

Written evidence submitted by No One Above (ATJ0041)

1. Introduction

1.1. This submission is made by **No One Above (NOA)**, a survivor-led collective formed by individuals with lived experience of abuse and exploitation, focused on barriers to justice and accountability in cases of abuse, supported by **Right to Equality**, a UK-based non-profit organisation committed to championing gender equality under the law and advocating for the rights of women and girls through legal reform and **McCue Jury & Partners**, a London-based law firm with expertise in human rights, victims' rights and complex cross-border litigation.

1.2. We welcome the Committee's inquiry into Access to Justice. Our evidence addresses Terms of Reference Q1, Q4, Q6 and Q7, focusing on the barriers survivors of abuse face in accessing justice, particularly in civil claims against wealthy or powerful defendants.

2. In Response to Inquiry Q1: How does the current state of the legal services and representation market in England & Wales, and associated operating pressures, affect access to justice for clients?

*"The structures that deal with the costs of litigation are fundamental components of the justice system. They have a significant impact on access to justice."*¹ Survivors of sexual abuse and exploitation face distinctive barriers that arise directly from how the civil representation market prices risk and allocates costs. In complex abuse claims, the scope of necessary work (trauma-informed client care, extensive disclosure battles, limitation disputes, expert evidence) routinely exceeds fees recoverable under Conditional Fee Agreements. This mismatch makes many meritorious claims commercially unviable, reducing the supply of specialist claimant representation and entrenching inequality of arms against well-resourced defendants.

Operating pressures in the costs regime amplify the effect. The general loser-pays rule, the narrow and contingent protection of QOCS, and the settlement leverage of Part 36 create asymmetric downside risk for claimants: a single missed offer or technical loss can trigger catastrophic adverse costs. In practice, firms either decline to act or are forced into early, low-value settlements to control risk. In its final report on litigation funding, the Civil Justice Council² noted that *"Litigation cost*

¹ Sir Geoffrey Vos, Civil Justice Counsel, Costs Review – Final Report (10 May 2023).

² Civil Justice Council, Review of Litigation Funding: Final Report (June 2025), Section 6.39.

is unarguably one of the most significant barriers of access to justice. It is a direct barrier where litigation is concerned. It is also an indirect barrier where consensual settlement of disputes is concerned, as the possibility of exposure to litigation cost can result in parties to potential disputes taking no steps to pursue their claim. There are two ways to ameliorate these problems: reduce litigation costs and provide funding for the pursuit of justice.”.

The ATE insurance market does not currently solve this problem. Affordable cover is rarely available for abuse litigation (perceived as high-risk due to limitation and heavy disclosure), and premiums are often unrecoverable—leaving claimants effectively uninsured while defendants rely on institutional resources and insurer-funded defence teams. Post-LASPO³ legal aid scarcity further constrains market supply, pushing survivors towards piecemeal pro bono assistance that cannot meet the complexity of these cases. Civil society and public-interest litigation have a key role to play in holding those who abuse power to account. Yet this is only possible where the litigation funding market functions properly. In the absence of affordable ATE cover or equivalent funding solution, survivors of abuse are left exposed to disproportionate costs risks. Perpetrators and institutions with deep resources can then act with impunity, shaping outcomes that affect not only survivors, but the wider public interest. The Civil Justice Council’s Review of Litigation Funding⁴ confirms that the *“overriding principles that should govern a holistic approach to litigation... are that access to justice... is dependent upon... all parties to a dispute having sufficient resources available to them to pursue effective and proportionate dispute resolution for meritorious claims and defences [and]... the State ensuring such resources [are] available via publicly-funded legal aid and through facilitating the effective provision of private forms of funding”.*

SLAPP-style tactics (defamation/harassment threats) add further cost-risk to claimant firms, chilling representation even where merits are strong. As a clear example of this, Fayed Survivor A was refused representation by two separate law firms in 2022 and again in 2023, while her abuser was alive. Following his death, the same survivor has been offered representation by those same firms. This despite the fact that the abuse had been generally identified pre the abuser’s death, and Survivor A had compelling documented evidence.

The result is a market distortion: demand from survivors with arguable claims is high, but supply of sustainable claimant representation is artificially low because current funding models, insurance products, and costs rules load disproportionate risk onto claimants and their lawyers.

³ Legal Aid, Sentencing and Punishment of Offenders Act 2012.

⁴ Civil Justice Council, Review of Litigation Funding: Final Report (June 2025), Section 4.4.

