For those of us working in legal aid, the Green Paper – Proposals for the Reform of Legal Aid in England and Wales – is a massive attack not only on our jobs, but also our clients, the welfare state and the principle of justice. Hundreds of thousands of people with family, housing, welfare, education and immigration problems will, if these proposals are allowed to be introduced, no longer have access to free legal advice.

Legal Aid – part of the welfare state.

Legal Aid celebrated its 60th birthday this year. It was a major concession, which as part of the post war consensus was won by the working class hand in hand with the trade union movement and the left's main political voice at the time – the Labour Party.

It was designed to help ordinary people secure advice and legal representation and to put them on the same footing as the rich when it came to court action. It acted in a small way to secure rights and representation in court against eviction, welfare needs, and against the threat of an unjust conviction. It was a way to try and level the playing field between the richest, who could afford lawyers, and the poorest who could not.

At the time of its launch eight out of ten people were entitled to the scheme's assistance. The latest figures from the Ministry of Justice reveal fewer than one in three of us are now eligible.

Despite claims to the contrary the legal aid budget only represents 0.45 percent of public spending. The Government currently spends £2.2 billion on publicly funded legal advice and representation, which would barely keep the NHS running for two weeks.

What is being proposed by the Con-Dem Government amounts to a 50 percent reduction of civil legal aid. Yet a recent opinion poll conducted in November 2010 for the Legal Action Group found that 80 percent of the public believed the state should pay for legal advice services for people on or below the average annual income of £25,000.

The coalition is slashing the legal aid budget as part of a wholesale attack on the public sector. Whilst arguments by legal aid lawyers must be made that for every £1 spent in legal aid, £10 is saved for public funds, this attack is not just about saving money. The proposals contained in the Green Paper are part of an ideological offensive against the notion of a public sector, the welfare state and access to social justice.
Legal Aid cuts – the main proposals
Currently, the total legal aid budget is £2.2 billion. With 41 per cent spent on civil work – this budget assists millions of people with family, welfare, housing, mental health, debt community care, public law immigration and asylum issues. The aim of the package is to reduce the annual legal aid budget by £350 million by 2014-15.
Eligibility for civil legal aid will require a client to jump over an increasing number of hurdles. Full legal aid will be restricted to people with total assets worth less than £1,000. People on benefits will not automatically be given access to legal aid. Applicants on income support with more than £1,000 in savings will be expected to contribute. Contributions made by clients are set to rise from 20 to 30 percent of weekly income. An applicant may be able to obtain a legal aid certificate but not be able to afford the contributions.
Out of the scope of public funding goes welfare rights, debt, employment, immigration issues other than asylum, and education. Other areas such as family and housing are also partly affected by these damaging proposals.
There is no other way to describe this other than as an assault on access to justice. It is a massive ideological attack on legal aid.
Fighting back
On the main issues during the General Election there was no fundamental difference between New Labour, the Tories and the Liberal Democrats. The widespread culling of public sector jobs and public sector expenditure was on the agenda of all the main political parties.
The Tories, whilst claiming to be a ‘new party’ are very much Thatcher’s children. It should not be forgotten that prior to the General Election the Chancellor of the Exchequer, Alistair Darling, advised on 25th March 2010 that Labour’s planned cuts in public spending will be ‘deeper and tougher’ than Margaret Thatcher's in the 1980s. The same article in The Guardian went on to report that, ‘The country’s leading experts on tax and spending warned that Britain faces “two parliaments of pain” to repair the black hole in the State’s finances.’
In opposition Labour has to date performed no better. When Kenneth Clarke’s proposals were announced in Parliament, Labour had very little to say. Indeed Jonathan Freedland reported in The Guardian on 16th November 2010, “…Clarke’s Labour
shadow. Sadiq Khan, obligingly told the Commons that Labour too would have cut legal aid, so reducing his dispute with the Government to the small print.'

Tragically each of the main political parties agrees on the mass cuts agenda. It is estimated that cuts of 16 percent will be required. As John Lanchester commented in the London Review of Books on 11th March 2010, ‘...cuts of that magnitude have never been achieved in this country. Mrs Thatcher managed to cut some areas of public spending to zero growth; the difference between that and a contraction of 16 percent is unimaginable.’

So to those who look to Labour to reverse these cuts, certainly at this stage, they are not interested, their muted opposition and passivity has been the opposite of the direct action of students who have taken to the streets in their thousands.

The students are a barometer of the big changes in the political outlook of other sections of society, not just the middle class but above all the working class.

