

Written evidence submitted by The Access to Justice Foundation (ATJ0083)

Summary

Every year, 66% of adults in England and Wales face legal problems. For over 11 million people, help never comes. Most people can't access local legal aid providers for housing, immigration, and benefits issues. Our partners report over 40% more requests for help in five years while legal aid has suffered a £728 million real-term reduction since 2012.

The people hit hardest are those who need help most, people in poverty, those with disabilities, and racial and ethnic minorities. They're least able to pay for legal advice yet most likely to need it for life-altering issues.

The Access to Justice Foundation is uniquely positioned to tackle this crisis. Since 2008, we've distributed over £80 million across more than 1,000 grants, helping hundreds of thousands of people. We're the UK's only funder dedicated solely to free legal advice and the prescribed charity to receive Pro Bono Costs Orders and undistributed damages from opt-out collective actions in the Competition Appeal Tribunal.

We're working with researchers to explore proven international funding models that generate sustainable income without calling on the public purse, in particular:

- **Undistributed damages from opt-out collective actions in the Competition Appeal Tribunal.** Recent judgments confirm we're the appropriate recipient. Government can consolidate this by standardising settlement rules during their current collective action regime review.
- **Interest on Lawyer's Client Accounts (ILCA) schemes.** These schemes are already effectively at work in other jurisdictions. In the US, these schemes generate over \$175 million annually across all 50 states. Previous UK concerns can be addressed through smart scheme design.

There is no greater challenge to effective access to justice than the lack of funding available to properly resource initiatives that provide it. The Inquiry is focused on a broad range of topics, but the ability to address issues around and improve services delivering advice and representation, early resolution, and digital innovation all rely on establishing additional, sustainable sources of protected funding to support them.

Funding for free legal advice services is in crisis. It is urgent that we prioritise developing additional funding sources, especially where evidence and expertise is available to do this successfully, without additional cost to the public purse.

We urge the Committee to support this work by:

1. Supporting the position of The Access to Justice Foundation in relation to undistributed damages from collective actions.

This includes protecting the Foundation's role as the recipient of undistributed damages post-trial and advocating, through engagement with the Department for Business and Trade, to make the Foundation a recipient for undistributed damages following settlement.

2. Supporting the MoJ's work exploring an Interest on Lawyer's Client Accounts (ILCA) scheme in the UK using evidence and expertise from international examples of best practice.

Introduction

About The Access to Justice Foundation

The Access to Justice Foundation exists to make sure people and communities most in need of legal help can get the advice and representation they need to resolve their issues in the most effective and efficient way.

Our foundation was set up by the legal profession in 2008 to be the recipient of new funding sources which support access to justice. The Law Society of England and Wales, The Bar Council, CILEX, and the Advice Services Alliance are our founding members, and this is reflected in the composition of our Board with trustees being appointed by each of our member bodies, and the Lady Chief Justice.

We are the only UK wide funder dedicated solely to funding free legal advice. We're also the prescribed charity in statute for schemes established to grow funding available to support access to justice, Pro Bono Costs Orders (s. 194 Legal Services Act 2007), and undistributed damages from collective actions (Consumer Rights Act 2015) in the UK.

Since our creation we've worked with the legal profession, government departments, free legal advice services (including pro bono initiatives) and other funders to generate additional funding for the provision of free legal advice and get those resources where they're needed most. We've made over £80m in grants, across more than 1,000 awards, to over 360 organisations, helping hundreds of thousands of people resolve housing, employment, family, debt, and welfare issues.

Reason for submitting evidence

As an expert funder of and fundraiser for access to justice causes, we're submitting evidence to the Inquiry on the opportunities available to create and support additional funding streams. We're asking for the Committee's support in securing additional funding for the free legal advice sector, to ultimately enable us to deliver improved advice and representation, early resolution, and digital innovation.

Our response below focuses on funding and in particular new sources of funding which do not draw on the public purse. The remit of this inquiry is wide and covers many important areas. It is important that the chronic underfunding of legal advice is dealt with as a priority, as any ideas for improving reach, impact, service delivery etc will require resourcing. Fortunately, there are several solutions, some already successfully in use internationally which could be implemented in the UK:

1. Undistributed damages from collective actions cases,
2. Interest on Lawyer's Client Accounts – ILCA (also known as Interest on Lawyer Trust Accounts - IOLTA),
3. Legal expenses insurance,
4. Levies on large commercial law firms,
5. Apprenticeship levy, and
6. Re-direction of dormant client monies (bona vacantia)

The Access to Justice Foundation is the natural home for funding generated from additional funding sources. We have the experience, relationships, and track record to ensure these funds reach the communities that need them most.

