 2016/17**.<sup>2</sup>

### 1.3 The Bach Commission

In September 2015, Jeremy Corbyn and the then Shadow Lord Chancellor Lord Falconer asked Labour peer Lord Willy Bach to undertake a review of the legal aid system.<sup>3</sup>

The Commission published an interim report in November 2016, in which it identified six key concerns with the current system for accessing justice:

- 1 Fewer people can access financial support for a legal case
- 2 Exceptional case funding has failed to delivery for those in need
- 3 Public legal education and legal advice are inadequate and disjointed

<sup>1</sup> The Law Society Gazette, [Shocking infographic highlight housing 'advice deserts'](#), 28 July 2016

<sup>2</sup> [Bach Commission on Access to Justice: Appendix 5](#), 2017, p.9

<sup>3</sup> Labour press release, [Lord Bach to lead review into Legal Aid](#), 22 September 2015

- 4 High court and tribunal fees are preventing people pursuing legal claims
- 5 Bureaucracy in the Legal Aid Agency is costly and time-consuming
- 6 Out of date technologies keep the justice system wedded to the past<sup>4</sup>

The Commission acknowledged that it was unrealistic to address these issues by repealing LASPO altogether, given what it described as “the current political and economic climate”.<sup>5</sup>

Instead, the Commission indicated that it hoped “to devise plans to simplify the legal system, use new technologies, focus on the journey of the user through the system and build public support – as well as looking at reversing some of the deepest and least cost-effective LASPO cuts.”<sup>6</sup>

The Commission published its final report on 22 September 2017.<sup>7</sup> It recommended a new Right to Justice Act to codify existing rights to justice and to establish “a new right for individuals to receive reasonable legal assistance without costs they cannot afford”.

It also recommended that the Government should take the following “first steps required to make the right to justice a reality”:

- **Reform legal aid eligibility** rules, including “a simpler and more generous assessment scheme for civil legal aid”.
- Review and extend the scope of civil legal aid, in particular by reintroducing legal aid for **early legal help** in order to encourage early dispute resolution.
- Reform the **operation of the legal aid system**, including replacing the Legal Aid Agency.
- Improve **public legal capability** and introduce a national public legal education and advice strategy.<sup>8</sup>

The Commission considered legal aid for housing law as part of its recommendations to reintroduce early legal help for certain types of civil law:

**Housing law:** The term ‘the housing crisis’ usually denotes the decline in home ownership, the un-affordability of private rented homes, and the lack of social housing. But the huge fall in the number of people who are able to resolve housing law problems constitutes a crisis of its own.

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<sup>4</sup> The Bach Commission on Access to Justice, [Interim Report: The crisis in the justice system in England & Wales](#), November 2016, p5

<sup>5</sup> Ibid, p16

<sup>6</sup> Ibid, p6

<sup>7</sup> The Bach Commission on Access to Justice, [The right to justice: the final report of the Bach Commission](#), September 2017

<sup>8</sup> Ibid, p6

As Shelter, among other organisations, told the commission, legal aid used to offer an effective means of preventing and resolving housing issues. It helped people to enforce their rights to housing, housing benefit and a decent service from landlords, providing support at times of difficulty so that they did not lead to personal disaster for them and their families.

The consequences of LASPO have been stark. As the Housing Law Practitioners' Association wrote in its statement to the commission, it has led to a:

"substantial reduction in the number of housing [law] providers and the number of legal aid housing cases being undertaken. Figures produced by the LAA have shown a reduction in housing cases of over 50 per cent since LASPO came into force, in a period in which rough sleeping, statutory homelessness and evictions from rented accommodation are all on the rise."

LASPO removed most cases of housing disrepair from the scope of legal aid, greatly weakening tenants' rights. Previously housing lawyers could provide initial help in disrepair cases and send a letter of claim to a landlord, which usually resulted in the landlord carrying out the necessary repairs, thus resolving the issue with very little public expenditure (the fee payable for an entire case was just £157 plus VAT).

Today, legal aid is only available for a claim brought by a tenant against their landlord for breach of repairing covenant where there is "serious risk of harm to the health and safety of the individual or a relevant members of the individual's family." In practice, this means the disrepair must be ongoing. Where claims are for disrepairs which have been resolved, or where the tenant has now moved, or where the disrepair is not deemed "serious", legal aid is no longer available.

