

Written evidence submitted by Dr Liz Curran (ATJ0163)

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Please note that the views expressed in this submission are the views of Dr Liz Curran informed by her research and practice experience and not those of Nottingham Law School part of Nottingham Law School.

The focus of this submission is on the implications for civil and family law.

Biography

Dr Liz Curran is the Associate Professor of Clinical Legal Education and 'School Research Impact Lead' Nottingham Law School, Nottingham Trent University.

She is also Honorary Associate Professor, Australian National University.

Summary

Dr Curran is an international expert on access to justice.

She is also a legal practitioner of over thirty years working in private and public law practice as a private lawyer, for legal aid, in community law, public interest strategic problem solving and action and in public policy.

Main research: access to justice, effective practice, legal ethics, legal empowerment, and impact.

She has worked for NGOs, for government, as a consultant, senior adviser and is/has been a Board of numerous charities, Director of a human rights NGO, Director of a legal practice, clinical legal education supervising solicitor and legal teacher.

She works on policy, law reform, research, and legal empowerment with a focus on people experiencing disadvantage and exclusion.

Hon. Associate Professor, College of Law, Australian National University.

Relevant to this Inquiry: Dr Curran is a member of the Ministry of Justice, 'Legal Advice 5-year Strategic Planning Group' and the 'Transparency and Open Justice Stakeholder Committee Forum', Judicial Office UK;

Board, Nottingham Law Centre; Editorial Advisory Board of the Evaluation Journal of Australasia, Editorial Advisory Board of the Journal of International Legal Education; Justice and Innovation Group UK and Network for Justice UK; and Standing Council on Advice Research and Evaluation (UK).

Associate Director of the ANU Centre for the Profession Education and Regulation in Law (2016 -2020).

Expert adviser to the Law Council of Australia's Justice Project (2017-2018).

Conducted the Literature Review for the Australian Attorney General's Office on Effective Legal Assistance Services.

Evaluator of Quality & Effectiveness of Legal Aid ACT.

Evaluation Adviser to Advicenow

Summary of Publications- Routledge UK '[Better Law for a Better World: New approaches to law practice & education](#)'; 5 book chapters; articles in peer reviewed publications (31); non-refereed publications (80) and published industry reports (at least 29) on access to justice, human rights, youth justice, restorative practice, refugees, multidisciplinary practice.

****Further details and non-exhaustive publications: <https://www.ntu.ac.uk/staff-profiles/law/liz-curran> ORCID ID 0000-0002-6371-2975*

CONTEXT

This submission is to be read in conjunction with Dr Curran's [Submission to the House of Lords Constitution Committee - Inquiry into the Rule of Law](#) (2025); [Submission to the UK Parliament Public Accounts Committee – Value for Money from Legal Aid](#) (2024); and her [Submission to the Health and Social Care Committee](#) (2023).

Dr Curran throughout the submission draws on her research, publications, and practice experience and the research of others.

She only responds to the questions where she has relevant experience and expertise (questions 1-7 and 10).

As part of her work, Dr Curran works closely with others who are subject experts in specific areas related to access to justice and identifies the most pertinent whose work might inform the Joint Select Committee (questions 8, 9 and 11).

Dr Curran, partly in preparation for this submission to the Joint Select Committee, has been working over summer 2025 on three Policy Briefs for Lord Bach. Lord Bach launched the report 'Regulatory Leadership on Access to Justice'¹ in London on 1 April 2025. Each Policy Brief flows from the recommendations in this report on what the regulators can do to improve access to justice. The research and report were commissioned by the Legal Services Consumer Panel and co-authored by Nottingham Law School (Curran, Ching and Jarman), the Legal Services Consumer Panel, and the Legal Services Board (the oversight regulator of the legal profession in E & W) but will require Parliamentary or Government action for implementation.

These Policy Briefs were sent to Lord Bach on 12 September (Policy Brief 2), 24 September (Policy Brief 1) and 26 September (Policy Brief 3). These are annexures 1, 2 and 3 respectively to this submission and form a part of this submission.

The Policy Briefs are designed to promote dialogue and to explore new ways of thinking considering the pressing need to address access to justice and high unmet legal need in

¹ Liz Curran, Jane Ching, and Jane Jarman (2025). Regulatory leadership on access to justice. London: Legal Services Consumer Panel. <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/04/25.04.01-Regulatory-Leadership-on-Access-to-Justice-Report.pdf>

England and Wales (E&W) and the United Kingdom as a whole. Not acting soon can only see problems escalate and become further entrenched especially in underserved communities who are those with few resources. Why? As this submission highlights, poor access to justice is having significant effects on public confidence in the legal system and already has created a two-tier justice system threatening equality before the law. Sections of the community (generally the most disadvantaged because of poverty and often systemic factors) are being left out, in dire need and see 'the law as not being for them, but for others'.

The Policy Briefs will also have been forwarded to relevant Ministers (Lord Chancellor, Attorney General and Minister for Courts and Legal Services) and the Ministry of Justice in the first week of October 2025 parallel to the submission.

The Policy Briefs are designed to suggest ideas to forge ideas for action. They are the views of Dr Curran based on her research, practice and expertise.

Each Policy Brief has been anonymously peer reviewed by English subject experts acting as 'critical friends' who have expertise in the specific areas under consideration. Feedback from these subject experts has been integrated into each Policy Brief.

The Policy Briefs are as follows:

- Policy Brief 1: *Amending the Legal Services Act: Paramountcy of duties essential to administration of justice and the rule of law*
- Policy Brief 2: *Establishing an 'access to justice committee' to consider a mixed model and Independent Statutory Legal Aid that provides collaborative direct service delivery to improve community outcomes*
- Policy Brief 3: *Creating Incentives to Improve Access to Justice– Learning from successful models of mandatory pro bono mandatory that work with private profession doing government work.*

RESPONSE TO JOINT SELECT COMMITTEE QUESTIONS

1. How does the current state of the legal services and representation market in England and Wales, and associated operating pressures, affect access to justice for clients?

1.1. The wording of this question implies that legal services and representation are merely a 'market'.

Access to legal services and representation are more than just a 'market'. It is this reductionist framing as a 'market', that has enabled over decades, the shrinking of the discussion to being about savings and expenditure, ignoring that access to justice is essential for 'equality before the law' a fundamental tenet of the *rule of law*, for a functioning democracy.

Seeing the current state of the legal services and representation as a 'market' has seen a failure to strategically consider and understand the consequential implications of austerity, the constraining conditions for legal aid (such as the *Legal Aid, Sentencing and Punishment of Offenders Act 2012* (LASBO)). Each step has undermined people's equality before the law (by reducing access of those in the community most in need), and the ability to ensure and enforce adherence to the law and human rights protections. This directly hinders the role access to justice has in broader efforts at reducing poverty and inequality, improving social determinant of health outcomes for community, ensuring accountability and shining the light

on maladministration.² United Nations Sustainable Development Goals (SDGs) 16 specifically refers to the promotion of access to justice³ with steps specified by the UN on ensuring 'people-centred justice'.⁴

Cuts to civil legal aid, since 2013, in England & Wales (E&W) have led to siloed, fragmented, reduced (Frontier Economics 2024, Hynes, 2023⁵), inefficient (Competition and Markets Authority, 2020⁶) and inadequate legal support services, leaving the most disadvantaged members of society stranded (Swords 2022, LSB, 2022, Haque 2023⁷), compromising equality before the law.

3.6 million adults in England and Wales experience unmet legal needs each year, and over a third lack confidence in the legal system. (LSB, 2020⁸)

Those on lower incomes are more likely to think legal aid is not available. Those with a gross annual household income of £32,000 or less are the most likely to say that legal aid is not available for any issues (9% vs 6% with over £60k). Only a quarter (24%) of those on lower incomes think legal aid is available for welfare/ benefits issues, compared to 32% of those with higher incomes (over £60k). People do think legal aid should be available for most issues: over half say that legal aid should be

² Sara Gilboe and Liz Curran (2025) 'The role of justice in addressing the social determinants of health'. *International Journal of Social Determinants of Health and Health Services*. <https://journals.sagepub.com/doi/10.1177/27551938251321973>. ISSN 2755-1938

³ Cabinet Office, Department for International Development, and Foreign, Commonwealth and Development Office, 'Implementing the Sustainable Development Goals' (GOV.UK, 15 July 2021) <<https://www.gov.uk/government/publications/implementing-the-sustainable-development-goals/implementing-the-sustainable-development-goals--2>> accessed 20 September 2024; Barbara Woodward, 'The UK's Commitment to the Sustainable Development Goals Is Unwavering' (High-Level Political Forum 2024, United Nations, New York, 17 July 2024) <<https://www.gov.uk/government/speeches/the-uks-commitment-to-the-sustainable-development-goals-is-unwavering-uk-national-statement-at-hlpf-2024>> accessed 20 September 2024.

⁴ UNDP, 'Human Rights: The Global Programme for Strengthening the Rule of Law, Human Rights, Justice, and Security for Sustainable Peace and Development Phase IV (2022-2025)' (UNDP, 1 January 2022) <<https://www.undp.org/rolhr/publications/human-rights-global-programme-strengthening-rule-law-human-rights-justice-and-security-sustainable-peace-and-development-phase-iv>> accessed 20 September 2024; UNDP, 'People Centred Justice and Security' (UNDP, 2023) <<https://digitalguides.undp.org/guide/people-centred-justice-and-security>> accessed 20 September 2024.

⁵ Frontier Economics, 'Research on the Sustainability of Civil Legal Aid: Final Report' (Law Society of England and Wales 2024) <<https://www.lawsociety.org.uk/topics/research/civil-legal-aid-sustainability>>; Jo Hynes, 'Overstretched & Unsustainable: A Case Study of the Immigration and Asylum Legal Aid Sector' (Public Law Project 2023) <<https://publiclawproject.org.uk/resources/overstretched-unsustainable-a-case-study-of-the-immigration-and-asylum-legal-aid-sector/>>.

⁶ Competition and Markets Authority, 'Review of the legal services market study in England and Wales.' (Competition and Markets Authority 2020) <https://assets.publishing.service.gov.uk/media/5fd9e53cd3bf7f40ccb335e1/Legal_Services_Review_-_Final_report.pdf>

⁷ Legal Services Board, 'Segmentation of People Using Legal Services' (Legal Services Board 2022) <<https://legalservicesboard.org.uk/wp-content/uploads/2022/07/20220609-Segmentation-of-people-using-legal-services-Infographic-FINAL-V2-003.pdf>>; Beth Swords and Ramya Sheni, 'Brick Wall After Brick Wall: The lived realities and concerns of Black communities in the UK' (ClearView Research Ltd and Black Equity Organisation 2022). <<https://static1.squarespace.com/static/63fe141151515543830a1746/t/642d821dc1e7a412b947f239/1680704043976/Black+Equity+Organisation+Report.pdf>>; Zubaida Haque, 'Gender gaps in access to civil legal justice' (Women's Budget Group 13 July 2023) <<https://wbgroup.org.uk/wp-content/uploads/2023/07/Gender-gaps-in-access-to-civil-legal-justice-WBG.pdf>>

⁸ Legal Services Board, 'Ten-Year Report Reveals That the Basic Legal Needs of Many in Society Are Still Not Being Met' (Legal Services Board, 25 November 2020) <<https://legalservicesboard.org.uk/news/ten-year-report-reveals-that-the-basic-legal-needs-of-many-in-society-are-still-not-being-met>>

available for each type of legal issue, with 72% saying it should be available for issues around domestic violence. (You Gov, 2024⁹).

32% of people who have a legal need are left with unmet legal need – and consequently do not have access to justice, 36% of adults lacking confidence in achieving a fair and positive outcome when faced with a legal problem, this reflects poorly on the justice system.¹⁰

1.2. There is an imperative for change and a strategic overarching visions and infrastructure to support it for access to justice policy with evidence base developed and informing what good looks like informed by ‘people centred justice’, new funding mechanisms, and frameworks.

Like health and education, implications of failing to properly support, resource and understand the value of legal support and expertise lead to poor outcomes and poor societal implications as this submission will later outline. These have shaken confidence and trust in institutions that have a critical role in supporting, protecting and ensuring fundamental essentials for life. This reflects that health, education, social and family structures all of which rely on legislation and regulatory frameworks and not being able to avail oneself of knowledge and capability to access the law and its protections impedes each.

Access to justice and equality before the law is critical for everyone to understand and navigate the complex frameworks that exist to facilitate adherence and protection of these rights to health, education, housing and social and income support.

Accordingly, legal services and representation become not a ‘market,’ but rather the essential underpinning for positive outcomes for the people in the United Kingdom. Yet, with hard to navigate, often only on- off legal advice service that fails to address systemic causes of injustice - leaving people with legal protections stranded - can only harm trust and confidence in the role of the law in people’s lives. Many people are left without the protection of the law.

1. 3. Considering current resource constraints, policy and funding need to be informed by what is effective, rather than what has always been done, or minor tinkering around the edges of a legal support and legal aid system that is not ‘fit for purpose’. It is Dr Curran’s submission based on the overwhelming documented evidence, in report after report, that trying to retrofit a fundamentally flawed system continues to see poor investment - with very little evidence that inroads in access to justice are made by such investment and evidence that suggests the opposite may be true.

1. 4. Equality before the law is an essential element of the rule of law in a democracy. Often those most affected by poor laws and administration are the poor, the marginalised and socially excluded, who have little voice, and the state and corporate entities can overlook. This overrides critical legal rights where people are unrepresented, self-represented or unable to provide the necessary evidence in the format required without legal support. Decisions are made with poor or partial information and without scrutiny if there is a mistake.¹¹

⁹ YouGov, ‘Legal Needs of Individuals in England and Wales.’ (Law Society of England and Wales; Legal Services Board 2024) 16. <<https://www.lawsociety.org.uk/topics/research/find-out-what-your-clients-need-with-the-results-of-our-legal-needs-survey>>

¹⁰ YouGov, ‘Legal Needs of Individuals in England and Wales.’ (Law Society of England and Wales; Legal Services Board 2024). <<https://www.lawsociety.org.uk/topics/research/find-out-what-your-clients-need-with-the-results-of-our-legal-needs-survey>>

¹¹ Jingchen Zhao, Liz Curran, Jonathan Doak, Selbi Durdiyeva, Sophie Gallop, Helen Hall, Matt Henn, Tom Lewis, Blerina Kellezi, Helen O’nions, and Loretta Trickett, (2023) ‘Scoping the future law and social justice -

1.5. The research is clear, legal problems if unresolved cause stress, lead to poor health outcomes, cascade, intersect, compound and occur in clusters and result in multiple issues further entrenching disadvantage.¹²

1.6. This is not helped by the current legislative duties for the legal profession. These are problematic due to an over-focussing on 'best interests of the client' and commercial advantage which sometimes comes at the cost of the broader public interest. This damages faith in the integrity of the justice system.

If the focus was to change to create a paramountcy for the regulated legal profession of certain duties fundamental to the integrity such as the rule of law and administration of justice focussing on the public interest, greater ethical contextualising beyond the immediate to flow on effects and ramifications would occur. In Australia, this paramountcy fosters greater individual and collective ethical mindfulness. This would have preventative effect¹³ and over time change to a positive ethical culture with a greater awareness of acting in the public interest. Ancillary to this, and relevant to this Inquiry, it would drive access to justice, consumer protection and give the profession more direction averting some of the travesties of justice seen in recent times. It would help ensure ethical conduct along the way by the legal profession rather than waiting for regulatory action by which time the 'horse has bolted'. This would lead to less expenditure on claims for redress and compensation¹⁴ by the government in the longer term.

listening & hearing from the frontline: final report. Nottingham Trent University.

https://irep.ntu.ac.uk/id/eprint/49438/1/1785305_Zhao.pdf; Robert Thomas, 'Benefit Complaints: A Critical Analysis' (2022) 44 *Journal of Social Welfare and Family Law* 258; Robert Thomas 'Analysing systemic administrative justice failures: explanatory factors and prospects for future research', (2021) 43(3) *Journal of Social Welfare and Family Law* 339.

¹² Nigel J Balmer and others, 'The Public Understanding of Law Survey (PULS), Volume 3: A New Perspective on Legal Need and Legal Capability' (Victoria Law Foundation 2024) <<https://www.youthaccess.org.uk/sites/default/files/uploads/files/healthinequality-access-to-justice.pdf>>; Nigel J Balmer and others, 'Knowledge, Capability and the Experience of Rights Problems' (Plenet and Legal Services Research Centre 2010); Alexy Buck and others, 'Lone Parents and Civil Law: Their Experience of Problems and Their Advice-seeking Behaviour' (2024) 38 Social Policy and Administration 253; Pascoe Pleasance, Nigel J Balmer and Alexy Buck, 'The Health Cost of Civil-Law Problems: Further Evidence of Links Between Civil-Law Problems and Morbidity, and the Consequential Use of Health Services' (2008) 5 Journal of Empirical Legal Studies 351; Nigel J Balmer and Alexy Buck, 'The Health Cost of Civil-Law Problems: Further Evidence of Links Between Civil-Law Problems and Morbidity, and the Consequential Use of Health Services' (2008) 5 Journal of Empirical Legal Studies 351; Pascoe Pleasance, Zhigang Wei and Christine Coumarelos, 'Law and Disorders: Illness/Disability and the Response to Everyday Problems Involving the Law' (2013) 30 Updating Justice 1; Jon Robins, 'Justice Gap: The Towns Where There's No Access to Free Legal Advice' *The Guardian* (London, 27 March 2019) <<https://www.theguardian.com/society/2019/mar/27/justice-gap-towns-no-access-to-legal-aid-wales-england>>.

¹³ Liz Curran, (23 January 2024) 'Expert blog: How earlier legal support for sub-postmasters could have made a significant difference in averting miscarriages of justice', Nottingham Law School, Nottingham Trent University. <https://www.ntu.ac.uk/about-us/news/news-articles/2024/01/early-legal-support-could-have-prevented-post-office-scandal>

¹⁴ Gabriel Kennedy, 'Revealed: The Quarter-Billion-Pound Payday for Post Office Scandal Lawyers' *The Lawyer* (London, 21 August 2024) <<https://www.thelawyer.com/revealed-the-quarter-billion-pound-payday-for-post-office-scandal-lawyers/>>

See Annexure One as part of this submission for details and concrete proposals - Policy Brief 1: *Amending the Legal Services Act: Paramountcy of duties essential to administration of justice and the rule of law*

2. What is the role of supplementary advice services in supporting access to justice?

2.1. The role of supplementary advice services and ‘trusted intermediaries’ is critical in supporting access to just but must be linked in and aligned with specialist legal support.

Trusted intermediaries are organisations, and their staff, who are not lawyers, but to whom community members turn to for help with a range of problems, some of which may be legal or caused by legal issues.

It can include organisations that support specific parts of the community, for example women and young people, and specialist services such as health services, foodbanks, domestic violence, drug and alcohol services.¹⁵

2.2. Supplementary advice services and ‘trusted intermediaries’ are a critical part of an ecosystem¹⁶ and supplementary advice services and ‘trusted intermediaries’ and specialist legal support rely on the other in order to provide effective access to justice.¹⁷ This takes into account the reality that there is low legal capability and ability to identify issues that may be capable of a legal solution especially for those who are marginalised or disadvantaged and their supports.¹⁸

2.3. Citizens Advice (CAB) has recently highlighted the pressures on the poor and its advisers. CAB advisers report people having to take out Universal Credit (UC) budgeting loans to help with the cost of moving into temporary accommodation. These loans are repaid through deductions from UC, making high living costs even harder to manage and putting them at greater risk of getting into further debt. Amongst its advisers, half reported that clients living in temporary housing were falling into arrears on household bills.¹⁹ This is particularly the case with rent, often due to shortfalls in housing benefit.²⁰ The CAB report

¹⁵ Liz Curran and Claire Stern, (19 September 2025) ‘Reaching underserved communities to tackle inequality.’ Legal Futures, <https://www.legalfutures.co.uk/blog/reaching-underserved-communities-to-tackle-inequality>. For further information see Liz Curran (2017) ‘Lawyer Secondary Consultations: improving access to justice and human rights: reaching clients otherwise excluded through professional support in a multi-disciplinary practice’ 8(1) *Journal of Social Inclusion* <https://journalofsocialinclusion.com/articles/10.36251/josi117>

¹⁶ Mulqueen, T., Harrison, J., Wintersteiger, L., (2025) Understanding local legal needs: Early Intervention and the Ecosystem of Legal Support, Nuffield Foundation, <https://www.nuffieldfoundation.org/wp-content/uploads/2022/02/Understanding-Local-Legal-Needs-Early-intervention-and-the-ecosystem-of-legal-support.pdf>

¹⁷ Mulqueen, T., Harrison, J., Wintersteiger, L., (2025) Understanding local legal needs: Early Intervention and the Ecosystem of Legal Support, Nuffield Foundation, <https://www.nuffieldfoundation.org/wp-content/uploads/2022/02/Understanding-Local-Legal-Needs-Early-intervention-and-the-ecosystem-of-legal-support.pdf>

¹⁸ Nigel J. Balmer, Pascoe Pleasence, Hugh M. McDonald and Rebecca L. Sandefur (2024) ‘Public Understanding of Law Survey’, Volume 3, Victoria Law Foundation, Melbourne, Victoria. <https://www.victorialawfoundation.org.au/research-publications/puls-volume-3>.

¹⁹ India Walden, Tess Thompson, Emer Sheehy, and Maiya Evans (23 September 2025), ‘The Hidden Costs of Homelessness: how the cost of living in temporary accommodation is pushing families deeper into poverty’. 19. https://assets.ctfassets.net/mfz4nbgura3g/6w3bx8cL9HpcVHd8n60bMk/02ad0cf9c34693b3b18ec6317e087358/Hidden_costs_of_TA_project_FINAL.pdf

²⁰ India Walden, Tess Thompson, Emer Sheehy, and Maiya Evans (23 September 2025), ‘The Hidden Costs of Homelessness: how the cost of living in temporary accommodation is pushing families deeper into poverty’. 15-16. https://assets.ctfassets.net/mfz4nbgura3g/6w3bx8cL9HpcVHd8n60bMk/02ad0cf9c34693b3b18ec6317e087358/Hidden_costs_of_TA_project_FINAL.pdf

recommends some options to improve support for advice and early intervention which are a start only. Policy Brief 2 (in Annexure 2 in this submission) provides practical and underpinning elements already operating in other jurisdictions that could better drive and improve the overall ecosystem based on evidence on the value of core service funding and holistic service provision. Such provision reduces referral round-aboutness and enable better coverage and use of pooled resources through collaboration and opportunity for joined up service delivery in areas where currently there is unmet legal need. Through redirection of costly infrastructure in the United Kingdom (see Policy Brief 2 in relation to the Legal Aid Agency structure in comparison to Legal Aid Commissions public service delivery model) to facilitating direct service delivery through a 'mixed model' rather than the inefficient judicare model that currently predominates in the UK. Although, the mixed model **is not perfect it does tend to provide a better buffer against down turns in private profession provision for the poorest** which is now significant in England and Wales.²¹

*The judicare model inserts a third-party funder (SLAB) into an existing solicitor/client relationship and controls access to public funds via a range of eligibility tests, pre-approval requirements and tests for payment. It is designed to support the traditional private sector delivery model: the solicitor is free to deliver services where they want, to client groups they choose to serve and case types they choose to deal with.*²²

*The Review cautioned that there is a lack of direct engagement with user representatives in the policy making process around legal aid, and made specific reference to the lack of engagement by strategic third sector organisations as part of its call for evidence. This is perhaps symptomatic of the user voice being lost in the current system, and supports the need to refocus the approach in legislation to embed this voice and to reflect that it is the needs of those requiring advice and representation that are at the centre of a legal aid service.*²³

In Australia and Canada, a 'mixed model' of legal aid service exists. In New South Wales, Australia it has been described as follows:

Legal aid is administered by Legal Aid Commissions (LACs), which operate as independent statutory authorities in each State and Territory. Among other responsibilities, LACs manage provision of legal aid via a 'mixed model' which involves a combination of directly employed, in-house practitioners, and private practitioners drawn from the broader legal sector. Private practitioners play an integral role. Although the structure of the mixed model fluctuates by year and varies across jurisdictions⁴ recent national data indicates that the balance remains heavily weighted toward private provision. Indeed, the vast majority of legal aid cases involve

²¹ Don Flemming and Anne Daly, (2007) The retreat of the legal profession from legal aid: labour market change in the Australian mixed model, *International Journal of the Legal Profession*, 14:1, 21-56 <https://doi.org/10.1080/09695950701322924>; Mary Anne Noone, Stephen Tomsen (2001). 'Service beyond self-interest? Australian lawyers, legal aid and professionalism. *International Journal of the Legal Profession*', 8(3), 251–273. <https://doi.org/10.1080/09695950220141043>; Scottish Government (2019) 'Legal Aid Reform Consultation Paper', Scotland, <https://www.gov.scot/publications/legal-aid-reform-scotland-consultation/pages/4/>; Government of Canada, 'A Profile of Legal Aid Services in Family Law Matters in Canada', (2002) https://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/rr03_la12-rr03_aj12/toc-tdm.html; Liz Curran, Andrew Crockett, (2013) 'Measuring Legal Services: A Practical Methodology for Measuring the Quality and Outcomes of Legal Assistance Services' UTasLawRw 4; (2013) 32(1) *University of Tasmania Law Review* 70. <https://classic.austlii.edu.au/au/journals/UTasLawRw/2013/4.html>

²² Scottish Government (2019) 'Legal Aid Reform Consultation Paper', Scotland, 9. <https://www.gov.scot/publications/legal-aid-reform-scotland-consultation/pages/4/>

²³ Scottish Government (2019) 'Legal Aid Reform Consultation Paper', Scotland, 11. <https://www.gov.scot/publications/legal-aid-reform-scotland-consultation/pages/4/>

private practitioners. In 2022-23, 72% of approved applications for legal aid were assigned to private practitioners.²⁴

As with the United Kingdom resource and funding constraints are present but National Legal Aid as body of combined statutory commissions conducts ongoing research to support private and public provision to the most disadvantaged and advocates to the different levels of government (See policy Brief 2 in Annexure 2 for details).

2.4. The laws and regulations that exist are complex and multifarious and so specialist legal advice is critical at important junctures, otherwise advice services, with all the best intentions may mislead or be withdrawn at critical junctures due to limitations of 'restricted practice' resources or capacity. One-off advice is often what people receive in E & W, if that, and this may not be enough. As highlighted and heavily referenced above, legal problems if unresolved cause stress, lead to poor health outcomes, they cascade, intersect, compound and occur in clusters and result in multiple issues further entrenching disadvantage. Supplementary advice services and trusted intermediaries can gain support of specialist legal support is poorly understood by administrators and funders. Specialist legal support can lead to early resolution,²⁵ hold decision-makers to account for poor decision-making earlier. This saves costly resources²⁶ that might otherwise be spent on unmeritorious litigious avenues or lead to judicial and tribunal compensation for poor decision making for poor initial decision making by authorities (government, companies and local government).²⁷

Inadequate legal assistance brings significant economic and social costs for individuals, families, and communities. A 2023 report prepared for National Legal Aid (NLA) estimated that the annual benefit of select Legal Aid outcomes was \$601 million.⁴ Ignored and underattended legal problems violate our collective democratic values and the dignity every Australian is individually owed. Justice denied places severe restrictions on people's well-being, and their ability to participate in the relationships and activities that give rise to meaningful living. The justice system also determines the level of economic growth. The justice system is an integral part of the institutional foundations for promoting the thriving investment climate necessary for economic growth. Without a functional legal system, markets don't work, and prosperity is undermined. The Hague Institute of Innovation and Law estimates that legal problems cost OECD countries between 0.5 and 3 per cent of GDP in lost income, damaged health and, seeking redress ...²⁸

2.5. A combination of early support, early advice and 'legal heft' with access by advice services to legal expertise is critical and needs to be seamless and accessible. In E & W this

²⁴ Natasha Cortis and Megan Blaxland (2025) 'Legal Aid Private Practitioners Census Report, 2024' National Legal Aid, NSW Law and Justice Foundation, 5. <https://lawfoundation.net.au/wp-content/uploads/2025/02/Legal-Aid-Private-Practitioners-Report-SPRC-for-NLA-5-February-2025-v2.pdf>

²⁵ Nigel J. Balmer, Pascoe Pleasence, Hugh M. McDonald and Rebecca L. Sandefur (2024) 'Public Understanding of Law Survey', Volume 3, Victoria Law Foundation, Melbourne, Victoria. <https://www.victorialawfoundation.org.au/research-publications/puls-volume-3>.

