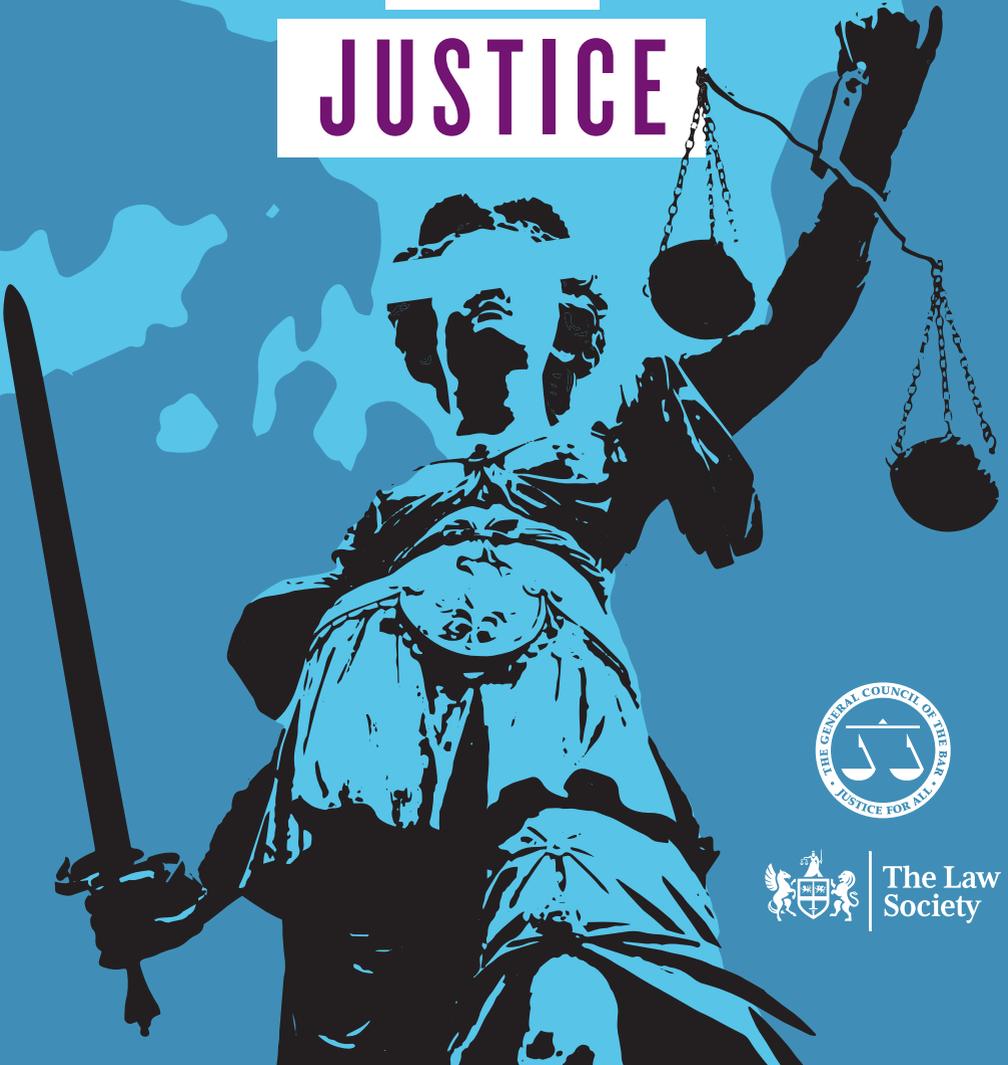




# MANIFESTO FOR JUSTICE



The Law  
Society

**MANIFESTO**

**FOR**

**JUSTICE**

**WE DEMAND...**

**A PROPERLY RESOURCED CPS**

**NO MORE CUTS TO LEGAL AID**

**INVESTMENT IN DIGITAL DISCLOSURE**

**COMPETITIVE PAY AND FEES**

**[WWW.FDA.ORG.UK/JUSTICEMANIFESTO](http://WWW.FDA.ORG.UK/JUSTICEMANIFESTO)**



# FOREWORD



**A properly functioning Criminal Justice System is fundamental to the rule of law. It is a damning indictment of our times that those in power need reminding.**

The statistics are so grimly familiar as to have almost inured those working in criminal justice. The justice budget has been cut more than any other since 2010 – 40% over a decade. Nearly a third of CPS lawyers have left since 2009. The overall CPS budget has crashed by a quarter. At the same time, the number of complex cases – in particular those involving serious sexual offences and voluminous digital evidence – has soared. The perfect storm in which CPS employees are trapped is something that those of us who prosecute at the self-employed Bar see every day.

