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19<sup>th</sup> November 2009

Dear Sir Ian

**Review into delivery of legal aid: Young Legal Aid Lawyers' (YLAL) summary of issues for consideration**

Thank you for your e-mail of 5<sup>th</sup> November 2009. Further to our members' meeting last Wednesday, 11<sup>th</sup> November 2009, YLAL has now identified the key issues we would like you to take into account, and these are set out below.

**About YLAL**

YLAL was formed in April 2005 to represent the views of law students and lawyers of up to ten years call in response to growing concerns over the future of legal aid. The group includes solicitors, barristers and paralegals. Since its inception the group has engaged with the LSC and the MOJ in order to put forward the views of the next generation of legal aid lawyers. YLAL is concerned to ensure the sustainability of the legal aid system as a whole, and, in particular, the flow of quality new entrants into the profession. YLAL's members are motivated to work in legal aid by their commitment to social justice and the principle that the rule of law should not be undermined by lack of means.

**Issues for the review to consider**

***Separation of funds***

YLAL includes both criminal and civil practitioners. We welcome any endeavour to protect both the civil and criminal budgets. However, we consider that there can be no cap on the legal aid budget if justice is to be done in both civil and criminal work. We continue to be deeply concerned that the cost drivers for legal aid have not been addressed. In particular, the criminal budget cannot be capped if those faced with criminal prosecution are to have a fair trial. Adequate access to justice for both those with civil and criminal legal problems must be available when needed.

### ***Independent administration of legal aid***

YLAL members are extremely concerned that the administration of legal aid funds should be carried out by a truly independent body to ensure decisions about access to justice are not hampered by political or commercial concerns. Any such body must both be and appear to be independent. We are particularly concerned that any new or reformed organisation should be publicly accountable and that its decisions must be susceptible to judicial review. Those providing legal services are bound by professional codes of conduct and YLAL considers that a professional body bound by a code of conduct, with a full understanding of the rule of law, would be best placed to administer legal aid.

### ***Policy decisions concerning legal aid***

The work of the LSC in recent years has included proposing and implementing changes that have or will amount to a change of policy. For example, the recent paper, 'Refocusing on priority cases' was issued jointly by the LSC and MOJ. If implemented, the proposals could have a profound impact on the ability of prisoners and ordinary people to access the courts to hold state bodies to account.

The terms of reference suggest that the review's recommendations should include hiving off the policy aspects of legal aid from the administration of legal aid, leaving policy with the MOJ. YLAL reiterates that the legal aid fund must be independently controlled. As a fund that is used to protect the interests of the individual from unlawful acts of the State it must be isolated from Government influence. For this reason, key policy changes to legal aid must be the subject of proper parliamentary scrutiny and approval and not rest with the MOJ. Day-to-day policy and administration must be retained by the independent administrative body. It is critical that any new administering body should have a set of clear and transparent principles from within which to work to ensure that policy decisions do not affect certain clients disproportionately. Further, it is essential that the profession continues to be consulted in respect of policy changes affecting legal aid.

### ***Ensuring a quality sustainable future for legal aid***

At present the LSC runs a training grant scheme. To date it has invested around £21 million in the scheme and sponsored hundreds of legal aid training contracts. Despite this, it is becoming increasingly difficult for new entrants to qualify as legal aid lawyers, raising serious questions about diversity, social mobility and the increasing 'paralegalisation' of the profession. It is essential that training schemes are continued and developed further to provide proactive support and opportunities for new entrants, whether by the MOJ or a new or reformed body administering legal aid.

### ***Quality and efficiency***

YLAL is extremely concerned that the quality of legal aid work is suffering as a result of the recent changes to legal aid. Junior members of the profession report being expected to undertake complex work while still being relatively inexperienced and not being properly supervised. YLAL consider that in order to ensure that clients are properly advised and represented it is vital that the body administering legal aid should only contract with providers who meet stringent quality requirements. In turn, if the body that administers legal aid deals only with quality suppliers, there will be a reduced need for intense oversight and administration.

Where oversight is required, YLAL believes that the staff who determine applications should have sufficient legal knowledge and expertise to deal with them efficiently. In addition, in order to ensure efficient justice, YLAL believes that where a judge makes a positive recommendation for legal aid, there should be a presumption that the administering body will grant it.

Please do not hesitate to contact me if we can be of any further assistance, or if you require any further information on any of the issues summarised above. We reiterate our willingness to meet you in person should this be of assistance. If you do change your mind and would like to meet with us, we would propose a short meeting with a YLAL delegation comprising a student member, a solicitor or trainee, a paralegal, and a qualified or pupil barrister to provide you with an insight into all our areas of concern.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Laura Janes', written in a cursive style.

Laura Janes  
Chair of Young Legal Aid Lawyers