²⁶ Rebecca Munro and Lorna Preece, 'The Value of Justice for All Evaluating the Case for Funding the Free Specialist Legal Advice Sector' (The Access to Justice Foundation and the Bar Council 2024) <<https://atjf.org.uk/wp-content/uploads/2024/08/The-value-of-justice-for-all-a-report-for-the-Access-to-Justice-Foundation-and-the-Bar-Council-from-Pragmatix-Advisory.pdf>>; Impact Economics (2023) Justice on the Brink Report: Stronger Legal Aid for a Better Legal System, National Legal Aid Australia. <https://nationallegalaid.org.au/policy-and-advocacy/reports/justice-on-the-brink>

²⁷ Liz Curran (2025) 'Knowledge really is power: NLS legal research and impact evaluation report: measuring the effectiveness and impact of NLS Legal in improving access to justice, key social development goals, and its role in student and staff development'. Nottingham: Nottingham Law School. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5107677

²⁸ Impact Economics (2023) Justice on the Brink Report: Stronger Legal Aid for a Better Legal System, National Legal Aid Australia, 6. <https://nationallegalaid.org.au/policy-and-advocacy/reports/justice-on-the-brink>

is important especially as so many in supplementary advice services are overstretched and have heavy caseloads. Often decision makers wrongly argue that community members have no legal rights through either ignorance, poor supervision, or to prevent action. Dr Curran witnessed or had reported back from 'trusted intermediaries - decision-makers rolling over and conceding legal points. As a legal practitioner over three decades, she attended various negotiations, tribunal, court proceedings and roundtables alongside trusted intermediaries or writing legal letters that they then used. This was where previously, without the 'legal heft' provided it would have led to prolonged and wasteful arguments or the trusted intermediary just giving up. As recently as August 2025, a SEND charity reported the value of legal heft. This charity noted resolving issues in favour of families was commonplace when there was legal expertise but lamented this support had now been withdrawn due to capacity and resource issues from the pro bono legal service. As one 'trusted intermediary' research participant (feedback replicated in multiple Curran studies) noted, 'I always thought when an authority said it was a 'no', it was a no but now with legal help, I know it's a maybe.'

2.6. It is extremely challenging however for people to get help given the current landscape. The Guardian recently noted,

'The number of UK charities that have been forced to shut their doors for good has jumped by 74 per cent this year, with the rising cost of living, stalling donations and the increase in employers' national insurance all blamed for the shocking rise... The number of major UK charities, defined as those that recorded revenues of over £50k, shutting down jumped to 151 in 2024/25, up from 87 in 2023/24, according to charity commission data analysed by chartered accountants and business advisers Lubbock Fine.'²⁹

2.7. An openness to new ways of working and innovations and opportunities that have been tested and evaluated in other jurisdictions, but which are underexplored in the United Kingdom should be considered.

2.8. As Dr Curran recently noted³⁰

Building capability and responsiveness for trusted intermediaries beyond mere signposting (complicated in the UK, if there is nowhere to refer or legal supports turn people away because they are at capacity) is an innovation that UK policy makers and funders could think about building on the Nuffield report.

Policy makers and funders need to explore how secondary consultations³¹ might be funded and form part of the service delivery landscape with law centres working with trusted intermediaries in the United Kingdom.

²⁹ Millie Cook, 'Charity closures soar by three-quarters as stalling donations and cost of living crisis blamed', The Guardian, Sunday 21 September 2025. https://www.independent.co.uk/news/uk/politics/charity-closures-oxfam-macmillan-cost-of-living-b2829938.html?utm_source=Bulletin&utm_campaign=7a3e754af0-EMAIL_CAMPAIGN_2025_09_25_06_04&utm_medium=email&utm_term=0_-7a3e754af0-614308182

³⁰ Liz Curran and Claire Stern, (19 September 2025) 'Reaching underserved communities to tackle inequality.' Legal Futures, <https://www.legalfutures.co.uk/blog/reaching-underserved-communities-to-tackle-inequality>.

³¹ Secondary consultations are where a lawyer gives one-to-one information or advice in a timely and approachable way to trusted intermediaries likely to have contact with vulnerable and disadvantaged clients. It is an effective way of reaching clients who would otherwise not gain legal help or advice. See 'Lawyer Secondary Consultations: improving access to justice and human rights: reaching clients otherwise excluded through professional support in a multi-disciplinary practice' 8(1) *Journal of Social Inclusion* (2017). <https://journalofsocialinclusion.com/articles/10.36251/josi117>

Evidence is too often overlooked by government and regulators when they implement policies or make funding decisions. Ironically, measures discussed here are more cost effective³² and can lead to downstream savings in other areas such as health and social services and ultimately have better outcomes for members of the community.

2.9. New ways of working and innovations and opportunities are canvassed and are worth of consideration in the following reports, policy briefs, or articles:

- Liz Curran, Jane Ching, and Jane Jarman (2025). 'Regulatory leadership on access to justice' for the Legal Services Consumer Panel.³³ This report contains a wide range of tested strategies to improve navigation and pathways including Holistic, People-Centred Services, developing integrated legal services that address barriers to access, particularly for disadvantaged groups. Also, it explores the role of legal education, opportunities for peer-to peer work and the mandatory regulation of paralegals to expand the pool of trusted intermediaries who can assist the public in navigating legal processes. The level of regulation and training required should be proportionate to the associated risks. Lessons can be learned from understanding how the mandatory regulation of paralegals has played out in other jurisdictions.
- Liz Curran and Sue James, 2025. 'Integrated legal practice: going to where the people are who need our help - legal empowerment and multidisciplinary innovation'.³⁴ This explores innovative practice (in settings with limited resources in the UK and other jurisdictions) and emerging evidence-based practice that make inroads into Social Development Goals specifically 16.3 on access to justice and 10 on reducing inequality. This paper looks at the role of action research, multidisciplinary practices (including health justice partnerships), legal secondary consultations (underexplored in the United Kingdom³⁵), broad cross disciplinary governmental and service collaborations, policy engagement by partners with endeavours aiming to improve legal empowerment (including community development approaches), rights capability, and inroads to address poor health, social and justice outcomes.³⁶
- Dr Curran, Policy Brief 3 (Annexure 3 in this submission) 'Creating Incentives to Improve Access to Justice– Learning from successful models of mandatory pro bono mandatory that work with private profession doing government work'. This Policy Brief does not purport that pro bono legal services should be seen as a substitute for an adequately funded system of civil legal aid. Considering the advice deserts, and dire need for legal support from an increasing number of people with legal need

³² Rebecca Munro and Lorna Preece, 'The Value of Justice for All Evaluating the Case for Funding the Free Specialist Legal Advice Sector' (The Access to Justice Foundation and the Bar Council 2024) <<https://atjf.org.uk/wp-content/uploads/2024/08/The-value-of-justice-for-all-a-report-for-the-Access-to-Justice-Foundation-and-the-Bar-Council-from-Pragmatix-Advisory.pdf>>

³³ Liz Curran, Jane Ching, and Jane Jarman (2025). Regulatory leadership on access to justice. London: Legal Services Consumer Panel. <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/04/25.04.01-Regulatory-Leadership-on-Access-to-Justice-Report.pdf>

³⁴ Liz Curran and Sue James, 2025. Integrated legal practice: going to where the people are who need our help - legal empowerment and multidisciplinary innovation. In: International Legal Aid Group 14th conference, Harvard Law School, Cambridge, MA, 21-23 June 2023. <http://dx.doi.org/10.2139/ssrn.5220964>

³⁵ Liz Curran and Claire Stern, (19 September 2025) 'Reaching underserved communities to tackle inequality.' Legal Futures, <https://www.legalfutures.co.uk/blog/reaching-underserved-communities-to-tackle-inequality>.

³⁶ Liz Curran (2021 reprint 2023), Better Law for a Better World: New Approaches to Law and Practice Education, Routledge, Chapter 4 'Empowerment Models' 47-63, Chapter 5 'Client Centred Approaches' 63-79, Chapter 6 'Multidisciplinary Practice' 79-100, Interdisciplinary student clinics and joint learning' 129-142. Part 11 Practical Skills for new approaches to lawyering 141-238. <https://www.routledge.com/Better-Law-for-a-Better-World-New-Approaches-to-Law-Practice-and-Education/Curran/p/book/9780367180423>

action must be taken and soon. Rising numbers of underserved people experiencing disadvantage means more levers to stimulate pro bono are needed. Many law firms do great pro bono work. However, the burden is not shared. Others who do little or no pro bono work appear to do government work and profit extensively from it using public funds. Independent data on this is needed in the UK. Public funds generated through VAT and other taxes are being paid for by the very members of the community who are experiencing inequality and in dire need. This Policy Brief urges the government to proceed with its indication it will examine mandatory pro bono and other complimentary suggestions around targets, definitions and improved training to enable good quality work with groups experiencing disadvantage. The Policy Brief provides detailed information on how to implement this based on success in other jurisdictions with clear, practical guidance on how they have achieved culture changes and increased good quality pro bono.

- Liz Curran, 'Early access to legal support can make a real difference.'³⁷ Examines research on evaluated effective methods that involve lawyers earlier in problem identification alongside other support people. Significant inroads can be made into improving the lives of people, averting crisis, and building legal empowerment and improved health, safety, and wellbeing. This includes stable funding of core services in one place. Core services defined as including 'information, advice, legal representation, law reform and community development and public legal education'. Rather than referrals for each, such holistic approaches with effective triage and assessment in house, within the one service to avert fragmentation, the re-traumatisation of people having to retell their stories to different services and avert the referral roundabout.³⁸ It also means that lived experience can inform and improve service delivery and law reform, through a reflective practice lens.³⁹ No 'wrong door approaches' avert the referral roundabout that led people to giving up or being overwhelmed. It is efficient and cost effective. It is also an approach consistently recommended in the oceans of research on advice seeking behaviour, but which continues by and large to be ignored in the United Kingdom in 2025.
- Liz Curran, (2024). 'A missed opportunity to make health, education and social support savings through investment in early justice interventions'.⁴⁰ The research is clear that legal issues intersect with health, housing, employment, discrimination and income, and that problems compound if unresolved. This is heightened for people experiencing mental health issues, disability and domestic abuse. The research that tells us that the disadvantaged who are suffering most, are also more likely to have

³⁷ Liz Curran (2022) Early access to legal support can make a real difference. *The Law Society Gazette*. <https://www.lawgazette.co.uk/practice-points/early-access-to-legal-support-can-make-a-real-difference/5114516.article>

³⁸ Ash Patel (2009) 'Outreach Advice for Debt Problems: Research and Evaluation of Outreach Services for Financially Excluded People', Legal Services Research Centre; Marisol Smith and Ash Patel, 'Money Advice Outreach Evaluation: Cost and Effectiveness of the Outreach Pilots' Legal Services Research Centre; Alexy Buck and Marisol Smith (2013) 'Back for the future: A client centred analysis of social welfare and family law provision'. *Journal of Social Welfare and Family Law* 35(1). DOI:10.1080/09649069.2013.774740; Liz Curran (2019) 'Sharing elements of effective practice to address earlier, signs of family violence', 44 (3) *Alternative Law Journal*, <https://journals.sagepub.com/doi/10.1177/1037969X19843624>; Liz Curran, (2005) 'Making Connections: The Benefits of Working Holistically to Resolve People's Legal Problems' *Murdoch UeJLaw* 5; 12(1/2) *Murdoch University Electronic Journal of Law*, [https://classic.austlii.edu.au/au/journals/MurdochUeJLaw/2005/5.html#An](https://classic.austlii.edu.au/au/journals/MurdochUeJLaw/2005/5.html#An;); Liz Curran, 2022. 'Going deeper' - the Invisible Hurdles stage III research evaluation final report'. Nottingham: Nottingham Law School, Nottingham Trent University. <https://dx.doi.org/10.2139/ssrn.4147431>

³⁹ Michelle Leering, 'Conceptualizing Reflective Practice for Legal Professionals.' *Journal of Law and Social Policy* 23. (2014): 83-106.

⁴⁰ Liz Curran, (2024). A missed opportunity to make health, education and social support savings through investment in early justice interventions. *Solicitors Journal*. ISSN 0038-1047 (paywall)

not only one legal problem, but between five and eleven. Good practice to focus on what works rather than what does not, and to find out what leads to improvements in people's lives. This includes collaborations between different disciplines and across government portfolios to deliver holistic rather than splintered responses which are inefficient, ineffective and a waste of limited resources. Consideration of the 'mixed model' of service delivery rather than the current 'judicare model' in E & W is proven to make access and efficiency occur with demonstrable client outcomes. How this can and has been done is detailed in Policy Brief 2 in Annexure 2 of this submission.

- Liz Curran (2024) 'Why it's time to embrace health justice partnerships'.⁴¹ This article discusses research that if we can get in earlier and solve problems and often other problems⁴² that are associated with these that can be social (such as family reunification), economic (income support) or health (stress and anxiety reduction). It also addresses the root causes of problems, providing solutions to poor laws or maladministration earlier, informed by lived experiences. This saves misallocation of resources and empowers local communities.

3. What is the impact of those acting without legal advice and / or representation having on access to justice?

3.1. Dr Curran's research shows how they are too often are at the receiving end of blunt government policies or their administration. People experiencing disadvantage often caused by issues beyond individual control find their housing, income support, ability to keep families together and safety – all necessities to thrive at the behest of governments and local authorities. Without legal advice and / or representation having on access to justice they suffer flow on effects. Also, companies can also exploit and take advantage of people's poor legal capability and the lack of access to independent advice and early intervention. As a result, problems fester, escalate and opportunities for earlier intervention are missed causing downstream costs to government.⁴³

3.2. Whilst many corporations, businesses, and well-heeled members of the community in society may have the resources to hire a lawyer, receive ongoing legal representation and advice and pursue their rights through the court, the poor often do not. This leads to a two - tiered justice system.

3.3. The report 'Regulatory Leadership on Access to Justice' (pages 52-63) underscores the role of trust of the community in ensuring access to justice. it observes:

Access to justice is the ability of the citizen to be informed of their legal rights and position in law, obtain competent and effective advice on legal issues and – where relevant – have representation before courts and other authorities to obtain redress or hold authority to account. This includes remedies to avert levels of poverty and inequality. Access to justice is unavailable because of a range of barriers. These include (but are not limited to):

- *low awareness and identification of problems as having a legal dimension;*

⁴¹ Liz Curran (4 September 2024). Why it's time to embrace health justice partnerships. Edgware: Legal Futures. <https://www.legalfutures.co.uk/blog/why-its-time-to-embrace-health-justice-partnerships>

⁴² Liz Curran, Alikki Vernon, Pamela Taylor-Barnett Barnett, (2017) 'Reflecting on Community Development Practices: Improving Access to Justice by Working with Communities to Effect Change' 19(1) Flinders Law Journal 37.

⁴³ Liz Curran (2017) 'Enabling Marginalised Voices to Be Heard: The Challenge to Law Reform Bodies', New Directions for Law in Australia: Essays in Contemporary Law Reform, edited by Ron Levy, Molly O'Brien, Simon Rice, Pauline Ridge and Margaret Thornton, published 2017 by ANU Press, The Australian National University, Canberra, Australia, Chapter 48, 517 - 527. <https://press-files.anu.edu.au/downloads/press/n2641/pdf/ch48.pdf>

- *lack of capability⁴⁴ (see definitions section) amongst certain groups (often created by systemic conditions, ill health or a lack of resources) leading to a susceptibility to inaction. This means there may be a potential legal solution or option that is not utilised; and*
- *barriers created by failures in the market; because lawyers or the legal system are not trusted or legal advice and support is too expensive or unnavigable. Literature identifying these issues is detailed and cited in the report (see also 0.17 and 0.22 of the report) ...*

Lack of preventative action in the early stages of a problem and the low awareness of the legal dimensions and potential for problem resolution ...exacerbates problems, often leading to escalation. This causes further inequality.⁴⁵ It leads to further downstream costs in other areas including poor health outcomes,⁴⁶ specifically poor social determinants of health outcomes, in, for example, housing,⁴⁷ sufficient income, and wellbeing. This is why collaboration must occur, not just in legal systems and legal provision, but with other sectors. There may also be opportunities, even with current fiscal constraints in HM Treasury, for improvements to lead to savings by early legal support. It has recently been estimated in a report by the Access to Justice Foundation and the Bar Council that the provision of free specialist legal advice could save HM Treasury up to £11.2bn over a ten-year period.⁴⁸ Opportunities for earlier intervention are being missed and problems exacerbated and escalated. Not only does this have fiscal implications but significantly it affects people's exposure to harm, for example risk of eviction or inability to get the protections of domestic abuse orders for safety, placing children at risk.⁴⁹

3.4. Self-Represented Litigants who have little choice acting without legal advice and/ or representation due to lack of legal support but to appear unrepresented is a concern. Agencies like Support through Court, Advicenow and the Free Representation Unit try their best, but it is not sufficient. It leads to court delays and slowing down of the administration of justice. It makes it extremely challenging for courts and court personnel and causes distress for parties.

The available evidence indicates that the proportion of litigants appearing before the civil and family courts without legal representation (litigants in person, also sometimes called self-represented litigants) has increased since the Legal Aid, Sentencing and Punishment of Offenders Act 2012 took many civil and private law

⁴⁴ Nigel J Balmer and others, 'Everyday Problems and Legal Need: The Public Understanding of Law Survey (PULS) Volume 2' (Victoria Law Foundation 2024) <<https://www.victorialawfoundation.org.au/research-publications/understanding-and-capability-puls-volume-2>>

⁴⁵ Ireland Bellsmith and others, 'Poverty and Access to Justice' (International Centre for Criminal Law Reform 2022) Research report 2022-2 <https://icclr.org/wp-content/uploads/2022/02/Access-to-Justice-and-Poverty_ICCLR_RR-2022-2_Bellsmith-Goertzen-Neilsen-Stinson.pdf> accessed 22 August 2024, 3.

⁴⁶ Pascoe Pleasence, Zhigang Wei and Christine Coumarelos, 'Law and Disorders: Illness/Disability and the Response to Everyday Problems Involving the Law' (2013) 30 Updating Justice 1.

⁴⁷ Frontier Economics, 'Implications of Research on the Sustainability of Civil Legal Aid' (Law Society of England and Wales, 2024) <<https://www.lawsociety.org.uk/topics/research/civil-legal-aid-the-public-service-that-can-benefit-us-all#:~:text=1.%20An%20immediate,%20significant%20increase%20in>> Figure 1.

⁴⁸ Rebecca Munro and Lorna Preece, 'The Value of Justice for All Evaluating the Case for Funding the Free Specialist Legal Advice Sector' (The Access to Justice Foundation and the Bar Council 2024) <<https://atjf.org.uk/wp-content/uploads/2024/08/The-value-of-justice-for-all-a-report-for-the-Access-to-Justice-Foundation-and-the-Bar-Council-from-Pragmatix-Advisory.pdf>>, 8.

⁴⁹ Liz Curran, Jane Ching, and Jane Jarman (2025). Regulatory leadership on access to justice. London: Legal Services Consumer Panel, 13-14. <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/04/25.04.01-Regulatory-Leadership-on-Access-to-Justice-Report.pdf>

children and family cases out of scope for legal aid in England and Wales from 1 April 2013. Reliable data on (Litigants in Person) LIPs are scarce and the National Audit Office (NAO) has been critical of the limitations of the MoJ's data. Most of the data that are available concern LIPs in the family courts, although the NAO has said that the legal aid reforms are likely also to have increased the number of LIPs in civil law courts.

The NAO has reported a 22% increase in cases involving contact with children (Children Act 1989 private law matters) and a 30% increase across all family court cases (including those that remain eligible for civil legal aid) in which neither party had legal representation.⁵⁰

A Nuffield report focusing on Northern Ireland raises issues likely to occur in England and Wales (in the absence of other data).⁵¹ The report has noted that a rise of LIPs has also led to some better practices in the courts and their administration. However, key finds acknowledge that the court system is not designed for LIPs and the reasons for a rise in LIP.

Many of the LIPs in the study had sought legal representation or expressed a desire for it, but were unable to secure it either because they did not meet the threshold criteria for publicly supported legal assistance or they could not afford it... the experience of LIPs in the Northern Ireland civil and family justice system through the human rights lens pulls existing case law on LIPs' right to a fair trial into the light. The analysis indicated two core elements of the right were under threat: effective participation in which the right of access to a court implies that the LIP is able to participate effectively in the proceedings to a level where he or she is able to influence them so that the court can assure procedural and substantive justice; and equality of arms which is the fair balance between the parties in the opportunities given to them to present their case in a manner that does not disadvantage them with respect to the other side.⁵²

The report also notes the impacts for the court system

'Vexatious' or difficult LIPs were reported to present severe difficulties to courts and court staff. Even though they were understood to be rare, they were reported to take up a disproportionate amount of court and court staff time and were often a focus of our discussions with court actors. There was a suspicion that some LIPs present unmeritorious claims and so contribute to slowing down the system needlessly.⁵³

The Nuffield report cavasses other flow on effects such as stress, anger and a need for some cultural changes. It proffers some sensible recommendations on pages 17-21 with are

⁵⁰ Gabrielle Garton Grimwood 'Litigants in person: the rise of the self-represented litigant in civil and family cases in England and Wales.' House of Commons Library Research Briefing and Report <https://commonslibrary.parliament.uk/research-briefings/sn07113/>

⁵¹ Gráinne McKeever, Lucy Royal-Dawson, Eleanor Kirk and John McCord 'Litigants in person in Northern Ireland: barriers to legal participation', Ulster University, Northern Ireland Human Rights Commission and Nuffield Foundation. <https://nihrc.org/publication/detail/full-report-litigants-in-person-in-northern-ireland-barriers-to-legal-parti> ISBN 13 978-1-85923-278-1

⁵² Gráinne McKeever, Lucy Royal-Dawson, Eleanor Kirk and John McCord 'Litigants in person in Northern Ireland: barriers to legal participation' 12-13. Ulster University, Northern Ireland Human Rights Commission and Nuffield Foundation. <https://nihrc.org/publication/detail/full-report-litigants-in-person-in-northern-ireland-barriers-to-legal-parti> ISBN 13 978-1-85923-278-1

⁵³ Gráinne McKeever, Lucy Royal-Dawson, Eleanor Kirk and John McCord 'Litigants in person in Northern Ireland: barriers to legal participation' 14. Ulster University, Northern Ireland Human Rights Commission and Nuffield Foundation. <https://nihrc.org/publication/detail/full-report-litigants-in-person-in-northern-ireland-barriers-to-legal-parti> ISBN 13 978-1-85923-278-1

worth consideration by this Committee and are too detailed to outline in this submission and include

Support – access to legal services 11. Conduct a review on whether individuals on low incomes are being excluded from entitlement to legal aid, and its access to justice implications. 12. Explore how litigant vulnerability might better be supported by the State, either through expanding legal aid eligibility on an exceptional basis, or the Official Solicitor scheme, or through case-by-case judicial recommendation based on the considerations highlighted in the Equal Treatment Bench Book. 13. Examine the full potential of offering unbundled legal services within different business areas, drawing on international comparative experiences.

3.5. Advicenow⁵⁴ has also examined LIP in a report on its Affordable Advice. This service is aimed at people who are managing their finances on divorce or child arrangements difficulties with little or no advice. The service offers a blend of step-by-step guidance from the Advicenow website with fixed fee, unbundled legal advice from Resolution family lawyers at the most crucial points in the process.⁵⁵ This service is making a difference in family law cases and is an example of a good collaboration between the charitable and private sector,

The Advicenow report highlights areas for policy development and funding. This includes impact of domestic violence and abuse (DVA) and coercive control on LiPs going through divorce and child arrangements cases in the family court. They note the need for further research. Also, provision of wider national demographic data on those involved in cases in the Family Court to better address the early legal needs of LiPs as recommended in the Justice Report ‘Improving Access to Justice for Separating Families’. Further work on enhancing services that support the earliest possible interventions for LiPs, reducing the risk of their problems escalating; research to develop understanding of how and when LiPs access different services, services design around the people who need to use them; and building an evidence base of what works and what does not.⁵⁶

3.6. Nearly nine in ten people believe *law is a game in which the skilful and resourceful are more likely to get what they want* (Legal Services Board (LSB) 2020).⁵⁷ Studies worldwide show poor and disadvantaged groups (mental illness, children, disabilities etc) missing out on critical legal support, unable to resolve issues where law offers options and solutions critical in addressing inequality. Preventing eviction, homelessness, risk to safety from family violence and discrimination are examples. Low levels of confidence, trust and capability and poorly delivered legal support (Balmer et al. 2024⁵⁸, Pleasence et al. 2019⁵⁹) underpin this lack of access to justice.

⁵⁴ Note Dr Curran has been the evaluation adviser to Advicenow since 2021.

⁵⁵ Advicenow Legal Support for Litigants in Person Law for Life Research Report on Affordable Advice, <https://www.advicenow.org.uk/sites/default/files/2025-02/LSLIP%20Affordable%20Advice%20Report%20Final.pdf>

⁵⁶ Gillian Douglas et al, (2022) Improving access to justice by separating families, London: JUSTICE, <https://files.justice.org.uk/wp-content/uploads/2022/10/12154403/JUSTICE-Improving-Access-to-Justice-for-Separating-Families-October-2022.pdf>

⁵⁷ Legal Services Board, ‘Ten-Year Report Reveals That the Basic Legal Needs of Many in Society Are Still Not Being Met’ (*Legal Services Board*, 25 November 2020) <<https://legalservicesboard.org.uk/news/ten-year-report-reveals-that-the-basic-legal-needs-of-many-in-society-are-still-not-being-met>>

⁵⁸ Nigel J. Balmer, Pascoe Pleasence, Hugh M. McDonald and Rebecca L. Sandefur (2024) ‘Public Understanding of Law Survey’, Volume 3, Victoria Law Foundation, Melbourne, Victoria. <https://www.victorialawfoundation.org.au/research-publications/puls-volume-3>

⁵⁹ P Pleasence & NJ Balmer (2019) ‘Justice and the capability to Function in Society’ Winter 2019 *Journal of the American Academy of Arts & Sciences*, doi:10.1162/DAED_a_00547 140- 148. doi:10.1162/DAED_a_00547

3.7. Sovereign citizens fuel misinterpretations of common law, claim not to be subject to any government statutes unless they consent to them. These movements are rising in number and in appeal. They believe that courts have no jurisdiction over people and that certain procedures (such as writing specific phrases on bills they do not want to pay) and loopholes can make one immune to government laws and regulations. They regard most forms of taxation as illegitimate and reject driver's licenses, and vehicle registration.⁶⁰ Trust in the law and confidence in the legal system are integrally connected to people's belief and willingness to support government and the structures that support the public good. The impact on those acting without legal advice and / or representation having on access to justice means that people feel the law is not for them, but for the benefit of others (LSB, 2020) this increases alienation. It risks giving rise to an unwillingness to be a part of key democratic pre-conditions and enables extremists to gain traction. Increasingly we are seeing a rise in the sovereign citizen movement. The provision of adequate legal supports and expertise to ensure accountability is integrally linked to addressing rising discontent and the feelings that the law is for others rather than for everyone. It ensures transparency and accountability and faith and confidence in institutions. This was a clear finding in a report by Nottingham Trent University undertaken for the Arts and Humanities Council 2022-2023.⁶¹

4. Without impacting the public purse, what potential funding options would increase access to justice? e.g. an access to justice fund levy, conditional fee arrangements, third party funding.