Legal help with respect to housing benefit has also been taken out of scope. This is despite extensive evidence from Citizens Advice and others that preventative advice, as well as performing an invaluable service to clients, helps avoid the escalation of disputes and thus unnecessary costs to both landlord and the courts.

The costs are not only felt in the justice system; the effects of avoidable evictions of families, homelessness and so on are felt by individuals, local councils and the NHS. By contrast, the Law Society has calculated that advice in relation to all housing benefit issues could be brought back into scope for an annual cost of between just £1.7m and £2m each year.<sup>9</sup>

## 1.4 The Law Society

### Advice deserts

The Law Society has raised concerns about so-called "advice deserts" — that is, areas where people cannot access certain legal aid services — in

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<sup>9</sup> Ibid, pp30-31

the area of housing law. It has commented that “Almost one third of legal aid areas have just one and – in some cases – zero law firms who provide housing advice which is available through legal aid”.<sup>10</sup> In a Parliamentary Brief it identified a number of potential issues with only have a single provider in a geographical area:

Whole geographical areas with just one housing legal aid provider result in a number of problems:

- Families on low incomes cannot afford to travel to see the one provider that may be located many miles away from where they live. This means they are unable to seek essential legal advice, even in the most extreme cases, such as homelessness.
- One firm in a large area may not have capacity to provide advice to those who need it. People requiring legal aid advice for housing issues often need advice urgently and cannot go onto a waiting list.
- Conflicts of interest can arise because one law firm cannot represent both a tenant and their landlord. A conflict can also arise if the firm has been acting for the landlord on another matter, such as a family matter. This would mean the firm would not be able to act for the tenant.<sup>11</sup>

The Law Society is therefore calling on the Government to “ensure that the LAA commissions a second provider in areas that currently only have one”.<sup>12</sup>

In 2016, however, the then Justice Minister Sir Oliver Heald argued that the number of providers did not necessarily directly equate to the availability of advice:

The point about housing advice is that in some areas of the country there are many more housing cases in which people might lose their homes than there are in others, so the provision is not exactly the same in each place, but it is national. The fact that there is one provider with a number of offices in one place does not mean that there is no advice. There is advice from that provider, and often the provider is very expert. If we said that that area had to have two firms, we would reduce the amount of work available to the provider that has the expertise, so it is not [a simple question].<sup>13</sup>

In response to a PQ in November 2017, the then Justice Minister Dominic Raab said:

The Legal Aid Agency (LAA) reviews the availability of advice in housing matters on a regular basis so as to identify any areas where action is required to maintain service provision. Recent

<sup>10</sup> Law Society website, [End legal aid deserts](#) (accessed 11 May 2018)

<sup>11</sup> Law Society, [Parliamentary Brief: Legal aid deserts in England and Wales](#), November 2016

<sup>12</sup> Ibid

<sup>13</sup> [HC Deb 30 November 2016 c584WH](#)

analysis has shown a slight downward trend in the number of providers offering these services, but the LAA aims to have at least one Housing provider in each Procurement Area, taking into account the issues of both demand and sustainability. Where any gaps are identified, action - such as undertaking ad hoc 'expression of interest' processes - is taken in order to address these. A new tender process for all civil legal aid contracts is due to launch shortly, with services under these contracts beginning in autumn 2018.<sup>14</sup>

### Early legal advice

The Law Society is also [campaigning](#) for legal aid to be reintroduced for early legal advice in certain matters, including housing.

In November 2017 it published the results of research conducted for the Law Society by Ipsos MORI, which the Law Society said demonstrated "a clear statistical link between getting early legal advice and resolving problems sooner":

The research shows that, on average, 1 in 4 people who receive early professional legal advice had resolved their problem within 3-4 months. For those who did not receive early legal advice, it was not until 9 months after the issue had first occurred that 1 in 4 had resolved their issue.

This analysis has found that, between an issue arising and the problem being resolved, people who did not receive early advice were 20% less likely than average to have had their issue resolved.<sup>15</sup>

The full research report - Analysis of the potential effects of early legal advice/intervention – can be accessed via the Law Society's [Early Advice campaign page](#) on its website.

The Law Society has made the following comments on reintroducing legal aid for early legal advice for housing matters:

Although housing remains an area of law for which legal aid is still available, there are some housing law issues that were taken out of scope, and are no longer covered by legal aid. These are areas which have the potential to affect other public services, as well as add to the increasing numbers of LiPs [litigants in person].

