



Recommendations to Government from Bar Council

Queen's Speech 2016

Our justice system is fundamental to our democratic way of life. It underpins our economy and provides safety and security for individuals, families and communities. It is envied around the world.

However, a number of challenges to the justice system are threatening to undermine its pre-eminent position and the protections which it provides. The Bar Council takes this opportunity to recommend to the Government measures that will leave the justice system strengthened and protected for the future.

Our recommendations include measures to improve access to justice, to ensure that the legal profession remains independent of Government, to guarantee clients access to the best professional advocates, and to provide assurance that conversations between clients and their lawyers can be held in confidence, away from state surveillance.

Enhanced Court Fees

- Remove enhanced court fees which require that court users pay more to use the courts than they cost to run

Court fees in civil claims were increased last year by up to 622%. Claimants are being asked to pay more than the costs of the service they use in order to cross-subsidise other parts of the courts and tribunals service which should be funded through general taxation. Enhanced court fees of up to £10,000 are paid at the point of issuing a claim. They are a barrier to justice for poorer members of society and place wealthier parties at an unfair advantage in litigation. Enhanced court fees also run the risk of diminishing the attractiveness of the UK as a destination for international litigation, arbitration and dispute resolution.

Client Confidentiality

- Protect a client's right to consult with their lawyer in confidence and with the benefit of legal professional privilege

The Government should include provision in the Investigatory Powers Bill so that legally privileged communications are not targeted for surveillance. Measures should also be introduced to protect clients from surveillance of their legally privileged communications

data and to ensure that judicial commissioners are not restricted to using rationality and reasonableness as tests when authorising surveillance warrants.

Criminal Justice Reform

- Introduce a panel advocacy scheme

A panel scheme should be introduced for defence advocates to ensure that clients are represented in criminal proceedings by the advocate who is best qualified to represent them. Experience and skill should determine the choice of advocate rather a financial incentive. In addition there should be a statutory ban on the payment of referral fees.

LASPO and civil justice reform

- Restore and guarantee access to justice, focusing on the most vulnerable in society

The Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) removed legal aid for nearly all employment, immigration, education, family, welfare and debt problems, and reduced the number of cases of legally aided help by over 400,000 a year. LASPO also led to a sharp increase in the number of individuals representing themselves in court. As a result, the court system has been placed under unprecedented strain and access to justice has been significantly reduced, to the concern of the judiciary, consumer groups, and the legal profession.

Legislation is needed to ensure that the most vulnerable in society have access to legal advice and representation in order to uphold their rights as UK citizens.

Proposals to develop an 'on-line court' must proceed in a way which protects access to justice for vulnerable and marginalised citizens who may not have adequate access to the necessary technology. Care must also be taken over non-recoverable costs, which would create an inequality of arms between less wealthy individuals and well-resourced opponents.

Independence of the legal profession

- Maintain the independence of the legal profession

A strong and independent legal profession is one of the key safeguards of our democracy, together with an independent judiciary applying the Rule of Law. Accordingly, Government must ensure that measures which could weaken or undermine the independence of the legal profession or the judiciary are avoided.