4.1. The Report 'Regulatory Leadership on Access to Justice' (pages 100-107) canvasses a range of options many already rolled out and successful in other jurisdictions.⁶² A point stressed in the research, including by the research participants, is why, if avenues for raising funds elsewhere are so successful, has the United Kingdom not done more. There are many wasted opportunities, and the report gives a road map and numerous options sharing experiences from elsewhere and insights from the empirical component of the research.

4.2. By way of example, the Victorian Regulator noted in June 2025

*Our Access to justice impact report shines a light on how our work continues to increase access to justice. It includes Shared Outcomes Framework results that we use to assess the long-term impact of our work, as well as our collaborative work with, and financial support of, other organisations. The report also features case studies and statistics that highlight our progress over the past 3 years.*⁶³

4.3. The report 'Regulatory Leadership on Access to Justice' urges

0.49 A longer-term, albeit ambitious, aim for the LSB would be drawing on overseas experience of other regulators in Canada and Australia is to open new avenues for funding access to justice. Overseas examples provided in this report show that although some stakeholders may argue the regulator should not have a

⁶⁰ Institute for Strategic Dialogue, 'Sovereign Citizen, ISD Explainers', <https://www.isdglobal.org/explainers/sovereign-citizens/>

⁶¹ Jingchen Zhao, Liz Curran, Jonathan Doak, Selbi Durdiyeva, Sophie Gallop, Helen Hall, Matt Henn, Tom Lewis, Blerina Kellezi, Helen O'nions, and Loretta Trickett, (2023) 'Scoping the future law and social justice - listening & hearing from the frontline: final report'. Nottingham Trent University. https://irep.ntu.ac.uk/id/eprint/49438/1/1785305_Zhao.pdf

⁶² Liz Curran, Jane Ching, and Jane Jarman (2025). Regulatory leadership on access to justice. London: Legal Services Consumer Panel. <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/04/25.04.01-Regulatory-Leadership-on-Access-to-Justice-Report.pdf>

⁶³ Victorian Legal Services Board and Commissioner, (2025) 'Access to justice impact report Summary: June 2025'. https://lsbc.vic.gov.au/sites/default/files/2025-06/AccessToJustice_Summary_FA_Digital.pdf

role in generating income, this has been done elsewhere with improvements in independent sources of funding for access to justice work and innovative models. This was often met with initial reticence in other jurisdictions. However, over time a shift has been seen due to the income generated. Renewed enthusiasm and buy-in from sceptics, for example in the private legal profession, has come with a common shared vision, collaboration, culture change and clear visibility and evidence.⁶⁴ Legislative change would be required to enable this to take place.⁶⁵

4.4. Dr Curran's perspective has changed since co-authoring the Legal Services Consumer Panel report. She no longer considers the LSB to be the appropriate body to oversee or administer grants, Public Purpose Funds, or other mechanisms intended to support access to justice and the agencies that deliver it. While the LSB is a statutory body, it appears to lack the institutional will to fulfil its duty under section 1(c) of the Legal Services Act 2007 - to improve access to justice.

4.5. The current composition of the LSB is predominantly drawn from backgrounds in regulation, audit, and risk compliance, with limited representation from those with direct experience in access to justice service delivery, lived experience of disadvantage, or expertise in innovation and funding. Without a substantial shift in organisational culture, personnel, and strategic focus - specifically one that prioritises access to justice as a core objective and develops a robust action plan to fulfil its statutory duty - the LSB is unlikely to serve as an effective or credible steward. Building trust and meaningful collaboration across the sector requires leadership that is both representative and committed to transformative change.

4.6. Dr Curran is now of the view that the establishment of an independent body, modelled on the Victorian Legal Regulator, could administer and drive strategic grant-making for innovative programmes that address access to justice challenges is one option. Alternatively, the Access to Justice Foundation might be a suitable candidate for this role. Crucially, the administering body must command sector-wide respect, foster genuine partnerships, and demonstrate effectiveness in collaboration. It should possess deep expertise in access to justice and robust experience in managing funds—qualities aligned with the Victorian Regulatory Model. Transparency to both the public and the regulated community is essential to building trust, particularly given the current lack of clarity around the ringfencing of funds for access to justice activities under section 51(4)(d) of the Legal Services Act 2007. At present, the LSB (England and Wales), in its capacity as oversight regulator, is not appropriately equipped to fulfil this function

4.7. The central rationale for establishing an independent body to collect and administer funds designated for access to justice is to ensure that justice initiatives and agencies can operate with confidence, free from the constraints of Treasury consolidated funds and direct government control. Such a mechanism would enable the generation of much-needed revenue and ensure it is ringfenced within an impartial statutory office, explicitly committed to advancing access to justice.

4.8. The key idea behind an independent body to collect and administer the funds collected for access to justice, was to ensure justice initiatives and agencies could have confidence

⁶⁴ Law Council of Australia, 'The Justice Project Final Report' (Law Council of Australia 2018) <<https://lawcouncil.au/files/web-pdf/Justice%20Project/Final%20Report/Justice%20Project%20%20Final%20Report%20in%20full.pdf>> accessed 13 September 2024. Disclosure: the first author was 'Expert Adviser' to the project.

⁶⁵ Liz Curran, Jane Ching, and Jane Jarman (2025). Regulatory leadership on access to justice. London: Legal Services Consumer Panel, 22. <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/04/25.04.01-Regulatory-Leadership-on-Access-to-Justice-Report.pdf>

and to take it out of Treasury consolidated funds and administered independently of government. It is a way of raising much needed revenue for access to justice and ring fencing it within an impartial, statutory office committed to access to justice improvement.

4.9. The Report suggests the following potential funding options for a Public Purpose Fund (as occurs in other jurisdictions) would increase access to justice (Paragraphs 10.1 – 10.37). Again, the Australian Canada and Australia regulators already do some or all of the revenue raising listed below (see the report)

- **Levies on professional bodies** (e.g. issuing of practicing certificates a marginal rate across the sector could raise a significant amount.)
- **Interest on money held in trust** by lawyers and approved barristers' clerks on behalf of their clients.
- **Investment returns on funds raised.**
- **The annual licensing fees** paid by lawyers and any fines imposed on lawyers following disciplinary action taken against them in the courts.
- **Residual funding from collective action** – Already in Canada, Australia, and the UK unclaimed monies in court cases and other residual funding have been redirected to the funding of access to justice services. A good example is the existing work of the Access to Justice Foundation in the UK in generating funds to provide grants to various charitable services to provide access to justice to the community.
- **Exemplary damages /negotiated settlements where there is no clear plaintiff-** Where exemplary damages are awarded for bad conduct or harm caused but where there is no specific individual who can receive the exemplary damages, these could be used to support access to justice services. This occurred in Australia and was used to established one of the longest running specialist consumer law centres in consumer law.⁶⁶ At present the award of exemplary damages in England and Wales remains governed at common law by *Rookes v Barnard*,⁶⁷ so legislative intervention might be required. Historically, however, government has been inclined to restrict, rather than extend, exemplary damages.⁶⁸ This mindset would need to change but given the current imperative to finds funds for critical access to justice needs there is a case for such a shift.
- **'Interest on lawyers' trust accounts' (IOLTA) schemes**
- **Use of penalties in consumer areas with** imposition of a financial penalty on authorities - Participants in the study shared experiences of instances of little accountability for poor decision-making by companies preying on vulnerable consumers or local authorities and government belligerently denying meritorious claims and ignoring medical and other evidence. There was also little recourse due to a lack of legal aid and other barriers so that such decisions often were not appealed. There is evidence that many appeals in the tribunal sector are successful.⁶⁹ This

⁶⁶ Dr Curran was Senior Adviser on secondment from the Australian National University from June 2011- March 2020 and for a short time until 2021 pro bono to the Consumer Action Law Centre. It was formed in 2006 by the merger of the Consumer Law Centre Victoria and the Consumer Credit Legal Service (CCLS). In the late 1980's the CCLS legal team that won a licencing case against a multinational company called HFC Finance. In a pro bono collaboration with Allen's an in-house legal team and barristers and won after nine months of litigation. A settlement for \$2.25 million was negotiated to establish the Consumer Law Centre – now the Consumer Action Law Centre. See 'Reflections' Denis Nelthorpe AM, WestJustice (2019) <https://westjustice.home.blog/2019/12/04/farewell-to-westjustice-and-reflections-on-the-sector-denis-nelthorpe-am/>

⁶⁷ [1964] AC 1129, [1964] 1 All ER 367.

⁶⁸ Justice Committee, 'House of Commons – Draft Civil Law Reform Bill: Pre-Legislative Scrutiny' (*House of Commons*, 23 March 2010) <https://publications.Parliament.uk/pa/cm200910/cmselect/cmjust/300/30006.htm#a21> accessed 27 February 2024, para 151 ff.

⁶⁹ Alex Homer, 'Seven out of 10 Win Benefits Challenges at Tribunal' (*BBC News*, 24 September 2021) <https://www.bbc.com/news/uk-58284613> accessed 29 November 2024. By 2024, this had reduced to 60% of social security and child support claims: Ministry of Justice, 'Tribunal Statistics Quarterly: April to June 2024'

might incentivise better practice and see a form of redirection of funds to those who are wronged by poor accountability and maladministration.

- **Strategic incubators** (e.g. Granta Foundation)

4.10. The Nuffield Foundation has commissioned research until March 2027, entitled 'Developing a Mixed Funding Model for Free Legal advice'. There may be some preliminary findings that might inform this Joint Select Committee. It is being conducted by Professor Linda Mulcahy, University of Oxford, Clare Carter, The Access to Justice Foundation, and Professor Neil Rickman, University of Surrey. This research will also proffer some potential funding options would increase access to justice and no doubt these will be canvassed in the submission to this Joint Select Committee by the Access to Justice Foundation.

5. If limited funds were available, what would be the priority areas for spending?

5.1. As noted above, there are better ways to improve access to justice and gain value for money that the flawed current model entails. The 'mixed model' and a more holistic funding and joined up, collaborative model has been given consideration by Dr Curran drawing on her work as a practitioner, scholar and researcher in multiple jurisdictions and her knowledge around effective funding and service models. Outcomes for community members through this research and her evaluative practice across three continents of these integrated and mixed models is evident. Dr Curran is happy to discuss these as there are many and this submission can only flag some of these. They cover improving individual, collective and organisational reach, capability, engagement, collaboration, legal empowerment and law reform to improve efficiencies, outcomes frameworks and evaluation for effectiveness and justice outcomes.⁷⁰

5.2. Some of the evidence base is articulated by Dr Curran in her [Submission to the UK Parliament Public Accounts Committee – Value for Money from Legal Aid](#) (2024).

5.3. More recently, Dr Curran completed the Policy Brief on 12 September 2024 which is an Annexure 2 and forms part of this submission, entitled,

'Policy Brief 2 - Establishing an 'access to justice committee' to consider a mixed model and Independent Statutory Legal Aid.'

5.4. This *Policy Brief 2* is in Annexure 2 to this submission and is part of the submission and to be read in answer to question 5. It is very detailed and provides examples of how it is done to good effect. Inefficient and ineffective investment of finite public funds could be better utilised if used for holistic models that have a user focus, interdisciplinary, and adopt research intelligence on timely interventions at multiple points, capability, legal empowerment and collaborative efforts that extend reach into currently underserved communities. (See response to question 2 above).

6. How are the legal services regulators responding to their obligation to improve access to justice under the Legal Services Act 2007?

(GOV.UK, 3 October 2024) <<https://www.gov.uk/government/statistics/tribunals-statistics-quarterly-april-to-june-2024/tribunal-statistics-quarterly-april-to-june-2024>> accessed 28 November 2024. Ministry of Justice, 'Tribunal Statistics Quarterly: April to June 2024' (GOV.UK, 3 October 2024) <<https://www.gov.uk/government/statistics/tribunals-statistics-quarterly-april-to-june-2024/tribunal-statistics-quarterly-april-to-june-2024>> accessed 28 November 2024., section 4.

⁷⁰ Liz Curran web page lists over 100 publications including industry reports and evaluations on access to justice and effectiveness since joining NTU in 2022 and prior to then. See <https://llr.ntu.ac.uk/rpd/researchpublications.php?pubid=9c08c957-cac6-4246-9b14-0711e89e627a>

6.1. The response of legal services regulators to their statutory duty to improve access to justice under the Legal Services Act 2007 has, to date, been underwhelming.

6.2. As previously noted, Dr Curran served as Project Lead for a major research initiative examining how legal regulators might better fulfil this obligation. The resulting report - authored by Liz Curran, Jane Ching, and Jane Jarman (2025) - offers a comprehensive set of levers and innovative strategies, many of which have been successfully implemented in other jurisdictions.⁷¹

6.3. In February 2025, an in-camera pre-launch meeting was convened with all legal regulators, each provided with an embargoed copy of the report. The meeting featured an international panel of regulators, facilitated by Dr Curran, and offered a rare opportunity for dialogue, reflection, and engagement with the report's findings. While the details of the meeting remain confidential, it was intended to prompt meaningful consideration and response from those present.

6.4. However, the mere production of a report is insufficient. What is required is decisive action - particularly from the LSB - to implement the recommendations and drive systemic change. Six months on, Dr Curran's assessment is that the report itself has become the LSB's sole contribution to the access to justice agenda, with little evidence of appetite or momentum to pursue its proposals. Nonetheless, both Dr Curran and the Legal Services Consumer Panel remain committed to advancing this work.

6.5. There is a growing perception that access to justice is not a strategic priority for the LSB, despite the compelling evidence presented in the research and the strong support from participants and the wider sector. The apparent lack of resolve and ambition has been deeply disappointing. Dr Curran has sought to engage with the LSB to discuss next steps, including a follow-up meeting with its CEO as proposed at the report launch, but this request has been declined.

6.6. The report 'Regulatory Leadership on Access to Justice' canvasses a range of levers and innovations that the oversight regulator could support. This includes exploring the creation of an access to justice innovation sandbox to test and trial new legal services delivery solutions to spur innovation that reduces unmet legal need. It suggests the LSB should work with the frontline legal regulators, the free advice and legal representation sector and others such as professional indemnity insurance providers to encourage collaboration and innovation. Innovation in low cost or free legal services has historically been lower than in other parts of the legal sector so an innovation sandbox aimed at growing ideas to increase access to justice would specifically encourage innovative efforts in this area. The former CEO of the LSB at the launch of the report in London on 1 April 2025, in his speech indicated a willingness to explore this recommendation. Other recommendations for the report are included in this submission as Annexure 4.

6.7. Also related to question 2, the report suggests regulators promote integrated legal services that address barriers to access, particularly for disadvantaged groups. Legal services that address all aspects of a person's legal problem can ensure they are resolved to that person's satisfaction in a timelier manner.

6.8. In terms of public legal education (PLE) the report sees an improved role for the LSB in leading the regulatory environment to better support strategic PLE initiatives to empower all

⁷¹ Liz Curran, Jane Ching, and Jane Jarman (2025). Regulatory leadership on access to justice. London: Legal Services Consumer Panel. <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/04/25.04.01-Regulatory-Leadership-on-Access-to-Justice-Report.pdf>

people with knowledge of their legal rights and duties at point of need. In line with the research and views of frontline service participants in the research for the report, it urges initiatives must be informed by best practice, tailored to the needs of specific groups, including those who experience exclusion and may be harder to reach. PLE can be a powerful tool to increase legal awareness and capability among the public which will help more people recognise when they are facing a legal issue and what they can do to address it.

6.9. Importantly in line with Policy Brief 1 (Annexure 1) the report recommends that the LSB as oversight regulator must take the strategic lead in revising codes of conduct, ethics training and compliance monitoring to place greater emphasis on access to justice, the rule of law and equality before the law. These updates are to encourage all lawyers to foster understanding of the law, legal rights and duties and to appreciate how practising professional principles affects legal services consumers. Revising conflicts rules (as per Policy Brief 1, Annexure 1) could ensure they are not overly restrictive where access to legal services is at stake.

7. How is pro bono work and free legal advice being used to support access to justice and what reliance is placed on it?

7.1. Annexure 3 Policy Brief 3 ‘Creating Incentives to Improve Access to Justice– Learning from successful models of mandatory pro bono mandatory that work with private profession doing government work’ in this submission is to be read in answer to question 7. It is detailed and provides examples of how pro bono work and free legal advice is can be increased and improved and gives solid step by step practical guidance on how this occurred in Australia with significant increase in pro bono, collaboration, better training, data, strategic momentum, and a shift in culture from ‘charity’ or ‘good deed’, drumming up business, to core ethical and public service.

8. How can advice, legal support or non-court dispute resolution, such as mediation and restorative justice, help the early resolution of disputes?

8.1. Applying and knowing the research on advice seeking behaviour barriers and complexities in ensuring access to justice is key to being able to allocate limited resources wisely and effectively. The development of funding based on evidence or building in evaluations that is embedded in service can also help inform and recalibrate and enable an improvement mindset ensuring services are relevant and of use to community. Also, ensuring ethical practice and well-trained staff is key. Dr Curran has discussed how advice, legal support or non-court dispute resolution, such as mediation and restorative justice, help the early resolution of disputes in Chapters 1, ‘Context and Recent Research 7-36, Chapter 2 ‘Adversarial Approaches to Law and the Need to do Law Differently’ 17-26 and Chapter 7 ‘Restorative Practice’ 101-128 of her text, ‘Better Law for a Better World’.⁷²

Contextualising the Chapters for this Inquiry, Dr Curran in Chapter One of the text notes

*New ways of reaching out, including strategically solving systemic problems, need to be integral to the practice of law. We need to tackle legal problems at their source and prevent them from escalating to a revolving door experience within the court system.*⁷³

⁷² Liz Curran (2021 reprint 2023), Better Law for a Better World: New Approaches to Law and Practice Education, Routledge.

⁷³ Liz Curran (2021 reprint 2023), Better Law for a Better World: New Approaches to Law and Practice Education, 7. Routledge.

8.2. Experts in Question 8. Tony Guise practised as a solicitor specialising in commercial litigation who has been closely following and commenting and critiquing policy and funding reforms and the digitising Civil, Family, and Tribunal jurisdictions in E & W. His web page contains some useful articles.⁷⁴ Sue Prince⁷⁵, Professor in the Law School at the University of Exeter was appointed to the Civil Justice Council in 2024 and is co-chair of the Legal Futures Group.

8.3. Alikki Vernon and David Moore are restorative practice practitioners and have produced a useful book.⁷⁶ It provides a practicum drawing on decades of work at the frontline of restorative innovation. As reviewer of the book, Dr Curran noted that it

...unpacks various applications of restorative practices in a practical way, with the safeguards, assessment, and sophistication required to do it well. The book challenges the 'win' or 'lose' nature of adversarial processes and identifies opportunities for healing and recovery.

9. What role is there for digital innovation and data collection in supporting access to justice?

9.1. The Report, 'Regulatory Leadership on Access to Justice' has some recommendations on digital innovation. (Paragraph 0.25, 0.23, 3.29, and in Section 5 pages 70-73) of the report. It summarises noting:

*The role of technology is discussed, therefore, with qualifications as, although useful in some contexts, as noted above, is not a panacea. This is a point made consistently by participants in this study. In the context of access to justice, technology is an ineffective investment unless it is tailored to address barriers experienced by the most disadvantaged in access. This means that such groups are currently missing out despite digital investment. The research is clear that the most vulnerable are likely to experience digital exclusion.*⁷⁷ (Paragraph 5.50)

9.2. Experts in Question 9: Dr Lisa Wintersteiger is the COE of Advicenow⁷⁸ and an Honorary Research Fellow at the University of Warwick, was co-investigator on a Nuffield Foundation grant for an intensive legal needs and early intervention study in the wake of the Covid-19 pandemic.⁷⁹ Pertinent to this question Advicenow is a charity specialising in public

⁷⁴ Tony Guise Commentary <https://mediate.com/author/tony-guise/>

⁷⁵ Sue Prince Publications <https://experts.exeter.ac.uk/1793-sue-prince/publications>

⁷⁶ David B. Moore and Alikki Vernon (2024) 'Setting Relations Right in Restorative Practice: Broadening Mindsets and Skill Sets', Routledge, https://www.routledge.com/Setting-Relations-Right-in-Restorative-Practice-Broadening-Mindsets-and-Skill-Sets/Moore-Vernon/p/book/9781032123233?srsltid=AfmBOopWWXOim_VL1gv2Qyq1mvsbaRk0M69lykyGJdQIDc1UIL5bW-o5

⁷⁷ Roger Smith, 'Digital Delivery of Legal Services to People on Low Incomes' (The Legal Education Foundation December 2017) <<https://thelegaleducationfoundation.org/wp-content/uploads/2018/01/Digital-Technology-Winter-2017.pdf>> accessed 26 February 2024; Catrina Denvir, 'Assisted Digital Support for Civil Justice System Users' (Civil Justice Council 2018) <<https://www.judiciary.uk/wp-content/uploads/2018/06/cjc-report-on-assisted-digital-support.pdf>> accessed 7 December 2023.

⁷⁸ Advicenow <https://www.advicenow.org.uk/research-and-policy>

⁷⁹ Mulqueen, T., Harrison, J., Wintersteiger, L., (2025) Understanding local legal needs: Early Intervention and the Ecosystem of Legal Support, Nuffield Foundation, <https://www.nuffieldfoundation.org/wp-content/uploads/2022/02/Understanding-Local-Legal-Needs-Early-intervention-and-the-ecosystem-of-legal-support.pdf>

legal education and information (evaluated)⁸⁰ using digital interfaces and offline help. It works in collaborate with communities and organisations to identify and achieve structural change using research and practice to improve legal capability. Professor Naomi Creutzfeldt, Kent Law School, and examines access to civil and administrative justice systems, ADR and Ombudsmen and digitalisation and vulnerabilities.⁸¹ Dr Natalie Byrom is a researcher and policy adviser with expertise in justice system reform, data-driven technologies and data governance. From 2018 and 2020 Dr Byrom was seconded to the UK Ministry of Justice as expert adviser on data in the context of an ongoing £1bn programme of digital court reform.⁸² Dr Catrina Denvir, Professor Business Law and Taxation, Monash University. Formerly she was Ulster University where she was Director of the Legal Innovation Centre - a joint initiative between the School of Law and the School of Computer Science and Intelligent Systems. She has expertise in technological innovation in legal service delivery and artificial intelligence and intelligent systems in law.⁸³ Dr Sarah Moffatt Stephens, at the Law School, University of Sussex examines lay users of the justice system, promoting digital inclusion and user-centred design, while supporting the transition of the civil justice system towards online services is a member of the Online Procedure Rules Committee to which she was appointed by the Lord Chancellor in 2023 (so also relevant to question 8).⁸⁴ She is a trustee of the Access to Justice Foundation.

10. How could the current system of legal aid be improved to provide a cost-efficient and cost-controlled service, with suitably remunerated legal practice across civil, criminal and family law?

10.1. *'Policy Brief 2 - Establishing an 'access to justice committee' to consider a mixed model and Independent Statutory Legal Aid.'* was completed on the 12th of September 2025 and provided to Lord Bach.

10.2. Subsequently, Dr Curran at the Ministry of Justice 'Legal Support Strategy Group' meeting on the 24th of September 2025 became aware of current work being done within the Ministry of Justice on Legal Aid Policy. Although unaware of this work at the time of completing the content of the Policy Brief it remains salient. The MoJ briefing confirmed concerns and gave rise to new ones. For example, simplifying information about legal aid for consumers and trusted intermediaries, when there remain issues with shortages, capacity and withdrawal, will give rise to expectations about what legal aid might deliver when it cannot. LASBO is still in force and the legal aid requirements for exceptional circumstances cases are hard to administer – care needs to be taken that the outcomes might lead to more people expecting legal aid when it could be a paper tiger. Seeing legal aid in siloes (such improving information by using plain English and simplifying information in the initial

⁸⁰ Disclosure Dr Curran has worked with Dr Wintersteiger as Dr Curran has been retained by Advicenow as 'Evaluation Adviser since 2021.

⁸¹ Creutzfeldt, N. (2021) 'Towards a digital legal consciousness?', *European Journal of Law* <https://ejlt.org/index.php/ejlt/article/view/816>; Williams, J., Gill, C., Creutzfeldt, N. and Vivian, N. (2020) 'Participation as a Framework for Analysing Consumers' Experiences of Alternative Dispute Resolution (ADR)', *Journal of Law and Society*. Wiley, pp. 271-297. doi: 10.1111/jols.12224 ; Creutzfeldt, N. and Kirkham, R. (2020) 'Understanding how and when change occurs in the administrative justice system: the ombudsman/tribunal partnership as a catalyst for reform?', *Journal of Social Welfare and Family Law*. Taylor & Francis, pp. 253-273. doi: 10.1080/09649069.2020.1751931.

⁸² Nathalie Byrom, (2019) Digital Justice: HMCTS Data Strategy and Delivering Access to Justice. Legal Education Foundation. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/835778/DigitalJusticeFINAL.PDF

⁸³ Catrina Denvir, Publications page <https://research.monash.edu/en/persons/catrina-denvir>

⁸⁴ Sarah Stephens (2024) Are Robot Lawyers the Future of Increasing Access to Justice? https://sentiojournal.uk/wp-content/uploads/2024/02/Sentio-Issue-5_Sarah-Stephens.pdf

gateway) to encourage people into the system, whilst it might seem a good end in itself, needs to only be done in the context of current constraints. To plunge more people into a is a complex hard to navigate system of requirements, short supply of legal aid coverage, tight guidelines raise unrealistic and high expectations. Not looking at the overall problem and disfunction is risky. It affects trust, driving disappointment and raising expectations from people who already have enough on their plates with their often cascading and multiple overwhelming problems.

10.3. Tinkering will not work and unless and until the legal aid system is overhauled and has a better strategic vision and operating system and trust and confidence from consumer, legal professional, courts and all players then such thinking is not going to do much and could make matters worse.

10.4. Policy Brief 2 suggests how and why the legal aid system needs to be changed. Exploring a 'mixed model' is a good starting point without the need to reinvent the wheel but looking to Australia, Canada and Scotland on development there.

10.5. Spending even more money to fiddle around the edges of the broken legal aid system in E & W improving bits and pieces is no longer viable. The legal aid system in England and Wales has seen continued failure to acknowledge this. Trying to adjust a highly flawed approach to legal support and representation, given all the research and experiences of clients, community and the legal profession and trusted intermediaries, outlined in this submission, risks of funnelling further limited funding into a legal aid system that is **not fit for purpose**. Unsurprisingly, government will see little positive outcome and more discontent. Instead, being innovative and looking at the evidence could see limited funds redirected to design a mixed model approach which is more efficient and effective in tailoring a people centred legal aid system that works at a local level. Funds currently wasted in micro management, as noted in response to question one, could be redirected to direct community legal service delivery in a collaboration between a public legal service and private providers with scope for policy work and innovation informed by combined case work experience and as a result a more responsive service informed by what works for the communities in which they work.

10.6. As noted in response to question 1, the market model for legal aid and access to justice for the poor and excluded or those with challenges such as mental health, intellectual disability, family violence, safety and coercive control does not work.

