



# **INTRODUCTION TO LEGAL AID**

**YOUNG LEGAL AID LAWYERS**

# Introduction to legal aid

1. What is YLAL and what do we do?
2. What is legal aid?
3. A brief(ish) history of legal aid
4. Working in legal aid



# What is YLAL and what do we do?

- A group of junior and aspiring lawyers committed to practising in areas of law which have traditionally been publicly funded
- YLAL was founded in 2005 and has over 2,000 members across the country
- Members include students, paralegals, trainee solicitors, pupil barristers and qualified junior lawyers (up to 10 years call/PQE)
- YLAL holds meetings across the country in London, Birmingham, Manchester, Liverpool, Sheffield, Bristol, Kent, Newcastle and elsewhere!



# YLAL's objectives

- To campaign for a sustainable legal aid system which provides good quality legal help to those who could not otherwise afford to pay for it
- To increase social mobility and diversity within the legal aid sector
- To promote the interests of new entrants and junior lawyers and provide a network for likeminded people beginning their careers in the legal aid sector



# What is YLAL and what do we do?

- Subgroups:
  - Social Mobility
  - Justice Alliance/Campaigns
  - All Party Parliamentary Group
  - YLAL Online
- Mentoring scheme
- Jobs & Opportunities



# What is legal aid?

- Payment from public funds in cases of need to help pay for legal advice or proceedings
- The provision of assistance to people otherwise unable to afford legal representation and access to the court system
- Designed to make the justice process available to anyone in the country, regardless of how much they earn



# What is legal aid?

Historically, it has funded advice and representation for:

- Criminal law
- Family
- Housing
- Debt and welfare benefits
- Public law
- Employment
- Personal injury and clinical negligence
- Community Care
- Actions against the police and prison law
- Immigration



# What is legal aid?

[Justice Alliance short film, June 2014](#)



# What is legal aid?

“Legal aid is a service which the modern state owes to its citizens as a matter of principle. Just as the modern state tries to protect the poorer classes against the common dangers of life, such as unemployment, disease, old age, social oppression, so it should protect them when legal difficulties arise. Indeed the case for such protection is stronger than the case for any other form of protection. The state is not responsible for the outbreak of epidemics, for old age or economic crises. But the state is responsible for the law.”

Dr Cohn, 1943



# Magna Carta

## Magna Carta 1215, Article 39 – the right to due process

- "No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, nor will we proceed with force against him, except by the lawful judgment of his equals or by the law of the land. To no one will we sell, to no one deny or delay right or justice."



# In forma pauperis



In 1495, Henry VII introduced a law requiring judges to assign counsel to the poor under the ‘in forma pauperis’ procedure.

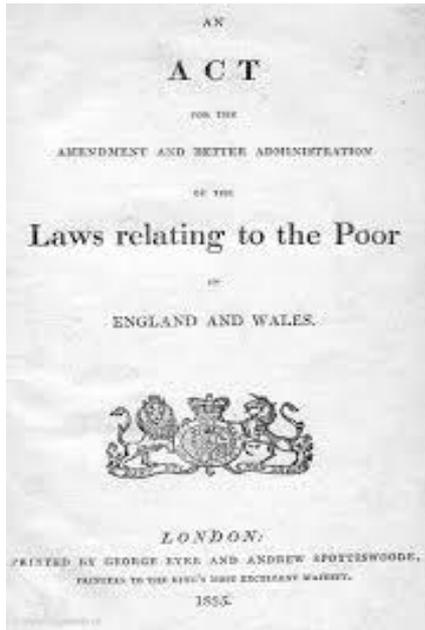


# Pro bono publico

Early forms of legal aid were reliant on lawyers working for no fee or 'pro bono publico', i.e. for the public good.



# Poor Man's Lawyers



- Poor Prisoners Defence Act 1903
- Poor Persons Defence Act 1930
- Poor Persons Procedure



# Access to justice in wartime

- June 1939: Welsh solicitors go on strike
- September 1939: Citizens Advice Bureau set up
- 1942: Legal aid scheme for armed forces personnel



# The Rushcliffe Report

## The Rushcliffe Report, May 1945:

- Legal aid should be available in all courts and in such manner as will enable persons in need to have access to the professional help they require
- This provision should not be limited to those who are normally classed as poor but should include those of 'small or moderate means'
- Those who cannot afford to pay anything for legal aid should receive this free of cost
- The cost of the scheme should be borne by the state
- Barristers and solicitors should receive adequate remuneration for their services



# The modern legal aid scheme

## Legal Aid and Advice Act 1949, Preamble:

“An Act to make legal aid and advice in England and Wales, and in the case of members of the forces legal advice elsewhere, more readily available for persons of small or moderate means, to enable the cost of legal aid or advice for such persons to be defrayed wholly or partly out of moneys provided by Parliament, and for purposes connected therewith.”



