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December Bulletin



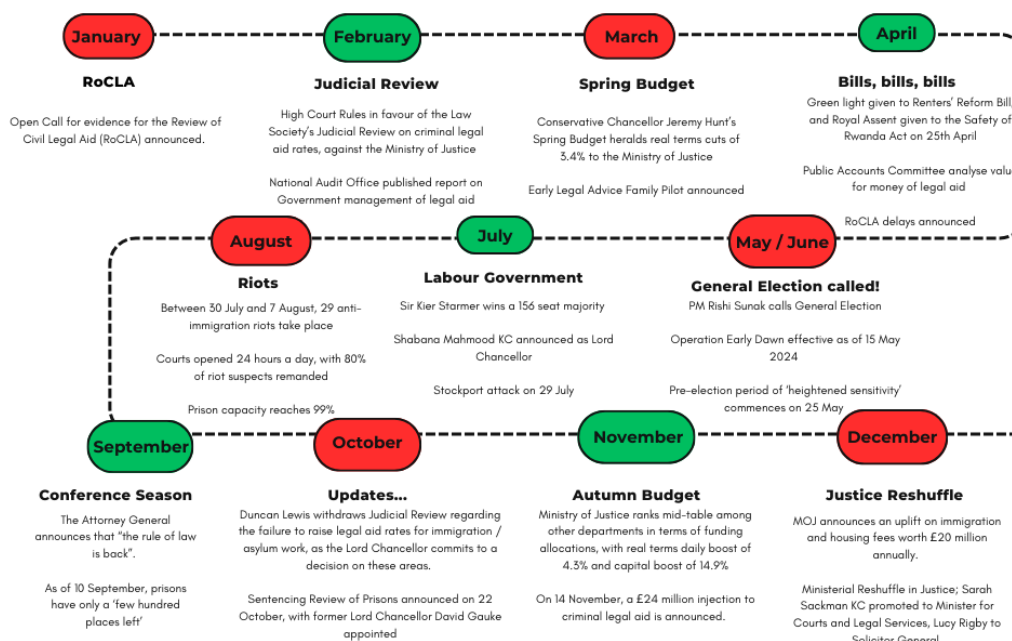
Introduction

As halls are decked and sleigh bells ring, the holiday season is almost upon us, and with it the final recess of the year. Every year we try to round up the most significant justice issues of the preceding twelve months but this year, the task feels even greater than usual. It was a year of continued war and suffering in the Middle East and Ukraine, a snap general election bringing a Labour victory, a Trump victory in the White House, and the fall of Assad over the weekend: huge headlines, at staggering speeds. 2024 promised a lot by way of democratic say, but the jury is still out as to whether it's delivered.

It's safe to say that justice hit the headlines a number of times, with summer riots, the prisons crisis, and the passing of the Assisted Dying Bill. We discuss these, and more below in our festive round-up, and share our thoughts about what 2025 may herald.

So buckle up for this bumper edition folks, and for those more interested in some of the numbers behind these stories, take a look at our legal aid statistics bulletin out towards the end of the month.

2024 IN JUSTICE



Immigration and Housing Legal Aid Fee Uplift

On 29 November, the Lord Chancellor **announced** a "historic increase in legal aid to support the most vulnerable" in both immigration and housing sectors. This is the first increase in civil legal aid funding in almost 30 years and will apply to all levels of work.

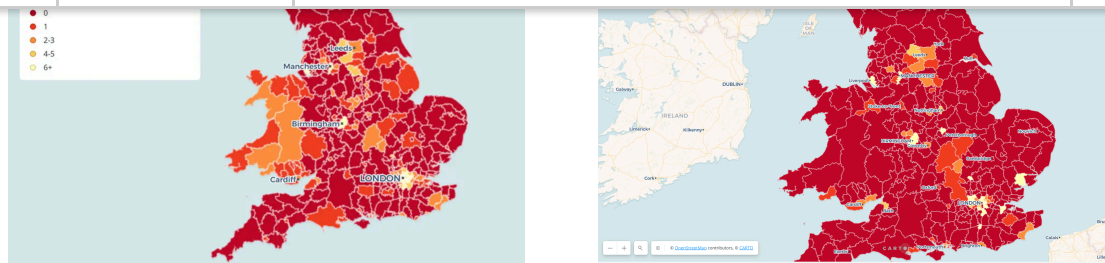
Why housing and immigration?