The turn to action by the students has been a further shot in the arm for trade unionists, tenants’ organisations and community groups. Nationally there has been a turn in every region and city in setting up anti-cuts groups, now numbering hundreds.

Where does this leave the struggle to defend Legal Aid?

The determination of the Con-Dem Government to wield the axe, needs to be matched by the determination of trade unionists, socialists, workers, community activists and students to resist these attacks.

One thing is for sure; the defence of legal aid cannot be carried out in a vacuum away from the struggles of the working class and the trade union movement.

In the last two to three years, as legal aid has been trimmed and cut, a number of strategies have been employed by the various organisations that represent legal aid lawyers to obtain some respite. The Law Society has tried judicial review action which has included the successful judicial review against the proposed new family law tenders. Lobbies of various committees and Members of Parliament have been organised. This action has to be applauded and certainly more is required.

Law Firms are pulling out of legally aided work, some concentrating on private work, some folding. There are advice deserts springing up across the country. Even where there are effective solicitors they are hampered by not having matter starts and having to turn people away.

Recently the Law Centres Federation, Legal Aid Practitioners Group and other organisations formed the Justice for All campaign. Justice for All has provided some excellent research into the many problems we and our clients face. As highlighted in other parts of this magazine, The Haldane Society together with Young Legal Aid Lawyers will be holding a Commission of Inquiry into the Case for Legal Aid in Parliament on 2nd February 2011 (see more details on the page opposite).

Justice for All can play a crucial role in uniting the various strands of the legal aid sector and other different organisations campaigning against the cuts to legal aid. There are already many national organisations involved in this, including Citizens Advice Bureaus, Mind, and importantly on a national basis Unite the Union. This is a significant step.

In order to defend legal aid, tactically it is essential that we lobby ministers as a profession and respond to the consultation on the Green Paper. We should also turn to our clients and ensure that they write letters, send in petitions and protest to their Members of Parliament. However, the strategy cannot rely solely on this, particularly with a Government that is on an ideological offensive against public services.

The fight for legal aid is also a fight to defend public services. That fight must be done alongside and through the trade unions along with the wider working class movement. It is important that resolutions be raised in individual trade union branches – let’s take the message to fellow trade unionists.

Legal aid lawyers should support the National Shop Stewards Network – National Conference, Saturday, 22nd January 2011. This body is backed by the RMT, Rail Union, and PCS, the Civil Service Union.

Lawyers must also involve themselves in the grass roots anti-cuts alliances that are being built across the UK. The campaign against legal aid cuts needs to be part of the wider programme to defend public services.

The period ahead is shaping up to be the most important since the 1980s for the trade union movement. It may yet exceed the scale of the movements then. Legal aid and its survival is also at a critical point. The Con-Dem Government has made it clear with the Green Paper that ideologically it wants to see the demise of legal aid. We have to be clear that legal aid will only be saved as part of the wider campaign to defend public services and the welfare state. This is as much a struggle against the rampant ideology of the current Government as anything else.

Paul Heron is a solicitor at Hackney Community Law Centre.
Legal aid provides a crucial safety net to make sure that everyone can access justice. It provides a key service protecting the welfare and liberty of some of the most vulnerable members of our community. Even so, the Government has announced plans to make savage cuts.

Our concern is that significant cuts to the legal aid budget will decimate the provision of publicly funded legal services across the country. We believe that if the legal aid budget is subject to extensive cuts the quality of our justice system will be totally undermined. Our interest in defending legal aid comes not from protecting lawyers’ interests, but because we see it as an intrinsic part of the welfare state and a necessary public service.

The Government’s Green Paper Proposals for the Reform of Legal Aid in England and Wales proposes drastic cuts from the legal aid budget:

- fewer people will be financially eligible for legal aid; anyone with equity in his or her home of more than £8,000 will be excluded, even those on benefit, and anyone with capital of £1,000 will have to pay a financial contribution;
- important areas of law will be excluded from the legal aid scheme: civil damages claims, divorce and private family law including issues involving contact with children (other than in cases involving domestic violence or international child abduction), clinical negligence, consumer protection, criminal injuries compensation, debt, disputes over education, employment cases, welfare benefits and immigration claims excluding asylum;
- legal aid rates will be cut by 10 percent and frozen for five years – a significant pay cut when legal aid firms are already struggling.

A panel of inquiry – consisting of Dr Evan Harris, Canon Nicholas Sagovsky and Diana Holland, Assistant General Secretary Unite the Union – will receive testimony from users of legal aid services and those affected by the cuts. The panel will be assisted by Mike Mansfield QC.

Please email lizdavies@riseup.net to reserve seats.