Legal aid is still available to defend possession proceedings but only at the point where loss of the home is imminent and the landlord is seeking an order for possession. Legal aid is not available to deal with issues such as rent and mortgage arrears that may ultimately result in possession proceedings.

Some disputes could be resolved more quickly and cheaply if legal aid were available for early advice rather than having to wait for possession proceedings to be issued.

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<sup>14</sup> [PO 10128 \[on Legal aid scheme: housing\]](#), 27 November 2017

<sup>15</sup> Law Society press release, [Restoring state-funding for early legal advice could save cash](#), 27 November 2017

Problems with housing benefit claims are a common reason for increasing rent arrears but legal aid for housing benefit advice is no longer available. We believe that cuts to housing benefits advice are short-sighted and counterproductive. Early advice on housing benefits problems can resolve rent arrears problems, removing the need for, and costs of possession proceedings, evictions and re-housing homeless families and vulnerable individuals.

The Law Society has calculated that advice could be restored for around £2 million a year. This calculation is based on the costs of pre-LASPO advice for housing benefits.

Legal aid for advice on mortgage arrears has been limited to cases where the lender is seeking repossession. We believe that restoration of early advice on mortgage arrears could also prevent escalation of arrears and further costs of possession proceedings, thus reducing some of the additional costs arising from the legal aid cuts.

As with family law, early advice is also no longer available for housing matters. Reintroducing this would almost certainly mean a lower volume of cases going to court if problems can be resolved without recourse to litigation. In addition, there are a number of wider system benefits and savings, including health benefits as people would, for example, be able to compel landlords to carry out repairs before they become a health risk. Fewer people would be made homeless, and fewer people would leave rent arrears and mortgage debts unaddressed. We would be happy to work with the government to produce a robust estimate of the cost of reintroducing legal aid in these areas.<sup>16</sup>

## 1.5 The Government's review

Prior to the 2017 general election the Government had committed to reviewing the operation of the legal aid provisions of LASPO within three to five years of their implementation.

On 30 October 2017, the then Lord Chancellor David Lidington laid the Government's post-legislative memorandum for LASPO before the House: see [Legal Aid, Sentencing and Punishment of Offenders Act 2012: Post-Legislative Memorandum](#), Cm 9486, October 2017.

He also announced that he had asked Ministry of Justice official to commence the promised post-implementation review of LASPO. He set out details of the intended scope of the review:

Our legal aid system is a fundamental pillar of access to justice, accounting for more than a fifth of the Ministry of Justice's budget. The reforms within the Act were founded on delivering better value for money for taxpayers by reducing the cost of the scheme and discouraging unnecessary and adversarial litigation, while ensuring that legal aid continues to be available for the

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<sup>16</sup> Law Society, [Access denied? LASPO four years on: a Law Society review](#), June 2017, pp27-28

highest priority cases, for example where life or liberty is at stake, where someone faces the loss of their home, in domestic violence cases, or where their children may be taken into care.

The Government has previously committed to review a number of areas, including:

- the changes made to the scope of legal aid for family, civil and criminal cases, and the introduction of the Exceptional Case Funding scheme;
- the changes made to fees for various types of legal aid work;
- the procedural changes the Act made, including the introduction of the mandatory telephone gateway and the introduction of evidence requirements for victims of domestic violence and child abuse;
- changes to the rules on financial eligibility, including the application of the capital eligibility test to all legal aid applicants, increasing income contributions for those eligible to contribute, and capping the subject matter of dispute disregard;
- changes to the application of the merits test;
- the abolition of the Legal Services Commission and its replacement with the Legal Aid Agency.<sup>17</sup>

In March 2018 Justice minister Lucy Frazer confirmed that the issues covered by the review “will include changes made to provision of legal aid for housing issues”.<sup>18</sup>

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<sup>17</sup> [HC Deb 30 October 2017 cc14-15WS](#)

<sup>18</sup> [PQ 130718 \[on Legal aid scheme: housing\]](#), 12 March 2018

## 2. News and blogs

Property Wire

[More funding is needed for affordable homes and tenant rights in the UK](#)

20 April 2018

Law Society Gazette

[LASPO review: government to revisit 'ambitious' summer deadline](#)

7 March 2018

Law Society

[Our campaign for the reintroduction of legal aid for early advice](#)

13 December 2017

Civil Service World

[Ministry of Justice to lead review on impact of 40% cut to legal aid since 2010](#)

1 November 2017

Law Society

[Lack of housing legal aid services is leading to nationwide advice deserts](#)

