

4 June 2013

Director:
Professor Sir Jeffrey Jowell, KCMG, QC

Bingham Centre

PRESS RELEASE – LEGAL AID REFORMS

The Bingham Centre for the Rule of Law has today submitted its response to the Government's consultation on reforms to legal aid. The Centre is highly critical not only of the proposals to reduce legal aid, but also in other areas, such as in prisons, the proposal for a residence test, and the proposal that legal aid should be provided for judicial review claims only where an application for permission is successful. In particular, our response casts doubt upon the evidence base of the proposals.

Lead author Dr Mark Elliott, a Reader in Public Law at Cambridge and Fellow of the Bingham Centre, comments:

"The proposed reforms will have a profound effect on access to justice, which is a constitutional right and a key element of the rule of law. Those effects will be felt most severely by the poor and disadvantaged."

"The reforms will prevent the poor and disadvantaged from seeking judicial review of government decisions that may deny them their legal rights in areas such as housing, health care, immigration, detention and imprisonment, among others. There is a strong public interest in ensuring that government acts in accordance with the law and can be held to account when it does not. Decision-making in government is improved when it is accountable and we all benefit from that."

"We find it especially troubling that the Consultation Paper fails to provide adequate evidence to support its claims that legal aid reforms are needed and that the proposals will improve efficiency and preserve valuable court time. On the contrary, our response examines the available evidence and concludes:

'There is nothing to suggest legally aided judicial review claims are pursued in a reckless way that results in a relatively high number of "weak" cases. On the contrary, there is everything to suggest that legally aided cases appear to be handled far more cautiously than those which are unfunded, and lawyers in legally-aided applications are far more likely only to pursue cases with merit.'

"By reducing the viability of acting in judicial review matters, the reforms are likely to result in systemic damage. As we note:

'The Consultation Paper fails to acknowledge the highly precarious financial position of many solicitors who undertake legally aided public law work—yet the existence of lawyers willing and able to take on such work is a prerequisite of an effectively functioning system of judicial review.'

ENDS

NOTES TO EDITORS

1. The full report is available from the Bingham Centre's news pages: <http://www.biicl.org/news/view/-/id/164/> or for a copy email mce1000@cam.ac.uk or l.mcnamara@binghamcentre.biicl.org.
2. For further comment, please contact Dr Mark Elliott at mce1000@cam.ac.uk
3. The Bingham Centre is a London-based independent research institute devoted to the study and promotion of the rule of law worldwide. It is part of the British Institute for International and Comparative Law, a registered charity based in London.



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