CPS lawyers struggle to juggle impossible caseloads in the face of intolerable conditions and stagnant pay, as the thumbscrews are tightened on them to do more with far less.

On the other side of the adversarial divide, 40% cuts to legal aid pile pressures onto defence solicitors and barristers. The availability of legal aid and the rates at which it is paid present a direct threat to access to justice, and to the future of the professions. Equality of Arms, in the views of successive governments, can be achieved by taking an equally sharp scythe to prosecution and defence, oblivious to the obvious that a working justice system needs both sides to be able to perform their roles.

The impact upon the people that the system is supposed to protect is played out in crumbling, understaffed Court centres across the country. Too many defendants, victims and witnesses are denied justice because of a mentality that knows the price of everything and the value of nothing.

This has only been able to happen because of a critical disconnect between the justice system and the public it serves, and the failure of those with a pulpit to be honest about the pressures on those working in the system.

The Manifesto for Justice is a vital document in setting out the challenges that the system faces, and identifying the decisions that must be taken if we are to pull back from the brink. In 2016, the Public Accounts Committee described the Criminal Justice System as “close to breaking point”. Three years later, it is broken. And those responsible have to start putting it back together.

**The Secret Barrister**

# THE FDA



**A century ago, the FDA was formed with a mission statement to “promote the efficiency of the public service and to consider and deal with all matters affecting the classes of the civil service included in the Association”. One hundred years later we are still here, fighting for our members and for a civil service that delivers for the public.**

As President of the FDA in our centenary year, I am proud to see our union defending the professional integrity of members in the CPS and working with our professional partners to stand up for the integrity of the Criminal Justice System as a whole. That is true public service.

As a prosecutor myself, I know the vital role that criminal justice plays in our society and how important it is that we retain public trust in it. Justice might be seen as a soft target when it comes to finding savings, but a balanced and effective Criminal Justice System is the cornerstone of our democracy.

The FDA has successfully negotiated a pay rise for prosecutors, but there is still much work to do in ensuring competitive payments to both prosecution and defence and to combat the effects of years of underfunding. This investment in the future is essential to stop a brain drain to other areas of law and ensure a properly functioning Criminal Justice System.

I am therefore delighted to support the Manifesto for Justice and I hope that everyone, from prosecution to defence to the general public, will hear our clarion call and give it their support.

Most importantly, I hope that those in Government heed this warning and ensure that we have the resources necessary to ensure that justice is done and seen to be done. As the Manifesto itself says, we must maintain public confidence in our justice system. We can't allow it to be devalued.

**Fiona Eadie**  
**President of the FDA**



# THE LAW SOCIETY



## **Due to many years of underinvestment, our Criminal Justice System is crumbling.**

Things are going wrong at every level, creating a nightmare journey for the accused, for victims and for those who work hard across the system.

Imagine a person arrested today for a crime they didn't commit. Their journey through the justice system could be plagued with shortages of lawyers and experts, delays due to Court cases being double booked, long journeys to Court due to Court closures, and paying legal aid contributions they can't afford because the means test is too stringent.

Our system is underpinned by the notion that people are innocent until proven guilty – yet people's lives can be ruined before their case even reaches trial.

Indeed, innocent people may be held on remand far longer than necessary because of inefficiencies in the system – and be crippled by large debts as a result of their arrest, even if found innocent. This also impacts on victims and witnesses of crime who suffer unavoidable inconvenience, cost and stress because of all these problems.

More resource is sorely needed across the system to address these issues, not least in relation to criminal legal aid fees.