We're sector experts. We are a grant-making charity focused on access to justice, with networks across the free legal advice sector. We have a specialist remit with over 15 years' experience in making grants, convening partners, and assessing impact, enabling us to make grants where they will be most impactful and effective to address unmet need and support innovation, avoiding gaps and duplication. We are experienced in funding in a mixed income landscape and well placed to make best strategic use of combined sources of additional funding including both public and philanthropic funding.

We're trusted by law. We're the prescribed charity established in statute to receive Pro Bono Costs Orders and undistributed damages from collective action cases. Our role in establishing and receiving additional funding streams to support access to justice is recognised in the legal system, and that trust translates into funding streams directed where they're most needed.

We're evidence led. We apply our experience and expertise to fund agencies who know how to work effectively and efficiently with the grants they receive, and we can, where desired, distribute to charities targeting specific areas/ issues/ approaches/ communities with corresponding reporting and evaluation structures. In addition to this, we ensure the funding we distribute generates additional insight into assessing and demonstrating impact and developing best practice. We engage directly with additional research to address gaps where we see them.

Response to Question 1 (How does the current state of the legal services and representation market in England and Wales, and associated operating pressures, affect access to justice for clients?)

Every year, over 66% of adults in England and Wales face a legal problem, over a third of these (more than 11 million people), did not get help to resolve their legal issues. In addition to this, most people in England and Wales don't have access to a local legal aid provider in areas of social welfare law: housing, immigration, welfare benefits, education, and community care¹.

In a recent survey our funded partners reported a more than 40% measurable increase in requests for help in the last 5 years, with one partner reporting a 119% increase. Meanwhile, there has been a £728m real-term reduction in legal aid over 10 years since the implementation of the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) in 2012².

Advice providers reported approximately 37% of clients they supported were employed or self-employed, up from 30% in 2019/20, of which there was a reported notable increase in people who previously would have paid for legal services, for example homeowners, now accessing free legal advice due to affordability issues³.

The cause of this growth in demand is attributed to the cost-of-living crisis, stagnant resources to meet demand and so more people turned away increasing unmet need, increasingly complex cases, ongoing issues related to Covid, Universal Credit and benefit cuts, changes to legislation, an increasing number of issues experienced per client, and increasing user mental health issues⁴.

The lack of provision of affordable and accessible legal advice in England and Wales drives unmet legal need, increases demand at frontline free legal advice services, and results in longer lengthier and more complicated legal proceedings due to people trying to navigate the legal system on their own, without guidance or support.

The people facing these challenges are more likely to be those most in need, people experiencing poverty, those with disabilities, and racial and ethnic minorities⁵. These are the people least able to pay for specialist legal advice, yet most likely to need it for complex, life-altering issues.

This means those most in need can't access the legal advice that could keep them in their homes, protect them from abuse, or secure the benefits they're entitled to.

¹ [Legal aid deserts | The Law Society](#)

² [Government's management of legal aid \(Summary\)](#)

³ [The Value of Justice for All](#)

⁴ Internal funded partner survey, The Access to Justice Foundation, August 2025

⁵ [Ethnicity and Socioeconomic Status as Sources of Vulnerability in the Legal Services Market](#)

Response to Question 4 (Without impacting the public purse, what potential funding options would increase access to justice?)

We're a partner on the Creating a Mixed Funding Model for Free Legal Advice research project⁶ with the Centre for Socio-Legal Studies and the University of Surrey, funded by the Nuffield Foundation. This collaborative initiative brings together legal and advice sector partners to explore successful funding models from around the world and adapt them for UK free legal advice services, as suggested in the Regulatory Leadership on Access to Justice⁷ report.

