20 March 2018

Post-implementation review of LASPO Act 2012

I would first like to take this opportunity of formally thanking you for your letter of 6 March informing us of your plans for the engagement phase of the Post-implementation review of the LASPO Act 2012, and enclosing the terms of reference for the review’s evidence gathering exercise. It was very helpful to have this information to hand ahead of the evidence session on 7 March 2018.

You will be aware from my letter of 12 March following up on points that arose in this session that Members are anxious to be kept informed as to the timetable for the post-implementation review. While recognising the challenges that your department faces in meeting its original deadline for completing it, we would very much hope that completion does not slip beyond the autumn of 2018.

I would also like to emphasise three further points that were raised in the evidence session. First, as Mr Chalk stated, access to justice is a fundamental pillar upon which our international reputation is built – a point that you accepted – and we consider it crucial that the review is conducted in a rigorous way, given the seriousness of the matters involved. For this reason, we believe that your department should be willing, in principle, to commission additional research if the available evidence is expected to have any significant gaps.

Second, we observed in the session that the Supreme Court has confirmed (in the Unison judgment) that access to justice cannot be regarded as a purely transactional matter; it must be viewed as a public good. You confirmed that you understood this point, but said that access to justice should be pursued in different ways by making use of routes to justice that were not previously available. While we would in principle welcome the introduction of alternative routes such as virtual hearings and
online courts, we wish to emphasise that they must not compromise the quality of justice for any sections of society or undermine the status of justice as a public good; we are troubled by some of the evidence indicating that barriers could be created by digital-only processes, for example. We also consider it particularly important to address the indications that a two-tier justice system is starting to emerge.

Third, we would remind you of a point made by Mr Charalambous about the need for early intervention and advice to help people as soon as possible after they encounter legal problems; this preventative approach not only enables individuals to avoid the damaging consequences of more complex legal issues, but also avoids greater costs being incurred later down the line by society as a whole – or indeed by other government departments. We were pleased to hear you confirm that the LASPO review will be considering this issue and we would urge you to ensure that the cost benefit analysis of the LASPO reforms is designed to capture these wider personal, social and economic consequences, including at a cross-departmental level.

Bob Neill MP
Chairman
Justice Committee