

## **ANNEX: EXAMPLES OF ABUSES OF CRIMINAL LEGAL AID** **IN OTHER JURISDICTIONS**

1. This annex provides an overview of cases of abuse of criminal legal aid in the United Kingdom (UK) and New Zealand. Examples are drawn from previous speeches delivered by the Minister of Law.

### **United Kingdom**

#### **Escalating Costs**

2. Since 2012, the UK government had to cut back on their criminal legal aid funding, and implement drastic cuts to legal aid budgets as costs had ballooned to more than half of its annual £2 billion legal aid bill. These reforms were however opposed by the legal industry.

3. The cuts in criminal legal aid funding also resulted in other negative outcomes. In 2014, criminal courts across the UK were disrupted. Lawyers staged a mass walkout due to the Government's cuts to legal aid fees. Thousands of barristers and solicitors working on publicly funded cases refused to enter the courts, affecting the accused persons that they were representing.<sup>1</sup> They went on strike again in 2018 to oppose further cuts, which resulted in more disruptions to court proceedings and delaying the resolution of criminal cases.<sup>2</sup>

4. In one case, a convicted drug dealer was allowed to keep his alleged S\$7.9 million fortune because of delays in finding a legal aid lawyer to represent him in confiscation hearings.<sup>3</sup>

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<sup>1</sup> 5 January 2014, The Guardian UK, "Barristers and solicitors walk out over cuts to legal aid fees".

<sup>2</sup> 8 May 2018, The Guardian UK, "Barristers prepare to escalate protests over legal aid row".

<sup>3</sup> 6 May 2008, Daily Mail, "Convicted drug dealer keeps his £4.5m fortune – because lawyers refused to work for £175 a day".

5. The lawyers' protests eventually resulted in more watered-down reforms. The legal aid lawyers won a S\$40 million fee rise after the 2018 strike.<sup>4</sup>

### Steep Legal Aid Fees

6. Large legal aid fees have also caused public unhappiness, especially in cases where legal aid was spent on lengthy trials for defendants who were ultimately convicted.

7. Three men were accused of the murder of policeman Andrew Harper when they tried to evade arrest. Their trial cost the UK taxpayer S\$817,000 in legal aid fees in 2008, only for the men to be convicted of manslaughter.<sup>5</sup>

8. Another case was that of Ben Butler and his partner Jennie Gray, who were convicted of murdering Butler's six-year-old daughter. Both were granted nearly S\$2.64 million in legal aid expenses over 15 years.<sup>6</sup>

### Rich Defendants who Received Aid

9. In the UK, there are also examples of abuse involving rich defendants who received legal aid as their assets were frozen. However, they could have funded their own defence as the state did not manage to seize all their assets.

10. Around 50 defendants with more than S\$1.76 million in illegally obtained assets were found to have received legal aid in 2012. One of these was Virendra Rastogi, a London metals trading tycoon, who owned a S\$10.55 million home and arrived in court every day in a chauffeur-driven car – he received S\$8.79 million worth of criminal legal aid.<sup>7</sup>

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<sup>4</sup> 24 November 2018, BBC News, "Legal aid lawyers win £23m fee rise after strike".

<sup>5</sup> 28 Aug 2020, BBC News, "PC Harper widow horrified at killers' reported GBP465K legal aid costs"

<sup>6</sup> 6 Aug 2016, The Guardian, "Anger over legal aid bill for Ellie Butler's parents"

<sup>7</sup> 26 November 2012, BBC News, "Rich crooks net vast legal aid sums".

## **New Zealand**

### Escalating Costs

11. Legal aid expenditure in New Zealand rose from about NZ\$111 million in 2006/7 to NZ\$173 million by 2009/10, an increase of nearly 56%.<sup>8</sup>

12. The Government had to tighten the scheme by proposing to adopt numerous measures<sup>9</sup>:

- a. Paying lawyers a fixed fee rather than an hourly rate for criminal legal aid cases;
- b. Not allowing defendants to choose their lawyers; and
- c. Introducing user charges for family and civil cases.

13. There was pushback against these proposals, and some had to be watered down. New Zealand's legal aid expenditure remained at about NZ\$150 million, for payments made to lawyers, law firms and the Public Defence Service.

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<sup>8</sup> 9 October 2012, Stuff New Zealand, "Collins softens legal aid reforms".

<sup>9</sup> 13 April 2011, Official Website of New Zealand Government, "Proposals to tackle unaffordable growth in legal aid".