Asylum work fees in England and Wales have not increased since 1996, and were cut by a further 10% in 2011, with hourly rates for lawyers stuck at £52. As of June 2023, the asylum **backlog** was at 175,457 people. Fees for immigration and asylum work (as well as other practice areas) have effectively reduced by almost half in real terms since 1996, leading to large numbers of practitioners leaving legal aid. This, in turn, has led to large numbers of asylum seekers unable to present their asylum claims properly. Immigration law is incredibly complex and this lack of representation has led to a huge increase in costs from both delays in the appeals process and the need to accommodate asylum seekers in hotels pending resolution of their applications.

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Fees in immigration and asylum law were the subject of a judicial review launched by legal aid firm Duncan Lewis Solicitors. This challenged the government's failure to increase legal aid rates and the claim was settled by consent when the new Labour administration agreed to consult on increasing rates. The government hopes this funding boost will help to clear a large backlog of asylum cases and appeals.

In housing, the position was set out in detail by a **Frontier Economics report** commissioned by The Law Society which reported in September of this year and recommended:

- An urgent interim increase to civil legal aid fees across the board of 20% (and a total investment of £134 million, which would provide early legal advice in key areas, including:
 - £4.3 million in housing
 - £32 million for family cases involving domestic abuse

As with other practice areas, large numbers of practitioners have left the sector and Law Society research from **February 2024**, describes 43.6% of the population of England and Wales as not having a housing legal aid provider in their local authority area, a figure that has grown by around 6.6% since 2019. As with the recommendations made in crime in the 2019 Criminal Legal Aid Review, the report recommended that legal aid rates be looked at regularly.

The government will launch a full consultation on the rates increase in January 2025.

What might the increase look like?

Hourly rates will now increase to £69 in London and £65 outside London, or a 10% rise – whichever is higher – for housing, debt, asylum and immigration work.

Fixed-rate fees will also be increasing in proportion with the increase in hourly rates, with practitioners reporting that the increase could be as much as 1/3. However, it's likely that this detail won't become clear until Impact Assessments are published in 2025 and after the findings of the consultation have been published. The government has said that the uplift will be implemented in 2025-26 with costs scaling up to £20 million per year by 2027/8.

The fees available for other areas of the legal aid will be considered in spring 2025, as a part of the second phase of the Government's Spending Review.

Will this make a difference?

Chris Minnoch, CEO of Legal Aid Practitioners Group has stated that "in real terms the announcements amount to a very small increase in legal aid spend. In and of themselves they are only baby steps in the right direction towards sustainability." An immigration practitioner source adds that whilst the uplift is 'very welcome' and may help them remain a going concern at their current reduced levels, it is "unlikely to shift the dial for them on recruitment and retention".

Press release

Historic increase in legal aid to support most vulnerable

Vulnerable people who face unfair eviction or being pushed into homelessness are among those who will benefit from the first increase in civil legal aid funding in almost 30 years, the Lord Chancellor announced today (29 November 2024).

Criminal Legal Aid Fees Uplift

On the subject of fee increases, on 14 November, the MoJ also **announced** a £24 million increase in police station and youth court fees. The breakdown of this includes the following:

- £18.5 million into the police station fee scheme
- A new Youth Court fee scheme which will receive £5.1 million
- £400,000 will be set aside to pay for travel time for providers in areas with fewer than two providers, and the Isle of Wight, for providers willing to travel into those areas.

These changes came into force on 6 December 2024.

Law Society President Richard Atkinson, himself a criminal legal aid practitioners of many decades, described the uplift as the "**first step to stabilise the sector**", but hopes that this only represents the beginning of large scale overhaul of policy and investment.

legal aid.

