



Ministry  
of Justice

# Legal Support: The Way Ahead

An action plan to deliver better support to  
people experiencing legal problems

February 2019

CP 40

**Legal Support: The Way Ahead**  
**An action plan to deliver better support to people experiencing legal problems**

Presented to Parliament  
by the Lord Chancellor and Secretary of State for Justice  
by Command of Her Majesty

February 2019



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# Foreword

## The Rt Hon David Gauke MP, Lord Chancellor and Secretary of State for Justice



The ability of individuals to resolve their legal problems is vital to a just society and is a fundamental principle underpinning the rule of law.

Last year the Government spent £1.6bn funding legal aid for those people who needed it. This provides crucial support for the most vulnerable in society, ensuring they can effectively access justice when they need to. It is imperative that this support continues to be available into the future.

For too long our approach to supporting access to justice has been concentrated on funding for court disputes. There are too many people entangled in the justice system for a variety of issues, and some may not necessarily need to be there. Our ambition must be to give people the tools to resolve their problems well before this point, before they become legal problems that require a court visit and a lawyer. Early intervention is key and it is upon this that our new vision for legal support is founded.

This new approach has been informed by a wide range of engagement over the past year. We have extensively reviewed the changes made to legal aid by the Coalition Government. This has been an open, collaborative process with a broad range of stakeholders who have shared valuable evidence and insight, and we are grateful for their input into our review.

This process has highlighted the range and diversity of work across England and Wales that is funded by legal aid, but at the same time raised several challenges to overcome. We are committed to taking the necessary steps now to improve and enhance our legal aid system to ensure that it continues to be accessible and efficient into the future, as part of a broader framework of support.

We will prioritise the needs of the person seeking help, providing a wider breadth of support tailored to them. We are committed to delivering smarter, better forms of legal support that are built upon evidence of what works. Everyone in society should be able to access the right support, at the right time, in the right way for them.

Legal aid plays an important role in supporting the most vulnerable, however this is only one part of the picture. A just, accessible and proportionate justice system demands that many elements – including effective frameworks of legal aid and legal support, a modern courts system where people can easily resolve disputes, cross government working, and a broad range of alternative methods of dispute resolution – must be brought closer together in a coherent way.

There is already a wide range of legal support provided across England and Wales. We want to build on this, collecting further evidence as to what support works effectively and at what stage.

As part of this, we need to make the most of the opportunity presented by new technologies. We will use funding to develop innovative new ways of delivering support, recognising that technology is our servant and not our master and that the traditional ways of delivering legal support and advice are important.

This Government is committed to protecting and ensuring access to justice for future generations. This action plan is a crucial first step toward our vision of a modern system of legal support. We will continue to work closely with people using these services, practitioners, and experts to develop and deliver these initiatives.

This new vision, building on the evidence heard over the review process, will ensure that legal support remains available for those who need it, both now and in the future.

A handwritten signature in black ink, appearing to read 'David Gauke', with a stylized flourish at the end.

The Rt Hon David Gauke MP,  
Lord Chancellor and Secretary of State for Justice

# Introduction

Access to justice is a fundamental principle underpinning the rule of law and is at the heart of our justice system.

For people to successfully resolve their legal problems in the courts or in other ways, they may need additional support throughout the process. The support people need ranges widely and is dependent on the person and the legal problem they face.

In this document, when 'legal support' is referred to, this means the totality of support available to people from information, guidance and signposting at one end of the spectrum to legal advice and representation at the other.

For instance, at early stages, the provision of information, explaining technical terms and direction to available resources can be very important to support people to resolve their problems. At the other end of the spectrum there are legal problems which require specialist legal advice or representation in a court from a legal professional. The nature of these types of legal support can differ greatly, however, both can be appropriate depending on the circumstances. It is important we consider the full breadth of this support.

Indeed, we are considering not just legal problems in the traditional sense, but also other problems that may have a legal solution, or problems with the potential to cascade into problems which may require professional legal advice.

Being able to access the appropriate level of support at an early stage can be beneficial in helping people resolve legal problems more efficiently and effectively. What we have heard through our engagement over the past year is that more needs to be done to understand what types of support work best, at what time, and for whom. We need to focus on the needs of people seeking help, and place the user at the heart of a new system. It is these issues that we want to explore further.

We recognise that the Government has a key role in ensuring that when people come into contact with services concerning legal issues or the legal process, the process is just, accessible and proportionate.

We have spent the past year considering a wide range of evidence and working closely with a broad group of stakeholders from across the country to assess what needs to be done.

We are committed to delivering our vision for the long term, however, we acknowledge that this cannot be delivered overnight. This document outlines the beginning of this process, and as a first step we will now bring forward several changes.

Our strategy is based on the following:

## Entitlement to legal aid for the most vulnerable

We already provide £1.6 billion to the most vulnerable in society to ensure that they can access legal aid. We will expand this.

- We will conduct a review into the thresholds for legal aid entitlement, and their interaction with the wider criteria. Whilst the review is ongoing we will continue with current arrangements to passport all recipients of universal credit through the means test.
- We will ensure that more people are aware of their entitlement to legal support – and will advertise its availability.
- We will protect the most vulnerable by increasing the scope of legal aid for separated migrant children; and will reinstate immediate access to face-to-face advice in discrimination, debt and special educational needs cases.
- We will also simplify the Exceptional Case Funding (ECF) scheme to ensure it works as effectively as possible.
- We will make changes to legal aid for inquests, to ensure that bereaved families are properly supported.

## Ensuring people can access the right legal support at the right time

We appreciate that support at an early stage may help people resolve problems more efficiently and effectively. There is research evidence demonstrating how problems, if left undiagnosed and unresolved, can escalate, cluster<sup>1</sup>, and lead to damaging cycles that are hard to break. However, there is limited comprehensive research as to what works best, when, and for whom.

Further, whilst it is often suggested that early intervention leads to cost savings, the financial and economic benefits of early advice are difficult to quantify with accuracy. We appreciate the complexity of the ‘what works’ question across diverse problem types and groups of the population, which is why we want to pilot and evaluate several different forms of early legal support. Specifically:

- We will work collaboratively with providers to develop web based products which bring a range of legal support tools together in one place.
- We will improve the signposting advice and support available from our specialist telephone service and test enhancements to this service.
- We will use funding to encourage the delivery of legal support through technology.
- Recognising that a comprehensive service may offer people an opportunity to support themselves, we will work collaboratively with the legal and advice sector to evaluate the impact of legal support hubs.

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<sup>1</sup> See for example Smith, M., Buck, A., Sidaway, J. and Scanlan, L. (2013) *Bridging the Empirical Gap: New Insights into the Experience of Multiple Legal Problems and Advice Seeking*. Pleasence, P., Balmer, N.J., Buck, A. and O’Grady, A. & Genn, H. (2004) *Multiple Justiciable Problems: Common Clusters, Problem Order and Social and Demographic Indicators*.

- To test the impact of early legal advice in promoting early resolution, we will pilot face-to-face early legal advice in a specific area of social welfare law and we will evaluate this against technological solutions, bearing in mind costs.
- We will enhance the support we offer to litigants in person.