This research explores the potential for additional funding models to create a more sustainable future for free legal advice and support. The funding models the research is exploring are:

1. Undistributed damages from collective actions cases,
2. Interest on Lawyer's Client Accounts – ILCA (also known as Interest on Lawyer Trust Accounts - IOLTA),
3. Legal expenses insurance,
4. Levies on large commercial law firms,
5. Apprenticeship levy, and
6. Re-direction of dormant client monies (bona vacantia)

The first two funding streams have the greatest potential impact.

1. Making good use of undistributed damages from collective actions

We are already the prescribed charity under section 47C(5) of the Competition Act to receive undistributed damages post-trial pursuant to the Consumer Rights Act 2015, although no funds have yet been realised through this route as very few cases have reached trial.

Government and regulators can consolidate this pathway by standardising the rules around settlement, given it is likely most cases will settle. The Competition Appeal Tribunal has allowed the Access to Justice Foundation to intervene in the two settlements it has dealt with to date, but clarifying the rules around what happens to undistributed funds on settlement would create a sustainable income stream and reduce the need for a case-by-case approach.

In both cases which have settled to date (Merricks v Mastercard and Gutmann v SW Trains) the Competition Appeal Tribunal confirmed that the Access to Justice Foundation is the appropriate charitable recipient for undistributed damages arising from the settlement⁸. The Tribunal emphasised that this aligns with the statutory and public interest objectives underpinning the UK's opt-out collective action regime.

The judgment in Merricks v Mastercard recognised that a charity supporting access to justice for disadvantaged individuals is an appropriate recipient of undistributed damages in a case of this scale saying at paragraph 202:

“A charity which has as its object the provision of assistance to a very wide range of bodies across the UK to help the disadvantaged pursue or protect their legal rights seems to us an appropriate recipient of residue funds in these proceedings.”

⁶ [Creating a Mixed Funding Model for Free Legal Advice](#)

⁷ [Regulatory Leadership on Access to Justice](#)

⁸ [1266/7/7/16 Walter Hugh Merricks CBE v Mastercard Incorporated and Others - Judgment \(CSAO Application\) | 20 May 2025](#)

The Department for Business and Trade is currently undergoing a review of the collective actions regime⁹ including what happens to undistributed damages, so this inquiry is timely to demonstrate the positive impact of these funds on access to justice.

We urge the Committee to support the position of The Access to Justice Foundation in relation to undistributed damages from collective actions in this regime review. This includes protecting the Foundation's role as the recipient of undistributed damages, and advocating, through engagement with the Department for Business and Trade, to make the Foundation a recipient for similar sums in settlement cases,

2. Explore the introduction of an Interest on Lawyer's Client Accounts (ILCA) scheme

Interest on Lawyer's Client Accounts – ILCA (also known as Interest on Lawyer Trust Accounts - IOLTA), schemes pool small amounts of interest generated from client funds held briefly by law firms. ILCA is a well-established model internationally, with schemes operating successfully in every US state¹⁰, as well as Canada, Australia, and other countries.

In 2010 the government green paper *Proposals for the Reform of Legal Aid in England and Wales* contained a proposal to introduce an IOLTA scheme, but the government decided not to pursue the introduction of a scheme at that time, particularly referencing the Law Society's objections¹¹.

The Government at the time commended and encouraged the use of monies generated from client accounts to help fund pro bono and charitable work. However, there has been no evidence that this has happened in practice.

Recent evidence and practice from comparable schemes show those concerns can be addressed by design by, for example, limiting the scheme to pooled client accounts holding short-term or nominal balances, as many jurisdictions do, or providing small-firm exemptions where the cost would outweigh the yield.

Internationally, these ILCA schemes have been effective at funding civil legal services focused on unmet need including early advice, outreach, law centres and pro-bono infrastructure.

In 2020, US IOLTA grants nationwide totalled over \$175 million¹² funding for programs that provide civil legal services to those living in poverty without calling on the public purse. We want to thoroughly consider the range of possible ILCA models and understand how they could work in the UK context.

Australia

In Victoria, ILCA funds provide the major income stream for the Public Purpose Fund (PPF), a statutory fund established by the *Legal Profession Uniform Law Application Act 2014* to fund regulation, access to justice, and system improvement¹³. Access to justice funding aims to boost services for those who can't afford legal advice and representation, and to develop more effective ways to help those who are especially disadvantaged or marginalised and includes grants and recurring funding for services and activities.