# Legal aid from 1950 to 1970

## The early years of legal aid

- 80% of the population estimated to be eligible
- Used mostly for criminal and family proceedings

But it wasn't popular with everyone...

In 1950, Lord Justice Singleton said he was “rather appalled at the number of assisted persons there are”.



# Legal aid in the 1970s and 1980s

- Eligibility: 40% in 1973  
79% in 1979
- “The most friendless wing of the welfare state”
- The Law Centre movement
- The Green Form scheme
- Police and Criminal Evidence Act 1986 (PACE)



# The end of ‘justice for all’

- The Legal Aid Act 1988
- Eligibility: 53% in 1993
- Scope: probate and property removed
- Growth of Green Form scheme

LA/Rev9A  
GREEN FORM

THE LAW SOCIETY

LEGAL AID  
ENGLAND AND WALES

WILLIAMS' REPORT ON LEGAL AID AND ASSISTANCE UNDER  
THE LEGAL AID ACT 1988

Key Card

SUMMARY

PLEASE USE SLIP CAPITALS  
For example: Mrs Jones

Area No. 10

Address

INCOME

WIFE'S

HUSBAND'S

TOTAL SAVERIES and OTHER CAPITAL

SPENDING

TOTAL

DEBT

Basic rateable or rental of houses - Occupier or Family Credit

IF THE INCOME IS 100% ABOVE THE RATE OF THE DEBT

DEBT

PROPERTY and CHARGES

House No.

Number of Rooms

Number

10 or under 11

11 - 12

13 - 14

15 - 16

17 and over

USE TOTAL FIGURES

TOTAL MEASURABLE INCOME

TO BE COMPLETED AND SIGNED BY CLIENT

I am over the compulsory school leaving age

I have not been previously assessed for help from a solicitor about the matter under the Legal Aid and Advice Schemes

I am liable to pay a contribution and accepting

I understand that any money or property which is recovered or preserved for me may be subject to a deduction if my contribution is not to meet that the Solicitor's charges

The information on this page is the best of my knowledge and belief correct - I understand that the Solicitor, Solicitor's fees and disbursements may be subject to a contribution

Date

Signature



# New Labour and legal aid



## Access to Justice Act 1999

- Community Legal Service
- Criminal Defence Service
- Personal injury removed from scope
- Cap on the overall legal aid budget introduced



# Eligibility falls, net expenditure capped

Eligibility:

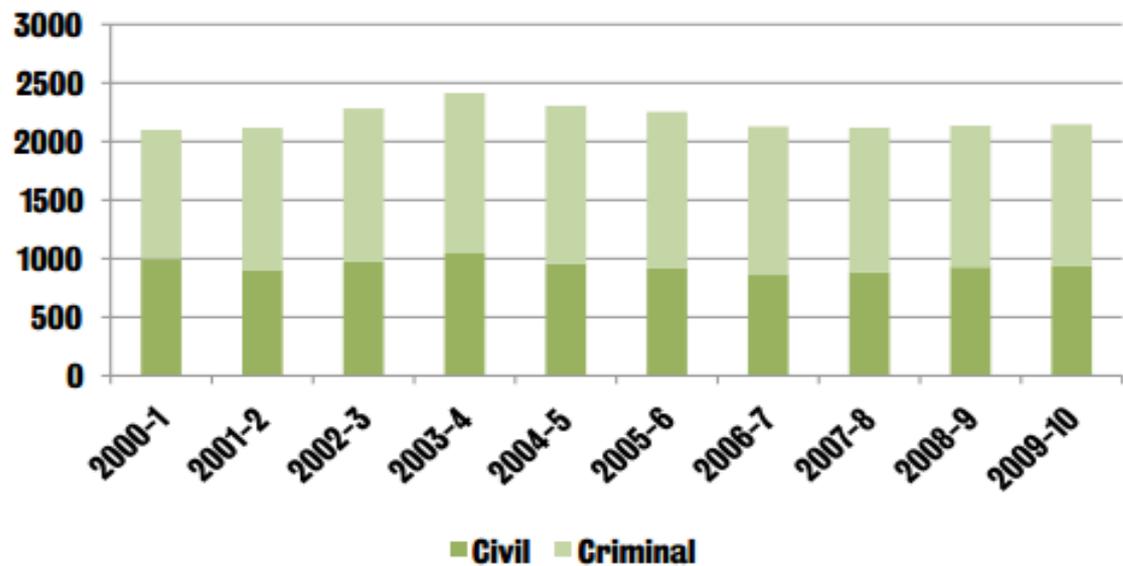
52% in 1998

50% in 2000

41% in 2005

29% in 2007

Figure 1: Legal Aid Net Expenditure (£ millions) 2000-2010 (in 2009 prices)<sup>4e</sup>