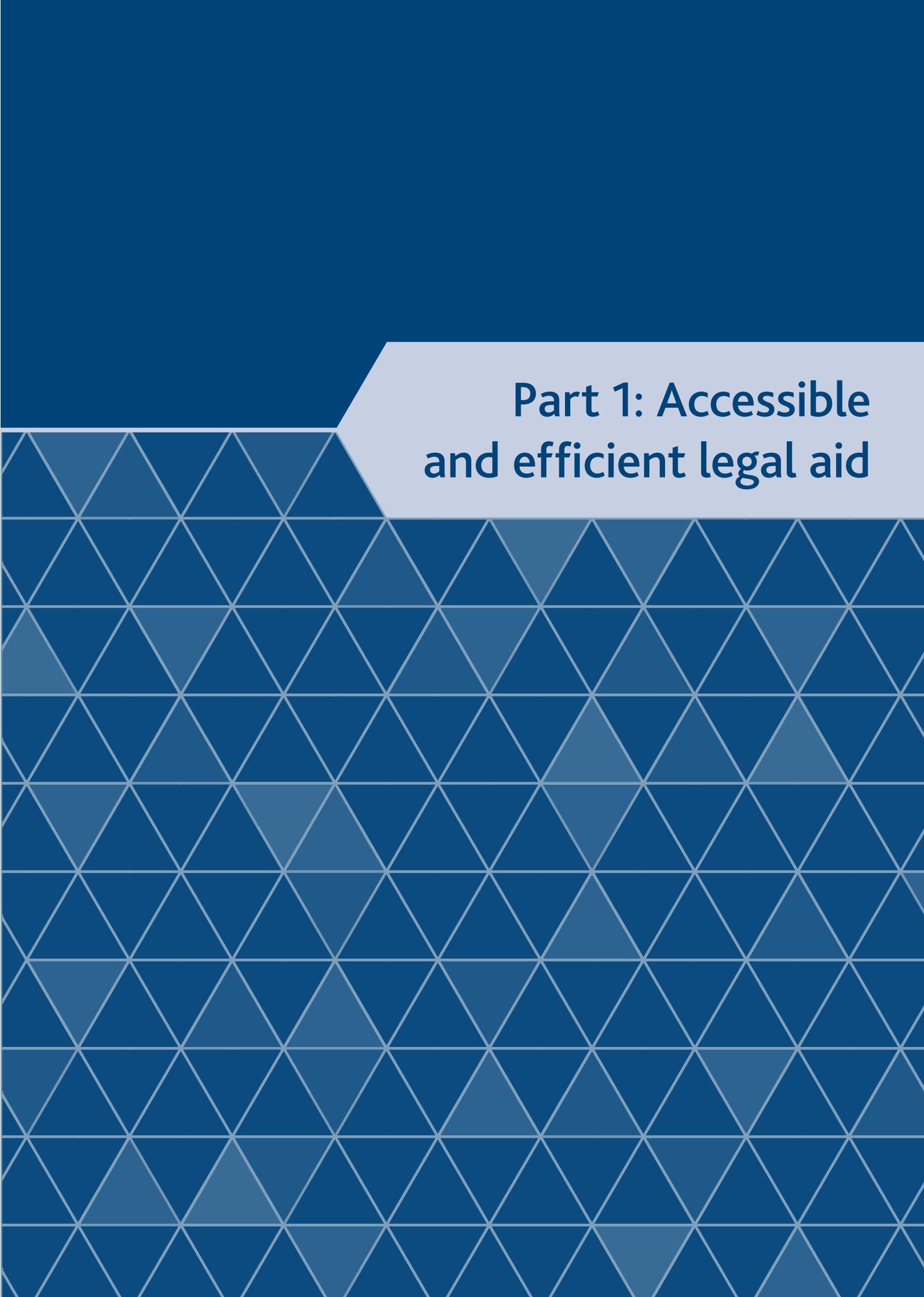
We will conduct research on all these interventions to assess what is the best way to help and support those who need it, and whom we should assist in the provision of legal support.

## Ensuring the Government puts in place better systems, processes and decisions

Alongside our work to improve the support people can access, we will continue to work across departments to help to improve the quality of decision making on legal rights. We will continue to modernise the justice system to ensure that our forms and systems are as simple and straightforward to use as possible, and that our courts and tribunals service enables people to resolve their conflicts as quickly and early as possible.

We want to generate momentum in this area, but we acknowledge that this is a first step. We will continue our open and collaborative working with experts over the coming years, identifying and evaluating new ideas, and supporting practitioners to join the legal profession and continue to deliver high quality legal support to people across England and Wales long into the future.





## Part 1: Accessible and efficient legal aid

# Part 1: Accessible and efficient legal aid

Legal aid plays a crucial role in supporting access to justice. We are committed to funding access to legal services where they are necessary and last year we spent £1.6bn on this.

The Government remains committed to ensuring that legal aid continues to be available into the future. For this system to be effective, people must be aware of their entitlements, and when people are eligible for funding, they must be able to access it easily and swiftly. These publicly-funded services must also be delivered efficiently to ensure they provide good value for taxpayers.

That is why, in addition to continuing to fund these crucial legal services, we are bringing forward changes to improve the framework of legal aid.

## Eligibility

It has been a central part of legal aid policy that means testing should serve to determine the allocation of public resources to those most in need. Equally, where people are asked to contribute towards the cost of their legal services, means testing should allow the state to identify accurately and fairly who can afford to contribute to such costs. We believe this principle continues to be appropriate. However, it is important to ensure that the means test continues to perform this function fairly.

While LASPO did not fundamentally change the eligibility requirements for legal aid, and there was therefore no obligation for the review to look at this issue, evidence was submitted on the eligibility criteria and thresholds<sup>2</sup>. We think the time is right to take a fresh look at this area.

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<sup>2</sup> E.g. The Law Society, (2018) *Submission of evidence to the Ministry of Justice's LASPO Part 1 post implementation review*. The Public Law Project, (2018) *Submission to the Post-Implementation Review of the Legal Aid Sentencing and Punishment of Offenders Act 2012*. Amongst others.

## Review of the legal aid means tests

To this end, we will conduct a review into the thresholds for legal aid entitlement, and their interaction with the wider criteria. This review will assess the effectiveness with which the means testing arrangements appropriately protect access to justice, particularly with respect to those who are vulnerable. The review will include looking at the capital thresholds for victims of domestic violence and evidence gathered during the review of legal aid for inquests. Whilst the review is ongoing, we will continue to passport all recipients of Universal Credit through the means test.

We are bringing together data, evidence and expertise from across government to ensure that the process is as consistent as possible. We are also keen to work with experts from across the field to explore this issue. Following our consideration, we will bring forward any changes as soon as is practical.

We will also bring forward proposals to extend eligibility for non-means tested legal aid for parents, or those with parental responsibility, who wish to oppose applications for placement orders or adoption orders in public family law proceedings, to bring these in line with care and other orders having similar effect classified as “Special Children Act 1989 cases”. In both these cases we will also bring forward proposals to provide a less stringent merits test, equivalent to the merits test currently applicable in “Special Children Act 1989 cases”.

### Government action:

We will complete a comprehensive review of the legal aid eligibility regime by Summer 2020.

We will bring forward proposals for extending eligibility for non-means tested legal aid for parents, or those with parental responsibility, who wish to oppose applications for placement orders or adoption orders in public family law proceedings – by Summer 2019, subject to Parliamentary approval.

## Awareness and application

Several reports<sup>3</sup> have highlighted that more needs to be done to advertise the availability of legal aid and mediation, and wider legal support options. In addition, applying for legal aid could and should be simpler.

The Legal Aid Agency (LAA) have undertaken steps to increase awareness through new tools such as an online eligibility checker. However, we agree that for the system to be truly accessible to everyone, we can do more to ensure people are aware of their entitlements.

We will launch a new campaign to improve awareness of how people can access support to help them resolve their issues (ideally before they become complex legal problems) and including, where necessary, how to access legal aid. We will also build awareness of legal aid and mediation into our work to improve signposting outlined in Part 2.

### Government action:

We will launch a campaign to improve awareness of how people can access legal support, including legal aid – by Autumn 2019.

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<sup>3</sup> The Law Society 2018 (see footnote 3)  
The Law Society (2017), *Response of the Law Society of England and Wales to the Civil Justice Council ADR Working Group Interim Report*.  
House of Commons Justice Committee, (2015) *Impact of changes to civil legal aid under part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012*.

## Improving access for vulnerable groups

We need to continue to ensure funding is available in instances where it is necessary, especially for the most vulnerable.

### Children

Currently, legal aid is available in all asylum cases – for all age groups – and immigration cases where a detention decision is being challenged. Legal aid for other immigration matters is available via the Exceptional Case Funding (ECF) scheme. Funding for immigration matters under the ECF scheme has risen substantially over recent years. This demonstrates that legal aid is still available and being accessed.

However, following a judicial review brought by The Children’s Society, we have examined both the evidence presented as part of the case<sup>4</sup> and our data on applications for funding, and held a series of collaborative discussions with experts, and we agree we must go further. We will bring immigration matters for separated migrant children into the scope of legal aid funding generally. We will shortly be bringing forward legislation to achieve this, and an amendment will be laid in due course.

#### Government action:

We will bring forward proposals to expand the scope of legal aid to include separated migrant children in immigration cases – by Spring 2019.

### Family Legal Aid

We have heard evidence about other vulnerable groups for whom legal aid funding may be appropriate, but who may not currently be able to access it easily. We will bring forward proposals to expand the scope of legal aid to include Special Guardianship Orders (SGOs) in private family law. SGOs are private family orders giving a ‘Special Guardian’ – usually a grandparent or other family member – full legal parental responsibility for a child for the duration of the order. Ordinary care proceedings are in scope of LASPO, but SGOs are not unless there is risk of abuse to the child, despite the fact that such orders are often made as an alternative to care orders or adoption orders. We will bring forward proposals to change this.

Separately, we will also continue our work with The Law Society to explore alternative models for delivering family legal aid, and consider the support available to victims of domestic violence.

#### Government action:

We will bring forward proposals to expand the scope of legal aid to cover special guardianship orders in private family law – by Autumn 2019.

We will continue to work with The Law Society to explore an alternative model for family legal aid.

<sup>4</sup> The Children’s Society, (2017) *Cut Off From Justice: The impact of excluding separated migrant children from legal aid*.

## Exceptional cases

The Government recognises that the current scope of legal aid is based on a statutory framework which cannot reasonably capture the specific circumstances of every person who might bring a case.

We have always ensured that legal aid is available in circumstances where it is necessary and it was for this reason that the Exceptional Case Funding (ECF) scheme was introduced. The ECF scheme is in place to provide legal aid, subject to means and merits tests, where a matter is out of scope but there would be a breach of the European Convention on Human Rights (ECHR) or enforceable European Union law if legal aid was not available. The number of cases funded under this scheme is rising.

