



Ministry  
of Justice

The Right Honourable  
**David Gauke MP**  
Lord Chancellor & Secretary of  
State for Justice

Bob Neill MP  
Chairman, Justice Committee  
House of Commons  
London  
SW1A 0AA

6 March 2018

Dear Bob

**POST-IMPLEMENTATION REVIEW OF THE  
LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012**

Further to my letter of 29 February 2018 about the Post-Implementation Review of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO), I am writing to let you know that we are now starting the engagement phase of the review.

While much of the data that will inform our assessment is held internally by the Ministry of Justice, in particular, the Legal Aid Agency and Her Majesty's Courts and Tribunals Service, we are keen to consider data and evidence held outside Government that could aid our assessment. As such, we plan to initiate a comprehensive process of structured engagement between Government and interested parties, starting in the coming weeks. This engagement is going to be conducted in several forms:

- Consultative groups led by MoJ officials, to which certain interested parties will be invited to participate. Interested parties will be grouped into four sectors: civil justice, family justice, criminal justice and the advice sector. Participants will vary for each group to broaden engagement and ensure the data and evidence discussed are as relevant as possible.
- Individual engagement between MoJ officials and interested parties who wish to provide data and evidence. This will be an avenue by which the MoJ can take into account the experiences of people who receive government-funded legal advice and representation.
- A route by which interested parties are able to submit data and evidence to MoJ officials for consideration as part of this work.

Invitations will be sent this week for the consultative groups, along with the enclosed terms of reference, and information about the route for other interested parties will be made available shortly. If Members of either House wish to submit analytical evidence for consideration, they too can use this latter route, but my Ministerial colleagues and I shall of course be available too, particularly to members of your Committee. Likewise, I remain at your disposal if you have any questions about this review, or that of Part 2 (civil litigation funding and costs) of LASPO.

Yours ever  
David

**RT HON DAVID GAUKE MP**

## Post-Implementation Review Evidence Gathering Exercise Terms of Reference

### **The Legal Aid, Sentencing and Punishment of Offenders Act 2012**

Since 2013, the provision of legal aid in England and Wales has been governed by Part 1 of LASPO and its associated delegated legislation. Part 1 of LASPO replaced the Access to Justice Act 1999 as the statutory framework for legal aid and made major changes to the scope of legal aid, the eligibility requirements for individuals applying for legal aid, and the level of remuneration payable to individuals undertaking legally aided work.

### **The objectives**

The objectives of the LASPO reforms were set out by the Coalition Government in its 2010 consultation *'Proposals for the Reform of Legal Aid in England and Wales'*. These objectives were:

- To discourage unnecessary and adversarial litigation at public expense;
- To target legal aid at those who need it most;
- To make significant savings to the cost of the scheme; and
- To deliver better overall value for money for the taxpayer.

Subsequent amendments to Part 1 of LASPO and its secondary legislation, most notably as part of the *'Transforming Legal Aid'* programme of work had objectives that accord with one or more of these four objectives. The main change associated with Part 1 of LASPO that had objectives beyond these four was the creation of the Legal Aid Agency to replace the Legal Services Commission, which had its own additional bespoke objectives.

In recognition of the extensive nature of the changes made by LASPO and subsequent amendments, the Government is undertaking a Post-Implementation Review (PIR). The aim of the PIR will be to assess the impact of this set of policies against the aforesaid objectives and estimates outlined prior to their introduction in contemporary impact assessment.

### **How the review will be carried out**

The review will be led by Ministry of Justice officials and will cover all the specific policy changes made by Part 1 of LASPO and its subordinate legislation.

Much of the data that will inform our assessment is held internally by the Ministry of Justice, in particular, the Legal Aid Agency and Her Majesty's Courts and Tribunals Service.

However, to ensure our review is as informed as possible, we are keen to consider data and evidence held outside Government that could aid our assessment. As such, we plan to initiate a comprehensive process of structured engagement between Government and interested parties, starting in the coming weeks.

