The last decade began with ambitious proposals to transform the justice system. Reforms were driven by concerns of efficiency, market principles were introduced for the commissioning of legal services and principles of ‘best value’ applied to justify the allocation of resources across sectors. However, concerns continue to grow among the judiciary, legal professions, pressure groups and charities about the level of unmet need for appropriate legal services, especially for socially disadvantaged individuals and groups. Austerity has exacerbated these problems. The coalition government’s plans for reforms of legal aid have coincided with increased pressures on courts, tribunals and advice agencies to address problems of debt, unemployment, mental health and family crisis precipitated by the economic downturn.

Research seminars on access to justice
For the past two years, the Law School at the University of Essex has hosted a series of five, themed Economic and Social Research Council (ESRC)-funded research seminars on access to justice in the civil sphere with the title, ‘Access to justice in an age of austerity: time for proportionate responses?’ The main aim of the series was to develop a research agenda that would meet the needs of beneficiaries and service users and to identify new research agendas or capacity-building priorities that would reach beyond the lifetime of the series. We adopted the broadest definition of what is entailed in the concept of access to justice. It was also understood that emphasis would be placed on solutions as well as problems created by cuts, and, where possible, proposals for reform would be based on rigorous evidence-based research.

For the research group at Essex, the importance of the seminars has been the successful engagement with a group of up to 40 discussants – ranging from high-level officials from government and the devolved administrations, the judiciary, the legal professions, to officials tasked with providing legal advice and assistance, non-governmental organisations and academics – to consider proportionate responses to the current crisis. The projected two-year time span has also been important. It has allowed for flexibility within the proposed seminar structure to identify growing institutional pressures on the justice system and specific areas of need that will be exacerbated by the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 and other legislative measures.

From the beginning, we had no illusions about the likely severity of the cuts or their impact on both providers and recipients of legal services. For some time, expenditure on legal aid has been recognised as unsustainable. It was also clear that under New Labour, policies of outsourcing, cost cutting, and a culture of blame in relation to providers of legal services would have continued.

However, there was nothing to predict the scale of the legal aid cuts introduced by the coalition government in the LASPO Act or the arbitrariness of blanket institutional measures adopted in the name of austerity, including self-representation in court; restriction to telephone advice – even for the most vulnerable groups in society; limited court office opening hours; and relocation of courts across England and Wales.

Nor were stakeholders prepared for the coalition’s reluctance to engage with evidence-based research that might point to different conclusions, or their indifference to concerns that many of the proposed cost-cutting measures would impact most severely on the vulnerable in society. One of the most fiercely fought political campaigns, highlighting the potential dangers of leaving vulnerable 18–25 year olds ‘out of scope’, at the last hurdle made little impression on the bill’s promulgators. Over the two years of the seminars, discussion returned frequently to legal aid and the LASPO Act – its institutional and societal implications – especially for the most vulnerable members of society. However, by continuing to focus on our broader agenda (systemic funding issues and pressure points on the justice system,
including family, housing, immigration, employment and administrative tribunals) we had the benefit of speaker papers that were not only diverse in subject matter but also unique in providing experiential commentary, evidence-based research, suggestions of solutions and a useful comparator with other devolved nations (most notably Scotland).

Those in practice were able to offer an insight into work which has improved community engagement, demonstrating the value of combined services. Lorna Reid of Islington Legal Aid Centre presented the experience of several decade-long projects provided in partnership with Islington local authority services. She highlighted their success in removing experiential barriers to the justice system for some of the most vulnerable members of the community. James Kenrick of Youth Access provided first-hand evidence of the importance of early intervention, in terms of advice for young people and the present lack of appropriate services for this vulnerable group.

At the same time, academics and practitioners were able to share solid, evidence-based research which often challenged the government’s justifications and contradicted their aims. Stephen Cobb QC, who is a former chairperson of the Family Law Bar Association, demonstrated the additional costs likely to arise because of extra burdens on the family law system which would outweigh any savings made by the LASPO Act cuts. Nigel Balmer and Marisol Smith (both of the Legal Services Research Centre) presented a paper entitled *Just a phone call away: is telephone advice enough?*, which suggested that, all things considered, the move to telephone advice would not benefit all users and the substantive benefits would be significantly lower than when receiving face-to-face advice. Evidence-based presentations of this kind afforded a unique opportunity for the seminars to consider different models for improvement of services across the board. Furthermore, the engagement of policymakers and professionals involved in giving legal advice and assistance on both sides of the Scottish border (Citizens Advice Bureau and Scottish Legal Aid Board (SLAB)) with judges and practitioners from every level, contributed to fully informed debate. Practical solutions were also discussed without overlooking the realities of problems arising in different institutional contexts, or in demographically disadvantaged localities with unwieldy numbers of vulnerable clients, most likely to present with multiple problems that put them and their families at greatest risk.

Several papers and discussions focused on the need for better initial decision-making, suggesting that appropriately trained decision makers, in command of relevant evidence (supported by advice givers and caseworkers), could effectively relieve the growing burdens on many courts and tribunals. Moreover, it was suggested that the currently high success rates in appellate courts and tribunals may be indicative of systemic failures to resolve basic problems much earlier in the decision-making process.

In a number of seminars, Scottish speakers provided important insights into alternative responses; notably, in relation to reducing the legal aid budget and to avoiding duplication in work of appellate courts and administrative tribunals. However, the Scottish presentations did not merely offer theoretical alternatives to the LASPO Act. The presentation of alternatives already in place in Scotland (and subject to monitoring) satisfied one of the central objectives of the series: to debate proportionate responses to problems of legal services funding that are based on the highest quality of evidence-based research.

**Conclusion**

One of the most impressive aspects of the seminars series has been that well-founded anxieties about the present and future of legal services, the likely societal impact of the legal aid cuts and the government’s indifference to rational argument and constructive policy debate have not been allowed to undermine the energetic commitment of participants to finding innovative and client-centred solutions, within systems showing signs of chaos. Not surprisingly, in the light of the fundamental reforms of civil legal services that took effect from 1 April 2013, last month Lord Neuberger publicly expressed his concerns over the extent of the legal aid cuts and other austerity measures, including lack of representation in court and the likelihood of rising court costs. Lord Neuberger said that many people facing serious legal challenges, without appropriate legal assistance or the means to pay, might well feel that they had been denied access to justice by the government; in some cases, feeling that they had no choice but to take matters into their own hands (see page 47 of this issue). Thus, despite our concerted determination to move the research agenda forward, we have no illusions about the enormity of the challenges that lie ahead.

3. Colin McKay is a deputy director in the Justice Directorate of the Scottish Government. His responsibilities include government policy on courts, access to justice, EU justice liaison and the government’s relationship with the judiciary and the legal profession. Colin Lancaster is director of policy and development at the SLAB.
4. See the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No 6) Order 2013 SI No 453. From 1 April 2013, the Standard Civil Contract will govern the provision of face-to-face legal aid services in the areas of family, immigration and asylum, and housing and debt. Other categories of law are either not affected by the LASPO Act to the extent that new contracts are required or will no longer be within the scope of legal aid provision after 1 April 2013.