



JUDICIARY OF  
ENGLAND AND WALES

**THE COUNCIL OF HER MAJESTY'S CIRCUIT JUDGES**

PRESIDENT, HER HONOUR JUDGE JACKIE DAVIES: TREASURER, HIS HONOUR JUDGE ROGER DUTTON  
SECRETARY, HER HONOUR JUDGE ISOBEL PLUMSTEAD

**Response of the Council of Her Majesty's Circuit Judges to the  
Consultation Paper CP 12/10  
'Proposals for Reform of Legal aid in England and Wales'**

The Council of Her Majesty's Circuit Judges, 'The Council', is the representative body for the Circuit Judges and Senior Circuit Judges of England and Wales. There are some 680 Circuit and Senior Circuit Judges, who sit mainly in the Crown and County Courts. The Crown Court is the court of trial for all serious crime; the County Courts are the main courts of trial of civil and family proceedings.

In addition some circuit judges sit as Judges of the Court of Appeal, Criminal Division, as Deputy Judges of the High Court in all divisions, as Judicial Members of the Parole Board [determining applications for parole by prisoners subject to life or indeterminate sentences], Judicial Members of the Restricted Patients Panel [determining applications for release by persons detained under sections 37 and 41 of the Mental Health Act 1983], on appeal from district judges, from magistrates and family proceedings courts, from first tier tribunal judges and on certain statutory appeals, for example from homelessness decisions of housing authorities.

Some circuit judges are Resident judges, Designated Civil Judges or Designated Family Judges, with responsibility for Criminal, Civil or Family litigation in groups of courts country wide.

The circuit bench is the largest group of the salaried judiciary, with unique breadth and depth of experience of the justice system.

Whilst we have answered the individual questions posed in the consultation we feel that those answers should be read with this introduction.

The Council is mindful of the need to examine with care all areas of public expenditure in the present economic climate and to curb or reduce expenditure whenever possible.

Nonetheless the Council is gravely concerned about the potential effect of most of the proposals upon access to justice for the most vulnerable members of society.

We are of the view that in formulating these proposals

- **Insufficient regard has been paid to the increased burden, and increased cost upon the courts, both staff and judiciary, of a substantial increase in the number of litigants who are neither represented nor have the benefit of legal advice in formulating and preparing their cases**
- **No consideration has been given to the likely increase in the burden upon other agencies, for example Housing Advice Agencies, Citizen's Advice Bureaux, CAFCASS and local authority children's services, in investigating allegations and counter-allegations by unrepresented litigants and supporting unrepresented parties.**
- **No regard appears to have been given to the importance and complexity of some private law children's cases**
- **In proposing that legal aid in private law children's cases and ancillary relief applications shall be restricted to those cases where there is in concurrent or recent proceedings a finding of physical violence towards the party granted legal aid the gateway to funding is too narrow, as it disregards all other forms of abuse, and disregards allegations of physical, sexual and emotional abuse to other members of the household or family, particularly children. and inequitable, for no provision is made for legal aid to be 'in scope' for those accused.**
- **Unrealistic reliance has been placed upon mediation and other ADR services.**
- **The proposals for remuneration of advocates in criminal cases would be punitive to those who give proper and realistic advice to their clients but whose clients exercise their right to elect trial by jury or to plead not guilty until a late stage in the proceedings.**