It is important to ensure that the process for applying for funding under ECF is simple and straightforward. For this system to be effective, it must be accessible. We have considered this closely through many discussions with experts and considered evidence submitted to us on this issue<sup>5</sup>. Whilst the increasing numbers of people accessing the scheme are encouraging, we think there could be further steps that we can take to ensure the system is operating in a way that makes it accessible to those who need funding under it, and to ensure that decisions are made in as timely a manner as possible.

Various groups have suggested that the guidance on ECF is unnecessarily complex – even for legal practitioners<sup>6</sup>. We think concerns over the complexity of applying for ECF are heightened

in emergency cases, for instance, where there is an urgent hearing. Considering whether this guidance can be simplified would help to ensure that users are more aware of their entitlement to funding and are able to access this support. We will work collaboratively with legal practitioners to ensure this is as user-friendly as possible.

We think it is also important to explore ways in which we can improve the application process itself. We agree this should be as streamlined as possible and that applications for funding should be determined in as timely a manner as possible, and we are keen to work collaboratively with practitioners on this. We will also consider whether it is necessary to design and introduce a new emergency process for urgent cases, to ensure that everyone with an entitlement to funding can access it when they need it.

### Government action:

We will work with legal practitioners to consider whether the process for applying for Exceptional Case Funding can be simplified, and ensure that the forms and guidance are as accessible as possible – by the end of 2019.

We will work to improve timeliness of the Exceptional Case Funding process, to ensure that people can access funding when they need it – by the end of 2019.

We will consider whether it is necessary to introduce a new emergency procedure for urgent matters to access Exceptional Case Funding – by the end of 2019.

<sup>5</sup> The Law Society 2018 (see footnote 3)  
The Howard League for Penal Reform, (2018) *Howard League for Penal Reform's response to the LASPO Post-Implementation Review*.

<sup>6</sup> The Law Society 2018 (see footnote 3)  
House of Commons Justice Committee 2015 (see footnote 4)

## Discrimination, Debt and Special Educational Needs cases

For the legal aid system to be inclusive for everyone across England and Wales, publicly funded legal services should cater to the needs of everyone accessing them. Currently, legal services are accessible through a telephone service in many areas currently within the scope of legal aid. This service has proven invaluable to people across the country, especially those geographically or otherwise isolated. Maintaining this is vital, but we are keen to do what we can to enhance it.

A key way to do this is to ensure that the method of access does not inadvertently act as a barrier for some groups. Currently, to access publicly funded legal services relating to debt, discrimination and special educational needs, a person must use the telephone service in the first instance. Only if they are eligible, and if telephone advice is determined inappropriate, is a person able to access alternative advice.

We have received evidence that argues that while remote legal advice is an important service and can in fact be appropriate for many people, for some it is not<sup>7</sup>. The mandatory element of this service means that there are some people required to use this process for whom it is not appropriate, for example those who are vulnerable and may find communicating over the telephone more difficult. Some stakeholders have suggested that this limits access to legal services for which people have an entitlement<sup>8</sup>.

While we do not agree that the current arrangement necessarily always limits access, and we have taken a range of steps to ensure the Civil Legal Aid telephone service is inclusive, we are keen to ensure every person who needs specialist advice can access it. A remote point of access over the telephone is a fundamental part of this for some, and we would not want to limit this. However, we agree that for those for whom it is not appropriate, it should not be mandated. As such, we will remove the mandatory element which requires individuals to seek advice over the telephone in the first instance in discrimination, debt and special educational needs cases, and reinstate immediate access to face to face advice in these areas.

### Government action:

We will remove the mandatory requirements from the telephone gateway for debt, discrimination and special educational needs cases which are already in scope – by Spring 2020.

<sup>7</sup> Equality and Human Rights Commission (2018), *The impact of LASPO on routes to justice*. The Law Society 2018 (see footnote 3), amongst others

<sup>8</sup> Equality and Human Rights Commission, 2018 (see footnote 8). The Law Society 2018 (see footnote 3)

## Inquests

Finding the answer to questions concerning the death of a close family member can be an important element in granting closure to the bereaved. In acknowledgment of this, we have ensured that legal aid remains available where it is necessary in inquests.

In addition, following reports on the experiences of bereaved families involved in inquests<sup>9</sup>, the Government agreed to consider the provision of legal aid and support for inquests, exploring what more could be done to ensure that bereaved families are properly supported, through legal aid and other forms of support. This has been undertaken alongside the review of the legal aid changes made by LASPO<sup>10</sup>.

Alongside the changes to legal aid outlined in this document, we will bring forward proposals to the inquest process, guidance literature, and legal aid system in lay terms to improve user understanding of the process<sup>11</sup>.

### Government action:

We will consult on proposals to provide separate guidance for families which sets out the inquest process and legal aid system in lay terms.

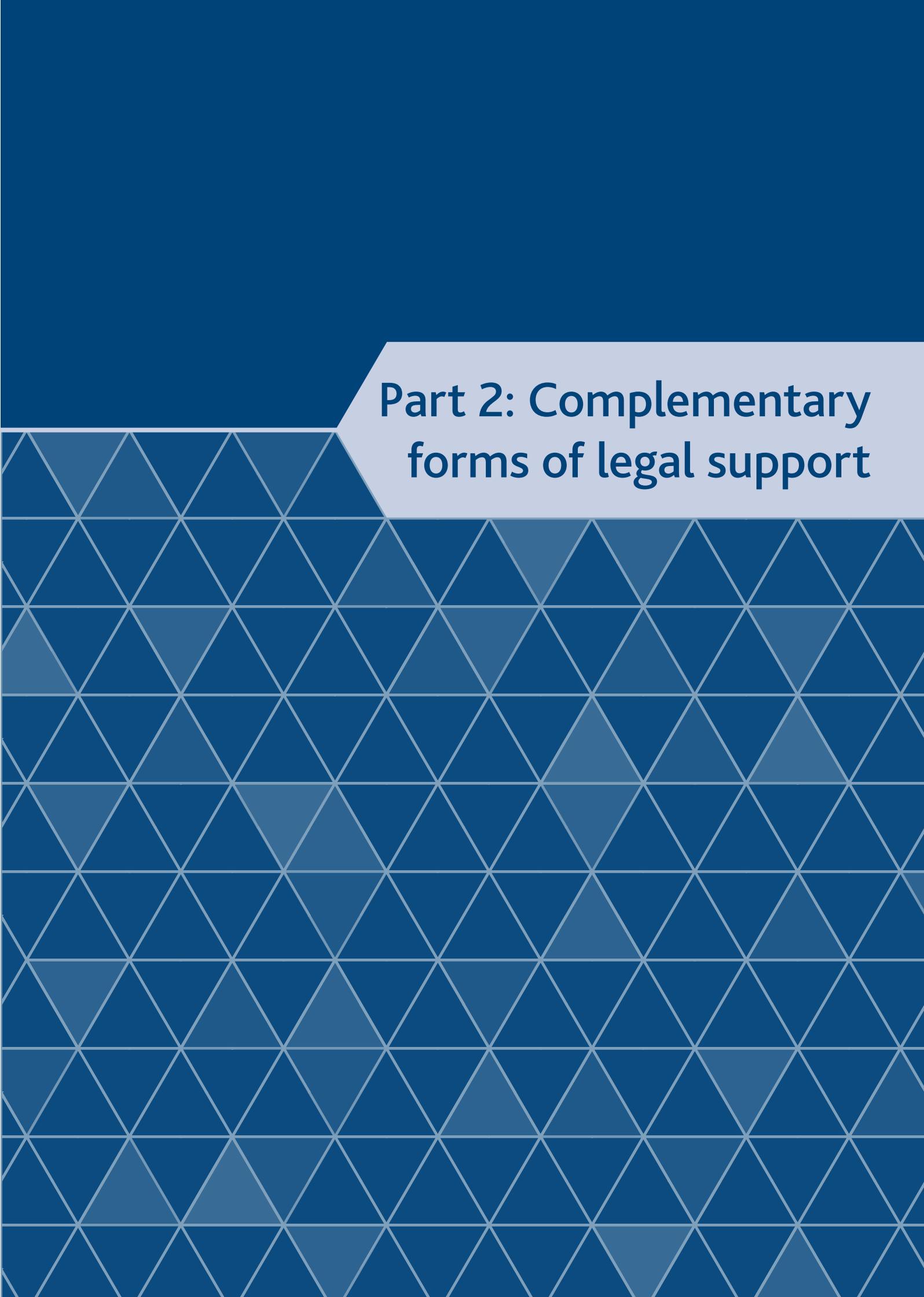
We will bring forward changes to the ECF application process as a whole to address the perceived problems with the complexity of the forms and the time needed to complete them.

We will consult on introducing a provision for the backdating of the legal help waiver, so that all such payments can be backdated to the date of application should a waiver be granted.