Why? Legal aid exists because the market has failed and like the NHS it ought to be acknowledged that when people have not money or cannot afford or navigate a complex system – a public service model may be much better. A mixed model of service delivery for all the limitation in government funds still offers benefits. These include cross fertilisation, collaboration, sharing the load between private, governments and charity but under the umbrella of a strategic set of outcomes that drives access to justice acknowledging its importance in civil society as a common good ensuring equality and access to laws, remedies, protection and adherence. All vital to a thriving community given the underacknowledged and understood public conception as the law is critical in daily life in delivering food, shelter, safety, dignity and human rights and not just something to fear and avoid.

10.7. This policy brief argues for a reconsideration is conceived of how legal aid and an exploration of the 'mixed model' of legal aid service delivery Australia that exists in an which has been piloted in Scotland. It would require moving away from the judicare model that

currently operates in England and Wales to a more effective model that can improve services across civil, criminal and family law.

11. What has been the impact of the Legal Aid Agency cyber-attack, revealed in April 2025, on recipients and providers of legal aid work, and how have the Legal Aid Agency and Ministry of Justice responded?

11.1. Dr Curran will not comment in detail on this question. Other in the sector with direct experience of the cyber-attack, on their services, service delivery and on clients are better placed to respond. As a Board member of a law centre, however, the impacts on clients, the legal team, the agency has been immense. This is at a time when there is significant demand for its service, limited capacity, huge demand and a loss of funding streams including due to the local council under Section 151 declaring itself bankrupt.

Other aspects of this submission around that the current legal aid model with the LAA is not fit for purpose (See Annexur 2 Policy Brief 2) and no amount of retrofitting will make it work but rather lead to more issues, further fragmentation, inefficiencies, and a poor and ineffective use of taxpayer funds.

I am happy to talk further with the committee. (Liz.Curran02@ntu.ac.uk)

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2 October 2025

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Annexure A Policy Brief 1

Annexure 1 Dr Curran (Curran) Policy Brief 1

Amending the Legal Services Act: Paramountcy of duties essential to administration of justice and the rule of law⁸⁵

Recommendations

1. Amendment proposed is to s1 to insert the '*duty to the court and the administration of justice is paramount and prevails to the extent of inconsistency with any other duty.*'
2. Amendment to (3) the "professional principles"—a) *protecting and promoting the public interest, b) supporting the constitutional principle of the rule of law, ... are paramount and prevail to the extent of inconsistency with other duties in this section*'.

Executive summary

The amendment proposed is to s1 will provide greater prominence guiding legal professionals and regulators to ensuring legal professional meet their regulatory, legal and ethical obligations to the Rule of Law and the community. It may well be that a flow on effect of these changes will be to other professional principles such as c) *improving access to justice and d) protecting and promoting the interests of consumers*.

This policy brief further develops recommendations and discussion points in the research undertaken for the Legal Services Consumer Panel and the Legal Services Board detailed in a Report entitled *Regulatory Leadership on Access to Justice*⁸⁶ and which require some form of government and/or Parliamentary action. Dr Curran was Project Lead and co-author of the report.

Description of the problem

Imperative

- [Poor legal professional ethics \(Moorhead\)](#). The post office and horizon inquiries are an example, demonstrating the significant cost to the public purse, of reparations and payments of compensation. Other examples include collapse of Axiom Inc with [missing client money up to £60K](#) and job losses. Some legal practitioners have been accused of being [blinded by an ideology of zeal](#), resulting in ethical failure. Also, the use [abuse in use of Strategic Lawsuit Against Public Participation \(SLAPPs\), Non-Disclosure Agreements](#) (often with consumer who are unrepresented) have stifling effect, covering up wrongdoing, are intimidatory and more recently [fabricating evidence to the court](#).
- [Regulation is problematic, often too late, or focussed on minor misdemeanours ignoring the endemic issues](#).

⁸⁵ Thanks to the anonymous English subject expert who peer reviewed this Policy Brief. Their insightful feedback has been integrated into this Policy Brief.

⁸⁶ Curran, L., Ching J., Jarman, J., (2025) 'Regulatory Leadership on Access to Justice', Nottingham Law School, Legal Services Consumer Panel and Legal Services Board (England and Wales).
<https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/04/25.04.01-Regulatory-Leadership-on-Access-to-Justice-Report.pdf>

- Too often legal professionals do not exercise their own personal ethical judgement. This legislative amendment would provide greater guidance for the legal profession, regulators and the public on what the ethical requirements are. It might encourage legal professionals to act ethically at the time, rather than wait for the regulator to intervene. Too often the legal profession criticises the regulator when as legal professionals they can exercise their ethical and moral judgement earlier to avert the harm arising in the first place.
- There is [the harm caused to the consumer because of poor legal professional ethical conduct](#).
- Increasing alienation and disillusionment of [key segments of the public](#) in the effectiveness and relevance of the justice system which risks undermining the legitimacy of law and adherence to it.

Solution - Policy recommendations

Proposed amendments to the [Legal Services Act 2007](#) (LSA) (discussed below) do not require reopening the legislation for entire review. To do so, is likely to result in significant delay and these reforms need to occur soon to address and avert harm. These amendments can address some of the existing problems without a wholesale review of the act.

The first amendment proposed is Amendment proposed is to s1 to insert the '*duty to the court and the administration of justice is paramount and prevails to the extent of inconsistency with any other duty*'.

The second amendment is Amendment to (3) the "professional principles"—*a) protecting and promoting the public interest, b) supporting the constitutional principle of the rule of law so these are paramount and prevail to the extent of inconsistency with other duties in this section*'.

This [greater paramouncy over other duties](#) will better guide legal professionals in their legal professional obligations to protect the integrity of the rule of law and confidence in the administration of justice in the public interest.

Other regulatory objectives, whilst important, are not as critical to functioning and the integrity of the justice system overall, not just the one client.

There is an interplay with S 3. '*The "professional principles" are—*

- (a) that authorised persons should act with independence and integrity,*
- (b) that authorised persons should maintain proper standards of work,*
- (c) that authorised persons should act in the best interests of their clients,*
- (d) that persons who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorised persons should comply with their duty to the court to act with independence in the interests of justice, and*
- (e) that the affairs of clients should be kept confidential.*

It is suggested that similar paramouncy be given (as per the above recommendations section) to better orient legal professional individual day-to-day responsibility to act ethically in these overarching areas (not just wait for regulatory action). This would facilitate deviation from the mindset that if you can argue it was 'in the best interests of the client' or that

everyone does it so your conduct can be justified irrespective of the flow on consequences to the interests of justice and the rule of law. Complimentary efforts should also flow to improve continuing professional development to require mandatory applied ethics capability by both the regulator and representative bodies.

This policy proposal to amend the Act will also create an environment where the regulator will be compelled to act, and where current poor practice is allowed to persist under the guise of 'competition' or 'best interests of the client' allowable as an excuse. This is seen to occur when in fact often the purpose is to improve lucrative positions or position their own client and relates to improper and overly technical focus rather than engage in a balancing of ethical considerations and engages with implications to the *administration of justice*.

Why not the UK? - other jurisdictions have a paramountcy of duties?

There is a precedent for this paramountcy in Australia. Legal professionals have [paramount duties to the court and the administration of justice, which take precedence over duties to the clients](#). There is also [clear signalling and messaging from the legal regulator in Victoria](#) to the legal profession on a routine basis reminding them of this. Lawyers must act with honesty, integrity, and independence to ensure the legal system functions fairly and efficiently.

Under the Legal Profession Uniform Law Australian Solicitors' Conduct Rules in Australia ([similar provisions apply for barristers](#)) there is a paramount duty to the court and the administration of justice:

3.1. A solicitor's duty to the court and the administration of justice is paramount and prevails to the extent of inconsistency with any other duty.

Also:

Other fundamental ethical duties

4.1. A solicitor must also—

4.1.1. act in the best interests of a client in any matter in which the solicitor represents the client,

4.1.2. be honest and courteous in all dealings in the course of legal practice,

4.1.3. deliver legal services competently, diligently and as promptly as reasonably possible,

4.1.4. avoid any compromise to their integrity and professional independence, and

4.1.5. comply with these Rules and the law.

And also relevant:

Standard of conduct—dishonest or disreputable conduct

5.1. A solicitor must not engage in conduct, in the course of legal practice or otherwise, which—

5.1.1. demonstrates that the solicitor is not a fit and proper person to practise law, or

5.1.2. is likely to a material degree to—

(i) be prejudicial to, or diminish the public confidence in, the administration of justice, or

(ii) *bring the profession into disrepute.*

Possible Opponents/ Risk

It is highly likely that this policy change will be opposed by some of the Bar, Solicitors and their representative bodies. It will require a greater level of consideration such as the public interest, the rule of law, access to justice and consumer protection. This might interfere with some in the legal professions own commercial interests and efforts to appease and please their clients. It will be at odds with over zealousness and sometimes second guessing what the client wants due to overzealous adversarial preferences as we have seen in for example the legal actions on behalf of Horizon and the Post Office.

Benefits

- Greater trust and confidence in the legal system and lawyers.
- Avert distortions that can occur where any one of the other elements compromise the justice system. As was seen in the behaviour of the lawyers representing the post office and horizon.⁸⁷
- Provide legal professionals with greater guidance on an individual day to day basis of their responsibility to act ethically in these overarching areas (not just wait for regulatory action).
- Give greater clarity to the regulators and members of the legal profession about fundamental importance of the operations of the justice system to moderate and overreliance on the 'best interests of the client' or 'promoting competition in the provision of services.' Currently, these can be excuses for poor conduct that affects the whole justice system, harms consumers and acts that run counter to the public interest as there is no hierarchy.

Overview of research

In a recent 2025 research report commissioned by the Legal Services Consumer Panel and Legal Services Board co-authored by Curran, Ching and Jarman it is noted:

4.16 The outcomes-focused model of regulation used by the front-line regulators in England and Wales at present presents problems if the wider statutory objectives are to be facilitated. This may be an area where the LSB could require consistency. Each front-line regulator sets its standards, including the ethical code, and the regulated community is expected to identify how to achieve them. Although guidance may be issued, more could be done to elaborate how the profession might better meet these standards.

4.17 This includes drawing explicitly on the statutory objectives including in improving access to justice. As noted above, the drafting of some codes of conduct may allow practitioners to focus on duties to existing clients, and overlook overarching principles that emphasise the wider community, the rule of law, or those currently unable to become clients.⁸⁸ Oaths and expected competences are largely under-used as a means of inculcating a sense of wider responsibility amongst

⁸⁷ Richard Moorhead, (2021) The Post Office 'where were the

lawyers?' <https://lawyerwatch.wordpress.com/2021/04/23/the-post-office-where-were-the-lawyers-post/>

⁸⁸ Richard Moorhead, Steven Vaughan and Kenta Tsuda, 'What Does It Mean for Lawyers to Uphold the Rule of Law?' (Legal Services Board 2023) <<https://legalservicesboard.org.uk/wp-content/uploads/2023/11/FINAL-LSB-Lawyers-and-ROL-Report-2023.pdf>> accessed 15 March 2024, 52-56.

*practitioners. Only CILEX and the notarial profession, for example, explicitly require an oath. Other professions have duties to their consumers. For example, the FCA “consumer duty” is discussed further in section 9. Whilst the client is the primary focus, commercial advantage could lead to lawyers to overlooking, or subordinating, higher-ranking obligations, and duties.*⁸⁹

11.7 Recent economic studies of the legal professions in England and Wales highlight that government work funded by taxpayers’ money is extremely lucrative for law firms and their profit margins. For example, in 2021/2022 half of top 50 law firms received fees from the government, with a total annual spend on external lawyers of £36.57m.⁹⁰ More recently, it has emerged that law firms acting for the Post Office – a government-owned entity – received £256.9m in costs and disbursements in connection with the Horizon IT scandal.⁹¹

Richard Moorhead and Stephen Mayson have written extensively and critically examined the conduct of the legal profession in the UK over many years and deficiencies in lawyer conduct and regulatory enforcement.

Stephen Mayson has observed:

*The legal profession’s echo chamber is a comfortable and comforting place for many of its members and representatives. The reverberating belief is that all is fine, that citizens are best served by qualified lawyers, and that the world would be a better place if all providers were like them – in fact, better still if they were the only providers.*⁹²

In a supplementary report by Mayson, it closely examines the consumer experience in the UK. Mayson notes:

*Even more unfortunately, the Report also suggests that the current structures of consumer protection (whether applying to the regulated or the unregulated communities of providers) exacerbate – or, worse, possibly even cause – this observable tendency towards disengagement or exclusion. In particular, their emphasis on the prevention of harm, sanctions against providers, transparency and disclosure requirements that increase the cognitive burdens on consumers, and reliance on consumers to assume the risk and cost of personal action when things go wrong, all contribute to an overwhelming and daunting sense of challenge.*⁹³

⁸⁹ Curran, L., Ching J., Jarman, J., (2025) ‘Regulatory Leadership on Access to Justice’, Nottingham Law School, Legal Services Consumer Panel and Legal Services Board (England and Wales), 57. <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/04/25.04.01-Regulatory-Leadership-on-Access-to-Justice-Report.pdf>

⁹⁰ Rachel Molony, ‘UK Government’s Legal Spend Revealed for 2021/22’ *The Lawyer* (London, 5 July 2022) <<https://www.thelawyer.com/uk-governments-legal-spend-revealed-for-2021-22/>> accessed 15 August 2024.

⁹¹ Gabriel Kennedy, ‘Revealed: The Quarter-Billion-Pound Payday for Post Office Scandal Lawyers’ *The Lawyer* (London, 21 August 2024) <<https://www.thelawyer.com/revealed-the-quarter-billion-pound-payday-for-post-office-scandal-lawyers/>> accessed 22 August 2024. See also John Hyde, ‘Firm Denies Profiting from Post Office Victims’ Misery’ [2024] *Law Gazette* <<https://www.lawgazette.co.uk/news/firm-denies-profiting-from-post-office-victims-misery/5121590.article>> accessed 22 November 2024.

⁹² Stephen Mayson, 2020, ‘Reforming Legal Services Regulation: Beyond the Echo Chambers - Final Report of the Independent Review of Legal Services Regulation, 2. https://www.ucl.ac.uk/ethics-law/sites/ethics-law/files/irlsr_final_report_final_0.pdf

⁹³ Stephen Mayson, 2022, ‘Consumer Harm and Legal Services: From Fig Leaf to Legal Well-Being Supplementary Report of the Independent Review Of Legal Services Regulation’, iv. UCL Centre for Ethics and

In 2016 a group of legal ethicists undertook a study surveying 400 in-house lawyers working in public, third and commercial sectors. The authors of the article, summarising the study note:

Ethicality is both a systemic and individual phenomenon. We think the systemic lesson is important: there is too much emphasis in legal circles on thinking that ethics is about being the right sort of individual. That kind of thinking is complacent and dangerous. As we show here, individuals, systems and cultures mesh together in meaningful and measurable ways to increase or reduce ethical risk. As numerous corporate scandals have shown, such ethical risk puts individual lawyers at risk of professional misconduct, but it also encourages poor quality decision-making for the organisations that employ in-house lawyers: short-termism and sharp practice can lead to catastrophic error.⁹⁴

This policy brief needs to be [accompanied by applied ethics being taught in undergraduate and continuous professional development offerings](#) to build ethical practice and mindsets and ought be compulsory for retention of practicing certificates as is the case in overseas jurisdictions.

Many of these suggestions are also contained in Curran, L., Ching J., Jarman, J., (2025) '[Regulatory Leadership on Access to Justice](#)', Nottingham Law School, Legal Services Consumer Panel and Legal Services Board (England and Wales) and emerge from its recommendations.

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⁹⁴ Moorhead, R; Vaughan, S; Mayson, S; Godinho, C; Gilbert, P; (2016) Mapping the moral compass: the relationships between in-house lawyers' role, professional orientations, team cultures, organisational pressures, ethical infrastructure and ethical inclination. (Ethical Leadership for In-house Lawyers Initiative Part 1). UCL Centre for Ethics and Law: London, 3.
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Annexure 2 Dr Liz Curran (Curran) Policy Brief 2

Establishing an ‘access to justice committee’ to consider a mixed model and Independent Statutory Legal Aid that provides collaborative direct service delivery to improve community outcomes⁹⁵

Recommendations

- Led by the minister for Courts and Legal Services explore/ think/consider value in a smaller statutory independent new legal aid entity entitled, the Community Commission for Legal Aid (CCLA) to replace the Legal Aid Agency (LAA) informed by what works overseas and the Scottish developments.
- This ‘access to justice committee’ will explore a process of moving to a mixed model of legal aid away from the judicare model currently in E & W. This is as the current model is fiscally expensive without any clear evidence it works. The current ‘judicare’ model leads to fragmentation, siloed ways of working and inhibits holistic service provision to clients in dire need and who currently find the system not for them and overwhelming. (See details in Policy Brief below).

Executive summary

The Legal Aid Agency is on the agenda of the new government in the UK.⁹⁶ It is time to look again at both the provision of civil legal services and the way in which they should be managed. The current arrangements have not delivered impressive results. Legal aid delivery is being decided by providers without direct policy input based on realities in service delivery on what is the best form of provision. It is driven by a market model ill-suited to address high levels of unmet need. In addition, the arrangements for independent decision on merits are ramshackle with [other scandals waiting to happen](#).

This Policy Brief, hopefully, provides refreshing ideas on what can and needs to be done. It requires courage.

The legal aid system in its current configuration with the Legal Aid Agency (LAA) is broken. Whilst it is acknowledged historically there was a Legal Aid Service Commission, also known as the [Legal Services Commission](#) (LSC), that ran the legal aid scheme in England and Wales from 2000 to April 1, 2013 and that Lord Bach in his report supported its abolition, what has emerged was not a solution. It is not the model that was envisaged and is not the model being suggested here. LAA was further compromised by the Coalition Government passing of the [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#), (LASPO) legislation. Comments by Lord Bach in 2017 are just as applicable in 2025:

The legal aid system is creaking at the seams, and practice as a legal aid lawyer is becoming increasingly unsustainable. An independent body that operates the legal aid system at arm's length from government should replace the Legal Aid Agency

⁹⁵ Thanks to the anonymous English subject expert who peer reviewed this Policy Brief. Their insightful feedback has been integrated into this Policy Brief.

⁹⁶ John Hyde, ‘Rescuing Legal Aid a “Top Priority” for New Government’ [2024] *Law Gazette* <<https://www.lawgazette.co.uk/news/rescuing-legal-aid-a-top-priority-for-new-government/5120948.article>> accessed 24 September 2024.

and action must be taken to address the administrative burdens that plague both the public and providers.⁹⁷

This Policy suggestion is likely to bring considerable institutional suspicion of creating another quasi-autonomous non-governmental organisation ('quango'). The model proposed in this Policy Brief for consideration of the 'mixed model' is not a Quango. The CCLA would itself engage in direct service delivery informed by models in Australia that have been positively evaluated as providing effective, cost efficient and holistic services to underserved populations currently missing out in E &W.

The current Legal Aid Agency model is inherently flawed. No amount of further tinkering and injections of funds will work. Only necessary structural reform informed by the evidence will address it. Access to justice will remain a significant drain on the public purse, public confidence until the LAA flaws are addressed.

This Policy Brief unpacks how this model can be changed, ideas for consideration, and uses established models from abroad - more successful than the Legal Services Commission was, and the Legal Aid Agency currently is. Other suggestions around how a 'mixed model' might work to improve outcomes and efficiencies and be more cost effective will be outlined in a planned further Policy Brief which will compliment this Policy Brief 2.

Curran will also be making a submission to the [Select Committee on Access to Justice](#) due on 30 September 2025.

Imperative for Policy Reform

- The Ministry of Justice, with all the best intentions, is a department with a wide departmental remit extending to prisons. This means that attention within the department on the legal services side of its brief has progressively lessened. As a result, legal aid and access to justice has suffered in the civil realm, often overlooked, constrained in resources as to what can be done. This tension exists partly due to concern with the criminal access to justice imperatives. Ensuring integrated policy and holistic responses including earlier intervention in civil law areas so vital to the public are missed and opportunities lost. These approaches are needed to reduce inequality and ensure equality before the law. This Policy Brief offers a way forward.
- There is a policy vacuum between what is known from research evidence. Its integration into delivery suffers with a lack of strategic leadership on legal aid from the LAA and an absence of critical data on what is currently working at a local level, despite constraints and why and how these work, with sound consistent evaluation practice embedded. This important in good policy progress.
- The expanding gap between services provided by the voluntary sector and private legal practice – for example hampering the use of technology in the initial advisory and identification phase. With the restriction of subsidised legal advice, this is increasingly done by the CAB service and its website which research shows are not be suited to digitally excluded⁹⁸ and other complicating advice seeking factors which

⁹⁷ Lord Bach, The Right to Justice, The Final Report of the Bach Commission, The Fabian Society, 2017, 6. https://fabians.org.uk/wp-content/uploads/2017/09/Bach-Commission_Right-to-Justice-Report-WEB-2.pdf

⁹⁸ Roger Smith, 'Digital Delivery of Legal Services to People on Low Incomes' (The Legal Education Foundation December 2017) <<https://thelegaleducationfoundation.org/wp-content/uploads/2018/01/Digital-Technology-Winter-2017.pdf>>; Catrina Denvir, 'Assisted Digital Support for Civil Justice System Users' (Civil Justice Council 2018) <<https://www.judiciary.uk/wp-content/uploads/2018/06/cjc-report-on-assisted-digital-support.pdf>>

are now well understood from the extant research. There is little integration/knowledge of sound practices within legal aid and people continue to miss out increasing the underserved communities and exacerbating inequality.⁹⁹

Policy recommendations

To establish initially an 'access to justice committee' (A2JC) on a voluntary basis led by the minister for Courts and Legal Services. This Committee can explore/ think of a statutory independent new legal aid entity entitled, the Community Commission for Legal Aid (CCLA) to replace the Legal Aid Agency (LAA) informed by what works overseas and the Scottish developments.

This A2JC would explore a process of moving to a mixed model of legal aid away from the judicare model currently in E & W. The judicare model leads to fragmentation, siloed ways of working and inhibits holistic service provision to clients in dire need and who currently find the system not for them¹⁰⁰ and overwhelming.

- Consideration given to a new entity informed by other effective models around the world and what makes them effective but also suited to E & W. Considerations of an Organisation like Victoria Legal Aid in the longer term: The CCLA might have a board of directors, a chief executive officer, three large in-house legal practice directorates, an in-house advocacy team, and legal and corporate support functions. It will have a Board Chairperson and six directors nominated by the Lord Chancellor, Attorney-General and or Minister for Courts and Legal Services. At least one member must have experience in financial management; at least one must have experience in public management; at least one must have experience with criminal proceedings (either as a legal practitioner or a judicial officer); at least one must have experience with civil proceedings (either as a legal practitioner or a judicial officer) and at least one must have experience in other areas of legal practice engaged in such as legal support and another in a charity providing legal support or delivery of advice.
- The CCLA would also provide **direct legal services to the community** alongside other existing charities such as law centres but would **provide a strategic coherent picture bringing currently siloed service provision into a joined up effective collaborative model** driving services to those people currently missing out and excluded. Scotland is moving to this model and there are other exemplars with legal aid commission in Australia. (See below)
- The CCLA report to Parliament annually with a formal written report it tables. Could have mechanisms for reviewing its decisions and action. Ideas include: A 10-year Strategic Plan and Outcomes Framework guided by client and community outcomes around improving access to justice and supporting people to develop stronger legal capability and a voice in legal problems they face. The outcomes might include (tied into the statutory objectives (below) how CCLA includes people equitably access and experience its legal and related services and information across England and Wales, and how this assists them to prevent or minimise the impact of legal problems, or to resolve them and move forward with their lives. It ought to include sector and system outcomes around improving its capability and practices, and to support and work

⁹⁹ Curran, L., Ching J., Jarman, J., (2025) 'Regulatory Leadership on Access to Justice', Nottingham Law School, Legal Services Consumer Panel and Legal Services Board (England and Wales) Pages 40-51.

<https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/04/25.04.01-Regulatory-Leadership-on-Access-to-Justice-Report.pdf>

¹⁰⁰

together with law centres and advice centres, and private practitioners. It also might include how it aims to and will elevate the voices of people who have experienced legal and justice services. In the Victorian Model for example, Victoria Legal Aid under the *Legal Aid Act 1978 (Vic)*, coordinates the provision of legal services by paying private solicitors and barristers, administering funding to community legal centres, and delivering services through our own staff practice – the ‘mixed model’. The ‘[mixed service model](#)’ delivers a wide range of legal information, advice and assistance services to the Victorian community, focusing on those people who are most disadvantaged and in need. It ensures the effective provision of legal assistance, and the ability to mobilise resources to deliver legal assistance.

- Statutory Objectives (modelled on [s 4 The Legal Aid Act 1978 Victoria](#):

Objectives

The objectives of the CCLA are—

(a) *to provide [legal aid](#) in the most effective, economic and efficient manner;*

(b) *to manage its resources to make [legal aid](#) available at a reasonable cost to the community and on an equitable basis throughout England and Wales;*

(c) *to ensure the coordination of the provision of [legal aid](#) so that it responds to the legal and related needs of the community;*

(d) *to ensure the coordination of the provision of legal assistance information so that the information responds to the legal and related needs of the community, including by being—*

(i) *accessible; and*

(ii) *current; and*

(iii) *high quality; and*

(iv) *of sufficient breadth;*

(e) *to provide to the community improved access to justice and legal remedies;*

(f) *to pursue innovative means of providing [legal aid](#) directed at minimising the need for individual legal services in the community.*

Description of the problem

The current [civil legal aid provision through the Legal Aid Agency \(LAA\) in England & Wales \(E&W\) is ineffective and inefficient](#). Surprisingly for such a critical body to improving access to justice, it is not a statutory body with a clear objective to improve access to justice. The focus of the LAA is mainly around delivering ‘swift justice’ according to MOJ Directives, managing finances, managing legal aid contracts with a focus on risk and fraud management and recovery. Legal aid via LAA is provided under the [Legal Aid, Sentencing and Punishment of Offenders Act](#) (LASPO), administered by the LAA. With its primary focus on matters fiscal there is a conflict with prioritisation of its first strategic aim ‘delivering access to justice through legal aid services that meet the needs of our users’. This means that effective legal services remain difficult to achieve, there is wastage and imperfect

service fragmentation and with taxpayer money being spent often on administrative processes where it could be spent on service to community.

The Legal Aid Commissions in Australia provide an exemplar for an improved model that improves access to justice and elements. These models could be used to inform policy and legislative improvements in England and Wales. Its [mixed model of legal aid](#) rather than the 'Judicare' model. The judicare model uses a neo-liberal paradigm ill-suited to effective legal aid provision given the critical nature of it to public good and rule of law. In times of fiscal constraints, evidence-based research on what is effective for community outcomes fails to shape what a good service requires.

The Scottish Legal Aid Board has recently noted:

The judicare system does not have the levers to allow those problems to be solved¹⁰¹.

Its Chief Executive Colin Lancaster has also noted:

The legal aid system has never been designed as a public service, to be accessible, to be directed towards particular user needs, to be transparent and to have any guaranteed level of service – but that is the inherent problem with a judicare system.¹⁰²

It is time, in the United Kingdom, to consider moving to such a model something that Scotland has gravitated towards in recent years. This movement to a 'mixed model' will be the subject of further forthcoming Policy Brief and it will be complement this Policy Brief 2.

Imperative

With a strain on legal support throughout E & W, and unlikely significant injection of funds to address legal advice deserts and underserved populations, things are unlikely to improve by further capitulation and refusal to deal with what is effectively a broken system.

According to the LSB and the Law Society's latest Individual Legal Needs Survey in England and Wales (2024), 32% of people who have a legal need are left with unmet legal need – and consequently do not have access to justice.¹⁰³ With 3.6 million adults in England and Wales having unmet legal needs and 36% of adults lacking confidence in achieving a fair and positive outcome when faced with a legal problem, this reflects poorly on the justice system.

