



## YOUNG LEGAL AID LAWYERS

### Legal aid and Charlie Gard: Statement by Young Legal Aid Lawyers

The heart-breaking case of Charlie Gard has touched many of us. Without commenting on the outcome of the case, the lack of legal aid for Charlie's parents highlights the unacceptable effects of the stringent financial means test for civil legal aid.

In his most recent judgment, Mr Justice Francis stated: "when Parliament changed the law in relation to legal aid and significantly restricted the availability of legal aid, yet continued to make legal aid available in care cases where the state is seeking orders against parents, it cannot have intended that parents in the position that these parents have been in should have no access to legal advice or representation".<sup>1</sup>

It is heartening that experienced lawyers represented Charlie's parents on a *pro bono* basis, but this should not have been necessary. The Government has a duty to provide access to justice. It is currently not meeting that duty. Mr Justice Francis further pointed to the fact that there are many parents around the country who, with cases which are far less public, have faced similar difficulties to Charlie's parents but have been forced to represent themselves despite the high stakes involved and their lack of expertise.

The report of the Rushcliffe Committee in 1945, which led to the creation of the modern legal aid scheme, recommended that the provision of legal aid should not be limited to those who are classed as poor but should include those of moderate means. In YLAL's submission to the Bach Commission on Access to Justice,<sup>2</sup> we emphasised the serious denial of access to justice resulting from the excessively stringent financial means test for civil legal aid, which undermines one of the founding principles of the legal aid system.

At present, those who have 'disposable' savings or other capital of over £8,000 are financially ineligible for civil legal aid, as are those whose 'disposable' income exceeds £733 per month. In practice, this excludes the vast majority of the population, including those whose modest incomes make it impossible to pay for legal representation, regardless of the merits or importance of their case.

YLAL therefore urges the Government to review the financial means tests for legal aid as part of its review of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. We believe the Government should also consider whether legal aid for families in cases concerning withdrawal of life-sustaining treatment, such as that of Charlie Gard, should be non-means tested. The Government must ensure legal aid is not reserved only for the very poorest and most vulnerable in society, but rather is available to anyone who is unable to pay for legal advice and representation.

**Young Legal Aid Lawyers**

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<sup>1</sup> *Great Ormond Street Hospital v Yates and Gard* [2017] EWHC 1909 (Fam). Available online here: <https://www.judiciary.gov.uk/judgments/great-ormond-street-hospital-v-yates-and-gard-24-july-2017/>

<sup>2</sup> YLAL submission to the Bach Commission on Access to Justice, May 2016. Available on our website here: <http://www.younglegalaidlawyers.org/YLALresponseLAreview>