



What is English Law Worth? (Part 1)

Guy Beringer

This is the first part of a two-part comment piece by Guy Beringer CBE, KC (Hon)

The closing months of the current administration produced two contrasting documents relating to social welfare law. Neither attracted much attention.

The first was the [Ministry of Justice evaluation of its Early Legal Advice Pilot](#). It is 66 pages long and rather impenetrable. It tells you that the project was trying to work out whether early legal advice on housing would save public money. It also tells you that less than 10 people engaged with the project. The document begged at least one question: why was so much time and effort spent on a complex trial designed to demonstrate something everyone already knew anyway? The question grows in importance when one considers that the project was a total failure.

The evaluation does, however, contain one encouraging observation: 'Analysis suggests that high Benefit to Cost Ratios (BCR) from early legal advice are plausible. Illustrative modelling calculated a BCR of 4.1...'

This does, of course, simply repeat the view expressed by the advice sector for the last 20 years.

The second document was the [report on 20 May 2024 of the House of Commons Public Accounts Committee on the subject of 'Value for Money from Legal Aid'](#).

It is a rather easier and shorter read. It identifies legal aid deserts as a major and growing problem. It says: 'The MoJ has still not made progress in identifying or addressing the wider system costs of its legal aid reforms'. It is scathing about lack of progress in addressing the growing problem of advice deserts.

Put these two reports together and you have a financial black hole.

On the one hand, investments in early legal advice are plausibly acknowledged as saving money; but those investments apparently cannot proceed because no-one is yet sure precisely how much they save.

On the other hand, disinvestment in civil legal aid has proceeded for many years without any serious attempt to quantify the 'cost-shunting' which has simply placed increased cost burdens elsewhere.

That should bring the reader to the election manifestos which have recently been published. None of them mentions civil justice in any meaningful way. And yet they all put economic growth at their heart. There is a costly blind spot here.

It does not take long to work out that driving economic growth whilst ignoring the financial cost-shunting of a threadbare civil justice system is the financial equivalent of pedalling faster with a slow puncture. The law is the plumbing of our economy. If it is in disrepair, it costs us significant amounts of money in cost-shunting. The fact that no-one is able (or apparently inclined) to calculate exactly the scale of that cost appears to be an excuse for simply ignoring it altogether. That is not economically sound.

Yet it is the course taken for the past 25 years.

Here are three suggestions to turn the tide:

1. Appoint a minister whose brief is to cure advice deserts. We apparently have no plan for this as yet so this would be an interesting brief. It would help drive economic growth in forgotten parts of the country.
2. Disband the civil arm of the Legal Aid Agency and pay legal aid funding in the form of advance grants to SME providers of legal aid (be they private sector or third sector). Given that we have no knowledge of the outcomes of civil legal aid provision, we could at least create a vibrant new sector offering good jobs spread right across the country.
3. Appoint a Treasury Minister with responsibility for the development and promotion of English Law as a platform for social welfare (as to which see above) and for business (as to which see my next post).

URL: <https://binghamcentre.biicl.org/comments/130/what-is-english-law-worth-part-1>