Canada

Several Canadian provinces have IOLTA/ ILCA schemes that remit funds to an independent grant making foundation that fund civil legal help and strategic projects. In Ontario, for example, interest earned on the client account funds must be remitted to the Law Foundation of Ontario. The Law

⁹ [Opt-out collective actions regime review: call for evidence - GOV.UK](#)

¹⁰ [American Bar Association](#)

¹¹ [Reform of Legal Aid in England and Wales: the Government Response](#)

¹² [American Bar Association IOLTA Overview](#)

¹³ [Public Purpose Fund | VLSB+C](#)

Foundation of Ontario administers funds for various purposes including granting programs that advance access to justice.

United States

Interest on Lawyers' Trust Accounts (IOLTA) is the equivalent of Interest on Lawyer's Client Accounts (ILCA) in the United States. Money raised through this scheme goes to fund the charitable provision of civil legal services. IOLTA programs currently operate in 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Since 1981, IOLTA has generated over \$4 billion in revenue throughout the United States. IOLTA programs are administered at state level and governance is typically independent of the state department that administers legal aid.

We recommend that the administration of any additional funding in the UK follows best practice from international examples of ILCA schemes that successfully support the delivery of free legal advice services to those most in need. In particular, that funds are remitted to an independent grant making foundation which focuses on the charitable provision of civil legal services to those living in poverty.

By ringfencing ILCA scheme funds for this use we can create a scalable source of ongoing funding that can be used to fund additional specialised and free legal advice services to reduce unmet need in areas of social welfare law in a way that prevents supplantation of the core legal aid budget.

Response to Question 5 (If limited funds were available, what would be the priority areas for spending?)

If any additional funding is generated, we believe they should be ring-fenced for access to justice and used strategically to:

1. Resolve legal issues earlier and prevent crisis

When people can access legal advice quickly, they resolve issues before they spiral into emergency situations¹⁴. This means fewer court cases, fewer employment disputes, and fewer people ending up homeless or destitute.

Frontline advice providers play a vital role in helping individuals addressing legal issues early, preventing disputes from escalating, and signposting and supporting access to dispute resolution tools¹⁵.

In 2024 we commissioned the Value of Justice for All report¹⁶, with the support of The Bar Council. The report highlights the role of advice in actively divert cases away from courts and tribunals. With the average cost of a day in civil court exceeding £3,500, the potential for investment in specialist free legal advice to also produce cost saving benefits for the justice system is significant.

Additional funds should be directed to frontline free legal advice providers who have the ability, experience, and expertise needed to intervene in legal issues at an earlier stage, delivering early and alternative dispute resolution, preventing the unnecessary escalation of issues to crisis/ court.

2. Support people and communities most in need

Most people in England and Wales don't have access to a local provider of free advice in the areas where they need it most: housing, immigration, welfare benefits, education, and community care¹⁷.

¹⁴ [Legal Support for Litigants in Person Grant \(LSLIP\)](#)

¹⁵ [Embedding effective Online Dispute Resolution \(ODR\) for communities - The Access To Justice Foundation](#)

¹⁶ [Value of Justice for All report](#)

¹⁷ [Legal aid deserts | The Law Society](#)

The people facing these challenges are more likely to be those most in need, people experiencing poverty, those with disabilities, and racial and ethnic minorities. These are the people least able to pay for specialist legal advice, yet most likely to need it for complex, life-altering issues.

People can be up to 7 times better off with legal advice than without¹⁸. Taking claims in the Windrush compensation scheme as an example, people who seek redress without legal advice are frequently offered significantly less in recompense compared to those with access to legal advice.

Free legal advice agencies are reaching communities through food banks, GP surgeries, schools, and online platforms. They're well placed to lead local service coordination and proactive in reaching the communities they serve (or working in partnership with those who do)¹⁹.

Additional funding should be invested in free legal advice services that embedded within and engaged with communities most at risk of being excluded from access to justice.

3. Invest in services that generate additional public savings

The Value of Justice for All report²⁰ demonstrates the substantial economic benefits of investing in free legal advice services and the significant savings it generates for the public purse.

The report suggests that the Treasury could save up to £12 billion over the next ten years by investing in the provision of specialist free legal advice. This includes over £4 billion in the first year alone and more than £9 billion within four years. For every £1 spent on free specialist legal advice and its outcomes in 2023, the government saved £2.71.

