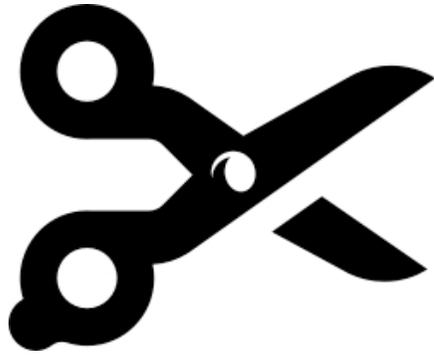


MYTHBUSTERS: LEGAL AID



MYTH 1:

“THE COST OF LEGAL AID IS SPIRALLING, THE SYSTEM IS INEFFICIENT AND CUTS ARE THE ONLY OPTION”

- The cost of legal aid is not spiralling out of control. Since 2010, almost £600 million has been cut from the [legal aid budget](#) (1). In 2010-11 the total budget was £2.2 billion; in 2014-15 it had fallen to [£1.6 billion](#) (2). There has been no attempt by the Government to analyse the knock-on effects of the cuts on other parts of government spending.
- At the time of the cuts the cost of legal aid was not spiralling out of control. Even before the most recent cuts, spending on legal aid was [falling](#) (3).
- In 2015 the Commons Justice Committee described it as [“deeply disturbing”](#) (4) that the Ministry of Justice’s changes to civil legal aid were based not on evidence but on an objective to cut costs as quickly as possible.
- In 2014/2015 it cost over £100 million to administer the [legal aid budget](#) (5). More must be done to tackle this rather than cutting critical frontline services.



MYTH 2:

“LEGAL AID LAWYERS ARE FAT CATS”

- In a [survey](#) (6) conducted by Young Legal Aid Lawyers the majority of respondents earned less than £20,000. This is comparable to a teacher or police officer and much less than private legal practice salaries. This is in the context of student debts frequently amounting to tens of thousands of pounds.
- 65% of respondents to the survey had or will have around £15,000 debt from post university law school & 15% will have £35,000 debt.
- Many desperate junior barristers are now on take home pay of [less than £10,000](#) (7) a year despite working for 60-70 hours per week.
- [Legal aid rates](#) (8) for solicitors have not been increased for nearly 20 years; in fact they have been cut.
- The Ministry of Justice’s own [figures](#) (9) reveal that 24% of criminal barristers undertaking publicly funded work (including both prosecution and defence) receive less than £20,000 p.a.



MYTH 3:

“JUDICIAL REVIEW CASES ARE RARELY SUCCESSFUL AND WASTE GOVERNMENT MONEY”

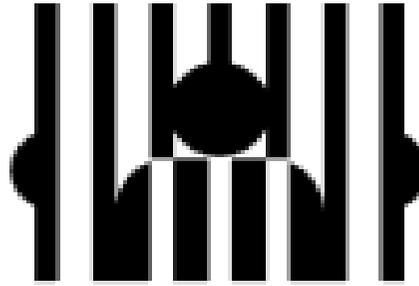
- On 23 April 2013 Chris Grayling said only 144 out of 11,359 applications for judicial review were successful (10). This was based on a misunderstanding of the judicial review process. The figure of 144 represents judicial review cases that succeeded at a full hearing. Numerous cases are settled before a full hearing with a positive outcome for the claimant.
- New [research](#) by the Public Law Project found that 47% of cases are concluded in favour of claimants. The study found no evidence of abuse of the system; instead, it concluded that JR can be seen to add value to the rights and interests of claimants, their experience of the legal system, and development of the law (11).
- It found that JR claimants gain a wide range of tangible benefits, and even unsuccessful challenges are often considered to lead to improvements in the provision of public services.
- Judicial Review is a crucial means by which the citizen can hold the State to account for unlawful acts. Access to this fundamental right should not be curtailed unnecessarily and without a sound evidential basis.



MYTH 4:

“WE SPEND MORE ON LEGAL AID THAN ANY OTHER COUNTRY IN THE WORLD”

- The Government has [continued](#) (12) to claim this myth as fact, ignoring that comparisons of legal aid spending with other countries do not compare like with like.
- Countries have different legal systems (adversarial or inquisitorial), political, cultural and religious traditions and varying quality. Therefore comparing spending of different countries isn't as simple as comparing budgets for legal aid.
- Other countries, which spend less on criminal legal aid, spend more on other aspects of the justice system (such as courts, judges and prosecutors) to compensate. Figures compiled by the National Audit Office on European spending on criminal courts, prosecution and legal aid as a percentage of GDP per capita found expenditure in England & Wales to be [average](#) (13).
- A [study by the European Commission](#) for the Efficiency of Justice comparing European legal systems, ranked England and Wales 9th out of 46 countries, based on legal spend per inhabitant (€96.50), a lower figure than that of Germany, Norway, Netherlands and Sweden and dwarfed by Switzerland (€197.70) and Luxembourg (€147.10) (14).
- The UK has previously held an international reputation for fairness and supporting access to justice for the most vulnerable in our society. The vast cuts to legal aid threaten this reputation.



MYTH 5:

“THE CUTS WILL ONLY AFFECT CRIMINALS AND TERRORISTS”

- Cuts to criminal legal aid will result in miscarriages of justice. Not everyone accused of a crime is guilty. Innocent people could end up in prison.
- The Government introduced the Criminal Courts Charge in April 2015. One of the main criticisms of the charge was that it created a perverse incentive for innocent people to plead guilty because of their fear of being forced to pay a sum they cannot afford if they are convicted following a not guilty plea.
- The Government has been forced into an embarrassing U-turn on this charge after it received widespread condemnation, including from magistrates, around 50 of whom resigned because of the charge.
- The residence test – which limits civil legal aid to people who can prove they have been resident in the UK for at least 12 months – will affect access to justice for victims of trafficking, victims of domestic violence & survivors of torture. Vulnerable women and children will be left without help.
- Examples of people who would not have qualified for legal aid if the residence test were in place at the time include the Gurkhas, the Afghani interpreters, the family of Baha Mousa, Binyam Mohamed, the parents of Victoria Climbié, the family of Jean Charles de Menezes, and the family of Jimmy Mubenga.



MYTH 6:

“OTHER SERVICES WILL FILL THE GAP”

- Free legal advice agencies cannot meet the additional demand. Law Centres, Citizens Advice Bureaux, and other independent community advice agencies are also facing cuts to their funding and several Law Centres have been forced to close.
- Pro bono advice cannot fill such a large gap. Legal aid lawyers carry out specialist work on behalf of vulnerable clients. Volunteers or commercial lawyers giving up their time cannot be expected to replicate this specialist service.
- Few volunteers can offer the necessary time commitment to develop the level of expertise required, or long-term presence necessary for casework.
- The Exceptional Case Funding scheme was introduced with the cuts to act as a “safety net” for the most vulnerable to retain access to legal aid. It has since been recognised as little more than a “fig leaf” and described as “[wholly deficient](#)” (15).
- The Government will still pay for lawyers whenever it wants them but will stop ordinary people getting help even in cases against the state.



Produced by Young Legal Aid Lawyers
www.younglegalaidlawyers.org
@YLALawyers

Thanks to Luis Prado, Scott Lewis, and Sergi Delgado from The Noun Project for the images