

FOR IMMEDIATE RELEASE

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JUST ACCESS CALLS ON THE UK GOVERNMENT TO SUPPORT LEGAL AID

Just Access Statement on the England and Wales High Court Judgment in R (The Law Society of England and Wales) v. The Lord Chancellor, [2024] EWHC 155 (Admin), 31 January 2024

Just Access calls on the UK Government to secure the future of the criminal legal aid in England and Wales.

Just Access joins the Law Society of England and Wales in calling on the Lord Chancellor, Alex Chalk, to implement the judgment of the England and Wales High Court of 31st January 2024, by:

- Implement, at a minimum, the 15% rise in the rate of legal aid recommended by the [Bellamy Report](#) in 2022;
- Review the impact of inflation on the legal aid system since the Bellamy Report, and adjust legal aid rates accordingly;
- Assess other fee- and non-fee-related barriers to access to justice in England and Wales, in order to ensure that everyone has access to the courts on equal terms.

Access to justice is an essential component of human rights and the rule of law. Legal aid contributes to access to justice by ensuring that criminal defendants receive competent and timely legal advice, and that individuals suffering abuses of their rights have access to the mechanisms to enforce their rights, whether as a result of governmental human rights abuses, medical negligence, housing or immigration disputes, or relationship abuse.

Dr Tom Sparks (LLB, PhD), Director of Just Access, said: “Criminal legal aid is necessary for a democratic society. A court system where access depends on whether or not you can pay has nothing to do with justice.

“It’s thanks to the selfless efforts of many dedicated individuals in the UK that the criminal justice system has continued to function, but the Government’s cuts to legal aid have stretched the capacity of the system to its breaking point.

“The UK Government must properly fund legal aid in order to ensure the rights of vulnerable people to access to justice.”

Background

On the 31st January 2024, the High Court of England and Wales (Administrative Division) handed down its judgment in the case of R (on behalf of the Law Society of England and Wales) v. The Lord Chancellor, [2024] EWHC 155 (Admin). The case was heard before Lord Justice Singh and Mr Justice Jay. The Judgment is available [here](#).

The Law Society (applicant) argued that the decision of the Lord Chancellor not to implement the recommendations of the report on the legal aid system prepared by Lord Bellamy in 2022 (the [Bellamy Report](#); referenced in the judgment as the Criminal Legal Aid Independent Review (CLAIR) Report) was unlawful on four grounds. The Court upheld the Law Society’s argument relating to two grounds: first, that the Lord Chancellor’s failure to consider whether fee increases at lower levels than recommended by Lord Bellamy would successfully deliver the aims of the Bellamy Report was irrational and breached the Lord Chancellor’s duty under the [Wednesbury standard](#). Secondly, that the Lord Chancellor’s failure to make enquiries into whether fee increases at lower levels than recommended by Lord Bellamy would successfully deliver the aims of the Bellamy Report breached the Lord Chancellor’s duty under the [Tameside standard](#).

The Court granted declaratory relief.

The Criminal Legal Aid Independent Review under Lord Bellamy was initiated in 2018, and reported in 2022. The review was commissioned as a result of concerns about the sustainability of the legal aid system, which by 2022 has seen steady reductions in funding over a period of c. fifteen years (see Judgment, paragraph 16).

In his 2022 report, Lord Bellamy noted that while in 2018/19, the majority of firms undertaking legal aid work were breaking even on that work (net profits of 0 – 5%), by 2020/21, net profits had fallen to -10 – -5 % (Judgment, paragraph 26).

Lord Bellamy recommended an immediate rise ‘of at least 15% above present levels’ (Judgment, paragraph 31). In 2022 inflation in the UK averaged 9%; while it averaged 7,3% in 2023. Lord Bellamy’s figure of a 15% rise as of 2022 levels would, if implemented today, thus largely represent a rise in line with inflation, and would not result in a real-terms increase in the rates for legal aid.

For further information contact:

contact@just-access.de