Beyond immediate financial savings, the report highlights additional long-term benefits. These include higher employment rates, fewer people in insecure housing, improved health and wellbeing, and reduced reliance on benefits – all of which positively impact public finances.

Additional funds should be directed to support specialist legal advice services that generate these kinds of savings to the public purse.

4. Build sector capacity, sustainability, and resilience

The free legal advice sector experiences a significant funding gap which results in increased disparity around access to justice. Demand for advice is only likely to grow as statutory services across the country are failing to meet the needs of individuals and cost-of-living pressures continue to mount. As current funding is already struggling to meet existing levels of demand, the likelihood of this gap widening further is high if changes aren't made soon.

In addition to a lack of resources available to meet service demand, the lack of funding available to support free legal advice services also prevents digital and other innovative service delivery, standardised data collection, and robust evaluation, all of which requires significant investment²¹. Lack of sustainable resourcing also leads to workforce development and resilience issues, including staff recruitment and retention issues.

Additional funding should be used to deliver open, core cost, and long-term funding opportunities which are critical to achieving holistic impact.

5. Use additional funding to achieve additional impact

¹⁸ files.justice.org.uk/wp-content/uploads/2025/06/27165314/Windrush-Compensation-Scheme-Report-2025.pdf

¹⁹ [Publications Library | Coordinated Community Support](#)

²⁰ [Value of Justice for All report](#)

²¹ Consistent feedback from the Justice and Innovation Group we facilitate. More information can be found here: [Justice and Innovation Group - The Access To Justice Foundation](#)

We recognise and champion legal aid as the cornerstone of access to justice and welcome any political will to increase resources for legal aid. However, there are several key risks to allowing additional funding to directly feed into existing public funded legal services:

- **Jeopardising targeted funding for access to justice:** using private funding to subsidise government budgets risks allowing the funds to be repurposed later to support changing government priorities.
- **Supplantation:** using ILCA funds to fill core budget gaps risks allowing the state to defer proper budgetary settlement and undermines long-term sustainability.
- **Targeting and additionality loss:** an independent approach to using additional funding is valuable because it can be targeted to unmet needs and preventative approaches. Channelling funds through a government body risks losing this focus, as they will have different budgetary and procurement priorities.
- **Slower, less flexible deployment:** independent grant makers can fund small organisations, pilot models, and support rapid innovation more flexibly than statutory procurement processes. This flexibility is crucial for reaching marginalised groups and testing new service models.
- **Perverse incentive:** public bodies could be incentivised to maintain a lower baseline statutory budget with the expectation that ILCA and other 'additional' funding will plug gaps.

Conclusion

The access to justice crisis in England and Wales demands urgent action. With 11 million people unable to get help with legal problems each year, and a 40% increase in demand while legal aid funding has been cut by £728 million in real terms, we cannot afford to delay implementing sustainable funding solutions.

Two funding mechanisms offer immediate potential to generate substantial resources without calling on the public purse:

1. **Undistributed damages from collective actions** represent a proven pathway already recognised in statute and confirmed by recent judgments. Government can consolidate this opportunity by standardising settlement rules during the current collective action regime review, creating a sustainable income stream that serves the public interest.
2. **Interest on Lawyer's Client Accounts (ILCA) schemes** have generated over \$175 million annually across all US states, with successful models operating internationally. Previous UK concerns can be addressed through smart scheme design based on international best practice, creating scalable ongoing funding for free legal advice services.

These additional funding streams should be ring-fenced for access to justice and deployed strategically to invest in services that generate public savings, build sector capacity and resilience, and achieve genuine additionality rather than substituting for proper government investment in legal aid.

By focusing funding in this way we can resolve legal issues earlier, support innovation, and provide advice and representation to those most in need, keeping people in their homes, protects them from abuse, and secures the benefits they're entitled to.

We urge the Committee to support our recommendations by protecting The Access to Justice Foundation's role in receiving undistributed damages from collective actions and supporting the exploration of an ILCA scheme in the UK.

The legal framework exists, international expertise is available, and the need has never been greater. With the Committee's support, we can build a more sustainable future for free legal advice that serves justice for all.