<sup>9</sup> Rt. Hon. Dame Angiolini DBE QC (2017), *Report of the Independent Review of Deaths and Serious Incidents in Police Custody*.

<sup>10</sup> <https://www.gov.uk/government/publications/post-implementation-review-of-laspo>

<sup>11</sup> Details on these wider changes to inquests are discussed in the Final Report of the [Review of Inquests](#), published at <https://www.gov.uk/government/publications/review-of-inquests>



## Part 2: Complementary forms of legal support

## Part 2: Complementary forms of legal support

As the department responsible for funding legal aid, it is right that we are focused on ensuring legal aid continues to be available now and into the future. Yet, as we have heard throughout our engagement over the last year, it is important

that we acknowledge that legal aid is only one part of the picture. To effectively support people seeking to resolve their legal problems we must also take a broader view.

### A strategy for legal support

It is from this broader view that we want to consider the spectrum of legal support services. At early stages, the provision of information and guidance, explaining technical terms and directing people to available resources can be very important to support someone to resolve a legal problem early. At the other end of the spectrum there are legal problems which require specialist legal advice or representation in a court from a legal professional. Especially those involving criminal proceedings, or other matters when a person's life or liberty is at stake.

The nature of different types of legal support can differ greatly, but all are important depending on the circumstances, and it is important we consider the breadth of this support when considering this.

Lord Low in his 2015 report<sup>12</sup> recommended a more strategic approach to legal support, bringing together the range of support across England and Wales. This need for a broader consideration is in line with much of the stakeholder engagement we have had over the past year, and was also highlighted in the Evans review into legal aid in Scotland<sup>13</sup>. It is with this in mind that we now want to expand our focus.

We believe that professional legal advice and representation has an important role to play in supporting people resolve their legal problems. We also think, however, that there may be circumstances when there may be other effective ways to support someone at early stages.

Existing evidence highlights that many people attempt to resolve a problem on their own, or with the help of 'informal' sources of advice such as family and friends, before seeking specialist advice and support, and that the level of formal or professional support they seek is related to the seriousness of the problem<sup>14</sup>. Focusing funding on legal aid alone means opportunities may be missed to support people to resolve legal problems sooner and reduce conflict, stress and cost.

The Justice Select Committee identified in their 2015 report on legal aid that there is no silver bullet<sup>15</sup>. There are also limitations in the current evidence base on 'what works' to help people secure their rights and achieve sustainable justice outcomes. We want to be proactive to identify changes that could help and to build a strong evidence base to form policy thinking for the future, as well as making sure that we effectively draw on the existing national and international evidence base.

<sup>12</sup> Low Commission, (2014). Tackling the advice deficit: A strategy for access to advice and legal support on social welfare law in England and Wales. *Report of the Low Commission on the future of advice and legal support*.

<sup>13</sup> Evans, M. (2018) *Rethinking Legal Aid: an independent strategic review*, pg 52.

<sup>14</sup> There is a significant national and international body of 'legal needs' research which explores people's experience of legal problems and the resolutions sought. For a review, see Pleasence, P., Balmer, N. J. and Sandefur, R. L. (2013) *Paths to Justice: A Past, Present and Future Roadmap*, London: Nuffield Foundation. For recent survey results for England and Wales, see Franklyn, R., Budd, T., Verrill, R. and Willoughby, M. (2017) *Findings from the Legal Problem and Resolution Survey*, London: Ministry of Justice.

<sup>15</sup> House of Commons Justice Committee 2015 (see footnote 4)

## Earlier resolution of legal problems

We have heard through our discussion on the LASPO Review that many advice providers have had to reprioritise their services away from early support toward supporting people once they reach a crisis point<sup>16</sup>. Practitioners have argued that this reduction in supply of early support has been particularly felt in matters such as housing and welfare benefits<sup>17</sup>, whilst demand for these services has remained high.

Practitioners views and research evidence indicate that people often struggle to identify the best course of action, and often lack the necessary legal capability to deal with a problem themselves<sup>18</sup>. Some suggest this may result in people pursuing inappropriate means of resolving their issue<sup>19</sup>. For example, we have heard from stakeholders that reforms to legal aid have led to some people coming to court when alternatives like mediation would have been suitable<sup>20</sup>.

## Potential benefits that may come from earlier resolution

We believe that high quality early legal support may help people understand their options and empower them to resolve their problems earlier. This may avoid unnecessary financial and non-financial costs to the individual and those around them (through inactivity or pursuing an ineffective course of action), society (through wider societal costs from unresolved legal problems - e.g. negative mental and physical health outcomes) and government (through preventable demand for services).

A range of evidence was highlighted and submitted to us arguing this point<sup>21</sup>. Indeed, many of our discussions with stakeholders have focused on the wider benefits of supporting early resolution. We are keen to explore this further, especially the most effective ways for central government to help enable this.

<sup>16</sup> Also Low Commission, 2014 (see footnote 13) amongst others

<sup>17</sup> Law Centres Network (2018), *LASPO Act 2012 Post-Implementation Review Submission from the Law Centres Network*.

<sup>18</sup> Balmer, Buck, Patel, Denvir & Pleasence (2010), *Knowledge, capability and the experience of rights problems*. Low Commission, 2014 (see footnote 13)

<sup>19</sup> The Law Society, 2018 (see footnote 3) amongst others

<sup>20</sup> The Law Society, 2017 (see footnote 4)  
LASPO Review Conference with the Legal Aid Practitioners Group (2018), amongst others

<sup>21</sup> The Law Society, 2017 (See footnote 4)  
Citizens Advice (2014), *Citizens Advice Submission to the Justice Select Committee inquiry into the impact of changes to civil legal aid under the Legal Aid, Sentencing and Punishment of Offenders Act 2012*.  
Law Centres Network, 2018 (see footnote 18) amongst others.

## The best ways to support earlier resolution

There are many different forms of legal support, helping a variety of people with a variety of legal problems. In the years since the changes made by LASPO, society has changed dramatically, including in the technological capability of many people accessing these services. Many providers are now offering technology based solutions in addition to face to face advice, such as Shelter and Citizens Advice, and we must do more to understand the support which assists others. We must also explore how we can support these people in the most efficient way, conscious always that we are using taxpayers' money and must use it wisely.

In addition to the immediate steps outlined in Part 1, the Government wants to be proactive in developing the evidence in this area. Over the next two years, the Government want to work collaboratively with academics and practitioners to build on the existing evidence. The Government will proactively test, pilot and research the provision of legal support in a modern justice system. These pilots will be for a time limited period in this first phase, intended to develop the evidence base and help indicate what works. This is only a first step, but it is a starting point to explore benefits of a range of legal support services on different groups of the population.

We will combine this innovative and collaborative exercise with efforts to ensure our Government tools are effective and that they signpost people to the appropriate external services.

# Government-led initiatives

## Effective signposting

Whilst we remain convinced that innovation will come from the sector, and we are keen to work collaboratively to encourage this, we are also keen to ensure that the information the Government provides is communicated and presented in as useful a way as possible, embracing technology where we can.

To this end, in addition to the range of signposting support provided on gov.uk, we recently piloted an online guide for people looking to make or change their child arrangements, to help people decide on the right support and systems for them<sup>22</sup>.

### Case study: Child Arrangements Information Tool

This website aims to provide users with a clear and authoritative source of information about making child arrangements. Whilst there is a lot of information available on the internet, it can be hard to distinguish between what content might be helpful or not. This website provides information on the out of court dispute resolution services that are available, setting out the advantages and disadvantages of different options, going a step further than the existing information on gov.uk to help people make an informed decision. The content of the website was developed through user research and online feedback received from professionals and separating parents.

As well as developing this further, we are keen to explore whether there is more Government can do to inform people of their options.

In particular, we think there may be benefit in more effective signposting to legal support services. We have heard that there is a gap in the bringing together of existing legal support

services to help people understand what support is available to them. There is little centralised mapping of the services which are available, which limits the ability to understand where gaps may exist, or synergies may be available. We want to take a more strategic view.

There are other areas where technology has transformed the delivery of early support services<sup>23</sup>. In addition to building our understanding of how people resolve their legal problems, we want to explore what more can be done to help signpost and triage people to the right support and route of dispute resolution. Developing more effective online signposting was also identified in the 2018 Independent Strategic Review into Legal Aid in Scotland, which recommended an active public policy to promote a 'channel shift' for signposting from current face-to-face methods to online<sup>24</sup>.

We are keen to be proactive in exploring this with the sector immediately and will undertake a project exploring different ways of designing a service like this in a user centred way, alongside the sector.

It will be important to assess the extent to which people, including those with protected characteristics, can reach the support they need through more effective signposting. We will therefore need to explore how data can be captured about who is accessing these sources of help, their problems, and whether signposting and triage are able to provide accurate, timely information which will ultimately help users enforce their rights and resolve their problems.

### Government action:

We will undertake a pilot to explore how we can better co-ordinate and signpost legal support.