Justice Select Committee Questions to the Director of Public Prosecutions (DPP)

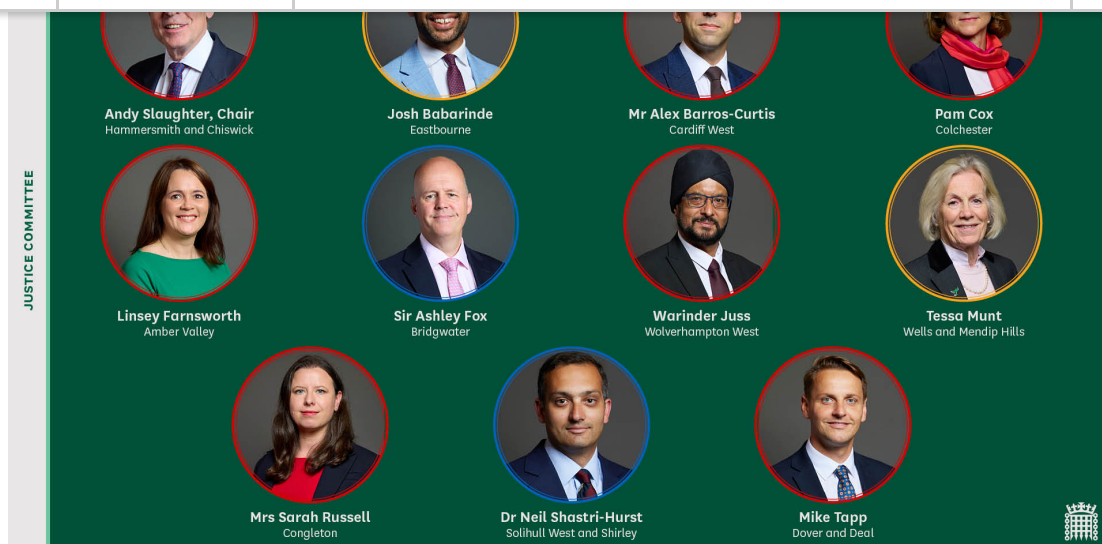
The Justice Select Committee **questioned Stephen Parkinson**, the DPP, on 3 December. As head of the Crown Prosecution Service (CPS), the DPP is responsible for the CPS's approximately 800,000 prosecutions each year and its 7,000 staff.

Describing delays within the courts system to be "as bad as [he's] ever known them" and with some trials now being listed for 2027, Mr Parkinson spoke of his number one priority in the role: to reduce delays in cases coming to court. Improving the experience of victims comes next on his list. The implications of the delays, he explained, are twofold. On one hand, some defendants may take advantage of long waits in hope that complainants and witnesses may withdraw. On the other, the human cost to both parties of having a case hanging over their heads is considerable.

How should this be fixed?

Mr Parkinson suggested that we make it more widely known that prosecutors can approach defence lawyers ahead of a hearing and discuss where a case sits within sentencing guidelines. Defendants knowing their likely sentences may incentivise earlier guilty pleas.

Legal commentator, Joshua Rozenberg makes the point that previous Lord Chancellor, the Rt Hon Alex Chalk KC (who has now returned to the criminal Bar) has suggested a number of these measures before. Speaking on the 'A Lawyer Writes' podcast, Mr Chalk suggested restricting the right to a jury trial to fix criminal court backlogs. Whilst an undoubtedly radical move, the idea has found favour in certain legal circles, most notably with the Lady Chief Justice Baroness Carr.



Justice Select Committee: Oral Evidence on Prisons

On Tuesday, 19 November, the Justice Select Committee **heard evidence** from Minister for Prisons, Probation and Reoffending, Lord Timpson, alongside Amy Rees, Chief Executive of HMPPS, and Ross Gribbin, Director, General Policy Group, Ministry of Justice.

Prison overcrowding was the focus of the discussion, with plans to address this including the construction of new facilities (such as HMP Millsike) and upgrading existing infrastructure. The Committee explored alternatives to traditional sentencing, focusing on community sentences for non-violent offenders. These measures, combined with close supervision, are a potentially effective way to reduce reoffending, simultaneously easing pressure on the prison system.

The Committee raised several other concerns, including the efficacy of the safeguards on the SDS40 releases (the release of standard determinate sentence prisoners at 40% of their sentence), issues of victim notification, rehabilitation structures, shortages of probation officers, and the physical state of the prison estate.

We found the following exchanges particularly illuminating:

Chair: You mentioned community sentencing. What are the specific alternatives to custody that you think we should make greater use of to reduce the demand for prison places?