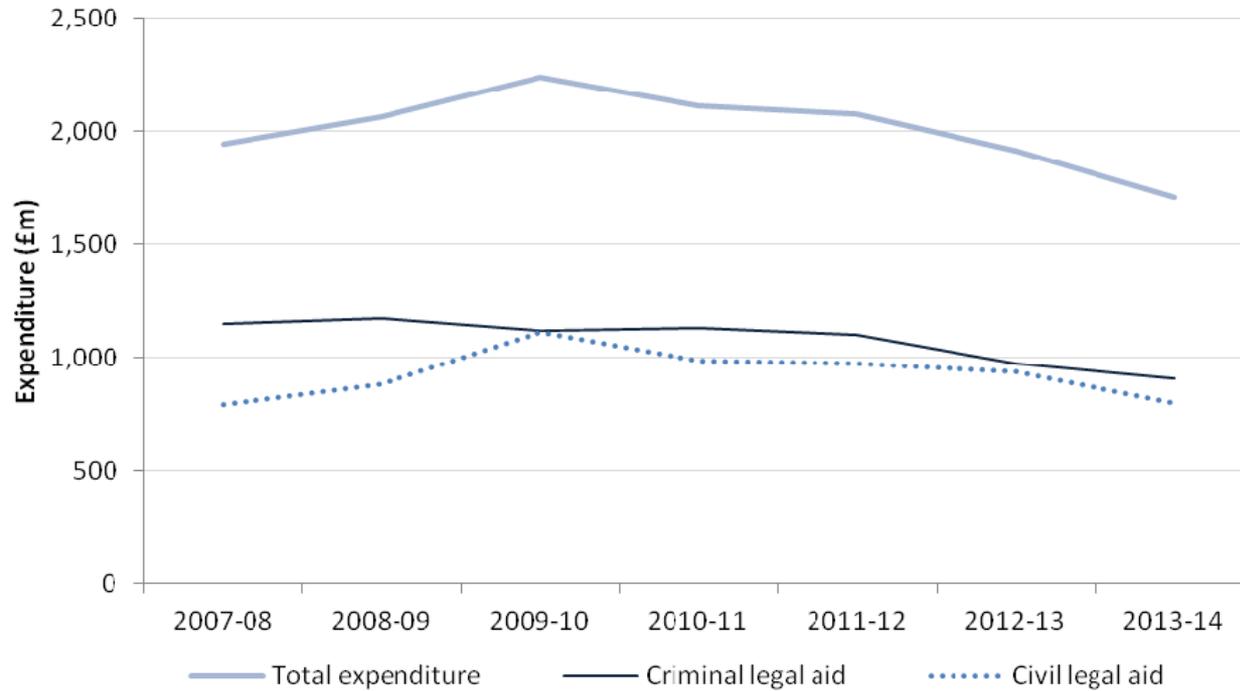


# The Coalition government

- The Coalition government: 2010-2015
- The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)



# Legal aid spending 2007/08 - 2013/14



# LASPO

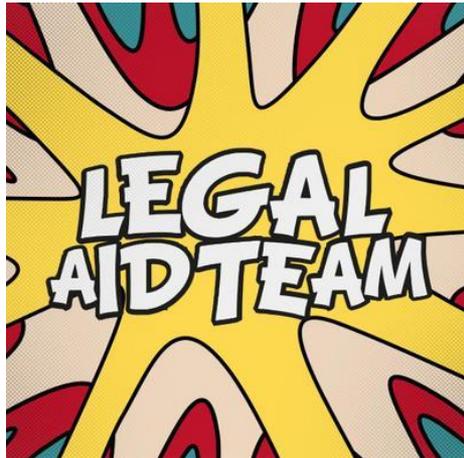
Areas of law wholly or partially removed from scope:

- Housing
- Welfare benefits
- Debt
- Immigration
- Private family law
- Medical negligence



# Opposition to LASPO

- [Legal Aid Team cartoon](#)



# LASPO



## Cuts that made top lawyers moan



'These proposals would move us from having a justice system admired all over the world, to a system where price trumps all.'

**Maura McGowan QC, former Bar Council chairman**

'My greatest worry is that we will have more miscarriages of justice. The law will become open to all, like the Ritz hotel.'

**Human rights lawyer Geoffrey Robertson QC**

'[It] will start to undermine the rule of law... people will feel the Government isn't giving them access to justice.'