27 July 2016

Bureau of Investigative Journalism

[Legal aid housing deserts appearing as providers pull out](#)

26 November 2014

Law Society Gazette

[Restore legal aid for housing cases – commission](#)

9 January 2014

Inside Housing

[Legal aid cuts risk homelessness](#)

8 February 2011

## 2.1 Press

Guardian

[Renters must be able to hold private landlords to account](#)

24 April 2018

Guardian

[Labour promises to restore legal aid for housing advice](#)

20 April 2018

Independent

[Poorest in society 'excluded' from getting legal aid, finds report](#)

20 March 2018

Independent

[Legal aid cuts trigger 99.5% collapse in numbers receiving state help in benefits cases](#)

31 October 2017

Guardian

[Senior judge warns over 'shaming' impact of legal aid cuts](#)

13 October 2017

Guardian

[Legal aid cuts 'may have stopped Grenfell tenants pursuing safety concerns'](#)

28 June 2017

Guardian

[I am a legal aid lawyer for people facing eviction - they are the real Daniel Blakes](#)

18 March 2017

## 3. Parliamentary Business

### 3.1 Ministerial Statements

#### [Justice update](#)

**David Lidington (The Lord Chancellor and Secretary of State for Justice):**

I have today laid before Parliament, and shared with the Chair of the Justice Select Committee, the Government's post-legislative memorandum for the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) 2012, introduced by the Coalition Government. This fulfils the commitment made by former Justice Minister Sir Oliver Heald before this House earlier this year.

My predecessors also committed to publish a post-implementation review of the legal aid changes made by the Act during its passage through Parliament. I have asked my officials to commence this review.

Our legal aid system is a fundamental pillar of access to justice, accounting for more than a fifth of the Ministry of Justice's budget. The reforms within the Act were founded on delivering better value for money for taxpayers by reducing the cost of the scheme and discouraging unnecessary and adversarial litigation, while ensuring that legal aid continues to be available for the highest priority cases, for example where life or liberty is at stake, where someone faces the loss of their home, in domestic violence cases, or where their children may be taken into care.

The Government has previously committed to review a number of areas, including:

- the changes made to the scope of legal aid for family, civil and criminal cases, and the introduction of the Exceptional Case Funding scheme;
- the changes made to fees for various types of legal aid work;
- the procedural changes the Act made, including the introduction of the mandatory telephone gateway and the introduction of evidence requirements for victims of domestic violence and child abuse;
- changes to the rules on financial eligibility, including the application of the capital eligibility test to all legal aid applicants, increasing income contributions for those eligible to contribute, and capping the subject matter of dispute disregard;
- changes to the application of the merits test;
- the abolition of the Legal Services Commission and its replacement with the Legal Aid Agency.

This review of Part 1 of the Act will be led by officials in my department. I am keen that we listen to views on these changes from all interested

parties, and I will shortly be inviting individuals and organisations to join consultative panels and contribute to this review work.

The review will conclude before the start of the summer recess 2018.

My predecessors also committed to a post-implementation review of the civil litigation funding and costs reforms in Part 2 of the Act. We are considering how to carry out that review, but we hope to conclude it to the same timetable.

**30 October 2017 | Written statement | HCWS 204**

## 3.2 Debates

[Bach Commission: The Right to Justice](#)

HC Deb 14 December 2017 c1725-62WH

[Legal Aid](#)

HC Deb 29 November 2017 c148-74WH

## 3.3 Parliamentary Questions

[Legal Aid](#)

Oral questions

HL Deb 19 April 2018 c1249-51

Including:

**Asked by: Lord Beecham**

My Lords, there are two forms of advice desert in relation to the current legal aid system. One is geographic, where legal advice is simply unavailable because there are no longer legal aid practitioners to provide it, and the other is in relation to particularly sensitive and important areas, such as housing or family law, where the number of cases receiving legal help since LASPO has dropped from 200,000 to 40,000 in the last financial year. Will the long-awaited LASPO review address these problems? Do the Government have an open mind in relation to the possible restoration of legal aid and advice currently denied to people of limited means, with the added benefit of reducing the pressure on the courts system from the growing number of unrepresented parties to proceedings?

**Answered by: Lord Keen of Elie | Advocate-General for Scotland**

My Lords, with particular reference to housing, at present 133 of the 134 housing and debt procurement areas for legal aid have provision, and in addition there is provision for telephone advice in the context of housing issues that are covered by LASPO. Our review will embrace all the issues that are being raised by interested groups and will take account of the observations made by the noble Lord, Lord Low, and the noble Lord, Lord Bach, in their respective reports.