Lord Timpson: I have been fortunate to have been around this arena for some time and have seen some really good examples of community sentencing. As I said previously, there is evidence that if you pick the right offender with the right offence, at the right time, community sentencing can be very powerful. I will give you two examples, one of which is electronic monitoring. That has significant success rates. It can reduce reoffending by half from what happens without electronic monitoring. I am going

As to the other example, probably the most interesting day I have had in this job since I took it on was spent in Birmingham at the intensive supervision court for female offenders. Most of these women would automatically have gone into custody. The nature of the intensive supervision court meant that a lot of the women we saw in the morning, who were coming up from the cells, were beaten and broken, and looked very ill. The judge, who works with them all the way through their intensive supervision, was working alongside mental health, addiction and housing experts, and diverting a number of them—not all—away from custody.

In the afternoon I spent time seeing women who had been going through this process for six months-plus. They looked completely different. They came bouncing in with smiles on their faces. They were engaging with their sentence. They had worked really hard, and the professionals who worked with them were also working really hard.

Chair: You can say, surely, at what percentage of capacity you are now.

Amy Rees: It is 97% today.

Ross Gribbin: Indeed.

Chair: And you told my colleague that you will be okay until next autumn. Is that realistic?

Amy Rees: Well, I suppose there is a hidden question in there, which is at what level we would like to operate. As colleagues will know, we have been operating at over 99% capacity for the best part of two years. It is possible, but very inadvisable, to run the system at that level. As I explained, we will get a Christmas dip coming shortly. Then we will also get big supply. We have got good supply coming on. We have got a house block in Rye Hill and a brand-new prison, and the two interim measures. So there are lots of ins and outs, if you like. There are lots of pluses and minuses happening in the system in the next 12 months.



National Audit Office Report

Also out last week was a National Audit Office (NAO) report which concluded that plans by the Conservative government to increase prison capacity by building new prisons were 'unrealistic and not prioritised' and would have been insufficient to accommodate the numbers required. The report, **which can be found here**, predicts an increased shortfall of 12,400 prison places in three years' time.

The MoJ has responded to this by pointing to the Government's recently announced Sentencing Review. On Rozenburg's podcast, Mr Chalk described "a policy vacuum" within the MoJ, with delays set to increase before the Review reports in 2026, despite requiring immediate measures needed to create capacity within the Crown Court. Chalk identified the remand prison population as an acute concern, with 16,000, or **18% of the total prison population pending trial**.

Review on Homicide Launched

On Friday 6 December, The Law Commission **announced** that it had been asked to review the law on homicide. The Ministry of Justice released the **Terms of Reference** of the Review on the same day, which included an examination of the full and partial defences to murder and manslaughter.

The Law Commission produced a **detailed report** on these issues in 2006, and concluded that the current murder/manslaughter distinction be replaced with three offences of first-degree murder, second-degree murder and manslaughter. These

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The Law Commission announcement on Friday noted several additional issues which have emerged over the intervening 18 years, including the operation of joint enterprise law, diminished responsibility and updated understandings of domestic abuse.

The aggravating and mitigating factors framework, guided by Schedule 21 of the Sentencing Guidelines Council Guideline Overarching Principles, for release by the Parole Board are set to be altered. Lord Chancellor Shabana Mahmood has announced that a new statutory aggravating factor will be introduced where murderers strangle victims, or kill them at the end of a relationship.

Legal commentator Joshua Rozenburg noted that another announcement is scheduled this week, thereby avoiding justice questions in Parliament, suggesting that interesting further updates are to come.

RoCLA - Publication of Final Report

The end of last month also brought with it the publication of the final reports on the long-awaited Review of Civil Legal Aid (RoCLA).

The publications included:

- Two reports from Social Research on User Experiences workstream:
 - User and Trusted Intermediary Perspectives
 - Provider Perspectives
- A Market Research report produced by PA Consulting
- An Advocacy Research report produced by IFF Research
- A Data Publication Series: Provider Overview Report

Regular readers will be aware that together with many other members of the sector, we have been consulting on and feeding into these reports over the last two years. Links to the reports can be found below together with our summaries and thoughts on the same.

Qualitative Research with Service Users and Trusted Intermediaries

This **particular report** is designed to understand the client perspective of accessing and receiving legal aid. 10 'trusted intermediaries' have been included alongside the 12 clients surveyed, because of issues in recruiting clients to participate in the survey.