Nearly nine in ten people believe *law is a game in which the skilful and resourceful are more likely to get what they want* (Legal Services Board (LSB) 2020).¹⁰⁴ Studies worldwide show poor and disadvantaged groups (mental illness, children, disabilities etc) missing out on critical legal support, unable to resolve issues where law offers options and solutions critical in addressing inequality.

Shift from LAA to a new CCLA

¹⁰¹ Scottish Legal Aid Board. (2025) Transformational reform required to secure future of legal aid in Scotland, <https://www.slab.org.uk/news/transformational-reform-required-to-secure-future-of-legal-aid-in-scotland/>

¹⁰² Scottish Legal Aid Board. (2025) Transformational reform required to secure future of legal aid in Scotland, <https://www.slab.org.uk/news/transformational-reform-required-to-secure-future-of-legal-aid-in-scotland/>

¹⁰³ LSB & Law Society, 2023 'Individual Legal Needs Survey: Exploring Unmet Legal Needs' (2024) at para. 5.

¹⁰⁴ Legal Services Board, 'Ten-Year Report Reveals That the Basic Legal Needs of Many in Society Are Still Not Being Met' (*Legal Services Board*, 25 November 2020) <<https://legalservicesboard.org.uk/news/ten-year-report-reveals-that-the-basic-legal-needs-of-many-in-society-are-still-not-being-met>>

LAA is a costly and inefficient model and more effective structure could divert this inefficient use of taxpayer funded resources to a model which engages more directly in service delivery and has its pulse on the reality of delivering 'real law', i.e. direct service delivery to clients and members of the community currently show in the research to be underserved.¹⁰⁵

This Policy Brief may prove uncomfortable as it would require a different type of personnel and different focus and position descriptions of its CEO and leadership team.

A move away from current framing, narrow focus and staffing from fraud investigations, litigation and debt or interventions in lawyer judgements based on their client cases exigencies with recovery of money for time spent in the private and public legal sector detracts from championing and strategic action for access to justice. The strategic action for access to justice needs to drive leadership at the top if access to justice and legal aid provision is to improve. It will also dictate a change in the mix of personnel required for the organisations with the functions, duties and statutory objectives suggested in this Policy Brief.

The current composition and skill of LAA set will not see any shifts in vision or mandate and hence no real gains in terms of efficiency, effectiveness or outcomes in access to justice for the taxpaying and underserved community.

This Policy Brief argues for considerations of a newly conceived community legal aid agency and a 'mixed model' for legal support in the UK. Critical is it have statutory independence of government, clear items and objectives which include an overriding objective to improve access to justice alongside improved governance, accountability and fiscal management but not at the cost of access to justice as is currently the case with the LAA.

The Parliament has already been critical of the Legal Aid Agency:

- 0.1 The House of Commons Committee of Public Accounts recently noted its concerns about the lack of responsiveness on access to justice:

We are deeply concerned about [the Ministry of Justice's] and the Legal Aid Agency's (LAA's) lack of curiosity on the impact of decreasing numbers of providers on people's access to legal aid, despite evidence which suggests access is getting more difficult. In most categories of law, the proportion of people within ten kilometres of a legal aid office has fallen since 2013. Capacity within the housing and immigration advice, and police station duty schemes, are of particular concern. For example, there are areas of the country where people can only access housing advice remotely, but [the Ministry of Justice] and [Legal Aid Agency] do not know enough about how

¹⁰⁵ Daniel Rourke, Ed Cripwell, Joseph Summers, and Jo Hynes, 'Access to immigration legal aid in 2023: An ocean of unmet need' (Public Law Project 2023) <<https://publiclawproject.org.uk/content/uploads/2023/09/Oceans-of-unmet-need-Sep-2023.pdf>>; Amnesty International, 'Cuts that Hurt: The impact of legal aid cuts in England on access to justice' (Amnesty International UK 2016) <https://www.amnesty.org.uk/files/aiuk_legal_aid_report.pdf?VersionId=891MnCc87uY9_XjZOFStFBZYYRuljpn>; Gráinne McKeever, Mark Simpson and Ciara Fitzpatrick, 'Destitution and Paths to Justice' (Ulster University 2018) <<https://research.thelegaleducationfoundation.org/wp-content/uploads/2018/06/Executive-Summary.pdf>>; Pascoe Pleasence and Nigel Balmer, 'Justice & the capability to function in society' (2019) 148(1) Daedalus 140.

*this impacts vulnerable groups who may find it more difficult to access legal aid in this way.*¹⁰⁶

Why not the UK? - other jurisdictions?

This newly conceived CCLA, is not untested and is informed by the mixed model that applies in Australia, new developments in Scotland ([noting the recent review](#)) and Canada. Curran has experience in these systems and has been heavily involved in the justice reforms for three decades as researcher, advocate, lawyer and as an adviser and consultant and so bring this lens, experience, and expertise to this Policy Brief.

It is important to understand, when considering the Australian examples, Australia's 'mixed model' for the delivery of legal assistance services (see [National Access to Justice Partnership Agreement](#) 2025-2030 (NAtJP) may be complex (given E & W regulatory arrangements) but the research and report that Curran¹⁰⁷ led for the Legal Services Board (LSB) and the Legal Services Consumer Panel although highlighting this show change is possible with government support and the vast range of possibilities and positive impacts that could flow from this shift to a mixed model. A mixed model contrasts to E & W contrasts judicare model used by the LAA¹⁰⁸ where the third-party funder enters an existing lawyer/client relationship. The third-party controls access to public funds via a range of eligibility tests, pre-approval requirements and tests usually through a contractual arrangement. It is designed to support the traditional private sector delivery model. Terminology also differs. In Australia, 'legal assistance services' have an explicit mandate under the NPA to "focus service delivery on people facing disadvantage". The 'judicare model' in the mixed model only forms a small part of the legal landscape in the delivery of access to justice services in Australia. Scotland, as noted, is exploring a mixed model, suggesting there is no inherent impediment to its adoption in the UK.

In the mixed model, the idea is to ensure a 'one stop shop' (or with strong referrals for things outside in-house legal expertise or for related non-legal supports such as counselling which might be identified in the client interview). This minimises clients having to have their legal problems resolved in more than one location. Each has developed specific expertise and knowledge about the needs of their client communities. They then work alongside private lawyers in a judicare model in training and service improvement for these client groups. This overcomes some of the difficulties presented by the issue of LAA contracts on activities and in areas of law which inhibit holistic client, people-centred and responsive services. This is significant considering what is known about the intersecting nature of legal and other problems, their multiplicity, and barriers to accessing, trusting, and engaging¹⁰⁹ with legal service providers.

¹⁰⁶ Committee of Public Accounts 'Value for Money from Legal Aid', HC (2023-24) 481 [3] <<https://committees.Parliament.uk/publications/44957/documents/223163/default/>> accessed 13 September 2024.

¹⁰⁷ Curran, L., Ching J., Jarman, J., (2025) 'Regulatory Leadership on Access to Justice', Nottingham Law School, Legal Services Consumer Panel and Legal Services Board (England and Wales) Pages 40-51. <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/04/25.04.01-Regulatory-Leadership-on-Access-to-Justice-Report.pdf>

¹⁰⁸ Mary Anne Noone, 'Access to Justice and Legal Aid: Comparative Perspectives on Unmet Legal Need' in Asher Flynn and Jacqueline Hodgson (eds), *Access to Justice & Legal Aid*, (Hart Publishing 2017). See also Mary Anne Noone and Stephen A Tomsen *Lawyers in Conflict: Australian Lawyers and Legal Aid*, (The Federation Press 2006).

¹⁰⁹ Nigel J Balmer and others, 'The Public Understanding of Law Survey (PULS), Volume 3: A New Perspective on Legal Need and Legal Capability' (Victoria Law Foundation 2024) <<https://puls.victorialawfoundation.org.au/publications/a-new-perspective#:~:text=The%20volume%20explores%20how%20people's,the%20legal%20matters%20they%20face>> accessed 13 September 2024.

Possibilities around ‘light touch’ regulation emerge, by contrast to the LAA approach (which is resource intensive, and money better spent reallocated on service delivery). Front Line access to justice services who have been participants in other studies have noted LAA as ‘heavy handed’ tactics in its regulation which operates from an assumption of risk rather than creating the sort of environment and monitoring outlined above.¹¹⁰

By way of contrasting example, Victoria Legal Aid has a panel of legal aid lawyers which has a high threshold for entrance for those in the private profession who wish to secure legal aid contracts. Practitioner panels are lists of lawyers who are approved to act in grants of legal aid for clients in family law, criminal law or child protection matters. Individual certifiers and firms are required to enter into an agreement with Victoria Legal Aid. This agreement takes the form of a ‘Deed for firms’, and an ‘Acknowledgment for Individual Certifiers’. There are strict training requirements and certain standards must be met according to preset criteria before any of these legal aid lawyers from the private profession can be appointed to the panel. This forms the method of quality control alongside tri-annual audits. During the term of an individual panel certifier’s approval period or while offered interim panel certifier status, the panel certifier must continue to meet the relevant section 29A panel individual entry requirements and must comply with these schedules.

Australian Legal Aid Commissions and [National Legal Aid](#) would no doubt be happy to share their practices with the proposed A2JC.

Possible Opponents/ Risk

- The Legal Aid Agency
- The Law Society
- The Bar Council

There is a risk in not doing anything as the state of legal aid is creating huge unmet legal need and challenging equality before the law, the critical underpinning of British democracy.

The risks entail disruption and the time it may take to coordinate the restructure. As learnt from Lord Bach’s Report, what can emerge is a model that is so convoluted and one that fails to address the issue through compromise. This can be averted by looking carefully at other models and using evidence-based research (of which there is a lot) through setting up the proposed Committee to explore first and seek guidance and insights from jurisdictions beyond E & W where a mixed model exists and where Statutory Legal Aid Commissions provide direct service delivery that informs policy, funding and service decisions making them more robust, tailored and effective in their use of finite resources that the current problematic LAA and judicare models.

¹¹⁰ The Access to Justice Foundation, ‘2024 March Justice and Innovation Group’ (*The Access To Justice Foundation*, 23 February 2024), <<https://atjf.org.uk/2024-march-justice-and-innovation-group>> , 38; Frontier Economics, ‘Research on the Sustainability of Civil Legal Aid: Final Report’ (Law Society of England and Wales 2024) <<https://www.lawsociety.org.uk/topics/research/civil-legal-aid-sustainability>> , 18-52; National Audit Office, ‘Government’s Management of Legal Aid – NAO Report’ (Ministry of Justice 2024) <<https://www.nao.org.uk/reports/governments-management-of-legal-aid/>>; Joe Tomlinson and Marshall Emma, ‘Improving Exceptional Case Funding: Providers’ Perspectives’ (Public Law Project 2020) <<https://publiclawproject.org.uk/content/uploads/2020/01/Improving-Exceptional-Case-Funding-Website-Publication-Version-docx.docx.pdf>> Rebecca Munro and Lorna Preece, ‘The Value of Justice for All Evaluating the Case for Funding the Free Specialist Legal Advice Sector’ (The Access to Justice Foundation and the Bar Council 2024) <<https://atjf.org.uk/wp-content/uploads/2024/08/The-value-of-justice-for-all-a-report-for-the-Access-to-Justice-Foundation-and-the-Bar-Council-from-Pragmatix-Advisory.pdf>>

Benefits

- increased coherent, consistent, and intentional action on access to justice
- a move away from inefficient and lack of coherency and cohesion that leads to fragmentation and soled thinking toward holistic responsiveness
- cross-sector collaboration both inside and outside the legal services sector
- increased capacity for legal help, information, advice and representation.
- strategic alignments
- resolving justice problems can lead to a range of positive outcomes in health, income, housing and employment.¹¹¹
- a problem-solving and a growth mindset rather than a micro level management of issues as they arise.
- innovation, exploration and creativity
- measurement of positive impacts on access to justice of implementation and action, to inform, recalibrate and gauge progress and to inform future steps.
- a common purpose is critical if progress, ownership, collaboration and 'buy-in' are to occur to enable access to justice, to place the value of access to justice firmly on the radar in public discourse, and to meet unmet legal need.
- ability of the citizen to be informed of their legal rights and position in law, obtain competent and effective advice on legal issues and – where relevant – have representation before courts and other authorities to obtain redress or hold authority to account. This includes remedies to avert levels of poverty and inequality.

Many of these suggestions are elaborated on in Curran, L., Ching J., Jarman, J., (2025) '[Regulatory Leadership on Access to Justice](#)', Nottingham Law School, Legal Services Consumer Panel and Legal Services Board (England and Wales) and flow from its recommendations.

12 September 2025

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Appendix - Further Background Information (Policy Brief 2) 'Mixed Model'

Overview of research

The recent research report entitled '[Regulatory Leadership on Access to Justice](#)' has led to this Policy Brief. It notes:

9.4 *There are also issues where the reserved activities under the Legal Services Act and the distribution of LAA contracts inhibit speedy and holistic responses. Clients must seek help with different legal problems from different and often multiple legal providers, rather than just in the one place. This involves cost of travel and available transport. The literature is clear this fracturing of the different professional responsibilities (for example where health and counselling professionals work alongside legal professionals) often leads to referral roundabouts and can be overwhelming with people giving up on legal advice and support hindering justice and their legal capability.¹¹² Whilst the legal services sector is trying to meet the challenges it presents (including through integrated practice and informal networks of referral partners), lack of funding, ethical considerations (such as confidentiality and conflicts of interest),¹¹³ staff and rising need require a strategic vision and leadership from above. Key for concerted action is a role for collaboration to bring together and drive a passion for improved access to justice amongst an array of sectors including government...Such dialogues ought to focus on how to improve problems rather than what the problems are. This is because there is already significant literature on what the problems are and more need to find evidence-based solutions which already have been rigorously evaluated as having an impact. This work can inform funding generation and allocation.*

3.46 *The current position is that the LAA is an agency of the MOJ. For clarity, it does not fall under the oversight of the LSB. Powers to make decisions about legal aid work are delegated by the Lord Chancellor to the Director of Legal Aid Casework, who is also the CEO of the LAA. The LAA provides legal aid for issues that fall with the scope of LASPO in criminal and civil (including family law) and where applicants satisfy means (eligibility thresholds) and merits tests. It provides public funding for civil and criminal access to justice work in England and Wales under LASPO. It contracts with providers who may be law firms or other providers (a 'judicare' model).*

3.47 *However, some areas of law may not be commercially viable under the current funding model, or outside the scope of LASPO in any event. Geography and personal finance may cause problems in accessing a contract held some distance away. The impacts of this produce siloed, fragmented coverage according to the literature cited in this report (see section 3.2). Firms are withdrawing from legal aid work, or routinely say they have reached capacity, producing advice deserts in numerous areas of the country. They also report that they can no longer sustain the*

¹¹² Pascoe Pleasence and Nigel J Balmer 'Justice and the capability to Function in Society' (2019) 148(1) *Daedalus* 140; Daniel Rourke and others, 'Access to Immigration Legal Aid in 2023: An Ocean of Unmet Need' (Public Law Project 2023) <<https://publiclawproject.org.uk/content/uploads/2023/09/Oceans-of-unmet-need-Sep-2023.pdf>> accessed 10 January 2024.

¹¹³ Liz Curran, 'Multi-Disciplinary Practice Health Justice Partnerships—Working Ethically to Ensure Reach to the Most in Need' (2017) 26 *Nottingham Law Journal* 11; Liz Curran *Better law for a better world: New approaches to law practice and education* (Routledge 2021), 226-237 exploring ethical considerations in integrated service delivery.

level of paperwork for the remuneration offered or afford the reduced rates and compliance expectations of the LAA's contracting arrangements.¹¹⁴

3.48 The “exceptional cases funding” introduced by s10 of LASPO to fill some gaps is said in several reports to be too unwieldy to make it cost effective¹¹⁵ for lawyers to do this work.¹¹⁶ The lengthy references in endnote 82, in addition, highlight that interactions with the LAA and regulation in general were a key factor in exhaustion levels and withdrawal from this work (see also the question of retention in section 8). The LAA's infrastructure has also been reported to be inefficient:

There is excessive bureaucracy in the Legal Aid Agency adversely affecting the efficiency of the legal aid system generally. While the overall budget of the Legal Aid Agency was cut by 25 per cent, the administration budget has stayed relatively steady. The complexity of the legal aid scheme needs to be addressed urgently, and any unnecessary bureaucracy removed.¹¹⁷

3.49 Consistent with this, all the front-line service agency participants interviewed for this report reported on its micromanagement and investment in significant staffing and manpower. These participants indicated energy would be better spent on direct service delivery to those in need or ‘real law’.¹¹⁸ This was a point also stressed by the front-line service agencies interviewed for this report. For example:

LAA [has] the role effectively as a regulator as it manages legal aid contracts and sets the tone of the contract in great detail. We are consulted but the detail of these contracts is not negotiated. The lawyers have no veto over any of the contract conditions. The Legal Aid Agency then pushes back on time spent on tasks with complexity. Even when the caseworker working with client explains the needs of the client and why they are doing the case in the way that they are they get penalised for requiring the additional time. It is bureaucratic, it is complex, and it is not independent. It has no remit to improve access to justice, merely to micromanage those people who understand the client and who do the case work. It is a point of great criticism and stress for the profession. It also is another reason people are leaving and not doing legal aid work.

¹¹⁴ The Access to Justice Foundation, ‘2024 March Justice and Innovation Group’ (*The Access To Justice Foundation*, 23 February 2024), <<https://atjf.org.uk/2024-march-justice-and-innovation-group>> accessed 18 March 2024, 38; Frontier Economics, ‘Research on the Sustainability of Civil Legal Aid: Final Report’ (Law Society of England and Wales 2024) <<https://www.lawsociety.org.uk/topics/research/civil-legal-aid-sustainability>> accessed 22 August 2024, 18-52; National Audit Office, ‘Government’s Management of Legal Aid – NAO Report’ (Ministry of Justice 2024) <<https://www.nao.org.uk/reports/governments-management-of-legal-aid/>> accessed 9 February 2024.

¹¹⁵ Constitution Committee, ‘Sixth Report The Office of Lord Chancellor’ HL (2014) <<https://publications.Parliament.uk/pa/ld201415/ldselect/ldconst/75/7505.htm>> accessed 22 August 2024, [43]-[63]; National Audit Office, ‘Government’s Management of Legal Aid – NAO Report’ (Ministry of Justice 2024) <<https://www.nao.org.uk/reports/governments-management-of-legal-aid/>> accessed 9 February 2024, 9-11.

¹¹⁶ See, for example Joe Tomlinson and Marshall Emma, ‘Improving Exceptional Case Funding: Providers’ Perspectives’ (Public Law Project 2020) <<https://publiclawproject.org.uk/content/uploads/2020/01/Improving-Exceptional-Case-Funding-Website-Publication-Version-docx.docx.pdf>> accessed 29 September 2024.

¹¹⁷ Bach Commission, ‘The Right to Justice’ (Fabian Society 2017) <https://fabians.org.uk/wp-content/uploads/2017/09/Bach-Commission_Right-to-Justice-Report-WEB-2.pdf> accessed 18 April 2024, 12.

¹¹⁸ Rebecca Munro and Lorna Preece, ‘The Value of Justice for All Evaluating the Case for Funding the Free Specialist Legal Advice Sector’ (The Access to Justice Foundation and the Bar Council 2024) <<https://atjf.org.uk/wp-content/uploads/2024/08/The-value-of-justice-for-all-a-report-for-the-Access-to-Justice-Foundation-and-the-Bar-Council-from-Pragmatix-Advisory.pdf>> accessed 20 September 2024.

*There are so many concerns about the Legal Aid Agency and the way it spends all its time questioning what is done instead of maximising legal aid stretching the funding to allow the caseworkers to just get on with what they need to do for their case. These things are not controversial. This study needs to look at the Legal Aid Agency and how they operate.*¹¹⁹

Lord Bach noted, the LAA lacks statutory independence and an access to justice focus as its centrepiece. Such statutory priority exists in other legal aid bodies in Australia and Canada. In 2017 he concluded:

*[a]n independent body that operates the legal aid system at arm's length from government should replace the Legal Aid Agency...*¹²⁰

In 2017 changes were made with the LAA. These have not led to the expected outcomes. If anything, the operations of the LAA have made things significantly worse for community members trying to navigate a complex legal system and get legal help and expertise.

The current model for administering legal aid services through the LAA is imprecise, ineffective and a wastage of finite public resources. This money could be better spent by reallocating the costly administration of the LAA with its focus on micro-management of contractual arrangements and costs of mismanagement and having to fix its systems to a more efficient statutory body with the monies of over administration directed to 'real law' i.e. those delivering services to the community at the front line.

Roger Smith and Nic Madge¹²¹ have also urged E & W move to a 'mixed model' and statutory entity as proposed in this Policy Brief albeit a slightly difference framing to the one in this Policy Brief. Curran's working knowledge and research on the Australian model's operation over the past decades since its inception informs what is possible for E & W.

The Australian legal aid models show that Statutory Legal Aid Commissions need not be as problematic as has been the case in the UK with clear objectives, strategic aims and outcomes and in house service capabilities and with a blend of public and private provisions (through its panels of lawyers) can deliver more efficient and effective services to the community who are currently missing out in England and Wales.

One example is Victoria Legal Aid, VLA, (a model Curran has experience in working with). VLA operates one of the largest legal practices in Victoria. Its lawyers provide advice and duty lawyer services, as well as representation in criminal, family and civil matters. Civil lawyers handle the bulk of our civil matters and run strategic litigation cases but collaborate with community legal centres who have strong local connection to their communities. In-house lawyers build up particular specialties, such as family violence cases and matters under the *Crimes (Mental Impairment) Act 1998* (Vic).

VLA is skilled at assisting clients with complex needs and informed by latest developments around advice seeking behaviour and trauma informed practice. The proportion of work undertaken in criminal and family law generates a critical mass of knowledge and experience

¹¹⁹ Curran, L., Ching J., Jarman, J., (2025) 'Regulatory Leadership on Access to Justice', Nottingham Law School, Legal Services Consumer Panel and Legal Services Board (England and Wales) 49. <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/04/25.04.01-Regulatory-Leadership-on-Access-to-Justice-Report.pdf>

¹²⁰ Bach Commission, 'The Right to Justice' (Fabian Society 2017) <https://fabians.org.uk/wp-content/uploads/2017/09/Bach-Commission_Right-to-Justice-Report-WEB-2.pdf> accessed 18 April 2024, 6.

¹²¹ Roger Smith and Nic Madge, 'The National Legal Service: A New Vision for Access to Civil Justice' (Legal Action Group 2023) <<https://www.lag.org.uk/document-downloads/213950/the-national-legal-service-a-new-vision-for-access-to-civil-justice-roger-smith-and-nic-madge>>

in those areas that benefit the whole organisation. VLA Chambers is its in-house group of specialist barristers, predominantly undertaking criminal defence work, who represent clients and provide in-house advice to our solicitors. It also uses in-house lawyers and other staff to design and operate information providing, call taking and triage services. VLA is a well-known agency and is often the first port of call for people seeking legal help.

Conclusion

Measures suggested in this Policy Brief could lead to positive impact on people's lives through improvements in the way legal aid is administered that are more likely to improve access to justice. Using an evidence base and research and evaluations that includes user (including front line service, community and client feedback on what works, when how and in what circumstances for them) to shape and inform this mode of service delivery will be critical.

The money currently spent on the LAA could be better spent on direct service delivery instead of the convoluted, reactionary administrative practises and methods of the LAA and the unnecessary over-regulation of multiple contracts distracts the LAA from what ought to be its primary aim. [The contracts it manages, the research suggests, are micromanaged and stifle innovation in access to justice.](#)

That the 'access to justice committee' led by the Minister for Courts and Legal Services explore/ think of a smaller statutory independent new legal aid entity entitled, the Community Commission for Legal Aid (CCLA) to replace the Legal Aid Agency (LAA) informed by what works overseas and the Scottish developments.

Other for this 'access to justice committee' Guidance on what Statutory Provisions for the CCLA might look like:

Ideas on statutory model and what it could look like for consideration – not another Quango:

- Statutory Independent creation of a new legal aid entity entitled, the Community Commission for Legal Aid (CCLA) to replace the Legal Aid Agency (LAA). It will be established by an Act of Parliament (a statute) to carry out specific functions or duties. It will operate at arm's length from government, not directly controlled by ministers. Such independence is crucial for maintaining public trust and confidence in its functions. This independence allows the Commission to make decisions based on evidence and expertise, free from political interference. While independent, it is still accountable to Parliament and the public.
- This new Statutory Commission whilst sponsored by the Ministry of Justice but will not be subject to its day-to-day control. CCLA will have its own policy making authority. Recommendations by government may or may not be followed, depending on CCLA policy decisions.
- To ensure it reflects key principles of good public governance the following key principles will underpin its operation. The Rule of Law: Ensuring that the law is applied fairly and consistently. Separation of Powers: to maintain independence with a balance of power between different branches of government. Transparency: It will be open and transparent in its work. Public Interest: Its decisions and actions will be ultimately aimed at serving the best interests of the public especially the legal aid client community. In this regard, it is expected to scrutinise and critique government when appropriate.

- CCLA will be responsible for setting and enforcing rules and standards, through processes of protocols, guidelines, mandatory continuing or professional development, accreditation requirements for panels, inspection, quality control or audit.

In terms of operationalisation and ideas on benefits in this ***process of moving to a mixed model of legal aid away from the judicare model currently in E & W***, Curran is happy to share further concrete and tested ideas.

Other Statutory Suggested Provisions for the CCLA

Definitions

In this section, legal aid is defined in the proposed act as:

- ‘(a) education, advice or information in or about the law;*
- (b) any legal services that may be provided by a law practice or a lawyer; and*
- (c) any other matter within the scope of (Functions Powers, Duties sections)*

and, without limiting or affecting the generality of the foregoing, includes alternative dispute resolution programs, duty lawyer services, [legal](#) advice and legal assistance.’

‘legal assistance information means information that is—

- (a) for use by the community; and*
- (b) designed to provide guidance or education in relation to the law, including—*
- (i) guidance (other than [legal advice](#)) for identifying, preventing or dealing with legal problems; and*
- (ii) information on support services that are related to the law.’*

Functions and powers

- (1) The functions of CCLA are—*
- (a) to provide legal aid in accordance with this Act;*
- (ab) to coordinate, and undertake strategic planning for, the provision of legal aid by—*
- (i) CCLA; and*
- ; and*
- (iii) private legal practitioners by arrangement with CCLA;*
- (ac) subject to subsection (1B), to coordinate the provision of legal assistance information, including by facilitating the expansion of the provision of that information as appropriate;*
- (b) to control and administer the Fund (for more discussion on the Fund see Policy Brief 3);*
- (c) to provide advocacy services other than in connection with legal services;*

(d) to coordinate, and participate in, [strategic planning](#) for the provision of services of a kind referred to in paragraph (c) by VLA and other bodies.

(2) CCLA may—

(a) in co-operation with a government department or body concerned with social service or social welfare, arrange measures and take steps that may be conducive to meeting the need for [legal aid](#) in the community;

(b) enter into arrangements from time to time with a body or [person](#) with respect to any investigation, study or research that, in the opinion of CCLA, is necessary or desirable for the purposes of this Act;

(c) make recommendations to or through the Attorney-General with respect to any reforms of the law the desirability for which has come to its attention in the course of performing its functions;

(d) initiate and carry out educational programs designed to promote an understanding by the public, and by sections of the public who have special needs in this respect, of their rights, powers, privileges and duties under the laws in force in the United Kingdom;

(e) undertake research into all aspects of [legal aid](#) including new methods of financing and providing [legal aid](#);

(f) subject to and in accordance with any agreement or arrangement made by the Ministry of Justice provide financial assistance to voluntary [legal aid](#) bodies in [the State](#) in respect of the provision of [legal aid](#);

(fa) subject to this Act, enter into [legal aid arrangements](#) and provide [legal aid](#) in accordance with those arrangements;

(g) do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

Duties

(1A) In performing its function under section..., CCLA must consult with—

(a) the Law Society; and

(b) the Bar Council; and

(c) the Access to Justice Foundation; and

(d) the Law Centres Network UK https://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/laa197864/s2.html - federation of community legal centres

; and

(e) law centres;

(f) advice services (e.g. Advice UK, Advice Services Alliance, AdviceNow, Citizens Advice Bureaux)

(g) private legal practitioners who provide [legal aid](#) by arrangement with CCLA.