Related issues

Survivor's access to justice is also shaped by two wider structural barriers. First, the Judicial College Guidelines⁵ (JCG), which provide the primary framework for assessing damages in psychiatric injury cases, systematically undervalue sexual abuse claims when compared to the lifelong harm survivors suffer, and have failed to keep pace with the cost of bringing legal proceedings in the UK. This not only minimises the recognition of harm but also makes such cases financially unsustainable for claimant firms under risk-based funding models, even where liability is strong. Second, the short primary limitation periods for abuse claims⁶ are routinely weaponised by defendants to exclude cases at the outset. While courts retain discretion, the uncertainty and litigation risk deter firms from acting. While ultimately matters of valuation policy and procedural law, both issues interact with market incentives.

RECOMMENDATIONS

R1: Extend QOCS-style protection to abuse/exploitation claims regardless of legal framing, and temper Part 36 cost consequences where significant public interest issues arise.

R2: Catalyse an ATE solution (statutory backstop or pooled, market-backed scheme – see Section 3 below) specifically for abuse litigation to de-risk adverse costs.

R3: Restore narrowly targeted civil legal aid for early advice and case development in abuse claims to increase the supply of viable cases.

R4: Consider removing the primary limitation period for sexual abuse claims, or at minimum shift the burden onto defendants to prove that delay has caused them prejudice.

R5: Building on the Strategic Litigation Bill already before Parliament, extend the definition of “public participation” to include survivors bringing civil claims against powerful abusers.

3. In Response to Inquiry Q4: Without impacting the public purse, what potential funding options would increase access to justice? (e.g., an access-to-justice levy, CFAs, third-party funding)

Please refer to Section 2 for background.

RECOMMENDATIONS

⁵ Judicial College Guidelines (17th Edition, 2024)

⁶ Limitation Act 1980 (as amended), Sections 11(4), 14 and 33.

R6: Explore the development of statutory or market-backed insurance solutions for survivor litigation, such as a shared ATE fund (paid into by insurers, law firms and socially responsible businesses, administered independently to provide cover where the market fails); a statutory backstop scheme (modelled on the Motor Insurers' Bureau, funded collectively by the insurance industry, to guarantee protection only where no commercial cover is available); tax and regulatory incentives (that encourage insurers to develop survivor-specific ATE products at affordable rates). Such solutions would not draw on the public purse, but would unlock representation in cases that otherwise never reach court.

R7: A further option (explored under Section 5, below) would be a statutory redress scheme funded by the perpetrator or responsible institution, which could provide survivors with an alternative route to justice without cost to the public purse.

4. Response to Inquiry Q6: How is pro bono work and free legal advice being used to support access to justice, and what reliance is placed on it?

Survivors of sexual abuse and exploitation face distinctive barriers in the civil justice system. Complex cases of this kind often require extensive work beyond what can be recovered under Conditional Fee Agreements. In practice, many claimant firms undertake significant elements of such work on a pro bono basis to keep cases viable. While this support is vital, it is unsustainable: survivors are acutely aware that their lawyers are carrying unrecoverable costs, which can affect confidence in seeking clarification or further advice.

Supplementary advice services also play a crucial role. Independent advice agencies and NGOs provide survivors with clear, accessible guidance and specialist expertise not always available from mainstream providers. These services reduce barriers to engagement, help claimants understand their rights, and restore some sense of agency in a process that can otherwise feel alienating and disempowering.

However, reliance on pro bono and supplementary advice is not a substitute for systemic access to representation⁷. Survivors require a justice system where their lawyers are properly resourced to act, without carrying unrecoverable costs, and where specialist advice is available at scale. At present, access to justice for this group depends heavily on goodwill and patchwork support rather than sustainable provision.

⁷ The Right to Justice: Final Report of the Bach Commission (2017).

RECOMMENDATION

R8: Recognise the value of pro bono and advice services, but also acknowledge that they cannot substitute for properly funded survivor litigation. Reforms to costs rules, funding mechanisms, or insurance provision are needed to reduce dependence on pro bono work and to ensure sustainable access to justice.

