

# Parliamentary Brief



The Law Society

## Westminster Hall debate – 13 December 2006

### Future Funding of Legal Aid Advice Services

Legal aid is a vital public service which serves some of the most vulnerable members of Society, but its future is being threatened by continued underinvestment by the Government and by the forthcoming changes emanating from the Carter review. The Law Society has advised that we must see an immediate increase in funding for legal aid, otherwise access to justice could be severely compromised.

On 8 November 2006, the Law Society launched its What Price Justice? campaign to raise awareness of the value of legal aid and legal aid lawyers, using real examples of how clients have benefited from legal aid advice. The campaign is supported by a wide range of organisations, including MIND, Shelter, NSPCC, the Refugee Council, Advice UK, and the Child Poverty Action Group<sup>1</sup>.

Criminal legal aid solicitors' fees were last increased in 2001. During the last five years, civil legal aid solicitors have received one increase in fees of 2.5 per cent in 2004. In 2001, 3500 offices provided criminal legal aid services, yet the number of solicitors' offices under contract at September 2005 was down to just 2,651. In addition, the number of solicitors' offices with general civil contracts decreased by 7.2 per cent between March 2004 and March 2006, falling from 4,301 to 3,632.

An independent economic evaluation of the proposed Carter reforms of legal aid, undertaken by LECG<sup>2</sup> on behalf of the Law Society, highlights the economic fragility of the current supplier base. Profit margins of criminal legal aid practices range from -6% to 2%. The same study also estimated that a minimum of 800 firms would have to close or merge as a result of the Carter reforms. This is double the estimate given in the Carter Report.

LECG also warned that the imposition of fixed fees during the transition period, in advance of firms having the opportunity to restructure to achieve potential efficiencies, would pose a serious threat to the viability of firms and could result in a disruption or complete failure of supply in some areas.

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<sup>1</sup> Further information on the campaign can be found at [www.whatpricejustice.lawsociety.org.uk](http://www.whatpricejustice.lawsociety.org.uk)

<sup>2</sup> 'Legal Aid Reforms Proposed by the Carter Report – Analysis and Commentary' – LECG; 25 September 2006

28 leading City firms, including Clifford Chance, Herbert Smith and Eversheds have recently signed a letter to the Lord Chancellor to record their concerns that the most vulnerable in society may be affected by the cuts, because solicitors will no longer be able to afford to take on legal aid work.

Lord Carter speaks of the need to ensure a sustainable supplier base for the future by encouraging new entrants to the profession to take up a career in legal aid. Professor Simon Payne, Head of the Law School at the University of Plymouth has stated<sup>3</sup>:

*“Ironically, during law degrees, students are most interested in areas of practice such as crime, family and human rights. When they seek training contracts, the commercial firms dominate all marketing material and the Legal Services Commission’s scheme for funding trainees has had an insignificant impact except for the lucky few who have benefited. When our graduates go on to qualify, even if it is from a legal aid practice, they consider that security and income is often better served outside of these areas of practice.”*

Early in 2004, the Law Society undertook research<sup>4</sup> with first year trainee solicitors and second year law students, to ascertain their aspirations and motivations in respect of their career ambitions and likely career paths. The findings made gloomy reading. Although, ‘all things being equal’<sup>5</sup> 59% of students and 50% of trainees would consider a career in social welfare law, as things stood only 7% of trainees and 21% of students saw their careers following that direction.

The Law Society has worked closely with Lord Carter and his team throughout the Review to achieve the best results for legal aid lawyers and their clients. We have submitted a detailed response to the DCA/LSC consultations, issued in conjunction with Carter’s Final Report.

We have also set out detailed proposals that we believe will secure the future of legal aid. They include provision for:

- the value of the ongoing legal aid budget to remain at or above the £2.1 billion spent in 2005/06;
- an immediate increase in all legal aid rates of 5%, followed by index-linked increases to help the entire sector return to health;
- more time for transition to give firms sufficient time to restructure before implementation of the Carter reforms

We continue to actively represent practitioners’ views – and to highlight the damage which the Government’s current proposals would cause to access to justice - in seeking to influence the implementation of reforms with Government officials and Ministers.

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<sup>3</sup> 21 September 2006 in response to a letter from June Venters

<sup>4</sup> Career Choices in Law: A Survey of Trainee Solicitors (Early Findings) January 2004

<sup>5</sup> ‘all things being equal’ factors in debt, career prospects, salary etc