Dr Liz Curran September 2025.

Annexure 3 Policy Brief 3

Title: Creating Incentives to Improve Access to Justice– Learning from successful models of mandatory pro bono mandatory that work with private profession doing government work.¹²²

Recommendations

1. Consideration to the exploration of requiring mandatory pro bono by legal professionals who currently undertake government work, and those are currently not undertaking it alongside a clearer definition of 'pro bono' to support the legal profession in undertaking it and managing conflict of interest. This will require convincing Treasury (or other relevant department) to add something to their procurement protocol. Models from the Victorian and Australian Government are provided in this Policy Brief to assist.
2. The government consider funding build on the capability of LawWorks, as a trusted body with extensive networks to perform the functions similar to the models of the [Australian Pro Bono Centre](#) (APBC) and [Justice Connect](#) in Australia. The APBC and its members have had significant impact in improving and driving a culture of pro bono in Australia. LawWorks would coordinate and build research and policy insight on pro bono in the United Kingdom, but additional funding, staffing and resourcing would be required. This will be justified by the inroads that can be made in improving peoples access to justice and ensuring taxpayer money spent on government legal work is also used to public benefit. It would do so with the support of the National Pro Bono Centre, the Bar Council Law Society, LawWorks, Law Centres and other charities and legal support services. ***This is to drive a more deliberate Pro bono strategy considering the access to justice imperative*** (see below).
3. Commission independent research to gather data on pro bono by barristers and solicitors in England and Wales (like the research data collected by APBC) on the extent of pro bono in England and Wales, who it is undertaken by, and the correlation between those undertaking pro bono and who do government work.
4. Create a national pro bono target. (See discussion later in Policy Brief examining how this has been done elsewhere). For example, in 2019, in Australia, the Commonwealth introduced a ['Whole of Australian Government Legal Services Panel'](#) which replaced the 'Legal Services Multi-Use List' (LSMUL). It introduced new pro bono conditions which require all legal services providers appointed to the government panel (which commissions its legal work) to sign up to the Australian Pro Bono Centre's (APBC) [National Pro Bono Target](#). The APBC introduced an aspirational target for the profession in 2007 and in 2008 produced its First Performance Report. [The APBC in 2023 produced the 8th report with data on pro bono](#). Also the national data agency the Australian Bureau of Statistics [collected initial pro bono data](#) and so there is a precedent of asking a national data institution. 4. That the government also support an independent initiative to conduct Performance Reports on pro bono.
5. Where firms do not undertake the pro bono work promised or wish to opt out, they pay a % charge which is to go into a designated fund for access to justice services.

¹²² Thanks to the anonymous English subject expert who peer reviewed this Policy Brief. Their insightful feedback has been integrated into this Policy Brief.

6. That the government consider how to achieve a specific [National Pro Bono Professional Indemnity Insurance Scheme](#), to insure lawyers from civil claims arising from their pro bono work.

Executive summary

This Policy Brief does not purport that pro bono legal services should be seen as a substitute for an adequately funded system of civil legal aid. Whilst lawyers are under a moral obligation to engage in pro bono work¹²³, many do and undertake more than their fair share, a fact often overlooked in negative media about the so-called 'legal industry'.

However, in England and Wales (and in the UK more broadly) some members of the legal profession and law firms do not bear equal share of the burden and more data on who does and does not that is independent and rigorous on this point is needed. This is currently lacking. Considering the advice deserts, and dire need for legal support from an increasing number of people with not only legal need but underserved people experiencing disadvantage ignoring what might be done to stimulate pro bono is needed. Many law firms do government work and profit extensively from it and are paid using public funds. Public funds generated through VAT and other taxes paid for by the very members of the community who are experiencing inequality and in dire need.

This policy brief urges the government to proceed with its indication it will examine and implement this:

*Labour says it will create a national pro bono target to encourage partnership between the public and private sector. The policy would require City firms to have met the target of at least 35 hours of pro bono legal services per lawyer per year to be eligible for government contracts.*¹²⁴

The exploration of requiring mandatory pro bono for government work, to improve access to justice deficits, by legal professionals and particularly by those who are currently not undertaking it makes sense. A pre-condition (based on lessons in Australia and Canada) is to ensure a clear definition of 'pro bono' for community members and to ensure access is independent from government (as much pro bono may be used to challenge government and local council and other decision -making) – a hallmark of democracy and accountability.

Complimenting this should be a deepening of data and research insights about pro bono in the UK and further support for the legal profession to develop a deeper culture of pro bono across the entire profession.¹²⁵ This would seek to expand and increase the pool of experts that are needed for the community to access proper and expert legal support especially where areas of specialisation are needed.

In Australia, this multi-pronged approach over time has seen the growth of pr bono units in law firms, increased pro bono and inroads into improving access to justice to underserved communities through growth in firms undertaking this work, improved training, addressing of

¹²³ Professor Stephen Parker, 'Why Lawyers Should do Pro bono Work' Attorney General's Pro Bono Conference, Australia, 2000. <https://www.probonocentre.org.au/wp-content/uploads/2015/08/Why-Should-Lawyers-Do-Pro-Bono-Work-SParker.pdf>

¹²⁴ John Hyde, 'Labour Tells Firms to Meet pro Bono Target or Lose Government Contracts' [2021] *Law Gazette* <<https://www.lawgazette.co.uk/news/labour-tells-firms-to-meet-pro-bono-target-or-lose-government-contracts/5109938.article>>

¹²⁵ Fiona Kay and Robert Granfield (2022) 'When altruism is remunerated: Understanding the bases of voluntary public service among lawyers' *Law & Society Review*, Volume 56, Issue 1, March 2022, pp. 78 - 100 <https://doi.org/10.1111/lasr.12586>

issues of advice deserts, staff retention in law firms and increased experienced supervision of practitioners.

There has also been an increase in opportunities for law students.¹²⁶ and early career lawyers to become involved in diverse work and most importantly a deeper understanding of 'people centred' lawyering that helps law firms in the client relationships more generally with greater insight into culture, trauma and impacts on mental health and a growth in more effective, relational lawyer, views that their work is more meaningful¹²⁷, all of which is also good for business.

This Policy Brief further develops recommendations and discussion points in the research undertaken for the Legal Services Consumer Panel and the Legal Services Board detailed in a Report entitled *Regulatory Leadership on Access to Justice*¹²⁸ and which require some form of government and/or Parliamentary action. Dr Curran was Project Lead and co-author of the report.

The Imperative to act soon to drive increased pro bono

Government is in the box seat. It uses many private law firms to do its work and these private law firms generate large profits as a result. Law firms already doing pro bono would not be affected if their contribution is sufficient and would in fact benefit by the greater pool in light of the fact many firms who do pro bono are bearing more than their fair share.

Currently certain sections of the community can use law firms to access legal advice and utilise the courts because they have the money and resources to do so. Others miss out because they do not and yet the court, and administration of justice are paid for using public monies.

In England and Wales, unmet legal need occurs when individuals do not get adequate support for their legal issues, with a 2023 You Gov survey finding that **32% of people with a legal need had their issue left unresolved**.¹²⁹ The most common reasons for this are not receiving professional help, often because people cannot find someone willing or able to assist, because of capacity issues (especially in the third sector) and resource constraints or due to assumptions about the cost of legal advice.

Certain groups, such as people with disabilities, poor mental health and those with low legal confidence or capability, are more likely to experience unmet legal need. Also, there are advice deserts and issues around experienced legal staff and supervised legal practice

¹²⁶ Australian Pro bono Centre 'Collaborative Research Investigation into: Models and Quantifiable Benefits of Pro Bono and Social Justice Activities in Australian Law Schools', <https://bond.edu.au/system/files/filedepot/104/Web%20-%20Collaborative%20Research%20Investigation%20-%20Models%20and%20Quantifiable%20Benefits%20of%20Pro%20Bono%20and%20Social%20Justice%20Activities%20in%20Australian%20Law%20Schools.pdf>; Francine Cantatore, 'The impact of Pro Bono law clinics on employability and work readiness in law students', *International Journal of Clinical Legal Education*, 25(1), 147-172. <https://doi.org/10.19164/ijcle.v25i1.696>.

¹²⁷ Fiona Kay and Robert Granfield (2022) 'When altruism is remunerated: Understanding the bases of voluntary public service among lawyers' *Law & Society Review*, Volume 56, Issue 1, 78. 91-93. <https://doi.org/10.1111/lasr.12586>

¹²⁸ Curran, L., Ching J., Jarman, J., (2025) 'Regulatory Leadership on Access to Justice', Nottingham Law School, Legal Services Consumer Panel and Legal Services Board (England and Wales). <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/04/25.04.01-Regulatory-Leadership-on-Access-to-Justice-Report.pdf>

¹²⁹ You Gov (2024) 'Individual Legal Needs Survey in England and Wales' (2024) LSB and the Law Society. <https://legalservicesboard.org.uk/wp-content/uploads/2024/04/LN2023-Summary-report-18.04.24-updated.pdf>

being in short supply.¹³⁰ There has also been a significant retreat by the private profession from legal aid and pro bono work.¹³¹

By contrast, and in many ways creating a two-tiered justice system, government work funded by taxpayers' money is extremely lucrative for law firms and their profit margins. In 2021/2022 half of top 50 law firms received fees from the government, with a total annual spend on external lawyers of £36.57m.¹³² Law firms acting for the Post Office – a government-owned entity – received £256.9m in costs and disbursements in connection with the Horizon IT scandal.¹³³

Many law firms and individual lawyers make commendable pro bono efforts. However, there are other who do little or none and may be the biggest beneficiaries of taxpayer funded government work. Data currently absent could also clarify this. (See recommendation 3 above.)

Large law firms in the private sector rely on the public system for profits and the courts to conduct their litigation and other work for their clients and thus have a vested interest in ensuring that the public system remains viable. Many examples of how this might improve the situation and ideas for what it might look like are identified in the report 'Regulatory Leadership on Access to Justice'¹³⁴ including If the government were to be convinced to introduce a mandatory pro bono scheme for any government legal work, a component could be for the wealthier law firms to properly resource and provide a secondees to the law centre.

As noted, there is also a significant data gap on pro bono that needs to be filled with rigorous independent data. Models overseas such as in Canada and Australia provide models that might see an improvement in the ability of pro bono to enable and facilitate access to justice in collaboration with communities and the third sector.

This Policy Brief's **primary focus is on consideration of the introduction of mandatory pro bono but, does not suggest homogeneity in its application**. It does not seek to have a chilling effect on existing pro bono efforts by some in the legal profession which [deserve to be commended and fostered, improvement in its quality and reach](#). These firms are likely not to find it an additional impost as they are already doing the lion's share and so would be able to evidence the pro bono effort, but it would spread the load especially with larger firms who have more resources.

This Policy Brief and its recommendation emerge as partial solutions in the context of a justice system that is failing to meet the needs of too many.

¹³⁰ Curran, L., Ching J., Jarman, J., (2025) 'Regulatory Leadership on Access to Justice', Nottingham Law School, Legal Services Consumer Panel and Legal Services Board (England and Wales). Paragraphs 5.23- 5.33 <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/04/25.04.01-Regulatory-Leadership-on-Access-to-Justice-Report.pdf>

¹³¹ Frontier Economics, 'Research on the Sustainability of Civil Legal Aid: Final Report' (Law Society of England and Wales 2024) <<https://www.lawsociety.org.uk/topics/research/civil-legal-aid-sustainability>>.

¹³² Rachel Molony, 'UK Government's Legal Spend Revealed for 2021/22' *The Lawyer* (London, 5 July 2022) <<https://www.thelawyer.com/uk-governments-legal-spend-revealed-for-2021-22/>> accessed 15 August 2024.

¹³³ Gabriel Kennedy, 'Revealed: The Quarter-Billion-Pound Payday for Post Office Scandal Lawyers' *The Lawyer* (London, 21 August 2024) <<https://www.thelawyer.com/revealed-the-quarter-billion-pound-payday-for-post-office-scandal-lawyers/>> accessed 22 August 2024. See also John Hyde, 'Firm Denies Profiting from Post Office Victims' Misery' [2024] *Law Gazette* <<https://www.lawgazette.co.uk/news/firm-denies-profiting-from-post-office-victims-misery/5121590.article>>

¹³⁴ Curran, L., Ching J., Jarman, J., (2025) 'Regulatory Leadership on Access to Justice', Nottingham Law School, Legal Services Consumer Panel and Legal Services Board (England and Wales). <https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2025/04/25.04.01-Regulatory-Leadership-on-Access-to-Justice-Report.pdf>

Dr Curran has seen firsthand as a practitioner and in supporting policy enhancements that have occurred by virtue of mandatory pro bono in Australia. Instrumental was the introduction of the mandatory pro bono procurement requirements in 2002 by Attorney General Hulse (Curran was involved in these discussions). These have been integral to developing a culture of pro bono and like in the UK there were some who argued it should be left to the profession at the time. Many now see the benefits.

Previously in Australia in the 1990s pro bono had often been seen as charitable offering at the behest of the legal profession and that it was for government to fund legal aid but with little appetite to increase funding by government and its concern to tighten its fiscal expenditure (as in England and Wales currently) especially civil law matters. Community need led to a movement led to shifts in pro bono policy and strategy. Mandatory pro bono and supportive initiatives for pro bono in general, suggested in this Policy Brief could become an integral part of legal practice of law firms in England and Wales as it has become in Australia.

Also, in Australia, most of the larger and medium law firms now have their own pro bono units - building in house expertise. In Australia, law firms see their pro bono offerings as critical to staff satisfaction and retention¹³⁵ – issues very much a concern in the legal profession in England and Wales.

Expectations due to the Rule of Law

The legal profession in the United Kingdom secures a substantial amount of government work paid for by taxpayers generating significant profits. For a range of reasons, including ethical obligations of legal professionals and governments who have responsibility to the rule of law (underpinned by equality before the law) certain expectations attach to this doing this work.

Government Procurement

Lawworks has noted in relation to government legal services procurement

*As the largest single purchaser of legal services in England and Wales, Government is in a prime position to use its market power to achieve positive social aims at no extra cost, simply through being more strategic in the way it procures services. Our response focuses on how Government might be better able to promote and support pro bono delivery in the private sector through policies on procurement designed to leverage socially responsible outcomes.*¹³⁶

Scotland

The Scottish Government's "Framework agreement for the provision of legal services 2023-2027"¹³⁷ estimated to be worth £28 million has some peripheral mention only in its supplementary guide:

Community benefits Tenderers were asked to provide details of their proposals to support Scottish Procurement to meet the Scottish Government's overall community benefits policy through delivery of the framework agreements. Tenderers responded

¹³⁵ Rachel Molony, 'UK Government's Legal Spend Revealed for 2021/22' *The Lawyer* (London, 5 July 2022) <<https://www.thelawyer.com/uk-governments-legal-spend-revealed-for-2021-22/>>

¹³⁶ Law Works (2021) response to the Government's Green Paper on transforming public procurement. 'Transforming public procurement' <https://www.lawworks.org.uk/sites/default/files/files/LW-Policy-ProcurementGreenPaper-032021.pdf>

¹³⁷ <https://www.gov.scot/publications/legal-services-framework-2023-to-2027/>

*positively, proposing a number of different benefits including: ...pro-bono work for charities and third sector organisations.*¹³⁸

In the recent report 'Regulatory Leadership on Access to Justice' for the Legal Services Consumer Panel England and Wales (E & W) (Curran, Ching and Jarman)

The report notes:

11.7 Recent economic studies of the legal professions in England and Wales highlight that government work funded by taxpayers' money is extremely lucrative for law firms and their profit margins. For example, in 2021/2022 half of top 50 law firms received fees from the government, with a total annual spend on external lawyers of £36.57m.¹³⁹ More recently, it has emerged that law firms acting for the Post Office – a government-owned entity – received £256.9m in costs and disbursements in connection with the Horizon IT scandal.¹⁴⁰

Culture Change and Climate of it is needed

This Policy Brief urges a movement beyond seeing pro bono efforts as in the 'spirit of charity' mindset, to a fundamental legal professional wider obligation to the rule of law. This is elaborated on in another Policy Brief by Dr Curran 'Policy Brief 1 Amending the Legal Services Act: Paramountcy of duties essential to administration of justice and the rule of law'.

Pro bono can also increase equality before the law as it underpins the Rule of Law. There is a role for government in leveraging pro bono in its procurement policy and practice to ensure access to justice for all. Such effort can go a part of the way to meeting and addressing rising unmet need and inequality with more consistency.

This Policy Brief concedes that some in the legal profession's commitment to pro-bono work is incredible and does not ignore the constraints around such services. Curran is aware of these having worked as a practitioner in public and private practice herself and as researcher in improving access to justice for three decades. She has and still provides pro bono services herself and has retained legal professionals on behalf of clients in not-for-profit agencies where she has worked.

This Brief sees a role of government which commissions a significant amount of legal work paid for by the taxpayer having a role in facilitating more of a pro bono culture and making requirements around its commissioning as seen in Australia since 2002 (see timeline below).

Definition

Critical to driving more pro bono, based on Curran's own experience, is **ensuring the definition of pro bono is right**. The Pro Bono Protocol – which could be easier to change – has hundreds of signatories and is a step in the right direction, however previous efforts have stalled. Mandating pro bono might generate some more action to define it to secure

¹³⁸ <https://www.gov.scot/publications/procurement-legal-services-framework-buyers-guide/pages/supplementary-information/>

¹³⁹ Rachel Molony, 'UK Government's Legal Spend Revealed for 2021/22' *The Lawyer* (London, 5 July 2022) <<https://www.thelawyer.com/uk-governments-legal-spend-revealed-for-2021-22/>> accessed 15 August 2024.

¹⁴⁰ Gabriel Kennedy, 'Revealed: The Quarter-Billion-Pound Payday for Post Office Scandal Lawyers' *The Lawyer* (London, 21 August 2024) <<https://www.thelawyer.com/revealed-the-quarter-billion-pound-payday-for-post-office-scandal-lawyers/>> accessed 22 August 2024. See also John Hyde, 'Firm Denies Profiting from Post Office Victims' Misery' [2024] *Law Gazette* <<https://www.lawgazette.co.uk/news/firm-denies-profiting-from-post-office-victims-misery/5121590.article>> accessed 22 November 2024.

government work i.e. incentive what has historically been a slow moving and fraught exercise. Australia and Canada and their definitions provide a rich starting point as lessons have been learned, and adaptations made.

The definition would be a collaborative effort and avoid the sort of issues that the Trump Pro bono directives in the USA entail. The independence of pro bono from government dictates should be assured through this collaboration between government, the third sector and Law Society, and the Bar as occurred in Australia with opportunities to refine it according to needs of the front-line services who coordinate and use pro bono services. For example, some law firms in England have noted that they use interest earned on lawyers' trust accounts towards enabling their pro bono work at law clinics. This is not actually pro bono (although it might facilitate this work), even if they are being remunerated at a reduced rate. In addition, some law firms include their work under legal aid contracts as part of their pro bono. This is a misnomer as these law firms are being remunerated, albeit at a reduced rate and so it is not strictly pro bono but again facilitates this work. Some law firms provide pro bono to access to justice agencies on condition they will receive additional paid work. Again, this is not pro bono. However, if these avenues facilitate them doing pro bono care needs to be taken.

Driving Quality Pro Bono and not Increasing the Burden on the Third Sector

It is also important that pro bono efforts are of quality. Offering to do something pro bono ought not mean that the legal services offered are substandard or lack competency as this can have a significant effect on poorer clients and those experiencing disadvantage. It leads to a two-tier justice system where the clients who are well resourced and can pay get competent legal advice and other do not which can do more harm than good.

Also important is ensuring that pro bono offerings are the **right fit** and not an additional burden on under resourced agencies. As noted, Dr Curran, was integrally involved in the developing of the definition of pro bono undertaken by the government in Victoria and later by the Australian government considering problems which emerged with larger firms taking a 'tick a box' approach in the early days. This created a huge impost on the equivalent of law centres and LawWorks. Dr Curran would be happy to share the insights from this journey.

One thing is important to note, **this will take time and a cultural shift within the legal profession in England and Wales will not be easy** but, if the predicament of the poorest and most disadvantaged in gaining legal expertise that they need is to be met multiple strategies including this pro bono dimension need to be leveraged and we need to make start instead of 'kicking the can further down the road'. It is important to note that a two-tier justice system exists as this legal expertise is currently available to companies and individuals who are well resourced and able to pay and the law firms this policy brief is aimed at profit by.

To assist in what was a long development towards a more engrained culture of pro bono this Policy Brief provides a timeline from Australia a time frame of developments is provided (later in the Policy Brief) sourced from the APBC web site and other documents/research.

Background

Description of the problem

The United Kingdom Pro Bono Landscape

[National Pro bono Centre](#) encourages lawyers to undertake pro bono work, and guidance on how to be involved. It is limited in what it can achieve as it is by and large a virtual hub. The

sorts of collaboration and galvanising efforts required are currently not feasible. It is significantly more limited in its offering to the Australian Pro bono Centre which it is suggested, although not perfect, is a model to strive towards. The National Pro bono Centre provides support and resources for charities that deliver free legal pro bono advice to members of the public all over the UK, encouraging professionals, organisations and educational institutions to set up their own pro bono programmes and hosting searchable volunteering opportunities on our website. There is limited utility for policy and strategic work to drive pro bono as has been the case with the [Australian Pro bono Centre](#), leadership, excellence, training, host conference, conduct research and collect data – all necessary to create and impetus for pro bono and a sense of shared purpose, and collaboration to lead to outcomes.

[LawWorks](#) is a charity working in England and Wales to connect volunteer lawyers with people in need of legal advice, who are not eligible for legal aid and cannot afford to pay and with the not-for-profit organisations that support them. It works with the Law Society, law schools and law students, law centres, advice agencies and others. LawWorks is a business-to-business membership organisation, supporting volunteers from over 160 law firms and legal teams in England & Wales including large City and international law firms, corporate in-house teams, regional and small high street law firms, law schools and charities. It receives over 70,000 client enquiries at independent clinics in the LawWorks Clinics Network in the period from January 2023 to December 2023. More than 34,000 clients were given legal advice at clinics in the LawWorks clinics network in the period from January 2023 to December 2023. Over 10,000 individuals volunteered across the LawWorks Clinics Network in 2023. It also assists 260 Not-for-profits cases supported on by member firms and in-house teams in 2024. Alongside this it runs over 30 social welfare and professional skills training sessions a year.

The data is helpful – painting the pro bono landscape

Data on the UK pro bono landscape is limited but linked to driving a culture of pro bono rather than merely seeking to encourage it. In [2024, Australian large law firms provided more pro bono legal services than ever before](#). The 48 respondent firms performed 704,888 pro bono hours, a significant increase from the 564,531 hours reported in 2022. On average, 62% of firm lawyers were involved in pro bono, undertaking an average of 41.9 hours per lawyer per year, up from 36.2 hours in 2022. For the first time, a majority of respondent firms exceeded the National Pro Bono Target of 35 hours per lawyer per year. There is no similar data or incentives in the United Kingdom.

Law firms [according to Law Society \(E&W\) data](#) (based on the Thomson Reuters Foundation's 'Trust Law Index of Pro Bono' which maps the scale and trends of pro bono work around the world) reports in England and Wales recorded a total of 505,925 hours of pro bono work. Whist number of firms reporting through the index has more than doubled – from 27 firms in 2014 to 61 in 2024. In terms of average pro bono hours per lawyer, England and Wales ranked third on the index, behind the US and Australia. Given the population differential to Australia, with a greater number of law firms per capita and the pressing unmet legal need in E & W the momentum is lacking.

In [2023](#) in Australia the data provided a detailed and informing picture.

1. From 2010-2017 2.86 million hours of free legal work provided over the past 10 years. Highest number of pro bono hours on record: Respondents to the 2022 Survey reported the highest total number of pro bono hours on record (564,530.7 hours, being 23.5% more than the figure reported in 2020), and the highest number

of average pro bono hours per lawyer on record (36.4 hours per lawyer, up from an average of 35.5 hours in 2020).

2. More dedicated pro bono staff than ever before: In 2022, 81% of responding firms indicated that they had at least one dedicated pro bono manager, being someone whose primary responsibility it was to coordinate their firm's pro bono legal work. Amongst the top 10 largest firms, this figure was 100%. In total, firms reported employing 140.7 full-time equivalent dedicated pro bono staff, more than double the number reported in 2020.

3. Increased recognition of the positive impacts of pro bono work: A very significant majority of firms reported enjoying a wide range of positive impacts as a result of their pro bono practices, including opportunities for staff to develop additional skills (96% of responding firms), increased pride in the firm (91% of responding firms), increased staff satisfaction (83% of responding firms) and increased ability to attract new staff to the firm (74% of responding firms).

However, the results of the Survey indicate there is still room for growth within the pro bono practices of large firms. In particular:

- The average pro bono participation rate by staff at responding firms was reported at only 57% and has decreased marginally since 2018. This suggests that there are many individual practitioners in large law firms who are currently doing no pro bono legal work and who could benefit from more opportunities, encouragement or incentives to do so.
- Approximately 40% of respondent firms did not set an operational budget for their pro bono practice, despite it being best practice to do so. Report on the 8th National Law Firm Pro Bono Survey Australian Pro Bono Centre 2023 8
- Only 26% of responding firms reported that they had worked with in-house counsel of a corporate or government client on a pro bono matter or project during the 2022 FY. This figure has declined since 2016, despite the growing number of in-house lawyers becoming involved in pro bono legal work in a structured way.

Solution - Policy recommendations

1. Government work funded by taxpayers' money is extremely lucrative for law firms and their profit margins. Government has a lever though its procurement/commissioning of legal work paid for by taxpayers. The Government introduce mandatory pro bono (with a target and carefully defined definition of what pro bono is and is not). This would not see pose an impost on existing pro bono efforts by some in the legal profession which deserve to be commended and fostered, improvement it is quality and reach and is already occurring.
2. Consideration be given to law firms who do not do pro bono hours as per a proposed target pay an % of their profits, in lieu of this to, the above access to justice fund which is earmarked for this purpose and not part of government consolidated revenue. Where firms do not undertake the pro bono work promised or wish to opt out, they pay a % charge which goes into a designated fund for access to justice services.
3. The establishment of a model like the Australia Pro Bono Centre and underpinning data on pro bono to drive quality, training, facilitate pro bono units in large and medium law firms and improve quality of pro bono offerings.

Why not the UK? - other jurisdictions?

Possible Opponents

Whilst the Law Society of England and Wales has led a number of initiatives such as the Pro Bono Charter, and the professions have also developed the Joint Pro Bono Protocol and recent Awards it is not enough. The Law Society has a broad membership, some of whom will resist any restrictions on their business model and work. Also, the Law Society has very complex sign off procedures and policy committees which makes these things for developing a mandatory pro bono and enhanced pro bono culture effort as proposed in this Policy Brief quite challenging.

Some will claim that mandatory pro bono infringing on lawyers' autonomy. This has not been the experience in Australia, but rather it has led to more passionate, engaged lawyers and more lawyer retention as they like the work as it is meaningful. As the legal services sector is trying to meet the problems this presents, lack of funding, staff retention.¹⁴¹

Some in the profession may argue it should be left to encourage pro bono agreeing the commitment to pro bono should undoubtedly be encouraged within law firms, particularly those who are able to shoulder the burden. This alone is not enough especially in light of the imperative for this reform outlines above. They will also suggest that they need the money from government to fund their operations. Pro bono ought to be an expectation under their legal professional obligations and procurement thresholds.