What did the report discover?

- Clients were often initially unaware of legal aid, or whether they were eligible or not. This meant money was often spent pursuing alternative legal avenues.

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- Trusted intermediaries such as GPs and clinics played an important role in signposting clients and also offering some form of legal advice. They often ease the administrative burden for providers by organising paperwork / evidence.
- Clients often face other barriers to access including:
 - Difficulties with literacy
 - Language barriers
 - Lack of technological access
 - Neurodiversity
- Difficulties in the process of legal aid itself:
 - Providing financial documentation (e.g. accessing bank statements)
 - Trapped capital (e.g. equity in a property)
 - Language barriers
 - Obtaining evidence in English to support any application for legal aid at all

“Most service users were overwhelmingly positive about the legal aid they received. It helped them resolve significant issues and improved their lives. Although some parts of the process were seen as challenging, this was outweighed by the long-term benefits.” (p.5)

Qualitative Research with Legal Aid Practitioners

The **complimentary report** surveyed the providers themselves. Participating providers were found via LAA contract managers, representative bodies and an industry bulletin. 21 interviews were conducted, with practitioners from 15 civil legal aid providers.

Key findings:

How did practitioners find the legal aid process?

- Often onerous to prove eligibility for legal aid, and difficult to navigate requirements for documentation.
- Delays / slow progression of cases impacted vulnerable clients and exacerbated already difficult circumstances
- Difficulties managing clients’ expectations due to low awareness of the functioning of the legal aid system

What do practitioners think the main barriers to access are for clients?

- Gathering proof of eligibility
- Digital access issues for certain client groups

What do practitioners think would improve the “efficiency, effectiveness and sustainability

- Streamlining process of proving eligibility: collaborating with DWP and HMRC to electronically check status.
- Earlier legal advice to prevent problems progressing, to divert clients from litigation



Market Research Report

This **report**, commissioned by the Ministry of Justice and conducted by external contractor PA Consulting, seeks to “examine key issues in the civil legal aid market, such as demand and supply trends, recruitment and retention, and the financial viability of providing civil legal aid for providers”.

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- The report conducted a survey of civil legal aid providers, and received responses from “20% of the overall market” (p. 11) , standing at 228 providers.
- Evidence used: “a literature review, data analysis, workshops and wide-reaching stakeholder discussions, including two barrister roundtables” alongside the above survey.

What issues are there in data gathering?

- The report identifies “very limited robust quantitative evidence on the profitability of providers operating in the civil legal aid market”

What does the report find?

Broadly,

- The report concludes that “supply in the civil legal aid market may not be fulfilling current demand from end-users [recipients] in the system”
- It also notes that there are “structural barriers that limit the market’s overall capacity and health”

More specifically,

- Since LASPO 2012 supply in the legal aid market is shrinking
 - The number of civil representation certificates has fallen by 29%
 - Mediation starts have fallen 46%
 - Legal help starts have fallen 77%
- The total number of civil legal aid providers has fallen by around 40% since 2011-12
- New providers do enter the market in procurement rounds, but any increases are eroded by the providers who exit the market within 1-2 years
 - For example, between 2018-19 and 2023-24, 761 civil legal aid providers withdrew from the market, an equivalent of 30% of the 2018-19 total base

Why do providers give up contracts?

- The main reasons providers reported giving up a contract to the LAA are:
 - Commercial viability – 43%
 - Loss of key fee earners / supervisors – 18%
 - Consolidation – 17%

A majority of providers surveyed reported that they are experiencing market capacity issues, with over 50% very high’ or ‘overwhelming’ demand for services. In the immigration, housing and debt sectors, 83% of providers reported ‘very high’ demand, and 65% ‘overwhelming’.

- 33% of providers surveyed reported making a loss
- 40% of providers have stated that they will leave the market over the next five years if it remains unchanged

Qualitative Research with Practicing Advocates and Instructing Solicitors

The Ministry of Justice commissioned IFF Research to conduct this **qualitative research report** on advocacy in the civil legal aid sector. The report is designed to understand the extent of advocates working under legal aid contracts.

The report was conducted by 40 interviews with advocates and instructing solicitors working in civil legal aid. This was composed of 22 solicitors, 15 barristers and 3 non-barristers practising advocacy.

