



Valuing
British
justice
and the
rule of law

The Bar Council's 2019 Party Conference Briefing

What is the Bar Council and the Bar?

- ▶ The Bar Council is the representative body for the Bar of England and Wales, representing approximately 16,500 barristers.

The independent Bar plays a crucial role in upholding and realising the constitutional principles of government accountability under law and vindication of legal rights through the courts. As the Bar's professional body, the Bar Council draws on barristers' expertise and dedication to lead on these issues, in the public interest.

A strong and independent Bar exists to serve the public. As specialist, independent advocates, barristers enable people to uphold their legal rights, often acting on behalf of the most vulnerable members of society.

The Bar makes a vital contribution to the efficient and effective operation of criminal and civil courts. It provides a pool of talent, from increasingly diverse backgrounds, from which a significant proportion of the judiciary is drawn, and on whose independence the rule of law and our democratic way of life depends.

The Bar Council works with Government and Parliament to make the case for justice.

The value of justice: today, tomorrow and beyond



▶ Justice touches everyone, from individual citizens to vast corporations. It is intrinsic to British values and to our sense of fair play.

For 800 years since Magna Carta, access to justice has been a long-established common law right under English law.

If citizens are obliged to obey the law, they must also be able to challenge its arbitrary or unjust application. Governments neglect this imperative at their peril. To do so undermines the basis of trust on which relations between the citizen and the state are founded and, therefore, the very foundations of our democracy.

In 2019, the justice system and the rule of law are at risk. Once regarded as an asset to the nation and envied across the world, today's justice system is widely acknowledged to be suffering from years of under-investment, impacting on victims of crime, families, businesses, employees and local communities.

The Bar will continue to play its role in reinvigorating British justice, but it will require the commitment and support of politicians and policy-makers on all sides to reinstate a world-renowned, sustainable and properly funded justice system for the future; one that is valued by all.

Justice devalued

The figures and headlines say it all: justice is broken.

By 2020, the Ministry of Justice will have seen its overall budget cut by 40 per cent. This cut is among the deepest of any Whitehall department.

The recent political focus on the state of the criminal justice system is welcome, as are the additional resources, but the whole system is broken or breaking and the focus needs to be on every part: Legal aid and access to legal representation, prosecution, the state and efficiency of courts, forensic science, probation, as well as police and prisons. The machine as a whole cannot properly function if one cog is not turning as it should. The Bar Council, MPs, senior judges and others have been calling for a reversal of the draconian cuts to the justice budget.

↑ **13%**
Government expenditure

↓ **40%**
Expected cumulative Ministry of Justice budget cut 2020

1%

The total Ministry of Justice budget is just one per cent of total public spending



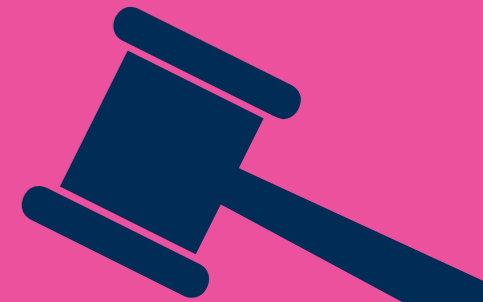
↑ **8%**

Crime reported in England and Wales rose by eight per cent to 5.9 million in the year to March 2019, including increases in knife crime, robbery, firearms and public order offences



↓ **29%**

Prosecutions and penalties for crimes are at an all-time low: 1.59m in 2019, 29 per cent lower than 10 years ago (2.25m in 2009)



CLOSED

Around 258 courts and tribunals in England and Wales have been closed down



↓ **15%**

Court sitting days have been cut by almost 15 per cent, from 97,400 in 2018-19 to 82,300 in 2019-20, despite a backlog of cases already in the system.

What they said about the state of British justice

"My wife and children do not see me as much as they should because I am often at court all day and then working in the evening/weekends. We do the extra unpaid hours of work because the system would fail if we did not and judges/solicitors do not recognise the severe impact it has."

Anonymous barrister

"Yet again we are seeing evidence that the criminal justice system is faltering as it struggles to cope with increasing demands with diminishing resources."

"The consequences of years of cuts are evidenced at every stage of the process. The police service has lost almost 22,000 officers since 2010. And when you consider the Crown Prosecution and court services have been subjected to the same austerity measures you start to understand some of the context behind these figures."

John Apter, national chairman of the Police Federation of England and Wales, *The Times*, 16 August 2019

"The crisis in criminal justice is worse now than I have ever known it."

Nazir Afzal, former Chief Crown Prosecutor, *Daily Express*, 16 August 2019

"Overall police detection rates nationally are low, woefully low I would say in some instances, and the courts are emptying, not filling."

Cressida Dick, John Harris lecture for the Police Foundation, 25 June 2019

"The criminal justice system has to be considered by the government and recognised for its enormous value to our community. I don't think there is sufficient resource to cope with its requirements. Ultimately, if the system doesn't get appropriate investment the system can collapse."

Sir Brian Leveson, *BBC News* – 21 June 2019

"It is all very well for us to sing the praises of our legal systems, to congratulate ourselves on the high quality of our judges and lawyers, and to take pride in the popularity of the common law in international business. But we have a serious problem with access to justice for ordinary citizens and small and medium-sized businesses."

Lord Neuberger, former President of the UK Supreme Court, 3 July 2017, Welcome address to Australian Bar Association Biennial Conference

"Justice should, wherever possible, be administered locally and many courts are already worryingly remote from the communities that they serve."

John Bache, national chair of the Magistrates Association, 13 September 2019, *The Guardian*

Justice revalued

- ▶ The modest increase in funding in the 2019 Spending Round to tackle crime and support the criminal justice system is a step in the right direction and an acknowledgement that cuts made to the justice budget by previous governments went too far.

Increases in funding in one area have effects which ripple across into other areas. The budget boost for the Ministry of Justice and Crown Prosecution Service (CPS) is necessary and overdue. Whilst this is welcome, it is a drop in the ocean in budgetary terms and will only go so far in restoring a justice system which is falling apart. We urgently need a longer-term vision of how public confidence in tackling crime can be restored.

Beyond criminal justice, our democracy, society and our economy depend on a properly functioning, fair justice system, in which the public can have confidence.

The legal sector is playing its part to strengthen and add value to the economy, the rule of law and justice.

Barristers, solicitors and the wider legal services sector contributed £26 billion to the UK economy in 2016 and produced a trade surplus of £4.4bn in 2017. Legal sector employment grew nearly nine per cent to 342,000 jobs in 2017.

The Bar of England and Wales also contributes on a pro bono (voluntary) basis to ensure those who are unable to afford legal representation and have been excluded from receiving legal aid can still have access to justice.

Over 3,800 barristers have committed to take on pro bono cases on behalf of members of the public through Advocate, the Bar's charity. Members of the Bar also provide pro bono legal help to some of the most vulnerable in society through other organisations, such as the Free Representation Unit and law centres.

Working together

The Bar Council and the wider legal profession will continue to champion justice and work with government, Parliament and stakeholders to raise the profile of and repair our justice system.

We will seek to:

- Improve the state of our courts and justice infrastructure by working with HMCTS, urging government to restore access to the courts and tribunals and provide justice for all
- Contribute to the current CPS and defence fee reviews to ensure sustainable fees for advocates with criminal practices
- Champion the value of justice far and wide, making the case for further funding of our justice system across the board in the next Government Spending Review.
- Continue to promote British legal services overseas.

Work with us to safeguard justice





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