Another argument will be that Government should not be able to use mandatory pro bono to escape responsibility for providing equality in access to justice as required by Article 6 of the Human Rights Convention and that pro bono is not a substitute for government lack of funding of access to justice. None of these are self-exclusive and not an argument for no mandatory pro bono in the specific areas advocated here given pressing legal need and the numbers of people missing out on legal help in the United Kingdom.

Why an Impetus is Needed

Left alone the profession with the best intentions of many to undertake pro bono has no real inducement to so. Current inroads are not enough. Some firms do little but earn profits from government work. There are huge gaps in provision legal expertise and legal supervision in the community sector with the poorest and disadvantaged and charities who cannot afford lawyers

What is being suggested here **is not** the Trump administration Pro Bono Deals. What is occurring in the United States with overreach is not what is being proposed, and opponents are likely to conflate this Policy Brief with it as a deflection. This proposal is not about State encroachment on independent pro bono. The Solicitor General would need to be clear this is about improving equality before the law and finding ways to address unmet legal need in a context where all players in the justice system can play their part. The Solicitor General can make assurances and provide guarantees in the protocols, procurement and other frameworks that the government has no intention of trying to get law firms to do pro bono for government clients/interest groups.

Risk Needs to be Managed – not an impost on the third sector

¹⁴¹ Frontier Economics, 'Research on the Sustainability of Civil Legal Aid: Final Report' (Law Society of England and Wales 2024) <<https://www.lawsociety.org.uk/topics/research/civil-legal-aid-sustainability>>, 19.

The charity sector needs to have a critical say in what 'pro bono' looks like and the training needs that ought to exist for the profession when dealing with some of the most vulnerable and disadvantaged members of the community to ensure respect and skill, For example, trauma informed practice and working with clients with mental health issues or disabilities. Participants in the research for the Legal Services Consumer Panel noted this was a need.

Many charities providing legal advice and support, for example law centres and Citizens Advice Bureaux are already struggling with poor resourcing, low staffing levels challenges recruiting and retaining experienced staff and those who can supervise. Pro bono can help fill the void, however, the volunteering opportunities including pro bono cannot appear out of thin air.

Pro bono brokerage is resource intensive and cannot 'produce' pro bono opportunities without any financial support to do so. LawWorks could, given its existing role as a broker is better placed than the NPBC to act as intermediary. There are models that exist that could be examined from other jurisdictions. For example, the Human Rights Law Centre, Justice Connect in Australia. The Policy Brief has identified Law Works over the National Pro bono Centre as the latter is mainly a web site and does not have the track record or supported coordination and networks of LawWorks. Reinventing the wheel is not necessary but it would need funding and to be resourced to scale up to this new role, given both LawWorks and Advocate currently perform such a role and hold trust and existing connections and expertise in pro bono.

To do this, additional resources will be required to support the charities that are developing the pro bono opportunities, as Justice Connect does. It has recently also looked to digital strategies which could be explored when and if evaluated as an effective use of resources and in terms of outcomes.

The charity sector should also link in but have autonomy so that it has can attract its own local pro bono, if this is the preference. Critical is that mandating pro bono does not impose a further impost on an already under resourced sector. It is about building capability and capacity rather than producing a drain on it. Already charities that host pro bono clinics often have to provide additional staff, security and venues and this might be addressed in any definition of pro bono which the third sector needs to co-design. The third sector know a lot about advice seeking behaviour, creating safe spaces for clients and communities and what a good service looks like for their clients.

Benefits

- Increasing pro bono hours through a target and expectation and condition for government work will improve access to justice
- The potential to reach and provide legal support to underserved communities and address advice deserts is immense if more firms can provide pro bono. As an example, in Australia [Justice Connect](https://justiceconnect.org.au/about/our-members/), one of many but a key service agency in Australia, linking clients and charities to pro bono help in Australia, in the 2023-24 financial year, received over **54,000 hours** from pro bono for its clients.¹⁴²
- Drive up awareness and quality of legal work for underserved communities.

¹⁴² Justice Connect <https://justiceconnect.org.au/about/our-members/>

- Bringing worth to legal employee's work with pro bono work giving them a sense of value and enjoyment and improving retention and recruitment and upskilling lawyers in soft skills benefiting other clients
- Lawyers are often seen as an industry that manipulates and yet lawyers are a critical part of a social system pro bono can improve collective trust and confidence in the community in time where people's view of the relevance of the law to them is diminishing.

Many of these suggestions are also contained in Curran, L., Ching J., Jarman, J., (2025) '[Regulatory Leadership on Access to Justice](#)', Nottingham Law School, Legal Services Consumer Panel and Legal Services Board (England and Wales).

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Appendix 1 (Policy Brief 3 Pro bono)

Overview of research

Lawyers in the United Kingdom have a long history of undertaking pro-bono work in the United Kingdom. However, in comparison with other jurisdictions, there is very data on how much, how often, where, by whom and what its impact is and the quality of this work. The legal profession has also (particularly large and global law firms) made a significant money out of government funded work and has profited from this. It is this group, that this Policy Brief has as its main focus for considering mandatory pro bono modelled on jurisdictions like Australia where there is data. In Australia most law firms of a decent size have dedicated pro bono counsel roles within law firms. This has been called for recently in Canada.¹⁴³

Moorhead et al. in exploring the fundamental role for lawyers in upholding the rule of law have noted:

First, lawyers are a central part of the social system through which the rule of law is respected and law habitually attended to; lawyers act to make real and shore up that respect and habituation. In this, way, lawyers are a critical part of a social system that is supposed to deliver collective trust and confidence in legality. Second, lawyers help to challenge inappropriate and arbitrary uses of power, by the state and also by others; supporting citizens with their legal rights and protecting them from state and other coercion. Third, lawyers apply expertise to help clients understand and navigate the law. In this way, lawyers are agents of rule of law systems, not just because they advise clients on their rights but because they counsel their clients towards legality. Fourth, actions that improperly frustrate third parties' access to justice and the just resolution of disputes are inconsistent with lawyers' rule of law related duties. Fifth, the role for the lawyer as an agent of the rule of law is at least as strong beyond court-based dispute resolution. Away from court-based work, lawyers engage with and contribute to the rule of law in myriad ways: when drafting contracts; investigating misconduct; advising on compliance, and so on. This is so even though these legal arenas are often hidden from public view (because of confidentiality or legal privilege, or for other reasons) and without a third-party arbiter (a judge or similar) overseeing in any way the work that is done.¹⁴⁴

In the recent report '[Regulatory Leadership in Access to Justice](#)', the authors including Curran (who was the Project Lead) note:

5.25 In Australia, there are schemes which are designed to promote the provision of pro bono work particularly from the larger law firms involved in government work. The Australian government has pro bono guidelines and requirements for its work,¹⁴⁵ as does the Victorian Government Solicitor.¹⁴⁶ Canada has similar schemes.¹⁴⁷ The

¹⁴³ <https://www.canadianlawyermag.com/resources/practice-management/pro-bono-in-canada-needs-structure-not-just-good-intentions-says-lawyer/392402>

¹⁴⁴ Moorhead, R., Vaughan, S., and Tsuda, K., 'What Does It Mean for Lawyers to Uphold the Rule of Law?' (Legal Services Board 2023). 3. <<https://legalservicesboard.org.uk/wp-content/uploads/2023/11/FINAL-LSB-Lawyers-and-ROL-Report-2023.pdf>>.

¹⁴⁵ AGS, 'Pro Bono Legal Work' (AGS, no date) <<https://www.ags.gov.au/areasoflaw/case-studies/pro-bono-legal-work>> accessed 18 March 2024.

¹⁴⁶ Victorian Government's Solicitor's Office, 'VGSO pro Bono Program' (Victorian Government's Solicitor's Office, 2 December 2022) <<https://www.vgso.vic.gov.au/vgso-pro-bono-program>> accessed 18 March 2024.

¹⁴⁷ Government of Canada, 'Policy for Pro Bono Services by Department of Justice Lawyers' (Government of Canada, 28 February 2014) <<https://www.canada.ca/en/news/archive/2014/02/policy-pro-bono-services-department-justice-lawyers.html>> accessed 29 February 2024.

*Australian Government Solicitor scheme requires employees to undertake pro bono work in certain areas of work where there is not a conflict of interest.*¹⁴⁸

5.26 *Victoria pioneered this when, in 2002, Attorney General Rob Hulls decided to make it a requirement for all government tendered work that law firms had to provide a minimum level of pro bono hours.*¹⁴⁹ *Initially there were some problems around the definition of pro bono, as some of the law firms were trying to include their existing voluntary activities in it. For example, lawyers sought to treat volunteering on their local primary school board of trustees or on the board of a hospital, undertaken largely to secure hospital work for the law firm, as 'pro bono' under the new rules. The definition was tightened after concern that this interpretation did not meet the aim of the government. Although it took some time, an improved definition of pro bono was arrived at after consultation with the law firms and the legal assistance sector in Victoria.*¹⁵⁰

5.27 *This definition of pro bono*¹⁵¹ *makes clearer the intention behind the mandatory requirement as primarily to improve access to justice. It has been in place in Victoria for more than a decade and is documented in the "Government Legal Services Panel Deed of Standing Offer for the Provision of Legal Services" between the State of Victoria – through the Department of Justice and Community Safety – and the relevant law firm.*¹⁵²

5.28 *Safeguards would need to be put in place were such a scheme to be adopted by the UK government. These are needed to ensure there is no significant burden on the already stretched resources of law centres but that rather such pro bono is a complement, and of value. The idea is, or has been, an element of recent Labour party policy.*¹⁵³

5.29 *What is interesting is that the LSB & CV Commissioner highlighted the fact that the larger law firms in Australia were keen for their staff to engage in pro bono activities. This is because larger law firms often saw it as a way of bringing worth to their employee's work. In mundane work staff got bored or weary and left the profession because they found some of the legal work tiresome or just about money-making. It was the pro bono work which gave them a sense of value and enjoyment. Private law firm feedback is that pro bono offerings addressed issues of retention and job satisfaction and a sense of relevance and meaning for their staff. Similar*

¹⁴⁸ AGS, 'Pro Bono' (AGS, no date) <<https://www.ags.gov.au/community/pro-bono>> accessed 29 February 2024.

¹⁴⁹ Disclosure. The project lead for the research contract for this report for the LSB and LSCLP was involved in the discussions with the attorney general in Victoria and input into the definition of pro bono for Victorian government work in 1999-2002.

¹⁵⁰ National Pro Bono Resource Centre, 'Victorian Government Legal Services Panel Arrangements' (National Pro Bono Resource Centre no date) <<https://probonocentre.org.au/wp-content/uploads/2015/09/Summary-VGLS-panel-arrangements1.pdf>> accessed 29 February 2024.

¹⁵¹ Australian Pro Bono Centre, 'Definition of Pro Bono' (Australian Pro Bono Centre, no date) <<https://www.probonocentre.org.au/definition-of-pro-bono-2/>> accessed 29 February 2024.

¹⁵² Victorian Government, 'Legal Services Panel Contract' (Victorian Government, no date) <<https://www.buyingfor.vic.gov.au/legal-services-panel-contract>> accessed 29 February 2024.

¹⁵³ John Hyde, 'Labour Tells Firms to Meet pro Bono Target or Lose Government Contracts' [2021] *Law Gazette* <<https://www.lawgazette.co.uk/news/labour-tells-firms-to-meet-pro-bono-target-or-lose-government-contracts/5109938.article>> John Hyde, 'Labour's pro Bono Plan Suggests They Won't Fund the Justice System Either' [2021] *Law Gazette* <<https://www.lawgazette.co.uk/commentary-and-opinion/labours-pro-bono-plan-suggests-they-wont-fund-the-justice-system-either/5109951.article>>

motivations have been found in UK law firms.¹⁵⁴ Rather than reinvent the wheel, Victoria offers a good example of what can be done and to good effect.

The report also examined the equity and resource justice dimension of enabling large law firms to take money from the system where for too many, use of the justice system is rare:

11.8 This lucrative work that is provided to private law firms by government, which generates substantial income from the public purse, increases their profits. Arguments of recession and increasing costs to law firms in the context of globalisation are often used to deflect action on access to justice. However, similar arguments could be made in other jurisdictions where there is much more buy in from wealthier firms than in the UK. In Australia for example, there has been use of IOLTA funds and significant pro bono provision, a willingness for government incentives and mandatory pro bono requirements to improve access to justice. The legal regulators have also fostered such a commitment. Profit margins in doing government work in the UK, some of which come at the expense of those experiencing inequality and the lowest access to legal support and the courts. For example, those who have to self-represent because they cannot gain legal representation before courts and tribunals in DWP and special educational needs or disabilities (SEND) matters. These people then face well-represented government entities. These people – who, are ironically, indirectly, paying for this work – ought not be ignored or understated.

11.9 More generally, a report by PwC in 2021 highlights record profitability of the top law firms in the UK in general (not necessarily in government work). Over 85% of the top global law firms and over 75% of the top 100 UK law firms reported increases in fee income that year. The top 100 law firms posted 20% increase in profit, while the top global law firms increased their profit by 24%.¹⁵⁵ The top 50 law firms increased their revenue to over £20bn during the first financial year of the pandemic (also not necessarily just on government work).¹⁵⁶ The PwC report provides a stark contrast to studies into the other side of service delivery for the most disadvantaged in the UK discussed in Part II. Although the 2023 PwC Report¹⁵⁷ indicates falling profits, the profits are still significant especially amongst the top tier law firms. The overall point still stands in view of the developing two-tier justice system and lack of viability and struggles of so many legal advice and support and advice agencies by comparison to the options available to corporations and government departments.

11.10 Many of the corporations and government departments that retain large law firms for contentious legal work use more of the resources of the courts. This includes judicial time, court administration in cases that often take many weeks, months and sometimes years to resolve. They are also repeat players in the court system, thereby absorbing more of the resources in comparison to those who are

¹⁵⁴ For example: LawWorks, 'A Business Case for Pro Bono in Law Firms' (LawWorks 2020) <<https://www.lawworks.org.uk/sites/default/files/files/LW-A-BusinessCaseForProBono.pdf>> accessed 10 January 2024; Law Society of England and Wales, 'Pro Bono: Making a Meaningful Impact' (Law Society of England and Wales, 3 November 2023) <<https://www.lawsociety.org.uk/topics/pro-bono/pro-bono-making-an-impact>> accessed 30 January 2024.

¹⁵⁵ PwC, 'Facing the Future with Confidence: PwC Law Firms' Survey 2021' (PwC 2021) <<https://www.pwc.co.uk/industries/law-firms/law-firm-survey-report-2021.pdf>> accessed 29 February 2024, 7.

¹⁵⁶ Nick Hilborne, 'Astonishing' Revenue Rise for Top Law Firms in Pandemic' (*Legal Futures*, 11 July 2022) <<https://www.legalfutures.co.uk/latest-news/astonishing-revenue-rise-for-top-law-firms-in-pandemic>> accessed 29 February 2024.

¹⁵⁷ PwC UK, 'Annual Law Firms' Survey 2023' (PwC UK 2023) <<https://www.pwc.co.uk/industries/legal-professional-business-support-services/law-firms-survey.html>> accessed 22 August 2024, 12.

most likely to have limited access to justice. This creates a two-tiered system of justice. By contrast, the smaller cases of poor or disadvantaged individuals are currently not receiving the same value for money out of the legal system.¹⁵⁸ There is a case here for equity and resource justice, as equality before the law is not currently being made available to significant numbers of the general population.

Kay and Grandfield in their research have concluded

Undoubtedly, the shift in pro bono from a voluntary effort undertaken by individual lawyers to an organizational imperative “institutionalized” within law firms (Boutcher, 2013) represents a major transformation in the way many lawyers carry out public service. The responsibility of public service has become a collective responsibility—one that is incentivized through law firm compensation systems. Has altruism completely vanished from pro bono in these settings? Three factors suggest no. First, the fact that law firm leaders decided to encourage, coordinate and compensate their lawyers’ engagement in pro bono work does not expunge all altruism from pro bono. Recall that altruism is foremost motivated by regard for others (i.e., the professional virtue of protecting rule of law and access to justice). Pure altruism (i.e., no benefits expected in return) is not required for the volunteering of professional services (Bartlett & Taylor, 2016; Petrovski, 2017). It is acknowledged that pro bono programs help to recruit promising new lawyers to the firm; pro bono benefits junior lawyers with meaningful work and skill acquisition¹¹; and pro bono signals to potential clients the law firm’s “commitment for giving back” to the community, “making a difference,” and “corporate responsibility.”¹² What has changed is that, in the context of law firms with compensated pro bono, the volunteering of legal services is no longer on the part of the lawyer, but on the part of the law firm.¹⁵⁹

Another argument will be that Government should not be able to use mandatory pro bono to escape responsibility for providing equality in access to justice as required by Article 6 of the Human Rights Convention and that pro bono is not a substitute for government lack of funding of access to justice. None of these are self-exclusive and not an argument for no mandatory pro bono in the specific areas advocated here given pressing legal need and the numbers of people missing out on legal help in the United Kingdom.

¹⁵⁸ Committee of Public Accounts ‘Value for Money from Legal Aid, HC (2023-24) 481 <<https://committees.Parliament.uk/publications/44957/documents/223163/default/>> accessed 13 September 2024.

¹⁵⁹ Fiona Kay and Robert Granfield (2022) ‘When altruism is remunerated: Understanding the bases of voluntary public service among lawyers’ *Law & Society Review*, Volume 56, Issue 1, 94. <https://doi.org/10.1111/lasr.12586>

APPENDIX 2 (Policy Brief 3 Pro bono)

Definitions of Pro bono are critical and some examples from Australia to help in Implementation with lessons learned

The next section of this policy brief provides examples of what has been adopted in Australia and in Victoria. It is provided to avert the arguments that encouraging pro bono through mandatory measures and a financial ramification if it is not adhered to is possible. This material is provided as Australia has a track record in using its procurement process for government work as an effective strategy to increase coverage and improve its quality and relevance for those in need and the legal support agencies and charities that can increase very impact through having access to expert legal advice. As the material below shows, although mandatory provide, started in Victoria in 2002, it has grown to apply to most States and territories for government work and has been adopted countrywide by the Commonwealth government for all its legal work. This generates significant number of hours that would not be possible if it was left solely to the profession.

Australia definition pro bono from APBC

Source

The [Centre's definition of pro bono](#) is consistent with the Law Council of Australia's definition (see [Other Definitions of Pro Bono](#)) but is specific about certain activities that were previously considered "grey areas". It was considered necessary to be specific about these issues to enhance Target and Survey data and provide leadership on "definitional fringe" issues such as:

- community service work by lawyers
- sitting on boards
- work for sporting organisations
- work done without any reference to the capacity of a pro bono client to pay for pro bono services.

For a useful discussion of the pros and cons of broad and narrow definitions of "pro bono" see the paper presented by Esther Lardent, Chief Executive Officer of the US Pro Bono Institute, at Australia's Second National Pro Bono Conference held in October 2003 titled, [Defining and Quantifying Pro Bono: Pros and Cons](#)

The definition of 'pro bono legal services' included in the [Target Statement of Principles](#) and adopted in the National Law Firm Pro Bono Survey is a definition that covers not only legal advice and representation but also law reform, community legal education and secondments to community legal organisations. It is limited to work done by lawyers (including graduates, but not paralegals). It does not cover forms of assistance that firms may wish to include as an adjunct to their pro bono programs, such as secondments of non-legal staff and/or the provision of financial or in-kind assistance to community organisations engaged in activities that enhance access to justice (including CLCs and pro bono referral schemes and organisations). Importantly, the definition also makes it clear that certain types of work are not considered pro bono legal work.

It includes as follows:

1. ***Giving legal assistance for free or at a substantially reduced fee to:***

2. *individuals who can demonstrate a need for legal assistance but cannot obtain Legal Aid or otherwise access the legal system without incurring significant financial hardship; or*
3. *individuals or organisations whose matter raises an issue of public interest which would not otherwise be pursued; or*
4. *charities, other non-profit organisations or social enterprises, in each case where their sole or primary purpose is to work in the interests of low income or disadvantaged members of the community, or for the public good;*
5. *Conducting **law reform and policy work** on issues affecting low income or disadvantaged members of the community, or on issues of public interest;*
6. *Participating in the provision of **free community legal education** on issues affecting low income or disadvantaged members of the community or on issues of public interest; or*
7. *Providing a **lawyer on secondment** at a community organisation (including a community legal organisation) or at a referral service provider such as a Public Interest Law Clearing House.*

The following is **NOT** regarded as pro bono legal work for the purposes of this statement:

1. *giving legal assistance to any person for free or at a reduced fee without reference to whether that person can afford to pay for that legal assistance or whether that person's case raises an issue of public interest;*
2. *free first consultations with clients who are otherwise billed at a firm's normal rates;*
3. *legal assistance provided under a grant of legal assistance from Legal Aid;*
4. *contingency fee arrangements or other speculative work which is undertaken with a commercial expectation of a fee;*
5. *the sponsorship of cultural and sporting events, work undertaken for business development and other marketing opportunities; or*
6. *time spent by lawyers sitting on the board of a community organisation (including a community legal organisation) or a charity.*

Australian Target Guidance Notes

To assist Target signatories, record and report their pro bono legal work in accordance with the definition in a consistent way.

The National Pro Bono Target is a voluntary and aspirational target of at least 35 hours of [pro bono legal services](#) per lawyer per year that can be signed up to by:

- law firms;
- incorporated legal practices;
- individual solicitors;
- individual barristers; and
- barristers' chambers.

The National Pro Bono Target for in-house corporate and government lawyers is a voluntary and aspirational target of at least 20 hours of [pro bono legal services](#) per lawyer per year that can be signed up to by:

- in-house legal teams; and
- individual in-house lawyers.

There are currently over 300 signatories to the Target, including the 25 largest law firms in Australia. The Target covers over 19,700 lawyers (as at 30 June 2024) – that's 1 in 5 lawyers in the country.

Background to the Target

The Target was launched on 26 April 2007 with the aim of raising the profile of the professional responsibility of lawyers to:

- enhance access to justice for people who would not otherwise have access to legal assistance;
- work for the public good; and
- highlight the shared nature of that responsibility across the legal profession.

The Target amount of 35 hours for law firms, incorporated legal practices, individual solicitors, individual barristers and barristers' chambers was chosen in consultation with the legal profession. It reflects what many lawyers in these practices are already doing and represents the minimum number of hours of pro bono legal services that all lawyers should aspire to undertake.

Australia definition pro bono

The definition of 'pro bono legal services' included in the Target Statement of Principles^[5] and adopted in the National Law Firm Pro Bono Survey is as follows:

8. *Giving legal assistance for free or at a substantially reduced fee to:*
9. *individuals who can demonstrate a need for legal assistance but cannot obtain Legal Aid or otherwise access the legal system without incurring significant financial hardship; or*
10. *individuals or organisations whose matter raises an issue of public interest which would not otherwise be pursued; or*
11. *charities, other non-profit organisations or social enterprises, in each case where their sole or primary purpose is to work in the interests of low income or disadvantaged members of the community, or for the public good;*
12. *Conducting law reform and policy work on issues affecting low income or disadvantaged members of the community, or on issues of public interest;*
13. *Participating in the provision of free community legal education on issues affecting low income or disadvantaged members of the community or on issues of public interest; or*
14. *Providing a lawyer on secondment at a community organisation (including a community legal organisation) or at a referral service provider such as a Public Interest Law Clearing House.*

The following is NOT regarded as pro bono legal work for the purposes of this statement:

- 7. giving legal assistance to any person for free or at a reduced fee without reference to whether that person can afford to pay for that legal assistance or whether that person's case raises an issue of public interest;*
- 8. free first consultations with clients who are otherwise billed at a firm's normal rates;*
- 9. legal assistance provided under a grant of legal assistance from Legal Aid;*
- 10. contingency fee arrangements or other speculative work which is undertaken with a commercial expectation of a fee;*
- 11. the sponsorship of cultural and sporting events, work undertaken for business development and other marketing opportunities; or*
- 12. time spent by lawyers sitting on the board of a community organisation (including a community legal organisation) or a charity.*

This definition covers not only legal advice and representation but also law reform, community legal education and secondments to community legal organisations. It is limited to work done by lawyers (including graduates, but not paralegals). It does not cover forms of assistance that firms may wish to include as an adjunct to their pro bono programs, such as secondments of non-legal staff and/or the provision of financial or in-kind assistance to community organisations engaged in activities that enhance access to justice (including CLCs and pro bono referral schemes and organisations). Importantly, the definition also makes it clear that certain types of work are not considered pro bono legal work.

The Centre has produced the following Guidance Notes to assist Target signatories record and report their pro bono legal work in accordance with the definition in a consistent way.

PART 1 – General^[6]

- 1. Only work that involves the delivery of [pro bono legal services](#) as defined for the purposes of the Target should be reported.*
- 2. Many firms, in-house legal teams and organisations have Community Service and Corporate Social Responsibility programs under which their lawyers and non-lawyers provide a broad range of community service work. Examples of this include literacy and mentoring work, and volunteering to provide services at community organisations. These programs may also involve the firm, in-house legal team or organisation donating to charities. These activities do not fall within the definition of “pro bono legal services” and should not be reported.*
- 3. Signatories should calculate the number of full-time equivalent (FTE) lawyers for the year by using the average of the number of FTE lawyers at the first day and the last day of the reporting financial year.^[7]*

(FTE lawyers at 1 July + FTE lawyers at 30 June) ÷ 2

- 4. All signatories that signed up to the Target during the reporting period must report their hours, regardless of how recently they became a signatory. If a signatory is a new Target signatory (i.e. signed up to the Target on or after 1 July, but on or before 30 June of the reporting period), they should only report on the pro bono hours undertaken since they became a Target signatory – not the whole financial year.*

5. *"Firm's lawyers"^[8] or "in-house legal team's lawyers", ^[9]as applicable, includes law graduates not yet admitted to legal practice and thus their pro bono hours should be reported. It does not include paralegals, and their hours should not be reported as pro bono hours.*
6. *Signatories have the option of separately reporting paralegal hours where the work performed is of a legal nature and would otherwise be charged to the client if it were a commercial matter.*
7. *Time recorded for the purpose of delivering pro bono legal services should be treated in the same way that work performed for commercial clients is treated. In this respect, each signatory firm's or in-house legal team's policies for the treatment of travel time should apply to their pro bono legal work.*
8. *Each signatory should have systems in place to ensure that accurate records are kept of the pro bono legal work performed.*
9. *Pro bono legal services may include international pro bono legal services,^[10] that is, pro bono legal work undertaken:*
 - *outside Australia, by lawyers who are supervised by, or provided from, an office based in Australia*
 - *for clients based outside Australia, by lawyers based in Australia; or*
 - *for organisations based in Australia where the work concerns an initiative outside Australia.*
10. *When reporting on the percentage of the firm or in-house team's lawyers that did at least one hour of pro bono legal work in the reporting period, the response should capture the staff's overall engagement in pro bono. Please therefore report on the percentage of the total number of lawyers in the firm or in-house legal team throughout the year that participated in at least one hour of pro bono work, including those who commenced work for or left the firm or in-house legal team throughout the year (and not the percentage of FTE lawyers).*
11. *In relation to pro bono legal services provided for a "substantially reduced fee":*
 - *Signatories will be asked to report separately on pro bono legal services provided for a "substantially reduced fee" compared to pro bono legal services provided for no fee.*
 - *"Substantially reduced fee" pro bono hours reported to the Centre should only count on a pro rata basis based on the proportion that the reduced fee bears to the fee that would otherwise be charged. For example, if the fee charged is reduced by 75% of what would otherwise be charged for the matter, then 75% of the hours worked on the matter can be counted towards the Target.*
 - *The Centre will only count "substantially reduced fee" hours reported against the Target if those fees have been reduced by at least 50% of what would otherwise be charged for the matter.*
 - *The term "otherwise be charged for the matter" as used in this Note 11 refers to what the fee would be if the matter were not considered a pro bono matter.*

PART 2 – PRO BONO WORK FOR CHARITIES, OTHER NOT-FOR-PROFIT ORGANISATIONS AND SOCIAL ENTERPRISES

The following Guidance Notes relate specifically to clause 1(c) of the definition of “pro bono legal services”:

Mission

In assessing whether legal work for a charity, other not-for-profit organisation or social enterprise should be undertaken on a pro bono basis, the key factor is whether the mission and impact of the organisation is likely to benefit low income or disadvantaged members of the community or be for the public good.

