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**PLAN TO CUT LEGAL AID FOR CLINICAL NEGLIGENCE WOULD COST  
THE TAXPAYER MILLIONS, INDEPENDENT RESEARCH FINDS**

*Knock on costs estimated at THREE times predicted government saving*

Cutting legal aid for those who have suffered clinical negligence would cost the Government (i.e. the taxpayer), millions of pounds more that it would save Ken Clarke's Ministry of Justice (MoJ), confirms independent research by Kings College published today by the Law Society.

[Unintended Consequences: the cost of the Government's Legal Aid Reforms](#) ("the Report") vindicates what campaigners Action against Medical Accidents (AvMA – the charity for patient safety and justice) have been saying since the proposal, one of a host of controversial cuts contained in the Legal Aid Sentencing and Punishment of Offenders Bill, was announced.

The MoJ claims it would save £10.5 million pounds by taking clinical negligence out of scope for legal aid, but the Report states that in fact a net loss of around £18m will be a startling consequence. This, will, in most part, be shouldered by the NHS because it would have to pay for expensive after the event insurance under the proposed new system whereas under legal aid this is not necessary.

The NHS Litigation Authority itself has already registered opposition to these cuts stating that legal aid is by far the fairest and most economical way to fund these claims; and that Lord Justice Jackson, architect of the Government's controversial reforms to Conditional Fee Agreements (CFAs or "no win, no fee" agreements), predicated his proposals on there being a system of legal aid still in place. He has said that clinical negligence in particular should remain in scope for legal aid. Now, the Government faces a rebellion and possible defeat in the Lords unless it drops its plan. Influential Liberal Democrat peers Lord Carlile and Lord Thomas are championing an amendment to keep clinical negligence in scope for legal aid. The Bill is due to be debated on January 10<sup>th</sup>.

Peter Walsh, Chief Executive of AvMA said:

"Cutting legal aid for clinical negligence is just bonkers whichever way you look at it. Either the Government is being deeply cynical and people injured by clinical negligence simply won't be able to access justice, or the taxpayer and the NHS will be hit hard at a time it can least afford it. As the Report states, 'there is certainly no economic justification for these changes' (para 9.4.5)".

Walsh continues, "The Report's findings also validate our decision to launch Judicial Review proceedings in which we contend that the MOJs consultation, culminating in the Response of 21 June 2011, was manifestly flawed."

One of the Report's key conclusions highlights 'the lack of robust data on numerous elements of the Civil justice system'(9.4.5), echoing AvMA's grave concerns about the evidence the government used or had access to when supplying reasons for its Response. As a result of its findings, the Report importantly insists that 'the government addresses the Justice Select Committee's request for a full and proper appraisal of the knock-on costs before these changes are enacted'. (9.4.7) Walsh concludes, "It is evident and shown in this Report, that the government has failed to prove two of its key assumptions supporting its proposals, these being, that the new regime will result in significant savings or that the potential savings alone justify the proposed changes."

AvMA point out that there are even further unintended consequences and costs of cutting legal aid for clinical negligence. The patient safety experts are concerned that if people are unable to pursue claims then errors will not come to light and opportunities for improving patient safety missed. This would result in immeasurable human cost as well as huge costs for the NHS. Further, the clinical negligence legal market would be thrown open to non specialist solicitors and claims farmers, with none of the quality control afforded by publicly funded legal aid.

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