A large, determined meeting of criminal solicitors and barristers on 1st October vowed to escalate the campaign against Grayling's proposals to decimate legal aid, and to withdraw their labour as part of that campaign.

The meeting, called by the Criminal Law Solicitors' Association, the Criminal Bar Association and the London Criminal Courts Solicitors' Association, was attended by around 500 barristers, solicitors, and legal executives. It unanimously voted to oppose all the different cuts to legal aid and declared that the Ministry of Justice is not fit for purpose.

Speakers from the platform and the floor repeatedly called for barristers and solicitors to stand united and withdraw their labour from the Courts. There was widespread dismay expressed from both the platform and the floor at the position of the Law Society not to stand in solidarity with their criminal members and colleagues by taking a firm stance to oppose the cuts and support direct action.

There remain discussions to be had as to when and in what form the withdrawal of labour will take place. The Haldane Society would encourage the various professional organisations to agree now that the legal profession will start by boycotting the courts – both civil and criminal – on a specified date and will consider escalating action.

On 29th September the Northern Save Justice Campaign held a spirited rally outside Manchester Crown Court, writes Mikhil Karnik. It was addressed by Jennifer Hilliard of Parents for Real Justice, Jean Betteridge from Access to Advice, Manchester barristers John Nicholson, Jared Ficklin, and Mark George QC, Denise McDowell of Greater Manchester Immigration Aid Unit, and by Labour MP Kate Green. Speakers spoke about the hypocrisy of
The Government’s approach to legal reform has become wearily familiar. Step one: design a set of proposals that will undermine access to justice for vulnerable group x. Step two: trail the proposals in the right wing press supported by irrelevant and/or inaccurate material relating to fat cat lawyers/spurious cases/ left wing campaigners (delete as appropriate). Step three: release proposals with an improbably tight timeframe for consultation. The timetable should be as inconvenient as practicable. Where possible, it should coincide with a time when our elected representatives are on holiday and not available for discussion. For example, a 36-hour consultation on bringing back capital punishment to restore the credibility of the criminal justice system by clamping down on the 63.2m Britons who dodge the death penalty each year; responses by 14:00 on Boxing Day. Step four: ‘listen carefully’ to the multiple thousands of respondents who explain in simple language why the proposals are really not a very good idea. Step five: carry on regardless and use secondary legislation where possible. And so it was with those, like Chris Huhne, who when in trouble afforded themselves the best lawyers that money could buy, whilst at the same time condemning the rest to justice on the cheap. They reinforced how the attack on justice was ideological, and in fact would not achieve substantial savings overall, and how access to specialist lawyers was not a luxury it was a necessity. Those attending the rally then marched behind the Haldane Society banner (proudly carried by Mark George and myself) and a coffin to join the TUC protest outside the Tory conference.

Transforming Legal Aid: the Government’s latest assault on legal aid and those individuals who rely on it to safeguard their rights. The Government received in the region of 16,000 responses, the majority in opposition to the proposals. Nevertheless, on 5th September 2013, the Ministry of Justice announced its intention to carry on regardless.

True, the Government has made some concessions. In particular, we are no longer facing price-competitive tendering for criminal legal aid contracts. Instead the Government has proposed a mixed model, with an element of competition (for police station work) while leaving clients with the ability to choose their own solicitor. And certain limited exceptions have been introduced to the abhorrent residence test, for victims of trafficking among others. These concessions should not be overstated. It would be wrong to say we have won. A 17.5 per cent cut in fees for criminal legal aid will still sound the death knell for many firms. And allowing victims of trafficking illegal aid to help with their employment dispute is of limited value if those same individuals cannot get free legal help when they are destitute and homeless. Nevertheless that is the effect of the exception. The devil is in the detail.

Then on 6th September 2013, following closely on the heels of the response to Transforming Legal Aid, came yet further Government plans to restrict access to judicial review. This new consultation marks an escalation in hostilities. In 2011, when the then Lord Chancellor Ken Clarke pushed the Legal Aid Sentencing and Punishment of Offenders Act through Parliament, legal aid for judicial review emerged unscathed. This was recognition on the part of the Government, we were told, of the importance of holding the State to account. How quickly things change. December 2012 saw the first in the latest series of consultations, purportedly designed to kick-start the economy by clamping down on spurious judicial reviews: dubious logic underpinned by questionable statistics. Transforming Legal Aid saw more of the same, with the attack focused more closely on claimants reliant on legal aid. In this latest consultation the Government has truly nailed its ideological colours to the mast.

The effect of the proposals, among other things, will be to increase the financial risk to those who try to challenge the unlawful acts of the State and tighten up the rules that dictate who can bring such challenges. The consultation is littered with choice phrases: judicial review, we are told, is being used as ‘a delaying tactic’ undermining Government reforms, a ‘campaigning tactic’ to generate publicity, and generally as a means to ‘frustrate or discourage legitimate executive action’. An article in The Daily Mail, trilling the proposals and quoting Lord Chancellor Chris Grayling, rails against campaigners challenging the legality of the HS2 High Speed Rail Line. While, in similar vein, the consultation paper singles out the efforts of peace activist Maya Evans in holding the Ministry of Defence to account for the unlawful acts of the armed forces in Afghanistan. As if these matters are not of legitimate public concern.

The picture that emerges is a Government that will not be held account for its actions at home or abroad. The approach is redolent of a spoiled child, reacting petulantly when told he cannot do whatever he wants to do.

Now it is clear that the battle is an ideological one, the battle lines are at least clearer. Now that we know the case against us, it is less important to focus on rebutting spurious economic arguments or the misuse of statistics. However it also makes the battle harder. A Government pursuing an ideological course is less likely to be deterred than one pursuing a policy out of pragmatism or economic necessity. This does not mean we should shy away from the fight.

The judicial review proposals for further reform consultation closes on 1st November 2013.

Connor Johnston