<sup>22</sup> <https://helpwithchildarrangements.service.justice.gov.uk/>

<sup>23</sup> For instance, central collation of early support for health problems through the Health A-Z on NHS.uk

<sup>24</sup> Evans, 2018 (see footnote 14)

## Telephone support

In addition to online legal support, we think there is an opportunity to use existing triage and signposting services delivered through the Civil Legal Advice telephone service.

Beyond continuing to improve the specialist legal services offered through CLA, we are also keen to explore ways in which we can enhance our triaging services to other forms of support.

### Case Study: Telephone Support

The Civil Legal Advice service provides specialist legal advice to people across England and Wales who qualify for legal aid. This helps people with debt, education, discrimination, housing and family issues. CLA's fully trained advisers deal with around 1,500 new cases each month.

When people contact CLA, they will be asked questions about their problem and their financial circumstances to identify their eligibility for legal aid. If it looks like they qualify, they will be transferred to a CLA specialist adviser. The adviser will need to ask them further questions to confirm whether they can help. This will include consideration of whether online or telephone advice is appropriate, where face-to-face advice is considered necessary, or if representation in a court or upper tribunal is needed, CLA will arrange this for the client.

If CLA can't help, they will always suggest other places where people can go for information or advice and attempt to triage the person into the right support for them depending on their circumstances. This may include local or national advice services.

We think a broader range of legal support that can be accessed remotely could bring tremendous benefit to those geographically or otherwise isolated people in need of support. For instance, innovative delivery models like those being explored by Legal Advice Centre (University House) who are based in Bethnal Green and are piloting a remote video advice service to people in Cornwall.

We agree with those who suggest that we can do much more to enhance our services in this area<sup>25</sup>. We will explore different ways of improving this triage and signposting support to better help people successfully resolve their problems.

### Government action:

We will also test a series of changes and enhancements to triage and signposting support offered as part of the Civil Legal Aid Telephone Advice Service by Summer 2019.

<sup>25</sup> The Law Society, 2018 (see footnote 3)  
House of Commons Justice Committee, 2015 (see footnote 4)

## Face to face support as a pilot for social welfare

Whilst we think better online signposting and information provides an opportunity to inform people about the best course of action, we acknowledge that online solutions are not a panacea. They will not be suitable for every problem, every provider or every person. As above, the ambition of improving the provision of online support is that people in circumstances where this is appropriate can access it, meaning that scarce resources are retained to deliver face to face advice where it is needed. To deliver an inclusive system, we need to be sure individuals can use the right channel for them.

Early face to face support can be very important to people in resolving their legal problems, and last year we spent almost £100m on funding Legal Help to enable this. However, beyond legal aid funded advice, there is a wide range of other face to face legal support services that can be effective.

There will always be certain circumstances, where face to face support is necessary. Indeed, there will always be circumstances where this support needs to be delivered by a professional legal adviser. And in these circumstances, there will be times where legal aid is necessary to fund access to this support.

As discussed in Part 1, it is right that legal aid continues to be focused on those who need it, and we are taking steps to ensure this is the case. However, it is important to recognise this is not the extent of legal aid funding at present. For instance, in private family law, certain mediation services are funded through legal aid. The purpose is to support more effective resolution out of court where it is appropriate.

Many have argued on similar lines that access to Legal Help can drive earlier and more effective resolution of legal problems, and this has particularly been argued in relation to certain social welfare matters<sup>26</sup>. It has been argued by others that

legal problems in this area can generate significant costs to people, society and government.

As part of our multi-channel approach to explore the efficacy of different forms of legal support, we think it is right to evaluate the impact of early Legal Help in some circumstances, and test its impact on promoting early resolution. We will focus this on social welfare matters where we have heard particular evidence around problem clustering.

We will continue to assess which specific area of social welfare law this pilot should cover. As part of our review, some have proposed that we should consider expanding scope of legal aid for housing benefit matters to avoid the escalation of problems. One practitioner's association argued that around 50% of housing possession cases for which they receive legal aid could be traced back to a housing benefit issue. This is something we are exploring further with other government departments.

As a first step, we think there is merit in considering whether to bring forward proposals for a pilot of access to legal aid funding for early advice in a specific area of social welfare law, for a determinate period. This pilot would make available a short session of legal advice to assess whether early guidance can avoid the escalation of problems. A pilot would also allow us to determine whether the case made during the Post-Implementation Review is supported by empirical evidence.

We will conduct an evaluation of the impact of the financial and non-financial impact of the change.

### Government action:

We will bring forward proposals to pilot and evaluate the expansion of legal aid to cover early advice in a specific area of social welfare law – by autumn 2019.

<sup>26</sup> Housing Law Practitioners Association (2018), *Submission to the Ministry of Justice's Post Implementation Review of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)*. House of Commons Justice Committee, 2015 (see footnote 4) amongst others.

## Co-location of support services – a holistic approach

There are various initiatives underway across the country to creatively deliver legal support alongside other services to help people with legal problems. Co-located legal support services may help people with multiple, linked, or difficult to diagnose legal problems, and can avoid barriers to support that may arise from multiple referrals between providers.

Alongside our work to improve signposting and co-ordination of legal support online and by telephone, we want to assess and collect evidence as to whether the co-location of support services offers cost effective solutions to people's problems. We have heard concerns about people not knowing necessarily where to seek support, and we think there could be benefits to people from better co-ordination of face to face support services.

Many not-for-profits focus on specialist issues or groups<sup>27</sup>. Whilst important and beneficial in many cases across the country, this structure may lead to people falling through the net if people can only access support for certain elements of their legal problems. Indeed, even if someone can be referred on to other services to help them with other legal problems, this referral is often reliant on local or personal relationships, and can lead to attrition as people fall out of the referral process.

When approaching this from the perspective of the people trying to access the support they need to resolve the totality of their legal problems, being referred and redirected to a series of different specialist providers may not be the most effective way to help people. We think there may be more that can be done to empower local providers to deal with the totality of a person's legal problems more holistically, to minimise referral attrition and to co-ordinate services.

### Case Study: Integrated face to face advice in Newham<sup>28</sup>

The UCL integrated Legal Advice Clinic (iLAC) launched in January 2016 at the Sir Ludwig Guttmann Health and Wellbeing Centre in Newham. It provides advice, casework and representation across a range of legal issues, with specialisms in welfare benefits, housing, community care and education law. The clinic receives referrals from GPs in the Liberty Bridge Road General Practice, as well as drop-ins from patients attending other clinics at the health centre, other GP practices and the wider local community. The UCL iLAC is staffed by UCL law students working under the supervision of experienced, qualified lawyers and advisers. Since its launch it has achieved many positive outcomes for members of the local community. Research is being undertaken at the UCL iLAC, investigating the health impact of legal assistance and the role and value of partnership between health and legal services.

<sup>27</sup> For instance, agencies specialising on certain issues (such welfare benefits, or housing) or targeting support at certain people (such as refugees, or people from a certain location).

<sup>28</sup> UCL Centre for Access to Justice, Beardon, S., Genn, H. (2019) *The Health Justice Landscape in England & Wales. Social welfare legal services in health settings*.

As a first step, building on lessons from previous initiatives, existing knowledge and in-depth research and evaluation<sup>29</sup>, we want to fund, test, and evaluate the benefits from the co-location of complementary face to face legal support, especially in areas such as social welfare, where problems do tend to cluster.

In particular we want to gather data from users to understand the range and complexity of legal problems they have, how they respond to support provided and how effective this is in helping them resolve their issues.

### Government action:

We will work collaboratively with the sector to pilot, test and evaluate the provision of holistic legal support hubs to more effectively support earlier resolution of a person's legal problems.

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<sup>29</sup> From previous comparable initiatives in the past, such as Community Legal Advice Centres and Networks, see for example Buck, A. & Smith, M. (2013) Back for the Future: A Client Centred Analysis of Social Welfare and Family Law Provision, *Journal of Social Welfare and Family Law*.

## Enhancing support for litigants in person

Better information and signposting at early stages could enable people to resolve their legal problems earlier and through other means outside of the formal justice system where appropriate. Nonetheless, there will always be matters which require courts or tribunals to resolve. Alongside our continued commitment to the principle that there are certain legal problems, and certain circumstances, for which publicly funded legal services are appropriate, we believe that there are other problems and other circumstances for which other forms of legal support may be appropriate.

Whilst it is true that legal aid is one part of the picture of legal support, for the system of support to truly thrive, we must ensure that sufficient options of support continue to be available. In particular, we think we must do more for people coming into contact with the justice system without representation.

Beyond the development of accessible courts and tribunals systems<sup>30</sup>, we must ensure that high quality guidance and support is available to everyone. We currently provide £1.45m every year to the Litigants in Person Support Strategy, through the Access to Justice Foundation. This collaborative Strategy supports LiPs through the courts and tribunals system in many ways, including support at court through Personal Support Units, and online support through tools like AdviceNow.