Key findings:

Context in which legal aid advocates operate

- All participants noted the increased bureaucracy and administrative work involved in civil legal aid advocacy
- Fixed fee system is overly complex
- Increased litigants in person which negatively impacted the efficiency of court proceedings
- New challenges posed by the shift to remote hearings

Process for taking on civil legal aid work and appointed advocates

- Participants aimed to take on as many legal aid cases as viable
- Work declined was due to lack of capacity, expertise or lack of financial viability of taking on specific cases.
- Solicitors often finding a shortage of barristers, resulting in participating solicitors advocating themselves

Careers in civil legal aid advocacy

- Motivations for working in civil legal aid advocacy
 - Desire to represent individuals in vulnerable situations
 - Interest in specific area which falls under legal aid (e.g. community care)
 - Scope for creativity in work
- Disincentives for civil legal aid advocacy
 - Lower rates of pay
 - Payment delays
 - Uncertainties about receiving the correct amount on invoices

Data Publication Series: Provider Overview

This **report** is a purely data-gathering report and does not make any commentary on the data.

Overview of solicitor legal aid firms since LASPO 2012:

- The number of civil legal aid solicitor firms has decreased over the period, however, spend overall has increased. Providers have, on average, therefore been completing more civil legal aid claims each.
- Most of the work completed by providers doing both family and other civil work was family work, with a small amount of other civil work.

The table below demonstrates the shrinking number of civil legal aid firms from 2014-22.

Table 1.1.1: Civil legal aid firms by contract status and year

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
In contract billing firms	69%	74%	76%	77%	75%	77%	86%	81%
Out of contract billing firms	31%	26%	24%	23%	25%	23%	14%	19%
Total	2,270	2,020	1,820	1,730	1,760	1,730	1,490	1,520

The Rule of Law in Parliament

The House of Lords

On 26 November, the House of Lords held a **debate** on the rule of law. Several key themes and priorities regarding the rule of law emerged from the debate, in particular the fundamental nature of the rule of law in a democratic society, with Baroness Smith describing the rule of law as a “lodestar” for the Government.

Several speakers raised the importance of judicial independence and accountability both domestically and internationally, and referenced recent episodes of politicising the judiciary as undermining public trust in both the separation of powers and the judiciary.

Shadow Attorney General, Lord Wolfson, also reminded members of the importance of the international law framework and the UK’s role in interpreting international law standards. The importance of adhering to international obligations such as UN and ECHR treaty obligations was also raised, particularly in terms of the UK’s role as a promoter of rule of law obligations internationally. He also made the case for the rule of law to be excluded from party-political point scoring as it is “too important to become a political football”.

instruments and the risks to democracy that emerge via a lack of formal parliamentary scrutiny with the disproportionate application of secondary legislation.

APPG Co-Chair, Lord Bach, discussed the importance of access to justice for a rule of law oriented society. He highlighted the impact that the erosion of legal aid funding since LASPO 2012, and the ever-growing backlog in the courts, is having on access to justice for thousands of citizens who are unable to resolve civil disputes or access justice.

He noted that access to justice's centrality in the rule of law could be repaired by *"an increase in legal aid and making it available for early advice in the areas of law struck down by LASPO. I accept, of course, the dire straits of the state of the finances bequeathed to this Government. My plea would be that such an egregious and clear breach of access to justice, and thus to the rule of law, should be remedied as quickly as possible; in other words, this issue should be given high priority."*

Attorney General Richard Hermer KC responded with the following:

"of course, the Lord Chancellor would wish, if she could, to change the entire position overnight to properly fund legal aid across the board, to rebuild our courts to the condition in which we would expect them to be, and to have unlimited sitting days in the Crown Court and in other courts and tribunals. But we have inherited an economic situation that simply does not permit us to wave that magic wand, however much we want to and however much we identify the need as urgent. What I can promise your Lordships' House is that this is a priority for the Lord Chancellor."

Justice Select Committee

Also on 26 November, the Commons Justice Committee questioned the Lady Chief Justice of England and Wales.

While addressing the Committee, Baroness Carr **said that** "the rule of law is not free; it requires investment."

