

OPINION

Our right to a fair trial is in great peril



William Clegg QC explains why dramatic cuts to Legal Aid could prevent justice for any and all

Many people think of someone charged with a serious offence as being a thoroughly disreputable individual, perhaps a professional criminal or a habitually violent criminal. In fact the kind of person who is charged with murder or manslaughter is often very ordinary. I have known cases where a mother living in very trying circumstances with a difficult child has finally snapped, or a partner hurt by a betrayal has flown into a jealous rage. And others where someone who was totally innocent but who happened to be in the wrong place at the wrong time – and who resembled a suspect in a police photofit – was accused of a grisly crime. Someone like you, perhaps?

And here is where the reality of the changes that have diminished our justice system over the past decade can hit home in a surprising way. Because the reality is that if you ever found yourself being accused of a serious offence – and I have represented hundreds of ordinary people who have found themselves in that unfortunate position – the publicly funded defence you would receive is likely to be weaker than the one you would have enjoyed just a few years ago.

This is because in its wisdom for year after year the government has cut back on the fees paid to barristers to defend people charged with serious crimes. The consequence of this is that barristers are turning away Legal Aid cases or, if they do take them on, are doing so in much more pressured circumstances and cannot afford to devote as much time to them or hire such good defence experts.

The Legal Aid budget has, frankly, been slashed to pieces. Between 2010-11 and 2017-18, the budget of the Ministry

of Justice, which funds the Legal Aid scheme, the Crown Prosecution Services and the courts, was sliced from £8.7bn to £6.6bn. Between 2005-6 and 2015-16 the Legal Aid budget fell by more than 40 per cent, from £2.6bn to £1.5bn.



The result of all this is felt not just by those who end up on a charge, rightly or wrongly. It is noticeable to many people who enter our courts system, as witnesses or as jurors in criminal cases. Court buildings are often chilly because the heating has been turned down to save money; the paint is peeling; sometimes the toilets are broken; there is a general air of decline. Often canteens have been shut, meaning that at the time people are facing a critical turning point in their lives and have a break during which they cannot get a hot meal.

Putting aside for a moment the idea that you might end up in court (after all, how could that possibly happen? You are a law-abiding citizen, like many of my clients), let us revisit why we have a Legal Aid system in the first place. It is this: if you believe, as I do, that justice is important and that everyone is entitled to a fair trial, it follows that every individual must have access to proper legal

representation, regardless of how much money they have.

Legal Aid pays for a proper defence, which is essential to find out if the prosecution is correct and someone really is guilty of an offence. Sometimes individuals whom the press or public are sure are guilty turn out to be innocent. Sometimes individuals whom the press or public are sure are guilty – and who have been found guilty in a criminal trial – turn out to have been completely innocent. I have known this to be the case so many times in my career.

Take the case of Barry George. He was convicted in 2001 on very slender evidence of murdering the television presenter Jill Dando, who was shot dead outside her home in London. When I represented Barry at his retrial in 2008 the cuts had started to bite and I received roughly half what the barrister in the first trial, Michael Mansfield, was paid for defending him. Nowadays I would have been paid about half again. Luckily, the experts I had already lined up continued to help me – and the ballistic evidence against Barry was deemed to have been so flimsy it was dismissed. The jury found him not guilty: an innocent local resident who had been picked up by detectives eager to secure a conviction for a notorious murder. But if Barry's solicitors had come to me now I would not be prepared to act in his case; the experts that I instructed would likewise refuse to act. If Barry George were retried now, would justice be done? Would he have been found not guilty? Would he still be languishing in a cell wondering whether he would spend the rest of his days there?

Would you?

William Clegg is author of *Under The Wig: A Lawyer's Stories of Murder, Guilt and Innocence*, out on October 4 (Canbury Press, £16.99)