This is important support to people, and in addition to our work to make the systems more accessible, and ensuring legal aid is available when people are eligible we want to go further. We will now double our commitment to funding these services under the strategy and will commit to do this for the next two years, to increase certainty for the providers themselves in accessing resources to help them make a real difference.

We will also do more to help people navigate the justice system when they come into contact with it. Through HMCTS modernisation, we are constantly exploring ways in which we can make the system more accessible. For instance, we already provide information and guidance online about what to expect when coming into the courts, especially the criminal courts.

Whilst there has been good research undertaken into the experiences of litigants in person, we have also heard concerns about the limitations in the available data<sup>31</sup>. Although we have moved forward in recent years, we think this is a good opportunity to do more, and alongside HMCTS reform and this work on legal support we will improve our evidence base on litigants in person across the court system.

We are also keen to work closely with the legal professions, and specialist not-for-profit organisations about the role Government can play to support the delivery of important pro bono services across the country. In particular the ways in which new technologies can empower legal practitioners to deliver more effective pro bono support, and other forms of support legal professions and firms can provide to individuals and other providers in the not-for-profit sector.

### Government action:

We will enhance the support offered by MoJ and HMCTS for litigants in person, as well as increasing our funding for the Litigants in Person Support Strategy to £3m for the next two years.

<sup>30</sup> Discussed further in Part 3

<sup>31</sup> The Law Society, 2018 (see footnote 3)

## Wider research and expertise

We have considered a wide range of research and evidence over the past year. This has been invaluable in informing our thinking about where we need to go next. However, we also acknowledge that there are gaps in this evidence and there are areas where existing evidence could be refreshed or updated to reflect societal and system changes.

We would like to build on the evidence available. We are keen to work in partnership to develop this through existing networks with external research communities and funders working in all areas of justice. We would like to develop new networks.

Last year the department published a high-level overview of areas in which we are interested in developing our evidence base<sup>32</sup>. This spanned the breadth of all justice services but includes issues which are relevant and topical in this space which we did indicate we wanted to explore further. In particular, building on the other initiatives in this section, gaining a better understanding of how people behave early in the resolution of legal problems, and the effectiveness of support targeted at these people. We need to learn more about the paths to justice people take in today's society, and how our systems reflect that.

We will evaluate all of the initiatives discussed in this section. Part of the purpose of this programme of work is to better understand the impacts on those with problems, on the practitioners and services that support them, and on central and local government resources.

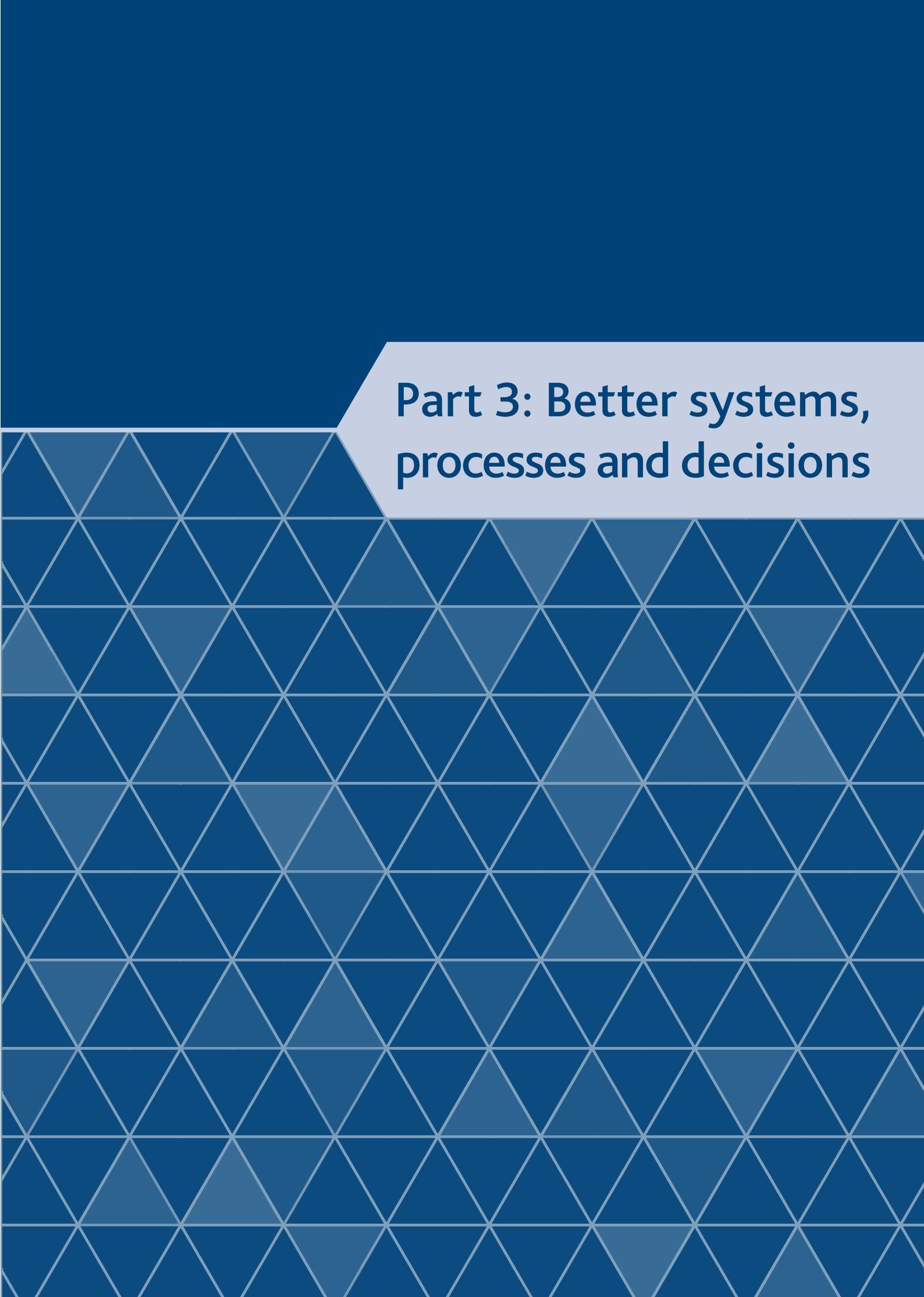
We appreciate, however, that evaluation of access to justice impacts is complex. For example, there are issues with defining outcomes, understanding the counterfactual, measurement data, and tracking people across services. We will need to collaborate with the sector and make use of external expertise to make sure we are developing robust evaluation frameworks which are also realistic and proportionate.

It is crucial that we work with existing networks with external research communities and funders to build on the current national and international evidence base and importantly develop evidence further. This will be at the heart of informing future policy in legal support.

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<sup>32</sup> Ministry of Justice, Areas of Research Interest, 2018. Available at: <https://www.gov.uk/government/publications/ministry-of-justice-areas-of-research-interest>





## Part 3: Better systems, processes and decisions

## Part 3: Better systems, processes and decisions

In addition to fostering a legal support system to meet the breadth of needs people have when accessing justice, we are also keen to work proactively to reduce the need for people to access legal support because of structural issues.

As noted by MHCLG in a recent research report, limited access to legal support at early stages of possession proceedings can contribute to longer timescales to process cases<sup>33</sup>, and the proposals outlined in this document are intended to help address this. However, the report also cites unhelpful forms and processes as other key factors<sup>34</sup>. In addition, many have argued that there is more that government can do to reduce demand on the justice system by making better decisions<sup>35</sup>, removing demand at the outset.

Alongside our work to improve the support people can access, we are also keen to do more internally in government to improve our decision making and processes to reduce unnecessary and preventable cases where possible.

### Cross-government action

Initial administrative decision making by government departments is a key driver of the volume of cases in the justice system, and the experience of people as they progress through it. Poor decision making can have major consequences for people and can weaken public confidence in government. Better decision making will mean fewer people having to resort to a court or tribunal to enforce their rights, a less stressful and traumatic experience for people when they do have to resort to a court or tribunal, and wider efficiencies in terms of cost and time.

Considerable cross-government work is already underway to ensure that the quality of initial decision making is as high as possible. For example, MoJ and DWP officials are discussing how we can work together to improve initial decision making for those seeking social security benefits, building on the summary reasons which judges feedback to DWP. Officials are also meeting to consider how feedback from DWP Presenting Officers can be used to improve initial decision making. In addition, we are also exploring ways in which we more effectively use data science tools to better manage demand for our courts and tribunals.

The MoJ is working closely with the Home Office to improve initial decision making in immigration and asylum cases. The Home Office's new customer contact strategy will ensure that anyone struggling to navigate the many different immigration routes can speak to an experienced caseworker to get the expert advice they require. In addition, the Home Office established a new central Chief Caseworker Unit in June 2018, led by the newly created post of Chief Caseworker, to bolster case-working expertise and ensure that specialist guidance is available to caseworkers. This will ensure that decision makers place greater emphasis on the customer rather than unduly focusing on process, and ensure that, where additional judgement or discretion is required in order to progress a case to an appropriate solution, systems are in place to ensure this consistently happens.