### [Legal Aid](#)

**Asked by: Kerry McCarthy**

Citizens Advice has estimated that for every £1 of legal aid spending on housing advice the state would save over £2, and that if the advice was on debt and housing, it would save even more. Will the Minister commit to commissioning research into the cost-effectiveness of reintroducing early legal advice in the housing sector, so that we can save money in the long run?

**Answered by: Lucy Frazer | Ministry of Justice**

Advice can already be taken through a telephone hotline in relation to housing. Legal aid is available where homelessness is a risk, and debt leads to homelessness. A whole variety of early legal advice is available through legal aid at the moment, but as the hon. Lady will know, we are conducting a review of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, and this issue will be considered.

HC Deb 6 March 2018 c161-2

### [Legal Aid Scheme: Housing](#)

**Asked by: David Lammy**

To ask the Secretary of State for Justice, what estimate he has made of the cost to the public purse of reinstating legal aid for early advice in respect of housing law.

**Answered by: Lucy Frazer | Ministry of Justice**

Legal aid for housing advice in England and Wales is currently available for fundamental issues of homelessness, or where there are disrepairs to the home that seriously threaten the life or health of the individual or their family, subject to means and merits tests.

The Lord Chancellor has confirmed that we shall conduct an evidence-based review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), assessing the changes against their objectives. This review will include changes made to provision of legal aid for housing issues.

2 March 2018 | Written question | 130718

[Topical Questions](#)

**Asked by: Paul Blomfield**

In my recent community consultation, real concern was expressed about the lack of access to legal aid, particularly for employment, housing and welfare cases. In an earlier exchange, the Under-Secretary of State, the hon. and learned Member for South East Cambridgeshire (Lucy Frazer) failed to acknowledge that, since the 2012 changes, there has been a 75% fall in the number of civil legal aid cases. With the Department facing cuts of £800 million, how confident is the Minister that the review she mentioned earlier will provide the access to justice that is currently being denied to hundreds of thousands of the most vulnerable?

**Answered by: Lucy Frazer | Ministry of Justice**

It is very important that those who are most vulnerable get access to legal aid, and legal aid is available for those who are in need at the most critical moments in their life. The hon. Gentleman mentioned housing, and legal aid is available where there is homelessness or where disrepairs to the home seriously threaten an individual's life or health. We are reviewing legal aid, and we will update the House accordingly.

**HC Deb 23 January 2018 c128**

[Legal Aid: Access](#)

Oral questions

HC Deb 5 September 2017 c2-3

Including:

**Asked by: Stuart C McDonald**

Barely a third of immigration detainees even know that they are entitled to 30 minutes of free legal advice in England and Wales, and only half have ever been able to access it. Given the horror show in Brook House that we saw on last night's "Panorama", will the Government act urgently to ensure that all detainees get access to the free legal aid that they urgently require?

**Answered by: David Lidington | Ministry of Justice**

As the hon. Gentleman knows, the centre that was the subject of last night's programme is accountable to the Home Office. My right hon. Friend the Home Secretary is concerned about the allegations and appropriate action is being taken.

On the hon. Gentleman's broader point, legal aid is still available for asylum cases. I would certainly hope that appropriate measures are taken in every relevant establishment to bring those rights to the attention of anyone who is detained and might qualify for legal aid.

## 4. Further reading

Ministry of Justice, [Post-implementation review of LASPO](#), 8 March 2018

Ministry of Justice, [Legal Aid, Sentencing and Punishment of Offenders Act 2012: Post-Legislative Memorandum: Submitted to the Justice Select Committee on 30 October 2017](#), Cm 9486, October 2017

Bach Commission, [The Right to Justice](#), 22 September 2017

Donald Hirsch, [Priced out of Justice? Means testing legal aid and making ends meet](#), Loughborough University Centre for Research in Social Policy for the Law Society, March 2018

Law Society, [Access denied? LASPO four years on: a Law Society review](#), June 2017

Shelter, [Legal aid and free legal advice](#)

Shelter, [New changes to Legal Aid affecting homeless people](#), May 2013

Shelter, [Legal Aid, Sentencing and Punishment of Offenders Bill – Clause 8, Schedule 1: Briefing for Commons committee](#), September 2011

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