To inform the above review, and the Government's thinking on how we move forward into the future, the Government is also keen to engage with interested parties who wish to contribute to the evidence-gathering exercise of the Post-Implementation Review. This engagement is going to be conducted in several forms:

- Consultative groups led by MoJ officials, to which certain interested parties will be invited to participate. Interested parties will be grouped into four sectors: civil justice, family justice, criminal justice and the advice sector. Participants will vary for each group to broaden engagement and ensure the data and evidence discussed are as relevant as possible.
- Individual engagement between MoJ officials and interested parties who wish to provide data and evidence. This will be an avenue by which the MoJ can take into account the experiences of people who receive government-funded legal advice and representation.
- A route by which interested parties are able to submit data and evidence to MoJ officials for consideration as part of this work.

The ability of everyone to resolve their legal issues is vital to a just society. We are committed to ensuring legal aid and other forms of legal support are available to those who need it.

It is right that the Government takes the time to assess the extent to which the objectives of the LASPO changes were achieved. In addition, this process of consideration and engagement with interested parties also represents an opportunity for the Government to consider what the future should look like.

The consultations that preceded LASPO were published over seven years ago, and since this time there have been significant developments in our justice system. This includes the processes through which people can access legal advice. We have seen changes in our courts and tribunals service, which are also apparent more generally in the rapid technological advancements seen across society over the past seven years.

As such, the Government plans to use this opportunity to inform its wider consideration on the future of legal support in the justice system.



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**David Gauke MP**  
Lord Chancellor & Secretary of  
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Bob Neill MP  
Chairman, Justice Committee  
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London  
SW1A 0AA

15 February 2018

Dear Bob

### **POST-IMPLEMENTATION REVIEW OF THE LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012**

Thank you for your letter of 19 December to the previous Secretary of State concerning the Post-Implementation Review (PIR) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). I am grateful for your thoughts about the conduct of the PIR of Part 1 of LASPO, which I have taken into account when considering how to take it forward.

A Post-Implementation Review is, by its nature, an evidence-based review of the effects of a piece of legislation when considered against its original objectives as set out in contemporary impact assessments. We shall therefore be looking at the 34 major changes introduced to the legal aid framework by and under Part 1 of LASPO. We have also committed to review the provision of legal aid for inquests alongside the PIR, although it was not itself a LASPO change.

The key challenge will be to ensure appropriate analytical rigour in our work. Some aspects of the effects of Part 1 of LASPO are more straightforward to measure than others: for example, we can glean from published Legal Aid Agency data its impact on case volumes, types and overall expenditure; but we have less information about the specific individuals who seek legal aid.

We intend to set up four expert panels to inform the review, each bringing together a diverse range of relevant stakeholders. Their primary function will be to help us secure evidence about whether the changes made by and under LASPO have achieved their objectives, and ways to improve the implementation of these changes or mitigate any unwanted effects. We intend to set up one panel each for the civil, family, criminal, and legal advice and support sectors. Alongside this, we shall also set up a route by which other stakeholders can submit analytical evidence for the PIR team to consider. The team has of course already undertaken an extensive review of the existing research on relevant subjects, but we hope that our stakeholders will help us find any that we have missed.

As you note, the PIR of Part 2 of LASPO will be undertaken to the same timetable as that of Part 1, and we have taken note of the Committee's interest. By contrast, it is not our current intention to undertake a PIR of Part 3 of LASPO. Unlike the other parts of the Act, Part 3 makes a series of amendments to the existing sentencing framework, very few of which are standalone provisions. We could not assess those changes in isolation from an assessment of the law on sentencing and release as a whole. In addition, several provisions in Part 3 have already been amended and some repealed.

I look forward to your Committee's continued engagement with this aspect of my Department's work, and I am sure we shall discuss this subject further once the PIR has completed its work.

Yours on  
David

**RT HON DAVID GAUKE MP**