Criminal legal aid lawyers – solicitors and barristers – ensure that anyone accused of wrongdoing has a fair trial. A stable pipeline of defence lawyers, to safeguard the rights of the vulnerable and to protect the reputation of our legal system, is essential to ensure that justice is served. Yet, rates for criminal legal aid work are now so low, young lawyers no longer see a viable career in this specialism.

We published a heat map last year that shows that there are counties in England and Wales where there are now no criminal duty solicitors under the age of thirty-five. On a growing number of individual duty schemes, there are no lawyers under fifty years old. If this trend is not reversed, the Government will soon find itself unable to meet its statutory obligation to provide criminal legal aid services to those who need them in the interests of justice.

We warmly welcome the FDA's Manifesto for Justice, which highlights that the CPS is facing a similarly stark recruitment crisis as well as wider pressures. A properly resourced CPS is crucial in ensuring that the overall Criminal Justice System is effective, efficient and upholds the rule of law.

Without urgent action from the Government, the system is at risk of falling apart.

**Christina Blacklaws**  
**President of the Law Society**



**The Law  
Society**

# THE BAR COUNCIL



**The Bar Council is pleased to support the FDA's Manifesto for Justice. It recognises a simple fact: whether it is defence, prosecution or the Courts themselves, the entire Criminal Justice System needs to be properly resourced.**

The lack of investment in the entire system for many years is now only too evident for all to see. The crumbling Court estate is an obvious example of fiscal neglect. Leaking roofs, leaking lavatories, broken lifts and broken seats are but a few examples of the dire condition of the fabric of our Court buildings. The problems with technology, Wi-Fi, the digital case system and CJSM secure email are partly the result of underfunding.

The failure to increase rates of pay for publicly-funded lawyers, both prosecution and defence, is nothing short of a scandal. It has led to many of the best people moving away from criminal work because they can no longer afford to stay practising in criminal law, or because the stresses and strains of a criminal practice have simply

become unbearable. Young people are no longer being attracted to careers in criminal practice in sufficient numbers and quality to replace those moving on or out of the profession.

Our system of justice, which was once held up as world-class, is now very sick. But it would not take much investment to put it right. There is an emerging, cross-party consensus in Parliament that successive cuts in funding have hobbled justice. There are some signs that the Government is beginning to realise that justice can no longer sustain any further cuts.

The Bar Council will work with the CPS and the Ministry of Justice to help make the case to the Treasury for an increase in funds across the board. The Government must deliver change before it is too late and we are left wondering where our prized Criminal Justice System has disappeared to.

**Richard Atkins QC**  
**Chair of the Bar Council**



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**CUTTING JUSTICE**

It is now almost a decade since the Government announced swingeing cuts to the CPS, the Courts, legal aid and the entire Criminal Justice System.

CPS prosecutor numbers have since fallen by 28%. FDA members have been relentlessly asked to do more and more with less and less, and the damaging effects of these demands are clear.

According to the FDA's 2018 Working Hours Survey, 92% of CPS members regularly worked more than their contracted hours and 79% had worked while on sick leave.

If the CPS is to remain a world-class prosecution service that carries the confidence of the public, it must have the investment needed. Continuing to rely on unpaid hours is neither desirable nor feasible.

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**“The continued drastic cuts to our service, the lack of resources and our overstretched working conditions have all led to making the lives of front-line lawyers almost unbearable and risk a ‘perfect storm’ of problems in criminal justice.” – CPS FDA Member**

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## DEVALUING JUSTICE

Pay across the Criminal Law sector has been stagnant for almost a decade, and the failure to keep pace with either inflation or the rest of the legal sector is building towards a crisis.

Despite recent FDA achievements on pay, CPS prosecutors have suffered real-term pay cuts of up to 20% since 2010. Newer recruits have no ability to meaningfully progress through pay scales and are earning thousands of pounds a year less than colleagues doing identical work.

Lawyers on the defence side have also seen payments suffer. Criminal legal aid payments for solicitors have had no inflationary increase for twenty years. This has resulted in a 42% real-terms cut, with further cuts to both the Litigators' Graduated Fee Scheme (for solicitors) and Advocates' Graduated Fee Scheme (for barristers) being introduced since 2010.