<sup>33</sup> Ministry of Housing, Communities and Local Government (2018), *A qualitative research investigation of the factors influencing the progress, timescales and outcomes of housing cases in county courts*.

<sup>34</sup> Ibid

<sup>35</sup> The Law Society, 2018 (see footnote 3)

Bach Commission (2017), *The Right to Justice, The final report of the Bach Commission* amongst others

The newly formed Administrative Justice Council, chaired by the Senior President of Tribunals, are also looking closely at how initial decision making can be improved. The Law Commission have also committed to consider the use of administrative review in its 13th Programme of Law Reform proposals as a means of improving and correcting decision making in government departments.

We are also working together with the Reducing Reoffending Third Sector Advisory Group to better facilitate the participation of the voluntary sector in the delivery of rehabilitation and resettlement services, and recently consulted on how we might do this. We want to go further and explore ways in which we can also facilitate the delivery of legal support services across society.

However, there is more that we can do, especially in supporting earlier resolution of problems in areas of law such as housing, welfare benefits and debt, where one problem can often lead to other more serious problems.

In addition, beyond continuing to bring together stakeholders to inform our legal support policy, we are also keen to bring together other government departments with these stakeholders to jointly identify ways in which demand can be reduced

We will also continue our work to ensure government departments and agencies are getting decisions right first time to avoid people being brought into courts and tribunals unnecessarily.

### **Government action:**

We will work more closely across government, including through existing cross-government groups, and bringing together departments and support providers to focus on ways to reduce preventable demand.

## **Modernising the justice system**

In addition to reducing demand where we can, it is also important that the justice system itself is accessible and navigable for those using it.

HMCTS are spending £1bn on their court reform programme which involves modernising and improving the experience of those who use our court system. It is imperative that the system is as accessible as possible to ensure that people are empowered to engage effectively with the system. By simplifying systems, we can reduce the need for legal support services where they may not be necessary.

For instance, the public can now apply for uncontested divorce online, apply for probate online, make pleas online for low level offences (such as traffic offences or evading bus fares), respond to jury summonses, track social security and child support appeals online, and issue and respond to civil money claims online.

Over 65,000 people have used these pilots and received straightforward, digital access to the courts for the first time; and the public feedback has been extremely positive. Users have been, and continue to be, at the heart of the design so that we create a better experience for those using our courts and tribunals and ensure that this process does not add to what, for some, can already be a stressful period. We have also made our tribunals system more user-friendly to ensure those attending can engage with the process.

We are also undertaking work in HMCTS to establish a new digital process in the Social Security and Child Support Tribunal to improve the experience of people coming to the tribunal, allowing them to submit, track and manage their appeal online, including verification checks and an online listing tool.

This is in addition to other changes to digitise processes for accelerated possession cases in housing cases, and probate amongst others, to make the systems more accessible for all. But we want to go further, beyond streamlining and digitising processes. We will continue our close work with the Senior President of Tribunals to consider all the innovative steps we can take to make our tribunals even more accessible, including rethinking how we deliver services.

We have also moved court and tribunal forms and guidance over to gov.uk to make searching for forms easier. The search for these forms has been made easier, meaning people can easily search for forms by using the form number as well as by any word which appears in the form title. This is empowering people to find the forms and guidance they need on their own in a simple and effective way.

The digitised Form C100 is currently being piloted in 17 family courts and we will roll this out to at least another 7 courts by the end of the year. The aim of the form is to make it easier for a litigant in person to complete and also to inform the applicant of out of court options where safe and appropriate to do so.

This is done by applying nudge techniques and contextual options to users of the form, which could help divert people from court as they will have greater awareness of the different options available to them. The digitised form also allows us to gather new insights about our users, allowing us to make better informed decisions about how to reform the private family law system. We will continue to explore ways in which we can improve our communications, including nudge techniques to ensure we are helping people as much as possible.

Another key element of modernisation of our justice system to remove avoidable demand for legal support is by modernising the law itself. For instance, we recently brought forward proposals to reform the legal requirements of the divorce process so that it is consistent with the approach taken in other areas of family law, and to shift the focus from blame and recrimination to support adults better to focus on making arrangements for their own futures and for their children's.

An objective of this reform should be making sure that divorcing couples are not put through legal requirements which do not serve their or society's interests and which can lead to conflict. This can also generate preventable need for legal support to help navigate these requirements, and it is right that as part of our steps to making the court system more accessible we consider issues like this.

Similarly, the Law Commission are currently reviewing the Home Office Immigration Rules to identify principles under which they could be redrafted to make them simpler and more accessible to the user, and for that clarity to be maintained in the years to come. The Commission will seek to identify the underlying causes of excessive length and complexity in the Rules, and make recommendations to improve them for the future.

We will continue our work to modernise our courts and tribunals system alongside our work on legal support to ensure that everyone coming into contact with the justice system are there because they need to be, and when they are, they are able to engage with the system effectively.



## Part 4: Fostering a culture of innovation

## Part 4: Fostering a culture of innovation

Radical transformation which has characterised other services and sectors has not yet transformed the ways in which people access legal support, and exploring ways in which we can encourage this has been many people's focus throughout the past year of engagement<sup>36</sup>.

We know innovation will ultimately come from the sector. However, the Government can help create the conditions for that. Over the past year, we have spoken to many experts and practitioners about the vast opportunities in the delivery of legal support and advice in new ways, such as online, phone-based or telephone advice services. We can also work closely with other jurisdictions in this work; a strategic aim of the Independent Review of Legal Aid in Scotland is to invest in service improvement, innovation and technology<sup>37</sup>. This has the potential to change the face of legal support, not least through enabling geographically or otherwise isolated people to access the high-quality support they need quickly and easily.

We want to foster innovation in the legal services sector and create an environment that enables innovation to thrive. To do this, we will make funding available for initiatives developed by the market to deliver services in new ways. In particular we are keen to explore how to deliver services remotely to those who are geographically isolated and may not have easy access to local providers.

This year we will look to use up to £5m of funding, working with the sector to develop new ways of delivering legal support to those who need it.

We do not want to duplicate other programmes and funds, but wish to work collaboratively with the legal, advice and tech sectors to explore new ways of delivering legal support services, especially at early stages of legal problems. There are certainly complexities in this area in evaluating what works, but developing our evidence in this space will be a key priority.

We think there are benefits to society from greater exploration in new ways to deliver legal support to people who need it. We know many are already pushing boundaries in this area, not least the partnership between The Law Society and Barclays Eagle Labs<sup>38</sup> in Notting Hill to establish a hub for LawTech businesses to drive and support innovation in this field. There are also many good examples of work underway to encourage innovation and fund new ideas from the Legal Education Foundation, and the Access to Justice Foundation amongst others.

But we want to go further, and we want to do more to promote and encourage this to support people access justice in ways that truly reflect today's society. We think in particular new methods of delivery of support services could be transformative in early advice and areas where people often engage with the system without representation like courts and tribunals; but also other areas where, for whatever reason, people may not necessarily be accompanied by a legal professional.

Through this fund, amongst other things, we may want to explore:

- new ways in which legal support and advice can be delivered remotely through digital means;

<sup>36</sup> Low Commission 2014 (see footnote 13)  
Legal Education Foundation, Civil Justice Council, amongst others.

<sup>37</sup> Evans, M. 2018 (see footnote 14) p.83

<sup>38</sup> The Law Society 2018 (see footnote 3)

- ways in which questions about a legal problem, and legal support itself, can be broken down; as well as
- ways in which legal support can be delivered to litigants in person before, during and after their time at a court or tribunal.

Though this list is not exhaustive. We will detail specific challenges and questions we are looking to resolve in due course.

There will always be people for whom digital solutions may not be appropriate. However, we think technology can play a huge role in opening up services for those who are geographically or otherwise isolated and may not be in a position to access face to face support. As part of this, we are keen to evaluate the impact on reaching such people, as well as those with protected characteristics.

We think there are many people who can be supported using new technologies, and greater harnessing of the tools that are available to deliver legal support in new ways can unlock capacity across the sector to dedicate their limited and valuable services, like face to face advice, to the people who need them and cannot be supported in other ways.

There is also more Government can do beyond funding to encourage innovation in this area. We have discussed the opportunities and challenges in this space throughout the past year with a range of stakeholders from across the legal support and wider technology sectors. As Government, we want to do what we can to support the market overcome these challenges and seize the potential opportunities.

From our discussions, we would categorise the challenges for the sector under three broad headings:

- Access to funding: Especially in the field of legal support and access to justice, we have heard that private revenue streams can be challenging to identify, and there is limited funding available to pursue initiatives in this area.

- Access to data: We have heard that despite steps taken in recent years to improve and enhance data collection across government, accessing this can be challenging for organisations wishing to explore work in this area.
- Access to key people and key organisations: We have also heard that some start-ups in particular struggle to 'get their foot in the door' and have conversations with the right people across government and the private sector.