**Lord Neuberger, president of the Supreme Court**



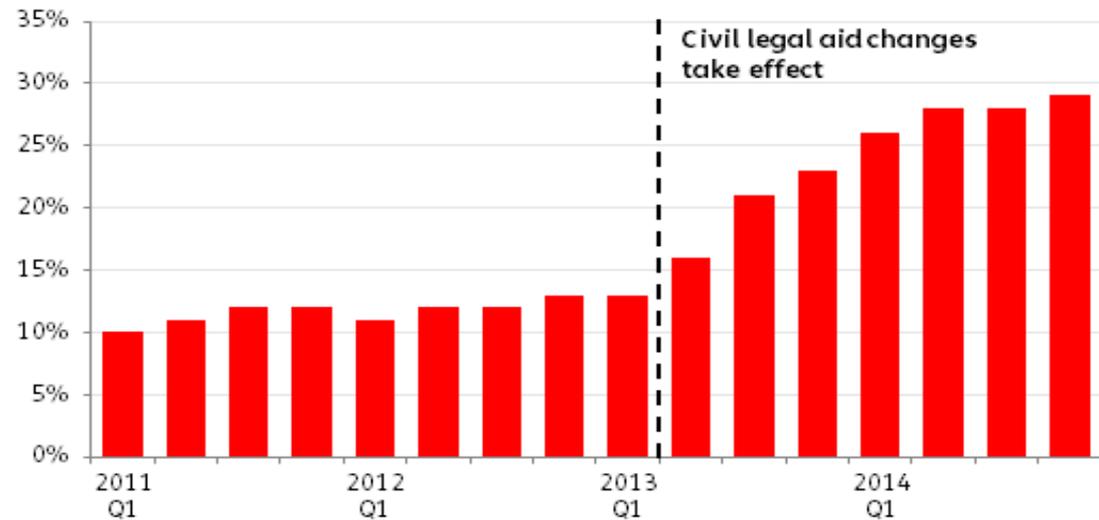
One barrister's legal aid protest



# The effects of LASPO

## Litigants in person on the rise

Proportion of private family law cases, in each quarter, where neither party is recorded as having legal representation\*



\* Based on court databases and described as a "proxy" rather than definitive measure

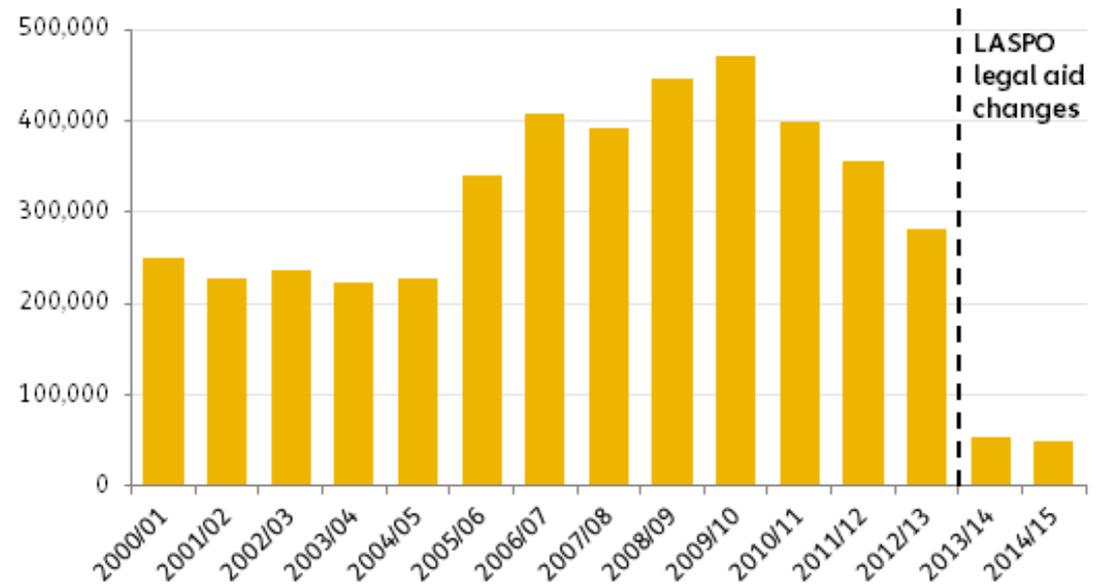
Source: Ministry of Justice, Family court statistics quarterly, October to December 2014, Table 6



# The effects of LASPO

## Legal aid for social welfare cases

Legal help matters started in social welfare law (community care, debt, employment, housing and welfare benefits cases)



Source: Legal Aid Agency, 'Legal Aid Statistics underlying data: April to June 2015'



# What next for legal aid?

- Criminal legal aid
- The residence test
- Review of LASPO
- Labour review of legal aid
- The general election in 2020...?



# Working in legal aid

- Family
- Crime
- Community care
- Public law
- Actions against the police
- Inquests
- Immigration



# THANK YOU!

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<http://www.younglegalaidlawyers.org/>

YLAL Twitter: @YLALawyers

YLAL Facebook: <https://www.facebook.com/YoungLegalAidLawyers>