This is all in stark contrast to wages in the wider legal sector, which have been buoyant for several years now. Legal sector salaries rose by 9.5% in the last two quarters of 2017 alone and the amount of jobs available is growing too.

Inevitably, lawyers are being pushed away from criminal law and towards more financially rewarding areas of practice.

From May 2014 to January 2018 the overall number of practising solicitors rose by 7.8%, but the proportion specialising in criminal work fell by 9.4%. People are following the money and going elsewhere. Which begs the question: who will be left to see that justice is done?



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## RECRUITMENT: A LOOMING CRISIS

According to the latest Civil Service People Survey, 70% of CPS staff don't consider that their pay is reasonable when compared to people doing similar jobs in other organisations.

This low pay has meant the CPS has struggled to recruit lawyers in recent years, particularly in London and the South East where wider legal sector wages are booming.

The Law Society has also highlighted the defence recruitment problem and the ageing profile of criminal solicitors in England and Wales. Shockingly, Norfolk, Suffolk, Cornwall and Worcestershire currently have no practising criminal law solicitors at all under the age of 35.

Bar Council research shows that over the past decade, the number of barristers who are 0-5 years' call is down by a staggering 30%.

If the Criminal Justice System is to attract and retain talented lawyers, it has to be able to offer a remuneration package that is competitive with the wider legal sector.

**“An effective Criminal Justice System is one of the pillars on which the rule of law is built. Under-funding of the Criminal Justice System in England and Wales threatens its effectiveness, tarnishing the reputation of our justice system as a whole, and undermining the rule of law.” – Bob Neill MP, Chair of the Justice Select Committee**

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## THE DIGITAL CHALLENGE

In late 2017 and early 2018, a number of high-profile criminal cases collapsed due to disclosure problems. This led to a spate of media interest in disclosure issues and questions about whether the system was working.

Official figures indicate that cases that collapsed due to disclosure issues represent just 0.15% of total prosecutions. However, the CPS has also said:

***“There is widespread acknowledgement that disclosure issues are systemic and deep-rooted. This is a problem that all parts of the Criminal Justice System must address.”***

Twenty years ago, schedules of evidence in criminal cases were fairly short and straightforward. If digital evidence existed at all, it might amount to a couple of text messages. However, there has been an explosion in digital media. Many people now carry two or three digital devices that not only send and receive text messages and emails, but also store messages from a variety of social media apps including Facebook, Twitter, Snapchat and WhatsApp. Police also carry body cameras, which can generate hundreds of hours of footage.

This is an enormous amount of information to look at. Just 1GB of data equates to 20,000 pieces of paper.

It's no wonder that in a recent FDA survey of prosecutors, 95.3% of respondents felt that disclosure issues have become more time-consuming since 2010.

***“Digital evidence is a game changer. The sheer volume of material has put an almost intolerable burden on prosecutors”***

**– CPS FDA Member**

Yet while disclosure has become more time-consuming since 2010, the budget of the CPS has fallen by 25% in the same period. As a result, 95.7% of prosecutors surveyed by the FDA now think the CPS does not have enough lawyers to deal with disclosure issues.

Meanwhile, the former Director of Public Prosecutions, Alison Saunders, has warned that the system is “creaking” under a lack of resources.

Defence is also feeling the pressure. Current legal aid payment structures have failed to keep pace with the rise of digital technologies and to account for the huge additional workload it generates.

***“We feel that the issues raised in this [disclosure] inquiry are symptomatic of a Criminal Justice System under significant strain.”***

**– Justice Select Committee  
Report on Disclosure**

Action must be taken to find and properly resource a long-term structural solution to the problems of digital disclosure.

# MANIFESTO FOR JUSTICE

We are calling on the Government to give our Criminal Justice System the investment it needs and to meet the four key demands in our Manifesto for Justice.

## KEY DEMANDS

### A PROPERLY RESOURCED CPS

...to protect the public with a robust and effective prosecution service

### NO MORE CUTS TO LEGAL AID

...to ensure that justice is available to all

### INVESTMENT IN DIGITAL DISCLOSURE

...to maintain public confidence in justice

### COMPETITIVE PAY AND FEES

...to recruit and retain lawyers for a sustainable Criminal Justice System



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