To be for the public good the mission of the organisation must be to advance a broad public interest, namely that it is likely to affect a significant number of people and/or that it raises a matter of broad public concern.

Mission alone may be a sufficient determinant subject to the unique criteria to be considered for social enterprises (see below).

Matter

If the mission that would justify the matter being a pro bono one is partial, or not sufficiently compelling, the nature of the proposed legal matter should be considered. If the matter is one that aims to benefit a low income, socially disadvantaged or a marginalised individual or group, or is clearly in the broader public interest, the matter may be considered a pro bono legal matter.

Means

Where neither the mission nor matter is itself conclusive, a matter may still be considered a pro bono legal matter if the organisation cannot afford to pay for legal services. However, a lack of means alone is not sufficient to meet the criteria for pro bono legal work. Other factors for consideration may include all or any of:

- the constituency ordinarily served by the organisation and their disadvantage (if any);*
- the nature and extent of the legal services requested and the possible outcome if legal services are not obtained;*
- whether the organisation has been referred by a pro bono legal referral agency;*
- the overall financial position of the organisation; and*
- the stage of development of the organisation.*

Social Enterprises

Social enterprises are not defined in Australian law but for the purposes of this Guidance Note their key characteristics are that they operate as a business seeking to generate revenue and have a primary social, humanitarian, cultural or environmental mission. Social enterprises aim to benefit the public and the community rather than shareholders and owners.

Since the circumstances of each social enterprise will be different, professional judgment should be applied in each case.

Work for social enterprises will be considered pro bono legal work if:

(a) Profit Allocation: At least 50 percent of the social enterprise's profit is used or to be used to support its mission, whether as a continual re-investment into the enterprise itself or donation to a third-party charity or other not-for-profit organisation.

To demonstrate that a social enterprise reinvests at least 50 percent of its profits to support its mission, the pro bono legal service provider could seek documented evidence, which may include:

- the social enterprise's governing documents;*
- evidence of commercial joint ventures with charitable or not-for-profit organisations;*
- evidence of the social enterprise's historic payout to investors or owners, if relevant; and/or*
- other publicly available information; and*

(b) Phase and Duration of Engagement

The pro bono relationship is viewed, from its inception, as lasting only until the social enterprise becomes profitable from a market perspective and can pay for reasonably-priced legal services.

The size and phase of development of the social enterprise should therefore be considered. Early-stage start-up ventures will often have less capacity to pay for legal services than more established enterprises.

The duration of the pro bono legal representation should be determined on a case-by-case basis with reference to, for example, when:

- the social enterprise closes its first round of funding;*
- the social enterprise begins to generate revenue or profit; or*
- the annual profits of the social enterprise exceed a pre-determined amount.*

Additional Criteria

Additional criteria to be considered in determining whether a social enterprise is eligible for pro bono legal assistance may include:

- Cost ratio: the ratio of expenditure on administrative costs (including remuneration of owners, directors and employees of the social enterprise) compared to expenditure on programs or services of the social enterprise in pursuit of its social, humanitarian, cultural or environmental mission;*
- Funding sources and expected investor rates of return: the funding sources of the social enterprise and the rate of return expected by investors. Whether the social enterprise is funded through debt or equity or a hybrid of both, the social return expected by investors should be weighed against the expected financial return.*

Social enterprises that are funded by low (below market) interest loans or other debt instruments and/or through share purchase where equity investors expect a below market rate of return are more likely to qualify for pro bono legal assistance by prioritising their Social Mission above financial return;

- Suppliers: whether any other service providers or suppliers to the social enterprise are providing services on a commercial basis;*

- *State of market: the state of development of the market(s) in which the social enterprise operates; and*
- *Joint venture arrangements: any joint venture arrangements with other organisations.*

Mandatory Scheme

Victorian Government Legal Services Panel

Firms appointed to the Victorian Government's Legal Services Panel are entitled to provide legal services to departments and participating statutory bodies. Since 2002, firms appointed to the Victorian Panel have been required to commit to providing legal and non-legal services on a pro bono basis to an 'Approved Cause' (or to make a payment in lieu) equivalent in value to a nominated percentage of the fees they generate under the panel arrangements. Unlike the Commonwealth requirement that firms undertake to use their 'best efforts' to meet the Target, the Victorian scheme requires firms to actually perform an agreed amount of Pro Bono Services (defined with reference to Approved Cause), measured in dollar terms rather than hours.

The Victorian Government has defined an 'Approved Cause' in Schedule 7 of their *Deed of Standing Offer for the Provision of Legal Services* as follows:

1.3 Approved Cause

b) For the purposes of a Panel Contract an "Approved Cause" is the provision of any services by lawyers or other staff based in Victoria or other financial or in kind assistance which will enhance access to justice for disadvantaged persons or organisations and/or promote the public interest including but not limited to circumstances where a Panel Firm:

- i. *without fee or without expectation of a fee or at a reduced fee, advises and/or represents a client in cases where:*
 1. *a client has no other access to the courts and the legal system; and/or*
 2. *the client's case raises a wider issue of public interest; or*
- ii. *undertakes the following, provided the provision of these services or financial or in kind assistance will enhance access to justice for disadvantaged persons or organisations and/or promote the public interest:*
 1. *is involved in free community legal education and/or law reform;*
 2. *is involved in the giving of free legal advice and/or representation to charitable and community organisations;*
 3. *provides staff (legal or other) on secondment to a CLC or other community organisation; or*
 4. *provides financial or in kind assistance (e.g. equipment, sponsorship etc) to a CLC or other community organisation.* [\[14\]](#)

The key difference between the Target and Victorian Panel definitions is that the latter includes work by non-lawyers and non-legal assistance, such as financial and in-kind contributions or sponsorship.

It should also be noted that the Victorian Panel requires that assistance to Community Legal Centres (akin to Law Centres in the UK) and community organisations enhance access to justice for disadvantaged persons or organisations and/or promote the public interest, while

the Target includes work for charities or other non-profit organisations which work on behalf of low-income or disadvantaged members of the community or for the public good — the latter arguably being a wider category.

Timeline for Encouraging Pro bono in Australia and Culture Change from Charitable to Integral

Relevant History in Australia of pro bono (extracts most relevant taken from the Australian Pro Bono Centre's (APBC) timeline.

Source <https://www.probonocentre.org.au/information-on-pro-bono/history-of-pro-bono/>

1994 Public Interest Law Clearing House Victoria (PILCH) established. Now [Justice Connect](#) throughout Australia.

*In 1994, even the most visionary could not have foreseen the role PILCH would ultimately play in galvanising the private legal profession, which had traditionally been characterised by conservatism, to become involved in public interest pro bono work. Then it would have been unrealistic to envisage that lawyers in private practice, particularly in commercial law firms or even corporate legal departments, would regularly involve themselves, without expectation of fee, in legal matters that were political, controversial, unpopular and which have the potential to divide the community...In late 1999, PILCH's relationship with CLCV came to an end. PILCH had grown and matured and was effectively functioning as an independent organisation.*¹⁶⁰

PILCH was a not-for-profit legal referral service, operated in Victoria, Australia. It was founded in 1994 and was the idea of Denis Nelthorpe, then Director of the Consumer Law Centre Victoria and initially started as a pilot program hosted by it. It followed the model of [New York Lawyers for the Public Interest](#). Its first Director was Caitlin English. Several schemes were run beneath the PILCH banner. Each scheme received requests for assistance and referred cases to its members after establishing that certain criteria were met. The PILCH Legal Assistance Scheme provided assistance where this would be in the 'public interest'. The Law Institute of Victoria Legal Assistance Scheme, provided solicitors to individuals in need of advice but ineligible for Legal Aid and The Victorian Bar Legal Assistance Scheme, provided barristers to those in need of representation, but unable to obtain this through Legal Aid. A membership model was adopted, but early membership fees were minimal (perhaps suggesting a cautiousness about requiring firms both to financially support the organisation and to undertake referrals on a pro bono basis). This has expanded over time. PILCH coordinated pro bono legal assistance for Victorian [not-for-profit](#) organisations and individuals, to improve access to justice in Victoria by facilitating [pro bono](#) legal services to those otherwise unable to obtain it.

2002 The [Victorian Government Pro Bono Secondment Scheme](#) commences. The National Pro Bono Resource Centre (now the [Australian Pro Bono Centre](#)) is established. The Victorian Government introduces "pro bono" conditions into its government legal services panel arrangements.

2003 The Centre publishes the first edition of the [Australian Pro Bono Manual](#).

¹⁶⁰ Samantha Burchell and Emma Hunt, (2003) 'From conservatism to activism: The evolution of the Public Interest Law Clearing House in Victoria', <https://www.austlii.edu.au/cgi-bin/viewdoc/au/journals/AltLawJl/2003/2.html#Heading1>

2004 The [Senate Legal Aid and Constitutional Committee Inquiry in to Legal Aid and Access to Justice](#) devotes a [chapter](#) to pro bono services.

2007 The National Pro Bono Aspirational Target of 35 hours per lawyer per year is established (now known as [National Pro Bono Target](#)).

2008 The Centre releases the First Performance Report on the [National Pro Bono Aspirational Target](#).

2009 The Centre launches the new [National Pro Bono Professional Indemnity Insurance Scheme](#), to insure lawyers from civil claims arising from their pro bono work. The Scheme is formally approved by the Council of the Law Society of New South Wales. An [Australian Bureau of Statistics survey](#) indicates that lawyers performed 955,400 hours of pro bono work in 2007 and 2008.¹⁶¹

2012 The Commonwealth introduces its new 'legal services multi-use list' (LSMUL). It required law firms to apply for inclusion on this list and involved an assessment of their capacity to meet the requirements of the Legal Services Directions, which includes a commitment to pro bono legal work. Victoria amends the Legal Profession Act 2004 to remove restrictions that prevented holders of corporate practicing certificates from engaging in pro bono legal practice. The Legal Services Board in Victoria approves the [National Pro Bono Professional Indemnity Insurance Scheme](#).

2013 The Centre launches [Pro Bono Partnerships and Models: A Practical Guide to What Works](#) which provides practical information on what works well in collaborative pro bono projects.

2017 [The Law Council of Australia celebrates](#) 2.86 million hours of free legal work provided over the past 10 years, on Australian Pro Bono Centre releasing its [10th Annual Performance Report](#), showing that 420,195 hours of pro bono legal services were provided last financial year, up from 402,216 hours last year.

2018 ExpertsDirect and the Australian Pro Bono Centre launch the [Experts Direct Pro Bono Service](#). The service aims to put pro bono lawyers in touch with professionals who are willing to provide expert witness services for free or at low cost in legal cases assisting those experiencing disadvantage or marginalisation.

2019 The Commonwealth introduced a ['Whole of Australian Government Legal Services Panel'](#) which replaced the 'Legal Services Multi-Use List' (LSMUL). It introduced new pro bono conditions which require all legal services providers appointed to the panel to sign up to the Centre's National Pro Bono Target.

2020 APBC in consultation with the In-house Pro Bono Steering Committee, opens the [National Pro Bono Target](#) to in-house signatories. In-house lawyers can commit to undertaking at least 20 hours of pro bono legal services per in-house lawyer per year. On 1 June 2020, the [Queensland Government](#) implement annual reporting requirements for pro bono services rendered by panel firms providing legal services to the Government. On 1 July 2020, the [Western Australia Government](#) enforce commitment to the National Pro Bono Target for panel firms providing legal services to the Government.

2023 APBC releases its report on [Pro Bono Response to Natural Disasters](#). The [Australian Community of Pro Bono Lawyers \(ACPL\)](#) is formed. The ACPL is an informal group for and

¹⁶¹ Spender, Lynne and Wellesley-Cole, Olivia, National Survey – Report on the Pro Bono Legal Work of Individual Australian Solicitors (March 17, 2008). UNSW Law Research Paper No. 2008-12, <http://dx.doi.org/10.2139/ssrn.1392059>

run by dedicated pro bono professionals aimed at facilitating and encouraging information sharing and collaboration within the profession. APBC launches world-first online [Global Pro Bono Hub](#).

2024 APBC collaborate with large law firm on the release of the joint publication, [A Guide to Recruiting, Retaining and Remunerating Pro Bono Roles in Large Law Firms](#).

2025 *The Corporate Pro Bono (CPBO) project of Pro Bono Institute (PBI) releases [Corporate Pro Bono Challenge® Report: In-House Pro Bono by the Numbers, which benchmarks pro bono performance in 2024](#)*.¹⁶² This is global initiative of Pro Bono Institute through the Global Pro bono Hub¹⁶³

Canada

Pro bono services are typically offered voluntarily and independently by firms as part of their commitment to social responsibility. Each of the 14 provincial/territorial law societies established by provincial/territorial law and is principally responsible for regulating the conduct of Canadian lawyers in the public interest of that jurisdiction. There are no additional rules that regulate the provision of pro bono legal services, provided that the lawyer is appropriately licensed to practice in the relevant province/territory in Canada. Canadian lawyers are encouraged by their regulatory bodies and professional associations to provide pro bono representation to persons who would otherwise be self-represented. The Canadian Bar Association recommends lawyers aim to contribute 50 hours or 3% of their billings annually on a pro bono basis.¹⁶⁴ The Federation's Model Code of Professional Conduct encourages lawyers to enhance the profession's standard and reputation by providing pro bono legal services.¹⁶⁵

There is a call in Canada too for mandatory pro bono.¹⁶⁶

No Canadian law societies or bar association currently have any rules imposing an ethical or regulatory obligation on Canadian lawyers to provide legal services to those who cannot afford them. The CBA's Code of Professional Conduct only encourages it.

¹⁶² <https://www.globalprobonohub.com/resource/2025/2025-corporate-pro-bono-challenge-report-in-house-pro-bono-by-the-numbers>

¹⁶³ <https://www.globalprobonohub.com/resource/2025/2025-corporate-pro-bono-challenge-report-in-house-pro-bono-by-the-numbers>

¹⁶⁴ Pro bono Institute and Latham and Watkins (2019) 'Pro Bono Practices and Opportunities in Canada' <https://www.lw.com/admin/Upload/Documents/Global%20Pro%20Bono%20Survey/pro-bono-in-canada-2.pdf>

¹⁶⁵ Federation of Law Societies of Canada, Model Code of Professional Conduct, available at <https://flsc.ca/wpcontent/uploads/2018/03/Model-Code-as-amended-March-2017-Final.pdf> (last visited on May 1, 2019).

¹⁶⁶ Jayme Anton, "Should the Canadian Legal Profession Embrace Mandatory Pro Bono Work as a Pillar of Increased Access to Justice?" in the *Saskatchewan Law Review* (March 6, 2017), online <https://sasklawreview.ca/comment/should-the-canadian-legal-profession-embrace-mandatory-pro-bono-work-as-a-pillar-of-increased-access-to-justice.php>; Brent Cotter, "Thoughts on a Coordinated and Comprehensive Approach to Access to Justice in Canada" (Panel following The Viscount Bennett Memorial Lecture delivered at the Faculty of Law, University of New Brunswick, 27 October 2011), (2012) 63 UNBLJ 54 at 61-62; Adam Dodek, "Mandated or Mandatory Pro Bono" *Slaw* (3 May 2012), online: <http://www.slw.ca/2012/05/03/mandated-or-mandatory-pro-bono>; Lorne Sossin, "The Helping Profession: Can Pro Bono Lawyers Make Sick Children Well?" in Alice Woolley et al, eds, *Lawyers' Ethics and Professional Regulation*, 2nd ed, Law and Society Series (Vancouver: University of British Columbia Press, 2016) 150 at 152.

Lawyers should make legal services available to the public in an efficient and convenient manner that will command respect and confidence, and by means that are compatible with the integrity, independence and effectiveness of the profession...

The Federation of Law Societies of Canada has a Model Code of Conduct states at Rule 3.01(1) that:

A lawyer must make legal services available to the public efficiently and conveniently and, subject to rule 3.01(2), may offer legal services to a prospective client by any means.

The commentary states:

*As a matter of access to justice, it is in keeping with the best traditions of the legal profession to provide services pro bono and to reduce or waive a fee when there is hardship or poverty or the client or prospective client would otherwise be deprived of adequate legal advice or representation. The Law Society encourages lawyers to provide public interest legal services and to support organizations that provide services to persons of limited means.*¹⁶⁷

One Canadian observer noted:

*In my view, a stronger argument in favour of mandatory pro bono work for practicing lawyers across Canada can be made if lawyering is understood and interpreted as a service-oriented profession, not a business.*¹⁶⁸

¹⁶⁷ Adam Dodek, "Mandated or Mandatory Pro Bono" *Slaw* (3 May 2012), online: <http://www.slaw.ca/2012/05/03/mandated-or-mandatory-pro-bono>

¹⁶⁸ Jayme Anton, "Should the Canadian Legal Profession Embrace Mandatory Pro Bono Work as a Pillar of Increased Access to Justice?" in the *Saskatchewan Law Review* (March 6, 2017), online <https://sasklawreview.ca/comment/should-the-canadian-legal-profession-embrace-mandatory-pro-bono-work-as-a-pillar-of-increased-access-to-justice.php>;

Annexure 4 Table of Recommendations from the ‘Leadership on Access to Justice Report

		Key report section 169	Method of implementation	Potential impact	R
i.	The front-line regulators, with strategic direction and research leadership from the LSB, should revise codes of conduct, conflict of interest rules, associated ethics training and approaches to compliance monitoring for greater focus on access to justice, the rule of law and equality before the law. This can include reference to understanding the law, rights and duties, promotion, and maintenance of the professional principles for clients/consumers.	4	Application by front-line regulators/statutory guidance by the LSB.	Enhanced reputation of professionals working in the sector and demonstrable commitment to society and to the rule of law, so improving trust from front-line service agencies and consumers.	W pr pe bu di Ti co ap ch tr
ii.	The LSB and the front-line regulators (working with others) should investigate the creation of an access to justice innovation sandbox for testing and trialling innovations.	4	Collaboration between the LSB and front-line regulators, working with service agencies and others (including PII sector).	Innovations resulting from the sandbox have the potential to be transformational in the sector. sandboxes, or those in the financial services sector.	Ti in an w he ex sa ex
iii.	The LSB should explore the potential for mandatory regulation of paralegals in the sector. This could facilitate a broader pool of people who can work in public education and as navigators of legal processes and systems for example through legal secondary consultations. In doing so, consider issues of risk, resourcing, appropriate and light touch regulation and training.	4	If regulation is to be mandatory, would require changes to the LSA.	Potential to enhance reputation and quality assurance of paralegals, though voluntary regulation is already available through CILEX and elsewhere.	A ac tr w de ex pr Pe fr an
iv.	The LSB should create a more substantial research/evidence-base, measuring outcomes and the impact of innovative practice so that they are people-centred.	5	Internal research teams and external tenders to include measurement of outcomes and impact. Best practice could be shared by an annual event. Implementation could also include the who does what pro bono survey (section 11).	Sharing of existing research and best practice requires collaboration but reduces duplication and data gaps.	Th in in ut in
v.	The front-line regulators, with strategic direction and research leadership from the LSB, should promote integrated legal services that are shaped and informed by current research around barriers and advice-seeking behaviours, removing regulatory barriers to such practice.	5	Application by front-line regulators/statutory guidance by the LSB.	Facilitates practice in the sector by reducing regulatory barriers. Increases the visibility of, desirability, and utility of provision of legal services for the most vulnerable by meeting them	A w an or co fu or

¹⁶⁹ On analysis, virtually all recommendations underpin, or facilitate, not only the theme in which they are mentioned, but all the other themes. Consequently, the sections listed here are those in which the key topic is discussed most fully.

		Key report section 169	Method of implementation	Potential impact	R in
				where they are and ensures holistic responses to problems occurring in multiple contexts. Builds confidence and trust in lawyers of the public and 'trusted intermediaries' when done well. Builds confidence in the justice system and rule of law. Increases collaboration and legal capability in members of different non-legal professionals about the role of laws in daily lives making the law relevant and less obscure/opaque – leads to greater consumer confidence.	bu th th N
vi	The front-line regulators, with strategic direction from the LSB should investigate barriers and their removal for emeritus lawyer schemes to improve supervision, retain experience and expertise, mentor young lawyers and address issues around senior staff retention and loss of knowledge and expertise.	5	Application by front-line regulators/statutory guidance by the LSB. Waivers of practising certificate fees could be implemented by the front-line regulators.	The cost in reduced practising certificate fees is offset by the availability of a cohort of committed and experienced lawyers (subject to training) who could reduce some of the burden on those working in the sector, mentor, provide supervision and retain expertise.	W th se a pl
vii	Within its statutory remit, the LSB should take a leadership role in ensuring that regulatory policy is informed by the research/evidence-base. This activity can inform other legislative and policy entities where there is a case for improvement in policy on access to justice for relevant sectors (e.g., other industry regulators) and with government, the legal sector and Parliament.	6	For LSB strategic activity (including a State of the Nation provocative report)	Distinct access to justice strategies and policies help to focus thinking and activity and enhance reputation.	Th pr w co or br pr he En co by le
viii	The front-line regulators, with strategic direction and guidance from the LSB, should explore whether and where there are regulatory barriers to integrated service delivery and cross-sectoral responses both inside and outside the legal services sector,, identify them and suggest changes that allow for such innovative and evidence-based options. Such further	7	May require legislation, creation of new bodies if this activity is perceived as outside the LSB/ legal professions' statutory remit.	Distinct access to justice strategies and policies help to focus thinking and activity and enhance reputation. Also, such initiatives can be quick, improve industry responses and so be seen as	Th pr w co or

		Key report section 169	Method of implementation	Potential impact	R in
	exploratory investigation, led by the LSB co-ordinating effort across all the regulated professions, would be worthwhile to implement coherent and sector-wide changes and innovations in service delivery. This includes measures that can promote preventative policy and campaign work (e.g., bulk negotiation).			effective and lead to savings. For example, 'Bulk Negotiation', restorative practice, Health Justice and other integrated practices.	
ix	The front-line regulators, led by the LSB and working with others in the sector, should support PLE across the sector so that it is appropriately tailored to different groups. It should be informed by best practice and in ways that extend reach to groups currently experiencing exclusion.	8	Collaboration between all those working in the sector.	Increased awareness and legal capability in the public can reduce complex and expensive issues (e.g., costs to DWP, health systems, and to wider society).	Ti an of th ac di pe
x	The front-line regulators, led by the LSB should investigate how regulatory frameworks can be used to encourage and facilitate lawyers to work in the access to justice field, using the sandbox approach to identify and resolve regulatory barriers.	8	Developing a menu of incentives will require collaboration between stakeholders, including government.	Increased awareness of, entry to, and retention in the sector.	Co in op pe Su
xi	The front-line regulators should examine the potential to use regulatory levers to provide CPD in access to justice work facilitating collaborative approaches and mentorship. This should also incorporate a stronger link between the role of ethics, vulnerability, trauma informed practice and access to justice service delivery.	8	CPD is not generally delivered by the regulators themselves. Incentives, such as fee waivers, could be issued by the front-line regulators.	Increased awareness of access to justice work throughout the regulated sector and potential to strengthen pro bono activity. Increased and tailored support for access to justice work including for those whose work only sporadically involves it.	Ti an of Cl th ut pr ol Le de br co an ex to in ju
xii	The LSB, in collaboration with the front-line regulators and others (such as the LAA) should enhance collaborative agreements across the sector to bring stakeholders together and stimulate a passion for improved access to justice which averts siloed thinking. This will require clear objectives and monitoring and evaluation of progress (there is an overseas exemplar of this in Victoria).	9	By collaboration between the LSB and the front-line regulators	Increased coherence, consistency, and strong basis for collaboration across the fragmented sector.	W Vi ee cu 'b
xiii	The LSB should work on a cross-sectoral basis with e.g., the Financial Conduct Authority and other non-	9	By collaboration led by the LSB. Adoption of an	Advantages of learning what works from another domestic sector. Opportunities to	In co

		Key report section 169	Method of implementation	Potential impact	R in
	legal regulators who may have insights on consumer protection and early advice opportunities.		equivalent “consumer duty” would require legislation.	develop cross-sectorial approaches to, e.g., debt and vulnerability.	w fu
xiv	The front-line regulators, facilitated by the LSB, should work with the insurance sector to explore the feasibility of an expansion of the legal expenses insurance market and its potential to impact unmet legal need.	9	Subject to actuarial and business case with the market. Extent to which compulsory cover could be embedded as standard would require legislation and market agreement.	Increased cover for some individuals and SMEs could reduce pressure on services for the most in need. PLE could encourage individuals and businesses to check whether they already have such coverage.	Li m an ex of
xv	The front-line regulators, working with the LSB and the insurance sector, should review professional indemnity insurance cover to identify and remove any regulatory barriers that impede access to justice.	9	Collaboration between the LSB, front-line regulators and insurers.	Facilitates practice in the sector by reducing (non-regulatory) barriers. A medium priority at present because of the volatility in the market.	Cr di re m th
xvi	<p>The front-line regulators should explore alternative funding streams for access to justice work, and reducing of prices, including cross-sectoral funding. This would need to be led by government, but examples have also been suggested by the Access to Justice Foundation. There is a role for the front-line regulators in looking to examples abroad that have successfully generated income for access to justice initiatives and innovations within regulatory and other frameworks and sharing these with stakeholders.</p> <p>This shift to alternative streams of funding access to justice would require some legislative amendment as well as cultural change within the professions. This cultural shift would be supported by the range of other recommended measures in this report to increase a culture of commitment by all to improve access to justice (for example CPD including access to justice considerations and making the statutory objectives on the rule of law, consumer rights and improving access to justice more prominent in codes of ethics). The LSB can play a role in providing the evidence-base and in supporting the implementation of changes in legislation.</p>	10	Some of the suggestions involve changes to legislation as well as to professional regulation. Requiring front-line regulators to report on (and possibly allocate to) their s51(4)(d) spend might be possible.	Works to address the withdrawal of public funding for legal services by reinvesting a variety of funds into the access to justice sector. Enhanced reputation in being seen actively to lobby for change.	Th pr w be re th fu ju de of A Ca ex ov th vi Th ch
xviii	In the long term, the LSB and front-line regulators who share the statutory objective relating to access to justice should work to re-envisage and revitalise the sector so that funding, policy, and regulation is evidence-based.	11	This would require legislation.	A reduction in the challenges of monitoring the fragmented sector, allowing greater focus on other priorities. LSB policy on the single regulator acknowledges the challenges	Pr fr re be ef

	Key report section 169	Method of implementation	Potential impact	R in
	This should include securing stability in core baseline funding especially where services have been positively evaluated in the access to justice sector based on embedded positive evaluation. It should work towards a vision for holistic, accessible effective justice models including consideration of proposals for a National Legal Service. It should include the potential role of the LSB in the longer term as a single regulator which is also a grant-awarding body.		of this proposal. A less radical change that empowered the LSB to award grants might be less controversial but would also require a funding stream perhaps from some of the options discussed in section 10.	Th ch

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