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Sir Alan Beith
Chair
Justice Select Committee
House of Commons
7 Millbank
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27 June 2013

Dear Sir Alan,

Transforming Legal Aid: Justice Select Committee, Evidence Session, 3 July 2013

Further to our letter dated 10 June 2013, we welcome the decision of the Committee to consider the whole range of the proposals in the consultation paper *Transforming Legal Aid* during its evidence session with the Lord Chancellor on 3 July 2013.

I enclose a briefing for MPs and Peers, which we have prepared and which I hope will assist the Committee in its work.

We reiterate our view that the proposals for the reform of criminal legal aid will have a devastating impact on the operation of our criminal justice system and the ability of people without means to secure a fair defence.

We are also concerned that the wider implications for the rule of law of the civil legal aid proposals not be overlooked by Parliament. By restricting the ability of individuals to hold public decision makers to account – by restricting access to legal aid for judicial review generally, and to prisoners and non-residents specifically – the Government proposes to shield public decision making from the transparency and accountability afforded by judicial oversight. These significant changes are proposed for little quantifiable financial gain and could lead to significant additional costs within the justice system and for other public budgets.

We hope that the Committee will, in particular, explore two specific issues with the Lord Chancellor:

- **The legislative basis for change:** The Government has briefly explained its view that it is capable of making all of the changes in *Transforming Legal Aid* in secondary legislation. A number of respondents, including JUSTICE, have expressed scepticism about the Government's understanding of the scope of its powers. The Committee may wish to consider asking the Lord Chancellor for a better explanation of the Government understanding of the legal framework. In particular, the Committee may wish to ask the Lord Chancellor about the compatibility of the proposal to remove the right to choose a solicitor as part of PCT with section 27(4) of the Legal Aid Sentencing and Punishment of Offenders Act 2012 ("LASPO").

- **Civil reforms and LASPO:** Parliament considered the scope of civil legal aid less than a year ago in LASPO. LASPO passed only after careful consideration and rigorous parliamentary debate, including about the limited package of civil issues which were to remain within scope. During this debate, particular emphasis was placed on the need to protect vulnerable groups, including victims of trafficking and asylum seekers, and specific provision was made for their protection, including by leaving limited access to legal aid for judicial review and some immigration matters within scope. The Committee may wish to consider asking the Lord Chancellor why – against this background - it is now appropriate for the Government to consider carving out categories of individual from eligibility for legal aid (specifically, prisoners and non-residents) and drastically changing the conditions upon which legal aid for judicial review may be available.

We hope that the Committee will take the opportunity to hear not only from lawyers and their representatives, but also from the individuals who have benefitted from legal aid and who would not be eligible under these rules.

If it would aid the Committee to have further written information or submissions before concluding this inquiry, we would be happy to assist.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Andrea Coomber', with a period at the end.

Andrea Coomber
Director

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Chairman of Council **Baroness Kennedy of The Shaws QC** *Director* **Andrea Coomber**

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