Inquiringly like-minded

One of the difficulties when campaigning for legal aid is trying to persuade people of its value. As legal aid lawyers we frequently make the task harder for ourselves, with talk of ‘scope’, ‘eligibility’, ‘matters starts’ and ‘best value tendering’: dry, impersonal jargon that distances legal aid from everyday experience.

It was with this in mind, nearly a year ago, that The Haldane Society and Young Legal Aid Lawyers started making plans to convene a Commission of Inquiry into the case for legal aid. The centrepiece of the Inquiry was an oral evidence session, open to the public, which took place in Parliament on 2nd February 2011. Testimony, as to the importance of legal aid, was presented to an independent panel consisting of former Liberal Democrat MP Evan Harris, the canon of Westminster Abbey, the Reverend Professor Nicholas Sagovsky and Diana Holland, assistant general secretary of Unite. This testimony comprised of stories from ordinary people who had benefited from legal aid. Stories accessible to the public, free from civil service-speak. Stories like that of 18 year old Subera:

‘My mother told me that she had become so sick that she could not care for my sister any more. There were no other family members who could take my sister in and already some family members were talking of marrying my sister off... My mother asked me if I would care for my sister and I said that I would. At first I tried to hide the fact that my sister was living with me... In the end I had to tell the people at the housing scheme about my situation. They told me that if I wanted to live with my sister I would have to leave. There was no way I could abandon my sister, so I was given one week to leave my home.

Subera is a young Bangladeshi girl from East London. She was helped by Tower Hamlets Law Centre when her local authority refused to house her and her 12 year old sister. She was one of five people who gave oral evidence to the Commission of Inquiry in a packed room in the House of Commons. The others included a young woman (‘EP’) who, with the assistance of counsel to the inquiry Michael Mansfield QC, spoke of how legal aid helped her escape from her abusive husband. In turn, Zoe Kealey told the story of her brother Darwin who was found dead in his cell in Wormwood Scrubs a little over 48 hours after he was taken into police custody. The result, the inquest found, of the repeated failings of Serco, the Police and the Primary Care Trust. He was aged only 28. A young man called Stephen spoke of how legal aid helped him gain contact with his children after an acrimonious split with his wife. Finally, doughty prisoner Patricia Whitehouse described how, with the help of legal aid, the Court of Appeal ended her unscrupulous landlord’s attempts to evict her from the house she had lived in since the 1950s.

The panel is now considering this testimony together with a large body of written evidence both for and against the current legal aid system, with a view to producing a report very soon.

In the meantime these stories clearly illustrate the devastating effect of the Government’s proposed cuts to legal aid. Stephen would certainly not get legal aid for his divorce case and would likely still be separated from his children. Mrs Whitehouse, whose landlord offered her a lesser property in a different community, would not be eligible as she would not have been homeless. The exceptional funding criteria are to be made more stringent, with the possibility that legal aid will not be available for inquests such as that of Darwin Kealey’s. EP would not get legal aid as she did not have the right type of ‘objective evidence’ that her husband was abusing her. Of the five, it is only Subera who could be sure of getting legal aid if the proposals are implemented, and this of course will only be possible if Law Centres such as that in Tower Hamlets are somehow able to subsist.

The Government’s response to the legal aid consultation is expected over Easter with a draft bill to follow. As the bill begins its passage through Parliament it is vital that these stories are told.

Connor Johnston is a paralegal at the Howard League for Penal Reform and an executive committee member of Young Legal Aid Lawyers.