

# Cuts to legal aid in UK will deny thousands the right to a fair trial

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On April 3, the family of Cherry Groce submitted a petition with 130,000 signatures asking the government to grant them legal aid for an inquest into her death.

Groce's shooting by the Metropolitan Police was the spark for the 1985 Brixton riots. She was paralysed below the chest by the shooting and remained in a wheelchair until she died in April 2011 aged 63.

After pathologists established a link between the shooting and the medical conditions that led to her death, the Legal Aid Agency refused to fund a lawyer to represent the family in an inquest in June. Following the petition drive, the Ministry of Justice overturned the decision to block funds but the case underscores the impact of cuts in legal aid.

Inquest, a charity which supports families seeking redress through coroners' courts, has said that legal aid has become extremely difficult to obtain following Ministry of Justice cuts to civil legal aid last year.

The Conservative/Liberal Democrat government is well on the way to slashing £2 billion by 2015 from the legal aid bill for criminal and civil cases—a drop of almost a quarter.

Government cuts prompted a walkout by criminal defence solicitors across England and Wales on March 31-April 1. They were joined by thousands of probation staff, members of the National Association of Probation Officers (NAPO), taking a one-day strike March 31 against the privatisation of services. The joint action by the two professions was the first of its kind, but does not rise to the challenge posed by a savage assault on fundamental democratic rights.

The strike was the third stoppage by lawyers in as many months against the cuts to criminal legal aid fees of 17 percent for solicitors (and up to 30 percent in higher cost cases) and 6 percent for barristers. But Justice secretary Chris Grayling made a last-ditch deal

with barristers to prevent them joining the action, as they had done on March 7 when hundreds demonstrated outside the Old Bailey (London's Central Criminal Courthouse), bringing many high profile trials to a standstill.

The Criminal Bar Association (CBA) deal commits the government to nothing more than postponing the fees cuts for barristers until 2015 and many members voiced their anger at the association.

The government has waged a campaign to vilify those within the profession who undertake work for those unable to pay as "fat cat lawyers" whose fees need to be reined in. In reality, underlying the attack on legal aid solicitors and barristers is the unstated assumption that the people they serve are only entitled to a third-rate service or none at all. The end result will be to undermine the right of increasing numbers to a fair trial.

Nicola Hill, president of the London Criminal Courts Solicitors Association (LCCSA), told the BBC, "Solicitors firms will close in their hundreds... and that will in turn lead to advice deserts so the high street solicitor will not be there for you to visit. Justice will become a luxury and not a right for all.

"They will simply have to get rid of, effectively sack, their experienced 'expensive' solicitors and have to replace them with cheap, inexperienced, unqualified legal advisors. They will also have to spend less time on each case and they will not be able to go that extra mile for their client that really is needed when defending an individual against the state."

The truth of these statements is evidenced in the case of Cherry Groce and by the closure of Tooks Chambers at the end of last year. The practice was dependent on public funds for over 90 percent of its work and has been associated with providing representation for

victims in some of the most notable cases involving state repression, frame-up and cover-ups—including defending striking miners against the police during the 1984-85 strike, challenging the frame-ups of the Birmingham Six and the Guildford Four, the cover-up of the Hillsborough disaster and representing the Stephen Lawrence family over the police and judicial cover up of the racist killing of the black teenager. Imran Khan, who represented the family of Stephen Lawrence, said it would not be possible to take on a similar case today.

Cuts to civil legal aid will see entire areas of civil law removed from its scope as a consequence of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) that came into effect in April 2013.

To cite just a few examples in which legal aid has been abolished:

- Debt and housing in cases where there is no immediate risk of homelessness and welfare benefits claims except for appeals to the Upper Tribunal or higher courts
- Employment tribunal claims for unfair dismissal, unlawful deduction of wages and breach of contract
- Clinical negligence except cases which involve neurological injury to infants
- Immigration cases where detention is not involved

In the past, welfare payments were classified as “passport benefits” meaning a person in receipt would not be means-tested. Now, an individual on welfare can be means-tested on savings or “disposable capital”. Those with more than £8,000 will not qualify and disposable capital includes valuables and even property, if a home is owned.

The means-testing of income is based on household income, which includes that of a partner. Gross monthly income before tax and national insurance deductions in excess of £2,657—for a family of up to four children will mean a person is ineligible for legal aid.

Even if these restrictions, a “merits test” means aid can be declined if the case is deemed to have less than 50 percent chance of success.

The dismantling of legal aid is bound up with the drive by the British ruling elite to dismantle the last vestiges of the welfare state. The Legal Advice and Assistance Act in 1949 provided for the first time a state-funded and comprehensive legal aid system.

In order to enforce austerity measures which condemn increasing numbers to poverty, the coalition is intent on removing any form of legal redress to challenge the impact of these policies. The notion of equality before the law cannot withstand such a criminal social policy.

The attempt by the Labour Party to posture as defenders of the legal aid system is a hollow fraud. Before losing office in May 2010, the Labour government put forward policies to reduce by 75 percent the number of law firms practising criminal legal aid. In a recent interview in *Legal Voice*, Labour Shadow Justice Secretary Sadiq Khan made clear that if elected in 2015 it would not reverse the coalition’s cuts: “It’s not as simple as that”, he says. “That’s the sort of thing that lawyers who are angry—but naïve—say. The legal aid budget in 2015 will have dropped by £2 billion to £6.5 billion. There just isn’t the money there to restore the cuts made in LASPO, or in the criminal stuff.”



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