To help foster a culture of innovation, we want to do what we can to support the market overcome these challenges. As outlined earlier, we will use up to £5m of funding to support a range of initiatives to ensure that they can get off the ground and encourage more people to consider these problems.

Embracing technology has been a growing focus for Government, and this is why the Lord Chancellor last year established a government-backed but industry-led LawTech Delivery Panel bringing together a community of those interested in promoting and supporting the use of technology in the legal services sector. The Government has also recently provided:

- £20m in Next Generation Services funds to encourage innovation and research and development in the services sector, including a specific study to identify and remove barriers to artificial intelligence in legal services;
- £700,000 to the Solicitors Regulatory Authority to support and develop artificial intelligence in the legal services sector; and
- £2.7m for a Reducing Parental Conflict Challenge Fund, which will provide grant funding to innovative projects, to gather learning on what works to reduce parental conflict.

We have also recently begun work across MoJ, and in particular within HMCTS, to explore ways in which we may be able to consider how we share data, and in what form, where it is appropriate to do so. Over the coming years we want to work collaboratively to understand what more the Government can do to use data more effectively with partners from across the sector where appropriate

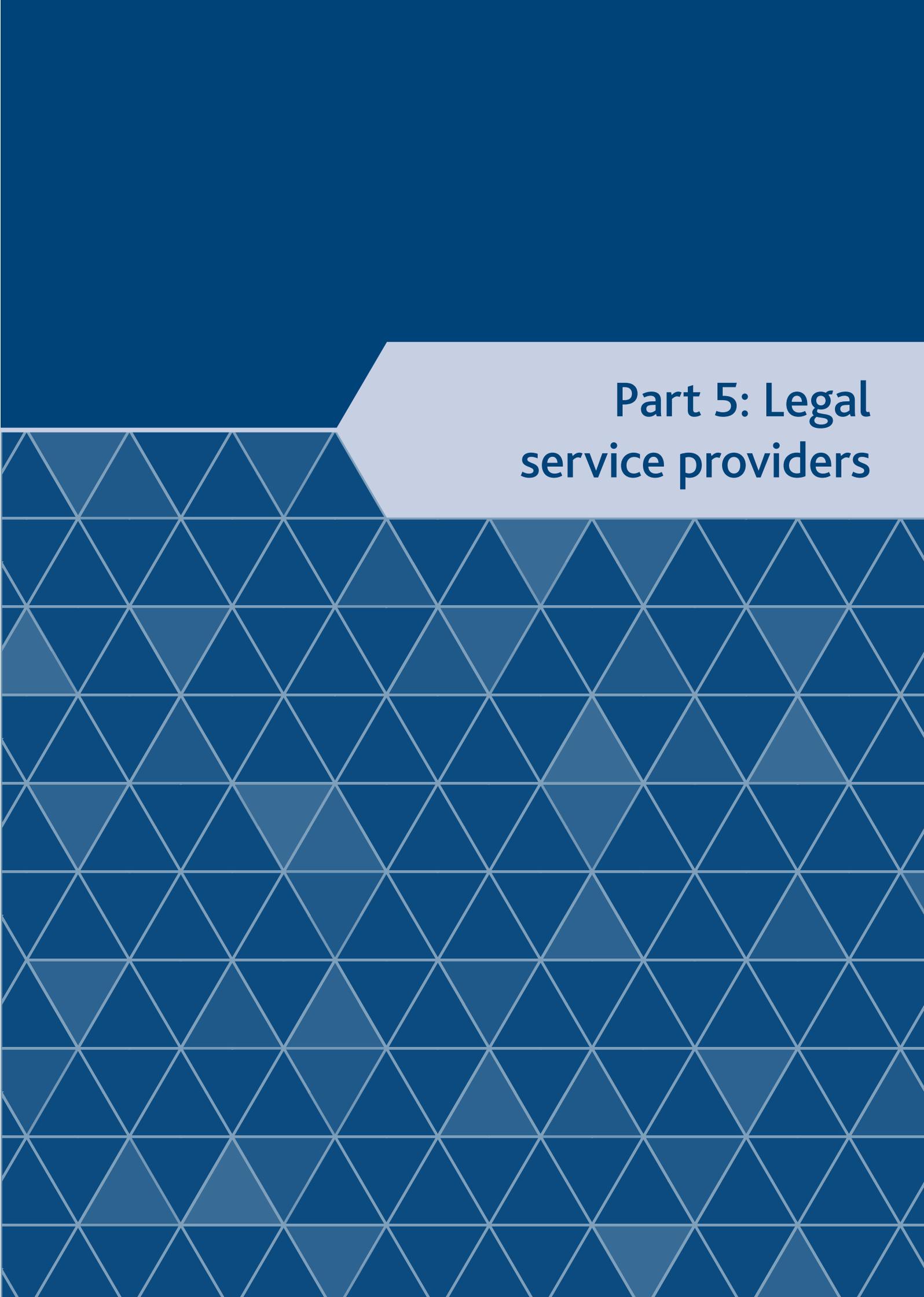
In addition to this, we will use a Legal Support Advisory Network to bring together organisations from the tech and legal sectors with other experts from across the field to generate more productive conversations and break down the barriers. We want to take on a more proactive role of strategic coordination of legal support work and innovation across the sector to help everyone overcome these challenges. This will go hand in hand with the MoJ's wider work to encourage LawTech across the sector beyond legal support. We also want to build momentum and convene a conference on innovation in legal support in the first half of 2019.

Modernising our justice system, together with nurturing innovative legal and advice sectors, will open up the justice system like never before. That is why we are investing in innovation, working together with providers, to ensure that the UK can become a global beacon for new and innovative technologies supporting people access justice.

#### **Government action:**

We will continue to work across the justice system to explore how we can use data more effectively.

We will set up a Legal Support Advisory Network to make use of external expertise, shape our research and evaluation proposals, and potentially explore new research opportunities and collaborations.



## Part 5: Legal service providers

## Part 5: Legal service providers

The legal profession is vitally important to our justice system, and it is important that we continue to support it. It is imperative that we continue to attract and retain the best legal talent to ensure that we can call on a dedicated base of legal practitioners now and into the future.

### Criminal Fee Schemes

Over recent years, we have worked with the legal profession to update and modernise the fee schemes under which lawyers are paid legal aid. For instance, we have recently laid legislation making changes to the Advocates' Graduated Fees Scheme. However, we recognise that there is scope to further improve the way we pay Crown Court defence advocates to better reflect the work they do.

In light of consultees' outstanding concerns and the wide-ranging changes across the justice system, not least the transformation of our courts and tribunals services, as well as the Attorney General's review of disclosure in the criminal courts<sup>39</sup>, it is imperative we continue to work together to ensure our criminal legal aid fee schemes remain current. The Government believes the time is right for a more holistic review of criminal legal aid. The first phase of this will be a design phase to determine the scope and format of the review, in which we will involve the legal profession and wider key stakeholders.

This review will cover all of the criminal legal aid fee schemes and structures including: Litigators' and Advocates' Graduated Fees, Very High Cost Cases, Police Station and magistrates' court work. This will allow us to take into account the implications of HMCTS Reform, and the views of external stakeholders, on criminal legal aid work, and build a modern scheme fit for the future to ensure the sustainability of the profession and access to justice for the end user going forward. We are keen to do this promptly but we are

dependent on collaborative working with the professions to achieve the right outcomes.

#### Government action:

We will complete a comprehensive review of the criminal legal aid fee schemes and structures – by Summer 2020.

### Administrative Processes

We will also consider the administrative burdens passed onto legal aid providers through fee schemes and other processes, to ensure they are as streamlined as possible. We want to ensure that, whilst continuing to prioritise quality standards, providers only face administrative processes that are genuinely necessary, and we will work with them to ensure the system is fit for purpose.

#### Government action:

We will complete a comprehensive review of the regulatory and administrative requirements passed onto providers and work with users to streamline these where possible – by the end of 2020.

<sup>39</sup> Attorney General's Office (2018), *Review of the efficiency and effectiveness of disclosure in the criminal justice system*.

## Next steps

This Government is committed to delivering an effective and accessible system of legal aid for the long term, as well as a complementary system of legal support alongside it.

However, we acknowledge that this cannot be delivered overnight. This must be the first step in a process, and this process must be open, collaborative, and driven by evidence to be successful.

This document is just the beginning of this process. There are challenges to overcome but it is by continuing to work together in this constructive and collaborative spirit that we will rise to these challenges. This Government is committed to ensuring access to justice for future generations, and it is by being led by the evidence, and working closely with providers to explore different and innovative ways of supporting people, that we will do this.

## Equalities impacts

Under the Equality Act 2010, public authorities have an ongoing duty to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between those with different 'protected characteristics'. The nine protected characteristics are race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity. We have published an equalities statement alongside this Action Plan outlining our consideration of this duty when developing the policy proposals.

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