5. **Response to Inquiry Q7: How can advice, legal support or non-court dispute resolution—such as mediation and restorative justice—help the early resolution of disputes?**

The Civil Justice Council’s Review of Litigation Funding⁸ recommends that Government “*promote the development and implementation of regulatory and other non-court-based forms of redress schemes for mass claims*”. This broad recommendation can and should be understood to encompass statutory redress schemes for mass abuse. Statutory redress is not “restorative justice” in the narrow sense, but it performs a restorative function by providing recognition, reparation, and accountability in a non-adversarial setting. For survivors of sexual abuse and exploitation, this is critical. Civil litigation is often the only formal route to redress, yet it is slow, expensive, and risky, and survivors must navigate it against defendants with vastly greater resources. Private schemes – such as those operated by institutions implicated in abuse – suffer from a deep structural flaw: they are controlled by the very bodies responsible for harm and often structured to avoid disclosure and accountability. The result is token payments, rights waivers and loss of trust. The effect is to push survivors back into adversarial litigation that compounds trauma while adding to court backlogs.

Parliament has already accepted that systemic harm can overwhelm individual litigation. The Horizon scandal demonstrated that when hundreds of people are affected, fragmented claims through the courts are incapable of delivering timely or fair outcomes. Survivors of abuse face an equivalent problem: the scale of harm, the systemic barriers to litigation, and the failure of institution-led schemes all point to the need for an independent statutory solution.

International and domestic precedents confirm that such schemes are both credible and workable. Ireland⁹ and Australia¹⁰ have adopted national redress schemes, in the United States, large-scale redress has been achieved through court-

⁸ Civil Justice Council, Review of Litigation Funding: Final Report (June 2025), Section 2.12.

⁹ Residential Institutions Redress Act 2002 (Republic of Ireland).

¹⁰ National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth).

supervised survivor compensation trusts¹¹ and in Scotland the Redress Act 2021 has already delivered over £150 million¹². IICSA's Final Report (2022) recommended a similar approach for England and Wales¹³, while Professor Paula Giliker has argued that statutory redress should stand alongside civil law to ensure survivors have a meaningful alternative to the courts¹⁴. Applying consistent guiding principles to the design and operation of redress schemes would help streamline processes, standardise outcomes, and address many of the concerns raised about existing models.¹⁵ The economic case is also compelling: the Women's Budget Group estimates the lifetime cost of sexual violence and abuse in England and Wales at £400 billion for a single year's victims¹⁶. Early redress would reduce downstream costs to public services by addressing harm at source.

Although redress schemes in the UK and Ireland have so far been funded largely by the state, other jurisdictions¹⁷ show that institutions with substantial wealth can and should be compelled to contribute directly. Where perpetrators hold significant assets, financial liability must not be transferred to the taxpayer. Properly designed, statutory redress is not only compensatory but also serves the wider public interest in accountability and deterrence, ensuring that the true costs of abuse fall on those responsible.

RECOMMENDATION

R9: Statutory redress should be recognised as a legitimate form of non-court resolution in the abuse context. An independently administered, abuser-funded scheme would provide survivors with fair and timely justice while reducing pressure on the civil courts.

6. Conclusion

Survivors of abuse encounter some of the starkest barriers to justice in our legal system. Against defendants with deep institutional resources, they face prohibitive costs, gaps in insurance and legal aid, and the absence of statutory redress. The result is not only that many are denied remedies, but that public confidence in the

¹¹ Epstein Victims' Compensation Program, "Final Report of the Independent Administrator" (August 2021); Boy Scouts of America, "Plan of Reorganization and Settlement Trust Agreement" (U.S. Bankruptcy Court, D. Delaware, 2021); Catholic Church Settlements.

¹² Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021, asp 15.

¹³ IICSA, Final Report (September 2022), Recommendation 17 (National Redress Scheme).

¹⁴ Giliker, P. (2024), "Civil Liability and Redress for Survivors of Child Sexual Abuse: Comparative Lessons", Cambridge Law Journal.

¹⁵ Reforming Redress Schemes Roundtable Report, King's Legal Clinic (October 2024).

¹⁶ Women's Budget Group & VISION Consortium, The Cost of Sexual Violence (January 2024).

¹⁷ Epstein Victims' Compensation Program; Boy Scouts of America and Delaware BSA, LLC, Chapter 11 Plan, U.S. Bankruptcy Court for the District of Delaware, Case No. 20-10343 (2022); Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report (Australia, 2017); Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 (asp 15).

justice system is undermined when it appears to protect the powerful rather than the vulnerable.

Reform is urgently needed to restore fairness. Costs rules must be recalibrated, affordable insurance made available, and access to legal aid meaningfully widened. Where litigation cannot provide a realistic route, statutory redress should be created, with perpetrators compelled to contribute directly.

By addressing these issues, Parliament can ensure that survivors are able to seek justice on equal terms, that accountability falls where it belongs, and that access to justice is a lived reality rather than an aspiration.

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