She noted that some areas of the justice system are functioning healthily, such as the business and property courts, but referred to the "increasing backlogs, underfunding and staffing issues in both courts and tribunals, crumbling buildings and serious security incidents".

Upon questioning by Justice Committee Chair and long-time APPG member Andy Slaughter, Baroness Carr noted that the cap on sitting days and the miscommunication between the government and the judiciary on the funding of these days has had a "drastic effect across the board", with cases delayed in some instances until 2027.

Justice Reshuffle



Following Transport Secretary Louise Haigh's **resignation**, Minister of State for Courts and Legal Services Heidi Alexander has been promoted to Transport Secretary.

Ms Alexander had been in post since July and was regarded as a highly engaged minister who was willing to listen to practitioners, understand the issues affecting the legal aid sector and that many practitioners are "**deeply sorry to lose**". We were delighted to have her chair the APPG's Labour Party Conference panel event, and wish her all the best in her new post.

The resignation has triggered a small reshuffle. On 2 December, the Ministry of Justice **announced** that former Solicitor General Sarah Sackman KC has been appointed as Minister of State in the MoJ, with her portfolio to be confirmed. A highly experienced barrister, she practiced alongside Attorney General Richard Hermer KC at Matrix Chambers, with a particular focus upon housing and planning law, human rights and environmental issues.

In the aftermath of the July General Election, Inside Housing **identified** Ms Sackman as one of eight newly elected MPs who was likely to advocate for social housing. Given the recent uplift in housing legal aid fees, Ms Sackman's appointment is an exciting one, and the APPG will keep a close eye on any policy developments. During her 146 days as Solicitor General, Ms Sackman was able to secure additional funding in the October Budget for the CPS to support the Rape and Serious Sexual Offences teams.

Lucy Rigby, MP for Northampton North (and a now previous APPG on Access to Justice member) has been appointed as the new Solicitor General. In November, she was appointed a PPS to the Ministry of Justice. Ms Rigby was a competition lawyer prior to her Parliamentary career. She remains a member of the Treasury Select Committee. Kevin Bonavia, MP for Stevenage, has also been appointed as PPS to the Attorney General's Office.

The APPG very much looks forward to working with both the new Minister, and the Attorney General's office going forwards.

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Lord Bach Oral Question

On 18 November, Lord Bach **asked** his Majesty's Government "what steps they are taking to increase the amount of legal aid available for early advice in the areas of 1) Social Welfare and 2) Family Law".

Lord Ponsonby, one of the Parliamentary Under-Secretaries in the Ministry of Justice, responded that "this Government are committed to ensuring an effective, efficient and sustainable legal aid system, and we have already begun to stabilise the sector and explore ways in which we can rebuild our justice system", and that "the Government are committed to ensuring there is an effective, efficient and sustainable legal aid system and are working toward that end".

Tomorrow's Event

All-Party Parliamentary Group on Access to Justice

Lecture by Justice Joel Ngugi

Date	Wednesday 11 December 2024
Time	1.30 - 2.30 pm
Venue	Committee Room 3, Lords Corridor

Justice Joel Ngugi, awarded Kenyan Jurist of the Year in 2022, is a leading figure in judicial reform and the rule of law in Kenya. As Chair of Kenya's Taskforce on Alternative Justice Systems (AJS), he is now responsible for the implementation of Kenya's Alternative Justice System, enshrining the rule of law and the Kenyan Constitution.

Currently touring as a Leverhulme Visiting Professor, his APPG lecture will be shortly after he addresses the UN in New York on his work.

To attend, please register below or contact [Rohini Jana](#) with any further questions. Please note this event is in-person only.



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And that's all from us for this edition. If you made it this far, thank you very much for reading us this year and for your continued support and engagement with the APPG. Do check out our sister stats bulletin next week and warmest wishes to you all for festive season.

We'll see you on the other side!

Rohini Jana
Director of Parliamentary Affairs
10 December 2024

Visit the APPG on Access to Justice's Website

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About the APPG on Access to Justice

We strive to highlight the importance of access to justice as a fundamental pillar of society, and to empower individuals to exercise their rights, challenge discrimination, and reduce social inequalities. We foster parliamentary and public understanding of access to justice by acting as a forum for discussion and debate, providing an interface between Government, Parliament, and the justice sector.

For more information contact:

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